

City of Pacific Grove
Draft Findings Required Under the California Environmental Quality Act
(Public Resources Code Section 21000 et seq.)
For the American Tin Cannery Hotel and Commercial Project

1. Introduction

A public agency may not approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects, unless the public agency makes one or more written findings for each of those significant effects. Each finding must be accompanied by a brief explanation of the rationale for each finding (CEQA Guidelines Section 15091).

The City of Pacific Grove (City) prepared a Final Environmental Impact Report (EIR) for the proposed ATC Hotel and Commercial Project (Project) in December 2020.

The project would demolish and remove most of the existing structures within the existing American Tin Cannery outlet mall complex, while reusing the majority of the “factory” building and associated office structure. The project’s primary uses include a 225-room hotel and approximately 16,202 square feet of commercial use. The Final EIR identified several significant or potentially significant environmental effects associated with project implementation.

The Findings and Statement of Overriding Considerations set forth below (Findings) are presented for adoption by the Planning Commission as the City’s independent findings under the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.).

The Findings provide the written explanation, evidence, reasoning and conclusions of the City regarding the project’s environmental impacts, mitigation measures, alternatives, and the overriding considerations, which in the City’s judgement, justify approval of ATC Hotel and Commercial Project despite residual environmental effects.

2. Record of Proceedings and Custodian of Record

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City of Pacific Grove’s findings and determinations consist of the following documents and testimony as compiled for the project:

- The Notice of Preparation (NOP), comments received on the NOP, comments received at the public scoping meeting, and all other public notices issued by the City.
- Draft EIR, associated appendices to the Draft EIR, and technical materials cited in the Draft EIR.
- Final EIR, including comment letters, responses to comments, errata and technical materials cited in the Final EIR.
- Staff reports associated with Architectural Review Board and Planning Commission hearings on the project.
- Those categories of materials identified in Public Resources Code Section 21167.6, which establishes the contents for the record of proceedings.

The City is the custodian of the administrative record. The documents and materials that constitute the administrative record are available for review at the City of Pacific Grove Community Development Department, 300 Forest Avenue, 2nd Floor, Pacific Grove, CA 93950.

3. Severability

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the project, shall continue in full force and effect unless amended or modified by the City.

4. Findings for Significant Impacts that Can Be Avoided or Reduced to a Less Than Significant Level with Implementation of Mitigation Measures

Impact AES-3: The project would introduce new sources of light and glare to the project site and project area.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: Mitigation Measure (MM) AES-3.1 requires anti-reflective glass to be incorporated into the project, as well as use of directional lighting to reduce unwanted or spill of lighting. The Pacific Grove Municipal Code requires that the project’s lighting plan be reviewed and approved for code consistency. The lighting plan will also be reviewed and approved by the Monterey Peninsula Airport Manager. These standard and project-specific measures reduce the impact to a less than significant level through project design changes and completion of existing review procedures and have been made conditions of project approval.

Impact AQ-2: The project could generate dust and exhaust emissions of criteria pollutants and toxic air contaminants during construction.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM AQ-2.1 and AQ-2.2 require management and specific methods to control construction dust and pollutants and reduce the impact to a less than significant level by lowering dust and exhaust emissions. The measures are recognized as effective by the Air District and would be included on construction documents and enforceable as conditions of approval and through response to nuisance complaints to a designated compliance monitor.

Impact AQ-5: The project could contribute to cumulatively considerable air quality impacts.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM GHG-2.1 requires a commute trip reduction/transportation demand management (TDM) plan. This plan provides specific performance standards for reducing project

related vehicle trips, which in turn would reduce criteria pollutants and greenhouse gas emissions to less than significant levels. This plan requires annual monitoring for effectiveness.

Impact BIO-1: The project could have a direct or indirect adverse effect on a federally protected species (harbor seal) and species of local and regional interest (black oystercatcher).

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM BIO-1.1 creates a physical noise barrier to reduce localized noise levels; MM BIO-1.2 limits the timing of construction to avoid the most sensitive pupping and nesting seasons, and MM BIO-1.3 requires a biological monitor during construction to observe, report and (if necessary) halt construction to avoid or minimize disturbance of these species. These measures reduce the impact to a less than significant level by physically reducing noise levels and by providing a mechanism to ensure effectiveness. These measures have been made conditions of project approval and would work together to provide a rational and enforceable program of noise reduction and impact avoidance.

Impact BIO-2: The project could interfere or impede with migratory bird habitat, as well as the use of native wildlife nursery sites for harbor seal and black oystercatcher.

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM BIO-2.1 limits project construction timing to avoid migratory bird nesting and harbor seal pupping seasons and requires a survey for nesting birds prior to tree removal to avoid active nesting. This measure reduces the impact to a less than significant level through impact avoidance, and has been made a condition of project approval and would work to provide a rational and enforceable program of noise reduction and impact avoidance.

Impact BIO-3: The removal of 79 trees for construction of the project could conflict with local policies and ordinances regarding tree preservation.

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM BIO-3.1 requires pre-construction training for construction workers to protect nearby trees to be retained, and MM BIO-3.2 requires the direct or indirect replacement of trees at a 2:1 ratio for trees to be removed. Both of these measures are consistent with the Pacific Grove Municipal Code and are enforceable as conditions of project approval. MM BIO-3.3 provides specific requirements for replacement tree size and watering requirements. These measures are also enforceable as conditions of approval. MM BIO-3.4 and MM BIO-3.5 provide for a series of Management Practices and standards for tree protection on adjacent properties, to be included as conditions tied to project construction. These combined measures reduce the impact to a less than significant level by impact avoidance and through the replacement of more trees than those removed.

Impact BIO-4: The project could contribute to cumulatively considerable effects on biological resources (tree removal).
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM BIO-3.1 requires pre-construction training for construction workers to protect nearby trees to be retained, and MM BIO-3.2 requires the direct or indirect replacement of trees at a 2:1 ratio for trees to be removed. Both of these measures are consistent with the Pacific Grove Municipal Code and are enforceable as conditions of project approval. MM BIO-3.3 provides specific requirements for replacement tree size and watering requirements. These measures are also enforceable as conditions of approval. MM BIO-3.4 and MM BIO-3.5 provide for a series of Management Practices and standards for tree protection on adjacent properties, to be included as conditions tied to project construction. Implementation of the project-specific measures for tree replacement and protection of adjacent trees would also address the cumulative condition by increasing the number of trees in the City over time. These combined measures reduce the impact to a less than significant level by impact avoidance and through the replacement of more trees than those removed.

Impact CR-2: The project has the potential to cause a substantial adverse change to known and unknown archaeological and cultural resources.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM CR-2.1 through CR-2.4 provide a comprehensive program of archaeological/paleontological sensitivity training, resource identification and avoidance, construction monitoring, and specific actions in the event that resources are found during construction. The measures in this program were finalized in consultation with local Native American tribal leadership. Implementation of these measures would effectively reduce project-specific impacts to a less than significant level by training personnel directly involved in project-related ground disturbance and would necessitate that work be halted in the vicinity of any potential culture resource discoveries. These measures would be applied to construction documents and enforced as conditions of project approval in order to avoid and properly treat and handle archaeological, paleontological, and cultural resources.

Impact GEO-6: The project could directly or indirectly destroy a unique paleontological resource or site or unique geologic features during construction.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM CR-2.1 through CR-2.4 provide a comprehensive program of archaeological/paleontological sensitivity training, resource identification and avoidance, construction monitoring, and specific actions in the event that resources are found during construction. The measures in this program were finalized with local Native American tribal leadership. Implementation of these measures would effectively reduce project-specific impacts to a less than significant level by training personnel directly involved in project-related ground disturbance and would necessitate that work be halted in the vicinity of any potential culture resource discoveries. These measures would be applied to construction documents and enforced as conditions of project approval in order to avoid and properly treat and handle paleontological resources.

Impact GHG-2: The project could contribute to cumulatively considerable effects on long-term operations-related greenhouse gas emissions.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM GHG-2.1 requires a commute trip reduction/transportation demand management (TDM) plan. This plan provides specific performance standards for reducing project related vehicle trips, which in turn would reduce criteria pollutants and greenhouse gas emissions to less than significant levels. This plan is a condition of project approval and requires annual monitoring for effectiveness.

Impact HAZ-2: The project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM HAZ-2.1 would effectively mitigate this impact to a less than significant level by requiring construction timing for dry season excavation to reduce potential risks associated with potentially contaminated groundwater. MM HAZ-2.2 requires preparation and implementation of a soils management plan, MM HAZ-2.3 requires soil vapor and groundwater barriers, and MM HAZ-2.4 requires testing of potentially contaminated materials and disposal consistent with current regulations. These measures contain performance standards for the treatment of groundwater, if necessary, measures to address potentially contaminated sediment, and physical barriers to soil and/or groundwater contamination. These measures further ensure compliance with existing laws, regulations and standards addressing hazardous materials, and are enforceable as a conditions of project approval during construction.

Impact HAZ-3: The project could emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM HAZ-2.4 requires testing of potentially contaminated materials and disposal consistent with current regulations. This measure reduces the impact to a less than significant level by reinforcing required compliance with existing laws, regulations and standards addressing the transport of hazardous materials, and is enforceable as a conditions of project approval during construction.

Impact HAZ-5: The project is located within an airport land use plan but is located more than two miles of a public airport or public use airport. Regardless of distance, however, the project is located within the Monterey Regional Airport's Airport Influence Area Safety Zone 7.
Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
Rationale/Evidence: MM HAZ-2.5 reduces the impact to a less than significant level by requiring the applicant to grant an aviation and hazard easement to the airport authority. The easement will satisfy the local Airport Land Use Commission requirement and will be enforced as a permit condition.

Impact N-1: The project could cause a temporary or periodic increase in ambient noise levels during construction that could substantially disturb sensitive receptors.

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM N-1.1 provides a series of standard measures to reduce temporary construction noise. These measures focus on compliance with the Pacific Grove Municipal Code and General Plan. Construction noise can be effectively addressed through the designation of a disturbance coordinator with the authority to act on noise complaints, as specified in the measure.

MM N-1.2 provides additional noise attenuation measures specific to the conditions at the ATC project site. The specific performance requirements of the noise barriers, recommended by experts in acoustic consulting, would serve to reduce temporary construction noise at surrounding sensitive receptors. These measures reduce the impact to a less than significant level by physically reducing noise levels and by avoiding the generation of excessive noise. Both measures are enforceable as conditions of approval and included in construction documents.

Impact N-3: The project could temporarily cause excessive groundborne vibration or groundborne noise from typical construction-related activities.

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM N-3.1 and MM N-3.2 require preparation and implementation of a vibration monitoring plan, and installation of vibration monitors at the nearest sensitive receptors, including residences, the Monterey Bay Aquarium and Hopkins Marine Station research facilities. The plan and monitors are designed to work together to allow construction managers and facility operators to identify vibration levels that could have an adverse effect on the operations of such off-site facilities, and if necessary, halt construction activity. These measures reduce the impact to a less than significant level through prevention and by providing a mechanism for remediation should an adverse effect occur. Measures are based on the predicted vibration levels identified in the Final EIR and are enforceable as conditions of project approval.

Impact TRA-3: The project could substantially increase hazards due to a geometric design feature or incompatible use.

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM TRA-3.1 requires a series of design modifications to the roadways fronting the project site. These modifications are intended to make commercial delivery vehicle movements safer and easier while accessing the project site. A loading zone closer to the commercial uses is also required to provide more direct access of delivery vehicles to that specific use.

MM TRA-3.2 requires an additional crosswalk across Ocean View Boulevard from the project site to enhance safety and pedestrian movements.

These two measures reduce the impact to a less than significant level by removing potential hazards, improving circulation, and promoting pedestrian safety. The measures are required as part of the final improvement plans and are enforceable as conditions of project approval.

Impact TCR-1: The project has the potential to cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM TCR-1.1 and MM TCR-1.2 require Native American consultation and participation in the development (construction) process, as well as reporting and documentation of the monitoring results. These measures were developed in consultation with Native American (OCEN) tribal leadership and are part of the larger cultural resource monitoring and management program identified under Impact CR-2. However, due to CEQA requirements and the individual treatment of tribal cultural resources (as distinguished from other archaeological or historic resources), these measures focus specifically on tribal leadership involvement. These measures effectively address the impact of potential disturbance and discovery of tribal cultural resources by involving tribal representatives in the monitoring process and through the sensitive treatment of any discovered resources. These measures are enforceable as conditions of project approval.

Impact UTIL-1: The project will require construction to relocate, extend or connect to service systems to service the project.

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale/Evidence: MM AES-2.1, MM AQ-2.1, MM AQ-2.2, MM GHG-2.1, MM HAZ-2.1, MM HAZ-2.2, MM HAZ-2.4, MM N-1.1, MM N-1.2, MM N-3.1, MM N-3.2 are the mitigation measures of the Final EIR that directly address construction-related impacts. As the construction of project utility and service systems are directly related to and incorporated into the overall development and construction program for the project, these measures would effectively reduce or eliminate construction-related effects for the same reasons explained elsewhere in these Findings.

4. Findings for Significant Impacts that Cannot Be Avoided or Reduced to a Less Than Significant Level (Significant and Unavoidable Effects)

Impact AES-2: The project could substantially degrade the existing visual character or quality of the site and its surroundings.

Finding: Specific economic, legal, social, technological or other considerations make additional mitigation measures or alternatives infeasible.

Rationale/Evidence: The Final EIR evaluates the project as it was proposed, and concluded that the potential changes to visual character from several viewpoints around the project, the visual change associated with placement of new hotel-related buildings throughout the site and the removal of existing stands of Monterey cypress trees would be considered a significant and unavoidable visual impact on the site and/or its surroundings.

The Final EIR recognizes that a hotel project at this location would permanently change the appearance and character of the site. From the perspective of visual resources, these changes would be expected to be adverse to some in the community, yet beneficial to others. A range of community opinions regarding project design and character would be expected regardless of the design proposal

on this site. For this reason, the Final EIR conservatively concludes that such changes, in the context of Pacific Grove, would be significant and also unavoidable, and thus measures to alter the design for aesthetic and social reasons would not be feasible. An alternative to address the overall size of the proposal (as well as reduce the amount of required excavation) was provided in the Final EIR (Alternative B: Lower Profile Alternative). However, the Final EIR concluded that even such concessions would not reduce the primary impact of visual change to a less than significant level. Please see Statement of Overriding Considerations below.

Impact CR-1: The project would result in a substantial adverse change in the significance of a historical resource as defined by the significance criteria established by CEQA.

Finding: Specific economic, legal, social, technological or other considerations make additional mitigation measures or alternatives infeasible.

Rationale/Evidence: The Final EIR concluded that the project as proposed would remove and alter buildings determined to be eligible for inclusion in the California Register of Historic Resources, and that the resulting impact would be significant and unavoidable. Despite a series of detailed mitigation measures including MM CR-1.1 (HABS Documentation), MM CR-1.2 (Public Interpretive Display), MM CR-1.3 (Protection of Historical Resources from Construction Activities) and MM CR-1.4 (Historic Materials and Features Rehabilitation), the removal of Building 2 (Warehouse) significant modification to Building 1 (Factory) could affect eligibility status.

To address this impact, the Final EIR concluded that the only method available to avoid this impact would be a design that does not impact the exterior integrity of Building 1. For this reason, the Final EIR included Alternative A: Limited Alteration of ATC Factory Building. This alternative would eliminate or relocate the courtyard feature proposed for this building, essentially preserving more of the front façade along Ocean View Boulevard.

The City's rejection of this alternative is based on design considerations and the benefits of providing a more open and accessible commercial reuse of Building 1. The historic preservation benefits from closing in the building, while addressing the identified impact, would preclude the benefits of creating a space within a repurposed historic building that is more consistent with the overall project design. Additional alternatives - such as one that focuses on historic preservation, for example – would not meet the project's economic or design objectives, as the project was not proposed as a historic preservation effort. Please see Statement of Overriding Considerations below.

5. Statement of Overriding Considerations

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record (CEQA Guidelines Section 15093).

The City of Pacific Grove concludes that the project's relative benefits outweigh its residual environmental effects for the following reasons:

1. LCP Consistency and Provision of Coastal Serving Uses. The project as proposed and analyzed in the Final EIR is consistent with the land uses in the City's certified Local Coastal Program (LCP) Land Use Plan and Implementation Plan. LCP Figure 6 identifies the entire site as "Visitor-Serving Commercial" (V-C). This land use designation allows for overnight lodging facilities, eating and drinking establishments, visitor serving and service retail, event venues, institutional uses oriented to tourism public and private parking facilities, and uses accessory to the above uses.

The project proposal responds directly to the uses allowed and envisioned in the certified LCP and has been designed consistent with the development and design standards identified in the LCP Implementation Plan for Visitor Serving development and standards specific to the American Tin Cannery site.

Given this consistency with City coastal land uses, standards and regulations, the project would provide certain social and economic benefits by redeveloping an underutilized site and struggling commercial center into a more vibrant facility with public gathering spaces, coastal-serving uses and coastal accommodations. The range of uses and public benefits in the coastal zone would outweigh the residual environmental effects related to unavoidable visual character changes and modifications to a structure eligible for listing on the California Register of Historic Resources.

2. Economic Benefits to the City of Pacific Grove. The hotel and commercial uses as would generate significant annual transient occupancy taxes, based on information included in the Lower Cost Overnight Accommodations Feasibility Study, as well as additional sales taxes and increased property tax revenues for the site. These direct economic benefit to the City's annual budget would provide greater opportunity for enhanced City services, programs, and capital improvements. The project would also generate approximately 161 additional jobs at a range of income levels, providing region-wide employment opportunities. The scale of these economic benefits would outweigh the residual environmental effects related to unavoidable visual character changes and modifications to a structure eligible for listing on the California Register of Historic Resources.
3. Reuse of the ATC Factory Building. The project as proposed would modify, but retain, the ATC factory building (with the distinctive sawtooth roof) and attached office structure (currently Archie's restaurant). These structures, identified as "Building 0" and "Building 1" in the Historic Resources Technical Report (HRTR) in the Final EIR, were found to be the primary contributors to the historic significance of the ATC Complex. The warehouse structure ("Building 2") was also

identified as a contributor to the site's historic significance, but to a lesser degree. As identified in the Final EIR, the demolition of Building 2 and partial demolition/modification of Building 1 (to create a courtyard) would result in a significant impact to resources identified as eligible for listing on the California Register of Historic Resources based their connection to events that have made a significant contribution to the broad pattern of local history (the local canning and fishing industry).

The retention and reuse of Building 0 and Building 1, despite the alteration of Building 1 to create a courtyard, is considered a significant social and technological benefit of the project as it would retain many identifiable characteristics of the factory. These characteristics and context would remain a prominent component of the project, even though the extent of the modifications would affect the building's historic integrity to the point where it would no longer be eligible for listing in the California Register of Historic Resources or the Pacific Grove Historic Resources Inventory. The social, technological, and tangible economic benefits of the project as proposed would outweigh the residual (unavoidable) environmental effect caused by the alteration of Building 1 as currently designed.