
5.3 Land Use and Planning

This section analyzes the potential land use and planning impacts associated with the proposed Project. Information and analysis in this section are based on goals and policies in the City of San Clemente General Plan, the Zoning Ordinance, the Marblehead Specific Plan, and the Marblehead Development Agreement. The site is in southern Orange County, within the City of San Clemente as depicted on Exhibit 2-1 (page 12).

5.3.1 Existing Conditions

1. Regional Setting

The Project site is located in San Clemente in south Orange County adjacent to the San Diego County boundary. The Camp Pendleton Marine Corps Base lies to the east and south within San Diego County. The Project site is just inland of the Pacific Ocean adjacent to the I-5 (San Diego) Freeway at approximately mid-point of the City's north/south boundaries. The cities of Dana Point and San Juan Capistrano lie to the north of San Clemente.

2. On-Site Land Uses

The Project site is part of a larger parcel known as the Marblehead Coastal Development area. The development approved in 1998 included 436 residential dwelling units and a 750,000-square-foot regional-serving commercial center. To date, a portion of the residential component has been developed, and Phase 1 of the retail/commercial component has been developed including the Outlets at San Clemente, consisting of retail stores, fast-food restaurants, and sit down restaurants that are built and operational. The hotel, which is Phase 2 of the retail/commercial component, is approved but unbuilt.

3. Surrounding Land Uses

The surrounding uses include residential to the east across the I-5 Freeway (Faire Harbour Condominiums and Highland Light) and north (Sea Summit), industrial to the south, and the Pacific Ocean with a line of existing oceanside residential development to the west (Exhibit 2-2 – Vicinity Map (page 13)). The residential component of the Marblehead Coastal Development is between the Project site and the ocean to the west. The I-5 Freeway is immediately adjacent to the eastern boundary of the Project site.

5.3.2 Regulatory Setting

1. City of San Clemente General Plan

The proposed Project is located within the City of San Clemente and is, therefore, under the regulatory jurisdiction of the City. The San Clemente General Plan (General Plan) includes elements addressing Land Use, Urban Design, Historical Preservation, Economic Development, Mobility/Streets, Beaches/Parks/Recreation, Natural Resources, Safety, Public Services/Facilities, Growth Management, Coastal, and Governance. The current General Plan

was adopted in 2014 and last updated in 2016. The Land Use Element of the General Plan describes objectives, policies, and land use patterns for the City.

The General Plan land use designation for the Project site is Regional Commercial. This designation permits a wide range of uses, including general retail commercial, factory outlet stores, promotional and specialty retail, restaurants, entertainment, professional offices, financial institutions, lodging, and similar regional-serving uses.

2. City of San Clemente Zoning Ordinance

The Zoning Ordinance implements the City’s General Plan by providing regulations regarding permitted land uses, development standards, and the development entitlement process for land within the City boundaries. The Specific Plans approved by the City are incorporated into the Zoning Ordinance by reference. The Project site is zoned Marblehead Coastal Specific Plan - RC-1 within the City’s zoning designations. RC-1 is the designation for Regional Commercial and is consistent with the City’s General Plan designation of Regional Commercial. The Zoning Map is included as Exhibit 5-71.

At the time the Marblehead development was approved in 1998, the City’s Zoning Code provided for a Sign Exception Permit that would allow modifications to the existing signage regulations. A Zoning Code Amendment in 2016 removed the Sign Exception Permit provision. However, as discussed herein, the Project Development Agreement provides that regulations in effect at the time the Development Agreement is approved are applicable to the development of the Project. Therefore, consistency is analyzed herein based on the Zoning Code regulations in place at the time the Development Agreement was approved.

3. Marblehead Coastal Specific Plan

A Specific Plan is a tool for the systematic implementation of the General Plan. It effectively establishes a link between implementing policies of the General Plan and the individual development proposals in a defined area. A Specific Plan may be as general as setting forth broad policy concepts or as detailed as providing direction to every facet of development from the type, location, and intensity of uses to the design and capacity of infrastructure; from the resources used to finance public improvements to the design guidelines of a subdivision.

The Marblehead Coastal Specific Plan was prepared in conformance with *California Government Code* §65450, which permits local jurisdictions to prepare specific plans for the systematic implementation of the General Plan. It contains the regulations, conditions, and programs necessary for implementation of the City’s General Plan as applicable to the property. The Marblehead Coastal Specific Plan was adopted by the City on August 5, 1998 and amended on August 21, 2007.

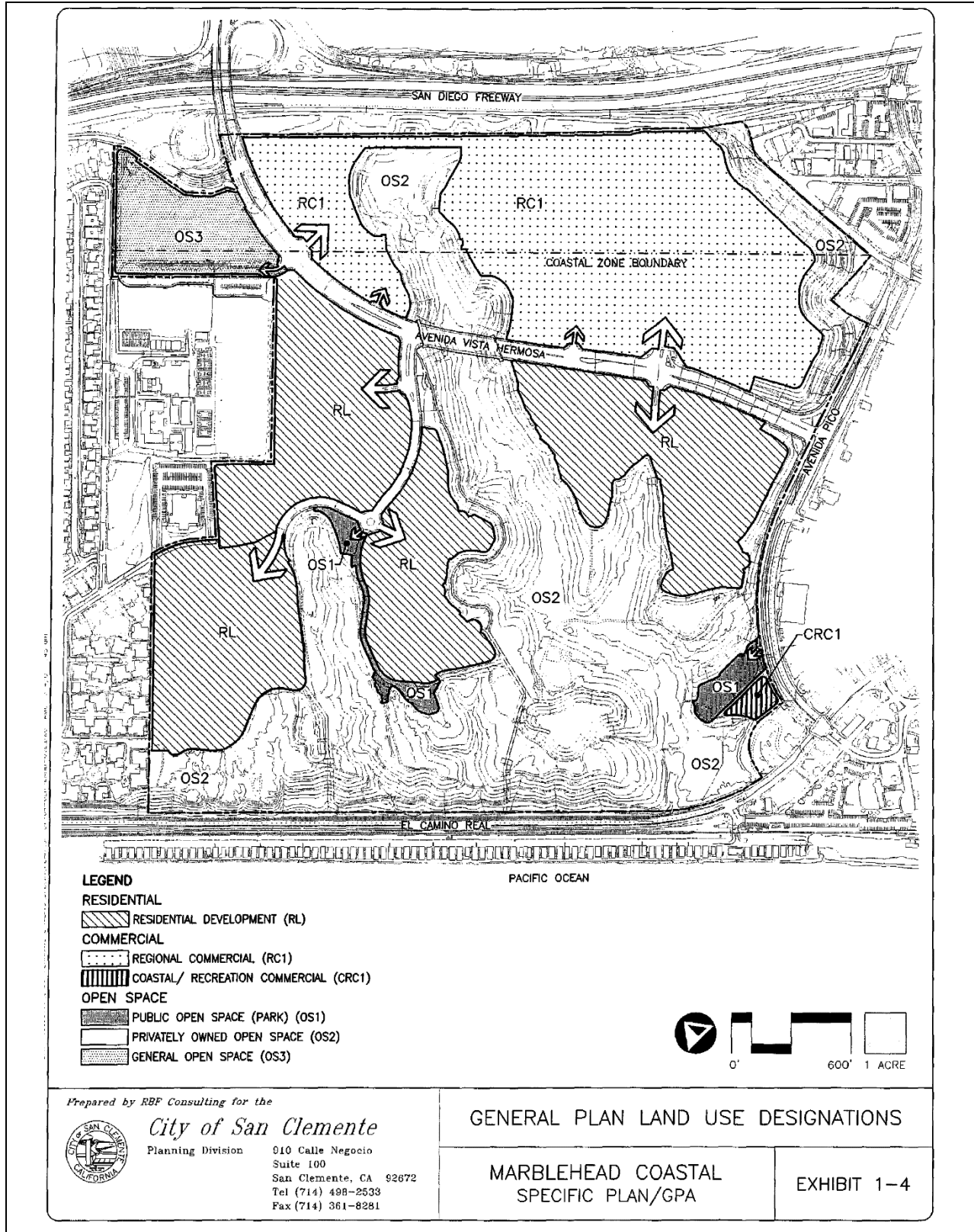


Exhibit 5-71 - Zoning Map

4. Marblehead Coastal Development Agreement

California Government Code §65864, et seq. authorizes cities to enter into development agreements with any person having a legal or equitable interest in property for the development of the property. A Development Agreement for the Marblehead Coastal property was entered into on October 2, 1998 between the City of San Clemente and the Project applicant/developer. Section 2.1 of the Development Agreement states that the term of the agreement is twenty years from the Effective Date, unless extended by the parties.

The Development Agreement conveys a vested right to the developer to develop the Marblehead residential and commercial areas in accordance with standards in place at the time of its approval unless otherwise specified within the Development Agreement. Specifically, the Development Agreement states in Section 3 - Development of the Property:

- 3.1 General - other than as expressly set forth in this Agreement, the terms and conditions of development applicable to the Property, including but not limited to the permitted uses of the Property, the density and intensity of use, maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes and provisions for the construction and installation of public improvements shall be those set forth in the Specific Plan and all other ordinances, laws, statutes, rules, regulations and official policies governing development that may apply to the Property from time to time. To the maximum extent permitted by law, in the event of any conflict between the express provisions of this agreement, on the one hand, and the Specific Plan or other ordinances, laws, statutes, rules, regulations or official policies governing development that may apply to the Property from time to time, on the other hand, the provisions of this Agreement shall prevail.

5.3.3 Thresholds of Significance

For purposes of this SEIR, the CEQA thresholds of significance for evaluation of Project impacts related to Land Use and Planning are based on suggested criteria from the California Environmental Quality Act Environmental Checklist found in Appendix G of the CEQA Guidelines. The Project would result in a significant impact if it would:

- a) Physically divide an established community
- b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect
- c) Conflict with an applicable habitat conservation plan or natural community conservation plan.

5.3.4 Project Impacts Prior to Mitigation

Implementation of the proposed Project will not alter existing on-site land use designations or development limits. The Project site is designated Regional Commercial in the General Plan and proposes the modification of an existing approved sign program to increase the signage

from 10 to a total of 32 freeway-oriented signs at the Outlets at San Clemente. The outlet center currently has 16 temporary tenant identification signs, which have been permitted on a temporary, time-certain basis.

The original Marblehead EIR evaluated a fully operational, approximately 750,000-square-foot regional commercial center. The approved signage included three freeway-oriented Icon Tower monuments. Although the current Project includes a total of 32 freeway-oriented signs, only one freestanding monument structure is proposed, with the remaining signage wall-mounted on the building location of the specific tenant. No change to land use designations is requested, and the proposed Project signage is consistent with the use permitted by the General Plan, the Specific Plan, and the Development Agreement.

1. Consistency with the City of San Clemente General Plan

Land Use Element

The land use designation of Regional Commercial allows general retail, commercial, factory outlet stores, promotional and specialty retail, restaurants, entertainment, professional offices, financial institutions, lodging, and similar regional-serving uses. The proposed Project does not include any change in land use designations, density, or development standards that would be inconsistent with the goals and policies of the Land Use Element. Policies within the Land Use Element that could apply to the proposed Project include:

LU-2.02 - Identification of Commercial Areas. We require distinctive entry and informational signage, street trees, street furniture, pedestrian-scaled lighting and other improvements to uniquely identify individual commercial districts including: the Downtown Core, North Beach, South El Camino Real, Pico Plaza, Los Molinos, Camino de los Mares, Avenida Pico, Marblehead Coastal, Shorecliffs and “La Pata” commercial district, which includes Talega, Plaza Pacifica and the commercial properties at the intersection of Avenida La Pata and Avenida Vista Hermosa.

The Outlets at San Clemente, including the approved but unbuilt Phase 2 and hotel, are consistent with Policy 2.02 in that the signage approved in the Marblehead EIR and the signage proposed herein will provide information, direction, and wayfinding to customers/visitors accessing the Project from the I-5 Freeway. The signs will identify the individual shops with wall signage that will be visible from the I-5 Freeway. The Icon Tower will identify major tenants and serve as an identifying anchor showing the location of the retail center from a greater distance than the wall signage. All signage will be scaled appropriately for coverage within the space provided so as to provide uniformity and conformity throughout while uniquely identifying the retail center and hotel as a commercial district. The Project is consistent with this policy.

LU-2.03 - Neighborhood Compatibility. We require that commercial projects abutting residential neighborhoods be designed and operated to protect

residents from the effects of noise, light, odors, vibration, traffic, parking, and other operational impacts.

The nearest residential development with views of the freeway-oriented signage is located across the I-5 Freeway. The Outlets at San Clemente, including the approved but unbuilt Phase 2 and hotel, will provide signage lighting that is compatible with City standards and that will protect adjacent development as well as nearby development from adverse effects. The signage proposed will not emit noise, odors or vibration as they are either typical wall-mounted signs or mounted on the Icon Tower. The signs will enhance wayfinding for local and freeway traffic. The signs will be halo illuminated and the effects of the type of lighting utilized will be minimal and will be extinguished one hour after close of business for the retail shops. A photometric analysis prepared for the Project compared light levels for the existing condition with those projected at Project buildout. The computer model output showed zero foot-candle lighting extending off-site. The proposed back lighting will not result in light spill or glare that will impact adjacent development as detailed in Section 5.1, Aesthetics (beginning on page 59), which further analyzes the impacts of the proposed signage program. The proposed Project is consistent with this policy.

Mobility/Complete Streets Element

This Element focuses on moving people by multiple transportation modes through human and motorized means. Because traffic impacts generated by proposed development can impact a City's ability to achieve transportation goals, and a stated goal is to make commercial districts more functional and enjoyable, the following policy is indirectly applicable to the proposed Project.

M-1.05 - Development project impacts. We require development projects to analyze potential off-site traffic impacts and related environmental impacts through the CEQA process and to mitigate adverse impacts to less than significant levels.

The original Marblehead EIR evaluated and analyzed traffic impacts related to the development consisting of a residential and retail/commercial component. Since the certification of that EIR, EIR Addendums 1 through 5 have been approved, reducing the development size of the residential and retail components. Mitigation was provided to reduce traffic impacts identified as significant. The proposed Project, which consists of freeway-oriented signage, will not increase traffic either on-site or off-site beyond what was originally anticipated and analyzed for a fully operational retail center and hotel. The freeway-oriented signage will benefit the center and the City by assisting shoppers and hotel guests in locating and accessing their destinations, thereby ensuring the success of the development. The proposed Project will provide signage that will also more safely and effectively direct vehicles to the Project site. Therefore, the Project is consistent with this policy.

Urban Design Element

The focus of this Element is on the physical and design characteristics of human-made urban features that unify San Clemente. The primary goal of the Element is to create and enhance a “high-quality, built environment” for residents, employees, and visitors. Signage is among the design features that are considered to achieve the goal.

UD-1.09. Signs. We require quality, balance, consistency and the use of high quality materials in the design of public and private signs, including commercial signs, municipal signs and street and traffic signs. Signs should be compatible with the architectural character of buildings on which they are placed, prevailing streetscape character and surround community character, and should not be visually obtrusive.

Consistency with this policy is achieved in several ways. The freeway-oriented signs include 23 wall-mounted signs and 2 Project identification signs on the exterior walls of the outlet center. Four tenant signs and two Project identification signs will be part of an Icon Tower sign. An additional three primary and two secondary hotel signs will be part of the as yet unbuilt hotel.

The signs, which will be visible to the residences across the I-5 Freeway as well as motorists traveling on the freeway, will be constructed with metal channel letters and pinned off the building walls. White halo lighting will illuminate the letters and will be turned off 1 hour after the close of business. Because the signs will be attached to the buildings, they will be architecturally compatible and will use only nationally recognized trademark logos. The Icon Tower will be architecturally compatible with the buildings in style and color. Therefore, the proposed Project is consistent with Policy UD-1.09.

2. Consistency with the San Clemente Zoning Ordinance

The City’s Zoning Ordinance implements the General Plan, providing regulations regarding permitted land uses, development standards, and the development entitlement process. Areas within an approved Specific Plan are incorporated into the Zoning Ordinance by reference. A specific plan can either replace the City’s Zoning Ordinance and design guidelines or provide standards that enhance the existing regulations.

On March 15, 2016, the City adopted amendments to its Zoning Ordinance related to freeway-oriented signage. The amendments prohibit freeway-oriented signs and signs larger than 64 square feet in order to “reduce distraction to drivers and increase safety on our local streets and freeways.” The amendments also repealed and removed Section 17.16.260 of the Municipal Code which provided for Sign Exception Permits.

The current Zoning Ordinance is not applicable to the extent it is inconsistent with the Development Agreement or the Specific Plan. The City’s current Zoning Ordinance permits a 64-square-foot maximum size per sign and no longer includes a provision for exceeding that maximum through a Sign Exception Permit. The proposed Project signage includes 20 signs which would exceed that 64 square foot standard. In addition, if the Project was subject to

current regulations, the total maximum signage square footage for the outlet center would also exceed that maximum with approximately 2,978 square feet proposed and 2,660 square feet allowed. Based on the action to repeal Section 17.16.260 of the Municipal Code, under current City regulations where no freeway-oriented signage is permitted, the proposed signage plan would not be permitted. Due to the above-described amendment repealing Section 17.16.160 for Sign Exception Permits, there is also no longer a process or mechanism to deviate from the Code restrictions.

However, as noted, the Marblehead Development Agreement requires the City to evaluate the Project based on the zoning in place at the time the Development Agreement was approved. The Zoning Ordinance in effect at that time allowed for wall signs up to 64 square feet with an Administrative Sign permit. Freeway-oriented signs were also allowed up to 64 square feet with an Administrative Sign Permit and a Sign Exception Permit. Sign Exception Permit (SEP) 06.402 included the placement of various interior signs and 32 freeway-oriented signs. Municipal Code Section 17.16.260, which was also in effect at the time the Development Agreement was signed, states that a sign exception permit is required under certain conditions.

The following table depicts the parameters under which a Sign Exception Permit (SEP) was required per Section 17.16.260 of the Municipal Code. The table lists the condition and then identifies why the proposed Project requires a Sign Exemption Permit based on the regulations in place under the Development Agreement.

Table 5-8 Sign Exception Permit Requirements

Section 17.16.260 SEP Requirement	Proposed Project Exceptions
Any sign that exceeds the maximum standards per Matrix of Sign Types (Section 17.84.030 (c)). Maximum standard: 64 sq. ft.	Project signs range in size from 31.5 sq. ft. to a maximum of 130.5 sq. ft., exceeding the 64 sq. ft. standard
Any sign that exceeds the individual sign area allowed as listed in Section 17.84.020 - General Regulations and Section 17.84.030(c)	Seventeen tenant ID Signs (#s 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, 14, 15, 17, 18, 19, 23) and the four outlet ID signs are larger than 64 sq. ft. Signs that do not exceed the 64 sq. ft. maximum are #s 8, 12, 16, 20, 21, 22, 24, 25, 26 and 27 which are between 31.4 and 64 sq. ft.
Any business or site that exceeds the maximum sign area allowed, as listed in Section 17.84.030 - Specific Regulations by Sign Type	The outlet center signs would exceed the 2,660 sq. ft. allowed for total sign cover area by 318 sq. ft. with approximately 2978 sq. ft. proposed
Any sign that exceeds the permitted sign height of 15' for pole signs and 10' for monument signs	None of the proposed signs are pole signs or monument signs. The Icon Tower structure, at 45' in height, is the only free-standing type signage proposed. The Icon Tower exceeds the height limit for either pole or monument signs.
Any business, building or site that exceeds the maximum number of signs permitted	There is no specific regulation for the number of signs.
Any freeway-oriented sign, except for change of copy	All signs proposed for the Project are freeway-oriented and, therefore, require a Sign Exception Permit
Any sign exceeding 75 percent of the length of the business façade	No signs will exceed 75% of the length of the building façade. Exhibits 4-5 and 4-6 depict building façade coverage.

As shown in the table, the Project, as proposed, would require a Sign Exception Permit to allow signs that are over the maximum size, over the maximum height and cumulatively are above the total permitted square footage.

The findings required for approval of a Sign Exception Permit are detailed below and include analysis showing consistency of the Project signage as proposed herein.

Findings

- 1) *There are unique or unusual circumstances relating to the size of the site or business, shape of the site or business, location and orientation of the site or business, visibility of the site or business, proximity to street frontage or length of street frontage that do not allow the site or business to achieve the goals and objectives of this chapter for adequate business identification.*

The Project's location adjacent to the I-5 Freeway between two off-ramps results in several unique circumstances. The Project setbacks along the freeway frontage exceed typical setbacks for a retail project, making identification of the Project more difficult for passing motorists. Freeway traffic moves more rapidly than arterial roadway traffic and smaller scale signs are less noticeable as vehicles pass quickly. The Project's success and ability to achieve its goals and objectives depend on its status as a regional center, attracting regional as well as local shoppers and visitors, rather than solely serving the local community. Due to the size of the Project, larger freeway-oriented signs are appropriate and not inconsistent with the goals of the originally approved Project to achieve a successful regional-serving retail center.

- 2) *The granting of the sign exception permit is not contrary to the intent of the General Plan, Design Guidelines, relative specific plan or Architectural Overlay District in which the sign exception is proposed.*

The Marblehead Coastal Specific Plan provides for a regional shopping center that is consistent with the intent of the General Plan. Due to the size and proportions of the buildings, appropriately scaled signage requires allowances to the maximum sign area, which are greater than provided in the City's Zoning Code. The Sign Exception Permit, which is still applicable under the Development Agreement, provides a mechanism for increasing sign size to accommodate special circumstances similar to the outlet center such as location, scale, type of development and project identification.

- 3) *The granting of a Sign Exception Permit is not considered a grant of special privileges inconsistent with the limitations of other similarly situated properties.*

The granting of a Sign Exception Permit does not grant special privileges inconsistent with similarly situated properties. Existing businesses adjacent to the freeway have signage that is visible from the freeway, including signs that exceed the sign code standards. The Project's proposed signage serves the same purpose as other commercial development to provide identification/direction/wayfinding assistance to motorists accessing the outlet center from the freeway.

- 4) *The granting of a Sign Exception Permit does not create a traffic or safety hazard.*

An analysis has been prepared by Linscott, Law & Greenspan that specifically addresses impacts with and without freeway signage. The analysis concludes that not providing signage as proposed may cause significant impacts to traffic safety for southbound motorists attempting to access the outlet center without identifying and wayfinding signage. Therefore, granting a Sign Exception Permit will enhance safety for vehicles exiting the freeway to access the outlet center and not create a traffic or safety hazard.

- 5) *The granting of a Sign Exception Permit does not adversely impact surrounding properties by increasing light, glare or noise.*

A Sign Exception Permit for the proposed signage will not adversely impact surrounding properties by increasing light, glare, or noise. The proposed wall-mounted signage will be halo-illuminated, and the Icon Tower will be up- and down-lit with directed lighting. Lighting will be controlled by a timer, and wall signs will be turned off 1 hour after store closings. The sign materials will be non-reflective to eliminate glare. No noise will be associated with the signage.

- 6) *For freeway-oriented signs:*

- a) *The location of the site dictates the need for a freeway-oriented sign to allow adequate business identification.*

The outlet center location dictates the need for freeway-oriented signage because, as a regional shopping center, the main access will be from the I-5 Freeway and signs must be visible to motorists traveling on the freeway. In addition, because the setbacks along the freeway are larger than those for retail development along an arterial roadway, there is a need for larger signage to enhance visibility from a greater distance. The signs will act as identification/directional/wayfinding guides and meet the goals for granting a Sign Exception Permit.

- b) *The design, scale, materials and location of the freeway-oriented sign provides necessary business identification to motorists on the freeway without creating adverse visual impacts.*

The design, scale, materials, and location of the proposed freeway-oriented signs provide necessary business identification to motorists on the freeway without creating adverse impacts. The freeway-oriented signs have been conditioned in terms of quantity, location, size, and color. This will reduce the potential for distraction to motorists while at the same time providing location and wayfinding, thereby enhancing safety for motorists trying to access the outlet center.

- c) *The design, scale and materials of the signs harmonize with the architectural design of the building it serves and are complimentary to the City's image as viewed from the freeway.*

The design, scale, and materials of the signs harmonize with the architectural design of the existing buildings. The Marblehead Specific Plan Design Guidelines require that signage “be harmonious in scale, form, materials and colors with project buildings.” In addition, freestanding signage “shall be integrated with the overall architectural and landscape design for the commercial center.” The proposed signs have been conditioned to limit the quantity, location, size and color of the signs which will ensure that they are complimentary to the City’s image.

- d) *The design and scale of the signs is appropriate to the distance from which the signs are normally viewed from the freeway.*

The design and scale of the signs is appropriate to the distance of the signs as viewed from the freeway, because cars will be generally traveling at freeway speeds and need to be alerted of the presence of the outlet center well in advance of the exit for the outlet center. The Project has been conditioned to limit the quantity, location, size, and color of the signs. The size and scale of the signs are compatible with the building mass and architecture and will be the appropriate size for viewing from the freeway.

- e) *If applicable, the design, scale and location of the building dictates the use of a freestanding, freeway-oriented sign, rather than a building-mounted, freeway-oriented sign.*

The design, scale, and location of the building dictates the use of a freestanding freeway-oriented sign that is identified as the Icon Tower. Due to the size of the Project site and scale of the buildings, there is a need for an Icon Tower sign to provide identification/direction/wayfinding for motorists accessing the retail center from the freeway. The Icon Tower will provide Project identification/location from a greater distance than the wall-mounted signage. The proposed signs meet the goal of granting a Sign Exception Permit.

3. Consistency with the Marblehead Specific Plan

The Marblehead Specific Plan (Marblehead SP) is one of seven Specific Plans adopted by the City. The Marblehead SP, on page 1-5 (Section III. Sign Ordinance), notes that the SP “incorporates the Sign Ordinance by reference.” The Sign Ordinance contains regulations pertaining to signs throughout the City. The purpose and objectives of the Marblehead SP include, among others:

- Provide for a variety of land uses within the Specific Plan area capable of generating significant new tax revenues to the City
- Promote regional commercial uses to generate sales tax revenues

Marblehead SP, Chapter 3 - Design Guidelines (commercial development) page 3-4, specifically address signage as follows:

- D. **Signs** - Commercial centers should be identified by a sign program with monument signage and wall signs for individual tenants. Such signs may include logos, and should be harmonious in scale, form, materials and colors with project buildings, walls and other structures. Due to the size and proportions of the buildings, appropriate scaled signage may require maximum sign area allowances greater than currently specified in the City's Sign Ordinance. A specific Sign Plan accounting for all such allowances shall be provided for consideration at the time of site plan review.

Freestanding signage shall be integrated with the overall architectural and landscape design for the commercial center. Multiple locations for the freestanding signage shall be permitted and appropriately located with respect to multiple frontages and entries into the center.

Marblehead SP, Chapter 3, page 3-16 states:

5. **Signs** - Signs should be integrated into the architectural design of the building in a manner consistent with the intent of the City's Sign Ordinance, as well as the architectural elements, scale and massing of the project.

Marblehead SP, Chapter 5 - Development Standards, page 5-11 states:

- H. **Signs** - Signs shall be permitted in accordance with the City Sign Ordinance, except as modified by a Sign Program for the site.

The Marblehead EIR and Specific Plan envisioned, and received approval based on, at least 10 freeway-oriented signs, including three icon towers. The Sign Exception Permit (SEP 97-19) was permitted under Municipal Code Section 17.16.260 (later repealed). The subsequent legal challenge to the modified Sign Program resulted in the Court requiring vacation of prior approval of the freeway-oriented signage portion of the sign program and environmental analysis of the additional freeway-oriented signage which had not been a part of the original approval.

The currently proposed sign program, while increasing the number of signs, remains consistent with the Marblehead SP Guidelines. In addition, the Marblehead EIR evaluated a fully operational center, with 750,000 square feet of commercial and retail uses, with adequate signage. The current sign program remains consistent with the intent of the analysis in the Marblehead EIR. The Sign Ordinance "incorporated by reference" into the Marblehead SP the regulatory ordinance in terms of consistency because the very nature of a specific plan is to vest the development entitlement with the regulations and codes in effect at the time of approval, unless subsequently amended.

4. **Development Agreement for Marblehead Coastal Property**

A Development Agreement (DA) was entered into on October 2, 1998. The DA was intended to eliminate uncertainty in planning for and securing the orderly development of the Project.

In addition, the DA provided significant public benefits to the City in exchange for the assurance regarding development of the Project under the terms and conditions of the DA.

Specific regulations for development are included in Section 3. Development of the Property, page 9 of the DA. Section 3.1 states: “Other than as expressly set forth in this Agreement the terms and conditions of development applicable to the Property . . . shall be those set forth in the Specific Plan and all other ordinances, laws, statutes, rules, regulations and official policies governing development that may apply to the Property from time to time.” The section states further: “To the maximum extent permitted by law, in the event of any conflict between the express provisions of this Agreement, on the one hand, and the Specific Plan or other ordinances, laws, statutes, rules, regulations, or official policies governing development that may apply to the Property from time to time, on the other hand, the provisions of this Agreement shall prevail.”

Based on the agreements detailed in the DA as approved, the Project is not subject to the current City Zoning Ordinance to the extent it is inconsistent with the Development Agreement or the Specific Plan. The Marblehead Coastal property, including the outlet center and hotel, remain subject to the approved Specific Plan and the conditions as set forth in the Development Agreement as of the time the Specific Plan and the DA were approved. The Zoning Ordinance in existence at that time is the prevailing regulatory document for the proposed signage as stated in Section 3.1 of the DA. The Sign Exception Permit (SEP 97-16) was approved under and in compliance with the then-current Zoning Ordinance which allowed for such exceptions. The proposed Project represents a modification to SEP 97-16. Further environmental analysis in this SEIR of the freeway-oriented signs is in response to the Court ruling specifically related to the additional freeway-oriented signage now proposed. Therefore, the proposed Project is consistent with the Marblehead Development Agreement.

5. Consistency with Regional Planning Programs

Consistency with Countywide and regional plans affecting planning in the Project area is limited due to the nature of the proposed Project, which involves additional freeway-oriented signage for an already approved and partially built development. Any such plans were previously discussed and analyzed in the Marblehead EIR. However, the Project site is located within Subarea 4 of the Orange County Southern Subregion Habitat Conservation Plan (HCP), which encompasses San Clemente and neighboring areas. The General Plan EIR HCP Map does not identify the Project site and surrounding areas a part of the habitat reserve (City of San Clemente, 2014, Figure 5.3-1). A previously disturbed canyon area, located between the outlet center, the approved but unbuilt Phase 2 of the outlet center, and the approved planned hotel, is designated as supplemental open space by the Orange County Southern Subregion Orange County HCP. Implementation of the sign program as proposed will not impact land uses designated within the HCP. Potential Project-related biological impacts to the HCP are analyzed and detailed in Section 5.2, Biological Resources (beginning on page 169 herein).

A detailed consistency analysis with the Southern California Association of Governments (SCAG) 2012-2035 Regional Transportation Plan and Sustainable Community Strategy

(RTP/SCS) is not included. The purpose of the RTP/SCS is to guide regional development and provide a strategic vision for handling the region's land use, housing, economic development, transportation, environmental sustainability, and overall quality of life. The larger Marblehead development has been fully analyzed, and the proposed additional signage is not inconsistent with the goals and vision of the RTP/SCS. No other regional planning programs are applicable to the proposed Project.

5.3.5 Mitigation Measures

No mitigation measures are required. The Project does not include any change to land use or zoning designations and is consistent with the City's General Plan, the Marblehead Specific Plan, and the Marblehead Development Agreement.

5.3.6 Level of Significance after Mitigation

The proposed Project will not divide an established community. The proposed Project relates to additional freeway-oriented signage for an approved development that is partially built. All public services, including police, fire, and water, were previously analyzed in the Marblehead EIR.

The proposed Project does not conflict with any applicable land use policy or regulation of any agency with jurisdiction over the Project. The proposed Project is consistent with the San Clemente General Plan designation of Regional Commercial and the Marblehead Specific Plan designation of MHC SP-RC 1 (Specific Plan - Regional Commercial). The proposed Project does not result in environmental impacts to land use and planning and no mitigation is required.

The proposed Project does not conflict with any applicable habitat conservation plan or natural community conservation plan, and further information and analysis is provided in Section 5.2, Biological Resources (beginning on page 169 herein). Therefore, there will be no Project impacts related to Land Use and Planning.

5.3.7 Cumulative Impacts

The proposed Project is consistent with applicable general plan, zoning, and specific plan policies, goals, and regulations. The Marblehead Coastal Development will ultimately be built out with fewer residences and less retail/commercial uses than originally considered or approved. The Marblehead EIR analyzed cumulative impacts for the entire Marblehead development. Cumulative land use impacts are generally individually mitigated on a project-by-project basis. Additional signage beyond what was analyzed in the EIR will not result in cumulative impacts in terms of land use because the Project is consistent with all land use and planning regulations with the approval of a Sign Exception Permit. The Project area is substantially built out with the exception of the hotel and the residential portion of the larger Marblehead project and the Sea Summit residential community to the north and west of the Project site. As these proposed uses are approved and also consistent with local regulations, there will be no cumulative impacts with the additional signage for the proposed Project.

5.3.8 Unavoidable Adverse Impacts

No unavoidable adverse impacts to Land Use are associated with the proposed Project.

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