



Appendix A2

Notice of Preparation (NOP) and Written Comments on the NOP

ERRATA TO THE
NOTICE OF PREPARATION
AND PUBLIC SCOPING MEETING NOTICE
FOR A DRAFT ENVIRONMENTAL IMPACT REPORT

TO: Interested Parties

DATE: August 11, 2022

SUBJECT: Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) and Public Scoping Meeting for the 534 Struck Avenue Project. City of Orange Applications: Conditional Use Permit No. 3137-21; Major Site Plan Review No. 1039-21; Design Review No. 5028-21; and Environmental Review No. 1870-20.

CEQA LEAD AGENCY: Staff Contact: Robert Garcia, Senior Planner, Planning Division, Community Development Department, City of Orange, 300 East Chapman Avenue, Orange, CA, 92866. Phone (714) 744-7231, rgarcia@cityoforange.org

Please be advised that an NOP was distributed for public review on August 1, 2022. Corrections to the NOP have been made in the attached document to **revise the address for the scoping meeting**, figure reference and dates of the previous MND. Corrections to the NOP are shown in underline for additions and ~~strikeout~~ for deletions, as follows:

PROJECT LOCATION: (Page 1 of the NOP)

The Project Site (Assessor's Parcel Number 375-331-04) is located at 534 Struck Avenue in the City of Orange, Orange County, California, generally located north of Collins Avenue, east of Batavia Street, south of Struck Avenue, and west of Burlington Northern & Santa Fe (BNSF) Railroad (See Local Vicinity Map Exhibit A: Regional Location Map, Exhibit B: Local Topographic Map, and Exhibit C: Local Aerial Map).

(Page 2 of the NOP):

On September 23, 2021~~2~~, the City circulated a Notice of Intent to Adopt Mitigated Negative Declaration (MND) No. 1870-20 for the proposed 534 Struck Avenue Project. The MND was circulated for public review from September 23 to October 25, 2021~~2~~.

SCOPING MEETING (Page 3 of the NOP):

Date:	Monday, August 22, 2022	
Time:	2:00-3:00 pm	6:00-7:00 pm
Location:	Orange City Hall Weimer Room 300 E. Chapman Avenue Orange, CA- 92866	Shaffer Park Community Room 19 3 0 N. Shaffer Street Orange, CA a 92865

NOTICE OF PREPARATION
AND PUBLIC SCOPING MEETING NOTICE
FOR A DRAFT ENVIRONMENTAL IMPACT REPORT

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CEQA LEAD AGENCY: Staff Contact: Robert Garcia, Senior Planner, Planning Division, Community Development Department, City of Orange, 300 East Chapman Avenue, Orange, CA, 92866. Phone (714) 744-7231, Fax (714) 744-7222, rgarcia@cityoforange.org

PROJECT LOCATION:

The Project Site (Assessor's Parcel Number 375-331-04) is located at 534 Struck Avenue in the City of Orange, Orange County, California, generally located north of Collins Avenue, east of Batavia Street, south of Struck Avenue, and west of Burlington Northern & Santa Fe (BNSF) Railroad (See Local Vicinity Map).

PROJECT COMPONENTS:

Approval of Project entitlements would allow for redevelopment of the Project Site with a 57,900 square foot (sf) 45-foot (ft) tall Truck Terminal consisting of 52,900 sf of warehouse space and 5,000 sf of office space, and a 5,400 sf maintenance building. The building would include 84 dock doors (cross-dock configuration). The Project would provide 59 standard automobile parking stalls, 2 standard accessible parking stalls, one 12 ft by 18 ft accessible parking stall, and 188 trailer parking stalls. Ornamental landscaping, lighting, and walls would be installed. The building would operate 24 hours a day, 7 days a week. It is anticipated that the facility would employ a total of 150-200 employees.

The redevelopment would require the demolition of the existing 40,000 sf manufacturing facility, associated parking, and removal of an unused portion of the existing BNSF Railroad spur located on the east side of the Site. Additionally, the Project would remove approximately 315 linear feet of on-street parking along Struck Avenue.

The Project Applicant requests City consideration of the following components:

- Conditional Use Permit No. 3137-21
- Major Site Plan Review No. 1039-21
- Design Review No. 5028-21

- Environmental Review No. 1870-20
- Demolition permits for on-site structures and other improvements
- Grading and Building Permits to grade and construct the Project
- An EIR for disclosure and assessment of potential Project impacts and establishment of mitigation measures and a Mitigation Monitoring and Reporting Program

SUMMARY OF PROBABLE ENVIRONMENTAL EFFECTS:

Implementation of the proposed Project may result in significant environmental effects related to the following topical issues:

- | | |
|--|---|
| <ul style="list-style-type: none">• Air Quality• Biological Resources• Cultural Resources• Energy• Geology and Soils (Paleontological Resources) | <ul style="list-style-type: none">• Greenhouse Gas Emissions• Hazards and Hazardous Materials• Hydrology and Water Quality• Noise• Transportation• Tribal Cultural Resources |
|--|---|

On September 23, 2021, the City circulated a Notice of Intent to Adopt Mitigated Negative Declaration (MND) No. 1870-20 for the proposed 534 Struck Avenue Project. The MND was circulated for public review from September 23 to October 25, 2021. One public comment received on the MND requested additional technical analysis (e.g., air quality and noise modeling, traffic). Therefore, additional technical analyses are underway and the related environmental topical areas are indicated as “potentially significant” for further evaluation in the EIR, even though these areas were found to be “less than significant” and/or “no impact” in the circulated MND. Based on the findings of the MND, the following environmental topics were determined to be less than significant or no impact and will not be evaluated further in the EIR:

- | | |
|--|---|
| <ul style="list-style-type: none">• Aesthetics• Agriculture / Forestry Resources• Land Use / Planning• Mineral Resources• Population / Housing | <ul style="list-style-type: none">• Public Services• Recreation• Utilities / Service Systems• Wildfire |
|--|---|

Pursuant to CEQA Guidelines Section 15072, the Project site is listed on the EnviroStor database for a historic recognized environmental condition; however, a no further action was recommended as remediation of soil was completed by Orange County. These potential environmental effects will be analyzed in the Draft EIR that will be prepared to evaluate the Project’s potential impacts on the environment and project alternatives will be analyzed.

NOP COMMENT PERIOD:

The City of Orange is commencing with preparation of a Draft EIR for the 534 Struck Avenue Project, and has released this NOP in conformance with the requirements of CEQA and the City of Orange Local CEQA Guidelines.

The City wants to know your views and your specific concerns related to the potential environmental effects of the Project. Information gathered during the NOP Comment period will be used to shape and focus future analysis of environmental impacts in the Draft EIR.

If you are a public agency, the City is interested in the views of your agency as to the scope and content of the environmental information germane to your agency's statutory responsibilities. As a responsible or trustee agency, your agency may need to use the Draft EIR prepared by the City when considering issuance of a permit or other approval for the Project.

The City invites you to submit written comments describing your specific environmental concerns, and if representing a public agency, please identify your specific areas of statutory responsibility. Written comments are desired at the earliest possible date, but due to the time limits mandated by State law, your response must be received no later than 30 days after receipt of this notice. **The 30-day NOP public comment period begins on August 1, 2022 and ends on August 30, 2022.** Please send your written comments to the City staff contact identified above, and please include your name, address, and contact information in your correspondence.

SCOPING MEETING:

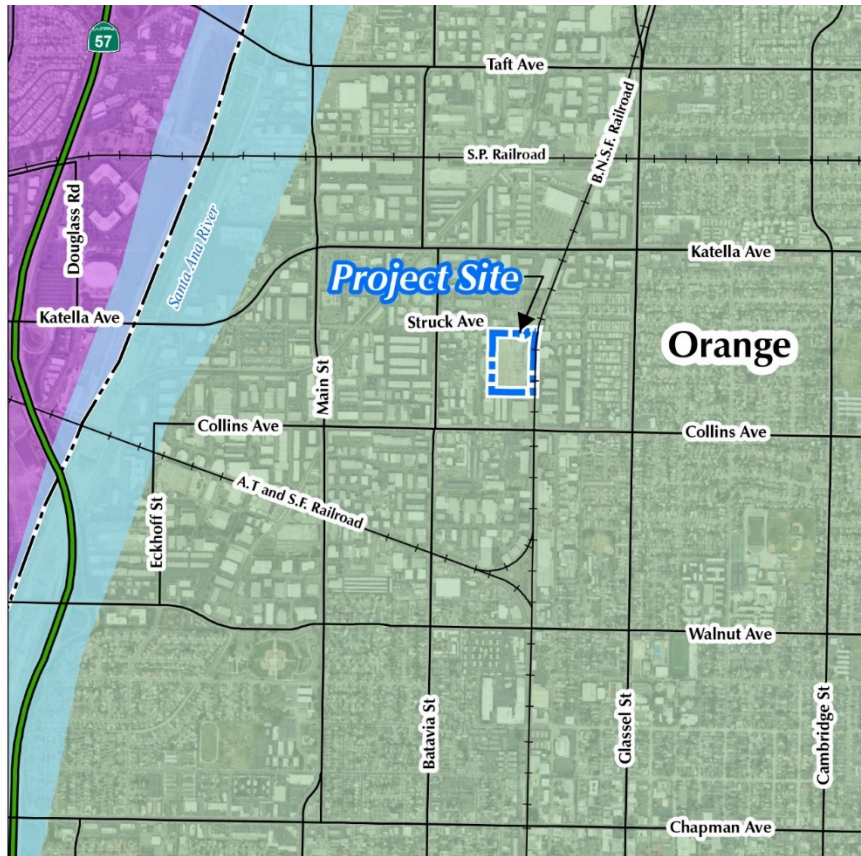
Date:	Monday, August 22, 2022	
Time:	2:00-3:00 pm	6:00-7:00 pm
Location:	Orange City Hall Weimer Room 300 E. Chapman Avenue Orange, CA 92866	Shaffer Park Community Room 1930 N. Shaffer Street Orange, CA 92865

DOCUMENT AVAILABILITY:

The project description, location, and potential environmental effects are described above. An Initial Study/Mitigated Negative Declaration (IS/MND) for this Project was circulated for public review from September 23, 2021 to October 25, 2021. The previous IS/MND and this NOP are available for public review at:

- *The City's website:*
<https://www.cityoforange.org/our-city/departments/community-development/planning-division/current-projects>
- Orange City Hall, Offices of the City Clerk and Community Development Department, 300 East Chapman Avenue, Orange, CA 92866.

PROJECT APPLICANT: Prologis, L.P., c/o: Maggie Xu, Director, Development, 2141 Rosecrans Avenue, Suite 1151, El Segundo, CA 90245



LOCAL VICINITY MAP

NATIVE AMERICAN HERITAGE COMMISSION

July 29, 2022

Governor's Office of Planning & Research

Robert Garcia
City of Orange
300 East Chapman Avenue
Orange, CA 92866

AUG 01 2022

STATE CLEARINGHOUSE

Re: 2021090399, 534 Struck Avenue Project, Orange County

Dear Mr. Garcia:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.



CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagaling
Chumash

PARLIAMENTARIAN
Russell Attebery
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SECRETARY
Sara Dutschke
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COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
Isaac Bojorquez
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Nomlaki

COMMISSIONER
Wayne Nelson
Luiseño

COMMISSIONER
Stanley Rodriguez
Kumeyaay

EXECUTIVE SECRETARY
Raymond C. Hitchcock
Miwok/Nisenan

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a.** A brief description of the project.
 - b.** The lead agency contact information.
 - c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).
 - a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a.** Alternatives to the project.
 - b.** Recommended mitigation measures.
 - c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).

- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a.** Type of environmental review necessary.
 - b.** Significance of the tribal cultural resources.
 - c.** Significance of the project's impacts on tribal cultural resources.
 - d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
 - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation**: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation**. There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality**: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation**: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Andrew.Green@nahc.ca.gov.

Sincerely,



Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse



AFFILIATED AGENCIES

*Orange County
Transit District*

*Local Transportation
Authority*

*Service Authority for
Freeway Emergencies*

*Consolidated Transportation
Service Agency*

*Congestion Management
Agency*

August 29, 2022

Mr. Robert Garcia
Senior Planner
City of Orange – Planning Division
300 East Chapman Avenue
Orange, CA 92866

Subject: **Notice of Preparation of a Draft Program Environmental Impact Report for the 534 Struck Avenue Project**

Dear Mr. Garcia:

Thank you for providing the Orange County Transportation Authority (OCTA) with the Notice of Preparation for the 534 Struck Avenue Project (Project). The following comments are provided for your consideration:

- Please change any reference to BNSF to “OCTA/SCRRA”—the railroad is owned by OCTA and operated by the Southern California Regional Rail Authority (SCRRA).
- Coordination with SCRRA is required on the abandonment of the industry track.
- Ensure drainage is designed to drain away from the tracks during construction and post-construction.
- Lighting should be designed to keep light away from the tracks.
- Trees near the tracks should be maintained to avoid encroachment onto the railroad.
- A Right of Way Encroachment Agreement with SCRRA may be necessary during construction. Please contact SCRRA for further action: [RIGHT OF WAY \(ROW\) ENCROACHMENT \(metrolinktrains.com\)](https://www.metrolinktrains.com/ROW/ENCROACHMENT)

Mr. Robert Garcia
August 29, 2022
Page 2

Throughout the development of this project, we encourage communication with OCTA on any matters discussed herein. If you have any questions or comments, please contact me at (714)-560-5907 or at dphu@octa.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Phu", with a long horizontal flourish extending to the right.

Dan Phu
Manager, Environmental Programs

c: Roderick Diaz, SCRRA
Andy Althorp, SCRRA

DEPARTMENT OF TRANSPORTATION

DISTRICT 12
1750 EAST 4TH STREET, SUITE 100
SANTA ANA, CA 92705
PHONE (657) 328-6000
FAX (657) 328-6522
TTY 711
www.dot.ca.gov/caltrans-near-me/district12



*Making Conservation
a California Way of Life.*

Aug. 30, 2022

Mr. Robert Garcia
Senior Planner
City of Orange
300 E. Chapman Ave.
Orange, CA. 92866

File: LDR/CEQA
SCH: 2021090399
12-ORA-2022-02037
SR-57, PM 12.452
SR-55, PM 15.242

Dear Mr. Garcia,

Thank you for including the California Department of Transportation (Caltrans) in the review of the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the 534 Struck Avenue Project. Approval of Project entitlements would allow for redevelopment of the Project Site with a 57,900 square foot (sf) 45-foot (ft) tall Truck Terminal that includes 52,900 sf of warehouse space and 5,000 sf of office space, and a 5,400 sf maintenance building. The building would include 84 dock doors (cross-dock configuration). The Project would provide 59 standard automobile parking stalls, 2 standard accessible parking stalls, one 12 ft by 18 ft accessible parking stall, and 188 trailer parking stalls. The building would operate 24 hours a day, 7 days a week. It is anticipated that the facility would employ a total of 150-200 employees. The redevelopment would require the demolition of the existing 40,000 sf manufacturing facility, associated parking, and removal of an unused portion of the existing BNSF Railroad spur located on the east side of the Site. Additionally, the Project would remove approximately 315 linear feet of on-street parking along Struck Avenue.

The Project Site is located at 534 Struck Avenue in the City of Orange, Orange County, California, generally located north of Collins Avenue, east of Batavia Street, south of Struck Avenue, and west of Burlington Northern & Santa Fe (BNSF) Railroad. The project is a mile and a half to State Route (SR) 57 and two miles to SR-55. Both SR-57 and SR-55 are owned and operated by Caltrans. Therefore, Caltrans is a responsible agency on this project, and has the following comments:

Transportation and System Planning

1. Consider bicycle, pedestrian, electric vehicle charging, and ridesharing opportunities at the site including bicycle storage, accessible walkways, charging stations, and pick-up/drop-off locations.
2. Please provide discussion on active transportation opportunities and connectivity to existing walking and biking networks. Consider providing bike parking, in addition to the automobile and accessible parking mentioned. Refer to the Essentials of Bike Parking guide for bike parking best practices.
https://www.apbp.org/assets/docs/EssentialsofBikeParking_FINA.pdf.
3. Please include discussion about the City's multimodal mobility strategies relating to existing bus and rail services for local and regional connectivity. Encourage the use of transit in the proposed EIR which may lead to a reduction in congestion and improve air quality.

Traffic Operations

4. Please submit copies of all traffic related documents for review. The data used in the Traffic Impact Analysis (TIA) should not be more than 2 years old and shall be based on the Southern California Association of Governments Regional Transportation Plan Model. Use the Highway Capacity Manual methodology for all traffic analyses.

Freight Operations and Planning

5. Please evaluate installing electric vehicle charging infrastructure. Electric charging infrastructure provides trucks or transport refrigeration units access to power without running their engines, thus reducing GHG and heat emissions.

6. Please identify, and seek to resolve (with appropriate local partners, including, but not limited to, the local government) any potential pedestrian or bicycling conflict points to, from, or within the project site.
7. Please ensure on-site truck parking facilities include adequate facilities for drivers such as restrooms, lighting, trash facilities, drinking water, showers, and food or vending machines.
8. Please consider pricing strategies to incentivize and encourage greater use of ZEV trucks can reduce emissions.

Caltrans' mission is to provide a safe, sustainable, equitable, integrated, and efficient transportation system to enhance California's economy and livability. Please continue to coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, please do not hesitate to contact Julie Lugaro at Julie.lugaro@dot.ca.gov.

Sincerely,



Scott Shelley
Branch Chief, Regional-IGR-Transit Planning
Caltrans, District 12

LAW OFFICE OF JOHN P. GIVEN

2309 Santa Monica Blvd., #438
Santa Monica, CA 90404
john@johngivenlaw.com
(310) 471-8485

August 24, 2022

VIA EMAIL ONLY to rgarcia@cityoforange.org

City of Orange
Community Development Department
Attn: Robert Garcia
300 E. Chapman Avenue
Orange, CA 92866

RE: Notice of Preparation for Draft EIR
534 Struck Avenue Truck Terminal / Warehouse Project

Dear Mr. Garcia:

This comment letter is submitted in response to the July 29, 2022 Notice of Preparation (“NOP”) issued by the City of Orange for the proposed project at 534 W. Struck Avenue (the “Project”).

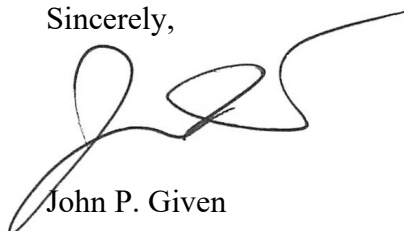
The NOP notes that due to a public comment letter requesting additional technical analysis the applicant or City of Orange determined an Environmental Impact Report would be prepared for the Project. Likely this was a letter submitted on behalf of Mary’s Kitchen and its clients (attached).

As you may know, until recently Mary’s Kitchen operated a day shelter providing wrap-around services for unhoused persons at its facility at 517 Struck Avenue, immediately adjacent to the proposed Project. Recently, the City of Orange has taken over operation of that site, and city contractors now provide substantially the same services to the same population.

With the above in mind, any EIR prepared for the Project should assume that the homeless services facility now operated by the City at 517 Struck Avenue will continue at the location indefinitely, since there is and for the foreseeable future likely will remain a substantial need for such services. There is no publicly available information suggesting that another facility in or near the City is available to accommodate the needs of the many unhoused persons who continue to be served at 517 Struck Avenue.

Thank you for your consideration of these comments.

Sincerely,



John P. Given

LAW OFFICE OF JOHN P. GIVEN

2309 Santa Monica Blvd., #438

Santa Monica, CA 90404

john@johngivenlaw.com

(310) 471-8485

October 25, 2021

VIA EMAIL ONLY to rgarcia@cityoforange.org

City of Orange
Community Development Department
Attn: Robert Garcia
300 E. Chapman Avenue
Orange, CA. 92866

RE: Initial Study/Mitigated Negative Declaration 1870-20
534 Struck Avenue Truck Terminal / Warehouse Project

Dear Mr. Garcia:

This comment letter is submitted on behalf of Mary's Kitchen, a service provider for unhoused individuals in the City of Orange, and through Mary's Kitchen on behalf of the individuals to whom it provides services. Initial Study/Mitigated Negative Declaration 1870-20 (the "MND") has been prepared for the above-captioned proposed project at 534 W. Struck Avenue (the "Project"). Mary's Kitchen provides day shelter services for more than 300 individuals at its facility at 517 Struck Avenue, immediately adjacent to the proposed Project, where it has operated for 27 years (since 1994).

Mary's Kitchen provides wrap-around services to unhoused persons including nutritious meals, a reliable mail address for work and government benefits, hygiene, bathrooms, charging stations for electronic devices, clothes and laundry, and medical care. It is the only location in the City of Orange that provides a safe place to rest each day, an especially important service for the survivors of domestic violence and sexual assault among the unhoused persons served by Mary's Kitchen. The majority of individuals served by Mary's Kitchen have one or more disabilities. Mary's Kitchen connects women, veterans, and seniors with other providers, as well as with employment and educational opportunities. Mary's Kitchen primarily serves adults without children, but also serves families with children.

Mary's Kitchen provides its services between 9am and 3pm, six days per week. Volunteers, some of whom are more than 80 years of age, are frequently on site before and after those hours. All services are located outside except for shower facilities and food preparation areas. Part of the outdoor area at Mary's Kitchen has a covering to provide protection from sun and rain, but people are outside while they eat, rest, visit doctors, get clothes, and receive mail.

The MND for the proposed Truck Terminal Project is inaccurate and incomplete and must be revised and recirculated before it can be certified for the Project. It may need to be replaced with

an Environmental Impact Report if the necessary additional review of potentially significant environmental impacts not considered in the MND cannot be adequately mitigated.

The MND's Existing Setting Contains Significant Inaccuracies that Must be Corrected

Mary's Kitchen is mentioned only twice in the MND's 135 pages (in consecutive sentences in the Introduction). Describing the existing setting to the north of the Project site, the MND states:

The property to the north of the Project site, on the opposite side of Struck Avenue, is designated for Public Facility uses and includes the City of Orange Public Works Department and Mary's Kitchen, a social services organization. Additionally, a future residential development project is proposed on the property immediately north of Mary's Kitchen. (MND, p. 1-6.)

The MND fails to provide a complete or accurate description of Mary's Kitchen, including the nature of the services it provides, and that it provides all of its services except shower facilities outdoors. As a result, the MND fails to consider that many persons, including service providers, volunteers, and unhoused persons, are located outdoors there Monday through Saturday each week between 9am and 3pm. In addition, while Mary's Kitchen has an odd street number, it is *not* located across the street from the proposed Project site as described in the MND—it is actually adjacent to the Project site at the end of the Struck Avenue cul-de-sac. In fact, the Mary's Kitchen site buildings can be seen in the lower right of the Existing Site Plan and on several other pages of the MND. (See Figure 3, MND, p. 1-5; Figure 17, MND, p. 3-88; Figure 18, MND, p. 3-89.)

The MND later inaccurately describes that the Project site “is surrounded by existing industrial development.” (MND, p. 3-8.) Mary's Kitchen, adjacent to the Project site, is obviously *not* an industrial development.

The final paragraph of the MND's Introduction claims that “[t]he Project Applicant has consulted with the surrounding land owners *and users* and at this time none of the adjacent land owners and users have expressed any concern with respect to the proposed Project.” (MND, p. 1-6 [emphasis added].) This is inaccurate. Mary's Kitchen is extremely concerned about the significant impacts from the proposed Project on its facility, workers, volunteers, and the many unhoused individuals who receive services there, in particular due to air quality, noise, vibrations, and direct or indirect substantial adverse environmental effects of the Project on human beings.

The Project's impacts are significantly greater than those at the existing 40,000 square foot manufacturing facility currently located at the site. This is not surprising, given that the “purpose of the Project is to implement the City's vision of redeveloping underutilized parcels with intensified uses, such as [a] truck terminal...” (MND, p. 1-7.)

The failure of numerous analysis sections of the MND to consider Project impacts on Mary's Kitchen and its workers and individuals who use its services, including as a sensitive receptor, renders the MND inadequate, and arguably requires preparation of an EIR. (*See Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311: An "agency should not be allowed to hide behind its own failure to gather relevant data... If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record.")

Air Quality Impacts

"Some people are especially sensitive to air pollution. These groups of people include children, the elderly, individuals with pre-existing respiratory or cardiovascular illness, and athletes who engage in frequent exercise. Structures that house these persons or place where they gather to exercise are defined as sensitive receptors." (MND, 3-18.) Localized Significance Thresholds "are defined separately for construction and operational activities and are dependent on location, project size, and distance to sensitive receptors." (MND, p. 3-12.)

The list of sensitive receptors considered in the Project MND (*see ibid.* and MND, Figure 11, p. 3-19) includes the following:

- City of Orange Department of Public Works (637 W. Struck Avenue, approximately 86 feet north of the Project site);
- Citrus Grove Apartment Complex (1120 North Lemon Street, approximately 130 feet east of the Project site);
- Paw and Order pet boarding service (618 West Collins Avenue, approximately 566 feet south of the Project site);
- Meter Tech Services & Equipment (1035 N. Parker Street, approximately 22 feet west of the Project site); and,
- Orange City Yard Site Affordable Housing Project (approximately 220 feet north of the Project site).

The MND thus considers five locations near the Project site where residents, workers, or visitors gather and may be exposed to air quality impacts from the proposed Project. It fails, however, to consider the potentially significant air quality impacts on workers and visitors to the nearest sensitive receptor location, Mary's Kitchen, which is located adjacent to the proposed Project, a distance of zero feet. This analytical error is especially troubling since Mary's Kitchen serves many elderly and disabled unhoused persons who may be "especially sensitive to air pollution."

While it appears that the Project is not likely to exceed the South Coast AQMD's regional and local significance thresholds if the assumptions underlying the air quality analysis are correct, the air quality analysis is incomplete without considering the construction and operational impacts upon all sensitive receptors, since it has not considered or analyzed impacts on the nearest sensitive receptor location, Mary's Kitchen. This is an issue of particular concern for Mary's Kitchen, as the traffic circulation pattern for the Project site will be altered, with all large trucks

(in other words, the greatest point-source polluters) entering the Project site at the driveway adjacent to Mary's Kitchen. (MND, p. 3-87; see also MND, Figures 17 & 18, pp. 3-88 and 3-89.)

Finally, the operational air quality analysis from traffic entering and existing the Project site is speculative, since trip generation counts are based on other sites where operations may not be similar to ultimate operations at 534 Struck Avenue, and not on actual future conditions of the Project. (See MND, p. 3-73: "Future tenants of the proposed Project are currently unknown.") Instead of assuming worst-case scenario analysis as in the noise impact analysis (*ibid.*), the air quality analysis assumes that project traffic counts will simply be the average of two potentially dis-similar projects. Because the air quality analysis is based on speculation, the resulting conclusion of no significant air quality impacts, especially with respect to the Mobile Source Health Risk Assessment, may be the result of greatly understating actual operational air quality impacts due to lower truck counts and a profoundly different mix of vehicle types than the two studied comparators. (*See generally*, MND, Appx. I-1, p. 3.)

The traffic analysis, on which the air quality analysis is based, concludes that "the proposed Project is anticipated to generate 308 two-way daily trips..." (*Id.*, p. 4.) Even if this speculative conclusion is approximately correct, the significantly greater number of trucks (especially large tractor-trailors), will all arrive very near Mary's Kitchen, where vulnerable elderly and disabled unhoused persons spend a significant portion of their time each day, often day after day, since Mary's Kitchen is the only homeless services provider in the City of Orange.

A more robust air quality analysis should be prepared for the Project, based on worst-case scenario (as with the MND's noise analysis) and considering Mary's Kitchen as a particularly vulnerable sensitive receptor due to its proximity to the Project site (especially the Project site's entryway for large trucks) and the especially sensitive, children, elderly, and disabled persons who are provided services there.

Noise and Vibration Impacts

Just as the Air Quality analysis is incomplete for failing to consider impacts on Mary's Kitchen, the Noise Impact Analysis is similarly incomplete.

MND Table 14 lists four noise-sensitive receiver locations, the nearest of which are located 98 feet and 130 feet from the Project site respectively. (MND, p. 3-73; see also MND, Figure 15, p. 3-72.) Mary's Kitchen, if it were included as a noise-sensitive receptor as it should have been, would be considered to be located zero feet from the Project site, since its property boundary is adjacent. Neither the construction nor the operational noise impacts were considered significant for the identified noise-sensitive receptors. Given that Mary's Kitchen is much nearer to the Project site than any of the identified noise-sensitive receptors, Mary's Kitchen can be presumed to have a greater noise impact, but the MND is incomplete because it does not measure or analyze noise impacts at the Mary's Kitchen location. (See MND, Table 14, p. 3-73 and Table 15, p. 3-74.)

Similarly, the Construction-Related Vibration Impact analysis is incomplete in that the sensitive receptor locations (the same as for the noise impact analysis) are all located considerably farther away than Mary's Kitchen, from 86 to 566 feet. (MND, Table 16, p. 3-75.)

The noise and vibration impact analysis is therefore incomplete and inadequate because it concludes that there are no significant impacts on sensitive receptors without considering the nearest sensitive receptor, Mary's Kitchen.

Mandatory Findings of Significance

The final impact analysis category considered in the MND is for mandatory findings of significance. The third subcategory within that impact analysis asks: "Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?" The MND concludes that the Project will have a less than significant impact with mitigations incorporated. (MND, p. 3-99.)

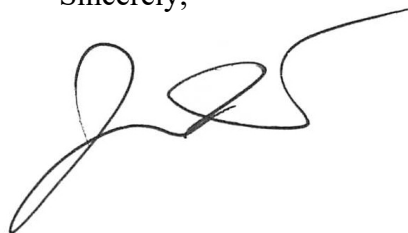
But substantial evidence does not support this conclusion because, as described above, the MND fails to consider Mary's Kitchen as a sensitive receptor in its air quality, noise, and vibration analyses, even though Mary's Kitchen is considerably closer to the Project site than any of the sensitive receptor locations considered as part of those analyses in the MND. It is unknown whether there will be substantial adverse environmental effects on the human beings at Mary's Kitchen, and if so whether mitigation measures may be needed or possible, because the MND has entirely failed to analyze or even consider such impacts.

Conclusion

Based on all of the above, Initial Study/Mitigated Negative Declaration 1870-20 for the proposed Truck Terminal Project at 534 Struck Avenue is inadequate and an Environmental Impact Report may be required. "If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'John P. Given', with a long, sweeping horizontal line extending to the right.

John P. Given

Orange Coast Petroleum Equipment: Site Concerns

1015, 1031, and 1035 N. Parker Street Orange, CA 92867

John Miller (714)-744-4049

- Traffic
 - ➔ Per map provided trucks be directed to go down Struck to Katella?
 - ➔ There is no way a truck or trailer could make a turn from Struck to Katella or Katella to Struck.

- Soil Samples
 - 1.) Sample report shows several samples around the property. Two marked as contaminated that are highlights in green. Two others that are behind 1015 and 1031 are highlighted in orange; but not specified why.
 - 2.) Test Well #B-10 – What are the levels?
 - 3.) May I be provided a copy of these results?

- 188 trailer stalls and Fencing
 - ➔ Per map, trailer stalls will be against our property line.
 - ➔ What type of fencing will be installed – chain-link or block wall?
- Fencing
 - ➔ Plans say 8' tubular steel
 - ➔ I would prefer block due to the possibility of a trailer backing into the fence a block wall is the better option.

- Maintenance Building
 - ➔ Engine rebuilding/ tractor run for hours with diesel?
 - ➔ This will then emit smells and emissions into the air.

- Employee Parking (Page 1-10)
 - ➔ 62 automobile stalls are allotted on property.
 - ➔ 150-200 employees are estimated.
 - ➔ Where is the overflow parking for employees (Will they be parking on Parker or Struck?)
 - *Parker cannot handle additional street parking.