



Notice of Preparation of a Draft EIR and Scoping Meeting

Date: November 18, 2022
To: Public Agencies and Interested Parties
Subject: Notice of Preparation of a Draft Environmental Impact Report and Scoping Meeting
Project Title: Citrus & Oleander Avenue at Santa Ana Avenue

The City of Fontana, as lead agency under the California Environmental Quality Act (CEQA), will prepare an Environmental Impact Report (EIR) for the Citrus & Oleander Avenue at Santa Ana Avenue Project (the "Project"). In accordance with Section 15082 of the CEQA Guidelines, the City has issued this Notice of Preparation (NOP) to provide responsible agencies, trustee agencies, and other interested parties with information describing the proposed Project and its potential environmental effects.

The purpose of this notice is to:

- 1) serve as the Notice of Preparation of an Environmental Impact Report for the Office of Planning and Research (OPR), Responsible Agencies, public agencies involved in funding or approving the project, and Trustee Agencies responsible for natural resources affected by the project, pursuant to CEQA Guidelines Section 15082;
- 2) advise and solicit comments and suggestions regarding the preparation of the EIR, environmental issues to be addressed in the EIR, and any other related issues, from interested parties, including interested or affected members of the public; and
- 3) advertise a public meeting to solicit comments from public agencies and interested parties regarding the scope of study in the EIR.

Project Location

The Project Site is located north of Santa Ana Avenue and south of Jurupa Hills High School, between Citrus Avenue and Oleander Avenue, and at the northeast corner of the Santa Ana Avenue and Oleander Avenue intersection. The approximately 29.8-acre Project Site includes 18 parcels, including Assessor Parcel Numbers (APNs) 0255-011-13, -14, -15, -18, -19, -25, -26, -27, -28, -29, -30, -31, and -32, and 0255-021-17, -18, -22, -23, and -24.

Project Description

The Citrus & Oleander Avenue at Santa Ana Avenue Project entails the proposed development of approximately 24.4-acres of a 29.4-acre Project Site with three commerce center buildings. A General Plan Amendment (GPA), Zone Change Application (ZCA), and Specific Plan Amendment are proposed for the entire 29.4-acre Project Site. The GPA would revise the General Plan designation of the 24.4-acres to be developed from Residential Planned Community (R-PC) and Multiple-Family Medium/High Residential (R-MFMH) to General Industrial (I-L) and the

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ZCA would change the zoning designation from Residential Planned Community (R-PC) and Multiple-Family Medium/High Density Residential (R-4) to Southwest Industrial Park (SWIP) Specific Plan. For the 5.0-acre parcel that will not be developed, the GPA would revise the General Plan designation from Multi-Family Medium/High Residential (R-MFMH) to General Industrial (I-L) and the ZCA would change the zoning designation from Multi-Family Medium/High Residential (R-4) to Southwest Industrial Park (SWIP) Specific Plan, Slover East Industrial District. The SPA would amend the SWIP Specific Plan Land Use Plan to expand the SWIP boundary to include the Project Site. No development is currently proposed on APN 0255-011-15. Design Reviews and Tentative Parcel Maps (TPMs) are proposed for 24.4-acres of the Project Site on all the parcels except 0255-011-15. The entitlements include the following: Master Case No. (MCN) No. 22-053, Design Review Project (DRP) No. 22-029 (Building No. 1), Tentative Parcel Map (TPM) No. 22-009 (Building No. 1), Design Review No. 22-061 (Building No. 2) Tentative Parcel Map (TPM) No. 22-030 (Building No. 2), Design Review No. 22-062 (Building No. 3), Tentative Parcel Map (TPM) No. 22-031 (Building No. 3), General Plan Amendment (GPA) No. 22-004, Zone Change Application (ZCA) No. 22-005, and Specific Plan Amendment No. 22-002.

The three commerce center buildings are designated as “Building 1,” “Building 2,” and “Building 3” for reference purposes. Building 1 is proposed at the northeast corner of the intersection of Citrus Avenue and Santa Ana Avenue and would contain 151,618 s.f. of floor area including 141,618 s.f. of commerce center space and up to 10,000 s.f. of supporting office space. A screened truck court with 17 loading docks and 44 trailer parking spaces would be provided on the east side of the building. Passenger vehicle parking would occur to the north and east of the building.

Building 2 is proposed at the northwest corner of the intersection of Oleander Avenue and Santa Ana Avenue and would contain 196,336 s.f. of floor area including 180,336 s.f. of commerce center space and up to 16,000 s.f. of supporting office space. A screened truck court with 26 loading docks and 44 trailer parking spaces would be provided on the west side of the building. Passenger vehicle parking would occur to the east and west of the building.

Building 3 is proposed at the northeast corner of the intersection of Oleander Avenue and Santa Ana Avenue and would contain 192,895 s.f. of floor area including 176,895 s.f. of commerce center space and up to 16,000 s.f. of supporting office space. A screened truck court with 26 loading docks and 44 trailer parking spaces would be provided on the east side of the building. Passenger vehicle parking would occur to the east and west of the building.

Buildings 1, 2, and 3 are designed to reach heights of 39 feet, 6 inches feet above the finished floor elevation; however, the buildings would have a varied roofline and the maximum height (including parapets) would extend to 44 feet, 6 inches feet above finished floor elevation. The buildings would be constructed of concrete tilt-up panels painted in various shades of white and gray and low-reflective blue glass would be used for windows. Decorative building elements include panel reveals, parapets, mullions, and canopies at office entries. The Project is being developed on a speculative basis and the three proposed buildings could operate 24 hours per day, 7 days per week.

EIR Scope

CEQA Guidelines Section 15063 grants Lead Agencies the ability to bypass preparation of an Initial Study and proceed with preparation of an EIR in instances where an EIR is clearly required for a project. In this instance, the City of Fontana in its capacity as Lead Agency for the proposed Project has determined that the Project clearly has the potential to result in significant environmental effects and that an EIR shall be prepared that

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addresses the following environmental considerations:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

The EIR will assess the effects of the Project on the environment, identify potentially significant impacts, identify feasible mitigation measures to reduce or eliminate potentially significant environmental impacts, and discuss potentially feasible alternatives to the Project that may accomplish basic objectives while lessening or eliminating any potentially significant Project-related impacts.

Opportunity for Public Review and Comment

This Notice is available for review on the City’s website at: <https://www.fontana.org/2137/Environmental-Documents>.

The City of Fontana would like to receive your input on the scope of the information and analysis to be included in the EIR. Due to time limits, as established by CEQA, your response should be sent at the earliest possible date, but no later than thirty (30) days after publication of this notice. Please submit your comments by 5:00 p.m. on *December 19, 2022* by mail or e-mail to:

Salvador Quintanilla
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Phone: (909) 350-6656
Fax: (909) 350-7676
Email: squintanilla@fontana.org

Please include the name, phone number, and address of a contact person in your response.

Scoping Meeting

The City of Fontana will hold a public scoping meeting, where agencies, organizations, and members of the public will receive a brief presentation on the Project and will have the opportunity to provide comments on the scope of the information and analysis to be included in the EIR.

The meeting will be held on:

Date and Time: *December 7, 2022 at 6:00 p.m. to 7:00 p.m.*

Project Name: Citrus & Oleander Avenue at Santa Ana Avenue

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Place:

Virtual Meeting

Link to join on a computer or mobile app:

https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F%20%23%2F%2Fmeetup-join%2F19%3Ameeting_NjBkM2YwNWQtY2MwNi000TcyLTkxNjQtZTgyMmY4ZWZlOGYz%40thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522ff8f3b3d-31f5-45ff-b2d8-933f061858cf%2522%252c%2522Oid%2522%253a%25227bd54965-35ce-4773-937e-ce6013d988b5%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=e56c131e-e802-4746-abd4-67cc09d78056&directDl=true&msLaunch=true&enableMobilePage=true&suppressPrompt=true

Or go to: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

Enter Meeting ID: 216 253 056 33

Enter Meeting Passcode: *pttLui*

Or Dial-In Number: +1 323-673-4554

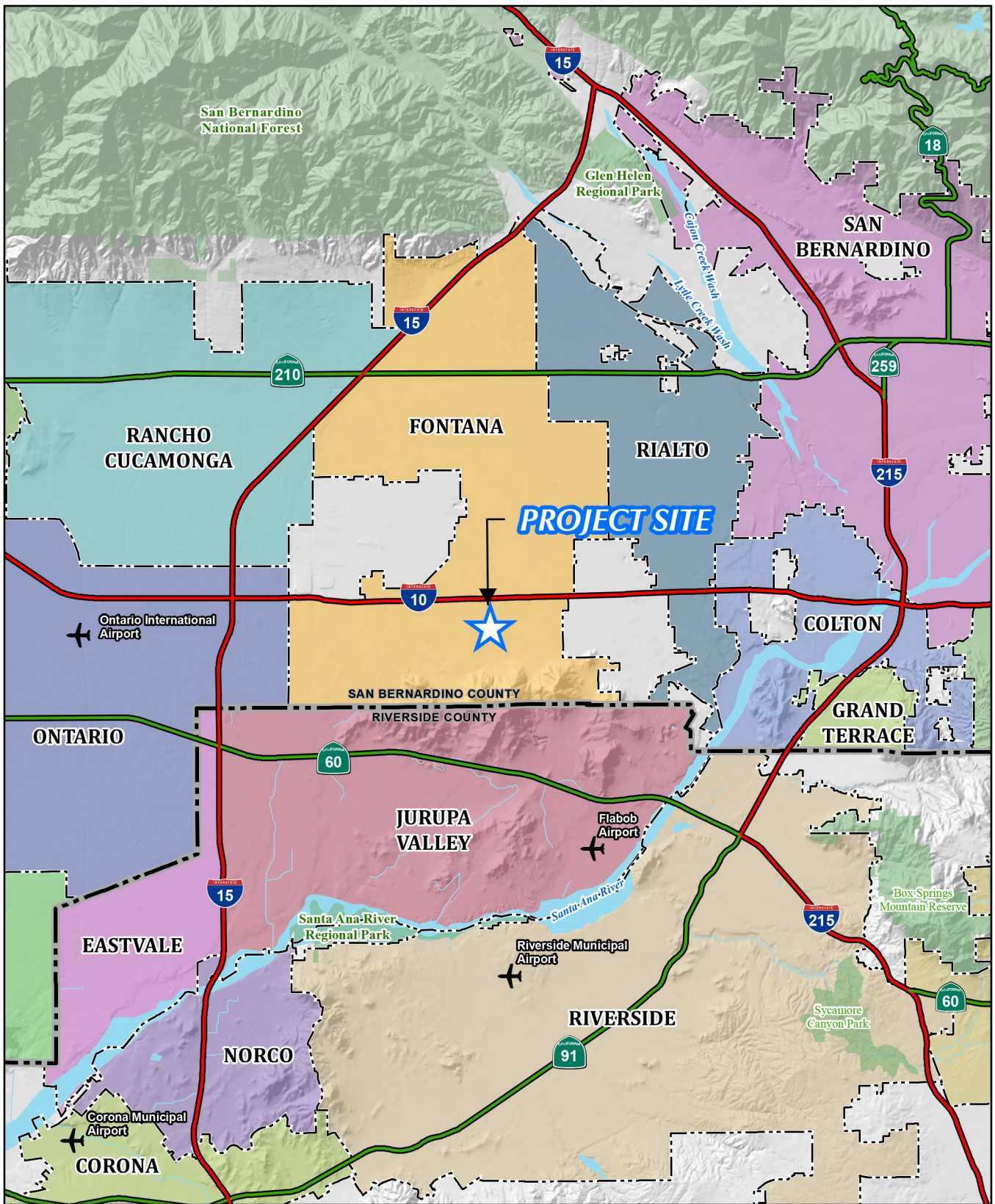
Phone Conference ID: 931471219#

Attachments:

Figure 1 – Regional Map

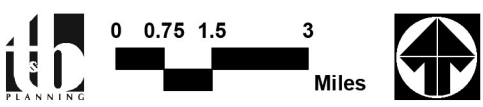
Figure 2 – Vicinity Map

Figure 3 – Master Site Plan

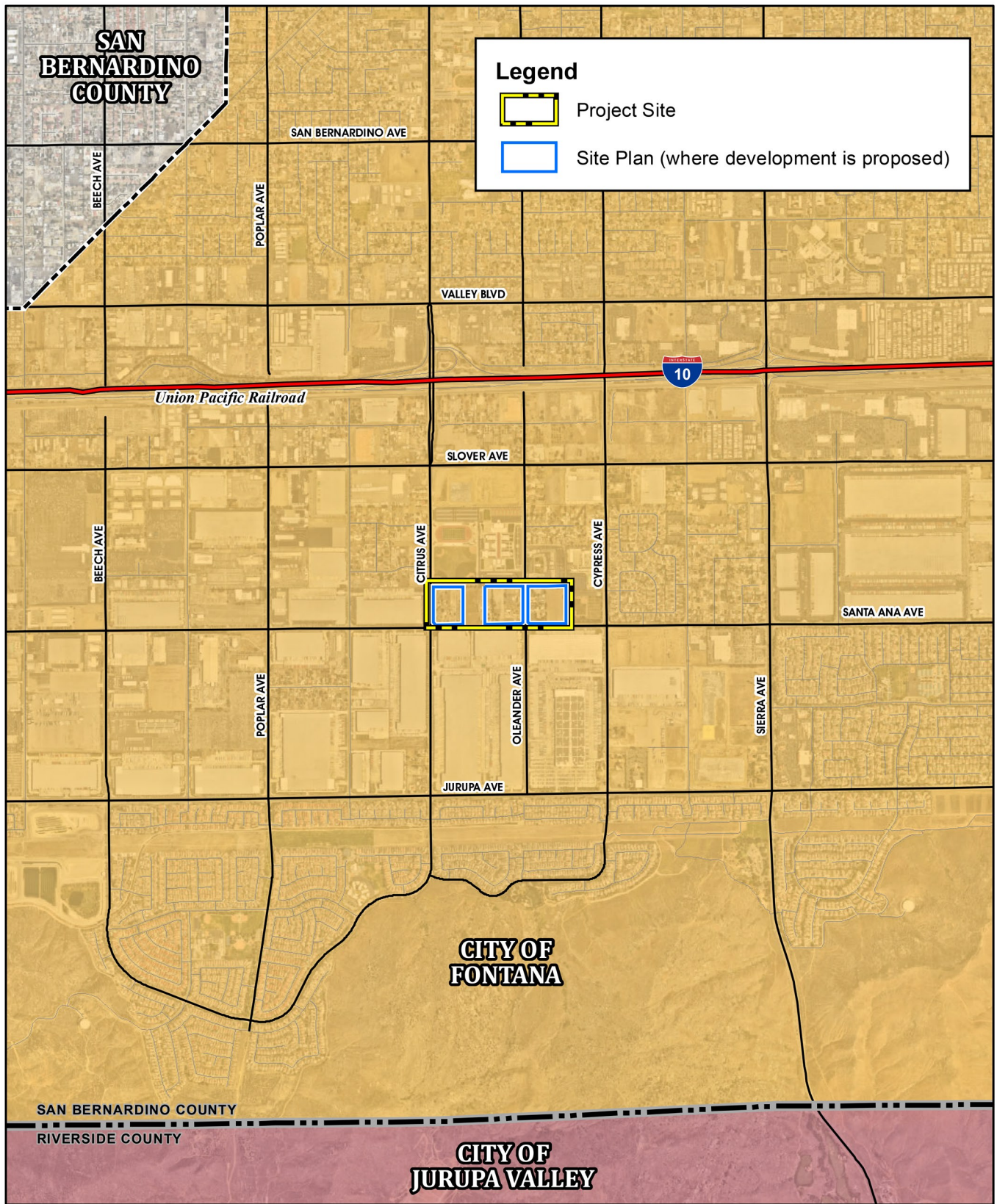


Source(s): Esri, RCTLMA (2022), SB County (2022)

Figure 1



Regional Map

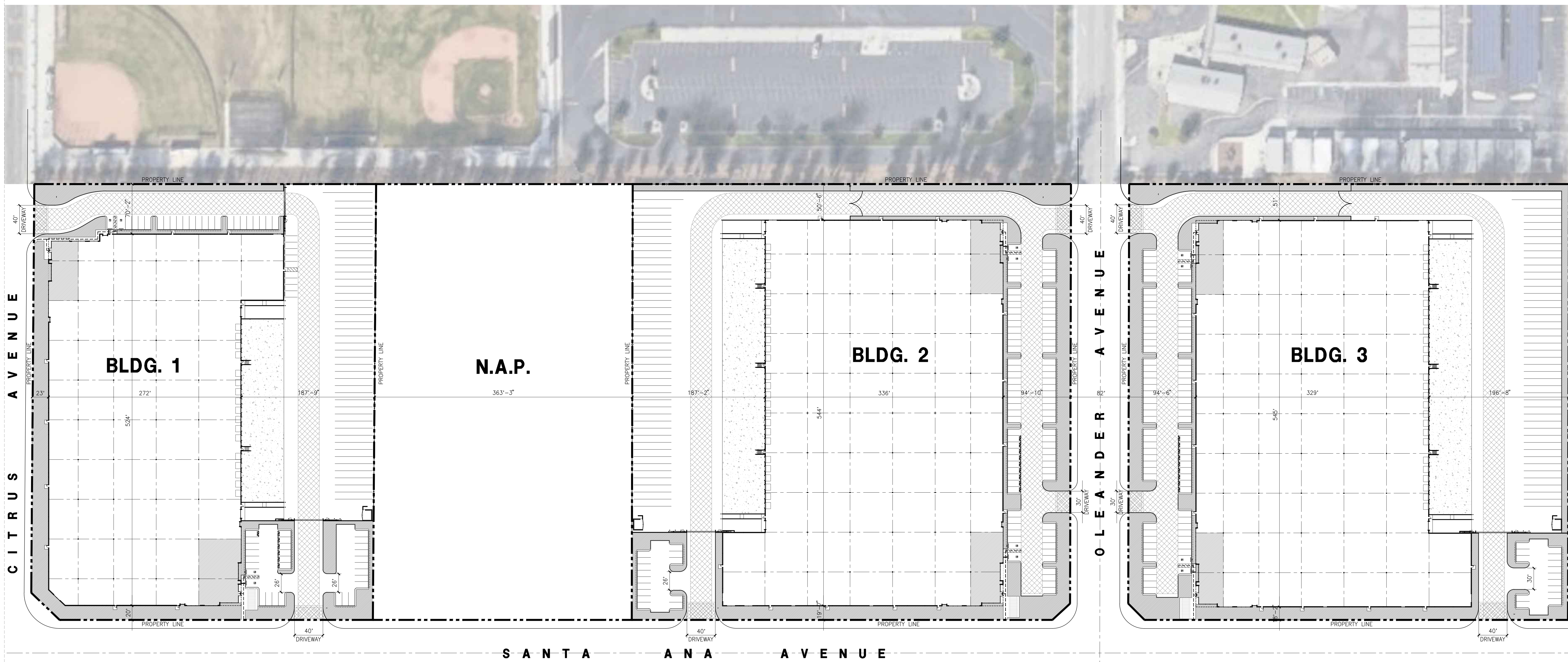


Source(s): Esri, Nearmap Imagery (2022), RCTLMA (2022), SB County (2022)

Figure 2



Vicinity Map



hpa, inc.
18831 bardeen avenue, - ste. #100
irvine, ca
92612
tel: 949-863-1770
fax: 949-863-0851
email: hpa@hparchs.com

Owner:
ACACIA
REAL ESTATE GROUP, INC.

TBD
260 NEWPORT CENTER DR.
TEL: (949) 640-9995

Project:
-

CITRUS & OLEANDER AVE
AT SANTA ANA AVE.
FONTANA, CA

Consultants:

CIVIL - Thienes
STRUCTURAL -
MECHANICAL -
PLUMBING -
ELECTRICAL -
LANDSCAPE - Hunter
FIRE PROTECTION -
SOILS ENGINEER -

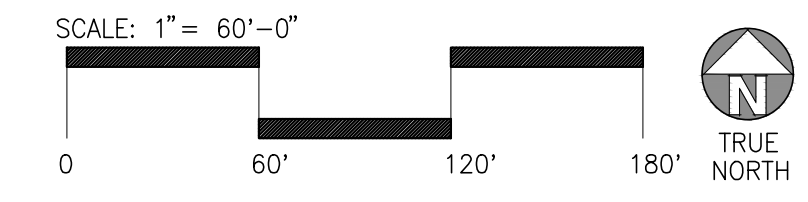
Title: MASTER SITE PLAN

Project Number: 21636
Drawn by: DH
Date: 4/21/22
Revision:

Sheet:

DAB-A1.0

MASTER SITE PLAN
scale: 1" = 60'-0"



PROJECT INFORMATION

OWNER/APPLICANT
ACACIA REAL ESTATE
260 NEWPORT CENTER DRIVE
NEWPORT BEACH, CA 92660
TEL: (949) 640-9995
CONTACT: DAVID PITTMAN

PROJECT ADDRESS
SANTA ANA AVENUE, CITRUS AVENUE, OLEANDER AVENUE
FONTANA, CA

ASSESSOR'S PARCEL NUMBER

0255-021-17	0255-011-25
0255-021-18	0255-011-26
0255-021-22	0255-011-27
0255-021-23	0255-011-28
0255-021-24	0255-011-29
0255-011-13	0255-011-30
0255-011-14	0255-011-31
0255-011-18	0255-011-32
0255-011-19	

CODE ANALYSIS
2019 CALIFORNIA BUILDING CODE
2019 CALIFORNIA PLUMBING CODE
2019 CALIFORNIA MECHANICAL CODE
2019 CALIFORNIA ELECTRICAL CODE
2019 CALIFORNIA FIRE CODE
2019 CALIFORNIA ENERGY CODE
2019 CALIFORNIA GREEN BUILDING STANDARDS

ZONING
CURRENT ZONING DESIGNATION-RESIDENTIAL-PLANNED COMMUNITY
PROPOSED ZONING DESIGNATION-SOUTHWEST INDUSTRIAL PARK/SLOVER EAST INDUSTRIAL DISTRICT (SED)

FILE NUMBER
22-013

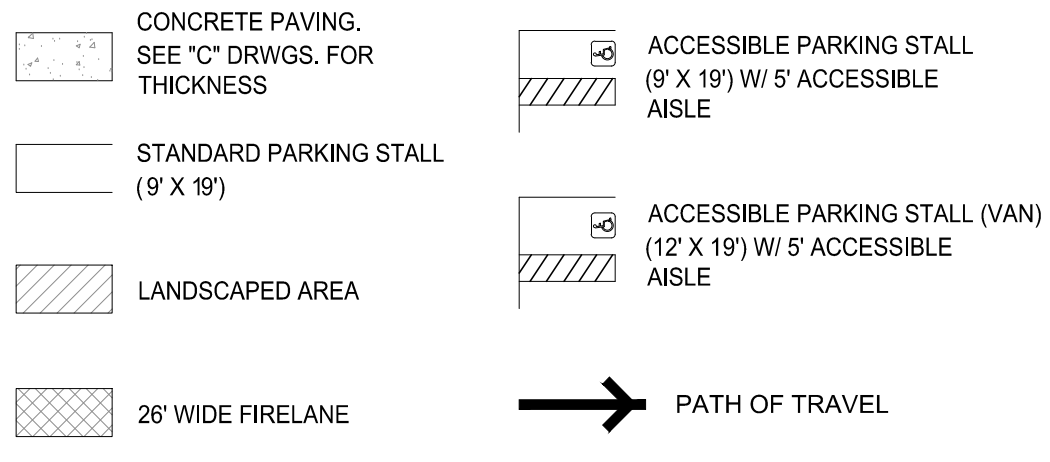
CONSTRUCTION TYPE
CONCRETE TILT-UP BUILDING
BUILDING OCCUPANCY: S-1/B
CONSTRUCTION TYPE: III-B
ESFR SYSTEM

APPLICANT'S REPRESENTATIVE
HPA, INC.
18831 BARDEEN AVE.-SUITE 100
IRVINE, CA 92612
PHONE: (949)-862-2173
FAX: (949)-863-0851
CONTACT: DOUG HINRICHS

SITE PLAN GENERAL NOTES

- THE SITE PLAN BASED ON THE SOILS REPORT PREPARED BY: TBD
- IF SOILS ARE EXPANSIVE IN NATURE, USE STEEL REINFORCING FOR ALL SITE CONCRETE.
- ALL DIMENSIONS ARE TO THE FACE OF CONCRETE WALL, FACE OF CONCRETE CURB OR GRID LINE U.N.O.
- SEE "C" PLANS FOR ALL CONCRETE CURBS, GUTTERS AND SWALES.
- THE ENTIRE PROJECT SHALL BE PERMANENTLY MAINTAINED WITH AN AUTOMATIC IRRIGATION SYSTEM.
- SEE "C" DRAWINGS FOR POINT OF CONNECTIONS TO OFF-SITE UTILITIES. CONTRACTOR SHALL VERIFY ACTUAL UTILITY LOCATIONS.
- PROVIDE POSITIVE DRAINAGE AWAY FROM BLDG. SEE "C" DRAWINGS.
- CONTRACTOR TO REFER TO "C" DRAWINGS FOR ALL HORIZONTAL CONTROL DIMENSIONS. SITE PLANS ARE FOR GUIDANCE AND STARTING LAYOUT POINTS.
- SEE "C" DRAWINGS FOR FINISH GRADE ELEVATIONS.
- CONCRETE SIDEWALKS TO BE A MINIMUM OF 4" THICK W/ TOOLED JOINTS AT 6' O.C. EXPANSION/CONSTRUCTION JOINTS SHALL BE A MAXIMUM 12' EA. WAY. EXPANSION JOINTS TO HAVE COMPRESSIVE EXPANSION FILLER MATERIAL OF 1/4". FINISH TO BE A MEDIUM BROOM FINISH U.N.O.
- PAINT CURBS AND PROVIDE SIGNS TO INFORM OF FIRE LANES AS REQUIRED BY FIRE DEPARTMENT.
- CONSTRUCTION DOCUMENTS PERTAINING TO THE LANDSCAPE AND IRRIGATION OF THE ENTIRE PROJECT SITE SHALL BE SUBMITTED TO THE BUILDING DEPARTMENT AND APPROVED BY PUBLIC FACILITIES DEVELOPMENT PRIOR TO ISSUANCE OF BUILDING PERMITS.
- PRIOR TO FINAL CITY INSPECTION, THE LANDSCAPE ARCHITECT SHALL SUBMIT A CERTIFICATE OF COMPLETION TO PUBLIC FACILITIES DEVELOPMENT.
- ALL LANDSCAPE AND IRRIGATION DESIGNS SHALL MEET CURRENT CITY STANDARDS AS LISTED IN GUIDELINES OR AS OBTAINED FROM PUBLIC FACILITIES DEVELOPMENT.
- ALL VERTICAL MOUNTING POLES OF CHAIN LINK FENCING SHALL BE CAPPED.
- LANDSCAPED AREAS SHALL BE DELINEATED WITH A MINIMUM SIX INCHES (6") HIGH CURB.
- ALL SIGNAGE SHALL BE LEGIBLE, DURABLE, AND WEATHERPROOF.

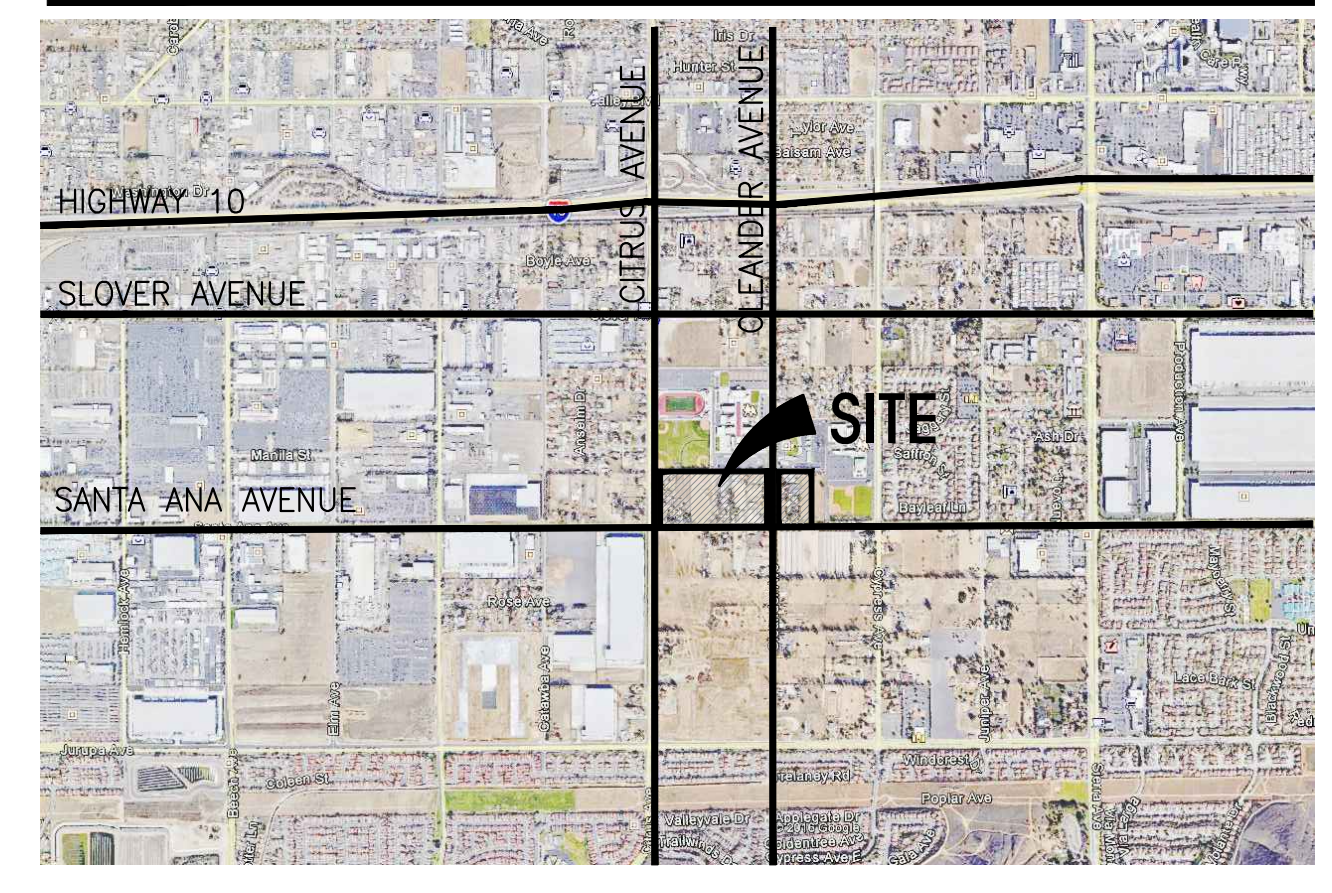
SITE LEGEND



PROJECT DATA

	BLDG. 1	BLDG. 2	BLDG. 3	TOTAL			
SITE AREA							
In s.f.	296,421	384,113	383,631	1,064,165 s.f.			
In acres	6.80	8.82	8.81	24.43 ac			
BUILDING AREA							
Office - 1st floor	5,000	8,000	8,000	21,000 s.f.			
Office - 2nd floor	5,000	8,000	8,000	21,000 s.f.			
Warehouse	141,618	180,336	176,895	498,849 s.f.			
TOTAL	151,618	196,336	192,895	540,849 s.f.			
LOT COVERAGE							
	51.1%	51.1%	50.3%	50.8%			
AUTO PARKING REQUIRED							
Office: 1/250 s.f. above 10% GFA	n/a	n/a	n/a	0 stalls			
Whse: 1st 20K @ 1/1,000 s.f.	20	20	20	60 stalls			
2nd 20K @ 1/2,000 s.f.	10	10	10	30 stalls			
above 40K @ 1/5,000 s.f.	30	38	38	106 stalls			
TOTAL	60	68	68	196 stalls			
AUTO PARKING PROVIDED							
Standard (9' x 19')	64	100	100	264 stalls			
TRAILER PARKING PROVIDED (12' x 70')							
(12' x 70')	1	1	1	3 stalls			
TRAILER PARKING PROVIDED (12' x 53')							
(12' x 53')	1	1	1	3 stalls			
TRAILER PARKING PROVIDED (10' x 53')							
(10' x 53')	42	42	42	126 stalls			
LANDSCAPE PROVIDED							
Percentage -	22.2%	20.9%	22.3%				
in s.f.	32,170	39,273	42,627				
LANDSCAPE REQUIREMENT (without bldg. footprint)							
Percentage -	15%						
MAXIMUM BUILDING HEIGHT ALLOWED							
Height -	60'						
MAXIMUM FLOOR AREA RATIO							
FAR -	0.55 Max						
ZONING ORDINANCE FOR CITY							
Current Zoning Designation -	Residential - Planned Community						
Proposed Zoning Designation -	Southwest Industrial Park/Slover East Industrial District (SED)						
SETBACKS							
Buildings/Landscape							
Santa Ana Ave. -	20'	Citrus Ave. -	20'	Oleander Ave. -	20'	Rear -	None
Adjacent to Residential Truck District -	50'						

VICINITY MAP



OFFICIAL USE ONLY



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 12, 2022
Sent via email

Mr. Salvador Quintanilla
Senior Planner
City of Fontana
8353 Sierra Avenue Fontana, CA 92335
(909) 350-6556
squintanilla@fontana.org

Subject: Notice of Preparation of a Draft Environmental Impact Report
Citrus & Oleander Avenue at Santa Ana Avenue Project
State Clearinghouse No. 2022110389

Dear Mr. Quintanilla:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of Fontana for the Citrus & Oleander Avenue at Santa Ana Avenue Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The proposed Project includes 29.8-acres and Assessor Parcel Numbers (APNs): 0255-011-13, -14, -15, -18, -19, -25, -26, -27, -28, -29, -30, -31, and -32, and 0255-021-17, -18, -22, -23, and -24. This site is located north of Santa Ana Avenue, and south of Jurupa Hills High School, between Citrus Avenue and Oleander Avenue, and at the northeast corner of the Santa Ana Avenue and Oleander Avenue intersection.

The Citrus & Oleander Avenue at Santa Ana Avenue Project entails the proposed development of approximately 24.4-acres of a 29.4-acre Project Site with three commerce center buildings. A General Plan Amendment (GPA), Zone Change Application (ZCA), and Specific Plan Amendment are proposed for the entire 29.4-acre Project Site. The GPA would revise the General Plan designation of the 24.4-acres to be developed from Residential Planned Community (R-PC) and Multiple-Family Medium/High Residential (R-MFMH) to General Industrial (I-L).

For the 5.0-acre parcel that will not be developed, the GPA would revise the General Plan designation from Multi-Family Medium/High Residential (R-MFMH) to General Industrial (I-L) and the ZCA would change the zoning designation from MultiFamily Medium/High Residential (R-4) to Southwest Industrial Park (SWIP) Specific Plan, Slover East Industrial District. The SPA would amend the SWIP Specific Plan Land Use Plan to expand the SWIP boundary to include the Project Site. The three commerce center buildings are designated as "Building 1," "Building 2," and "Building 3" for reference purposes. Building 1 is proposed at the northeast corner of the intersection of Citrus Avenue and Santa Ana Avenue and would contain 151,618 s.f. of floor area including 141,618 s.f. of commerce center space and up to 10,000 s.f. of supporting office space.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Fontana in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

CDFW recognizes that the general plan EIR need not be as detailed as CEQA documents prepared for specific projects that may follow (CEQA Guidelines § 15146). CDFW also recognizes that the level of detail should be reflective of the level contained in the plan or plan element being considered (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351). However, please note that the City of Fontana cannot defer the analysis of significant effects of the general plan to later-tiered CEQA documents (*Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182).

CDFW recommends that the forthcoming DEIR address the following:

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats.

The CDFW recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the project. CDFW's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or CNDDDB@wildlife.ca.gov to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project.

Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the project site.

3. A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

Burrowing Owl (*Athene cunicularia*)

The Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”

CDFW recommends that the City of Fontana follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012); available for download from CDFW’s website: <https://www.wildlife.ca.gov/conservation/survey-protocols>. The Staff Report on Burrowing Owl Mitigation, specifies three steps for project impact evaluations:

- a. A habitat assessment;
- b. Surveys; and
- c. An impact assessment

As stated in the Staff Report on Burrowing Owl Mitigation, the three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent avoidance, minimization, and mitigation measures. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance

with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA project activity or non-CEQA project.

Within the 2012 Staff Report, the minimum habitat replacement recommendation was purposely excluded as it was shown to serve as a default, replacing any site-specific analysis and discounting the wide variation in natal area, home range, foraging area, and other factors influencing burrowing owls and burrowing owl population persistence in a particular area. It hypothesized that mitigation for permanent impacts to nesting, occupied, and satellite burrows and burrowing owl habitat should be on, adjacent or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present. If mitigation occurs offsite, it should include (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) be sufficiently large acreage with the presence of fossorial mammals. Furthermore, the report noted that suitable mitigation lands should be based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to: type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range-wide.

4. A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see <https://www.wildlife.ca.gov/Conservation/Plants>).
5. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines § 15125[c]).
6. A full accounting of all open space and mitigation/conservation lands within and adjacent to the Project.

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project (including the plan's land use designations, policies and programs). To ensure that Project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential impacts from lighting, noise, human activity (e.g., recreation), defensible space, and wildlife-human interactions created by zoning of development projects or other project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address Project-related changes on drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.

With respect to defensible space: please ensure that the DEIR fully describes and identifies the location, acreage, and composition of defensible space *within* the proposed Project footprint. Please ensure that any graphics and descriptions of defensible space associated with this project comply with San Bernardino County Fire Department (or other applicable agency) regulations/requirements. The City of Fontana, through their planning processes, should be ensuring that defensible space is provided and accounted for *within proposed development areas*, and not transferred to adjacent open space or conservations lands.

2. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).
3. An evaluation of impacts to adjacent open space lands from both the construction of the Project and any long-term operational and maintenance needs.
4. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. The DEIR should analyze the cumulative effects of the plan's land use designations, policies and programs on the environment. Please include all potential direct and indirect Project related impacts to riparian areas, wetlands, vernal pools, alluvial fan habitats, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

Alternatives Analysis

CDFW recommends the DEIR describe and analyze a range of reasonable alternatives to the Project that are potentially feasible, would "feasibly attain most of the basic

objectives of the Project,” and would avoid or substantially lessen any of the Project’s significant effects (CEQA Guidelines § 15126.6[a]). The alternatives analysis should also evaluate a “no project” alternative (CEQA Guidelines § 15126.6[e]).

Mitigation Measures for Project Impacts to Biological Resources

The DEIR should identify mitigation measures and alternatives that are appropriate and adequate to avoid or minimize potential impacts, to the extent feasible. The City of Fontana should assess all direct, indirect, and cumulative impacts that are expected to occur as a result of the implementation of the Project and its long-term operation and maintenance. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

1. *Fully Protected Species*: Fully protected species may not be taken or possessed at any time. Project activities described in the DEIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization, and mitigation measures will reduce indirect impacts to fully protected species.
2. *Sensitive Plant Communities*: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from project-related direct and indirect impacts.
3. *California Species of Special Concern (CSSC)*: CSSC status applies to animals generally not listed under the federal Endangered Species Act or the CESA, but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist. CSSCs should be considered during the environmental review process.

CSSCs should be considered during the environmental review process. CSSC that have the potential or have been documented to occur within or adjacent to the project area, including, but not limited to: burrowing owl, coastal California gnatcatcher, coast horned lizard, Los Angeles pocket mouse, northwestern San Diego pocket mouse, northern harrier, yellow warbler, and yellow-breasted chat

4. *Mitigation*: CDFW considers adverse project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement, and preservation should be evaluated and discussed in detail. Where habitat preservation is not available onsite, offsite land acquisition, management, and preservation should be evaluated and discussed in detail.

The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the DEIR. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777).

CDFW recommends that the DEIR specify mitigation that is roughly proportional to the level of impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). The mitigation should provide long-term conservation value for the suite of species and habitat being impacted by the Project. Furthermore, in order for mitigation measures to be effective, they need to be specific, enforceable, and feasible actions that will improve environmental conditions.

5. *Habitat Revegetation/Restoration Plans*: Plans for restoration and revegetation should be prepared by persons with expertise in southern California ecosystems and native plant restoration techniques. Plans should identify the assumptions used to develop the proposed restoration strategy. Each plan should include, at a minimum:
 - (a) the location of restoration sites and assessment of appropriate reference sites;
 - (b) the plant species to be used, sources of local propagules, container sizes, and

seeding rates; (c) a schematic depicting the mitigation area; (d) a local seed and cuttings and planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought.

CDFW recommends that local onsite propagules from the Project area and nearby vicinity be collected and used for restoration purposes. Onsite seed collection should be initiated in the near future in order to accumulate sufficient propagule material for subsequent use in future years. Onsite vegetation mapping at the alliance and/or association level should be used to develop appropriate restoration goals and local plant palettes. Reference areas should be identified to help guide restoration efforts. Specific restoration plans should be developed for various project components as appropriate.

Restoration objectives should include protecting special habitat elements or re-creating them in areas affected by the Project; examples could include retention of woody material, logs, snags, rocks, and brush piles.

6. *Nesting Birds and Migratory Bird Treaty Act*: Please note that it is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

CDFW recommends that the DEIR include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: project phasing and timing, monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. The DEIR should also include specific avoidance and minimization measures that will be

implemented should a nest be located within the project site. If pre-construction surveys are proposed in the DEIR, the CDFW recommends that they be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

7. *Moving out of Harm's Way*: To avoid direct mortality, CDFW recommends that the lead agency condition the DEIR to require that a CDFW-approved qualified biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way special status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety (i.e., CDFW does not recommend relocation to other areas). Furthermore, it should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for the purposes of offsetting project impacts associated with habitat loss.
8. *Translocation of Species*: CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species as studies have shown that these efforts are experimental in nature and largely unsuccessful.

ADDITIONAL COMMENTS AND RECOMMENDATIONS

To ameliorate the water demands of this Project, CDFW recommends incorporation of water-wise concepts in project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species, and installing water-efficient and targeted irrigation systems (such as drip irrigation). Local water agencies/districts, and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens (for example the Riverside-Corona Resource Conservation District in Riverside). Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: <http://saveourwater.com/what-you-can-do/tips/landscaping/>

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the

Salvador Quintanilla, Senior Planner
City of Fontana
December 12, 2022
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CNDDDB field survey form at the following link:
<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link:
<https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.


FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP of a DEIR for the Project (SCH No. 2022110389) and recommends that the City of Fontana address the CDFW's comments and concerns in the forthcoming DEIR. If you should have any questions pertaining to the comments provided in this letter, please contact June Leanos, Fish and Wildlife Scientific Aid at June.Leanos@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

ec: June Leanos, Scientific Aid
Inland Deserts Region
June.Leanos@wildlife.ca.gov

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state.clearinghouse@opr.ca.gov

REFERENCES

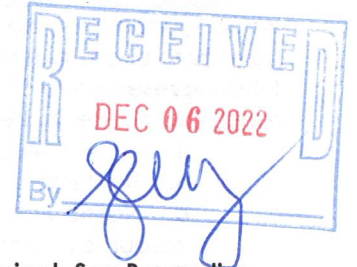
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NATIVE AMERICAN HERITAGE COMMISSION

November 21, 2022

Salvador Quintanilla
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335



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Re: 2022110389, Citrus & Oleander Avenue at Santa Ana Avenue Project, San Bernardino County

Dear Mr. Quintanilla:

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.

AB 52

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:
Cameron.Vela@nahc.ca.gov.

Sincerely,

Cameron Vela

Cameron Vela
Cultural Resources Analyst

cc: State Clearinghouse

From: [Salvador Quintanilla](#)
To: [Tracy Zinn](#); [Kristen Goddard](#)
Subject: FW: Citrus & Oleander Avenue at Santa Ana Avenue
Date: Tuesday, December 6, 2022 2:41:24 PM

Just FYI from Socalgas.

Salvador Quintanilla

Senior Planner • Planning

City of Fontana • 8353 Sierra

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From: Liao, William <WLiao@socalgas.com>
Sent: Tuesday, December 6, 2022 10:59 AM
To: Salvador Quintanilla <squintanilla@fontana.org>
Cc: Castellanos, David <DCastellanos@socalgas.com>
Subject: Citrus & Oleander Avenue at Santa Ana Avenue

CAUTION - EXTERNAL SENDER - THIS EMAIL ORIGINATED OUTSIDE OF THE CITY'S EMAIL SYSTEM
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Salvador.

I just got the package for Citrus & Oleander at Santa Ana. We have facilities along Citrus, Santa Ana, and Oleander, plus multiple services within the project site.

Please make sure to contact 811/Dig Alert prior to any excavations, and contact our New Business section to start an application if you have gas service needs for the future development, at <https://www.socalgas.com/for-your-business/builder-services>

Please let me know if you have any questions.

Will Liao
Region Planning Supervisor
Redlands HQ / Southeast Region
Desk: 213-244-4543
Mobile: 562-889-1981