

**Appendix A:  
Notice of Preparation/Comments**

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**City of American Canyon**  
**Notice of Preparation and Notice of Public Scoping Meeting**  
**SDG Commerce 220 Distribution Center Project**

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**Date:** October 27, 2023

**To:** Public Agencies and Private Parties

**From:** William He, AICP, Senior Planner, City of American Canyon

**Subject:** Notice of Preparation of an Environmental Impact Report and Public Scoping Meeting

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The City of American Canyon will be the Lead Agency and will prepare an Environmental Impact Report (EIR) for the project identified herein. The project description, location, and probable environmental effects of the SDG Commerce 220 Distribution Center Project are described in the attached materials. The project applicant is SDG Commerce 220, LLC.

The City of American Canyon is soliciting comments from public agencies, organizations, and members of the public regarding the scope and content of the EIR, and the environmental issues and alternatives to be addressed in the document. Public agencies may need to use the EIR when considering permitting or other approvals that are germane to the agencies' responsibilities in connection with the projects.

Because of time limits mandated by state law, public agencies must submit any comments in response to this notice at the earliest possible date but not later than 30 days after receipt of this notice. The City of American Canyon also will accept comments from other interested parties regarding this notice during this time period. Accordingly, please provide your written response to the address shown below by **5 p.m. November, 27, 2023**. If you wish to be placed on the notification list for this project, or if you have any questions or need additional information, please contact the person below.

William He, AICP, Senior Planner  
City of American Canyon  
4381 Broadway Street, Suite 201  
American Canyon, CA 94503  
Phone: (707) 647-4337  
Email: [whe@cityofamericancanyon.org](mailto:whe@cityofamericancanyon.org)

**Public Scoping Meeting**

A virtual public scoping meeting will be held at Friday, November 17 at 2:00 PM. Refer to the 'Scoping Meeting' portion of this NOP for details. At this meeting, public agencies, organizations, and members of the public will be able to review the proposed project and provide comments on the scope of the environmental review process.

## SDG COMMERCE 224 PROJECT

### Project Location

The 10.45-acre project site is located at 1055 Commerce Court in the City of American Canyon, Napa County, California; refer to Exhibit 1. The rectangular project site is bounded by a Eucalyptus grove and North Slough (west), a parcel entitled for a wine distribution warehouse known as SDG Commerce 217 (north), Commerce Court (east), beyond which is a paintball recreation area, and a wine distribution warehouse known as SDG Commerce 330 (south); refer to Exhibit 2. The project site is located on the *Cuttings Wharf, California*, United States Geological Survey 7.5-minute topographic quadrangle, Township 4 North, Range 4 West, Section 14 (Latitude 38° 11' 22" North; Longitude 122° 16' 19" West).

### Existing Conditions

#### 1.1.1 - Land Use Activities

The project site contains undeveloped land, which slopes downward from east to west and is approximately 13 to 25 feet above mean sea level. The project frontage with Commerce Court is improved with curb, gutter, and sidewalk.

The southern portion of the project site contains several soil stockpiles that are intended for use at the SDG Commerce 217 property. A young Eucalyptus tree is located near Commerce Court, and a linear wetland and an isolated wetland are located within the northern portion of the property.

#### 1.1.2 - Land Use Designations

The project site is designated "Commercial Recreation (CR)" by the City of American Canyon General Plan and is zoned Recreation (REC).

A Recreation Zoning District Code Amendment (Ordinance No. 2018-01) was adopted by the City Council on January 16, 2018. The Ordinance allows wine-related warehousing and distribution facilities as a conditionally permitted use within the REC zone district.

The project site is within Compatibility Zone D (Common Traffic Pattern) of the Napa County Airport's Land Use Compatibility Plan.

### Project Description

#### 1.1.3 - Project Summary

The applicant, SDG Commerce, is proposing to develop a 219,834 square-foot wine storage and distribution center on the 10.45-acre (443,005-square-foot) project site. The warehouse would provide 23 truck doors and up to 4,400 square feet of office space. It would have perimeter concrete tilt wall panels with varying parapet heights and accent spandrel glass/metal canopy features around offices and corners of the building. The average roof height would be approximately 35 feet, and

portions of the building exterior walls would have varied heights to provide architectural relief. The building would be insulated and refrigerated at approximately 58°F (degrees Fahrenheit), making it suitable for storage of wine and related products. The amount of refrigeration necessary would be reduced through the use of intake louvers and fans, which would allow cool night air to be utilized. Table 1 summarizes the project characteristics. Exhibit 3 depicts the site plan.

**Table 1: SDG Commerce 220 Project Summary**

Acres	Building Square Feet	Floor Area Ratio	Building Height	End Use/Characteristics
10.45 <sup>1</sup>	219,834	0.5	35 feet	Wine Distribution Warehouse/23 truck doors

<sup>1</sup>Project site consists of assessor's parcel number 058-030-069 (10.17 acres) plus small additional improvement areas for a total of 10.45 acres.  
Source: SDG Commerce 220, LLC. 2023.

### Operation and Employment

The building would be designed to accommodate approximately three tenants. Typical hours of operation for wine distribution and storage are generally 6:00 a.m. to 6:00 p.m., Monday through Friday; during the peak seasonal months, typically June through November, hours are extended from 6:00 a.m. to 12:00 a.m., Monday through Friday. It is anticipated that the project would employ approximately 35 full-time employees and 20 part-time employees, working in up to three overlapping shifts.

Warehousing and storage of wine and other wine-related industries are not labor intensive, and the proposed uses for the building do not demand frequent client or user trips to the site. It is estimated that the proposed project would generate approximately 2 to 4 client or visitor trips per day, likely during off-peak season and during normal working hours. Forklifts used within the building would be electrically powered.

### Site Access, Circulation, and Parking

Vehicular and truck access would be taken from one driveway on Commerce Court that would be shared with the SDG Commerce 330 project. Drive aisles would be provided around the full perimeter of the building to support emergency ingress and egress.

A total of 134 car spaces and 23 truck parking stalls would be provided. Of the parking spaces, five would be designated for handicap access and one would be a compact space. There would be five electric vehicle supply equipment (EVSE) stalls, one van accessible EVSE stall, and 19 electric vehicle (EV) capable stalls. Per the 2022 California Green Building Standards Code (CALGreen), nonresidential developments with 101–150 parking spaces must provide at least 17 EV capable spaces and at least four EV capable spaces provided with EVSE (Title 24, Part 11, Chapter 5, Table 5.106.5.3.1). The proposed project would meet these requirements.

Pedestrian circulation throughout the project site would be provided in accordance with CalDAG and ADA recommendations and standards. The proposed project would also provide three bicycle

lockers, each of which would accommodate up to four bicycles, for a total of 12 bicycle parking spaces. The proposed 12 bicycle parking spaces would be five more than required per the City's Zoning Ordinance Chapter 19.14.090 (A), Bicycle Parking Requirements.

### **Lighting**

Exterior lighting for the proposed project would include lighting on the building and on parking lot poles on the north side of the property. Parking lot lighting would be consistent with City of American Canyon municipal code requirements Section 19.21.030(M). The 30-foot-tall lights would be "shoebox" dimmable light-emitting diode (LED) fixtures designed to be dark-sky friendly by directing the light toward the ground and reducing glare to surrounding properties.

### **Signage**

One monument sign is proposed, (approximately 8 feet wide by 5 feet tall) located at the entry to the site from Commerce Court.

### **Landscaping**

Landscaping would be provided around the site perimeter on the east, north and partial west sides and within parking islands throughout. Mechanical equipment would be placed on the north side of the building behind a 6-foot-high color slatted chain link fence. The irrigation system would be connected to the City's reclaimed water system, thus eliminating the use of the City's potable water for landscape purposes.

### **Storm Drainage**

Stormwater runoff would be directed via an onsite storm drain system into a detention/bioretention pond located on the western side of the site. Roof drainage would be connected to the proposed detention/bioretention pond via the onsite storm drain system surrounding the building by way of down spouts on the exterior of the building, which would be painted to blend-in with the building façade.

### **Wetland Areas**

The two existing, on-site wetland areas would be preserved in place.

### **Utilities**

#### ***Water***

The City of American Canyon would provide potable and recycled water service to the proposed project. Potable and recycled water infrastructure currently exists within Commerce Court, and service laterals would be extended to the project building. The warehouse would be dual plumbed to allow use of recycled water for non potable water use within the building.

#### ***Wastewater***

The City of American Canyon would provide wastewater collection and treatment service to the proposed project. Sewer infrastructure currently exists within Commerce Court. Connection back to

the existing City sewer infrastructure in Commerce Court will be made through the existing sanitary sewer system and lift station that was previously designed and constructed on the Commerce 330 site for future shared use with the SDG Commerce 220 project.

### **Electricity**

Pacific Gas and Electric Company (PG&E) would deliver electricity to the proposed project. Electric infrastructure currently exists within Commerce Court. Service laterals would extend from the Commerce Court facilities to project buildings. No natural gas would be used. Solar would be installed on the building roof top and would produce an estimated 235,204 kilowatt-hour (kWh) per year.

### **Telecommunications Services**

Telephone service provided by AT&T would be extended from the existing underground infrastructure in the Commerce Court right-of-way (ROW) to the electrical room located in the northeast corner of the building.

### **Off-site Improvements**

A small portion of the development extends beyond the parcel boundaries to the north and south of the project site to provide connection to the adjacent parking lots and to enhance internal circulation between the sites. The properties to the north and south of the project site are under related ownership as the proposed project and the potential impacts associated with development and site disturbance on those parcels was analyzed in previous California Environmental Quality Act (CEQA) documentation.<sup>1,2</sup> Long-term reciprocal access would be ensured through recorded easements between the two properties.

### **Construction**

Construction would occur in a single phase, lasting approximately 9.5 months. For this analysis, construction is assumed to start in September 2024. During the construction phase, an average of 12 to 24 workers would be at the site, with a maximum of up to 80 workers and a minimum of one. Construction hours would be from 7:00 a.m. to 6:00 p.m. Monday through Friday.

Construction of the concrete building slab, wall panels and large concrete paving pours would be required to be performed during nighttime hours starting no earlier than 12:00 a.m. Pre-notification of these night pour dates and times would be provided to the City and property owners in the vicinity. Typical construction equipment that would be used at the site would include self-loading dirt scraper, bulldozer, motor grader, compactor, roller, water truck, backhoe, excavator, trencher, drilling auger, front end loader, paving machine, laser screed, concrete finishing trowels, tractor, crane, forklift, generator, man lift, scissor lift, welding machine, and light tower. Imported soil would be required for grading but would be less than 1,000 cubic yards.

<sup>1</sup> City of American Canyon. 2021. Commerce 217 Distribution Center Project Initial Study/Mitigated Negative Declaration. Website: <https://ceqanet.opr.ca.gov/2020120302/2>. Accessed August 16, 2023.

<sup>2</sup> City of American Canyon. 2018. SDG 330 Wine Warehouse Project Initial Study/Mitigated Negative Declaration. Website: <https://ceqanet.opr.ca.gov/2018112067>. Accessed August 16, 2023.

## Required Discretionary Approvals

The proposed project requires the following discretionary approvals from the City of American Canyon:

- Conditional Use Permit

Subsequent ministerial actions would be required for the implementation of the proposed project, including issuance of grading and building permits.

The following parties would act as responsible agencies for the proposed project:

- United States Army Corps of Engineers (USACE)
- California Department of Fish and Wildlife (CDFW)
- San Francisco Bay Regional Water Quality Board (RWQCB)
- County of Napa
- Napa County Airport Land Use Commission (ALUC)



## Environmental Review

### 1.1.4 - Potential Environmental Effects

The EIR will evaluate whether the proposed project may potentially result in one or more significant environmental effects, which will be evaluated in the relevant sections listed below.

- Aesthetics, Light, and Glare
- Air Quality
- Biological Resources
- Cultural Resources
- Geology, Soils, and Seismicity
- Greenhouse Gas Emissions/Energy
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Public Services
- Transportation
- Utilities and Service Systems

### 1.1.5 - Effects Found not to be Significant

Unless specific comments are received during the NOP public comment period that indicate a potential for the project to result in significant impacts, the following issues will be addressed in the Effects Found not to be Significant section of the EIR.

#### Agriculture and Forest Resources

The project site contains undeveloped land and is not used for agricultural land use activities. The California Department of Conservation maps the project site as 'Other Land,' which does not fall under the Important Farmland umbrella. The project site is not encumbered by an active Williamson Act contract. The project site is zoned for industrial use; thus, no conflicts with agricultural or forest zoning would occur. The project site does not contain any stands of commercially harvestable trees and, thus, would not convert forestland to non-forest use. No impact would occur.

#### Mineral Resources

The project site contains undeveloped land. No mineral extraction occurs onsite. This precludes the possibility of conflicts in this regard. No impact would occur.

#### Population and Housing

The proposed project would develop a 224,539 square-foot wine warehouse on an undeveloped site. No direct residential growth would occur, and no existing dwelling units would be removed. The proposed project would employ an estimated 225 workers when fully operational at buildout. The California Employment Development Department estimated Napa and Solano County's combined labor force at 267,800 in November 2022. As such, the local labor force is sufficiently large enough to allow the project's employment opportunities to be filled locally such that unplanned growth would not occur. Lastly, roadways and infrastructure exist adjacent to the project site and, therefore, no impacts would occur.

## Recreation

The proposed project would not involve construction of dwelling units and, thus, would not result in direct population growth. As such, it would not increase use of existing recreational facilities. No impact would occur.

## Wildfire

The project site contains undeveloped land. There are no wildlands or other areas susceptible to wildfire within or near the project site. No impact would occur.

## Scoping Meeting

A public scoping meeting will be held Friday, November 17 at 2:00 p.m. at American Canyon City Hall, 4381 Broadway, Suite 201, American Canyon, CA 94503.

The meeting will also be streamed virtually:

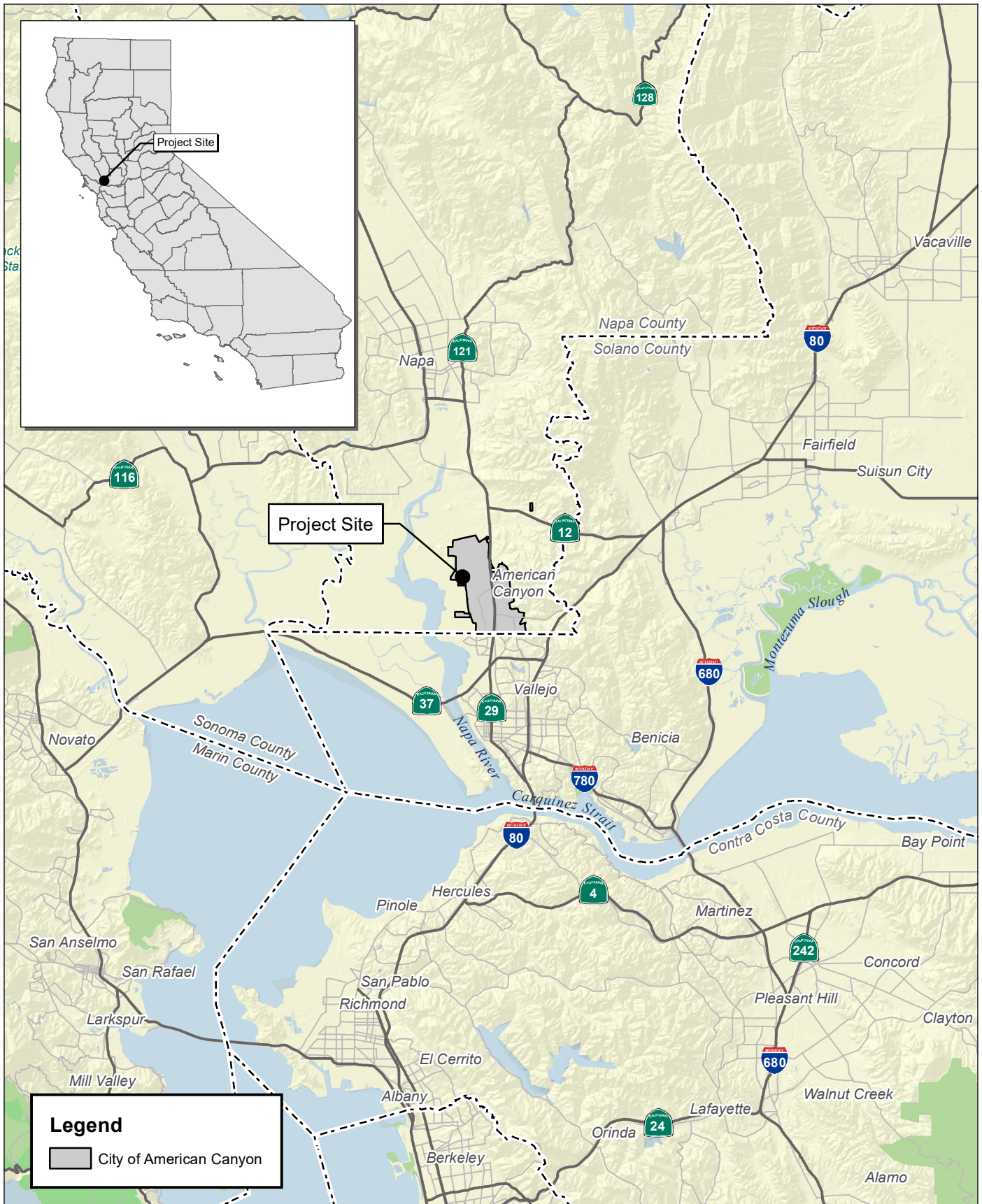
<https://zoom.us/join>

Meeting ID: 847 0393 6328

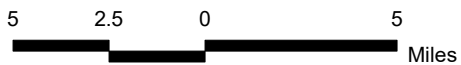
Passcode: 418059

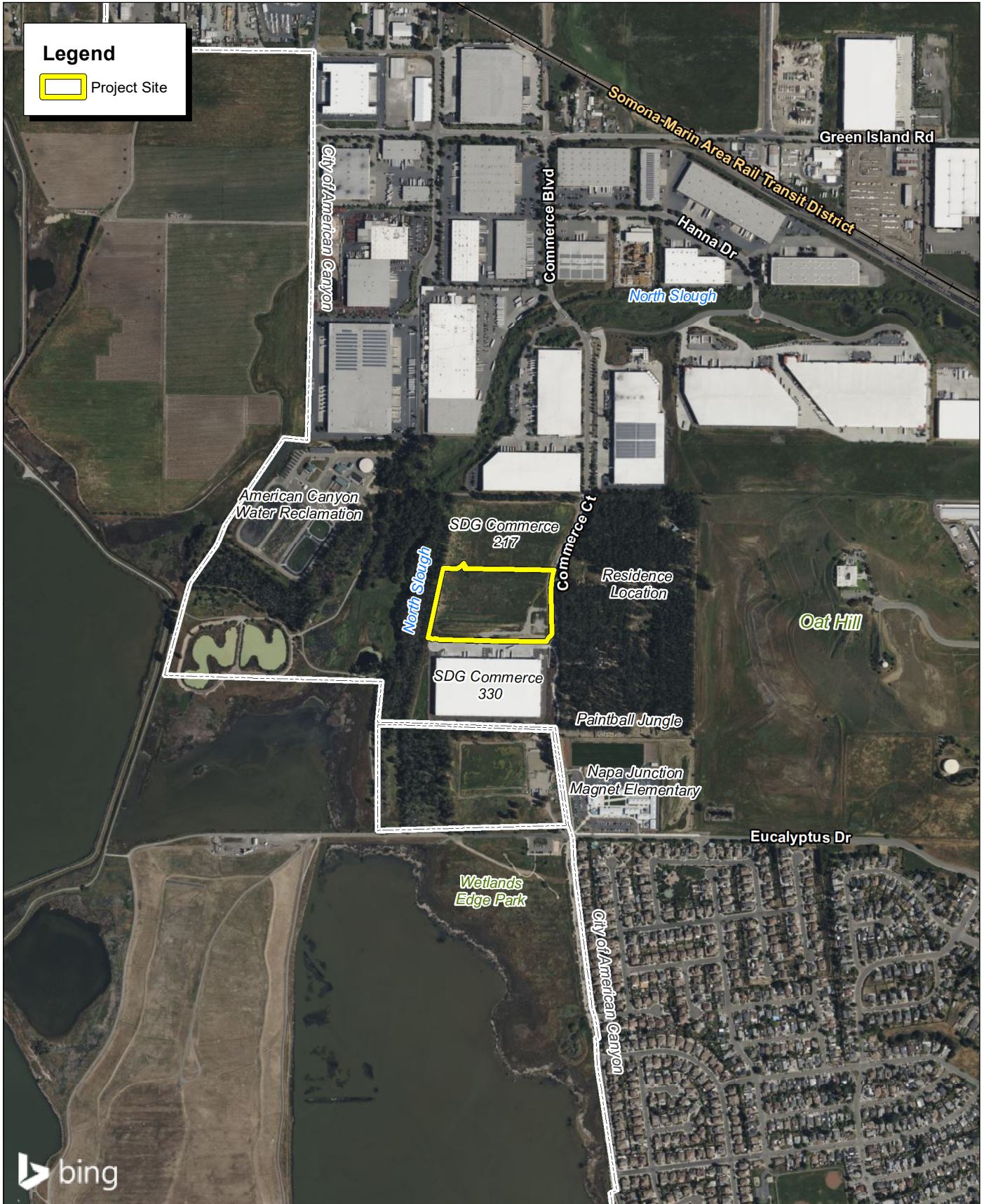
Phone: (408) 638-0968

At this meeting, agencies, organizations, and members of the public will be able to review the proposed project and provide comments on the scope of the environmental review process.



Source: Census 2000 Data, The California Spatial Information Library (CaSIL).



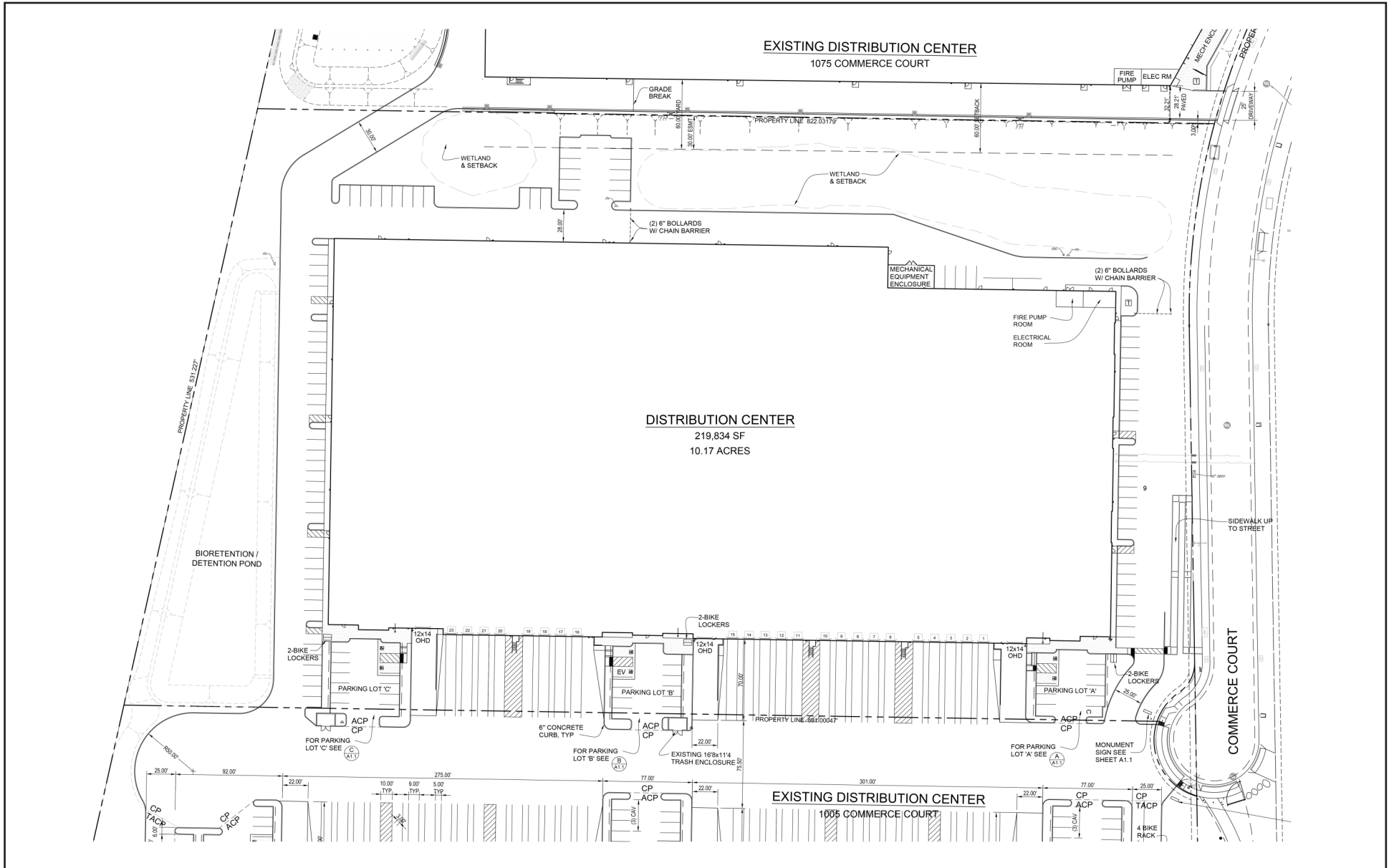


**Legend**

Project Site

Source: Bing Aerial Imagery.





Source: Ward Architects, Inc. 08/01/2023.



## SDG 220 Distribution Center Conditional Use Permit

Date\* 11/21/2023

Name\* Yvonne Baginski

Company

Email\* yvonnebaginski@gmail.com

Phone Number\* 7076945486

Please check all that apply\*

- I own a home in American Canyon
- I rent a home in American Canyon
- I own a business in American Canyon
- I work in American Canyon
- None of the above

Address\*

Street Address

3205 Montclair Ave.

Address Line 2

City

Napa

Postal / Zip Code

94558

State / Province / Region

CA

Country

USA

Comments\*

If comments are being provided through the upload of a document, please indicate so.

While awaiting environmental review, this property has already been cleared and graded. It currently is being used as a parking lot for the labor constructing the two warehouses on either side. How is it possible to determine a biological review when the soil is cleared and vegetation removed? Is it even legal to move forward on an environmental review when the land has already been significantly altered? There is nothing but flattened dirt over most of the property. The only part of the property not already contaminated by bulldozers and other earth-moving machines is fenced off on the north side. It is very small, hardly large to notice or utilize by animals, It's about the size of a small backyard. We couldn't imagine that such a minuscule piece of land would be cordoned off as wetland preservation. This wetland will be surrounded by asphalt parking lots and driveways and driven on by hundreds of cars and enormous trucks. Any animal attempting to use this wetland would be in peril. Please explain what animals will have access to, or be able to use, these tiny pieces of "conserved" wetland. There is no access corridor, nothing. How will the wetland be maintained, protected? Who will monitor the wetland? Is there any possibility of making it larger, and connecting it to the a larger wildlife area? Has a wildlife biologist studied this location and offered any suggestions? It seems as if the project has jumped ahead without following protocols. Asking for an environmental review after all the vegetation has been removed, doesn't make sense. Please advise.

I am concerned that this property is so near the bay wetlands and walking trail. That small line of trees in the back does little to protect wildlife from the lighting and noise of these warehouses, which it seems, will be operational 24/7. There is no information on how many trucks will be lumbering up to those 23 ramps every day, and how often. This is going to be a very busy court. Three warehouses and all bringing in noise and traffic alongside the wetland trail.

Especially confusing are the estimates of the number of people who will be working on site. There are different numbers bandied about in the NOP. Specifically, that 250 employees will be employed (yet, only 132 parking places), then only 2-4 visitors a day, and finally that there will be 35 fulltime and 30 part-time employee working three different shifts...which, still adds up to only 195 employees. So, it seems that the numbers are inconsistent with one another. Plus, the three tenants are not identified, and I am supposing that this is all guesswork for now. A comment is also made about the employees being local, and not having to drive in from other localities, yet there is no substantive evidence to this statement. Is there going to be a mandate for the employer to hire a certain percentage of local people? (And, then require them to all ride their bikes to work?) How will you be able to regulate who employers hire based on location or miles driven into work? This statement is inaccurate unless it is backed up with substantive, enforceable regulations. There is no way to guess how many people hired will be living in American Canyon. Right now, 80 percent of American Canyon residents who work, commute to other cities/counties to work. Warehouse work is not professional work. It is low-paying labor, and the rate of pay is still under \$20/hour. These are not the people who will be purchasing Watson Ranch homes. I wonder whether the City has ever surveyed the other warehouses in American Canyon and determined what percentage of people working in those warehouses are actually residents of American Canyon. (And, how many are riding their bikes to work?) From what I see on the streets and in the driveways of American Canyon homes, I am willing to surmise that the most favored car is an SUV, and it is driven to work, to pick up kids, and on errands, daily.

The lighting and noise of this area, so near the wetlands and the tree foliage across the street, will be disruptive to the birds and wildlife. It will change their mating and sleeping patterns. Already, it has destroyed their habitat and will force them to leave the area, or die. What, if any, safeguards are being put in place to protect and safeguard wildlife?

The NOP hearing was held on a Friday afternoon before Thanksgiving week. Even with notice, it was unattendable by many who were heading off on vacation travels. Now, all of the comments are to be submitted and written over Thanksgiving Week, when many people are with family and not working. I believe the timing of this public hearing puts the public at a disadvantage in being able to respond to this project's environmental toll on this community. We cannot even view the meeting until after November 27, the dates all the comments are due. This doesn't give those of us missing the meeting a chance to review what was said before comments are submitted.

And, finally, the increase of greenhouse gas emissions will be considerable with this project. How many trips a day from the trucking traffic alone? And, the diesel fumes will further pollute the bay-side air, and the noise and traffic will disrupt the peace of

will further pollute the bayside air, and the noise and traffic will disrupt the peace of recreational walkers along the trail just feet away from the furthest edge of the property. Using electric forklifts inside the facility may keep the air cleaner inside, but there's no doubt that the diesel truck engines will be emitting harmful carbon and destructive gases outdoors, contributing significantly the GHG emissions.

Now, in 2023, it's time to start looking at all these proposed projects through the lens of the climate crisis. Each project needs to be re-scrutinized and upgraded to the new reality. This property is zoned open space/recreational, but the city council voted to allow this warehouse build back in 2018. Now, five years later, we are facing a different world. We need to keep certain lands free from development, especially lands near the bay. There will be rising seas affecting this area in the very near future. Pay attention.

**File Upload**



# California Department of Transportation

DISTRICT 4  
OFFICE OF REGIONAL AND COMMUNITY PLANNING  
P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660  
[www.dot.ca.gov](http://www.dot.ca.gov)



November 27, 2023

SCH #: 2023100842  
GTS #: 04-NAP-2023-00338  
GTS ID: 31389  
Co/Rt/Pm: Napa/29/2.907

William He, Senior Planner  
City of American Canyon  
4381 Broadway Street, Suite 201  
American Canyon, CA 94503

## **Re: SDG Commerce 220 Distribution Center Project – Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR)**

Dear William He:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the SDG Commerce 220 Distribution Center Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system.

The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the October 2023 NOP.

### **Project Understanding**

The proposed project is to develop a 219,834 square-foot wine storage and distribution center that would provide 23 truck doors and 4,400 square-foot of office space.

### **Travel Demand Analysis**

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' Transportation Impact Study Guide ([link](#)).

If the project meets the screening criteria established in the City's adopted Vehicle Miles Traveled (VMT) policy to be presumed to have a less-than-significant VMT impact and exempt from detailed VMT analysis, please provide justification to support the exempt status in alignment with the City's VMT policy. Projects that do not meet the screening criteria should include a detailed VMT analysis in the DEIR, which should include the following:

- VMT analysis pursuant to the City's guidelines. Projects that result in automobile VMT per capita above the threshold of significance for existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact. If necessary, mitigation for increasing VMT should be identified. Mitigation should support the use of transit and active transportation modes. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the City.
- A schematic illustration of walking, biking and auto conditions at the project site and study area roadways. Potential traffic safety issues to the State Transportation Network (STN) may be assessed by Caltrans via the Interim Safety Guidance ([link](#)).
- The project's primary and secondary effects on pedestrians, bicycles, travelers with disabilities and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be maintained.

### **Construction-Related Impacts**

Potential impacts to the State Right-of-Way (ROW) from project-related temporary access points should be analyzed. Mitigation for significant impacts due to construction and noise should be identified. Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, please visit Caltrans Transportation Permits ([link](#)). Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the STN.

William He, Senior Planner  
November 27, 2023  
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Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Marley Mathews, Transportation Planner, via [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov). For future early coordination opportunities or project referrals, please contact [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Luo Yunsheng". The signature is fluid and cursive, with the first name "Luo" being more prominent and the last name "Yunsheng" following in a similar style.

YUNSHENG LUO  
Branch Chief, Local Development Review  
Office of Regional and Community Planning

c: State Clearinghouse



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

2825 Cordelia Road, Suite 100

Fairfield, CA 94534

(707) 428-2002

[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**

**CHARLTON H. BONHAM, Director**



November 17, 2023

William He, Senior Planner  
City of American Canyon  
4381 Broadway Street, Suite 201  
American Canyon CA, 94503  
[WHe@cityofamericancanyon.org](mailto:WHe@cityofamericancanyon.org)

Subject: SDG Commerce 220 Distribution Center Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2023100842, City of American Canyon, Napa County

Dear Mr. He:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the SDG Commerce 220 Distribution Center Project (Project).

CDFW is providing the City of American Canyon (City) as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

## **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

## **PROJECT DESCRIPTION AND LOCATION**

The Project objective is the construction of a 219,834-square-foot wine storage and distribution center, including the construction of vehicular access areas and drive isles and sharing a driveway with a neighboring facility. Additional vehicle parking spaces will be built, including 134 car spaces, 23 truck parking stalls, 19 electric vehicle stalls, and three bicycle storage lockers with room for 12 bicycles. Construction activities are

William He  
City of American Canyon  
November 17, 2023  
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expected to span 9.5 months and will include landscaping and the construction of large concrete slabs and wall panels using typical construction equipment. The Project site is located on 1055 Commerce Court in the City of American Canyon, Napa County; Latitude 38.185969 North, Longitude -122.274294 West; and encompasses approximately 10.45 acres.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes;
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems;
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features; and
- Construction schedule, activities, equipment, and crew sizes.

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act and Native Plant Protection Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, such as those identified in **Attachment 1**, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration

William He  
City of American Canyon  
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(FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

### **Lake and Streambed Alteration**

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

### **Nesting Birds**

CDFW has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Migratory birds are also protected under the federal Migratory Bird Treaty Act.

### **Fully Protected Species**

Fully Protected species, including those listed in **Attachment 1**, may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515) except for: 1) collecting these species for necessary scientific research, including efforts to recover fully protected species; 2) relocation of the bird species for the protection of livestock; 3) if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan, or 4) certain projects pursuant to Fish and Game Code section 2081.15.

### **ENVIRONMENTAL SETTING**

The EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including, but not limited to, all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or state,

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and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species and sensitive natural communities that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to, those listed in **Attachment 1**.

Habitat descriptions and the potential for species occurrence should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the EIR should adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations<sup>1</sup>. More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

## **IMPACT ANALYSIS AND MITIGATION MEASURES**

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

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<sup>1</sup>CRPR 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR ranks is available in CDFW's Special Vascular Plants, Bryophytes, and Lichens List (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/california-rare-plant-ranks>).

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- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Potential for impacts to special-status species;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The CEQA document should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a special-status species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the Lead Agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the EIR, and/or mitigate significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in EIRs 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 CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/>



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[Submitting-Data](https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

## FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

If you have any questions, please contact Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1: Special-Status Species and Sensitive Natural Communities

ec: Office of Planning and Research, State Clearinghouse (SCH No 2023100842)

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### ATTACHMENT 1: Special-Status Species and Sensitive Natural Communities

Scientific Name	Common Name	Status
<b>Amphibians &amp; Reptiles</b>		
<i>Rana draytonii</i>	California red-legged frog	FT, SSC
<i>Emys marmorata</i>	western pond turtle	SSC
<b>Birds</b>		
<i>Rallus obsoletus obsoletus</i>	California Ridgeway's rail	SE, FE, FP
<i>Laterallus jamaicensis coturniculus</i>	California black rail	ST, FP
<i>Buteo swainsoni</i>	Swainson's hawk	ST
<i>Agelaius tricolor</i>	tricolored blackbird	ST
<i>Melospiza melodia samuelis</i>	San Pablo song sparrow	SSC
<i>Geothlypis trichas sinuosa</i>	saltmarsh common yellowthroat	SSC
<i>Athene cunicularia</i>	burrowing owl	SSC
<i>Circus hudsonius</i>	northern harrier	SSC
<i>Aquila chrysaetos</i>	golden eagle	FP, BGEPA, WL
<i>Elanus leucurus</i>	white-tailed kite	FP
<i>Buteo regalis</i>	ferruginous hawk	WL
<i>Pandion haliaetus</i>	osprey	WL
<b>Fishes</b>		
<i>Hypomesus transpacificus</i>	Delta smelt	FT, SE
<i>Spirinchus thaleichthys</i>	longfin smelt	FC, ST
<i>Oncorhynchus mykiss irideus</i>	steelhead - central California coast DPS	FT
<i>Acipenser medirostris</i>	green sturgeon - southern DPS	FT

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<i>Pogonichthys macrolepidotus</i>	Sacramento splittail	SSC
<b>Mammals</b>		
<i>Reithrodontomys raviventris</i>	salt-marsh harvest mouse	FE, SE, FP
<i>Taxidea taxus</i>	American badger	SSC
<b>Plants</b>		
<i>Chloropyron molle</i> ssp. <i>molle</i>	soft salty bird's-beak	FE, SR
<i>Lilaeopsis masonii</i>	Mason's lilaeopsis	SR
<i>Trifolium amoenum</i>	two-fork clover	FE, CRPR 1B.1
<i>Trifolium hydrophilum</i>	saline clover	CRPR 1B.2
<i>Lathyrus jepsonii</i> var. <i>jepsonii</i>	Delta tule pea	CRPR 1B.2
<i>Carex lyngbyei</i>	Lyngbye's sedge	CRPR 2B.2
<i>Astragalus tener</i> var. <i>tener</i>	alkali milk-vetch	CRPR 1B.2
<i>Balsamorhiza macrolepis</i>	big-scale balsamroot	CRPR 1B.2
<i>Extriplex joaquinana</i>	San Joaquin spearscale	CRPR 1B.2
<b>Sensitive Natural Communities</b>		
<i>Baccharis pilularis</i> / <i>Carex obnupta</i> – <i>Juncus patens</i>	coyote brush/slough sedge – spreading rush	S3?
<i>Sarcocornia pacifica</i> or <i>Schoenoplectus</i> spp. alliance	Coastal salt marsh	Sensitive coastal salt marsh natural community may occur on or adjacent to Project site

FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under ESA; FC = federally listed as candidate under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; SSC = state Species of Special Concern; FP = state fully protected; BGEPA = federal Bald and Golden Eagle Protection Act; WL = CDFW Watch List; CRPR = California Rare Plant Rank; S3? = sensitive natural community state ranked as Vulnerable, with '?' denoting insufficient samples over full expected range; DPS = distinct population segment; SR = state listed as Rare pursuant to Native Plant Protection Act of 1977

**ROB BONTA**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



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# **Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act**

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In carrying out its duty to enforce laws across California, the California Attorney General’s Bureau of Environmental Justice (Bureau)<sup>1</sup> regularly reviews proposed warehouse projects for compliance with the California Environmental Quality Act (CEQA) and other laws. When necessary, the Bureau submits comment letters to lead agencies regarding warehouse projects, and in rare cases the Bureau has filed litigation to enforce CEQA.<sup>2</sup> This document builds upon the Bureau’s work on warehouse projects, collecting information gained from the Bureau’s review of hundreds of warehouse projects across the state.<sup>3</sup> It is meant to help lead agencies pursue CEQA compliance and promote environmentally-just development as they confront warehouse project proposals.<sup>4</sup> While CEQA analysis is necessarily project-specific, this document provides information on feasible best practices and mitigation measures, nearly all of which have been adapted from actual warehouse projects in California.

## I. Background

In recent years, the proliferation of e-commerce and rising consumer expectations of rapid shipping have contributed to a boom in warehouse development.<sup>5</sup> California, with its ports, population centers, and transportation network, has found itself at the center of this trend. In 2020, the Ports of Los Angeles, Long Beach, and Oakland collectively accounted for over 34% of all United States international container trade.<sup>6</sup> The Ports of Los Angeles and Long Beach alone generate about 35,000 container truck trips every day.<sup>7</sup> Accordingly, the South Coast Air Basin now contains approximately 3,000 warehouses of over 100,000 square feet each, with a total warehouse capacity of approximately 700 million square feet, an increase of 20 percent over the last five years.<sup>8</sup> This trend has only accelerated, with e-commerce growing to

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<sup>1</sup> <https://oag.ca.gov/environment/justice>.

<sup>2</sup> <https://oag.ca.gov/environment/ceqa>; *People of the State of California v. City of Fontana* (Super. Ct. San Bernardino County, No. CIVSB2121829); *South Central Neighbors United et al. v. City of Fresno et al.* (Super. Ct. Fresno County, No. 18CECG00690).

<sup>3</sup> This September 2022 version revises and replaces the prior March 2021 version of this document.

<sup>4</sup> Anyone reviewing this document to determine CEQA compliance responsibilities should consult their own attorney for legal advice.

<sup>5</sup> As used in this document, “warehouse” or “logistics facility” is defined as a facility consisting of one or more buildings that stores cargo, goods, or products on a short- or long-term basis for later distribution to businesses and/or retail customers.

<sup>6</sup> Data from the Bureau of Transportation Statistics, Container TEUs (Twenty-foot Equivalent Units) (2020), <https://data.bts.gov/stories/s/Container-TEU/x3fb-aeda/> (Ports of Los Angeles, Long Beach, and Oakland combined for 14.157 million TEUs, 34% of 41.24 million TEUs total nationwide) (last accessed September 18, 2022).

<sup>7</sup> U.S. Dept. of Transportation, Federal Highway Administration, *FHWA Operations Support – Port Peak Pricing Program Evaluation* (2020), available at <https://ops.fhwa.dot.gov/publications/fhwahop09014/sect2.htm> (last accessed September 18, 2022).

<sup>8</sup> South Coast Air Qual. Mgmt. Dist., *Final Socioeconomic Assessment for Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program and Proposed Rule 316 – Fees for Rule 2305*, at 7-8, 41 (May 2021).

13% of all retail sales and 2021 being a second consecutive record year for new warehouse space leased.<sup>9</sup> The latest data and forecasts predict that the next wave of warehouse development will be in the Central Valley.<sup>10</sup>

When done properly, these activities can contribute to the economy and consumer welfare. However, imprudent warehouse development can harm local communities and the environment. Among other pollutants, diesel trucks visiting warehouses emit nitrogen oxide (NO<sub>x</sub>)—a primary precursor to smog formation and a significant factor in the development of respiratory problems like asthma, bronchitis, and lung irritation—and diesel particulate matter (a subset of fine particular matter that is smaller than 2.5 micrometers)—a contributor to cancer, heart disease, respiratory illnesses, and premature death.<sup>11</sup> Trucks and on-site loading activities can also be loud, bringing disruptive noise levels during 24/7 operation that can cause hearing damage after prolonged exposure.<sup>12</sup> The hundreds, and sometimes thousands, of daily truck and passenger car trips that warehouses generate contribute to traffic jams, deterioration of road surfaces, and traffic accidents.

These environmental impacts also tend to be concentrated in neighborhoods already suffering from disproportionate health impacts and systemic vulnerability. For example, a comprehensive study by the South Coast Air Quality Management District found that communities located near large warehouses scored far higher on California’s environmental justice screening tool, which measures overall pollution and demographic vulnerability.<sup>13</sup> That

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<sup>9</sup> U.S. Census Bureau News, Quarterly Retail E-Commerce Sales 4th Quarter 2021 (February 22, 2022), [https://www.census.gov/retail/mrts/www/data/pdf/ec\\_current.pdf](https://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf) (last accessed September 18, 2022); CBRE Research, *2022 North America Industrial Big Box Report: Review and Outlook*, at 2-3 (March 2022), available at <https://www.cbre.com/insights/reports/2022-north-america-industrial-big-box#download-report> (last accessed September 18, 2022).

<sup>10</sup> CBRE Research, *supra* note 9, at 4, 36; New York Times, *Warehouses Are Headed to the Central Valley, Too* (Jul. 22, 2020), available at <https://www.nytimes.com/2020/07/22/us/coronavirus-ca-warehouse-workers.html>.

<sup>11</sup> California Air Resources Board, Nitrogen Dioxide & Health, <https://ww2.arb.ca.gov/resources/nitrogen-dioxide-and-health> (last accessed September 18, 2022) (NO<sub>x</sub>); California Air Resources Board, Summary: Diesel Particulate Matter Health Impacts, <https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts> (last accessed September 18, 2022); Office of Environmental Health Hazard Assessment and American Lung Association of California, Health Effects of Diesel Exhaust, <https://oehha.ca.gov/media/downloads/calenviroscreen/indicators/diesel4-02.pdf> (last accessed September 18, 2022) (DPM).

<sup>12</sup> Noise Sources and Their Effects, <https://www.chem.purdue.edu/chemsafety/Training/PPETrain/dblevels.htm> (last accessed September 18, 2022) (a diesel truck moving 40 miles per hour, 50 feet away, produces 84 decibels of sound).

<sup>13</sup> South Coast Air Quality Management District, “Final Socioeconomic Assessment for Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program and Proposed Rule 316 – Fees for Rule 2305” (May 2021), at 4-5.

study concluded that, compared to the South Coast Air Basin averages, communities in the South Coast Air Basin near large warehouses had a substantially higher proportion of people of color; were exposed to more diesel particulate matter; had higher rates of asthma, cardiovascular disease, and low birth weights; and had higher poverty and unemployment rates.<sup>14</sup> Each area has its own unique history, but many of these impacts and vulnerabilities reflect historic redlining practices in these communities, which devalued land and concentrated poverty, racial outgroups, and pollution into designated areas.<sup>15</sup>

## II. Proactive Planning: General Plans, Local Ordinances, and Good Neighbor Policies

To systematically guide warehouse development, we encourage local governing bodies to proactively plan for logistics projects in their jurisdictions. Proactive planning allows jurisdictions to prevent land use conflicts before they materialize and direct sustainable development. Benefits also include providing a predictable business environment, protecting residents from environmental harm, and setting consistent expectations jurisdiction-wide.

Proactive planning can take many forms. Land use designation and zoning decisions should channel development into appropriate areas. For example, establishing industrial districts near major highway and rail corridors but away from sensitive receptors<sup>16</sup> can help attract investment while avoiding conflicts between warehouse facilities and residential communities. Transition zones with lighter industrial and commercial land uses may also help minimize conflicts between residential and industrial uses.

In addition, general plan policies, local ordinances, and good neighbor policies should set minimum standards for logistics projects. General plan policies can be incorporated into existing economic development, land use, circulation, or other related general plan elements. Many jurisdictions alternatively choose to consolidate policies in a separate environmental justice element. Adopting general plan policies to guide warehouse development may also help

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<sup>14</sup> *Id.* at 5-7.

<sup>15</sup> Beginning in the 1930s, federal housing policy directed investment away from Black, immigrant, and working-class communities by color-coding neighborhoods according to the purported “riskiness” of loaning to their residents. In California cities where such “redlining” maps were drawn, nearly all of the communities where warehouses are now concentrated were formerly coded “red,” signifying the least desirable areas where investment was to be avoided. See University of Richmond Digital Scholarship Lab, Mapping Inequality, <https://dsl.richmond.edu/panorama/redlining/#loc=12/33.748/-118.272&city=los-angeles-ca> (Los Angeles), <https://dsl.richmond.edu/panorama/redlining/#loc=13/32.685/-117.132&city=san-diego-ca> (San Diego), <https://dsl.richmond.edu/panorama/redlining/#loc=11/37.81/-122.38&city=oakland-ca> (Oakland), <https://dsl.richmond.edu/panorama/redlining/#loc=13/37.956/-121.326&city=stockton-ca> (Stockton), <https://dsl.richmond.edu/panorama/redlining/#loc=12/36.751/-119.86&city=fresno-ca> (Fresno) (all last accessed September 18, 2022).

<sup>16</sup> In this document, “sensitive receptors” refers to residences, schools, public recreation facilities, health care facilities, places of worship, daycare facilities, community centers, or incarceration facilities.



jurisdictions comply with their obligations under SB 1000, which requires local government general plans to identify objectives and policies to reduce health risks in disadvantaged communities, promote civil engagement in the public decision making process, and prioritize improvements and programs that address the needs of disadvantaged communities.<sup>17</sup>

Local ordinances and good neighbor policies that set development standards for all warehouses in the jurisdiction are a critical and increasingly common tool that serve several goals. When well-designed, these ordinances direct investment to local improvements, provide predictability for developers, conserve government resources by streamlining project review processes, and reduce the environmental impacts of industrial development. While many jurisdictions have adopted warehouse-specific development standards, an ordinance in the City of Fontana provides an example to review and build upon.<sup>18</sup> Good neighbor policies in Riverside County and by the Western Riverside Council of Government include additional measures worth consideration.<sup>19</sup>

The Bureau encourages jurisdictions to adopt their own local ordinances that combine the strongest policies from those models with measures discussed in the remainder of this document.

### III. Community Engagement

Early and consistent community engagement is central to establishing good relationships between communities, lead agencies, and warehouse developers and tenants. Robust community engagement can give lead agencies access to community residents' on-the-ground knowledge and information about their concerns, build community support for projects, and develop creative solutions to ensure new logistics facilities are mutually beneficial. Examples of best practices for community engagement include:

- Holding a series of community meetings at times and locations convenient to members of the affected community and incorporating suggestions into the project design.
- Posting information in hard copy in public gathering spaces and on a website about the project. The information should include a complete, accurate project description, maps and drawings of the project design, and information about how the public can provide input and be involved in the project approval process. The

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<sup>17</sup> For more information about SB 1000, see <https://oag.ca.gov/environment/sb1000>.

<sup>18</sup> <https://oag.ca.gov/system/files/attachments/press-docs/Final%20Signed%20Fontana%20Ordinance.pdf> (last accessed September 18, 2022).

<sup>19</sup> For example, the Riverside County policy requires community benefits agreements and supplemental funding contributions toward additional pollution offsets, and the Western Riverside Council of Governments policy sets a minimum buffer zone of 300 meters between warehouses and sensitive receptors. <https://www.rivcocob.org/wp-content/uploads/2020/01/Good-Neighbor-Policy-F-3-Final-Adopted.pdf> (last accessed September 18, 2022) (Riverside County); <http://www.wrcog.cog.ca.us/DocumentCenter/View/318/Good-Neighbor-Guidelines-for-Siting-Warehouse-Distribution-Facilities-PDF?bidId=> (last accessed September 18, 2022) (Western Riverside Council of Governments).

information should be in a format that is easy to navigate and understand for members of the affected community.

- Providing notice by mail to residents and schools within a certain radius of the project and along transportation corridors to be used by vehicles visiting the project, and by posting a prominent sign on the project site. The notice should include a brief project description and directions for accessing complete information about the project and for providing input on the project.
- Providing translation or interpretation in residents' native language, where appropriate.
- For public meetings broadcast online or otherwise held remotely, providing for access and public comment by telephone and supplying instructions for access and public comment with ample lead time prior to the meeting.
- Partnering with local community-based organizations to solicit feedback, leverage local networks, co-host meetings, and build support.
- Considering adoption of a community benefits agreement, negotiated with input from affected residents and businesses, by which the developer provides benefits to the affected community.
- Creating a community advisory board made up of local residents to review and provide feedback on project proposals in early planning stages.
- Identifying a person to act as a community liaison concerning on-site construction activity and operations, and providing contact information for the community liaison to the surrounding community.
- Requiring signage in public view at warehouse facilities with contact information for a local designated representative for the facility operator who can receive community complaints, and requiring any complaints to be answered by the facility operator within 48 hours of receipt.

#### **IV. Warehouse Siting and Design Considerations**

The most important consideration when planning a logistics facility is its location. Warehouses located in residential neighborhoods or near sensitive receptors expose community residents and those using or visiting sensitive receptor sites to the air pollution, noise, traffic, and other environmental impacts they generate. Therefore, placing facilities away from sensitive receptors significantly reduces their environmental and quality of life harms on local communities. The suggested best practices for siting and design of warehouse facilities does not relieve lead agencies' responsibility under CEQA to conduct a project-specific analysis of the project's impacts and evaluation of feasible mitigation measures and alternatives; lead agencies' incorporation of the best practices must be part of the impact, mitigation and alternatives analyses to meet the requirements of CEQA. Examples of best practices when siting and designing warehouse facilities include:

- Per California Air Resources Board (CARB) guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors.<sup>20</sup>
- Providing adequate amounts of on-site parking to prevent trucks and other vehicles from parking or idling on public streets and to reduce demand for off-site truck yards.
- Establishing setbacks from the property line of the nearest sensitive receptor to warehouse dock doors, loading areas, and truck drive aisles, and locating warehouse dock doors, loading areas, and truck drive aisles on the opposite side of the building from the nearest sensitive receptors—e.g., placing dock doors on the north side of the facility if sensitive receptors are near the south side of the facility.
- Placing facility entry and exit points from the public street away from sensitive receptors—e.g., placing these points on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Ensuring heavy duty trucks abide by the on-site circulation plans by constructing physical barriers to block those trucks from using areas of the project site restricted to light duty vehicles or emergency vehicles only.
- Preventing truck queuing spillover onto surrounding streets by positioning entry gates after a minimum of 140 feet of space for queuing, and increasing the distance by 70 feet for every 20 loading docks beyond 50 docks.
- Locating facility entry and exit points on streets of higher commercial classification that are designed to accommodate heavy duty truck usage.
- Screening the warehouse site perimeter and onsite areas with significant truck traffic (e.g., dock doors and drive aisles) by creating physical, structural, and/or vegetative buffers that prevent or substantially reduce pollutant and noise dispersion from the facility to sensitive receptors.
- Planting exclusively 36-inch box evergreen trees to ensure faster maturity and four-season foliage.
- Requiring all property owners and successors in interest to maintain onsite trees and vegetation for the duration of ownership, including replacing any dead or unhealthy trees and vegetation.
- Posting signs clearly showing the designated entry and exit points from the public street for trucks and service vehicles.
- Including signs and drive aisle pavement markings that clearly identify onsite circulation patterns to minimize unnecessary onsite vehicle travel.
- Posting signs indicating that all parking and maintenance of trucks must be conducted within designated on-site areas and not within the surrounding community or public streets.

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<sup>20</sup> CARB, Air Quality and Land Use Handbook: A Community Health Perspective (April 2005), at ES-1. CARB staff has released draft updates to this siting and design guidance which suggests a greater distance may be warranted in some scenarios. CARB, Concept Paper for the Freight Handbook (December 2019), available at [https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook\\_1.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook_1.pdf) (last accessed September 18, 2022).

## V. Air Quality and Greenhouse Gas Emissions Analysis and Mitigation

Emissions of air pollutants and greenhouse gases are often among the most substantial environmental impacts from new warehouse facilities. CEQA compliance demands a proper accounting of the full air quality and greenhouse gas impacts of logistics facilities and adoption of all feasible mitigation of significant impacts. Although efforts by CARB and other authorities to regulate the heavy-duty truck and off-road diesel fleets have made excellent progress in reducing the air quality impacts of logistics facilities, the opportunity remains for local jurisdictions to further mitigate these impacts at the project level. Lead agencies and developers should also consider designing projects with their long-term viability in mind. Constructing the necessary infrastructure to prepare for the zero-emission future of goods movement not only reduces a facility's emissions and local impact now, but it can also save money as demand for zero-emission infrastructure grows. In planning new logistics facilities, the Bureau strongly encourages developers to consider the local, statewide, and global impacts of their projects' emissions.

Examples of best practices when studying air quality and greenhouse gas impacts include:

- Fully analyzing all reasonably foreseeable project impacts, including cumulative impacts. In general, new warehouse developments are not ministerial under CEQA because they involve public officials' personal judgment as to the wisdom or manner of carrying out the project, even when warehouses are permitted by a site's applicable zoning and/or general plan land use designation.<sup>21</sup>
- When analyzing cumulative impacts, thoroughly considering the project's incremental impact in combination with past, present, and reasonably foreseeable future projects, even if the project's individual impacts alone do not exceed the applicable significance thresholds.
- Preparing a quantitative air quality study in accordance with local air district guidelines.
- Preparing a quantitative health risk assessment in accordance with California Office of Environmental Health Hazard Assessment and local air district guidelines.
- Refraining from labeling compliance with CARB or air district regulations as a mitigation measure—compliance with applicable regulations is required regardless of CEQA.
- Disclosing air pollution from the entire expected length of truck trips. CEQA requires full public disclosure of a project's anticipated truck trips, which entails calculating truck trip length based on likely truck trip destinations, rather than the distance from the facility to the edge of the air basin, local jurisdiction, or other truncated endpoint. All air pollution associated with the project must be considered, regardless of where those impacts occur.

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<sup>21</sup> CEQA Guidelines § 15369.

- Accounting for all reasonably foreseeable greenhouse gas emissions from the project, without discounting projected emissions based on participation in California’s Cap-and-Trade Program.

Examples of measures to mitigate air quality and greenhouse gas impacts from construction are below. To ensure mitigation measures are enforceable and effective, they should be imposed as permit conditions on the project where applicable.

- Requiring off-road construction equipment to be hybrid electric-diesel or zero-emission, where available, and all diesel-fueled off-road construction equipment to be equipped with CARB Tier IV-compliant engines or better, and including this requirement in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.
- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Using electric-powered hand tools, forklifts, and pressure washers, and providing electrical hook ups to the power grid rather than use of diesel-fueled generators to supply their power.
- Designating an area in the construction site where electric-powered construction vehicles and equipment can charge.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Forbidding idling of heavy equipment for more than three minutes.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations for construction employees.

Examples of measures to mitigate air quality and greenhouse gas impacts from operation include:

- Requiring all heavy-duty vehicles engaged in drayage<sup>22</sup> to or from the project site to be zero-emission beginning in 2030.

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<sup>22</sup> “Drayage” refers generally to transport of cargo to or from a seaport or intermodal railyard.

- Requiring all on-site motorized operational equipment, such as forklifts and yard trucks, to be zero-emission with the necessary charging or fueling stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Forbidding trucks from idling for more than three minutes and requiring operators to turn off engines when not in use.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the local air district, and the building manager.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.
- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Constructing zero-emission truck charging/fueling stations proportional to the number of dock doors at the project.
- Running conduit to designated locations for future electric truck charging stations.
- Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide refrigerated warehouse space, constructing electric plugs for electric transport refrigeration units at every dock door and requiring truck operators with transport refrigeration units to use the electric plugs when at loading docks.
- Oversizing electrical rooms by 25 percent or providing a secondary electrical room to accommodate future expansion of electric vehicle charging capability.
- Constructing and maintaining electric light-duty vehicle charging stations proportional to the number of employee parking spaces (for example, requiring at least 10% of all employee parking spaces to be equipped with electric vehicle charging stations of at least Level 2 charging performance)
- Running conduit to an additional proportion of employee parking spaces for a future increase in the number of electric light-duty charging stations.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of

- trucks.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
  - Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
  - Designing to LEED green building certification standards.
  - Providing meal options onsite or shuttles between the facility and nearby meal destinations.
  - Posting signs at every truck exit driveway providing directional information to the truck route.
  - Improving and maintaining vegetation and tree canopy for residents in and around the project area.
  - Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request.
  - Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants who own, operate, or hire trucking carriers with more than 100 trucks to use carriers that are SmartWay carriers.
  - Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

## **VI. Noise Impacts Analysis and Mitigation**

The noise associated with logistics facilities can be among their most intrusive impacts to nearby sensitive receptors. Various sources, such as unloading activity, diesel truck movement, and rooftop air conditioning units, can contribute substantial noise pollution. These impacts are exacerbated by logistics facilities' typical 24-hour, seven-days-per-week operation. Construction noise is often even greater than operational noise, so if a project site is near sensitive receptors, developers and lead agencies should adopt measures to reduce the noise generated by both construction and operation activities.

Examples of best practices when studying noise impacts include:

- Preparing a noise impact analysis that considers all reasonably foreseeable project noise impacts, including to nearby sensitive receptors. All reasonably foreseeable project noise impacts encompasses noise from both construction and operations, including stationary, on-site, and off-site noise sources.
- Adopting a lower significance threshold for incremental noise increases when baseline noise already exceeds total noise significance thresholds, to account for the cumulative impact of additional noise and the fact that, as noise moves up the decibel scale, each decibel increase is a progressively greater increase in sound

pressure than the last. For example, 70 dBA is ten times more sound pressure than 60 dBA.

- Disclosing and considering the significance of short-term noise levels associated with all aspects of project operation (i.e. both on-site noise generation and off-site truck noise). Considering only average noise levels may mask noise impacts sensitive receptors would consider significant—for example, the repeated but short-lived passing of individual trucks or loading activities at night.

Examples of measures to mitigate noise impacts include:

- Constructing physical, structural, or vegetative noise barriers on and/or off the project site.
- Planning and enforcing truck routes that avoid passing sensitive receptors.
- Locating or parking all stationary construction equipment as far from sensitive receptors as possible, and directing emitted noise away from sensitive receptors.
- Verifying that construction equipment has properly operating and maintained mufflers.
- Requiring all combustion-powered construction equipment to be surrounded by a noise protection barrier
- Limiting operation hours to daytime hours on weekdays.
- Paving roads where truck traffic is anticipated with low noise asphalt.
- Orienting any public address systems onsite away from sensitive receptors and setting system volume at a level not readily audible past the property line.

## **VII. Traffic Impacts Analysis and Mitigation**

Warehouse facilities inevitably bring truck and passenger car traffic. Truck traffic can present substantial safety issues. Collisions with heavy-duty trucks are especially dangerous for passenger cars, motorcycles, bicycles, and pedestrians. These concerns can be even greater if truck traffic passes through residential areas, school zones, or other places where pedestrians are common and extra caution is warranted.

Examples of measures to mitigate traffic impacts include:

- Designing, clearly marking, and enforcing truck routes that keep trucks out of residential neighborhoods and away from other sensitive receptors.
- Installing signs in residential areas noting that truck and employee parking is prohibited.
- Requiring preparation and approval of a truck routing plan describing the facility's hours of operation, types of items to be stored, and truck routing to and from the facility to designated truck routes that avoids passing sensitive receptors. The plan should include measures for preventing truck queuing, circling, stopping, and parking on public streets, such as signage, pavement markings, and queuing analysis and enforcement. The plan should hold facility operators responsible for violations of the truck routing plan, and a revised plan should be required from any new tenant that occupies the property before a business license



is issued. The approving agency should retain discretion to determine if changes to the plan are necessary, including any additional measures to alleviate truck routing and parking issues that may arise during the life of the facility.

- Constructing new or improved transit stops, sidewalks, bicycle lanes, and crosswalks, with special attention to ensuring safe routes to schools.
- Consulting with the local public transit agency and securing increased public transit service to the project area.
- Designating areas for employee pickup and drop-off.
- Implementing traffic control and safety measures, such as speed bumps, speed limits, or new traffic signs or signals.
- Placing facility entry and exit points on major streets that do not have adjacent sensitive receptors.
- Restricting the turns trucks can make entering and exiting the facility to route trucks away from sensitive receptors.
- Constructing roadway improvements to improve traffic flow.
- Preparing a construction traffic control plan prior to grading, detailing the locations of equipment staging areas, material stockpiles, proposed road closures, and hours of construction operations, and designing the plan to minimize impacts to roads frequented by passenger cars, pedestrians, bicyclists, and other non-truck traffic.

### **VIII. Other Significant Environmental Impacts Analysis and Mitigation**

Warehouse projects may result in significant environmental impacts to other resources, such as to aesthetics, cultural resources, energy, geology, or hazardous materials. All significant adverse environmental impacts must be evaluated, disclosed and mitigated to the extent feasible under CEQA. Examples of best practices and mitigation measures to reduce environmental impacts that do not fall under any of the above categories include:

- Appointing a compliance officer who is responsible for implementing all mitigation measures, and providing contact information for the compliance officer to the lead agency, to be updated annually.
- Creating a fund to mitigate impacts on affected residents, schools, places of worship, and other community institutions by retrofitting their property. For example, retaining a contractor to retrofit/install HVAC and/or air filtration systems, doors, dual-paned windows, and sound- and vibration-deadening insulation and curtains.
- Sweeping surrounding streets on a daily basis during construction to remove any construction-related debris and dirt.
- Directing all lighting at the facility into the interior of the site.
- Using full cut-off light shields and/or anti-glare lighting.
- Requiring submission of a property maintenance program for agency review and approval providing for the regular maintenance of all building structures, landscaping, and paved surfaces.
- Using cool pavement to reduce heat island effects.

- Planting trees in parking areas to provide at least 35% shade cover of parking areas within fifteen years to reduce heat island impacts.
- Using light colored roofing materials with a solar reflective index of 78 or greater.
- Including on-site amenities, such as a truck operator lounge with restrooms, vending machines, and air conditioning, to reduce the need for truck operators to idle or travel offsite.
- Designing skylights to provide natural light to interior worker areas.
- Installing climate control and air filtration in the warehouse facility to promote worker well-being.

## **IX. Conclusion**

California's world-class economy, ports, and transportation network position it at the center of the e-commerce and logistics industry boom. At the same time, California is a global leader in environmental protection and environmentally just development. The guidance in this document furthers these dual strengths, ensuring that all can access the benefits of economic development. The Bureau will continue to monitor proposed projects for compliance with CEQA and other laws. Lead agencies, developers, community advocates, and other interested parties should feel free to reach out to us as they consider how to guide warehouse development in their area.

Please do not hesitate to contact the Environmental Justice Bureau at [ej@doj.ca.gov](mailto:ej@doj.ca.gov) if you have any questions.



## SDG 220 Distribution Center Conditional Use Permit

Date\* 11/21/2023

Name\* Jeannette Goyetche

Company

Email\* hoffgoy@gmail.com

Phone Number\* 7073195976

Please check all that apply\*  
 I own a home in American Canyon  
 I rent a home in American Canyon  
 I own a business in American Canyon  
 I work in American Canyon  
 None of the above

Address\*

Street Address

216 Knightsbridge Way

Address Line 2

City

American Canyon

Postal / Zip Code

94503

State / Province / Region

CA

Country

United States

Comments\*

If comments are being provided through the upload of a document, please indicate so.

I am trying to understand how the warehouse can be built on Open Space and Recreational land, very close to a wetlands area? How can an accurate EIR report be done if the land at 1055 Commerce Ct. has been leveled? The meeting on November 17th at 2pm, a Friday before a major holiday week, was attended by 3 people on line. How is that an invitation for the public to attend? There were so much conflicting information on the NOP report as to how many people would be employed, hours of operation etc. If the proposed warehouse is being built on Open Space and Rec land, are the two warehouses on either side of 1055 also on Open Space and Rec land? I oppose construction of this warehouse especially because of its impact on our environment in American Canyon.

File Upload



## SDG 220 Distribution Center Conditional Use Permit

Date\* 11/25/2023

Name\* Jerry Hoffman

Company

Email\* hoffmanjxx@gmail.com

Phone Number\* 7073195976

Please check all that apply\*  
 I own a home in American Canyon  
 I rent a home in American Canyon  
 I own a business in American Canyon  
 I work in American Canyon  
 None of the above

Address\*

Street Address

216 KNIGHTSBRIDGE WAY

Address Line 2

City

AMERICAN CANYON

Postal / Zip Code

94503-4127

State / Province / Region

CA

Country

US

Comments\*

If comments are being provided through the upload of a document, please indicate so.

Why are warehouses being built in an area that is zoned recreation and open space when it should be used for what its zoned for. There are already too many warehouses in AC. This must stop!

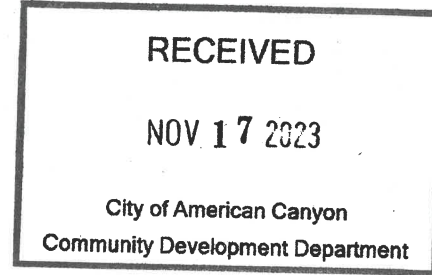
File Upload



## NATIVE AMERICAN HERITAGE COMMISSION

October 31, 2023

William He  
City of American-Canyon  
4381 Broadway Street, Suite 250  
American Canyon, CA 94503



CHAIRPERSON  
**Reginald Pagaling**  
Chumash

**Re: 2023100842, SDG Commerce 220 Distribution Center Project, Napa County**

VICE-CHAIRPERSON  
**Buffy McQuillen**  
Yokayo Pomo, Yuki,  
Nomlaki

Dear Mr. He:

SECRETARY  
**Sara Dutschke**  
Miwok

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).

PARLIAMENTARIAN  
**Wayne Nelson**  
Luiseno

COMMISSIONER  
**Isaac Bojorquez**  
Ohlone-Costanoan

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.

COMMISSIONER  
**Stanley Rodriguez**  
Kumeyaay

COMMISSIONER  
**Laurena Bolden**  
Serrano

COMMISSIONER  
**Reid Milanovich**  
Cahuilla

COMMISSIONER  
**Vacant**

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.

EXECUTIVE SECRETARY  
**Raymond C. Hitchcock**  
Miwok, Nisenan

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

**NAHC HEADQUARTERS**  
1550 Harbor Boulevard  
Suite 100  
West Sacramento,  
California 95691  
(916) 373-3710  
[nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)  
[NAHC.ca.gov](http://NAHC.ca.gov)

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, subds. (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](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](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](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](mailto:Cameron.Vela@nahc.ca.gov).

Sincerely,

*Cameron Vela*

Cameron Vela  
Cultural Resources Analyst

cc: State Clearinghouse

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