

# ATTACHMENT

For Item

08

WEDNESDAY

July 17, 2024

PUBLIC COMMUNICATION RECEIVED BY THE  
CLERK OF THE BOARD

Joe Rowley

Agenda Item #8

7/17/24

My name is Joe Rowley. For many years I was responsible for project development at Sempra U.S. Gas & Power, including the selection of appropriate sites and developing the company's large scale natural gas, solar, wind, and battery projects.

Large scale battery projects present unique land use challenges, particularly in relation to public health and safety. The recent 2-week fire in Otay Mesa was a stark reminder of that fact. While battery projects are necessary to increasing our use of renewable energy, that need must not override prudent site selection. Battery facilities are industrial in nature, both in terms of their appearance and the impacts they have on their surroundings.

I applaud the Board of Supervisors in your pursuit of land use regulations governing battery facilities. In a perfect world, developers would be self-policing in selecting appropriate sites, but recent proposals in our County have proven that a laissez-faire approach does not work. Battery project development is the latest "gold rush" in the power industry, and the current "wild west" environment is in desperate need of a framework within which battery projects and communities can safely coexist.

I pledge my support to the stakeholder process that will be necessary to the County's formulation of effective and equitable land use regulations.

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July 16, 2024

San Diego County Board of Supervisors  
1600 Pacific Highway  
San Diego, CA 92101

RE: Item 8 – Board Agenda of July 17 – Battery energy storage systems

Dear Chair Vargas and Members of the Board of Supervisors,

AES supports the County's effort to develop a clear set of development standards for battery energy storage systems (BESS); however, we strongly recommend that the Board delete the list of proposed minimum standards included in the Board Letter. Additionally, we are opposed to the proposed moratorium on the County staff's acceptance of any new BESS projects.

AES supports strong standards and regulations and is encouraged to see that the County will be devoting significant resources to developing this new policy. Safety is a top priority for AES, and we are deeply committed to constructing and operating the safest possible BESS projects in San Diego County. AES already adheres to a robust set of established codes and standards to design battery energy storage systems, including those set by the National Fire Protection Association (NFPA), California Building Code, and California Fire Code.

At this time, however, the Board should not dictate any minimum standards to County staff as part of any action today. County staff should be free to fully evaluate and accept or reject potential regulatory standards without any strings attached by the Board. Proposed standards should be based on empirical evidence gathered through comprehensive engagement with academic researchers, subject matter experts, industry practitioners, fire agency leaders, labor organizations, and other community stakeholders. At this time, the Board has no evidence to support the list of minimum standards recommended in the Board Letter.

In particular, the Board Letter's recommendation that "at a minimum, standards should include ... avoid locating BESS projects in residential areas" is not justified by any evidence. The vague nature of this "minimum standard" reveals the need for technical expertise in the development of BESS standards. The vast majority of zoning designations in the County's planning documents allow family residential as a use by right, meaning that family residences could be present in most zones throughout the County. Prohibiting BESS projects in "residential areas," as recommended by the Board Letter, would render the County utterly inhospitable to BESS development.

AES is ready and willing to participate in any task force or stakeholder advisory group the County may convene. Our staff have worked on numerous BESS projects in jurisdictions nationwide and have valuable insight to share. AES experts already participate in various industry technical groups responsible for creating and updating safety standards, such as the NFPA 855 on Energy Storage Systems, which establishes standards for mitigating hazards associated with energy storage systems.

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Furthermore, a moratorium is not consistent with the County's legally binding Climate Action Plan. It is widely understood that achieving the County's goal of 90 percent renewable energy by 2030 is not possible without battery energy storage. According to the California Energy Commission, the state currently has only a small fraction of the energy storage needed to reach the statewide goal of 100 percent renewable energy by 2045. The County's Climate Action Plan states that the County will develop policies and programs to increase renewable energy use, generation, and storage in the unincorporated area. This moratorium does the exact opposite of what the Climate Action Plan calls for and directly undermines the County's ability to meet the stated goals in the legally binding Climate Action Plan. Though the moratorium is presented as temporary, it will create a severe multi-year setback in progress toward renewable energy goals. Crafting a new regulatory ordinance and putting it through a full environmental and legal review can take two or more years. The County should continue to receive and process applications during this time.

The proposed moratorium would also have the effect of exacerbating equity concerns by maintaining a business-as-usual energy supply within the County of San Diego for more than two years. Without the rapid expansion of battery energy storage, the operation of natural gas facilities will fill that gap. Delaying the implementation of battery storage within the County will further impact the communities in which those fossil fuel facilities currently operate. BESS projects are key to making energy generation more equitable because they have the ability to be placed closer to load centers, require far less land, and are much more distributed than other forms of electrical generation.

Again, AES supports strong standards and regulations and is ready to work with County staff to help draft standards that are backed by scientific evidence, but we urge the Board to eliminate the proposed list of minimum standards from any directive the Board may give to County staff. We also urge the Board not to move forward with a moratorium on new BESS applications, because it will violate the legal requirements of the Climate Action Plan and exacerbate existing environmental equity issues.

Thank you for your consideration.

Sincerely,



Corinne Lytle Bonine  
Director, Permitting



July 16, 2024

401 WEST A STREET  
SUITE 200  
SAN DIEGO, CA 92101  
858-568-7777

[cleantechsandiego.org](http://cleantechsandiego.org)

**MISSION:**

To accelerate  
clean technology  
innovation and  
promote the  
equitable  
deployment  
of sustainable  
solutions across  
the San Diego  
region for the  
benefit of the  
economy, the  
environment, and  
all members of  
the community.

The Honorable Jim Desmond  
Supervisor, Fifth District  
San Diego County Board of Supervisors

**RE: Agenda Item 8, BESS Projects, July 17, 2024, County Board of Supervisors Meeting**

Dear Supervisor Desmond and Members:

On behalf of Cleantech San Diego, thank you for submitting your proposal to establish development standards for siting battery energy storage systems (BESS) in the unincorporated areas of San Diego County. As you noted in your letter to the Board dated July 17, 2024, as we increase our reliance on renewable energy in the region, the need for battery storage is increasing to provide reliable electricity to power homes and businesses throughout the night and to prevent blackouts and brownouts.

As background, Cleantech San Diego is a member-based business organization founded 17 years ago that positions the San Diego region as a leader in the cleantech economy by fostering collaborations across the private-public-academic landscape, engaging in advocacy efforts to promote cleantech priorities, supporting energy entrepreneurs through the Southern California Energy Innovation Network, and encouraging more equitable investment across the San Diego region.

Cleantech San Diego understands and appreciates your desire to establish standards to guide the review process for new BESS projects to ensure these projects are located where they make the most sense. The BESS industry follows a robust set of established national codes and safety standards to guide planning, developing, and operating each energy storage project.

Cleantech San Diego requests the County work with local stakeholders including industry, fire agencies, labor, academic researchers, and community leaders to develop standards related to BESS projects. To that end, Cleantech San Diego would like to offer to serve as the industry partner and work closely with the Chief Administrative Officer and our battery storage members, many of which have projects in the region, to establish development standards for planning BESS projects in the County's unincorporated areas. We performed a similar role with the City of San Diego as it was updating its municipal code related to these types of projects and would welcome the opportunity to work with County staff as well.

Cleantech San Diego also requests that BESS projects currently under review by the County are not impacted during the standard development process. In addition, we also ask that you reconsider the moratorium on the consideration of all BESS projects until standards are developed. If during the development process of the BESS standards, a developer proposes a project that complies with the intent of your proposal, we believe consideration should be given to the application prior to the formal adoption of such standards. Maintaining momentum for BESS projects is critical to achieving our regional climate and renewable energy goals.

Cleantech San Diego represents an industry that employs close to 42,000 people in our region and has a \$9.9 billion impact on our regional economy. As you move forward with this process, it is our hope you will consider the potential negative impacts that restrictions on BESS projects could have on our regional cleantech industry, our workforce, and our environment.

Thank you for your consideration. We look forward to working with you and County staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Anderson", with a stylized, flowing script.

Jason Anderson  
President and CEO  
Cleantech San Diego



**Sign to Support Getting Legislation to**

# **PROHIBIT LITHIUM BATTERY PROJECTS IN THE UNINCORPORATED AREAS**

**1**

**Much of the Back Country is Categorized as Being a "Very High Fire Severity Zone"**

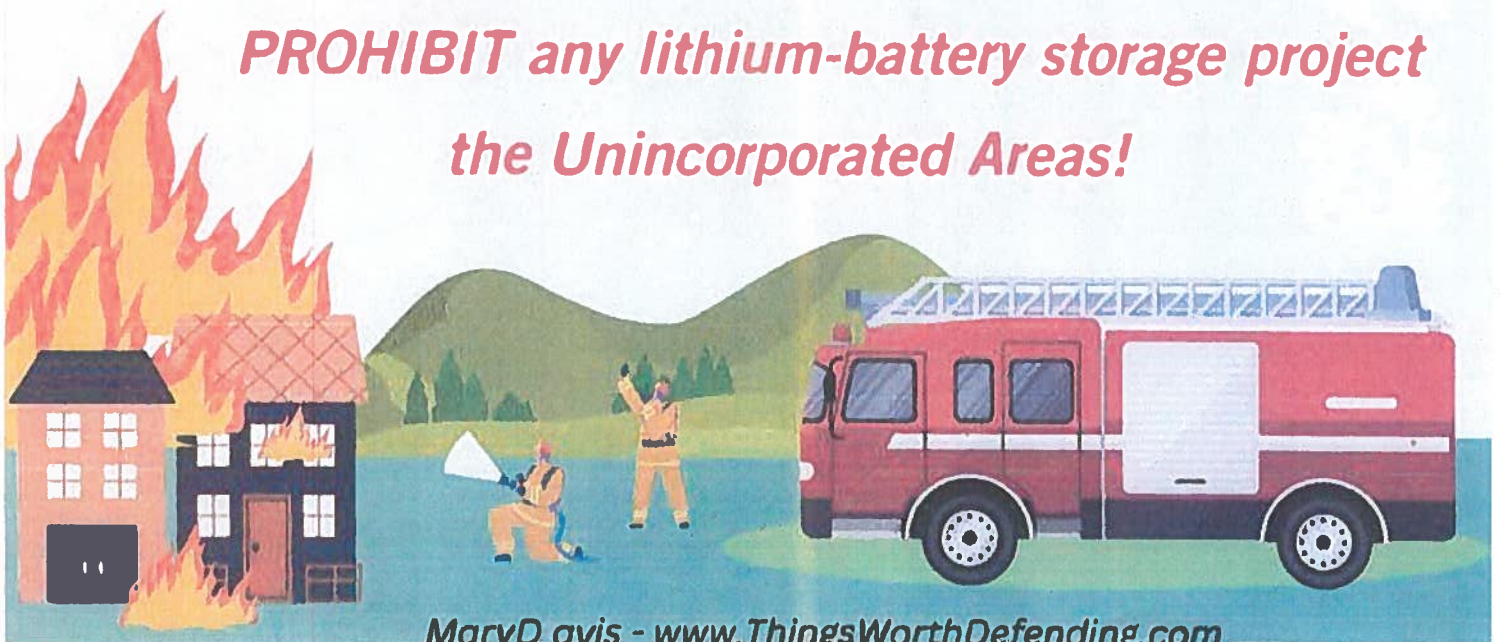
**2**

**This Results in Insurance Cancellation for Many and Exorbitant Rates for ALL**

**3**

**You Can't Have It Both Ways - Saying We're a Severe Risk, Then Inviting High-Risk Projects into Our Communities that Threaten Our Homes**

*Sign to support getting County Supervisors Anderson and/or Desmond to bring forth legislation to PROHIBIT any lithium-battery storage project the Unincorporated Areas!*



MarvD avis - [www.ThingsWorthDefending.com](http://www.ThingsWorthDefending.com)



[www.enerSmartStorage.com/projects](http://www.enerSmartStorage.com/projects)







# Signatures of Support for Legislation to



**PROHIBIT ANY TYPE OF LITHIUM BATTERY FACILITY in  
Very High Fire Hazard Severity Zones in San Diego County**

<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Charlotte Verstraeten	Charlotte Verstraeten	RAMONA	JOEL ANDERSON
2. Muriel Johnson	Muriel Johnson	La Mesa	Step
3. Doug Antolini	[Signature]	SAN DIEGO	
4. PERNICE ANTOLINI	Pernice Antolini	SAN DIEGO	
5. CHARLES A SMITH	Charles A Smith	RAMONA	JOEL ANDERSON
6. Debbie Caudle	Debbie Caudle	El Cajon	Joel Anderson
7. Edy Johnson	Edy Johnson	La Mesa	Montgomery- Stupp
8. Anna HOLMES	Anna Holmes	El Cajon	District 2- Ander- SON
9. Fabby Grant	Fabby Grant	El Cajon	Joel Anderson
10. JUAN Flores	Juan Flores	El Cajon	Joel Anderson

Submitted by:

UM Davis

Signature

7/16/2024

Date Submitted

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of

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# Signatures of Support for Legislation to



**PROHIBIT ANY TYPE OF LITHIUM BATTERY FACILITY in  
Very High Fire Hazard Severity Zones in San Diego County**

<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Mary Davis	Mary Davis	Alpine	Jo Anderson
2. DAVE CASTBERG	Dave Castberg	RAMONA	Joel Anderson
3. Paul Tarr	Paul Tarr	Ramona	Joel Anderson
4. Kay Hodgson	Kay Hodgson	El Cajon	Joel Anderson
5. Kenneth Hodgson	Kay Hodgson	El Cajon	Joel Anderson
6. LOIS MOREIRA	Lois Moreira	Chula Vista	Nora Vargas
7. MARTHA DOIRON	Martha L Dorian	Chula Vista	Nora Vargas
8. MARY GEARHART	Mary Gearhart	EL CAJON	JOEL ANDERSON
9. JOE CORRIGAN	Joe Corrigan	SAN MARCOS	
10. SHARON UPHAM	Sharon Upham	Valley Center	Diamond

Submitted by:

M. Davis

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. BOB CHAMBERS		Ramona Calif	Anderson
2. Eli Komai		San Diego	Montgomery
3. Sandy Pitman		El Cerrito	Anderson
4. Sharon Parker		Ramona CA	Anderson
5. Gene Budzinski		Ramona CA	Anderson
6. Marci Strange		Solana Beach	Tara-Lisa Reemer
7. George Halgedahl		San Diego	#2 Joe L. Anderson
8. Rick Wallis		Moreno Valley	N/A
9. Biblar Harrison		Chula Vista	Vargas
10. Carlos Espinoza		LA MESA	Montgomery

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Edward Jensen		Rolando Heights	Montgomery
2. Derrick Parmer		lakeside	Anderson
3. Dustin Hager		La Mesa	Montgomery
4. Dan CARTER		ESCONDIDO	Desmond
5. Robert Bradley		Ranoma	Anderson
6. Kerry Sheron		ESCONDIDO	desmond
7. Diane Chapman		Ramona	Anderson
8. Jan Stewart		San Diego	Anderson
9. OLIVIA GARCIA		SAN DIEGO	VARGAS
10. Lina Yorba		San Diego	Vargas

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. THAO UE		SAN DIEGO	MONTGOMERY
2. AILAN NGUYEN		SAN DIEGO	MONTGOMERY
3. COVAN NGUYEN		SAN DIEGO	MONTGOMERY
4. Paul Brown		No County	Desmond
5. Lori Brown		Goldbrook	Desmond
6. Paula Doby		Santee	Anderson
7. Arthur Doby		Santee	Anderson
8. Jeff Younger		SAN DIEGO	Montgomery
9. Daria Conyers		Lakeside	Anderson
10. Kylie Lewis		SAN DIEGO	Montgomery

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**PROHIBIT ANY TYPE OF LITHIUM BATTERY FACILITY in  
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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. <del>MARTIN DOLSON</del> <sup>Duplicate</sup>	<del>Martha L. Dolson</del>	<del>Chula Vista</del>	<del>North Vargas</del>
2. Mimi January	Mimi January	Chula Vista	Vargas
3. JOAN STANTON	Joan M. Stanton	Santee	Anderson
4. Madison Kirkman	Madison Kirkman	Ramona	Anderson
5. JOHN PLUNKETT	John Plunkett	RAMONA	Anderson
6. Gerdt UPHAM	Gerdt Upham	VALLEY CENTER	DESMOND
7. Robin Fossett	Robin Fossett	Ramona	Anderson
8. JAMES CURRIER	James Currier	SAN DIEGO	Anderson
9. Sophie's O'Connor	Sophie's O'Connor	Ramona	J. Anderson
10. CHARLES DAVIS	Charles Davis	ALPHEA	Anderson

Submitted by:

UM Davis

Signature

7/16/2004

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Very High Fire Hazard Severity Zones in San Diego County**

<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. DAVID BERG		Spring Valley	4
2. Sharon Turner		Lakeside	2
3. PETER BURNS		LAKESIDE	2
4. Davin Beabow		Lakeside	2
5. JOHN JONES		ALPINE	2
6. CHAN, J. Jones		ALPINE	2
7. Cheryl Worland		El Cajon Rural	
8. <del>Ed</del> Christine Stewart		Lakeside	2
9. Damien Todd		Lakeside	2
10. Jace Dook		LAKESIDE	2

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Signature

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Mindy Sole	Mindy J. Sole	Alpine	2
2. BARBARA NELSON	Barbara Nelson	alpine	2
3. Pamela Ennis	Pamela Ennis	El Cajon	2
4. Scott Shields	Scott Shields	Blossom Valley	2
5. Diane Shields	Diane G. Shields	Blossom Valley	2
6. Ed Aranda	Ed Aranda	Blossom Valley	2
7. Michael Piotrowski	Michael Piotrowski	Alpine	2
8. Rick Fleck	Rick Fleck	JULIAN	2
9. JOHNNY L. GYLE	Johnny L. Gyle	EL CAJON DUNSMITH	
10. Kathy Foster	Kathy Foster	Alpine	2

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LM Davis

Signature

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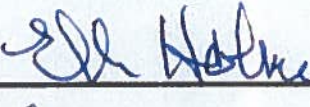
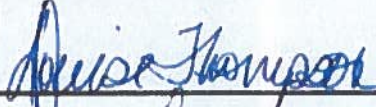

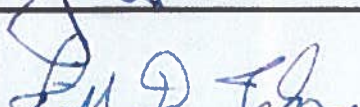

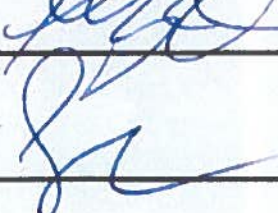




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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. CARINA RANGSIS Carina Rangs		Alpine	2
2. Michelle Moore		Alpine	2
3. Emilie Felix		Descanso	2
4. Roger Felix		Descanso	2
5. Ellen Holma		Alpine	2
6. Louise Thompson		El Cajon	2
7. JANA Hill		Alpine	2
8. Jill D ICHER		ALPINE	2
9. TIM FARNUM		ALPINE	2
10. Jessica Alvarado		Alpine	2

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. THEODORE BAZDORF		Alpine, CA	2
2. RAMON SOLORZANO		Alpine CA	2
3. Janet Bazdorf	JANET BAZDORF	Alpine	2
4. Cara Cawser		Alpine	2
5. Karlee Kropf		Alpine	2
6. JAMIE PRITCHETT SOLORZANO		ALPINE	2
7. PATRICIA ALSTON ALDRICH		Cathedral City	1
8. JOEL MURILLO		Alpine	2
9. Rick Dupree		Alpine	2
10. CHRISTIE KURTZ		HARBISON Canyon	2

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Joyce Karen FRONGELLO	Joyce Karen Frongello	San Diego	3rd
2. Sherri Lorena Woody	Sherrie Woody	La Mesa	4th
3. Joseph LESTER	Joseph Lester	LA MESA	4th
4. Laurie Fisher	Laurie Fisher	Goatay	2nd
5. NEVA VAN LOTON	Neva Van Loton	San Diego	4th
6. Susan Powell	Susan Powell	El Cajon	4th
7. CORBIN SABOL	[Signature]	JAMUL	2ND
8. Sara Ackerman	Sara Ackerman	El Cajon	2nd
NANCY WILKENS 9. Nancy Wilkens	Nancy Wilkens	Lakeside	2
10. <sup>Duplicate</sup> Edy Johnson	<del>Edy Johnson</del>	<del>La Mesa</del>	<del>4</del>

Submitted by:

M. Davis

Signature

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Date Submitted

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of

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Kero Lewis		San Diego	Montgomery
2. Deborah Flook	Deborah Flook	Ramona	Anderson
3. DAVID FLOOK	David Flook	RAMONA	ANDERSON
4. Sherrie Woody	Sherrie Woody	La Mesa county	Montgomery
5. Jessie Chhoun		San Diego	
6. Ricky Weeden	Ricky Weeden	Lakeside	Anderson
7. Nancy Wilkens	NANCY WILKENS	Lakeside	Anderson
8. Jerome Fontevette		La Mesa	
9. PHILLIP DOBRANSKI		EL CAJON	Anderson
10. Adrienne Verry		El Cajon	Anderson

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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. ED WORLAND		EL CAJON	
2. Roseann G Riddle		LA MESA	
3. Jackie Zoellick		Ramona	2
4. Roy Zoellick		RAMONA	2
5. Rob Schick		Santee	2
6. Ruth Weiss		Spring Valley	4
7. Maria Biondo Longton		San Marcos	5
8. Robert Crawford		Santee	
9. Charissa McBullough		El Cajon	2
10. PATTY HAMILTON		El Cajon	2

Submitted by:

Signature

7/16/2024

Date Submitted

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Very High Fire Hazard Severity Zones in San Diego County**

<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Nancy E. Brown	Nancy E Brown	Spring Valley	
2. Robin Ellis	Robin K. Ellis	Spring Valley	
3. Richard Hart	Richard Hart	Lemon Grove	
4. Joseph C. Pedregon	Joseph C. Pedregon	SPRING VALLEY	
5. Elizabeth Pedregon	Elizabeth Pedregon	LAMPSA, CA	
6. Terri Chrysler	Terri Chrysler	Lakeside CA	
7. Richard Wyeth	Richard Wyeth	Lemon Grove	
8. Faye Raebac	Faye Raebac	El Cajon	
9. Lara Hoefler Moir	Lara Hoefler Moir	Lakeside	
10. Karen Knott	Karen Knott	El Cajon	

Submitted by:

U. Davis

Signature

7/16/2024

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Very High Fire Hazard Severity Zones in San Diego County**

<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. Marlys J. Nunez	<i>Marlys J. Nunez</i>	La Mesa	4
2. ALEX A NUÑEZ	<i>Alex A. Nuñez</i>	LA MESA	4
3. Laura L Schaefer	<i>Laura L. Schaefer</i>	Santee	2
4. Michael A. Schaefer	<i>Michael A. Schaefer</i>	Santee	2
5. Velia R. Gonzalez	<i>Velia R. Lopez</i>	El CAJON	
6. Kenneth Silvestri	<i>Kenneth Silvestri</i>	Lemon Grove	
7. THOMAS TAMMONE	<i>Tom Tammone</i>	CITY HEIGHT	4
8. Emma White	<i>Emma White</i>	619-6724129	
9. <sup>BEATRIZ AYLWIN</sup> <i>Beatriz Aylwin</i>	<i>Beatriz Aylwin</i>	SANTEE <del>LA MESA</del>	2
10.			

Submitted by:

*U.M. Davis*

Signature

*7/16/2024*

Date Submitted

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# Signatures of Support for Legislation to



**PROHIBIT ANY TYPE OF LITHIUM BATTERY FACILITY in  
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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. MARVIN BARNARD	<i>Marvin Barnard</i>	El Cajon	Anderson
2. ART FLOTO	<i>Art Floto</i>	El Cajon	Anderson
3. BOB MILLER	<i>Bob Miller</i>	LA MESA	Monica Steppe
4. CHARLOTTE MILLER	<i>Charlotte Miller</i>	LA MESA	Monica Steppe
5. JACOB BARCKE	<i>Jacob Barcke</i>	LAKE SIDE	ANDERSON
6. Katrina Barck	<i>KB</i>	Lakeside	Anderson
7. Stacy Hensle	<i>Stacy Hensle</i>	Lakeside	Anderson
8. DAWN J HANSON	<i>Dawn J. Hansen</i>	LA MESA	MONICA STEPPE
9. Donna Adams	<i>Donna Adams</i>	Lemon Grove	"
10.			

Submitted by:

*U. Davis*

Signature

*7/16/2024*

Date Submitted

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**PROHIBIT ANY TYPE OF LITHIUM BATTERY FACILITY in  
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<u>Print Name</u>	<u>Signature</u>	<u>City / Town</u>	<u>Supervisor District</u>
1. NORCEA BURKE	Noreen Burke	EL CAJON	2
2. Nan Holloway	Nan Holloway	"	2
3. Terri Smith	Terri Smith	EL CAJON	
4. Anna HOLMES	Anna Holmes	EL CAJON	2
5. Keith Holmes	Keith Holmes	El Cajon	2
6.			
7.			
8.			
9.			
10.			

Submitted by:

M. Davis  
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Date Submitted

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**Chatten-Brown Law Group, APC**  
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July 16, 2024

*Via email (publiccomment@sdcounty.ca.gov)*

San Diego County Board of Supervisors  
County Administration Center  
1600 Pacific Highway, Room 310  
San Diego, CA 92101

**Re: Sierra Club's Comments on the Proposed Otay Majestic Project**

Dear Board of Supervisors:

On behalf of the Sierra Club, we provide the following comments on the proposed Otay Majestic warehousing project ("Project") that is being considered by the County of San Diego ("the County"). We had previously raised concerns with the County over the use of an addendum for the Project, including the reliance on outdated and vague mitigation measures from prior Environmental Impact Reports ("EIRs").

In responding to our comments, the County asserts that we have not provided any evidence of a change in circumstance under CEQA Guidelines Section 15162 subdivision (a).

Under Section 15162, when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:



- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The 2018 Supplemental EIR, which the Addendum tiers from, details the new information about significant impacts related to climate change and GHG emissions that have become known since the prior 1994 and 2003 EIRs. (2018 Supplemental EIR, p. 2.4-1 to 2.4-6). The 2018 SEIR found that “[t]he Project would result in an increase of GHG emissions compared to the existing environmental setting.” The 2018 SEIR then concludes that “GHG impacts would, therefore, be significant and mitigation is required.” (2018 SEIR, p. 2.4-21.)<sup>1</sup>

Despite the County’s admission in 2018 that the project would result in an increase of GHG emissions compared to the existing environmental setting, the 2024 Project Addendum proposes to remove all GHG mitigation measures from the 2018 EIR. The removal of all GHG mitigation measures from the 2018 EIR constitutes “[s]ubstantial changes ... which will require major revisions of the previous EIR ... due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.” (§15162 subd. (a)(2).)

Further, as detailed in our prior letter to the County, “new information of substantial importance” that could not have been known at the time of the prior EIRs shows that “[m]itigation measures or alternatives which are considerably different from those analyzed in the previous EIR would

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<sup>1</sup> Notably, the 2018 SEIR states, “If constructed as currently approved, the East Otay Mesa Business Park Specific Plan’s existing entitlement would result in emissions of GHGs. The existing entitlement includes 27.37 acres of approved commercial uses (383,180 square feet) and 130.18 acres of approved technology park uses (1,562,200 square feet) for the Project site.” (2018 SEIR, p. 2.4-24.)

substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.” (Section 15162(3)(D).) In particular, the mitigation measures for air quality and GHG emissions in the Attorney General’s Office (“AGO”) Best Practices for Warehouses report – official guidance from the State and highly important new information – have not been adopted.

The County first claims it is not required to incorporate these measures. Yet, CEQA requires the incorporation of feasible mitigation measures. Further, under Section 15162(3)(D), the refusal to incorporate these mitigation measures that would substantially reduce air quality and GHG impacts, necessitates an EIR. The County goes on to claim, without any evidence, that several of the AGO’s mitigation measures, such as use of zero-emission vehicles by 2030, are infeasible because the project is a speculative development and the tenants are unknown.

Our office contacted the Attorney’s General’s office about the County’s claims of infeasibility of specific mitigation measures. The Attorney’s General’s office provided the following examples, attached as **Exhibit A**, for the following mitigation measures that were claimed to be “infeasible”:

- Zero Emission Heavy Duty Trucks: See Duke Alder and Slover project in San Bernardino County;
- Zero Emission Light Duty/Medium Duty vehicles: See Scannell project in North Richmond, Fresno South Central Specific Plan under review<sup>2</sup>;
- On-site solar: See Fontana ordinance, American Canyon ordinance, Fresno South Central Specific Plan; and
- Generators: See Scannell project in North Richmond, American Canyon ordinance.

Sierra Club also commented on the proposed Project’s removal of the 2018 SEIR’s GHG mitigation measures. The SEIR evaluated the 2018 project “on the basis of the extent to which the project may increase or reduce GHG emissions as compared to the existing environmental setting.” (2018 SEIR, p. 2.4-7.) The SEIR required mitigation of the project’s GHG emissions and found that absent the mitigation measures, there would be significant GHG impacts. Despite this conclusion, the 2024 Addendum removes all prior GHG mitigation measures from the 2018 SEIR.<sup>3</sup>

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<sup>2</sup> <https://www.fresno.gov/wp-content/uploads/2024/05/4.-Draft-South-Central-Specific-Plan.pdf>

<sup>3</sup> SANDAG commented on the 2018 SEIR regarding the need for a custom Transportation Demand Management Plan. The County responded, “The Specific Plan Amendment has been modified to include a requirement that Transportation Demand Management (TDM) plans be



The County claims that the Project would result in fewer emissions than the currently approved 2018 project, because it would produce fewer vehicle trips. This is false, as the proposed Project removes the 2018 project's GHG mitigation measures, which required net zero emissions. Therefore, the Project proposes a "substantial increase in the severity of previously identified significant effects." (§15162 (a)(2).).

Further, the 2024 Addendum utilizes an improper baseline of "hypothetical conditions," an approach that was squarely rejected in *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322. The 2024 Addendum states, "The analysis of the Project is based on a comparison of emissions from the Project to previously-approved entitlements for industrial uses on the Project site." (Final 2024 Addendum, Attachment B, p. B-29.) The 2024 Addendum concludes that the Project "would result in lower GHG emissions than under the existing approved entitlement. Accordingly, the Project would not generate GHG emissions that may have a significant impact on the environment and would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions." (Id. at p. B-30.)

As explained in *Communities for a Better Environment*, "An approach using hypothetical allowable conditions as the baseline results in 'illusory' comparisons that 'can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,' a result at direct odds with CEQA's intent" (Ibid.)

In comparison, the 2018 SEIR utilized the correct baseline, and analyzed whether "the project may increase or reduce GHG emissions as compared to the existing **environmental** setting." (2018 SEIR, p. 2.4-7.)

The Proposed Project would convert undeveloped, vegetated land – the existing conditions – into a warehouse that produces over 6,500 daily truck trips, resulting in the production of over 24,800 metric tons of carbon dioxide emissions per year. (Final 2024 Addendum, Attachment B, p. B-43, 30 [Project Emissions with SANDAG Trip Rates].)<sup>4</sup>

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considered at each Site Plan Review for future development. The requirement for a TDM at Site Plan Review will allow the development-specific TDM to be tailored to the specifics of the actual land use (commercial, business tech, etc.)." The proposed 2024 Project and Addendum includes a "Site Plan," yet does not propose any TDM to reduce GHG emissions. (2024 Addendum, p. 2.)

<sup>4</sup>To put this in perspective, the County's draft Climate Action Plan proposes a measure to "support transit and transportation demand management to reduce single occupancy vehicle trips" through five actions, including to "provide free transit passes." This entire measure is projected to reduce carbon emissions by 23,320 MTCO<sub>2</sub>e per year in 2035. The Project would eliminate the GHG reduction gains from this entire measure. (June 2024 Climate action Plan,

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The 2018 SEIR concluded there would be significant impacts to GHG emissions and required mitigation measures. The Proposed Project and 2024 Addendum removed the 2018 SEIR's GHG mitigation measures. Therefore, the Project would result in a significant impact, for which no mitigation is proposed, and would substantially increase the severity of previously identified significant effects to GHG emissions.

Sincerely,

A handwritten signature in blue ink that reads "Kathryn Pettit".

Kathryn Pettit  
Josh Chatten-Brown



# Exhibit A



**CONTRA COSTA COUNTY  
DEPARTMENT OF CONSERVATION AND DEVELOPMENT  
COMMUNITY DEVELOPMENT DIVISION**

**APPROVED PERMIT**

APPLICANT:	Scannell Properties #304 LLC 8801 River Crossing Blvd. #300 Indianapolis IN, 46240-2394	APPLICATION NO.:	CDDP17-03045
		ASSESSOR'S PARCEL NO.:	408-130-039, 018, and 408-090-053, 052, 040
		PROJECT LOCATION:	81, 155 and 177 Parr Boulevard Richmond, CA
OWNER:	Same as above	ZONING DISTRICT:	P-1
		APPROVED DATE:	September 22, 2021
		EFFECTIVE DATE:	October 4, 2021

This matter having not been appealed within the period of time prescribed by law, a DEVELOPMENT PLAN PERMIT to construct two warehouse buildings totaling 327,207 square feet in the RICHMOND area is hereby APPROVED, subject to the attached conditions of approval.

By: \_\_\_\_\_

*Aruna M. Bhat*  
Aruna M. Bhat  
Deputy Director

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE (1) YEAR from the effective date if the action allowed by this permit is not undertaken within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.



**PROJECT FINDINGS FOR SCANNELL PROPERTIES #304 LLC (Applicant/Owner):  
COUNTY FILE #CDDP17-03045 AS APPROVED BY THE COUNTY PLANNING  
COMMISSION ON SEPTEMBER 22, 2021**

**Findings**

**A. Growth Management Performance Standards**

1. Traffic. The project involves the construction of two warehouse buildings, totaling 325,00 square feet, with auxiliary parking and internal traffic circulation. The project will also generate 100 or more AM or PM peak-hour trips; therefore, Fehr & Peers has prepared a Focused Transportation Impact Assessment (Report) for the project, final report dated April 2021. The Report analyzed existing conditions, project conditions, cumulative conditions, and potential for increased cut-through truck traffic in the residential North Richmond neighborhood. Numerous intersections have been studied in preparation of the Report, in part using traffic counts during weekday AM and PM peak hour traffic volumes.

Mitigation measures have been identified aimed at reducing any potentially significant traffic related impacts to less than significant levels. Specifically, stripping and signal light adjustments will be made to the Richmond Parkway and Parr Boulevard. Additionally, the applicant is required to construct truck traffic calming measures (chokers, bulbouts, etc.) within the residential portion of North Richmond to reduce semi-truck cut-through traffic and increase pedestrian safety. Furthermore, the applicant has revised the project's ingress and egress design so that all exiting semi-trucks will be directed towards the Richmond Parkway (preferred truck route) and not the residential portion of North Richmond. Therefore, the project as conditioned will not cause any unacceptable traffic related impacts in the immediate vicinity or area in general.

2. Water. Water service is provided to the subject property by the East Bay Municipal Utility District (EBMUD). In a memorandum dated October 31, 2017, the service provider indicated that a water main located within the Parr Boulevard right-of-way will deliver water to the development. All costs related to this water main connection will be borne by the applicant. Additionally, EBMUD requires all applicable water-efficiency measures to be installed as part of the new service. All new landscaping for the project must meet the requirements set by the State/County Model Water Efficient Landscape Ordinance. Therefore, given that water service is available, all costs for the

connection/service will be borne by the applicant and all applicable water saving measures will be implemented, the project is not expected to create any water related issues.

3. *Sanitary Sewer.* In a memorandum dated, October 31, 2017, West County Wastewater District (WCWD) staff indicated that several parcels which comprise the subject property will need to be annexed into the WCWD District Boundary. Nevertheless, the applicant will be responsible for all costs associated with that application and connecting to the sewer system. Currently WCWD has sewer mains within the Parr Boulevard right-of-way which will serve the project. Therefore, according to all available information, the WCWD will be able to accommodate the added demand produced by the project.
4. *Fire Protection.* The project is within the Contra Costa County Fire Protection District (CCCFPD) service area. The CCCFPD has reviewed the project proposal and returned a memorandum dated November 14, 2017, indicating that the project must comply with all applicable codes and regulations (e.g., installation of new fire hydrants, automatic fire sprinkler systems and other minimum fire related requirements). Compliance with CCCFPD code requirements suggests that the project will not represent an undue fire risk at the site or area in general.
5. *Public Protection.* The project is not anticipated to significantly increase the demand for police service facilities, as the project will not significantly add to the population of the County or include any marginal uses.
6. *Parks & Recreation.* The project will not increase the demand for parks or recreation facilities, as the project does not significantly increase the housing stock in the County.
7. *Flood Control & Drainage.* The development will alter the existing drainage patterns on the site and impact drainage facilities in the area with the introduction of new impervious surfaces. The County Public Works Department has reviewed the project and associated Stormwater Control Plan and deemed it preliminarily complete and has recommended conditions of approval which ensure compliance with federal pollutant discharge and county storm water management regulations. Those recommended conditions of approval (COA) have been incorporated into the project approval as COA's #56 - 93.

## **B. Development Plan Findings**

1. The proposed project is consistent with the purpose of the zoning district.

The purpose of the North Richmond Planned Unit District (P-1) is to allow diversification in the relationship of various uses, buildings, structures, lot sizes,



and open space while complying with the General Plan and the intent of the County code. The project involves establishing two warehouse/light industrial buildings which are specifically encouraged for this portion of North Richmond. Furthermore, most surrounding uses are similar in use and will not be negatively affected by the operation of a warehouse distribution facility or the related traffic. Therefore, the project is consistent with the purpose of the North Richmond P-1 zoning district.

2. The proposed project is architecturally compatible with other uses in the vicinity, both inside and outside the zoning district.

The project is located within a heavy industrial area of North Richmond. Parcels in the immediate vicinity range in size from 0.25 to 30.0 acres and are mostly developed with industrial uses. The warehouse buildings will have a maximum height of 44 feet. This height is of a relatively low profile in an area where buildings of similar height are permitted. The buildings will incorporate a variety of colors and architectural elements which will aid in avoiding any monolithic facades. As mentioned above, the warehouse/light industrial buildings are compatible with other businesses in the zoning district such as equipment rentals, RV storage, as well as similar adjacent warehouse buildings. Thus, once constructed, the use and building will be compatible with other uses in the vicinity.

### **C. Tree Permit Findings**

**Required Factors for Granting a Tree Permit.** The County Planning Commission is satisfied that the following factors as provided by County Ordinance Code Section 816-6.8010 for granting a tree permit have been satisfied:

1. Reasonable development of the property will require the removal of the one Redwood Tree along Parr Boulevard. Nevertheless, the applicant has submitted a preliminary landscaping plan which includes numerous trees which will provide ample restitution for the subject tree removal.
2. Removal of the single Redwood tree cannot be avoided as the project's ingress and egress is located in such a manner to avoid vehicle movement conflicts within the subject project and adjacent business operations. Therefore, development of this project cannot be reasonably accommodated on other parts of the property.





**CONDITIONS OF APPROVAL FOR SCANNELL PROPERTIES #304 LLC  
(Applicant/Owner): COUNTY FILE #CDDP17-03045 AS APPROVED BY THE COUNTY  
PLANNING COMMISSION ON SEPTEMBER 22, 2021**

**Project Approval:**

1. Development is APPROVED as generally described in the application materials received by the Department of Conservation and Development/Community Development Division (CDD) on October 19, 2017, (including revised plans dated March 3, 2021), and subject to the conditions below.

**Compliance Review:**

2. At least 30 days prior to issuance of a building permit, the applicant shall provide a permit compliance report to CDD for review and approval. The report shall identify all conditions of approval that are administered by CDD. The report shall document the measures taken by the applicant to satisfy all relevant conditions. Copies of the permit conditions may be obtained from CDD. Unless otherwise indicated, the applicant will be required to demonstrate compliance with the conditions of this permit prior to requesting County issued permits.

The permit compliance review is subject to staff time and materials charges, with an initial deposit of \$1,000 which shall be paid at the time of submittal of the compliance report.

3. At least 30-days prior to occupancy, any proposed tenant shall submit a Property Use Verification (PUV) application to CDD staff in order to verify consistency with this permit. The PUV will be necessary to obtain any required business licenses from the County Tax Collector's Office.

**Lot Line Adjustment:**

4. At least 30-days prior to issuance of a building permit, the applicant shall apply for and record an approved lot line adjustment that re-configures the property boundaries into the configuration approved with this application. Prior to the Lot Line Adjustment approval, staff shall verify the legal status of the parcels.

**General Provisions:**

5. Any deviation from or expansion beyond the limits of this permit approved under this application may require the filing of a request for modification of the Development Plan Permit.

6. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number to call in complaints shall also be visible to ensure compliance with applicable regulations.
7. Applicant shall make best efforts to hire employees, workers and subcontractor components for jobs from the North Richmond community.
8. At least 30 days prior to submittal of a building permit for signage, a detailed sign program shall be submitted for the review and approval of CDD.
9. At least 30 days prior to submittal of a building permit for Building 1, the applicant shall submit revised plans reflecting compliance with applicable setbacks from the Richmond Parkway.

**Aesthetics:**

10. At least 30 days prior to applying for a building permit, the applicant shall submit for review and approval by the Contra Costa County Department of Conservation and Development staff a Final Lighting Plan. Light standards shall be low-lying and exterior lights on the buildings shall be deflected so that lights shine onto the applicant's property. **(Mitigation Measure (MM) AES – 1)**

**Air Quality:**

11. Prior to the issuance of building or grading permits, the Project Applicant shall provide the County with documentation demonstrating that project construction will use low-volatile organic compound (VOC) Architectural Coatings with a project-wide average VOC content of 28 grams per liter (g/l) or less. **(MM AIR-2a)**
12. During the demolition, site preparation, and grading phases of project construction, all diesel-powered equipment used shall comply with Tier 4 Final emission standards, except for specialized equipment in which engines that comply with Tier 4 standards are not available. In place of Tier 4 engines, off-road construction equipment can incorporate retrofits such that nitrogen oxides (NOX) emission reductions achieved equal or exceed reductions from engines that comply with Tier 4 standards. **(MM AIR-2b)**
13. During construction, the following mitigation measures shall be implemented:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.



- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations. **(MM AIR-2c)**
14. Prior to issuance of the certificate of occupancy, Contra Costa County shall require future tenants proposing operations that have potential to emit nuisance odors to prepare an odor management plan that identifies project design features, measures, and control technologies to ensure compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 7, Odorous Substances, which requires abatement of any nuisance generating an odor complaint. Facilities that have the potential to generate nuisance odors include, but are not limited to:
- Composting, green waste, or recycling facilities
  - Fiberglass manufacturing facilities
  - Painting/coating operations

- Large-capacity coffee roasters
- Food-processing facilities

The odor management plan for the proposed facility shall be submitted to the County prior to the issuance of the certificate of occupancy. During operation of the proposed facility, the County shall conduct periodic evaluation of on-site odors per the schedule and reporting requirements outlined in the odor management plan. **(MM AIR-4a)**

15. The following mitigation measures shall be implemented during all on-going business operations and shall be included as part of contractual lease agreement language to ensure the tenants/lessees are informed of all on-going operational responsibilities.

- a. The property owner/tenant/lessee shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations, and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025 or when commercially available for the intended application, whichever date is later.

"Domiciled at the project site shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70% of the calendar year or (ii) dedicated to the project site (defined as more than 70% of the truck routes (during the calendar year) that start at the project site even if parked or kept elsewhere).

Zero-emission heavy-duty trucks which require service can be temporarily replaced with model year 2014 or later trucks. Replacement trucks shall be used for only the minimum time required for servicing fleet trucks.

- b. The property owner/tenant/lessee shall utilize a "clean fleet" of vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations as follows: For any vehicle (Class 2 through 6) domiciled at the project site, the following "clean fleet" requirements apply: (i) 33% of the fleet will be zero emission vehicles at start of operations, (ii) 65% of the fleet will be zero emission vehicles by December 31, 2023, (iii) 80% of the fleet will be zero emission vehicles by December 31, 2025, and (iv) 100% of the fleet will be zero emission vehicles by December 31, 2027.

"Domiciled at the project site" shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70% of the calendar year or (ii) dedicated to the project site (defined as more than 70% of the truck routes

(during the calendar year) that start at the project site even if parked or kept elsewhere).

Zero-emission vehicles which require service can be temporarily replaced with alternate vehicles. Replacement vehicles shall be used for only the minimum time required for servicing fleet vehicles.

The property owner/tenant/lessee shall not be responsible to meet "clean fleet" requirements for vehicles used by common carriers operating under their own authority that provide delivery services to or from the project site.

- c. The property owner/tenant/lessee shall make all reasonable efforts to procure the zero emission vehicles/trucks required to meet the "clean fleet" requirements in (a) and (b) above. In the event that there is a disruption in the manufacturing of zero emission vehicles/trucks or that sufficient vehicles/trucks are not commercially available for the intended application, the "clean fleet requirements" may be adjusted as minimally as possible by the CDD to accommodate the manufacturing disruption or unavailability of commercially available vehicles/trucks. The property owner/tenant/lessee shall provide all necessary documentation describing efforts made to meet clean fleet requirements as part of any adjustment request. The CDD staff may seek the recommendation of the California Air Resources Board in determining whether there has been a manufacturing disruption or insufficient vehicles/trucks commercially available for the intended application.
- d. The property owner/tenant/lessee shall ensure all on-site equipment and vehicles (e.g., yard hostlers, yard equipment, forklifts, yard trucks and tractors, and pallet jacks) used within the project site are zero-emission from start of operations.
- e. The property owner/tenant/lessee shall use the cleanest technologies available and provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on-site.
- f. At least 30 days prior to applying for building permits, the property owner/tenant/lessee shall submit plans for review and approval of CDD staff, which include the necessary infrastructure for future use of zero emission vehicles, including both heavy-duty and delivery trucks (e.g., installation of conduit specifically designated for truck charging equipment in the future).



- g. Idling is strictly prohibited on the subject property and adjacent streets in the Richmond/San Pablo area. The property owner/tenant/lessee shall inform all truck drivers associated with the business of this prohibition.
  - h. Applicant/tenant/lessee shall periodically sweep the property to remove road dust, tire wear, brake dust and other contaminants in parking lots.
  - i. Applicant/tenant/lessee shall not use diesel back-up generators on the property unless absolutely necessary. If absolutely necessary, at the time of initial operation, generators shall have Best Available Control Technology (BACT) that meets CARB's Tier 4 emission standards or meets the most stringent in-use standard, whichever has the least emissions. In the event rental back-up generators are required during an emergency, the units shall be located at the project site for only the minimum time required. Applicant/tenant/lessee shall make every effort to utilize emergency back-up generators that meet CARB's Tier 4 emission standards or have the least emissions.
  - j. The property owner/tenant/lessee shall monitor and ensure compliance with all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program, and the Statewide Truck and Bus Regulation.
  - k. The operation of Transportation Refrigeration Units (TRUs) is prohibited on the subject site. Any proposed use of TRUs at the subject location will require submittal of a Development Plan modification application.
  - l. The property owner shall add this Condition of Approval, Air Quality 15, a through l, as part of contractual lease agreement language to ensure the tenant/lessee is informed of all on-going operational responsibilities.
16. At least 30-days prior to applying for a building permit, the applicant shall submit evidence to the CDD staff for review and approval, demonstrating that the subject building(s) have been designed to be solar ready by meeting or exceeding the current California Building Code (e.g., structurally able to support solar panels on roofs, appropriately sized electrical panels and conduit, etc.).
17. The project sponsor shall include with the building permit application, sufficient solar panels to provide power for the operation's base power use at the start of operations and as power use demand increases. Project sponsor shall include analysis of (a) projected power requirements at the start of operations and as power demand increases corresponding to the implementation of the "clean fleet" requirements, and (b) generating capacity of the solar installation.

CDD shall verify the size and scope of the solar project based upon the analysis of the projected power requirements and generating capacity as well as the available solar panel installation space.

In the event sufficient space is not available on the subject lot to accommodate the needed number of solar panels to produce the operation's base or anticipated power use, the applicant shall demonstrate how all available space has been maximized (e.g., roof, parking areas, etc.). Areas which provide truck movement may be excluded from these calculations unless otherwise deemed acceptable by the supplied reports.

In the event utility provider review/approval delays do not allow installation/operation of the CDD approved solar panels at the time of final building inspection (occupancy), the project sponsor shall provide documentation to the CDD for review and approval, demonstrating how all reasonable and normal efforts have been made to procure the necessary permits and install the solar panels.

18. Prior to issuance of the initial building permit, the applicant shall pay the Contra Costa County, Department of Conservation and Development, Current Planning Division, a flat not-to-exceed amount of \$500,000 as its fair share contribution towards the cost of planning and/or constructing a Solar Project for the benefit of the North Richmond area. The Solar Project must benefit North Richmond residents as mitigation for the construction of a warehouse project with its associated emissions and truck traffic. The County will work with the District One Supervisor and the North Richmond Community to define and develop the Solar Project.
19. The applicant shall pay the Contra Costa County, Department of Conservation and Development, Current Planning Division, a flat not-to-exceed amount of \$125,000 as its fair share contribution towards the cost of a General Plan update for the North Richmond area.

**Biological Resources:**

20. If feasible, construction work shall take place outside of the February 1 to August 31 breeding window for nesting birds. If construction is to be conducted during the breeding season, a qualified Biologist shall conduct a pre-construction breeding bird survey in areas of suitable habitat within 5 days prior to the commencement of construction activity. In the event that there is a lapse in construction activities for 5 days or more, a qualified Biologist shall conduct a pre-construction breeding bird survey in areas of suitable habitat again. If bird nests are found, appropriate buffer zones shall be established around all active

nests to protect nesting adults and their young from construction disturbance. In general, the California Department of Fish and Wildlife (CDFW) recommends a 250- foot construction exclusion zone around the nests of active passerine birds during the breeding season, and a 500-foot buffer for nesting raptors. Buffers shall be determined based upon factors such as topography, line of sight, activities being conducted, and species. The buffer zone shall be approved by a qualified Biologist with extensive training in bird nest surveys prior to the commencement of construction activity. Buffer zones shall be maintained until it can be documented that either the nest has failed, or the young have fledged. **(MM BIO-1a)**

21. Trees that are 12-inches or greater at diameter at breast height should be considered bat roost trees and when slated for removal shall be removed over the course of 2 days. On the first day, limbs from the identified trees shall be removed in the late afternoon to encourage bats to seek alternative roosts during nighttime foraging. The remaining portions of the tree shall be removed on the second day as late in the afternoon as feasible.

For trees that are less than 12-inches at diameter at breast height, prior to tree removal, a daytime bat habitat assessment shall be conducted by a qualified Bat Biologist in the vicinity of trees proposed for removal. If no evidence of bats is found, the tree can be removed. If the tree contains past or present evidence of roosting bats (fecal pellet accumulations, urine or fur staining at entrances, insect prey remains, live or dead bats, characteristic odor, etc.), and there are portions of the tree that cannot be completely surveyed, it will be assumed that roosting bats are present. The removal of trees containing roosting bats or signs of past or present use by bats would be delayed until (1) the period between March 1 (weather permitting) and April 15 to avoid take of torpid overwintering bats, and between September 1 and October 15 to prevent take of young that are not yet self-sufficiently volant, or (2) until the trees containing or suspected of containing active bat roosts can be removed under the supervision of the qualified Biologist in the evening and after bats have emerged from the roost to forage, and where partial removal can change roost conditions and cause bats to abandon and not return to the roost. **(MM BIO-1b)**

Tree limbing or removal shall not be performed under any conditions which may lead to bats seeking refuge, including, but not limited to during any precipitation event, when ambient temperatures are below 4.5C (degrees Celsius), or when windspeeds exceed 11 miles per hour. California Department of Fish and Wildlife (CDFW) shall be notified immediately if bats are found injured, or if bat mortality occurs during the course of tree removal.



22. *Vegetation Removal:*

1. If any areas with pickleweed vegetation or other marsh vegetation within 50 feet of the edge of pickleweed vegetation need to be cleared for proposed project activities, vegetation will be removed.
2. Vegetation will be removed by hand and will be trimmed to no higher than one inch above ground. Root crowns shall be preserved in areas of temporary impact. Where possible, trimming will begin farthest away from remaining marsh or pickleweed habitat and proceed toward the remaining habitat.
3. All clearing of vegetation will be done under the direct supervision of a United States Fish and Wildlife Service (USFWS)-approved Biologist. If more than one crew of vegetation clearers is working at a given time, then a USFWS-approved Biologist will be with each crew.
4. Only hand operated tools will be used with a preference for non-mechanical tools such as machete, trowel, hoe, rake, or shovel. However, use of weed whackers for herbaceous vegetation is allowed, but only if the USFWS-approved Biologist walks in front of the operator of the weed whacker, clearing the area of salt marsh harvest mice. Use of hand operated chain saws is allowed for larger woody vegetation (e.g., coyote brush), but only if the USFWS-approved Biologist precedes the operator clearing the area of salt marsh harvest mice.
5. As directed by the USFWS-approved Biological Monitor, cut native vegetation will be stored on-site and re-spread as mulch at the completion of the proposed project in areas where the impact is temporary. Cut non-native vegetation listed as moderately to highly invasive by the California Invasive Plant Council (<http://www.calipc.org/ip/inventory/>), will be bagged and removed off-site to a suitable disposal site. Areas of vegetation removal are part of permanent impact areas and will not be restored as part of the proposed project. Cut vegetation will therefore be removed and disposed of off-site.

*Contingency if a salt marsh harvest mouse is on-site:*

1. If a salt marsh harvest mouse is observed within the areas being removed of vegetation or elsewhere within the work site, the Biological Monitor will stop work in the immediate area until the salt marsh harvest mouse leaves the work area on its own volition.
2. If the salt marsh harvest mouse does not leave the work area, work in the immediate area will not be reinitiated until the USFWS is consulted regarding appropriate avoidance measures, and permission is granted by the USFWS to

commence work.

3. No salt marsh harvest mouse may be handled or captured at any time during site preparation or proposed project activities. **(MM BIO-1c)**

23. *General Minimization Measures (for Project Site and Mitigation Areas)*

1. At least 15 days prior to any ground disturbing activities, the applicant will submit to the United States Fish and Wildlife Service (USFWS) for review and approval the qualifications of the proposed Biological Monitor(s). A qualified Biological Monitor means any person who has completed at least 4 years of university training in wildlife biology or a related science and/or has demonstrated field experience in the identification and life history of the listed species.

2. A USFWS-approved Biological Monitor will remain on-site during all construction activities in or adjacent to habitat for listed species. The Biological Monitor(s) will be given the authority to stop any work that may result in the take of listed species. If the Biological Monitor(s) exercises this authority, the USFWS will be notified by telephone and electronic mail within one working day. The Biological Monitor will be the contact for any employee or contractor who might inadvertently kill or injure a listed species or anyone who finds a dead, injured, or entrapped individual. The Biological Monitor will possess a working wireless/mobile phone whose number will be provided to the USFWS.

3. Prior to construction, a construction employee education program will be conducted in reference to potential listed species on-site. At minimum, the program will consist of a brief presentation by persons knowledgeable in endangered species biology and legislative protection (approved Biologist) to explain concerns to contractors, their employees, and agency personnel involved in the proposed project. The program will include: a description of the species and their habitat needs; any reports of occurrences in the project site; an explanation of the status of each listed species and their protection under the Endangered Species Act; and a list of measures being taken to reduce effects to the species during construction and implementation. Fact sheets conveying this information and an educational brochure containing color photographs of all listed species in the work area(s) will be prepared for distribution to the above-mentioned people and anyone else who may enter the project site. A list of employees who attend the training sessions will be maintained by the applicant to be made available for review by the USFWS upon request. Contractor training will be incorporated into construction contracts and will be a component of weekly project meetings.

4. Preconstruction surveys for listed species will be performed immediately prior to groundbreaking activities. Surveys will be conducted by the Biological Monitor. If at any point, construction activities cease for more than 5 consecutive days, additional preconstruction surveys will be conducted prior to the resumption of these actions.

5. To prevent the accidental entrapment of listed species during construction, all excavated holes or trenches deeper than 6 inches will be covered at the end of each workday with plywood or similar materials. Foundation trenches or larger excavations that cannot easily be covered will be ramped at the end of the workday to allow trapped animals an escape method. Prior to the filling of such holes, these areas will be thoroughly inspected for listed species by the Biological Monitor. In the event of a trapped animal is observed, construction will cease until the individual has been relocated to an appropriate location.

6. Only approved Biological Monitors will conduct surveys.

7. All trash and debris within the work area will be placed in containers with secure lids before the end of each workday in order to reduce the likelihood of predators being attracted to the site by discarded food wrappers and other rubbish that may be left on-site. Containers will be emptied as necessary to prevent trash overflow onto the site and all rubbish will be disposed of at an appropriate off-site location.

8. All vegetation that obscures the observation of wildlife movement within the affected areas containing or immediately adjacent aquatic habitats will be completely removed by hand just prior to the initiation of grading to remove cover that might be used by listed species. The approved Biologist will survey these areas immediately prior to vegetation removal to find, capture and relocate any observed listed species, as approved by the USFWS.

9. All construction activities must cease 30 minutes before sunset and should not begin prior to 30 minutes after sunrise. There will be no nighttime construction.

10. Grading and construction in jurisdictional wetlands/waters will be limited to the dry season, May 15th - October 15th.

11. Best Management Practices (BMPs) will be used to minimize erosion and impacts to water quality and effects to aquatic habitat. A Storm Water Pollution Prevention Plan (SWPPP) will be prepared.

12. The applicant will ensure a readily available copy of the Section 7 consultation is maintained by the construction foreman/manager on the



project site whenever earthmoving and/or construction is taking place. The name and telephone number of the construction foreman/manager will be provided to the USFWS prior to groundbreaking.

13. The construction area shall be delineated with high visibility temporary fencing at least 4 feet in height, flagging, or other barrier to prevent encroachment of construction personnel and equipment outside of the construction area. Such fencing shall be inspected and maintained daily until completion of the project. The fencing will be removed only when all construction equipment is removed from the site.

14. Silt fencing or wildlife exclusion fencing will be used to prevent listed species from entering the project site. Exclusion fencing will be at least 3 feet high and the lower 6 inches of the fence will be buried in the ground to prevent animals from crawling under the fencing. The remaining 2.5 feet will be left above ground to serve as a barrier for animals moving on the ground surface. The fence will be pulled taut at each support to prevent folds or snags. Fencing shall be installed and maintained in good condition during all construction activities. Such fencing shall be inspected and maintained daily until completion of the project. The fencing will be removed only when all construction equipment is removed from the site.

15. The approved Biological Monitor shall ensure that the spread or introduction of invasive exotic plant species shall be avoided to the maximum extent possible. When practicable, invasive exotic plants on the project site shall be removed.

16. The project site shall be revegetated with an appropriate assemblage of native species.

17. If on-site mitigation is approved, revegetation of the riparian corridor will be accomplished with an appropriate assemblage of native wetland vegetation suitable for the area. A restoration and monitoring plan shall be prepared for review and approval by the USFWS, and the United States Army Corp of Engineers (USACE). Such a plan must include, but not be limited to, location of the restoration, species to be used, restoration techniques, time of year the work will be done, identifiable success criteria for completion, and remedial actions if the success criteria are not achieved. **(MM BIO-1d)**

**Waters of the United States:**

24. *To ensure that impacts to waters of the United States and State offset, the following mitigation measures shall be implemented:*

a. Obtain a Section 404 permit from the United States Corp of Engineers (USACE) and a Section 401 permit from the Regional Water Quality Control Board (RWQCB) prior to project construction and implementing any additional mitigation measures identified by the USACE or RWQCB as part of these permits.

b. The applicant/permittee has prepared a Conceptual Wetland Mitigation and Monitoring Program (CWMMP) and a revised Wetland Mitigation Monitoring Plan (MMP) for the proposed project. This plan proposes to provide compensatory mitigation for wetland habitats; thus, the goal of the establishment of the mitigation sites will be to create/establish at least 0.939 acre and 1,913 linear feet of jurisdictional seasonal wetlands/water within the three mitigation sites on the property. The applicant/permittee shall implement the MMP in coordination with the USACE and RWQCB. **(MM BIO-3)**

#### **Cultural Resources and Tribal Cultural Resources:**

25. *Archaeological Spot-Monitoring and Halt of Construction Upon Encountering Historical or Archeological Materials*

An Archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for archaeology shall inspect the site once grubbing and clearing are complete, and prior to any grading or trenching into previously undisturbed soils. This will be followed by regular periodic or "spot-check" archaeological monitoring as determined by the Archaeologist. If the Archaeologist believes that a reduction in monitoring activities is prudent, then a letter report detailing the rationale for making such a reduction and summarizing the monitoring results shall be provided to the Contra Costa County Department of Conservation and Development for concurrence. In the event a potentially significant cultural resource is encountered during subsurface earthwork activities, all construction activities within a 100- foot radius of the find shall cease and workers should avoid altering the materials until an Archaeologist has evaluated the situation. The applicant for the proposed project (Scannell Properties) shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Potentially significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. The Archaeologist shall make recommendations concerning appropriate measures that will be implemented to protect the resource, including but not limited to excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Any previously undiscovered resources found during

construction within the project site shall be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and will be submitted to the Contra Costa County Department of Conservation and Development, the Northwest Information Center (NWIC), and the California Office of Historic Preservation (OHP), as required. **(MM CUL-1)**

26. *Stop Construction upon Encountering Human Remains*

In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and Section 5097.98 shall be followed. If during the course of project construction, there is accidental discovery or recognition of any human remains, the following steps shall be taken:

1. There shall be no further excavation or disturbance within 100 feet of the remains until the County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the Most Likely Descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.

2. Where the following conditions occur, the landowner or his or her authorized representative shall work with the Coroner to rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the MLD if available or on the project site or off-site where the reburial would not be subject to further subsurface disturbance:

- The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 48 hours after being notified by the NAHC.
- The descendant identified fails to make a recommendation.
- The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner. **(MM CUL-3)**



open space; covering archaeological sites; deeding a site to a permanent conservation easement; or other preservation and protection methods agreeable to consulting parties and regulatory authorities with jurisdiction over the activity. As noted in MM CUL-4a, appropriate treatment measures may include archeological excavations to recover information about the resource. Recommendations for avoidance of cultural resources will be reviewed by the CEQA lead agency representative (County), interested Native American Tribes and the appropriate agencies, in light of factors such as costs, logistics, feasibility, design, technology and social, cultural and environmental considerations, and the extent to which avoidance is consistent with project objectives. If feasible, avoidance and design alternatives may include realignment within the project area to avoid cultural resources, modification of the design to eliminate or reduce impacts to cultural resources or modification or realignment to avoid highly significant features within a cultural resource. Native American Representatives from interested Native American Tribes will be allowed to review and comment on these analyses and shall have the opportunity to meet with the CEQA lead agency (County) representative and its representatives who have technical expertise to identify and recommend feasible avoidance and design alternatives, so that appropriate and feasible avoidance and design alternatives can be identified.

- If the resource can be avoided, the construction contractor(s), with Native American Monitors from culturally affiliated Native American Tribes present, will install protective fencing outside the site boundary, including a buffer area, before construction restarts. The construction contractor(s) will maintain the protective fencing throughout construction to avoid the site during all remaining phases of construction. The area will be demarcated as an "Environmentally Sensitive Area." Native American representatives from interested Native American Tribes and the CEQA lead agency (County) representative will also consult to develop measures for long term management of the resource and routine operation and maintenance within culturally sensitive areas that retain resource integrity, including tribal cultural integrity, and including archaeological material, Traditional Cultural Properties and cultural landscapes, in accordance with state and federal guidance including National Register Bulletin 30 (Guidelines for Evaluating and Documenting Rural Historic Landscapes), Bulletin 36 (Guidelines for Evaluating and Registering Archaeological Properties), and Bulletin 38 (Guidelines for Evaluating and Documenting Rural Historic Landscapes), Bulletin 36 (Guidelines for Evaluating and Registering Archaeological Properties), and Bulletin 38 (Guidelines for Evaluating and Documenting Traditional Cultural Properties); National Park Service Preservation Brief 36 (Protecting Cultural Landscapes:

Planning, Treatment and Management of Historic Landscapes) and using the Advisory Council on Historic Preservation (ACHP) Native American Traditional Cultural Landscapes Action Plan for further guidance. Use of temporary and permanent form of protective fencing will be determined in consultation with the Native American representatives from interested Native American Tribes. **(MM CUL-4b)**

**Geology and Soils:**

29. Prior to issuance of the grading permits for the proposed project, development of the final grading, foundation, and construction plans shall incorporate the site-specific earthwork, foundation, floor slab, finished grades, underground utilities, and pavement design recommendations, as detailed in the Preliminary Geotechnical Investigation prepared by Miller Pacific Engineering Group dated April 17, 2018. The applicant shall coordinate with the Contra Costa County Department of Conservation and Development and County Geologist to tailor the grading and foundation plans, as needed, to reduce risk related to known soil and geologic hazards. The final grading, foundation, and construction plans for the proposed project shall be reviewed by the Contra Costa County Department of Conservation and Development and County Geologist. Grading operations shall meet the requirements of the recommendations included in the Preliminary Geotechnical Investigation prepared by Miller Pacific Engineering Group. During construction, the Contra Costa County Department of Conservation and Development shall monitor construction of the proposed project to ensure the earthwork operations are properly performed. **(MM GEO-1a)**
30. The Project Geotechnical Engineer shall prepare a final report that documents the field observations and testing services provided during construction as well as provide a professional opinion on the compliance of construction with the recommendations in the Preliminary Geotechnical Investigation. The final report can be segmented into an as-graded report that is issued at the end of rough grading, but prior to the installation of the foundations, and a second letter commenting on the inspections made during installation of foundations/parking lot/drainage facilities. Contra Costa County Department of Conservation and Development will place a hard hold on the final inspection, to ensure that the Geotechnical Engineer's grading-foundation inspection letter-report is provided prior to requesting the final building inspection for each building. **(MM GEO-1b)**

**Greenhouse Gas Emissions:**

31. Prior to the issuance of building permits, the project applicant/developer shall demonstrate (e.g., provide building plans) to the satisfaction of the Contra Costa County Department of Conservation and Development, that the proposed buildings are designed and will be built to, at minimum, meet the Tier 2 advanced energy efficiency requirements of the Nonresidential Voluntary Measures of the California Green Building Standards Code, Division A5.2, Energy Efficiency, as outlined under Section A5.203.1.2.2. **(MM GHG-1a)**
32. Prior to issuance of occupancy permits, the project applicant/developer shall demonstrate to the satisfaction of the Contra Costa County Department of Conservation and Development, that the proposed parking areas for passenger automobiles are designed and will be built to accommodate electric vehicle (EV) charging stations. At minimum, the parking shall be designed to accommodate a number of EV charging stations equal the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2. **(MM GHG-1b)**
33. Prior to issuance of occupancy permits, the project applicant/developer shall demonstrate to the satisfaction of the Contra Costa County Department of Conservation and Development, that the proposed parking areas for passenger automobiles are designed and will be built to provide parking for low-emitting, fuel-efficient, and carpool/van vehicles. At minimum, the number of preferential parking spaces for passenger automobiles shall equal the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.1.2. At minimum, the number of preferential parking spaces shall equal the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.1.2. **(MM GHG-1c)**
34. To reduce idling emissions from transport trucks, which places restrictions on idling, the project applicant/developer shall have signage placed at truck access gates, loading docks, and truck parking areas that clearly notes idling is strictly prohibited on the subject property. In coordination with Contra Costa County, the project applicant/developer shall also place similar signs in the adjacent streets in the Richmond/San Pablo area. At minimum, each sign placed outside the interior premises of the subject property shall note the idling prohibition on the adjacent streets and include telephone numbers of the building facilities manager and the California Air Resources Board to report violations. All signage shall be made of weather-proof materials. All site and architectural plans submitted to the Contra Costa County Department of Conservation and Development shall note the locations of these signs. Prior to issuance of

occupancy permits, the Contra Costa County Department of Conservation and Development shall verify compliance with these requirements herein. **(MM GHG-1d)**

35. All landscaping equipment (e.g., leaf blower) used for property management shall be electric-powered only. The property manager/facility owner shall provide documentation (e.g., purchase, rental, and/or services agreement) to the Contra Costa County Department of Conservation and Development to verify, to the County's satisfaction, that all landscaping equipment utilized will be electric-powered. **(MM GHG-1e)**

36. Prior to the issuance of grading and building permits for the proposed project, the project applicant shall provide Contra Costa County with documentation demonstrating that the rooftop photovoltaic system will satisfy 100 percent of operational electricity consumed by the project, including the electricity demand resulting from the electric vehicle fleet.

If the rooftop photovoltaic system will not be able to supply the additional electricity demand resulting from the electric vehicle fleet charging requirements, the project applicant shall, prior to the issuance of the certificate of occupancy for the proposed project, provide Contra Costa County with documentation demonstrating that the additional electricity demand will be supplied with 100 percent carbon-free electricity sources. These sources may include, but are not limited to, Pacific Gas and Electric's 100 Percent Solar Choice electricity service option or Marin Clean Energy's MCE Deep Green 100 percent renewable electricity service option. This documentation shall also demonstrate that 100 percent carbon-free electricity sources will be utilized for the first 30 years of operation.

To monitor and ensure that 100 percent of electricity demand generated by the proposed project is supplied with 100 percent carbon-free electricity sources, the project applicant shall maintain records of all electricity consumption and supply associated with the proposed project's operation and make these records available to the County upon request.

Alternatively, the County may require periodic reporting and provision of written records and conduct regular inspections of the records to the maximum extent feasible and practicable. **(MM GHG-1f)**

37. Prior to the issuance of the certificate of occupancy for the proposed project, the project applicant shall provide the County with documentation demonstrating the purchase of voluntary carbon credits pursuant to the following performance standards and requirements: the carbon offsets shall



achieve real, permanent, quantifiable, verifiable, and enforceable reductions as set forth in California Health and Safety Code Section 38562(d)(1); and ii. one carbon offset credit shall mean the past reduction or sequestration of one metric ton of carbon dioxide equivalent that is "not otherwise required" (CEQA Guidelines § 15126.4(c)(3)). The purchase shall be through a verified greenhouse gas (GHG) emissions credit broker in an amount sufficient to offset operational GHG emissions of no less than 4,851 metric ton (MT) carbon dioxide equivalent (CO<sub>2</sub>e) per year starting in 2021, 4,100 MT CO<sub>2</sub>e per year starting in 2023, 2,126 MT CO<sub>2</sub>e per year starting in 2025, and 1,703 MT CO<sub>2</sub>e per year starting in 2027, and 2,363 MT CO<sub>2</sub>e per year starting in 2045 for the first 30 years of project operations, based on current estimates of the project-related GHG emissions. Alternatively, the project applicant may purchase the total amount estimated over the lifetime of the proposed project (30 years), which is estimated to be 66,986 MT CO<sub>2</sub>e. The purchase shall be verified as occurring prior to approval of occupancy permits. Copies of emission estimates and offset purchase contract(s) shall be provided to the County for review and approval prior to the issuance of the certificate of occupancy for the proposed project. **(MM GHG-1g)**

#### **Hazards and Hazardous Materials:**

38. Prior to the issuance of a grading permit, the applicant shall remove and dispose of all materials observed during the site reconnaissance for the Phase I Environmental Site Assessment (Phase I ESA) that are currently on the project site in accordance with applicable local, State, and federal regulations. The materials include, but are not limited to, metal vault-like structures, one pad-mounted electrical transformer with metal cabinet, and pile of creosote-treated telephone poles. **(MM HAZ-1a)**
39. If the four on-site groundwater monitoring wells located at 155 Parr Boulevard (identified in the Phase I Environmental Site Assessment [Phase I ESA] as MW-1 through MW-4) are encountered during grading activities, they (it) shall be properly closed under permit in accordance with applicable local, State, and federal regulations. **(MM HAZ-1b)**
40. Prior to the issuance of a grading permit, the applicant shall prepare and submit a Soil Management Plan for review and approval by Contra Costa Environmental Health. The Soil Management Plan shall identify potential hazards that could be encountered during site grading activities and utility trench excavation, such as previously unidentified subgrade structures of environmental concern (e.g., underground storage tanks [USTs], sumps, septic tanks, oil-water separators, etc.) and/or soils exhibiting evidence of

contamination from past industrial and agricultural uses on the site requiring special handling. The Soil Management Plan shall identify the procedures to properly identify and manage the discovery of previously unidentified subgrade structures of environmental concern and/or soils exhibiting evidence of contamination from past industrial and agricultural uses on the site requiring special handling. The Soil Management Plan shall identify the procedures to properly identify and manage the discovery of previously unidentified subgrade structures of environmental concern and/or soils exhibiting evidence of contamination requiring special handling should they be encountered. The Soil Management Plan shall address testing, handling, containment, and disposal of subgrade structures of environmental concern, contaminated soil, and/or contaminated groundwater, notification requirements, and the implementation of worker safety measures. **(MM HAZ-1c)**

#### **Hydrology and Water Quality:**

##### ***41. Prepare Final Drainage Plan Prior to Grading***

- In accordance with Division 914 of the Contra Costa County Ordinance Code, the project applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system that conveys the stormwater to a natural watercourse. Any proposed diversions of the watershed shall be subject to hearing body approval. Prior to issuance of a grading permit, the applicant shall submit improvement plans for proposed drainage improvements, and a drainage report with hydrology and hydraulic calculations to the Engineering Services Division of the Public Works Department for review and approval that demonstrates the adequacy of the on-site drainage system and the downstream drainage system. The applicant shall verify the adequacy at any downstream drainage facility accepting stormwater from this project prior to discharging runoff. If the downstream system(s) is not adequate to handle the Existing Plus Project condition for the required design storm, improvements shall be constructed to make the system adequate. The applicant shall obtain access rights to make any necessary improvements to off-site facilities.

- In accordance with Division 1014 of the Contra Costa County Ordinance Code, the applicant shall comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control

Boards (San Francisco Bay—Region 2); and

- Submit a Final Stormwater Control Plan and a Stormwater Control Operation and Maintenance Plan (O&M Plan) to the Public Works Department, which shall be reviewed for compliance with the County's National Pollutant Discharge Elimination System (NPDES) Permit and shall be deemed consistent with the County's Stormwater Management and Discharge Control Ordinance (Division 1014) prior to issuance of a building permit. Improvement Plans shall be reviewed to verify consistency with the Final Stormwater Control Plan and compliance with the Contra Costa Stormwater C.3 Guidebook of the County's NPDES Permit and the County's Stormwater Management and Discharge Control Ordinance (Division 1014) and be designed to discourage prolonged standing/ponding of water on-site. **(MM HYD-3)**

**Transportation:**

42. Prior to issuance of the certificate of occupancy, the applicant shall retain a qualified transportation consultant to prepare a project-specific Transportation Demand Management (TDM) Program that incorporates the following measures, where feasible. The TDM Program shall be reviewed and approved by the County, and the applicant shall implement all approved TDM measures.
  - Commute Trip Reduction Program
  - Ride-sharing Program
  - End of Trip Facilities
  - Last Mile Services
  - New Employee Commute Orientation
  - Preferential Parking Program
  - Employer-Sponsored Vanpool/Shuttle
  - Transportation Network Company (TNC) Partnership **(MM TRANS-1)**
43. Prior to issuance of the certificate of occupancy for the proposed project, the applicant shall install a median and bulb outs on Parr Boulevard along the project frontage and stop signs at the project driveways and signage prohibiting vehicles from turning left out of the project driveways. Signage prohibiting the left turn movement out of the driveway shall also be provided. **(MM TRANS-2a)**

44. Prior to issuance of the building permit, the applicant shall (1) pay the North Richmond Area Of Benefit fee and (2) commit to installing one of the following improvements on Fred Jackson Way, Market Avenue, or Chesley Avenue prior to project occupancy:
- Bulb outs
  - Elevated crosswalks
  - Speed tables
  - Chicanes **(MM TRANS-2b)**
45. Prior to the issuance of the certificate of occupancy, the applicant shall install curb ramps where required at all pedestrian walkways, a pedestrian connection between the two buildings, install a striped crosswalk across the north leg of the Richmond Parkway/Parr Boulevard intersection, and install pedestrian countdown signal heads to serve movements at the Parkway/Parr Boulevard intersection. **(MM TRANS-4a)**
46. Prior to the issuance of the certificate of occupancy, the applicant shall install short and long-term bicycle parking consistent with County Code Section 82-16.412 in a convenient location. **(MM TRANS-4b)**
47. Within 30-days of occupancy, applicant/tenant shall demonstrate to the satisfaction of CDD staff, that the required zero emission vehicle requirements are being met.

**Landscaping:**

48. Final Landscaping Plan: At least 30 days prior to CDD stamp-approval of plans for issuance of a building permit, a final landscape and irrigation plan shall be submitted to the CDD for review and approval. The landscaping plan shall conform to the State's Model Water Efficient Landscape Ordinance or the County's Ordinance, if one is adopted. Prior to requesting a final inspection, the approved landscaping shall be installed and evidence of the installation (e.g., photos) shall be provided for the review and approval of CDD.
49. Restitution for the removal of (1) code-protected tree:
- a. Planting and Irrigation Plan: Prior to issuance of a grading or building permit, whichever occurs first, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the Department of Conservation and Development, Community Development Division (CDD). *See the North*



*Richmond Design Guidelines for species and size requirements.*

- b. Required Security to Assure Completion of Plan Improvements: A security shall be provided to ensure that the approved planting and irrigation plan is implemented. Prior to issuance of a building permit, the applicant shall submit a security that is acceptable to the CDD.
50. Any proposed tree alteration, removal, or encroachment within a drip line of code-protected trees that are not identified with this permit approval will require submittal of a Tree Permit application for review and consideration by CDD.
51. The applicant shall comply with California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495) and/or any applicable State mandated landscape/water related requirements applicable at the time of landscaping installation for the project. To the maximum extent feasible, the project proponent shall use drought tolerant vegetation for the development.

Project sponsors should be aware that Section 31 of the East Bay Municipal Utility District's (EBMUD) Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense. Any questions regarding these requirements can be directed to EBMUD Water Service Planning at (510) 287-1365.

**General Construction:**

**Construction Period Restrictions and Requirements**

52. Implement the following Emission Reduction Measures into the final design of the project:
- 1. The project sponsor shall require their contractor and subcontractors to fit all internal combustion engines with mufflers which are in good condition.
  - 2. A dust and litter control program shall be submitted for the review and approval of the Community Development Division staff. Any violation of the approved program or applicable ordinances shall require an immediate work stoppage. Construction work shall not be allowed to resume until, if necessary, an appropriate construction bond has been posted.

3. The applicant shall make a good-faith effort to avoid interference with existing neighborhood traffic flow.
4. Transporting of heavy equipment and trucks shall be limited to weekdays between the hours of 8:30 A.M. and 4:30 P.M. and prohibited on Federal and State Holidays.
5. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
6. All construction activities shall be limited to the hours of 7:00 A.M. to 6:00 P.M., Monday through Friday, and shall be prohibited on state and federal holidays on the calendar dates that these holidays are observed.
7. Prohibit unnecessary idling of internal combustion engines.
8. Locate stationary noise generating equipment as far from surrounding residential properties as possible.
9. Saturday work may be permissible upon review and approval by CDD staff of a written request by the contractor/developer indicating the circumstances warranting such Saturday work and the nature of the work to be performed.

**Debris Recovery:**

53. At least 15 days prior to the issuance of a building permit the developer shall demonstrate compliance with the debris recovery program, which requires at least 50 percent of the jobsite debris generated by construction projects of 5,000 square feet or greater to be recycled, or otherwise diverted from landfill disposal.
54. Dumpsters or refuse areas shall be screened from view from any roadway.
55. The Development Plan application was subject to an initial deposit of \$119,268.40 that was paid with the application submittal, plus time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to issuance of a building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2013/340, where a fee payment is over 60 days past due, the application shall be charged interest at a rate of ten percent (10%) from the date of approval. The applicant may obtain

current costs by contracting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

**PUBLIC WORKS CONDITIONS OF APPROVAL FOR CDDP17-03045**

**Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development on March 3, 2021.**

**UNLESS OTHERWISE SPECIFIED, COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT.**

**General Requirements:**

56. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code or the conditions of approval of this permit. Any necessary traffic signing and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

**Roadway Improvements (Frontage):**

57. Applicant shall construct curb, minimum 5-foot sidewalk (excluding width of curb), necessary longitudinal and transverse drainage, street lighting, and pavement widening and transitions along the entire frontage of Parr Boulevard. Applicant shall construct face of curb 32 feet from the ultimate road centerline. Note the alignment of Parr Boulevard begins to curve northerly near the east end of the project site.
58. The applicant shall submit a preliminary "sketch" plan to the Public Works Department for review showing all required improvements to the fronting and nearby offsite County roadway. The sketch plan shall be to scale, show horizontal alignments, transitions, curb lines, lane striping and opposing driveways. It shall provide sight distance at the project driveways for a design speed of 40 miles per hour. Truck turning exhibits should also be included to show accessibility to/from project driveways and potential turning movement conflicts. The plan shall extend a minimum of 175 feet beyond the limits of the proposed work. Final alignment and driveway locations will be subject to Public Works approval based on compatibility with existing and proposed right of way dedications and improvements on adjacent and nearby properties.

59. Prior to issuance of the first certificate of occupancy for the proposed project, the applicant shall install a median and bulb outs along the project's Parr Boulevard frontage; stop signs at the project driveways; and signage prohibiting vehicles from turning left out of the project driveways. **MM TRANS-2a**
60. Applicant shall construct a street-type connection with minimum 30-foot radii curb returns in lieu of standard driveway depressions at Parr Boulevard. Minimum driveway width shall be 48 feet. Any conflicts between this condition of approval and the preceding must be mutually resolved between the Zoning Administrator, Public Works Director and Fire Marshal.
61. Applicant shall locate any vehicular entrance gates a minimum of 40 feet from the edge of pavement to allow vehicles to queue without obstructing through traffic. Sufficient area shall be provided outside any gate to allow a vehicle to turn around and re-enter Parr Boulevard in a forward direction.
62. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Parr Boulevard. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doveled into existing improvements.

**Roadway Improvements (Off-Site):**

63. Prior to issuance of the first building permit, the applicant shall pay the North Richmond Area of Benefit (AOB) fee. Credit against this AOB fee will be allowed provided the applicant executes an agreement with the County and posts security for the construction of one of the following improvements on Fred Jackson Way, Market Avenue, or Chesley Avenue prior to project occupancy:

- Elevated crosswalks
- Bulb outs
- Speed tables
- Chicanes

**MM TRANS-2b**

64. Subject to approval of the County Public Works Department and City of Richmond, Applicant shall fund the optimization of the signal timing at the following intersections:
  - Richmond Parkway and Goodrick Avenue



- Richmond Parkway and Gertrude Avenue

Updated timing and signal coordination shall be physically implemented prior to accepting the road improvements as complete and releasing bonds and security.

**Access to Adjoining Property:**

**Proof of Access**

65. Applicant shall furnish proof to Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.
66. Applicant shall furnish proof to the Public Works Department that legal access to the property is available from Parr Boulevard.

**Encroachment Permit:**

67. Applicant shall obtain an encroachment permit from the Application and Permit Center, if necessary, for construction of improvements within the right-of-way of Parr Boulevard or portions of Richmond Parkway.
68. Applicant shall obtain an encroachment permit from the City of Richmond for construction in the right-of-way of Richmond Parkway within the city limit.

**Abutter's Rights:**

69. Applicant shall restrict access along the Parr Boulevard and Richmond Parkway frontages of this property, with the exception of the access points shown on the applicant's site plan, as specifically approved under these conditions of approval. Owner shall relinquish abutter's rights of access along both frontages with the exception of the access points shown.

**Road Alignment / Intersection Design / Sight Distance:**

70. Applicant shall provide sight distance at the on-site driveways and Pittsburg Avenue for a design speed of 45 miles per hour. The applicant shall trim vegetation, as necessary, to provide sight distance at these driveways. Any new landscaping, signs, fencing, retaining walls, or other obstructions proposed at the driveways shall be setback to ensure that the sight lines are clear.

**Road Dedications:**

71. Property Owner shall convey to the County, by Offer of Dedication, the right-of-way along the entire Parr Boulevard frontage for the planned future half-

width of 42 feet from the ultimate centerline. Additional right of way may be necessary to accommodate public utilities.

72. If the applicant opts to separate public street stormwater runoff from the on-site runoff by constructing dual stormwater management facilities, the infrastructure associated with runoff from the public right of way may necessitate additional right of way. Property Owner shall convey to the County, by Offer of Dedication, any additional right-of-way necessary for operation and maintenance of stormwater management facilities associated with treatment of runoff from the public right of way.

**Countywide Street Light Financing:**

73. Applicant shall annex to the Community Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing.

**Landscaping:**

74. If applicable the applicant shall install and guarantee all SWCP landscaping and automatic irrigation facilities within the public-right-of-way, to be maintained by the County. The landscape facilities shall be maintained by the developer: a) for a minimum of 180 days after installation and b) until the plants have become established.
75. If applicable, the applicant shall submit four sets of landscape and automatic irrigation plans and cost estimates, prepared by a licensed landscape architect, for all SWCP landscaping and automatic irrigation facilities to be maintained by the County to the Public Works Department for review approval, prior to issuance of building permits. Applicant shall pay appropriate fees in accordance with County Ordinance. Landscaping shall meet the requirements of the Contra Costa County Public Works Department Landscaping Design, Construction and Maintenance standards and Guidelines for County Maintained Facilities.
76. All landscaping to be maintained by the property owner shall be submitted to the CDD for review and approval.
77. Applicant shall apply to the Public Works Department for annexation to the Community Facilities District (CFD) No. 2006-1 (North Richmond Area Maintenance Services) for the future maintenance of area wide medians and landscaping. The annexation of property into the CFD must be completed prior to occupancy and the applicant should be aware that the annexation process may take approximately 60 days.

## **Bicycle – Pedestrian Facilities:**

### **Bicycle Circulation**

78. Prior to the issuance of the certificate of occupancy, the applicant shall install long-term bicycle parking in a convenient location. **MM TRANS-4b**

### **Pedestrian Access**

79. Applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.
80. Curb ramps and driveways shall be designed and constructed in accordance with current County standards. A detectable warning surface (e.g. truncated domes) shall be installed on all curb ramps. Adequate right-of-way shall be dedicated at the curb returns to accommodate the returns and curb ramps; accommodate a minimum 4-foot landing on top of any curb ramp proposed.
81. Prior to the issuance of the certificate of occupancy, the applicant shall install:
- A pedestrian connection between the two buildings;
  - A striped crosswalk across the north leg of the Richmond Parkway/Parr Boulevard intersection;
  - Pedestrian countdown signal heads to serve movements at the Richmond Parkway/Parr Boulevard intersection. **MM TRANS-4a**

### **Parking:**

82. "No Parking" signs shall be installed along Parr Boulevard subject to the review of the Public Works Department and the review and approval of the Board of Supervisors.

### **Utilities/Undergrounding:**

83. Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Parr Boulevard up to the first existing pole east of Richmond Parkway. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures as a part of the Improvement Plan submittals for the project. The composite drawings and/or

utility improvement plans shall be signed by a licensed civil engineer.

**Drainage Improvements:**

**Collect and Convey**

84. The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to *an adequate* natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to *an adequate* natural watercourse, in accordance with Division 914 of the Ordinance Code.

The nearest public drainage facilities are the culverts under Richmond Parkway that convey stormwater run-off from the site to the wetlands and ultimately San Pablo Bay to the west. The Drainage Study included in the ADEIR and supplemental documentation reviewed by Public Works indicates these culverts have sufficient capacity to satisfy the Ordinance Code requirements. Staff concurs with this preliminary analysis, pending final assessment in conjunction with review of the final construction drawings and documents. **MM HYD-3**

**Miscellaneous Drainage Requirements:**

85. Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
86. The property owner shall dedicate a public drainage easement over any man-made drainage system which conveys stormwater run-off from public streets.
87. Private storm drain easements conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be conveyed across any storm drain conveyance or management facilities that serve more than on parcel.

**National Pollutant Discharge Elimination System (NPDES):**

88. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction, and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay –Region II).

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMPs in



accordance with the Contra Costa Clean Water Program for the site's storm water drainage:

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention basins) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permits.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Filtering Inlets.
- The applicant shall sweep the paved portion of the site at least once a year between September 1<sup>st</sup> and October 15<sup>th</sup> utilizing a vacuum type sweeper. Verification (invoices, etc.) of the sweeping shall be provided to the County Clean Water Program Administrative Assistant at 255 Glacier Drive, Martinez, CA 94553; (925)313-2238.
- Trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.
- Other alternatives comparable to the above as approved by the Public Works Department. **MM HYD-3**

**Stormwater Management and Discharge Control Ordinance:**

89. The applicant shall submit a FINAL Storm Water Control Plan (SWCP) and a Stormwater Control Operation and Maintenance Plan (O+M Plan) to the Public Works Department, which shall be reviewed for compliance with the County's National Pollutant Discharge Elimination System (NPDES) Permit and shall be deemed consistent with the County's Stormwater Management and Discharge Control Ordinance (§1014) prior to issuance of certificate of occupancy. To the extent required by the NPDES Permit, the Final Stormwater Control Plan and the O+M Plan will be required to comply with NPDES Permit requirements that have recently become effective that may not be reflected in the preliminary SWCP and O+M Plan. All time and materials costs for review and preparation of the SWCP and the O+M Plan shall be borne by the applicant. **MM HYD-3**
  - Improvement Plans shall be reviewed to verify consistency with the final SWCP and compliance with Provision C.3 of the County's NPDES Permit and the County's Stormwater Management and Discharge Control

**Ordinance (§1014).**

- Stormwater management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
- Prior to issuance of the first certificate of occupancy, the property owner(s) shall enter into a standard Stormwater Management Facility Operation and Maintenance Agreement with Contra Costa County, in which the property owner(s) shall accept responsibility for and related to operation and maintenance of the stormwater facilities, and grant access to relevant public agencies for inspection of stormwater management facilities.
- Prior to issuance of the first certificate of occupancy the property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Stormwater Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of stormwater facilities by property owners.
- Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.

**Area of Benefit Fee Ordinance:**

90. The applicant shall comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the WCC Transit/Pedestrian, WCCTAC Bridge/Road, and North Richmond Areas of Benefit as adopted by the Board of Supervisors. These fees will be collected prior to issuance of building permits on this site.
91. Prior to constructing any public improvements, the applicant, shall contact Public Works Department to determine the extent of any eligible credits or reimbursements against the area of benefit fees.

**Drainage Area Fee Ordinance:**

92. The applicant shall comply with the drainage fee requirements for Drainage Area 19A as adopted by the Board of Supervisors prior to initiation of the use requested with this application.
93. Certain improvements required by the Conditions of Approval for this

development or the County Subdivision Ordinance may be eligible for credit or reimbursement against the drainage area fee. The developer should contact the Public Works Department to determine the extent of any credit or reimbursement for which the developer may be eligible. Any credit or reimbursements shall be determined prior to issuance of a Building Permit or as approved by the Flood Control District.

#### **ADVISORY NOTES**

**ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.**

- A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the North Richmond, West Contra Costa Transportation Advisory Committee (WCCTAC) Bridges/Roads, and WCCTAC Transit/Pedestrian Areas of Benefit Area of Benefit as adopted by the Board of Supervisors.
- C. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the California Department of Fish and Wildlife, Bay Delta Region (Region 3), 825 Cordelia Road, Suite 100, Fairfield, CA 94534 of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Wildlife Code.
- D. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- E. Prior to applying for a building permit, the applicant is strongly encouraged to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:

- Contra Costa County Building Inspection Division

- **Contra Costa County Grading Division**
- **Contra Costa County Environmental Health Division**
- **Contra Costa County Consolidated Fire Protection District**
- **East Bay Municipal Utility District**
- **West County Wastewater District**
- **LAFCO**
- **City of Richmond**





**CEQA AND STATEMENT OF OVERRIDING CONSIDERATIONS FINDINGS FOR  
SCANNELL PROPERTIES #304 LLC (Applicant/Owner): COUNTY FILE #CDDP17-03045  
AS APPROVED BY THE COUNTY PLANNING COMMISSION ON SEPTEMBER 22, 2021**

**CEQA Findings**

1. The Contra Costa County Planning Commission adopts the following findings for certification of the EIR and approval of the Scannell Properties LLC warehouse project, pursuant to the California Environmental Quality Act, California Public Resources Code, Sections 2100, et seq. the Guidelines for Implementation of CEQA, Title 14 of the California Code of Regulations, Sections 15000, et seq. ("CEQA") and the County' CEQA Guidelines.
2. Pursuant to the Public Resources Code Section 21081 and CEQA Guidelines Section 15901, no public agency shall approve and carry out a project where an Environmental Impact Report (the "EIR") has been certified, which identifies one or more significant impacts on the environment that would occur if the project is approved, unless the public agency makes one or more of the following three findings for each of those significant impacts, accompanied by a brief explanation of the rationale for each finding:
  - a) Changes or alternations have been required in, or incorporated into, the project which mitigate or avoid the significant effect on the environment;
  - b) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;
  - c) Specific economic, legal, social technological, or other consideration, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
3. The Scannell Properties LLC project did present unavoidable and significant impacts related to transportation (Impact TRANS-1 and Cumulative Impact Traffic) that cannot be mitigated to a less than significant level. A Statement of Overriding Consideration is prepared for this impact.

## **PROJECT AND EIR FINDINGS**

### **Certification of EIR**

The Commission finds that the EIR has been completed in compliance with CEQA; that the Commission reviewed and considered the information contained in the EIR prior to approving the project; and the EIR reflects the County's independent judgment and analysis.

### **Impact Conclusions and Mitigation Measures**

Attachment A (the CEQA Findings of Fact and Statement of Overriding Considerations) is attached to these findings and is hereby adopted by the Commission and is incorporated to these findings.

Attachment B (the Mitigation, Monitoring Reporting Program – MMRP) is attached to these findings and is hereby adopted by the Commission, and is incorporated into these findings. The mitigation measures will feasibly reduce or avoid the potentially significant and significant impacts of the project to less than significant levels and will reduce some less-than-significant impacts as well. In adopting these mitigation measures, the Commission intends to adopt each of the mitigation measures identified by the EIR.

The various documents and other materials constitute the record upon which the Commission bases these findings and the approvals contained herein. These findings cite specific pieces of evidence, but none of the Commission's findings are based solely on those pieces of evidence. These findings are adopted based upon the entire record, and the Commission intends to rely upon all supporting evidence in the record for each of its findings. The location and custodian of the documents and materials that comprise the record is Contra Costa County, Department of Conservation and Development, 30 Muir Road, Martinez, CA, 94553, telephone (925) 674-7205.

**ORDINANCE NO. 1891**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA AMENDING CHAPTER 9 OF THE FONTANA MUNICIPAL CODE TO REVISE ARTICLE V FOR MODIFICATIONS AND CLARIFICATION TO BUFFERING AND SCREENING REQUIREMENTS, METHODS TO IMPROVE TRAFFIC CIRCULATION, REQUIREMENTS FOR ALTERNATIVE ENERGY, AND IMPROVEMENTS TO CONSTRUCTION REQUIREMENTS AS IT RELATES TO INDUSTRIAL COMMERCE CENTERS THROUGHOUT THE CITY.**

**WHEREAS**, the City of Fontana (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, on or about May 7, 2021, the governing board of the South Coast Air Quality Management District ("SCAQMD") adopted Rule 2305, the Warehouse Indirect Source Rule ("Rule 2305"); and

**WHEREAS**, Rule 2305 requires warehouses greater than 100,000 square feet to directly reduce nitrogen oxide and diesel particulate matter emissions, or to otherwise facilitate emission and exposure reductions of these pollutants in nearby communities; and

**WHEREAS**, SCAQMD has also adopted Rule 402 prohibiting emissions that cause injury and/or annoyance to a substantial number of people, including odors; Rule 403 requiring dust control measures during construction; Rule 1113 requiring the use of low Volatile organic compounds ("VOC") paints and coatings; Rule 1186 requiring use of SCAQMD certified street sweepers; and Rule 2202 requiring establishment of rideshare programs for facilities employing more than 250 employees; and

**WHEREAS**, the California Air Resources Board ("CARB") adopted Rule 2485 restricting diesel engine idling to five minutes or less; and

**WHEREAS**, California Building Standards Commission adopted Part 11, Title 24 of the California Code of Regulations, known as CALGreen, which generally requires low energy use features, low water use features, all-electric vehicle ("EV") parking spaces and charging facility accommodation, carpool/vanpool parking spaces, and short-term and long-term bicycle parking facilities; and

**WHEREAS**, the City of Fontana currently regulates industrial commerce centers in Specific Plans, Chapter 30 of the Zoning and Development Code, and in Chapter 9, and Article V (Industrial Commerce Centers Sustainability Standards) of the Municipal Code. Furthermore, Ordinance No. 1879 that established Article V in Chapter 9 of the Municipal Code was adopted by City Council on February 8, 2022; and



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**WHEREAS**, the City initiated Municipal Code Amendment (AMD) No. 21-001R1 amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to modify Article V to revise Industrial Commerce Centers Sustainability Standards, which includes modifications and clarification to buffering and screening requirements, methods to improve traffic circulation, requirements for alternative energy, and improvements to construction as it relates to industrial commerce centers throughout the city; and

**WHEREAS**, December 21, 2021, the City Council held the second reading and adopted Ordinance No. 1879 for Municipal Code Amendment (AMD) No. 21-001 to add Article V to establish sustainability standards for industrial commerce centers throughout the city; and

**WHEREAS**, On March 22, 2022, the City Council held a duly noticed public hearing on Municipal Code Amendment (AMD) No. 21-001R1, and the supporting documents in evidence, the City Council found that the Municipal Code Amendment is in conformance with General Plan and does not change any of the Land Use Designation of any properties and it is consistent with the General Plan and furthers Action B of Goal 3 in Chapter 12 to promote renewable energy programs for government, Fontana businesses, and Fontana residences; and

**WHEREAS**, a notice of the public hearing was published in the local *San Bernardino County Sun* newspaper on Saturday, March 12, 2022 and posted at City.

**THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:**

**Section 1.** The above recitals are true and correct and are fully incorporated herein.

**Section 2.** Article V of Chapter 9 of the Fontana Municipal Code is hereby amended and renumbered follows:

**ARTICLE V. – Industrial Commerce Centers Sustainability Standards**

**Sec. 9-70. – Applicability.**

This Article is applicable to all Warehouse uses throughout the city, as defined in Section 30-12 of Chapter 30, Article 1, Division 4; and as listed as a type of “Warehousing Use” in Table No. 30-530 and includes all warehouse uses in Specific Plans. The following sections shall supersede any existing requirements in the Municipal Code and Specific Plans.

**Sec. 9-71. – Buffering and Screening / Adjacent uses.**

- (1) For any Warehouse building larger than 50,000 square feet in size, a ten-foot-wide landscaping buffer shall be required, measured from the property line of all adjacent sensitive receptors. For any Warehouse

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building larger than 400,000 square feet in size, a twenty-foot-wide landscaping buffer shall be required, measured from the property line of all adjacent sensitive receptors. The buffer area(s) shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height, natural ground landscaping, and solid screen buffering trees, as described below, unless there is an existing solid block wall. For any Warehouse building equal to or less than 50,000 square feet in size, a solid decorative wall(s) of at least ten feet in height shall be required when adjacent to any sensitive receptors. Sensitive receptor shall be defined as any residence including private homes, condominiums, apartments, and living quarters, schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, community centers, places of worship, parks (excluding trails), prisons, and dormitories.

- (2) Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner and any successors in interest shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.
- (3) All landscaping shall be drought tolerant, and to the extent feasible, species with low biogenic emissions. Palm trees shall not be utilized.
- (4) All landscaping areas shall be properly irrigated for the life of the facility to allow for plants and trees to maintain growth.
- (5) Trees shall be installed in automobile parking areas to provide at least 35% shade cover of parking areas within fifteen years. Trees shall be planted that are capable of meeting this requirement.
- (6) Unless physically impossible, loading docks and truck entries shall be oriented away from abutting sensitive receptors. To the greatest extent feasible, loading docks, truck entries, and truck drive aisles shall be located away from nearby sensitive receptors. In making feasibility decisions, the City must comply with existing laws and regulations and balance public safety and the site development's potential impacts to nearby sensitive receptors. Therefore, loading docks, truck entries, and drive aisles may be located nearby sensitive receptors at the discretion of the Planning Director, but any such site design shall include measures designed to minimize overall impacts to nearby sensitive receptors."
- (7) For any Warehouse building larger than 400,000 square feet in size, the building's loading docks shall be located a minimum of 300 feet away, measured from the property line of the sensitive receptor to the nearest

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dock door which does not exclusively serve electric trucks using a direct straight-line method.

**Sec. 9-72. – Signage and Traffic Patterns.**

- (1) Entry gates into the loading dock/truck court area shall be positioned after a minimum of 140 feet of total available stacking depth inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 50 docks. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited unless queuing occurs in a deceleration lane or right turn lane exclusively serving the facility.
- (2) Applicants shall submit to the Engineering Department, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on Collector Streets (or streets of a higher commercial classification), and vehicle entries shall be designed to prevent truck access on streets that are not Collector Streets (or streets of a higher commercial classification), including, but not limited to, by limiting the width of vehicle entries.
- (3) Anti-idling signs indicating a 3-minute diesel truck engine idling restriction shall be posted at industrial commerce facilities along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.
- (4) Prior to issuance of certificate of occupancy facility operators shall establish and submit for approval to the Planning Director a Truck Routing Plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the use of the facility operator, including, but not limited to, hours of operations, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that avoids passing sensitive receptors, to the greatest extent possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. Facility operator shall be responsible for enforcement of the plan. A revised plan shall be submitted to by the Planning Director prior to a business license being issued by the City for any new tenant of the property. The Planning Director shall have 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.

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- (5) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.
- (6) Facility operators shall post signs in prominent locations inside and outside of the building indicating that off-site parking for any employee, truck, or other operation related vehicle is strictly prohibited. City may require facility operator to post signs on surface or residential streets indicating that off-site truck parking is prohibited by City ordinance and/or the Truck Routing Plan.
- (7) Signs shall be installed at all truck exit driveways directing truck drivers to the truck route as indicated in the Truck Routing Plan and State Highway System.
- (8) Signs shall be installed in public view with contact information for a local designated representative who works for the facility operator and who is designated to receive complaints about excessive dust, fumes, or odors, and truck and parking complaints for the site, as well as contact information for the SCAQMD's on-line complaint system and its complaint call-line: 1-800-288-7664. Any complaints made to the facility operator's designee shall be answered within 72 hours of receipt.
- (9) All signs under this Section shall be legible, durable, and weather-proof.
- (10) Prior to issuance of a business license, City shall ensure for any facility with a building or buildings larger than 400,000 total square feet, that the facility shall include a truck operator lounge equipped with clean and accessible amenities such as restrooms, vending machines, television, and air conditioning."

### **Sec. 9-73. – Alternative Energy.**

- (1) On-site motorized operational equipment shall be ZE (zero emission).
- (2) All building roofs shall be solar-ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.
- (3) The office portion of a building's rooftop that is not covered with solar panels or other utilities shall be constructed with light colored roofing material with a solar reflective index ("SRI") of not less than 78. This material shall be the minimum solar reflective rating of the roof material for the life of the building."



Ordinance No. 1891

- (4) On buildings over 400,000 square feet, prior to issuance of a business license, the City shall ensure rooftop solar panels are installed and operated in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the facility including the parking areas.
- (5) At least 10% of all passenger vehicle parking spaces shall be electric vehicle (EV) ready, with all necessary conduit and related appurtenances installed. At least 5% of all passenger vehicle parking spaces shall be equipped with working Level 2 Quick charge EV charging stations installed and operational, prior to building occupancy. Signage shall be installed indicating EV charging stations and specifying that spaces are reserved for clean air/EV vehicles. Unless superior technology is developed that would replace the EV charging units, facility operator and any successors in interest shall be responsible for maintaining the EV charging stations in working order for the life of the facility.
- (6) 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 chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 100% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units (TRUs) to plug in. Truck operators with TRUs shall be required to utilize electric plug-in units when at loading docks.
- (7) Bicycle racks are required per Section 30-714 and in the amount required for warehouse uses by Table 30-714 of the Zoning and Development Code. The racks shall include locks as well as electric plugs to charge electric bikes. The racks shall be located as close as possible to employee entrance(s). Nothing in this section shall preclude the warehouse operator from satisfying this requirement by utilizing bicycle parking amenities considered to be superior such as locating bicycle parking facilities indoors or providing bicycle lockers.

**Sec. 9-74. – Operation and Construction.**

- (1) Cool surface treatments shall be added to all drive aisles and parking areas or such areas shall be constructed with a solar-reflective cool pavement such as concrete.

Ordinance No. 1891

- (2) To ensure that warehouse electrical rooms are sufficiently sized to accommodate the potential need for additional electrical panels, either a secondary electrical room shall be provided in the building, or the primary electrical room shall be sized 25% larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25% excess demand capacity.
- (3) Use of super-compliant VOC architectural and industrial maintenance coatings (e.g., paints) shall be required.
- (4) The facility operator shall incorporate a recycling program.
- (5) The following environmentally responsible practices shall be required during construction:
  - a. The applicant shall use reasonable best efforts to deploy the highest rated CARB Tier technology that is available at the time of construction. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of the Planning Director and shall require proof from the construction contractor that, despite reasonable best efforts to obtain the highest CARB Tier equipment, such equipment was unavailable.
  - b. Use of electric-powered hand tools, forklifts, and pressure washers.
  - c. Designation of an area in any construction site where electric-powered construction vehicles and equipment can charge.
  - d. Identification in site plans of a location for future electric truck charging stations and installation of a conduit to that location.
  - e. Diesel-powered generators shall be prohibited except in case of emergency or to establish temporary power during construction.
- (6) A Property Maintenance Program shall be submitted for review and approval by the Planning Director or his/her designee prior to the issuance of building permits. The program shall provide for the regular maintenance of building structures, landscaping, and paved surfaces in good physical condition, and appearance. The methods and maximum intervals for maintenance of each component shall be specified in the program.

Ordinance No. 1891

- (7) Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program.

**Section 3.** Based on the foregoing, the City Council determines that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment. The Council hereby directs staff to prepare, execute and file with the San Bernardino County Clerk a notice of exemption within five working days after the adoption of this Ordinance.

**Section 4.** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The people of the City of Fontana hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 5.** This Ordinance shall take effect thirty (30) days after the date of its adoption.

**Section 6.** The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Fontana. The City Clerk is the custodian of records for this Ordinance and the records are available at 8353 Sierra Avenue, Fontana CA 92335.

**APPROVED AND ADOPTED** 12<sup>th</sup> day of April, 2022.

**READ AND APPROVED AS TO LEGAL FORM:**

DocuSigned by:

*Ruben Duran*

822D5E9CCD6240C

City Attorney

I, Germaine McClellan Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance

Ordinance No. 1891

adopted by the City Council and was introduced at a regular meeting on the 22<sup>nd</sup> day of March, 2022, and was finally passed and adopted not less than five days thereafter on the 12<sup>th</sup> day of April, 2022, by the following vote to wit:

**AYES:** Mayor Warren, Mayor Pro Tem Garcia, Council Members, Cothran, Roberts and Sandoval

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

DocuSigned by:

*Germaine McLellan Key*

8FCB7DF749584D8...

City Clerk of the City of Fontana

DocuSigned by:

*Acquanetta Warren*

8B478DADB898D48B...

Mayor of the City of Fontana

**ATTEST:**

DocuSigned by:

*Germaine McLellan Key*

8FCB7DF749584D8...

City Clerk

**NOTICE OF EXEMPTION**

PTO: Clerk of the Board of Supervisors  
County of San Bernardino  
385 N. Arrowhead Avenue, 2nd Floor  
San Bernardino, CA 92415-0130

FROM: City of Fontana  
Planning Department  
8353 Sierra Avenue  
Fontana, CA 92335

1. Project Title: **Municipal Code Amendment (MCA) No. 21-001R1 for an Amendment to Chapter 9 of the Municipal Code to Modify Article V to Revise Sustainability Standards for Industrial Commercial Centers throughout the City.**
2. Project Location - Specific: **Citywide**
3. (a) Project Location - City: **Fontana**  
(b) Project Location - County: **San Bernardino**
4. Description of nature, purpose, and beneficiaries of Project: **The proposed Municipal Code Amendment (MCA) No. 21-001R1 is for the amendment of Chapter 9 of the Municipal Code to modify Article V to revise industrial commerce centers sustainability standards. That includes modifications and clarification to buffering and screening requirements, clarification on building orientation, requirements for alternative energy, and improvements to construction as it relates to industrial commercial centers throughout the city.**
5. Name of Public Agency approving project: **City of Fontana**
6. Name of Person or Agency carrying out project: **City of Fontana**
7. Exempt status: (Check one)
  - (a) ☐ Ministerial project.
  - (b) ☐ Not a project.
  - (c) ☐ Emergency Project.
  - (d) ☒ Categorical Exemption. State type and class number Sections 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) and Section No. 3.22 of the Local 2019 Guidelines for Implementing the CEQA.
  - (e) ☐ Declared Emergency.
  - (f) ☐ Statutory Exemption. State Code section number: \_\_\_\_\_
  - (g) ☒ Other. Explanation: 15061(B)(3) (the common-sense exemption)

Reason why project was exempt: The Ordinance includes additional more restrictive standards and clarification of existing standards for industrial commerce centers to improve environmental quality and does not include the construction of any structures. All new projects involving construction of industrial commerce centers will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted, subject to CEQA review/documentation. Therefore, all industrial commerce center projects will be subject to CEQA, standard Conditions of Approval, and all other State/Federal/Local requirements.

8. Contact Person: Rina Leung, Senior Planner Telephone: (909) 350-6566

Date Received for Filing:

\_\_\_\_\_  
DiTanyon Johnson  
Principal Planner

(Clerk Stamp Here)

**ATTACHMENT NO. 2**





## NOTICE OF PUBLIC HEARING

***SI DESEA INFORMACION EN ESPAÑOL REFERENTE A ESTA NOTIFICACION O PROYECTO, FAVOR DE COMUNICARSE AL (909) 350-6728.***

In compliance with Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the federal rules and regulations adopted in implementation thereof, the Agenda will be made available in appropriate alternative formats to persons with a disability. Should you need special assistance to participate in this meeting, please contact the City Clerk's Department by calling (909) 350-7602 or email at [clerks@fontana.org](mailto:clerks@fontana.org). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE CITY COUNCIL OF THE CITY OF FONTANA FOR THE FOLLOWING:

**Municipal Code Amendment (MCA) No. 21-001R1 for an Amendment to Chapter 9 of the Municipal Code to Modify Article V to Revise Sustainability Standards for Industrial Commerce Centers throughout the City**

Municipal Code Amendment (MCA) No. 21-001R1 to amend Chapter 9 of the Municipal Code to modify Article V revise sustainability standards that includes modifications and clarification to buffering and screening requirements, methods to improve traffic circulation, requirements for alternative energy, and improvements to construction as it relates to industrial commerce centers throughout the city.

**Environmental Determination:**

This project qualifies for a categorical exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment.

**Location of Property:**

Citywide

**Date of Hearing:**

March 22, 2022

**Place of Hearing:**

City Hall Council Chambers  
8353 Sierra Avenue  
Fontana, CA 92335



**Time of** 7:00 pm  
**Hearing:**

Should you have any questions concerning this project, please contact, **Rina Leung**, at (909) 350-6566 or [rleung@fontana.org](mailto:rleung@fontana.org)

ANY INTERESTED PARTY MAY PROVIDE INFORMATION BY LETTER OR EMAIL WHICH MAY BE OF ASSISTANCE TO THE CITY COUNCIL. A COPY OF THE ENVIRONMENTAL DOCUMENTATION IS AVAILABLE FOR INSPECTION. PLEASE CONTACT THE PLANNER LISTED ABOVE.

IF YOU CHALLENGE IN COURT ANY ACTION TAKEN CONCERNING A PUBLIC HEARING ITEM, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE TO THE CITY AT, OR PRIOR TO, THE PUBLIC HEARING.

Publish:  
¼ Page



City of Fontana  
Action Report  
City Council Meeting

File #: 21-1256  
Agenda #: B.

Agenda Date: 3/22/2022  
Category: Public Hearing

**FROM:**  
Planning Department

**SUBJECT:**  
Municipal Code Amendment (MCA) No. 21-001R1 for an Amendment to Chapter 9 of the Municipal Code to Modify Article V to Revise Sustainability Standards for Industrial Commerce Centers throughout the City

**RECOMMENDATION:**  
Read by title only and waive further reading of and introduce **Ordinance No. \_\_\_\_**, an Ordinance of the City Council of the City of Fontana, approving Municipal Code Amendment (MCA) No. 21-001R1 for an amendment to Chapter 9 of the Municipal Code to modify Article V to revise sustainability standards for industrial commerce centers throughout the city, and the reading of the title constitutes the first thereof.

**COUNCIL GOALS:**

- To promote economic development by pursuing business retention, expansion and attraction.
- To promote economic development by establishing a quick, consistent development process.

**DISCUSSION:**  
The City of Fontana currently regulates industrial commerce centers in Specific Plans, Chapter 30 of the Zoning and Development Code, and in Chapter 9, and Article V (Industrial Commerce Centers Sustainability Standards) of the Municipal Code. Ordinance No. 1879 that established Article V in Chapter 9 of the Municipal Code was adopted by City Council on February 8, 2022.

The proposed Municipal Code Amendment (MCA) No. 21-001R1 is for the amendment of Chapter 9 of the Municipal Code to modify Article V to revise industrial commerce centers sustainability standards. That includes modifications and clarification to buffering and screening requirements, methods to improve traffic circulation, requirements for alternative energy, and improvements to construction as it relates to industrial commerce centers throughout the city.

The following is a brief summary of the revised standards that shall apply to all industrial commerce centers in the City of Fontana (a detailed comprehensive list of all the requirements is located in the Ordinance, Attachment No. 1):

1. Additional requirements for larger buildings over 400,000 square feet:
  - a. A 20-foot wide landscaping buffer adjacent to sensitive receptors;
  - b. A minimum of 300 feet separation of the building's loading dock from a sensitive receptor; and
  - c. A requirement to include a truck operator lounge.

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**File #:** 21-1256

**Agenda #:** B.

**Agenda Date:** 3/22/2022

**Category:** Public Hearing

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2. An additional requirement for parking lot trees to provide at least 35% shade cover of parking areas within fifteen years.
3. Clarification on orientation of loading docks and truck entries.
4. Additional alternative energy improvements to require the office portion that is not covered with solar panels or utilities to include light colored roofing with a solar reflective index of not less than 78.
5. Revision of VOC paints to be super-compliant instead of low.
6. Clarification of documentation requirements in utilizing the available highest rated CARB Tier technology during construction.

**ENVIRONMENTAL FINDING:**

This project is exempt per the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to reduce potential impacts to air and environmental quality.

**FISCAL IMPACT:**

None

**MOTION:**

Approve staff's recommendation

**ATTACHMENTS:**

1. City Council Ordinance
2. Notice of Exemption
3. Public Hearing Notice

## Certificate Of Completion

Envelope Id: 440205DFA28145CBBF15211C45B14006

Status: Completed

Subject: URGENT Please DocuSign: Ordinance 1891

Source Envelope:

Document Pages: 14

Signatures: 4

Envelope Originator:

Certificate Pages: 5

Initials: 0

City Clerk

AutoNav: Enabled

8353 Sierra Avenue

Envelopeld Stamping: Enabled

Fontana, CA 92335

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

clerks@fontana.org

IP Address: 192.146.186.96

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Holder: City Clerk

Location: DocuSign

4/13/2022 | 12:23 PM

clerks@fontana.org

## Signer Events

Ruben Duran

ruben.duran@bbklaw.com

Security Level: Email, Account Authentication  
(None)

## Signature

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*Ruben Duran*  
02205F9CCD6240C...

Signature Adoption: Pre-selected Style

Signed by link sent to ruben.duran@bbklaw.com

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## Timestamp

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Accepted: 4/13/2022 | 04:15 PM

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Acquanetta Warren

awarren@fontana.org

Security Level: Email, Account Authentication  
(None)

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*Acquanetta Warren*  
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ID: 502d94e8-da6b-4b13-86e8-e6617b288e64

Germaine McClellan Key

gkey@fontana.org

Security Level: Email, Account Authentication  
(None)

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*Germaine McClellan Key*  
8FCB7DF749584D6...

Signature Adoption: Pre-selected Style

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Viewed: 4/13/2022 | 04:58 PM

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## In Person Signer Events

## Signature

## Timestamp

## Editor Delivery Events

## Status

## Timestamp

## Agent Delivery Events

## Status

## Timestamp



Intermediary Delivery Events	Status	Timestamp
<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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Evelyne Ssenkoloto essenkol@fontana.org Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Accepted: 10/13/2021   04:17 PM ID: e7145250-7347-428b-af51-3066469cc29f	<b>COPIED</b>	Sent: 4/13/2022   04:59 PM
Kathy Kasinger kkasinger@fontana.org Records Coordinator Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Accepted: 4/12/2022   07:28 AM ID: 6bf6d243-6517-4841-a35f-dcf0ba649302	<b>COPIED</b>	Sent: 4/13/2022   04:59 PM
Susana Gallardo sgallardo@fontana.org Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 4/13/2022   04:59 PM
Brittany Medrano bmedrano@fontana.org Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 4/13/2022   04:59 PM
<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
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Certified Delivered	Security Checked	4/13/2022   04:58 PM
Signing Complete	Security Checked	4/13/2022   04:59 PM
Completed	Security Checked	4/13/2022   04:59 PM
<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
<b>Electronic Record and Signature Disclosure</b>		

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Fontana (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact City of Fontana:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [cteveda@fontana.org](mailto:cteveda@fontana.org)

**To advise City of Fontana of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at [cteveda@fontana.org](mailto:cteveda@fontana.org) and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

**To request paper copies from City of Fontana**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to [cteveda@fontana.org](mailto:cteveda@fontana.org) and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with City of Fontana**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to [cteveda@fontana.org](mailto:cteveda@fontana.org) and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"><li>•Allow per session cookies</li><li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li></ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

**Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Fontana as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Fontana during the course of my relationship with you.

**ORDINANCE NO. 2024-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, STATE OF CALIFORNIA, ADOPTING AN ORDINANCE TO IMPLEMENT INDUSTRIAL COMMERCE CENTERS SUSTAINABILITY STANDARDS**

**WHEREAS**, California has established the ambitious goal of carbon neutrality by 2045, which will require significant reductions and mitigation of greenhouse gas ("GHG") emissions; and

**WHEREAS**, warehousing, logistics and distribution facilities are well-documented sources of air quality degradation that can create serious, negative health outcomes for surrounding communities; and these projects substantially increase air quality emissions through construction, operation, and vehicle-related emissions; and

**WHEREAS**, new developments and land use proposals present some of the best and most efficient opportunities to reduce and mitigate GHG emissions and air pollutants; and

**WHEREAS**, the City of American Canyon ("City") seeks to be an environmental leader by attracting industrial development that meets the highest standards of environmental sustainability; and

**WHEREAS**, the municipal code amendments are exempt from the California Environmental Quality Act (CEQA), as it is not a Project under CEQA Guidelines Section 15378(b), and is categorically exempt under CEQA Guidelines Section 15308 "Actions by Regulatory Agencies for Protection of the Environment; and

**WHEREAS**, a duly-noticed public hearing was held by the City of American Canyon Planning Commission on January 25, 2024 on the subject ordinance, and recommends City Council approval; and

**WHEREAS**, a duly-noticed public hearing was held by the City of American Canyon City Council on February 6, 2024 on the subject ordinance, at which time all those in attendance were given the opportunity to speak on this proposal and to submit comments.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN THAT CHAPTER 19.09 - INDUSTRIAL COMMERCE CENTERS SUSTAINABILITY STANDARDS IS HEREBY ADDED TO THE MUNICIPAL CODE OF THE CITY OF AMERICAN CANYON AS FOLLOWS:**

**Chapter 19.09 – Industrial Commerce Centers Sustainability Standards**

**Sec. 19.09.010 – Applicability.**

This Article is applicable to all warehousing, logistics and distribution facilities throughout the city for which a Notice of Preparation is issued after March 1, 2024 under the implementing Guidelines of the California Environmental Quality Act (CEQA).

A warehousing, logistics or distribution facility means facilities used for the storage and/or consolidation of manufactured goods (and to a lesser extent, raw materials and excludes bulk storage of materials, which are flammable or explosive or create hazardous or



commonly recognized offensive conditions) before their distribution to retail locations or other warehouses. The facilities are generally greater than 200,000 square feet in size, with a land coverage ratio of approximately 50 to 80 percent, and a dock-high loading door ratio of approximately 1:5,000—8,000 square feet. They are characterized by dock high loading doors, could be on opposing sides of the building (cross dock facility); significant movement and storage of products, materials, or equipment; truck activities frequently outside of the peak hour of the adjacent street system; and freeway access, including:

- Freight yards/forwarding terminals
- Warehousing distribution/high cube distribution centers
- Moving agencies
- Parcel delivery terminals
- Railroad freight stations
- Shipping/receiving yards
- Truck terminals

The following sections shall supersede any existing requirements in the Municipal Code and Specific Plans.

Sec. 19.09.020 – Requirements for warehousing, logistics or distribution facilities for which a Notice of Preparation is issued after March 1, 2024 under CEQA.

1. On-site motorized operational equipment, including but not limited to forklifts, yard trucks, and pallet jacks, shall be ZE (zero emission). This includes electrical hook ups to the power grid, rather than diesel-fueled generators, for contractors' electric construction tools, such as saws, drills and compressors.
2. All outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, forklifts, and landscaping equipment) shall be zero-emission vehicles. Each building shall include the necessary charging stations or other necessary infrastructure for zero-emission cargo handling equipment.
3. Prior to issuance of a business license, the City shall ensure rooftop solar panels are installed and can be operated in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the facility including the parking areas.
4. 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 chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 100% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units (TRUs) to plug in. Truck operators with TRUs shall be required to utilize electric plug-in units when at loading docks.

5. All generators, and all diesel-fueled off-road construction equipment greater than 75 horsepower, will be zero-emissions or equipped with CARB Tier IV-compliant engines (as set forth in Section 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 of the Code of Federal Regulations) or better by including this requirement in applicable bid documents, purchase orders, and contracts with successful contractors. After either (1) the completion of grading or, (2) the completion of an electrical hookup at the site, whichever is first, require all generators and all diesel-fueled off-road construction equipment, to be zero-emissions or equipped with CARB Tier IV-compliant engines (as set forth in Section 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 of the Code of Federal Regulations) or better by including this requirement in applicable bid documents, purchase orders, and contracts with successful contractors. An exemption from these requirements may be granted by the City in the event that the applicant documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment.
6. Prior to certificate of occupancy, install conduit and infrastructure for Level 2 (or faster) electric vehicle charging stations on-site for employees for the percentage of employee parking spaces commensurate with Title 24 requirements in effect at the time of building permit issuance plus additional charging stations equal to 5% of the total employee parking spaces in the building permit, whichever is greater. By 2030 install Level 2 (or faster) electric vehicle charging stations for 25% of the employee parking spaces required.
7. Install HVAC and/or HEPA air filtration systems in all warehouse facilities.

**SECTION 1. CEQA FINDINGS.** The City Council finds the municipal code amendments are exempt from environmental review under CEQA as it is not a Project under CEQA Guidelines Section 15378(b) and is categorically exempt under CEQA Guidelines Section 15308 "Actions by Regulatory Agencies for Protection of the Environment and a Notice of Exemption has been prepared for this proposed amendment.

**SECTION 2. EFFECTIVE DATE.** This ordinance shall become effective effect 30 days after its final passage pursuant to Government Code section 36937.

**SECTION 3. SEVERABILITY.** If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION 4. CUSTODIAN OF RECORDS.** The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 4831 Broadway, Suite 201, American Canyon, CA 94503. The custodian of these records is the City Clerk.

The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of American Canyon, State of California, held on the 6<sup>th</sup> day of February, 2024, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Taresa Geilfuss, CMC, City Clerk

\_\_\_\_\_  
William D. Ross, City Attorney

# ENVIRONMENT | PLANNING | DEVELOPMENT SOLUTIONS, INC.

Date: December 20, 2023  
Prepared by: Brooke Blandino, [brooke@epdsolutions.com](mailto:brooke@epdsolutions.com)  
To: Aron Liang, County of San Bernardino Planning Manager  
Subject: **Duke Warehouse at Slover and Alder: Incorporation of the Attorney General's Warehouse Projects Best Practices and Mitigation Measures**

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## Background

The Project consists of a 259,481 square foot (SF) warehouse building on a 13.23-acre site. The Project building would include 5,000 square feet of office space, a 2,975 square foot mezzanine, and 38 dock doors along the north side of the building, facing Slover Avenue away from sensitive receptors. The Project would include an outdoor, concrete truck court with 85 trailer stalls for loading and unloading. Truck access would be prohibited on Alder Avenue. Additionally, the Alder Avenue driveway is restricted to auto-access including left in access and right out exit so no traffic would be traveling south on Alder near the residential uses and towards the school. Screening features include 24–36-inch box trees along Slover and Alder Avenue as well as along the southern boundary. Additionally, no windows would be included along the south side of the building to reduce noise and glare to the sensitive receptors. The Project proposes an 8-foot high solid wall along the east and south property lines to screen the Project from sensitive receptors. The Project exceeds County sustainability requirements by installing solar photovoltaic systems equal to the building's projected energy needs and it would achieve certification of compliance or demonstrate equivalency with LEED green building standards. The Project would install a TPO 80-mil cool roof to reduce HVAC usage. The Project is committed to zero-emission trucks in 2030 to the extent they are commercially available, would utilize zero-emission forklifts and yard trucks and would include extensive solar. Furthermore, automobile electric vehicle (EV) charging and conduit for future EV truck charging would be installed at dock doors. The Project is seeking approval of a Conditional Use Permit (CUP) pursuant to San Bernardino County Development Code Section 85.060.050 (a)(7) (Projects That Do Not Qualify for a Minor Use Permit) to allow for warehousing and distribution (logistics) uses. The Project does not qualify for a Minor Use Permit because it proposes a structure in excess of 80,000 square feet in area within the Community Industrial (IC) Zoning District.

The 13.23-acre site has a Countywide Plan land use designation of Limited Industrial (LI) and a zoning designation of Community Industrial (IC). The San Bernardino Countywide Plan Limited Industrial land use designation is intended to provide suitable locations for light or limited industrial activities where operations are entirely enclosed in a structure, and limited exterior storage is fully screened from public view. In addition, the Limited Industrial land use category is intended to provide suitable locations for employee intensive uses such as research and development, technology centers, corporate offices, clean industry, and supporting retail uses. The San Bernardino County Development Code allows warehousing and distribution uses in the Community Industrial zoning district, subject to an approved Conditional Use Permit.

In March 2021, the California Department of Justice published a Memorandum entitled "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act" ("Memorandum").

The Memorandum encourages warehouse projects to implement certain best practices and mitigation measures regarding community engagement, siting and design considerations, air quality and greenhouse

gas emissions, noise impacts, and traffic impacts. In response to the Memorandum, the Project Applicant of the Duke Warehouse at Slover and Alder Project has voluntarily incorporated numerous measures recommended in the Memorandum. These measures will be enforced by the County of San Bernardino and will be implemented by the Project Applicant as Project Design Features (PDFs), which are incorporated into the Project's Mitigation Monitoring & Reporting Program.

### Environmental Impact Report

A thorough analysis of Project-specific and cumulative impacts has been included in the Environmental Impact Report (EIR) and its associated Health Risk Assessment, Air Quality Impact Assessment, Greenhouse Gas Analysis, Noise Impact Analysis, Traffic Impact Analysis, and Vehicle Miles Travelled (VMT) Analysis. In order to provide thorough public disclosure, the Applicant and County elected to prepare an EIR, despite the Project not resulting in any significant and unavoidable impacts. As shown throughout the Draft and Final EIR, all impacts associated with the Project would be less than significant or less than significant with mitigation. Further, as part of the Draft EIR, a Construction HRA (Appendix K to the Draft EIR) and Operational HRA (Appendix B to the Draft EIR) to the Draft EIR were prepared pursuant to the requirements and guidelines set forth by SCAQMD and the OEHHA. As detailed in the Impact AQ-3 discussion that begins on page 5.2-32 of the Draft EIR, the Project would result in exposure of sensitive receivers to DPM as a result of heavy-duty diesel trucks traveling to and from the site. However, based on the Operational Mobile HRA, included as Appendix B to the Draft EIR, and the Construction HRA, included as Appendix K to the Draft EIR, cancer risk and non-cancer risks from development of the Project would not exceed applicable SCAQMD significance thresholds with implementation of Mitigation Measure AQ-1, requiring the use of Tier 4 construction equipment. In addition, as detailed in Draft EIR Tables 5.2-10 and 5.2-11, emissions during construction and operation of the Project would not exceed the SCAQMD's localized significance thresholds. Therefore, impacts related to localized emissions would be less than significant. As such, the Project would not result in a substantial health risk to residents of any age within the Project vicinity.

Per the request of the Colton Joint Unified School District (CJUSD), a cumulative HRA has been prepared and was included as Attachment A to the Memorandum provided to the County in response to the late comment letter. The cumulative HRA included cumulative projects within 1,000 feet of the Project site and along the Project's truck route to I-10. The cumulative list (Table 3-1 of Attachment A) includes 5 industrial projects within the City of Fontana and County of San Bernardino. Other existing industrial buildings and I-10 within the vicinity of the Project site are part of the baseline upon which impacts of the Project are compared and, therefore, are not considered in the cumulative analysis. As shown in the cumulative HRA, as shown in Attachment A, at the maximally exposed individual receptor (MEIR), the maximum incremental cancer risk attributable to Project construction-source and operational-source DPM emissions in conjunction with cumulative Projects is estimated at 8.16 in one million, which is less than the threshold of 10 in one million. The total cumulative cancer risk of 8.16 in one million is highly conservative, and the actual risk contributions from each project would be less than this combined value.

### Safety Study

Per the request of the CJUSD within a comment letter received during the Notice of Preparation (NOP) period, a Safety Study was prepared for the Project. Truck access to the Project would only be provided via driveways along Slover Avenue, and Project trucks would be prohibited from traveling on Alder Avenue. The Safety Study found that a student from Bloomington High was observed to walk northbound on Alder Ave on the vehicle right of way as no sidewalks were provided. The student walked to the school bus stop on Slover Ave and waited for the school bus on an unpaved sidewalk until the bus arrived. Additionally, as discussed in Appendix C to the Final EIR, there is insufficient sight distance on Slover Avenue and queuing issues on northbound Alder Avenue. Based on the results of the study, the Project would construct sidewalks along the western frontage of the Project site to support pedestrian safety and would install a signal at the



intersection of Slover Avenue and Alder Avenue to remedy existing traffic safety issues at the intersection and to allow safe traffic operations for proposed traffic.

### Community Outreach and Community Benefits

The Project Applicant has proactively engaged with the community by presenting at two Bloomington Municipal Advisory Council meetings on December 1, 2021 and February 1, 2023; meeting with the school principal on February 28, 2022 to discuss the Project and obtain community engagement efforts with the high school; and hosting a career day at Bloomington High School on April 20, 2022. Furthermore, notices of the EIR and public hearings were sent out in English and Spanish to a 1300-foot radius, which exceeds the requirement set forth by the County as the Project site is not within an Environmental Justice Focus Area, to ensure that the community has been notified. The Project Applicant has committed to providing long term community benefits including a community benefit fund that is a 15-year contribution which includes \$800,000 to be used to fund the Dream Field at Kessler Park and an annual \$0.17 per square foot, approximately \$1,000,000 in off-site improvements including a traffic signal, curb, gutter, and sidewalk, as well as generating approximately 250 construction jobs, and 200 permanent jobs.

In addition, in April 2022, the Applicant reached out to the school district after CJUSD submitted a letter during the NOP public review period. The Applicant offered donations to fund improvements to Bloomington High School which included gymnasium facilities, installation of new air filters, and donation to the school's Business Pathway Program all of which were requested in the NOP letter and subsequent meetings with the school. However, the school board elected not to accept these donations for improvements. Nevertheless, the Applicant has voluntarily entered into a Community Benefits Agreement that will provide funding to the County for infrastructure improvements and community enhancements that are at the County's discretion.

### Incorporated Best Practices & Recommended Measures

The Project Applicant has voluntarily agreed to incorporate various measures from the California Attorney General's memorandum *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*, to reduce potentially significant impacts<sup>1</sup>. In order to ensure a conservative disclosure of Project impacts, no reductions in impacts have been assumed due to the incorporation of these Project Design Features.

As stated on Page 5.2-37 of the Draft EIR and listed below, the following project design features were incorporated into the Project and will be included in the Project's Mitigation Monitoring & Reporting Program:

**PDF AQ-1:** The Project Applicant/Developer/Operator shall post 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, SCAQMD, and the building manager.

**PDF AQ-2:** During Project grading operations, Project contractors shall limit the amount of daily grading disturbance area to not exceed the assumptions specified in the Draft EIR Air Quality Impact Analysis.

**PDF AQ-3:** Project construction plans and specifications shall require on-road heavy-duty haul trucks to be model year 2010 or newer if diesel-fueled, if such equipment is widely available and economically feasible.

**PDF AQ-4:** The Project shall provide electrical hook ups to the power grid, rather than use diesel-fueled generators, for electric construction tools, such as saws, drills and compressors, and shall use electric tools whenever feasible.

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<sup>1</sup> Some of the Best Practices have not been agreed to, or have been modified, when such Best Practices do not constitute feasible mitigation.

**PDF AQ-5:** The construction plans and specifications shall prohibit off-road diesel powered construction equipment from being in the "on" position for more than 10 hours per day during Project construction.

**PDF AQ-6:** During Project construction, the Project contractors shall keep all equipment maintenance records and data sheets, including design specifications and emission control tier classifications, onsite or at the contractor's office and shall furnish documents to the Lead Agency or other regulators, upon request.

**PDF AQ-7:** The Project Applicant/Developer shall provide information on transit and ridesharing programs and services to construction employees.

**PDF AQ-8:** The Project Applicant/Developer shall provide meal options onsite or shuttles between the construction site and nearby meal destinations for construction employees.

**PDF AQ-9:** The Project Applicant/Developer/Tenant shall require that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators which own vehicles subject to Section 2025 shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.

**PDF AQ-10:** The Project Applicant/Developer/Tenant shall require that all heavy-duty trucks entering or operated on the project site to be zero-emission beginning in 2030, if such trucks are widely available and economically feasible.

**PDF AQ-11:** The Project Applicant/Developer/Tenant shall require all on-site equipment, such as forklifts and yard trucks, to be electric, propane or natural gas with the necessary electrical charging stations provided.

**PDF AQ-12:** The Project Applicant/Developer/Owner shall require tenants to use zero-emission light- and medium-duty trucks as part of business operations, if such trucks are widely available and economically feasible.

**PDF AQ-13:** The Project Applicant/Developer shall construct electric truck charging infrastructure consisting of infrastructure (i.e., conduit) to support future installation of charging stations, when such trucks are widely available and economically feasible.

**PDF AQ-14:** The Project Applicant/Developer shall construct electric light-duty truck charging infrastructure consisting of infrastructure (i.e., conduit) proportional, i.e., conduit for one charging station for every five light-duty truck parking spaces at the Project.

**PDF AQ-15:** The Project Applicant/Developer shall install all necessary infrastructure (i.e., wiring, reinforced roofs) to allow solar photovoltaic systems on the project site to be installed in the future, with a specified electrical generation capacity, such as equal to the building's projected energy needs.

**PDF AQ-16:** The Project Applicant/Developer/Owner shall require all stand-by emergency generators to be powered by a non-diesel fuel.

**PDF AQ-17:** The Project owner shall require facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.

**PDF AQ-18:** The Project owner shall require 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.

**PDF AQ-19:** The Project shall meet CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.

**PDF AQ-20:** The Project will achieve certification of compliance or demonstrate equivalency with LEED green building standards.

**PDF AQ-21:** The Project Owner/Tenant shall provide meal options onsite or shuttles between the facility and nearby meal destinations if feasible.

**PDF AQ-22:** The Project Applicant/Developer/Owner shall post signs at every truck exit driveway providing directional information to the truck route.

**PDF AQ-23:** The Project Applicant/Developer/Owner shall require 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, if the tenant/facility operator owns its own fleet of vehicles, subject to 13 California Code of Regulations section 2025, require such tenants/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.

**PDF AQ-24:** The Project Applicant/Developer/Owner shall encourage tenants to enroll in the United States Environmental Protection Agency's SmartWay program and encourage tenants to use carriers that are SmartWay carriers.

**PDF AQ-25:** The Project Applicant/Developer/Owner shall provide tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

## Conclusion

The Project EIR analysis, mitigation measures, and project design features (PDFs) have been designed to address the vast majority of the recommendations provided by the Attorney General and the Project has also exceeded public outreach requirements. These mitigation measures and PDFs are included within the Project's Mitigation Monitoring & Reporting Program and are required to be implemented. The Project Applicant believes that the Project helps fulfill the needs of San Bernardino County and Southern California region residents by creating much-needed, high-paying jobs, through the construction and operation of a state-of-the-art warehouse facility to help address supply chain challenges. As discussed previously, the Project does not have any significant environmental impacts and has incorporated numerous measures in order to address the community's concerns related to potential safety issues, cumulative health risk impacts, and cumulative air quality impacts.