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## **Appendix B**

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February 6<sup>th</sup>, 2023

Ashley Vera  
City of Livermore  
Community Development Department  
1052 S. Livermore Avenue  
Livermore, CA, 94550

**SUBJECT:** Response to the Notice of Preparation of an Environmental Impact Report for the Proposed SMP 38/SMP 39/SMP 40 Project

Dear Ashley,

Thank you for the opportunity to comment on the Notice of Preparation (NOP) of the Environmental Impact Report (EIR) for the Surface Mining Permit (SMP) 38/SMP 39/SMP 40 Project. The project site consists of nine parcels in unincorporated Alameda County, which are divided into three SMP sites. The roughly 217-acre site is located just south of I-580 between the Cities of Livermore and Pleasanton, and bound by West Jack London Boulevard to the north, Isabel Avenue (SR-84) to the east, Stanley Boulevard to the south, and El Charro Road to the west. The project proposes developing SMP 39 and SMP 40 which are currently undeveloped, to build up to eight industrial and light industrial buildings totaling 1,514,308 square feet. The project additionally plans for General Plan and zoning amendments, the annexation of four additional parcels east of SMP 40, and the development of internal roadways, parking, landscaping and other related improvements.

The Alameda County Transportation Commission (Alameda CTC) respectfully submits the following comments:

Basis for Congestion Management Program (CMP) Review

- It appears that the proposed project will generate at least 100 p.m. peak hour trips over existing conditions, and therefore the CMP Land Use Analysis Program requires the City to conduct a transportation impact analysis of the project. For information on the CMP, please visit: <https://www.alamedactc.org/planning/congestion-management-program/>.

Use of Countywide Travel Demand Model

- The Alameda Countywide Travel Demand Model should be used for CMP Land Use Analysis purposes. The CMP requires local jurisdictions to conduct travel model runs themselves or through a consultant. The City of Livermore and the Alameda CTC signed a Countywide Model Agreement on April 1<sup>st</sup>, 2008. Before the model can be used for this project, a letter must be submitted to the Alameda CTC requesting use of the model and describing the project. A copy of a sample letter agreement is available upon request. The most current version of the Alameda CTC Countywide Travel Demand Model was updated in May 2019 to be consistent with the assumptions of Plan Bay Area 2040.

## Impacts

- The EIR should address all potential impacts of the project on the Metropolitan Transportation System (MTS) roadway network.
  - MTS roadway facilities in the project area include:
    - I-580 in Livermore and Pleasanton
    - SR-84 (Isabel Ave and Vallecitos Rd)
    - East and West Jack London Blvd., Airway Blvd., El Charro Rd., and Stanley Blvd.
  - For the purposes of CMP Land Use Analysis, the Highway Capacity Manual 2010 freeway and urban streets methodologies are the preferred methodologies to study vehicle delay impacts.
  - The Alameda CTC has *not* adopted any policy for determining a threshold of significance for Level of Service for the Land Use Analysis Program of the CMP.
- The EIR should address potential impacts of the project on Metropolitan Transportation System (MTS) transit operators.
  - MTS transit operators potentially affected by the project include: BART, LAVTA
  - Transit impacts for consideration include the effects of project vehicle traffic on mixed flow transit operations, transit capacity, transit access/egress, need for future transit service, and consistency with adopted plans.
- The EIR should address potential impacts of the project to people biking and walking in and near the project area, especially nearby roads included in the Countywide High-injury Network and major barriers identified in the Countywide Active Transportation Plan.
  - Impacts to consider include the effects of vehicle traffic on cyclist and pedestrian safety and performance, the impacts of site development and roadway improvements, and consistency with adopted plans.

## Mitigation Measures

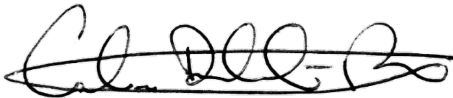
- Alameda CTC's policy regarding mitigation measures is that to be considered adequate they must:
  - Adequately sustain CMP roadway and transit service standards;
  - Be fully funded; and
  - Be consistent with project funding priorities established in the Capital Improvement Program of the CMP, the Countywide Transportation Plan (CTP), and the Regional Transportation Plan (RTP) or the Federal Transportation Improvement Program, if the agency relies on state or federal funds programmed by Alameda CTC.
- The EIR should discuss the adequacy of proposed mitigation measures according to the criteria above. In particular, the EIR should detail when proposed roadway or transit route improvements are expected to be completed, how they will be funded, and the effect on service standards if only the funded portions of these mitigation measures are built prior to Project completion. The EIR should also address the issue of transit funding as a mitigation measure in the context of the Alameda CTC mitigation measure criteria discussed above.
- Jurisdictions are encouraged to discuss multimodal tradeoffs associated with mitigation measures that involve changes in roadway geometry, intersection control, or other changes to the

transportation network. This analysis should identify impacts to automobiles, transit, bicyclists, and pedestrians. The HCM 2010 MMLOS methodology is encouraged as a tool to evaluate these tradeoffs, but project sponsors may use other methodologies as appropriate for particular contexts or types of mitigations.

- The EIR should consider the use of TDM measures, in conjunction with roadway and transit improvements, as a means of attaining acceptable levels of service. Whenever possible, mechanisms that encourage ridesharing, flextime, transit, bicycling, telecommuting and other means of reducing peak hour traffic trips should be considered.

Thank you for the opportunity to comment on this NOP. Please contact me at (510) 208-7474 or Shannon McCarthy at (510) 208-7489 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Colin Dentel-Post". The signature is fluid and cursive, with a horizontal line crossing through the middle of the letters.

Colin Dentel-Post  
Principal Planner

cc: Shannon McCarthy, Associate Transportation Planner  
Chris G. Marks, Senior Transportation Planner

## California Department of Transportation

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



February 3, 2023

SCH #: 2023010091  
GTS #: 04-ALA-2023-00703  
GTS ID: 28593  
Co/Rt/Pm: ALA/580/15.278

Ashley Vera, Associate Planner  
City of Livermore  
1052 S. Livermore Avenue  
Livermore, CA 94550

### **Re: SMP 38/SMP 39/SMP 40 Project – Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR)**

Dear Ashley Vera:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the SMP 38/SMP 39/ SMP 40 Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the January 2023 NOP.

#### **Project Understanding**

For SMP 38, the proposed project includes a Sphere of Influence (SOI) Amendment to include SMP 38 within the City of Livermore SOI and remove it from City of Pleasanton's SOI. For SMP 39, the proposed project would include development of a total of up to six light industrial buildings of approximately 755,500 square feet (s.f.). For SMP 40, the proposed project would include development of two industrial buildings of 758,808 s.f. The entitlement is only proposed for SMP 40 at this time. One of the proposed additional annexation parcels is owned by Caltrans, directly adjacent to State Route (SR)-84.

#### **Proposed Trail Connection**

In reference to Section 1.2, *Project Components*, please note that all trail option designs should meet Highway Design Manual (HDM) standards for Class I Bikeways (Bike Paths), [HDM 1003.1](#).

### **Lead Agency**

As the Lead Agency, the City of Livermore is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

### **Equitable Access**

If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

### **Encroachment Permit**

Please be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' Right-of-Way (ROW) requires a Caltrans-issued encroachment permit. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating Caltrans' ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. Your application package may be emailed to [D4Permits@dot.ca.gov](mailto:D4Permits@dot.ca.gov).

Please note that Caltrans is in the process of implementing an online, automated, and milestone-based Caltrans Encroachment Permit System (CEPS) to replace the current permit application submittal process with a fully electronic system, including online payments. The new system is expected to be available during 2023. To obtain information about the most current encroachment permit process and to download the permit application, please visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Ashley Vera, Associate Planner  
February 3, 2023  
Page 3

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, or for future notifications and requests for review of new projects, please email [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov).

Sincerely,

A handwritten signature in black ink that reads "Mark Leong". The signature is written in a cursive, flowing style.

MARK LEONG  
District Branch Chief  
Local Development Review

c: State Clearinghouse

## NATIVE AMERICAN HERITAGE COMMISSION

January 9, 2023

Ashley Vera  
 City of Livermore, Community Development Department  
 1052 S. Livermore Avenue  
 Livermore, CA 94550

RECEIVED

JAN 19 2023

PLANNING DIVISION

**Re: 2023010091, SMP 38/SMP 39/SMP 40 Project, Alameda County**

Dear Ms. Vera:

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

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

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

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

AB 52

CHAIRPERSON  
**Laura Miranda**  
 Luiseño

VICE CHAIRPERSON  
**Reginald Pagaling**  
 Chumash

SECRETARY  
**Sara Dutschke**  
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 Ohlone-Costanoan

COMMISSIONER  
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 Yokayo Pomo, Yuki,  
 Nomlaki

COMMISSIONER  
**Wayne Nelson**  
 Luiseño

COMMISSIONER  
**Stanley Rodriguez**  
 Kumeyaay

COMMISSIONER  
**[Vacant]**

COMMISSIONER  
**[Vacant]**

EXECUTIVE SECRETARY  
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 Miwok/Nisenan

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

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

  - a. A brief description of the project.
  - b. The lead agency contact information.
  - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
  - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

  - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

  - a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

  - a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.
  - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

  - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
  - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

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

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

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

[https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

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

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

### NAHC Recommendations for Cultural Resources Assessments

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

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

3. Contact the NAHC for:
  - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
  
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:  
[Cody.Campagne@nahc.ca.gov](mailto:Cody.Campagne@nahc.ca.gov).

Sincerely,

*Cody Campagne*

Cody Campagne  
Cultural Resources Analyst

cc: State Clearinghouse



March 29, 2023

Via email to: [asvera@LivermoreCA.gov](mailto:asvera@LivermoreCA.gov)

Ashley Vera  
Associate Planner  
City of Livermore  
Planning Division  
1052 S. Livermore Ave  
Livermore, CA 94550

Subject: **APZ21-003/SMP 38, SMP 39 and SMP 40**

Dear Ms. Vera:

Thank you for notifying the City of Pleasanton of the proposed project identified as APZ21-003. The proposed project includes the following:

1. SMP 38 - A Sphere of Influence (SOI) Amendment to include SMP 38 within the City of Livermore SOI and remove it from City of Pleasanton's SOI. The City of Livermore General Plan land use designation for SMP 38 would remain Limited Agriculture and Open Space/Sand and Gravel and the Alameda County zoning designation would remain Agriculture. Development of SMP 38 is not proposed.
2. SMP 39 and SMP 40:
  - SMP 39 - A development of a total of up to six light industrial buildings, consisting of up to approximately 755,500 square feet (sf) total of new building space, and associated internal roadways, parking, landscaping, utilities, and other improvements.
  - SMP 40 - A development of two industrial buildings containing up to approximately 758,808 sf of new building space with related internal roadways, parking, landscaping, utilities, and other improvements.
  - SMP 39 and SMP 40 - A SOI Amendment, Pre-zoning and Annexation, General Plan Amendment, Zoning Map Amendment/Planned Development, Vesting Tentative Subdivision Maps, and Development Agreement.

The City of Pleasanton has the following comments:

1. SMP 38 - In past communications with Livermore on the subject matter, SMP 38 has been dealt as a future phase of the development. Though included in the general discussion of the development, discussion has been focused on the developments of SMP 39 and SMP 40. Given SMP 38's proximity to Pleasanton, development of the site would conceivably have the most impacts to

**COMMUNITY DEVELOPMENT**  
**94566-0802**

**P. O. BOX 520, Pleasanton, CA**

**Planning**  
200 Old Bernal Ave.  
(925) 931-5600  
Fax: 931-5483

**Building & Safety**  
200 Old Bernal Ave.  
(925) 931-5300  
Fax: 931-5478

**Traffic**  
200 Old Bernal Ave.  
(925) 931-5677  
Fax: 931-5487

City of Livermore  
APZ21-003/SMP 38, SMP 39 and SMP 40  
March 29, 2023

Pleasanton. Without knowing the proposed re-zoning of the site and potential land uses on the site, Pleasanton elects to retain its SOI boundary at SMP 38. Pleasanton will participate in a discussion of SOI amendment when there is a proposal including zoning and allowed land uses for SMP 38.

2. SMP 39 and SMP 40 - Pleasanton has in the past expressed concerns on impacts on Pleasanton roadways and intersections from project-related traffic. While Pleasanton is supportive of the proposal on SMP 39 and SMP 40, development of these sites should include mitigations to minimize impacts and improve roadway capacity such as modifying Jack London Boulevard to be four lanes and necessary mitigations to I-580 and the El Charro Road interchange. Staff would bring forward the proposal to our City Council for consideration of their support for the SOI amendment and annexation of SMP-39 and SMP-40 into Livermore. It is however expected Livermore would take the lead in securing approvals from Alameda LAFCo.
3. Since the properties are in close proximity to the East Pleasanton Specific Plan area as identified in Pleasanton's General Plan, Pleasanton would seek commitments from Livermore to the extent permissible, to limit future city-initiated adjustments to its Urban Growth Boundary in the east Pleasanton/west Livermore area, proximate to the subject parcels. And, if and when Pleasanton City Council directs staff to commence the specific plan process, Pleasanton would identify the City of Livermore, property owner, and project developer as cooperative and constructive partners and stakeholders in the specific plan process,

We appreciate Livermore's referral of this project to Pleasanton. Pleasanton requests the ongoing ability to participate in and provide comments on the proposals, and upcoming environmental review of the project.

Please call me at 925-931-5606 or contact me via email at [eclark@cityofpleasantonca.gov](mailto:eclark@cityofpleasantonca.gov) should you have any questions or want to discuss this matter further. I look forward to cooperatively working with the City of Livermore regarding this proposal.

Sincerely,



Ellen Clark, AICP  
Director of Community Development

c: Gerry Beaudin, City Manager  
Daniel G. Sodergren, City Attorney

## **SMP 38/SMP 39/SMP 40 Project NOP Scoping Meeting Comments Summary**

**Date:** January 17, 2023

**Time:** 7:00 PM

**Location:** Civic Center Meeting Hall, City Council Chambers  
1016 S. Livermore Avenue  
Livermore, CA 94550

### **Verbal Comments (arranged in order of “appearance” of commenter):**

#### **Public Comments**

##### Commenter 1 (Allen Marley)

- Commenter would like the project to include as much solar as possible (rooftops, solar farm array, something similar to what was done to the library).

##### Commenter 2 (Brian Warner)

- Commenter urges support for project.
- Commenter states that the project will create great tax revenue for the City.
- Commenter states that the City needs more industrial projects like this and strongly encourages the City to approve.

#### **Commissioner Comments**

##### Commissioner Anderson

- Commissioner has no comments at this time, but thanks staff for hard work.

##### Commissioner Stein

- Commissioner has no comments at this time, but asks if the site could be used as a quarry.

##### Commissioner Leary

- Commissioner would like to make sure the EIR takes into account the adjacent quarry space (next to SMP 38).
- Commissioner notes that there was a problem right next to quarry for “Lake A”, south of Concannon, and wants to ensure similar issues do not occur for this project.
- Commissioner requests adequate provisions for setbacks for any adjacent quarry/soils.
- Commissioner notes that there will be quite a bit of asphalt that the City will have to maintain (e.g., Isabel and other roads) and asks how they would be maintained, noting potential increase in maintenance needs due to trucks.

##### Commissioner Dunbar

- Commissioner appreciated that the truck bays were designed north/south facing to avoid noise.

- Commissioner would like all VMT mitigation measures to be considered and thorough, noting avoidance of the situation with Oaks Business Park where a bus stop was provided along one side of roadway, not both.