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May 3, 2021

*Via Email*

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Mark Joseph, Vice Mayor  
Mariam Aboudamous  
David Oro  
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**Re: SDG Commerce 217 Distribution Center (PL20-0008) – Recirculated Mitigated Negative Declaration and Conditional Use Permit**

Dear Mayor Garcia, Vice-Mayor Joseph, Council Members Aboudamous, Oro, and Washington and Mr. He:

I am writing on behalf of Laborers International Union of North America, Local 324 (“LIUNA”) and its members living and working in and around the City of American Canyon regarding the Recirculated Draft Initial Study and Mitigated Negative Declaration (“MND”) prepared for the proposed SDG Commerce 217 Distribution Center Project (the “Project”). This comment letter supplements and incorporates by reference our previous written comments dated January 19, 2021 and February 25, 2021 (attached hereto as Exhibits C and D).

We have requested the assistance of Registered Professional Traffic Engineer Tom Brohard of Tom Brohard and Associates in reviewing the MND’s discussion of the Project’s increase in vehicle miles traveled (“VMT”), resulting transportation effects and the adequacy of the proposed mitigation measure. Tom Brohard and Associates Comments (April 30, 2021 (attached as Exhibit A.) Mr. Brohard prepared the attached expert comment regarding the Project’s VMT analysis and identified numerous significant flaws in that analysis. Fundamentally, the claim that constructing an 800-foot bike lane would reduce VMT of commuters in nearby neighborhoods by 733 VMT daily is not supported by substantial evidence because it assumes that cyclists cannot currently ride on Commerce Avenue from Eucalyptus Drive to the existing bike lane adjacent to the SDG Commerce 330 building. Commuting cyclists already can ride without hindrance along that stretch of Commerce Avenue. As a result, the claimed VMT reductions of the new bike lane stretch are blatantly exaggerated by the Project and its consultant. As Mr. Brohard’s analysis points out, a more realistic estimate of the VMT reductions based on guidance prepared on behalf of the California Air Resources Board (“CARB”) would be a VMT reduction of 24 VMT. Using the methodology in the 2006 report

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cited by the City’s consultant – NCHRP Report 552 “Guidelines for Analysis of Investments in Bicycle Facilities” – Mr. Brohard calculates the bike lane would reduce VMT by 28 VMT. IN either case, the proposed 800-foot bike lane does not come close to mitigating the Project’s increases in VMT. Because Mr. Brohard’s expert comments are substantial evidence of a fair argument that the Project may have a significant transportation impact, the Council should elect not to approve the MND and instead instruct staff to prepare an environmental impact report (“EIR”) for the Project.

**A. The VMT Analysis Fails to Address the Numerous Non-commute Trips Generated by the Project.**

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The MND and Appendix F estimate that there will be 367 new daily trips generated by the Project, including “employee trips, visitor trips, delivery trips, and truck trips.” (GHD Memorandum, p. 5 (March 21, 2021). GHD calculates that 37% of the total trips, i.e., 136 trips, are employee commute trips. (*Id.*) There is no information in the MND identifying which vehicle type the remaining 231 trips involve. The non-commute employee trips (e.g., lunch trips) as well as the delivery vehicle trips would all add additional VMTs to the project. As Mr. Brohard states, it is reasonable to estimate that up to half of those non-commute trips – 115 trips - are not semi-truck trips. (Brohard Comment, p. 2.) GHD states that the non-commute trip lengths are 23.8 miles. (GHD Memorandum, p. 18.) The VMTs associated with these non-commute Project trips may surpass the commute VMTs – 2,737 non-commute VMT vs. 2,214 commute VMT. (Brohard Comment, p. 2.) Those VMTs must be disclosed in order to evaluate the Project’s VMT impacts and also for the City to consider how those trips should be factored into the VMT impact analysis. Because the MND omits any discussion of this transportation impact, it is insufficient as an informational document under CEQA.

**B. Substantial Evidence of a Fair Argument Exists That the Project May Have a Significant Transportation Impacts.**

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As we noted in our prior comments, under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. (CEQA Guidelines, § 15064(f)(1); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927, 931. “[I]t is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is de novo, with a *preference for resolving doubts in favor of environmental review.*” (*Pocket Protectors*, 124 Cal.App.4th at 928 [emphasis in original].) Likewise, as a matter of law, “substantial evidence includes . . . expert opinion.” (Pub. Resources Code, § 21080(e)(1); CEQA Guidelines, § 15064(f)(5).) Where experts have presented conflicting evidence on the extent of the environmental effects of a project, the agency must consider the environmental effects to be significant and prepare an EIR. (CEQA Guidelines § 15064(f)(5); Pub. Res. Code § 21080(e)(1); *Pocket Protectors*, 124 Cal.App.4th at 935.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc.*, 13 Cal.3d at 83.)

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Traffic engineer Brohard’s expert review and comment is substantial evidence. His thorough critique of the GHD methodology to assess the VMT benefits of the proposed bike lane as well as his application of CARB guidance demonstrate a fair argument that the Project may have significant transportation impacts.

**a. The MND’s assertion that the proposed 800-foot bike lane should be credited with benefits for an additional 1.7 miles of existing bike lane is arbitrary and capricious.**

MND Appendix F states that “the only connection to employment destinations north of Eucalyptus today is along the shoulders of SR 29...” (GHD Memorandum, p. 22 (March 21, 2021).) Appendix F also claims that “[t]he Wetlands Edge bike path is used recreationally, but has limited utility for commuter use, as it does not provide a connection between American Canyon residents west of SR 29 to employment destinations north of Eucalyptus.” (*Id.*) Neither of these assertions are supported by any substantial evidence. There was no investigation by the City or applicant of bike usage of the Wetlands Edge bike path or the number of bike commuters using that path. More importantly, recent photos of the roadway from Eucalyptus Drive to the existing bike path adjacent to SDG Commerce 330 shows that the route is entirely accessible to commuting cyclists. Photos obtained from the Napa County Bicycle Coalition show a well-maintained road that extends from Eucalyptus to the existing bike path. (Brohard Comments, Attachments.) The entrance to the bike path is signed instructing bikes to yield to pedestrians – a clear indication that the route is used by cyclists. (*Id.*) There is no evidence supporting the claim that bikes must ride out to SR 29 to travel to the north side of the Project site.

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GHD and the MND rely upon the false notion that commuting cyclists cannot access the existing bike path in order to claim that the 800-foot length of bike path proposed by the Project should get to take credit for inducing commuting cyclists all along the 1.7 mile stretch of the Wetlands Edge Bike Path extending south of Eucalyptus Drive. Because the underlying premise that there is no connection to the existing bike path is incorrect, the entire exercise to inflate the VMT mitigation benefits is not supported by substantial evidence. Even if there was no connection as claimed, the analysis conducted to attribute half of the benefits of an existing 1.7 miles of bike lane to an 800-foot stretch is entirely random and unsupported by any rational basis. (Brohard Comments, p. 3.) Moreover, the analysis is inconsistent with the NCHRP Report GHD purports to follow. GHD adds a zone extending out from 1601 to 2400 meters from the existing Wetlands Edge Bike Path. As Mr. Brohard explains, “the NCHRP Report 552 does not provide a basis for calculating induced bike commuters from a zone extending from 1601 to 2400 m from the proposed bike path.” (Brohard Comments, p. 4.) Likewise, Mr. Brohard notes the flaw in GHD randomly averaging VMT forecasts of a presumed 1.85 mile long bike path and the proposed 800-foot bike path. (*Id.*, pp. 7-8.) Limiting the NCHRP Report 552 methodology to the 800-foot bike lane proposed by the applicant leads to an estimate of 28 new bike commuters induced by the new bike lane. (*See* GHD Memorandum, p. 23 (March 21, 2021).)

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**b. The commuting bike trip lengths of 5.2 miles claimed by the MND and GHD's analysis is not supported by any substantial evidence.**

5 The VMT reduction claimed for the proposed bike lane is based on an assumption that commuting cyclists originating from the residential neighborhood south and east of Eucalyptus Drive will on average bike 5.2 miles to their place of employment. (GHD Memorandum, pp. 9, 24 (March 21, 2021).) GHD's third iteration of its analysis includes an alternative figure of a 3.8 mile average bicycle commute. (*Id.*) This number is purportedly supported by an AASHTO report which is not available for sale or otherwise on-line. (Brohard Comments, pp. 1-2.) Contrary to either of these self-serving estimates, there is no evidence in the record that a cyclist could travel more than about 0.75 miles north of Eucalyptus Drive. (*Id.*, p. 6. *See* Google Earth Image dated October 2020 attached as Exhibit B). It appears that, once a cyclist reaches Green Island Road, he/she then would have to travel out to SR 29 in order to proceed north to the airport and beyond. Ironically, this is the true disconnect – not Commerce Avenue – to bike commutes proceeding north of Green Island Road. As a result, any cycling commute trips induced by the proposed 800-foot bike lane logically must be limited to .75 miles in length. (Brohard Comments, p. 6.)

**c. Applying CARB methodology to estimating VMT reductions induced by a bike facility, the proposed bike lane would induce only bike commutes replacing 24 VMTs.**

6 Mr. Brohard applies a methodology identified by CARB for estimating the number of bike trips induced by a new bike facility. (Brohard Comments, pp. 7-8.) Mr. Brohard's application of the CARB methodology estimates the proposed bike lane would induce new bike commuters that would reduce VMT from nearby neighborhoods by 24 VMT. Whether employing the VMT reduction of 729 VMT estimated by GHD or approximately 3,400 VMT after taking into account the other vehicle trips resulting from the Project, there is a fair argument that the VMT reduction based on new commuter cyclists on the proposed 800-foot bike lane does not come close to mitigating the Project's transportation impacts to a less than significant level.

In addition to these potential transportation impacts, LIUNA also previously submitted substantial evidence of fair arguments that the Project may have significant health risks and impacts on wildlife. For all of these reasons and those discussed in our prior comments, the MND is inadequate and an EIR is required to analyze and mitigate the Project's potentially significant environmental impacts. Thank you for your attention to LIUNA's appeal and these comments.

Sincerely,



Michael Lozeau  
Lozeau | Drury LLP