



REGULAR ADJOURNED MEETING OF THE
MONTCLAIR PLANNING COMMISSION

to be held in the Council Chambers
5111 Benito Street, Montclair, California

Monday, May 9, 2022
7:00 p.m.

Remote Participation Information:
Zoom Link: <https://zoom.us/j/95858571900>
Dial Number: 1-(669)-900-6833
Meeting ID: 95858571900

*To make a public comment or speak on an agenda item, including a public hearing, please complete the online public comment form at <https://www.cityofmontclair.org/public-comment/>. Written comments (200-word limit per agenda item and 200-word limit for all non-agenda items combined) and requests to speak can also be emailed to pcclerk@cityofmontclair.org at least one hour before the meeting begins. The chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate time during the meeting. Those participating remotely may request to speak using the "raise hand" function in Zoom (dial *9 if on the phone, and then *6 to un-mute when called on to speak).*

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Chair Manny Martinez, Vice-Chair Jaso Sanchez, Commissioner Ginger Eaton, Commissioner Krishna Patel, and Commissioner Sergio Sahagun

4. APPROVAL OF MINUTES

The minutes from the April 25, 2022 meeting were presented for approval.

5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS

The public is invited to address the Planning Commission regarding any items that are not on the agenda. Comments should be limited to matters under the jurisdiction of the Planning Commission. It is respectfully requested that speakers limit their comments to no more than three minutes in length.

Any person wishing to address the Planning Commission on an agenda or non-agenda item should complete an online public comment form as described above.

6. AGENDA ITEMS

- a. PUBLIC HEARING – CASE NUMBER 2022-07
(continued from the April 25, 2022 meeting)
Project Address: 5006-5010 Mission Boulevard
Project Applicant: New Crossings Development, LLC
Project Planner: Silvia Gutiérrez
Request: General Plan Amendment to modify land use designation from General Commercial to Business Park, Parcel Map No. 20393 to consolidate the three existing parcels into one parcel, and a Precise Plan of Design for a proposed an industrial/warehouse building and associated site improvements on a 5.13-acre site

Although the Planning Commission is prohibited from taking action on or discussing items, not on the posted agenda, a member of the Planning Commission may ask for information, request a report back, or to place a matter of business on the agenda for a subsequent meeting, ask a question for clarification, make a brief announcement, or briefly, report on his or her own activities, provided the foregoing are related to, or within the jurisdiction of, the Planning Commission.

8. PUBLIC INSPECTION OF MATERIALS

Reports, backup materials, and additional materials related to this project item can be viewed on our website www.cityofmontclair.org/agendas by clicking on the Planning Commission agenda for May 9, 2022.

9. ADJOURNMENT

The City of Montclair Planning Commission meeting is adjourned to the regularly scheduled meeting of May 23, 2022, at 7:00 p.m.

CERTIFICATION OF AGENDA POSTING

I, Laura Embree, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda has been posted on the bulletin board adjacent to the north door of Montclair City Hall on May 5, 2022.



CITY OF MONTCLAIR PLANNING COMMISSION

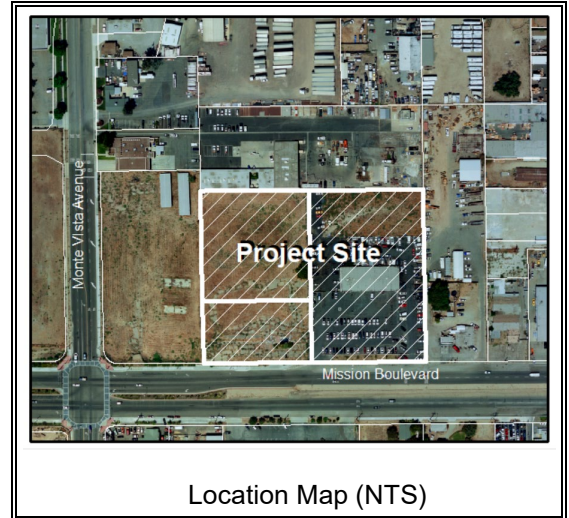
MEETING DATE: 5/09/22

AGENDA ITEM 6.a

Case No. 2022-07

Application: The project involves the following requested entitlements:

- General Plan Amendment to change a portion of the project site's General Plan land use designation from General Commercial to Business Park; and
- Tentative Parcel Map No. 20393 to consolidate three existing parcels on the project site into one parcel; and
- A Precise Plan of Design (PPD) for a proposed 115,300 square-foot industrial/warehouse building and associated site improvements on a 5.13-acre site.



Project Location: 5006-5010 Mission Boulevard, near the NEC of Mission Boulevard and Monte Vista Avenue

Property Owner: New Crossings Development, LLC

General Plan: General Commercial and Business Park

Zoning: MIP Manufacturing Industrial Park

Assessor Parcel Numbers: 1011-311-15, 1011-311-17, and 1011-311-19

EXISTING SITE FEATURES:

An existing 8,500 square-foot building located at 5010 Mission Boulevard to be demolished.

ADJACENT LAND USE DESIGNATIONS AND USES:

	<i>General Plan</i>	<i>Zoning</i>	<i>Existing Use of Property</i>
Site	General Commercial & Business Park	Manufacturing Industrial Park (MIP)	Undeveloped Land and a Vacant Building
North	Public/Quasi Public	M-1 Limited Manufacturing	City Yard
South	General Commercial	R3, Multifamily Residential and C3 General Commercial	Multifamily and single-family homes and commercial uses
East	Business Park	MIP Manufacturing Industrial Park	Industrial uses
West	General Commercial	MIP Manufacturing Industrial Park	Industrial uses

Report on Item Number 6.a

CASE NUMBER 2022-07

APPLICATION TYPE	General Plan Amendment Tentative Parcel Map No. 20393 Precise Plan of Design
NAME OF APPLICANT	New Crossings Development, LLC
LOCATION OF PROPERTY	5006-5010 Mission Boulevard
GENERAL PLAN DESIGNATION	General Commercial and Business Park
ZONING DESIGNATION	MIP - Manufacturing Industrial Park
EXISTING LAND USE	Existing 8,500 square-foot building to be demolished
ENVIRONMENTAL DETERMINATION	Mitigated Negative Declaration
PROJECT PLANNER	Silvia Gutiérrez

The Planning Commission continued review of this item from its regularly scheduled meeting on April 25, 2022. Although the project was introduced at the April 25, 2022, Planning Commission meeting, staff did not make a formal presentation. The primary reason for the continuation was the receipt of two letters from two law firms representing labor unions, which were submitted late in the day and before the scheduled hearing. Given the extent and nature of the comments in both letters, there was insufficient time to adequately respond to the concerns during the meeting. Essentially, both letters are similar and describe the concerns of each firm's respective clients over the environmental impacts that the commenters allege would be caused by construction activities if the project was not required to utilize a local and skilled workforce.

Since the proposal was advertised as a public hearing, the Planning Commission opened the public hearing and took public comments from two individuals, in addition to receiving the above-referenced comment letters. After comments were received, the Commission voted to continue the item to its regularly scheduled meeting on May 9, 2022. The April 25, 2022 staff report prepared for this project and updated resolutions are attached as Attachment A. Staff's recommendation to the Planning Commission on the application requests remains the same as was outlined in the April 25, 2022 staff report.

Public Comments

- *Comment Letter from the Law Offices of Mitchell M. Tsai (received on April 25, 2022, via email at 2:56 p.m.)*

This letter is virtually identical to a letter submitted by Mr. Tsai's office on March 16, 2022, during the public review period for the Initial Study prepared for the project. The project's environmental consultant responded to the issues raised in this letter, and those responses are included in the Final IS/MND prepared for the project. (Attachment B)

- *Comment Letter from the Law Offices of Lozeau & Drury (received via email on April 25, 2022, at 5:15 p.m.)*

Given the late submittal of the letter from Lozeau & Drury, staff is continuing to work on responses to the issues raised and will make responses available for Planning Commission review and discussion at or before the May 9, 2022, hearing. (Attachment C)

- *Comment (Phone): Juan Olmedo, representative of the Southwest Regional Council of Carpenters*

Mr. Olmedo urged the City to require the project be built utilizing a local and skill-trained workforce. Mr. Olmedo contended that hiring a local and skill-trained workforce would significantly reduce construction-related environmental impacts and also benefit the local economy by limiting vehicle miles traveled (VMT) thereby reducing impacts to air quality and greenhouse gases.

- *Comment No. 3: Bruce Culp, Montclair resident*

Mr. Culp stated that "...warehouse projects put profits over people and although, in a sense, they bring money and jobs, but at what cost?" He believed warehouses brought dangers to disadvantaged communities through increased truck traffic, pollutants, and additional greenhouse gases.

Planning Division Recommendation

Staff's recommendation on the requested entitlements remains the same as was presented in the staff report prepared for the April 25, 2022, meeting.

Respectfully Submitted,



Michael Diaz
Director of Community of Development

MD/sg

Attachments: A – April 25, 2022, Planning Commission Staff Report and Revised Resolutions
 B – Comment Letter from the Law Offices of Mitchell M. Tsai
 C – Comment Letter from the Law Offices of Lozeau & Drury

c: Anthony La and Cary Niu, 138 North Glendora Avenue, Glendora, CA 91741
 Roger Deitos, GAA Architects, 8811 Research Drive, Suite 200, Irvine, CA 92618
 Madole & Associates 9302 Pittsburgh Avenue, Suite 230, Rancho Cucamonga, CA 91730
 Scott Peterson Landscape Architect, Inc., 2883 Via Rancheros Way, Fallbrook, CA 92028

Attachment A:
April 25, 2022, Planning Commission Staff Report
and Revised Resolutions



CITY OF MONTCLAIR PLANNING COMMISSION

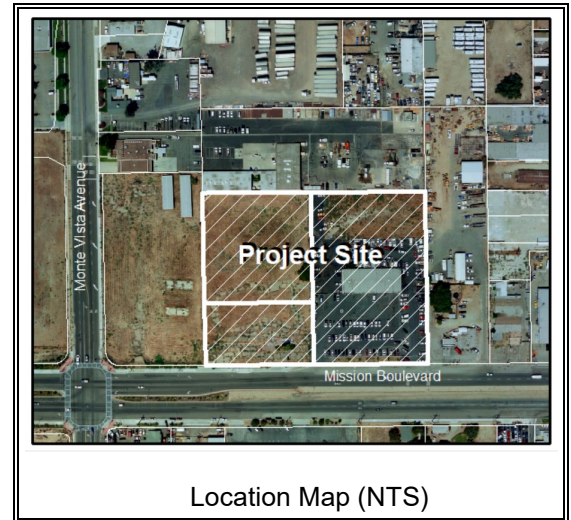
MEETING DATE: 4/25/22

AGENDA ITEM 6.a

Case No. 2022-07

Application: The project involves the following requested entitlements:

- General Plan Amendment to change a portion of the project site's General Plan land use designation from General Commercial to Business Park; and
- Tentative Parcel Map No. 20393 to consolidate three existing parcels on the project site into one parcel; and
- A Precise Plan of Design (PPD) for a proposed 115,300 square-foot industrial warehouse building and associated site improvements on a 5.13-acre site.



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General Plan: General Commercial and Business Park

Zoning: MIP Manufacturing Industrial Park

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ADJACENT LAND USE DESIGNATIONS AND USES:

	<i>General Plan</i>	<i>Zoning</i>	<i>Existing Use of Property</i>
Site	General Commercial & Business Park	Manufacturing Industrial Park (MIP)	Undeveloped Land and a Vacant Building
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East	Business Park	MIP Manufacturing Industrial Park	Industrial uses
West	General Commercial	MIP Manufacturing Industrial Park	Industrial uses

Report on Item Number 6.a

CASE NUMBER 2022-07

APPLICATION TYPE	General Plan Amendment Tentative Parcel Map No. 20393 Precise Plan of Design
NAME OF APPLICANT	New Crossings Development, LLC
LOCATION OF PROPERTY	5006-5010 Mission Boulevard
GENERAL PLAN DESIGNATION	General Commercial and Business Park (Current)
ZONING DESIGNATION	MIP Manufacturing Industrial Park
EXISTING LAND USE	Existing 8,000 square-foot building is to be demolished
ENVIRONMENTAL DETERMINATION	Mitigated Negative Declaration
PROJECT PLANNER	Silvia Gutiérrez

Project Proposal

The applicant is requesting approval of the following entitlements to allow for the redevelopment of a 5.13-acre site located on the north side of Mission Boulevard, approximately 250 feet east of Monte Vista Avenue. Construction activities for the project would consist of, the demolition of a freestanding 8,500 square-foot building, grading, building construction, paving, and landscaping.

The project requires approval of the following entitlements:

- General Plan Amendment - A change in the land use designation for two of three existing parcels to be consistent with the Zoning Map land use designation of the site and allow for development of the consolidated site achieved by the proposed Parcel Map (see below).

General Plan Land Use Map Amendment			
APN	Existing GP Designation	Proposed GP Designation	Zoning
1101-311-15	General Commercial	Business Park ¹	MIP Manufacturing Industrial Park
1101-311-17	General Commercial	Business Park ¹	MIP
1101-311-19	Business Park	Business Park	MIP
¹ Amendment of General Plan Map land use designation to be consistent with Zoning Map designation			

- Tentative Parcel Map No. 20393 – to merge and consolidate three abutting parcels into a single developable site of 5.13-acres in size.

Tentative Parcel Map No. 20393	
APN	Lot Size
1101-311-15	1.59 acre
1101-311-17	0.91 acre
1101-311-19	2.63 acre
Total	5.13-acres (gross)

- Precise Plan of Design (PPD) - for the site plan, floor plans, elevations, colors, materials, and conceptual landscape plan associated with the development of the entire site.

The floor plan for the proposed industrial warehouse building is designed to either accommodate a single user or up to two users with their own main entry/office area. The breakdown of the building and its parking requirements is summarized in the following table:

Proposed Industrial Warehouse Building - Uses and Parking Requirements		
Use	Square Footage	Parking Ratio: Required/Provided
Warehouse Area	107,800	1 space per 1,000 s.f.: 17/107.8
Mezzanine Office No. 1 (Facing West)	2,500	1 space per 250 s.f.: 10/10
Ground Floor Office (Facing West)	1,250	1 space per 250 s.f.: 5/5
Mezzanine Office No. 2 (Facing East.)	2,500	1 space per 250 s.f.: 10/10
Ground Floor Office (Facing East)	1,250	1 space per 250 s.f.: 5/5
Total	115,300	Proposed Stalls = 138

Access to the site would be from two driveways located on Mission Boulevard, which would allow for direct truck access to 12 loading docks and truck/trailer parking areas located on the north side of the new building. Surface parking spaces for 138 vehicles (including 6 disabled-accessible and 11 Clean Air Car parking spaces) are provided near the proposed building entry areas. Two trash enclosures are also provided at the rear of the property.

Architectural Design

The proposed industrial building is situated at the center of the site and would be constructed of concrete tilt-up panels. The proposed panels are designed with offsets, varied heights, and horizontal and vertical reveals to add depth and architectural interest. Required fire exit doors/stairs are also shown as part of the overall building design. The proposed building is 45 feet high as measured to the top of the tallest wall planes of the structure.

Since the building is designed to accommodate up to two (2) tenants, two entry points with office areas are provided at the southwest and southeast corners of the building. Each entry point features windows and decorative metal accents. The proposed colors for the new building are neutral tones of gray. A condition of approval has been added that windows be gray-toned tint.

Landscape Plan

A preliminary landscape plan, which utilizes plant species that are compatible with the overall architectural style of the proposed buildings, has been provided. The plan features a variety of trees selected to provide texture, shade, and greenery in the setback along Mission Boulevard frontage of the site, and within the parking areas of the property facing the street. In addition, shrubs, vines, and ground covers populate the planters and create visual interest throughout the site. The proposed trees located in the front setback and the parking lot will include the Crape Myrtle, Mondell Pine, Australian Willow, Chitalpa, and Chinese Elm. All plant materials are drought tolerant and a water budget for the project has been prepared. Irrigation would be provided via drip and/or a subsurface system. No turf areas are proposed as part of the conceptual landscape plan.

Other site improvements included 7'-6" to 8-foot high walls along the north boundary of the site and decorative metal fencing and gates in line or behind the front of the building facing Mission Boulevard to restrict access to the rear of the site and dock area. The parking areas near the front entrance of the building will remain generally accessible. All existing on-site utility poles and overhead wiring will be removed and placed underground. A condition of approval is included in the draft resolution of approval.

Plans for the proposed project are included in the Commission packets for reference. Copies of the plans and Environmental Documents for the project are available to view on the City's website at: [5006-and-5010-Mission-Boulevard-Warehouse-Project RTC Errata 2022.04.19.pdf \(storage.googleapis.com\)](https://storage.googleapis.com/5006-and-5010-Mission-Boulevard-Warehouse-Project_RTC_Errata_2022.04.19.pdf)

BACKGROUND

- The subject property is partially improved with a timeworn and vacant building and deteriorated asphalt parking areas. The vacant 8,500 square-foot building was constructed in 1967.
- The zoning designation for the site is "MIP" (Manufacturing Industrial Park).
- The project developer, New Crossings Development, LLC, purchased the subject property in 2021.

PLANNING DIVISION COMMENTS

Staff believes the proposed project to be appropriate with respect to making improvements to the area that are consistent with recent development activity. When completed the project will result in a major improvement to the Mission Boulevard streetscape. The subject site is within the City's modest-sized industrial corridor and the project will replace a timeworn building and site with substandard conditions that have been the focus of constant code enforcement action.

General Plan and Amendment

Staff supports the applicant's requests to amend the General Plan Land Use Map because the amendment would eliminate the current inconsistency between the General Plan's land use designations and the City's Official Zoning Map. Without the General Plan Amendment, the development of the site would be limited. The proposed amendment would allow the site to be developed in accordance and compatible with the industrial uses of the area located along the northern side of Mission Boulevard.

Tentative Parcel Map 20393

Staff supports the applicant's request for the Tentative Parcel Map 20393 to accommodate the development of the site as proposed. As mentioned above, when combined into a single parcel, the site will be adequate in size and shape to accommodate the proposed development than would be as separate parcels with different land use designations. As such, the parcel map will enable the development of the site in a manner that is more in character with the industrial character and improvements that surround the site.

Access to the site will be from a fully developed major east-west arterial roadway and nearby intersections. Moreover, given the width of and development of Mission Boulevard, the site is more than adequately separated from any sensitive users including residential uses. The City Engineer and Fire Department have reviewed the proposed parcel map and proposed development of the site and found the project to be appropriately designed. Finally, the site will be connected to the existing sanitary sewer system in Mission Boulevard and existing utility poles and overhead wires on the site and street frontage will be removed and/or placed underground.

Precise Plan of Design

The staff finds the proposed project to be well designed and the building is appropriately situated on the site. At 5.13-acres in size, the property is of adequate size and shape to support the proposed project as designed with required site improvements for access, parking, landscaping, and the requirements associated with the approved Water Quality Management Plan (WQMP). By locating all loading activities on the north side of the proposed building where they will be largely out of view, the design as proposed creates a visually attractive streetscape that will eliminate the current unsightly appearance of the site. When completed the new development would continue the improvement along Mission Boulevard and the surrounding area.

The project complies with the applicable development standards of the MIP zoning designation of the property including setbacks, building height, and parking as generally described above. The building would be set back 25 feet from the Mission Boulevard property line, meets the 25-foot setback requirement for each frontage, and is proposed 50 to 65 feet back from adjacent properties. Moreover, the 45-foot building height for the project is well below the maximum 50-foot height limit allowed in the MIP Manufacturing Industrial Park zoning district. The rear area of the site will be adequately secured by means of new wrought iron gates and walls.

On-site parking at 138 spaces meets code requirements and is properly distributed around the site. All future business(s) and use(s) within the building would be subject to the land use provisions contained in the Montclair Municipal Code, including the requirement to obtain and maintain a valid business license. As part of the routine review process for any new business, the property would be inspected to ensure compliance with all applicable codes, including property maintenance and the provision of adequate on-site parking.

Building Design and Landscaping

Staff worked with the architect on the design of the building and is generally pleased with its overall design. The use of tilt-up panels is common for constructing a building of this type and size. The detailed elements incorporated into the panel design by means of reveals (horizontal and vertical), wall offsets, varied panel heights, and glass windows work well together on all sides of the building with special attention given to the corners of the building. Overall, the staff finds the proposed color palette of neutral grays for the balance of the building to be modern.

The building wall design includes a raised parapet, which is expected to be tall enough to provide appropriate screening of all rooftop equipment from street level and adjacent intersections. If necessary, the height of the panels could be increased as necessary to achieve full screening of any equipment items. Except for skylights, required vents, and the placement of limited air conditioning units (not ducts) for the proposed office spaces, no other major rooftop equipment pieces or elements are expected. Staff has added a condition of approval addressing the screening of future rooftop equipment.

Staff finds the proposed landscaping to be appropriate and sufficient to enhance the overall appearance of the new warehouse building. The selected plant materials are evenly distributed around the site where planter areas are proposed, and no turf areas are proposed. The proposed irrigation system is also designed to be water efficient and meet State water-saving requirements. All on-site runoff will be collected by catch basins and conveyed to the on-site underground infiltration system in the rear of the property. If, and when, the underground system reaches capacity, the excess runoff will discharge through the existing 4-foot parkway culvert to Mission Boulevard.

GENERAL PLAN AMENDMENT FINDINGS

The proposed General Plan Amendment (GPA) promotes the goals and objectives of the General Plan and leaves the General Plan a compatible, integrated, and internally consistent statement of policies for the following reasons:

- A. The GPA is integrated and compatible with the Land Use and Community Design Elements in that it provides an appropriate orientation and relationship between land uses within and adjacent to the subject site located on the north side of Mission Boulevard. The implementation of the proposed GPA would be consistent with the General Plan's policy to establish an effective balance of land use, circulation, transportation, and community design. The proposed GPA does

result in the removal or division of any existing residential neighborhoods on or adjacent to the site but would allow for the site to be redeveloped into a modern industrial warehouse building consistent with development standards of the underlying MIP zone and recent new development in the immediate area. As such, the site would become an integral part of the City's efforts to see dilapidated and underutilized properties transformed into attractive properties within the community.

- B. The GPA is integrated and compatible with the future use of the site on Mission Boulevard and will generate traffic that is anticipated and within capacity levels as provided for in the Circulation Element. The GPA would be consistent with the General Plan's overall goal of providing residents and visitors of the City of Montclair with a circulation network that provides safe and efficient travel within and through the community.
- C. The GPA does not result in the displacement of any existing housing units located on the site or on adjacent parcels. The property does not contain any housing units and the surrounding development includes existing and new industrial uses only. The property is not on any potential housing inventory sites and as such does not impact the potential for adding new housing units.
- D. The GPA is integrated and compatible with the Conservation Element in that it provides uses, which promote the orderly conservation, development, and utilization of natural resources. The City's General Plan does not designate any areas of the City as being within a habitat conservation plan (City of Montclair 1999). Furthermore, the City is not within any of the regional conservation plans designated by the state (CDFW 2014). As such, implementation of the Proposed GPA would not conflict with any applicable habitat conservation plan or natural community conservation plan. More specifically, the subject site is characterized as partially developed with a timeworn building and deteriorating asphalt parking areas with no significant trees and minimal amounts of low-growing vegetation (mostly annual weeds).
- E. The GPA is integrated and compatible with the Open Space Element in that it provides for uses that are consistent with and promote the adopted goals and policies for preserving and managing open space within the City. No open space resources exist on the subject site.
- F. The Amendment is integrated and compatible with the Noise Element in that it provides a pattern of land uses that minimizes the exposure of community residents to excessive noise. The Montclair General Plan requires future development to comply with the standards of Noise Element. The proposed GPA allows for the development of a modern industrial warehouse building that maximizes the use of the site leaving only areas for onsite circulation, required parking, setbacks, and landscaping. No outdoor storage, manufacturing, or assembly operations are permitted. As such, outdoor activities would be largely limited to vehicle and truck movements. Moreover, the site does not share a boundary line with any residential properties or other uses with sensitive noise

receptors. The closest residential uses are located on the south side of Mission Boulevard, approximately 150 feet away from the subject site and separated by a full-length median island.

- G. The GPA is integrated and compatible with the Safety Element in that it provides an appropriate land use distribution and orientation that protects the community from unreasonable risks associated with seismic, geologic, flood, and wildfire hazards. Given the urbanized nature of the site and relatively gentle slope, there is no serious threat from wild land fires or geological instability. However, the General Plan recognizes the City of Montclair's location within Seismic Zone 4, which is considered the most active seismic zone in the state. Further, there are no designated "Earthquake Fault Zones" in the city or the subject as confirmed by the Alquist-Priolo Earthquake Fault Zoning Maps, geologic hazard overlays in the City of Montclair's General Plan Safety Element, and the County of San Bernardino's Land Use Plan General Plan (City of Montclair 1999 and County of San Bernardino 2010). Finally, as standard practice for all development in the City of Montclair, all development projects on the subject site will be required to comply with the Unified Building Code standards and regulations which include proper soil preparation and compaction requirements for construction.

TENTATIVE PARCEL MAP FINDINGS

- A. The proposed parcel map to merge abutting parcels into a single property to accommodate the proposed industrial building is designed, to the extent feasible, to provide for passive or natural heating or cooling opportunities. The proposed building on the site is generally oriented, spaced, and designed to allow for access to adequate light and air.
- B. The proposed parcel map and the provisions for its design and improvement are consistent with the General Plan for the City of Montclair ("General Plan"). With City Council approval of the General Plan Amendment, subsequent consistency between the General Plan and Zoning Maps, and the associated Tentative Parcel Map would provide for land uses compatible with the land use classification for the subject site by the General Plan Amendment. The overall goal of the General Plan is to promote good planning practices and orderly development within the City and to recognize the potential of specific areas for special treatment.
- C. The subject site is physically suitable for the proposed development of the site with a 115,300 square foot industrial building and associated site improvements as shown on the Tentative Parcel Map. The size and configuration of the site have sufficient width and depth to allow for orderly site development, the provision of on-site circulation and parking, landscaping, and the proposed building. Moreover, the project site is also located adjacent to Mission Boulevard, a fully improved street that will provide good and safe access to and from the site.

- D. The merger design and improvements proposed in the Tentative Parcel Map are not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat. An environmental assessment of the project on the subject site was conducted and revealed no significant impacts on the site or surrounding area overall. The site is surrounded by new and existing urban development and streets; does not contain any bodies of water, and is not linked to any wildlife corridors. The site does not contain any evidence of known habitats of significance including rare or endangered species of plant, animal, or insect life.
- E. The parcel map and improvements proposed with the development of the site are consistent with existing newer development in the immediate area and are not likely to cause serious public health problems because all site development and public improvements will be performed per the requirements of all applicable standards and codes including the zoning and building codes.
- F. The parcel map design and type of improvements proposed do not conflict with any public easements for access through or the use of the subject site because no such easements exist on the subject site.
- G. The discharge of waste into the existing sanitary sewer system from the development associated with the Tentative Parcel Map will not cause a violation of existing requirements prescribed by the Regional Water Quality Control Board. The entire project will be required to connect to a sanitary sewage system pursuant to California Plumbing Code and Municipal Code requirements. A sewer main exists and is available on Mission Boulevard.

PRECISE PLAN OF DEVELOPMENT FINDINGS

- A. The proposed development of a freestanding 115,300 square-foot industrial/warehouse building and associated on-site improvements is consistent with the current zoning designation and applicable development standards of the MIP (General Manufacturing) zone. Future users of the site will be subject to zoning verification and would be restricted to indoor activities only.
- B. The proposed industrial warehouse development project would result in a substantial improvement to the appearance of the area by replacing an underutilized and underdeveloped site with a new modern development that results in the efficient use of the site, high-quality site design, and up-to-date site improvements.
- C. The proposed building design features high-quality exterior materials/finishes, water-efficient landscaping plantings that are intentionally designed to soften views of the project site, and appropriate lighting and hardscape improvements that would result in an enhanced visual appearance for the site.

ENVIRONMENTAL ASSESSMENT

A Final Initial Study/Mitigated Negative Declaration (MND) for the proposed 5006-5010 Mission Boulevard Project (the Project) has been prepared for City review and approval (Attachment A.) The Draft Initial Study/MND was made available for public comment from February 24, 2022, through March 16, 2022, to a setlist of state and local agencies, designated Native American Tribes under AB 52, on the City's website, at the Planning Division public counter, and the Montclair City Library. The Notice of Intent to Adopt a Mitigated Negative Declaration was made available by the following methods to indicate the availability of the environmental document during the public comment period: (i) published in the Inland Valley Daily Bulletin newspaper, a newspaper of general circulation; (ii) filed with the San Bernardino County Clerk; (iii) filed with the State Clearinghouse; (iv) mailed to various interested persons, agencies, and tribes; and (v) posted on the City's website. During the public review period, two written comment letters were received from members of the public. No comments were received from public agencies. Copies of the comment letters and the City's responses to the comments are provided in the Final Initial Study/Mitigated Negative Declaration/Response to Comments document.

In response to feedback received on the Draft Initial Study/MND via the public review process, Section 3.11 Land Use and Planning, and Mitigation Measures TCR-1 and TCR-2 were updated in the Final Initial Study/MND.

These changes/updates are further described in the Response to Comments and shown in the Errata section of the Final Initial Study/MND. The changes/updates do not result in alterations to the degree of impact or significance conclusions presented in the Draft Initial Study/MND and therefore do not constitute significant new information. Rather, the changes serve to clarify and strengthen the content of the Draft Initial Study/MND. Therefore, recirculation of the Initial Study/MND is not required under CEQA Guidelines Section 15073.5. The Final Initial Study/MND is attached and is available for review on the City's website.

Mitigation measures are proposed in the Initial Study/MND to mitigate the following impacts to less than significant: air quality, cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources. These mitigation measures have been incorporated as conditions of approval for the Project, which are as follows:

- MM-AQ-1** Construction Equipment Emissions Reductions. The following measures shall be incorporated into the project to reduce construction criteria air pollutant emissions of PM10:
- a) The following equipment shall make use of EPA Tier 4 Interim engines during construction: concrete/industrial saws, generator sets, rubber-tired dozers, and tractors/loaders/backhoes. 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. Before an exemption may be considered by the City, the applicant shall be required to demonstrate that two construction fleet owners/operators in the Los Angeles Region were contacted and that those owners/operators confirmed Tier 4 Interim or better equipment could not be located within the Los Angeles region. To ensure that Tier 4 construction equipment or better would be used during the proposed project's construction, the applicant shall include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities.

- b) Minimize simultaneous operation of multiple construction equipment units. During construction, vehicles in loading and unloading queues shall not idle for more than 5 minutes and shall turn their engines off when not in use to reduce vehicle emissions.
- c) Properly tune and maintain all construction equipment in accordance with the manufacturer's specifications.

MM-CUL-1 All construction personnel and monitors who are not trained archaeologists shall be briefed regarding inadvertent discoveries prior to the start of construction activities. A basic presentation and handout or pamphlet shall be prepared in order to ensure proper identification and treatment of inadvertent discoveries. The purpose of the Workers Environmental Awareness Program (WEAP) training is to provide specific details on the kinds of archaeological materials that may be identified during construction of the project and explain the importance of and legal basis for the protection of significant archaeological resources. Each worker shall also learn the proper procedures to follow in the event that cultural resources or human remains are uncovered during ground-disturbing activities. These procedures include work curtailment or redirection, and the immediate contact of the site supervisor and archaeological monitor.

MM-CUL-2 A qualified archaeologist shall be retained and on-call to respond and address any inadvertent discoveries identified during initial excavation in native soil. Initial excavation is defined as initial construction-related earth moving of sediments from their place of deposition. As it pertains to archaeological monitoring, this definition excludes movement of sediments after they have been initially disturbed or displaced by project-related construction. A qualified archaeological principal investigator, meeting the Secretary of the Interior's Professional Qualification Standards, should oversee and adjust monitoring efforts as needed (increase, decrease, or discontinue monitoring frequency) based on the observed potential for construction activities to encounter cultural deposits or material. The

archaeological monitor will be responsible for maintaining daily monitoring logs.

In the event that potential prehistoric or historical archaeological resources (sites, features, or artifacts) are exposed during construction activities for the project, all construction work occurring within 100 feet of the find shall immediately stop and a qualified archaeologist must be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find, the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, data recovery, or monitoring may be warranted.

If monitoring is conducted, an archaeological monitoring report shall be prepared within 60 days following completion of ground disturbance and submitted to the City for review. This report should document compliance with approved mitigation, document the monitoring efforts, and include an appendix with daily monitoring logs. The final report shall be submitted to the South Central Coastal Information Center.

MM-GEO-1 Paleontological Construction Monitoring. If any grading activity below a depth of 10 feet below the ground surface is proposed for the project, the applicant shall retain a paleontologist to ensure the implementation of a paleontological monitoring program. The paleontologist shall meet the requirements of a qualified paleontologist, as defined by the Society of Vertebrate Paleontology (SVP 2010). The qualified paleontologist shall attend any preconstruction meetings and manage the paleontological monitor(s) if they are not doing the monitoring. A paleontological monitor shall be on site during all excavations below the depth of 10 feet below the ground surface. The qualified paleontologist shall determine the level of monitoring required based on subsurface conditions. If Pleistocene sedimentological indicators are not observed below 10 feet or sediments are too coarse grained for fossil preservation (e.g, large cobbles and boulders), the qualified paleontologist or paleontological monitor shall spot-check excavations at five-foot intervals to determine if Pleistocene sediments are being impacted. The paleontological monitor shall be equipped with necessary tools for the collection of fossils and associated geological and paleontological data. If sedimentological indicators conducive to the preservation of microvertebrates (as defined by SVP [2010]) are encountered, test sediment samples shall be collected to determine the presence of microvertebrate fossils. The monitor shall complete daily logs detailing the day's excavation activities and pertinent geological and paleontological data. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity to allow recovery of paleontological resources. The area of discovery will be roped off with a 50-foot radius buffer. Once documentation and collection of the find is

completed, the monitor will remove the rope and allow grading to recommence in the area of the find. Following the paleontological monitoring program, a final monitoring report shall be submitted to the City for review and approval. The report shall summarize the monitoring program and include geological observations and any paleontological resources recovered during paleontological monitoring for the project.

- MM-HAZ-1** Prior to initiating any ground disturbing activities on the project site, the project applicant shall prepare a Soil Management Plan that is submitted and approved by the San Bernardino County Fire Department, Hazardous Materials Division. The Soil Management Plan shall be prepared by a qualified expert and provide all field protocols for the appropriate identification, notification, and handling/protection of suspect materials, if encountered during earthwork activities. Upon discovery of suspect soils or groundwater, the contractor shall notify the San Bernardino County Fire Department and retain a qualified professional to collect soil samples to confirm the type and extent of contamination that may be present. If contamination is confirmed to be present, any further ground disturbing activities within areas of identified or suspected contamination shall be conducted according to a site-specific health and safety plan, prepared by a California state licensed professional.

If contaminated soil or groundwater is encountered and constituents exceed human health risk levels, ground disturbing activities shall not recommence within the contaminated areas until remediation is complete and a “no further action” letter is obtained from the appropriate regulatory agency or direction is otherwise given by the overseeing agency that construction can commence. The project applicant shall submit the “no further action” letter or equivalent notification to the City prior to resumption of any ground disturbing activity on the relevant portion of the project site.

- MM-TCR-1** Prior to the issuance of any grading permit for the project, the City of Montclair (City) shall ensure that the Project Applicant retains the services of a tribal monitor(s) approved by the Gabrieleño Band of Mission Indians Kizh Nation to provide Native American monitoring during ground-disturbing activities. This provision shall be included on the Project contractor’s plans and specifications. Ground-disturbing activities are defined by the Gabrieleño Band of Mission Indians Kizh Nation as activities that may include but are not limited to pavement removal, pot-holing or auguring, grubbing, tree removals, borings, grading, excavation, drilling, and/or trenching within the Project area. The Project site shall be made accessible to the monitor(s), provided adequate notice is given to the construction contractor and that a construction safety hazard does not occur. The monitor(s) shall possess Hazardous Waste Operations and Emergency Response (HAZWOPER) certification. In addition, the monitor(s) shall be required to provide insurance certificates, including liability insurance.

If evidence of any tribal cultural resources is found during ground-disturbing activities, the monitor(s) shall have the capacity to halt construction in the immediate vicinity of the find to recover and/or determine the appropriate plan of recovery for the resource in consultation with a qualified archaeologist. The recovery process shall not unreasonably delay the construction process and must be carried out consistent with CEQA and local regulations.

Construction activity shall not be contingent on the presence or availability of a monitor, and construction may proceed regardless of whether or not a monitor is present on site. The monitor shall complete daily monitoring logs that will provide descriptions of the day's activities and general observations and whether the Native American monitor believes they observed a TCR and what action they took. The on-site monitoring shall end when the Project site grading and excavation activities are completed or prior to the completion if the monitor has indicated that the site has a low potential for tribal cultural resources.

MM-TCR-2 Upon discovery of any tribal cultural resources, a Native American monitor has the ability to halt construction activities in the immediate vicinity (within 50 feet) of the find until the find can be assessed. All tribal cultural resources unearthed during the Project construction activities shall be evaluated by the Native American monitor approved by the Gabrieleño Band of Mission Indians Kizh Nation and a qualified archaeologist. Construction work shall be permitted to continue on other parts of the Project site while evaluation and, if necessary, additional investigations and/or preservation measures take place (CEQA Guidelines Section 15064.5(f)). If the resources are Native American in origin, the Gabrieleño Band of Mission Indians Kizh Nation tribe shall coordinate with the landowner regarding the treatment and curation of these resources. If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time allotment and funding sufficient to allow for the implementation of avoidance measures shall be made available through coordination between the Gabrieleño Band of Mission Indians Kizh Nation and the Project applicant. The treatment plan established for the resources shall be in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15064.5(f) for historical resources and Public Resources Code (PRC) Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include the implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis.

PUBLIC NOTICE

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on April 15, 2022, as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet from the boundaries of the subject property. As of the preparation of this agenda report, no comments were received from the public regarding the application.

Planning Division Recommendation

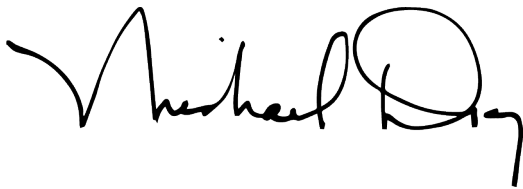
Staff recommends the Planning Commission find the proposal to construct a new, 115,300 square-foot industrial/warehouse building and associated site improvements for the 5.13-acre site at 5006-5010 Mission Boulevard to be well designed and compatible with surrounding land uses. Accordingly, the staff recommends approval of Case No. 2022-07 by taking the following actions:

- A. For environmental review, take the following actions:
 - 1. Review and consider the information contained in the Final Initial Study/MND, and administrative record, including all oral and written comments received during the comment period, and find that the Final Initial Study/MND has been completed in compliance with CEQA; and
 - 2. Recommend to City Council to approve and adopt the proposed Mitigated Negative Declaration (MND), and approve and adopt the Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project and made a condition of Project approval; and;
 - 3. Recommend to City Council to approve the project as described in the Final Initial Study/MND per Resolution No. 22-1967; and
 - 4. Recommend to City Council to direct staff to file a Notice of Determination (NOD) and the applicant to pay appropriate fees within five (5) days of this action, and;
- B. For the proposed land use amendment, make the following recommendations to the City Council:
 - 1. Recommend approval of the proposed amendment to the General Plan land use designation of the subject property from "General Commercial" to "Business Park" per attached Planning Commission Resolution No. 22-1964; and
- C. For the project, consider approval of the following actions:
 - 1. Recommendation to City Council for approval of Tentative Parcel Map No. 20393, to allow the merging of three separate parcels into a single 5.13-acre parcel to accommodate the proposed General Plan amendment and

the subsequent development of the site with a single industrial warehouse building and finding that the map is consistent with the Montclair Municipal Code and the State Subdivision Map Act and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 22-1965; and

2. Approval of Precise Plan of Design for the site plan, elevations, conceptual colors and materials, and conceptual landscape plan associated with the proposed single industrial warehouse building and associated on- and off-site improvements per the submitted plans and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 22-1966, and subject to the City Council's approval of the MND, GPA, and Tentative Parcel Map No. 20393. If either the GPA, MND, or the TPM are not approved by the City Council then the Precise Plan of Design approval shall be null and void.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Diaz". The signature is fluid and cursive, with a large, prominent "D" at the end.

Michael Diaz
Director of Community of Development

MD/sg

Attachments: Draft Resolution No. 22-1964
Draft Resolution No. 22-1965
Draft Resolution No. 22-1966
Draft Resolution No. 22-1967
Final Initial Study Mitigated Negative Declaration 5006-5010 Mission Warehouse
Mitigation Monitoring and Reporting Program

c: Anthony La and Cary Niu, 138 North Glendora Avenue, Glendora, CA 91741
Roger Deitos, GAA Architects, 8811 Research Drive, Suite 200, Irvine, CA 92618
Madole & Associates 9302 Pittsburgh Avenue, Suite 230, Rancho Cucamonga, CA 91730
Scott Peterson Landscape Architect, Inc., 2883 Via Rancheros Way, Fall Brook, CA 92028

RESOLUTION NO. 22-1964

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL APPROVAL OF A GENERAL PLAN AMENDMENT TO MODIFY THE LAND USE DESIGNATION OF 5.13-ACRES OF LAND FROM TWO WESTERLY PARCELS HAVING THE "GENERAL COMMERCIAL" LAND USE DESIGNATION " TO ALL "BUSINESS PARK" TO ALLOW THE DEVELOPMENT OF THE SUBJECT SITE WITH A NEW INDUSTRIAL BUILDING THEREON (APNs 1101-311-15, 1101-311-17, and 1101-311-19)

A. Recitals.

WHEREAS, New Crossings Development, LLC the authorized representative of the property owner, has applied for a General Plan Amendment under Case No. 2022-07; and

WHEREAS, the application for General Plan Amendment applies to a 5.13-acre site currently composed of three parcels (APN 1101-311-15, 1101-311-17, and 1101-311-19) located on the north side of Mission Boulevard approximately 250 feet east of Monte Vista Avenue, and addressed as 5006 and 5010 Mission Boulevard; and

WHEREAS, the subject 5.13-acre site is currently designated by the General Plan as "General Commercial" on the westerly half and "Business Park on the easterly half"; and

WHEREAS, two of the three parcels are currently undeveloped and largely comprised of disturbed soils and minimal vegetation. The remaining parcel is developed and features an unoccupied building that was previously used as an auto-sales office; and

WHEREAS, the applicant has submitted concurrent applications related to developing the site with an industrial building including Tentative Parcel Map No. 20393 to merge the parcels and a Precise Plan of Design (PPD) (the "Project"); and

WHEREAS, the General Plan Amendment land use request would apply to the three (3) existing parcels to be merged into a single developable parcel on which the proposed use is envisioned; and

WHEREAS, the above-referenced site is illustrated on the attached Exhibit "A," a table incorporated herein by reference; and

WHEREAS, the City prepared an Initial Study/Mitigated Negative Declaration ("MND") (SCH #2022030195) that analyzed the proposed Project's environmental impacts in compliance with the provisions of the California Environmental Quality Act ("CEQA"), which determined that proposed mitigation measures would reduce impacts to air quality, cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources to less than significant, and was circulated for public review and comment between February 25, 2022, and March 16, 2022; and

WHEREAS, a Final Initial Study/MND was prepared and consists of the responses to comments and the Initial Study/MND; and

WHEREAS, public notice of this item was advertised as a public hearing on April 15, 2022, in the Inland Valley Daily Bulletin newspaper, and mailed to property owners within a 300-foot radius of the exterior boundaries of the Project site in accordance with State law for consideration of these discretionary entitlements; and

WHEREAS, on April 25, 2022, and May 9, 2022, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission opened the duly noticed public hearing to consider the proposed Project; and

WHEREAS, on April 25, 2022, two late comment letters were received from two separate law firms representing labor unions representing unions regarding their respective concerns over the environmental impacts that the commenters allege would be caused by construction activities if the project was not required to utilize a local and skilled workforce; and

WHEREAS, given the extent and nature of the comments in both letters, there was insufficient time to adequately respond to the concerns during the meeting; and

WHEREAS, since the project was advertised as a public hearing, the Planning Commission opened the public hearing and took public comments from two individuals, in addition to receiving the above-referenced comment letters. After comments were received, the Commission voted to continue the item to its regularly scheduled meeting on May 9, 2022; and

WHEREAS, on May 9, 2022, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission opened the duly noticed public hearing to consider the proposed Project; and

WHEREAS, on May 9, 2022, the proposed project, Final Initial Study/MND, and all evidence were presented and all persons wishing to testify in connection with the said proposal were heard and said application was fully studied.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Montclair as follows:

1. This Commission hereby specifically finds that all of the facts outlined in the Recitals, Part A, of this Resolution are true and correct.
2. Based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission finds the Amendment promotes the goals and objectives of the General Plan and leaves the General Plan a compatible, integrated, and internally consistent statement of policies for the following reasons:
 - A. The implementation of the Proposed GPA would be consistent with the following General Plan policies:

LU-1.1.0: To encourage compatible Land Uses within the City; and

LU-1.2.0: To promote the mitigation of existing land-use conflicts; and

LU-1.3.0: To promote the rational utilization of underdeveloped and undeveloped parcels The proposed GPA would allow for the site to transition from a mix of old commercial vacant parcels to business park development consistent with adjacent existing business park designation of the easterly portion of the site and the remaining block bounded by the west side of Fremont Avenue. As such, the site would become an integral part of the City's efforts to provide a cohesive plan and vision for the side of Mission Boulevard along this block that is linked in terms of compatible design.

- B. The General Plan Amendment is integrated and compatible with the Conservation Element in that it provides uses that promote the orderly conservation, development, and utilization of natural resources. The City's General Plan does not designate any areas of the City as being within a habitat conservation plan (City of Montclair 1999). Furthermore, the City is not within any of the regional conservation plans designated by the state (CDFW 2014). As such, implementation of the Proposed GPA would not conflict with any applicable habitat conservation plan or natural community conservation plan. More specifically, the subject site is characterized as a mix of old commercial/industrial land uses and vacant parcels with no significant vegetation. The vacant areas at the subject location are highly disturbed, graded to varying degrees, and support only minimal amounts of low-growing vegetation (mostly annual weeds).
- C. The General Plan Amendment is integrated and compatible with the Open Space Element in that it provides for uses that are consistent with and promote the adopted goals and policies for preserving and managing open space within the City. No open space resources exist on the subject site. However, with the GPA and attendant zone change new development on the site will be subject to the provisions of the amended NMDSP which includes requirements for landscaping (trees and vegetation) and open space/recreational spaces as part of the design of future projects, which are not currently present on the site.
- D. The Amendment is integrated and compatible with the Noise Element in that it provides a pattern of land uses that minimizes the exposure of community residents to excessive noise. The Montclair General Plan requires future development to comply with the standards of Noise Element. The proposed GPA would allow the subject site to be required to comply with the Noise Element standards, but also utilize site plan and building design strategies to reduce noise impacts to adjacent properties and future residents. Moreover, mitigation measures identified in the IS/MD are designed to address future term short-term and long-term noise impacts associated with new development projects.
- E. The Amendment is integrated and compatible with the Safety Element in that it provides an appropriate land use distribution and orientation that protects the community from unreasonable risks associated with seismic, geologic, flood, and wildfire hazards. Given the urbanized nature of the site and relatively gentle slope, there is no serious threat from wildland fires or geological instability. However, the General Plan recognizes the City of Montclair's location within Seismic Zone 4, which is considered the most active seismic zone in the state. Further, there are no designated "Earthquake Fault Zones" in the city or the subject as confirmed by the Alquist-Priolo Earthquake Fault Zoning Maps, geologic hazard overlays in the City of Montclair's General Plan Safety Element,

and the County of San Bernardino's Land Use Plan General Plan (City of Montclair 1999 and County of San Bernardino 2010). Finally, as standard practice for all development in the City, and as specifically required by the proposed Mitigation Measures prepared for the Amendment, all future development projects on the subject site will be required to comply with the Unified Building Code standards and regulations which include proper soil preparation and compaction requirements for construction.

- 3. This Commission recommends the City Council adopt Resolution No. 22-1964, amending the General Plan Land Use Map designation of the property associated with Case No. 2022-07 from both "General Commercial" and "Business Park" to "Business Park."

The Secretary to this Commission shall certify the adoption of this Resolution.

APPROVED AND ADOPTED THIS 9TH DAY OF MAY, 2022, PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 9th day of May 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Exhibit A

CASE NUMBER: 2022-07

PROJECT LOCATION: 5006-5010 Mission Boulevard
APN.: The project site is composed of three parcels
(APN 1101-311-15, 1101-311-17, and 1101-311-19)
PROPERTY OWNER: New Crossings Development, LLC authorized property
owner representative

General Plan Amendment		
APN	<i>Existing</i>	<i>Proposed</i>
1101-311-15	"General Commercial"	"Business Park"
1101-311-17	"General Commercial"	"Business Park"
1101-311-19	"Business Park"	"Business Park"

RESOLUTION NO. 22-1965

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL APPROVAL OF TENTATIVE PARCEL MAP NO. 20393, A MERGER OF THREE ABUTTING PARCELS INTO A SINGLE DEVELOPABLE 5.13-ACRE PARCEL AT 5006-5010 MISSION BOULEVARD (APNs 1101-311-15, 1101-311-17, AND 1101-311-19)

A. Recitals.

WHEREAS, on February 22, 2022, New Crossings Development, LLC the authorized representative of the property owner, filed an application for a Tentative Parcel Map No. 20393, to merge three abutting parcels into a single parcel totaling 5.13 gross acres; and

WHEREAS, the subject site commonly known as 5006-5010 Mission Boulevard is located approximately 240 feet from the northeast corner of Mission Boulevard and Monte Vista Avenue, further identified Assessor Parcel Nos. 1101-311-15, 1101-311-17, and 1101-311-19, and depicted on attached Exhibit "A," a map incorporated herein by reference; and

WHEREAS, the project site is wholly located within the MIP (Manufacturing Industrial Park) zone and is partially developed with a timeworn and vacant, 8,000 square-foot freestanding commercial building formerly used as an auto repair shop and used car sales lot; and

WHEREAS, the applicant has submitted concurrent applications requesting a General Plan Land Use Map Amendment and a Precise Plan of Design under Case 2022-07 in order to facilitate construction of the project; and

WHEREAS, the General Plan Land Use Map Amendment to "Business Park," if approved by the City Council, would be consistent with the MIP zoning designation for the site and allow for the development of the proposed project under Planning Case No. 2022-07; and

WHEREAS, staff finds the project to be in compliance with the guidelines and applicable development standards of the MIP (Manufacturing Industrial Park) zone; and

WHEREAS, on April 25, 2022, and May 9, 2022, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission opened the duly noticed public hearing to consider the proposed Project; and

WHEREAS, on April 25, 2022, two late comment letters were received from two separate law firms representing labor unions representing unions regarding their respective concerns over the environmental impacts that the commenters allege would be caused by construction activities if the project was not required to utilize a local and skilled workforce; and

WHEREAS, given the extent and nature of the comments in both letters, there was insufficient time to adequately respond to the concerns during the meeting; and

WHEREAS, since the project was advertised as a public hearing, the Planning Commission opened the public hearing and took public comments from two individuals, in addition to receiving the above-referenced comment letters. After comments were received, the Commission voted to continue the item to its regularly scheduled meeting on May 9, 2022; and

WHEREAS, on May 9, 2022, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission opened the duly noticed public hearing to consider the proposed Project; and

WHEREAS, on May 9, 2022, the proposed project, Final Initial Study/MND, and all evidence were presented and all persons wishing to testify in connection with the said proposal were heard and said application was fully studied.

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RESOLVES AS FOLLOWS:

SECTION 1. Based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission recommends the City Council find that the proposed project is exempt from further environmental review pursuant to State CEQA Guidelines, section 15182 based on the following findings of fact:

SECTION 2. Pursuant to California Government Code Section 66410 et seq., based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

- A. The proposed tentative parcel map to merge abutting parcels into a single property to accommodate an industrial warehouse building is designed, to the extent feasible, to provide for passive or natural heating or cooling opportunities. The proposed building on the site is generally oriented, spaced, and designed to allow for access to adequate light and air.
- B. The proposed tentative parcel map and the provisions for its design and improvement are consistent with the General Plan for the City of Montclair ("General Plan"). In the event that the City Council approves the General Plan Amendment, the Tentative Parcel Map would provide for land uses compatible with the land use classification for the subject site by the General Plan Amendment. The overall goal of the General Plan is to promote good planning practices and orderly development within the City and to recognize the potential of specific areas for special treatment.
- C. The subject site is physically suitable for the proposed development of the site with a 115,300 square foot industrial warehouse building and associated site improvements as shown on Tentative Parcel Map No. 20393. The size and configuration of the site has sufficient width and depth to allow for orderly site development, the provision of on-site circulation and parking, landscaping, and the

proposed building. Moreover, the project site is also located adjacent to a fully improved street that will provide good and safe access to and from the site.

- D. The merger design and improvements proposed in the Tentative Parcel Map is not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat. An environmental assessment of the project on the subject site was conducted and revealed no significant impacts to the site or surrounding area overall. The site is surrounded by new and existing urban development and streets; does not contain any bodies of water; and is not linked to any wildlife corridors. The site does not contain any evidence of known habitats of significance including rare or endangered species of plant, animal, or insect life.
- E. The parcel map and improvements proposed with the development of the site are consistent with existing newer development in the immediate area and are not likely to cause serious public health problems because all site development and public improvements will be performed per the requirements of all applicable standards and codes including the zoning and building codes.
- F. The Tentative Parcel Map design and type of improvements proposed do not conflict with any public easements for access through or the use of the subject site because no such easements exist on the subject site.
- G. The discharge of waste into the existing sanitary sewer system from the development associated with the Tentative Parcel Map will not cause a violation of existing requirements prescribed by the Regional Water Quality Control Board. The entire project will be required to connect to a sanitary sewage system pursuant to California Plumbing Code and Municipal Code requirements. A sewer main exists in Mission Boulevard.

SECTION 3. Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings set forth in this Resolution, the Planning Commission recommends the City Council approve Tentative Parcel Map No. 20393 as depicted in Exhibit "A" (attached) subject to the following Conditions of Approval:

Conditions of Approval

Based upon the findings and conclusions set forth in the paragraphs above this Commission hereby approves the application subject to each condition set forth below:

- 1. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
- 2. The tentative parcel map shall expire three years from the date of City Council approval unless extended under Government Code Section 66452.6. The final map shall be filed with the City Engineer and shall comply with the Subdivision Map Act of the State of California and all applicable Ordinances, requirements, and Resolutions of the City of Montclair.
- 3. The parcel map may be submitted for plan checking prior to, in conjunction with, or after the submittal of the public improvement plans. Parcel map submittals shall include a preliminary title report, reference deeds, closure calculations, reference

maps, and other reference material as may be necessary to check the map. An advance plan check fee, the amount to be determined by the City Engineer, shall be required at the time map is submitted. Prior to approval of the final map, a subdivision agreement will be required. The agreement shall contain provisions for performance and payment bonds for all work within the public rights-of-way, and a monumentation bond for corner monuments in accordance with the Subdivision Map Act.

4. The subdivider/applicant shall reimburse the City for costs associated with the preparation/review of the Tentative Parcel Map and/or Final Parcel Map.
5. In establishing and conducting the subject use, the applicant shall at all times comply with any laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino, and the State of California. Approval of this Tentative Parcel Map shall not waive compliance with any such requirements.

SECTION 4. Based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning Commission finds the nature and extent of the dedications, reservations, impact fees, and other exactions are reasonably related to public needs and roughly proportional to the impacts created by the subdivision and improvements proposed in the Tentative Parcel Map. The proposed conditions are typical of any subdivision of land and necessary to support the subsequent development of the site with residential uses as envisioned by the applicants. Street improvements, sanitary sewer connections, and associated impact fees are commensurate with the needs and impacts associated with the development of underutilized property for new uses.

SECTION 5. The location and custodian of the documents and any other material that constitute the record of proceedings upon which the Planning Commission based its decision is as follows: Planning Division, Community Development Department, City of Montclair, 5111 Benito Street, Montclair, California 91763, or by telephone at (909) 625-9477.

The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 9TH DAY OF MAY 2022.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 9th day of May 2022, by the following vote to-wit:

AYES:

NOES:

ABSENT:

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RESOLUTION NO. 22-1966

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A PRECISE PLAN OF DESIGN UNDER CASE NO. 2022-07 FOR THE SITE PLAN, FLOOR PLANS, ELEVATIONS, COLORS, MATERIALS, AND CONCEPTUAL LANDSCAPE PLAN FOR A 115,300 SQUARE-FOOT INDUSTRIAL BUILDING ON A 5.13-ACRE SITE (APN 1101-311-15, 1101-311-17, AND 1101-311-19)

WHEREAS, on February 22, 2022, New Crossings Development, LLC the authorized representative of the property owner, filed an application for a Precise Plan of Design (PPD) identified as Case No. 2022-7, to allow the development of a 115,300 square-foot industrial warehouse building and associated site improvements. (APN 1011-311-15, 1011-311-17, and 1011-311-19); and

WHEREAS, the subject site is currently composed of three adjacent parcels (APN 1101-311-15, 1101-311-17, and 1101-311-19) located on the north side of Mission Boulevard approximately 250 feet east of Monte Vista Avenue, and addressed as 5006 and 5010 Mission Boulevard; and

WHEREAS, the combined size of the existing parcels is 5.13 acres all of which are zoned "MIP" (Manufacturing Industrial Park); and

WHEREAS, the applicant has submitted concurrent applications related to developing the site with an industrial building including Tentative Parcel Map No. 20393 to merge the parcels and a Precise Plan of Design (PPD) (the "Project"); and

WHEREAS, the General Plan Amendment land use request would apply to the three (3) existing parcels to be merged into a single developable parcel on which the proposed use is envisioned; and

WHEREAS, the above-referenced site is illustrated on the attached Exhibit "A," a table incorporated herein by reference; and

WHEREAS, the City prepared an Initial Study/Mitigated Negative Declaration ("MND") (SCH #2022030195) that analyzed the proposed Project's environmental impacts in compliance with the provisions of the California Environmental Quality Act ("CEQA"), which determined that proposed mitigation measures would reduce impacts to air quality, cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources to less than significant, and was circulated for public review and comment between February 25, 2022, and March 16, 2022; and

B. Resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RESOLVES AS FOLLOWS:

SECTION 1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

SECTION 2. Based upon the entire record before the Planning Commission during the above-referenced hearing on May 9, 2022, including written and oral staff reports together with public testimony, this Planning Commission hereby finds as follows with respect to the recommendation of approval of Precise Plan of Design under 2022-07, subject to the conditions of approval contained in this resolution:

- A. The proposed development of a 115,300 square-foot industrial warehouse building and associated on-site improvements is consistent with the current zoning designation and applicable development standards of the MIP (Manufacturing Industrial Park) zone. Future users of the site will be subject to zoning verification and would be restricted to indoor activities only.
- B. The proposed industrial warehouse development project would result in a substantial and significant improvement to the appearance of the area by replacing an underutilized and underdeveloped site with a new modern development that incorporates the efficient use of the site, and high-quality site design, and architectural design features.
- C. The proposed building design features high-quality exterior materials/finishes, water-efficient landscaping plantings that are intentionally designed to soften views of the project site, and appropriate lighting and hardscape improvements that would result in an enhanced visual appearance for the site.

SECTION 3. Based upon the entire record before the Planning Commission during the above-referenced hearing on May 9, 2022, including written and oral staff reports together with public testimony, this Planning Commission hereby finds the proposal to be consistent with the overall objectives of the City of Montclair General Plan, Montclair Municipal Code, and good planning principles, and approves the application subject to each and every condition set forth below in Exhibit “B” – Case 2022-7 Conditions of Approval.

Exhibit "B"
Case No. 2022-07
5006-5010 Mission Boulevard
Conditions of Approval

PLANNING

1. This General Plan Amendment (GPA), Tentative Parcel Map 20393, Precise Plan of Design (PPD), approval is for the construction of a new, 115,300 square-foot industrial/warehouse building and associated site improvements including parking and landscaping for the property located at 5006-5010 Mission Boulevard, as described in the staff report and depicted on approved plans.
2. PPD approval shall be valid for a period of one year and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant has submitted plans for, and is diligently pursuing, a building plan check and building permits to allow eventual construction of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
3. No changes to the approved set of plans, including the exterior design and materials/finishes, shall be permitted without prior City review and approval. Any modification, intensification, or expansion of the use and design plan beyond that which is specifically approved with this PPD shall require review and approval by the Planning Commission.
4. In approving this PPD, the applicant shall at all times comply with any and all laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino, and the State of California. Approval of this PPD shall not waive compliance with any such requirements.
5. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A check in the amount of \$2,598 payable to "Clerk of the Board of Supervisors," to cover the California Department of Fish and Wildlife (CDFW) fee for filing a Notice of Determination for the proposed Mitigated Negative Declaration as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of \$611.79 the actual cost of publication, payable to the "City of Montclair," to cover the cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
6. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.

7. The applicant and/or property owner shall ensure that a copy of the Planning Commission Resolution, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
8. Any future business(es) occupying the completed building shall be required to obtain and maintain valid business licenses and comply with all applicable City regulations at all times. As part of the routine review process for each new business license application, the property and subject lease spaces will be inspected to ensure compliance with all applicable codes, including the provision of adequate on-site parking.
9. No outdoor payphones, loudspeakers, or vending machines shall be installed or placed on the property.
10. All automobile parking spaces shall be clearly delineated with double-line (e.g. "hairpin") striping per City Standard No. SP-2A.
11. There shall be no outdoor storage of personal or other items (including motor vehicles).
12. No temporary or permanent living quarters shall be established on the premises within any building or motorhome/recreational vehicle. Indications that the property is being used as temporary or permanent living quarters including activities such as spending a significant time at the location for more than one day, sleeping at the location,
13. Future business operations the site shall be subject to the applicable noise requirements of Chapter 6.12 of the Montclair Municipal Code.
14. The placement and design of all walls or fences on the site shall be consistent with the submitted conceptual plans and shall be complementary to the overall appearance and colors of the new building. Fences and walls shall meet the following requirements subject to the approval of Director of Community Development (Director) or designee.:
 - a. Metal fencing shall have a durable finish (e.g. powder coat) in a color that compliments the building.
 - b. The maximum height of the fence shall not exceed eight feet (8'-0") along the interior side or rear property line as adjusted for existing grade conditions.
 - c. Applicant shall coordinate with adjoining property owners when developing a fence/wall plan to avoid double fence conditions to the north, west, and east to the greatest extent possible.
 - d. Barbed or concertina wire shall be strictly prohibited.
 - e. All proposed block walls shall incorporate a finished cap piece (except concrete tilt-up walls). Unfinished gray colored masonry block is prohibited.
 - f. Any gates on the premises shall be made accessible to emergency personnel (Police/Fire/Building and Safety) during times when they are closed. Contact

Brett Petroff, Deputy Fire Marshal, firemarshal@cityofmontclair.org for further information on requirements.

15. All proposed exterior lighting shall comply with the following standards:
 - a. Provide a minimum maintained illumination level of one (1) foot-candle across the site.
 - b. All lighting fixtures shall be vandal-resistant and of a design that complements the architecture of the building.
 - c. All parking lot and other freestanding light fixtures shall incorporate 90-degree cut-off style luminaires and flat lenses so as to direct illumination down to the surface to be illuminated and away from public rights-of-way surrounding the subject site.
 - d. Freestanding light fixtures and poles shall not exceed a maximum height of 25'-0" (inclusive of base pedestals) as measured from adjacent grade to top of luminaires.
 - e. Above-grade concrete support pedestals for all proposed freestanding light poles throughout the project site shall be clad in a color-coordinated stucco finish to complement the main building.
 - f. Wall-mounted fixtures shall be shielded. The use of unshielded wall packs, barn lighters, other similar unshielded luminaires, and/or decorative lighting installed solely for the purpose of illuminating the roof shall not be permitted.
 - g. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Director.
16. The trash enclosure(s) shall have a solid roof cover and be designed to complement the overall architecture of the main building. Contact Gary Knootz gknootz@burrtec.com Burrtec Waste Industries to determine the number of required bins to support the most likely end-user(s) of the building and request a will serve letter. Will serve letter must be printed directly on the construction plan sets submitted for plan check.
17. Prior to issuance of a Certificate of Occupancy, the applicant shall install approved landscaping materials on the site including the exterior setback area along the Mission Boulevard frontage of the property, subject to the satisfaction of the Director or designee. The following standards shall apply:
 - a. All shrubs shall be a minimum five-gallon container size (except herbaceous perennials and woody spreading shrubs on slopes).
 - b. All trees (except required street trees) shall be a minimum 24-inch box size and double-staked.
 - c. A minimum of 3 inches of dark brown bark mulch (shredded or chips) shall be provided on all planted areas.

- d. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
18. Prior to the issuance of a Certificate of Occupancy the Landscape Architect of record shall submit a Letter of Completion to both Planning Division and Engineering Division confirming plant materials and the irrigation system have been installed per approved plan and in compliance with the State Water Conservation Requirements.
19. All landscaping and irrigation systems shall be maintained in accordance with the approved site and/or landscape plan to ensure water use efficiency.
20. Any plant material that does not survive, or is removed, or destroyed shall be replaced upon its demise or removal with plant material of a like type and size as that originally approved and installed.
21. Plant material shall not be severely pruned such that it stunts or deforms its natural growth pattern or characteristic feature(s). Trees shall be pruned to ISA (International Society of Arboriculture) standards and only as necessary to promote healthy growth and for aesthetic purposes (i.e., to enhance the natural form of the tree). Improperly or severely pruned trees, including topping as defined by the Water Conservation Ordinance, that results in the removal of the normal canopy and/or disfigurement of the tree shall be replaced with a tree of similar size and maturity as that which was removed or, as required by the Director.
22. Signage on the building shall be limited to the name of the business only and numerical address. A monument sign may be installed subject to City review and approval. A separate Sign Permit Application shall be submitted by the property owner (or licensed sign contractor) for the abovementioned sign(s) to the Planning and Building Divisions for review, approval, and issuance of all necessary permits prior to installation of any sign(s).
23. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code. Temporary banners for the purpose of announcing a grand opening or promotional event shall require a banner permit from the Planning Division prior to installation.
24. No portable flags, pennants, spinners, painted-on signs, off-premise signs, trailer-mounted electronic sign/message boards, or other similar types of portable signs shall be allowed.
25. No exterior surface-mounted exposed ducts, conduit, or electrical lines shall be allowed on walls, awnings, or other exterior faces of the building. In addition, all electrical switchgear, meters, etc., shall be screened or housed in an enclosure to the extent allowed by the utilities.
26. All roof-mounted mechanical equipment (e.g., vents, meters, HVAC units, ducts, conduit, satellite dishes, photovoltaic systems, etc.), enclosures, or equipment screen walls shall not project above the roof parapet.

27. Screening of roof-mounted equipment shall be accomplished with mechanical roof wells recessed below the roofline or by solid and permanent roof-mounted screens. Screening shall be compatible with the architectural style, materials, and color of the building upon which the equipment is located, subject to the approval of the Director.
28. Access to the roof of the building shall be from within the structure and not by means of roof access ladders mounted to the exterior of the building.
29. All on-site ground-mounted mechanical equipment, including, but not limited to, utility meters, air conditioners, condenser units, and repair equipment shall be located within the building or on the exterior of the building only when necessary and screened in a manner that is compatible with the architectural design of the building subject to the satisfaction of the Director or his designee.
30. Freestanding electrical transformers and Fire Department double check detector assembly (DCDA) equipment shall be screened with masonry walls compatible with the building architecture and/or landscaping to the satisfaction of the Director and Fire Marshal. Efforts shall be made to place these elements in locations that are as visually unobtrusive as possible.
31. The property owner shall be responsible for maintaining all buildings, yards, structures, signs, parking areas, and other improvements in such a manner that does not detract from the appearance of the surrounding area. Parking lots shall be maintained in an attractive and suitable fashion with any potholes, significantly cracked or uneven paving, and any other significant damage repaired in a timely fashion throughout the life of the project.
32. Graffiti or etching of glass areas on the building or other site improvements shall be removed/replaced immediately by the applicant/property owner upon notification by the City.
33. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when work has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
34. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.

ENVIRONMENTAL MITIGATION MEASURES

These mitigation measures have been incorporated as conditions of approval for the Project, which are as follows:

35. **MM-AQ-1** Construction Equipment Emissions Reductions. The following measures shall be incorporated into the project to reduce construction criteria air pollutant emissions of PM10:
- a) The following equipment shall make use of EPA Tier 4 Interim engines during construction: concrete/industrial saws, generator sets, rubber tired dozers, and tractors/loaders/backhoes. 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. Before an exemption may be considered by the City, the applicant shall be required to demonstrate that two construction fleet owners/operators in the Los Angeles Region were contacted and that those owners/operators confirmed Tier 4 Interim or better equipment could not be located within the Los Angeles region. To ensure that Tier 4 construction equipment or better would be used during the Proposed project's construction, the applicant shall include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities.
 - b) Minimize simultaneous operation of multiple construction equipment units. During construction, vehicles in loading and unloading queues shall not idle for more than 5 minutes, and shall turn their engines off when not in use to reduce vehicle emissions.
 - c) Properly tune and maintain all construction equipment in accordance with manufacturer's specifications.
36. **MM-CUL-1** All construction personnel and monitors who are not trained archaeologists shall be briefed regarding inadvertent discoveries prior to the start of construction activities. A basic presentation and handout or pamphlet shall be prepared in order to ensure proper identification and treatment of inadvertent discoveries. The purpose of the Workers Environmental Awareness Program (WEAP) training is to provide specific details on the kinds of archaeological materials that may be identified during construction of the project and explain the importance of and legal basis for the protection of significant archaeological resources. Each worker shall also learn the proper procedures to follow in the event that cultural resources or human remains are uncovered during ground-disturbing activities. These procedures include work curtailment or redirection, and the immediate contact of the site supervisor and archaeological monitor.
37. **MM-CUL-2** A qualified archaeologist shall be retained and on-call to respond and address any inadvertent discoveries identified during initial excavation in native soil. Initial excavation is defined as initial construction-related earth moving of sediments from their place of deposition. As it pertains to archaeological monitoring, this definition excludes movement of sediments after they have been initially disturbed or displaced by project-related construction. A qualified archaeological principal investigator, meeting the Secretary of the Interior's Professional Qualification Standards, should oversee and adjust monitoring efforts as needed (increase, decrease, or discontinue monitoring frequency) based on the observed potential for construction activities to encounter cultural deposits or material. The archaeological monitor will be responsible for maintaining daily monitoring logs.

In the event that potential prehistoric or historical archaeological resources (sites, features, or artifacts) are exposed during construction activities for the project, all construction work occurring within 100 feet of the find shall immediately stop and a qualified archaeologist must be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find, the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, data recovery, or monitoring may be warranted.

If monitoring is conducted, an archaeological monitoring report shall be prepared within 60 days following completion of ground disturbance and submitted to the City for review. This report should document compliance with approved mitigation, document the monitoring efforts, and include an appendix with daily monitoring logs. The final report shall be submitted to the South Central Coastal Information Center.

38. **MM-GEO-1** Paleontological Construction Monitoring. If any grading activity below a depth of 10 feet below the ground surface is proposed for the project, the applicant shall retain a paleontologist to ensure the implementation of a paleontological monitoring program. The paleontologist shall meet the requirements of a qualified paleontologist, as defined by the Society of Vertebrate Paleontology (SVP 2010). The qualified paleontologist shall attend any preconstruction meetings and manage the paleontological monitor(s) if they are not doing the monitoring. A paleontological monitor shall be on site during all excavations below the depth of 10 feet below the ground surface. The qualified paleontologist shall determine the level of monitoring required based on subsurface conditions. If Pleistocene sedimentological indicators are not observed below 10 feet or sediments are too coarse grained for fossil preservation (e.g., large cobbles and boulders), the qualified paleontologist or paleontological monitor shall spot-check excavations at five-foot intervals to determine if Pleistocene sediments are being impacted. The paleontological monitor shall be equipped with necessary tools for the collection of fossils and associated geological and paleontological data. If sedimentological indicators conducive to the preservation of microvertebrates (as defined by SVP [2010]) are encountered, test sediment samples shall be collected to determine the presence of microvertebrate fossils. The monitor shall complete daily logs detailing the day's excavation activities and pertinent geological and paleontological data. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity to allow recovery of paleontological resources. The area of discovery will be roped off with a 50-foot radius buffer. Once documentation and collection of the find is completed, the monitor will remove the rope and allow grading to recommence in the area of the find. Following the paleontological monitoring program, a final monitoring report shall be submitted to the City for review and approval. The report shall summarize the monitoring program and include geological observations and any paleontological resources recovered during paleontological monitoring for the project.
39. **MM-HAZ-1** Prior to initiating any ground disturbing activities on the project site, the project applicant shall prepare a Soil Management Plan that is submitted and approved by the San Bernardino County Fire Department, Hazardous Materials Division. The Soil Management Plan shall be prepared by a qualified expert and provide all field protocols for the appropriate identification, notification, and handling/protection of suspect

materials, if encountered during earthwork activities. Upon discovery of suspect soils or groundwater, the contractor shall notify the San Bernardino County Fire Department and retain a qualified professional to collect soil samples to confirm the type and extent of contamination that may be present. If contamination is confirmed to be present, any further ground disturbing activities within areas of identified or suspected contamination shall be conducted according to a site-specific health and safety plan, prepared by a California state licensed professional.

If contaminated soil or groundwater is encountered and constituents exceed human health risk levels, ground disturbing activities shall not recommence within the contaminated areas until remediation is complete and a "no further action" letter is obtained from the appropriate regulatory agency or direction is otherwise given by the overseeing agency that construction can commence. The project applicant shall submit the "no further action" letter or equivalent notification to the City prior to resumption of any ground disturbing activity on the relevant portion of the project site.

40. **MM-TCR-1** Prior to the issuance of any grading permit for the Project, the City of Montclair (City) shall ensure that the Project Applicant retains the services of a tribal monitor(s) approved by the Gabrieleño Band of Mission Indians Kizh Nation to provide Native American monitoring during ground-disturbing activities. This provision shall be included on the Project contractor's plans and specifications. Ground-disturbing activities are defined by the Gabrieleño Band of Mission Indians Kizh Nation as activities that may include but are not limited to pavement removal, pot-holing or auguring, grubbing, tree removals, borings, grading, excavation, drilling, and/or trenching within the Project area. The Project site shall be made accessible to the monitor(s), provided adequate notice is given to the construction contractor and that a construction safety hazard does not occur. The monitor(s) shall possess Hazardous Waste Operations and Emergency Response (HAZWOPER) certification. In addition, the monitor(s) shall be required to provide insurance certificates, including liability insurance.

If evidence of any tribal cultural resources is found during ground-disturbing activities, the monitor(s) shall have the capacity to halt construction in the immediate vicinity of the find to recover and/or determine the appropriate plan of recovery for the resource in consultation with a qualified archaeologist. The recovery process shall not unreasonably delay the construction process and must be carried out consistent with CEQA and local regulations.

Construction activity shall not be contingent on the presence or availability of a monitor, and construction may proceed regardless of whether or not a monitor is present on site. The monitor shall complete daily monitoring logs that will provide descriptions of the day's activities and general observations and whether the Native American monitor believes they observed a TCR and what action they took. The on-site monitoring shall end when the Project site grading and excavation activities are completed or prior to the completion if the monitor has indicated that the site has a low potential for tribal cultural resources.

41. **MM-TCR-2** Upon discovery of any tribal cultural resources, a Native American monitor has the ability to halt construction activities in the immediate vicinity (within 50 feet) of the find until the find can be assessed. All tribal cultural resources unearthed during the Project construction activities shall be evaluated by the Native American monitor approved by the Gabrieleño Band of Mission Indians Kizh Nation and a qualified

archaeologist. Construction work shall be permitted to continue on other parts of the Project site while evaluation and, if necessary, additional investigations and/or preservation measures take place (CEQA Guidelines Section 15064.5(f)). If the resources are Native American in origin, the Gabrieleño Band of Mission Indians Kizh Nation tribe shall coordinate with the landowner regarding the treatment and curation of these resources. If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time allotment and funding sufficient to allow for the implementation of avoidance measures shall be made available through coordination between the Gabrieleño Band of Mission Indians Kizh Nation and the Project applicant. The treatment plan established for the resources shall be in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15064.5(f) for historical resources and Public Resources Code (PRC) Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include the implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis.

BUILDING DIVISION

42. Submit four complete sets of plans including the following:
 - a. Site/Plot Plan;
 - b. Floor Plan;
 - c. Reflected Ceiling Plan;
 - d. Electrical Plans, including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams;
 - e. Plumbing Plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning;
 - f. Waste recycling plan, recycling 65 percent of all construction debris.
43. The applicant shall comply with the latest adopted California Building Code, and other applicable codes, ordinances, and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of the submitted plans.
44. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
45. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
46. Submit detailed plans for all walls and fencing associated with this project. Separate permits are required for fencing and/or walls. Double-wall conditions which have been created by an adjacent property line wall are not allowed.
47. All utility services to the project shall be installed underground.

48. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number.
49. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
50. Prior to issuance of building permits for a new commercial or industrial development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include but are not limited to Transportation Development Fees, Permit and Plan Check Fees, and School Fees. All required school fees shall be paid directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District. The applicant shall provide a copy of the school fees receipt to the Building Division prior to permit issuance.
51. Construct trash enclosure(s) per City Standard (available at the Building Division public counter).
52. Electrical and fire suppression service shall rise within the interior of the building(s). Roof ladders shall also be located entirely inside the building.
53. All construction work carried out under the review of the Building Division shall be of good quality. The Building Official shall have the authority to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint and stucco in all cases shall not be below standard for the use applied.
54. Provide and clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and all required disabled-accessible parking lot signs. Sidewalks, paths of travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path of travel shall not exceed two percent (2%).
55. Construction drawings submitted to the building division for plan review shall comply with the Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
 - a. Install a numerical address on the north building elevation in a location satisfactory to the Director of Community Development.
 - b. Provide and maintain a minimum illumination level of one (1) foot candle from dusk until dawn every day.
 - c. Install approved emergency lighting to provide adequate illumination automatically in the event of an interruption of electrical service.
56. The newly constructed warehouse building will be known as 5008 Mission and the address 5010 Mission will be retired from use.

57. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from all other departments and/or agencies.
58. Decorative foam trim shall not be used in areas subject to damage such as entry doors, garage doors, etc. Use of decorative foam shall not be allowed to be used below the second story.
59. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the Director of Community Development of His designee.
60. All construction work carried out under the review of the Building Division shall be of good quality. The Building Official shall have the authority to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint and stucco in all cases shall not be below standard for the use applied.
61. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
62. Each unit shall have individual and independent one-hour separation walls enveloping each assigned airspace or unit and independent utility meters, sewer, water connections, and fire protection systems, subject to the review and approval of the Public Works, Community Development, and Fire Departments.
63. Security gates entering the property or rear of the building shall be equipped with Medeco locks or other acceptable devices to allow access by emergency personnel and utility providers at all times.
64. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
65. Fire sprinkler risers and roof access ladders shall be located entirely within the enclosed buildings. Double-detector check facility shall be adequately screened by landscaping or an architectural screen wall.
66. All trash enclosures shall be constructed of material consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City standards and shall have a solid roof complementary to the main building. Black-colored concrete shall be used for the trash enclosure floor and its apron.

67. A Certificate of Occupancy is required prior to occupancy of the subject building. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
68. Prior to issuance of a Certificate of Occupancy, the person or corporation responsible for the preparation of the Water Quality Management Plan shall certify, in writing, to the Building Official that all conditions and requirements of the Water Quality Management Plan have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, the developer shall also submit evidence to the Building Official that the lessee or purchaser has been advised in writing of the lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.
69. Prior to the issuance of the Certificate of Occupancy a Final Grade Certificate shall be provided to the Building Official issued from the Registered Civil Engineer of Record that all on-site improvements have been constructed in accordance with all City Standards, Specifications, Conditions of Approval and approved plans.
70. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards: The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one quarter (.25) foot-candles of illumination shall be maintained at grade.
71. No soil shall be imported or exported to or from the project site from an adjacent building site or from other sources for construction purposes without first obtaining approval from the City Engineer. A plan satisfactory to the City Engineer shall be prepared to show the proposed haul route within the City. The subject plan shall include provisions for street sweeping and cleanup. Applicant/contractor shall comply with all NPDES requirements.
72. Underground Service Alert shall be notified 48 hours prior to any excavation at (800) 422-4133.
73. All off-site and on-site trenching and excavation shall conform to CAL OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
74. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
75. Prior to issuance of a Certificate of Occupancy, the person or corporation responsible for the preparation of the Water Quality Management Plan shall certify, in writing, to the Building Official that all conditions and requirements of the Water Quality Management Plan have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, the developer shall also submit evidence to the Building Official that the lessee or purchaser has been advised in writing of the lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.

76. Prior to the issuance of the Certificate of Occupancy a Final Grade Certificate shall be provided to the Building Official issued from the Registered Civil Engineer of Record that all on-site improvements have been constructed in accordance with all City Standards, Specifications, Conditions of Approval and approved plans.
77. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from all other departments and/or agencies.
78. Prior to the issuance of a Certificate of Occupancy, the applicant shall:
 - a. Complete all on- and off-site improvements.
 - b. Install all disabled parking stalls and parking lot signage.
79. Temporary construction and storage trailers placed on the property shall first obtain approval from the Planning and Building Divisions. If any trailers will include uses for public access, handicap accessibility requirements shall apply. Before any trailer is set in its location, obtain all permits from the building division. Plans and structural calculations will be required for the tie-down devices. Trailers used for public use (and not used for construction only) are required to be handicapped accessible. The trailer will require access to the facility by way of ramps that comply with the California Building Code (CBC) 2016 edition, Chapter 11B, in addition to access to each feature of the trailer.

WATER QUALITY MANAGEMENT PLAN

80. The property owner shall be responsible to contract with a qualified firm to inspect and maintain any stormwater treatment devices specified by the approved WQMP, following all WQMP recommendations. It shall also be the responsibility of the property owner to maintain inspection reports and have them readily available for review by City staff upon request. In the event that any stormwater treatment device fails due to lack of, or insufficient maintenance and/or inspection, or some other unforeseen circumstance, it shall be the responsibility of the property owner to correct the deficiency and restore the stormwater treatment device(s) to its original working condition.
81. The owner understands that if the stormwater treatment device is infeasible at the proposed location, and an alternative treatment device is proposed that may affect the site design project owner may have to revisit with the Planning Department for any revised site changes.
82. Owner understands no permits are issued prior to the approval of the WQMP.
83. Prepare and submit plans for erosion and sediment control. Plans shall include all phases of the construction project, including rough grading, utility and road installation, and vertical construction to the satisfaction of the City Engineer. Contact Steve Stanton, Engineering Division Manager, at (909) 625-9444.

84. At the time of Grading permit issuance; Post-Construction BMP inspection permit fees associated with the approved WQMP shall be paid. Contact Steve Stanton, Engineering Division Manager, at (909) 625-9444 for further information regarding permits and fees.
85. Prior to issuance of a rough grading and/or precise grading permit, the applicant must:
 - a. Submit to the Engineering Division an electronic copy of the approved WQMP in PDF format.
 - b. Obtain a State Construction General Permit and proof must be shown (WDID Number) on both rough grading plan and precise grading plan.
 - c. Qualified SWPPP Developer and Practitioner contact information must be included on the title page of grading plans.
86. Prior to issuance of Certificate of Occupancy, the applicant shall:
 - a. Submit to the Engineering Division as built drawings as it relates to the WQMP and, provide adequate plan notes identifying grades, elevations for all inlets, outlets, flow lines and basins.
 - b. Record the WQMP Maintenance Agreement with the County of San Bernardino and provide evidence of said recording to the Engineering Division.
 - c. Prior to the release of the certificate of occupancy for the building, the person or corporation responsible for the preparation of the WQMP shall certify in writing to the NPDES Coordinator that all conditions and requirements of the WQMP have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, the developer shall also submit evidence to the NPDES Coordinator that the lessee or purchaser has been advised in writing of the lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the WQMP.
 - d. The applicant shall ensure that all requirements of the approved WQMP for the project are incorporated and consistent with the approved landscape and irrigation plans for the project. All required Best Management Practices (BMPs) shall be duly noted and shown on the landscape plans per the approved WQMP, if applicable.

ENGINEERING

87. All public and private streets shall have sidewalks conforming to the Americans with Disabilities Act (ADA). Public and private streets shall have sidewalks on each side. Widths and scoring patterns shall conform to City Standard Plan No. 114.
88. All pavement damaged by excavation will be replaced with permanent pavement per the City Standard Plan No. 301 for paving and trench repair.
89. Replace all existing lifted or cracked curb gutter, damaged utility pull box lids, and the sidewalk adjacent to the property. Additionally, remove the sidewalk that show signs of

ponding or is pitting, scaling or spalling. Curb Ramps not in compliance with ADA guidelines will be removed and replaced.

90. All driveways, existing or proposed, shall comply with the Americans with Disabilities Act and shall conform to City Standard Plan No. 102.
91. New or reconstructed drive approaches shall have a minimum width of 25 feet for commercial development. Refer to City standard drawings for other details.
92. All poles in the public right of way or within development boundaries shall be placed underground prior to building permit issuance. This requirement applies to electrical services (facilities operated at nominal voltages in excess of 20,000 volts not included), transformers and switches, telephone, communications, and cable television facilities as well. Coordinate removal of poles along the west side of the property with Jim Diaz, Senior Inspector (909) 625-9442. Provide easement(s) for the utilities to be underground along the west side of the property and along the frontage.
93. All utilities within development boundaries shall be placed underground. This requirement applies to electrical services, transformers and switches, telephone, communications, and cable television facilities as well.
94. All existing overhead utilities within project boundaries and within street frontages adjacent to the project shall be placed underground. All existing or new guy wires required to anchor end poles shall be located beyond the project limits. No poles or guy wires shall be permitted to remain within property frontage.
95. Prepare and submit to the satisfaction of the City Engineer a Water Quality Management Plan (WQMP) in accordance with the State of California Santa Ana Regional Water Quality Control Board Guidelines for San Bernardino County.
96. Approval of the Water Quality Management Plan (WQMP) is required prior to the preparation of grading and/or other improvement plans. Requirements for the WQMP may be obtained from Steve Stanton at 909-625-9444.
97. All drainage facilities shall comply with the requirements of the approved WQMP.
98. A grading plan shall be prepared subject to the approval of the City Engineer. An erosion control plan is to be included and considered an integral part of the grading plan. Grading plans shall be designed in accordance with City standards and guidelines, and shall be on 24" by 36" sheets.
99. Prepare and submit a final hydrology and hydraulic study showing the tributary area, layout of storm drains and downstream impacts to a point as defined as the closest receiving point on a master storm drain line or existing facility as approved by the City Engineer. The study shall identify off-site and on-site runoff impacts resulting from the build-out of permitted General Plan uses, the project's contribution, location and sizes of catchments and system connection points plus all downstream drainage mitigation measures. All mitigations/recommendations resulting from any final approved report shall be included in the improvement design submittals.

100. Prepare and submit to the satisfaction of the City Engineer a comprehensive grading and drainage plan prepared by a Registered Civil Engineer in conformance with Chapter 70 of the Uniform Building Code. Prior to the commencement of any demolition, clearing and grubbing, and/or grading, a grading permit shall be obtained from the Building Division. Plan approval is required prior to the issuance of a grading permit by the Building Division.
101. Prepare and submit to the satisfaction of the City Engineer plans for erosion control and storm water pollution prevention. A general construction storm water permit may be required. Contact Steve Stanton at 909-625-9441 for details. The erosion control plan shall be an integral part of the grading plans. Plan approval is required prior to the issuance of a grading permit by the Building Division.
102. No soil shall be imported or exported to or from the site or from any adjacent building sites or from other sources for construction purposes without first obtaining approval from the City Engineer. A plan acceptable to the City Engineer shall be prepared showing proposed haul routes within the City. The plan shall include provisions for street sweeping and cleanup. Contractor(s) shall comply with all National Pollutant Discharge Elimination System (NPDES) requirements.
103. Prepare and submit to the satisfaction of the City Engineer "will serve" letters from all utility companies serving the site. The developer will be required to coordinate with the various public and private utilities for the necessary improvements for said utilities to service the site.
104. Prepare and submit to the satisfaction of the City Engineer a letter of non-interference from any utility company that may have rights or an easement within the property boundaries.
105. Where street construction, surfacing, or resurfacing is required, all utility work within the frontage of the development shall be completed prior to the street being capped.
106. Disabled-accessibility shall be provided around all new, reconstructed, or existing drive approaches serving the site, except as may be otherwise approved by the City Engineer. Additional street right-of-way shall be dedicated as necessary.
107. Payment of Regional Sewerage Capital Outlay fees as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency.
108. Payment of all sewer connection fees, outstanding sewer reimburse fees or assessments as imposed by a district or reimbursement agreement, if any shall be paid at time building permits are requested.
109. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
110. 811 Underground Service Alert shall be notified 48 hours prior to any excavation at the site.

111. All off-site and on-site trenching and excavation shall conform to Cal-OSHA standards. Excavations that exceed five feet in depth require a Cal-OSHA permit.
112. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
113. The parcel map may be submitted for plan checking prior to, in conjunction with, or after the submittal of the public improvement plans. Parcel map submittals shall include a preliminary title report, reference deeds, closure calculations, reference maps, and other reference material as may be necessary to check the map. An advance plan check fee, the amount to be determined by the City Engineer, shall be required at the time map is submitted. Prior to approval of the final map, a subdivision agreement will be required. The agreement shall contain provisions for performance and payment bonds for all work within the public rights-of-way, and a monumentation bond for corner monuments in accordance with the Subdivision Map Act.
114. Street, sewer, and storm drain plans shall be prepared in a format acceptable to the City Engineer and shall be submitted to the City Engineer's office for approval. An advance plan check fee, the amount to be determined by the City Engineer shall be required at the time plans are submitted. Construction and acceptance of street improvements, as per the approved plans, shall be required to obtain a release for a Certificate of Occupancy from the Building Division.
115. A Public Works construction permit shall be obtained from the Engineering Division prior to any removals or construction of improvements in the public right-of-way.
116. Vehicular access is required to all sewer and storm drain manholes. Easements shall be further deed restricted with respect to building to the satisfaction of the City Engineer.
117. Payment of transportation-related development impact fees. Fees shall be assessed at the rate in effect at the time the fees are paid.

ENVIRONMENTAL

118. A Wastewater Discharge Survey must be completed and submitted to the Environmental Manager for review and approval prior to Plan submittal. All new business occupant(s) of the building shall complete a Wastewater Discharge survey prior to plan review. Contact Steve Stanton, Engineering Manager, at (909) 625-9444 for more information.
119. Additional Conditions may follow pending submittal of the Wastewater Discharge Survey and Project Plans.
120. Connection to the City of Montclair Sanitary Sewer System is required. Contact Steve Stanton, Engineering Manager at (909) 625-9444 for more information.
121. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
122. Regional Sewerage Supplemental Capital Outlay Fees are required in accordance with Section 9.20.440 of the Montclair Municipal Code and the Inland Empire Utilities Agency

(IEUA). Contact Steve Stanton, Engineering Manager at (909) 625-9444 for fee information.

123. All trash enclosures must be designed in accordance with the provisions of AB 341 Mandatory Commercial Recycling and AB 1826 Mandatory Commercial Organics Recycling (MORE) as established by the California Department of Resources Recycling and Recovery (CalRecycle). The applicant is required to provide documentation to the Environmental Manager from Burrtec Waste Industries, Inc. that a service agreement was set up with the hauler that meets all Mandatory Commercial Recycling Requirements for waste hauling as established by the State of California.
124. All wastewater discharged to the City of Montclair Sanitary Sewer System from the subject facility shall be in compliance with Montclair Municipal Code Section 9.20.610 – Local Concentration Limitations. For more information contact Steve Stanton Engineering Manager, at (909) 625-9444.

FIRE

125. The project shall comply with all requirements set forth by the California Code of Regulations Title 24 Parts 1-12 respectively.
126. The adopted edition of the California Code of Regulations, Title 24, Parts 1 through 12, and the Montclair Municipal Code shall apply at the time the architectural plans are submitted for construction permits.
127. Prior to the issuance of grading permits a fire department access plan shall be submitted to the City of Montclair for review and approval. The fire department access plan shall comply with the requirements specified by the City of Montclair Guideline for Fire Department Access & Water Requirements for Commercial & Residential Development, and the California Fire Code, Chapter 5.
128. Prior to the to the issuance of a grading permits, evidence of sufficient fire flow of 3,625 GPM for 4-hours shall be provided to the City of Montclair. The City of Montclair Building and Fire Marshal Water Available/Fire Flow Form shall be utilized
129. A fire department access road complying with the CFC, Chapter 5 and the approved fire department access plans shall be installed prior to building construction.
130. The fire department access road shall be inspected by Montclair Fire Prevention Bureau prior to building construction.
131. The fire department access road shall remain unobstructed at all times.
132. A fire department connection (FDC) shall be provided and located within 50 feet of a public fire hydrant. The use of a private hydrant may be used with the use of an aboveground check valve to prevent the flow from the FDC back to the fire hydrant, and with the approval of the Montclair Fire Prevention Bureau.
133. Water improvement plans shall be approved by Montclair Fire Prevention Bureau. On-site private fire service mains shall have a minimum of eight (8) inch water mains with six

- (6) inch laterals and risers. Larger pipes maybe required to meet required fire flow requirements. Fire hydrants shall provide one 4" port and 2- 2 ½ ports and must be an approved fire hydrant type. The private fire hydrant system must be approved, installed, tested, and accepted, prior to combustible construction.
134. A minimum of two points of connection to the public water shall be provided for the private fire-line water.
 135. The private underground fire-line system shall be a looped design.
 136. The private underground fire-line system shall have indicating sectional valves for every five (5) appurtenances.
 137. All required fire hydrants shall be installed and operational prior to building construction. All fire hydrants shall remain operational during construction.
 138. All required fire hydrants shall be readily visible and immediately accessible. A clear space of not less than 3-feet shall be maintained at all times.
 139. Prior to construction a temporary address sign shall be posted and clearly visible from the street.
 140. The permanent building address shall be provided and either internally or externally lighted during hours of darkness. The address shall be clearly visible from the street fronting the property and comply with California Fire Code Section 505.1 for size and color.
 141. Montclair Fire Prevention Bureau approval shall be obtained prior to the storage and/or use of hazardous materials as defined by the California Fire Code.
 142. The building shall be provided with an automatic fire sprinkler system in accordance with NFPA 13. Construction plans shall be submitted for review and approval to the City of Montclair prior to installation.
 143. Prior to building final, the building shall be provided with a Knox Lock key box located no more than seven feet above the finished surface and near the main entrance door.
 144. Prior to the issuance of a Certificate of Occupancy, the building shall be provided with an emergency radio communication enhancement system. The emergency radio communication enhancement system shall meet the requirements of CFC § 510 and all applicable subsections. The system shall be installed and inspected by the City of Montclair Building Department before the Certificate of Occupancy is issued. The requirement can be waived by the Fire Marshal if the building is evaluated by an Emergency Radio Communication Specialist license by FCC, which certifies the building meets the emergency communications capability as specified by the California Fire Code § 510. The certification shall be in the form of a written report which outlines the analysis used in determining the building meets the emergency communications without an enhancement system.

Police

145. The activity level of the business shall be monitored by the Police Department to establish the level of police services used for the business. Should the level of police services demonstrate that the applicant has not controlled excessive, or unnecessary activity resulting in high use of police services then this Conditional Use Permit shall be reviewed for consideration of further conditions, modifications or revocation.
146. There shall be no special promotional events held on the property unless a written request for such is received and approved by the Community Development Director and the Police Chief or their designee.
147. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.
148. The applicant shall install and maintain a closed circuit video surveillance (CCVS) system. The system shall, at minimum, be capable of monitoring all entrances/exits to the premises and exterior storage and parking areas. Cameras shall be positioned so as to allow for the identification of patron facial features and physical characteristics. A minimum of one camera shall be placed in a position to monitor the parking lot of the premises, positioned in a manner that allows for the widest view from the entrance, without significant lens distortion. Typically acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920×1080 pixels, otherwise known as 1080p. IR (night vision) is preferred, however, cameras shall at minimum be capable of low-light operation. Audio recording is desirable, but not a requirement. Camera footage shall be retained for a period of no less than 90 days. To conserve storage space, cameras may be motion-activated. When active, cameras shall record no less than 30 frames per second. Motion sensors shall be configured to activate properly in all areas covered including the parking area. Motion sensors may be configured to prevent incidental activation from hanging or moving displays. Depending on the nature of the premises, additional cameras may be required, but not limited to areas such as cash registers, or access to restroom areas.
149. The tentative map shall expire three years from the date of City Council approval unless extended under Government Code Section 66452.6. The final map shall be filed with the City Engineer and shall comply with the Subdivision Map Act of the State of California and all applicable Ordinances, requirements, and Resolutions of the City of Montclair.
150. Prior to the approval of a grading plan and issuance of a grading permit, the applicant shall work with the Director of Public Works to coordinate the final design and construction of the following on-site improvements:
 - a. Retaining walls along the north side of the subject property adjacent to the City of Montclair Yard. Retaining walls shall be structurally adequate with proper drainage. Separate permits are required for retaining walls.
 - b. Removal of the existing chain link fence along a portion of the north property boundary between the City Yard and subject site, and its replacement with a masonry wall of the sufficient height to screen and secure both properties. Wall

material and height shall be to the satisfaction of the City Engineer and/or Director of Community Development.

151. Remove existing "RV Sales Service Storage" sign along the frontage of the site.

The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 9TH DAY OF MAY, 2022.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 9th day of May 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEVSGUTIERREZ\CASES\2022-07 PC RESOLUTION1966

Attachment B:
Comment Letter from the Law Offices of Mitchell M. Tsai

P: (626) 381-9248
F: (626) 389-5414
E: info@mitchtsailaw.com



139 South Hudson Avenue
Suite 200
Pasadena, California 91101

VIA E-MAIL

April 25, 2022

Silva Gutierrez
Associate Planner
City of Montclair
5111 Benito Street
Montclair, CA 91763
Em: sgutierrez@cityofmontclair.org

RE: City of Montclair 5006 and 5010 Mission Boulevard Warehouse Project.

Dear Silva Gutierrez,

On behalf of the Southwest Regional Council of Carpenters (“SWRCC” or “Southwest Carpenters”), my Office is submitting these comments on the City of Montclair’s (“City” or “Lead Agency”) Mitigated Negative Declaration (“MND”) for the 5006 and 5010 Mission Boulevard Warehouse Project (“Project”).

The Southwest Carpenters is a labor union representing more than 50,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning, addressing the environmental impacts of development projects and equitable economic development.

Individual members of the Southwest live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

The Southwest Carpenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

SWRCC incorporates by reference all comments raising issues regarding the environmental impact report (“EIR”) submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal. App. 4th 173, 191

(finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, SWRCC requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq.*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

The City should require the Applicant to provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

Community benefits such as local hire and skilled and trained workforce requirements can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the UC Berkeley Center for Labor Research and Education concluded:

. . . labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

Recently, on May 7, 2021, the South Coast Air Quality Management District found that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.²

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”³

In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to requiring that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint

¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

³ City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, *available at* https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf.

labor-management training programs, . . .”⁴ In addition, the City of Hayward requires all projects 30,000 square feet or larger to “utilize apprentices from state-approved, joint labor-management training programs.”⁵

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.⁶

In addition, local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. As planning experts Robert Cervero and Michael Duncan noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents.⁷ Some municipalities have tied local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervero and Duncan note:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.” The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When

⁴ City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, *available at* <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

⁵ City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

⁶ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>.

⁷ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475-490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

The City should consider utilizing skilled and trained workforce policies and requirements to benefit the local area economically and mitigate greenhouse gas, air quality and transportation impacts.

If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai
Attorneys for Southwest Regional
Council of Carpenters

Attached:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).

Attachment C:
Comment Letter from the Law Offices of Lozeau & Drury



T 510.836.4200
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1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
victoria@lozeaudrury.com

Via Email

April 25, 2022

Silvia Gutiérrez, Associate Planner
Community Development Department
City of Montclair
5111 Benito Street
Montclair, California 91763
sgutierrez@cityofmontclair.org

Planning Commission
Attn: PC Clerk
City of Montclair
5111 Benito Street,
Montclair, California 91763
pcclerk@cityofmontclair.org

Re: Comment on Mitigated Negative Declaration, 5006 and 5010 Mission Boulevard Warehouse Project (Case No. 2022-7)

Dear Ms. Gutiérrez and City of Montclair Community Development Department:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Initial Study and Mitigated Negative Declaration (“IS/MND”) prepared for the 5006 and 5010 Mission Boulevard Warehouse Project (Case No. 2022-7), including all actions related or referring to the proposed construction of an approximately 115,350 square-foot, one-story industrial/warehouse facility on an approximately 5.13-acre property, located at the northeast corner of Mission Boulevard and Monte Vista Avenue, on APNs 1101-311-15, 1101-311-17, and 1101-311-19, in the City of Montclair (“Project”).

After reviewing the IS/MND, we conclude the IS/MND fails as an informational document, and that there is a fair argument that the Project may have adverse environmental impacts. Therefore, we request that the City of Montclair (“City”) prepare an environmental impact report (“EIR”) for the Project pursuant to the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000, et seq.

This comment has been prepared with the assistance of expert reviews by wildlife biologist Dr. Shawn Smallwood, Ph.D., environmental consulting firm Soil/Water/Air Protection Enterprise (“SWAPE”), and noise expert Deborah Jue. Dr. Smallwood’s comment and curriculum vitae are attached as Exhibit A hereto and is incorporated herein by reference in its

entirety. SWAPE's comment and the consultants' curriculum vitae are attached as Exhibit B hereto and are incorporated herein by reference in their entirety. Ms. Jue's comment and the consultants' curriculum vitae are attached as Exhibit C hereto and are incorporated herein by reference in their entirety.

I. PROJECT DESCRIPTION

The Project is for the development of the 5006 and 5010 Mission Boulevard Warehouse project (project) (Case No. 2022-7). The project includes the construction and operation of an approximately 115,350 square-foot, one-story industrial/warehouse facility on an approximately 5.13-acre (gross) property. The project site is composed of three parcels (Assessor's Parcel Number [APN] 1101-311-15, 1101-311-17, and 1101-311-19). In addition to the industrial/warehouse building, the project would include passenger vehicle parking spaces, trailer parking spaces, tractor-trailer loading docks, and other associated site improvements such as landscaping, sidewalks, and internal driveways.

The Project site is located in the southern portion of the City of Montclair, California (City) on the western edge of San Bernardino County. The Project site lies near the northeast corner of Mission Boulevard and Monte Vista Avenue and has street addresses of 5006 and 5010 Mission Boulevard. Regional access to the Project is provided via Interstate 10 located approximately 1.7 miles north of the project site. Local access to the project is provided via Mission Boulevard, Monte Vista Avenue, and Central Avenue.

Implementation of the project would require the following approvals from the City:

- **General Plan Amendment** to modify the project site's General Plan land use designation from General Commercial and Business Park to Business Park;
- **Parcel Map** to consolidate the three existing parcels on the project site into one parcel;
- **Precise Plan of Design** which provides precise details about the project's final site plan, including details relating to all structures, setbacks, driveways, utilities, landscaping, architecture, and the general nature of the proposed use; and
- **Other ministerial permits** including an encroachment permit, grading permit, general construction permit, and street/land closure permit;

II. LEGAL BACKGROUND

As the California Supreme Court has held, "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th

310, 319-320 (*CBE v. SCAQMD*) (citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505.) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (Pub. Res. Code (“PRC”) § 21068; *see also* 14 CCR § 15382.) 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.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Env’t v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109 (*CBE v. CRA*).

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens*, 124 Cal.App.4th at 1220.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process “protects not only the environment but also informed self-government.” (*Pocket Protectors*, 124 Cal.App.4th at 927.)

An EIR is required if “there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.” (PRC § 21080(d); *see also Pocket Protectors*, 124 Cal.App.4th at 927.) In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact thus requiring no EIR (14 CCR § 15371), only if there is not even a “fair argument” that the project will have a significant environmental effect. (PRC §§ 21100, 21064.) Since “[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process,” by allowing the agency “to dispense with the duty [to prepare an EIR],” negative declarations are allowed only in cases where “the proposed project will not affect the environment at all.” (*Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440.)

Mitigation measures may not be construed as project design elements or features in an environmental document under CEQA. The MND must “separately identify and analyze the significance of the impacts . . . before proposing mitigation measures . . .” (*Lotus vs. Department of Transportation* (2014) 223 Cal.App.4th 645, 658.) A “mitigation measure” is a measure designed to minimize a project’s significant environmental impacts, (PRC § 21002.1(a)), while a “project” is defined as including “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (CEQA Guidelines § 15378(a).) Unlike mitigation measures, project elements are considered prior to making a significance determination. Measures are not

technically “mitigation” under CEQA unless they are incorporated to avoid or minimize “significant” impacts. (PRC § 21100(b)(3).)

To ensure that the project’s potential environmental impacts are fully analyzed and disclosed, and that the adequacy of proposed mitigation measures is considered in depth, mitigation measures that are not included in the project’s design should not be treated as part of the project description. (*Lotus*, 223 Cal.App.4th at 654-55, 656 fn.8.) Mischaracterization of a mitigation measure as a project design element or feature is “significant,” and therefore amounts to a material error, “when it precludes or obfuscates required disclosure of the project’s environmental impacts and analysis of potential mitigation measures.” (*Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 185.)

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study “to a point where clearly no significant effect on the environment would occur, and...there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” (PRC §§ 21064.5, 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331.) In that context, “may” means a reasonable possibility of a significant effect on the environment. (PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland’s etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.)

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. (14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors*, 124 Cal.App.4th at 928.)

The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in their decision making. Ordinarily, public agencies weigh the evidence in the record and reach a decision based on a preponderance of the evidence. [Citation]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact.

(Kostka & Zishcke, *Practice Under the California Environmental Quality Act*, §6.37 (2d ed. Cal.

CEB 2021).) The Courts have explained that “it 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).)

CEQA requires that an environmental document include a description of the project’s environmental setting or “baseline.” (CEQA Guidelines § 15063(d)(2).) The CEQA “baseline” is the set of environmental conditions against which to compare a project’s anticipated impacts. (*CBE v. SCAQMD*, 48 Cal.4th at 321.) CEQA Guidelines section 15125(a) states, in pertinent part, that a lead agency’s environmental review under CEQA:

...must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.

(*See Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-25 (“*Save Our Peninsula*”).) As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground,’” and not against hypothetical permitted levels. (*Id.* at 121-23.)

III. ANALYSIS

A. The IS/MND Fails to Adequately Analyze and Mitigate the Potential Adverse Impacts of the Project on Biological Resources.

Expert wildlife biologist Dr. Shawn Smallwood, Ph.D., reviewed the IS/MND and proposed Project and associated biological study report. Dr. Smallwood’s review of the impacts to wildlife from the Project concluded that the Project may have significant impacts on several special-status species. An EIR is required to analyze these impacts. Dr. Smallwood’s comment and CV are attached as Exhibit A.

Dr. Smallwood performed a site visit to the proposed Project site on March 7, 2022. (*See* Ex. A, pp. 1-11.) Dr. Smallwood detected “9 species of vertebrate wildlife,” during the 1 hour and 3 minutes he spent surveying the Project site. (*Id.*, pp. 1-8.) One of the species that she detected during her site were special-status species. (*See, id.*, pp. 1-2, Table 1.) Dr. Smallwood observed abundant wildlife, including many birds foraging on site. He observed “red-tailed hawk and common ravens (Photos 1 and 2), mourning doves and northern mockingbirds (Photos 3 and 4), Yellow-rumped warblers and house finches (Photos 5 and 6), and Anna’s hummingbirds (Photo 7), among other species.” (*Id.*, pp. 1-4.)

Dr. Smallwood also identified 58 special-status species of wildlife as potentially occurring at the site based on Ms. Smallwood’s site visit and his own database review using

eBird and iNaturalist, (Ex. A, pp. 7 & 9-11, Table 2), including 41 species “immediately adjacent to the site, 35 (63%) have been documented within 1.5 miles of the site (‘Very close’), 5 (9%) within 1.5 and 3 miles (‘Nearby’), and another 13 (23%) within 30 to 50 miles (‘In region’).” (*Id.*, p. 7; see also, *id.*, pp. 9-11, Table 2.) However, Dr. Smallwood points out that the IS/MND’s related biological site assessment survey, provided in the September 2021 Biological Resources Attachments prepared by Dudek and included as Appendix B to the IS/MND, “determines occurrence likelihoods for only 17 (29%) of the species [Dr. Smallwood] listed as special-status species likely to occur in the project area,” which means that the “IS/MND is grossly deficient in this respect.” (*Id.*, p. 7; see also, *id.*, p. 9.) As a result, Dr. Smallwood concluded the following:

Given the gross deficiencies of the reconnaissance-level survey and of the desk-top database review regarding the composition of the wildlife community at the site and the likelihoods of occurrence of special-status species, *a fair argument can be made for the need to prepare an EIR to appropriately characterize the wildlife community as part of the current environmental setting of the project site.* (Ex. A, p. 8. [emphasis added].)

Moreover, Dr. Smallwood also found that the following factors necessitate the preparation of an EIR:

- The biological surveys at the Project site reveal an incomplete characterization of the environmental setting, and hence a misleading analysis of impacts from the Project. (Ex. A, pp. 4-8.)
- The IS/MND and the related biological assessment, provided in the September 2021 Biological Resources Attachments prepared by Dudek and included as Appendix B to the IS/MND, failed to address habitat loss and habitat fragmentation as a result of the Project, which would further permanently diminish the productive capacity of nesting birds in the area. (Ex. A, pp. 8, 12.) Specifically, Dr. Smallwood predicted that **“the project would deny California 5,920 birds over the next century due solely to loss of terrestrial habitat.”** (*Id.*, p. 12 [emphasis in the original].)
- The IS/MND and the related biological assessment failed to consider impacts caused to wildlife movement in the region as a result of the proposed Project. (Ex. A, pp. 12-13.)
- The IS/MND and related biological assessment failed to consider impacts caused by project-generated traffic from the proposed Project. (Ex. A, pp. 13-15.)
- The IS/MND and related biological survey report fails to adequately address cumulative impacts to wildlife from the Project. (Ex. A, pp. 15-16.)

Lastly, Dr. Smallwood notes that the IS/MND includes no mitigation measures for impacts to biological resources. (Ex. A, pp. 16-17.) Instead, Dr. Smallwood recommends several new mitigation measures, such as detection surveys for wildlife species, preconstruction nest survey, compensatory measures for impacts to habitat loss, wildlife movement, and road mortality, and funding wildlife rehabilitation facilities. (*Id.*, pp. 16-17.) An EIR is required to analyze these feasible mitigation measures.

B. The IS/MND Failed to Adequately Analyze Hazards and Hazardous Materials from the Project and Thus the Project May Result in Significant Impacts from Hazards and Hazardous Materials.

The IS/MND does not rely on any substantial evidence to support its conclusion that the Project will not expose the public, workers, or the environment to potentially hazardous materials. In preparing the IS/MND, neither the City nor the Applicant prepared a Phase I Environmental Site Assessment (“ESA”) for the Project site. Based on a 2006 Google Earth image, included in SWAPE’s comments, “approximately 150 cars stored at the Project site.” (Ex., B, pp. 1-2.) According to SWAPE, “[s]torage of this many automobiles may have resulted in releases of fuel, oil, and petroleum hydrocarbons to the subsurface, a potential impact not evaluated in the IS/MND.” (*Id.*, p. 2.) Therefore, as SWAPE points out, “[t]he preparation of Phase I ESA is routine during CEQA proceedings for identifying and disclosing hazardous waste conditions that may present impacts to the public, workers, or the environment, and which may require further investigation, including environmental sampling and cleanup.” (Ex. B, p. 2.)

Standards for performing a Phase I ESA have been established by the US EPA and the American Society for Testing and Materials Standards (“ASTM”). (Ex. B, p. 2.) Phase I ESAs include a review of all known sites in the vicinity of the subject property that are on regulatory agency databases undergoing assessment or cleanup activities; an inspection; interviews with people knowledgeable about the property; and recommendations for further actions to address potential hazards. (*Id.*, pp. 2-3.) “The principal aim of a Phase I ESA is to identify any “recognized environmental conditions (‘RECs’).” (*Id.*, p. 3.) Furthermore, “[a] REC is the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water. If RECs are found, a Phase II ESA is usually conducted. A Phase II ESA includes the collection of environmental samples to identify the extent of contamination and if cleanup is needed to reduce public exposure to contamination.” (*Id.*)

It is well-established that CEQA requires analysis of toxic soil contamination that may be disturbed by a Project, and that the effects of this disturbance on human health and the environment must be analyzed. The IS/MND’s baseline for this potential impact is flawed for failure to identify existing soil conditions at the Project site. Without knowing the presence and levels of these chemicals, the IS/MND cannot justify its conclusion that human exposure impacts are unlikely, and that the Project poses no significant risks from the release of hazardous

materials into the environment. Thus, SWAPE's following recommendations should be implemented prior to the approval of the proposed Project:

An EIR, to include a Phase I ESA, is needed to identify and disclose any RECs at the Project site. If RECs are identified in the Phase I ESA, a Phase II ESA should be prepared to include the collection of soil samples to determine if contamination exists. Any contamination that is found to be above regulatory screening levels, including California Department of Toxic Substances Control Soil Screening Levels, should be further evaluated in coordination with regulatory agencies to include the Regional Water Quality Control Board and the California Department of Toxic Substances Control.

(Ex. B, p. 3 [citations omitted].)

C. The IS/MND Relied on Unsubstantiated Input Parameters to Estimate Project Emissions and Thus Failed to Adequately Analyze the Project's Air Quality Impacts.

The IS/MND relies on emissions calculated with CalEEMod.2020.4.0 (Ex. B, p. 3; IS/MND, p. 22.) This model relies on recommended default values, or on site-specific information related to a number of factors. When more specific project information is known, the user may change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. The model is used to generate a project's construction and operational emissions. SWAPE reviewed the Project's CalEEMod output files provided in the Air Quality Attachments ("AQ Attachments"), as Appendix A to the IS/MND, and found that several model inputs used to generate a project's construction and operational emissions were not consistent with information disclosed in the IS/MND. (Ex. B, pp 3-8.) As a result, SWAPE concludes that the Project's construction and operational emissions are underestimated. (*Id.*, pp. 3-4.) Because the IS/MND uses incorrect estimates for emissions, its air quality and GHG analysis cannot be relied upon to determine the Project's emissions. The particular errors identified by SWAPE are discussed below. These errors should be corrected in a subsequent CEQA document prior to approval of the Project. SWAPE's expert comments and curriculum vitae are attached hereto as Exhibit B.

Specifically, SWAPE found that several values used in the IS/MND and AQ and GHG model outputs were either inconsistent with information provided in the IS/MND or otherwise unjustified (Ex. B, pp. 4-8), including:

1. Failure to Model All Proposed Land Uses. (Ex. B, pp. 4-5.)
2. Underestimated Number of Operational Forklifts. (Ex. B, p. 5.)
3. Incorrect Application of Construction-Related Mitigation. (Ex. B, pp. 5-8.)

By incorrectly including several operational-related mitigation measures without properly committing to their implementation, the Project's operational emissions were underestimated and

cannot be relied upon to determine the significance of the Project's air quality impacts. Thus, an EIR is needed to adequately address the air quality impacts of the proposed Project, and to mitigate those impacts accordingly.

D. There is Substantial Evidence of a Fair Argument that the Project May Have Significant Health Impacts as a Result of Diesel Particulate Emissions.

An EIR is required to evaluate the significant health impacts to individuals and workers from the Project's operational and construction-related diesel particulate matter ("DPM") emissions as a result of the proposed Project. SWAPE's analysis of health risks related to the Project concludes that the IS/MND failed to adequately analyze the health impacts related to the Project's operational and construction DPM emissions, and provides substantial evidence of a fair argument that the Project will have significant health impacts as a result of such emissions. (See, Ex. B, pp. 8-14.)

1. The IS/MND fails to adequately evaluate health risks from DPM emissions.

According to SWAPE, the IS/MND incorrectly concludes that the proposed Project would have a less-than-significant health risk impact, without conducting an adequate quantified operational-related health risk analysis ("HRA"). (Ex. B, pp. 8-10.) Specifically, the IS/MND concludes that the Project would result in a less-than-significant operational related health risk impact because of "the limited amount of truck trips and wind direction would not result in substantial toxic air contaminant ("TAC") emissions." (*Id.*, p. 8 [citing IS/MND, p. 34].) However, as SWAPE points out, the IS/MND's evaluation of the Project's potential health risk impacts, as well as the subsequent less-than-significant impact conclusion, is incorrect for several reasons. (*Id.*, pp. 8-10.)

First, the IS/MND fails to provide the Construction and Operational Health Risk Assessments or any detailed assumptions whatsoever regarding the Project's HRA methodology, and instead includes only the CalEEMod and AERMOD output files. (Ex. B, pp. 8-9 [citing IS/MND, p. 31].) As a result, SWAPE "cannot verify the input parameters used in the IS/MND's HRA are accurate," and thus, "the IS/MND's construction-related cancer risk may be underestimated." (*Id.*, p. 9.)

Second, by failing to prepare a quantified operational HRA, the IS/MND fails to quantitatively evaluate operational-related TACs, or make a reasonable effort to connect emissions to health impacts posed to nearby existing sensitive receptors from the Project. (Ex. B, p. 9.) SWAPE identifies potential emissions from both the exhaust stacks of construction equipment. (*Id.* [citing IS/MND, p. 27].) As such, the IS/MND fails to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health caused by those emissions.

Third, the IS/MND's conclusion is also inconsistent with the most recent guidance published by the Office of Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines.¹ (Ex. B, pp. 9-10.) OEHHA recommends that projects lasting at least 2 months be evaluated for cancer risks to nearby sensitive receptors, which SWAPE points out is a time period which this Project easily exceeds. (*Id.*, p. 9.) The OEHHA document also recommends that if a project is expected to last over 6 months, the exposure should be evaluated throughout the project using a 30-year exposure duration to estimate individual cancer risks. (*Id.*) Based on its extensive experience, SWAPE reasonably assumes that the Project will last at least 30 years, and therefore recommends that health risk impacts from the Project be evaluated. (*Id.*) Because these recommendations reflect the most recent state health risk policies, SWAPE further recommends that an analysis of health risk impacts posed to nearby sensitive receptors from Project-generated DPM emissions be included in the EIR that is required for this Project. (*Id.*, pp. 9-10.)

Fourth, review of the IS/MND demonstrates that, while the Project did conduct a construction-related HRA, the HRA fails to evaluate the cumulative lifetime cancer risk to nearby, existing receptors as a result of Project construction and operation together. (Ex. B, p. 10.) As stated in the OEHHA guidance, and further referenced by the IS/MND, "the excess cancer risk is calculated separately for each age grouping and then summed to yield cancer risk at the receptor location." (*Id.* [citing IS/MND, p. 33].)² However, as SWAPE points out, "the IS/MND's HRA fails to sum each age bin to evaluate the combined cancer risk over the course of the Project's total construction and operation" (*Id.*). According to SWAPE, "this is incorrect." (*Id.*) Thus, "an updated analysis should quantify the entirety of the Project's construction and operational health risks together to compare to the SCAQMD threshold of 10 in one million, as referenced by the IS/MND." (*Id.* [citing IS/MND, p. 33].)

2. There is substantial evidence that the Project may have a significant health risk impact.

Correcting the above errors, SWAPE prepared a screening-level HRA to evaluate potential impacts from the operation of the Project. (Ex. B, pp. 10-14.) SWAPE prepared a screening-level HRA to evaluate potential health risk impacts posed to residential sensitive receptors as a result of the Project's operation-related TAC emissions. SWAPE used AERSCREEN, the leading screening-level air quality dispersion model. SWAPE applied a

¹ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at*: <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.

² Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at*: <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.

sensitive receptor distance of 50 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance utilizing age sensitivity factors.

SWAPE found that the excess cancer risks at a sensitive receptor located approximately 50 meters away over the course of Project construction, *with* utilizing the recommended age sensitivity factors, are approximately 41.3 in one million for infants and 78.4 in one million for children. (Ex. B, p. 13.) Based on these estimates SWAPE concluded that the total excess lifetime cancer risk over the course of Project operation is approximately 128 in one million. (*Id.*) Moreover, when summing the Project's operational cancer risk, as estimated by SWAPE, with the IS/MND's construction-related cancer risk of 9.9 in one million, SWAPE further estimates an excess cancer risk of approximately 137.9 in one million over the course of a residential lifetime. (*Id.* [citing IS/MND, p. 33, Table 14].) The cancer risk for infants, children, and lifetime residents exceeds the SCAQMD's threshold of 10 in one million, thus resulting in a potentially significant impact not previously addressed or identified by the IS/MND. Hence, an EIR is required for the Project.

CEQA requires an agency to include an analysis of health risks that connects the Project's air emissions with the health risk posed by those emissions. SWAPE's screening-level HRA demonstrates that the Project's construction and operation may have a significant health risk impact, when correct exposure assumptions and up-to-date, applicable guidance are used. Because SWAPE's screening-level HRA indicates a potentially significant impact, the City must prepare an EIR. This EIR should also include an HRA which makes a reasonable effort to connect the Project's air quality emissions and the potential health risks posed to nearby receptors. Thus, as SWAPE recommends, "an EIR should be prepared, including a quantified air pollution model as well as an updated, quantified refined health risk assessment which adequately and accurately evaluates health risk impacts associated with both Project construction and operation." (Ex. B, p. 14.)

E. The IS/MND Failed to Adequately Analyze Greenhouse Gas Impacts and Thus the Project May Result in Significant Greenhouse Gas Emissions.

SWAPE's review of the IS/MND and the Project's CalEEMod output files, provided in the AQ Attachments found that the IS/MND fails to adequately evaluate the GHG impacts of the proposed Project. (Ex. B, pp. 6-7.) However, SWAPE concludes that the IS/MND's GHG analysis and subsequent less-than-significant impact conclusion are incorrect for several reasons:

1. The IS/MND's quantitative GHG analysis relies upon an incorrect and unsubstantiated air model. (Ex. B, p. 15.)
2. The IS/MND's quantitative GHG analysis relies upon an outdated threshold. (Ex. B, pp. 15-16.)
3. The IS/MND fails to indicate a potentially significant GHG impact. (Ex. B, p. 16.)

4. The IS/MND fails to consider the performance-based standards under CARB's Scoping Plan. (Ex. B, p. 17.)
5. The IS/MND fails to consider the performance-based standard under SCAG's RTP/SCS. (Ex. B, pp. 17-18.)

As such, the IS/MND's less-than-significant GHG impact conclusion is incorrect and should not be relied upon. Thus, an EIR must be prepared and should include an updated GHG analysis and incorporate mitigation measures intended to reduce GHG emissions to less-than-significant levels.

SWAPE's analysis demonstrated a potentially significant health risk impact from the project that necessitates mitigation, and it proposes that the project design features that are incorrectly applied as mitigation measures by the model be implemented formally as mitigation measures in order to adequately reduce construction and operational emissions. SWAPE also provides a number of cost-effective, feasible mitigation measures that the City should consider implementing prior to approving the Project. (See, Ex. A, pp. 19-21). In addition to implementing these measures, an EIR should be included with updated hazards and hazardous materials, air quality, health risk, and GHG analysis.

F. There Is Substantial Evidence of a Fair Argument that the Project Could Have Significant Noise Impact.

The comment of noise expert Deborah Jue is attached as Exhibit C. Ms. Jue has identified several issues with the IS/MND. Ms. Jue's concerns are summarized below.

After reviewing the proposed Project and IS/MND and related appendices, Ms. Jue concluded that the Project's construction noise impacts are potentially significant. As a result, the IS/MND is improper and an EIR must be prepared.

According to Ms. Jue, the IS/MND failed to adequately analyze the Project's noise impact from construction for several reasons:

1. There are errors and omissions in the IS/MND related to noise impacts from the proposed Project. (Ex. C, pp. 1-2.)
2. The IS/MND's construction noise analysis draws upon thresholds of significance that are not properly developed. (Ex. C, pp. 2-3.)
- 3.
4. The IS/MND's noise impact analysis related to traffic and off-site construction and vehicle noise and construction equipment is incomplete. (Ex. C, pp. 3-4.)

5. The IS/MND lacks adequate noise mitigations to lessen several potentially significant noise impacts from construction-related activities of the proposed Project. (Ex. C, p. 4.)

Ms. Jue's expert comments constitute substantial evidence of potentially significant construction noise impact as a result of the Project that was not disclosed, analyzed, or mitigated in the IS/MND. Thus, an EIR is required for this Project.

IV. CONCLUSION

For the foregoing reasons, the IS/MND is inadequate and an EIR is required to analyze and mitigate the Project's potentially significant environmental impacts. SAFER reserves the right to supplement these comments in advance of and during public hearings concerning the Project. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).) Thank you for your attention to these comments.

Sincerely,



Victoria Yundt
Lozeau | Drury LLP