

**Appeal Letter 2: City of Perris, received May 3, 2023**

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May 3, 2023

**VIA HAND DELIVERY AND EMAIL**

Honorable Mayor and City Council  
City of Menifee  
29844 Haun Road  
Menifee, CA 92584

Re: LETTER PROVIDING FURTHER COMMENTS IN SUPPORT OF CITY OF PERRIS' APPEAL OF PLOT PLAN NO. PLN 21-0290 - ETHANAC AND BARNETT SPECULATIVE WAREHOUSES - LOCATED SOUTH OF ETHANAC ROAD AND WEST OF BARNETT ROAD (APNS: 331-060-36 AND 331-060-021)

Dear Honorable Mayor and City Councilmembers:

On behalf of the City of Perris ("City"), this letter is submitted as further support of the City's objection to and appeal of the City of Menifee's Planning Commission March 8, 2023 decision approving Plot Plan No. PLN 21-0290 for the Ethanac and Barnett Development Project ("Project") and adopting a Mitigated Negative Declaration ("MND"). We respectfully request that this letter, the City of Perris' March 20, 2023 appeal letter ("Appeal Letter") and the letter from the City of Perris dated March 6, 2023 commenting on the Initial Study and MND ("Comment Letter") be placed in the record of proceedings for the Project and the MND.

A2.1

1. Information Regarding Expert Qualifications of City of Perris Team That Reviewed the Initial Study and MND

The Appeal Letter and Comment Letter identified numerous deficiencies in the February, 2023 Initial Study's ("IS/MND") environmental analysis including an incomplete project description and inadequate analysis of environmental impacts related to air quality, energy, greenhouse gas emissions, health risks, noise and transportation. A team of professionals that included employees of the City of Perris ("City"), and a consultant under contract with the City, with extensive experience analyzing environmental impacts from all types of development projects, including warehouses, carefully reviewed the IS/MND. This team of professionals consisted of Kenneth Phung, Director of Development Services, John Pourkazemi, Interim City Engineer, Patricia Brenes, Planning Manager and Michael Brown, President of Cadence Environmental Consultants, contract consultant with the City of Perris. This team's comments on the Initial Study were then included in the Comment Letter and Appeal Letter. This same team contributed to the additional appeal points contained in this letter. Attached as Exhibit "A" is additional information demonstrating the expertise of each of these reviewers. The following is a

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short summary of their background, knowledge and experience related to project planning and environmental analysis.

Kenneth Phung has been employed as a planner for since 1999 and has worked for the City of Perris, both as a consultant an employee, since 2007. During his career Mr. Phung has been responsible for all aspects of managing and processing development project applications as well as the CEQA environmental review. This has involved providing staff training on compliance with CEQA.

John Pourkazemi is a licensed professional engineer with over 30 years of experience in the field of civil engineering and municipal engineering including land development, capital improvement and assessment district engineering. During the course of his career Mr. Pourkazemi has reviewed, developed and processed numerous general plans, engineering plans and maps and technical reports, studies and analyses (hydrology/hydraulic, geotechnical, traffic, environmental) for residential, commercial and industrial development applications from individual lots/parcels to specific plan developments.

Patricia Brenes has been employed as a planner since 1999 and has processed entitlement applications for a variety of a variety of complex projects, including but not limited to, warehouses, hospital expansions, multi-family developments, subdivisions, each of which required the preparation of either a MND or an EIR. Ms. Brenes was responsible for ensuring that each of these environmental documents complied with CEQA. In her current position Ms. Brenes responsibilities include managing the daily operations of the Perris Planning Department.

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Michael Brown has been an environmental consultant for more than 30 years. In this capacity, Mr. Brown has been involved in the preparation of environmental and planning documents throughout California. Mr. Brown maintains technical expertise in the assessment of air quality, greenhouse gas, and environmental noise impacts. He has used this expertise to develop detailed computer models for the assessment of air quality and noise impacts.

Therefore, the comments in the Comment Letter, the Appeal Letter and this letter constitute substantial evidence in the form of expert opinion supported with credible facts and analysis. (CEQA Guidelines, section 15384). Furthermore, all of these comments raise a fair argument supported with substantial evidence that the Project may have one or more significant impacts on the environment.

## 2. Additional Comments Regarding CEQA violations

The City has reviewed the Staff Report prepared for the May 3, 2023 Menifee City Council Hearing on the City's Appeal that was posted to the City of Menifee website on Friday, April 28, 2023 after 4:00 p.m. Because of its late posting on Friday, City staff was not able to review it and

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provide these comments until now. In general, after reviewing this Staff Report and its exhibits the City reiterates its position stated in its Appeal Letter and Comment letter that the IS/MND has serious flaws and does not comply with the requirements of the California Environmental Quality Act ("CEQA") or the CEQA Guidelines (14 CCR 15000, et seq.) In addition to the comments in the Appeal Letter and Comment Letter, the City of Perris also submits the following additional comments regarding the failure of the IS/MND to comply with CEQA.

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## 2.1 Improper Analysis of Impacts Associated with the Reasonably Foreseeable Use of Warehouses for Cold Storage

The Appeal Letter at pages 2 and 3 state the Project Description is inadequate because it fails to address whether the two warehouses may foreseeably be used for cold storage. As stated in the Appeal Letter, whether the warehouse space is used for cold storage significantly effects the environmental analysis for the Project as cold storage facilities generate substantially greater impacts related to air quality, greenhouse gas emissions and truck traffic. At the time of the City's review of the IS/MND in preparing its Comment and Appeal Letters the Project included a condition of approval that defers environmental analysis of the environmental impacts associated with the use of transport refrigeration units to some point in the future should a tenant seek to equip the warehouse with such units. The Staff Report now states that this condition has been revised to read as follows:

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(4a) Cold storage and Transport Refrigeration Units (TRU) are prohibited use(s) as a part of this plot plan. Additional environmental analysis shall be required by the tenant and/or property owner prior to the establishment of the use and the operation of TRU's; the property owner shall submit an application to modify the approved plot plan prior to the establishment of cold storage and TRU's on-site (Updated for City Council hearing May 3, 2023)

By including this condition, the City of Menifee has now conceded that use of the warehouses for cold storage is reasonably foreseeable. Furthermore, as the City has stated, there is a fair argument that use of the warehouses for cold storage may cause a reasonably foreseeable significant impact related to Air Quality and Greenhouse Gas ("GHG") emissions for the reasons set forth in the Appeal Letter. For example, the IS/MND's GHG analysis relies upon a numeric threshold of 3000 metric tons of CO<sub>2e</sub> annually. The analysis then states that the project, not including cold storage uses, would generate 2985.38 metric tons of CO<sub>2e</sub> annually. This is less than 15 metric tons below the threshold for causing a significant GHG impact. If the use of the warehouses for cold storage was included in this analysis, the project's generation of the CO<sub>2e</sub> would exceed the 3000 metric tons threshold requiring mitigation measures to be imposed on the project or the preparation of an Environmental Impact Report. However, instead of analyzing the potential significant impacts associated with use of the warehouses for cold storage, the City of Menifee has included Condition 4a which improperly defers analysis of these impacts into the

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future. Condition 4a appears to be an attempt at mitigating impacts associated with the cold storage use as it represents a modification to the project in the form of prohibiting a particular use so as to avoid potentially significant environmental impacts. However, it fails to comply with the requirements for mitigation measures set forth in CEQA Guidelines, section 15126.4, including subsection (a)(1)(B). Finally, to the extent the City of Menifee has conceded that the reasonably foreseeable use of these warehouses for cold storage may cause significant environmental impacts, the IS/MND must be revised to disclose this potentially significant impact and the mitigation measures to reduce or avoid these impacts and recirculated pursuant to CEQA Guidelines, section 15073.5(a) and (b).

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## 2.2 The Greenhouse Gas Impact Analysis Fails to Comply with CEQA

To address the threshold question of whether the Project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases, the Initial Study at pages 121-125 provides an analysis of consistency with the California Air Resources Board's ("CARB") Scoping Plan adopted in 2017. However, the 2017 Scoping Plan is out of date as CARB adopted a new scoping plan on December 15, 2022 that establishes new initiatives to achieve substantially greater reductions in GHG emissions. The Final 2022 Scoping Plan and supporting documents and appendices may be accessed at the following weblink: <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents> and are incorporated into this letter by this reference.

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The IS/MND, dated February, 2023, fails to mention the 2022 Scoping Plan much less analyze the Project's consistency with it. As such, the IS/MND's analysis of whether the Project conflicts with a Plan adopted to reduce GHG emissions is legally inadequate.

## 2.3 The Analysis of Noise Impacts Fails to Comply with CEQA

The Initial Study at p. 148 states that to analyze construction noise the Initial Study shall rely upon an absolute noise threshold of 80 dBA LEQ which is utilized by the Federal Transportation Administration ("FTA") when it analyzes potential noise impacts due to daytime construction. However, the FTA, as a federal agency, is not subject to CEQA. Reliance on an absolute threshold such as the one relied upon in the Initial Study appears to run counter to the holding in *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814. In that case the court held that the County of Kern's use of an absolute noise threshold to analyze both construction and operational noise impacts failed to comply with CEQA. *King & Gardiner, supra*, at p. 893-94. As such, the analysis of construction noise needs to be revised consistent with the courts holding in *King & Gardiner, supra*.

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In addition, the noise analysis is inadequate as it failed to analyze reasonably foreseeable noise impacts to sensitive receptors that will occupy residential development along the north side

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of Ethanac Road as identified in the Green Valley Specific Plan. Attached as Exhibit B is a copy of Figure 5 of the Green Valley Specific Plan which indicates that multi-family residential development is planned for this area which is no more than 500 feet from the Project site. The entirety of the Green Valley Specific Plan is available at the following web address and is incorporated into this letter by this reference:

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<https://www.cityofperris.org/home/showpublisheddocument/2629/637217272577300000>.

Instead the IS/MND's noise analysis has identified six sensitive receptor locations, the closest of which (R4) is over 1000 feet from the Project site's boundary. (IS/MND Noise Study, p. 37-38). In its response to Appeal Letter comment 32, the City of Menifee claims that the noise analysis assumed sensitive receptors were located within 374 feet of the project site and makes reference to noise analysis included in an Attachment A. However, the only Attachment A the City could locate contains additional air quality analysis, not noise analysis. CEQA requires the City of Menifee to analyze whether the project will have noise impacts to the future residents of these reasonably foreseeable multi-family residential units identified in the Green Valley Specific Plan.

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#### 2.4 The Analysis of Transportation Impacts to streets and intersections located in Perris is Inadequate.

In the Appeal Letter the City has set forth a fair argument that the project will result in significant traffic safety impacts due to the introduction of heavy truck traffic to the intersection of Barnett Road and Ethanac Road causing the intersection to not function in a safe manner due to the existing confound and staggered configuration of the intersection of Barnett Road and Case Road at Ethanac Road. As further support for this fair argument, the Appeal Letter states there is limited distance for trailer trucks to make the necessary lane change from the I-215 southbound off-ramp to Case Road and then to the left turn lane at Barnett Road. Furthermore the left turn pocket provides limited stacking for trailer trucks to make a safe left turn movement. The Appeal Letter goes on to state that the slow-moving trailer trucks and the changing of the lanes will cause congestion, extended backup, and queuing resulting in unsafe vehicle movements, which will foreseeably cause increased vehicular collisions. (Appeal Letter, p. 8)

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In response to this comment, which the City of Menifee identified as Appeal 33, the City of Menifee states the following:

This comment states that the intersection of Barnett Road and Ethanac Road will not function safely and satisfactory due the existing configuration of the intersections of Barnett Road and Case Road at Ethanac Road. Specifically, trailer trucks have limited distance to make necessary lane changes from I-25 off-ramp to Case Road and then to Barnett Road. Additionally, the left turn pocket provides

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limited stacking for trailer trucks to make safe left turn movements. This would cause congestion, extended backup, and queuing, causing unsafe vehicular movements. The improvements proposed by the City of Perris at the intersection of Ethanac Road and Barnett Road represent a potential future City of Perris project. However, there is not a nexus to require the proposed development to construct or bear the full cost of implementation of the improvements. Furthermore, the timeline for implementation of the improvement is speculative and would occur after implementation of the proposed project. Therefore, it is not necessary to include realignment of the intersection of Ethanac Road and Barnett Road, as this project is not approved by either City or funded at this time. The project includes mitigation and condition to pay fair share costs for future improvements at the Ethanac Road and Barnett Road intersection proportional to the project-specific impacts. As described in the Traffic Impact Assessment (TIA) prepared for the project (Appendix O of the IS/MND), the project would install a "Keep Clear" pavement marking approximately 85 feet beyond the stop line of the 50 feet left turn pocket at Barnett Road/Ethanac Road. This would ensure that the westbound lane traffic does not block traffic waiting to make a southbound turn given the staggered nature of this intersection. Based on the level of service (LOS) analysis completed for the TIA, future traffic conditions would result in a satisfactory LOS for the Ethanac/Barnett intersection with implementation of proposed improvements.

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The City has presented substantial evidence in the form of expert opinion supported with facts to support a fair argument that the Project may cause a significant safety impact at the intersection of Ethanac and Barnett Roads. The fact that the City of Menifee has attempted to introduce evidence to the contrary does not defeat the City's fair argument.

Furthermore, the City has established with substantial evidence that there is a clear and direct nexus to the City of Menifee Proposed Development (Project) to, at a minimum, construct the realigned Barnett Road south of Ethanac Road to align with Case Road at ultimate design, because the trailer truck access, as well as other vehicular access, to the Project is from I-215 Interchange at Ethanac Road, Ethanac Road and Barnett Road. Completion of the realigned Barnett Road at Ethanac Road, to align with Case Road, is required to mitigate the traffic delays and impacts and safety hazards associated with generated trailer trucks and autos traffic of the Project. Payment of fair share cost for future improvements will not alleviate the traffic impacts that will be generated and experienced with the Project. These are due to inadequate spacing from the interchange offramp to existing intersection of Case Road and Barnett Road at Ethanac Road and the delays and queuing impacts that will be generated by the trailer trucks and the other vehicles accessing the Project. The length of the existing left turn pocket on Ethanac Road at Barnett Road is only 50 feet, minimum length of a trailer truck is 72 to 80 feet therefore not even one trailer truck can fit in this turn lane pocket without encroaching into the intersections. And the length of

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the existing left turn pocket on Ethanac Road at Case Road is about 100 feet, again barely enough space for only one trailer truck. Latter are the impacts on westbound Ethanac Road; the same issues apply to eastbound Ethanac Road between the existing intersections of Barnett Road and Case Road. These accumulated situations, if not mitigated by the Project as indicated before the Project is completed and operational, will create immense delays and raise vast and significant safety concerns with the trailer truck movements and auto movements, and pedestrian access, in a restricted and limited space on Barnett Road, Case Road, Ethanac Road and the I-215 interchange.

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The fact that the City of Menifee has conditioned the project to pay fair share costs for future improvements at the Ethanac Road and Barnett Road intersection does not constitute adequate mitigation for this significant impact pursuant to *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4<sup>th</sup> 1173, 1194. As stated in *Anderson First*, for such contributions to constitute adequate mitigation, the amount of the contribution must be stated and the contribution must be part of a reasonable, enforceable plan or program that is sufficiently tied to the actual mitigation of the traffic impacts at issue. As the City of Menifee has failed to meet these requirements, this potentially significant impact has not been mitigated. To the extent this significant impact is therefore unavoidable an Environmental Impact Report must be prepared for this Project.

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In conclusion, for the reasons set forth in this letter, the Appeal Letter and the Comment Letter, the City of Perris again requests that the Menifee City Council reverse the decision of the Planning Commission and deny the Proposed Plan in light of the significant deficiencies in the Project and the IS/MND. The City of Perris continues to look forward to working with Menifee to facilitate the preparation and consideration of a Project and an environmental analysis that complies with CEQA.

A2.13

Respectfully,,

ALESHIRE & WYNDER, LLP



John Fox, Partner

Enclosures  
JWF:JWF

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## **EXHIBIT A**



John Pourkazemi  
Interim City Engineer, City of Perris  
john@trilakeconsultants.com

Mr. Pourkazemi has a degree in Civil Engineering and is a licensed/professional civil engineer and qualified Storm Water Pollution Prevention Program ("SWPPP") preparer and qualified SWPPP practitioner ("QSD/P"). He has over 30 years of experience in the field of civil engineering and municipal engineering with significant experience in land development, capital improvement and assessment district engineering. In the course of his career, Mr. Pourkazemi has reviewed, developed and processed general plans, engineering plans and maps and technical reports, studies and analyses (e.g. hydrology/hydraulic, geotechnical, traffic, environmental) for residential, commercial and industrial development applications from individual lots/parcels to specific plan developments. Mr. Pourkazemi has coordinated projects and infrastructure improvements with regulatory and other federal, state and local agencies, districts and utility purveyors and has processed funding from federal, state and local sources. In addition, Mr. Pourkazemi has managed and programmed Capital Improvement Plans from initial planning and budgeting to final completion, including managing and coordinating the appropriation of funds, RFPs/RFQs, contract agreement, plan preparation, bid process, construction management and the filing of the notice of termination/completion.



## Michael Brown

### Profile

Mr. Michael Brown is the President of Cadence Environmental Consultants and serves in both managerial and technical roles at the firm. As an environmental consultant for more than 30 years, Michael has been involved in the preparation of environmental and planning documents throughout California. In addition to his management role, Michael maintains technical expertise in the assessment of air quality, greenhouse gas, and environmental noise impacts. He has used this expertise to develop detailed computer models for the assessment of air quality and noise impacts. He is also a guest lecturer on air quality, greenhouse gas, and environmental noise impact analysis at the University of Southern California Sol Price School of Public Policy. Michael also provides environmental report peer review services for jurisdictions in Southern California, mitigation monitoring services, and code compliance services.

### Representative Project Experience

The following list identifies a representation of projects that Michael has either managed or had a primary role in the evaluation of environmental impacts:

#### CEQA ENVIRONMENTAL GUIDELINES

City of Camarillo CEQA Environmental Guidelines

#### GENERAL PLANS

Corona General Plan Update

Lancaster MEA and General Plan EIR

Lancaster/Palmdale Enterprise Zone EIR

Orcutt Community Plan, Santa Barbara County

Santa Clarita Valleywide General Plan, City of Santa

Clarita and Los Angeles County

Sierra Madre MEA and General Plan EIR

South Pasadena General Plan EIR

#### SPECIFIC PLANS, RESIDENTIAL, AND MIXED-USE PROJECTS

1155 S. Grand Avenue (Lot 114) MND, City of Los Angeles

3600 Wilshire Boulevard - Legacy Partners MND, City of Los Angeles

Arneill Road Mixed-Use Project ND, City of Camarillo

Camarillo Hotel and Conference Center EIR, City of Camarillo

Camarillo Village Homes EIR, City of Camarillo

Camino Ruiz Apartment Community EIR, City of Camarillo

Country Club of the Desert Specific Plan EIR, City of La Quinta

Downey Landings Specific Plan EIR, City of Downey

East Village Phase II Annexation EIR, City of Oxnard

La Brea Gateway EIR, City of Los Angeles

LA Lofts - 1028-1044 Hope Street MND, City of Los Angeles

Newhall Ranch Specific Plan EIR, Los Angeles County

Pacific City EIR, City of Huntington Beach

Palo Comado Ranch EIR, City of Agoura Hills

Parker Ranch EIR, City of Simi Valley

Playa Vista Second Phase Project EIS/EIR, City of Los Angeles/Los Angeles County

Porta Bella EIR, City of Santa Clarita

Rancho La Sierra Specific Plan EIR, City of Riverside

Rancho Malibu EIR, Los Angeles County

Sakioka Farms Specific Plan EIR, City of Oxnard

Simi Village Interior and Exterior Noise Analysis, City of Simi Valley

The Strand at Huntington Beach (Blocks 104 and 105) EIR, City of Huntington Beach

Tentative Tract 5812 & Change of Zone 5248 EIR, City of Camarillo

University Community Plan EIR, Merced County

University Park Master Development Plan EIR, City of Stockton

Vallejo Station and Waterfront Project EIR, City of Vallejo

Village at the Park Specific Plan and EIR, City of Camarillo

Village Gateway MND, City of Camarillo

Westridge EIR, Los Angeles County



**COMMERCIAL/OFFICE/INDUSTRIAL PROJECTS**

Amara Shopping Center SMND, City of Camarillo  
 Barstow Walmart Expansion and Retail Center EIR, City of Barstow  
 Camarillo Premium Outlets EIR, City of Camarillo  
 Camarillo Promenade SEIR, City of Camarillo  
 Camarillo Town Center (CPD-178/T-4690 Mod. NORCAN) EIR, City of Camarillo  
 Tentative Tract 5812, Springville LLC EIR, City of Camarillo  
 Camino Real Business Park Specific Plan EIR, City of Oxnard  
 The Centre at La Quinta, City of La Quinta  
 Flying J Travel Center Air Quality Impact Analysis, Shasta County  
 L.A. Media Center MND, City of Los Angeles  
 Oxnard Factory Outlet Center MND, City of Oxnard  
 Paseo Camino Real MND, City of Camarillo  
 Ridgecrest Walmart EIR, City of Ridgecrest  
 Santa Monica MINI Dealership EIR, City of Santa Monica  
 Springville Commercial SEIR, City of Camarillo  
 The Shops at Santa Anita FEIR, City of Arcadia  
 Tehachapi Walmart EIR, City of Tehachapi  
 Trojan Storage Camarillo, MND Addendum, City of Camarillo  
 Wellpoint Health Networks EIR, City of Camarillo

**EDUCATIONAL/INSTITUTIONAL PROJECTS**

Academy of Sciences EIR, City and County of San Francisco  
 Agua Dulce High School MND, Soledad-Agua Dulce Union School District  
 Arnaz Elementary School/Oak View Elementary School Modernizations, Expansion and Consolidation MND, Ventura Unified School District  
 California Lutheran University Master Plan EIR, City of Thousand Oaks  
 Chatsworth Hills Academy EIR, City of Los Angeles  
 East End Elementary School MND, Ventura Unified School District  
 Environmental Noise Constraints and Opportunities Analysis for Lang Ranch Community Park, Conejo Recreation and Park District  
 Manhattan Beach Middle School EIR, Manhattan Beach Unified School District  
 New Camarillo Library EIR, City of Camarillo  
 Royal High School Stadium EIR, Simi Valley Unified School District  
 Southwest Campus Housing and Parking EIR, UCLA

Santa Monica Library EIR, City of Santa Monica  
 St. John's Pleasant Valley Hospital EA, FEMA  
 St. John's Seminary Maintenance Facility MND, City of Camarillo  
 UCLA 2002 Long Range Development Plan and Northwest Housing Infill Project EIR, UCLA  
 UC Riverside Long Range Development EIR, UCR  
 UCSB Ellwood Devereux and Housing EIR, UCSB

**PUBLIC IMPROVEMENT PROJECTS**

Antelope Valley Sheriff's Station EIR, City of Lancaster  
 Carmen Drive/Ventura Freeway Interchange Improvements EIS/EIR, City of Camarillo/Caltrans  
 Cathedral Oaks Drive Noise Analysis, Santa Barbara County  
 City of Camarillo Reclaimed Water Storage Reservoir MND, City of Camarillo  
 Conejo Creek Sewer Line Replacement MND, City of Camarillo  
 Corona Civic Center EIR, City of Corona  
 Crestview Avenue Widening and Realignment, and Extension of Earl Joseph Drive MND, City of Camarillo  
 Golden Gate Park Concourse Authority Projects EIR, City and County of San Francisco  
 Kidstream Children's Museum Class 32 Categorical Exemption, City of Camarillo  
 Las Posas Road Improvements MND, City of Camarillo  
 North Pleasant Valley Groundwater Treatment Facility Second Supplemental EIR, City of Camarillo  
 Pasadena City Hall Seismic Retrofit EIR, City of Pasadena  
 Pleasant Valley Mutual Water Company Desalter Project MND, City of Camarillo  
 City of Roseville Capital Improvement Program EIR  
 Surfer's Point Beach Nourishment Project, City of San Buenaventura  
 City of Tehachapi Event Center & Rodeo Grounds Environmental Noise Impact Analysis, City of Tehachapi  
 Victoria Avenue/Ventura Freeway Interchange Improvements EIR, City of San Buenaventura/Caltrans

**TRANSIT PROJECTS**

Northeast Corridor Service and Facilities Enhancement IS/EA, Sacramento Regional Transit District

**STUDIO USE PROJECTS**

NBC Studios Master Plan EIR, City of Burbank  
Warner Bros. Studio Master Plan Expansion EIR, City of Burbank

**REDEVELOPMENT PROJECTS**

Grand Central Market/Million Dollar Theater EIR, City of Los Angeles  
Heart of the City Specific Plan and Redevelopment Plan EIR, City of Redondo Beach

**SURFACE MINING PROJECTS**

Bettencourt Ranch Mine Project EIR, Merced County  
Blue Mountain Minerals Expansion Project EIR, Tuolumne County

**PETROLEUM EXTRACTION PROJECTS**

Wilmington Townlot Unit MND, City of Los Angeles

**AIRPORT PROJECTS**

Skytrails Aviation Hangar Project, Los Angeles World Airports

**MITIGATION MONITORING**

El Paseo Simi Project, City of Simi Valley

**PEER REVIEW**

Downtown Specific Plan EIR, City of Perris  
Duke Warehouse at Indian Avenue & Markham Street EIR, City of Perris  
Duke Warehouse at Patterson Avenue & Markham Street EIR, City of Perris  
Duke Warehouse at Perris Boulevard & Markham Street EIR, City of Perris  
First Harley Knox Industrial MND, City of Perris  
First Industrial Warehouse at Wilson Avenue Project MND, City of Perris  
First Industrial Warehouse 2 at Wilson Avenue Project MND, City of Perris  
First Industrial Warehouse at Rider Street and Redlands Avenue Project EIR, City of Perris  
First Perry Logistics Project MND, City of Perris  
Green Valley Specific Plan Phase 1A EIR Addendum, City of Perris  
Green Valley Specific Plan Phase 1B EIR Addendum, City of Perris  
Green Valley Specific Plan Phase 2 EIR Addendum, City of Perris  
Harley Knox Boulevard Industrial Project MND, City of Perris  
Harvest Landing Specific Plan EIR, City of Perris  
IDI - Indian Avenue and Ramona Expressway Warehouse Project MND, City of Perris

IDI Rider 2 & S High Cube Warehouses and Perris Valley Storm Drain Channel Improvement Project EIR, City of Perris

Integra Perris Distribution Center Project EIR, City of Perris

IPT Perris DC Project SEIR, City of Perris

IPT Perris DC III Western/Nandina Project MND, City of Perris

Markham Business Center EIR, City of Perris

Mid County Parkway EIS/EIR, City of Perris

Oakmont Industrial Building Project EIR, City of Perris

Operon HKI - Perris MND, City of Perris

Optimus Logistics Center EIR, City of Perris

Optimus Logistics Center 2 EIR, City of Perris

Overton Moore Industrial Project, City of Perris

Pelican Industrial Project EIR, City of Perris

Perris Boulevard and Morgan Street Industrial Park Project, City of Perris

Perris Downtown Specific Plan EIR, City of Perris

Perris Gateway Commerce Center MND, City of Perris

Perris Ridge Commerce Center EIR, City of Perris

Perris Valley Commerce Center Specific Plan EIR, City of Perris

Rados Distribution Center EIR, City of Perris

Ramona-Indian Warehouse Project MND, City of Perris

Ramona Expressway and Brennan Avenue Warehouse Project MND, City of Perris

Ramona Gateway Project EIR, City of Perris

Ramona Promenade EIR, City of Perris

Redlands East Industrial Project MND, City of Perris

South Perris Industrial Center EIR, City of Perris

Starcrest Distribution Facility EIR, City of Perris

Stratford Ranch Industrial EIR, City of Perris

Tentative Tract Map No. 37803 MND, City of Perris

Towne Center EIR, City of Perris

The Venue at Perris EIR, City of Perris

Villa Verona Apartment Community MND, City of Perris

Walnut and Indian Avenue Industrial Project MND, City of Perris

Wayne J Sand & Gravel EIR, County of Ventura

**CODE COMPLIANCE**

Camarillo Airport Nighttime Noise Level Measurement Analysis, City of Camarillo

International Paper Camarillo Container Plant Nighttime Noise Level Measurement Analysis, City of Camarillo



**Education**

B.A., Geography, California State University, Northridge, 1990

**PATRICIA P. BRENES**  
 3725 Wallowa Circle, Corona, CA 92881  
 951.316.6026 (mobile)  
[Pbrenes26@yahoo.com](mailto:Pbrenes26@yahoo.com)

## **OBJECTIVE**

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Seeking a leadership position in a forward-thinking, progressive organization, where application of my analytical, innovative, problem-solving, and communication skills can be used as tools to build an equitable, sustainable, safe, and well-balanced community.

## **PROFESSIONAL EXPERIENCE**

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### ***Planning Manager (City of Perris)***

***7-2022 to Present***

- Assume management responsibility for all services and activities of the Planning Division including preparation and administration of the City's General Plan and Zoning Ordinance.
- Manage and participate in the development and implementation of goals, objectives, policies, and priorities for assigned programs; recommend, within departmental policy, appropriate service and staffing levels; recommend and administer policies and procedures.
- Conduct a variety of organizational studies, investigations, and operational studies; recommend modifications to planning programs, policies, and procedures as appropriate.
- Review and analyze development plans for compliance with the general plan, zoning and other City regulations and policies; direct the review of use permits, subdivisions, rezoning requests, variances, and other land use entitlements.
- Administer provisions of the California Environmental Quality Act (CEQA), and various other environmental planning activities.
- Plan, direct, coordinate, and review the work plan for the Planning Division; meet with staff to identify and resolve problems; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.
- Attend public hearings; advise the Planning Commission and the City Council on planning activities; confer with City officials as well as the public on City planning activities.
- Confer with engineers, developers, architects, a variety of agencies and the general public in acquiring information and coordinating planning and zoning matters; provide information regarding City development requirements.

### ***Principal Planner (City of Riverside)***

***3-2016 to 7/2022***

- Planned, directed, and reviewed Current Planning activities and Planning Counter inquiries.
- Supervised and led the Project Management Team, and Public Information and Zoning Team (Planning Counter), consisting of 10 Planners and clerical staff; provide policy direction on projects, environmental documents, and zoning related inquiries; and provide policy direction on administrative issues.
- Managed key development projects and activities involving EIRs.
- Developed procedures and schedules for notices and staff reports; and establish format for presentations.
- Established systems to ensure deadlines are met.
- Provided project updates and technical advice to the City Council, City Manager's Office, and Housing Authority Division. Also provided assistance to other Department staff on zoning matters or planning related projects.
- Conferred with and advised architects, builders, engineers and the general public on the City's development policies and regulations.
- Developed recommendations on development permits: Conditional Use Permit, Tentative Maps, Planned Residential Development, amendments to Specific Plans, General Plan, and Zoning Code, and other zoning applications.



- Interpreted General Plan/Specific Plan goals and policies and Zoning Code regulations. Enforced the Codes and answer inquiries regarding interpretations and applicability.
- Served as support staff and provide technical advice to the Planning Commission. Responsible for finalizing staff reports, presentations, notices, and agendas.
- Served as support staff and provided technical advice to the Development Review Committee. Responsible for finalizing staff reports, notices, and agendas.
- Worked closely with Code Enforcement staff to advise on City's Codes as it pertains to unpermitted improvements, prevent blight, and protect property values.
- Handled work schedules, organization, and personnel issues.
- Hired, supervised and evaluated staff on their performance.

*Principal Planner (City of Redlands)**8-2014 to 3-2016*

- Managed complex development projects and conducted analysis on land use related matters.
- Assisted, coordinated, and managed the Development Review Committee.
- Interpreted General Plan/Specific Plan goals and policies and Zoning Code regulations.
- Developed and presented recommendations on development permits: Conditional Use Permit, Tentative Maps, Certificate of Appropriateness, and other zoning applications to the Historic Scenic and Preservation Commission, Environmental Review Committee, Planning Commission, and City Council; prepared the appropriate staff reports and Environmental Initial Studies, when applicable, for compliance with the California Environmental Quality Act (CEQA).
- Reviewed sign permit and temporary sale permit applications administratively for compliance with the Zoning Code or applicable governing Specific Plan.
- Plan checked projects for compliance with codes and regulations.
- Conducted site inspections for compliance with conditions of approval.
- Enforced zoning ordinance, answered inquiries and complaints regarding its interpretation and applicability.
- Performed related duties as assigned.

*Senior Planner (City of Riverside)**8-2005 to 8-2014*

- Provided technical assistance and information on specific projects to the Mayor, City Council, City Manager's Office, and Greater Riverside Chamber of Commerce.
- Managed and supervised the Project Management Team, approximately 980 Board and Administrative cases processed in 2013.
- Worked closely with Code Enforcement staff to encourage compliance with the City's Codes, prevent blight, protect property values, and enhance economic development.
- Worked effectively with high level local and regional policymakers, professionals, and stakeholder representatives.
- Coordinated and scheduled Preliminary Development Meetings with prospective applicants and other City Departments' staff and commented on behalf of the Planning Division.
- Prepared and conducted employee performance evaluations.
- Interpreted General Plan/Specific Plan goals and policies and Zoning Code regulations.
- Provided technical and management support for the preparation of Environmental Impact Reports (EIRs). Managed the budget allocated for EIRs and reviewed and approve payment of invoices related to the project.
- Analyzed, reviewed, and made recommendations on land use and special projects, including Zoning Code interpretations, amendments to Specific Plans, General Plan and Zoning Code, Certificate of Appropriateness, and new residential, commercial, and industrial Subdivisions.
- Presented before the City Planning Commission, Cultural Heritage Board, Land Use Committee, and City Council.
- Conducted Planning Commission Workshops for the purpose of soliciting comments on complex projects.
- Coordinated and directed the City/UCR Committee Meetings

***Associate Planner (City of Riverside)***

***10-2000 to 8-2005***

- Prepared staff reports, including environmental documents, and presented them before the City's Boards, Commissions and Council.
- Assisted in the preparation of the City's General Plan 2025, Zoning Code, Subdivision Code, Citywide Design and Sign Guidelines.
- Analyzed, reviewed, and made recommendations on land use and special projects, including Zoning Code interpretations, amendments to Specific Plans, General Plan and Zoning Code, Certificate of Appropriateness, and new residential, commercial, and industrial Subdivisions.
- Conferred with and advised architects, builders, engineers and the public on the City's development policies and regulations.
- Coordinated the review of projects with other departments, community organizations, and public agencies, and determined environmental status for all assigned projects.

***Assistant Planner (City of Riverside)***

***4-1999 to 10-2000***

- Analyzed, reviewed, and made recommendations on development projects.
- Prepared staff reports and presented them before the City's Boards and Commissions.
- Provided technical assistance and advice to the public on the City's Zoning Code provisions, General Plan policies and other key planning documents.
- Coordinated the review of projects with other departments and agencies, and determined environmental status on various development projects.
- Advised residents and businesses to help them gain compliance when in violation of the City's Codes and regulations.
- Conducted environmental review, for all assigned projects including preparation of initial studies and Negative Declarations.

**EDUCATION**

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- **California Baptist University, Riverside** – *Master's Degree in Public Administration (In Progress)* – Graduation Date: July 2023
- **California State Polytechnic University, Pomona** - *B.S. Urban and Regional Planning – 1999*  
California State Polytechnic University President's Honor List: 1997-1998 and 1998-1999  
College of Environmental Design Dean's Honor List: 1996-1997, 1997-1998 and 1998-1999

**OTHER SKILLS**

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- Strong skills mentoring and coaching staff to foster a positive community and environment
- Possess a high level of accountability, integrity honesty and ethical standards
- Excellent writing and communication skills
- Excellent customer service skills
- Proficient in Spanish



## KENNETH K. PHUNG

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### OBJECTIVE

#### DIRECTOR OF DEVELOPMENT SERVICES

A position with the opportunity for professional growth

### EDUCATION

#### BACHELOR OF SCIENCE

California State Polytechnic University, Pomona

Major: Urban and Regional Planning

Graduation Date: June 1998

#### MASTER OF SCIENCE

Redlands University

Major: Leadership Organization

Graduation Date: April 2021

Achievements: President's Honor List 1996-1997; Golden Key National Honor Society; The National Deans List

### EXPERIENCE

**DIRECTOR OF DEVELOPMENT SERVICES** (9/2021 to Present)

**PLANNING MANAGER** (11/2017 to 9/2021)

City of Perris, Development Services, Perris, California

- Leading the City's Planning, Building, and Code department operations responsibly and proactively while aggressively working to improve and enhance the City's General Plan.
- Work constructively and collaboratively within the Management Team to bring the City's strategic goals and objectives to fruition.
- Oversee all aspects of CEQA compliance for public and private development projects in the City; and neighboring jurisdictions that may create impacts on Perris
- Managing and resolving various interests in the administration and development of the City's General Plan.
- Manage, plan, and coordinate the programs and activities of the Planning Division; Coordinate assigned activities with other City divisions, departments, and outside agencies.
- Provide highly responsible and complex administrative support to the Assistant City Manager.

**PROJECT PLANNER / PLANNING MANAGER / PROJECT MANAGER – CONSULTANT**

City of Perris – *Independent Contract Planner* (6/2007 to 11/2017)

- Served as Interim Planning Manager overseeing planning staff and providing sound planning principles, and explaining CEQA requirements while Planning Manager was away.
- Manage entitlements of controversial, time-sensitive, and large-scale industrial projects (i.e., 1.7 million square feet), commercial shopping centers (i.e., 670,000 square feet of retail with multiple building pads), master-planned residential communities, mixed-use senior housing projects, and residential subdivisions as a contract City Planner from initial application through the Environmental Impact Review process as applicable, including site-plan layout, architectural design review, and public hearing process for approval.
- Oversee annexation of land within the Sphere of Influence consisting of reviewing annexation strategy reports, providing feedback and updates to executive management teams, preparing

monitoring schedules, providing updates of processing, preparing written reports, overseeing environmental consultants, and making public hearing presentations.

**City of La Habra Heights – Contract Planning Manager (8/2008 to 3/2010)**

- Oversee Assistant Planner and Planning Intern. Establish coordination process for the review of new and existing applications. Review the department budget and forecast additional funds for the Planning Department.
- Manage entitlements of hillside residential developments from initial application through the environmental review process, site-plan layout, and public hearing process approval.

**MANAGER OF FORWARD PLANNING and LAND DEVELOPMENT (9/2004 to 5/2007)**

KB Home South Valley Division – Bakersfield & Fresno, California

- Review proposed tract maps for purchase by evaluating compliance with City codes, procedures for plan approval, and permits required for construction to tract acceptance.
- Prepare due diligence reports for submittal to corporate office to authorize purchase of properties.
- Oversee Timeline/Land Development Meeting, Architectural Review Meeting, and Budget Meeting.
- Train staff on review of improvement plans, scheduling, and due diligence material to determine purchase of property.
- Manage Consultants and subcontractors to complete tract development (*Engineers, Environmental, Dry Utility Consultants, Legal, Grader, Concrete, Pavers, etc.*)

**SENIOR ASSOCIATE PROJECT PLANNER (8/2002 to 9/2004)**

Hogle-Ireland Inc. – Riverside, California

Contract City Planner to the City of Perris and the City of San Jacinto

- Manage several large residential projects including a Specific Plan development (Villages of Avalon, Barratt American, Inc.) of 1,200 homes, an active park, passive park, HOA park and two school sites; a 371-home subdivision by Classic Pacific; and a 463-home subdivision with a school site and a public golf course as well as other less extensive development projects. Large-scale industrial projects (400,000 plus sq. ft.)
- Conduct analysis of long-range planning issues related to General Plan and Specific Plan Amendments.
- Prepare staff reports for presentation before both the Planning Commission and City Council, as well as follow through on plan checking and project implementation.

**ASSOCIATE PLANNER (4/2001 to 7/2002)**

City of Chino, Development Services - Chino, California

- Review development activities for City to ensure they are consistent with the General Plan and development code, which includes re-zoning, variances, CUP, Subdivisions, design reviews, etc.
- Prepare staff reports for presentation before both the Planning Commission and City Council, as well as follow through on plan checking and project implementation.
- Update the annual general plan and review telecommunication ordinance.

**ASSISTANT PLANNER (2/1999 to 4/2001)**

City of Arcadia, Development Services - Arcadia, California



- Review development activities for City to ensure they are consistent with the General Plan and development code, which includes re-zoning, variances, CUP, Subdivisions, design reviews, etc.
- Prepare staff reports for presentation before both the Planning Commission and City Council, as well as follow through on plan checking and project implementation.

## **EXHIBIT B**

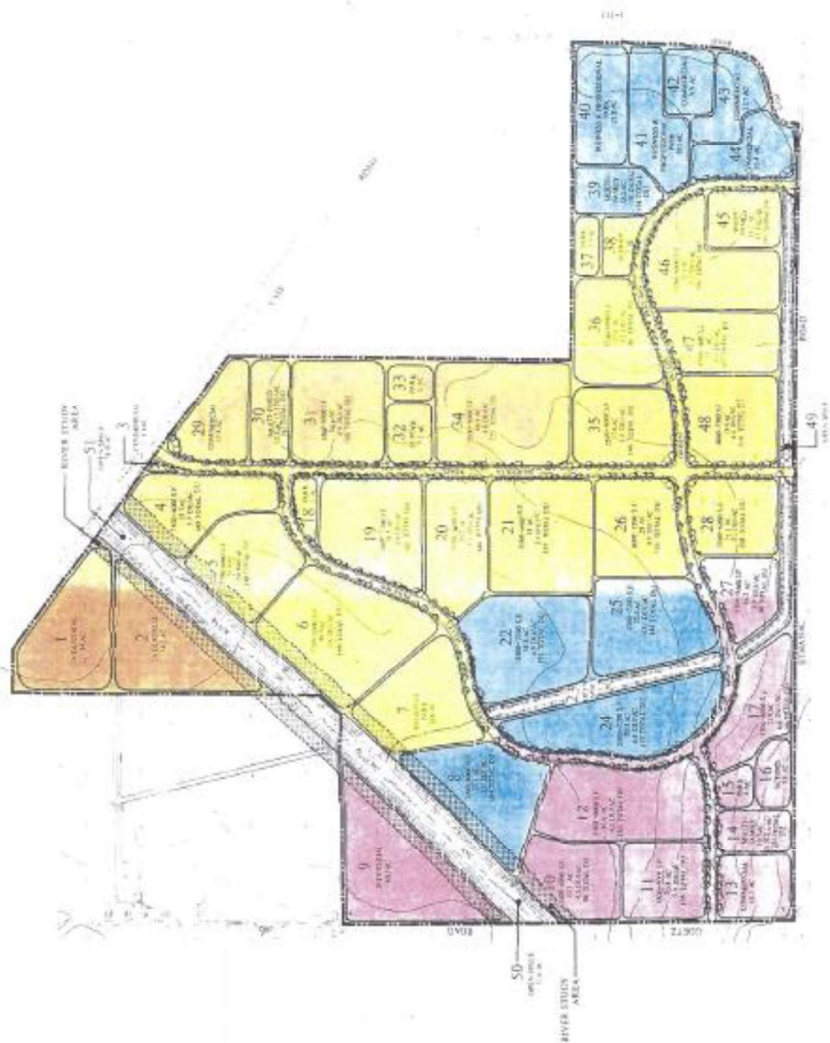


# PHASING PLAN



FIGURE 5

- LEGEND**
- PHASE 1
  - PHASE 2
  - PHASE 3
  - PHASE 4



**Response to Appeal A2.1:** This comment introduces the appeal letter, and states that the commenter is writing on behalf of the City of Perris. This comment presents an objection to the City of Menifee's (Menifee) Planning Commission for the decision to approve the Mitigated Negative Declaration (MND) for Plot No. PLN21-0290. The commenter requests that this letter, in addition to the commenter's two previous letters, be included in the record of proceedings for the project and MND. The comment does not contain any information requiring changes to the MND. No further response is warranted.

**Response to Appeal A2.2:** This comment notes that there were several deficiencies in the February 2023 Initial Study (IS) environmental analysis, which were identified by a team of professionals that include City of Perris staff, as well as a consultant under contract with the City of Perris. The comment provides an introduction of each team member that reviewed the IS/MND. The comment notes that persons identified provided comment for the original March 20, 2023, appeal letter, as well as this supplemental letter. The comment states that the comment letter provides expert opinion supported by credible facts, and therefore, raises fair argument supported with substantial evidence that the project may have one or more significant impacts on the environment.

Comments provided by the commenter have been responded to individually below by CEQA experts and qualified professionals (resumes provided in Attachment C herein). This comment does not contain any information requiring changes to the MND. No further response is warranted.

**Response to Appeal A2.3:** The comment states that the Staff Report prepared for the City of Menifee May 3, 2023, City Council hearing was posted late, on Friday, April 28, 2023, after 4:00 p.m. The commenter reiterates their position presented within the original March 20, 2023, appeal letter that the IS/MND has serious flaws and does not meet the requirements pursuant to the CEQA Guidelines (14 CCR 15000, et seq.). The commenter provides introduction to the following comments of the comment letter. The comment does not contain any information requiring changes to the MND. No further response is warranted.

**Response to Appeal A2.4:** This comment summarizes that the March 20, 2023, appeal letter states the project description is inadequate in addressing whether the two warehouses may foreseeably be used for cold storage. The commenter states that the project included a Condition of Approval (4a) that defers environmental analysis of the environmental impacts associated with the warehouse. The comment includes the text of the condition.

The Section 3.4, Operational Characteristics, of the project description has been revised to include the following:

The Project would be operated as an industrial two-unit warehouse. Typical operational characteristics include employees and customers traveling to and from the site, delivery of materials and supplies to the site, truck loading and unloading, and manufacturing activities. The Project is anticipated to operate 7 days a week 24 hours a day. The Project would not include cold storage or operation Transport Refrigeration Units (TRUs).

The comment does not contain any additional information requiring changes to the MND. No further response is warranted.

**Response to Appeal A2.5:** The commenter states that Condition of Approval (4a), which prohibits the project's use for cold storage and Transport Refrigeration Units (TRUs) without the preparation of additional environmental analysis, concedes that the use of the proposed warehouse for cold storage is reasonably foreseeable. Further, the comment asserts that the City of Menifee has stated the use of the proposed project for cold storage may cause a reasonably foreseeable significant impact related to air quality and greenhouse gas (GHG) emissions subject to the annual 3,000 metric tons of CO<sub>2e</sub> threshold. The commenter



states that Condition (4a) attempts to mitigate impacts associated with cold storage and fails to comply with requirements for mitigation measures as included in CEQA Guidelines, Section 15126.4, including subsection (a)(1)(B). The commenter indicates that the IS/MND must be revised to disclose the potentially significant impact and mitigation measures to reduce or avoid impacts, and therefore, must recirculate the CEQA document pursuant to CEQA Guidelines, Section 15073.5(a) and (b).

The commenter erroneously assumes that Condition of Approval (4a) insinuates that the use of the proposed warehouse for cold storage is reasonably foreseeable. Condition of Approval (4a) has been included to ensure that future tenants of the proposed speculative industrial building operate within the parameters of the project that is proposed and analyzed within the CEQA document that was prepared. The applicant has not proposed refrigerated use or operation of TRUs as part of the project and has indicated no intent or need for such in the future. CEQA Guidelines, Section 15126.4 indicates that the document “shall describe feasible measures which could minimize significant adverse impacts” and subsection (a)(1)(B) states, “Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time.” As included in Section 5.8 of the IS/MND, the project would result in less than significant impact on GHG. Therefore, the project would not result in significant impacts that would warrant mitigation, and applicable requirements would not necessitate the inclusion of GHG mitigation or recirculation of the IS/MND. No further response is warranted.

**Response to Appeal A2.6:** The commenter notes that the analysis on pages 121-125 regarding the project’s consistency with the California Air Resources Board’s (“CARB”) Scoping Plan adopted in 2017 is out of date since CARB adopted a new scoping plan (2022 Scoping Plan) on December 15, 2022. The commenter concludes that the IS/MND’s analysis of whether the project conflicts with a Plan adopted to reduce GHG emissions is legally inadequate.

It is important to note that the 2022 Scoping Plan builds on the 2017 Scoping Plan as well as the requirements set forth by AB 1279, which directs the state to become carbon neutral no later than 2045. To achieve this statutory objective, the 2022 Scoping Plan lays out how California can reduce GHG emissions by 85% below 1990 levels and achieve carbon neutrality by 2045. The Scoping Plan scenario to do this is to “deploy a broad portfolio of existing and emerging fossil fuel alternatives and clean technologies, and align with statutes, Executive Orders, Board direction, and direction from the governor.” The 2022 Scoping Plan sets one of the most aggressive approaches to reach carbon neutrality in the world. The project would not impede the State’s progress towards carbon neutrality by 2045 under the 2022 Scoping Plan. The project would be required to comply with applicable current and future regulatory requirements promulgated through the 2022 Scoping Plan. Some of the current transportation sector policies the project will comply with (through vehicle manufacturer compliance) include: Advanced Clean Cars II, Advanced Clean Trucks, Advanced Clean Fleets, Zero Emission Forklifts, the Off-Road Zero- Emission Targeted Manufacturer rule, Clean Off-Road Fleet Recognition Program, Inuse Off-Road Diesel-Fueled Fleets Regulation, Off-Road Zero-Emission Targeted Manufacturer rule, Clean Off-Road Fleet Recognition Program, Amendments to the Inuse Off-Road Diesel-Fueled Fleets Regulation, carbon pricing through the Cap-and-Trade Program, and the Low Carbon Fuel Standard. As such, the project would not be inconsistent with the 2022 Scoping Plan. No further response is warranted.

**Response to Appeal A2.7:** This comment states that on page 148 of the IS/MND, construction analysis application of the Federal Transportation Administration (“FTA”) 80 dBA LEQ daytime construction noise threshold runs counter to the holding in *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, which held that the County of Kern’s use of an absolute noise threshold to analyze both construction and operational noise impacts failed to comply with CEQA.



The revised noise analysis has been prepared to analyze the nearest noise sensitive residential land uses within the Green Valley Specific Plan (GVSP) was prepared by Urban Crossroads in Attachment A herein. In addition, the updated noise analysis was revised consistent with the City of Perris CEQA thresholds of significance for construction noise analysis. This includes the City of Perris Municipal Code, Section 7.34.060, that identifies the City's construction noise standards and permitted hours of construction activity of 7:00 a.m. to 7:00 p.m. on any day except Sundays and legal holidays (with the exception of Columbus Day and Washington's birthday). The City of Perris Municipal Code, Section 7.34.060, noise level standard of 80 dBA Lmax applies to residential zones within the City of Perris. Based on the updated noise analysis (see Chapter 2, Response to Comments, Attachment A) substantial evidence substantiates that the project would result in a less than significant construction noise impact within the City of Perris. Therefore, the project would not result in any significant impacts and preparation of an EIR is not warranted. Likewise, recirculation of the IS/MND is not required. No further response is warranted.

**Response to Appeal A2.8:** This comment states that the noise study in the IS/MND needs to be revised in order to adequately identify and mitigate noise impacts from the project resulting from construction and operation due to proximity of the project site to approved residential development in the GVSP.

In response to this comment, the noise study has been revised to include the nearest future noise sensitive residential receivers in the GVSP. In addition, the noise study has been revised to include the City of Perris municipal code noise criteria. Pages 147 to 155 of Section 13, Noise, of the IS/MND, indicated the project would result in a less than significant impact on noise. Based on the revisions made, which include the City of Perris noise thresholds, as well as modeling to include the nearest areas zoned for sensitive residential receptors (197 feet north of the project boundary) within the City of Perris GVSP, the project would still result in less than significant construction and operational noise impacts (see Chapter 2, Response to Comments, Attachment A). Therefore, the project would result in less than significant impacts. The City of Perris does provide any facts, evidence, or analyses substantiating that a significant noise impact may occur; therefore, none of the noise related comments constitute substantial evidence of a fair argument that the project may result in significant noise impacts requiring the preparation of an EIR. An EIR is not warranted, and no revisions to the IS/MND resulting in new impacts requiring the recirculation of the IS/MND. No further response is warranted.

**Response to Appeal A2.9:** This comment states that the IS/MND's noise analysis has identified six sensitive receptor locations, the closest of which (R4) is over 1,000 feet from the Project site's boundary. The commenter indicates that the City of Menifee claims in Response to Appeal 32 (response to City of Perris letter dated March 20, 2023), that the noise analysis assumed sensitive receptors were located within 374 feet of the project site and makes reference to noise analysis included in an Attachment A; however, the attachment was not included. The commenter concludes that the City of Menifee needs to analyze whether the project will have noise impacts to the future residents of these reasonably foreseeable multi-family residential units identified in the GVSP.

As stated above in Response to Appeal A2.8, the Noise Impact Assessment was updated to include future sensitive residential receptors planned 197 feet north of the project as requested by the City of Perris. Based on the revisions made, which include the City of Perris noise thresholds, as well as modeling to include the nearest planned sensitive residential receptors (197 feet north of the project boundary) within the City of Perris GVSP, the project would still result in less than significant construction and operational noise impacts (see Chapter 2, Response to Comments, Attachment A). As such, the preparation of an EIR is not required. No further response is warranted.

**Response to Appeal A2.10:** The comment asserts that the City of Perris has set forth a fair argument that the project will result in significant traffic safety impacts due to the introduction of heavy truck traffic to the



intersection of Barnett Road and Ethanac Road causing the intersection to not function in a safe manner due to the existing confound and staggered configuration of the intersection of Barnett Road and Case Road at Ethanac Road. The comment notes that there is insufficient distance for trucks to make a lane change in order to turn left at Barnett Road, the left turn pocket provides limited stacking for trailer trucks to make a safe left turn, and slow moving trucks will cause congestion that could result in vehicular collisions. The comment includes the text of Response to Appeal 33 and states the City of Perris has presented substantial evidence in the form of expert opinion that a significant safety impact may occur as a result of the project.

First, the mere presence of conflicting opinions from purported experts is not enough to require preparation of an EIR. To constitute substantial evidence of a fair argument of a significant impact, an expert opinion must amount to more than unsubstantiated speculation by providing evidence of why a significant impact may occur. This comment is speculative and represents unsubstantiated opinion, as the commenter has not provided any evidence or an analysis of weaving in the segment of Ethanac Road in question nor have they provided any other evidence to demonstrate that the alleged deficiency actually exists and that the project substantially increases hazards at a dangerous intersection. The westbound left-turn pocket at Barnett Road is approximately 55 feet, which accommodates two passenger cars or a smaller truck. The signal timing accounts for the length of the turn pocket as the signal timing for westbound left-turn movements allows sufficient time for vehicles that enter the east leg of the intersection to also clear the west leg, thereby minimizing the possibility of westbound left-turning vehicles stacking into the intersection. As substantiated in the project-specific TIA and IS/MND, because there is adequate clearance time, the keep clear areas, the clear visibility in the intersection and the intersection configuration itself, the potential for vehicles to be stacked in the intersection is negligible. Furthermore, even if an 85-foot tractor trailer was to be in the left-turn pocket, there is still adequate room for vehicles utilizing both southbound left-turn lanes to traverse the intersection without being blocked by a truck. Furthermore, a pattern of safety hazards due to the design of the intersection has not been established at the intersection. A review of the Transportation Injury Mapping System (TIMS) indicates five collisions in the last 5 years along Ethanac Road at Barnett Road-Case Road. TIMS data is provided in Attachment D. The accidents did not include any fatalities and were caused by the following factors:

- Rear-end (2 accident)
- Broadside involving right-of-way violation (1 accident)
- Vehicle hit pedestrian (2 accidents)

Therefore, this comment does not present substantial evidence of a fair argument that the intersection is dangerous or that the project would substantially increase hazardous conditions at this intersection.

This comment also includes the text of the City of Menifee's Response to Appeal Comment 33 and reiterates that the City of Perris has presented substantial evidence in the form of expert opinion that a significant safety impact may occur as a result of the project. The City of Menifee prepared a traffic study for the project through certified traffic engineers, reviewed and approved by the City's Public Works Department, and while the City of Perris's commenters have an understanding of traffic engineering, a fair argument must amount to more than unsubstantiated conjecture by providing evidence of why a significant impact may occur. These opinions do not prove that a dangerous intersection exists nor explain how the project features and mitigation measures would be inadequate and would substantially increase hazards at a dangerous intersection. The comments provided do not rise to the level of expert opinion. The technical studies incorporated into the IS/MND, and the responses to these comments, were prepared by subject area experts who have provided responses based on technical analyses, which have been reviewed and approved by the City of Menifee as the Lead Agency (see Attachment C, Preparer Resumes). The information provided by the City of Perris does not contain substantial evidence such as traffic counts, modeling, data, or proof of



firsthand knowledge that refutes the data presented in the IS/MND. Therefore, no changes need to be made to the IS/MND and the preparation of an EIR is not required. No further response is warranted.

**Response to Appeal A2.11:** This comment states that the City of Perris has established substantial evidence that there is a direct nexus between the project and the need for realignment of Barnett Road south of Ethanac Road to align with Case Road at ultimate design. The comment asserts that completion of the realigned Barnett Road at Ethanac Road, to align with Case Road, is required to mitigate the traffic delays and impacts and safety hazards associated with generated trailer trucks and autos traffic of the project. The comment states that the payment of fair share costs would not address the impacts due to inadequate spacing between the interchange off ramp to the intersection of Case Road and Barnett Road at Ethanac Road. Additionally, the comment states that length of the existing left turn pocket on Ethanac Road at Barnett Road is only 50 feet, which is smaller than the minimum length of a trailer truck is 72 to 80 feet, which is inadequate to accommodate a truck trailer. Additionally, the comment states that the left turn pocket on Ethanac Road at Case Road is about 100 feet, which would again be barely enough space for one trailer truck. The commenter closes the comment by stating that the project would result in delays and significant safety concerns for Barnett Road, Case Road, Ethanac Road and the I-215 interchange.

The LOS analysis provided on page 164 of the Public Review Draft MND under Section 17, Transportation, Threshold a) is informational only and does not substantiate a significant transportation impact under CEQA pursuant to Public Resources Code (PRC) § 21099(b)(2), which states that automobile delay, as described solely by LOS or similar measure of traffic congestion, is no longer considered a significant impact under CEQA. The information provided in the IS/MND document was incorporated upon request by the City to summarize analysis from the Traffic Impact Analysis (Appendix N) and disclose it as part of the CEQA process. Therefore, the project shall not incorporate mitigation to address congestion or LOS impacts pursuant to PRC § 21099(b)(2).

Further, the assertion that there is a direct nexus between the project and the need for realignment of Barnett Road south of Ethanac Road is speculative, as the comment does not include evidence to establish such a nexus. This assertion is refuted by the analysis provided in the TIA, which shows that the intersection would operate at acceptable LOS with implementation of the mitigation measure identified in the TIA. Furthermore, a pattern of safety hazards has not been established at the intersection. A review of the TIMS indicates only one collision in the last 5 years along Ethanac Road at Barnett Road-Case Road (see Appendix D herein). The accident was caused by one party traveling in the wrong direction and not by the location or design of the roadway. Therefore, this comment does not present substantial evidence of a fair argument that the project would result in hazardous conditions at this intersection. As noted above in Response to Appeal A2.10, the westbound left-turn pocket at Barnett Road is approximately 55 feet, which would accommodate two passenger cars or a smaller truck. However, the signal timing for westbound left-turn movements allows for vehicles that enter the east leg of the intersection to also clear the west leg, thereby minimizing the possibility of westbound left-turning vehicles stacking into the intersection. Because there is adequate clearance time, the keep clear areas, the clear visibility in the intersection and the intersection configuration, the potential for vehicles to be stacked in the intersection is negligible. Therefore, no changes would need to be made to the IS/MND and the preparation of an EIR is not required. No further response is warranted.

**Response to Appeal A2.12:** This comment references the *Anderson First Coalition v. City of Anderson (2005)* case and states that the City of Menifee requirement for fair share costs towards future improvements at Ethanac and Barnett Road intersection does not constitute as adequate mitigation. The commenter asserts that the contributions must be sufficiently tied to the actual mitigation of traffic impacts at issue and therefore, an EIR must be prepared.



The LOS analysis provided on page 164 of the Public Review Draft MND under Section 17, Transportation, Threshold a) is informational only and does not substantiate a significant impact under CEQA pursuant to PRC § 21099(b)(2), which states that automobile delay, as described solely by LOS or similar measure of traffic congestion, is no longer considered a significant impact under CEQA. The information provided in the IS/MND document was incorporated by the City Menifee to summarize analysis from the Traffic Impact Analysis (IS/MND Appendix N) and disclose for informational purposes as part of the CEQA process. As discussed throughout IS/MND Section 17, Transportation, pages 162 to 168, the project would not result in a potentially significant impact on transportation and would not require mitigation to reduce potentially significant impacts.

To further clarify this point, the following text revision was made to Section 17, Transportation, Threshold a) on page 164 of the Public Review Draft MND:

**a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?**

(pg. 164)

As seen in Table T-3, all intersections anticipated to experience unsatisfactory LOS would improve to a satisfactory LOS with implementation of the proposed improvements. It should be noted that the ultimate planned configuration of Ethanac Road is that of a six-lane roadway. The roadway expansion would help reduce the delay experienced at the intersections of I-215 SB Ramps/NB Ramps and Ethanac Road. The LOS analysis provided is informational only and does not substantiate a significant impact under CEQA pursuant to Public Resources Code (PRC) § 21099(b)(2), which states that automobile delay, as described solely by LOS or similar measure of traffic congestion, is no longer considered a significant impact under CEQA. The information provided in this document has been incorporated upon request by the City to summarize analysis from the Traffic Impact Analysis (Appendix N) and disclose it as part of the CEQA process.

Therefore, the project would not result in significant impacts that would warrant mitigation, and applicable requirements would not necessitate the inclusion of Transportation mitigation or preparation of an EIR. Furthermore, the IS/MND found that the project would have a less than significant impact related to Transportation threshold c and that it will not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections). No further response is warranted.

**Response to Appeal A2.13:** This comment states that in light of deficiencies in the project's IS/MND as explored above the City of Perris asks that the Menifee City council reverses its decision and denies the proposed plan. The comment does not contain any information requiring changes to the MND. No further response is warranted.

**Additional Air Quality, Greenhouse Gas Emissions (GHG), and Health Risk Assessment (HRA) Modeling**

The City of Perris submitted a comment letter (Appeal 1 Letter) on March 20, 2023. The City of Menifee prepared responses to those comments in Appeal Letter 3 above in March. The City of Menifee, having sufficient time to complete the additional analysis requested by the City of Perris, now supplements those responses with additional analysis. A supplemental focused Air Quality, GHG, and Health Risk Assessment (HRA) memorandum was prepared by Urban Crossroads to analyze the project's potential air quality and GHG impacts residentially zoned areas and on future GVSP residential development 197 feet north of the proposed project, as requested by the City of Perris. The supplemental analysis is provided as Chapter 2,



Response to Comments, Attachment B herein. The conclusions of the supplemental analysis are consistent with the conclusions of the Draft IS/MND - less than significant construction and operational air quality, GHG and HRA impacts would occur.

#### *Localized Air Quality Impacts*

**Construction:** As shown in Attachment B, Table 1 identifies the localized impacts at the nearest receptor location in the vicinity of the Project. As shown in Table 1, emissions resulting from the Project construction will not exceed the numerical thresholds of significance established by the SCAQMD for any criteria pollutant. Thus, a less than significant impact would occur for localized Project-related construction-source emissions, and no mitigation is required.

**Operational:** Table 2 identifies the localized operational impacts at the nearest receptor location in the vicinity of the Project. As shown in Table 1, emissions resulting from the Project operation will not exceed the numerical localized thresholds of significance established by the SCAQMD for any criteria pollutant. Thus, a less than significant impact would occur for localized Project-related operational-source emissions and no mitigation is required.

Additionally, related to Emergency Diesel Fire Pumps, although the use of diesel fire pumps is unknown at this time, to underscore the negligible amount of emissions that would be generated, a supplemental model run was conducted assuming that the Project could require two 197 hp diesel fire water pump backup generator. For analytical purposes, it is anticipated that the diesel fire water pump generators would result in a maximum time of 0.5 hour per day and 26 hours per year for testing. The two diesel fire pumps would generate 0.31 pounds of VOCs, 0.87 pounds of NO<sub>x</sub>, 0.80 pounds of CO, 0.05 pounds of PM<sub>10</sub>, and 0.05 pounds of PM<sub>2.5</sub> emissions per day during peak conditions. Additionally, the two diesel fire pumps would generate 3.77 metric tons of CO<sub>2e</sub> annually. When added to the emissions totals presented in the Draft IS/MND, this negligible increase in emissions would not result in any change to the findings or conclusions related to air quality or greenhouse gas emissions. Appendix A of Attachment B (Ethanac and Barnett Focused LST and HRA Assessment) includes the modeled emissions from the emergency diesel fire pumps.

#### *Construction HRA Impacts*

The land use with the greatest potential exposure to Project construction-source DPM emissions is Location R8 which is located approximately 197 feet northwest of the Project site at the planned property line of the future multi-family residential land use within the GVSP. R8 is placed at the property line nearest the Project site. At the maximally exposed individual receptor (MEIR), the maximum incremental cancer risk attributable to Project construction-source DPM emissions is estimated at 1.90 in one million, which is less than the SCAQMD's significance threshold of 10 in one million. At this same location, non-cancer risks were estimated to be <0.01, which would not exceed the applicable threshold of 1.0. As such, the Project will not cause a significant human health or cancer risk to adjacent land uses as a result of Project construction activity. All other receptors during construction activity would experience less risk than what is identified for this location.

#### *Operational HRA Impacts*

**Residential Exposure Scenario:** The residential land use with the greatest potential exposure to Project operational-source DPM emissions is Location R8 which is located approximately 197 feet northwest of the Project site at the planned property line of the future multi-family residential land use within the Green Valley Specific Plan. R8 is placed at the property line nearest the Project site. At the MEIR, the maximum incremental cancer risk attributable to Project operational-source DPM emissions is estimated at 0.37 in one million, which is less than the SCAQMD's significance threshold of 10 in one million. At this same location, non-cancer risks were estimated to be <0.01, which would not exceed the applicable significance threshold of

1.0. Because all other modeled residential receptors are exposed to lesser concentrations and are located at a greater distance from the Project site than the MEIR analyzed herein, and TACs generally dissipates with distance from the source, all other residential receptors in the vicinity of the Project site would be exposed to less emissions and therefore less risk than the MEIR identified herein. As such, the Project will not cause a significant human health or cancer risk to nearby residences.

Worker Exposure Scenario: The worker receptor land use with the greatest potential exposure to Project operational-source DPM emissions is Location R9, which represents the potential worker receptor approximately 445 feet northeast of the Project site at the property line for the Circle K convenience store. At the maximally exposed individual worker (MEIW), the maximum incremental cancer risk impact is 0.06 in one million which is less than the SCAQMD's threshold of 10 in one million. Maximum non-cancer risks at this same location were estimated to be <0.01, which would not exceed the applicable significance threshold of 1.0. Because all other modeled worker receptors are located at a greater distance than the MEIW analyzed herein, and DPM dissipates with distance from the source, all other worker receptors in the vicinity of the Project would be exposed to less emissions and therefore less risk than the MEIW identified herein. As such, the Project will not cause a significant human health or cancer risk to adjacent workers.

#### *Combined Construction and Operational HRA Impacts*

The land use with the greatest potential increased cancer risk due to exposure to Project construction-source and operational-source DPM emissions is Location R8. At this location, the maximum incremental cancer risk attributable to Project construction and operational DPM source emissions is estimated at 2.08 in one million, which is less than the threshold of 10 in one million. At this same location, non-cancer risks were estimated to be <0.01, which would not exceed the applicable threshold of 1.0. As such, the Project will not cause a significant human health or cancer risk to adjacent land uses as a result of Project construction and operational activity. All other receptors during construction and operational activity would experience less risk than what is identified for this location.

Therefore, the project would result in less than significant impacts and preparation of an EIR not be required.

# Attachment A: Updated Noise Analysis

**SEE FINAL MND FOR TECHNICAL APPENDICES**



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# Attachment B: Ethanac and Barnett Focused LST and HRA Assessment

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# Attachment C: Preparer Resumes

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## Attachment D: TIMS Data (Traffic)

SEE FINAL MND FOR TECHNICAL APPENDICES

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