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Via Email

Comment Letter A

July 18, 2023

Kevin Cisneroz, Chairperson
Jimmy Alexandris, Vice Chairperson
Brandon Blanchard, Commissioner
Joanna Chavez, Commissioner
Lissa Fraga, Commissioner
Steve Lewis, Commissioner
Lawrence Vieira, Commissioner
Chino Planning Commission
13220 Central Avenue
Chino, CA 91710
Planning@cityofchino.org

Kim Le, Associate Planner
City of Chino
Development Services Department
13220 Central Avenue
Chino, California 91710
(909) 334-3253
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**Re: Comment on Mitigated Negative Declaration
Philadelphia Street Industrial Development and East End Annexation
Project (PL20-0003, PL20-0004, PL20-0005)
July 19, 2023 Planning Commission Agenda Item 4**

Dear Chairperson Cisneroz, Honorable Commissioners, and Planner Le:

This comment is submitted on behalf of Supporters Alliance For Environmental Responsibility ("SAFER") regarding the Philadelphia Street Industrial Development and East End Annexation Project (PL20-0003, PL20-0004, PL20-0005) and the related Initial Study and Mitigated Negative Declaration ("MND") ("Project").

A-1

Based on our initial review, the MND fails to adequately analyze and fully mitigate the Project's environmental impacts under the California Environmental Quality Act ("CEQA"). SAFER requests that an environmental impact report ("EIR") be prepared for the Project rather than an MND to ensure that potentially significant impacts of this Project are fully disclosed, analyzed, and mitigated. SAFER requests that the Planning Commission refrain from any consideration of the Project until an EIR is prepared as required by CEQA.

A-2

In addition, adoption of Planning Commission Resolution No. PC2023-023 prior to the City Council's review and adoption of the MND would violate CEQA. An agency may not approve a project until after it considers a proposed mitigated negative declaration together with any comments received during the public review process. (14 C.C.R. § 15074(b); Pub. Res. Code § 21091(f); *Citizens for Responsible Government v. City of Albany*

A-3

(1997) 56 Cal.App.4th 1199.) Even though additional approvals may be required, CEQA review is required prior to the first agency approval of a project, when the agency commits itself to a definite course of action. (*Save Tara v. City of West Hollywood* (2008) 45 Cal. 4th 116, 137-138)

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A-3

Resolution PC2023-023 would approve PL20-0004 (Site Approval) and a PL20-0005 (Tentative Parcel Map No. 20174). Site approval and approval of the tentative map are actions that significantly further the Project in a manner that forecloses mitigation measures that would ordinarily be part of CEQA review for the Project. (See, 14 CCR 15004(b)(2)(B); *Save Tara v. City of W. Hollywood*, 45 Cal. 4th 116, 138, 194 P.3d 344, 360 (2008), as modified (Dec. 10, 2008).)

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A-4

In contrast to its approval of the Site Plan and Tentative Map, the Planning Commission will act merely as an advisory agency when reviewing the MND. The Commission will only make a recommendation to the Chino City Council on whether it should adopt an MND for the Project. (See Planning Commission Resolution No. PC2023-021.) Members of the public will then have the opportunity to comment on the adequacy of the MND at the City Council meeting, and the CEQA requires the City Council consider any public comments made.

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A-5

Since the MND will not be adopted, if at all, until a forthcoming City Council meeting, the Planning Commission cannot approve any portion of the Project at its July 19, 2023 meeting, prior to the City Council's adoption of the MND.

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A-6

SAFER reserves the right to supplement this comment throughout the administrative process. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

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A-7

Sincerely,



Rebecca Davis
Lozeau Drury LLP

Appendix K

Responses to Comments

Initial Study/Mitigated Negative Declaration

**Philadelphia Street Industrial Development Site
and East End Annexation Project
Chino, San Bernardino County, California**

**Prezone and Annexation (PL 20-0003)
Site Approval and Design Review (PL 20-0004)
Tentative Parcel Map No. 20174 (PL 20-0005)**

Lead Agency:

**City of Chino
13220 Central Avenue
Chino, California 91710**

July 2023

The primary objective and purpose of the Initial Study/Mitigated Negative Declaration (IS/MND) public review process is to obtain comments on the adequacy of the analysis of environmental impacts, the mitigation measures presented, and other analyses contained in the Initial Study prepared by the City of Chino (City). The California Environmental Quality Act (CEQA) requires that the City decision makers consider the comments received during the public review of the IS/MND prior to carrying out or approving the project (CEQA Guidelines Section 15074[b]). Comments that do not directly relate to the analysis in the Initial Study (i.e., are outside the scope of this document) or that do not include facts, reasonable assumptions predicated upon facts, and/or expert opinion supported by facts are not given specific responses; however, all comments are included in this section so that the decision makers may know the opinions of the commenter(s).

The Philadelphia Street Industrial Development Site and East End Annexation Project IS/MND was circulated for public and agency review for a 20-day period from June 28 to July 18, 2023. The comments received regarding the project and the responses to comments are included in this document. The comment letters are listed below.

- Lozeau Drury LLP (Comment Letter A dated July 18, 2023)

In order to provide the City of Chino Planning Commission and City Council with additional information upon which to base their decision whether to approve or deny the proposed project, the City has responded to the comments received by these entities. Each comment letter is labeled alphabetically with each individual comment identified by a number. The responses are provided following each letter. All written comments along with the City's responses are attached and have been made a part of the public record.

Neither the comments nor the following responses to comments constitute "significant new information" (*State CEQA Guidelines* Section 15073.5) that would require recirculation of the IS/MND or the preparation of an Environmental Impact Report.

**Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments**

July 2023

Comment Letter	Comment Number	Comment	Response
A	A-1	This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Philadelphia Street Industrial Development and East End Annexation Project (PL20-0003, PL20-0004, PL20-0005) and the related Initial Study and Mitigated Negative Declaration (“MND”) (“Project”).	The City of Chino acknowledges receipt of a comment letter dated July 18, 2023 submitted on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Philadelphia Street Industrial Development and East End Annexation Project (PL20-0003, PL20-0004, PL20-0005) and the related Initial Study and Mitigated Negative Declaration (“MND”) (“Project”). Neither this comment nor the response constitutes new information requiring recirculation of the Initial Study/Mitigated Negative Declaration (IS/MND). No change in the text of the IS/MND is required.
	A-2	Based on our initial review, the MND fails to adequately analyze and fully mitigate the Project’s environmental impacts under the California Environmental Quality Act (“CEQA”). SAFER requests that an environmental impact report (“EIR”) be prepared for the Project rather than an MND to ensure that potentially significant impacts of this Project are fully disclosed, analyzed, and mitigated. SAFER requests that the Planning Commission refrain from any consideration of the Project until an EIR is prepared as required by CEQA.	The commenter’s opinion that the MND fails to adequately analyze and fully mitigate the Project’s environmental impacts under the California Environmental Quality Act (“CEQA”) and that an Environmental Impact Report (EIR) should be prepared for the project to ensure that potentially significant impacts of the project are fully disclosed, analyzed, and mitigated is noted. However, this comment does not identify any specific environmental effect or provide any substantial evidence pursuant to State CEQA Guidelines Section 15384 that new significant environmental issues or impacts that were not already addressed in the IS/MND would occur. Neither this comment nor the response constitutes new information requiring

Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments

July 2023

Comment Letter	Comment Number	Comment	Response
			recirculation of the IS/MND. No change in the text of the IS/MND is required.
	A-3	In addition, adoption of Planning Commission Resolution No. PC2023-023 prior to the City Council's review and adoption of the MND would violate CEQA. An agency may not approve a project until after it considers a proposed mitigated negative declaration together with any comments received during the public review process. (14 C.C.R. § 15074(b); Pub. Res. Code § 21091(f); <i>Citizens for Responsible Government v. City of Albany</i> (1997) 56 Cal.App.4th 1199.) Even though additional approvals may be required, CEQA review is required prior to the first agency approval of a project, when the agency commits itself to a definite course of action. (<i>Save Tara v. City of West Hollywood</i> (2008) 45 Cal. 4th 116, 137-138).	<p>The commenter's opinion that adoption of Planning Commission Resolution No. PC2023-023 prior to the City Council's review and adoption of the MND would violate CEQA is noted. Land use entitlements in the City are typically approved by the planning commission. However, the final approving body for the Prezone and Annexation (PL 20-0003) will be the Chino City Council. Accordingly, the Chino Planning Commission acts as a recommending body that would review the proposed project, including the IS/MND, supporting technical environmental studies, and public comments received during the public review period, and recommend either that the Prezone and Annexation (PL 20-0003) and supporting CEQA documents be heard by the City Council for approval, be denied and not heard by the City Council, or the planning commission may request a continuance for additional information to be considered prior to making a recommendation. Adoption of Planning Commission Resolution No. PC2023-023 would be contingent on City Council approval of Prezone and Annexation (PL 20-0003) and supporting CEQA documents.</p> <p>The Philadelphia Street Industrial Development Site and East End Annexation Project IS/MND that was circulated for public and agency review for a</p>

Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments

July 2023

Comment Letter	Comment Number	Comment	Response
			<p>20-day period from June 28 to July 18, 2023 constitutes the requisite CEQA review prior to the first agency recommendation or approval of the project.</p> <p>This comment does not identify any specific environmental effect or provide any substantial evidence pursuant to State CEQA Guidelines Section 15384 that new significant environmental issues or impacts that were not already addressed in the IS/MND would occur. Neither this comment nor the response constitutes new information requiring recirculation of the IS/MND. No change in the text of the IS/MND is required.</p>
	A-4	Resolution PC2023-023 would approve PL20-0004 (Site Approval) and a PL20-0005 (Tentative Parcel Map No. 20174). Site approval and approval of the tentative map are actions that significantly further the Project in a manner that forecloses mitigation measures that would ordinarily be part of CEQA review for the Project. (See, 14 CCR 15004(b)(2)(B); <i>Save Tara v. City of W. Hollywood</i> , 45 Cal. 4th 116, 138, 194 P.3d 344, 360 (2008), <i>as modified</i> (Dec. 10, 2008).)	<p>The commenter's opinion that site approval and approval of the tentative map are actions that significantly further the Project in a manner that forecloses mitigation measures that would ordinarily be part of CEQA review for the Project is noted. However, the Philadelphia Street Industrial Development Site and East End Annexation Project IS/MND that was circulated for public and agency review for a 20-day period from June 28 to July 18, 2023 included as Appendix J a Mitigation Monitoring and Reporting Program (MMRP) prepared for use in implementing mitigation for the proposed Prezone and Annexation (PL 20-0003), Site Approval (PL 20-0004), and Tentative Parcel Map No. 20174 (PL 20-0005).</p>

Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments

July 2023

Comment Letter	Comment Number	Comment	Response
			<p>Land use entitlements in the City are typically approved by the planning commission. However, the final approving body for the Prezone and Annexation (PL 20-0003) will be the Chino City Council. Accordingly, the Chino Planning Commission acts as a recommending body that would review the proposed project, including the IS/MND, supporting technical environmental studies, and public comments received during the public review period, and recommend either that the Prezone and Annexation (PL 20-0003) and supporting CEQA documents be heard by the City Council for approval, be denied and not heard by the City Council, or the planning commission may request a continuance for additional information to be considered prior to making a recommendation. Adoption of Planning Commission Resolution No. PC2023-023 would be contingent on City Council approval of Prezone and Annexation (PL 20-0003) and supporting CEQA documents.</p> <p>The Philadelphia Street Industrial Development Site and East End Annexation Project IS/MND that was circulated for public and agency review for a 20-day period from June 28 to July 18, 2023, which includes the MMRP, constitutes the requisite CEQA review prior to the first agency recommendation or approval of the project.</p> <p>This comment does not identify any specific environmental effect or provide any substantial</p>

Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments

July 2023

Comment Letter	Comment Number	Comment	Response
			evidence pursuant to State CEQA Guidelines Section 15384 that new significant environmental issues or impacts that were not already addressed in the IS/MND would occur. Neither this comment nor the response constitutes new information requiring recirculation of the IS/MND. No change in the text of the IS/MND is required.
	A-5	In contrast to its approval of the Site Plan and Tentative Map, the Planning Commission will act merely as an advisory agency when reviewing the MND. The Commission will only make a recommendation to the Chino City Council on whether it should adopt an MND for the Project. (See Planning Commission Resolution No. PC2023-021.) Members of the public will then have the opportunity to comment on the adequacy of the MND at the City Council meeting, and the CEQA requires the City Council consider any public comments made.	<p>The commenter's opinion that the Planning Commission will act merely as an advisory agency when reviewing the MND and will only make a recommendation to the Chino City Council on whether it should adopt an MND for the Project is noted.</p> <p>Land use entitlements in the City are typically approved by the planning commission. However, the final approving body for the Prezone and Annexation (PL 20-0003) will be the Chino City Council. Accordingly, the Chino Planning Commission acts as a recommending body that would review the proposed project, including the IS/MND, supporting technical environmental studies, and public comments received during the public review period, and recommend either that the Prezone and Annexation (PL 20-0003) and supporting CEQA documents be heard by the City Council for approval, be denied and not heard by the City Council, or the planning commission may request a continuance for additional information to be considered prior to making a</p>

Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments

July 2023

Comment Letter	Comment Number	Comment	Response
			<p>recommendation. Adoption of Planning Commission Resolution No. PC2023-023 would be contingent on City Council approval of Prezone and Annexation (PL 20-0003) and supporting CEQA documents.</p> <p>The Philadelphia Street Industrial Development Site and East End Annexation Project IS/MND that was circulated for public and agency review for a 20-day period from June 28 to July 18, 2023, which includes the MMRP, constitutes the requisite CEQA review prior to the first agency recommendation or approval of the project.</p> <p>This comment does not identify any specific environmental effect or provide any substantial evidence pursuant to State CEQA Guidelines Section 15384 that new significant environmental issues or impacts that were not already addressed in the IS/MND would occur. Neither this comment nor the response constitutes new information requiring recirculation of the IS/MND. No change in the text of the IS/MND is required.</p>
	A-6	<p>Since the MND will not be adopted, if at all, until a forthcoming City Council meeting, the Planning Commission cannot approve any portion of the Project at its July 19, 2023 meeting, prior to the City Council's adoption of the MND.</p>	<p>The commenter's assertion that the Planning Commission cannot approve any portion of the Project at its July 19, 2023 meeting, prior to the City Council's adoption of the MND is noted.</p> <p>Adoption of Planning Commission Resolution No. PC2023-023 would be contingent on City Council</p>

Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments

July 2023

Comment Letter	Comment Number	Comment	Response
			<p>approval of Prezone and Annexation (PL 20-0003) and supporting CEQA documents.</p> <p>The Philadelphia Street Industrial Development Site and East End Annexation Project IS/MND that was circulated for public and agency review for a 20-day period from June 28 to July 18, 2023, which includes the MMRP, constitutes the requisite CEQA review prior to the first agency recommendation or approval of the project.</p> <p>This comment does not identify any specific environmental effect or provide any substantial evidence pursuant to State CEQA Guidelines Section 15384 that new significant environmental issues or impacts that were not already addressed in the IS/MND would occur. Neither this comment nor the response constitutes new information requiring recirculation of the IS/MND. No change in the text of the IS/MND is required.</p>

Philadelphia Street Industrial Development Site and East End Annexation Project
Initial Study/Mitigated Negative Declaration
Response to Public Comments

July 2023

Comment Letter	Comment Number	Comment	Response
	A-7	SAFER reserves the right to supplement this comment throughout the administrative process. <i>Galante Vineyards v. Monterey Peninsula Water Management Dist.</i> 60 Cal. App. 4th 1109, 1121 (1997).	<p>The City of Chino acknowledges that the commenter reserves the right to further supplement this comment throughout the administrative process.</p> <p>This comment does not question the content or conclusions of the IS/MND or identify any new significant environmental issues or impacts that were not already addressed in the IS/MND. Neither this comment nor the response constitutes new information requiring recirculation of the IS/MND. No change in the text of the IS/MND is required.</p>