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Via Email

July 18, 2023

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Jimmy Alexandris, Vice Chairperson
Brandon Blanchard, Commissioner
Joanna Chavez, Commissioner
Lissa Fraga, Commissioner
Steve Lewis, Commissioner
Lawrence Vieira, Commissioner
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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").

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.

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*

(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)

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).)

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.

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.

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).

Sincerely,

A handwritten signature in black ink, appearing to be 'Rebecca Davis', with a long horizontal flourish extending to the right.

Rebecca Davis
Lozeau Drury LLP