



CITY of CHINO

# Comment Letter A

Community Development Department  
Planning Division  
13220 Central Avenue  
Chino, CA 91710  
(909) 334-3253

www.cityofchino.org

## Appeal Application

### Appeal Process

The applicant or any interested aggrieved person may appeal the determination of the Community Development Director or Planning Commission within ten (10) calendar days from the date of such determination. The appeal must be in writing in accordance with Section 20.23.150 of the City of Chino Zoning Ordinance. The required appeal fee as adopted by the City Council must accompany an appeal to the Planning Commission of a decision of the Community Development Director or an appeal to the City Council of a decision of the Planning Commission or it will be considered incomplete and the appeal will not be considered. A building permit will not be issued until after the 10-day appeal period is complete. If an action of the Commission is appealed, the City Council will hear the appeal and render a final decision.

### General Information (Print of Type)

Appellant's Name: Supporters Alliance For Environmental Responsibility ("SAFER"),  
represented by Lozeau Drury LLP Phone Number: 510.836.4200

Mailing Address: 1939 Harrison St., Suite 150 Oakland, CA 94612

Email Address: rebecca@lozeaudrury.com

Fax Number: 510.836.4205

Contact Name: Rebecca Davis

Phone Number: 510.230.0400

### Type of Appeal Requested

- ☐ An appeal to the Planning Commission of an administrative action or determination  
☒ An appeal to the City Council of a Planning Commission action or determination  
☐ An appeal to the City Council of an environmental action or determination

A-1

Project number(s): PL20-0003, PL20-0004, PL20-0005

Project address or location: Northwest corner of East End Avenue and Philadelphia Street (APN: 1013-521-04)

Specific action or decision which is being appealed: SAFER appeals the Planning Commission's July 19, 2023 decision to approve PL20-0004 (Site Approval) and PL20-0005 (Tentative Parcel Map No. 20174) for the Project.

Specific grounds for the appeal, and the relief requested is as follows: SAFER objects to the county's reliance on the MND for the Project. The MND fails to adequately analyze and fully mitigate the Project's environmental impacts under CEQA. In addition, adoption of Planning Commission Resolution No. PC2023-023 prior to the City Council's review and adoption of the MND violates 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. See attached letter.

### Staff Use Only

File No. PL20-0004 & 0005	Date Received 7/27/23	Filing Fee <input type="checkbox"/> Resident <input checked="" type="checkbox"/> Non-Resident	Received By 
Related Files PL20-0003	Time Received	Receipt No. 60570	Supervisor Authorization

## Appellant's Affidavit

I hereby certify that the statements and information contained herein are in all respects true and correct to the best of my knowledge and belief.

Appellant's Signature: \_\_\_\_\_

Date: 07/24/2023

Print Name: Rebecca Davis

Relationship to Subject Appeal:

☐ Property Owner

☐ Business Owner

☐ Resident

☒ Other: SAFER has members that live  
and/or work in the vicinity of the  
proposed project



T 510.836.4200  
F 510.836.4205

1939 Harrison Street, Ste. 150  
Oakland, CA 94612

www.lozeaudrury.com  
rebecca@lozeaudrury.com

*Via Email*

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  
kle@cityofchino.org

**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-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.

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); *Citizens for Responsible Government v. City of Albany*

A-4

(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)

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); *Save Tara v. City of W. Hollywood*, 45 Cal. 4th 116, 138, 194 P.3d 344, 360 (2008), as modified (Dec. 10, 2008).)

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.

A-6

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.

A-7

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).

A-8

Sincerely,



Rebecca Davis  
Lozeau Drury LLP

## **Responses to Comments**

### **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**

**August 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. A comment letter from Lozeau Drury LPP dated July 18, 2023 was received by the City of Chino Planning Division and, along with responses, was forwarded with the IS/MND to the Chino Planning Commission for consideration on July 19, 2023.

On July 19, 2023, City of Chino Planning Division recommended the Chino Planning Commission:

- (1) adopt Planning Commission Resolution No. PC2023-021, recommending that the City Council adopt a Mitigated Negative Declaration (MND) for the Philadelphia Street Industrial Development Project and East End Annexation;
- (2) Adopt Planning Commission Resolution PC2023-022, recommending the City Council approve PL20-0003 (Prezone/Annexation) in conjunction with the proposed annexation of the East End Avenue Annexation site, based on the findings listed in Planning Commission Resolution No. PC2023-022; and
- (3) Adopt Planning Commission Resolution No. PC2023-023, conditionally approving PL20-0004 (Site Approval) and PL20-0005 (Tentative Parcel Map No. 20174), based upon the findings and subject to the departmental conditions of approval.

On July 19, 2023, the Planning Commission voted 4-3 in favor of the three actions listed above.

On July 27, 2023, the Supporters Alliance for Environmental Responsibility (SAFER), represented by Lozeau Drury LLP, submitted an Appeal Application to City Staff appealing the Planning Commission's July 19, 2023 decision to approve PL20-0004 (Site Approval) and PL20-0005 (Tentative Parcel Map No. 20174) for the project.

In order to provide the City Council with additional information upon which to base their decision whether to approve or deny the proposed project, City Staff has responded to the comments received by SAFER. The comment letter is labeled "Comment Letter A" 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**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
<b>A</b>	A-1	<p>Specific Action or decision which is being appealed: The Supporters Alliance for Environmental Responsibility (SAFER), represented by Lozeau Drury LLP, appeals the Planning Commission’s July 19, 2023 decision to approve PL20-0004 (Site Approval) and PL20-0005 (Tentative Parcel Map No. 20174) for the project.</p> <p>Specific grounds for the appeal, and the relief requested is as follows: SAFER objects to the county’s [sic] reliance on the MND for the Project. The MND fails to adequately analyze and fully mitigate the Project’s environmental impacts under CEQA. In addition, adoption of Planning Commission Resolution No. PC2023-023 prior to the City Council’s review and adoption of the MND violates 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. See attached letter.</p>	<p>City staff received the appeal application dated July 27, 2023 from Lozeau Drury LLP on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”). The attached letter referred to in the appeal application is the same letter received by the Chino Planning Division on July 18, 2023.</p> <p>SAFER’s objections in the appeal application are addressed in the City’s responses to SAFER’s comment letter dated July 18, 2023 received by the Chino Planning Division in responses A-2 through A-8 below.</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 Initial Study/Mitigated Negative Declaration (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-2	<p>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”).</p>	<p>The City of Chino acknowledges receipt of a comment letter dated July 18, 2023 submitted on behalf of 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</p>



**Philadelphia Street Industrial Development Site and East End Annexation Project**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
			Declaration (“MND”) (“Project”). 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-3	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 recirculation of the IS/MND. No change in the text of the IS/MND is required.
	A-4	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	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.



**Philadelphia Street Industrial Development Site and East End Annexation Project**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
		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>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 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</p>

**Philadelphia Street Industrial Development Site and East End Annexation Project**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
			requiring recirculation of the IS/MND. No change in the text of the IS/MND is required.
	A-5	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> <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</p>

**Philadelphia Street Industrial Development Site and East End Annexation Project**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
			<p>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 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	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.	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

**Philadelphia Street Industrial Development Site and East End Annexation Project**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
		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>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 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>

**Philadelphia Street Industrial Development Site and East End Annexation Project**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
			<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-7	<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 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</p>

**Philadelphia Street Industrial Development Site and East End Annexation Project**  
**Response to the Appeal Application from the Supporters Alliance for Environmental Responsibility**

**August 2023**

Comment Letter	Comment Number	Comment	Response
			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-8	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>