



Sent By E-mail

April 4, 2018

Mr. Julia Descoteaux, Associate Planner
City of Moreno Valley Planning Division
14177 Frederick Street
Moreno Valley, CA 92553

RE: RESPONSE TO SIERRA CLUB COMMENT LETTER REGARDING MORENO VALLEY LOGISTICS CENTER EIR (EIR CASE P15-037)

Dear Ms. Descoteaux:

T&B Planning, Inc. (T&B Planning) is the environmental consulting firm that prepared the Environmental Impact Report (EIR) for the Moreno Valley Logistics Center project, under the direction of the City of Moreno Valley Planning Division. This letter is prepared in response to the November 7, 2017, letter sent to the City by Ms. Abigail Smith on behalf of the Sierra Club and Residents for a Livable Moreno Valley (hereafter "Comment Letter").

With the exception of the three (3) comments addressed below, all of the comments from the Comment Letter are duplicative of comments previously submitted to the City by Ms. Smith in letters dated July 18, 2017, and September 5, 2017 (hereafter "Previous Letters"). T&B Planning submitted responses to the Previous Letters to the City on September 1, 2017, and November 3, 2017, respectively (hereafter "Responses to Previous Letters"). In the Comment Letter, Ms. Smith does not present any new information or substantial evidence to rebut the Responses to Previous Letters; therefore, this letter only addresses the new comments in the Comment Letter. T&B Planning's Responses to the Previous Letters are hereby incorporated by reference and attached hereto for reference.

On Road Construction Vehicles

On Page 2 of the Comment Letter, Ms. Smith states that the Project should be restricted to construction on-road haul trucks model year 2007 or newer. A vast majority of the Project's construction NO_x emissions result from the usage of off-road equipment and vendor trips; on-road haul trucks only represent a very, very small percentage of the Project's construction NO_x emissions. The EIR already includes numerous mitigation measures to reduce NO_x emissions from on-road haul trucks during construction (refer to Mitigation Measure 4.3-3), and Ms. Smith does not provide substantial evidence to demonstrate that the use of on-road haul trucks model year 2007 or newer would result in substantive, additional environmental benefit.

Lounge Facilities for Truck Operators

On Page 4 of the Comment Letter, Ms. Smith states that the Project should provide lounge facilities (e.g., restrooms, waiting areas, vending machines) for truck operators. Mitigation measures must have an essential nexus to a legitimate governmental interest and be "roughly proportional" to the impacts of the project. This comment provides no basis to find that the provision of on-site lounge facilities would substantially reduce the Project's significant and unavoidable air quality (VOC and NO_x emissions) or greenhouse gas-related effects during operation. Accordingly, no revisions to the EIR are warranted. Notwithstanding, although interior tenant improvements are not proposed at this time, most modern warehouses in the City of Moreno Valley, specifically,





and the larger Inland Empire area include a lunch/break room with kitchen conveniences and restrooms for use by employees and contractors.

Energy Impacts

On Page 6 of the Comment Letter, Ms. Smith asserts that the Project would result in significant energy impacts; the City's CEQA expert disagrees with this assertion. Despite Ms. Smith's implication, CEQA does not have a blanket requirement for all development projects to include energy conservation measures. Rather, "In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy" (CEQA Guidelines Appendix F). Further Public Resources Code Section 21100(b)(3) requires that EIRs include "Mitigation measures proposed to minimize *significant effects on the environment*, including but not limited to, measures to reduce wasteful, inefficient, and unnecessary consumption of energy" (*emphasis added*). As specified in Public Resources Code Section 21100(b)(3), energy conservation measures are only required if the environmental analysis demonstrates that a development project would result in a significant environmental effect related to energy use – defined as the "wasteful, inefficient, and unnecessary consumption of energy."

An Energy Analysis Report was prepared for the Project by the expert firm of Urban Crossroads. The Energy Analysis Report quantifies the energy usage anticipated by the Project's construction and operation and compares the Project's energy demands to existing, available energy supplies and also the energy demands of other comparable development projects. Based on the substantial evidence presented in the Energy Analysis Report, Urban Crossroads concluded that the Project's energy demand was not considered wasteful, inefficient, and/or unnecessary. Ms. Smith does not provide any evidence to rebut the analysis of the Energy Analysis Report. The Energy Analysis Report was summarized in the Draft and Final EIRs and is included as Technical Appendix K to the EIR. Based on the expert analysis contained in the Energy Analysis Report, the EIR concluded that the Project's environmental impact related to energy consumption would be less than significant. Notwithstanding, the Project includes numerous design features, conditions of approval, and mitigation measures that would reduce its direct energy demand and indirect energy demand (e.g., water conservation, solid waste reduction).

Lastly, and contrary to Ms. Smith's assertion, the EIR's disclosure that the Project may reduce vehicle miles traveled (VMT) in the region is not the basis for the EIR's conclusion that the Project's energy impacts would be less than significant. The EIR merely included an anecdote of a recent, comparable warehouse project in the Inland Empire region to acknowledge the realistic possibility that the Project's actual energy consumption could be lower than the worst-case, theoretical values presented in the EIR.



Based on the comments and the responses provided above, there are no changes needed to the analyses contained in the Final EIR. The Final EIR is fundamentally adequate, and all of the conclusions presented in the Final EIR are supported by evidence provided within the Final EIR, its Technical Appendices, and/or the administrative record for the proposed Project.

Sincerely,

T&B PLANNING

A handwritten signature in black ink that reads "Tracy Zinn". The signature is written in a cursive style and is enclosed in a thin black rectangular border.

Tracy Zinn, AICP
Principal

*Attachments: November 7, 2017 comment letter from Ms. Abigail Smith
September 1, 2017 response letter
November 3, 2017 response letter*

Law Offices of Abigail Smith

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VIA E-MAIL AND U.S. MAIL

November 7, 2017

City of Moreno Valley City Council
c/o City Clerk Pat Jacquez-Nares
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CityClerk@moval.org

City of Moreno Valley
c/o Ms. Julia Descoteaux, Associate Planner
Community Development Dept.
14177 Frederick Street
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RE: City Council Meeting November 7, 2017, Item G.1; Moreno Valley Logistics Center (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018, Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, Plot Plan PA15-0017, Final EIR P15-036, Mitigation Monitoring and Reporting Program, Facts, Findings and Statement of Overriding Considerations)

Dear City of Moreno Valley City Council:

On behalf of the Sierra Club and Residents For A Livable Moreno Valley, we again urge you to deny approval of the above-captioned Moreno Valley Logistics Center Project, City Council **Agenda Item G.1**. This Project is deeply flawed and brings significant impacts to its residential neighbors. In particular the applicant's request for a reduced buffer between the industrial and residential uses should be rejected. Regardless of what has been allowed in the past, the City must take care to protect its residents with each new approval.

This letter incorporates by reference our previous written comments on the EIR. As we have commented in the past, the EIR fails to comply with the California Environmental

Quality Act (“CEQA”) in numerous respects. Among other defects in the EIR, there is a faulty project description; there are significant and unmitigated environmental impacts including, but not limited to, air quality, health risk, energy, green house gas emissions, land use, noise, recreation, and traffic; and mitigation measures were improperly rejected without adequate findings in the record. The Final EIR’s responses to our comments and the applicant’s supplemental responses to comments (July 20, 2017) do not cure the EIR’s defects.

Air Quality and GHG Mitigation Measures Are Feasible

There are still a number of available mitigation measures for significant air quality impacts, which have not been demonstrated to be infeasible including by way of the City’s and applicant’s responses to comments, including that:

- Only Tier 4 construction equipment shall be used. The World Logistics Center (“WLC”) has been required through its CEQA mitigation program to use Tier 4 equipment; only if, after a good faith effort to rent Tier 4 equipment has been conducted and has been unsuccessful, then Tier 3 equipment can be used. Also, according to the WLC mitigation program, “[w]ritten verification of the Tier 4 equipment search of three or more qualified rental companies shall be provided to the City verifying the results of the search.” (See attached Exhibit 1.)
- Only electric construction equipment shall be used – not merely used “if feasible”;
- Construction on-road trucks shall be model year 2007 or newer (see Exhibit 1);
- A requirement that all trucks entering the site shall be 2010 model year or newer; not merely that tenants shall be encouraged to meet 2010 model year emission standards. The Project must be require that all heavy duty and medium duty trucks are model year 2010 or newer and trucks that do not meet this standard shall be prohibited from entering the site that do not meet this requirement; and this requirement must be specified in tenant leases and operator contracts, subject to cancellation of leases or contracts if the term is violated. To the extent that model year 2010 trucks are legally required by year 2023, this is feasible measure. (See, ARB website stating regulations)¹ (See, Exhibit 2 hereto [final condition of approval for Sycamore Canyon Business Park – City of Riverside, February 2017].) Project tenants should also be required to keep a log of trucks that enter the site to verify compliance with this provision, subject to inspection and verification by City Staff.

¹ <https://www.arb.ca.gov/msprog/onrdiesel/documents/multirule.pdf>

This hyperlink and all hyperlinks cited herein are fully incorporated by reference.

- Required phase-in of electric, hybrid electric, hydrogen electric, or battery operated (*i.e.*, non-diesel) trucks. Non-diesel trucks are reasonably foreseeable in the commercial market and therefore are feasible within the life of the Project. (*See*, article describing Tesla unveiling electric semi-truck²; *see also*, article entitled “Nikola and Bosch set to battle Tesla with hydrogen-electric truck”³, article describing Toyota working on hydrogen fuel cell semi-trucks⁴). A mitigation measure is feasible if it can be achieved in a reasonable period of time. (CEQA Guidelines § 15364) (*See*, 2013 comments by AQMD regarding AQMD’s opinion that zero emission long-haul trucks are expected to be deployed in the near future.⁵) The Project should at least be required to reevaluate whether some portion of the fleet serving the Project must be zero emission or battery powered in the future. (*See*, article describing AQMD studying and working with manufacturers to develop zero emission Class 8 trucks,⁶ article describing CARB using cap and trade funds to work with manufacturers to “accelerate the market for next generation of clean, heavy-duty trucks and buses, both those that run on electricity and on hydrogen”⁷, article describing Transpower company testing “on road” zero emission trucks.⁸ In fact, zero emission vehicles (ZVE’s) are a priority in California.⁹ The Governor’s 2016 ZEV Action Plan (October 2016) identifies as a priority “Making ZEV technologies commercially viable in targeted applications the medium-duty, heavy-duty, and freight sectors”. *Id.* The Ports of Los Angeles and Long Beach are drafting a new Climate Action Plan which proposes that “[s]tarting in 2018, phase in clean engine standards for new trucks entering port drayage registries followed by a truck rate structure that encourages the use of near-zero and zero emissions trucks, with the goal of transitioning to zero emissions drayage fleet by 2035.”¹⁰ It is not infeasible or impracticable to require the use of alternatively fueled trucks presently or at some reasonable time in the future. The AQMD and CARB both agree that zero emission trucks are the future

² <http://mashable.com/2017/09/14/tesla-semi-truck-launch/#YIUeEqm9faq>

³ <http://mashable.com/2017/09/19/nikola-bosch-hydrogen-electric-development/#X1uV0KLxZiq4>

⁴ <https://www.wired.com/2017/04/toyotas-still-serious-hydrogen-built-semi-prove/>

⁵ <http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2013/march/southern-california-international-gateway.pdf>

⁶ <http://www.aqmd.gov/home/library/public-information/2016-news-archives/drayage-trucks>

⁷ <https://www.arb.ca.gov/newsrel/newsrelease.php?id=915>

⁸ <http://www.transpowerusa.com/on-road-trucks/>

⁹ http://www.energy.ca.gov/renewables/tracking_progress/documents/electric_vehicle.pdf

¹⁰ <http://www.cleanairactionplan.org/2017-clean-air-action-plan-update/>

and are necessary mitigation measures to go *beyond* the 2010 truck requirement, in order to meet Legislative targets for emission reductions. (See, Exhibits 3 and 4 hereto). CARB’s *Sustainable Freight Pathways to Zero and Near-Zero Emissions Discussion Document* (April 2015) is a helpful resource in this regard. (Exhibit 5 hereto)

- APUs shall not be permitted to idle on site for more than three minutes;
- Adequate facilities shall be provided at all buildings for truck operators such as restrooms, waiting areas, and vending machines.
- All forklifts (indoor and outdoor) shall be electric; this measure has been incorporated on a widespread basis for similar logistics warehouse projects throughout southern California;
- The applicant shall make reasonable efforts to acquire and operate electric yard trucks/goats over the life of the Project. (See, ARB article noting that battery-electric Class 8 yard trucks will operate at facilities in southern California representing “a step toward the commercialization of heavy-duty, advanced, zero-emission technologies” with the deployment “providing a model for truck electrification that could be scaled to any facility”¹¹.) (See also, WLC mitigation program). Additionally, if electric yard trucks are presently infeasible, applicant shall acquire and operate CNG or LNG yard trucks;
- Plug-ins shall be installed at each truck bay to provide plug-ins for trucks not merely for forklifts and similar ancillary equipment;
- All refrigerated trucks/ TRU’s accessing the site must be equipped with electric hookup capabilities;
- The Project must be conditioned to require the use of the electric plug-ins by truck operators;
- The Project should be limited to the number of transport diesel trucks as assumed by the EIR;
- The Project shall be designed to USGB LEED v.4 Silver or better standards. *This will help to mitigate *significant* GHG impacts. The response that the Project will comply with Title 24 is inadequate; the Project must adopt all feasible mitigation measures to address significant Project impacts including air quality and GHG impacts, and it may not simply rely upon compliance with regulations already in place;
- The Project must build and use solar panels to generate enough power to achieve “net zero” meaning that solar panels shall be installed to handle the peak energy demands from each building on site. *This will help to mitigate *significant* GHG impacts. Measure 4.6-1 is inadequate in that there is no requirement to operate

¹¹ <https://www.arb.ca.gov/newsrel/newsrelease.php?id=900>

solar power panels in any capacity, and no requirement as to how much infrastructure must be built to accommodate future solar panels;

- Refrigerated warehouse space must be prohibited unless it is demonstrated that the environmental impacts do not exceed the assumptions of the EIR as to air quality impacts (*see* Exhibit 1);
- A minimum of five electric vehicle (EV) charging stations shall be provided at each building;
- The requirement to meet or exceed Title 24 energy standards shall pertain to the 2016 Title 24 requirements (not 2013 Title 24 standards); and
- The Project shall provide a minimum of 30 parking spaces for alternatively fueled vehicles and these shall be provided nearest to building entrances.

Traffic Mitigation Is Uncertain

Traffic mitigation still has not been shown to be infeasible and claims that certain measures are beyond the applicant's control or are outside the City's jurisdiction are not supported by substantial evidence in the record, nor do they necessarily amount to a finding of "infeasibility." Many of the measures are unenforceable including, for instance, MM 4.11-12 in that it states that the applicant shall use "reasonable efforts" to pay fair share mitigation funds to Caltrans in the event that a fair share fund is established. This does not amount to an enforceable mitigation measure. At the least, the applicant must be required to pay fair share funds when a fund is established; or the City can create a fund and hold those funds for the future. In short, the Findings of Facts do not demonstrate that all available feasible traffic mitigation has been adopted for this Project or that certain measures are truly infeasible.

Alternatives Are Feasible

The "No Project Alternative" which includes the 300-foot setback is a feasible mitigation measure and alternative within the meaning of CEQA. The fact that the Project applicant desires a certain Project design or return on its investment does not translate to a finding of infeasibility. We reiterate our previous comment that CEQA's paramount policy is to "ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions." (Cal. Public Resources Code § 21001.)

Energy Impacts

Lastly, the Final EIR indicates significant energy impacts in terms of Appendix F, contrary to the EIR's conclusions. CEQA Guidelines, § 15126.4 (a)(1)(C) states that, "energy conservation measures ... shall be discussed when appropriate." Guidelines Appendix F provides that "The goal of conserving energy *implies the wise and efficient use of energy*. The means of achieving this goal include: (1) decreasing overall per capita energy consumption; (2) *decreasing* reliance on fossil fuels such as coal, natural gas and oil, and (3) *increasing* reliance on renewable energy sources." (emphasis added)

Appendix F puts "particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy." With respect to the Project, it is estimated that annually it will consume 4,896,551 gallons of fuel and have a demand for 15,535,696 kwh/year of energy. The EIR concludes that impacts are less than significant based on speculation such as the idea that the Project may reduce vehicle miles traveled by locating warehousing closer to building occupants' destinations for goods and services. The Project (a warehouse logistics center) is a fuel-intensive use; there is not substantial evidence to conclude that the Project achieves the goal of "decreasing reliance on fossil fuels." The Project will likely receive goods from the Ports of Long Beach and Los Angeles (more than 70 miles away) and then process (store and sort) those goods for destination in and outside of California. This activity generates significant impacts in terms of fuel consumption. Furthermore, the Project takes no affirmative steps beyond compliance with Title 24 in terms of *increasing* reliance on renewable energy. There is no requirement that the Project utilize solar energy, for example, and MM 4.6-1 does not even specify how much solar infrastructure must be built at the time of construction. Focusing on purported sustainability features and compliance with Title 24 is not adequate in terms of CEQA energy analysis. (See, *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 262- 265.)

Conclusion

Thank you for your consideration of these additional comments as you consider the proposed Project.

7 | City of Moreno Valley City Council
November 7, 2017
Agenda Item G.1 - Moreno Valley Logistics Center Project

Sincerely,

A handwritten signature in black ink that reads "Abigail Smith". The script is cursive and fluid.

Abigail Smith
Law Offices of Abigail Smith

Enclosure



Sent By E-mail

September 1, 2017

Mr. Richard Sandzimier, Planning Official
City of Moreno Valley Planning Division
14177 Frederick Street
Moreno Valley, CA 92553

RE: RESPONSE TO SIERRA CLUB LETTER REGARDING MORENO VALLEY LOGISTICS CENTER EIR (EIR CASE P15-037)

Dear Mr. Sandzimier:

T&B Planning, Inc. is the environmental consulting firm that prepared the Moreno Valley Logistics Center Environmental Impact Report (EIR) under the direction of the City of Moreno Valley Planning Division. This letter is prepared in response to the July 18, 2017 letter sent to the City by Ms. Abigail Smith on behalf of the Sierra Club and Residents for a Livable Moreno Valley. Numbered responses are provided on the following pages that correspond to each substantive point raised in Ms. Smith's letter (attached hereto, with substantive comments bracketed and numbered for reference).

1. The Project proposes a densely landscaped and mounded onsite buffer adjacent to Indian Street in lieu of a wider setback with no landscaping or mounding. Refer to Final EIR (FEIR) Figure 3-20 for a cross-section of the proposed 101-foot-wide setback that would extend from the Building 1 Site perimeter wall to the centerline of Indian Street (FEIR p. 3-28). On the opposite side of the centerline are the northbound travel lanes, sidewalk, vegetation, a chain link fence, a drainage channel, and perimeter wall, beyond which are residential homes (see photo at Figure 4.1-5, FEIR p. 4.1-19).

All plant material selected for Project's landscaping design, including plant material in the buffer area, is required to comply with the City of Moreno Valley Municipal Code Chapter 9.17, Landscape and Water Efficiency Requirements. Governor Edmund G. Brown Jr. ended the drought state of emergency in most of California in April 2017, while maintaining water reporting requirements and prohibitions on wasteful water use practices. There is no evidence to suggest that future drought conditions and/or climate changes, should they occur, would result in diseases, pests, or lack of water specifically in the Project's landscape buffer.

In sum, the dense landscaped and mounded on site buffer assist in ensuring that the Project's impacts to the residences to the east of the Project site are less than significant. Thus, from an impact standpoint, the proposed project footprint and 100-foot-wide setback do not create any additional impacts that the 300-foot-wide setback would have eliminated. Indeed, from an aesthetics standpoint, if the 300-foot-wide setback would remain, that would likely result in an undevelopable parcel being created and therefore would create aesthetically displeasing blighted conditions. There does not appear to be any policy reason that would justify creating a potential blighted condition when doing so would not create any additional environmental benefits or significantly reduce environmental impacts.

2. The EIR objectively analyzes the Project's proposed edge condition at Indian Street. The EIR provides factual information for informed decision-making, and not "excuses." As set forth in the FEIR and summarized in FEIR





Table ES-1, impacts to sensitive receptors located east of Indian Street with respect to aesthetics, air quality, health risks, and noise would be less than significant. Moreover, the City maintains the authority to amend its legislative documents. Lastly, the response set forth above applies equally here.

3. As described throughout the FEIR, the Project would not cause any direct or cumulatively considerable and unavoidable significant impacts to residential uses located directly east of Indian Street (FEIR Table ES-1). Potential impacts associated with noise, greenhouse gas emissions, vibration, glare, and air quality are evaluated in the FEIR and determined to be less than significant after the application of mitigation measures. For more information, refer to Final EIR Response to Comment B-2. (FEIR p. FEIR-5, 6.)

And as stated above, the dense landscape and mounded on site buffer assist in ensuring that the Project's impacts to the residences to the east of the Project site are less than significant. Thus, from an impact standpoint, the proposed project footprint and 100-foot-wide buffer do not create any additional impacts that the 300-foot-wide buffer would have eliminated. Indeed, from an aesthetics standpoint, if the 300-foot-wide buffer would remain, that would likely result in an undevelopable parcel being created and therefore would create aesthetically displeasing blighted conditions. There does not appear to be any policy reason that would justify creating a potential blighted condition when doing so would not create any additional environmental benefits or significantly reduce environmental impacts.

4. The FEIR's impact analyses, conclusions, and mitigation measures assume, based on predictable market factors, that the Building 2 Site would be developed with a light industrial building generating as many as 1,084 passenger car equivalent (PCE) daily trips (FEIR Table 4.11-18, p. 4.11-69). None of the FEIR's impact conclusions assume that traffic or other vehicular-related impacts would be reduced by developing the Building 2 site as a parking lot. However, the likely outcome of using the Building 2 site as an auxiliary parking area for Building 1 would be a reduction in traffic due to the associated reduction in building square footage. Thus, the EIR overstates and in no way underestimates Project impacts.

5. The City of Moreno Valley is requiring Project buildings to be built to minimum LEED "Certified" rating standards via conditions of approval.

6. The Indian Street bridge is a potential public capital improvement project. The timing of the Indian Street bridge installation is highly uncertain as the bridge is not currently funded. The project is not proposing the Indian Street bridge and therefore this potential, but speculative, City public works project is not part of the proposed Project. However, the FEIR properly analyzed impacts of the proposed Project (traffic, air quality, noise) with and without future installation of the Indian Street bridge so that the public could ascertain the Project's impacts if the City were to construct the Indian Street bridge.

7. Based on information provided by the Project's expert civil engineer and a review of the geotechnical report (FEIR Technical Appendix L), earthwork will balance onsite, taking into consideration raw cut volumes and accounting for compaction and shrinkage which will occur as part of grading and site preparation. The assumptions underlying the air quality study are correct. The City disagrees with the assertion that the air study is incorrect.

8. MVMC Section 9.10.050 applies to building and other onsite operations. It states that "no operation or activity . . . shall cause the emission of any smoke, fly ash, dust, fumes, vapors, gases or other forms of air pollution



which exceeds the requirements of the SCAQMD or the requirements of any air quality plan or general plan air quality element adopted by the city.” As identified in the EIR, the Project will not exceed any of the SCAQMDs localized significance thresholds or health risk thresholds (FEIR Table 4.3-9, p. 4.3-33; Table 4.3-10, p. 29, and Table 4.3-11, p. 4.3-30). As such, even if the cited MVMC sections applied, and they do not, the Project is consistent with MVMC 9.10.050.

MVMC Section 9.10.140, applies a 55 dBA noise standard “at any one time beyond the boundaries of the property.” Table 9-3 of the Noise Study (FEIR Technical Appendix H) and EIR Table 4.10-10 (FEIR p.4.10-34) show that operational noise levels at all receiver locations would range from 24.4 to 46.6 dBA Leq, which satisfies the 55 dBA standard. Therefore, the assertion made by the commentator is wrong.

MVMC Section 9.10.150 prohibits the emission of emits odorous gases or other odorous matter in such quantities as to be dangerous, injurious, noxious, or otherwise objectionable . . . at or beyond the lot line of the property containing said operation or activity. As discussed in the FEIR, the Project would not result in less than significant odor impacts (FEIR pp. 4.3-36, 37). Furthermore, the Project would be subject to SCAQMD Rule 402, which also regulates odors, as specified in Mitigation Measure MM 4.3-20.

9. The Project’s Health Risk Assessment (HRA) (FEIR Technical Appendix B2) is based on appropriate methodology and concludes that the Project would result in less-than-significant impacts associated with toxic air contaminants. The HRA analyzes individual discreet receptors placed geospatially at nearby residences. Receptors were placed where an individual can reasonably be expected to remain for a 24-hour duration and where long-term exposure to air toxics could occur. There is no basis for placing receptors at the property line instead of the structure because the risk modeling is based on the assumption that the modeled individual will stand outside for 24-hours per day, 350 days per year, for a period of 70 years. This modeling assumption has no commensurate relationship with any documented or hypothesized real world human behavior. Therefore, to not only assume this behavior in the modeling assumptions (as was done in the Project’s impact analysis), but then to compound the modeling assumptions by hypothetically placing a human being at the fence line for a 24 hour/365 day per year/70-year exposure scenario, would take the modeling into the realm of completely unknown human behavior and would be of no value to the decision-makers. As such, it is completely unreasonable to assume that this long-term constant exposure would occur at the property line. As stated above, the HRA already overstates potential exposure due to use of the 24 hour/365 day per year/70-year exposure scenario. The City’s air quality experts disagree with the assertions set forth in the comment.

10. See Response 9. The modeled locations represent the maximum impact any individual resident, business, or school would be exposed to. Because the maximum residential, worker, and school exposures have already been identified and evaluated in the FEIR, it unnecessary to include a 100-meter by 100-meter grid of receptors, because doing so would not yield any new meaningful information, or different results or conclusions already reported in the EIR. The City’s air quality experts disagree with the assertions set forth in the comment.

11. The primary feasibility issue with using Tier 4 construction equipment is the availability of compliant equipment from equipment suppliers and contractors. Availability of Tier 4 equipment cannot be ensured by the City or the Project Applicant. A review of data available from the California Air Resources Board’s (CARB’s) OFFROAD2011 Model shows that heavy duty off road construction equipment meeting Tier 4 emission standards account for only approximately 13% of the statewide fleet. With a low availability of Tier 4 compliant equipment, it would not be



feasible to require all construction equipment to meet these requirements. Furthermore, the US EPA has provisions that allow construction fleets to defer converting to Tier 4 requirements until at least 2020 in some instances – further underscoring the lack of available Tier 4 compliant equipment. Lastly, even if the Project were to be constructed using all Tier 4 compliant equipment, it would not avoid or lessen construction-related air pollutant emissions to below a level of significance. If all construction equipment greater than 50hp was required to meet Tier 4 emissions standards, NO_x emissions would total approximately 215 pounds per day which still exceeds the applicable threshold of 100 pounds per day. The City’s air quality experts disagree with the assertions set forth in the comment letter.

12. The Project is required to comply with the California Building Standards Code, which mandates the installation of electrical charging stations for passenger cars.

13. Due to the scale of the Project, it is necessary that some degree of overlapping construction activities to occur. The construction schedule disclosed and evaluated in the FEIR is conservative and reasonable. Mitigation Measure MM 4.3-2 establishes a cap on the maximum intensity of daily construction activities on the Project site. The cap is measured in horsepower-hours per day (i.e., the amount of horsepower for a piece of equipment multiplied by the numbers of hours in a day that piece of equipment is in operation). The City’s air quality experts indicate that imposition this quantitative cap will better regulate daily emissions than would a requirement to avoid the overlap of construction phasing without a limit on.

14. Mitigation Measure MM 4-3-3 (a) contained a typo and will be corrected to indicate three (3) minutes.

15. It is acknowledged that the City cannot enforce lease provisions between private parties. Further, the City has no legal right to request copies of signed lease agreements between private parties. These Mitigation Measures are included in the FEIR as a way to encourage air-quality friendly operational practices by private businesses that will occupy the Project site. The EIR’s air emission calculations do not take credit for any air pollutant reductions that may result from complying with the provisions in private lease agreements.

16. Trucks are legally permitted to use designated truck routes. The City cannot restrict truck drivers from using any truck route based on the origin or destination of their trip.

17. Per MVMC Section 9.02.030, all landscaped areas are required to be maintained in a healthy and thriving condition. Compliance is ensured through City of Moreno Valley Code Enforcement. This requirement also is imposed as a Project Condition of Approval. The Project Applicant is proposing to construct all paved areas with concrete on the Building 1 Site.

18. Building users are not yet identified for the Project site’s buildings; thus, until the building occupants are known, it cannot be determined with any certainty what size or type of solar array would be appropriate, and useful for the occupant’s electrical needs. Mitigation Measure MM 4.6-1 thus appropriate to accommodate the needs and requirements of the building occupants.

19. Mitigation Measure MM 4.6-1 requires that the roofs of all buildings be designed to support solar panels. Also refer to Response 18.



20. This comment refers to the health risk calculation based on the 2015 OEHHA guidelines, which, as discussed in the FEIR, is a severe overstatement of the Project's expected impact because diesel particulates do not have a mutagenic mode of action (are not DNA reactive and/or have the ability to bind to DNA) and therefore would not be subject to age-weighted factors. (FEIR pp. 4.3-23 and 4.3-35-36.) The FEIR also discloses the likely maximum risk of 6.06 in one million (FEIR Tables 4.3-10 and 4.3-11) based on analysis methodology recommended by the SCAQMD. The calculation of 9.5 based on the 2015 OEHHA guidelines was disclosed in the FEIR for information purposes only, and is not the methodology that the SCAQMD suggests in their guidelines (FEIR p. 4.3-23). Nevertheless, as demonstrated above, even utilizing the 2015 OEHHA Guidelines would result in a less than significant HRA impact of a less than 10 in a million risk.

Both the Project's traffic and HRA reports utilized the traffic data sets that were correct for the respective analysis. The Traffic Study correctly utilized peak hour trips (refer to Response 32, below), whereas the HRA correctly assigned the daily truck trips associated with each building. As shown in Appendix 5.3 of the HRA, Buildings are assigned the following number of truck trips consistent with the daily number of trucks identified for each building commensurate with the Project's Traffic Impact Analysis (FEIR Technical Appendix I1)

Building 1: 865 truck trips

Building 2: 183 truck trips

Building 3: 145 truck trips

Building 4: 248 truck trips

The comment confuses the peak hour trip distribution with the total number of daily trips. The DEIR and HRA evaluate the correct number of trucks.

21. The Project's HRA evaluates the two schools on Indian at Krameria as shown on Exhibit 2-G of the HRA. The maximum impact happens to occur at the Delphinium school due to meteorological and topographical conditions as modeled. The City's air quality experts disagree with the assertions set forth in the comment.

22. The quantified cumulative risk rate is disclosed in EIR Tables 4.3-10 and 4.3-11. As stated in the FEIR and HRA, the background MATES IV data was published in 2015 and would include background risk from any existing conditions at that time (FEIR pp. 4.3-12, 13). As discussed in the HRA, as an extremely conservative measure to overstate rather than understate the potential risk impacts, the analysis assumes that the maximum impact from each related project overlaps and would occur at the same location in the Project vicinity for the receptor, worker, and school child exposure scenarios. As such, the overstated risk values do not ignore the P&G potential risk of 7.9 in one million. Nevertheless, even if the 7.9 in one million risk were to be added on top of the cumulative risk levels already reported in the HRA and EIR, the Project's significance conclusions would remain unchanged. The Project's health risk impact is less than significant because it falls below the 10 in one million threshold for direct and cumulatively considerable impacts. And the use of this threshold of significance is appropriate and correct because data from SCAQMD and demonstrated that the health risks from DPM have been dramatically reduced over the course of the past decades (as described in the FEIR, see Pages 4.3-12 and 4.3-13). The City's air quality experts disagree with the assertions set forth in the comment.



23. The main east-facing wall of the Project's proposed Building 1 would be located approximately 350 feet from the nearest residential property east of Indian Street. The east wall of the building's office area would be located approximately 300 feet from the nearest residential property east of Indian Street.

24. This comment is incorrect. The P&G building orients dock doors facing east, as does the proposed Project. Both the main east-facing wall of the P&G building and the Project's proposed Building 1 occur approximately 350 feet from the nearest residential property east of Indian Street. Like the P&G building, the east wall of proposed Building 1's office area would be located approximately 300 feet from the nearest residential property east of Indian Street.

25. After a review of the construction noise levels and ambient noise levels at the sensitive receiver locations, and assuming the peak reference noise level of all construction equipment is operating onsite at the closest point nearest offsite sensitive receptors (to represent a theoretical worst-case condition), the mitigated Project construction noise level increases over ambient conditions would approach 11.7 dBA Leq with the temporary noise barriers required by Mitigation Measure MM 4.10-2. This increase would satisfy the 12 dBA Leq Caltrans substantial increase threshold. Impacts would be less than significant with mitigation as disclosed in the FEIR. The City's noise experts disagree with the assertions set forth in the comment.

26. Refer to Response 8 regarding compliance with the cited MVMC Sections. The performance standards listed on Page III-17 of the Specific Plan are materially the same as those of the MVMC.

27. The City's noise experts disagree with the assertions set forth in the comment. Refer to Response 25.

28. Nighttime construction noise levels will be less than significant and fall below the 60 dBA Leq nighttime noise threshold. The footnote of FEIR Table 4.10-8 should have referred to the nighttime threshold of 60 dBA Leq. The City's noise experts disagree with the assertions set forth in the comment.

29. The off-site traffic noise analysis provided in the FEIR and Noise Study (FEIR Technical Appendix H) identifies noise level increases above General Plan land use compatibility thresholds due to cumulative development, however, the Project's contribution to those increases is calculated to be less than significant and less than cumulatively considerable. The Project's maximum noise contribution under all scenarios are calculated to be 0.8 dBA or less along all study area roadway segments (FEIR Tables 4.10-13, 4.10-14, 4.10-15 and 4.10-16). The City's noise experts disagree with the assertions set forth in the comment.

30. Refer to Response 20. The commenter confuses the peak hour trip distribution with the total number of daily trips. There are no errors in the trip distribution assumptions, which are based on peak hour trips, not total daily trips. Regardless, truck traffic on Krameria Avenue between Cosmos Street and Indian Avenue is traveling adjacent to the Project site and the existing industrial use north of Krameria Avenue, and industrial uses on these properties are not noise-sensitive. The City's traffic and noise experts disagree with the assertions set forth in the comment.

31. Regarding the vehicle and fleet mix, only the smaller Buildings 2, 3, and 4 were modeled based on the Fontana Trip Generation Study. Building 1, the proposed high cube warehouse building, was modeled using SCAQMD recommendations for this land use type. According to the City's traffic experts, the Fontana Trip Generation Study is the best source of information available about fleet mixes for industrial buildings in the Inland Empire, with the

exception of high cube warehouses. The Fontana Study was a robust study with a large sample size of industrial buildings specific to Southern California and has the best data available pertaining to vehicle mixes because it breaks down truck fleet mixes by axle types, whereas the ITE Trip Generation Manual does not specify truck mixes by axle type. The SCAQMD and NAIOP studies look at subcategories of the high cube warehouse use, including the subcategories of Transload, Short-Term Storage, Cold Storage, Fulfillment, and Parcel Hub. For the later three subcategories (Cold Storage, Fulfillment, and Parcel Hub) there is very limited data available and NAIOP acknowledges that the study results are thus not reliable due to the small sample size. In comparison, the SCAQMD and NAIOP studies sampled approximately 91 sites for Transload and Short-Term Storage facilities, and thus the data is much more reliable for these subcategories due to the larger sample size. Based on the results of the study, ITE trip generation rates for the high cube warehouse land use are higher and more conservative than the SCAQMD and NAIOP study results for Transload and Short-Term Storage users. Thus, based on available data, the ITE Trip Generation Manual's trip rate is the most reliable and conservative data source available, which was used in the Project's Traffic Study and the FEIR. SCAQMD's recommendation for fleet mix by axle type cited in the comment was applied by the Traffic Study for Building 1 and relied upon in the FEIR analysis (FEIR Table 4.11-18, p. 4.11-69). The City's traffic and noise experts disagree with the assertions set forth in the comment.

32. Refer to Response 20. The commenter confuses the peak hour trip distribution with the total number of daily trips. There are no errors in the trip distribution assumptions, which are based on peak hour trips, not total daily trips.

33. Based on the Project's design, it would be physically impossible for trucks to make a right turn out of the Project site and onto eastbound Krameria Avenue. Any large trucks traveling east on Krameria east of Cosmos under existing conditions may be due to a driver error or wrong turn. Based on existing traffic count data reported in the Project's Traffic Study for Krameria Avenue east of Cosmos, only 2.3% of the AM peak hour traffic and 1.5% of the PM peak hour traffic was attributable to trucks, and all such trucks were 2- axle (smaller delivery type trucks). No Project truck traffic will occur on Indian Street between Krameria Avenue and southern portion of the Project site. If the Indian Street bridge is constructed over the channel, any trucks that may exit the Project's southernmost driveway at Indian Street would be restricted to a right-hand turn to travel south on Indian Street (FEIR Figure 4.11-10, p. 4.11-112 and Figure 4.11-12, p. 4.11-116).

34. It is acknowledged that there is a typographical error on FEIR 4.10-11. The Project's percentage of truck traffic on Heacock Street between Krameria and Cactus was accurately modeled at 70%. Refer to Response 20 regarding truck distribution by building; there are no errors in the trip distribution assumptions, which are based on peak hour trips, not total daily trips.

35. The Project's Traffic Study relies on the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th Edition, which is the most widely used source of trip generation information for development projects. The Traffic Study applies the ITE's light industrial trip rate for the smaller Buildings 2, 3, and 4, and ITE high cube warehouse trip rate for the larger Building 1 as explained in detail in Response 31. Impacts are calculated and mitigation is applied accordingly. The City does not monitor trip generation of private enterprises after building occupancy. Some enterprises fail and produce no vehicle trips; others perform below mean assumptions; others perform within the mean assumptions; and others may perform above the mean assumptions. This is precisely why the scientific community uses mean and median values when assessing most impacts in EIRs (with the exception of air quality where highly exaggerated risk assumptions are utilized). To do anything different would



not provide reasonable and reliable information to the City's decision-makers. The City's traffic and noise experts disagree with the assertions set forth in the comment.

36. Onsite truck movement operations are considered in the Noise Analysis.

37. A multi-use path along the channel is contemplated in the City's Bicycle Master Plan, but not by Specific Plan 208. The trail would occur on Riverside County Flood Control property, and not on private property associated with the proposed Project.

38. Refer to Response 37.

Based on the comments and the responses provided above, there are no changes needed to the analyses contained in the FEIR. The FEIR is fundamentally adequate, and all of the conclusions presented in the FEIR are supported by evidence provided within the FEIR, its Technical Appendices, and/or the administrative record for the proposed Project. Based on the foregoing, recirculation of the FEIR is not warranted according to the guidance set forth in § 15088.5 of the CEQA Guidelines.

Sincerely,

T&B PLANNING

A handwritten signature in black ink that reads "Tracy Zinn". The signature is written in a cursive style and is contained within a rectangular box.

Tracy Zinn, AICP
Principal

COMMENT LETTER

Law Offices of Abigail Smith

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July 18, 2017

VIA E-MAIL

Pat Jaquez-Nares, City Clerk
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Ms. Julia Descoteaux, Associate Planner
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RE: Opposition to Moreno Valley Logistics Center (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018; Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, and Plot Plan PA15-0017); July 20, 2017 Planning Commission Special Meeting, Item 2

Greetings:

Please accept these comments on behalf of the Sierra Club and Residents for a Livable Moreno Valley in opposition to the proposed Moreno Valley Logistics Center Project (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018; Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, and Plot Plan PA15-0017).

The proposed Project involves the development of an approximately 89.4 gross-acre property located at the southwest corner of the intersection of Krameria Avenue and Indian Street with one (1) high cube warehouse building and three (3) light industrial buildings with a total building space of 1,737,518 square feet.

As detailed herein, several issues continue to pervade the EIR which must be addressed prior to consideration of this Project for approval.

Setback Reduction to 100 Feet

Foremost, despite comments from Sierra Club and Residents, the Environmental and Historical Preservation Board, and others objecting to a reduction in the setback buffer to



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a mere 100 feet, the application continues to propose a mere **100-foot setback** adjacent to Indian Street **proximate to existing housing**. As noted by the Environmental and Historical Preservation Board, because the development of industrial uses would be in close proximity to housing, and because “[l]andscaping may be limited/ reduced due to drought tolerant design,” maintaining a 300-foot setback adjacent to Indian Street is essential.

1 Cont.

The response to this comment included that landscaping would comply with existing water efficiency requirements. But as global climate change worsens, as was evidenced by drought conditions throughout 2016, stricter water restrictions may be needed to continue to meet existing demand. Furthermore, plant diseases and agricultural pests are predicted to increase. The Project should account for potential water diversions from landscaping uses and other landscaping loss by retaining a 300-foot buffer from residential uses.

The other excuses made in favor of an exception from the 300-foot setback requirement are similarly unpersuasive. First, that an exception was granted for the adjacent site is no justification. The Specific Plan Amendment that provided an exception for the Proctor & Gamble (“P&G”) campus to a reduction of 100 feet was only for that site—the Specific Plan Amendment applied to no other properties within the Moreno Valley Industrial Area Plan. This is because, as commented by SoCal Environmental Justice Alliance, “This reduced setback is not representative of good planning practices.” (Final EIR Comment F-6) The fact that one property was granted a poorly contrived exception to established setback requirements does not support the applicants’ argument for further exceptions. This slippery slope argument must be rejected. Furthermore, the regular granting of exceptions to development standards can be tantamount to an improper amendment of the applicable land use document.

2

Second, to the extent the responses to comments allege an impact to 19 residences is not an impact to the environment, *Porterville Citizens for Responsible Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 903, cited in the response, does not stand for such a claim. Rather, impacts to only few (one or two) people in the *Porterville* case was insufficient to rise to the level of an environmental impact. Here at least 19 households of individuals live directly across from the Project and would be impacted by the Project. Moreover, other nearby residences would be impacted by the over 6,000 vehicle trips/day, air pollutant emissions, noise, etc. The limitation expressed in *Porterville* thus does not apply.

3

Hence permitting a reduced setback is utterly unjustified by fact or law. To the contrary, the setback required by the Moreno Valley Industrial Area Plan is intended to provide

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adjacent residential uses some protection from a variety of environmental harms including noise impacts, greenhouse gases, vibration impacts, glare from the glass, and air quality issues such as diesel particulate matter and odors. The City should thus decline to permit any reduction of this buffer area.

3 Cont.

Project Description

The Project Description includes an option for Building 2 to developed as a 166-space trailer parking area. The assumption is that this use would be less intense and therefore have more limited impacts. This is not necessarily true as related to truck activity on the site and surrounding receptors (and localized air and noise impacts). The EIR should not assume an environmental benefit.

4

The Project Description (FEIR, p. 3-26) states the Project will meet minimum LEED certified standards. This is unclear as written, and at the least, should be adopted as an enforceable condition of approval and/or through the Project's mitigation program ("MMRP").

5

There is content buried in the traffic study (pp. 544-55) showing that the Project would include an amendment to the City's designated truck routes for Indian Avenue, south of the driveway at the southeast corner of Building 1, if the bridge over the flood control channel is constructed. The City claims this is not part of the project. However, the City must evaluate this scenario as part of air quality, traffic and noise impacts to the extent this is a reasonably foreseeable change to the circumstances of the Project.

6

Air Quality

The excavation volume during project construction is nearly 4 times the fill volume. The preliminary grading plan shows calculations that make this miraculously balance. Please verify that grading will be balanced. If not, the assumptions of the air quality study could be incorrect and impacts understated.

7

MVMC Sections 9.10.050, 9.10.140, and 9.10.150 establish performance standards for air, noise, and odors. The Specific Plan also includes performance standards for air and noise (page III-17) that do not appear to be acknowledged in the EIR. These provisions should be addressed as thresholds. The Specific Plan air provisions refer to protection of outdoor uses, which is further support for the claim that the air and toxics analysis approaches are invalid.

8

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SCAQMD raised concerns about the assumptions used in health risk modeling, particularly with placement of receptors to the structure of residences, work, and schools rather than to the property line. The response to this comment states it is unlikely any person “would be outside on the property line for 70, 40, and 9 years.” (Response to Comment C-6) It is likewise unlikely any person would be only indoors for the duration of this timeframe and would not make use of the entire property, including outdoor areas. Furthermore, as SCAQMD is the agency with expertise in addressing air quality and health risks, the City should defer to its expert opinion in estimating health risks, especially where risks are very near the 10 cancer threshold of significance at an estimated 9.5 cancers per million.

The modeling for health risk impacts fails to utilize grid spacing of 100 meters across the sensitive receptor area, instead choosing to evaluate impacts at individual receptor locations. (See, “SCAQMD Modeling Guidance for AERMOD,” visited June 26, 2017 <<http://www.aqmd.gov/home/library/air-quality-data-studies/meteorological-data/modeling-guidance>>) Impacts may be greater and potentially significant at receptor locations not evaluated through the limited modeling in the EIR.

SCAQMD also cited concerns with the effectiveness of proposed construction mitigation, and suggested implementation of a “step down” from Tier 4 plan for construction equipment. The final EIR did not provide evidence that implementation of a step-down policy for this Project would be infeasible, either technologically or fiscally.

The final EIR also rejects SCAQMD’s suggested mitigation in the form of EV charging stations for both passenger vehicles and trucks. While the response argues EV truck technology is speculative, there is no similar basis cited for failing to include EV charging. Such vehicles are inarguably commercially available and in use. Charging stations would reduce the Project’s substantial GHG emissions.

SoCal Environmental Justice Alliance recommended construction mitigation in the form of requiring no overlap of construction phasing and lengthening the construction timeline, i.e. phase 1 occur first and be fully completed before commencement of phase 2, etc. Where construction air quality impacts remain significant even after the mitigation incorporated in the EIR, this additional and facially feasible mitigation measure must be analyzed. Despite the implication of the Response to Comments, that construction impacts “do not exceed the peak levels disclosed in the DEIR” does not mean that such impacts have been mitigated below a level of significance. Consideration of this additional mitigation is consequently required.

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Mitigation Measure 4.3-3 (a) and (h) send conflicting information to users of the Project regarding maximum allowed idling time. Subdivision (a) should be modified to state vehicle idling is limited to 3 minutes such that mitigation is certain and enforceable. 14

Mitigation Measures 4.3-13, -14, -15 etc. require a model lease be provided to the City, but fail to require the variety of listed measures be included in any lease or sale and thereby implement the mitigation measures as Project operational requirements. As currently written, such mitigation is uncertain to occur and unenforceable beyond ensuring terms are included in the “model” lease. 15

Mitigation Measure 4.3-17 requires signs be installed directing trucks to the City’s truck route. But the truck route would still permit trucks to pass by sensitive receptors and residential areas. This mitigation should be amended to require signs direct trucks to access the freeway via Harley Knox Boulevard in lieu of passing by residences located throughout the City. This information should also be verbally communicated to drivers accessing the site. 16

Mitigation Measure 4.3-19 requires landscaping plans evidence adequate shade coverage by trees in automotive parking areas. Language should be added mandating that shade tree coverage be maintained/ replaced for the life of the Project, particularly where trees in the region have been hard hit by disease in recent years. (“The Trees that Make Southern California Shady and Green are Dying. Fast,” April 19, 2017 ><http://www.latimes.com/local/california/la-me-dying-urban-trees-20170403-story.html>>) Further, all drive and parking areas onsite should be paved in concrete, not asphalt, to minimize any heat island effect onsite and to surrounding areas. 17

GHGs

Mitigation Measure 4.6-1 requires the roof area of each building be developed to support solar paneling, but no actual solar panels are proposed for the Project. Given the Project’s significant GHG emissions (42,404.68 MTCO₂e/ year) and electricity needs (15,535,696 kWh/yr), 1 MW of solar panels should be required for the Project. 18

The EIR writes off GHG emissions on the basis that 86.6% are generated from mobile sources. But these emissions may be offset elsewhere by reductions in stationary source emissions as GHGs are a global, not local, emissions issue. Hence, reducing emissions through the installation of PV may act to substantially offset Project net GHG emissions. 19

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Health Risk

The HRA identifies a risk of 9.5 when the threshold of significance is 10 per million. In addition to this methodology issue, the assumption is that only approximately 60% of truck traffic will be large trucks. It is doubtful that this vehicle mix is realistic for a warehouse distribution complex. The cited study is not applicable to this Project with its particular use. Additionally, trip generation is based on the accepted ITE land use types. There is a problem with the trip distribution assumptions: only 59% of the trucks are routed to Buildings 1 and 2, while these two buildings create 73% of the project truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects not only the traffic analysis, but also results in underestimation of other impacts for the most impacted adjoining sensitive receptors. 20

The HRA identifies a school located more than one mile away on Delphinium as the most impacted; the study ignores the two schools on Indian at Krameria, just .5 miles away from the Project, and, in fact, the more distant school appears to be more impacted as no truck traffic is distributed to Indian Avenue. 21

The HRA does not consider the cumulative risk from the P&G facility. Cumulative impacts seem to be addressed by adding Project emissions to the background MATES levels. The 2008 (approximate) HRA for the P&G project calculated a risk of 7.9/million for that project. 22

Land Use

The 300-foot requirement in the Specific Plan is a component of the industrial land use designation which limits maximum building sizes to 50,000 square feet with only indoor uses. Massive, trucking-oriented buildings are not permitted within the designated areas. 23

Furthermore, the characterization of the reduced setback as being consistent with the P&G facility is dubious. Looking at the P&G building layout, it is obvious that where the P&G project has a similar interface with a residential neighborhood, it maintained a 250-foot setback, and has no truck docks. *The 100-foot setback reduction for P&G was allowed adjacent to an area with much more limited existing residential use.* In other words, there is no “precedent” for allowing a limited setback in relation to existing housing as claimed for the Project. 24

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Noise

The EIR fails to evaluate potential noise impacts against applicable standards. The EIR fails to evaluate construction noise increases over ambient levels, only looking at whether peak noise levels would exceed City General Plan thresholds. (See, Table 4.10-6) This means significant construction noise impacts through increasing ambient noise at adjacent sensitive receptors may remain unevaluated and unmitigated. 25

As discussed above, MVMC Sections 9.10.050, 9.10.140, and 9.10.150 establish performance standards for air, noise, and odors. The Specific Plan also includes performance standards for air and noise (page III-17) that do not appear to be acknowledged in the EIR. These provisions should be addressed as thresholds. 26

The EIR also evaluates construction noise in a vacuum without consideration of construction noise additions to the ambient noise environment. In other words, the EIR considers only equipment noise and attenuation, not how equipment noise will contribute to the already unacceptably high ambient noise levels in the area. (Table 4.10-6, *see also*, Table 10-1) By so limiting its assessment, the EIR fails to disclose and adequately mitigate for impacts from construction noise. 27

In addition, nighttime construction noise impacts were improperly considered against *daytime* levels at Table 4.10-8, see footnote 6. Several receivers will experience noise above *nighttime* standards. Construction noise impacts should be found significant at night. Additional mitigation is needed to reduce or avoid construction noise impacts. 28

The EIR traffic noise analysis fails to evaluate whether Project traffic noise will exceed City General Plan thresholds, looking only at noise increases over existing levels. As evidenced in the noise tables, the Project will contribute to and cause exceedences of the residential 65 dBA along roadways used by the Project. These impacts should be found significant. The EIR should evaluate whether additional mitigation in the form of installing rubberized asphalt, repaving, implementing noise reducing vehicle technology, or by other means may be available to reduce or avoid traffic noise impacts. 29

Finally, projected truck traffic on Krameria between Cosmos Street and Indian Avenue is understated by 14%. The noise analysis for traffic and for truck operations at Building 1 must be corrected. 30

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Traffic

The EIR relies on the Fontana Trip Generation study for estimates of Project vehicle and fleet mix. The Fontana Trip Generation study was extremely limited and is outdated. SCAQMD has recently undertaken numerous warehouse studies and can provide a more accurate breakdown of truck type by axle based on regional warehouses. A truck mix of 22.0% 2-axle trucks, 17.7% 3- axle trucks, and 60.3% - 4 axle trucks should be used. (SCAQMD *Warehouse Truck Trip Study*, July 14, 2014; SCAQMD *Warehouse Truck Trip Study Data Results and Usage*, June 2014 < http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc_6-19-2014.pdf?sfvrsn=2>.)

31

And even assuming the study uses the breakdown of truck type per SCAQMD, there is still a major problem with the trip distribution assumptions, as discussed above. Only 59% of the trucks are routed to Buildings 1 and 2, while these two buildings create 73% of the project truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects the conclusions of the traffic analysis.

32

The Project design includes narrow driveways to keep trucks from directly accessing Krameria and Indian Avenue (as they did for P&G, along with signs to define truck routes). But the Project traffic counts still show trucks using Indian and Krameria Avenue (east of Cosmos), so it is clear that narrow driveways and signs are not effective for existing warehouses in the area. Enforceable improvements and measures are needed to keep the Project trucks out of the adjacent residential areas.

33

Figure 4.10-11 (FEIR pp. 4.11-111) has an error on the truck distribution for Heacock between Krameria and Cactus (shows 60%, but should be 70%). It is unclear whether this error is carried through into the air quality, traffic, and noise models. Also, the truck distribution only 59% of the trucks being routed to Buildings 1 and 2, while these two buildings create 73% of the Project's truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects not only the traffic analysis, but also results in underestimation of air and noise impacts for the most impacted adjoining sensitive receptors.

34

The attached October 2016 ITE study commissioned by SCAQMD and NAIOP (Exhibit "A" hereto) documents the wide variation in trip characteristics for the different end users of these massive industrial warehouse uses. When the user is identified or changes, the EIR should contain an enforceable condition requiring an evaluation of the comparative

35

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trip rates and traffic-related impacts (on-site and off-site) before a certificate of occupancy is issued.

↑ 35 Cont.
←

The layout for Building 1 requires that all trucks entering the east docks move through unwallled areas at the north and south end of the site. It is not clear that truck movements on the site are adequately considered in the Project's noise analysis.

← 36
←

Trails

The Specific Plan includes a multi-use trail along the flood control channel throughout the Project limits. The only mention of this trail with regard to the Project is a claim that the Project does not interfere with or preclude future implementation.

← 37
←

The City should require this Project to install the trail since it runs along the Project site. This trail could serve as path of travel for non-motorized vehicles to aid in trip reduction. Moreno Valley should support and require of projects opportunities for use of alternative modes of transportation to help offset the mobile emissions.

← 38
←

Conclusion

For the reasons set forth herein, we respectfully ask the Planning Commission vote to deny the Project. In the event approval is considered, we ask any approval not grant the application for a Specific Plan Amendment and thereby not grant the reduced 100-foot setback sought in the Project applications.

Thank you for your consideration of these comments.

Sincerely,

Abigail Smith

Abigail Smith
Law Offices of Abigail Smith

Enclosure



Sent By E-mail

November 3, 2017

Mr. Richard Sandzimier, Planning Official
City of Moreno Valley Planning Division
14177 Frederick Street
Moreno Valley, CA 92553

RE: RESPONSE TO SIERRA CLUB COMMENT LETTER REGARDING MORENO VALLEY LOGISTICS CENTER EIR (EIR CASE P15-037)

Dear Mr. Sandzimier:

T&B Planning, Inc. is the environmental consulting firm that prepared the Moreno Valley Logistics Center Environmental Impact Report (EIR) under the direction of the City of Moreno Valley Planning Division. This letter is prepared in response to the September 5, 2017, letter sent to the City by Ms. Abigail Smith on behalf of the Sierra Club and Residents for a Livable Moreno Valley. Numbered responses are provided on the following pages that correspond to each substantive point raised in Ms. Smith's letter (attached hereto, with substantive comments bracketed and numbered for reference).

1. Ms. Smith fails to provide evidence to support her assertion that the Project would result in "significant impacts to its residential neighbors." As described throughout the Final EIR, the Project would not result in any significant environmental effects to nearby residential land uses.

2. The City's CEQA expert, T&B Planning Inc., prepared written responses to Ms. Smith's July 18, 2017, comment letter. The responses from T&B Planning were provided to the City in a letter dated September 1, 2017 (hereafter "Response Letter"). The Response Letter is included in the administrative record. As explained in the Response Letter, there are no changes needed to the analyses contained in the Final EIR. The Final EIR is fundamentally adequate, and all of the conclusions presented in the Final EIR are supported by evidence provided within the Final EIR, its Technical Appendices, and/or the administrative record for the proposed Project.

3. Contrary to Ms. Smith's assertions, the Final EIR includes all mitigation measures that are feasible to implement, have a nexus to the Project's proposal, and are roughly proportional to the Project's level of impact. The mitigation measures suggested by Ms. Smith are addressed below in the same order they are presented in her comment letter.

- Availability of Tier 4 equipment required for the Project's construction cannot be assured by the City or the Project Applicant. A review of data available from the California Air Resources Board's (CARB's) OFFROAD2011 Model shows that heavy-duty, off-road construction equipment meeting Tier 4 emission standards account for only approximately 13% of the statewide fleet. Also, the US EPA has provisions that allow construction fleets to defer converting to Tier 4 requirements until at least 2020 in some instances – further underscoring the lack of available Tier 4 compliant equipment. The Project Applicant contacted several equipment vendors, all of whom confirmed that Tier 4 versions of the equipment needed for the Project's construction are not widely available in southern California. With the low availability of Tier 4-





compliant equipment, it would not be feasible for the City to require all of the Project's construction equipment to meet these requirements. Ms. Smith does not provide any evidence to support the assertion that the Project's entire construction fleet could be comprised of Tier 4 equipment.

- Per Mitigation Measure, 4.3-3, the Project is required to utilize electric-powered construction equipment in-lieu of gasoline-powered equipment *where technically feasible (emphasis added)*. Ms. Smith does not provide evidence demonstrating that it is technically feasible to perform all required construction activities with electric-powered construction equipment.
- By January 1, 2023, all heavy-duty trucks in California will need to have 2010 model year engines or equivalent. However, as described in detail in the report titled *Assessment of 2010 Truck Engine Standards* prepared by Urban Crossroads, Inc. and included in the public record, only approximately 50 percent of the trucks operating in the southern California region have 2010 model year engines or equivalent. If the Project is approved, it is expected to be operational within two years – at least four years before the statewide diesel fleet is required to meet 2010 standards. Because of the relative lack of trucks on the road today, and into the near future, with diesel engines that meet 2010 standards and because the Applicant will not have control over the business and fleet operations of their tenants (and their tenants' subcontractors), the City determined that it is not feasible to restrict access to the Project to only trucks that meet 2010 standards.
- This comment is addressed in detail in the Final EIR (refer to Response C-15, beginning on Page FEIR-19. Ms. Smith presupposes that the technology for zero-emission or battery powered heavy-duty trucks will make numerous advances (e.g., improvements in vehicle range, reducing the time to charge vehicles) and that these trucks will be preferred by commercial fleets – both of these assumptions are highly speculative.
- Current California law allows continuous idling for up to five (5) minutes. The Project goes above-and-beyond current law and restricts continuous idling on-site to three (3) minutes (refer to Mitigation Measures 4.3-4 and 4.3-11). Furthermore, any Project building that contains refrigerated storage is required to provide electric hook-ups for delivery trucks at loading docks (refer to Mitigation Measure 4.3-18). The mitigation measures already included in the Final EIR would prevent excessive idling at the Project site.
- Ms. Smith does not provide substantial evidence that demonstrates that supplies of electric forklifts and yard goats are commercially available to serve the Project or use of this equipment can fulfil the operational requirements of the types of tenants that could occupy the Project's buildings. To facilitate the future implementation of electric-powered cargo handling equipment, when/if this equipment is available on a wider scale and is practical to use, the Final EIR requires the Project to install electrical charging infrastructure within its truck courts to facilitate the implementation of electric yard equipment (when such equipment becomes commercially available on a wider scale, see Mitigation Measure 4.3-16).
- Per Mitigation Measure 4.3-18, in the event that the Project contains refrigerated storage, any building that contains refrigerated storage space is required to provide electrical hook-ups for trucks at loading docks and trucks that do not have plug-in capabilities will be prohibited from accessing the respective building site.
- Per Mitigation Measure 4.3-18, any Project building that contains refrigerated storage is required to provide electrical hook-ups for trucks at loading docks.
- The Project is conditioned to achieve the minimum qualifications for the LEED "Certified" rating for Core and Shell. In addition, the Project will be required to comply with all applicable State of California building and energy codes, which are designed to maximize energy efficiency and reduce GHG emissions. Ms. Smith



does not provide evidence to support the assertion that LEED v. 4 “Silver” rating would achieve greater GHG emissions reductions than what is currently required of the Project.

- Building users are not yet identified for the Project site’s buildings; thus, until the building occupants are known, it cannot be determined with any certainty if roof-top solar systems could be relied upon to meet the occupants’ peak electrical needs. Additionally, due to the proximity of the Project site to March Air Reserve Base and in consideration of past requests to the City from the Department of the Air Force and the Riverside County Airport Land Use Commission (ALUC), the City has not mandated that solar panels be installed because of concerns over potential glare/reflections from the panels affecting air traffic operations at the Base. Because final design plans for the proposed Project’s buildings would only become available if/when the Project is approved, the City cannot make a determination that it is feasible to construct roof-top solar systems for the Project that would be acceptable to the ALUC and March Air Reserve Base. The Final EIR includes performance-based mitigation measures related to the potential design of any roof-top solar system on the Project site (refer to Mitigation Measures 4.1-1 and 4.1-2) so as to not preclude installation of a roof-top solar system if/when it is demonstrated to be feasible and appropriate for the Project. Any roof-top solar system for the Project will require design review/approval by the City of Moreno Valley, the United States Department of the Air Force, and the Riverside County ALUC. Regarding the use of other technologies to reduce electricity usage, the Project would be subject to the California Building Standards Code (CalGreen), which mandates the use of many feasible energy efficiency features.
- The Project may include up to 174,000 square feet of refrigerated storage space. The analysis and mitigation presented in the Final EIR accounts for the Project’s potential to contain refrigerated storage.
- The Project will provide electric vehicle charging stations as required by the California Building Code. Ms. Smith does not provide substantial evidence to demonstrate the additional environmental benefit that the Project would achieve by providing five (5) electric vehicle charging stations per building in lieu of the quantity required by the Building Code.
- The Project is conditioned to comply with the design standards adopted by the State of California (Title 24) that are in effect at the time building permit applications are received by the City of Moreno Valley. The State’s 2016 Energy Standards went into effect on January 1, 2017, and will be applicable to the Project until the 2019 Energy Standards go into effect (January 1, 2020).
- The Project will provide alternative-fueled parking spaces as required by the California Building Code. Ms. Smith does not provide substantial evidence to demonstrate the environmental benefit that the Project would achieve by providing 30 parking spaces for alternative-fueled vehicles in lieu of the quantity required by the Building Code. The Final EIR already requires the Project to provide preferential parking for alternative-fueled vehicles (refer to Mitigation Measure 4.3-12).

4. Ms. Smith does not provide substantial evidence to support her assertion that the Project should require a minimum 300-foot setback from residential districts. The Final EIR includes detailed analyses of the Project’s potential effects to nearby residents and concludes that the Project would not result in any significant localized effects to nearby residents. Furthermore, the Final EIR evaluated a scenario where the Project is built with a 300-foot setback from residential districts and concluded that providing a 300-foot setback would not avoid or substantially reduce any of the Project’s environmental impacts (refer to Final EIR Section 6.0, *Alternatives to the Proposed Project*).



5. Under existing conditions, Caltrans has not prepared a report that identifies long-term improvements that are required to freeway facilities that receive cumulatively considerable traffic volumes from the Project. Also, Caltrans does not have a general mitigation fund that private development projects can contribute to. Without knowing what improvements are required to Caltrans facilities or what the improvements will cost, and without a bona fide mitigation funding program for the Project to contribute to, there is no feasible way for the Project to mitigate impacts to Caltrans facilities. The Final EIR does require the Applicant to pay fair-share mitigation fees to Caltrans in the event that Caltrans identifies needed improvements and their costs and establishes a mitigation funding program that private development projects can contribute to (refer to Mitigation Measure 4.11-12). For impacts to local traffic facilities (i.e., City of Moreno Valley, City of Perris, March JPA), the Final EIR already requires to the Project to pay fair-share mitigation fees to be held by the City of Moreno Valley until appropriate mitigation funding programs are established (refer to Mitigation Measures 4.11-9 through 4.11-11). Ms. Smith fails to identify any feasible mitigation measures for traffic impacts that are not already included in the Final EIR.

6. The City's CEQA expert disagrees with this comment; the alternatives analysis provided in the Final EIR conforms with the requirements of CEQA. As described in the Final EIR, the Project is designed to accommodate high-cube warehouse land uses in Building 1 and industrial, warehousing, manufacturing/assembly, e-commerce, and similar land uses in Buildings 2 through 4 (refer to Final EIR Page 3-15). The mix of land uses proposed by the Project also are reflected in the Final EIR's alternatives analysis. The alternatives evaluated in the Final EIR include: 1) an option to leave the subject property undeveloped; 2) an option to develop the property in accordance with the existing Moreno Valley Industrial Area Plan; 3) an option to develop the site with the same mix of land uses proposed by the Project, but with an approximately 20 percent reduction in intensity; and 4) an option to develop the site with only one warehouse building (overall 77 percent reduction in intensity). The CEQA Guidelines require that an EIR's alternatives analysis be governed by a "rule of reason" (See CEQA Guidelines § 15126.6(f)). The "rule of reason" does not require all imaginable alternatives to be evaluated in an EIR; rather, an EIR is required to evaluate enough alternatives to foster informed decision-making and the analysis should be limited to alternatives that would avoid or substantially reduce a project's significant impacts. The alternatives presented in the Final EIR represent a reasonable range of development scenarios that would result in different land uses on the Project site and varying amounts of truck traffic. As concluded in the Final EIR, none of the Project alternatives would avoid or reduce the Project's significant impacts while also achieving most of the Project's basic objectives (refer to Final EIR Section 6.0, *Alternatives to the Proposed Project*).

Sincerely,

T&B PLANNING

Tracy Zinn, AICP
Principal



COMMENT LETTER

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VIA E-MAIL AND U.S. MAIL

September 5, 2017

City of Moreno Valley City Council
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City of Moreno Valley
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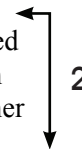
RE: *City Council Meeting September 5, 2017, Item E.2; Moreno Valley Logistics Center (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018, Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, Plot Plan PA15-0017, Final EIR P15-036, Mitigation Monitoring and Reporting Program, Facts, Findings and Statement of Overriding Considerations)*

Dear City of Moreno Valley City Council:

On behalf of the Sierra Club and Residents For A Livable Moreno Valley, I urge you to deny approval of the above-captioned Moreno Valley Logistics Center Project, **Agenda Item E.2**. This Project is deeply flawed and brings significant impacts to its residential neighbors. In particular the applicant's request for a reduced buffer between the industrial and residential uses is indefensible. Regardless of what has been allowed in the past, the City must take care to protect its residents with each new approval.



This letter incorporates by reference our previous written comments on the EIR (attached without exhibits as Exhibit "A"). As we have commented, the EIR fails to comply with the California Environmental Quality Act ("CEQA") in numerous respects. Among other



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defects in the EIR, there is a faulty project description; there are significant and unmitigated environmental impacts including, but not limited to, air quality, health risk, energy, green house gas emissions, land use, noise, recreation, and traffic; and mitigation measures were improperly rejected without adequate findings in the record. The responses to our comments do not cure the EIR's defects.

2 Cont.

There are still a number of available mitigation measures for significant air quality impacts, which have not been demonstrated to be infeasible, including that:

- Only Tier 4 construction equipment shall be used;
- Only electric construction equipment shall be used – not merely used “if feasible”;
- Only 2010 model year or newer trucks shall be allowed to service the site – not merely “encouraged” through purported lease conditions;
- The Project must be conditioned to require the phase-in of newer technologies such as zero emission trucks or battery powered trucks;
- No APUs shall be permitted to idle on site;
- All forklifts and yard trucks/goats shall be electric;
- Plug-ins shall be installed at each truck bay to provide plug-ins for trucks not merely forklifts and similar ancillary equipment;
- All refrigerated trucks/ TRU's accessing the site must be equipped with electric hookup capabilities;
- The Project must be conditioned to require the use of the plug-ins;
- The Project shall be designed to USGB LEED v.4 Silver or better standards *This will help to mitigate significant GHG impacts;
- The Project must build and use solar panels to generate enough power to achieve “net zero” meaning that solar panels shall be installed to handle the peak energy demands from each building on site *This will help to mitigate significant GHG impacts (The fact that the Project is not conditioned to incorporate the *use of any* solar power is demonstrably outrageous in light of California's legislative goals and requirements related to a reduction of GHGs and energy consumption);
- Refrigerated warehouse space must be prohibited unless it is demonstrated that the environmental impacts do not exceed the assumptions of the EIR as to air quality impacts;
- A minimum of five electric vehicle (EV) charging stations shall be provided at each building;
- The requirement to meet or exceed Title 24 energy standards shall pertain to the 2016 Title 24 requirements; and
- The Project shall provide a minimum of 30 parking spaces for alternatively fueled vehicles and these shall be provided nearest to building entrances.

3

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The Project must include a greater setback—at least 300 feet, ideally more—between the Project and the residential uses to the east. This is feasible within the meaning of CEQA. Similarly, the Project could be reduced in size or scale to help mitigate the host of significant environmental impacts resulting from the Project. This, too, is a feasible “mitigation” measure. The fact that the Project applicant desires a certain Project design or return on its investment does not translate to a finding of infeasibility. CEQA’s paramount policy is to “ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions.” (Cal. Public Resources Code §21001.) There is simply not enough being done to protect residents from the harmful effects of this Project with its round-the-clock noise, air pollution and traffic.

4

Traffic mitigation has not been shown to be infeasible and claims that certain measures are beyond the applicant’s control or are outside the City’s jurisdiction are not supported by substantial evidence in the record, nor do they necessarily amount to a finding of “infeasibility.” Many of the measures are unenforceable including, for instance, MM 4.11-12 in that it states that the applicant shall use “reasonable efforts” to pay fair share mitigation funds to Caltrans in the event that a fair share fund is established. This does not amount to an enforceable mitigation measure. At the least, the applicant must be required to pay fair share funds when a fund is established; or perhaps the City can create a fund and hold those funds for the future. In short, the Findings of Facts do not demonstrate that all available feasible traffic mitigation has been adopted for this Project or that certain measures are truly infeasible.

5

In terms of the analysis of Project alternatives, the EIR’s “Project Objectives” are structured in such a way to foreclose any meaningful consideration of an alternative to a “logistics center.” CEQA prohibits structuring the alternatives analysis in this manner. Nor do the Findings of Fact demonstrate that alternatives are infeasible within the meaning of CEQA; at best, the findings show that the alternatives that were chosen for analysis have similar environmental impacts as the Project. But this indicates that the City failed to evaluate a reasonable *range* of Project alternatives capable of *reducing* significant Project impacts. For instance, the “reasons” for rejecting the No Project Alternative are nonsensical and are not findings of infeasibility. Again for instance, the Reduced Project Alternative is not shown to be infeasible. Moreover, any theory that this alternative would “displace” industrial uses to some other area or jurisdiction fails to account for the localized impacts of the Project. Perhaps the industrial space would be built in an area not abutting a residential neighborhood. Finally, there is not one alternative that evaluates a mixed use project or a business park type project with smaller buildings and with less intense use particularly *in terms of truck traffic*. As truck traffic is the major contributor to air quality and traffic impacts due to the Project, the City must

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evaluate an alternative that reduces the heavy duty truck traffic. A business park with lighter uses and not the constant stream of heavy-duty truck traffic would surely lessen some of the worst Project impacts.

6 Cont.

Thank you for your consideration of these additional comments as you evaluate the Project and weigh its significant impacts against the interests and well being of your residents.

Sincerely,



Abigail Smith
Law Offices of Abigail Smith

Enclosure

COMMENT LETTER

EXHIBIT A

COMMENT LETTER

Law Offices of Abigail Smith

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July 18, 2017

VIA E-MAIL

Pat Jaquez-Nares, City Clerk
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Ms. Julia Descoteaux, Associate Planner
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RE: Opposition to Moreno Valley Logistics Center (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018; Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, and Plot Plan PA15-0017); July 20, 2017 Planning Commission Special Meeting, Item 2

Greetings:

Please accept these comments on behalf of the Sierra Club and Residents for a Livable Moreno Valley in opposition to the proposed Moreno Valley Logistics Center Project (Specific Plan Amendment P15-036, Tentative Parcel Map PA15-0018; Plot Plan PA15-0014, Plot Plan PA15-0015, Plot Plan PA15-0016, and Plot Plan PA15-0017).

The proposed Project involves the development of an approximately 89.4 gross-acre property located at the southwest corner of the intersection of Krameria Avenue and Indian Street with one (1) high cube warehouse building and three (3) light industrial buildings with a total building space of 1,737,518 square feet.

As detailed herein, several issues continue to pervade the EIR which must be addressed prior to consideration of this Project for approval.

Setback Reduction to 100 Feet

Foremost, despite comments from Sierra Club and Residents, the Environmental and Historical Preservation Board, and others objecting to a reduction in the setback buffer to

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a mere 100 feet, the application continues to propose a mere **100-foot setback** adjacent to Indian Street **proximate to existing housing**. As noted by the Environmental and Historical Preservation Board, because the development of industrial uses would be in close proximity to housing, and because “[l]andscaping may be limited/ reduced due to drought tolerant design,” maintaining a 300-foot setback adjacent to Indian Street is essential.

The response to this comment included that landscaping would comply with existing water efficiency requirements. But as global climate change worsens, as was evidenced by drought conditions throughout 2016, stricter water restrictions may be needed to continue to meet existing demand. Furthermore, plant diseases and agricultural pests are predicted to increase. The Project should account for potential water diversions from landscaping uses and other landscaping loss by retaining a 300-foot buffer from residential uses.

The other excuses made in favor of an exception from the 300-foot setback requirement are similarly unpersuasive. First, that an exception was granted for the adjacent site is no justification. The Specific Plan Amendment that provided an exception for the Proctor & Gamble (“P&G”) campus to a reduction of 100 feet was only for that site—the Specific Plan Amendment applied to no other properties within the Moreno Valley Industrial Area Plan. This is because, as commented by SoCal Environmental Justice Alliance, “This reduced setback is not representative of good planning practices.” (Final EIR Comment F-6) The fact that one property was granted a poorly contrived exception to established setback requirements does not support the applicants’ argument for further exceptions. This slippery slope argument must be rejected. Furthermore, the regular granting of exceptions to development standards can be tantamount to an improper amendment of the applicable land use document.

Second, to the extent the responses to comments allege an impact to 19 residences is not an impact to the environment, *Porterville Citizens for Responsible Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 903, cited in the response, does not stand for such a claim. Rather, impacts to only few (one or two) people in the *Porterville* case was insufficient to rise to the level of an environmental impact. Here at least 19 households of individuals live directly across from the Project and would be impacted by the Project. Moreover, other nearby residences would be impacted by the over 6,000 vehicle trips/day, air pollutant emissions, noise, etc. The limitation expressed in *Porterville* thus does not apply.

Hence permitting a reduced setback is utterly unjustified by fact or law. To the contrary, the setback required by the Moreno Valley Industrial Area Plan is intended to provide

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adjacent residential uses some protection from a variety of environmental harms including noise impacts, greenhouse gases, vibration impacts, glare from the glass, and air quality issues such as diesel particulate matter and odors. The City should thus decline to permit any reduction of this buffer area.

Project Description

The Project Description includes an option for Building 2 to developed as a 166-space trailer parking area. The assumption is that this use would be less intense and therefore have more limited impacts. This is not necessarily true as related to truck activity on the site and surrounding receptors (and localized air and noise impacts). The EIR should not assume an environmental benefit.

The Project Description (FEIR, p. 3-26) states the Project will meet minimum LEED certified standards. This is unclear as written, and at the least, should be adopted as an enforceable condition of approval and/or through the Project's mitigation program ("MMRP").

There is content buried in the traffic study (pp. 544-55) showing that the Project would include an amendment to the City's designated truck routes for Indian Avenue, south of the driveway at the southeast corner of Building 1, if the bridge over the flood control channel is constructed. The City claims this is not part of the project. However, the City must evaluate this scenario as part of air quality, traffic and noise impacts to the extent this is a reasonably foreseeable change to the circumstances of the Project.

Air Quality

The excavation volume during project construction is nearly 4 times the fill volume. The preliminary grading plan shows calculations that make this miraculously balance. Please verify that grading will be balanced. If not, the assumptions of the air quality study could be incorrect and impacts understated.

MVMC Sections 9.10.050, 9.10.140, and 9.10.150 establish performance standards for air, noise, and odors. The Specific Plan also includes performance standards for air and noise (page III-17) that do not appear to be acknowledged in the EIR. These provisions should be addressed as thresholds. The Specific Plan air provisions refer to protection of outdoor uses, which is further support for the claim that the air and toxics analysis approaches are invalid.

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SCAQMD raised concerns about the assumptions used in health risk modeling, particularly with placement of receptors to the structure of residences, work, and schools rather than to the property line. The response to this comment states it is unlikely any person “would be outside on the property line for 70, 40, and 9 years.” (Response to Comment C-6) It is likewise unlikely any person would be only indoors for the duration of this timeframe and would not make use of the entire property, including outdoor areas. Furthermore, as SCAQMD is the agency with expertise in addressing air quality and health risks, the City should defer to its expert opinion in estimating health risks, especially where risks are very near the 10 cancer threshold of significance at an estimated 9.5 cancers per million.

The modeling for health risk impacts fails to utilize grid spacing of 100 meters across the sensitive receptor area, instead choosing to evaluate impacts at individual receptor locations. (See, “SCAQMD Modeling Guidance for AERMOD,” visited June 26, 2017 <<http://www.aqmd.gov/home/library/air-quality-data-studies/meteorological-data/modeling-guidance>>) Impacts may be greater and potentially significant at receptor locations not evaluated through the limited modeling in the EIR.

SCAQMD also cited concerns with the effectiveness of proposed construction mitigation, and suggested implementation of a “step down” from Tier 4 plan for construction equipment. The final EIR did not provide evidence that implementation of a step-down policy for this Project would be infeasible, either technologically or fiscally.

The final EIR also rejects SCAQMD’s suggested mitigation in the form of EV charging stations for both passenger vehicles and trucks. While the response argues EV truck technology is speculative, there is no similar basis cited for failing to include EV charging. Such vehicles are inarguably commercially available and in use. Charging stations would reduce the Project’s substantial GHG emissions.

SoCal Environmental Justice Alliance recommended construction mitigation in the form of requiring no overlap of construction phasing and lengthening the construction timeline, i.e. phase 1 occur first and be fully completed before commencement of phase 2, etc. Where construction air quality impacts remain significant even after the mitigation incorporated in the EIR, this additional and facially feasible mitigation measure must be analyzed. Despite the implication of the Response to Comments, that construction impacts “do not exceed the peak levels disclosed in the DEIR” does not mean that such impacts have been mitigated below a level of significance. Consideration of this additional mitigation is consequently required.

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Mitigation Measure 4.3-3 (a) and (h) send conflicting information to users of the Project regarding maximum allowed idling time. Subdivision (a) should be modified to state vehicle idling is limited to 3 minutes such that mitigation is certain and enforceable.

Mitigation Measures 4.3-13, -14, -15 etc. require a model lease be provided to the City, but fail to require the variety of listed measures be included in any lease or sale and thereby implement the mitigation measures as Project operational requirements. As currently written, such mitigation is uncertain to occur and unenforceable beyond ensuring terms are included in the “model” lease.

Mitigation Measure 4.3-17 requires signs be installed directing trucks to the City’s truck route. But the truck route would still permit trucks to pass by sensitive receptors and residential areas. This mitigation should be amended to require signs direct trucks to access the freeway via Harley Knox Boulevard in lieu of passing by residences located throughout the City. This information should also be verbally communicated to drivers accessing the site.

Mitigation Measure 4.3-19 requires landscaping plans evidence adequate shade coverage by trees in automotive parking areas. Language should be added mandating that shade tree coverage be maintained/ replaced for the life of the Project, particularly where trees in the region have been hard hit by disease in recent years. (“The Trees that Make Southern California Shady and Green are Dying. Fast,” April 19, 2017 ><http://www.latimes.com/local/california/la-me-dying-urban-trees-20170403-story.html>>) Further, all drive and parking areas onsite should be paved in concrete, not asphalt, to minimize any heat island effect onsite and to surrounding areas.

GHGs

Mitigation Measure 4.6-1 requires the roof area of each building be developed to support solar paneling, but no actual solar panels are proposed for the Project. Given the Project’s significant GHG emissions (42,404.68 MTCO₂e/ year) and electricity needs (15,535,696 kWh/yr), 1 MW of solar panels should be required for the Project.

The EIR writes off GHG emissions on the basis that 86.6% are generated from mobile sources. But these emissions may be offset elsewhere by reductions in stationary source emissions as GHGs are a global, not local, emissions issue. Hence, reducing emissions through the installation of PV may act to substantially offset Project net GHG emissions.

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Health Risk

The HRA identifies a risk of 9.5 when the threshold of significance is 10 per million. In addition to this methodology issue, the assumption is that only approximately 60% of truck traffic will be large trucks. It is doubtful that this vehicle mix is realistic for a warehouse distribution complex. The cited study is not applicable to this Project with its particular use. Additionally, trip generation is based on the accepted ITE land use types. There is a problem with the trip distribution assumptions: only 59% of the trucks are routed to Buildings 1 and 2, while these two buildings create 73% of the project truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects not only the traffic analysis, but also results in underestimation of other impacts for the most impacted adjoining sensitive receptors.

The HRA identifies a school located more than one mile away on Delphinium as the most impacted; the study ignores the two schools on Indian at Krameria, just .5 miles away from the Project, and, in fact, the more distant school appears to be more impacted as no truck traffic is distributed to Indian Avenue.

The HRA does not consider the cumulative risk from the P&G facility. Cumulative impacts seem to be addressed by adding Project emissions to the background MATES levels. The 2008 (approximate) HRA for the P&G project calculated a risk of 7.9/million for that project.

Land Use

The 300-foot requirement in the Specific Plan is a component of the industrial land use designation which limits maximum building sizes to 50,000 square feet with only indoor uses. Massive, trucking-oriented buildings are not permitted within the designated areas.

Furthermore, the characterization of the reduced setback as being consistent with the P&G facility is dubious. Looking at the P&G building layout, it is obvious that where the P&G project has a similar interface with a residential neighborhood, it maintained a 250-foot setback, and has no truck docks. *The 100-foot setback reduction for P&G was allowed adjacent to an area with much more limited existing residential use.* In other words, there is no “precedent” for allowing a limited setback in relation to existing housing as claimed for the Project.

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Noise

The EIR fails to evaluate potential noise impacts against applicable standards. The EIR fails to evaluate construction noise increases over ambient levels, only looking at whether peak noise levels would exceed City General Plan thresholds. (*See*, Table 4.10-6) This means significant construction noise impacts through increasing ambient noise at adjacent sensitive receptors may remain unevaluated and unmitigated.

As discussed above, MVMC Sections 9.10.050, 9.10.140, and 9.10.150 establish performance standards for air, noise, and odors. The Specific Plan also includes performance standards for air and noise (page III-17) that do not appear to be acknowledged in the EIR. These provisions should be addressed as thresholds.

The EIR also evaluates construction noise in a vacuum without consideration of construction noise additions to the ambient noise environment. In other words, the EIR considers only equipment noise and attenuation, not how equipment noise will contribute to the already unacceptably high ambient noise levels in the area. (Table 4.10-6, *see also*, Table 10-1) By so limiting its assessment, the EIR fails to disclose and adequately mitigate for impacts from construction noise.

In addition, nighttime construction noise impacts were improperly considered against *daytime* levels at Table 4.10-8, see footnote 6. Several receivers will experience noise above *nighttime* standards. Construction noise impacts should be found significant at night. Additional mitigation is needed to reduce or avoid construction noise impacts.

The EIR traffic noise analysis fails to evaluate whether Project traffic noise will exceed City General Plan thresholds, looking only at noise increases over existing levels. As evidenced in the noise tables, the Project will contribute to and cause exceedences of the residential 65 dBA along roadways used by the Project. These impacts should be found significant. The EIR should evaluate whether additional mitigation in the form of installing rubberized asphalt, repaving, implementing noise reducing vehicle technology, or by other means may be available to reduce or avoid traffic noise impacts.

Finally, projected truck traffic on Krameria between Cosmos Street and Indian Avenue is understated by 14%. The noise analysis for traffic and for truck operations at Building 1 must be corrected.

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Traffic

The EIR relies on the Fontana Trip Generation study for estimates of Project vehicle and fleet mix. The Fontana Trip Generation study was extremely limited and is outdated. SCAQMD has recently undertaken numerous warehouse studies and can provide a more accurate breakdown of truck type by axle based on regional warehouses. A truck mix of 22.0% 2-axle trucks, 17.7% 3- axle trucks, and 60.3% - 4 axle trucks should be used. (SCAQMD *Warehouse Truck Trip Study*, July 14, 2014; SCAQMD *Warehouse Truck Trip Study Data Results and Usage*, June 2014 < http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-iele_6-19-2014.pdf?sfvrsn=2>.)

And even assuming the study uses the breakdown of truck type per SCAQMD, there is still a major problem with the trip distribution assumptions, as discussed above. Only 59% of the trucks are routed to Buildings 1 and 2, while these two buildings create 73% of the project truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects the conclusions of the traffic analysis.

The Project design includes narrow driveways to keep trucks from directly accessing Krameria and Indian Avenue (as they did for P&G, along with signs to define truck routes). But the Project traffic counts still show trucks using Indian and Krameria Avenue (east of Cosmos), so it is clear that narrow driveways and signs are not effective for existing warehouses in the area. Enforceable improvements and measures are needed to keep the Project trucks out of the adjacent residential areas.

Figure 4.10-11 (FEIR pp. 4.11-111) has an error on the truck distribution for Heacock between Krameria and Cactus (shows 60%, but should be 70%). It is unclear whether this error is carried through into the air quality, traffic, and noise models. Also, the truck distribution only 59% of the trucks being routed to Buildings 1 and 2, while these two buildings create 73% of the Project's truck traffic. This is most readily apparent by comparing Figure 4-2 (2 of 2) in the traffic study to the Trip Generation Summary (Traffic Study Table 4-3). This affects not only the traffic analysis, but also results in underestimation of air and noise impacts for the most impacted adjoining sensitive receptors.

The attached October 2016 ITE study commissioned by SCAQMD and NAIOP (Exhibit "A" hereto) documents the wide variation in trip characteristics for the different end users of these massive industrial warehouse uses. When the user is identified or changes, the EIR should contain an enforceable condition requiring an evaluation of the comparative

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trip rates and traffic-related impacts (on-site and off-site) before a certificate of occupancy is issued.

The layout for Building 1 requires that all trucks entering the east docks move through unwalled areas at the north and south end of the site. It is not clear that truck movements on the site are adequately considered in the Project's noise analysis.

Trails

The Specific Plan includes a multi-use trail along the flood control channel throughout the Project limits. The only mention of this trail with regard to the Project is a claim that the Project does not interfere with or preclude future implementation.

The City should require this Project to install the trail since it runs along the Project site. This trail could serve as path of travel for non-motorized vehicles to aid in trip reduction. Moreno Valley should support and require of projects opportunities for use of alternative modes of transportation to help offset the mobile emissions.

Conclusion

For the reasons set forth herein, we respectfully ask the Planning Commission vote to deny the Project. In the event approval is considered, we ask any approval not grant the application for a Specific Plan Amendment and thereby not grant the reduced 100-foot setback sought in the Project applications.

Thank you for your consideration of these comments.

Sincerely,



Abigail Smith
Law Offices of Abigail Smith

Enclosure