

March Plaza Project

**RESPONSES TO COMMENTS RECEIVED AFTER THE CLOSE OF THE 30-DAY PUBLIC REVIEW PERIOD
FOR THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION**

The following letters or emails were received after the close of the 30-day public review period on for the March Plaza Project Initial Study/Mitigated Negative Declaration. Although not required under the California Environmental Quality Act (CEQA), this document responds to those comments.

Comment Letters and Public Comments Received After the 30-Day Public Review Period

Letter or Public Comment No. and Commenter		Date Received
Public Comment Letters		
1	Richard Drury; Lozeau Drury, LLP	February 12, 2025
2	Richard Drury; Lozeau Drury, LLP	February 18, 2025
3	Jairo Carbajal	February 19, 2025

March Plaza Project

COMMENTER: Richard Drury; Lozeau Drury, LLP

DATE: February 12, 2025 and February 18, 2025 (two related letters)

Response

This responds to two letters received from Lozeau Drury, LLP, dated 12 February 2025 and 18 February 2025, in regard to the Final Mitigated Negative Declaration (MND) prepared for the proposed March Plaza Project in the City of Perris. The first letter provides technical information related to biological resources and air quality, while the second letter provides information related to noise. Collectively, both letters assert the same procedural concerns, which are described below. The commenter asserts that the previous response included in the Final MND for the project failed to adequately address issues previously raised in previous letters submitted by the same entity during the 30-day public review period for the MND.

From a process standpoint, there is no legal obligation under CEQA to respond to comments received with regard to a Mitigated Negative Declaration. If a lead agency chooses to respond to comments to an MND, there is no statutory obligation to provide them to the commenter. It is only in the case of an EIR where the lead agency has the obligation to respond to comments received during the Draft EIR public review period. Further, CEQA Statute 21092.5 requires that only responses to comments made by public agencies (and not private individuals) need to be provided at least 10 days prior to certification of an EIR.

Thus, the response to not only the original comment letters to the MND but this recent one submitted far outside the 30-day public review period is provided as a courtesy, not a legal requirement.

The commenter's primary substantive assertion is that there is a "fair argument" that the project may have a significant effect on the environment related to the issues of noise, biological resources, and air quality, so an EIR is required to examine those issues. This is based on technical studies related to those issues provided by the commenter.

CEQA Guidelines Section 15064 states that if a lead agency determines that, based on substantial evidence, a fair argument is made that the project may have a significant effect on the environment, an EIR must be prepared. "Substantial evidence", as defined in CEQA Guidelines Section 15384

*"means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. **Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency.**" [emphasis added]*

In short, a fair argument to prepare an EIR must be based on substantial evidence, and whether something is "substantial evidence" must be considered in the context of the whole record.

In this case, the whole record before the lead agency included the originally approved project and the CEQA documentation for that project, including all related technical studies prepared at that time. It also includes more recent studies prepared and used as part of the current CEQA analysis. Thus, any assertion of a "fair argument" to prepare an EIR for the project currently under consideration must consider the whole record. Based on the whole record, the City of Perris determined that a Mitigated Negative Declaration was the appropriate CEQA approach for this project. Such a determination

March Plaza Project

cannot be based on one commenter's assertion to the contrary, based on studies that do not consider the whole record.

Section 2 of the Final MND provided a contextual framework for responses to the comments received on the project, specifically for the purpose of clarifying the "whole record" related to the project, its previous approval, and related CEQA process/analysis. As noted in the MND, the currently proposed project is a less intensive modification of the final phase of a previously approved project that underwent previous CEQA review and approval. Had there been no modification to the approved project, no additional CEQA documentation would have been required. And even though earlier phases have already been built, and many project conditions and public improvements related to that project approval constructed, the modification of the final phase to a *less intensive* use required a Specific Plan Amendment (among other entitlements), which made it a discretionary action, thus subject to CEQA. Please refer to that section of the Final MND for additional details related to this.

As a supporting argument for his central thesis, the commenter asserts that the "baseline" for environmental analysis was improperly characterized. However, CEQA Guidelines 15125(a)(1) allows for some flexibility in determining the baseline condition, noting that:

"...Where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts, a lead agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence. In addition, a lead agency may also use baselines consisting of both existing conditions and projected future conditions that are supported by reliable projections based on substantial evidence in the record."

In this case, based on the whole record, the baseline condition properly considered that there was an approved project, partly constructed, with the reasonable expectation that the entire site would have been completely developed if the applicant had not recently come forward with an alternate (and less intensive) development concept for the final phase. The project footprint did not change. Fewer vehicle trips would be generated. Many public improvements resulting from the previous project approval had already been built. And so the CEQA analysis correctly considered potential impacts from these known baseline conditions.

Finally, the commenter notes that CEQA's allowance of a "disagreement among experts" is discussed in the context of preparing an EIR. While it is true that phrase is invoked in CEQA Guidelines Section 15151, which describes the standards for adequacy in the preparation of an EIR, it does not mean that the same test cannot be logically applied to the preparation of a Mitigated Negative Declaration.

The information provided by the commenter will be considered as part of the whole record. Based on this, the City reasserts its determination that in light of that whole record, there is not substantial evidence to make the fair argument to prepare an EIR for this project.

March Plaza Project

COMMENTER: Jairo Carbajal

DATE: February 19, 2025

Response

The comment expresses opposition to the March Plaza project, stating that “we do not need more warehouses in Perris.” The project does not propose warehouses, but three (3) multi-tenant concrete tilt-up buildings with spec suites. Projected uses would be non-industrial in nature, and more consistent with business park or office development.

However, as correctly noted, the site is zoned Commercial under the Perris Valley Commerce Center Specific Plan (PVCCSP). A Planned Development Overlay would allow for proposed uses in this zone. Both the project site and surrounding area are planned for development of a scale similar to what is proposed on the project site. As described in the Initial Study, the property to the east is also designated as Commercial under the PVCCSP, while the property to the north is designated as Business Park/Industrial in the City of Moreno Valley and developed as such. There is existing light industrial development to the west, and big box retail to the south. The proposed project would be an infill development consistent with surrounding land uses. Contrary to what is stated by the commenter, the Initial Study does not assert the project would not be visible to nearby traffic.

The Initial Study/MND was prepared in compliance with the California Environmental Quality Act (CEQA).