



November 20, 2023

Sent via email to nperez@cityofperris.org

Mr. Nathan Perez,
Senior Planner
City of Perris Planning Division
CITY OF PERRIS, as Lead Agency
135 N. D Street
Perris, California 92570

RE: OBJECTION AND COMMENTS TO FINDINGS OF INITIAL STUDY AND NOTICE OF PREPARATION

Project: Perris Airport Logistics Center
PLN 22-05046,
DPR 22-00005,
CUP 23-05107

Dear Mr. Perez:

Our office represents the Perris Valley Airport, its owners, and subsidiaries (“**Airport**” or “**L65**”), a concerned and primary stakeholder in the Perris Valley community.

We are writing to express our strong objections to the numerous findings and content of the Initial Study (“**InSt**”) and Notice of Preparation (“**NOP**”) for the Project as recently published by your office. As more information becomes available, we will continue to voice our objections and concerns to the Project. For example: (i) the Project is too high, too wide, too long, and causing to many substantially negative wind based impacts on planes and people; and (ii) the noise, pollution, and traffic jams will likely exist on a daily basis affecting the use of the Airport and the homes and people near the southern end of the Airport.

First and foremost, while we agree with your determination that an Environmental Impact Report (“**EIR**”) is necessary, we distrust the accuracy of the data utilized in completing the Initial Study. There are numerous critical fallacies and flaws in the documents that require your immediate attention and correction to ensure fairness in accordance with due process for L65.

Second, the impacts on the airport and surrounding communities have not been properly identified. Both will be impacted greatly by the addition of over 1,000 to 1,500 diesel trucks on the roads daily, the negative economic impact on the Airport and the community, and the overall health, welfare and safety of the pilots and skydivers.

As you are aware, the California Environmental Quality Act (“CEQA”) Pub. Resources Code, § 21000 et seq. establishes a comprehensive scheme to provide long-term protection to the environment. It prescribes review procedures a public agency must follow before approving or carrying out certain projects.

A project under CEQA, is defined to include, “the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.” (CEQA Guidelines, § 15378, subd. (a).) We believe that the Project Description throughout the Initial Study does not provide sufficient information. A project must be described consistently throughout an EIR. (County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 199. An accurate, stable, and finite description of the project serves as the foundation for a complete and instructive EIR. (Id. at p. 192.) **The adequacy of the project description is closely linked to the adequacy of the analysis of the environmental effects.** If the description does not clearly and accurately characterize the project, the environmental analysis will likely reflect the same mistake, i.e., it would fail to analyze the effects of the whole of the project. (See Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal. (1988) 47 Cal.3d 376.)

Further, an inadequate project description hampers informed public participation and agency decision-making, frustrating CEQA’s public information aims. (County of Inyo v. City of Los Angeles, supra, 71 Cal.App.3d at pp. 197–99.) A project description that does not identify a specific proposed project, and instead presents a set of significantly different alternative proposals, may be found legally inadequate because it precludes informed public participation in the CEQA process. (See Washoe Meadows Community v. Department of Parks & Recreation (2017) 17 Cal.5th 277, 288.)

Notwithstanding, **the City of Perris, as the lead agency, may approve a smaller project than is described in the EIR or approves only part of the project analyzed in the EIR.** (See Dusek v. Redevelopment Agency (1985) 173 Cal.App.3d 1029, 040.) A lead agency may approve a revised version of the proposed project that incorporates characteristics of an alternative that will reduce the project’s impacts if all of the components of the revised project were evaluated in the EIR. (South of Mkt. Community Action Network v. City & County of San Francisco, supra, 33 Cal.App.5th at p. 335; see Southwest Regional Council of Carpenters v. City of Los Angeles (2022) 76 Cal.App.5th 1154.) A lead agency may also approve changes to a project that reduce its environmental impacts without revising the EIR’s project description. (Western Placer Citizens for an Agric. & Rural Env’t v. County of Placer, supra, 144 Cal.App.4th at p. 905.)

Approval of a revised version of the project not previously examined as a project alternative is permissible if the characteristics of the revised project relevant to an adequate environmental analysis, such as the project footprint and layout, its overall size, the number of

buildings, and the type of uses are consistent with those evaluated in the EIR analysis of the project and its alternatives, and the revisions will not have new or more severe impacts. (Southwest Reg'l Council of Carpenters v. City of Los Angeles, supra, 76 Cal.App.5th at p. 1180.)

If a project is changed while the EIR is being prepared and the change will result in new or substantially more severe impacts, the lead agency may add the information to the EIR and should consider recirculation. Public Resources Code section 21092.1 requires recirculation where the final EIR contains "significant new information." Recirculation is not required where new information added to an EIR clarifies or makes insignificant modifications to an EIR. (Laurel Heights Improvement Assn. v. Regents of Univ. of Cal. (1993) 6 Cal.4th 112, 1129-1130.) In contrast, recirculation is required if new information discloses a new substantial or more severe environmental impact. (Ibid.)

AS SUCH PLEASE FIND OUR MORE SPECIFIC OBJECTIONS AND COMMENTS TO THE INITIAL STUDY:

INTRODUCTION -

1.3 Initial Study Summary of Findings (page 2):

We disagree that "*the proposed Project would have no impacts or less than significant impacts related to agriculture, mineral resources, population and housing, public services, recreation, and wildfire.*" We request that these categories, as described in more detail below, be added into the EIR.

1.4 Documents Incorporated by Reference (page 2):

We disagree not incorporating L65's ALUCP 2011 into the InSt and request that it be incorporated in its fullest in the EIR. <https://www.rcaluc.org/Plans/New-Compatibility-Plan>

PROJECT SUMMARY

2.0 Project Description (page 4):

The project description is incomplete and misleading as it makes no mention of the heights of the buildings. As the Project is proposed to be in the Airport Influence Area ("AIA") and should be analyzed as an "on-airport" project. The height of the buildings play a crucial role in determining any environmental impact to L65's safe operations (e.g., **substantial negative wind impacts on safety of pilots and skydivers**). We request that this be corrected and that the height and scope of the structures including the tractor-trailer yard and their impact on L65's operations are considered in the EIR.

2.0 Surrounding Land Uses and Setting (page 5):

The InSt incorrectly states that Perris Valley Airport is a private airport primarily used for recreation-based flights.

It fails to recognize that L65 is a public-use airport with extensive ultra-light and parachuting activities as designated in the Airport Master Record conducting over 120,000 skydiving jumps annually as well as being a military-certified national security training center. L65 is a world-renown hub for skydivers setting world-records time and time again.

These mistakes must be corrected, and an in-depth consideration must be given in the EIR to L65's operations and the impact of the Project on such permitted skydiving and military operations.

2.0 Other Public Agencies Whose Approval is Required (page 5):

We disagree with excluding the California Air Resources Board ("CARB") and request a copy of the NOP and InSt to be provided to them immediately for commenting and that CARB stays involved throughout the CEQA process.

ENVIRONMENTAL SETTING

3.2 Existing Setting (page 6):

We request an in-depth evaluation of the environmental impact of the drainage into Perris Valley Airport described as "This western area currently slopes down at approximately 0.5% grade to the southeast, draining to an existing storm drain inlet in the Perris Valley Airport property" from an independent third party. The EIR needs to evaluate how water runoff and stormwater may affect the use of L65 as close to over half a million dollars has been spent recently to improve the runway pavement to ensure flight safety.

The report again incorrectly labels Perris Valley Airport as having solely indoor skydiving and being a private airport primarily used for recreation-based flights. This is an attempt to minimize the range and variety of L65's operations which have substantially contributed to the City of Perris' economy for the past nine decades. A correction is necessary so that a proper environmental analysis can be prepared.

Moreover, the InSt mentions that no significant changes have been observed since 1980. We disagree as the owners of L65 have been continuously updating the airport to safeguard their patrons and the community.

Further, this section states there are no historical sites near the Project, however, it fails to recognize L65, a flourishing landmark and a historic part of the Perris community for over 90 years. These aspects should be considered in the EIR.

3.5 Airport Land Use (page 7):

Since the Project is within the Airport Influence Area, it will substantially impact L65's operations. As such environmental impacts must be considered, including but not limited to a wind analysis report.

Further, the report recognizes that the Project will be a bird attraction. The Project includes two water basins that serve as bird attractants which will have a severe impact on the safety of aircrafts, especially considering the flood plain and drainage proposed to inlet into L65 complicates the use of basins. This aspect of the compatibility with existing land uses needs to be fully addressed in the EIR.

PROJECT DESCRIPTION

4.2 Proposed Project (page 7):

The report indicates that there are no apparent end users of the proposed project which begs the question whether there is a need and demand for it in the community. The EIR should establish that the Project serves a defined need and purpose for the community and is not simply built on speculation. Its economic and environmental impact on the City of Perris and its citizens should be evaluated in the EIR.

The report does not mention any designations for open spaces which are mandatory pursuant to L65's use and operation. This needs to be analyzed in the EIR.

4.2.1.3 Landscaping, Walls/Fences, and Lighting (page 9) and 4.2.2.3 Landscaping, Walls/Fences, and Lighting (page 11):

The report mentions lighting. The EIR should define the location and elevation of these lights as such lighting may require notification to the FAA for their obstruction analysis. Any glare from these lights impacting aviation activity including military night vision use training during skydiving operations should also be addressed in the EIR.

The landscape description is vague as it does not clarify if any existing landscaping and trees will be removed. This needs to be further analyzed in the EIR.

4.2.1.4 Utility (page 9) and 4.2.2.4. Utility (page 11):

The report discusses an existing utility easement that runs through L65 property and runway. The use of these easements and others mentioned throughout the IS should be addressed in the EIR together with its impact on L65's's land use and operations.

4.4 Discretionary Actions and Approvals (page 12):

Concerning the Airport Land Use Compatibility Plan, we have found that the FAA erred in classifying L65 as having a utility runway. A utility runway is intended to serve small aircraft. L65 is, in fact, a larger than utility runway given that aircraft, such as DC-3, are based and active at L65.

This results in a wider FAR Part 77 surface than that used by the FAA in their obstruction analysis of the proposed structures. The wider primary surface increases the extent of the penetration of the FAR Part 77 transitional surface by nearly 18', causing building points first determined not to penetrate this surface to actually penetrate the transitional surface by 18'. This matter is also being brought to the attention of the FAA and ALUC. The EIR process should be paused until such determination has been made.

ENVIRONMENTAL ANALYSIS AND DETERMINATION

5.2 Environmental Factors Potentially Affected (page 24):

We disagree excluding categories of Population and Housing, Public Services and Wildfire as such will pose significant environmental impact.

INITIAL STUDY

6.1 b) and d) Inadequate Consideration to Aesthetic Resources (page 24):

While we agree with your finding of potentially significant impact, we request that the landscaping plan be detailed to determine whether substantial damage to scenic resources will be caused by the Project, and such be considered in the EIR.

In addition, we request the glare and glint impacts are assessed in the EIR as they may affect pilot vision during aircraft takeoff and landing.

6.3 a) through d) Air Quality (page 29):

We request an evaluation by the CARB or an independent third party on the potential air pollution and health risks associated with the Project. The Project will result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment that emits toxic diesel emission, as well as highly toxic tire dust and brake dust which significantly endangers the health of local residents and contributes to regional pollution and global climate change. We request a thorough analysis of such air pollution in the EIR.

In addition, the health risks associated with operational emissions, health risks associated with construction emission should also be included in the air quality section of the EIR. The health risk assessment should evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project. The health risks modeled under both the existing and the future baselines should reflect all applicable federal, state, and local rules and regulations.

6.4 Biological Resources (page 31):

While we agree with your finding of potentially significant impact, we request the EIR consider the harmful effects on animal and plant life not only from the construction of the project, but also from ongoing toxic pollutants from heavy-duty diesel trucks and heavy machinery which will operate at the site. Additionally, we request the EIR study the secondary effects of the project on plants and wildlife, such as those caused by increased human activity and increased noise levels.

6.5 a) Cultural Resources (page 33):

While we agree with your finding of potentially significant impact, we request a thorough analysis of L65 as an important landmark of the city within the scope of this section during the EIR.

6.6 a) through b) Energy (page 34):

While we agree with your finding of potentially significant impact, we request the EIR analysis to include the Project's "energy use for all project phases and components, including transportation-related energy, during construction and operation. In addition to building code compliance, other relevant considerations may include, among others, the project's size, location, orientation, equipment use and any related renewable energy features that could be incorporated into the project."

6.7 a) through f) Geological Soil (page 35):

We request a thorough geotechnical feasibility study through an independent third party in the EIR.

6.8 Greenhouse Gas Emissions (page 38):

We request a thorough analysis of greenhouse gas emissions through an independent third party including short-term and long-term effects and the use of zero-emission technologies to minimize diesel PM and oxides of nitrogen emissions as well as greenhouse gases that contribute to climate change in the EIR.

6.9 e) Inadequate Consideration to Hazards/Hazardous Materials (page 31):

While we agree with your finding of potentially significant impact, the report fails to consider the adjacent operations of L65. The Project structures will undoubtedly generate wind turbulence across the runway and parachute landing areas such that the newly generated turbulent air from the proposed development will affect flight safety as well as parachute landings. These hazardous conditions must be analyzed in the EIR. L65 will provide a wind analysis report to be included in the EIR.

6.10 Hydrology and Water Quality (page 42):

While we agree with your finding of potentially significant impact, the report fails to recognize that the abundance of tire dust, brake dust, and other contaminants containing dangerous chemicals spread across the impervious surfaces at the site represents a significant risk to dangerous water runoff and ground water quality. This should be reflected in the EIR.

6.11 b) Inadequate Consideration to Land Use Planning (page 45):

While we agree with your finding of potentially significant impact, the report fails to consider that L65 is recognized as a vital component of the City's comprehensive land use and related plans. The Project's proposed structures will adversely affect the continued safe aircraft and parachute activities which have occurred at L65 for the last 90 years.

L65 and the types of aviation activity that occurs here represent a land use that has been accepted by the community, and from which the community has benefited in many ways in terms of employment, revenue to local businesses and the City, and a source of transportation especially during emergency and medevac situations.

These attributes will be adversely affected by the Project. These and other aviation-related attributes of L65 should be addressed in the EIR. Alternative positioning or designs of the Project should be considered in the EIR that are compatible with existing surrounding land uses.

6.13. c) Inadequate Consideration to Noise (page 47):

While we agree with your finding of potentially significant impact, the report fails to recognize that aircraft activity like most transportation elements generates noise. The introduction of substantial increase in vehicle truck traffic serves to add to the current noise levels. The cumulative impact of noise generators should be an element of evaluation in the EIR.

6.14 a) No Consideration to Population and Housing (page 48):

We do not concur with the finding of less than significant impact. Rather, we consider it a potentially significant impact that requires detailed analysis in the forthcoming EIR. We express concerns about the Project's potential impact on population density and housing infrastructure. We

argue that the project might strain existing housing resources, exacerbate overcrowding, and lead to inadequate urban planning.

It is vital to ensure that the Project aligns with sustainable population growth and includes affordable housing options, considering the needs of the community and avoiding overburdening local infrastructure. We underscore the importance of a comprehensive analysis of demographic trends, housing demand, and infrastructure capacity to inform responsible development decisions and safeguard the well-being of the residents in the EIR.

We request a thorough analysis of traffic and circulation issues associated with the Project through an independent third party in the EIR as well as the consideration of the cumulative effect of thousand plus tractor trucks on traffic patterns and health risks.

6.15 e) No Consideration to Public Services (page 49):

We do not concur with the finding of less than significant impact. Rather, we consider it as a potentially significant impact that requires detailed analysis in the forthcoming EIR. L65 is open to the public and as such is not solely for the use by us as the owner. Aircraft flight and parachute safety can be adversely affected by higher crosswinds and turbulence created by the proposed structures, which in turn can lead to unfortunate outcomes in terms of personal injury and death, as well as property damage.

It is imperative to conduct a thorough impact assessment on public services, ensuring that adequate facilities and infrastructure are in place to accommodate the community's requirements. We stress the importance of proactive measures to address potential service gaps, enhance accessibility, and maintain the quality of public services in the face of population growth or changes associated with the development. These elevate the importance of the Airport with regard to the evaluation of public services in the EIR.

6.16 b) Inadequate Consideration to Recreation (page 52):

While we agree with your finding of potentially significant impact, we do not agree to the extent that it is not evaluated as a separate section in the EIR as indicated in the accompanying Initial Study notes. The Airport provides a recreational activity for pilots and skydivers, whose safety of operations can be adversely impacted by the proposed development. Thus, the safety impacts should be addressed in the EIR.

6.17 Transportation (page 53):

We request a thorough analysis of traffic and circulation issues associated with the Project through an independent third party as well as the consideration of the cumulative effect of thousand plus tractor trucks on traffic patterns and health risks.

6.18 Tribal Cultural Resources (page 55):

While we agree with your finding of potentially significant impact, it's crucial to further evaluate the potential disturbance or destruction of archaeological sites with tribal cultural significance, including both known and undiscovered resources. Also, the report should further explore opportunities for energy and resource efficiency within the project, including the use of renewable energy sources and water-saving technologies."

6.19 Utilities and Service Systems (page 57):

"While we agree with your finding of potentially significant impact, the report should also consider the cumulative impact of the project on local utilities, including potential overloads or disruptions to existing service systems."

6.20 a) through d) No Consideration to Wildfire (page 59):

We do not concur with the finding of less than significant impact. Rather, we consider it a potentially significant impact that requires detailed analysis in the forthcoming EIR. We highlight the importance of addressing climate change impact, proper vegetation management, wildlife habitat protection, and community evacuation planning. Ensuring compliance with local zoning regulations and implementing fire-resistant landscaping are essential components for a safer environment in fire-prone areas such as the adjacent public airport. The EIR should analyze such concerns.

6.21 a) through c) Inadequate Consideration to Mandatory Findings of Significance (page 60):

While we agree with your finding of potentially significant impact, it fails to include the cumulative effect of the Project on the surrounding community, primarily in environmental impacts. Economic impacts should not be avoided in the analysis because they are important considerations.

The adverse impacts on L65 generated by the Project may lead to diminished revenue to local businesses and the City, not to mention the safety-related effects to human beings and properties. These safety issues that are solely introduced through the implementation of the Project can cause injury and death to patrons of L65, damage and loss of property in terms of aircraft and skydiving equipment, and loss of employment due to decreased aviation activity. These are major impact items that should be addressed in the EIR.

End of Objections and Comments to Initial Study

In conclusion, a project description, summary and accompanying analysis, must be consistent and accurate. If the description of the project and its *surroundings* are inconsistent or inaccurate, these shifts prevent the CEQA process from serving as a vehicle for intelligent public participation in the decision-making process.

*“Only through an accurate view of the project may affected outsiders and public decision makers balance the proposal's benefit against its environmental cost, **consider mitigation measures** [emphasis added], assess the advantage of terminating the proposal and weigh other alternatives in the balance. Thus, an agency's failure to provide an accurate, stable, and finite project description is a failure to proceed in a manner required by law.” 92 Cal. App. 5th 380, 383-384 Tulare Lake Canal Co. v. Stratford Pub. Util. Dist.*

A correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA as outlined in Pub. Resources Code, § 21000 et seq. Thus, an accurate and complete project description and its surrounding is necessary to fully evaluate a project's potential environmental effects.

A development of this dimension, size and substantial environmental concerns warranted a scoping meeting at the onset of the CEQA application (which unfortunately, was not conducted) to gain public input on scope and content of functionally equivalent and necessary reports, design, and additional alternatives to locate the development somewhere else.

As outlined herein, the report does not provide an adequate and accurate explanation of the Project's potential impacts on residents, businesses, and the general public. These omissions limit the public's ability to fully comprehend how the Project will affect citizens' lives and their community, thus denying the public the opportunity to provide informed feedback.

In light of these substantial concerns and the one hundred fifty plus concerned residents who attended the scoping meeting voicing their concerns, we respectfully request that the City of Perris Planning Department extend the comment period for the Initial Study for at least another 30 days to provide sufficient time for the public as well as CARB to weigh in.

In addition, we urge you to conduct a comprehensive, transparent, and independent review of the Project's substantial environmental impacts rather than rely on findings that are filled with mistakes and allow the public to participate in the process to ensure accuracy, fairness, and due process.

It is vital to address the issues and errors outlined in this letter to ensure that the best interests of the community are safeguarded. The importance of a thorough and accurate environmental impact assessment cannot be overstated, and it is essential that these shortcomings are addressed and corrected to ensure the project complies with environmental regulations and protects our community's health, welfare, and safety.

Notwithstanding anything to the contrary, we hereby expressly reserve our right to supplement, clarify, revise, or correct any or all of the arguments and objections herein.

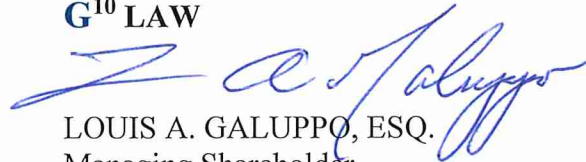
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City of Perris
LEAD AGENCY
November 20, 2023

We look forward to a response regarding the actions that the City will take to rectify the issues and errors mentioned in this letter. We appreciate your time, efforts, and we respect the process.

Sincerely,

G¹⁰ LAW



LOUIS A. GALUPPO, ESQ.
Managing Shareholder

cc: Clients
Counsel for Applicants
Harris & Associates