

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



6013

FROM: TLMA - Planning Department

SUBMITTAL DATE:
April 28, 2011

REVIEWED BY EXECUTIVE OFFICE

DATE 5/3/11 mm
Tina Grande
Departmental Concurrence

SUBJECT: APPEALS OF PLANNING COMMISSION'S DECISION TO ADOPT RESOLUTION NO. 2011-004, TO CERTIFY EIR NO. 450; DENY, IN PART, AN APPEAL OF THE PLANNING DIRECTOR'S ACTION; APPROVE PLOT PLAN NOS. 16979, 18875, 18876, 18877 AND 18879; UPHOLD, IN PART, AN APPEAL OF THE PLANNING DIRECTOR'S ACTION; AND DENY PLOT PLAN NO. 17788 – EIR00450 – Applicant: Investment Building Group, RGA Office of Architectural Design, Obayashi Corp. and OC Real Estate Management LLC – Engineer/Representative: William Simpson & Assoc., Inc. and KCT Consultants, Inc. – Second Supervisorial District – Prado-Mira Loma Zoning District – Jurupa Area Plan: Community Development: Light Industrial (CD: LI) (0.25 - 0.60 Floor Area Ratio) – Location: northerly of State Highway 60, southerly of Philadelphia Avenue, easterly of Etiwanda Avenue and westerly of Grapevine Street – 65.05 Gross Acres - Zoning: Manufacturing-Medium (M-M) and Industrial Park (I-P) – **REQUEST:** Appellant "A": Center for Community Action and Environmental Justice (CCA EJ) requests an appeal for Plot Plan Nos. 16979, 18875, 18876, 18877 and 18879 of the Planning Commission's decision to deny, in part, an appeal of the Planning Director's Action and approval issued on April 6, 2011, and Appellant "B": Michael Del Santo, SP 4 Dulles LP requests an appeal for Plot Plan No. 17788 of the Planning Commission's decision to uphold, in part, an appeal of the Planning Director's Action and denial issued on April 6, 2011. The **Environmental Impact Report** analyzes the potential environmental impacts of Plot Plan Nos. 16979, 17788, 18875, 18876, 18877 and 18879. **Plot Plan No. 16979** proposes to develop a 200,731 square foot industrial building with 190,731 square feet of warehouse space, 10,000 square feet of office and mezzanine space, 52,810 square feet of landscaping area (11%), 256 parking spaces and 29 loading docks on a 11.01 gross (10.76 net) acre site with a floor area ratio of 0.42 (Light Industrial requires a 0.25-0.60 floor area ratio). **Plot Plan No. 17788** proposes to develop a 426,212 square foot industrial building with 418,212 square feet of

Carolyn Syms Luna

Carolyn Syms Luna
Planning Director

Initials:
CSL:vc

(continued on attached page)

Dep't Recomm.: Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.

District: Second

Agenda Number:

16.2

The Honorable Board of Supervisors

Re: **APPEALS OF PLANNING COMMISSION'S DECISION TO ADOPT RESOLUTION NO. 2011-004, TO CERTIFY EIR NO. 450; DENY, IN PART, AN APPEAL OF THE PLANNING DIRECTOR'S ACTION; APPROVE PLOT PLAN NOS. 16979, 18875, 18876, 18877 AND 18879; UPHOLD, IN PART, AN APPEAL OF THE PLANNING DIRECTOR'S ACTION; AND DENY PLOT PLAN NO. 17788**

Page 2 of 2

warehouse space, 8,000 square feet of office space, 106,980 square feet of landscaping area (12%), 257 parking spaces and 51 loading docks on a 20.48 gross (18.73 net) acre site with a floor area ratio of 0.48 (Light Industrial requires a 0.25-0.60 floor area ratio). **Plot Plan No. 18875** proposes to develop a 104,210 square foot industrial building with 93,350 square feet of warehouse space, 10,860 square feet of office and mezzanine space, 41,699 square feet of landscaping area (16%), 96 parking spaces and 18 loading docks on a 5.99 gross (5.00 net) acre site with a floor area ratio of 0.40 (Light Industrial requires a 0.25-0.60 floor area ratio). **Plot Plan No. 18876** proposes to develop twelve (12) industrial buildings with a total building area of 97,010 square feet with 83,810 square feet of storage space, 13,200 square feet of office space, 42,948 square feet of landscaping area (15%) and 243 parking spaces on a 6.83 gross (6.42 net) acre site with a floor area ratio of 0.33 (Light Industrial requires a 0.25-0.60 floor area ratio). **Plot Plan No. 18877** proposes to develop eight (8) industrial buildings with a total building area of 144,594 square feet with 92,094 square feet of storage space, 52,500 square feet of office space, 122,307 square feet of landscaping area (22%) and 444 parking spaces on a 12.75 gross (10.23 net) acre site with a floor area ratio of 0.26 (Light Industrial requires a 0.25-0.60 floor area ratio). **Plot Plan No. 18879** proposes to develop a 155,480 square foot industrial building with 145,480 square feet of warehouse space, 10,000 square feet of office and mezzanine space, 53,941 square feet of landscaping area (16%), 131 parking spaces, 30 trailer parking spaces and 25 loading docks on a 7.99 gross (net) acre site with a floor area ratio of 0.45 (Light Industrial requires a 0.25-0.60 floor area ratio).

BACKGROUND:

See attached Board of Supervisors Staff Report dated May 17, 2011 for analysis of the two appeals filed relative to the Planning Commission's actions on April 6, 2011.

RECOMMENDED MOTION:

ADOPT RESOLUTION NO. 2011-004 CERTIFYING ENVIRONMENTAL IMPACT REPORT NO. 450, which has been completed in compliance with CEQA Guidelines; and,

DENY APPEAL "A", based on the analysis above; and,

APPROVE PLOT PLAN NOS. 16979, 18875, 18876, 18877 AND 18879, subject to the attached Conditions of Approval, and based upon the findings and conclusions incorporated in the staff report; and,

DENY APPEAL "B", based on the analysis above; and,

DENY PLOT PLAN NO. 17788, based upon the findings incorporated in the staff report.

APPEAL "A"

COUNTY OF RIVERSIDE

TRANSPORTATION AND LAND MANAGEMENT PLANNING DEPARTMENT

Planning Department
Ron Goldman · Planning Director

**RIVERSIDE COUNTY
CLERK OF THE BOARD
OF SUPERVISORS**

PAID

DATE: 4-18-11
 AMOUNT: 278.40
 REC'D BY: [Signature]

APPLICATION FOR APPEAL

DATE SUBMITTED: 4-18-11

Appeal of application case No(s): Res No. 2011-004, EIR 450, Plot Plans 16979, 18875, 18876, 18877, 18879

List all concurrent applications

Name of Advisory Agency: Planning Commission

Date of the decision or action: April 6, 2011

Appellant's Name: CCA EJ E-Mail: esqaicp@wildblue.net

Mailing Address: c/o Johnson & Sedlack 26785 Camino Seco

Temecula, CA 92590 Street

City State ZIP

Daytime Phone No: (951) 506-9925 Fax No: (951) 506-9725

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> • Board of Supervisors for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans. • Planning Commission for: all other decisions. 	<ul style="list-style-type: none"> • Clerk of The Board for: Appeals before the Board of Supervisors. • Planning Department for: Appeals before the Planning Commission.
Planning Commission	Board of Supervisors	Clerk of the Board of Supervisors

TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> • Change of Zone denied by the Planning Commission • Commercial WECS Permit • Conditional Use Permit • Hazardous Waste Facility Siting Permit • Public Use Permit • Variance • Specific Plan denied by the Planning Commission • Substantial Conformance Determination for WECS • Surface Mining and Reclamation Permit 	<p>Within 10 days after the notice of decision appears on the Board of Supervisors Agenda.</p>

Riverside Office · 4080 Lemon Street, 9th Floor
 P.O. Box 1409, Riverside, California 92502-1409
 (951) 955-3200 · Fax (951) 955-3157
 Form 295-1013 (8/27/07)

Desert Office · 38686 El Cerrito Road
 Palm Desert, California 92211
 (760) 863-8277 · Fax (760) 863-7555

Murrieta Office · 39493 Los Alamos Road.
 Murrieta, California 92563
 · Fax (951) 600-6145

Agenda Item No.:
Area Plan: Jurupa
Zoning District: Prado-Mira Loma
Supervisorial District: Second
Project Planner: Christian Hinojosa
Board of Supervisors: May 17, 2011

**APPEALS OF PLANNING COMMISSION'S
DECISION TO ADOPT RESOLUTION NO. 2011-004,
TO CERTIFY EIR NO. 450; DENY, IN PART, AN
APPEAL OF THE PLANNING DIRECTOR'S ACTION;
APPROVE PLOT PLAN NOS. 16979, 18875, 18876,
18877 AND 18879; UPHOLD, IN PART, AN APPEAL
OF THE PLANNING DIRECTOR'S ACTION; AND
DENY PLOT PLAN NO. 17788**

**Appellant "A": Center for Community Action and
Environmental Justice (CCA EJ)**

Appellant "B": Michael Del Santo, SP 4 Dulles LP

**Applicants: Investment Building Group, RGA Office
of Architectural Design, Obayashi Corp. and OC
Real Estate Management LLC**

**Engineers/Representatives: William Simpson &
Assoc., Inc. and KCT Consultants, Inc.**

COUNTY OF RIVERSIDE PLANNING DEPARTMENT BOARD OF SUPERVISORS STAFF REPORT

APPEAL "A" JUSTIFICATION AND ANALYSIS FOR PLOT PLAN NOS. 16979, 18875, 18876, 18877 AND 18879

Plot Plan Nos. 16979, 18875, 18876, 18877 and 18879 were approved at Planning Commission on April 6, 2011. The Center for Community Action and Environmental Justice (CCA EJ) submitted an appeal on April 18, 2011. CCA EJ's opinion is that the Environmental Impact Report (EIR) for this project is inadequate as it fails to comply with California Environmental Quality Act (CEQA); fails to adequately analyze impacts pertaining to air quality, greenhouse gas emissions and traffic; fails to analyze and adopt all feasible mitigation measures; fails to comply with the County of Riverside General Plan; and fails to consider adequate project alternatives. See attached Application for Appeal, dated April 18, 2011 for further details.

The conclusory statements contained in the appeal regarding the EIR were not supported by any substantial evidence. The EIR includes a thorough, complete, and careful analysis of all potentially significant impacts in compliance with CEQA resulting from the project which includes substantial analysis of impacts to air quality, greenhouse gas emissions, and traffic determining significant unavoidable impacts would result from the project. The EIR includes a complete analysis of the project's consistency with the Riverside County's General Plan and concludes that the project is consistent with the General Plan. Additionally, the EIR analyzed a range of reasonable alternatives to the project as is required by CEQA. Finally, the Planning Department has imposed all feasible mitigation measures that would reduce the proposed project's potentially significant impacts. In addition to the EIR, the Planning Department has provided a full written response to all late comment letters submitted by CCA EJ and others that are attached to the Staff Report from the two (2) previous Planning Director Hearings on October 4, 2010 and October 18, 2010, the Planning Commission hearing on December 1, 2010 and today's February 16, 2011 Planning Commission hearing. For all the reasons explained in the EIR, those previous written responses, and based on all other evidence in the administrative record, the Planning Department finds that the conclusions stated in the appeal regarding the EIR's compliance with CEQA, analysis of air quality, greenhouse gases, traffic, mitigation measures, General Plan consistency, and project alternatives are incorrect and unsupported by the record. Therefore, the EIR fully analyzed the project's environmental impacts and is fully adequate under CEQA.

APPEAL "B" JUSTIFICATION AND ANALYSIS FOR PLOT PLAN NO. 17788

Plot Plan No. 17788 was denied at Planning Commission on April 6, 2011. Michael Del Santo, SP 4 Dulles LP submitted an appeal on April 14, 2011. According to Michael Del Santo, SP 4 Dulles LP, the site is consistent with the General Plan land use designation and zoning; the site is infill within the existing Mira Loma Commerce Center and is surrounded by compatible uses; loading activities for Plot Plan No. 17788 are greater than 600 feet from the nearest residences (Draft EIR p.4. 11-17) and the site is approximately 500 feet or more away from existing residential uses and is separated by existing industrial (non-residential) uses and a flood control channel; the applicant has been responsive to and agreed to numerous conditions of approval added during the five public hearings since October 2010 that address air quality concerns. Finally, the maximum unmitigated health risk at sensitive receptors nearest to Plot Plan No. 17788 disclosed in Draft EIR00450 is 4.7 in one million; below the South Coast Air Quality Management District threshold of significance of 10 excess cases of cancer per one million people (Draft EIR. Figure 4.3-5 and Table 4.3-U). See attached Application for Appeal, dated April 14, 2011 for further details.

RECOMMENDATIONS:

ADOPT RESOLUTION NO. 2011-004 CERTIFYING ENVIRONMENTAL IMPACT REPORT NO. 450, which has been completed in compliance with CEQA Guidelines; and,

DENY APPEAL "A", based on the analysis above; and,

APPROVE PLOT PLAN NOS. 16979, 18875, 18876, 18877 AND 18879, subject to the attached Conditions of Approval, and based upon the findings and conclusions incorporated in the staff report; and,

DENY APPEAL "B", based on the analysis above; and,

DENY PLOT PLAN NO. 17788, based upon the findings incorporated in the staff report.

APPLICATION FOR APPEAL

<ul style="list-style-type: none"> • Land Division (Tentative Tract Map or Tentative Parcel Map) • Revised Tentative Map • Minor Change to Tentative Map • Extension of Time for Land Division (not vesting map) 	Within 10 days after the notice of decision appears on the Board of Supervisor's Agenda.
<ul style="list-style-type: none"> • Extension of Time for Vesting Tentative Map 	Within 15 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • General Plan or Specific Plan Consistency Determination • Temporary Outdoor Event 	Within 10 days after date of mailing or hand delivery of decision of the Planning Director.
<ul style="list-style-type: none"> • Environmental Impact Report 	Within 10 days of receipt of project sponsor or Planning Director determination, or within 7 days after notice of decision by Planning Commission appears on the Board's agenda.
<ul style="list-style-type: none"> • Plot Plan • Second Unit Permit • Temporary Use Permits • Accessory WECS 	Within 10 calendar days after the date of mailing of the decision.
<ul style="list-style-type: none"> • Letter of Substantial Conformance for Specific Plan 	Within 7 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • Revised Permit 	Same appeal deadline as for original permit.
<ul style="list-style-type: none"> • Certificate of Compliance • Tree Removal Permit 	Within 10 days after the date of the decision by the Planning Director.
<ul style="list-style-type: none"> • Revocation of Variances and Permits 	Within 10 days following the mailing of the notice of revocation by the Director of Building and Safety, or within 10-days after the notice of decision of the Planning Commission appears on the Board of Supervisor's agenda.

PLEASE STATE THE REASONS FOR APPEAL.

Please state the basis for the appeal and include any supporting evidence if applicable. If appealing one or more specific conditions of approval, indicate the number of the specific condition(s) being protested. In addition, please include all actions on related cases, which might be affected if the appeal is granted. This will allow all changes to be advertised and modified at the same time. AN APPEAL OF ONE OR MORE CONDITIONS OF APPROVAL SHALL BE DEEMED AS AN APPEAL OF THE ACTION AS A WHOLE, AND THE APPEAL BODY MAY APPROVE OR DENY THE ENTIRE MATTER, AND CHANGE ANY OR ALL OF THE CONDITIONS OF APPROVAL.

APPLICATION FOR APPEAL

See Attached Letter for basis of the appeal. Note* Does not appeal Denial of Plot Plan 17788

Use additional sheets if necessary.

Penny J Newman
PRINTED NAME OF APPELLANT

Penny J Newman
SIGNATURE OF APPELLANT

4-15-2011
DATE

THE APPEAL FILING PACKAGE MUST CONSIST OF THE FOLLOWING:

- 1. One completed and signed application form.
- 2. Public Hearing Notice Label Requirements mailing address labels for notification of the appeal hearing.
- 3. All appropriate filing fees (the base fee, plus other fees specifically for the Department of Building and Safety, Fire Department, Flood Control District and/or Transportation Department conditions, if applicable).

PLEASE NOTE: Obtain surrounding property owners label package/instructions (Form 295-1051) from a County Public Information Services Center or download it from the Planning Department web page.

Johnson Sedlack

ATTORNEYS at LAW

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April 14, 2011

Riverside County Planning Department
4080 Lemon Street, 9th Floor
P.O. Box 1409
Riverside, CA 92502
Fax: (951) 955-1811

RE: Appeal of the Planning Commission's April 6, 2011 decision Denying Appeal of Planning Director's Hearing Resolution No. 2010-06 in Part, adopting Resolution No. 2011-04 Certifying EIR No. 450, and Approving Plot Plan Nos. 16979, 18875, 18876, 18877, and 18879 for the Mira Loma Commerce Center (State Clearinghouse No. 2002121128).

Greetings:

This firm represents the Center for Community Action and Environmental Justice (CCA EJ) and submits these comments on their behalf in support of this appeal. We hereby appeal the Planning Commission's April 6, 2011 decision denying CCA EJ's appeal of Director's Hearing Resolution No. 2010-06 in part, approving Plot Plan numbers 16979, 18875, 18876, 18877, and 18879, and adopting Resolution No. 2011-004 certifying the Final Environmental Impact Report No. 450 for the Mira Loma Commerce Center (SCH# 2002121128). The Planning Commission upheld the appeal in part and denied Plot Plan No. 17788; we agree with, and thereby do not challenge, this portion of the Planning Commission's determination.

The Mira Loma Commerce Center is a proposal to construct and operate twenty four (24) industrial buildings on 65.05 acres for a total building area of 1,128,237 square feet, with 1,427 parking spaces, 30 trailer parking spaces, and 123 loading docks. The Project site is currently vacant and abuts the residential communities of Mira Loma Village and Country Village. In its April 6, 2011 decision, the Planning Commission denied the largest and most environmentally harmful portion of the project, Plot Plan No. 17788, comprising 20.48 acres, upon recognizing that impacts to the health of area residents would be substantial. However, the reduced portion of the project will still comprise 44.57 acres for a total building area of 702,237 square feet, 1,105 parking spaces, and 72 loading docks. The project as approved by the Planning Commission will thus still have significant environmental and health impacts, and a statement of overriding considerations was made for the project.

The appeal is based on the following:

Certification of EIR No. 450 for the project is inappropriate as the EIR is fundamentally flawed and not completed in compliance with CEQA (*See*, State CEQA Guidelines (a)(1)). The EIR

fails to adequately analyze impacts pertaining to air quality and health, greenhouse gas emissions, traffic, and land use, among others, and fails to consider adequate project alternatives, per comments previously made by CCAEJ. The EIR fails as an informational document and fails to provide necessary and applicable information. The EIR improperly ignores the regional impacts of the project.¹ The EIR is often conclusory, and does not provide the analysis or examination required by CEQA to inform the public and decision makers of the analytical pathway taken from facts to conclusions. Additionally, the EIR conducts impact analyses based on unreasonably low estimates. CCAEJ has commented extensively on the flaws of the EIR in its prior appeal and incorporates those comments herein.

The project further fails to adopt all feasible mitigation in violation of CEQA. CEQA requires that where feasible mitigation exists which can substantially lessen the environmental impacts of a project, all feasible mitigation must be adopted. Furthermore, findings of infeasibility and support for those findings were lacking in the EIR and provided only later in later staff reports and responses to CCAEJ's previous appeal. Public commentary on this information was thus entirely precluded. Changes should be made to the EIR incorporating these references and alterations, and the EIR should be recirculated pursuant to CEQA Guidelines 15088.5(a)(4) [requiring recirculation where EIR is so fundamentally flawed and basically inadequate and conclusory that meaningful public comment and review was precluded.]

The statement of overriding considerations is unsupported by substantial evidence in the record. The project will have minimal benefits while result in substantial environmental harm.

The EIR fails to adequately evaluate and mitigation impacts to/from the following for the reasons detailed below and in previous CCAEJ comments with regards to this project:

Land Use:

The Land Use portion of the EIR is particularly conclusory and omits essential information. For instance, in evaluating compatibility with zoning, the EIR merely provides a table of zoning designations and states, "As shown in this table, the proposed project is compatible with existing surrounding M-M zoning." This sort of conclusory statement is completely contrary to CEQA as it provides zero analysis. Additionally, this conclusion ignores the other land use designations such as R-3 and R-1 which surround three portions of the project (two with the removal of PP 18877.)

Furthermore, the project remains inconsistent with the Riverside County General Plan and Jurupa Area Plan, and these inconsistencies are neither delineated nor analyzed in the EIR. The Riverside County General Plan states:

"[W]here necessary, the County shall tailor its control measures and implementation procedures to best address the unique situations found in each area. One example of such an area is the **Mira Loma community**, where particulate pollutant levels are among the worst in the nation. **In such an area, strong measures must be taken immediately to**

¹ *Board of Supervisors of the County of Santa Barbara v. Wallover, Inc.* (1990) 52 Cal. 3d 553 (citing *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263,283; CEQA Guidelines §§ 15125, 15206.)

protect the health and welfare of residents, especially children, the elderly and those with respiratory illnesses.” [emphasis added]

The Jurupa Area Plan also recognizes the significant air quality issues associated with development in the Mira Loma Area stating that the “proximity of the warehousing uses to the residential areas has generated considerable concern,” particularly with regards to associated “diesel-powered vehicles and heavy trucks.” **This project will develop warehouses in close proximity to residential uses.**

The project is, likewise, still contrary to the following General Plan policies.

LU 6.4 Retain and enhance the integrity of existing residential, employment, agricultural, and open space areas by protecting them from encroachment of land uses that would result in impacts from noise, noxious fumes, glare, shadowing, and traffic.

LU 10.2 Ensure adequate separation between pollution producing activities and sensitive emission receptors, such as hospitals, residences, and schools.

LU 24.6 Control the development of industrial uses that use, store, produce, or transport toxins, generate unacceptable levels of noise or air pollution, or result in other impacts.

AQ 2.1 The County land use planning efforts shall assure that sensitive receptors are separated and protected from polluting point sources to the greatest extent possible.

AQ 2.2 Require site plan designs to protect people and land uses sensitive to air pollution through the use of barriers and/or distance from emissions sources when possible.

C 3.8 Restrict heavy duty truck through-traffic in residential and community center areas and plan land uses so that trucks do not need to traverse these areas.

HC (Healthy Communities) 14.1: “Pursue a comprehensive strategy to ensure that residents breathe clean air...”

HC 14.3: “To the extent feasible, avoid locating new facilities that may produce harmful air pollution near homes and other sensitive receptors.”

The EIR does not provide these land use policies for informational purposes nor analyze these inconsistencies with Land Use/ Planning in the EIR. Instead, the EIR merely determines, based on no information provided and no evidence, that the project will have less than significant land use impacts. The EIR again fails entirely as an informational document and was not completed in compliance with CEQA. Furthermore, as this project is plainly contrary to the RCIP, the project should be denied.

Air Quality:

Construction:

The EIR concludes that the project will likely result in the emission of ROG and NO_x above the South Coast Air Quality Management District (SCAQMD) recommended daily regional thresholds and the emission of PM₁₀ and PM_{2.5} above the SCAQMD recommended localized thresholds during construction. Although the Project will result in significant and unavoidable

direct and cumulative air quality impacts from construction and abuts the residential communities of Country Village (a senior community) and Mira Loma Village, the EIR fails to adopt all feasible mitigation. For instance, it is feasible to prohibit concurrent construction of plot plans despite the fact that they are separately owned. Neither the EIR nor subsequent documentation has provided evidence that such prohibition is economically or otherwise infeasible. This additional mitigation must be required of the project.

Operational:

The County failed to support with evidence in the EIR, that trip lengths associated with this project will be significantly lower than that projected for other warehouse distribution centers where an average trip length of 40 miles has been used. The County failed to provide any substantive authority for why such a short trip length was used or why only trips to the Ontario Airport will be part of the project. Studies justifying this reduced trip length in staff reports regarding the project were not incorporated into the EIR or available for comment by the public with reference to the EIR. The EIR therefore fails as an informational document and is substantively flawed. Moreover, trip lengths relied on in the EIR are still not justified at the length chosen where tenants and uses of the warehouses are unknown.

Additionally, all feasible mitigation measures were not adopted. It is feasible that certain mitigation be required to be incorporated into contracts of site users. For instance, by contract specification, the County could require that facility operators become SmartWay Partners; incorporate requirements or incentives sufficient to achieve at least 20% per year increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers; or incorporate requirements or incentives sufficient to achieve a 15% per year increase in percentage of consolidator trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers. Additionally, implementing a parking fee for single occupancy vehicles is feasible-this would not penalize people for driving to work, but penalize them for driving singly rather than carpooling. Other feasible mitigation includes: requiring electrical equipment be used for landscape maintenance; requiring only low pressure sodium fixtures for exterior lighting including parking lots; utilizing electric yard trucks; require LEED Platinum certification; require photovoltaic solar systems sufficient to offset electrical usage on all buildings; and require solar water heaters for all hot water requirements.

Health Risk Assessment

This project will substantially contribute to Toxic Air Contaminants in the form of Diesel PM, the result of which is an increased risk of cancer and other health impacts to the individuals residing near this project, especially infants, children, and the elderly. In the immediate vicinity of the project site are the Mira Loma Village neighborhood, the retirement community of Country Village, Mission Bell Elementary School (approximately ¾ mile southeast of the project site), Granite Hill Elementary School (approximately 1¼ mile east of the project site), and Jurupa Valley High School (approximately 1¼ mile south of the project site). All of these sensitive receptors will be adversely impacted by the diesel PM emissions created by this project. Although this will be substantially reduced through the denial of Plot Plan No. 17788, the project nonetheless creates additional diesel PM emissions and traffic in an area already severely impacted by such emissions.

The Riverside County General Plan states the following with regards to particulate matter:

“The Environmental Protection Agency (EPA) defines particulate matter (PM) as either airborne photochemical precipitates or windborne dust. Consisting of tiny solid or liquid particles of soot, dust, smoke, fumes, and aerosols, common sources of PM are manufacturing and power plants, agriculture, *diesel trucks* and other vehicles, construction sites, fire and windblown dust. Generally PM settles from atmospheric suspension as either particulate or acid rain and fog that has the potential to damage health, crops, and property. Particulate of 2.5 microns or smaller (2.5 microns is approximately equal to .000098 inches) may stay suspended in the air for longer periods of time and when inhaled can penetrate deep into the lungs. Among the health effects related to PM2.5 are premature death, decreased lung function and exacerbation of asthma and other respiratory tract illnesses.

Particulate sized between 2.5 and 10 microns (10 microns is approximately equal to .0004 inches), known as PM10 also pose a great risk to human health. PM10 can easily enter the air sacs in the lungs where they may be deposited, resulting in an increased risk of developing cancer, potentially changing lung function and structure, and possibly exacerbating preexisting respiratory and cardiovascular diseases. It can also irritate the eyes, damage sensitive tissues, sometimes carry disease, and may even cause premature death. PM2.5 and PM10 are especially hazardous to the old, young and infirm.

Although it produces less than 10% of the South Coast Air Basin's particulate matter, western Riverside County, which is part of the SOCAB, exceeds federal standards more than any other urban area in the nation, and has the highest particulate concentration in the SOCAB. These high levels of particulate matter are largely imported from the urbanized portions of Los Angeles and Orange Counties. This imported particulate is generally composed of photochemical precipitates rather than dust, smoke or soot. Riverside County is also responsible for generating large amounts of particulate matter from sources such as agriculture, warehousing operations, and truck traffic...

While sources and severity of particulate pollution differ in subareas of the County, it is the County's objective to control particulate matter throughout all of Riverside County. However, where necessary, the County shall tailor its control measures and implementation procedures to best address the unique situations found in each area. **One example of such an area is the Mira Loma community, where particulate pollutant levels are among the worst in the nation. In such an area, strong measures must be taken immediately to protect the health and welfare of residents, especially children, the elderly and those with respiratory illnesses.** [emphasis added]

The addition of industrial warehousing in an area already severely impaired from diesel PM emissions will cumulatively and individually result in health risks to the area and region. The EIR finds that this impact would be significant and unmitigated, as the Health Risk Assessment finds up to 22.2 in one million additional cancers, well above SCAQMD significance threshold of 10. The impact without approval of Plot Plan 17788 is still likely to exceed the threshold. This impact is significant, and feasible mitigation, detailed above, must be incorporated to reduce this impact.

Greenhouse Gas/Climate Change:

GHG impacts were found to be cumulatively significant and unavoidable in the EIR.

Noise:

The project will result in significant noise impacts. Noise levels due to construction at the project site are expected to reach up to 85 dBA at the nearest sensitive receptors, consisting of occupied residences. This is well in excess of the daytime exterior noise standards. The EIR concludes that merely through the project's compliance with RCO No. 847, Section 2, that construction-related noise impacts will be less than significant. This is a completely faulty analysis and conclusion, as Ord. 847 is meant for code enforcement, not as a noise standard. Moreover, the fact that the excess construction noise will be restricted to daytime hours does not mitigate the fact that noise levels of 85 dBA will be in excess of the County's noise ordinance and experienced by nearby residents during *daytime* hours. Thus, reliance on MM Noise 1 which merely limits construction activities "within one-quarter mile of occupied residences" to the daytime hours set forth in RCO No. 457, Section 1.G.1, (recently amended to RCO No. 457.102, Section 1.F.1) does nothing to mitigate these substantial effects.

The following mitigation is feasible to reduce construction noise impacts to below a level of significance:

1. Provide temporary noise attenuation during project construction. This includes sites utilizing non-combustion powered equipment.
2. During project construction, the developer shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of 3 minutes.
3. When technically feasible, utilize only electrical construction equipment.

The County states that "[d]aytime operational noise is not considered a source of significant impact if a barrier shields the *visibility* of the loading activity from any ground-floor observers. (Resolution No. 2010-06, pg. 103.) This is false.

Further, the Project will have significant cumulative noise impacts due to the already existing noisy environment. The Draft EIR demonstrates up to an 8 dBA cumulative increase with the project. Yet, the only mitigation provided is for nighttime operations and individual project noise, rather than project contributions to noise exceedences. The project should, at the least, require that the noise attenuation walls specified for the project be designed to reduce noise impacts below a level of significance.

Traffic and Transportation:

As the EIR concludes, even after mitigation, the Project's cumulative traffic impacts will remain significant. Although development fees will be paid, "the actual construction of the required off-site improvements" is uncertain and therefore cumulative traffic impacts may not be mitigated to below a level of significance. Yet, the Project fails to adopt all feasible mitigation measures and those measures that were adopted are uncertain and not fully enforceable. (*See, Air Quality mitigation suggestions.*) Moreover, these traffic impacts will result in the health risk impacts detailed above.

STATEMENT OF OVERRIDING CONSIDERATIONS

This project will not have the specific economic, legal, social, technological, or other benefits to the County, region, or state which a Statement of Overriding Consideration requires. The benefits of the project, as enumerated in the Statement of Overriding Considerations, are insubstantial and will at best benefit only a few select individuals. The specific “benefits” identified for this project in support of the Statement of Overriding Considerations include:

- A. Optimizing the economic potential of vacant land by developing the property in compliance with the land use designation.
- B. Generating additional employment opportunities for skilled labor.
- C. Maximizing the site’s existing location and proximity to transportation corridors.
- D. Creating a cohesive design and building theme.
- E. Balancing housing and employment opportunities.
- F. Co-locating jobs and housing to reduce vehicle miles traveled.
- G. Placing project in an area compatible with its land use designation.
- H. Alternative locations are not environmentally superior.
- I. Avoid urban sprawl into previously undeveloped areas.

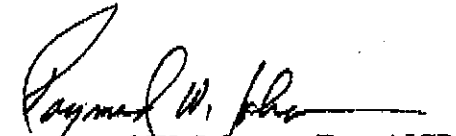
These “benefits” are minimal at best. The project (with Plot Plan No. 17788) was estimated to create anywhere between 567 to 1,101 jobs. The project as approved will likely create even fewer jobs. Moreover, these jobs would be created only if and when the warehouses are built and occupied, and it is entirely uncertain whether any of these jobs will require “skilled labor.” Hence the potential benefit of employment is minimal and speculative. Other than job creation, project benefits merely state the project’s location, design, and profitability for the developers/owners/users. These are not specific economic, legal, social, technological, or other benefits to the County, region, or state which a statement of overriding considerations requires.

On the other hand, the environmental harms of this project are extensive, as discussed above. Particularly, the project will result in significant health risks and air quality impacts from diesel PM in an area already acknowledged to have some of the worst air quality in the nation. A statement of overriding considerations was thus improperly adopted.

In light of the fundamental flaws of the EIR and significant impacts associated with this project, CCAEJ therefore respectfully requests that you deny this project in its entirety.

Thank you for your consideration of this appeal.

Sincerely,



Raymond W. Johnson, Esq. AICP
JOHNSON & SEDLACK



Carolyn Syms Luna
Director

APPEAL "B"

RIVERSIDE COUNTY PLANNING DEPARTMENT

RIVERSIDE COUNTY
CLERK OF THE BOARD
OF SUPERVISORS

PAID

APPLICATION FOR APPEAL

DATE: 4-14-11
AMOUNT: 6,002.95
REC'D BY: [Signature]

DATE SUBMITTED: April 14, 2011

Appeal of application case No(s): Plot Plan 17788

Name of Advisory Agency: Planning Commission
List all concurrent applications

Date of the decision or action: April 6, 2011

Appellant's Name: Michael Del Santo, SP 4 Dulles LP E-Mail: mdelsanto@cbreinvestors.com

Mailing Address: SP4 Dulles LP, 515 S. Flower Street, 31st Floor
Los Angeles CA 90071

Daytime Phone No: (213) 683-4200 Fax No: (213) 683-4336

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> Board of Supervisors for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans. Planning Commission for: all other decisions. 	<ul style="list-style-type: none"> Clerk of The Board for: Appeals before the Board of Supervisors. Planning Department for: Appeals before the Planning Commission.
Planning Commission	Board of Supervisors	Clerk of the Board of Supervisors

TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> Change of Zone denied by the Planning Commission Commercial WECS Permit Conditional Use Permit Hazardous Waste Facility Siting Permit Public Use Permit Variance Specific Plan denied by the Planning Commission Substantial Conformance Determination for WECS Surface Mining and Reclamation Permit 	Within 10 days after the notice of decision appears on the Board of Supervisors Agenda.

Riverside Office • 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 • Fax (951) 955-1811

Desert Office • 38686 El Cerrito Road
Palm Desert, California 92211
(760) 863-8277 • Fax (760) 863-7555

"Planning Our Future... Preserving Our Past"

APPLICATION FOR APPEAL

<ul style="list-style-type: none"> • Land Division (Tentative Tract Map or Tentative Parcel Map) • Revised Tentative Map • Minor Change to Tentative Map • Extension of Time for Land Division (not vesting map) 	Within 10 days after the notice of decision appears on the Board of Supervisor's Agenda.
<ul style="list-style-type: none"> • Extension of Time for Vesting Tentative Map 	Within 15 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • General Plan or Specific Plan Consistency Determination • Temporary Outdoor Event 	Within 10 days after date of mailing or hand delivery of decision of the Planning Director.
<ul style="list-style-type: none"> • Environmental Impact Report 	Within 10 days of receipt of project sponsor or Planning Director determination, or within 7 days after notice of decision by Planning Commission appears on the Board's agenda.
<ul style="list-style-type: none"> • Plot Plan • Second Unit Permit • Temporary Use Permits • Accessory WECS 	Within 10 calendar days after the date of mailing of the decision.
<ul style="list-style-type: none"> • Letter of Substantial Conformance for Specific Plan 	Within 7 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • Revised Permit 	Same appeal deadline as for original permit.
<ul style="list-style-type: none"> • Certificate of Compliance • Tree Removal Permit 	Within 10 days after the date of the decision by the Planning Director.
<ul style="list-style-type: none"> • Revocation of Variances and Permits 	Within 10 days following the mailing of the notice of revocation by the Director of Building and Safety, or within 10-days after the notice of decision of the Planning Commission appears on the Board of Supervisor's agenda.

PLEASE STATE THE REASONS FOR APPEAL.

Please state the basis for the appeal and include any supporting evidence if applicable. If appealing one or more specific conditions of approval, indicate the number of the specific condition(s) being protested. In addition, please include all actions on related cases, which might be affected if the appeal is granted. This will allow all changes to be advertised and modified at the same time. AN APPEAL OF ONE OR MORE CONDITIONS OF APPROVAL SHALL BE DEEMED AS AN APPEAL OF THE ACTION AS A WHOLE, AND THE APPEAL BODY MAY APPROVE OR DENY THE ENTIRE MATTER, AND CHANGE ANY OR ALL OF THE CONDITIONS OF APPROVAL.

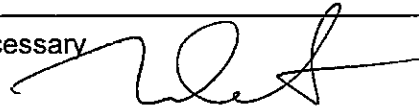
APPLICATION FOR APPEAL

This is an appeal of the Planning Commission's decision to deny approval of Plot Plan 17788. Plot Plan 17788 should be approved for the following reasons: the site is consistent with the General Plan land use designation and zoning; the site is infill within the existing Mira Loma Commerce Center and is surrounded by compatible uses; loading activities for Plot Plan 17788 are greater than 600 feet from the nearest residences (Draft EIR p. 4.11-17) and the site is approximately 500 feet or more away from existing residential uses and is separated by existing industrial (non-residential) uses and a flood control channel; the applicant has been responsive to and agreed to numerous conditions of approval added during the five public hearings since October 2010 that address air quality concerns. Finally, the maximum unmitigated health risk at sensitive receptors nearest to Plot Plan 17788 disclosed in Draft Environmental Impact Report (EIR) No. 450 is 4.7 in one million, below the South Coast Air Quality Management District threshold of significance of 10 excess cases of cancer per one million people (Draft EIR, Figure 4.3-5 and Table 4.3-U)

Use additional sheets if necessary

Michael Del Santo, representing SP 4 Dulles, LP

PRINTED NAME OF APPELLANT



SIGNATURE OF APPELLANT

Michael V. Del Santo
Asst. Vice President

4/13/11

DATE

THE APPEAL FILING PACKAGE MUST CONSIST OF THE FOLLOWING:

1. One completed and signed application form.
2. Public Hearing Notice Label Requirements, mailing address labels for notification of the appeal hearing.
3. All appropriate filing fees (the base fee, plus other fees specifically for the Department of Building and Safety, Fire Department, Flood Control District and/or Transportation Department conditions, if applicable).

PLEASE NOTE: Obtain surrounding property owners label package/instructions (Form 295-1051) from a County Public Information Services Center or download it from the Planning Department web page.