

## CALIFORNIA COASTAL COMMISSION

South Coast District Office  
301 E. Ocean Blvd, Suite 300  
Long Beach, CA 90802-4325  
Voice (562) 590 – 5071  
Fax (562) 590-5084



# F13a

**A-5-LOB-20-0006 (Panattoni Development Company)**

**March 13, 2020**

### EXHIBITS

Exhibit 1 – Location Map

Exhibit 2 – Appeal

Exhibit 3 – Resolution No. 20-0005

Exhibit 4 – Project Location

Exhibit 5 – Appealable Area

Exhibit 6 – Tentative Ruling

Exhibit 7 – Site Overlap of Appeals: A-5-LOB-06-400 and A-5-LOB-20-0006

# Location Map – 300 Studebaker Road, Long Beach



Photo Credit: Google Maps



Photo Credit: Google Maps



STATE OF CALIFORNIA -- THE RESOURCES AGENCY  
CALIFORNIA COASTAL COMMISSION SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD., SUITE 300  
LONG BEACH, CA 90802-4416  
VOICE (562) 590-5071 FAX (562) 590-5084

EXHIBIT # 2  
PAGE 1 OF 5

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

**SECTION I. Appellant(s)**

Name: Citizens About Responsible Planning

Mailing Address: 3106 Claremore Ave.

City: Long Beach, 90808 Phone: 562/596-7288

**SECTION II. Decision Being Appealed**

1. Name of local/port government: Long Beach
2. Brief description of development being appealed: Demolition of on-site structures and development of two concrete industrial buildings. Approved Coastal Development Permit also includes a variance to allow the required 30% open space to be provided on adjacent parcels and lot line adjustments.
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
300 Studebaker Road Long Beach Los Angeles County
4. Description of decision being appealed (check one.):  
Approval; no special conditions  
 Approval with special conditions:  
Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-LOB-20-0006  
DATE FILED:  
DISTRICT: 5

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- X City Council/Board of Supervisors
- Planning Commission
- Other

Date of local government's decision: Jan. 7, 2020

Local government's file number (if any): 18-034

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

- a. Name and mailing address of permit applicant: Mark Payne 2442 Dupont Dr. Irvine, CA 92612
- b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Ann Cantrell 3106 Claremore Ave. Long Beach 90808
- (2) Corliss Lee 3072 Knoxville Long Beach 90808
- (3) Joe Weinstein 4000 Linden Long Beach, 90807
- (4) Anna Christensen 259 Termino Long Beach 90803

SECTION IV. Reasons Supporting This Appeal

## PLEASE NOTE:

Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

## CARP's Reasons for Appealing 300 Studebaker Road Industrial Park Project

1. Incorrect address on all documents according to Google. The correct address is 300 North Studebaker Road.
2. The Mitigated Negative Declaration is inadequate; an Environmental Impact Report is required for this project across the street from the ESHA Los Cerritos Wetlands.
3. The Negative Declaration uses both SEADIP and SEASP as the zoning plan for the project. The current zoning plan, SEADIP, and the Local Coastal Plan, state the parcel on the southwest side of Studebaker Rd., is to be the site of an Interpretive Center and Overlook for the Wetlands. The other parcel on the northwest side of Studebaker is to be dedicated for park and playground purposes. The planned uses for these parcels are not in conformance with SEADIP and therefore cannot be approved.
4. Condition of Approval No. 3 requires the following: "Prior to the transfer of property to the LCWA, the project applicant shall coordinate with the LCWA regarding further hazardous materials investigations on the western open space". It must be made clear that the property owner will be responsible for the clean-up of any possible hazardous materials, not the taxpayers.
5. Both the Planning Commission and the City Council approved the Standards Variance, "A portion of the required thirty percent on-site open space on off-site vacant parcels (1.81 acres of land) located on the northwest and southwest corners of the intersection of Studebaker Road and Loynes Drive." This land is to be transferred to new owners; the developer cannot use the parcels as open space for his development if he no longer owns them.
6. Special Condition 5 states there will be "bird-safe" glazing on 65% of all buildings, "to reduce the amount of untreated glass or glazing to less than 35% of the building facade". Sixty-five per cent appears to be an arbitrary choice of percentage and is inadequate. All of the glass should be bird safe.
7. There were no studies done as to how LED and truck headlights will affect animals and plants in the Los Cerritos Wetlands across Studebaker from the 24/7 facility.

8. There were no noise studies done as to how 24/7 deliveries might affect human and animal neighbors. There were no adequate biological studies of the project site, especially for the Burrowing Owl which was reported there in the past.

9. New traffic studies are needed for Loynes Drive, which will be extended into the new facility.

10. No adequate mitigation for impacts of run-off from the parking lot into the two channels on either side of the project.

11. Inadequate study and mitigation for wildlife. Although the Neg. Dec. states: "The project site provides little habitat for wildlife species due to the nature of the surrounding industrial land use and the lack of native vegetation on-site", the one survey done found 13 species of birds on site. There was no mention of Burrowing Owl, which had been found on the property in 2007. It was also incorrectly stated that this is not a migratory wildlife corridor, then says: "The project would be designed in such a way to protect nocturnal wildlife movement and to comply with SEASP requirements, which regulates the placement and intensity of outdoor lighting and includes noise reduction measures during construction." SEASP has not been approved and this IS a wildlife corridor which must be protected, not only during construction, but afterwards.

**COASTAL COMMISSION**

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

Ann Cantull CARP  
Signature of Appellant(s) or Authorized Agent

Date: 1/27/2020

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize

Ann Cantull

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Joseph Weinstein  
Signature of Appellant(s)

Date: 1/28/2020 JOSEPH WEINSTEIN  
PRESIDENT CARP



RESOLUTION NO. RES-20-0005

EXHIBIT # 3  
PAGE 1 OF 16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH APPROVING AND CERTIFYING THE MITIGATED NEGATIVE DECLARATION (MND13-19) FOR THE 300 STUDEBAKER ROAD INDUSTRIAL PARK PROJECT IN THE CITY OF LONG BEACH; MAKING CERTAIN CEQA FINDINGS; AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, the City prepared a Draft Initial Study/Mitigated Negative Declaration (MND) for the 300 Studebaker Road Industrial Park Project ("Project") dated September 2019, which reflects the independent judgment of the City as to the potential environmental impacts of the Project. The Draft Initial Study/ Mitigated Negative Declaration was circulated for public review and comment from September 6, 2019 to October 7, 2019, for a 30-day comment period; and

WHEREAS, on November 7, 2019, the Planning Commission held a properly noticed public hearing on the Project at which time all interested parties had the opportunity to present evidence and be heard regarding the Project before the Planning Commission. Thereafter, the Planning Commission certified and approved the Mitigated Negative Declaration as being compliant with the California Environmental Quality Act (CEQA), and likewise, approved the Proposed Project with conditions. The action of the Planning Commission was subsequently appealed to the City Council for its review and determination; and

WHEREAS, on January 7, 2020, the City Council held a properly noticed public hearing on the Appeals and the Project at which time all interested parties had the opportunity to present evidence and be heard; and

WHEREAS, the City has incorporated public comments and revisions, if

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Long Beach, CA 90802

1 any, to the Initial Study/Mitigated Negative Declaration as recirculated,  
2 NOW, THEREFORE, the City Council of the City of Long Beach does  
3 hereby find, determine and resolve:

4 Section 1. The City Council adopts and certifies the Mitigated Negative  
5 Declaration presented to the City Council after reviewing and considering the information  
6 contained in said Mitigated Negative Declaration and prior to deciding whether to approve  
7 the proposed Project. The Mitigated Negative Declaration has been thoroughly reviewed  
8 and analyzed by the City's staff, Planning Commission, and the City Council. The draft  
9 documents circulated for public review reflect the City's own independent judgment, and  
10 the Mitigated Negative Declaration as approved and certified by this Resolution also  
11 reflects the independent judgment of the City Council.

12 Section 2. The City Council finds, based on the whole record before it  
13 including the Mitigated Negative Declaration and any comments received, that there is no  
14 substantial evidence that the Project, as mitigated, will have a significant effect on the  
15 environment.

16 Section 3. That the mitigation measures and the Mitigation Monitoring  
17 and Reporting Program ("MMRP") set forth in the MND will mitigate or avoid all significant  
18 environmental effects that can feasibly be mitigated or avoided. The City Council hereby  
19 adopts the MMRP attached hereto as Exhibit "A," and incorporated herein by this  
20 reference as though set forth in full, word for word.

21 Section 4. The City Council has made its decision to adopt, approve, and  
22 certify the Mitigated Negative Declaration in light of all the testimony and evidence  
23 presented at or prior to the close of the noticed public hearing, including letters, reports,  
24 comments, analyses, etc., which the City Council after review and comment by its staff  
25 critically reviewed, corrected, and augmented where necessary, as set forth in the record  
26 and procedural findings on this Project.

27 Section 5. The City Council, in adopting and certifying the Mitigated  
28 Negative Declaration for this Project, of which these findings are a part, did so through

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Lona Beach, CA 90802



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Exhibit A

### 3 Mitigation Monitoring and Reporting Program

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This document is the Mitigation Monitoring and Reporting Program (MMRP) for the 300 Studebaker Road Industrial Park Project (proposed project) proposed in the City of Long Beach. The purpose of the MMRP is to ensure that the required mitigation measures identified in the Initial Study – Mitigated Negative Declaration (IS-MND) are implemented as part of the overall project implementation. In addition, the MMRP provides feedback to agency staff and decision-makers during project implementation and identifies the need for enforcement action before irreversible environmental damage occurs.

The following table summarizes the mitigation measures for each issue area identified in the IS-MND for the proposed project. The table identifies the actions required for the measure to be implemented, the time at which the monitoring is to occur, the monitoring frequency, and the agency or party responsible for ensuring that the monitoring is performed. In addition, the table includes columns for compliance verification. These columns will be filled out by the monitoring agency or party and would document monitoring compliance. Where an impact was identified to be less than significant, no mitigation measures were required.

This MMRP will be used by City staff or the City's consultant to determine compliance with permit conditions. Violations of these conditions may cause the City to revoke the operating permit.

**COASTAL COMMISSION**

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City of Long Beach  
**300 Studebaker Road Industrial Park Project**

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
<b>Aesthetics</b>							
<b>AES-1 Outdoor Lighting Plan</b> Prior to issuance of building permits for the project, the project Applicant shall submit a photometric plan to the Department of Development Services demonstrating that the project will be designed and shielded so that the project's contribution of nighttime lighting shall be no greater than 0.10 foot-candles at the edge of the Los Cerritos Wetlands.	Applicant shall demonstrate in photometric plan that the project will be designed and shielded so that the project's contribution of nighttime lighting shall be no greater than 0.10 foot-candles at the edge of the Los Cerritos Wetlands	Review and verification of photometric plan prior to issuance of any building permit	Review and verification once prior to issuance of any building permit	City of Long Beach Department of Development Services			
<b>Biological Resources</b>							
<b>BIO-1 Pre-construction Nesting Bird Surveys and Avoidance</b> If initial clearing activities prior to the start of construction take place during the bird nesting season (generally February 1 through August 31, but variable based on seasonal and annual climatic conditions), a nesting bird survey should be performed by a qualified biologist within seven days of such activities to determine the presence/absence, location, and status of any active nests on-site or within 100 feet of the site. The findings of the survey should be summarized in a report to be submitted to the City of Long Beach prior to undertaking construction activities at the site. If nesting birds are found on-site, a construction buffer of 500 feet for nesting raptors or threatened or endangered species and 100 feet of all other nesting birds should be implemented around the active nests and demarcated with fencing or flagging. Nests should be monitored at a minimum of once per week by the qualified biologist until it	Verify that construction is scheduled outside of the bird breeding season; if construction is to occur during the bird breeding season, verify and review completion of a nesting bird survey and review survey results; if nests are found, field verify compliance with established buffer	Review and verification prior to issuance of any construction permit; field verification during construction.	Review and verification once prior to issuance of any construction permit; field verification periodically during construction	City of Long Beach Department of Development Services			



Mitigation Monitoring and Reporting Program

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
<p>has been determined that the nest is no longer being used by either the young or adults. No ground disturbance should occur within this buffer until the qualified biologist confirms that the breeding/nesting is completed and all the young have fledged. If project activities must occur within the buffer, they should be conducted at the discretion of the qualified biologist.</p> <p>If no nesting birds are observed during pre-construction surveys, no further actions would be necessary.</p>							
<p><b>Cultural Resources</b></p> <p><b>CR-1 Unanticipated Discovery of Cultural Resources</b></p> <p>If cultural resources are encountered during ground-disturbing activities, work in the immediate area shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (National Park Service 1983) shall be contacted immediately to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for CRHR eligibility. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work such as data recovery excavation and Native American consultation and archaeological monitoring may be warranted to mitigate any significant impacts to cultural resources.</p>	<p>If cultural resources encountered on-site during ground-disturbing activities, verify that construction activities are halted and that the find is evaluated by a qualified paleontologist</p>	<p>Field verification during construction</p>	<p>Field verification during construction</p>	<p>City of Long Beach Department of Development Services</p>			
<p><b>Geology and Soils</b></p> <p><b>GEO-1 Liquefiable Soils</b></p> <p>Prior to the proposed ground improvement technique as recommended in the site-specific Geotechnical Investigation (Appendix F), consisting of vibro-replacement stone columns, copies of the preliminary grading and foundation plans shall be provided to a geotechnical engineer for review. A deep foundation system shall be built from the medium dense to very dense, non-liquefiable soils present at depths between 32 and at least 51 1/2 feet, to support the proposed structures. The deep foundation shall be</p>	<p>Review of grading and foundation plans by geotechnical engineer; Implementation of deep foundation system</p>	<p>Review prior to implementation of ground improvement technique; implementation of deep foundation system during construction</p>	<p>Review and implementation once prior to issuance of any building permit</p>	<p>City of Long Beach Department of Development Services</p>			

City of Long Beach  
**300 Studebaker Road Industrial Park Project**

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
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embedded at least five feet within non-liquefiable, low compressibility, suitable bearing soils. The existing soils in the proposed building area shall be overexcavated to a depth of at least 1 foot below the proposed building pad subgrade elevation and to a depth of at least 1 foot below the existing grade, whichever is greater. The overexcavation areas shall be extend at least 5 feet beyond the building perimeters. Following completion of the overexcavation, the subgrade soils within the building area shall be evaluated by a geotechnical engineer to verify the suitability to serve as the structural fill subgrade.

**GEO-2 Expansive Soils**

As referenced in the project specific Geotechnical Investigation (Appendix F), a structural engineer shall be retained to determine the floor slab reinforcement required for the proposed buildings based on the imposed slab loading and the potential liquefaction settlements. The minimum floor slab reinforcement shall consist of No. 3 rebars at 18-inches on center in both directions to account for the presence of low to medium expansive soils. Structural floor slab supported on the deep foundation system shall be at minimum five inches thick. Materials with high expansion potential, low strength, poor gradation or containing organic materials may require removal from the site or selective placement and/or mixing to the satisfaction of the Geotechnical Engineer. Bare soil within five feet of proposed structures shall be sipped at a minimum five percent gradient away from the structure (about three inches of fall in five feet), or the same area could be paved with a minimum surface gradient of one percent. Additional expansion index testing shall be conducted at the completion of rough grading to verify the expansion potential of the as-graded building pad. All soils shall be evaluated and tested by the Geotechnical Engineer.

Determination of the floor slab reinforcement required prior to construction; evaluation and testing of soils prior to construction	Determination of floor slab reinforcement and evaluation of soils once prior to issuance of any building permit	City of Long Beach Department of Development Services
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Mitigation Monitoring and Reporting Program

COASTAL COMMISSION

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Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
<p><b>GEO-3 Unanticipated Discovery of Paleontological Resources</b></p> <p>In the event an unanticipated fossil discovery is made during the course of project development, then in accordance with SVP (2010) guidelines, it is the responsibility of any worker who observes fossils within the project site to stop work in the immediate vicinity of the find and notify a qualified professional paleontologist who shall be retained to evaluate the discovery, determine its significance and if additional mitigation or treatment is warranted. Work in the area of the discovery will resume once the find is properly documented and authorization is given to resume construction work. Any significant paleontological resources found during construction monitoring will be prepared, identified, analyzed, and permanently curated in an approved regional museum repository.</p>	<p>If paleontological resources are discovered on-site during construction, verify that construction activities are halted and the find is evaluated by a qualified paleontologist</p>	<p>Field verification during construction</p>	<p>Field verification during construction</p>	<p>City of Long Beach Department of Development Services</p>			
<p><b>Hazards and Hazardous Materials</b></p> <p><b>HAZ-1 Existing Toxic/Hazardous Materials</b></p> <p>Removal of residual large-diameter pipelines shall be performed on-site, as well as abatement of related material that may have become entrained in surrounding soils. If additional ACMs are found to be present, all asbestos removal operations shall be performed by a California Division of Occupational Safety and Health (Cal/OSHA-DOSH)-registered and California-licensed asbestos contractor. All disturbance of ACMs, and/or abatement operations, shall be performed under the surveillance of a third-party Cal/OSHA Certified Asbestos Consultant. All disturbances of ACMs, and/or abatement operations, shall be performed in accordance with the Cal/OSHA requirements set forth in 8 CCR 1529. Given the location of the project site, all asbestos abatement must also be performed in accordance with SCAQMD requirements set forth in Rule 1403 as well as all other applicable State and federal rules and regulations. In addition, methane sampling shall be implemented throughout the eastern project area</p>	<p>Removal of residual pipelines and abatement of associated material; asbestos abatement; methane sampling in eastern section of the project site</p>	<p>Prior to issuance of any demolition permits</p>	<p>Once prior to the issuance of any demolition permits</p>	<p>City of Long Beach Department of Development Services</p>			

City of Long Beach  
**300 Studebaker Road Industrial Park Project**

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
<p>of the project site, in order to account for the lack of specific information associated with the prior sampling. Contingency plans shall be in place to manage the removal and appropriate disposal of unanticipated subsurface infrastructure that could be encountered during site grading activities.</p>							
<p><b>HAZ-2 Soil Management Plan</b>                      No ground-disturbing activities shall be allowed on the project site without a Soil Management Plan prepared by the project Applicant and approved by the Department of Toxic Substances Control. In order to mitigate any potentially significant impacts pertaining to RECs and OEFs present on-site, any soil brought to the surface by grading, excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of state and federal law. In order to verify compliance with the LUC, annual inspections and annual reporting requirements shall be enforced by the City.</p>	<p>Preparation of a Soil Management Plan; approval by Department of Toxic Substances Control; annual inspections and reporting to verify LUC compliance</p>	<p>Preparation and approval of a Soil Management Plan prior to ground-disturbing activities; annual inspections and reporting</p>	<p>Preparation and approval of a Soil Management Plan once prior to ground-disturbing activities; annual inspections and reporting</p>	<p>City of Long Beach Department of Development Services</p>			
<p><b>NOI-1 Construction Noise Reduction</b>                      Prior to Grading Permit issuance, the Applicant shall demonstrate, to the satisfaction of the City of Long Beach City Engineer, that the project complies with the following measures to reduce construction-related noise.</p> <ul style="list-style-type: none"> <li>Property owners and occupants located within 100 feet of the project boundary shall be sent a notice, at least 15 days prior to commencement of construction of each phase, regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted at the project construction site. All notices and signs shall be reviewed and approved by the City of Long Beach Development Services Department, prior to mailing or posting and shall indicate the dates and duration of construction activities, as well as provide a contact name and telephone number where residents can inquire about the construction process and register</li> </ul>	<p>Applicant shall provide notice of construction to properties within 100 feet of the project boundary, designate a Noise Disturbance Coordinator and provide evidence that construction noise reduction measures will be used prior to construction; Applicant shall equip stationary</p>	<p>Provide notice of construction, designate a Noise Disturbance Coordinator and demonstrate use of construction noise reduction measures once prior to issuance of construction permits; Equip stationary equipment with mufflers, direct equipment away from sensitive</p>	<p>Provide notice of construction, designate a Noise Disturbance Coordinator and demonstrate use of construction noise reduction measures once prior to issuance of construction permits; Equip stationary equipment with mufflers, direct equipment away from sensitive</p>				

Mitigation Monitoring and Reporting Program

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Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
<p>complaints.</p> <ul style="list-style-type: none"> <li>▪ Prior to the issuance of any Grading or Building Permit, the contractor shall provide evidence that a construction staff member will be designated as a Noise Disturbance Coordinator and will be present during on-site construction activities. The Noise Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a noise complaint is received, the Noise Disturbance Coordinator shall notify the City within 24-hours of the complaint and determine the cause of the noise complaint and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the City of Long Beach City Engineer. All notices that are sent to residential units immediately surrounding the construction site and all signs posted at the construction site shall include the contact name and the telephone number for the Noise Disturbance Coordinator.</li> <li>▪ Prior to the issuance of any Grading or Building Permit, the project applicant shall demonstrate to the satisfaction of the City of Long Beach City Engineer that construction noise reduction methods shall be used where feasible. These reduction methods include shutting off idling equipment, installing temporary acoustic barriers around stationary construction noise sources, maximizing the distance between construction equipment staging areas and occupied residential areas, and electric air compressors and similar power tools.</li> <li>▪ During all excavation and grading on-site, the construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards.</li> <li>▪ The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receivers (e.g., residences and wildlife) nearest to the project site.</li> </ul>	<p>equipment with mufflers, place stationary equipment so that emitted noise is directed away from sensitive receptors and stage equipment to avoid impacting sensitive receptors during construction; Avoidance of nesting birds during construction</p>	<p>equipment away from sensitive receptors, stage equipment to avoid impacting sensitive receptors and avoid nesting birds throughout construction process</p>	<p>receptors, stage equipment to avoid impacting sensitive receptors and avoid nesting birds throughout construction process</p>				

City of Long Beach  
**300 Studebaker Road Industrial Park Project**

Mitigation Measure/Condition of Approval	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
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- The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise-sensitive receivers (e.g., residences and wildlife) during all project construction.
- No construction shall occur within 500 feet of nesting raptors or threatened or endangered species and 100 feet of all other nesting birds protected by the federal Migratory Bird Treaty Act.

**Tribal Cultural Resources**

**TR-1 Retain a Native American Monitor/Consultant**  
 The Project Applicant shall be required to retain and compensate for the services of a Tribal monitor/consultant who is both approved by the Gabrieleño Band of Mission Indians-Kizh Nation Tribal Government and is listed under the NAHC's Tribal Contact list for the area of the project location. This list is provided by the NAHC. The monitor/consultant will only be present on-site during the construction phases that involve ground disturbing activities. Ground disturbing activities are defined by the Gabrieleño Band of Mission Indians-Kizh Nation as activities that may include, but are not limited to, pavement removal, pot-holing or auguring, grubbing, tree removals, boring, grading, excavation, drilling, and trenching, within the project area. The Tribal Monitor/consultant will complete daily monitoring logs that will provide descriptions of the day's activities, including construction activities, locations, soil, and any cultural materials identified. The on-site monitoring shall end when the project site grading and excavation activities are completed, or when the Tribal Representatives and monitor/consultant have indicated that the site has a low potential for impacting Tribal Cultural Resources.

Verify that an approved Tribal monitor/consultant has been obtained, verify completion of daily monitoring logs during the construction phase when ground disturbing activities occur.	Prior to issuance of grading permits; continuous during construction activities.	Once at plan check; periodically throughout construction	City of Long Beach Department of Development Services
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Mitigation Monitoring and Reporting Program

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Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
<p><b>TR-2 Unanticipated Discovery of Tribal Cultural and Archaeological Resources</b></p> <p>Upon discovery of any archaeological resources, cease construction activities in the immediate vicinity of the find until the find can be assessed. All archaeological resources unearthed by project construction activities shall be evaluated by the qualified archaeologist and tribal monitor/consultant approved by the Gabrieleño Band of Mission Indians-Kizh Nation. If the resources are Native American in origin, the Gabrieleño Band of Mission Indians-Kizh Nation shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the Tribe will request reburial or preservation for educational purposes. Work may continue on other parts of the project while evaluation and, if necessary, mitigation takes place (CEQA Guidelines Section 15064.5 [f]). If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource", time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and Public Resources Code Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be offered to a local</p>	<p>Verify that appropriate procedures are followed if archaeological resources are identified during demolition, grading, and/or construction.</p>	<p>Periodically during grading and ground disturbing activities.</p>	<p>Periodically throughout grading and ground disturbing activities.</p>	<p>City of Long Beach Department of Development Services</p>			

City of Long Beach  
**300 Studebaker Road Industrial Park Project**

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
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school or historical society in the area for educational purposes.

**TR-3 Unanticipated Discovery of Human Remains and Associated Funerary Objects**

Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in PRC 5097.98, are also to be treated according to this statute. Health and Safety Code 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and excavation halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission (NAHC) and PRC 5097.98 shall be followed.

Verify that appropriate procedures are followed if human remains and/or funerary objects are identified during demolition, grading, and/or construction.

Periodically during grading and ground disturbing activities.

City of Long Beach Department of Development Services

**TR-4 Resource Assessment and Continuation of Work Protocol**

Upon discovery, the tribal and/or archaeological monitor/consultant/consultant will immediately divert work at minimum of 150 feet and place an exclusion zone around the burial. The monitor/consultant(s) will then notify the Tribe, the qualified lead archaeologist, and the construction manager who will call the coroner. Work will continue to be diverted while the coroner determines whether the remains are Native American. The discovery is to be kept confidential and secure to prevent any further disturbance. If the finds are determined to be Native American, the coroner will notify the NAHC as mandated by state law who will then appoint a Most Likely Descendent (MLD).

Verify that appropriate procedures are followed if human remains and/or associated funerary objects are identified during demolition, grading, and/or construction.

Periodically during grading and ground disturbing activities.

City of Long Beach Department of Development Services

Mitigation Monitoring and Reporting Program

Mitigation Measure/Condition of Approval		When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Compliance Verification Date	Comments
<p><b>TR-5 Kizh-Gabrieleño Procedures for Burials and Funerary Remains</b></p> <p>If the Gabrieleño Band of Mission Indians – Kizh Nation is designated MLD, the following treatment measures shall be implemented. To the Tribe, the term "human remains" encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the burial of funerary objects with the deceased, and the ceremonial burning of human remains. These remains are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects.</p>	<p>Verify that appropriate procedures are followed if human remains and/or associated funerary objects, as defined by the Gabrieleño Band of Mission Indians – Kizh Nation (if designated as the MLD) are identified during demolition, grading, and/or construction.</p>	<p>Periodically during grading and ground disturbing activities.</p>	<p>Periodically throughout grading and ground disturbing activities.</p>	<p>City of Long Beach Department of Development Services</p>			
<p><b>TR-6 Treatment Measures</b></p> <p>Prior to the continuation of ground disturbing activities, the land owner shall arrange a designated site location within the footprint of the project for the respectful reburial of the human remains and/or ceremonial objects. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be posted outside of working hours. The Tribe will make every effort to recommend diverting the project and keeping the remains in situ and protected. If the project cannot be diverted, it may be determined that burials will be removed. The Tribe will work closely with the qualified archaeologist to ensure that the excavation is treated carefully, ethically and respectfully. If data recovery is approved by the Tribe, documentation shall be taken which includes at a minimum</p>	<p>Verify that appropriate procedures are followed if human remains and/or associated funerary objects are identified during demolition, grading, and/or construction.</p>	<p>Periodically during grading and ground disturbing activities.</p>	<p>Periodically throughout grading and ground disturbing activities.</p>	<p>City of Long Beach Department of Development Services</p>			

COASTAL COMMISSION

EXHIBIT # 3  
PAGE 19 OF 16

City of Long Beach  
**300 Studebaker Road Industrial Park Project**

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification Initial	Date	Comments
--	-----------------	--------------------------	----------------------	-----------------------------	---------------------------------	------	----------

detailed descriptive notes and sketches. Additional types of documentation shall be approved by the Tribe for data recovery purposes. Cremations will either be removed in bulk or by means as necessary to ensure completely recovery of all material. If the discovery of human remains includes four or more burials, the location is considered a cemetery and a separate treatment plan shall be created. Once complete, a final report of all activities is to be submitted to the Tribe and the NAHC. The Tribe does NOT authorize any scientific study or the utilization of any invasive diagnostics on human remains.

Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items should be retained and reburied within six months of recovery. The site of reburial/re-patriation shall be on the project site but at a location agreed upon between the Tribe and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.

Professional Standards: Archaeological and Native American monitoring and excavation during construction projects will be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of human remains and associated funerary objects shall be taken. Principal personnel must meet the Secretary of Interior standards for archaeology and have a minimum of 10 years of experience as a principal investigator working with Native American archaeological sites in southern California. The Qualified Archaeologist shall ensure that all other personnel are appropriately trained and qualified.

COASTAL COMMISSION

EXHIBIT # 3  
 PAGE 16 OF 16

# Project Location – Intersection of Studebaker Road and Loynes Drive

Initial Study

Figure 2 Project Location

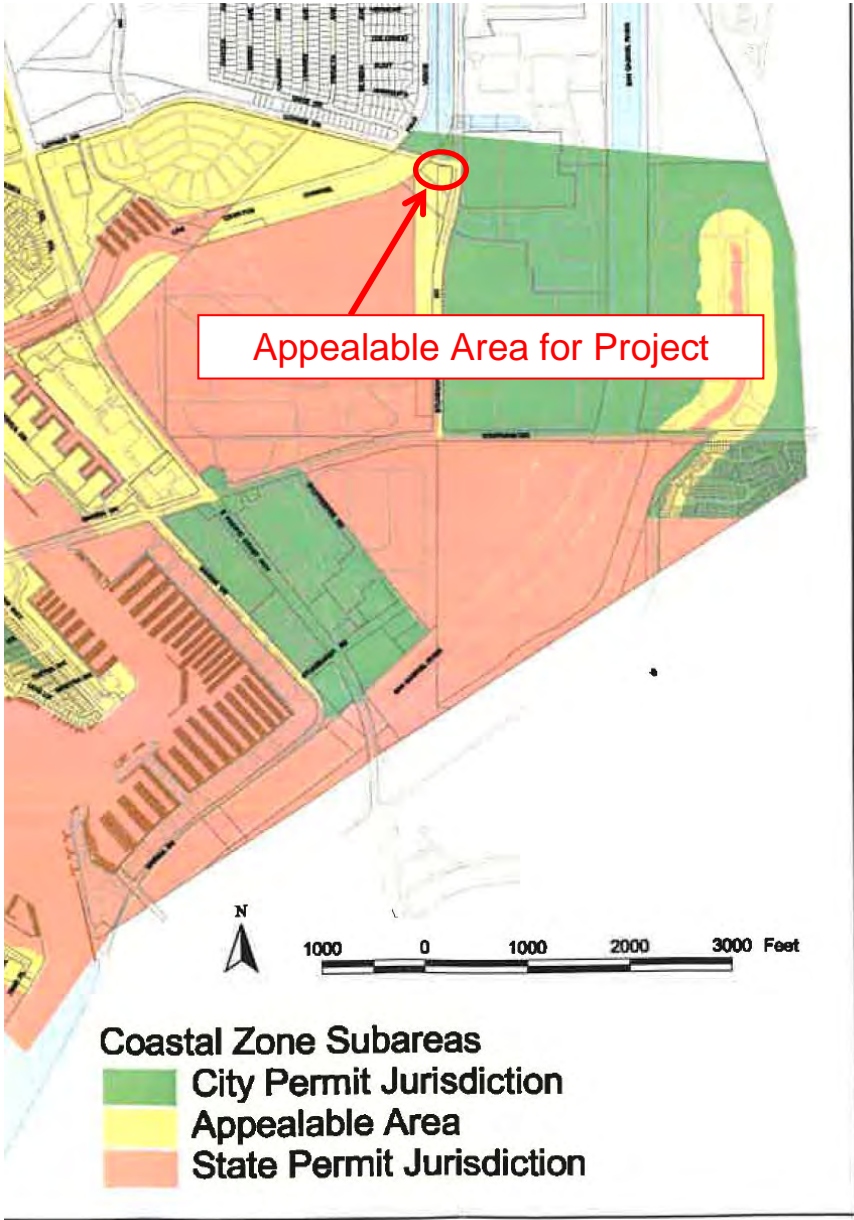


Imagery provided by Microsoft Bing and its licensors © 2018.  
Additional data provided by County of Los Angeles 2018.

<b>Exhibit 4</b>	
Page 1 of 1	
	California Coastal Commission

Appealable Area

<b>Exhibit 5</b>	
Page 1 of 1	
	California Coastal Commission





**COASTAL COMMISSION**

CASE NO. BS105930  
A.E.S. ALAMITOS V. CITY OF LONG BEACH

EXHIBIT # 6  
PAGE 1 OF 6

CASE NO. BS105960  
LOS CERRITOS WETLANDS V. CITY OF LONG BEACH

**COURT'S TENTATIVE RULING**

**FAXED TO:**

BRIAN FISH (619) 645-5395

JAN CHATTEN-BROWN  
DOUGLAS CARSTENS (310)314-8050

NICKI CARLSEN  
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MICHAEL MAIS (562) 436-1579

**COASTAL COMMISSION**

EXHIBIT # 6  
PAGE 2 OF 6

BS105930 and BS105960  
**Revised TENTATIVE ORDER**

Petitioner AES ALAMITOS, LLC's petition for a writ of mandate is **GRANTED**.  
CCP § 1094.5(f), PRC § 21168.5.

Petitioners LOS CERRITOS WETLANDS LAND TRUST and UNIVERSITY  
PARK ESTATES NEIGHBORHOOD ASSOCIATION's petition for a writ of  
mandate is **GRANTED**. CCP § 1094.5(f), PRC § 21168.5.

The CITY OF LONG BEACH is **ORDERED** to fully comply with the  
requirements of the California Environmental Quality Act by preparing complete  
and comprehensive EIR for the project. Any project approvals already obtained  
are invalid. Respondents and Real Party in Interest STUDEBAKER, LLC are  
restrained from any actions in furtherance of the project unless the EIR has been  
prepared, publically circulated, and approved in a manner required by law.

All original requests for judicial notice are **GRANTED**. Petitioners's  
supplemental request for judicial notice is **Granted in part**. Objections to Exhibits  
A and C are **SUSTAINED**.

A challenge to the EIR is reviewed for an abuse of discretion. PRC § 21168.5.  
"Abuse of discretion is established if the agency has not proceeded in a manner  
required by law or if the determination or decision is not supported by substantial  
evidence." *Id.* An agency fails to proceed "in a manner required by law" when it  
fails to comply with the informational and procedural requirements of CEQA.  
Save Our Peninsula Com. v. Bd. of Supervisors (2001) 87 Cal. App. 4th 99, 115.  
"A prejudicial abuse of discretion occurs if the failure to include relevant  
information precludes informed decisionmaking and informed public participation,  
thereby thwarting the statutory goals of the EIR process." San Joaquin Raptor  
Rescue Center v. County of Merced (2007) 149 Cal. App. 4th 645, 670.

An EIR cannot validly require a neighbor to mitigate the project's significant  
impacts. Nevertheless, the EIR included Mitigation Measure 4.6.10 requiring  
review of Operating Plans of the Power Plant to determine "whether additional  
measures/revisions are necessary based on the project implementation." 738. The  
court recognizes that the City responded to petitioner's comment by stating "that

restrictions would not be placed on AES with respect to their current operations.” 2887. However, the mitigation measure was not eliminated and the City did not evaluate other changes in the project that would reduce public safety impacts such as (1) requiring the project to construct a 12 foot high security wall between the project and the Power Plant (2) eliminating areas where large numbers of people will congregate (such as outdoor eating areas) or (3) providing a greater buffer adjacent to the power plant. A requirement to comply with existing regulations is not adequate under CEQA. Sundstrom v. County of Mendocino (1968) 2002 Cal. App. 3d 296 307-309. Furthermore, the law only requires updates to the operating plan when an “Off Site Consequence Analysis” is needed. 19 CCR §§ 2745.10(a)(6), 2750. The obligation to prepare an “Off Site Consequence Analysis” arises “(b) if changes in processes, quantities stored or handled, or any other aspect of the stationary source might reasonably be expected to increase or decrease risks to public.” 19 CCR § 2750(b). Additional measures required by existing laws, if any, should be imposed on AES only after all feasible measures are implemented by the developer.

Furthermore, mitigation measure 4.6.11 which requires STUDEBAKER to submit an undefined emergency response program to the City, is vague. 738, see also 11189-11190. There are no performance criteria or standards associated with the measure and no way to evaluate whether the measure can effectively mitigate the impacts. Existing laws impose standards for the stationary source handling the hazardous materials. They do not provide standards for a neighboring property. See, e.g., H & S Code §§ 25503.5, 25534. There is no substantial evidence in the record to show that the mitigation measures are adequate to support the City’s finding that the project will have a less than significant public safety impact.

The City must either (1) impose meaningful conditions on project proponent and real party in interest, rather than on the adjacent landowner, to mitigate the project’s public safety impacts to a less than significant level or (2) conclude, if its findings so indicate, that those project impacts were significant and unmitigable.

The conditional use of the site within the IG Zone for retail is consistent with a plain reading of the City’s Municipal Code. Respondent’s Request For Judicial Notice, Ex. B, Table 33-2, use category 7. The City staff opined that “Utilizing the site for commercial activities instead of a heavy industrial use provides greater compatibility with the surrounding neighborhood, and in the long term, is a benefit to the City.” 96. Thus, the City’s decision, as far as the CUP is concerned, is

supported by substantial evidence. The decision to issue of variances appears to be justified, under the circumstances, and the City's findings are supported by substantial evidence. 87, 104, 628, 796, 1978, 1980, 7422, 8050, 11226. Such discretionary determinations must be afforded deference. Therefore, the petitioner's fourth cause of action fails and the writ is not granted on that ground. This ruling, however, does not preclude a finding by the Coastal Commission that the project does not comply with the Local Coastal Program or the Coastal Act. The approval or denial of a Coastal Development Permit is currently under de novo review by the Commission.

### ADEQUACY OF THE FEIR

The court has serious concerns about the adequacy of the FEIR. Despite comments received from various government agencies and the public regarding its shortcomings, the City discounted claims that the EIR was insufficient or incomplete.

#### Biological Impacts

Specifically, the Department of Fish and Game (DFG) commented that the finding of no potentially significant impacts "is not adequately supported for either the burrowing owl or sensitive annual plant species." 2844. The DFG has promulgated survey protocols which include winter surveys, buffer zone surveys, and surveys of the entire project area. Request for judicial notice, Ex G at 3. However, no surveys were conducted between December 1 and January 31, the buffer zones were not surveyed and no survey was conducted at the 7<sup>th</sup> Street parcel. 1235, 1233, 1976. Respondents simply conclude that there was no need to follow the DFG protocol because there was enough evidence about the burrowing owls presence such that there was no need to follow the protocol. Opp. at 39 citing Association of Irrigated Residents v. County of Madera (2003) 107 Cal. App. 4th 1383. Burrowing owls have been observed on site, burrows were observed in local berms and yet winter surveys were not conducted as required by the DFG. Ignoring available protocol information does not satisfy the requirement that a "thorough investigation" be conducted and that a public agency use its "best efforts to find out and disclose all that it reasonably can." 14 CCR § 15145, 15144.

DFG also observed that the survey for sensitive plants was inadequate, that only one survey was conducted in February and that some plants could have been overlooked. 2844. Instead of conducting additional surveys, respondents relied on earlier surveys of which DFG was aware when it concluded that the surveys were inadequate. 701, 2844.

### Wetlands Delineation

The need for wetlands delineation was ignored. Even degraded areas are protected because of the potential they have for returning to natural conditions. Bolsa Chica Land Trust v. Superior Court (1999) 71 Cal. App. 4th 493, 506. Despite respondents' contention that the area is totally paved and developed for 50 years, a biologist reported that "Flat unvegetated dirt in the bottom of the basins surrounds each abandoned tank." Photographs indicate that the berms and swales are at least vegetated. 652 (views 5 and 6). Furthermore, respondents' own biologist found wildlife on the site, further evidence that the site is not "totally paved." Respondents have not conducted a delineation and there is no substantial evidence in the record to support their assumption that no portion of the project site needed to be evaluated for its potential of being wetlands.

### Light and Noise

Night lighting and noise impacts to the nearby Los Cerritos wetlands were not analyzed. The City concluded that the project would not have an effect on the wetlands from "traffic, light and noise." The EIR states simply, without support, that "These sources already exist and are not expected to increase substantially." 707. Respondents reasoned that (1) there was already light and noise from traffic and AES activities, (2) there will be controls on the lighting and (3) that the wetlands is 200 feet away, separated by Studebaker Road. Opposition at 42. During the administrative process comments were received, citing expert studies and reports, explaining why the conclusion was wrong. 10531-10536. Yet, no baseline study of lighting was done and noise measurements were taken only during one late morning period. 10533, 808. Testimony showed that there would be a perceptible increase in noise and light. 801, 808, 10533, 10535, 10536.

### Traffic and Circulation

The City can rely on its own expert's analysis instead of other competing analyses. Greenbaum v. City of Los Angeles (1984) 153 Cal. App. 3d 391, 413. Here, the City completed a complete traffic analysis which included cumulative impacts from other proposed projects. The City imposed all feasible traffic mitigation measures, including re-striping, new signals, signal connections and coordination and did not improperly defer mitigation. 1957-1960, 2489. The City has no jurisdiction over the SR-22 ramps and, as stated in the EIR, CalTrans has no plans for improving them. 1957-1958. Some of the confusion over trip counts was due to a topographical error and the inadvertent inclusion of Table D, which was clearly for another project. Although, the court is not ordering further analysis of traffic and circulation impacts, the EIR should be revised to correct the errors and, if appropriate, to include any other matter necessary as the result of any changed conditions.

**COASTAL COMMISSION**

### Air Quality

An agency must use a "reasonably conscientious effort" to obtain relevant data. Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners (2001) 91 Cal. App. 4th 1344, 1370. The City's use of baseline air quality data from a remote station in North Long Beach is not justified. Recent data from a closer monitoring station is readily available and, if needed, can be augmented by historical data from the older station. Without the data from the PCH station, the analysis is incomplete and "entitled to no judicial deference." *Id.* at 1355. A prejudicial error analysis is not applicable when relevant information is omitted from the environmental analysis. Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 Cal. 4th 512, 435. Mitigation measures adopted by the agency must be made fully enforceable "through permit conditions, agreements, or other measures." PRC § 21081.6(b), 14 CCR § 15126.4(a)(2). Respondents provide no explanation for their rejection of the feasible measures proposed by the SCAQMD.

### Alternatives

Exclusion of an offsite alternative solely because of "jurisdictional boundaries" was improper. Municipal boundaries are but one of the numerous factors to be considered. 14 CCR § 15126(f)(1). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. *Id.* (citing Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal. 3d 553). A suggested Seal Beach site, was rejected without analysis.

A reduced project was also rejected without being declared infeasible. "CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment. . . unless the measures to mitigate those effects are truly unfeasible." City of Marina v. Board of Trustees of the California State University (2006) 39 Cal. 4th 341, 368. The EIR rejected a smaller alternative that would have been economically feasible and would have fulfilled most of the project alternatives, except size. The City's project objectives were "unnecessarily restrictive and inflexible" to permit a reasoned choice. See Preservation Action Council v. City of San Jose (2006) 141 Cal. App. 4th 1336, 1360.

### Availability of Documents

CEQA requires that the agency provide "the address where copies of . . . all documents referenced in the draft environmental impact report are available for review. PRC § 21092(b)(1). Some of the documents relied on by respondents were not made available to the public for review. 2595-2597, 2915, 2594.

For the above reasons, the EIR is declared invalid and the petitioners' writs are granted.



# Overlap of Project Sites

Project Site for 2006 Appeal: A-5-LOB-06-400

Project Site for Subject Appeal: A-5-LOB-20-0006



FIGURE 3.2  
 Home Depot East Long Beach  
 Aerial Photo  
 Legend: Project Boundary  
 SOURCE: EAGLE AIRIAL (3/2004)  
 1\CLB000000.FLB\amial.a0r (1/16/15)

Figure 2 Project Location

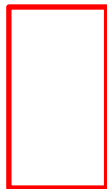


Initial Study  
 Imagery provided by Microsoft Bing and its licensors © 2018  
 Additional data provided by County of Los Angeles 2018

Exhibit #3  
 Project Site  
 Existing Tank Farm

Initial Study – Mitigated Negative Declaration

3



= Project Site Overlap

## Exhibit 7

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California Coastal  
Commission