TECHNICAL MEMORANDUM

DATE: July 7, 2025
TO: Meaghan Truman, EPD Solutions, Inc.
FROM: Bill Lawson, Urban Crossroads, Inc.
JOB NO: 12991-16 NA

SUBJECT: BLOOMINGTON BUSINESS PARK SPECIFIC PLAN FOCUSED CONSTRUCTION NOISE ASSESSMENT

Urban Crossroads, Inc. has completed the following Noise Assessment for the Bloomington Business Park Specific Plan (Project), which is located south of Santa Ana Avenue, west of Linden Avenue, north of Jurupa Avenue, and east of Alder Avenue in the unincorporated area of Bloomington in the County of San Bernardino.

PROJECT OVERVIEW

On July 23, 2021, Urban Crossroads, Inc. prepared a detailed noise impact analysis (2021 Noise Study) report for the Bloomington Business Park Specific Plan Project. The proposed Project evaluated in the 2021 Noise Study included the redevelopment of the approximately 213-acre Specific Plan Area, which would develop up to 3,235,836 square feet (sf) of industrial uses.

BACKGROUND

On December 16, 2022, the People's Collective for Environmental Justice; Center for Community Action and Environmental Justice; Center for Biological Diversity; and Sierra Club filed a lawsuit in the Superior Court of State of California for the County of San Bernardino challenging the adequacy of the Bloomington Business Park Specific Plan Environmental Impact Report (EIR) and the 2021 Noise Study contained therein. On September 17, 2024, the Court Ruling (included in Appendix 1) determined that the EIR and 2021 Noise Study violated the California Environmental Quality Act (CEQA) by only using an absolute noise level as the threshold of significance in evaluating construction noise impacts.

The Court Ruling recognized that the lead agency (County of San Bernardino) has substantial discretion in determining the appropriate threshold of significance to evaluate the severity of a particular impact, but it failed to consider and discuss the magnitude of the noise increase caused by construction. A lead agency should consider both the increase in noise level and the absolute noise level associated with a Project. The Court found that, in effect, the 2021 Noise Study did not set forth a construction noise standard necessary to assess the increase in ambient noise levels in the Project vicinity above levels existing without the Project.

NOISE PREDICTION MODEL

To fully describe the construction noise levels from the Project, Urban Crossroads, Inc. developed a noise prediction model using the CadnaA (Computer Aided Noise Abatement) computer program. CadnaA can analyze multiple types of noise sources using the spatially accurate Project site plan, georeferenced aerial imagery, topography, buildings, and barriers in its calculations to predict outdoor noise levels. Using the ISO 9613-2 protocol, CadnaA calculates the noise levels at each receiver based on the distance from each noise source to the noise receiver locations, the ground absorption, distance, and the effects of barrier/building attenuation and provides a summary of noise level at each receiver. The model can also be used to determine the partial noise level contributions by noise source at each receiver. A default ground attenuation factor of 0.5 was used in the CadnaA noise analysis to account for mixed ground representing a combination of hard and soft surfaces.

RECEIVER LOCATIONS

To assess the potential for long-term operational and short-term construction noise impacts, the following sensitive receiver locations, as shown on Exhibits 1 to 3, were identified as representative locations for analysis. To describe the potential off-site Project noise levels, the 2021 Noise Study identified 20 receiver locations in the vicinity of the Project site for Opening Year Development (OYD) Option 1, Opening Year Development (OYD) Option 2, and Specific Plan (SP) Conditions.

CONSTRUCTION NOISE

To prevent high levels of construction noise from impacting noise-sensitive land uses, County of San Bernardino Development Code Section 83.01.080[g][3], provided in Appendix 2, states that construction activities are limited to the hours of 7:00 a.m. to 7:00 p.m. on any day and limited at any time on Sundays and federal holidays. Generally, there are commonly two types of noise standards, absolute and relative.

- Absolute standards are quantified thresholds that represent a fixed noise limit and consider a potential impact that is independent of the pre-existing outdoor ambient sound level.
- Relative standards are quantified thresholds, expressed as an allowable increase in decibels, attributed to the construction noise over the pre-existing outdoor ambient sound level.

In accordance with the court ruling, this noise assessment thoroughly examines both the absolute and relative construction noise thresholds, as well as the project's compliance with them.

EXHIBIT 1: OYD 1 CONSTRUCTION NOISE SOURCE LOCATIONS

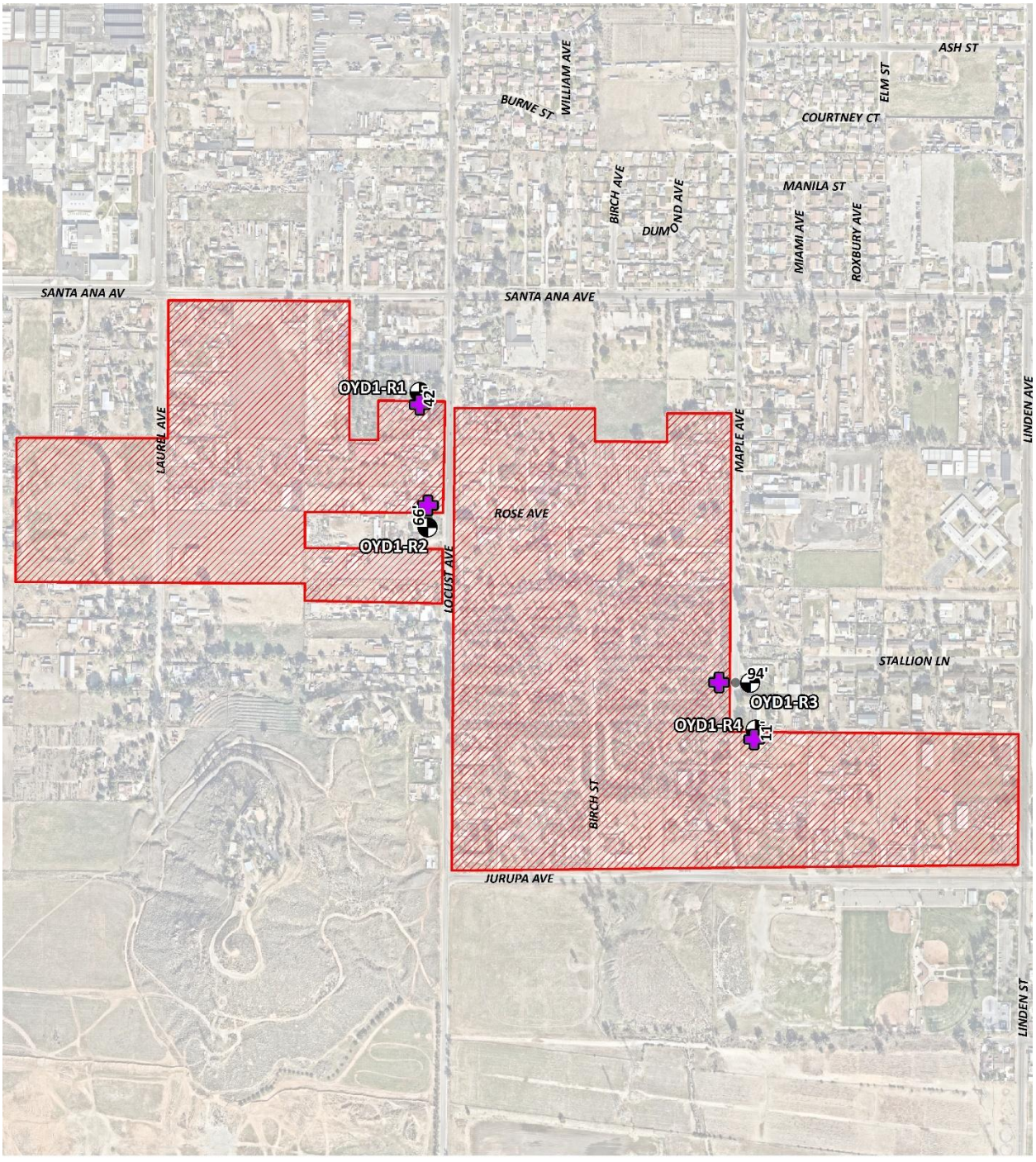
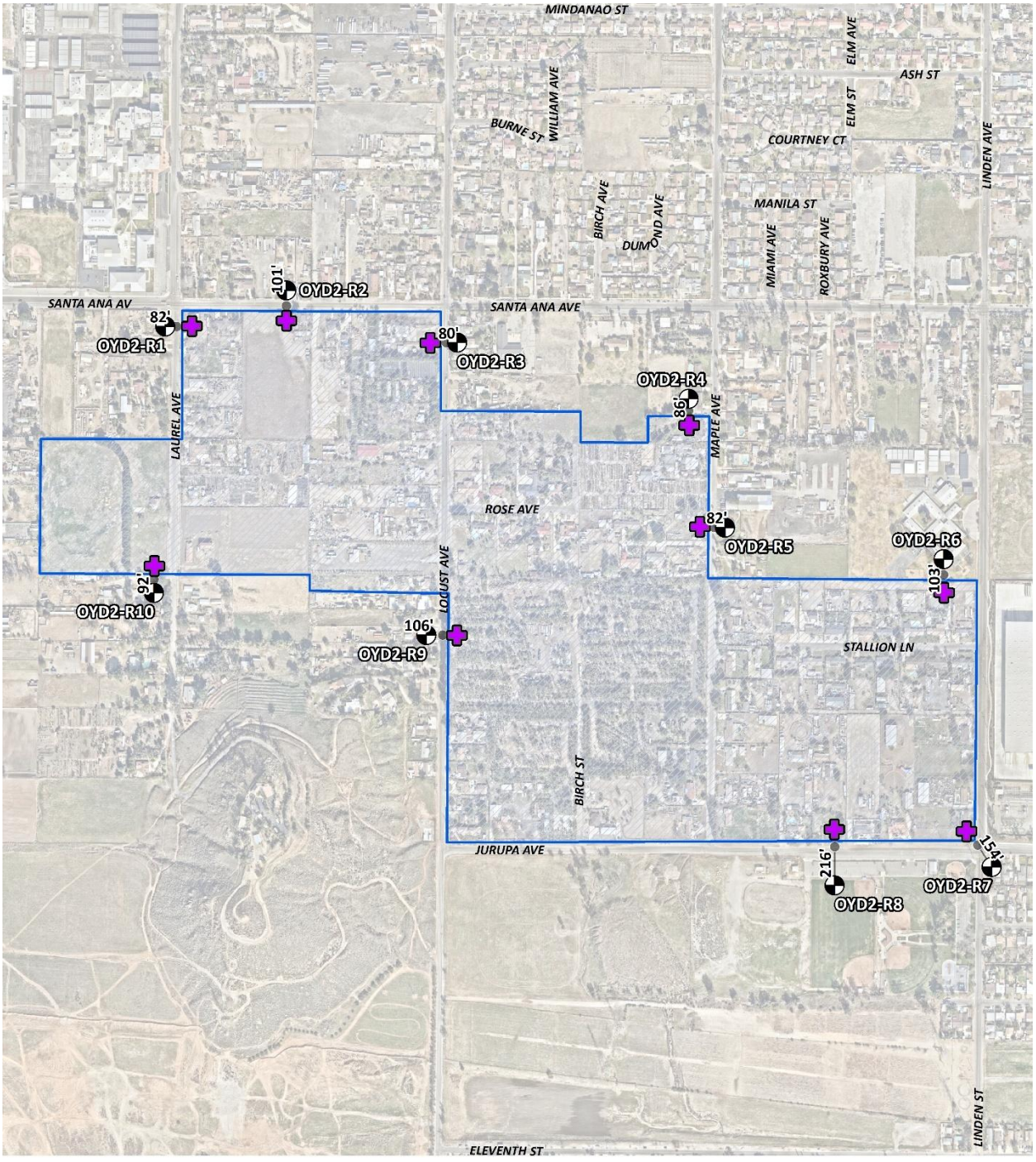


EXHIBIT 2: OYD 2 CONSTRUCTION NOISE SOURCE LOCATIONS



LEGEND:

N

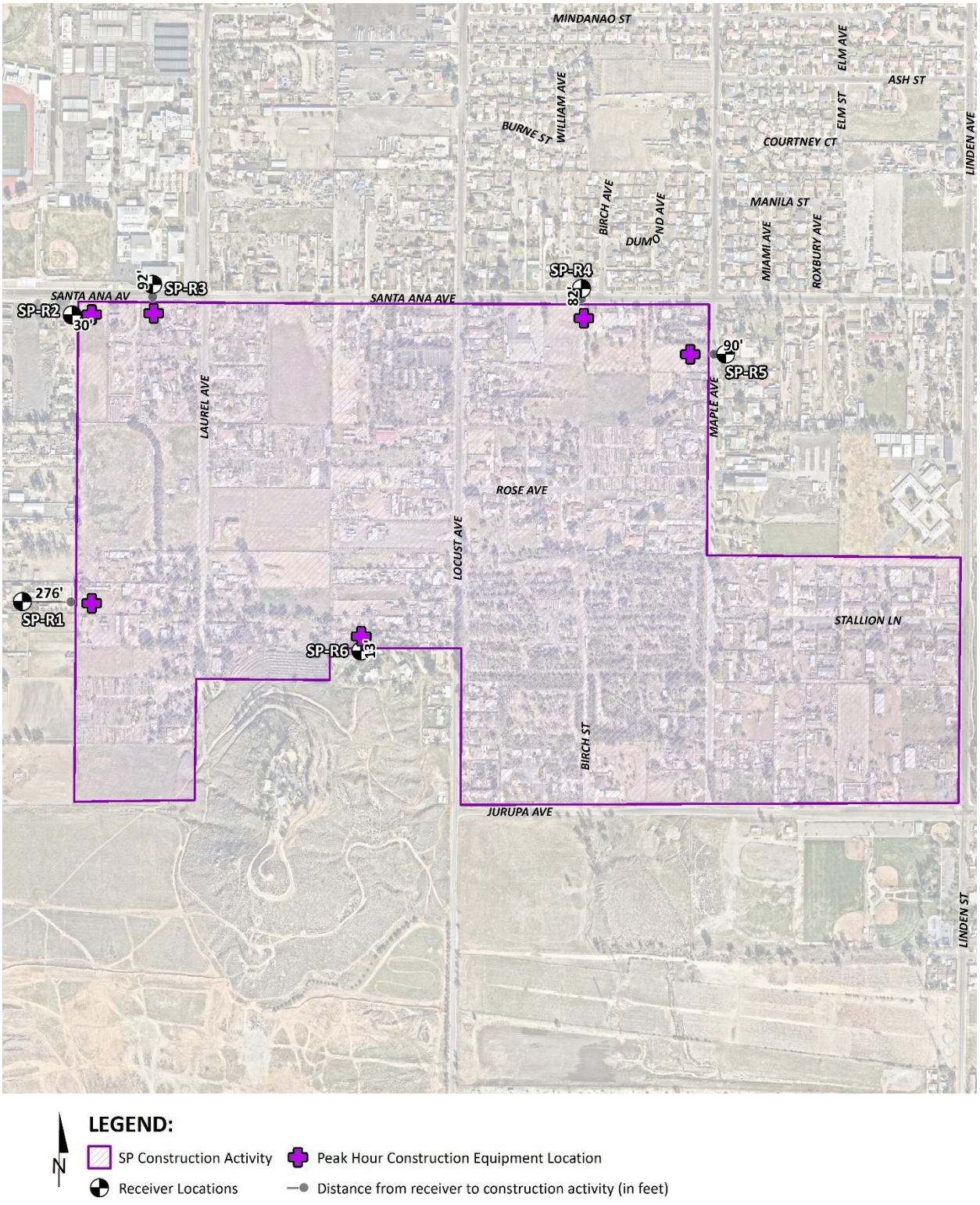
OYD2 Construction Activity

Peak Hour Construction Equipment Location

Receiver Locations

Distance from receiver to construction activity (in feet)

EXHIBIT 3: SP CONSTRUCTION NOISE SOURCE LOCATIONS



CONSTRUCTION NOISE IMPACTS (ABSOLUTE)

The County of San Bernardino does not establish quantitative construction noise standards, instead the County has established limits to the hours of construction activities. While Section 83.01.080[g][3] of the County of San Bernardino Development Code indicates that construction activity is considered exempt from the noise level standards between the hours of 7:00 a.m. to 7:00 p.m. except on Sundays and Federal holidays. However, neither the County's General Plan nor the County Code establish a numeric maximum acceptable construction noise level threshold (absolute) at potentially affected receivers for CEQA analysis purposes. Therefore, an absolute construction noise threshold was developed based on a review of the applicable standards of other agencies outlined below:

NIOSH Noise Criteria

Previously approved County of San Bernardino noise impact analysis reports prepared by Urban Crossroads, Inc. relied on a 85 dBA L_{eq} construction noise level threshold adopted from the *Criteria for Recommended Standard: Occupational Noise Exposure* prepared by the National Institute for Occupational Safety and Health (NIOSH). (1) A division of the U.S. Department of Health and Human Services, NIOSH identifies a noise level threshold based on the duration of exposure to the source. The NIOSH construction-related noise level threshold starts at 85 dBA for more than eight hours per day, and for every 3 dBA increase, the exposure time is cut in half. This results in noise level thresholds of 88 dBA for more than four hours per day, 92 dBA for more than one hour per day, 96 dBA for more than 30 minutes per day, and up to 100 dBA for more than 15 minutes per day. The NIOSH construction noise criteria is specifically designed for occupational settings where workers are exposed to noise for extended periods in a controlled environment with hearing protection measures. Therefore, the NIOSH noise criteria are not appropriate for assessing construction noise impacts on residential areas.

OSHA Noise Criteria

To prevent long periods of exposure to high noise levels, the Occupational Safety and Health Administration (OSHA) requires hearing protection be provided by employers in workplaces where the noise levels may, endanger the hearing of their employees, such as construction equipment operators. Standard 29 CFR, Part 1910 indicates the noise levels under which a hearing conservation program is required to be provided to workers exposed to high noise levels. (2) The noise analysis prepared by Urban Crossroads, Inc. does not evaluate the noise exposure of construction workers within the Project site based on CEQA requirements, and instead, evaluates the Project-related construction noise levels at the nearby sensitive receiver locations in the Project study area. Further, periodic exposure to high noise levels in short duration, such as Project construction, is typically considered an annoyance and not impactful to human health. It would take several years of exposure to high noise levels to result in hearing impairment. (3)

These criteria establish permissible noise exposure limits based on duration, similar to NIOSH, and are intended for industrial or construction workforces rather than the general public. OSHA thresholds are based on workplace safety rather than community noise standards, which focus on minimizing disruption to daily activities, sleep, and overall quality of life. Thus, OSHA noise criteria are not appropriate for assessing construction noise impacts on residential areas.

Caltrans Construction Noise Criteria

Caltrans guidance as a state agency often cited as reference in CEQA documents, according to Caltrans Standard Specifications, construction noise levels shall not exceed 86 dBA L_{max} at 50 feet from the job site activities between the hours of 9:00 p.m. to 6:00 a.m. (4) Caltrans construction noise criteria differ from NIOSH and OSHA because they are specifically designed for reducing noise impacts in a community settings, including residential areas. Caltrans recognizes that construction noise can cause temporary but significant disturbances, so its criteria focus on minimizing disruption to the public rather than occupational safety.

Unlike NIOSH and OSHA, which set exposure limits for workers based on duration and hearing protection, Caltrans establishes noise thresholds based on time of day sensitivity to noise. Since Caltrans criteria are more aligned with environmental and community noise management, they are more appropriate for evaluating noise impacts on residential receivers than occupational noise standards. However, the Caltrans criteria does not address the noise level at the point of concern, necessary to assess a project's construction impacts at noise- sensitive land uses.

FTA Construction Noise Criteria

Unlike the Caltrans construction noise criteria, the Federal Transit Administration (FTA) establishes receiver-based thresholds to assess construction noise at the point of impact rather than at a fixed reference distance. Because FTA criteria more accurately reflect the actual impact on residential communities noise-sensitive receivers, and the FTA construction noise thresholds are recognized by many California jurisdictions and used in environmental assessments conducted under CEQA, this noise assessment and the 2021 Noise Study follow FTA guidance for construction noise evaluation.

According to the FTA *Transit Noise and Vibration Impact Assessment Manual,* local noise ordinances are typically not very useful in evaluating construction noise impacts. They usually relate to nuisance and hours of allowed activity, and sometimes specify limits in terms of maximum levels, but are generally not practical for assessing the impact of a construction project. Project construction noise criteria should account for the existing noise environment, the absolute noise levels during construction activities, the duration of the construction, and the adjacent land use. (5 p. 172) Due to the lack of standardized construction noise thresholds, the FTA provides guidelines that "can be considered reasonable criteria for (construction noise) assessment". (5 p. 179) The FTA identifies two types of construction noise assessment criteria, general and detailed. For general construction noise assessments, the analysis is limited to the L_{max} of the two noisiest pieces of equipment with an hourly daytime exterior noise level threshold for residential land use of 90 dBA $L_{eq(1hr)}$. (5 p. 179)

For more detailed construction noise assessments, the analysis should include all anticipated equipment along with the typical usage factor for each piece of equipment. Detailed construction noise assessments should use an 8-hour daytime exterior noise level threshold for residential land uses of 80 dBA $L_{eq(8hr)}$. Based on the FTA guidance, an absolute daytime exterior construction noise level of 80 dBA L_{eq} is used as a reasonable threshold to assess construction noise impacts while using the FTA detailed analysis construction noise methodology. (5 p. 179)

Construction Stages

The FTA *Transit Noise and Vibration Impact Assessment Manual* recognizes that construction projects are accomplished in several different stages and outlines the procedures for assessing noise impacts during construction. Each stage of construction has a specific equipment mix, depending on the work to be completed during that stage. As a result of the equipment mix, each stage has its own noise characteristics; some stages have higher continuous noise levels than others, and some have higher impact noise levels than others. (5 p. 177) The Project construction activities are expected to occur in the following stages:

- Demolition
- Site Preparation
- Grading
- Building Construction
- Paving
- Architectural Coating

Construction Reference Noise Levels

To describe construction noise activities, this construction noise analysis was prepared using reference construction equipment noise levels from the Federal Highway Administration (FHWA) published in the Roadway Construction Noise Model (RCNM). The RCNM includes a national database of construction equipment reference noise emission levels, including a comprehensive list of the noise-generating characteristics of specific types of construction equipment. (6 p. 3) In addition, the database provides a usage factor to estimate the fraction of time each piece of construction equipment is operating at full power (i.e., its loudest condition) during a construction operation.

According to the EPA, FTA, and FHWA, the overall construction noise level is governed primarily by the noisiest pieces of equipment. The quieter pieces do not affect the overall level, but they do reduce the magnitude of the fluctuations in the noise level. Therefore, a rough estimate of the noise level needs only to include the noisiest pieces of equipment expected at the site. (7) Consistent with FHWA and FTA guidance for detailed construction noise assessment, Table 1 presents the combined noise levels for the loudest construction activities expected for each stage, assuming all equipment operates simultaneously.

TABLE 1: CONSTRUCTION REFERENCE NOISE LEVELS

Construction Stage	Reference Construction Equipmnet[1]	Reference Noise Level @ 50 Feet (dBA L_{eq})	Composite Reference Noise Level (dBA L_{eq})[2]	Reference Power Level (dBA L_w)[3]
Demolition	Concrete Saw	83	86.8	118.4
	Grapple (on backhoe)	83		
	Gradall	79		
Site Preparation	Tractor	80	84.0	115.6
	Backhoe	74		
	Grader	81		
Grading	Scraper	80	83.3	114.9
	Excavator	77		
	Dozer	78		
Building Construction	Crane	73	81.1	112.8
	Tractor	80		
	Welder/Torch	70		
Paving	Paver	74	77.8	109.5
	Dump Truck	72		
	Roller	73		
Architectural Coating	Man Lift	68	79.8	111.4
	Compressor (air)	74		
	Generator	78		

[1] FHWA Road Construction Noise Model.
[2] Represents the combined noise level for all equipment assuming they operate at the same time.
[3] The total amount of acoustical energy produced by a sound source independent of distance or surroundings.

CONSTRUCTION NOISE ANALYSIS

Construction projects involve various stages, and activities that frequently shift from one location to another. For example, during site preparation and grading, noise-generating activities may concentrate in one area for a short period to remove an obstruction, while the majority of the grading involves the equipment moving back and forth in a predictable pattern throughout the entirety of a site. Building construction and foundation work generally concentrate near the building footprint, while paving generally involves a predictable pattern of movement throughout the site. Therefore, typical construction activities are best evaluated as multiple moving point sources within the limits of construction (project site boundary) since the speed and power of the equipment vary, and the equipment constantly changes position in terms of its distance and direction relative to the receivers. (5) However, to present a conservative analysis of the construction noise levels when equipment is operating near the limits of construction, this analysis also describes the peak hour $L_{eq(1hr)}$ Project construction equipment noise levels. Using the reference noise levels of construction equipment in Table 1, the construction noise source activities shown in Exhibits 1 through 3, and the CadnaA noise prediction model, the typical $L_{eq(8hr)}$ and the peak hour equipment $L_{eq(1hr)}$ construction noise levels at nearby receiver locations were calculated.

Typical Project Construction Noise Levels

To account for the dynamic nature of the typical construction activities, the CadnaA noise analysis evaluates the construction noise source activities as multiple moving point sources, or construction crews, within the limits of construction. Construction impacts are based on the highest noise level calculated for all stages at each receiver location. As shown on Table 2, the construction noise levels are expected to range from 60.1 to 69.1 dBA $L_{eq(8hr)}$ at the nearby receiver locations. Appendix 3 includes the typical construction noise model calculations.

TABLE 2: TYPICAL CONSTRUCTION NOISE LEVEL SUMMARY BY STAGE

Receiver Location[1]	Typical Construction Noise Levels (dBA $L_{eq(8hr)}$)						
	Demolition	Site Preparation	Grading	Building Construction	Paving	Architectural Coating	Highest Levels[2]
OYD1-R1	68.4	65.6	64.9	62.7	59.4	61.4	68.4
OYD1-R2	69.1	66.3	65.6	63.4	60.1	62.1	69.1
OYD1-R3	65.8	63.0	62.3	60.1	56.8	58.8	65.8
OYD1-R4	68.9	66.1	65.4	63.2	59.9	61.9	68.9
OYD2-R1	63.0	60.2	59.5	57.3	54.0	56.0	63.0
OYD2-R2	63.5	60.7	60.0	57.8	54.5	56.5	63.5
OYD2-R3	64.2	61.4	60.7	58.5	55.2	57.2	64.2
OYD2-R4	63.1	60.3	59.6	57.4	54.1	56.1	63.1
OYD2-R5	65.2	62.4	61.7	59.5	56.2	58.2	65.2
OYD2-R6	62.8	60.0	59.3	57.1	53.8	55.8	62.8
OYD2-R7	60.2	57.4	56.7	54.5	51.2	53.2	60.2
OYD2-R8	61.9	59.1	58.4	56.2	52.9	54.9	61.9
OYD2-R9	65.1	62.3	61.6	59.4	56.1	58.1	65.1
OYD2-R10	63.7	60.9	60.2	58.0	54.7	56.7	63.7
SP-R1	60.1	57.3	56.6	54.4	51.1	53.1	60.1
SP-R2	63.6	60.8	60.1	57.9	54.6	56.6	63.6
SP-R3	62.4	59.6	58.9	56.7	53.4	55.4	62.4
SP-R4	63.1	60.3	59.6	57.4	54.1	56.1	63.1
SP-R5	62.4	59.6	58.9	56.7	53.4	55.4	62.4
SP-R6	66.6	63.8	63.1	60.9	57.6	59.6	66.6

[1] Construction noise source and receiver locations are shown on Exhibits 1, 2 and 3.

[2] Construction noise level calculations included in Appendix 3 are based on multiple moving point sources, or construction crews, operating within the limits of construction.

Peak Hour Construction Equipment Noise Levels

Construction activities are typically evaluated as mobile sources since these activities tend to vary considerably, not only as the speed and power of the equipment varies, but also as the equipment constantly changes in terms of its distance from the receivers and its relative location. (8). However, to present a conservative analysis, the peak hour Project construction equipment noise levels by stage were also calculated at the limits of construction (Project site boundary) nearest to the affected receivers. Since it is unlikely that multiple pieces of construction equipment can operate simultaneously near the limits of construction for the entire construction period, the peak hour noise analysis likely overstates the potential Project related construction noise impacts. Table 3 shows that the peak hour construction equipment noise levels are expected to range from 68.9 to 86.1 dBA $L_{eq(1hr)}$ at the nearby receiver locations. Appendix 4 includes the peak hour construction noise model calculations.

TABLE 3: PEAK HOUR CONSTRUCTION NOISE LEVEL SUMMARY BY STAGE

Receiver Location[1]	Peak Hour Construction Noise Levels (dBA $L_{eq(1hr)}$)						
	Demolition	Site Preparation	Grading	Building Construction	Paving	Architectural Coating	Highest Levels[2]
OYD1-R1	83.1	80.3	79.6	77.4	74.1	76.1	83.1
OYD1-R2	77.9	75.1	74.4	72.2	68.9	70.9	77.9
OYD1-R3	75.4	72.6	71.9	69.7	66.4	68.4	75.4
OYD1-R4	85.5	82.7	82.0	79.8	76.5	78.5	85.5
OYD2-R1	75.6	72.8	72.1	69.9	66.6	68.6	75.6
OYD2-R2	74.6	71.8	71.1	68.9	65.6	67.6	74.6
OYD2-R3	75.5	72.7	72.0	69.8	66.5	68.5	75.5
OYD2-R4	75.7	72.9	72.2	70.0	66.7	68.7	75.7
OYD2-R5	76.1	73.3	72.6	70.4	67.1	69.1	76.1
OYD2-R6	73.3	70.5	69.8	67.6	64.3	66.3	73.3
OYD2-R7	70.9	68.1	67.4	65.2	61.9	63.9	70.9
OYD2-R8	69.0	66.2	65.5	63.3	60.0	62.0	69.0
OYD2-R9	74.1	71.3	70.6	68.4	65.1	67.1	74.1
OYD2-R10	75.4	72.6	71.9	69.7	66.4	68.4	75.4
SP-R1	68.9	66.1	65.4	63.2	59.9	61.9	68.9
SP-R2	83.0	80.2	79.5	77.3	74.0	76.0	83.0
SP-R3	78.5	75.7	75.0	72.8	69.5	71.5	78.5
SP-R4	77.8	75.0	74.3	72.1	68.8	70.8	77.8
SP-R5	75.9	73.1	72.4	70.2	66.9	68.9	75.9
SP-R6	86.1	83.3	82.6	80.4	77.1	79.1	86.1

[1] Construction noise source and receiver locations are shown on Exhibits 1, 2 and 3.
[2] Construction noise level calculations included in Appendix 4 are based on equipment operating near the limits of construction.

Construction Noise Level Compliance

To evaluate whether the Project will generate potentially significant short-term noise levels at nearest receiver locations, the FTA construction-related daytime noise level threshold of 80 dBA L_{eq} is used to assess the daytime construction noise level impacts. The construction noise analysis shows that the nearest receiver locations will exceed the reasonable daytime 80 dBA L_{eq} significance threshold during Project construction activities as shown on Table 4. Therefore, the noise impacts due to Project construction noise are considered *potentially significant* at four of the twenty receiver locations and construction noise mitigation measures are required to satisfy the absolute construction noise threshold.

TABLE 4: UNMITIGATED PROJECT CONSTRUCTION NOISE COMPLIANCE (ABSOLUTE)

Receiver Location[1]	Receiver Distance (Feet)	Unmitigated Construction Noise Levels (dBA L_{eq})			
		Typical Construction Noise Levels (8-Hour)[2]	Peak Construction Noise Levels (1-Hour)[3]	Threshold[4]	Threshold Exceeded?[5]
OYD1-R1	42'	68.4	83.1	80	**Yes**
OYD1-R2	66'	69.1	77.9	80	No
OYD1-R3	94'	65.8	75.4	80	No
OYD1-R4	11'	68.9	85.5	80	**Yes**
OYD2-R1	82'	63.0	75.6	80	No
OYD2-R2	101'	63.5	74.6	80	No
OYD2-R3	80'	64.2	75.5	80	No
OYD2-R4	86'	63.1	75.7	80	No
OYD2-R5	82'	65.2	76.1	80	No
OYD2-R6	103'	62.8	73.3	80	No
OYD2-R7	154'	60.2	70.9	80	No
OYD2-R8	216'	61.9	69.0	80	No
OYD2-R9	106'	65.1	74.1	80	No
OYD2-R10	92'	63.7	75.4	80	No
SP-R1	276'	60.1	68.9	80	No
SP-R2	30'	63.6	83.0	80	**Yes**
SP-R3	92'	62.4	78.5	80	No
SP-R4	82'	63.1	77.8	80	No
SP-R5	90'	62.4	75.9	80	No
SP-R6	13'	66.6	86.1	80	**Yes**

[1] Construction equipment noise source and receiver locations are shown on Exhibits 1, 2 and 3.
[2] Typical construction equipment noise levels as shown on Table 2.
[3] Peak Hour construction equipment noise level as shown on Table 3.
[4] Federal Transit Administration, Transit Noise and Vibration Impact Assessment Manual.
[5] Do the estimated Project construction noise levels exceed the construction noise level threshold?

To reduce the short-term construction noise levels, The following mitigation measures are required to reduce noise levels produced by the construction equipment.

MM-1 The Project Contractor shall install a minimum 8-foot-high temporary construction noise barrier at the limits of construction adjacent to any noise sensitive receiver located within 80 feet of the limits of construction (Project site boundary) and a 12-foot-high temporary construction noise barrier for any noise sensitive receiver located within 20 feet. The noise control barriers must have a solid face from top to bottom. The noise control barriers must meet the minimum height and be constructed as follows:

- The temporary noise barriers shall provide a minimum transmission loss of 20 dBA (Federal Highway Administration, Noise Barrier Design Handbook). The noise barrier shall be constructed using an acoustical blanket (e.g. vinyl acoustic curtains or quilted blankets) attached to the construction site perimeter fence or equivalent temporary fence posts.
- The noise barrier must be maintained, and any damage promptly repaired. Gaps, holes, or weaknesses in the barrier or openings between the barrier and the ground shall be promptly repaired.
- The noise control barrier and associated elements shall be completely removed, and the site appropriately restored upon the conclusion of the construction activity.

MM-2 Prior to issuance of demolition and/or grading permits, County staff shall ensure that grading plans, construction specifications, and permits state that construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards.

MM-3 Prior to issuance of demolition and/or grading permits, County staff shall ensure that grading plans, construction specifications, and permits state that all stationary construction equipment shall be placed in such a manner so that emitted noise is directed away from any sensitive receivers.

MM-4 Prior to issuance of demolition and/or grading permits, County staff shall ensure that grading plans, construction specifications, and permits state that construction equipment staging areas shall be located at the greatest feasible distance from the nearest sensitive receivers.

MM-5 Prior to issuance of demolition and/or grading permits, County staff shall ensure that grading plans, construction specifications, and permits state that the construction contractor shall limit equipment and material deliveries to between the hours of 7:00 am and 7:00 pm on weekdays and Saturdays.

MM-6 Prior to issuance of demolition and/or grading permits, County staff shall ensure that grading plans, construction specifications, and permits state that electrically powered air compressors and similar power tools shall be used, whenever technologically feasible, in place of diesel equipment.

MM-7 Prior to issuance of demolition and/or grading permits, County staff shall ensure that grading plans, construction specifications, and permits state that no music or electronically reinforced speech from construction workers shall be allowed.

Table 5 shows that the mitigated construction noise levels at the nearest noise sensitive receiver locations will not exceed the 80 dBA L_{eq} construction noise level threshold. Therefore, construction noise impacts are considered *less than significant* with mitigation at the nearby noise-sensitive receiver locations. Appendix 3 includes the mitigated construction noise calculations.

TABLE 5: MITIGATED PROJECT CONSTRUCTION NOISE COMPLIANCE (ABSOLUTE)

Receiver Location[1]	Mitigated Construction Noise Levels (dBA L_{eq})			
	Typical Construction Noise Levels (8-Hour)[2]	Peak Construction Noise Levels (1-Hour)[3]	Threshold[4]	Threshold Exceeded?[5]
OYD1-R1	68.0	78.0	80.0	No
OYD1-R2	68.1	72.9	80.0	No
OYD1-R3	60.9	70.2	80.0	No
OYD1-R4	59.8	72.4	80.0	No
OYD2-R1	63.0	70.7	80.0	No
OYD2-R2	63.5	69.7	80.0	No
OYD2-R3	64.2	70.5	80.0	No
OYD2-R4	63.1	70.8	80.0	No
OYD2-R5	65.2	71.2	80.0	No
OYD2-R6	62.8	68.4	80.0	No
OYD2-R7	60.2	66.1	80.0	No
OYD2-R8	61.9	64.2	80.0	No
OYD2-R9	65.1	69.3	80.0	No
OYD2-R10	63.7	70.5	80.0	No
SP-R1	60.1	62.3	80.0	No
SP-R2	63.6	74.6	80.0	No
SP-R3	62.4	70.4	80.0	No
SP-R4	63.1	70.1	80.0	No
SP-R5	62.4	68.8	80.0	No
SP-R6	66.6	76.6	80.0	No

[1] Construction equipment noise source and receiver locations are shown on Exhibits 1, 2 and 3.
[2] Typical construction equipment noise levels as shown on Table 2.
[3] Peak Hour construction equipment noise level as shown on Table 3.
[4] Federal Transit Administration, Transit Noise and Vibration Impact Assessment Manual.
[5] Do the estimated Project construction noise levels exceed the construction noise level threshold?

SUBSTANTIAL TEMPORARY NOISE LEVEL INCREASE (RELATIVE)

To control the noise-generating construction activities, the temporary noise level increases over the existing *ambient* conditions must be considered under CEQA Significance Threshold A. This is necessary to consider the magnitude of the construction noise increases caused by the Project.

COMMUNITY RESPONSE TO NOISE

Community responses to noise vary depending upon everyone's susceptibility to noise and personal attitudes about noise. Approximately 16 percent of the population has a very low tolerance for noise and will object to any noise not of their making. Consequently, even in the quietest environment, some complaints may occur. Twenty to thirty percent of the population will not complain even in very severe noise environments. (10 pp. 8-6) Thus, a variety of reactions can be expected from people exposed to any given noise environment. Surveys have shown that community response to

noise varies from no reaction to vigorous action for newly introduced noises averaging from 10 dB below existing to 25 dB above existing. (5) According to research originally published in the Noise Effects Handbook (10), the percentage of high annoyance ranges from approximately 0 percent at 45 dB or less, 10 percent are highly annoyed around 60 dB, and increases rapidly to approximately 70 percent being highly annoyed at approximately 85 dB or greater. Despite this variability in behavior on an individual level, a change of 3 dBA is considered *barely perceptible*, and changes of 5 dBA are considered *readily perceptible*. (11) An increase of 10 dBA is considered twice as loud.

Construction Noise Level Increase Thresholds

The 2021 Noise Study relies on the FICON criteria that were developed to assess long-term or permanent increases in noise, such as those from transportation projects. Construction noise, however, represents short-term events that do not permanently alter the ambient noise environment. Therefore, this analysis relies on a separate, more appropriate threshold needed to evaluate the *substantial* short-term construction noise level increase. The Federal Highway Administration (FHWA) allows state highway agencies to define what constitutes a *substantial* noise level increase in highway projects, but the increase cannot exceed 15 dBA. This means individual states have flexibility in setting their own thresholds, as long as they do not go beyond this maximum limit. (11 p. 25)

In California, a *substantial* noise increase is considered to occur when the "project's predicted worst-hour design-year noise level exceeds the existing worst-hour noise level by 12 dBA or more." (12 pp. 3-2) The substantial noise increase criterion is independent of the absolute noise level and is based on the change in noise level from the existing condition. According to the Caltrans Traffic Noise Analysis Protocol, the use of 12 dB was established in California many years ago and is based on the concept that a 10 dB increase generally is perceived as a doubling of permanent loudness. (12 pp. 3-2) Therefore, if the Project-related construction noise levels generate a temporary noise level increase above the existing ambient noise levels of up to 12 dBA L_{eq}, then the Project construction noise level increases will be considered a *potentially significant impact*. . While this analysis relies on the 12 dBA L_{eq} *substantial* noise level increase threshold, it is important to recognize that many jurisdictions within the State including the City of Los Angeles no longer maintain any daytime noise increase threshold. (13) The City of Los Angeles found the 10 dBA daytime construction noise increase thresholds previously employed in the City of Los Angeles to be overly conservative, especially in the context of impacts on public health that often results in significant impact determination, even for routine construction activities that are expected to occur in an urban environment. Based on these findings, the updated City of Los Angeles CEQA Thresholds Guide identifies a 5 dBA nighttime construction noise increase threshold but no longer maintains a numerical threshold above ambient noise levels for daytime construction activities. The use of a 12 dBA threshold for construction noise impacts captures the significant perceptible increases while acknowledging the temporary nature of construction activities.

Construction Noise Level Increase

To describe the short-term Project construction noise level contributions to the existing ambient noise environment, the Project construction noise levels were combined with the existing *ambient* noise levels measurements at the nearest off-site receiver locations. The difference between the combined Project-construction and ambient noise levels is used to describe the construction noise level contributions. The temporary noise level increases that would be experienced at sensitive

receiver locations when the typical Project construction-source noise is added to the *ambient* daytime conditions are presented on Table 6. As indicated in Table 6, the Project will contribute to typical unmitigated construction noise increases ranging from 0.3 to 9.6 dBA $L_{eq(8hr)}$ during the daytime hours at the closest receiver locations. The typical unmitigated construction noise analysis shows that the nearest receiver locations will not exceed Caltrans' *substantial* 12 dBA L_{eq} noise increase significance threshold during typical Project construction activities. Therefore, the noise impacts due to typical Project construction relative noise increases are considered *less than significant* at all twenty receiver locations.

TABLE 6: UNMITIGATED TYPICAL CONSTRUCTION NOISE LEVEL INCREASE (RELATIVE)

Receiver Location[1]	Typical Project Construction Noise Level[2]	Measurement Location[3]	Reference Ambient Noise Levels[4]	Combined Project and Ambient[5]	Project Increase[6]	Increase Criteria[7]	Increase Criteria Exceeded?
OYD1-R1	68.4	OYD1-L1	70.6	72.6	2.0	12	No
OYD1-R2	69.1	OYD1-L1	70.6	72.9	2.3	12	No
OYD1-R3	65.8	OYD1-L2	60.9	67.0	6.1	12	No
OYD1-R4	68.9	OYD1-L2	60.9	69.5	8.6	12	No
OYD2-R1	63.0	OYD2-L1	58.6	64.3	5.7	12	No
OYD2-R2	63.5	OYD2-L2	62.5	66.0	3.5	12	No
OYD2-R3	64.2	OYD2-L3	70.6	71.5	0.9	12	No
OYD2-R4	63.1	OYD2-L4	58.9	64.5	5.6	12	No
OYD2-R5	65.2	OYD2-L5	67.2	69.3	2.1	12	No
OYD2-R6	62.8	OYD2-L6	56.5	63.7	7.2	12	No
OYD2-R7	60.2	OYD2-L7	67.9	68.6	0.7	12	No
OYD2-R8	61.9	OYD2-L8	59.2	63.8	4.6	12	No
OYD2-R9	65.1	OYD2-L9	57.5	65.8	8.3	12	No
OYD2-R10	63.7	OYD2-L10	55.3	64.3	9.0	12	No
SP-R1	60.1	SP-L1	71.1	71.4	0.3	12	No
SP-R2	63.6	SP-L2	60.8	65.4	4.6	12	No
SP-R3	62.4	SP-L3	70.1	70.8	0.7	12	No
SP-R4	63.1	SP-L4	75.0	75.3	0.3	12	No
SP-R5	62.4	SP-L5	58.9	64.0	5.1	12	No
SP-R6	66.6	SP-L6	57.5	67.1	9.6	12	No

[1] Construction noise source and receiver locations are shown on Exhibits 1, 2 and 3.
[2] Mitigated typical Project daytime construction noise levels as shown on Table 5.
[3] Reference noise level measurement locations as shown in Section 5 of the 2021 Noise Study.
[4] Observed daytime ambient noise levels as shown in Section 5 of the 2021 Noise Study.
[5] Represents the combined ambient conditions plus the typical Project construction activities.
[6] The noise level increase expected with the addition of the proposed typical Project construction activities.
[7] Caltrans substantial noise level increase criteria.

Table 7 shows that the Project would contribute unmitigated Peak Hour construction noise increases in a range of 2.0 to 28.6 dBA $L_{eq(1hr)}$. The construction noise analysis shows that the nearest receiver locations will exceed Caltrans' *substantial* 12 dBA L_{eq} noise increase significance threshold during Peak Hour Project construction activities. Therefore, the noise impacts due to Project construction noise are considered *potentially significant* at twelve of the twenty receiver locations and the construction noise mitigation measures outlined above are required to satisfy the relative construction noise increase thresholds.

TABLE 7: UNMITIGATED PEAK HOUR CONSTRUCTION NOISE LEVEL INCREASE (RELATIVE)

Receiver Location[1]	Peak Project Construction Noise Level[2]	Measurement Location[3]	Reference Ambient Noise Levels[4]	Combined Project and Ambient[5]	Project Increase[6]	Increase Criteria[7]	Increase Criteria Exceeded?
OYD1-R1	83.1	OYD1-L1	70.6	83.3	12.7	12	**Yes**
OYD1-R2	77.9	OYD1-L1	70.6	78.6	8.0	12	No
OYD1-R3	75.4	OYD1-L2	60.9	75.6	14.7	12	**Yes**
OYD1-R4	85.5	OYD1-L2	60.9	85.5	24.6	12	**Yes**
OYD2-R1	75.6	OYD2-L1	58.6	75.7	17.1	12	**Yes**
OYD2-R2	74.6	OYD2-L2	62.5	74.9	12.4	12	**Yes**
OYD2-R3	75.5	OYD2-L3	70.6	76.7	6.1	12	No
OYD2-R4	75.7	OYD2-L4	58.9	75.8	16.9	12	**Yes**
OYD2-R5	76.1	OYD2-L5	67.2	76.6	9.4	12	No
OYD2-R6	73.3	OYD2-L6	56.5	73.4	16.9	12	**Yes**
OYD2-R7	70.9	OYD2-L7	67.9	72.7	4.8	12	No
OYD2-R8	69.0	OYD2-L8	59.2	69.4	10.2	12	No
OYD2-R9	74.1	OYD2-L9	57.5	74.2	16.7	12	**Yes**
OYD2-R10	75.4	OYD2-L10	55.3	75.4	20.1	12	**Yes**
SP-R1	68.9	SP-L1	71.1	73.1	2.0	12	No
SP-R2	83.0	SP-L2	60.8	83.0	22.2	12	**Yes**
SP-R3	78.5	SP-L3	70.1	79.1	9.0	12	No
SP-R4	77.8	SP-L4	75.0	79.6	4.6	12	No
SP-R5	75.9	SP-L5	58.9	76.0	17.1	12	**Yes**
SP-R6	86.1	SP-L6	57.5	86.1	28.6	12	**Yes**

[1] Construction noise source and receiver locations are shown on Exhibits 1, 2 and 3.
[2] Mitigated Peak Hour Project daytime construction noise levels as shown on Table 5.
[3] Reference noise level measurement locations as shown in Section 5 of the 2021 Noise Study.
[4] Observed daytime ambient noise levels as shown in Section 5 of the 2021 Noise Study.
[5] Represents the combined ambient conditions plus the Peak Hour Project construction activities.
[6] The noise level increase expected with the addition of the proposed Peak Hour Project construction activities.
[7] Caltrans substantial noise level increase criteria.

Table 8 shows that the construction noise levels at the nearest noise sensitive receiver locations will not exceed Caltrans' *substantial* 12 dBA L_{eq} noise increase significance threshold with the mitigation measures that includes a minimum 8-foot-high temporary noise barrier adjacent to any noise sensitive receiver located within 80 feet of the limits of construction (Project site boundary) and a 12-foot-high temporary construction noise barrier for any noise sensitive receiver located within 20

feet. Although various mitigation measures are outlined above, only the temporary noise barriers have been quantified in the noise analysis, as the other mitigation measures describe operational restrictions. The construction noise increase analysis shows that the relative noise increases due to Peak Hour Project construction noise is considered *less than significant* with mitigation.

TABLE 8: MITIGATED PEAK CONSTRUCTION NOISE LEVEL INCREASE (RELATIVE)

Receiver Location[1]	Peak Project Construction Noise Level[2]	Measurement Location[3]	Reference Ambient Noise Levels[4]	Combined Project and Ambient[5]	Project Increase[6]	Increase Criteria[7]	Increase Criteria Exceeded?
OYD1-R1	78.0	OYD1-L1	70.6	78.7	8.1	12	No
OYD1-R2	72.9	OYD1-L1	70.6	74.9	4.3	12	No
OYD1-R3	70.2	OYD1-L2	60.9	70.7	9.8	12	No
OYD1-R4	72.4	OYD1-L2	60.9	72.7	11.8	12	No
OYD2-R1	63.0	OYD2-L1	58.6	64.3	5.7	12	No
OYD2-R2	63.5	OYD2-L2	62.5	66.0	3.5	12	No
OYD2-R3	64.2	OYD2-L3	70.6	71.5	0.9	12	No
OYD2-R4	63.1	OYD2-L4	58.9	64.5	5.6	12	No
OYD2-R5	65.2	OYD2-L5	67.2	69.3	2.1	12	No
OYD2-R6	62.8	OYD2-L6	56.5	63.7	7.2	12	No
OYD2-R7	60.2	OYD2-L7	67.9	68.6	0.7	12	No
OYD2-R8	61.9	OYD2-L8	59.2	63.8	4.6	12	No
OYD2-R9	65.1	OYD2-L9	57.5	65.8	8.3	12	No
OYD2-R10	63.7	OYD2-L10	55.3	64.3	9.0	12	No
SP-R1	60.1	SP-L1	71.1	71.4	0.3	12	No
SP-R2	63.6	SP-L2	60.8	65.4	4.6	12	No
SP-R3	62.4	SP-L3	70.1	70.8	0.7	12	No
SP-R4	63.1	SP-L4	75	75.3	0.3	12	No
SP-R5	62.4	SP-L5	58.9	64.0	5.1	12	No
SP-R6	66.6	SP-L6	57.5	67.1	9.6	12	No

[1] Construction noise source and receiver locations are shown on Exhibits 1, 2 and 3.
[2] Mitigated Peak Hour Project daytime construction noise levels as shown on Table 5.
[3] Reference noise level measurement locations as shown in Section 5 of the 2021 Noise Study.
[4] Observed daytime ambient noise levels as shown in Section 5 of the 2021 Noise Study.
[5] Represents the combined ambient conditions plus the Peak Hour Project construction activities.
[6] The noise level increase expected with the addition of the proposed Peak Hour Project construction activities.
[7] Caltrans substantial noise level increase criteria.

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5. **U.S. Department of Transportation, Federal Transit Administration.** *Transit Noise and Vibration Impact Assessment Manual, FTA Report No. 0123.* September 2018.

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9. **County of San Bernardino.** *Code of Ordinances, Title 8 Development Code, Chapter 83.01 General Performance Standards.*

10. **U.S. Environmental Protection Agency Office of Noise Abatement and Control.** *Noise Effects Handbook-A Desk Reference to Health and Welfare Effects of Noise.* October 1979 (revised July 1981). EPA 550/9/82/106.

11. **U.S. Department of Transportation, Federal Highway Administration, Office of Environment and Planning, Noise and Air Quality Branch.** *Highway Traffic Noise Analysis and Abatement Policy and Guidance.* December 2011.

12. **California Department of Transportation.** *Traffic Noise Analysis Protocol for New Highway Construction, Reconstruction, and Retrofit Barrier Projects.* April 2020.

13. **City of Los Angeles.** *Construction Noise and Vibration Updates to Thresholds and Methodology.* August 2024.

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APPENDIX 1:

COURT RULING

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JMS

SUPERIOR COURT
COUNTY OF SAN BERNARDINO
247 West Third Street, Department 23
San Bernardino, California 92415

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 17 2024

BY Kathleen Mullen DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

PEOPLE'S COLLECTIVE FOR ENVIRONMENTAL JUSTICE, CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE, CENTER FOR BIOLOGICAL DIVERSITY, AND SIERRA CLUB, Petitioners/Plaintiffs, vs. COUNTY OF SAN BERNARDINO, and DOES 1-20, Respondents, HOWARD INDUSTRIAL PARTNERS, LLC, TIM HOWARD, and DOES 21-40, Real Parties in Interest.	Case No. CIVSB2228456 RULING ON PETITION FOR WRIT OF MANDATE

This matter came before the court for a hearing on Petition for Writ of Mandate. The Court has reviewed and considered the briefs of the parties, as well as the arguments of counsel and issues its ruling as follows:

///

I. FACTUAL AND PROCEDURAL CONTEXT

On December 16, 2022, Petitioners People's Collective for Environmental Justice, Center for Community Action and Environmental Justice; Center for Biological Diversity; and Sierra Club filed a petition for writ of mandate and complaint for declaratory and injunctive relief against the County of San Bernardino and Real Parties in Interest Howard Industrial Partners, LLC and Tim Howard. Petitioners allege a cause of action under the California Environmental Quality Act (CEQA).[1] By stipulation and order entered in September 26, 2023, the parties agreed that Phase 1 of the proceedings will address Petitioners' CEQA claims.

A. Bloomington Business Park Specific Plan Project

The CEQA Project at issue includes the following components. The Bloomington Business Park Specific Plan, which is a land-use guiding document providing for development of a 213-acre area for industrial and business park uses with the maximum development potential of 3,235,836 square feet. The Specific Plan area is divided into Planning Area A and Planning Area B. Planning Area A includes 141.4 acres and a proposed opening year of 2022. Planning Area B includes 71.6 acres and a proposed buildout year of 2040. The last component of the Project calls for rezoning of a separate residential site outside the Specific Plan area. (AR 193-194.)

The Project requires rezoning of the Specific Plan Area from residential to industrial, which affects 117 homes. (AR 286, 383, 775-776.) Outside the 213-acre Specific Plan Area, the Project also will rezone a 24-acre residential site (Upzone Site) from low density residential to medium

[1] The operative second amended petition for writ of mandate and complaint for declaratory and injunctive relief alleges the following causes of action: (1) violation of CEQA: inadequate final EIR; failure to provide meaningful opportunity for Spanish-speaking residents to participate; (2) ordinary mandamus and declaratory and injunctive relief; duty to affirmatively further fair housing; (3) ordinary mandamus and declaratory and injunctive relief; Fair Employment and Housing Act; (4) claim under Government Code section 12989.1, subdivision (a) for declaratory and injunctive relief; Fair Employment and Housing Act; (5) declaratory and injunctive relief; duty to affirmatively further fair housing.

density residential. (AR 196, 286.) The Upzone Site will result in additional residential development capacity to offset residences lost from rezoning the Specific Plan Area to industrial. (AR 196.)

For Planning Area A, the County evaluated specific industrial park development applications (Option 1), as well as a "maximum reasonable" development (Option 2). (AR 194-195.) Therefore for Planning Area A, two opening year developments were considered: (1) Opening Year Development – Option 1; and (2) Opening Year Development – Option 2.

For Opening Year Development – Option 1, Real Party Howard Industrial Partners submitted development applications. Option 1 consists of construction and operation of three warehouse structures and a truck trailer parking lot on four development sites encompassing approximately 115 acres (Development Sites 1 through 4), with an opening year of 2022. Development is expected to occur in phases, with Phase 1 involving Development of Site 1, a 383,000 square foot warehouse (fulfillment center), and Site 2, a 1,251,640 square foot warehouse (high-cube warehouse). Phase 2 involves construction of Site 3, a 479,000 square foot warehouse (fulfillment center), and Site 4, a 9.5 acre trailer parking lot with 289 truck trailer parking stalls. All four sites may be developed in one phase. Under Option 1, the buildout of the remaining Specific Plan is to be constructed as part of Phase 3. In total, Option 1, will result in the construction of 2,113,640 square feet of light industrial building space. (AR 194-195, 269.)

Opening Year Development – Option 2 involves a potential "maximum reasonable" development scenario. Option 2 was reviewed because the EIR provides programmatic level analysis.[2] No applications for Option 2 were submitted and the EIR analyzed it on a programmatic level, except for impacts stated to be analyzed at a project level. (AR 196-197, 270.) Under Option 2, the warehouses on Sites 1 and 3 are increased to 710,400 square feet and 750,000 square feet respectively, which will result in development of 2,712,040 square feet of light industrial buildings

[2] The DEIR sets forth Project impacts analyzed at either the project or the programmatic level. (AR 196-197.)

on Sites 1, 2, and 3, which is below the square feet building capacity of Planning Area A. (AR 195, 270.)

The Future Development Area – Specific Plan Buildout, included Planning Area B, and results in buildout of the maximum development capacity allowed under the floor area ratios (FAR) for Planning Area A and Planning Area B. The Specific Plan Buildout scenario is in addition to either Opening Year – Option 1 or Option 2, whichever is constructed in Planning Area A. Under the Specific Plan Buildout scenario, all 213 acres will be developed with 3,235,836 of light industrial and business park uses. Again, for purpose of analysis, it was assumed that construction of all four sites in Planning Area A under Option 1 will commence concurrently over a 14 month period and will be operational in 2022. Buildout of Planning Area B will occur by 2040 as Phase 3. (AR 196, 270.)

The Specific Plan applies an Industrial/Business Park (I/BP) land use designation on developable non-roadway areas in the Specific Plan area. The designation is intended to accommodate a variety of operations, including warehousing and distribution facilities, assembly, light manufacturing, logistics, e-commerce, processing and manufacturing of goods and materials, and outdoor storage of trucks and trailers. (AR 272-273.)

Finally, the Upzone will redesignate the Upzone site from low density residential (LDR) to medium density residential (MDR) and rezone the Upzone site from Residential Single with 20,000 square foot minimums (RS-20M) to Residential Multiple (RM). The change in zoning will allow for development of up to 480 dwelling units on the Upzone site to offset housing capacity lost from rezoning the 213-acre Specific Plan area to a non-residential zone. (AR 196.)

B. EIR Approval

On September 23, 2021, the County released a draft environmental impact report (DEIR). (AR 177-10758, 27832-27863.) The DEIR found that even with mitigation, the Project will have "significant and unavoidable" environmental air quality impacts due to volatile organic compounds (VOC) and nitrogen oxide (NOx) emissions. (AR 200, 464-468, 487.) It also found the Project will

have significant environmental impacts on greenhouse gas (GHG) emissions that were found less than significant with mitigation. (AR 229-231.) Noise impacts found significant also will be reduced to less than significant with mitigation. (AR 239-244.)

Petitioners discuss that over 200 individual comments were made in opposition to the Project, citing AR 12924-13782, SAR 172, and SAR 231. Government agencies, school districts, and community and environmental organizations also commented on the Project and raised issues with the DEIR's analysis, including air pollution issues for area residences and schools. (See, e.g., AR 12213-12219, 12268-12307, 12385-12391, 12403-12428, 12731-12754, 12866-12874, 12908-12911.)

The County's Planning Commission held a hearing in September 2022, and recommended the County Board of Supervisors approve the Project and certify the Final EIR (FEIR). (AR 15457-15458.) Petitioners assert that despite opposition and issues raised, the County released the FEIR on October 29, 2022, two weeks before the County's scheduled hearing on the Project. (AR 10759-13898 [FEIR and Supplemental Appendices].) Petitioners contend that the FEIR includes new documents and analysis, including a supplemental air quality analysis, a 1,300 page Health Risk Assessment, a 120-page traffic analysis, and a new analysis on environmental justice impacts.

On November 15, 2022, the County held a public hearing. It approved the Project and certified the FEIR. (AR 1-2, 15045-15046.)

Now at issue are Petitioners' CEQA claims. The County and Real Party in Interest Howard Industrial Partners, LLC (collectively Respondents) oppose. Petitioners reply. Petitioners also filed a Request for Judicial Notice, to which Respondents object.

Petitioners raise the following CEQA issues:

- Whether the EIR adequately analyzed Project alternatives, including (1) whether the EIR's list of Project objectives is unduly narrow; (2) whether the EIR evaluated a reasonable range of Project alternatives and misrepresented Alternative 3 as a meaningful alternative; and (3) whether substantial evidence supports the County's findings that the alternatives are infeasible;

- Whether the EIR adequately analyzed the Project's traffic impacts;
- Whether the EIR adequately analyzed and mitigated the Project's air quality impacts;
- Whether the EIR adequately analyzed and mitigated the Project's GHG emissions impacts;
- Whether the EIR adequately analyzed the Project's impacts on energy resources;
- Whether the EIR adequately disclosed and analyzed the Project's noise impacts;
- Whether the County abused its discretion in failing to recirculate its new environmental justice analysis, which analysis Petitioners also assert is inadequate;
- Whether substantial evidence supports the cumulative impacts analysis; and
- Whether the County abused its discretion by refusing to translate the EIR and have Spanish-language translators at important public hearings.

On June 21, 2024, the hearing on the CEQA issues came before the court.

II. DISCUSSION

A. Legal Standard

Before approving a project, CEQA requires a public agency determine if the project may have significant environmental impacts. (Pub. Resources Code, § 21151, subd. (a).) Under CEQA and CEQA Guidelines, if a project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. (Pub. Resources Code, §§ 21100, 21151, subd. (a); CEQA Guidelines, § 15064, subds. (a)(1), (f)(1).)[3]

"'Significant effect on the environment' means a substantial or potentially substantial adverse change in the environment." (Pub. Resources Code, § 21068.) CEQA Guidelines, section 15382 states a significant effect on the environment is "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An

[3] Citation to "Guidelines" refers to the CEQA Guidelines, Title 14 of the California Code of Regulations.

economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant."

"'The basic purpose of an EIR is to "provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project."' '"'The EIR is the heart of CEQA' and the integrity of the process is dependent on the adequacy of the EIR."'" (*South of Market Community Action Network v. City & County of San Francisco* (2019) 33 Cal.App.5th 321, 329, citations omitted.)

"In reviewing an agency's compliance with CEQA, courts review for abuse of discretion. Courts will find an agency abused its discretion if it either failed to proceed in a manner required by law or reached a decision not supported by substantial evidence. '"Judicial review of these two types of error differs significantly: While we determine de novo whether the agency has employed the correct procedures, 'scrupulously enforc[ing] all legislatively mandated CEQA requirements', we accord greater deference to the agency's substantive factual conclusions. In reviewing for substantial evidence, the reviewing court 'may not set aside an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable,' for, on factual questions, our task 'is not to weigh conflicting evidence and determine who has the better argument.'"'" (*We Advocate Thorough Environmental Review v. County of Siskiyou* (2022) 78 Cal.App.5th 683, 690-691 (*WATER*), citations omitted.)

B. <u>Request for Judicial Notice</u>

With its Opening Brief, Petitioners request the Court take judicial notice of:

- Excerpts from the publicly available Final Environmental Impact Report (EIR) for the California State University (CSU) Dominguez Hills Campus Master Plan, downloaded December 7, 2023 (CSU EIR) (RJN Exh. A); and

- Office of the Attorney General Memorandum entitled, "Environmental Justice at the Local and Regional Level: Legal Background," downloaded December 7, 2023 (RJN Exh. B).

1. RJN Exhibit A – CSU EIR Excerpts

Petitioners argue CSU EIR excerpts are relevant to whether the County abused its discretion when it approved the EIR. They contend their comments on the Draft EIR directed the County to RJN Exhibit A. (AR 12791).

Respondents object, arguing the document is not part of the administrative record. They contend that the fact it was mentioned in a comment letter does not automatically make it part of the administrative record or a document before the agency at the time the decision was made. They argue it does not make it relevant to the County's decision where Petitioners failed to submit the document to the County so it could be considered as part of the administrative record. They also contend that a Master EIR for another project is not relevant to issues before the Court.

As the court discussed at the hearing, case law treats as part of the administrative record a document that a comment references by a specific webpage. Although not discussed by the parties, in *Consolidated Irrigation District v. Superior Court* (2012) 205 Cal.App.4th 697, 718-726 (*CID*), as part of a motion to augment, the Court considered whether a document in a comment letter with a citation to a specific webpage containing the document, but without a request that the document be included in the administrative record, was part of the administrative record as "written evidence … submitted" to the agency for purposes of Public Resources Code section 21167.6, subdivision (e)(7) [providing administrative record includes "[a]ll written evidence or correspondence submitted to, or transferred from, the respondent public agency with respect to compliance with this division or with respect to the project."].) (*CID, supra,* 205 Cal.App.4th at p. 718-719 [identified in case discussion as third category of documents at issue].) After concluding that documents accessible on the World Wide Web are "written" for purposes of subdivision (e)(7), the issue then became whether the documents were "submitted to" the public agency. (*CID, supra,* at p. 722.) The Court concluded that

"'written evidence'" is "'submitted to' a lead agency for purposes of section 21167.6, subdivision (e)(7) when the commenter has made the document readily available for use or study by lead agency personnel." (*CID, supra,* at p. 723.)

On the issue of whether documents named in comment letters with citation to a specific webpage containing the document had been "submitted to" the agency, the Court found the website information provided made the documents readily available to City personnel. It discussed that to access the document, "the person need only type the URL into a computer connected to the Internet" and the document appears on the computer screen with no further search required. (*Id.* at pp. 724-725.) It found a minimal burden placed on lead agency personnel "when a commenter provides the URL to the specific Web page containing the document." (*Ibid.*) As a result, the court found the petitioner's motion to augment the administrative record should have been granted for this category of information. (*Id.* at p. 725.)

Here, Petitioners argue RJN Exhibit A was before the County when it made its decision. It is unclear why Petitioners did not ask that the document be made part of the administrative record where under *CID* and Public Resources Code section 21167.6, subdivision (e)(7), it already is part of the record of the proceedings.

In light of *CID,* at the hearing this court asked the parties to stipulate to RJN Exhibit A being part of the administrative record. Petitioners and Real Parties agreed. The County commented that the document should only be considered for the parts provided.

Based on *CID* and the parties' agreement, RJN Exhibit A is treated as part of the administrative record. The portions provided are from the specific webpage referenced in the comment letter.

2. <u>RJN Exhibit B – Office of Attorney General Memorandum</u>

Petitioners request judicial notice of a Memorandum from the Attorney General's Office entitled "Environmental Justice at the Local and Regional Level: Legal Background." The Attorney

General Memorandum states, "Updated 7/10/12". Petitioners seek judicial notice of this document to describe issues and evidence they would have presented to the County had the environmental justice analysis been recirculated. They also refer to comments made in it in reference to its cumulative impacts argument where the Attorney General Memorandum cites particular cases in support of a contention that the environmental setting may present cumulative impact burdens where the pollution burden on the community already is high. (See Open. Br. pp. 52:18-27; 55:12-18.)

They argue the Memorandum is an official act that the Office of the Attorney General published on its official government website. And in response to Respondents' opposition, Petitioners argue that they are seeking judicial notice of the Attorney General's Memorandum to resolve a legal issue, not a factual one. They argue the Memorandum explains that lead agencies must consider environmental justice issues and the environmental impact and public health burdens a project may bring to certain communities.

The court denies the request for judicial notice of RJN Exhibit B. The document is not demonstrated to be part of the administrative record. As for Petitioners' argument that they are seeking judicial notice to resolve legal issues, the July 2012 Attorney General Memorandum is not binding precedent on this court. It also is unnecessary for the court to take judicial notice of the Memorandum to consider Petitioners' recirculation argument or for Petitioners to cite to case law relied on in the Attorney General Memorandum.

C. Project Objectives and Alternatives Analysis

"In determining the nature and scope of alternatives to be examined in an EIR, the Legislature has decreed that local agencies shall be guided by the doctrine of 'feasibility.' '[I]t is the policy of the state that public agencies should not approve projects as proposed if there are *feasible alternatives or feasible mitigation measures* available which would substantially lessen the significant environmental effects of such projects.... [I]n the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be

approved in spite of one or more significant effects thereof." (*Citizens of Goleta Valley v. Board of Supervisors of the County of Santa Barbara* (1990) 52 Cal.3d 553, 565 (*Citizens of Goleta Valley*), citing Pub. Resources Code, § 21002, italics in original.)

CEQA defines feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Resources Code, § 21061.1; Guidelines, § 15126.6, subd. (f)(1).)

No public agency shall approve or carry out a project for which an environmental impact report has been certified that identifies one or more significant effects on the environment unless it finds "[s]pecific economic, legal, social, technological, or other considerations … make infeasible … alternatives identified in the environmental impact report." (Pub. Resources Code, § 21081, subd. (a)(3).)

"'CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts, which in turn must be reviewed in light of the statutory purpose. ... [A]n EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project, or to the location of the project, which: (1) offer substantial environmental advantages over the project proposal (Pub. Resources Code, § 21002); and (2) may be "feasibly accomplished in a successful manner" considering the economic, environmental, social and technological factors involved.'" (*Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1302-1303 (*Habitat & Watershed Caretakers*), quoting *Citizens of Goleta, supra,* 52 Cal.3d at p. 566, italics omitted.) "The EIR 'is required to make an in-depth discussion of those alternatives identified as at least potentially feasible.'" (*Habitat & Watershed Caretakers, supra,* at p. 1303, citation omitted, italics omitted.)

"'An EIR's discussion of alternatives must contain analysis sufficient to allow informed decision making. [Citation.] [¶] … [¶] … Without meaningful analysis of alternatives in the EIR,

neither the courts nor the public can fulfill their proper roles in the CEQA process .... "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." [Citations.] An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" (*Ibid.*, quoting *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 404-405 (*Laurel Heights I*).)

Guidelines section 15126.6, subdivision (a), provides: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376)."

1. Whether Project Objectives Were Unduly Narrow

An EIR's statement of project objectives helps, "among other things, develop a reasonable range of alternatives to the proposed project to evaluate in the EIR (CEQA Guidelines, § 15124.)" (*WATER, supra,* 78 Cal.App.5th at p. 691.)

Here, the Project lists the following eight objectives:

> The fundamental goal of the Project is to accomplish the orderly development of an industrial business park. The Project would achieve this goal through the following objectives:

- Create a comprehensive master plan for the Specific Plan area to provide a mix of industrial and business park uses with supporting infrastructure facilities.
- Provide economic opportunities and job growth within the Bloomington community by enhancing the community's available range of industrial and business park employment generating uses.
- Provide for a master-planned, job-producing development near the I-10 corridor to accommodate uses that benefit from access to the regional transportation network.
- Allow for the accommodation of industrial, light manufacturing and assembly, warehouse distribution, and logistics buildings that are designed to attract a range of users and are economically competitive with other buildings of these types in the region.
- Identify and provide for the installation and ongoing maintenance of water, sewer, drainage, and road facility infrastructure to adequately serve the Specific Plan area.
- Provide guidelines and standards for building and site development aesthetics that provide a well-defined identity for the Specific Plan development.
- Provide guidelines for sustainable development design that reduces potable water use, energy use, and fossil fuel consumption.
- Provide an area in which replacement housing units could be built pursuant to Senate Bill 330. (AR 197.)

The Project site has residential land use designations. The northern half is designated LDR, which allows development of two to five residential units per acre; typical uses include "single-family residential uses and public and quasi-public facilities such as parks, religious facilities, schools, sheriff's stations, and fire stations." (AR 361.) The southern half of the site is designated "Very Low Density Residential (VLDR)." "VLDR allows development of two units per acre max. Typical uses of VLDR include those of LDR, as well as incidental agriculture." (AR 362.) "The entire Specific Plan area, but for two parcels in Planning Area A, is zoned RS-1-AA (Single Residential with 1-Acre Minimum Lot and Additional Agriculture Overlay); the two parcels 11048 and 11079 Laurel Avenue are zoned RS-20M (Single Residential with 20,000 square-foot Lot Minimums)." (AR 362.) Under the County Development Code, "the purpose of the AA Overlay is to 'create, preserve, and improve areas for small-scale and medium-scale agricultural uses utilizing productive agricultural lands for raising, some processing, and the sale of plant crops, animals, or their primary products. It is an

overlay where agricultural uses exist compatibly with a variety of rural residential lifestyles' (County of San Bernardino, § 82.07.010)." (AR 362.)

a. Petitioners' Argument

Petitioners argue that as in *WATER, supra,* 78 Cal.App.5th at p. 692, the Project objectives are overly narrow because they "preclude any alternative other than the Project." They assert the Project objective's mirror the "fundamental goal" of developing "industrial, light manufacturing and assembly, warehouse distribution and logistics buildings," citing AR 852-853. They contend that by referring to the Specific Plan in the objectives, the County focuses the alternatives analysis to building the Project, as planned, in varying degrees, citing AR 12780 [comment]. They also argue the Project objectives specify that "the new specific plan zoning designation as designed permits only industrial land uses such as the proposed Project." (Open. Br. p. 24:4-5, italics in original.) They discuss comments about the Project being in the middle of a residential neighborhood with homes, schools, and parks, and located within 100 feet of three schools. They assert that there is no Project objective consistent with the existing residential zoning and Project objectives do not even include commercial uses or mixed-use development to minimize or buffer the adverse effects of the new industrial zone. Petitioners contend that the objectives are impermissibly narrowed to an industrial park under specific plan zoning, instead of considering commercial, neighborhood-serving developments. Petitioners argue that because Project objectives are unduly narrow, the informational requirements of CEQA are not met, which is prejudicial error, citing *WATER, supra,* 78 Cal.App.5th at pp. 692-693.

b. Analysis

"CEQA does not restrict an agency's discretion to identify and pursue a particular project designed to meet a particular set of objectives." (*Calif. Oak Foundation v. Regents of Univ. of Calif.* (2010) 188 Cal.App.4th 227, 276-277.) In addition, "[t]he statement of objectives should include the underlying purpose of the project." (Guidelines, § 15124, subd. (b).)

The *WATER* case Petitioners rely on is distinguishable. At issue in *WATER* was a closed water-bottling facility that ran for years. Another water bottling plan acquired the property and proposed to return it to production. (*WATER, supra,* 78 Cal.App.5th at p. 688.) The Court found the objectives were "'so narrow[] as to preclude any alternative other than the Project.'" (*Id.* at p. 692.) It concluded that the county had largely defined the project objectives as operating the project as proposed, which "'consists of the operation of a bottling facility and ancillary uses within an approximately 118-acre site formerly developed and operated as a bottling plant' in the County." (*Ibid.*) The Court found that "if the principal project objective is simply pursuing the proposed project, then no alternative other than the proposed project would do." (*Ibid.*) It discussed that given the project objectives, "'[n]o alternative apart from the rehabilitation of the existing plant, after all, could 'site the proposed facility at the Plant,' involve the use of 'the full production capacity of the existing Plant,' allow the 'operation of the Plant as soon as possible,' or involve the 'modif[ication] [of] the existing facilities at the Plant.'" (*Ibid.*)

The *WATER* objectives only provided for operation of a bottling facility, with full production capacity of the existing plant and operation as soon as possible. (*WATER, supra,* 78 Cal.App.5th at p. 692.) "Although a lead agency may not give a project's purpose an artificially narrow definition, a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal. For example, if the purpose of the project is to build an oceanfront resort hotel [citation] or a waterfront aquarium [citation], a lead agency need not consider inland locations." (*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1166 (*In re Bay-Delta*); see also *North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 668.)

Here, the proposed Project includes a Specific Plan, "which is a land-use guiding document for the development of industrial and business park uses for the necessary on- and off-site and infrastructure to serve these uses." (AR 269.) Additionally, the 213-acre Specific Plan Area is

divided into 141.4-acre Planning Area A, for which the Project provides for Opening Year Development of Plaining Area A, and 71.6-acre Planning Area B. It also provides for rezoning of a separate residential site to offset rezoning to the Special Plan Area from residential to non-residential use. (AR 269.)

The Project objectives include creation of a "master plan for the Specific Plan Area to provide a mix of industrial and business park uses with supporting infrastructure facilities." (AR 271.) The fact Projects objectives in Specific Plan areas do not involve existing residential uses does not make the objectives artificially narrow. This especially is the case where other objectives include providing economic opportunities and job growth by enhancing the available range of industrial and business park employment generating uses, and to accommodate industrial, light manufacturing and assembly, warehouse distribution and logistics buildings, designed to attract a range of users and that are economically competitive with other similar buildings in the region. (AR 271.) Such objectives do not define out of existence "[a]ll competing reasonable alternatives." (*WATER, supra,* 78 Cal.App.5th at p. 692.)

Therefore, the court denies Petitioners' writ petition to the extent they argue Project objectives are unduly narrow.

2. EIR Alternatives

"It is the project proponent's responsibility to provide an adequate discussion of alternatives. That responsibility is not dependent in the first instance on a showing by the public that there are feasible alternatives." (*Laurel Heights I, supra,* 47 Cal.3d at p. 405, citation omitted.) "[A]n EIR should not exclude an alternative from detailed consideration merely because it 'would impede to some degree the attainment of the project objectives.' But an EIR need not study in detail an alternative that is infeasible or that the lead agency has reasonably determined cannot achieve the project's underlying fundamental purpose." (*In re Bay-Delta, supra,* 43 Cal.4th at p. 1165, citations omitted.)

On the issue of whether the alternatives selected comply with CEQA's procedural mandates, Petitioners "must show that the alternatives 'are manifestly unreasonable and that they do not contribute to a reasonable range of alternatives.' [Citation.]" (*Save Our Capitol! v. Dept. of General Services* (2023) 87 Cal.App.5th 655, 703 (*Save Our Capitol!*).) The issue is whether the alternatives chosen "contribute[d] to a reasonable range of alternatives that fostered informed public participation and decision-making." (*Ibid.*)

The County considered the following three alternatives:

> **Alternative 1: No Project/No Development Alternative.** This alternative entails the Project is not approved and the Specific Plan area and Upzone Site remain in the conditions that existed at the time the Notice of Preparation was published (December 30, 2020).
>
> **Alternative 2: No Project/Buildout of Existing Zoning Alternative.** This alternative entails the Project is not approved and the Specific Plan area is fully built out based on the existing underlying zoning. As this alternative would not cause the Specific Plan area to be rezoned to a non-residential use, the Upzone Site would not need to be rezoned to RM from its existing RS-20M zone.
>
> **Alternative 3: Reduced Project/No Specific Plan Alternative.** This alternative entails the Project would only develop the proposed Opening Year Development – Option 1 as an individual project and no Specific Plan would be adopted. The Opening Year Development – Option 2 would not be developed. Under this alternative only 7 acres of the Upzone Site would be rezoned. This alternative represents an approximately 35 percent decrease from the maximum buildout potential of the Specific Plan, and an approximately 46 percent decrease in land acreage that would be developed by the Specific Plan. (AR 198.)[4]

Here, the EIR found air quality impacts are significant and unavoidable. In particular, the Project conflicts with the Air Quality Management Program (AQMP) because criteria pollutants would exceed regional thresholds after mitigation. Project-level and cumulative operational emissions also exceed South Coast Air Quality Management District's (SCAQMD) thresholds for VOC and NOx after implementation of regulatory requirements and mitigation measures. (AR 852.)

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[4] The DEIR also discussed that an "Alternative Site Alternative" was rejected because "[t]he Specific Plan's focus is to provide a master planned industrial business park within an urbanized area of unincorporated San Bernardino County that benefits from the I-10 corridor's regional transportation network and generates employment opportunities in proximity to an available labor pool." (AR 853) It found "[t]here are no suitable sites within the control of the Project applicant" and development at a different location "would likely require demolition of existing structures and require similar mitigation." (*Ibid.*) The DEIR found it was "infeasible to develop and operate the Project on an alternate site with fewer environmental impacts while meeting Project objectives." (*Ibid.*)

"[A] majority of operational-source NOx emissions (by weight) would be generated by Project vehicles, and the VOC emission would be generated by consumer products that neither the Project applicant nor the County have the ability to reduce emissions of. Therefore, operational-source VOC and NOx emissions would be significant on a Project-level and a cumulative basis." (AR 852.)

Alternative 3 consists of developing Opening Year Development - Option 1. As discussed, Option 1 includes Site 1, a fulfillment center warehouse of 383,000 square feet; Site 2, a high-cube warehouse of 1,251,640 square feet; Site 3 a fulfillment center warehouse of 479,000 square feet; and Site 4, truck trailer parking to provide 289 truck trailer parking stalls. (AR 195.) Option 1 buildout details and a Conceptual Site Plan for Planning Area A are provided in the DEIR's general discussion of Option 1. (AR 194-195, 303 [Figure 3-8].) Under Alternative 3, only 7 acres within the Upzone will be rezoned RM to offset housing loss from the development under Option 1 given the decrease in acreage being developed. Alternative 3 represents a 35 percent decrease from the maximum buildout potential of the Specific Plan. (AR 853-854.) In other words, 2,113,640 square feet of building square footage will be developed under Option 1, instead of the full 3,235,836 square feet in the Specific Plan area, resulting in 1,122,196 fewer square feet of buildings being developed.[5] (AR 863-864.) Alternative 3 also will account for a 46 percent decrease in land acreage developed, with 115 acres being developed instead of 213 acres under the Specific Plan. (AR 854, 863-864.) The remaining 97.7 acres will stay in its existing condition, with no new development. (AR 864.)

Under Alternative 3, thirteen of seventeen environmental impacts were still found to be less than significant with mitigation but also were found to have a lessened significant impact due to Planning Area B not being developed. (AR 871.) As for air quality impacts, while overall impacts were less when compared to the Project, the DEIR found there were still significant and unavoidable

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[5] This mostly is related to Option 1 being 966,270 square feet below the maximum FAR for Planning Area A; additionally Planning Area B (Future Development Area), providing for development of up to 155,926 square feet, will not be developed under Alternative 3. (AR 194, 863-864.)

air quality impacts to the AQMP and project and cumulative levels of VOC and NOx emissions that still exceed SCAQMD thresholds. (AR 865-866.) Reducing the square footage of the total buildout by 35 percent resulted in corresponding reduction in summer and winter VOC emission by 36 percent and NOx emissions by 38 percent. (AR 865.) In addition, environmental benefits of a water quality treatment system incorporated into the entire 213-acre Specific Plan will not be achieved. (AR 872.)

As for Project objectives, Alternative 3 meets two Project objectives: allowing for industrial/warehouse distribution buildings to attract a range of users and provide an area in which replacement housing units could be built. (AR 872, 874.) Three objectives are met to a lesser extent. (AR 872, 874.) Three objectives are not met, including creating a master plan for the Specific Plan Area, providing guidelines and standards for building and site development aesthetics to provide a well-defined identity for the Specific Plan development, and provide guidelines for sustainable development design that reduces potable water use, energy use, and fossil fuel consumption. (AR 874.)

Petitioners present several arguments directed to the alternatives. First, they contend the County failed to analyze a reduced Project alternative. They also argue that the County failed to consider reasonable proposed alternatives. Finally, they argue that substantial evidence does not support the finding that Alternative 3 is infeasible. The first and second issues are directed to CEQA's procedural mandates; the third issue is directed to whether substantial evidence supports the decisions made.

a. Whether a Reduced Project Alternative was selected

i. Parties' Arguments

Petitioners argue that the two "no project" alternatives did not present decision makers with a "feasible" alternative that meets "basic project objectives." But they acknowledge that an EIR must evaluate a "no project" alternative under CEQA Guidelines section 15126.6, subdivision (e). They

contend that taking away the "no project" alternatives, the only alternative considered was Alternative 3.

Petitioners assert that under CEQA Guidelines section 15126.6, subdivision (a), a reasonable range of alternatives capable of meeting basic projective objectives and reducing significant impacts were not considered. They argue that Alternative 3 is not a "reduced project" alternative because it proposes the buildout of Planning Area A under Option 1, the smaller of the two development scenarios provided for in Planning Area A. They contend Alternative 3 essentially is the same development proposed at the Project's core for which project-specific applications were received where the EIR makes clear the Project provides the entitlements and environmental clearance only for Option 1, and buildout of Planning Area B is forecasted to begin in year 2040 and "[is] dependent on market conditions," citing AR 196, 12757. They contend that the EIR did not analyze a smaller version of the Project that presented decision makers with environmental benefits.

Respondents argue that no rule mandates the number or type of alternatives to be considered. (*Citizens of Goleta, supra* 52 Cal.3d at p. 566.) They also argue that Alternative 3 is not the same as the proposed "Project" because under CEQA, "project" is defined as "the whole of the action," quoting Guidelines section 15378, subdivision (a). They contend that under CEQA Guidelines section 15126, "[a]ll phases of a project must be considered when evaluating its impact on the environment." Respondents argue that substantial evidence demonstrates the EIR considered a smaller version of the Project by evaluating only the buildout of Special Plan Area Option 1, without adoption of the Specific Plan. They assert that Petitioners' arguments should be dismissed for their failure to discuss evidence supporting the County's decision, citing *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1572 (*Pfeiffer*). They contend that Petitioners' argument that Alternative 3 offers no environmental benefits because air quality impacts remain the same is without support. They argue that Petitioners also failed to discuss that while Alternative 3 Opening Year impacts are the same, over time, Alternative 3 has lesser impacts given the 35 percent decrease in the

Project's maximum buildout. Nonetheless, Respondents also argue that the findings reflect that Alternative 3 will not meaningfully reduce identified impacts.

Petitioners respond that Respondents concede that Alternative 3 is the Project's Option 1. Therefore, they argue, two "no project" alternatives and one false alternative does not provide a "reasonable range" of alternatives as required by CEQA Guidelines, section 15126.6, subdivision (a). They again argue there is no distinction between Alternatives 1 and 2, because neither meets any project objectives, which is development of a warehousing and logistics complex. Given the speculative nature of Planning Area B, which is not expected to be built out until 2040, they contend it is not appropriate to credit Alternative 3 with offering air quality benefits when Option 1 is the only physical and operational development on the site until year 2040, citing AR 12757. They argue that the EIR shows the Project will result in significant air impacts and air impacts also are significant under Option 1, citing AR 845, 852, 865, 465-466. Therefore, Petitioners argue, Option 1 and Alternative 3 are the same and Alternative 3 is not designed to "avoid or substantially lessen" impacts.

They argue that CEQA requires identifying an "environmentally superior alternative" beyond the no project alternative. (Guidelines, § 15126.6, subd. (e)(2); *Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089 (*Watsonville*).) That under *Watsonville, supra,* 183 Cal.App.4th at p. 1089, Alternative 3 does not evidence a good faith effort at CEQA compliance and ignores the purpose of the EIR's alternatives analysis, which is "to identify alternatives to the project." As for the number of alternatives to consider, they contend the range must be "'enough of a variation to allow informed decisionmaking,'" citing *Save Our Capitol!, supra,* 87 Cal.App.5th at pp. 703-704.

ii. Analysis

As already discussed, reasonable alternatives are ones that "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (*Watsonville, supra,* 183

Cal.App.4th at p. 1086.) But "[i]t is virtually a given that the alternatives to a project will not attain *all* of the project's objectives." (*Id.* at p. 1087, citations omitted.)

"'[T]he requirement as to the discussion of alternatives is subject to a construction of reasonableness.'" (*Residents Ad Hoc Stadium Com. v. Board of Trustees* (1979) 89 Cal.App.3d 274, 286.) "'There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.' The rule of reason 'requires the EIR to set forth only those alternatives necessary to permit a reasoned choice' and to 'examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.'" (*In re Bay-Delta, supra,* 43 Cal.4th at p. 1163, citations omitted.) Petitioners bear the burden to show the alternatives "'are manifestly unreasonable and that they do not contribute to a reasonable range of alternatives.' [Citation]." (*Save Our Capitol!, supra,* 87 Cal.App.5th at p. 703.)

"The purpose of an EIR is *not* to identify alleged alternatives that meet few if any of the project's objectives so that these alleged alternatives may be readily eliminated. … [T]he key to the selection of the range of alternatives is to identify alternatives that meet most of the project's objectives but have a reduced level of environmental impacts.' [Citation.]" (*Save Our Capitol!, supra,* 87 Cal.App.5th at p. 704.) "The discussion should focus on alternatives that could *substantially reduce or avoid* one or more of the significant environmental effects while still serving the project's fundamental objectives. [Citations.]" (*Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1264, italics added.)

"The question of whether the FEIR was required to discuss a reduced development alternative depends on whether a reduced development alternative would have been 'capable of avoiding or substantially lessening any significant effects of the project,' even if it 'would impede to some degree the attainment of the project objectives.' (Guidelines, § 15126.6, subd. (b).)" (*Watsonville, supra,* 183 Cal.App.4th at p. 1087.)

Here, Alternative 2, "no project/buildout of existing zoning" does not meet major project objectives, including to create a master plan for the Specific Plan area to provide a mix of industrial and business park uses, to provide economic opportunities and job growth by enhancing the range of available industrial and business park employment generating uses, and to allow for industrial, light manufacturing and assembly, warehouse distribution, and logistics buildings designed to attract a range of users and economically competitive with other buildings of these types in the region. (AR 858, 863, 874.) Alternative 2 essentially duplicates parts of Alternative 1, "no-project/no development" in not meeting any Project objectives.

This only leaves Alternative 3, "Reduced Project/No Specific Plan." If, as Respondents' argument appears to concede, Alternative 3 would not meaningfully reduce identified impacts, this brings back to the fore the issue of Alternative 3's selection as an alternative, which should be to avoid or substantially lessen significant environmental impacts. (Guidelines, § 15126.6, subds. (a), (b).) Respondents assert that Petitioners argue that Alternative 3 is not a meaningful alternative and then Petitioners do an about-face in arguing that the County erred in rejecting it because the findings lack substantial evidence. But Respondents do the same thing where they contend that the County identified suitable alternatives but then argue Alternative 3 was rejected because it will not meaningfully reduce identified impacts.

When considered, Alternative 3 is not demonstrated to represent a meaningful alternative designed to reduce project impacts where it represents the primary portion of the existing development that drives the immitigable air quality impacts in both Project 1 and Alternative 3. Even with the elimination of Planning Area B under Alternative 3, the major source of air quality impacts remain unchanged and are not avoided or substantially reduced.

Therefore, the court grants the writ petition based on the County's failure to analyze a reasonable range of alternatives.

b. Whether the County improperly failed to consider Reasonable Proposed Alternatives

Petitioners argue that they presented the County with reasonable alternatives that the County could have evaluated.

But an EIR is not "required to consider specific alternatives proposed by members of the public or other outside agencies. [Citation.]" (*Save Our Capitol!, supra,* 87 Cal.App.5th at p. 703.) Therefore, Petitioners' argument will not be considered any further.

c. Whether Substantial Evidence supports Findings that Alternatives are Infeasible.

i. Parties' Arguments

Even if Alternative 3 was found to be a reasonable alternative, Petitioners argue that the County improperly rejected Alternative 3 for not meeting Project objectives. They contend that the County concluded Alternative 3 "would have the ability to attract fewer or smaller businesses and less employment opportunities to area residents," citing AR 173. They argue that the fact an alternative "may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible," citing *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1352 (*Preservation Action Council*), internal quotations omitted. They assert that the County must present substantial "evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the [alternative]." (*Ibid.*) They contend that the EIR "provides no independent facts or analysis to support" the claim of economic infeasibility, citing *id.* at p. 1356. They also argue that the County cannot reasonably conclude Alternative 3 is infeasible when it constitutes the primary development scenario on which the EIR is based.

Respondents argue Alternative 3 was rejected because it "'would not achieve the Project objectives nearly to the same extent as the proposed Project' and would not provide substantial environmental benefits over the proposed Project," citing AR 871-873. Respondents argue that *Preservation Action Council* is distinguishable because in that case "the reduced-size alternative

would have saved the historic building, thus eliminating the adverse environmental impact," quoting *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 930 (*Tracy First*).

ii. Analysis

A potential alternative should not be excluded merely because it "would impede to some degree the attainment of the project objectives, or would be more costly." (Guidelines, § 15126.6, subd. (b); *Preservation Action Council, supra,* 141 Cal.App.4th at p. 1354.) "[T]he feasibility of alternatives must be evaluated within the context of the proposed project. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 599 (*Uphold Our Heritage*).) "'The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the *additional* costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.'" (*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 883, citations omitted.)

Here, in discussing the ability to achieve Project Objectives, the EIR discussed that because Alternative 3 "represents an approximately 35 percent decrease from the maximum buildout potential of the Specific Plan, and an approximately 46 percent decrease in land acreage that would be developed than the proposed Project, it would have the ability to attract fewer or smaller businesses and less employment opportunities to area residents. In addition, the smaller development would provide less flexibility to meet the needs of an ever-changing business market." (AR 173.)

Alternative 3 was found "infeasible based on several economic and social factors," including that "[a] key consideration for the County is to increase housing density and diversify the economy." (AR 173.) The County stated: "A key consideration for the County is to increase housing density and diversify the economy of Bloomington to provide additional housing and employment opportunities. The Reduced Project/No Specific Plan Alternative would attract fewer or smaller businesses and less employment opportunities to area residents and would provide less flexibility to meet the needs of an ever-changing business market. Thus, the Reduced Project/No Specific Plan Alternative would not

achieve the Project objectives nearly to the same extent as the proposed Project, would continue to result in significant and unavoidable impacts, and would continue to require mitigation." (AR 173.) As a result, the Reduced Project/No Specific Plan Alternative was rejected. The County stated that each of the following provides "a separate and independent basis for the rejection: (1) the Reduced Project/No Specific Plan Alternative reduces the economic feasibility of the proposed Project by reducing development without eliminating the need for a similar level of mitigation; (2) the Reduced Project/No Specific Plan Alternative fails to meet the Project objectives to the same extent as the proposed Project; and (3) the Reduced Project/No Specific Plan Alternative would not avoid the significant and unavoidable impacts of the proposed Project." (AR 173.)

But in the DEIR discussion of Alternative 3, with respect to housing, the Project objective is to "[p]rovide an area in which replacement housing units could be built pursuant to Senate Bill 330," which Alternative 3 is found to meet. (AR 874.) Regarding economic infeasibility, the County only cites to the specific plan as evidence in support. The DEIR provides a table of the "Comparison of the Proposed Project and Alternatives Ability to Meet Objectives" (Table 7-8) and considered whether Alternative 3 will "[p]rovide economic opportunities and job growth within the Bloomington community by enhancing the community's available range of industrial and business park employment generating uses." The response stated, "Yes, but to a lesser extent." (AR 874.) As for whether Alternative 3 would meet the objective to "[a]llow for the accommodation of industrial, light manufacturing and assembly, warehouse distribution, and logistics buildings that are designed to attract a range of users and are economically competitive with other buildings of these types in the region," the finding was, "Yes." (*Ibid.*)

When the findings in the EIR are considered, substantial evidence does not support the County's findings of Alternative 3's economic infeasibility. The DEIR discussed Alternative 3 met Project objectives to provide for economic opportunities and job growth, even if found to do so to a

lesser extent. There is no evidence demonstrating the objective being met to a "lesser extent" was at a sufficient level to render Alternative 3 economically infeasible.

Therefore, the court grants the writ petition to the extent substantial evidence does not support the finding that Alternative 3 is economically infeasible.

D. Traffic Impacts

1. Petitioners' Arguments

The land use evaluated at Site 2 of Planning Area A, Option 1, is a 1,251,640 square foot high-cube warehouse, including 20,000 square feet of office space. (AR 195, 278.) It is described as comprised of a 50-foot high building, with 180 dock doors, 385 truck trailer parking stalls, and 422 non-trailer parking stalls. (AR 278) Site 4 of Option 1 includes development of a parking lot striped for 289 truck trailer stalls; no non-trailer stalls will be provided. (AR 279.)

The traffic study projected vehicle trips, which are broken out by vehicle type. For the different sites, passenger car equivalent (PCE) factors are applied to projected truck trips to determine PCE trip generation. (AR 51628.)

Petitioners argue that the EIR's traffic analysis, which serves as a foundation for evaluation of air quality, GHG emissions, energy, and noise level impacts, underestimated truck trips by relying on a 2003 Fontana Truck Study to estimate warehouse project truck trips. (AR 51635, 51718.) Petitioners cite comments from People's Collective and its environmental expert that asserted the 2003 Fontana Truck Study relies on decades-old traffic data from 2002 and is a poor representation of current conditions. (AR 12786-12788, 12813-12815, 12822-12842.) They assert SCAQMD cautioned against using the 2003 Fontana Truck Study because it is "not characteristic" of modern-day "high cube warehouses," which comprises the largest portion of this Project. People's Collective and its environmental expert on pollution, emissions, and air quality, Dr. Ranajit (Ron) Sahu, asserted that the 2003 Fontana Truck Study assumed 20 percent of the Project's vehicle use from heavy-duty trucks, when SCAQMD recommends a 40 percent truck share percentage for this type of project.

They also contend that in 2017, the Riverside County Transportation Commission confirmed the inadequacy of the 2003 Fontana Truck Study being used for high cube warehouses.

Petitioners argue the County ignored the expert's comments about SCAQMD guidance and recommendations and did not respond to SCAQMD's recommendations or the Riverside County Transportation Commission's 2017 report being raised, citing AR 12787, 12815, and 12848. They argue that the County failed to provide a "good faith, reasoned analysis" in response to "comments from responsible experts or sister agencies disclos[ing] new or conflicting data or opinions that cause concern that the agency may not have fully evaluated project and its alternatives," quoting *Berkeley Keep Jets Over The Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4th 1344, 1367 (*Berkeley Jets*).

They argue the FEIR should have included an updated analysis of truck emission based on SCAQMD data that uses a 40 percent truck share. They contend the absurdity in the analysis is demonstrated by the fact the traffic impact analysis assumes only 20 percent truck trailer trips to the proposed truck trailer parking lot, citing AR 195, 51572-51573, 51634-51635. They assert that substantial evidence does not support finding 80 percent of trips to a parking lot with 289 truck trailer parking stalls will be passenger vehicles, citing AR 51634-51635.

2. Analysis

Given People's Collective's comments incorporated expert Dr. Sahu's comments, only the expert's comments are considered. (See *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 583 [opinions outside areas of expertise do not constitute substantial evidence].)

In *Berkeley Jets,* an expert's comment explained the methodology used to calculate the toxic air contaminants (TAC) from jet aircraft was outdated and provided data that demonstrated TAC emissions for the project will substantially increase if the more up-to-date California Air Resources Board (CARB) profile was used. The public agency responded that the new profile had not been published and that a specialist with CARB expressed concern over the new profile. Evidence,

however, demonstrated the specialists statements were taken out of context and the specialist actually supported the new profile. The record also included a letter from the chief of CARB's emission inventory branch that stated the new profile is more accurate and comprehensive than the profile used. (*Berkeley Jets, supra,* 91 Cal.App.4th at pp. 1365-1367.) The Court found the agency's response created a misleading impression that a CARB official had discouraged use of the new profile. The Court found the omission of CARB's actual position was serious and prevented decision makers and the public from "gaining a true understanding of one of the most important environmental consequences of increasing the number of flights." (*Id.* at pp. 1366-1367, fn. omitted.) The Court also rejected the agency's argument that the newer profile data was considered in making the decision where the expert's comment letter recalculated TAC emissions using the new profile and showed the increased emissions. The Court noted that the agency failed to consider that the expert's views "were perfunctorily discredited" in the agency's responses to her letter, without any contrary analysis by the agency. (*Id.* at p. 1367.)

The Court found that the final EIR data using the old profile did not meet "the standard of 'a good faith effort at full disclosure' required by CEQA. (Guidelines, § 15151.) '"'Where comments from responsible experts or sister agencies disclose new or conflicting data or opinions that cause concern that the agency may not have fully evaluated the project and its alternatives, these comments may not simply be ignored. *There must be good faith, reasoned analysis in response.*'"' [Citation.] By using scientifically outdated information derived from the [old] profile, [the Court] conclude[d] the EIR was not a reasoned and good faith effort to inform decisionmakers and the public about the increase in TAC emissions that will occur as a consequence of the Airport expansion." (*Berkeley Jets, supra,* 91 Cal.App.4th at p. 1367, italics in original.)

Here, in discussing the truck share, Dr. Sahu states the DEIR assumes a low number of trucks as a share of total vehicle trips related to the Project, contending the DEIR deviated from SCAQMD recommendations that are designed to ensure the EIR portrays a "worst case" scenario, referring to a

SCAQMD Warehouse Truck Trip Study Data Results and Usage document, and citing to a document on SCAQMD's website. (AR 12814.) Dr. Sahu also refers to a SCAQMD 2014 presentation and set forth a slide from a 2014 SCAQMD presentation stating, *inter alia,* "Fontana Truck Trip Study limited applicability" and "Fontana Study, by itself, is not characteristic of high cube warehouses." (*Ibid.*) He states SCAQMD concluded that "the Fontana study, which uses a 20% truck fleet mix 'is not characteristic of high cube warehouses'". (AR 12815.) He also states SCAQMD recommends using a truck share percentage of 40 percent "for projects like this that have unidentified future tenants," citing a document on SCAQMD's website. (*Ibid.*) Finally, he refers to a 2017 Riverside County Transportation Commission Study that he states omits the Fontana Study as suitable for high-cube warehouses. (*Ibid.*)

The issue here is whether substantial evidence supports the truck trips estimates that Petitioners argue serve as the foundation for air quality, GHG emissions, energy, and noise level assessments and whether the County provided a good faith, reasoned analysis in response. In considering the issue, it is noted that an EIR need not be perfect, but must represent an adequate, complete, and good faith effort at full disclosure of environmental impacts. (Guidelines, § 15151.) Use of "scientifically outdated information" prevents an EIR from being a reasoned and good faith effort to inform decision makers and the public about significant impacts related to a Project. (*Berkeley Jets, supra,* 91 Cal.App.4th at p. 1367.)

Overall total daily trip rates were based on the Institute of Transportation Engineers *Trip Generation* (10th Ed. 2017) and the TUMF High-Cube Warehouse Trip Generation Study (WSP 2019). (AR 12848, 51628.) The vehicle mix from the Fontana Study's Heavy Warehouse classification only was used for Site 2, the high-cube warehouse. The Fontana Study's light industrial vehicle mix was used for Site 4 evaluated as a future industrial park with a separate parking area, and for Specific Plan Area B, evaluated as a future industrial park. (AR 51634-51635.) Neither Site 4

nor Area B is demonstrated to involve a high-cube warehouse use to which Dr. Sahu's comments are directed.

Dr. Sahu also takes a portion of a SCAQMD slide, without providing any context for the information stated, and notes the slide provides, "Fontana Study, by itself, is not characteristic of high cube warehouses." (AR 12814.) But Respondents correctly point out that the Fontana Study was not used by itself to determine vehicle trip generation rates. As discussed, total vehicle trips used the ITE Manual and TUMF High-Cube Warehouse study. (AR 12848, 51628.)

Petitioners' arguments also imply that SCAQMD took issue with use of the Fontana Study being used for the vehicle mix portions of the Project. But SCAQMD made no such comment. In fact both it and CARB discussed the projected daily estimated trips and made no comments about the methodology used or reliance on the Fontana Study's respective classifications for Site 2, Site 4, and Specific Plan Area B. (AR 12213-12214, 12227-12232.) The absence of regulatory criticism on the methodology used provides substantial evidence in support of the methodology. (*East Oakland Stadium Alliance v. City of Oakland* (2023) 89 Cal.App.5th 1226, 1263.)

Further, in response to Dr. Sahu's comments, the County noted that the City of Fontana's Traffic Impact Analysis (TIA) Guidelines provide that vehicle splits from the Fontana Study be used for industrial uses.[6] The County Public Works Department also reviewed and approved the trip generation and vehicle splits. (AR 12848.) The fact there exists differing expert opinion on the proper methodology does not render the EIR inadequate. (See *Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 413.)

[6] To the extent Petitioners argue on reply that the California Attorney General has sued the City of Fontana over the "failure to adequately disclose and analyze impacts from warehouse developments under CEQA," referring to San Bernardino County Superior Court Case No. CIVSB2121829, nothing in this general reference demonstrates the Fontana Study vehicle mix as it relates to a high-cube warehouse was at issue or found improperly used for a high-cube warehouse.

As for the comment that SCAQMD requirements are designed to ensure a DEIR portrays a "worst case" scenario, no such requirement exists under CEQA. (*League to Save Lake Tahoe v. County of Placer* (2022) 75 Cal.App.5th 63, 141 ["The EIR is not required to analyze the worst-case scenario. [Citation.]"].)

Dr. Sahu's comment also states that SCAQMD requires a 40 percent truck share, with citation to SCAQMD's website where CalEEMOD Guidance Appendix E is purportedly available. Without any reference to the page number or context under which the guidance appendix was issued, the document does not require further comment. The court is not required to search the record, including specific website references, to determine whether it supports the expert's claim of error. (*Save the El Dorado Canal v. El Dorado Irrigation Dist.* (2022) 75 Cal.App.5th 239, 254.)

Finally, Dr. Sahu's comments do not present similar circumstances to *Berkeley Jets*. Here, the environmental expert does not provide any analysis under the purported methodology he claims should have been used to show a resulting effect on the air quality, GHG, energy, and noise level impacts to demonstrate substantial evidence does not support the conclusions reached. For example, Petitioners contend air pollution emissions will be nearly double what the current EIR suggests but only cites Dr. Sahu's conclusory statements about SCAQMD recommending a truck share percentage of 40 percent, without any further analysis. (AR 12815.)

To the extent Petitioners now assert analysis of Site 4 shows that nearly 80 percent of trips to a parking lot with 289 truck trailer parking stalls are passenger vehicles, this argument was not raised as part of the expert comments and is thereby waived in light of Respondents' exhaustion argument. (Pub. Resources Code, § 21177, subdivision (a).)[7] Petitioners argue on reply that they only were

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[7] Public Resources Code section 21177, subdivision (a), provides: "An action or proceeding shall not be brought [under CEQA] unless the alleged grounds for noncompliance with this division were presented to the public agency orally or in writing by any person during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination."

The CEQA exhaustion principle has been described as "more accurately characterized as establishing 'standing' to sue, rather than requiring exhaustion of administrative remedies." [Citation.]" (*See Stop Syar Expansion v. County of*

required to apprise the agency of their complaints. But the comment was that a 40 percent, and not a 20 percent, truck vehicle mix should have been used for high-cube warehouses, not that no passenger vehicle trips should have been included for Site 4.

The court denies the writ petition as it relates to Petitioner's traffic impacts arguments. Substantial evidence does not demonstrate that the County relied on "scientifically outdated information." It also is not demonstrated that the Final EIR is "not a reasoned and good faith effort to inform decision makers and the public" about increases in emissions caused by traffic impacts.

E. Air Quality Impacts

Petitioners contend that the County violated CEQA by failing to conduct a feasible health analysis as set forth in *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502 (*Friant Ranch*). Petitioners also argue that the County failed to adequately mitigate the Project's air quality and health impacts with feasible measures, such as requiring zero-emission trucks.

1. Whether the County performed a *Friant Ranch* Health Impact Analysis

Petitioners argue that the DEIR failed to satisfy the County's health assessment obligations associated with "significant and unavoidable" pollutants from the Project. They contend the assessment failed to provide the required *Friant Ranch* analysis. They also argue that to the extent the County contends it is not possible to conduct a *Friant Ranch* analysis on a project of this size, the purported "SCAQMD guidelines" relied on in support are not "guidelines," but SCAQMD's amicus curiae brief filed in the eight years' old *Friant Ranch* case. Finally, they contend that the County

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Napa (2021) 63 Cal.App.5th 444, 455, fn. 6.) In other words, if an issue is not timely raised, it is waived. "A CEQA challenge is not preserved 'unless the alleged grounds for noncompliance with [CEQA] were presented to the public agency orally or in writing by any person during the public comment period provided by this division or prior to the close of the public hearing … .' (Pub. Resources Code, § 21177, subd. (a).)" (*Citizens for Responsible Equitable Env. Dev. v. City of San Diego* (2011) 196 Cal.App.4th 515, 527 (*CREED*).) "'"[R]elatively … bland and general references to environmental matters", or "isolated and unelaborated comment[s]" will not suffice. …'" "'[T]he objections must be sufficiently specific so that the agency has the opportunity to evaluate and respond to them.'"'" (*Ibid*, citations omitted.) "The purpose of the administrative exhaustion requirement is to ensure the agency has been given the opportunity to respond to objections before there is litigation." (*Preserve Poway v. City of Poway* (2016) 245 Cal.App.4th 560, 573.)

failed to sufficiently reply to Petitioners' comments that demonstrate SCAQMD's position has changed regarding modeling and provide examples of possible health impact analyses that the County could have performed.

a. *Friant Ranch* Requirements

CEQA Guidelines section 15126.2, subdivision (a), requires that an EIR discuss "[d]irect and indirect significant effects of the project on the environment," including "health and safety problems caused by the physical changes" and "any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected."

In *Friant Ranch,* the Court discussed reactive organic gases (ROG) and nitrogen oxides (NOx), "precursors to ozone, which is formed when ROG and NOx undergo chemical reactions in the presence of sunlight." (*Friant Ranch, supra,* 6 Cal.5th at p. 517.) The EIR concluded ROG and NOx had significant adverse effects on air quality and could not be reduced below AQMD's thresholds of significance. (*Ibid.*) The draft EIR also included background information about ozone and PM_{10} [particulate matter 10 microns in diameter or smaller] and the adverse health effects of the pollutants. (*Ibid.*) The Court found the EIR failed as an informational document regarding the health impacts of the pollutants discussed. (*Id.* at pp. 517-522.) It found the air quality impact discussion inadequate because "the EIR as written makes it impossible for the public to translate the bare numbers provided into adverse health impacts or to understand why such translation is not possible at this time (and what limited translation is, in fact, possible)." (*Id.* at p. 521.)

The Court stated, "[A] sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact." (*Id.* at p. 519, citation omitted.) The Court also discussed arguments in amici curiae briefs that the county and real party relied on to explain why the connection between emissions and human health impacts cannot be provided given current environmental science modeling. It stated: "The parties may be correct; we express no view on the question, except to note that scientific

certainty is not the standard. But if it is not scientifically possible to do more than what has already been done to connect air quality effects with potential human health impacts, the EIR itself must explain why, in a manner reasonably calculated to inform the public of the scope of what is and is not yet known about the Project's impacts. Contained in a brief, such explanation is directed at the wrong audience. The relevant informational document here is the EIR, and the EIR must communicate not to the reviewing court, but 'the public and the government officials deciding on the project.' [Citation.]" (*Id.* at pp. 520-521.)

It found that "[a]lthough the EIR generally outlines some of the unhealthy symptoms associated with exposure to various pollutants, it does not give any sense of the nature and magnitude of the 'health and safety problems caused by the physical changes' resulting from the Project as required by the CEQA guidelines. (Guidelines, § 15126.2, subd. (a).) Perhaps it was not possible to do more. But even in that case, we would have found the EIR insufficient because it failed to explain why it was not feasible to provide an analysis that connected the air quality effects to human health consequences." (*Friant Ranch, supra,* 6 Cal.5th at p. 522.)

b. EIR's *Friant Ranch* Discussion

Under the "Environmental Setting" portion of the DEIR's Air Quality section, the DEIR included a "Criteria Air Pollutants" discussion that noted air pollutants focused on as "indicators of ambient air quality" include "ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), respirable particulate matters with an aerodynamic diameter of 10 micrometers or less (PM10), fine particulate matter with an aerodynamic diameter of 2.5 micrometers or less ($PM_{2.5}$), and lead. These pollutants are referred to as 'criteria air pollutants' because they are the most prevalent air pollutants known to be injurious to human health. Extensive health-effects criteria documents regarding the effects of these pollutants on human health and welfare have been prepared over the years." (AR 443, fn. omitted [footnote cites CARB and United States Environmental Protection Agency (USEPA) websites related to health effects of criteria pollutants].)

The DEIR also discussed that NOx, ROG, and VOC are known as ozone precursors, and that once ozone is formed, it remains in the atmosphere for one or two days. (AR 443.) It stated, "Ozone concentrations are the cumulative result of regional development patterns rather than the result of a few significant emissions sources." (AR 444.) "Short-term exposure to ozone can irritate the eyes and cause constriction on the airways. In addition to causing shortness of breath, ozone can aggravate existing respiratory diseases such as asthma, bronchitis, and emphysema." (*Ibid.*)

Thresholds of significant considered include:

- Impact AQ-2, whether the Project will "[r]esult in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard;"
- Impact AQ-3, whether the Project will "[e]xpose sensitive receptors to substantial pollutant concentrations;"
- Impact AQ-4, whether the Project will "[r]esult in other emissions (such as those leading to odors) adversely affecting a substantial number of people." (AR 457.)

Measurements of these thresholds include SCAQMD's regional thresholds, localized significance thresholds, CO hotspots, and diesel mobile source health risk thresholds that consider the cancer risk due to diesel particulate matter (DPM exposure). (AR 457-459.)

For Impact AQ-2, in terms of operational impacts, Opening Year – Option 1, Opening Year – Option 2, and the Future Development Area exceed SCAQMD regional thresholds of significance for VOC and NOx. (AR 464-465.) Even with mitigation, emissions exceed regional thresholds of significance for VOC and NOx, found to be significant and unavoidable. (AR 466.) But for Impact AQ-2, construction-related impacts were found less than significate with mitigation. (AR 463-464.)

The "Health Impacts of Particulate Emissions" discussion directed to a *Friant Ranch* analysis for Impact AQ-2 stated that potential health impacts of criteria pollutants are analyzed on a regional level, not a facility/project level. The DEIR stated: "The SCAQMD and the San Joaquin Valley Unified Air Pollution Control District (SJVAPD), experts in the area of air quality, both recognize that a meaningful, accurate analysis of potential health impacts resulting from criteria pollutants is

not currently possible and not likely to yield substantive information that promotes informed decision making. The SJVAPD, in its amicus curiae brief for the recent California Supreme Court decision in *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, explained that 'it is not feasible to conduct a [health impact analysis] for criteria air pollutants because currently available computer modeling tools are not equipped for this task.' The SJVAPD described a project-specific health impact analysis as 'not practicable and not likely to yield valid information because 'currently available modeling tools are not well suited for this task.' The SJVAPD further noted that '...the CEQA air quality analysis for criteria pollutants is not really a localized, project-level impact analysis but one of regional' cumulative impacts." (AR 467.)

It also found that because NOx and VOCs are "precursor" pollutants, analysis of potential health impacts is even more difficult. Again referring to the SCAQMD's amicus curiae brief in *Friant Ranch,* the DEIR discussed that "SCAQMD opined that while it 'may be feasible' for large, regional projects with very high emission of NOx and VOCs to conduct an accurate health impact analysis, 'SCAQMD staff does not currently know of a way to accurately quantify ozone-related health impacts caused by NOx or VOC emission from relatively small projects.'" (AR 467.)

Therefore, the DEIR concluded that "current modeling is not capable of correlating emission of criteria pollutants to concentrations that can be reasonably linked to specific health impacts." (AR 467.) In addition, "NOx and VOCs are precursor emissions and concentrations of NOx and VOC are impacted by regional atmospheric conditions. NOx and VOCs emitted by the Project may, depending upon interactions with the sun and other emissions, convert ozone by complex chemical processes. Thus, there is a significant level of unpredictability associated with such conversion to ozone, as noted by the SCAQMD and the SJVAPD." (AR 467.) In terms of the NOx impact on regional emissions, the DEIR discussed that "given the regional nature of such emissions and numerous unpredictable factors, an analysis that correlates health with regional emissions is not possible." (*Ibid.*) The DEIR discussed that it "does identify health concerns related to NOx emissions", referring to Table 5.3-1 as

providing "a list of criteria pollutants" and summary of "common sources and effects." (*Ibid.*) Table 5.3-1 provides state and national standards related to criteria pollutants as well as a general discussion of the pollutants' health effects. (AR 434-435.)

For the Impact AQ-3 threshold discussion related to sensitive receptors exposure to substantial pollutant concentrations, the DEIR discussed SCAQMD's localized significance thresholds and found less than significant operational impacts. (AR 474-475.) Localized operational impacts associated with the Project's NOx emissions were found to "not generate emissions on a localized scale that are expected to result in an exceedance of applicable standards, which are intended to be protective of the public health." (AR 468.) Localized construction impacts were found less than significant for Option 1 and Option 2, and less than significant with mitigation for the Future Development Area as it relates to PM_{10} during site preparation. (AR 469-474.)

After finding localized operational impacts to be less than significant for Impact AQ-3, the EIR included a "*Friant Ranch* Case" discussion. It again discussed the SCAQMD amicus curiae brief submitted in *Friant Ranch* and that in that brief SCAQMD discussed that "it may be infeasible to quantify health risks caused by projects similar to the proposed Projects." (AR 475-476.) It also discussed that regarding relatively small projects, it may not be feasible to perform a health risk assessment for airborne toxics and that even if technically possible to plug data into a methodology, the results will not be reliable or meaningful. (AR 476.) It noted that Project emissions were found to not be "sufficiently high enough to use a regional modeling program to correlate health effects on a basin-wide level." Finally, the DEIR again stated that the localized significance thresholds for CO, NOx, PM_{10}, and $PM_{2.5}$ will not be exceeded. (*Ibid.*)

In relation to Diesel Mobile Source Health Risk, the DEIR discussed "health risk impacts as a result of exposure to DPM [diesel particulate matter] as a result of heavy-duty diesel trucks traveling to and from the site, maneuvering onsite, and entering and leaving the site during operation of the proposed industrial uses." (AR 476-477.) Related to residential exposure, worker exposure, and

school children exposure, for Opening Year – Option 1, Opening Year – Option 2, and Future Development Area – Specific Plan Buildout, impacts were found to not cause a significant human health or cancer risk and be less than significant. (AR 485-486.)

Petitioners cite People's Collective's comments about other public agencies having performed *Friant Ranch* analysis and shown it is technically feasible for a Project such as this. People's Collective discussed that in 2020, the Sacramento Metropolitan Air Quality Management District (SMAQMD) had created guidance to address the *Friant Ranch* ruling, providing "insight on the health effects" for projects emitting at the maximum thresholds of significance levels "in the Five-Air-District Region for NOx, VOCs, and PM." (AR 12790-12791.) It discussed SMAQMD's modeling that could be used for projects within its jurisdiction as it relates to resulting health hazards from a project. (AR 12791.) It also discussed the CSU EIR that discussed its modeling of the master plan's air pollutant emissions over the entire South Coast Air Basin to identify health impacts from the project. (*Ibid.*) People's Collective asserted that the CSU EIR demonstrates a *Friant Ranch* analysis is possible for a project of this size. (AR 12792.) Finally, it commented that it was improper for the DEIR to state that SCAQMD and SJVAPD recognized meaningful, accurate analysis of health impacts from criteria pollutants was not possible and not likely to yield substantive information given SCAQMD recently commented on another EIR that sought similar analysis and stated modeling could be used. (AR 12793.)

In response to the comment, the County stated the EIR includes a *Friant Ranch*-type analysis, referring to DEIR page 5.3-43 (AR 12851), which is the discussion directed to localized air quality impacts (Impact AQ-3) that at the localized level were not found significant for operational air quality impacts. (See AR 475.) The County also discussed that emissions are not sufficiently high enough to correlate to health effects on a basin-wide level. As for the Southern California International Gateway project that SCAQMD commented on, the County discussed that it "is a large railyard that would assist in transporting goods from the San Pedro port throughout California, resulting in much

higher emissions than the proposed Project." It concluded that project was not comparable to this Project given differences in scale, proposed use, and emissions levels. (AR 12851.) The County also responded that "the Draft EIR and modeling conducted follow guidance provided by SCAQMD as it is the applicable air quality management district for the Project" and "multiple methods for analysis provided by the commenter would not be applicable to the proposed Project as emissions from the Project are not high enough to correlate to health effects on a basin-wide level." (AR 12851.)

c. Analysis

Under Impact AQ-2, for regional, cumulative operational air impacts, significant adverse impacts on air quality were found because estimated NOx and VOC emissions exceeded thresholds of significance. The *Friant Ranch* health impact analysis for this significant impact is discussed at DEIR pages 5.3-35 to 5.3-36 (AR 467-468). As noted, the discussion cites the SCAQMD amicus curiae brief submitted in *Friant Ranch* as reasons modeling does not exist to identify and analyze ozone-related health impacts resulting from significant regional NOx and VOC emissions. (AR 467-468.)

A *Friant Ranch* discussion also was included for localized operational emissions, which impacts were not found significant at DEIR pages 5.3-43 to 5.3-44. (AR 475-476.) The DEIR discussed that for extremely large regional projects, SCAQMD is able to correlate potential health outcomes for very large emission sources but again discussed that this Project does not generate anywhere near the emissions levels for NOx and VOC to use a regional modeling program to correlate health effects on a basin-wide level. (*Ibid.*)

The County's only basis for stating it is infeasible to assess health impacts related to the Project's criteria pollutant emissions found significant is reference to the SCAQMD's and SJVAPD's April 2015 amici curiae briefs filed with the California Supreme Court in *Friant Ranch*, which briefs are part of the administrative record. (AR 2896-2936, 60012-60037.). But in *Friant Ranch* the Court stated, "Contained in a brief, such explanation is directed at the wrong audience. The relevant

informational document here is the EIR, and the EIR must communicate not to the reviewing court, but the public and government officials deciding on the project." (*Friant Ranch, supra,* 6 Cal.5th at p. 520.) The analysis on which the *Friant Ranch* discussions are based that cite to and repeat statements made in SCAQMD's brief do not make the EIR adequate as an informational document by demonstrating that it is not "scientifically possible to do more than has already been done to connect air quality effects with potential human health impacts." (*Friant Ranch, supra,* 6 Cal.5th at p. 520.)

In addition, even though a conclusory discussion of an environmental impact deemed significant may be found inadequate as an informational document without reference to substantial evidence (*Friant Ranch, supra,* 6 Cal.5th at p. 514), Petitioners challenge the County's reliance on the briefs as not constituting "SCAQMD's guidelines." To the extent Petitioners' argument appears to assert that the amici curiae briefs do not constitute substantial evidence that no scientific analysis is possible, Petitioners are correct. Statements by an attorney in a legal brief do not constitute substantial evidence. "[S]ubstantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact" but "not argument...." (Pub. Resources Code, § 21080, subd. (e); see also Guidelines, § 15384.)

Another issue is that the County's response to the comment asserting health impact analysis has been done on projects of a similar size, only distinguished the Southern California International Gateway project as reason it does not provide a basis for modeling. The County failed to sufficiently address modeling created by the SMAQMD and modeling in the CSU EIR to demonstrate reason an analysis of health impacts still is infeasible. Only a conclusory statement is provided that such modeling is inapplicable due to Project emissions not being "high enough to correlate to health effects on a basin-wide level." (AR 12851.) But the CSU EIR discussed modeling was "used to estimate the incremental increase in ambient air quality concentrations as a result of project-related emissions" and ozone-related health effects attributed to the project. (RJN Exh. A, pp. 3.2-25 to 3.2-26.) Such

modeling occurred with operational emissions from NOx at 240 pounds/day and VOC at 149 pounds/day, much below the SCAQMD regional modeling used to correlate health effects on a basin-wide level that the County claims is possible. (*Id.* at p. 3.2-24.) Here, criteria pollutant operational emissions from this Project includes up to 298 NOx pounds/day. (AR 12851.)

Respondents argue that the CSU EIR borrowed the photochemical modeling from SMAQMD and therefore the SMAQMD and CSU EIR modeling are the same. They also assert that the CSU EIR discussion demonstrates reason the County was correct in not adopting it, citing portions of the CSU EIR that provides: "there is a degree of uncertainty inherent in the results of the analysis that is attributable to several variables;" "there are limitations associated with the epidemiological studies on which the estimates of health effects are based;" "there is a degree of uncertainty in these results as all simulations of physical processes, whether ambient air concentrations or health effects from air pollution leave a level of uncertainty associated with them;" and "the actual effects may be zero." (RJN Exh. A at p. 3.2-26.) Respondents argue that the CSU EIR admits it methodology is speculative and results are uncertain and that the County is not required to conduct a speculative analysis with uncertain results.

But the County's response did not provide any discussion of reason it found the CSU EIR modeling infeasible. While Respondents now quote portions of the analysis as reason not to adopt the approach, such reasoning was not provided as part of the comment. In addition, Respondents fail to acknowledge that after raising limitations associated with the analysis, the CSU EIR stated: "Nonetheless, regulatory agencies, including the USEPA, have judged that, even so, the results provide sufficient information to the public to allow them to understand the health effects of increases or decreases in air pollution." (RJN Exh. A at p. 3.2-26.)

Therefore, the County prejudicially abused its discretion in failing to sufficiently explain why it is infeasible to provide an analysis of the health risks associated with ozone impacts. As it relates to SMAQMD and the CSU EIR modeling that the comment raised, the County's response failed to

include a similar level of detail as the comment and demonstrate a good faith analysis of reason such modeling does not make it feasible to analyze health impacts related to criteria pollutants. (*See Pfeiffer, supra,* 200 Cal.App.4th at p. 1568; *Santa Clarita Org. for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 723 ["Problems raised by the public and responsible experts require a good faith reasoned analysis in response. [Citation.]").)

In light of the above, the court grants the writ petition for failure to provide a sufficient *Friant Ranch* analysis as it relates to significant and unavoidable operational regional impacts under Impact AQ-2.[8] In addition, even if the amici curiae briefs are considered, they do not constitute substantial evidence of reason no analysis can be provided. Finally, the County failed to provide a response with a similar level of detail to a comment about SMAQMD and the CSU EIR modeling and demonstrate a good faith analysis of reason such modeling does not support the feasibility of health impact modeling for a Project of this size.

2. Whether the EIR failed to Adequately Mitigate Air Quality and Health Impacts by refusing to require Zero-Emission Trucks

As discussed above, the Project will result in significant and unavoidable regional cumulative operational air impacts due to VOC and NOx emissions. A primary source of NOx emissions is from mobile sources that include vehicle emissions. (AR 464-466.) The DEIR states, "Since neither the

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[8] Although not discussed by the parties, a *Friant Ranch* discussion only is relevant as it relates to significant and unavoidable regional impacts related to operational NOx and VOC emissions under Impact AQ-2. All other air quality impacts considered were either found less than significant or less than significant with mitigation. The *Friant Ranch* discussion requires a sufficient discussion of significant project impacts. (*Friant Ranch, supra,* 6 Cal.5th at p. 519; see also *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1219-1220 [requiring discussion of health impacts due to "significant and unavoidable adverse impacts on air quality"].)

In particular for localized operational impacts found less than significant under Impact AQ-3, the Localized Significance Thresholds (LSTs) were established by SCAQMD to "show whether a project would cause or contribute to localized air quality impacts and thereby cause or contribute to potential localized adverse health effects." (AR 1099.) The Air Quality study discussion on LSTs states: "LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard at the nearest residence or sensitive receptor. The SCAQMD states that lead agencies can use the LSTs as another indicator of significance in its air quality impact analyses. [¶] LSTs were developed in response to environmental justice and health concerns raised by the public regarding exposure of individuals to criteria pollutants in local communities. To address the issue of localized significance, the SCAQMD adopted LSTs that show whether a project would cause or contribute to localized air quality impacts and thereby cause or contribute to potential localized adverse health effects." (AR 1099.)

Project applicant nor the County have regulatory authority to control tailpipe emissions, no feasible mitigation measures exist that would reduce these emissions to levels that are less-than-significant." (AR 466.)

Nonetheless, Mitigation Measure AQ-3 will be implemented to install signs at loading dock facilities to restrict idling to no more than 5 minutes under Title 13 of the California Code of Regulations, Section 2485. Mitigation Measure AQ-4 incorporates energy efficient vendor trucks. Mitigation Measure AQ-5 requires electronic vehicle charging stations and a minimum of five carpool parking spaces at each building. Mitigation Measure AQ-6 requires all buildings be designed to provide infrastructure support for electric-powered forklifts and other interior vehicles. Mitigation Measure AQ-7 requires a Transportation Management Association (TMA) or other similar mechanism to encourage and coordinate carpooling. Even with these mitigation measures, VOC and NOX emissions are significant and unavoidable. (AR 466.)

People's Collective submitted a detailed comment that discussed use of zero-emission Class 7 and 8 semi-trucks in lieu of diesel semi-trucks as an effective mitigation measure under CEQA because the vehicles have no tailpipe emissions and lower life-cycle GHG emissions. (AR 12796-12809.) It stated the following as reasons for feasibility: "First, numerous studies show that the current total cost of ownership for a large battery-electric semi-truck is less than a diesel equivalent. As the decade progresses, the cost of battery-electric semi-trucks will drop even lower, whereas diesel trucks are expected to increase in cost, or remain stagnant. Second, the two largest technological barriers to widespread usage of battery-electric semi-trucks, which are the existence of cheap batteries that can sustain long range freight movement, and sufficient charging infrastructure to support battery-electric semi-trucks, have been overcome with immense public and private investment. Third, there are currently numerous Class 7 and 8 battery-electric truck models available for purchase, and many freight facilities have already committed to utilizing these trucks. Finally, government agencies

in California are aggressively pushing for widespread usage of large battery-electric semi-trucks through regulatory mandates, grant programs, and financial incentives." (AR 12798.)

As it relates to infrastructure, the comment noted that the California Public Utilities Commission (CPUC) has approved significant investments proposed by California's major public utilities in heavy-duty charging infrastructure. (AR 12802.) It stated, "Altogether, these investments will support the development of charging infrastructure for *at least* 18,000 trucks and buses. Therefore, although charging infrastructure is a significant barrier to widespread usage of heavy-duty vehicles, the almost $1 billion dollars already committed to building this infrastructure by California's utilities is a huge step in overcoming this barrier." (AR 12803.) The comment also mentioned that CARB has proposed an update to its Advanced Clean Truck rule to increase the number of zero-emission vehicles that medium-duty and heavy-duty manufacturers are required to sell in California. (AR 12805.)

In response the County stated, "[T]he use of zero-emission light- and medium duty-trucks is limited and an infrastructure network to support their use, such as charging infrastructure off major thoroughfares, is limited throughout southern California. Thus, commercial use and availability throughout the State is currently limited and restricting the trucks that may access the Project site to zero-emission vehicles only is not economically feasible." (AR 12855.) The response mentioned that CARB passed its updated Advanced Clean Truck Rule on July 1, 2020, and that under this rule, it requires medium-and heavy-duty truck manufacturers to sell zero-emissions trucks as an increasing percentage of their annual California sales from 2024 to 2035; by 2035 zero-emission truck/chassis sales are required to be 75 percent of Class 4 through 8 straight truck sales, and 40 percent of truck tractor sales. The County stated: "The rule begins in 2024, at which point an infrastructure network to support zero-emission trucks throughout southern California is anticipated to begin to become available." (AR 12855.) CARB estimates that by 2030, nearly one in three new trucks will be zero-emissions. (AR 12855-12856.) The County discussed that the Project incorporates electronic vehicle

charging stations and provides infrastructure support to use electric-powered interior vehicles. "Additionally, the proposed Project would include [Project Design Features] PDF AQ-13, which would require infrastructure to support future installation of truck charging stations, when such trucks are commercially available, and PDF AQ-14, which would require electric light-duty charging infrastructure for one charging station for every five light-duty truck parking spaces onsite." (AR 12856.) The County also discussed the Project operator being required to encourage vendor trucks to incorporate energy efficiency improvement features under a CARB program to reduce fuel consumption and emissions (AR 12856), which appears to be in reference to PDF AQ-9 (AR 490).

But the response also repeatedly stated that "zero-emission trucks are not currently commercially available" (AR 12856, 12857), despite previously stating such use and the infrastructure for support is limited (AR 12855), which implies commercial availability. It also stated "it would not be feasible at this time to restrict the trucks that may access the Project site to zero-emission vehicles only." (AR 12856.) The response cites to the Department of Energy as providing that heavy-duty trucks are not expected to be cost-competitive until 2035. (*Ibid.*)

a. Petitioners' Arguments

Petitioners argue that the EIR failed to address impacts from heavy-duty diesel trucks, citing People's Collective's comment letter in support. Petitioners contend that to support the conclusion a proposed mitigation measure is "economically infeasible," an agency must provide an estimate or discussion of the expected costs of adopting the measure, citing *County of San Diego v. Grossmont-Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 91, 94, 108 (*County of San Diego*). They argue that the County's one paragraph explanation is insufficient and given what is stated in the comment and that the Project is multi-phased with construction not to be completed until 2040, it is reasonable to require the use of these trucks as part of the CEQA mitigation program. They contend there is no data or information to show zero-emission trucks cannot be required because they are cost prohibitive. They argue the County failed to include a cost estimate for electric heavy-duty trucks

compared to diesel or an assessment of fueling costs and there is no information in the record that availability is limited.

b. Analysis

Under Public Resources Code section 21081, subdivision (a), and CEQA Guidelines section 15091, subdivision (a), "'[f]or each significant effect identified in the EIR, the approving agency must make one or more of the following findings: (1) that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the effect; (2) that the agency making the findings lacks jurisdiction to make the change, but that another agency does have such authority, and either has made, or can and should make, the change; and/or (3) that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.'" (*County of San Diego, supra,* 141 Cal.App.4th at p. 100, citing Remy et al., Guide to Cal. Environmental Quality Act, (10th ed. 1999) p. 323, italics omitted.)

Feasible "means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." (Guidelines, § 15364.) "An agency's finding of infeasibility under section 21081(a)(3) and CEQA Guidelines section 15091(a)(3) must be supported by substantial evidence in the administrative record. (§ 21081.5 ['In making the findings required by [section 21081(a)(3)], the public agency shall base its findings on substantial evidence in the record']; CEQA Guidelines § 15091(b) ['The findings required by [CEQA Guidelines section 15091(a)] shall be supported by substantial evidence in the record'].)" (*County of San Diego, supra,* 141 Cal.App.4th at p. 100.)

Guidelines section 15088, subdivision (a), also provides: "The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments raising significant

environmental issues received during the noticed comment period and any extensions and may respond to late comments." "The level of detail contained in the response, however, may correspond to the level of detail provided in the comment (i.e., responses to general comments may be general.) A general response may be appropriate when a comment does not contain or specifically refer to readily available information, or does not explain the relevance of evidence submitted with the comment." (Guidelines, § 15088, subd. (c).)

Respondents contend that Petitioners' claim that CARB, SCAQMD, Petitioners, and community members submitted public comments that electronic trucks are technologically feasible and cost less than diesel equivalents today is false given Petitioners only cited to their comment letter. But Petitioners Opening Brief discussed SCAQMD's comment related to requiring zero emission or near-zero emissions trucks accessing the Project during operation. (Open. Br. p. 17.) When SCAQMD's letter is reviewed, its comment was not only directed to Project Design Features (PDFs), but also proposed mitigation measures to identify "clean" operational trucks "that are already available and in-use, require their uses by the opening date for Planning Area A in 2022, develop considerations of potential cleaner technologies that will become feasible and available during the lifetime of the Proposed project (buildout year 2040), [and] develop a process for periodic technology assessment with performance standards...." (AR 12214.) SCAQMD provided more details about such feasibility over the lifetime of the project. (AR 12218-12219.)[9]

Respondents argue that CARB is only now starting to mandate that a small percentage of new trucks sold be zero-emission. They assert what is stated in the County's response, which is that it is not until by 2035 that CARB will require 75 percent of all new Class 4 to 8 trucks and 40 percent of truck tractor sales be zero-emission. (AR 12855.) Respondents argue that they reasonably relied on

[9] CARB also submitted a comment directed to the use of zero-emission trucks as a mitigation measure. (AR 12230-12231.)

CARB's analysis that it will not be until 2030 that "nearly one in three new trucks" will be zero-emission. (*Ibid.*)

Substantial evidence does not support the response that zero-emission trucks are not currently commercially available. In the response at issue, economic infeasibility was related to limited commercial use and availability and the limited charging infrastructure network. (AR 12855.) But the comment also admitted that in light of CARB's Advanced Clean Truck Rule, beginning in 2024, "an infrastructure network to support zero-emission trucks throughout southern California is anticipated to begin to become available." (AR 12855.)

In support of economic infeasibility, the County also relied on a statement from the Department of Energy that "light-duty trucks are not expected to become cost-competitive until 2030 and medium-duty to heavy-duty trucks are not expected to be cost-competitive until 2035." (AR 12856.) But this statement alone is not substantial evidence in support of economic infeasibility. Economic infeasibility requires evidence that "the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Uphold Our Heritage, supra,* 147 Cal.App.4th at p. 599.) The parameters of zero-emission trucks becoming "cost-competitive" are not provided or explained.[10]

Respondents argue that because there is no known tenant, requiring zero-emission trucks will cause the Project to remain empty until a tenant with a zero-emission fleet becomes interested, stifling Project objectives. But the only evidence cited in support of the tenant issue is AR 13901-13902, the Staff Report, which notes, as part of the conditional use permit (CUP) discussion, that Sites 1 through 4 are being built on a speculative basis with no tenant identified at this time. In addition, the basis for infeasibility stated in the response was not related to the tenant issue. Instead, in response to

[10] Even if the specific website cited in the response is considered part of the administrative record, it only provided this general statement without any data upon which the statement relies to demonstrate economic infeasibility.

People's Collective' comment, infeasibility was related to infrastructure issues, with the County also noting that beginning in 2024 a network "to support zero-emission trucks throughout southern California is anticipated to begin to become available." (AR 12855.)

To the extent Respondents argue that the EIR identifies four Project Design Features (PDFs) that explicitly mandate the use of electronic trucks in the future to the extent feasible, such argument is without consequence to whether the County's infeasibility finding is supported by substantial evidence. Specifically, Respondents rely on:

- PDF AQ-10, which in the FEIR states: "The Project Applicant/Developer/Tenant shall require that all heavy-duty trucks entering or operated on the Project site to be zero-emissions beginning in 2030, if such trucks are commercially available as reasonable determined by the County Planning Division."

- PDF AQ-12, which in the FEIR states: "The Project Applicant/Developer/Owner shall require tenants to use zero-emission light- and medium-duty trucks as part of the business operations, if such trucks are commercially available, as reasonably determined by the County Planning Division."

- PDF AQ-13, which in the FEIR states: "The Project Applicant/Developer shall construct electric truck charging infrastructure consisting of infrastructure (i.e., conduit) to support future installation of charging stations, when such trucks are commercially available, as reasonably determined by the County Planning Division."

- PDF AQ-14, which in the FEIR states: "The Project Applicant/Developer shall construct electric light-duty truck charging infrastructure consisting of infrastructure (i.e., conduit) proportional, i.e., conduit for one charging station for every five light-duty truck parking spaces at the Project." (AR 13790-13791.)

Respondents argue that Petitioners fail to show these measures will not be effective in mitigating the Project's air quality impacts.

But the Air Quality PDFs are described in the DEIR as measures the Project Applicant has "voluntarily agreed to incorporate" into the Project to reduce potentially significant impacts. The DEIR also provided that "[i]n order to ensure a conservative disclosure of Project impacts, no reductions in impacts have been assumed due to the incorporation of these Project Design Features." (AR 489.) Therefore, Respondents argument that there is no showing these PDFs will not be effective in mitigating air quality impacts is without any support because these items were not presented or

analyzed as mitigation measures. Further, and more importantly, "'avoidance, minimization and/or mitigation measures,' as they are characterized in the EIR, are not 'part of the project.' They are mitigation measures designed to reduce or eliminate" significant environmental impacts. (*Lotus v. DOT* (2014) 223 Cal.App.4th 645, 656 (*Lotus*).) If such measures are effectively being held out as mitigation measures, then evaluation and findings in support must be made. (*Id.* at p. 656 and fn. 8.)

Further, if these PDFs are considered as it relates to the County's economic infeasibility response, it is noted that the requirement in the DEIR that these air quality PFDs must be "economically feasible" has been removed and the FEIR only provides these PDFs must be met if "commercially available" as determined by the County Planning Department. (Compare AR 490 and AR 13790-13791 [PDFs AQ-10, 12, 13].) With the removal of the economic feasibility requirement in relation to zero emission truck requirements, it is reasonable to conclude some measure of economic feasibility has been determined to exist over the Project's buildout period.

In light of the above, the County's findings of economic infeasibility and that zero-emission trucks are not currently commercially available are not supported by relevant economic evidence and the County prejudicially abused its discretion. (*County of San Diego, supra,* 141 Cal.App.4th at p. 108.) No estimates of the costs of zero-emission trucks over a reasonable period of time is provided to demonstrate economic infeasibility related to an operational zero-emission truck requirement for Class 7 and 8 trucks.

Therefore, the court grants the writ petition because substantial evidence does not support the County's findings of economic and commercial infeasibility for mitigation measures directed to zero-emission trucks.

F. Greenhouse Gas Emissions Impacts

1. Petitioners' Arguments

Petitioners contend the EIR failed to adequately disclose, analyze, and mitigate the Project's GHG emissions. They argue the EIR relies on a faulty traffic impact assessment that results in

undercounted GHG emissions from trucks; evades a proper discussion of the Project's GHG emissions by conflating significance and mitigation measure analyses; and fails to provide substantial evidence that the single mitigation measure will mitigate the Project GHG emissions.

2. CEQA Greenhouse Gas Emissions Requirements

CEQA Guidelines section 15064.4 addresses GHG emissions. It provides, "A lead agency shall make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." (Guidelines, § 15064.4, subd. (a).) When determining the significance of environmental impacts from GHG emissions, the lead agency should consider "[w]hether the project emissions exceed a threshold of significance that the lead agency determines applies to the project." (Guidelines, § 15064.4, subd. (b)(2).) The lead agency has the discretion to select the model or methodology used, but its selection must be supported by substantial evidence. (Guidelines, § 15064.4, subd. (c).)

"The challenge for CEQA purposes is to determine whether the impact of the project's emissions of greenhouse gases is *cumulatively* considerable, in the sense that 'the incremental effects of [the] individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.'" (*Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 219 (*Center for Biological Diversity*), citing Pub. Resources Code, § 21083, subd. (b)(2) and Guidelines, § 15064, subd. (h)(1)].)

Under Guidelines section 15183.5, subdivision (b), a public agency "may choose to analyze and mitigate significant greenhouse gas emissions in a plan for the reduction of greenhouse gas emissions or similar document." A greenhouse gas reduction plan may be used in a cumulative impacts analysis. (*Ibid.*) "Guidelines section 15183.5, added in 2010 along with section 15064.4, explains in detail how a programmatic effort such as '... a separate plan to reduce greenhouse gas emissions' (*id.*, § 15183.5, subd. (a)) may, if sufficiently detailed and adequately supported, be used in later project-specific CEQA documents to simplify the evaluation of the project's cumulative

contribution to the effects of greenhouse gas emissions (§ 15183.5, subd. (b))"[11] (*Center for Biological Diversity, supra,* 62 Cal.4th at p. 230.)

A greenhouse gas emission reduction plan may provide for tiering or streamlined review at a project level. (*McCann v. City of San Diego* (2021) 70 Cal.App.5th 51, 92 (*McCann*).) "In other words, an agency may adopt a comprehensive plan to make defined reductions in a region's greenhouse gas emissions that are collectively sufficient to meet the reduction targets set by the state. Thereafter, the agency may fulfill its duty under CEQA to consider the significance of an individual project's greenhouse gas emissions by analyzing whether the project is consistent with the broader plan. If a project is found to be consistent with the broad plan, that finding provides sufficient evidence for the agency to conclude the project has no significant impact due to greenhouse gas emissions." (*Ibid.*)

"An environmental document that relies on a greenhouse gas reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project." (Guidelines, § 15183.5, subd. (b)(2).) This means that if the plan requirements are not part of the project, they must be incorporated as mitigation measures to make them binding and enforceable.

3. EIR's Analysis of GHG Emissions

The EIR discusses that in 2011, the County adopted a Greenhouse Gas Emissions Reduction Plan that was updated in March 2015 (2015 GHG Reduction Plan). It also was in the process of

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[11] A plan for the reduction of GHG emissions should: quantify GHG emissions; establish a level below which the contribution to GHG emissions would not be cumulatively considerable; identify and analyze GHG emissions from specific actions or categories of actions; specify measures, including performance standards, that, if implemented on a project-by-project basis, would collectively achieve the specified emissions level; establish a mechanism to monitor the plan's progress in achieving the level and require amendment if necessary; and be adopted in a public process following environmental review. (Guidelines, § 15183.5, subd. (b)(1).)

updating and adopting the 2021 Greenhouse Gas Reduction Plan (2021 GHG Reduction Plan). (AR 590.)

The 2015 GHG Reduction Plan provides a goal of reducing the County's internal and external GHG emissions to 15 percent below 2020 levels, consistent with the SB 32 Scoping Plan. The County achieved the 2020 GHG reduction target. The proposed 2021 GHG Reduction Plan provides a target to reduce GHG emissions to 40 percent below 2007 levels by year 2030.[12] (*Ibid.*)

The 2015 GHG Reduction Plan and proposed updated 2021 GHG Reduction Plan specify a two-step approach in quantifying GHG emissions. "First, a screening threshold of 3,000 metric tons of carbon dioxide equivalent ($MTCO_2e$) per year is used to determine if additional analysis is required." (AR 590, 593.) "Projects that exceed the 3,000 $MTCO_2e$/yr are required to either achieve a minimum 100 points per the Screening Tables or a 31 percent reduction over 2007 emissions levels. Consistent with CEQA guidelines, such projects would be determined to have a less than significant individual and cumulative impact for GHG emissions."[13] (AR 593, see also AR 590)

The propriety of CEQA approval of the 2011 GHG Reduction Plan (updated March 2015) and the 2021 GHG Reduction Plan is not before the court.

In discussing GHG emissions, the DEIR stated the Project will have a significant effect if it were to:

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[12] Petitioners do not cite any evidence to demonstrate the proposed 2021 GHG Reduction Plan was not approved. Documents in the administrative record demonstrate that in August 2021, the Planning Commission recommended approval of the 2021 GHG Reduction Plan (SAR 1021) and in September 2021 a recommendation was made to conduct a public hearing to consider adoption of the 2021 GHG Reduction Plan. (SAR 1020.) The 2021 GHG Reduction Plan and an SEIR Addendum for its approval is provided. (See SAR 779-1018.) Neither party cites to any document in the administrative record demonstrating the County's adoption of the 2021 GHG Reduction Plan. Given Petitioners do not contend otherwise, the court treats the 2021 GHG Reduction Plan as approved and in effect.

[13] Under the 2021 GHG Reduction Plan, a project that exceeds 3,000 $MTCO_2e$ per year that uses Screening Tables is required to garner a 100 or greater points to "not require quantification of project specific GHG emissions." (SAR 851.) Such projects are considered consistent with the 2021 GHG Reduction Plan and to have less than significant individual and cumulative GHG emissions impacts. (*Ibid.*) "Those projects that do not garner 100 points using the Screening Tables will need to provide additional analysis to determine the significance of GHG emissions." (SAR 867.) The alternative of the 31 percent over 2007 emission levels is not in the 2021 Plan because the 2021 GHG Reduction Plan's emissions reduction goal for year 2030 is to reduce emissions to 40 percent below 2007 levels. (AR 590.)

- Impact GHG-1: Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment; or

- Impact GHG-2: Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. (AR 592.)

In considering Impact GHG-1, the DEIR found the impact was less than significant with mitigation incorporated. For the Specific Plan area, the annual GHG emissions for Opening Year – Option 1 are 17,347.57 $MTCO_2e$ per year. For Opening Year – Option 2, the annual GHG emissions are 22,420.02 $MTCO_2e$ per year. For the Future Development Area – Specific Plan Buildout, GHG emissions are 30,515.30 $MTCO_2e$ per year. Finally for the Upzone Site, building residential units, GHG emissions are 7,416.48 $MTCO_2e$ per year. (AR 594-597.)

Given these amounts exceeded the screening threshold of 3,000 $MTCO_2e$ per year, the Project was required to either achieve a minimum 100 points per the Screening Tables or a 31 percent reduction over 2007 emissions. (AR 597.) The DEIR discussed that a project that adopts at least 100 points of GHG performance standards listed on the 2021 Screening Tables will be consistent with the proposed 2021 GHG Reduction Plan to reduce emissions to 40 percent below the 2007 level, which is a greater reduction than required by the 2011 GHG Reduction Plan. (AR 597.) "Meeting this reduction would be consistent with the State's long-term goal to achieve statewide carbon neutrality (zero net emissions) by 2045, and therefore, would result in a less than significant impact related to GHG emissions." (*Ibid.*)

The DEIR discussed that "the proposed Specific Plan Project (including all three development scenarios) would earn 171 points and the Upzone Site would earn 104 points on the County's proposed 2021 GHG Screening Tables, which would both exceed 100 points." (AR 597.) It then stated, "Mitigation Measure GHG-1 has been included to ensure application of the GHG reduction measures. Additionally, as stipulated by Mitigation Measure GHG-1, individual projects can utilize different measures than those chosen in Tables 5.8-6 and 5.8-7 as long[] as the total of the measures

utilized meet 100 points. Therefore, impacts related to greenhouse gas emission would be less than significant with mitigation."[14] (*Ibid.*)

For Impact GHG-2, whether the Project conflicts with an applicable plan, policy, or regulation adopted to reduce GHG emissions, the County's GHG Reduction Plan was considered. The DEIR found that because the Project "includes features that result in over 100 points of GHG reduction measures listed in the County's Screening Tables, it would be consistent with the County's GHG Plan...." (AR 609.) The Project also was found consistent with the CARB Scoping Plans. (*Ibid.*)

As part of the cumulative impact analysis, the DEIR discussed that under Guidelines section 15183.5, subdivision (b), compliance with GHG related plans supports a determination that a project's cumulative effects are not cumulatively considerable. (AR 617-618.) It found that because "the Project would be implemented in compliance with applicable plans for the reduction of GHG emissions, ... the contribution of the Project to significant cumulative GHG impacts would be less than cumulatively considerable. (AR 618.)

Finally, the DEIR found that due to compliance with existing regulatory requirements, Impact GHG-2 was less than significant. But without mitigation, Impact GHG-1 was found potentially significant. Mitigation measures were those identified for air quality impacts. It also provided, "Prior to issuance of building permits for each building, the Project Applicant shall provide documentation to the County of San Bernardino Building Department demonstrating that the improvements and/or buildings subject to the building permit application include measures from the 2021 County of San Bernardino Greenhouse Gas Reduction Plan Screening Tables (June 2021), as needed to achieve the required 100 points. Specific measures may be substituted for other measures that achieve an equivalent amount of GHG reduction, subject to the County of San Bernardino Building Department approval." (AR 623.) Impact GHG-1 was found less than significant with mitigation. (*Ibid.*)

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[14] Tables 5.8-6 and 5.8-7 are found at AR 598-609.

4. Analysis

Petitioners' initial argument about faulty traffic impact assessment undercounting trucks already was considered and rejected. In addition, the GHG emissions analysis at issue is based on the two-step process under the County's Greenhouse Gas Reduction Plan threshold of significance. Once the Project was found to generate over 3,000 $MTCO_2e$ per year, a finding of no significant impacts requires finding the Project garners 100 points in GHG performance standards under Screening Tables set forth in the 2021 GHG Reduction Plan. Even with the traffic thresholds used, the $MTCO_2e$ threshold was exceeded.

Petitioners also argue that around 82 percent of annual GHG emissions are related to mobile sources, but only 36 percent of the Project's GHG emissions reductions are related to mobile source emissions. They argue the vast majority of the Project's purported GHG emissions reductions will be achieved by implementing building features already incorporated into the Project's design and that by focusing on building energy efficiency measures, the Project's compliance with the GHG Reduction Plan is based on reducing emissions never projected to happen.

But the County's GHG Reduction Plan is an adopted plan for the reduction of GHG emissions as provided for under Guidelines section 15183.5, which also provides that once adopted following certification of an EIR, the plan "may be used in the cumulative impacts analysis of later projects." (Guidelines, § 15183.5, subd. (b)(2).) As such, GHG emissions analysis "must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project." (*Ibid.*)

Petitioners next argue that the County acknowledges that at issue is a "Specific Plan" and therefore, not all of the Screening Table "measures and points would necessarily be applicable to each building and structure in the Specific Plan." They contend that the County failed to present substantial evidence to support its approach to mitigating the Project's GHG emissions because in some

discussion the two-step GHG Development Review Process is identified as part of the threshold, citing AR 3684, and in others it is referred to as a mitigation measure related to GHG-1, citing AR 597, 603, 609, 3639, 3711. They argue that the County treats GHG thresholds and mitigation measures the same. Petitioners assert that under *Lotus,* the County improperly compressed impact and mitigation measure analysis into a single issue. They contend that the County failed to discuss the significance of the environmental impact separate from the proposed mitigation measures. Therefore, they argue, the County's analysis omitted material needed for informed decisionmaking and informed public participation, which Petitioners argue, is prejudicial error under *Lotus, supra,* 223 Cal.App.4th at p. 658.

Respondents claim PDFs support finding GHG impacts are less than significant without mitigation because PDFs achieve at least 100 points. At the hearing, they argued the 100-point score was achieved through PDFs that do not need to be adopted as mitigation measures.

When considered, Petitioners are correct that it cannot be that the Project's GHG impacts are less than significant without mitigation because the Project includes enough design features to achieve at least 100 points from the Screening Tables, as found for Impact GHG-2 (as Respondents argue in opposition), and at the same time the Project implements mitigation in the form of requiring improvements/building measures as set forth in the 2021 Screening Tables to achieve the required 100 point requirement that results in GHG emission impacts being found insignificant with mitigation, as found with Impact GHG-1.

While the *Lotus* case does not involve a greenhouse gas reduction plan under Guidelines section 15183.5, subdivision (b), it is relevant to the extent it highlights the requirements of CEQA are not met when analysis of impacts and mitigation measures are compressed. (*Lotus, supra,* 223 Cal.App.4th at pp. 655-656.) As *Lotus* discussed, mitigation measures are not "part of the project" itself. (*Ibid.*) Even Real Party acknowledged this at the hearing.

"'[M]itigation measures should be capable of "[a]voiding the impact altogether by not taking a certain action or parts of an action"; "[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation"; "[r]ectifying the impact by repairing, rehabilitating, or restoring the impacted environment"; "or [r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action."' [Citations.]" (*Id.* at p. 656, citations omitted.) A mitigation finding "also triggers the need to adopt an enforceable monitoring program." (*Id.* at pp. 656-657, citing Guidelines, § 15091, subd. (d).)

Under Guidelines section 15183.5, subdivision (b)(2), unless an item on the Screening Table is a binding and enforceable project requirement, such items must be incorporated as a mitigation measure applicable to the project. Further, this Project not only involves a Specific Plan evaluated at the programmatic level, but also includes analysis of Specific Plan areas evaluated at both project and programmatic levels. (AR 196-197.) Opening Year Development – Option 1, is a specific project for which a development application was submitted and analyzed at the project level. (AR 194, 196-197.)

As such, the EIR is inherently inconsistent in finding that under Impact GHG-2, emissions impacts are less than significant because the proposed Specific Plan and Upzone includes features that result in over 100 points of GHG reduction measures (AR 609), without showing any such features are binding and enforceable as part of the Project requirements, and at the same time includes Mitigation Measure GHG-1 under Impact GHG-1 to ensure the Project meets the 100 point requirement. (AR 597, 623.) The PDFs cannot be treated as project design features and mitigation measures at the same time; if PDFs are not otherwise binding and enforceable, they must be incorporated as mitigation measures. (Guidelines, 15183.5, subd. (b)(2).)

"An agency abuses its discretion under CEQA by reaching factual conclusions unsupported by substantial evidence. [Citation.]" (*McCann, supra,* 70 Cal.App.5th at p. 97.) The County's determination in relation to Impact GHG-2 that the Project will not have a significant impact as it

relates to GHG emissions is not supported by substantial evidence, given the Screening Tables are not demonstrated to be binding and enforceable outside being incorporated as mitigation measures.

In addition, the inherently contradictory discussion of GHG emission impacts renders the GHG emission discussion inadequate under CEQA as an informational document. (Guidelines, § 15121, subd. (a).) Finally, given the contradictory nature of the discussion, it is not demonstrated that the requirements of Guidelines section 15183.5, subdivision (b)(2), are met with respect to the County's reliance on the 2021 GHG Reduction Plan to demonstrate cumulative GHG emissions impacts will not be cumulatively considerable.

Based on the above, the court grants the writ petition as it relates to the GHG emission analysis.

G. Energy Impacts

1. Petitioners' Arguments

Petitioners argue the while the EIR finds the Project's energy impacts will be less than significant, the Project will result in the wasteful, inefficient, and unnecessary consumption of energy. They contend the County abused its discretion when it refused to consider any renewable energy sources to meet the Project's energy demands, such as adoption of onsite solar, as required by Appendix F of the CEQA Guidelines. The County also improperly based its significance finding on compliance with California's building and energy codes, which they contend are inadequate. Finally, they contend the EIR's transportation energy analysis is based on an underestimated projection of 2.7 million gallons of annual transportation fuel consumption, wrongfully relies on compliance with state idling regulations, and fails to consider electric trucks and alternative fuels to reduce the Project's transportation energy impact.

2. Exhaustion of Administrative Remedies

As an initial issue, Respondents argue that Petitioners failed to exhaust their administrative remedies for their renewable energy claims because the comments cited did not contend the County

must consider renewable energy features as part of its significance finding. At the hearing, the County argued Petitioners' citations to the record on reply fail to show the exact issue of Appendix F renewable energy requirements was raised.

For purpose of exhaustion of administrative remedies, the grounds for CEQA noncompliance must be raised with enough specificity that the administrative agency has a fair opportunity to consider the legal and factual questions before a petitioner raises those questions in court. (*Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 910.)

Respondents' exhaustion argument is without merit. The administrative record demonstrates a commenter discussed that the DEIR misreads the contours of Appendix F, which is stated in the comment to include increasing reliance on renewable energy sources. (AR 12795-12796.) It also discussed that the requirements exist "to have developers think about whether to power their buildings with natural gas or whether to install solar panels to reduce impacts." (AR 12796.) In response to these comments directed to the DEIR's failure to adequately analyze and mitigate impacts to energy resources, the County stated that under CEQA Guidelines Appendix G, "potential impacts related to energy could occur if the Project results in wasteful, inefficient, or unnecessary consumption of energy resources; or if the Project conflicts with or obstructs a state or local plan for renewable energy or energy efficiency, which is evaluated in Draft EIR Section 5.6 *Energy*." (AR 12855.) It discussed that the Project includes numerous provisions to conserve energy and use energy efficiently, including 27 PDFs and Mitigation Measures AQ-3 through AQ-7 that provide for energy efficiency. It also discussed the comment on solar use, stating all necessary infrastructure will be installed for future installation with a specified electrical generation capacity. (*Ibid.*)

In another comment letter, the "Energy Impacts" discussion was raised. As part of the discussion, the commenter asserted the Draft EIR's finding of less-than-significant was not supported. It stated, "The Project creates a massive demand for electricity, but does not, for instance 'increase

reliance on renewable energy sources.' *See* CEQA Guidelines Appendix F." (AR 12870.) The commenter also discussed using solar energy system to reduce the Project's energy impacts "consistent with Guidelines Appendix F." (AR 12871.) The County's response again referred to the requirements of Appendix G and that in DEIR Section 5.6, Energy, Project requirements to not waste, be inefficient, or unnecessarily consume energy are detailed, along with the Project's compliance with energy regulations. The County also addressed the comment on the use of solar, stating all necessary infrastructure will be installed to allow solar photovoltaic systems to be installed in the future. (AR 12883.)

These comments are sufficient to meet exhaustion requirements as it relates to Petitioners' renewable energy arguments.

3. CEQA Requirements

Under CEQA Guidelines, "[i]f analysis of the project's energy use reveals that the project may result in significant environmental effects due to wasteful, inefficient, or unnecessary use of energy, or wasteful use of energy resources, the EIR shall mitigate that energy use. This analysis should include the project's energy use for all project phases and components, including transportation-related energy, during construction and operation. In addition to building code compliance, other relevant considerations may include, among others, the project's size, location, orientation, equipment use and any renewable energy features that could be incorporated into the project. (Guidance on information that may be included in such analysis is presented in Appendix F.) This analysis is subject to the rule of reason and shall focus on energy use that is caused by the project. This analysis may be included in related analyses of air quality, greenhouse gas emissions, transportation or utilities in the discretion of the lead agency." (Guidelines, § 15126.2, subd. (b).)

An EIR must include a statement regarding "[m]itigation measures proposed to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy." (Pub. Resources Code, § 21100, subd. (b)(3).)

Courts have held that "an EIR is 'fatally defective' when it fails 'to include a detailed statement setting forth the mitigation measures proposed to reduce wasteful, inefficient, and unnecessary consumption of energy.' [Citation.]" (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 209 (*City of Woodland*); *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 263 (*Ukiah*).) "The requirement to adopt energy impact mitigation measures 'is substantive and not procedural in nature and was enacted for the purpose of requiring the lead agencies to focus upon the energy problem in the preparation of the final EIR.' [Citation.]" (*City of Woodland, supra,* 225 Cal.App.4th at p. 209.)

The CEQA Guidelines provide that: "Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F." (Guidelines, § 15126.4, subd. (a)(1)(C).) Guidelines Appendix F, section II, states: "Potentially significant energy implications of a project should be considered in an EIR to the extent relevant and applicable to the project. The following list of energy impact possibilities and potential conservation measures is designed to assist in the preparation of an EIR. In many instances, specific items may not apply or additional items may be needed. Where items listed below are applicable or relevant to the project, they should be considered in the EIR." Appendix F then lists how energy consumption and conservation may be analyzed in the EIR.

4. EIR Energy Discussion

The DEIR assessed "the significance of the use of energy, including electricity, natural gas and gasoline, and diesel fuels, that would result from implementation of the proposed Project. It discusse[d] existing energy use patterns and examine[d] whether the proposed Specific Plan (including development and operation) would result in the consumption of large amounts of fuel or energy or use such resources in a wasteful manner." (AR 541.)

In the Environmental Setting section, the DEIR noted that for electricity, "the SCE electrical grid modernization effort supports implementation of California Senate Bill 32 that requires the state

to cut greenhouse gas emissions 40 percent below 1990 levels by 2030 in order to help address global climate change." (AR 543.) It described that in 2019, "[a]pproximately 35% of power that SCE delivered to customers came from renewable sources (SCE 2019)." (*Ibid.*)

As for the thresholds of significance, the DEIR referred to Appendix G of the CEQA Guidelines to state the Project could have a significant effect if:

- Impact E-1: Results in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation.
- Impact E-2: Conflict with or obstruct a state or local plan for renewable energy or energy efficiency. (AR 543.)

The methodology used stated that "[a] number of factors are considered when weighing whether a project would use a proportionately large amount of energy or whether the use of energy would be wasteful in comparison to other projects. Factors such as the use of on-site renewable energy features, energy conservation features or programs, and relative use of transit are considered." (*Ibid.*) The DEIR discussed the definition of "conserving energy" in Appendix F, which is defined as "decreasing overall per capita energy consumption, decreasing reliance on natural gas and oil, and increasing reliance on renewable energy sources." (*Ibid.*) No numerical thresholds of significance exist, instead the emphasis is on reducing "'the wasteful, inefficient, and unnecessary consumption of energy.'" (*Ibid.*)

The DEIR stated: "Construction activities would result in wasteful, inefficient, or unnecessary use of energy if construction equipment is old or not well maintained, if equipment is left to idle when not in use, if travel routes are not planned to minimize vehicle miles traveled, or if excess lighting or water is used during construction activities. Energy usage during project operation would be considered 'wasteful, inefficient, and unnecessary' if the project were to violate federal, state, and/or local energy standards, including Title 24 of the California Code of Regulations, inhibit pedestrian or

bicycle mobility, inhibit access to transit, or inhibit feasible opportunities to use alternative energy sources, such as solar energy, or otherwise inhibit the conservation of energy." (AR 544.)

Impact E-1 was found less than significant for construction and operation impacts. (AR 545, 554.) For operation, the DEIR discussed that "[o]perational use of energy includes the heating, cooling, and lighting of buildings, water heating, operation of electrical systems and plug-in appliances within buildings, parking lot and outdoor lighting, and the transport of electricity, natural gas, and water to the areas where they would be consumed. This use of energy is typical for urban development, and no operational activities or land use would occur that would result in extraordinary energy consumption." (AR 554.)

For fuel consumption, limiting idling times of construction vehicles to no more than five minutes was found to preclude unnecessary and wasteful consumption of fuel due to unproductive idling of trucks. (AR 545, 554.) As for electricity use, after estimating operation kilowatt-hour use per year of Option 1, Option 2, Future Development Area, and the Upzone, the EIR concluded "this use of energy is typical for urban development, no operational activities or land uses would occur that would result in extraordinary energy consumption, and through County permitting assurance would be provided that existing regulations related to energy efficiency and consumption, such as Title 24 regulations and CCR Title 13, Motor Vehicles, section 2449(d)(3) related to idling, would be implemented. Therefore, impacts related to operational energy consumption would be less than significant." (AR 556.)

Discussion of Impact E-2, whether the project conflicts with or obstructs a state or local plan for renewable energy or energy efficiency, found there was no impact. (AR 556.) The DEIR provided the Project is required to meet CCR Title 24 energy efficiency standards, which includes the County's review of design components and energy conservation measures that occurs during the permitting process. It also referred to the Air Quality section discussion that provides the Specific Plan's plans and specifications require signs at loading dock facilities to identify anti-idling regulations and that

the Specific Plan does not conflict with CCR Title 13 idling requirements. The discussion stated that the Project does not conflict with or obstruct opportunities to use renewable energy, such as solar energy. "The proposed buildings would be solar ready, and residences would have solar infrastructure as required by CCR Title 24 requirements." (AR 556.) For the Specific Plan area, it provided that even though future tenants are not known and the use of solar panels generally is tailored to the electrical demands of the tenant "the building tenants would be able to install solar panels. Thus, the Specific Plan and Upzone would not obstruct use of renewable energy or energy efficiency." (*Ibid.*) Therefore, overall, the Project was found to not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. (*Ibid.*)

Regarding cumulative impacts, the DEIR again discussed that all development projects are required to comply with energy efficiency standards in Title 24 requirements. It also found that some developments could provide for additional reductions in energy consumption "by use of solar panels, sky lights, or other LEED type energy efficiency infrastructure. With implementation of the existing energy conservation regulations, cumulative electricity and natural gas consumption would not be cumulatively wasteful, inefficient, or unnecessary." (AR 557.)

Petroleum consumption also was found to not occur in a wasteful, inefficient, or unnecessary manner and to be less than cumulatively considerable given state fuel efficiency standards, alternative fuels policies, the federal Energy Independence and Security Act, and the state Long Term Energy Efficiency Strategic Plan that will reduce reliance on non-renewable energy resources. (AR 557.)

The existing regulatory requirements of Title 24 energy standards and CALGreen Building standard in the County's municipal code were considered and upon implementation of regulatory requirements, Impacts E-1 and E-2 were found to be less than significant. (AR 557.)

5. Renewable Energy

a. Petitioners' Argument

Petitioners argue that CEQA requires the County to consider renewable energy features as part of its significance finding. They argue the County abused its discretion by refusing to consider any renewable energy sources to meet the Project's energy demands. They assert that the County failed to consider renewable energy by finding PFDs will ensure "compliance or demonstrate equivalency with LEED green building standards," the buildings being "solar ready," and inclusion of the County's GHG Emissions Reduction Plan performance standards as a means of reducing the Project's energy consumption. They argue that analysis of impacts on energy resources is not satisfied by reference to air quality PDFs and the GHG mitigation measure. They assert that the Project is slated to receive zero Screening Table points related to Commercial/Industrial Renewable Energy Generation under the GHG Emissions Reduction Plan, citing AR 600-601. As for having the Project solar ready, Petitioners argue the measure does not require installation of any solar panel at construction or in the future, nor set a standard for how much energy solar panels must generate.

b. Analysis

Here, the EIR did not sufficiently address renewable energy resources in considering whether the Project results "in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources." (AR 543 [Impact E-1].)

Appendix F states, "The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include: [¶] (1) decreasing overall per capita energy consumption, [¶] (2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and [¶] increasing reliance on renewable energy sources." (Guidelines, appen. F, § I.)

"Guidelines section 15126.2, subdivision (b), and appendix F to the Guidelines thus indicate an EIR should address the project's potential to increase its use of renewable energy sources for at least two purposes. First, when the EIR analyzes the project's energy use to determine if it creates significant effects, it should discuss whether any renewable energy features could be incorporated into the project. (Guidelines, § 15126.2, subd. (b).) The EIR's determination of whether the potential

impact is significant is to be based on this discussion. Second, if the EIR concludes the project's impact on energy resources is significant, it should consider mitigating the impact by requiring uses of alternate fuels, particularly renewable ones, if applicable. (Guidelines, appen. F., § II, subd. D.4.)" (*League to Save Lake Tahoe v. County of Placer* (2022) 75 Cal.App.5th 63, 167 (*Save Lake Tahoe*).)

In *Save Lake Tahoe,* the Court discussed that in *City of Woodland*, the Court determined that an EIR's discussion of a project's impacts on energy resources did not comply with CEQA because it omitted an analysis of renewable energy options that might have been available or appropriate for the project. (*Save Lake Tahoe, supra,* 75 Cal.App.5th at p. 167, citing *City of Woodland, supra,* 225 Cal.App.4th at p. 213.) The finding was reached "even though the EIR had determined the project's impacts on energy resources would be less than significant." (*Save Lake Tahoe, supra,* at p. 167, citing *City of Woodland, supra,* at p. 208.) The Court found "a discussion of renewable energy options was 'a potentially significant environmental consideration' under the Guidelines, the omission of which violated CEQA." (*Save Lake Tahoe, supra,* at pp. 167-168, citing *City of Woodland, supra,* at p. 213.) The *Save Lake Tahoe* Court concluded that "[b]ecause the EIR did not address whether any renewable energy features could be incorporated into the project as part of determining whether the project's impacts on energy resources were significant, it did not comply with CEQA's procedural requirements, a prejudicial error." (*Save Lake Tahoe, supra,* at p. 168.)

Contrary to Respondents' contention, *Save Lake Tahoe* and *City of Woodland* are not "an unusual line of cases." They are binding precedent directed to the nature of discussion related to energy features, in particular renewable energy, and whether a project's impacts on energy resources are significant.

Here, the EIR's finding that the Project's operational energy resource impacts were less than significant only stated the use of energy "is typical for urban development, and no operational activities or land uses would occur that would result in extraordinary energy consumption." (AR 554.) It discussed estimates of fuel usage, annual natural gas demand, and electricity use. It

concluded that because the use of energy "is typical for urban development, no operational activities or land uses would occur that would result in extraordinary energy consumption," with statements that Title 24 energy regulations and Title 13 idling requirements are met. (AR 554-556.)

Such discussion does not comply with CEQA's procedural requirements because the County's threshold to consider was whether the Project's energy uses were "wasteful, inefficient, or unnecessary," not whether the use was "typical" for an "urban development." The EIR includes no analysis of renewable energy options available or appropriate for the Project. The EIR discusses construction of solar-ready infrastructure to meet each Project building's required energy demands as part of Air Quality impact PDFs. (AR 490 [PDF AQ-15].) In a footnote, Respondents contend that rather than guessing, each building will be outfitted with infrastructure necessary to install solar panels that corresponds to the operator's needs and that the end-user only needs to install the appropriate number of panels on the roof and plug them in, citing AR 15228, 15235. The citation is to statements made at the Planning Commission meeting on September 22, 2022. In it, Tim Howard, for Real Party/Applicant Howard Industrial Partners, discussed that the roof is designed to generate enough power to be able to operate the facility for the end user. He stated that while the user is not identified, "generally using best practices, this building could stand alone and be off the grid if it had to be." (AR 15228.) He also discussed that the building is designed to support a solar array that will cover the roof and that once they have a tenant, the infrastructure is there to carry the needs the tenant demands. (AR 15235.)

But no discussion exists in the EIR of requiring solar installation once a tenant is found and the calculations for this to occur. CEQA Guidelines section 15126.2, subdivision (b), requires consideration of "any renewable energy features that could be incorporated into the project." A statement that infrastructure will be in place to install feasible solar energy, but no requirement for installation does not suffice in light of the Applicant's statements that the buildings are capable of meeting tenant energy demands in terms of renewable solar energy. It is reasonable to conclude that

if the buildings are developed to be solar ready, not requiring solar installation once a building tenant and energy needs are known will result in wasteful, inefficient, and unnecessary consumption of energy resources.

To the extent Respondents argue that renewable energy was sufficiently considered because the Project will receive 35 percent of its total power from renewable energy due to SCE power being delivered from renewable energy sources, such consideration does not constitute substantial evidence in support. The focus of the analysis is to address energy impacts caused by *this* Project during construction and operation to evaluate measures to reduce *this* Project's wasteful, inefficient, and unnecessary consumption of energy. (Pub. Resources Code, § 21100, subd. (b)(3).)

Petitioners also take issue with the DEIR concluding the Project's energy impacts will be less than significant because the Project will comply with Title 24 Energy Efficiency Standards and CALGreen Building Standards Code. (AR 555-556.)

Guidelines section 15126.2, subdivision (b), provides that "[i]n addition to building code compliance, other relevant considerations may include among others, the project's size, location, orientation, equipment use and any renewable energy features that could be incorporated into the project...." In both *City of Woodland* and *Ukiah,* the Courts found reliance on mitigation measures that required compliance with title 24 of the California Code of Regulation and other California green building codes did not meet Appendix F requirements. (*City of Woodland, supra,* 225 Cal.App.4th at pp. 210-211; *Ukiah, supra,* 248 Cal.App.4th at p. 265.) The DEIR's Appendix F discussion itself notes that energy usage during Project operation "would be considered 'wasteful, inefficient, and unnecessary' if the project were to ... inhibit feasible opportunities to use alternative energy sources, such as solar energy, or otherwise inhibit the conservation of energy." (AR 544.) But the DEIR's discussion only cited Title 24 and CALGreen Building Standards in the County's Municipal Code as standard regulations that "reduce potential impacts related to energy." (AR 557.) Other renewable

energy resources set forth in Appendix F were not sufficiently considered, even though the Project Applicant conceded that enough solar power can be generated to operate the facility for an end user.

Respondents argue that in *Tracy First, supra,* 177 Cal.App.4th at pp. 933-934, the Court upheld reliance on Title 24 and CALGreen standards as sufficient. But the Court in *City of Woodland, supra,* 225 Cal.App.4th at p. 212, rejected such conclusion. The *City of Woodland* Court discussed that the *Tracy First* Court found the petitioners' argument on the issue "'[was] difficult to comprehend.'" (*City of Woodland, supra,* 225 Cal.App.4th at p. 212, citing *Tracy First, supra,* 177 Cal.App.4th at p. 933.) The *Tracy First* Court concluded that other than arguing that reliance on the building standards is not enough, the petitioners made no argument about what more the EIR should have done. The *Tracy First* Court concluded that the city did not fail to proceed in a manner required by law by relying on the California Building Energy Efficiency Standards in determining the project does not have a significant energy impact. (*Tracey First, supra,* 177 Cal.App.4th at pp. 933-934.) Here, however, the court already has determined the DEIR failed to consider renewable energy resources in terms of whether the Project results in wasteful, inefficient, or unnecessary consumption of energy resources.

While in response to comments the County referred to air quality impacts PDFs and compliance with 2021 Screening Tables, the court "cannot assume an overlap" in terms of air quality and GHG emissions "is sufficient under CEQA's study and mitigation requirements. … 'Air quality mitigation is not a substitute for energy analysis.'" (*City of Woodland, supra,* 225 Cal.App.4th at p. 207, fn.6.)

Therefore, in light of the above, not only has the County failed to fully consider feasible renewable energy resources to meet CEQA procedural requirements to consider the Project's energy use, substantial evidence does not support the County's findings of no significant impacts under Impact E-1. No analysis existed of whether the proposed buildings in the Specific Plan area should

actually incorporate renewable energy resources once an end user is located, which feasibility to do so Real Party Howard Industrial Partners acknowledged.

6. Transportation Energy Impacts

a. Petitioners' Arguments & Respondents' Exhaustion Argument

To the extent Petitioners argue that the EIR understated the Project's truck traffic impacts, the court already has concluded that Petitioners' argument is not demonstrated. Petitioners also argue that the County failed to evaluate the extent to which transportation could use renewable energy or reduced emissions fuels. Petitioners contend the County failed to analyze the feasibility of alternative fuels even though the County recognized the first battery-electric heavy-heavy duty trucks were being tested in 2021, and SCAQMD was looking to integrate the new technology into large-scale truck operations. They assert that the County cannot only rely on CARB's idling restrictions to reduce wasteful, inefficient, and unnecessary consumption of on-road fuel usage.

The County again argues that Petitioners failed to exhaust administrative remedies for issue. But the Petitioners include citation to a comment in which, relating to energy impacts, the commenter asserted that "[t]he Draft EIR concludes that impacts [related to fuel consumption] are less-than-significant with respect to transportation energy resources because it states the Project will comply with CARB's idling restrictions (*i.e.,* on-site truck idling is limited to no more than 5 minutes). However, compliance with idling restrictions does not reduce on-road fuel usage." (AR 12870.) Therefore, Respondents' exhaustion issue is not demonstrated.

b. Analysis

Here, reliance on idling requirements alone does not constitute an adequate assessment of vehicle fuel consumption impacts or mitigation. (See *City of Woodland, supra,* 225 Cal.App.4th at p. 211.) In DEIR Appendix C4 – Energy Analysis, the discussion related to enhanced vehicle fuel efficiencies states that "[u]nder subsequent future conditions, average fuel economies of vehicles accessing the Project site can be expected to improve as older, less fuel-efficient vehicles are removed

from circulation, and in response to fuel economy and emissions standards imposed on newer vehicles entering the circulations system. [¶] Enhanced fuel economies realized pursuant to federal and state regulatory actions, and related to transition of vehicles to alternative energy sources (e.g., electricity, natural gas, biofuels, hydrogen cells) would likely decrease future gasoline fuel demands per VMT." (AR 4485.) But, as Petitioners argue, the County did not analyze the feasibility of any alternative or renewable fuel sources.

No discussion in the Energy Study or DEIR exists as to whether any renewable energy features could be incorporated in the Project to reduce fuel consumption outside of idling limits. (AR 554.) In addition, for energy purposes, idling was analyzed as a regulatory requirement and design feature. (AR 545, 554.) But the air quality discussion considered mitigation measures that include compliance with idling regulations (MM AQ-3), as well as requirements that vendor trucks include energy efficiency improvement features to reduce fuel consumption (MM AQ-4) (AR 491-492). This court already has discussed that minimization and mitigation measures are not part of the project and considering them as part of the project features disregards CEQA requirements. (*Lotus, supra,* 223 Cal.App.4th at p. 656.)

Therefore, the court grants the writ petition as it relates to the energy impact analysis, including transportation energy impacts. The County violated CEQA by not analyzing renewable energy options that might be available or appropriate for the Project.

H. Noise Impacts

Petitioners raise two issues related to noise impacts. First they contend that the County applied an incorrect threshold when analyzing construction noise impacts. Petitioners also contend that the EIR fails to disclose significant operational noise impacts and its analysis of impacts improperly considered noise impacts with mitigation.

1. Construction Noise Threshold of Significance

For noise impacts, Appendix J1: Noise Impact Analysis (Noise Study) explains, "The scale for measuring [noise] intensity is the decibel scale. Each interval of 10 decibels indicates a sound energy ten times greater than before, which is perceived by the human ear as being roughly twice as loud. The most common sounds vary between 40 dBA (very quiet) to 100 dBA (very loud)." (AR 10556, footnote omitted.) It explained that normal conversation at three feet is roughly at 60 dBA, and loud jet noise equates to 100 dBA at approximately 100 feet, which can cause serious discomfort. (AR 10556-10557.) In addition, 80 dBA is the equivalent of outdoor activity of a diesel truck traveling 50 mph at a 50-foot distance or an indoor food blender at a 3 foot distance. The subjective loudness of 80 dBA is "very noisy" and the effects of such noise include speech interference and sleep disturbance. (AR 10556.)

The threshold of significance adopted for noise impacts stated a project could have a significant effect if it were to:

- Impact NOI-1 – Generation of a substantial temporary or permanent increase in ambient noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. (AR 733.)

The Noise Study explained that the County's Countywide Plan provides direction on noise compatibility and establishes noise standards by land use type that are sufficient to assess the significance of noise impacts. But they do not define the levels at which increases are considered substantial for use as it relates to Impact NOI-1. (AR 10567.)

In discussing Impact NOI-1, the Noise study discussed that "[t]he Federal Interagency Committee on Noise (FICON) developed guidance to be used for the assessment of project-generated increases in noise levels that consider the ambient noise level." (AR 10567-10568.) "Although the FICON recommendations were specifically developed to assess aircraft noise impacts, these recommendations are often used in environmental noise impact assessments involving the use of cumulative noise exposure metrics, such as the average-daily noise level (CNEL) and equivalent continuous noise level (Leq)." (AR 10568.) The Noise Study provided, "The FICON guidance

provides an established source of criteria to assess the impacts of *substantial temporary* or permanent increase in ambient noise levels." (AR 10568, italics added.)

The Noise Study acknowledged that case law provides that there is no single noise increase that renders a noise impact significant. But, as examples discussed that if the ambient noise environment is quiet (less than 60 dBA) "and the new noise source greatly increases the noise levels, an impact may occur if the noise criteria may be exceeded. Therefore, for this analysis, FICON identifies a *readily perceptible* 5 dBA or greater project-related noise level increase is considered a significant impact when the noise criteria for a given land use is exceeded. Per the FICON, in areas where the without project noise levels range from 60 to 65 dBA, a 3 dBA *barely perceptible* noise level increase appears to be appropriate for most people. When the without project noise levels already exceed 65 dBA, any increase in community noise louder than 1.5 dBA or greater is considered a significant impact if the noise criteria for a given land use is exceeded, since it likely contributes to an existing noise exposure exceedance." (AR 10568.)

Therefore, based on FICON criteria, the Noise Study discussed that "the amount to which a given noise level increase is considered acceptable is reduced when the without project noise levels are already shown to exceed certain land-use specific exterior noise level criteria. The specific levels are based on typical responses to noise level increases of 5 dBA or *readily perceptible,* 3 dBA or *barely perceptible,* and 1.5 dBA depending on the underlying without Project noise levels for noise-sensitive uses." (AR 10568.)

For operational noise impacts on residential and noise-sensitive land uses, the threshold considered if the exterior noise level limit exceeded 55 dBA Leq during the daytime or 45 dBA Leq during the nighttime standards as set forth in Development Code Section 83.01.080. It also considered if the existing ambient noise levels at nearby noise-sensitive receivers:

- are less than 60 dBA Leq and the Project creates a *readily perceptible* 5 dBA Leq or greater Project-related noise level increase; or

- range from 60 to 65 dBA Leq and the Project creates a *barely perceptible* 3 dBA Leq or greater Project-related noise level increase; or

- already exceed 65 dBA Leq, and the Project creates a community noise level increase of greater than 1.5 dBA Leq (Development Code, Title 8, Section 83.01.080).

FICON criteria also were used for off-site traffic noise impacts. (AR 734, 10569.)

As for construction noise impacts, it is without dispute that under the County's Development Code section 83.01.080(g)(3), construction activity is considered exempt from noise level standards between the hours of 7:00 a.m. to 7:00 p.m., except on Sundays and federal holidays. (AR 716.) The Noise Study discussed that neither the Countywide Plan nor Development Code established a numeric maximum acceptable construction source noise levels at potentially affected receivers that provides for a quantified determination that constitutes "a *substantial temporary or periodic noise increase.*" (AR 10565.) A numerical construction threshold based on the Federal Transit Administration (FTA) *Transit Noise and Vibration Impact Assessment Manual* was used to analyze daytime construction impacts. "The FTA considers a daytime exterior construction noise level of 80 dBA Leq as a reasonable threshold for noise sensitive residential land use." (AR 10565.)

For construction noise impacts, the threshold used for construction activities was if construction activities:

- Occur between the hours of 7:00 p.m. and 7:00 a.m. of the next day, or on Sundays or federal holidays (Development Code Section 83.01.090(a)); or

- Create noise levels which exceed the 80 dBA Leq acceptable noise level threshold at the nearby sensitive receiver locations (FTA Transit Noise and Vibration Impact Assessment Manual). (AR 733.)

The EIR found no significant construction noise impacts, finding that for Option 1, Option 2, Specific Plan Buildout, and Upzone, construction noise will not exceed the 80 dBA Leq daytime construction noise level threshold. (AR 736-745.) Nonetheless, the DEIR discussed that although construction noise impacts will be less than the 80 dBA threshold, sensitive receptors adjacent to the Project will be exposed to higher noise levels. Therefore, to reduce construction impacts to residential

uses, PDF NOI-1 was incorporated, which required construction best management practices, such as construction equipment having mufflers, stationary construction equipment being placed so that noise is generated toward the center of the site, equipment staging areas are to be located to create the greatest feasible distances between construction-related noise sources and noise sensitive receptors near the Project, and delivery trucks/haul trucks are to use designated truck routes if possible. (AR 737, 764-765.) "With inclusion of PDF NOI-1," impacts related to construction noise were found to be less than significant. (AR 737.)

a. Petitioners' Argument

Petitioners argue that under applicable case law, it was improper for the County to have used a "fix standard" to determine significant construction noise impacts after adopting a threshold that requires analysis of significance of noise increases above ambient conditions.

b. Analysis

Whether an impact is significant calls for consideration of the particular activity. (Guidelines, § 15064, subd. (b).) "'The lead agency has substantial discretion in determining the appropriate threshold of significance to evaluate the severity of a particular impact.'" (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 884 (*King & Gardiner Farms*), quoting *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 192 (*Mission Bay*).)

CEQA does not set numeric noise thresholds in Appendix G. Both parties agree that the County adopted the noise threshold in Appendix G, which is whether the Project generates "a substantial temporary or permanent increase in ambient noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies." (AR 733.)

In *King & Gardiner Farms,* the Court discussed that Appendix G noise thresholds in effect in 2015 "asked if the project would result in (1) '[e]xposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or other applicable

standards of other agencies'; (2) '[a] substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project'; and (3) '[a] substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.'" (*King & Gardiner Farms, supra,* 45 Cal.App.5th at pp. 883-884.)

It discussed that for the project at issue, the first threshold included a standard that referred to the absolute noise level that exists with the project and under that standard "the estimated future noise level would represent a significant noise impact if the level exceeded a maximum established in the general plan or other applicable regulation." (*King & Gardiner Farms, supra,* 45 Cal.App.5th at p. 889.) But "[i]n contrast to an established maximum noise level," the third and fourth standards respectively considered whether the project results in a substantial permanent (third) or temporary (fourth) "*increase* in ambient noise levels in the project vicinity above levels existing without the project." (*Ibid.*) Using the county's general plan, a threshold level of 65 dBA DNL was used to establish a threshold of significance, but the threshold did not consider the magnitude of the increases caused by the project. Issues arose over the threshold of significance used for temporary and permanent increases in ambient noise levels. In response to comments, the county noted that while the increase in ambient noise levels qualitatively assess temporary or permanent increases over ambient noise without the project, the county, as the lead agency, had discretion to determine the quantitative threshold and determined 65 dB DNL/CNEL, "'represents the exterior noise levels the [c]ounty has deemed to be acceptable for noise sensitive areas.'" (*Id.* at p. 890.)

The Court found that "[i]n practical effect," the county adopted a single threshold of significance for noise impacts. (*Ibid.*) In considering the issue of the county setting a maximum noise level as the quantitative threshold for determining whether there was a substantial increase in ambient noise levels, the Court considered principles discussed in both the EIR case of *Berkeley Jets*, and initial study cases, including *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714 (*Keep Our Mountains Quiet*). (*King & Gardiner Farms, supra,* 45 Cal.App.5th at

pp. 884-887.) The Court discussed that in both cases, the use of only an absolute noise level as the threshold of significance was determined to violate CEQA and the Court came to the same conclusion in the case before it.[15] (*King & Gardiner Farms, supra,* 45 Cal.App.5th at pp. 892-893.)

The Court also discussed that "'when the agency chooses to rely completely on a single quantitative method to justify a no-significance finding, CEQA demands the agency research and document the quantitative parameters essential to that method.' [Citation.]" (*Id.* at p. 893.) It found the county failed to document how the single quantitative method, "which does not consider the magnitude of the increase in noise, accurately describes how changes in noise levels affect human beings." (*Id.* at pp. 893-894.) The Court concluded the county's exclusive reliance on a single cumulative metric for determining the significance of noise impacts and the absence of an analysis, supported by substantial evidence for concluding the magnitude of the increase in ambient noise is irrelevant to the significance of the noise impact, does not comply with CEQA. (*Id.* at p. 894.) A lead agency "'should consider *both* the *increase* in noise level and the *absolute* noise level associated with a project.'" (*Id.* at p. 887, quoting *Keep Our Mountains Quiet, supra,* 236 Cal.App.4th at p. 733, italics in original.)

Respondents argue that *King & Gardiner Farms* is distinguishable because the Court did not consider construction noise. They also contend that *King & Gardiner Farms* and cases it discusses,

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[15] The *King & Gardiner Farms* Court found: "The cumulative noise level of 65 dBA DNL does not provide a complete and reasonable method of evaluating the significance of noise impacts because an increase in ambient noise of 20 dBA at monitoring site number 12, which was recorded as being 44.8 dBA, would not be a significant, adverse change in the noise environment. In contrast, a 2 dBA increase at monitoring site number 2, which was recorded as being 63.9 dBA, would be considered a significant adverse change in the noise environment. The EIR does not provide a rational explanation for this approach to environmental *change*. Simply saying the cumulative noise level would not be exceeded at site number 12 and would be exceeded at site number 2 does not provide a rational explanation for why a 20 dBA increase is an insignificant increase at site 12." (*King & Gardiner Farms, supra,* 45 Cal.App.5th at p. 893.)

which include cases Petitioners cite, were based on the prior version of Appendix G noise thresholds and therefore are irrelevant.

Respondents' arguments are without merit. The court finds applicable the discussion of *King & Gardiner Farms* and the cases relied on as it relates to a threshold based on a substantial increase in ambient noise. First, as *King & Gardiner Farms* discussed, the current version of Guidelines Appendix G combined the three questions in the prior version. (*King & Gardiner Farms, supra,* 45 Cal.App.5th at p. 883, fn. 35.) Second, the standards at issue in *King & Gardiner Farms* are whether there was a substantial permanent or temporary increase in ambient noise, which is at issue here. Finally, as to Respondents' argument that the standard in *King & Gardiner Farms* did not involve construction noise, the Court stated, "The permanent standard was applied to operational activities and the temporary standard was applied to construction activity." (*Id.* at p. 889, fn. 39.)

Here, as in *King & Gardiner Farms*, and contrary to Respondents' arguments, the EIR and Noise Study analysis on which it is based does not explain why "'the magnitude of the increase in ambient noise levels caused by the Project' played no role in determining whether the change was significant" with respect to construction noise impacts. (*King & Gardiner Farms, supra,* 45 Cal.App.5th at p. 893.) The standard used in the EIR for determining whether construction noise will have a significant effect was based solely on whether construction noise levels exceed the 80 dBA Leq standard set by the FTA. (AR 733, 737; AR 10611-10618.)

Table 5.12-6 shows for Option 2, the highest construction levels range from 71.6 to 76.6 for the 10 different receptor locations. (AR 745.) Considering the maps setting forth receptor locations and discussions, as it relates to the Walter Zimmerman Elementary School-related receptor considered for Option 2, Table 5.12-3 OLD2-L6 (daytime ambient noise) of 56.5 (AR 717) relates to OYD2-R6 in which the highest construction noise is 74.3 (AR 726, 745). The County does not

provide any reason an increase in daytime ambient noise level of 17.8 dBA Leq is not significant, where the Noise Study discussed that a 10 dBA increase in noise levels is perceived as twice as loud. (AR 10556, 10560.) The EIR also does not include any analysis as to why the magnitude of noise increase caused by construction noise does not result in potentially significant noise impacts.

In response to the Colton Joint Unified School District's comment about the magnitude of the increase of ambient noise and that no analysis of it existed (AR 12283),[16] the County repeated that the worst-case construction noise level of 74.3 dBA Leq will not exceed the 80 dBA Leq exterior threshold. (AR 12331.) It also discussed that the County Development Code exempts construction activities taking place during certain times from the County's noise standards. (AR 12331, 12332.) It discussed FICON and that the recommendations are based on long-term studies related to aircraft noise levels. It stated, "While incremental noise level increase criteria are commonly applied for long-term off-site traffic/aircraft and operational noise level increases, there is no commonly accepted guidance on evaluating construction related noise level increases." (AR 12331.)

But the threshold adopted for all noise-related impacts was whether the Project results in generation of a substantial temporary or permanent increase in ambient noise levels in excess of applicable standards. Additionally, the Noise Study discussed FICON as being of a general nature for assessing substantial *temporary* or permanent increases in ambient noise levels (AR 10568) and nothing in the discussion excepted construction noise from being considered under the standard. Therefore, substantial evidence does not support Respondents' conclusion that FICON standards are not applied to temporary increases in ambient noise caused by construction where the Noise Study does not exempt construction noise from FICON standards.

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[16] The District calculated the increase at 17.9 dBA, not a 17.8 dBA as discussed above. (AR 12283.) For purposes of this discussion, the difference is not significant.

Finally, even though the County's Development Code exempted construction noise from noise requirements, "that does not necessarily mean the County could have relied on this ordinance to prevent consideration of evidence of noise impacts under CEQA. (See *Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th 1344, 1380 [111 Cal.Rptr.2d 598] [CEQA did not define 'significant noise impacts simply in terms of whether a project would violate applicable local, state, or federal noise standards']; see also *East Sacramento Partnerships* [*For a Livable City v. City of Sacramento* (2016)] 5 Cal.App.5th [281,] 303 ['"a threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant"'].)" (*Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 86, 108 (*Sierra Watch*).) Here, the County's threshold for construction noise impacts considered an increase in ambient noise, not whether the noise exceeded a fix standard.

Respondents argue that the 80 dBA threshold is justified because the EIR explained that construction equipment will not be used constantly "throughout the construction day, and equipment would be turned off when not in use. The typical operating cycle for a piece of construction equipment involves one or two minutes of full power operation followed by three or four minutes at lower power setting." (AR 737.) But aside from this statement in the EIR, substantial evidence is not demonstrated to support this conclusion. In addition, the statement is without consequence given construction noise levels are reported at Leq levels, which measures an "equivalent continuous (average) sound level." (AR 10547.)

Finally, Respondents argue that the Project incorporates PDF NOI-1, construction noise reduction measures to ensure any increase in noise is reduced to the maximum extent feasible. But this purported mitigation, couched as a PDF, is without consequence where the County failed to consider and discuss the magnitude of the noise increase caused by construction.

In light of the above, the EIR failed to include relevant information by setting forth a quantitative standard addressed to the noise threshold applicable to construction noise impacts, which failure "substantially impair the EIR's informational function." (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 942.) The EIR does not include any reasoned analysis directed to the applicable threshold of resulting in a temporary increase in ambient noise levels caused by construction and whether such increase will result in potential significant noise impacts. Therefore, the court grants the writ petition related to the EIR's discussion of construction noise impacts.

2. Whether the EIR failed to disclose the Project's Potentially Significant Noise Impacts

a. Petitioners' Argument

In addition to the construction noise argument considered above, Petitioners argue that for operational noise levels, the EIR shows the opening year daytime operational noise levels with mitigation incorporated. They argue that under *Lotus,* 223 Cal.App.4th at p. 656, the County improperly assumed implementation of Mitigation Measure NOI-1 when considering whether operational noise impacts are significant. They contend that commenters asked the County to disclose the Project's noise increases before the addition of Mitigation Measure NOI-1 so that all feasible mitigation measures could be evaluated. Petitioners argue that instead of doing so, the County simply redlined the EIR to relabel Mitigation Measure NOI-1 as a PDF.

b. Analysis

In general, a project design feature that is part of the project from its inception is not treated as a mitigation measure. (*Save the Plastic Bag Coalition v. City & County of San Francisco* (2013) 222 Cal.App.4th 863, 882-883.) Respondents argue that the DEIR's reference to construction of

masonry walls as a mitigation measure was a scrivener's error because the masonry walls were included as part of the project description. (See e.g., AR 277-279 [describing walls to be constructed for Opening Year - Option 1, Sites 1, 2, and 4], AR 282 [stating Option 2 buildings will be designed similar to Option 1] .) The County's comment discussed Mitigation Measure NOI-1 represents a PDF and corrected the analysis to refer to the walls as PDF NOI-2, which was incorporated into the Project. (AR 12885.)

Given the County's clarification in its response to the comment and the FEIR showing the walls were incorporated as a PDF, Petitioners' argument is without merit. Therefore, the court denies the writ petition to the extent Petitioners assert the County analyzed operational noise impacts with mitigation measures already incorporated.

I. Whether Environmental Justice Analysis requires Recirculation

1. Petitioners' Arguments

Petitioners argue that the County included three pages of new environmental justice analysis in the FEIR, citing AR 12198-12202. They contend the County failed to analyze ways in which the Project's significant and unavoidable impacts contribute to Bloomington's status as an environmentally burdened community. They argue that the County violated CEQA when it failed to recirculate the FEIR due to the revised environmental justice discussion at AR 13849 to 13850, as well as the new 1,300 page Health Risk Assessment (AR 10759-12061) and the supplemental Traffic Impact Analysis (AR 12062-12184, 12198-12202). They contend the County's environmental justice analysis, new Health Risk Assessment, and new Traffic Impact Analyses are "significant new information" that the public should have been allowed to comment on. Petitioners argue the County approved the Project despite Petitioners' request the FEIR be recirculated so they could comment further on the environmental justice analysis.

2. Recirculation Requirements under CEQA

Under CEQA statutes and regulations, if significant new information is added to an EIR after notice of public review has been given, but before final certification of the EIR, the lead agency must issue a new notice and recirculate the EIR for review and comments. (Pub. Resources Code, § 21092.1; Guidelines, § 15088.5; *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 447 (*Vineyard*).) New information is considered "significant," and thus requires recirculation, if it changes an EIR "in a way that deprives the public of meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." (Guidelines, § 15088.5, subd. (a).) But "[r]ecirculation is not mandated under section 21092.1 when the new information merely clarifies or amplifies the previously circulated draft EIR, but is required when it reveals, for example, a new substantial impact or a substantially increased impact on the environment. [Citation.]" (*Spring Valley Lake Assn. v. City of Victorville* (2016) 248 Cal.App.4th 91, 107 (*Spring Valley Lake Assn*).)

Examples of "significant new information" requiring recirculation include disclosures showing that: "(1) [a] new significant environmental impact would result from the project or from a new proposed mitigation measure; (2) [a] substantial increase in the severity of an impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance; (3) [a] feasible project alternative or mitigation measure that is considerably different from others previously analyzed would clearly lessen the significant impacts of the project, but the project proponents decline to adopt it; or (4) [t]he draft EIR was so fundamentally inadequate and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (Guidelines, § 15088.5, subd. (a); see also *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1993) 6 Cal.4th 1112, 1130.)

"A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record." (Guidelines, § 15088.5, subd. (e).) Therefore, in deciding whether the County properly determined recirculation of the EIR was unnecessary, the issue before the court is whether the record as a whole contains substantial evidence to support the County's conclusion that "significant new information" was not added to the EIR. (*Spring Valley Lake Assn., supra,* 248 Cal.App.4th at p. 107.)

3. Analysis

In general, social or economic impacts alone are not subject to CEQA because they do not result in changes in physical conditions. (Guidelines, §§ 15064, subd. (e), 15382.) Evidence of social or economic impacts that do not contribute to, or are not caused by physical impacts on the environment is not substantial evidence of a significant environmental effect. (Pub. Resources Code § 21080, subd. (e), Guidelines, § 15064, subd. (f)(6).) Public Resources Code section 21083, subdivision (b)(3), requires a finding a project may have a significant effect on the environment if its environmental effects will cause substantial adverse effects on human beings, either indirectly or directly. "Guidelines section 15064 mandates that both primary (direct) and secondary (indirect) consequences be considered in determining the significance of a project's environmental effect. (Subd. (d).)" (*Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433, 445 (*Citizens for Quality Growth*).) In addition, "[w]here a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project." (Guidelines, § 15064, subd. (e).) Again, the EIR must discuss "health and safety problems caused by the physical changes" and "any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area effects." (Guidelines, § 15126.2, subd. (a).)

The concept of environmental justice, however, arises in terms of a general plan. (Gov. Code, § 65302, subd. (h).) The environmental justice element "identifies disadvantaged communities within the area covered by the general plan" and shall do all of the following:

- "Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity." (Gov. Code, § 65302, subd. (h)(1)(A).)
- "Identify objectives and policies to promote civic engagement in the public decisionmaking process." (Gov. Code, § 65302, subd. (h)(1)(B).)
- "Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities." (Gov. Code, § 65302, subd. (h)(1)(C).)

The three-page Environmental Justice Analysis at issue was part of the County's "Master Response" to comments related to environmental justice. The discussion was added to "consolidate and clarify" the information contained through various sections of the Draft EIR. The discussion noted that the Specific Plan area was partially located within an Environmental Justice Focus Area (EJFA). (AR 12198-12199.) After setting forth information about census tracts in Bloomington with high composite and pollution burden scores, and discussing the census tracts in which the Special Plan area is located, the response stated that under general plan policies, a response as to how the DEIR complied with the policies was provided, which referenced existing discussions in the DEIR. (AR 12199-12201.) The air quality environmental setting section also was revised to include the discussion about the Specific Plan area being partially located within the EJFA. (AR 13848-13850.)

When considered, substantial evidence does not support the conclusion that recirculation was required. The revisions are not demonstrated to have changed the nature of potential impacts, their likelihood to occur, or mitigation. Petitioners failed to meet their burden that the revisions "deprived

the public of a meaningful opportunity to comment on a substantial adverse environmental effect." (*Spring Valley Lake Assn., supra,* 248 Cal.App.4th at p. 108.)

Petitioners argue that the County failed to consider substantial evidence of the economic and social effects the Project will have on Bloomington's physical environment. But "social, economic and business competition concerns are not relevant to CEQA analysis unless it is demonstrated that those concerns will have a significant effect on the physical environment." (*Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 446.) Petitioners' argue that comments were made related to displacing commercial plant nurseries, ranches, and community gardens, but do not discuss the County's responses and demonstrate substantial evidence supports finding social and economic impacts result in a significant effect on the physical environment. (See *Pfeiffer, supra,* 200 Cal.App.4th at p. 1572.)

In addition, substantial evidence supports the County's decision not to recirculate the "Environmental Justice" section because the discussion does not change the EIR "in a way that deprived the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project or a feasible way to mitigate or avoid any such effect. [Citation.]" (*Beverly Hills Unified School Dist. v. Los Angeles County Metropolitan Transportation Authority* (2015) 241 Cal.App.4th 627, 663.)

As part of the Land Use and Planning analysis, the EIR considered whether the Project conflicts with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. (AR 697-707.) Petitioners argue the County failed to discuss the Project's inconsistencies with the County's environmental justice policies in the Countywide Plan. Petitioners refer to the EIR's discussion of Policy HZ-3.1, which requires a cumulative health risk assessment when a project potentially affects sensitive receptors in environmental justice focus areas and an

evaluation of impacts of truck traffic from the Project to freeways. (AR 442, 701-702.) They also argue the required *Friant Ranch* analysis in relation to this policy was not done. They contend the County incorrectly asserted it has no obligation to assess the health consequences, including asthma, respiratory, cardiac diseases, and premature death associated with elevated levels of pollution. They also raise Policy HZ-3.18, which requires an applicant proposing a project in an environmental justice focus area to conduct public meetings to obtain input and "document to the County's satisfaction how an applicant will address environmental justice concerns potentially created by the project." (AR 704-705.)

Petitioners' arguments directed to HZ-3.1 and HZ-3.18 are not demonstrated. """"[A] project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment."' State law does not require perfect conformity between a proposed project and the applicable general plan. ..." In other words, "it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan. ... It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan."""" (*San Francisco Tomorrow v. City and County of San Francisco* (2014) 229 Cal.App.4th 498, 513-514, citations omitted.)

Whether under the Planning and Zoning Law or CEQA, decisions regarding consistency with a general plan are reviewed under the arbitrary and capricious standard. "'[T]he inquiry is whether the decision is arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair. Under this standard, [the court] defer[s] to an agency's factual finding of consistency unless no reasonable person could have reached the same conclusion on the evidence before it.'" (*Spring Valley Lake Assn., supra,* 248 Cal.App.4th at p. 99, citations omitted.)

"In addressing a claim of inconsistency, 'it is important to keep in mind the deferential nature of [the court's] review. It is not for [the court] to substitute [its] judgment for that of a local agency in making a determination of consistency; rather, the agency's determination "comes to this court with a strong presumption of regularity." "Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be 'in harmony' with the policies stated in the plan. It is, emphatically, *not* the role of the courts to micromanage these development decisions." Thus, as long as the [agency] reasonably could have made a determination of consistency, the [agency's] decision must be upheld, regardless of whether [the court] would have made that determination in the first instance.'" (*Ibid.*, citations omitted, italics in original.)

Petitioners' argument about Policy HZ-3.1 does not demonstrate that the County's finding of consistency is arbitrary and capricious. The DEIR discussion of Policy HZ-3.1 provides "Health Risk Assessment" related to Air Quality impacts requires projects "to provide a health risk assessment when a project could potentially increase the incremental cancer risk by 10 in 1 million or more in unincorporated environmental justice focus areas," and "requires such assessments to evaluate impacts of truck traffic from the project to freeways." (AR 701-702.) The Mobile Source Health Risk Assessment in section 5.3 of the Air Quality impacts discussion and in Appendix C considered exposure to diesel particulate matter during operations from heavy duty diesel trucks and it was not found to result in significant human health or cancer risks and impacts were found less than significant. In addition, under Mitigation Measure AQ-8, diesel trucks used for construction and operation are required to meet or exceed 2010 model year engine standards. (AR 476-486, 701-702, 2940-2983.) Finally, as for Petitioners' *Friant Ranch* argument, at the hearing, Petitioners argued that *Friant Ranch* is not related to cancer risk analysis, but is directed to something different related to significant air quality impacts. A *Friant Ranch* analysis is not demonstrated to be required for

Policy HZ-3.1, which is directed to incremental cancer risks and for which impacts were found less than significant.

Policy HZ-3.18 requires the Applicant to indicate whether the project is within or adjacent to an unincorporated environmental justice focus area and, if so, "document to the County's satisfaction how an applicant will address environmental justice concerns potentially created by the project; and present a plan to conduct at least one public meeting for nearby residents, businesses, and property owners to obtain public input for applications involving a change in zoning or the Policy Plan. The County … require[s] additional public outreach if the proposed project changes substantively in use, scale, or intensity from the proposed project presented at previous public outreach meeting(s)." (AR 704-705.) The County found the Project "consistent" because "[a] public meeting would be conducted for nearby residents, businesses, and property owners to obtain public input and address environmental justice concerns." (AR 704.)

In its master response, the County discussed that resident meetings occurred on December 12, 2018, and on November 19, 2019. "A scoping meeting occurred on January 14, 2021. Two additional resident meetings occurred on April 10, 2021 and July 28, 2021." Notices were mailed out to residents within a 1300 foot radius of the Specific Plan two weeks before the scoping meeting, two weeks before the community meeting on August 5, 2021, and two weeks before the Bloomington MAC meeting. (AR 12200-12201.)

Petitioners do not cite to any CEQA statutes or CEQA Guidelines that require additional meetings related to environmental justice focus areas. It also is not demonstrated that the policy at issue is subject to environmental review under CEQA or results in any effect on the physical environment. (*Maintain Our Desert Environment v. Town of Apply Valley, supra,* 124 Cal.App.4th at p. 446.) Therefore, Petitioners' argument is not demonstrated.

Finally, to the extent Petitioners argue that the FEIR's new Health Risk Assessment and supplemental Traffic Impact Analysis require recirculation, Petitioners failed to meet their burden on the issue. Respondents are correct that Petitioners do not offer any argument or explanation in support of this claim. (*Tracy First, supra,* 177 Cal.App.4th at pp. 934-935 ["A reviewing court will not independently review the record to make up for appellant's failure to carry his [or her] burden."].) The FEIR also demonstrates that the Supplemental Air Quality Analysis included "additional emissions modeling" in response to comments, which modeling showed "construction and operational-source emission would result in a less than significant localized impact, consistent with the findings in the Draft EIR." (AR 12309.) This new information "merely clarifies and amplifies the previously circulated draft EIR." (*Vineyard, supra,* 40 Cal.4th at p. 447.)

As for the supplemental Traffic Analysis, it is related to a mitigation measure proposed for the Opening Year Plus Project scenario for Intersection 7 (Locust Avenue/Jurupa Avenue), which was included as an interim mitigation measure for analysis purposes only. The full mitigation measure was to signalize the intersection and add a southbound and westbound left turn lane. The Project proposes to develop Intersection 7 with the full mitigation measure by Project opening. Therefore, an updated traffic analysis was completed to demonstrate the effects of the full mitigation measure. The County's comment response discussed that given at issue is a LOS analysis, which no longer is considered an environmental impact under CEQA Guidelines section 15064.3, the information was provided for informational purposes only. (AR 12360.) It is not demonstrated the supplemental Traffic Impact Analysis includes "significant new information" under CEQA that requires recirculation.

Based on the above, the court denies Petitioners' writ petition as it relates to their recirculation argument.

J. Cumulative Impacts

1. Petitioners' Argument

Petitioners argue that substantial evidence does not support the EIR's cumulative energy impacts analysis. They also argue that because the EIR relied on the outdated Fontana Truck Study to determine truck emissions, the County underestimated the Project's cumulative air quality impacts.

2. Analysis

Under CEQA, "'[c]umulative impacts' refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (Guidelines, § 15355.) The Guidelines define "[t]he cumulative impact from several projects" as "the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." (Guidelines, § 15355, subd. (b).) "An EIR is required to discuss the cumulative impacts of a project 'when the project's incremental effect is cumulatively considerable.' (Guidelines, § 15130, subd. (a).) The discussion 'should be guided by the standards of practicality and reasonableness,' but several elements are deemed 'necessary to an adequate discussion of significant cumulative impacts....' (*Id.*, subd. (b).) These necessary elements include either '(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or [¶] (B) A summary of projections contained in an adopted [general] plan, or related planning document, ... [or in a] prior environmental document' which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact.['] 'Any such [planning] document shall be referenced and made available to the public at a location specified by the lead agency.' (*Id.*, subd. (b)(1)(A)-(B).)" (*Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 928-929.)

Petitioners argue that the cumulative energy analysis is flawed because Title 24 does not address items to be considered under Guidelines Appendix F. In addition, the County only speculates that some developments may have energy reducing features, but does not provide any such analysis. They also assert the County did not respond to comments that raised this issue.

In response, Respondents argue that a cumulative impacts analysis need not provide evidence supporting every fact included and that an exhaustive analysis is not required, citing *Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1404. They argue that the EIR adequately discussed the Project's individually insignificant energy impacts, summarized conditions in their region, and concluded that, based on the same regulatory constraints that this Project is subject to, the Project's cumulative contribution to region-wide impacts would not be significant.

As it relates to cumulative energy impacts, the DEIR provided that all development projects are required to comply with Title 24 energy efficiency requirements. It also stated, "Additionally, some of the developments could provide for additional reductions in energy consumption by use of solar panels, sky lights, or other LEED type energy efficiency infrastructure." (AR 557.) The DEIR found that "[w]ith implementation of the existing energy conservation regulations, cumulative electricity and natural gas consumption would not be cumulatively wasteful, inefficient, or unnecessary." (*Ibid.*)

But in light of this court already concluding that the analysis of the Project's individual energy impacts was deficient, the cumulative energy impacts analysis is not supported where it has not yet been determined whether the Project results in wasteful, inefficient, and unnecessary consumption of energy. In addition, substantial evidence is not demonstrated to support the statement that "some of the developments *could* provide for additional reduction." (AR 557, emphasis added.)

In response to a comment that the DEIR does not provide any qualitative or quantitative energy impacts analysis and makes the vague claim about other developments, the County responded

2. Analysis

The issue with Petitioners' argument is that none of the case law, statutes, or Guidelines cited requires the public agency to provide Spanish translations of CEQA documents or to provide language interpreters at meetings.

Petitioners' argument could be construed as asserting an implied requirement exists given the "basic purposes of CEQA" include informing "the public about the potential, significant environmental effects of proposed activities." (Guidelines, § 15002, subd. (a)(1).) Guidelines section 15201 also provides that "[p]ublic participation is an essential part of the CEQA process." It requires a public agency to "include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities." (*Ibid.*; Pub. Resources Code, § 21003, subdivision (b) [setting forth that the policy of the state requires CEQA documents be "organized and written in a manner that will be meaningful and useful to decisionmakers and to the public"].) Petitioners also cite case law in support of their contention that the EIR "must be written and presented in such a way that its message can be understood by governmental decisionmakers and members of the public who have reason to be concerned with the impacts which the document studies." (*San Franciscans for Reasonable Growth v. City & County of San Francisco* (1987) 193 Cal.App.3d 1544, 1549; *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936.)

But an implied requirement to provide Spanish translations cannot be found under CEQA. Public Resources Code section 21083.1 provides, "It is the intent of the Legislature that courts … shall not interpret this division or the state guidelines adopted pursuant to Section 21083 in a manner which imposes procedural or substantive requirements beyond those explicitly stated in this division

or in the state guidelines." While CEQA Guidelines section 15201 provides that the public agency should include provisions in its CEQA procedures for wide public involvement, it only provides that "[s]uch procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency." Language translations are not required as part of the CEQA procedures.

Further, Petitioners do not cite to any County CEQA procedure that separately requires language translations so that Petitioners' claim could be evaluated based on an abuse of discretion standard for failing to follow County CEQA procedures. The County also responded to a comment that it has no such procedures. (AR 12395.)

Finally at the hearing before this court, Petitioners stated they were not arguing that under CEQA, an implicit or explicit language translation requirement exists.

In light of the above, the County did not abuse its discretion by not providing Spanish language interpretations or translations. Neither a mandatory nor an implied requirement to provide translations is demonstrated to exist under CEQA or a County CEQA procedure.[17]

III. RULING

The court grants the CEQA writ petition on the following grounds:

- *Alternatives.* The County failed to analyze a reasonable range of alternatives. In addition, even if the County's findings regarding Alternative 3 are considered, the County's finding that Alternative 3 is economically infeasible is not supported by substantial evidence.
- *Air Quality Impacts* (*Friant Ranch Analysis*). The County failed to provide a sufficient *Friant Ranch* analysis for significant and unavoidable air quality impacts and therefore, the EIR fails as an informational document. In addition, the amici curiae briefs provided do not constitute

[17] Petitioners admit the County provided the Notice of Preparation and Notice of Availability for the EIR in Spanish and English. (AR 12395.) Bilingual notices also were provided before the scoping meeting on January 14, 2021, and community meetings on August 5 and October 6, 2021. (AR 12395-12396.) In addition, the public review period for the draft EIR was extended from the 45-day review period to 75-day period to provide additional time for review by non-English speakers. (AR 12843.)

substantial evidence in support of reason an analysis cannot be completed. Finally, the County failed to provide a sufficiently detailed response to a comment about the feasibility of health impact modeling for a project of this size as it relates to significant and unavoidable air quality impacts.

- *Air Quality Impacts* (*Mitigation*). The County's findings of economic and commercial infeasibility for mitigation measures directed to zero-emission trucks are not supported by substantial evidence.

- *Greenhouse Gas Emission Impacts.* The County's findings regarding Impacts GHG-1 and GHG-2 are contradictory. The 2021 GHG Reduction Plan's 100-point requirement is adopted as a mitigation measure to mitigate significant GHG emission impacts for Impact GHG-1 to ensure compliance with the GHG Plan and its GHG reduction measures. But at the same time the same 100-point requirement is found to result in less than significant impacts for Impact GHG-2, without a showing that the 100-point requirement is a binding and enforceable feature of the Project.

- *Energy Impacts.* The County violated CEQA by not analyzing renewable energy options that might be available or appropriate for the Project. In addition, substantial evidence does not support the EIR's cumulative energy impact analysis.

- *Noise Impacts.* The County violated CEQA by using only an absolute noise level as the threshold of significance in evaluating construction noise impacts.

The court denies the CEQA writ petition on all other grounds raised.

Given the nature of the CEQA violations, the court orders the County to set aside certification of the EIR and related Project approvals. The court also enjoins the County and Real Parties from taking any action to construct the Project until the County complies with CEQA.

Request for Judicial Notice

Given stipulations made at the hearing and legal authority, the court treats RJN Exhibit A as part of the administrative record in light of the comment letter citing to the specific webpage in which the document is found. (*Consolidated Irrigation District v. Superior Court* (2012) 205 Cal.App.4th 697, 724-725.)

The court denies the request as to RJN Exhibit B.

Dated: 9/17/24

/s/ David P. Alvarez

Hon. Donald Alvarez
Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO SAN BERNARDINO SUPERIOR COURT 247 W. Third Street San Bernardino, CA 92415	
CASE NAME: PEOPLE'S COLLECTIVE FOR ENVIRONMENTAL JUSTICE, CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE, CENTER FOR BIOLOGICAL DIVERSITY, AND SIERRA CLUB, Petitioners/Plaintiffs, vs. COUNTY OF SAN BERNARDINO, and DOES 1-20, Respondents, HOWARD INDUSTRIAL PARTNERS, LLC, TIM HOWARD, and DOES 21-40, Real Parties in Interest.	**JUDGE/DEPARTMENT:** Donald Alvarez, Judge Department S23
	CASE NUMBER: CIVSB2228456

I, Kathleen Mullaney, certify that: I am not a party to the above-entitled case; that on the date shown below, I served the following document(s):

RULING ON PETITION FOR WRIT OF MANDATE

on the parties shown below by placing a true copy in a separate envelope, addressed as shown below; each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at San Bernardino, California.

SEE ATTACHED SERVICE LIST

Anabel C. Romero,
Court Executive Officer

Dated: SEP 18 2024

By: _____, Deputy
KATHLEEN MULLANEY

CLERK'S CERTIFICATE OF MAILING

CASE NUMBER:
CIVSB2228456

SERVICE LIST

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APPENDIX 2:

COUNTY OF SAN BERNARDINO DEVELOPMENT CODE

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§ 83.01.080 Noise.

This Section establishes standards concerning acceptable noise levels for both noise-sensitive land uses and for noise-generating land uses.

(a) *Noise Measurement.* Noise shall be measured:

(1) At the property line of the nearest site that is occupied by, and/or zoned or designated to allow the development of noise-sensitive land uses;

(2) With a sound level meter that meets the standards of the American National Standards Institute (ANSI § SI4 1979, Type 1 or Type 2);

(3) Using the "A" weighted sound pressure level scale in decibels (ref. pressure = 20 micronewtons per meter squared). The unit of measure shall be designated as dB(A).

(b) *Noise Impacted Areas.* Areas within the County shall be designated as "noise-impacted" if exposed to existing or projected future exterior noise levels from mobile or stationary sources exceeding the standards listed in Subdivision (d) (Noise Standards for Stationary Noise Sources) and Subdivision (e) (Noise Standards for Adjacent Mobile Noise Sources), below. New development of residential or other noise-sensitive land uses shall not be allowed in noise-impacted areas unless effective mitigation measures are incorporated into the project design to reduce noise levels to these standards. Noise-sensitive land uses shall include residential uses, schools, hospitals, nursing homes, religious institutions, libraries, and similar uses.

(c) *Noise Standards for Stationary Noise Sources.*

(1) *Noise Standards.* Table 83-2 (Noise Standards for Stationary Noise Sources) describes the noise standard for emanations from a stationary noise source, as it affects adjacent properties:

Table 83-2

Noise Standards for Stationary Noise Sources

Affected Land Uses (Receiving Noise)	***7:00 a.m. - 10:00 p.m. Leq***	***10:00 p.m. - 7:00 a.m. Leq***
Residential	55 dB(A)	45 dB(A)
Professional Services	55 dB(A)	55 dB(A)
Other Commercial	60 dB(A)	60 dB(A)
Industrial	70 dB(A)	70 dB(A)
Leq = (Equivalent Energy Level). The sound level corresponding to a steady-state sound level containing the same total energy as a time-varying signal over a given sample period, typically one, eight or 24 hours.		
dB(A) = (A-weighted Sound Pressure Level). The sound pressure level, in decibels, as measured on a sound level meter using the A-weighting filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound, placing greater emphasis on those frequencies within the sensitivity range of the human ear.		
Ldn = (Day-Night Noise Level). The average equivalent A-weighted sound level during a 24-hour day obtained by adding 10 decibels to the hourly noise levels measured during the night (from 10:00 p.m. to 7:00 a.m.). In this way Ldn takes into account the lower tolerance of people for noise during nighttime periods.		

(2) *Noise Limit Categories.* No person shall operate or cause to be operated a source of sound at a location or allow the creation of noise on property owned, leased, occupied, or otherwise controlled by the person, which causes the noise level, when measured on another property, either incorporated or unincorporated, to exceed any one of the following:

(A) The noise standard for the receiving land use as specified in Subdivision (b) (Noise-Impacted Areas), above, for a cumulative period of more than 30 minutes in any hour.

(B) The noise standard plus five dB(A) for a cumulative period of more than 15 minutes in any hour.

(C) The noise standard plus ten dB(A) for a cumulative period of more than five minutes in any hour.

(D) The noise standard plus 15 dB(A) for a cumulative period of more than one minute in any hour.

(E) The noise standard plus 20 dB(A) for any period of time.

(d) *Noise Standards for Adjacent Mobile Noise Sources.* Noise from mobile sources may affect adjacent properties adversely. When it does, the noise shall be mitigated for any new development to a level that shall not exceed the standards described in the following Table 83-3 (Noise Standards for Adjacent Mobile Noise Sources).

Table 83-3			
Noise Standards for Adjacent Mobile Noise Sources			
Land Use		***Ldn (or CNEL) dB(A)***	
Categories	***Uses***	***Interior*** (1)	***Exterior*** (2)
Residential	Single and multi-family, duplex, mobile homes	45	60(3)
Commercial	Hotel, motel, transient housing	45	60(3)
	Commercial retail, bank, restaurant	50	N/A
	Office building, research and development, professional offices	45	65
	Amphitheater, concert hall, auditorium, movie theater	45	N/A
Institutional/Public	Hospital, nursing home, school classroom, religious institution, library	45	65
Open Space	Park	N/A	65

Notes:

(1) The indoor environment shall exclude bathrooms, kitchens, toilets, closets and corridors.

(2) The outdoor environment shall be limited to:

- Hospital/office building patios
- Hotel and motel recreation areas
- Mobile home parks
- Multi-family private patios or balconies
- Park picnic areas
- Private yard of single-family dwellings
- School playgrounds

(3) An exterior noise level of up to 65 dB(A) (or CNEL) shall be allowed provided exterior noise levels have been substantially mitigated through a reasonable application of the best available noise reduction technology, and interior noise exposure does not exceed 45 dB(A) (or CNEL) with windows and doors closed. Requiring that windows and doors remain closed to achieve an acceptable interior noise level shall necessitate the use of air conditioning or mechanical ventilation.

CNEL = (Community Noise Equivalent Level). The average equivalent A-weighted sound level during a 24-hour day, obtained after addition of approximately five decibels to sound levels in the evening from 7:00 p.m. to 10:00 p.m. and ten decibels to sound levels in the night from 10:00 p.m. to 7:00 a.m.

(e) *Increases in Allowable Noise Levels.* If the measured ambient level exceeds any of the first four noise limit categories in Subdivision (d)(2), above, the allowable noise exposure standard shall be increased to reflect the ambient noise level. If the ambient noise level exceeds the fifth noise limit category in Subdivision (d)(2), above, the maximum allowable noise level under this category shall be increased to reflect the maximum ambient noise level.

(f) *Reductions in Allowable Noise Levels.* If the alleged offense consists entirely of impact noise or simple tone noise, each of the noise levels in Table 83-2 (Noise Standards for Stationary Noise Sources) shall be reduced by five dB(A).

(g) *Exempt Noise.* The following sources of noise shall be exempt from the regulations of this Section:

(1) Motor vehicles not under the control of the commercial or industrial use.

(2) Emergency equipment, vehicles, and devices.

(3) Temporary construction, maintenance, repair, or demolition activities between 7:00 a.m. and 7:00 p.m., except Sundays and Federal holidays.

(h) *Noise Standards for Other Structures.* All other structures shall be sound attenuated against the combined input of all present and projected exterior noise to not exceed the criteria.

Table 83-4
Noise Standards for Other Structures

Typical Uses	*12-Hour Equivalent Sound Level (Interior) in dBA Ldn*
Educational, institutions, libraries, meeting facilities, etc.	45
General office, reception, etc.	50
Retail stores, restaurants, etc.	55
Other areas for manufacturing, assembly, testing, warehousing, etc.	65

In addition, the average of the maximum levels on the loudest of intrusive sounds occurring during a 24-hour period shall not exceed 65 dBA interior.

(Ord. 4011, passed - -2007; Am. Ord. 4245, passed - -2014)

§ 83.01.090 Vibration.

(a) *Vibration Standard.* No ground vibration shall be allowed that can be felt without the aid of instruments at or beyond the lot line, nor shall any vibration be allowed which produces a particle velocity greater than or equal to two-tenths inches per second measured at or beyond the lot line.

(b) *Vibration Measurement.* Vibration velocity shall be measured with a seismograph or other instrument capable of measuring and recording displacement and frequency, particle velocity, or acceleration. Readings shall be made at points of maximum vibration along any lot line next to a parcel within a residential, commercial and industrial land use zoning district.

(c) *Exempt Vibrations.* The following sources of vibration shall be exempt from the regulations of this Section.

(1) Motor vehicles not under the control of the subject use.

(2) Temporary construction, maintenance, repair, or demolition activities between 7:00 a.m. and 7:00 p.m., except Sundays and Federal holidays.

(Ord. 4011, passed - -2007)

APPENDIX 3:

UNMITIGATED TYPICAL CONSTRUCTION NOISE LEVEL CALCULATIONS

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12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-12 OYD1 Construction.cna
Date: 28.01.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS2		OYD1-R1	68.4	63.4	71.0	71.0	67.0	0.0				5.00	a	6210315.30	2329356.30	5.00
RECEIVERS2		OYD1-R2	69.1	64.1	71.7	71.0	67.0	0.0				5.00	a	6210352.20	2328738.90	5.00
RECEIVERS2		OYD1-R3	65.8	60.8	68.3	61.0	56.0	0.0				5.00	a	6211824.55	2328029.48	5.00
RECEIVERS2		OYD1-R4	68.9	63.9	71.5	61.0	56.0	0.0				5.00	a	6211848.72	2327816.63	5.00

Area Source(s)

Name	M.	ID	Result. PWL			Result. PWL''			Lw / Li		PQ	Operating Time			Height	
			Day	Evening	Night	Day	Evening	Night	Type	Value		Day	Special	Night	(ft)	
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(min)	(min)	(min)		
SITEBOUNDARY1		CONSTRUCTION	123.4	118.4	118.4	71.2	66.2	66.2	Lw	118.4					8	a
SITEBOUNDARY1		CONSTRUCTION02	123.4	118.4	118.4	68.4	63.4	63.4	Lw	118.4					8	a

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY1	CONSTRUCTION	8.00	a			6208475.51	2329147.10	8.00	0.00
						6209165.28	2329144.76	8.00	0.00
						6209167.95	2329774.31	8.00	0.00
						6209995.33	2329769.46	8.00	0.00
						6209992.87	2329137.94	8.00	0.00
						6210124.83	2329136.85	8.00	0.00
						6210126.47	2329316.85	8.00	0.00
						6210431.93	2329312.76	8.00	0.00
						6210421.52	2328804.36	8.00	0.00

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
						6209791.94	2328809.56	8.00	0.00
						6209790.45	2328644.55	8.00	0.00
						6210419.97	2328639.36	8.00	0.00
						6210417.66	2328391.84	8.00	0.00
						6209789.62	2328404.35	8.00	0.00
						6209791.79	2328482.48	8.00	0.00
						6208470.17	2328489.52	8.00	0.00
SITEBOUNDARY1	CONSTRUCTION02	8.00	a			6210474.80	2329283.52	8.00	0.00
						6211115.76	2329279.31	8.00	0.00
						6211114.28	2329130.32	8.00	0.00
						6211443.72	2329128.48	8.00	0.00
						6211444.86	2329258.49	8.00	0.00
						6211737.53	2329257.55	8.00	0.00
						6211729.43	2327806.68	8.00	0.00
						6213048.77	2327794.82	8.00	0.00
						6213045.65	2327200.24	8.00	0.00
						6210461.33	2327173.86	8.00	0.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-12 OYD2 Construction.cna
Date: 28.01.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
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Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		OYD2-R01	63.0	-44.0	60.0	59.0	55.0	0.0				5.00	a	6209085.24	2329695.58	5.00
RECEIVERS		OYD2-R02	63.5	-43.5	60.5	63.0	60.0	0.0				5.00	a	6209676.52	2329872.45	5.00
RECEIVERS		OYD2-R03	64.2	-42.8	61.2	71.0	67.0	0.0				5.00	a	6210511.59	2329617.24	5.00
RECEIVERS		OYD2-R04	63.1	-43.8	60.1	59.0	56.0	0.0				5.00	a	6211644.77	2329342.53	5.00
RECEIVERS		OYD2-R05	65.2	-41.8	62.1	67.0	65.0	0.0				5.00	a	6211822.18	2328712.96	5.00
RECEIVERS		OYD2-R06	62.8	-44.1	59.8	57.0	54.0	0.0				5.00	a	6212891.19	2328558.88	5.00
RECEIVERS		OYD2-R07	60.2	-46.8	57.2	68.0	62.0	0.0				5.00	a	6213126.07	2327054.66	5.00
RECEIVERS		OYD2-R08	61.9	-45.1	58.9	59.0	55.0	0.0				5.00	a	6212357.84	2326964.81	5.00
RECEIVERS		OYD2-R09	65.1	-41.9	62.1	58.0	55.0	0.0				5.00	a	6210361.40	2328187.64	5.00
RECEIVERS		OYD2-R10	63.7	-43.3	60.7	55.0	53.0	0.0				5.00	a	6209028.59	2328394.59	5.00

Area Source(s)

Name	M.	ID	Result. PWL			Result. PWL''			Lw / Li			Operating Time			Height
			Day	Evening	Night	Day	Evening	Night	Type	Value	norm.	Day	Special	Night	(ft)
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	
SITEBOUNDARY2		CONSTUCTION	125.4	18.4	18.4	67.6	-39.4	-39.4	PWL-Pt	118.4					8

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY2	CONSTUCTION	8.00	a			6210384.24	2328391.33	8.00	0.00
						6209789.62	2328404.35	8.00	0.00
						6209791.79	2328482.48	8.00	0.00
						6208470.17	2328489.52	8.00	0.00

Name	ID	Height		Coordinates			
		Begin	End	x	y	z	Ground
		(ft)	(ft)	(ft)	(ft)	(ft)	(ft)
				6208475.51	2329147.10	8.00	0.00
				6209165.28	2329144.76	8.00	0.00
				6209167.95	2329774.31	8.00	0.00
				6209911.62	2329769.72	8.00	0.00
				6209995.33	2329769.46	8.00	0.00
				6210431.38	2329768.12	8.00	0.00
				6210431.88	2329283.80	8.00	0.00
				6211115.76	2329279.31	8.00	0.00
				6211114.28	2329130.32	8.00	0.00
				6211443.72	2329128.48	8.00	0.00
				6211444.86	2329258.49	8.00	0.00
				6211745.28	2329255.90	8.00	0.00
				6211744.42	2329162.02	8.00	0.00
				6211738.08	2328466.73	8.00	0.00
				6213054.15	2328454.82	8.00	0.00
				6213049.54	2327774.13	8.00	0.00
				6213041.90	2327183.78	8.00	0.00
				6210461.33	2327173.86	8.00	0.00
				6210469.11	2328392.12	8.00	0.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-12 SP Construction.cna
Date: 28.01.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		SP-R1	60.1	-46.9	57.1	71.0	77.0	0.0				5.00	a	6208192.26	2328225.78	5.00
RECEIVERS		SP-R2	63.6	-43.4	60.5	61.0	57.0	0.0				5.00	a	6208450.35	2329710.72	5.00
RECEIVERS		SP-R3	62.4	-44.6	59.4	70.0	65.0	0.0				5.00	a	6208867.02	2329868.27	5.00
RECEIVERS		SP-R4	63.1	-43.9	60.1	75.0	73.0	0.0				5.00	a	6211089.75	2329847.87	5.00
RECEIVERS		SP-R5	62.4	-44.6	59.4	59.0	56.0	0.0				5.00	a	6211837.36	2329506.94	5.00
RECEIVERS		SP-R6	66.6	-40.3	63.6	57.0	55.0	0.0				5.00	a	6209946.53	2327971.36	5.00

Area Source(s)

Name	M.	ID	Result. PWL			Result. PWL''			Lw / Li			Operating Time			Height
			Day	Evening	Night	Day	Evening	Night	Type	Value	norm.	Day	Special	Night	(ft)
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	
SITEBOUNDARY3		CONSTRUCTION	125.4	18.4	18.4	66.1	-40.9	-40.9	PWL-Pt	118.4					8

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY3	CONSTRUCTION	8.00	a			6213054.15	2328454.82	8.00	0.00
						6213041.90	2327183.78	8.00	0.00
						6210461.33	2327173.86	8.00	0.00
						6210465.74	2327983.72	8.00	0.00
						6209784.50	2327984.50	8.00	0.00
						6209783.01	2327819.48	8.00	0.00
						6209091.09	2327825.26	8.00	0.00
						6209082.85	2327197.94	8.00	0.00

Name	ID	Height		Coordinates			
		Begin	End	x	y	z	Ground
		(ft)	(ft)	(ft)	(ft)	(ft)	(ft)
				6208459.25	2327189.94	8.00	0.00
				6208470.17	2328489.52	8.00	0.00
				6208480.64	2329779.41	8.00	0.00
				6209701.25	2329770.36	8.00	0.00
				6211749.91	2329764.06	8.00	0.00
				6211738.08	2328466.73	8.00	0.00

APPENDIX 4:

UNMITIGATED PEAK HOUR CONSTRUCTION NOISE LEVEL CALCULATIONS

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12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-12 OYD1 Peak Construction.cna
Date: 28.01.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS2		OYD-R1	83.1	83.1	89.7	71.0	67.0	0.0				5.00	a	6210315.30	2329356.30	5.00
RECEIVERS2		OYD-R2	77.9	77.9	84.6	71.0	67.0	0.0				5.00	a	6210352.20	2328738.90	5.00
RECEIVERS2		OYD-R3	75.4	75.4	82.1	61.0	56.0	0.0				5.00	a	6211824.55	2328029.48	5.00
RECEIVERS2		OYD-R4	85.5	85.5	92.2	61.0	56.0	0.0				5.00	a	6211848.72	2327816.63	5.00

Point Source(s)

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
OYD1		R1	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210315.74	2329298.19	8.00
OYD1		R2	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210352.48	2328839.82	8.00
OYD1		R3	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211841.53	2327772.36	8.00
OYD1		R4	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211681.69	2328031.67	8.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-12 OYD2 Peak Construction.cna
Date: 28.01.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		OYD-R01	75.6	75.6	82.2	59.0	55.0	0.0				5.00	a	6209085.24	2329695.58	5.00
RECEIVERS		OYD-R02	74.6	74.6	81.2	63.0	60.0	0.0				5.00	a	6209676.52	2329872.45	5.00
RECEIVERS		OYD-R03	75.5	75.5	82.1	71.0	67.0	0.0				5.00	a	6210511.59	2329617.24	5.00
RECEIVERS		OYD-R04	75.7	75.7	82.3	59.0	56.0	0.0				5.00	a	6211644.77	2329342.53	5.00
RECEIVERS		OYD-R05	76.1	76.1	82.8	67.0	65.0	0.0				5.00	a	6211822.18	2328712.96	5.00
RECEIVERS		OYD-R06	73.3	73.3	80.0	57.0	54.0	0.0				5.00	a	6212891.19	2328558.88	5.00
RECEIVERS		OYD-R07	70.9	70.9	77.6	68.0	62.0	0.0				5.00	a	6213126.07	2327054.66	5.00
RECEIVERS		OYD-R08	69.0	69.0	75.6	59.0	55.0	0.0				5.00	a	6212357.84	2326964.81	5.00
RECEIVERS		OYD-R09	74.1	74.1	80.8	58.0	55.0	0.0				5.00	a	6210361.40	2328187.64	5.00
RECEIVERS		OYD-R10	75.4	75.4	82.0	55.0	53.0	0.0				5.00	a	6209028.59	2328394.59	5.00

Point Source(s)

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6209215.27	2329697.98	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6209677.01	2329724.57	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210380.50	2329615.79	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6209031.54	2328525.50	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210511.04	2328187.05	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211646.18	2329213.82	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211698.50	2328718.32	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6212892.61	2328395.17	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6213003.41	2327228.75	8.00

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6212357.11	2327237.99	8.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-12 SP Peak Construction.cna
Date: 28.01.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		SP-R1	68.9	68.9	75.6	71.0	77.0	0.0				5.00	a	6208192.26	2328225.78	5.00
RECEIVERS		SP-R2	83.0	83.0	89.6	61.0	57.0	0.0				5.00	a	6208450.35	2329710.72	5.00
RECEIVERS		SP-R3	78.5	78.5	85.2	70.0	65.0	0.0				5.00	a	6208867.02	2329868.27	5.00
RECEIVERS		SP-R4	77.8	77.8	84.5	75.0	73.0	0.0				5.00	a	6211089.75	2329847.87	5.00
RECEIVERS		SP-R5	75.9	75.9	82.5	59.0	56.0	0.0				5.00	a	6211837.36	2329506.94	5.00
RECEIVERS		SP-R6	86.1	86.1	92.7	57.0	55.0	0.0				5.00	a	6209946.53	2327971.36	5.00

Point Source(s)

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
SP		SP-R1	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6208550.46	2329713.56	0.00
SP		SP-R2	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6208871.21	2329719.00	0.00
SP		SP-R3	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6208550.46	2328218.54	0.00
SP		SP-R4	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6209947.63	2328047.29	0.00
SP		SP-R5	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6211101.79	2329693.58	0.00
SP		SP-R6	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6211652.67	2329507.89	0.00

APPENDIX 5:

MITIGATED CONSTRUCTION NOISE LEVEL CALCULATIONS

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12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-15 OYD1 Construction.cna
Date: 30.06.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS2		OYD1-R1	68.0	63.0	70.5	71.0	67.0	0.0				5.00	a	6210315.30	2329356.30	5.00
RECEIVERS2		OYD1-R2	68.1	63.1	70.7	71.0	67.0	0.0				5.00	a	6210352.20	2328738.90	5.00
RECEIVERS2		OYD1-R3	60.9	55.9	63.5	61.0	56.0	0.0				5.00	a	6211824.55	2328029.48	5.00
RECEIVERS2		OYD1-R4	59.8	54.8	62.4	61.0	56.0	0.0				5.00	a	6211848.72	2327816.63	5.00

Area Source(s)

Name	M.	ID	Result. PWL			Result. PWL''			Lw / Li		PQ	Operating Time			Height	
			Day	Evening	Night	Day	Evening	Night	Type	Value		Day	Special	Night	(ft)	
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(min)	(min)	(min)		
SITEBOUNDARY1		CONSTRUCTION	123.4	118.4	118.4	71.2	66.2	66.2	Lw	118.4					8	a
SITEBOUNDARY1		CONSTRUCTION02	123.4	118.4	118.4	68.4	63.4	63.4	Lw	118.4					8	a

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY1	CONSTRUCTION	8.00	a			6208475.51	2329147.10	8.00	0.00
						6209165.28	2329144.76	8.00	0.00
						6209167.95	2329774.31	8.00	0.00
						6209995.33	2329769.46	8.00	0.00
						6209992.87	2329137.94	8.00	0.00
						6210124.83	2329136.85	8.00	0.00
						6210126.47	2329316.85	8.00	0.00
						6210431.93	2329312.76	8.00	0.00
						6210421.52	2328804.36	8.00	0.00

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
						6209791.94	2328809.56	8.00	0.00
						6209790.45	2328644.55	8.00	0.00
						6210419.97	2328639.36	8.00	0.00
						6210417.66	2328391.84	8.00	0.00
						6209789.62	2328404.35	8.00	0.00
						6209791.79	2328482.48	8.00	0.00
						6208470.17	2328489.52	8.00	0.00
SITEBOUNDARY1	CONSTRUCTION02	8.00	a			6210494.61	2329279.69	8.00	0.00
						6211115.76	2329279.31	8.00	0.00
						6211114.28	2329130.32	8.00	0.00
						6211443.72	2329128.48	8.00	0.00
						6211444.86	2329258.49	8.00	0.00
						6211737.53	2329257.55	8.00	0.00
						6211729.43	2327806.68	8.00	0.00
						6213048.77	2327794.82	8.00	0.00
						6213045.65	2327200.24	8.00	0.00
						6210461.33	2327173.86	8.00	0.00

Barrier(s)

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height			Coordinates			
				left	right		horz.	vert.	Begin		End	x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)	(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY1			CONSTRUCTION02						8.00	a		6210457.14	2327173.67	8.00	0.00
												6210493.55	2329281.38	8.00	0.00
												6211115.76	2329279.31	8.00	0.00
												6211114.28	2329130.32	8.00	0.00
												6211443.72	2329128.48	8.00	0.00
												6211444.86	2329258.49	8.00	0.00
												6211737.53	2329257.55	8.00	0.00
												6211729.43	2327806.68	8.00	0.00
												6213048.77	2327794.82	8.00	0.00
												6213045.65	2327200.24	8.00	0.00
												6210461.33	2327173.86	8.00	0.00
SITEBOUNDARY1			CONSTRUCTION						8.00	a		6208475.51	2329147.10	8.00	0.00
												6209165.28	2329144.76	8.00	0.00
												6209167.95	2329774.31	8.00	0.00
												6209995.33	2329769.46	8.00	0.00
												6209992.87	2329137.94	8.00	0.00
												6210124.83	2329136.85	8.00	0.00
												6210126.47	2329316.85	8.00	0.00
												6210431.93	2329312.76	8.00	0.00
												6210421.52	2328804.36	8.00	0.00
												6209791.94	2328809.56	8.00	0.00
												6209790.45	2328644.55	8.00	0.00
												6210419.97	2328639.36	8.00	0.00
												6210417.66	2328391.84	8.00	0.00
												6209789.62	2328404.35	8.00	0.00
												6209791.79	2328482.48	8.00	0.00
												6208470.17	2328489.52	8.00	0.00
SITEBOUNDARY1			12barrier						12.00	a		6211730.71	2327808.50	12.00	0.00
												6211959.55	2327804.66	12.00	0.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-15 OYD2 Construction.cna
Date: 30.06.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		OYD2-R01	63.0	-44.0	60.0	59.0	55.0	0.0				5.00	a	6209085.24	2329695.58	5.00
RECEIVERS		OYD2-R02	63.5	-43.5	60.5	63.0	60.0	0.0				5.00	a	6209676.52	2329872.45	5.00
RECEIVERS		OYD2-R03	64.2	-42.8	61.2	71.0	67.0	0.0				5.00	a	6210511.59	2329617.24	5.00
RECEIVERS		OYD2-R04	63.1	-43.8	60.1	59.0	56.0	0.0				5.00	a	6211644.77	2329342.53	5.00
RECEIVERS		OYD2-R05	65.2	-41.8	62.1	67.0	65.0	0.0				5.00	a	6211822.18	2328712.96	5.00
RECEIVERS		OYD2-R06	62.8	-44.1	59.8	57.0	54.0	0.0				5.00	a	6212891.19	2328558.88	5.00
RECEIVERS		OYD2-R07	60.2	-46.8	57.2	68.0	62.0	0.0				5.00	a	6213126.07	2327054.66	5.00
RECEIVERS		OYD2-R08	61.9	-45.1	58.9	59.0	55.0	0.0				5.00	a	6212357.84	2326964.81	5.00
RECEIVERS		OYD2-R09	65.1	-41.9	62.1	58.0	55.0	0.0				5.00	a	6210361.40	2328187.64	5.00
RECEIVERS		OYD2-R10	63.7	-43.3	60.7	55.0	53.0	0.0				5.00	a	6209028.59	2328394.59	5.00

Area Source(s)

Name	M.	ID	Result. PWL			Result. PWL''			Lw / Li			Operating Time			Height
			Day	Evening	Night	Day	Evening	Night	Type	Value	norm.	Day	Special	Night	(ft)
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	
SITEBOUNDARY2		CONSTUCTION	125.4	18.4	18.4	67.6	-39.4	-39.4	PWL-Pt	118.4					8

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY2	CONSTUCTION	8.00	a			6210384.24	2328391.33	8.00	0.00
						6209789.62	2328404.35	8.00	0.00
						6209791.79	2328482.48	8.00	0.00
						6208470.17	2328489.52	8.00	0.00

Name	ID	Height		Coordinates			
		Begin	End	x	y	z	Ground
		(ft)	(ft)	(ft)	(ft)	(ft)	(ft)
				6208475.51	2329147.10	8.00	0.00
				6209165.28	2329144.76	8.00	0.00
				6209167.95	2329774.31	8.00	0.00
				6209911.62	2329769.72	8.00	0.00
				6209995.33	2329769.46	8.00	0.00
				6210431.38	2329768.12	8.00	0.00
				6210431.88	2329283.80	8.00	0.00
				6211115.76	2329279.31	8.00	0.00
				6211114.28	2329130.32	8.00	0.00
				6211443.72	2329128.48	8.00	0.00
				6211444.86	2329258.49	8.00	0.00
				6211745.28	2329255.90	8.00	0.00
				6211744.42	2329162.02	8.00	0.00
				6211738.08	2328466.73	8.00	0.00
				6213054.15	2328454.82	8.00	0.00
				6213049.54	2327774.13	8.00	0.00
				6213041.90	2327183.78	8.00	0.00
				6210461.33	2327173.86	8.00	0.00
				6210469.11	2328392.12	8.00	0.00

Barrier(s)

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height			Coordinates			
				left	right		horz.	vert.	Begin		End	x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)	(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY2			CONSTUCTION						8.00	a		6210470.31	2328392.43	8.00	0.00
												6209789.62	2328404.35	8.00	0.00
												6209791.79	2328482.48	8.00	0.00
												6208470.17	2328489.52	8.00	0.00
												6208475.51	2329147.10	8.00	0.00
												6209165.28	2329144.76	8.00	0.00
												6209167.95	2329774.31	8.00	0.00
												6209911.62	2329769.72	8.00	0.00
												6209995.33	2329769.46	8.00	0.00
												6210431.38	2329768.12	8.00	0.00
												6210431.88	2329283.80	8.00	0.00
												6211115.76	2329279.31	8.00	0.00
												6211114.28	2329130.32	8.00	0.00
												6211443.72	2329128.48	8.00	0.00
												6211444.86	2329258.49	8.00	0.00
												6211745.28	2329255.90	8.00	0.00
												6211744.42	2329162.02	8.00	0.00
												6211738.08	2328466.73	8.00	0.00
												6213054.15	2328454.82	8.00	0.00
												6213049.54	2327774.13	8.00	0.00
												6213041.90	2327183.78	8.00	0.00
												6210461.33	2327173.86	8.00	0.00
												6210469.11	2328392.12	8.00	0.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-15 SP Construction.cna
Date: 30.06.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		SP-R1	60.1	-46.9	57.1	71.0	77.0	0.0				5.00	a	6208192.26	2328225.78	5.00
RECEIVERS		SP-R2	63.6	-43.4	60.5	61.0	57.0	0.0				5.00	a	6208450.35	2329710.72	5.00
RECEIVERS		SP-R3	62.4	-44.6	59.4	70.0	65.0	0.0				5.00	a	6208867.02	2329868.27	5.00
RECEIVERS		SP-R4	63.1	-43.9	60.1	75.0	73.0	0.0				5.00	a	6211089.75	2329847.87	5.00
RECEIVERS		SP-R5	62.4	-44.6	59.4	59.0	56.0	0.0				5.00	a	6211837.36	2329506.94	5.00
RECEIVERS		SP-R6	66.6	-40.3	63.6	57.0	55.0	0.0				5.00	a	6209946.53	2327971.36	5.00

Area Source(s)

Name	M.	ID	Result. PWL			Result. PWL''			Lw / Li			Operating Time			Height
			Day	Evening	Night	Day	Evening	Night	Type	Value	norm.	Day	Special	Night	(ft)
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	
SITEBOUNDARY3		CONSTRUCTION	125.4	18.4	18.4	66.1	-40.9	-40.9	PWL-Pt	118.4					8

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY3	CONSTRUCTION	8.00	a			6213054.15	2328454.82	8.00	0.00
						6213041.90	2327183.78	8.00	0.00
						6210461.33	2327173.86	8.00	0.00
						6210465.74	2327983.72	8.00	0.00
						6209784.50	2327984.50	8.00	0.00
						6209783.01	2327819.48	8.00	0.00
						6209091.09	2327825.26	8.00	0.00
						6209082.85	2327197.94	8.00	0.00

Name	ID	Height				Coordinates			
		Begin		End		x	y	z	Ground
		(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
						6208459.25	2327189.94	8.00	0.00
						6208470.17	2328489.52	8.00	0.00
						6208480.64	2329779.41	8.00	0.00
						6209701.25	2329770.36	8.00	0.00
						6211749.91	2329764.06	8.00	0.00
						6211738.08	2328466.73	8.00	0.00

Barrier(s)

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height				Coordinates			
				left	right		horz.	vert.	Begin		End		x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY3			CONSTRUCTION						8.00	a			6213054.15	2328454.82	8.00	0.00
													6213041.90	2327183.78	8.00	0.00
													6210461.33	2327173.86	8.00	0.00
													6210465.74	2327983.72	8.00	0.00
													6209784.50	2327984.50	8.00	0.00
													6209783.01	2327819.48	8.00	0.00
													6209091.09	2327825.26	8.00	0.00
													6209082.85	2327197.94	8.00	0.00
													6208459.25	2327189.94	8.00	0.00
													6208470.17	2328489.52	8.00	0.00
													6208480.64	2329779.41	8.00	0.00
													6209701.25	2329770.36	8.00	0.00
													6211749.91	2329764.06	8.00	0.00
													6211739.60	2328478.14	8.00	0.00
													6213052.29	2328460.77	8.00	0.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-15 OYD1 Peak Construction.cna
Date: 30.06.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS2		OYD-R1	78.0	78.0	84.6	71.0	67.0	0.0				5.00	a	6210315.30	2329356.30	5.00
RECEIVERS2		OYD-R2	72.9	72.9	79.6	71.0	67.0	0.0				5.00	a	6210352.20	2328738.90	5.00
RECEIVERS2		OYD-R3	70.2	70.2	76.8	61.0	56.0	0.0				5.00	a	6211824.55	2328029.48	5.00
RECEIVERS2		OYD-R4	72.4	72.4	79.0	61.0	56.0	0.0				5.00	a	6211848.72	2327816.63	5.00

Point Source(s)

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
OYD1		R1	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210315.74	2329298.19	8.00
OYD1		R2	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210352.48	2328839.82	8.00
OYD1		R3	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211841.53	2327772.36	8.00
OYD1		R4	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211681.69	2328031.67	8.00

Barrier(s)

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height			Coordinates			
				left	right		horz.	vert.	Begin		End	x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)	(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY1			CONSTRUCTION02						8.00	a		6210457.14	2327173.67	8.00	0.00
												6210493.55	2329281.38	8.00	0.00
												6211115.76	2329279.31	8.00	0.00
												6211114.28	2329130.32	8.00	0.00
												6211443.72	2329128.48	8.00	0.00

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height			Coordinates			
				left	right		horz.	vert.	Begin		End	x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)	(ft)	(ft)	(ft)	(ft)
												6211444.86	2329258.49	8.00	0.00
												6211737.53	2329257.55	8.00	0.00
												6211729.43	2327806.68	8.00	0.00
												6213048.77	2327794.82	8.00	0.00
												6213045.65	2327200.24	8.00	0.00
												6210461.33	2327173.86	8.00	0.00
SITEBOUNDARY1			CONSTRUCTION						8.00	a		6208475.51	2329147.10	8.00	0.00
												6209165.28	2329144.76	8.00	0.00
												6209167.95	2329774.31	8.00	0.00
												6209995.33	2329769.46	8.00	0.00
												6209992.87	2329137.94	8.00	0.00
												6210124.83	2329136.85	8.00	0.00
												6210126.47	2329316.85	8.00	0.00
												6210431.93	2329312.76	8.00	0.00
												6210421.52	2328804.36	8.00	0.00
												6209791.94	2328809.56	8.00	0.00
												6209790.45	2328644.55	8.00	0.00
												6210419.97	2328639.36	8.00	0.00
												6210417.66	2328391.84	8.00	0.00
												6209789.62	2328404.35	8.00	0.00
												6209791.79	2328482.48	8.00	0.00
												6208470.17	2328489.52	8.00	0.00
SITEBOUNDARY1			12barrier						12.00	a		6211730.71	2327808.50	12.00	0.00
												6211959.55	2327804.66	12.00	0.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-15 OYD2 Peak Construction.cna
Date: 30.06.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		OYD-R01	70.7	70.7	77.3	59.0	55.0	0.0				5.00	a	6209085.24	2329695.58	5.00
RECEIVERS		OYD-R02	69.7	69.7	76.4	63.0	60.0	0.0				5.00	a	6209676.52	2329872.45	5.00
RECEIVERS		OYD-R03	70.5	70.5	77.2	71.0	67.0	0.0				5.00	a	6210511.59	2329617.24	5.00
RECEIVERS		OYD-R04	70.8	70.8	77.4	59.0	56.0	0.0				5.00	a	6211644.77	2329342.53	5.00
RECEIVERS		OYD-R05	71.2	71.2	77.9	67.0	65.0	0.0				5.00	a	6211822.18	2328712.96	5.00
RECEIVERS		OYD-R06	68.4	68.4	75.1	57.0	54.0	0.0				5.00	a	6212891.19	2328558.88	5.00
RECEIVERS		OYD-R07	66.1	66.1	72.8	68.0	62.0	0.0				5.00	a	6213126.07	2327054.66	5.00
RECEIVERS		OYD-R08	64.2	64.2	70.9	59.0	55.0	0.0				5.00	a	6212357.84	2326964.81	5.00
RECEIVERS		OYD-R09	69.3	69.3	76.0	58.0	55.0	0.0				5.00	a	6210361.40	2328187.64	5.00
RECEIVERS		OYD-R10	70.5	70.5	77.2	55.0	53.0	0.0				5.00	a	6209028.59	2328394.59	5.00

Point Source(s)

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6209215.27	2329697.98	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6209677.01	2329724.57	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210380.50	2329615.79	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6209031.54	2328525.50	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6210511.04	2328187.05	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211646.18	2329213.82	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6211698.50	2328718.32	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6212892.61	2328395.17	8.00
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6213003.41	2327228.75	8.00

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
OYD2		0	118.4	118.4	118.4	Lw	118.4					0.0	8.00	a	6212357.11	2327237.99	8.00

Barrier(s)

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height			Coordinates			
				left	right		horz.	vert.	Begin		End	x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)	(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY2			CONSTUCTION						8.00	a		6210470.31	2328392.43	8.00	0.00
												6209789.62	2328404.35	8.00	0.00
												6209791.79	2328482.48	8.00	0.00
												6208470.17	2328489.52	8.00	0.00
												6208475.51	2329147.10	8.00	0.00
												6209165.28	2329144.76	8.00	0.00
												6209167.95	2329774.31	8.00	0.00
												6209911.62	2329769.72	8.00	0.00
												6209995.33	2329769.46	8.00	0.00
												6210431.38	2329768.12	8.00	0.00
												6210431.88	2329283.80	8.00	0.00
												6211115.76	2329279.31	8.00	0.00
												6211114.28	2329130.32	8.00	0.00
												6211443.72	2329128.48	8.00	0.00
												6211444.86	2329258.49	8.00	0.00
												6211745.28	2329255.90	8.00	0.00
												6211744.42	2329162.02	8.00	0.00
												6211738.08	2328466.73	8.00	0.00
												6213054.15	2328454.82	8.00	0.00
												6213049.54	2327774.13	8.00	0.00
												6213041.90	2327183.78	8.00	0.00
												6210461.33	2327173.86	8.00	0.00
												6210469.11	2328392.12	8.00	0.00

12991 - Bloomington Business Park Specific Plan- PLD

CadnaA Noise Prediction Model: 12991-15 SP Peak Construction.cna
Date: 30.06.25
Analyst: S. Shami

Calculation Configuration

Configuration	
Parameter	**Value**
General	
Max. Error (dB)	**0.00**
Max. Search Radius (ft)	**6561.70**
Min. Dist Src to Rcvr	**0.00**
Partition	
Raster Factor	**0.50**
Max. Length of Section (ft)	**3280.80**
Min. Length of Section (ft)	**3.30**
Min. Length of Section (%)	**0.00**
Proj. Line Sources	**On**
Proj. Area Sources	**On**
Ref. Time	
Daytime Penalty (dB)	**0.00**
Recr. Time Penalty (dB)	**5.00**
Night-time Penalty (dB)	**10.00**
DTM	
Standard Height (m)	**0.00**
Model of Terrain	**Triangulation**
Reflection	
max. Order of Reflection	**2**
Search Radius Src	**328.08**
Search Radius Rcvr	**328.08**
Max. Distance Source - Rcvr	**3280.84 3280.84**
Min. Distance Rvcr - Reflector	**3.28 3.28**
Min. Distance Source - Reflector	**0.33**
Industrial (ISO 9613 (1996))	
Lateral Diffraction	**some Obj**
Obst. within Area Src do not shield	**On**
Screening	**Incl. Ground Att. over Barrier**
	Dz with limit (20/25)
Barrier Coefficients C1,2,3	**3.0 20.0 0.0**
Temperature (°F)	**50**
rel. Humidity (%)	**70**
Ground Absorption G	**0.50**
Wind Speed for Dir. (mph)	**6.7**
Roads (RLS-90)	
Strictly acc. to RLS-90	
Railways (FTA/FRA)	
Aircraft (???)	
Strictly acc. to AzB	

Receiver Noise Levels

Name	M.	ID	Level Lr			Limit. Value			Land Use			Height		Coordinates		
			Day	Night	CNEL	Day	Night	CNEL	Type	Auto	Noise Type			X	Y	Z
			(dBA)	(dBA)	(dBA)	(dBA)	(dBA)	(dBA)				(ft)		(ft)	(ft)	(ft)
RECEIVERS		SP-R1	62.3	62.3	68.9	71.0	77.0	0.0				5.00	a	6208192.26	2328225.78	5.00
RECEIVERS		SP-R2	74.6	74.6	81.3	61.0	57.0	0.0				5.00	a	6208450.35	2329710.72	5.00
RECEIVERS		SP-R3	70.4	70.4	77.1	70.0	65.0	0.0				5.00	a	6208867.02	2329868.27	5.00
RECEIVERS		SP-R4	70.1	70.1	76.7	75.0	73.0	0.0				5.00	a	6211089.75	2329847.87	5.00
RECEIVERS		SP-R5	68.8	68.8	75.5	59.0	56.0	0.0				5.00	a	6211837.36	2329506.94	5.00
RECEIVERS		SP-R6	76.6	76.6	83.2	57.0	55.0	0.0				5.00	a	6209946.53	2327971.36	5.00

Point Source(s)

Name	M.	ID	Result. PWL			Lw / Li			Operating Time			K0	Height		Coordinates		
			Day	Evening	Night	Type	Value	norm.	Day	Special	Night				X	Y	Z
			(dBA)	(dBA)	(dBA)			dB(A)	(min)	(min)	(min)	(dB)	(ft)		(ft)	(ft)	(ft)
SP		SP-R1	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6208550.46	2329713.56	0.00
SP		SP-R2	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6208871.21	2329719.00	0.00
SP		SP-R3	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6208550.46	2328218.54	0.00
SP		SP-R4	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6209947.63	2328047.29	0.00
SP		SP-R5	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6211101.79	2329693.58	0.00
SP		SP-R6	118.4	118.4	118.4	Lw	118.4					8.0	0.00	a	6211652.67	2329507.89	0.00

Barrier(s)

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height				Coordinates			
				left	right		horz.	vert.	Begin		End		x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)		(ft)	(ft)	(ft)	(ft)
SITEBOUNDARY3			CONSTRUCTION						8.00	a			6213054.15	2328454.82	8.00	0.00

Name	Sel.	M.	ID	Absorption		Z-Ext.	Cantilever		Height			Coordinates			
				left	right		horz.	vert.	Begin		End	x	y	z	Ground
						(ft)	(ft)	(ft)	(ft)		(ft)	(ft)	(ft)	(ft)	(ft)
												6213041.90	2327183.78	8.00	0.00
												6210461.33	2327173.86	8.00	0.00
												6210465.74	2327983.72	8.00	0.00
												6209784.50	2327984.50	8.00	0.00
												6209783.01	2327819.48	8.00	0.00
												6209091.09	2327825.26	8.00	0.00
												6209082.85	2327197.94	8.00	0.00
												6208459.25	2327189.94	8.00	0.00
												6208470.17	2328489.52	8.00	0.00
												6208480.64	2329779.41	8.00	0.00
												6209701.25	2329770.36	8.00	0.00
												6211749.91	2329764.06	8.00	0.00
												6211739.60	2328478.14	8.00	0.00
												6213052.29	2328460.77	8.00	0.00