

# LAW OFFICE OF JORDAN R. SISSON

## LAND USE, ENVIRONMENTAL & MUNICIPAL LAW

3993 Orange Street, Suite 201  
Riverside, CA 92501

Office: (951) 405-8127  
Direct: (951) 542-2735

jordan@jrsissonlaw.com  
www.jrsissonlaw.com

June 20, 2024

VIA EMAIL:

Planning Commission, City of Long Beach (planningcommissioners@longbeach.gov)  
c/o Amy L. Harbin, Planner (LBDS-EIR-Comments@longbeach.gov)

**RE: Item 3, 5910 Cherry Avenue Industrial Building Project (Project No. 2304-11)**

Dear Planning Commission:


On behalf of Kirk Davis, this office respectfully provides the following comments to the City of Long Beach ("City") regarding the Environmental Impact Report ("EIR") for the approximate 304,344 square foot ("sf"), 44-dock warehouse building with 338-auto and 79-truck stalls with roughly 10,000 sf of office space ("Project") on a 14.16-acre site located at the above-referenced address ("Site").

In short, this office submitted Draft EIR comments raising significant concerns with the EIR's failure to correctly identify land use inconsistencies related to the severe intensification of the Project Site, especially when it comes to heavy-duty truck traffic. This is inconsistent with the Site's Neo-Industrial designation under the recently adopted City Land Use Element ("LUE"), which intends a much less intensive use for the Site that serves to protect the nearby low-density residential community across the street from the Project Site. Furthermore, the Draft EIR's analysis of air quality and greenhouse gas ("GHG") is flawed, such as failing to show that the Project may reach GHG levels that are 10 to 50 times larger than applicable GHG thresholds. Furthermore, we are concerned that the City is not considering more robust traffic demand management ("TDM") measures that have the co-benefit of reducing admittedly significant vehicle miles traveled ("VMT") impacts as well as mobile emissions, which in turn reduces the Project's air/GHG impacts.

These comments were not included in the Final EIR nor addressed in the response to comments submitted by other concerned commenters. For the sake of brevity, we resubmit these attached comments and urge the City Planning Commission to stay its action on the EIR and other local land use entitlements (i.e., Site Plan Review and Rezone) until these issues are adequately resolved in CEQA-compliant EIR. Ultimately, the City is leaving meaningful mitigation measures and project alternatives off the table that will impact City residents' lives. These impacts need to be adequately identified and mitigated, including consideration of project alternatives that include tenant uses akin to those anticipated under the LUE's Neo-Industrial designation, with a less intensive truck trip component and much stronger TDMs and other strategies that have the co-benefit of reducing VMT, air, and GHG impacts.

Thank you for this opportunity to provide these comments.

Sincerely,

  
Jordan R. Sisson  
Attorney for Mr. Davis

ATTACHMENT: Draft EIR Comments (4/30/2024)

# LAW OFFICE OF JORDAN R. SISSON

LAND USE, ENVIRONMENTAL & MUNICIPAL LAW

3993 Orange Street, Suite 201  
Riverside, CA 92501

Office: (951) 405-8127  
Direct: (951) 542-2735

jordan@jrsissonlaw.com  
www.jrsissonlaw.com

April 30, 2024

VIA EMAIL:

ATTN: Amy L. Harbin, Planner  
Department of Development Services, Planning Bureau  
City of Long Beach  
LBDS-EIR-Comments@longbeach.gov

RE: DEIR Comments for 5910 Cherry Avenue Industrial Building Project (Project No. 2304-11)

Dear Ms. Harbin:

On behalf of Kirk Davis, this office respectfully provides the following comments<sup>1</sup> to the City of Long Beach ("City") regarding the Draft Environmental Impact Report ("EIR")<sup>2</sup> for the approximate 304,344 square foot ("sf"), 44-dock warehouse building with 338-auto and 79-truck stalls with roughly 10,000 sf of office space ("Project") on a 14.16-acre site located at the above-referenced address ("Site"). Because the ultimate tenant of this speculative industrial building is purportedly unknown, the Draft EIR ("DEIR") considers seven tenant use options, including 100% manufacturing (i.e., option 1), 100% general light industrial (i.e., option 2), and the remainder mix of uses that are primarily considered typical high-cube warehousing ("HCW") uses as defined under the HCW Vehicle Trip Generation Analysis prepared on behalf of the South Coast Air Quality Management District ("SCAQMD").<sup>3</sup> (Compare excerpts below.)

<u>Project Tenant Use Options</u>	<u>SCAQMD Definition of HCW</u>
<ul style="list-style-type: none"><li>• Tenant Use Option 1 - 100% Manufacturing</li><li>• Tenant Use Option 2 - 100% General Light Industrial.</li><li>• Tenant Use Option 3 - 100% Warehousing.</li><li>• Tenant Use Option 4 - 100% High-Cube Fulfillment (Non-Sort)</li><li>• Tenant Use Option 5 - 100% High Cube Cold Storage</li><li>• Tenant Use Option 6 - 25% Manufacturing &amp; 75% Warehousing</li><li>• Tenant Use Option 7 - 25% Manufacturing &amp; 75% High-Cube Transload</li></ul>	<ul style="list-style-type: none"><li>• Transload – usually pallet loads or larger handling products of manufacturers,</li><li>• wholesalers/distributors, or retailers with little or no storage durations</li><li>• Short-Term Storage – products held on-site for a short time</li><li>• Cold Storage – HCW with permanent cold storage in at least part of the building</li><li>• Fulfillment Center – storage and direct distribution of e-commerce product to end users</li><li>• Parcel Hub – transload function for a parcel delivery company</li></ul>
(See DEIR, p. 2-16)	(See SCAQMD HCW Analysis, pp. 3 - 7)

<sup>1</sup> Herein, page citations are either the stated pagination (i.e., "p. #") or PDF-page location (i.e., "PDF p. #").

<sup>2</sup> Inclusive of all associated appendices ("APP-##") retrieved from City-controlled website. (See <https://www.longbeach.gov/lbcd/planning/environmental/reports/>.)

<sup>3</sup> <https://www.ite.org/pub/?id=a3e6679a%2De3a8%2Dbf38%2D7f29%2D2961becdd498>.

In furtherance of the Project, the applicant is seeking certification of the EIR, a rezoning of the Project from General Industrial to Light Industrial ("Rezone"), and Site Plan Review ("SPR") (collectively "Project Approvals"). The following comments on the Project Approvals are provided and supplement Mr. Davis's prior comments dated November 10, 2023 related to the Project's compliance with the California Environmental Quality Act ("CEQA"). (DEIR, APP-A, PDF p. 65.)

As discussed below, Mr. Davis has serious concerns with the EIR's failure to properly identify land use inconsistencies related to the severe intensification of the Project Site, especially when it comes to heavy-duty truck traffic. This is inconsistent with the Site's Neo-Industrial designation under the recently adopted City Land Use Element ("LUE"), which intends a much less intensive use for the Site that serves to protect the nearby low-density residential community across the street from the Project Site. Furthermore, the Draft EIR's analysis of air quality and greenhouse gas ("GHG") is flawed, such as failing to show that the Project may reach GHG levels that are 10 to 50 times larger than applicable GHG thresholds. Furthermore, we are concerned that the City is not considering more robust traffic demand management ("TDM") measures that have the co-benefit of reducing admittedly significant vehicle miles traveled ("VMT") impacts as well as mobile emissions, which in turn reduces the Project's air/GHG impacts.

Ultimately, the Draft EIR fails to properly analyze the Project's impacts or consider an adequate range of alternatives and mitigation measures that reduce Project impacts. Until a proper CEQA-compliant environmental review has been recirculated to address the issues discussed below, Mr. Davis respectfully requests that the City reject the Project Approvals.

**1. THE PROJECT AMOUNTS TO A SIGNIFICANT INTENSIFICATION OF THE SITE, WHICH IS INCONSISTENT WITH THE CITY'S GENERAL PLAN.**

The Draft EIR claims the Project does not conflict with any land use plan, policy, or regulation and proposes no mitigation. (DEIR, pp. ES-12, 4.12-4.) This is incorrect for at least two reasons.

First, the Project would amount to a significant intensification of use as compared to the historic use of the Site, which has been used primarily as a corporate office building with minimal industrial/large truck traffic volume. For example, between 1953 and 1959, the Site was primarily used in the storage of petroleum products and a maintenance yard for the neighboring tank farm. (DEIR, p. 2-8.) Most recently, the Site has been used mainly as a corporate office building (32,815 sf building) and maintenance operations for a pipeline business. (DEIR, APP-J, PDF pp. 2-3, 12, 21, 24.) In comparison, the Site's other smaller structures total roughly 11,025 square feet (id., at PDF p. 21), including one structure labeled as either a "warehouse and office" (id., at PDF pp. 21, 52 [Fig. 2 [buildings 4]] or "storehouse/shipping and receiving" (DEIR, APP-E, PDF p. 15 [building 5], PDF p. 54). The approximate 6,375-sf structure was built in 1953 and includes a single loading dock. (Id., at PDF pp. 54, 68, 97, 130, 145-148, 162.) The Site has generally been vacated since 2021 when the last major tenant left with its approximately 20 on-site employees. (DEIR, p. 2-8.)

///

<sup>4</sup> Size approximated by Google Maps. (See <https://www.google.com/maps/place/5910+Cherry+Ave,+Long+Beach,+CA+90805/@33.8623819,-118.1670051,95m/data=!3m1!1e3!4m5!3m4!1s0x80dd3322fcc33563:0x8e479eae0940f8ee!8m2!3d33.8631329!4d-118.1684475?entry=ttu>.)

Here, the Project would allow a massive amount induced heavy-duty truck traffic as compared to the existing baseline levels. For example, based on trip counts conducted in March 2022, the Site produces 112 daily auto trips and 4 truck trips for a total of 120 passenger car equivalent ("PCE") trips. (DEIR, pp. 4.18-4 – 4.18-6.) This is a much smaller truck trip than the truck trips proposed under the various options ranging from 78-230 truck trips. (Id.)

Second, the Project is inconsistent with the Site's Neo-Industrial general plan designation. Under the City's Land Use Element ("LUE"),<sup>5</sup> the Site falls within one of the "eight major areas" designated for change under the newly adopted LUE, calling for the conversion of industrial edges into a Neo Industrial ("NI") use. (LUE, pp. 94, 113-114 [designated area 2].) The Project Site is within the North Long Beach community, which faces limited retail opportunities and may suffer serious noise, traffic, and air quality concerns due to the proposed widening of the I-710 freeway. (Id., at p. 142.) To combat this, the LUE encourages various land use strategies, such as promoting some industrial properties to develop under their respective Neo-Industrial or commercial-oriented PlaceTypes, especially along Cherry Avenue, to be developed with cleaner and more attractive commercial and industrial properties. (Id.). Neo Industrial uses are less intensive than traditional industrial uses better situated in industrial zones, such as "clean manufacturing" and offices, "creative business" endeavors associated with "innovative start-up businesses" and "creative design offices in the arts, engineering, sciences, technology, media, education, information industries, among others." (LUE, pp. 65, 93 [providing example of a "small manufacturer of a unique medical product" that may want to "co-locate with other small technology manufacturers in a structure" that can support accounting, advertising, networking or other business needs].) Furthermore, it promotes low-intensity uses adjacent to low-density residential uses to serve as a buffer near adjacent residential uses, and helps transition outdated and underutilized industrial sites to higher-value and better employment opportunities. (Id., at pp. 95, 115.)

Here, the Project is a large 304,000-sf speculative manufacturing, industrial, and/or HCW uses, which is a traditional industrial business that the LUE makes clear is not intended for the Neo-Industrial PlaceType but rather should be located in the Industrial PlaceType or in the port and airport areas of Long Beach. (Id., at p. 93.) In fact, the LUE makes clear that newer warehouses and distribution facilities are intended to be located near the I-405 and I-710 freeways (id., at p. 34) and should locate truck traffic away from residential or sensitive neighbors (id., at p. 121). That is not the case here, where the Site is adjacent to low-density residential communities and relatively far away from industrial districts that are in close proximity to the 710 and 405 freeways.

## **2. THE PROJECT AIR QUALITY AND GHG ANALYSIS IS FLAWED AND FAILS TO CONSIDER ADDITIONAL MITIGATION MEASURES RELATED TO REDUCING THE PROJECT'S EMISSIONS FROM MOBILE SOURCES.**

The Draft EIR claims the Project would have no significant air quality or GHG impacts and requires no mitigation measures. (DEIR, pp. ES-6, ES-10.) This conclusion is incorrect for at least four reasons.

First, the Project incorrectly claims the Project is consistent with the General Plan to avoid a more thorough GHG analysis. The Draft EIR claims the Project is consistent with the City's Climate Action Plan ("CAP"), in part because it "does not propose a zone change or General Plan Amendment." (DEIR, p. 4.9-26; APP-I, PDF pp. 383.) This is contradicted by the EIR, which clearly states that the Project includes a "rezone" from General Industrial to Light Industrial. (See e.g., DEIR, pp. 2-10, 4.12-3, 4.18-7.)

<sup>5</sup> <https://www.longbeach.gov/globalassets/lbcd/media-library/documents/planning/advance/lueude/land-use-element-final-adopted-december-2019>.

Hence, a revised Project's GHG analysis should be conducted to examine the Project's GHG efficiency under a serve population metric (i.e., residents + workers).<sup>6</sup> To this end, the Draft EIR also needs to clearly identify how many expected jobs will be created by the Project under the varying tenant options, which the current DEIR fails to do by making a vague reference that there will be "future employees" expected to reside within the City. (See e.g., DEIR, pp. ES-23 – ES-24, 4.15-5.)

Second, the Project appears to be inconsistent with the CAP efficiency threshold. As shown in the table below, the EIR appendix discloses the annual GHG emissions (i.e., MTCO<sub>2</sub>e/yr) expected under the various tenant options. Based on job generation rates from the City of Los Angeles, the proposed uses generate between 0.33 to 1.0 employees per 1,000 square feet ("KSF"), the Project would generate between 100 – 304 jobs depending on the seven different options. The total jobs created is the Project's total service population ("sp") given there are no residents proposed under any option. By dividing the annual GHG emissions by the total workers, you can see the Project would have an efficiency level ranging between 10.8 to 57.2 GHG emissions per worker. This level far exceeds the 1.4 MTCO<sub>2</sub>e/yr/sp threshold under the City's CAP checklist. (APP-I, PDF p. 383.)

Tenant Option <sup>7</sup>	Annual GHG Emissions (MTCO <sub>2</sub> /yr) <sup>8</sup>	Worker Rate <sup>9</sup>	Total Workers <sup>10</sup>	GHGs per Service Population (MTCO <sub>2</sub> /yr/sp) <sup>11</sup>
1 - 304,344-sf Manufacturing	3,794.68	0.5/KSF	152	24.93678
2 - 304,344-sf General Light Industrial	3,289.68	1.0/KSF	304	10.80908
3 - 304,344-sf Warehousing	3,275.27	0.33/KSF	100	32.61132
4 - 304,344-sf High-Cube Fulfillment (Non-Sort)	1,813.27	0.33/KSF	100	18.05443
5 - 304,344-sf High Cube Cold Storage	5,748.81	0.33/KSF	100	57.23995
6 - 76,086-sf Manufacturing & 228,258-sf Warehousing	3,401.55	0.5/KSF & 0.33/KSF	113	30.00446
7 - 76,086-sf Manufacturing & 228,258-sf High-Cube Transload	2,447.55	0.5/KSF & 0.33/KSF	113	21.5894

Third, the emissions modeling assumes a false baseline. Both the Draft EIR's air quality and GHG analysis rely on emissions modeling from CalEEMod (DEIR, pp. 4.4-26, which assumes that the Project site is occupied as a 308,000-sf unrefrigerated warehouse use. (See DEIR, pp. 4.9-17-4.9-18; APP-B, PDF p. 61-62, 171, 177-178; APP-I, PDF pp. 62, 111, 118-119.) This is illusory given the Site has been used largely as a corporate office building (discussed supra). Failure to model the existing uses based on accurate baseline conditions may result in underestimation of air quality and GHG emissions.

<sup>6</sup> See CAP, p. 142, [https://www.longbeach.gov/globalassets/lbcd/media-library/documents/planning/lb-cap/adopted-lb-cap\\_aug-2022](https://www.longbeach.gov/globalassets/lbcd/media-library/documents/planning/lb-cap/adopted-lb-cap_aug-2022).

<sup>7</sup> DEIR, p. 4.9-19

<sup>8</sup> APP-I, PDF pp. 62 - 65

<sup>9</sup> LADOT (May 2020) VMT Calculator, pp. 10-11,

[https://ladot.lacity.gov/sites/default/files/documents/vmt\\_calculator\\_documentation-2020.05.18.pdf](https://ladot.lacity.gov/sites/default/files/documents/vmt_calculator_documentation-2020.05.18.pdf).

<sup>10</sup> Calculated: (square footage)(worker rate)

<sup>11</sup> Calculated: (GHG Emissions)/(Total Workers)


Fourth, VMT mitigation is inadequate. The Draft EIR admits significant impacts related to VMTs and recommends merely a voluntary commuter trip reduction ("CTR") program. (See DEIR, pp. ES-15 – ES-16.) Unfortunately, there is no discussion of why other measures were not considered, such as those that have the co-benefit of reducing air and GHG emissions from mobile sources, such as those advocated by the California Air Resources Board ("CARB"), the California Air Pollution Control Officers Association ("CAPCOA"), the Governor's Office of Planning and Research ("OPR") and the Southern California Association of Governments ("SCAG").<sup>12</sup>

In conclusion, the Draft EIR fails to properly analyze the Project's impacts on land use consistency, air quality/GHG emissions, and VMT impacts. These impacts need to be properly identified and mitigated, including consideration of project alternatives that include tenant uses akin to those anticipated under the LUE, with a less intensive truck trip component and much stronger transit demand management strategies that have the co-benefit of reducing air and GHG emissions.

Until these issues have been addressed in a CEQA-complaint EIR, the City should reject the Project and Project Approvals.

Thank you for this opportunity to provide these comments.

Sincerely,

  
Jordan R. Sisson  
Attorney for Mr. Davis

<sup>12</sup> See e.g., CAPCOA (Dec. 2021) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, pp. 31-32, 73, 76, 80-96, [https://www.airquality.org/ClimateChange/Documents/Final%20Handbook\\_AB434.pdf](https://www.airquality.org/ClimateChange/Documents/Final%20Handbook_AB434.pdf); CAPCOA (Aug. 2010) Quantifying GHGs and Mitigation, pp. 64-74, <https://www.contracosta.ca.gov/DocumentCenter/View/34123/CAPCOA-2010-GHG-Quantification-PDF>; OPR (Dec. 2018) Technical Advisory, pp. 27, [https://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf); SCAG (Dec. 2019) Final Program EIR, pp. 2.0-18 – 2.0-71 (see project-level mitigation measures for air quality, GHG, and transportation impacts), [https://scag.ca.gov/sites/main/files/file-attachments/fpeir\\_connectsocial\\_complete.pdf?1607981618](https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_complete.pdf?1607981618); SCAG (Apr. 2024), pp. A-7 – A-48, [https://scag.ca.gov/sites/main/files/file-attachments/exhibit\\_a\\_mmrp\\_508\\_final.pdf?1712003625](https://scag.ca.gov/sites/main/files/file-attachments/exhibit_a_mmrp_508_final.pdf?1712003625); CARB, 2022 Scoping Plan, 4, 7, 24, 29 & Appendix D, pp. 23, <https://www2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents>; CARB's 2017 Scoping Plan, Appendix B-Local Action, pp. 1-8, 7-9 & Appendix D, p. 2, [https://www.arb.ca.gov/cc/scopingplan/app\\_b\\_local\\_action\\_final.pdf](https://www.arb.ca.gov/cc/scopingplan/app_b_local_action_final.pdf).