

**RESOLUTION NUMBER 4162**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, APPROVING MITIGATED NEGATIVE DECLARATION 2274, ALUC OVERRULE AND APPROVAL OF DEVELOPMENT PLAN REVIEW 07-09-0018 FOR A 173,000 SQUARE FOOT INDUSTRIAL BUILDING LOCATED BETWEEN HARLEY KNOX BOULEVARD AND NANCE STREET, APPROXIMATELY 250 YARDS EAST OF WEBSTER AVENUE; AND MAKING FINDINGS IN SUPPORT THEREOF.**

**WHEREAS**, the City of Perris has received an application for Development Plan Review No. 07-09-0018, a 173,000 square foot warehouse distribution facility on approximately 9.2 gross acres, located between Harley Knox Boulevard and Nance Street, approximately 250 yards east of Webster Avenue (see Exhibit A).

**WHEREAS**, the proposed project known as Bargemann Industrial, is within the March Air Reserve Base Influence Area 1 (see Exhibit D), and is therefore subject to ALUC review as the General Plan of the City has not been determined to be fully consistent with the Airport Land Use Compatibility Plan (“ALUP”) adopted in 1984 by the Riverside County Airport Land Use Commission (“ALUC”) for the March Air Reserve Base (“March ARB”).

**WHEREAS**, at the hearing on April 12, 2007, ALUC found the proposed Development Plan Review 07-09-0018 to be inconsistent with the 1998 and 2005 Air Force Air Installation Compatible Use Zone (AICUZ) studies in regards to lot coverage exceeding 20-percent, and thus inconsistent with the ALUP as it is believed that the intent of the State Aeronautics Act allows ALUC to take into consideration the AICUZ studies as part of its determination.

**WHEREAS**, at the City Council hearing on August 26, 2008, the City Council upon reviewing the information submitted authorized staff to move forward with ALUC overrule as required in accordance with Public Utility Code (PUC) Section 21676.59(a).

**WHEREAS**, a 45-Day Notice of Intent to Overrule and Draft Findings were provided to ALUC and the Caltrans Division of Aeronautics as required by Sections 21676(b) of the Public Utilities Code; and

**WHEREAS**, an initial study has been prepared for ALUC Overrule and Development Plan Review 07-09-0018 and based upon the environmental information staff finds that the project could not have significant effects on the environment because mitigation measures applied to the project have been agreed to by the project proponent, therefore a Mitigated Negative Declaration (2274) has been prepared; and

**WHEREAS**, the proposed Development Plan Review is consistent with the City of Perris's permitted land uses and applicable zoning regulations of the General Industrial zone in which the site is located; and

**WHEREAS**, a public hearing to consider ALUC Overrule and Development Plan Review 07-09-0018 has been duly noticed; and

**WHEREAS**, on October 15, 2008, the Planning Commission conducted a duly noticed public hearing on the proposed project, considered public testimony and material in the staff report and accompanying documents, and recommended approval of the proposed project, subject to the following amendments to the Initial Study and Planning Conditions as noted in Bold:

Initial Study

Page 13 of Section 6.b. shall be amended as follows:

“However to accommodate truck access to and from the site, the City Engineer is conditioning minimum 30-ft pavement on Harley Knox Boulevard and Nance Street to Indian Street and north to ~~Oleander~~ **Harley Knox Boulevard** to connect to existing designated truck routes. Therefore, no impacts are anticipated. (Source: Project Proposal and Engineering Conditions)”

Planning Conditions of Approval

Page 2 of Condition 12 shall be amended as follows:

“All mechanical equipment, including air conditioning units, transformers, etc., shall be screened from the public right-of-way by a view obscuring roof-screen, fence, wall, or landscaping to the satisfaction of the Planning Division.”

Page 5 of Condition 17 shall include shall include sub Condition 17.f. as follows:

- f. **Prior to the issuance of certificate of occupancy, the applicant shall pay City Development Impact Fees in effect at the time of development.**

Page 6 of Condition 21.f shall be amended as follows:

- o Any use that would generate **excessive** smoke or water vapor, or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area.

**WHEREAS**, on November 25, 2008 the City Council conducted a duly noticed public hearing on the proposed project, considered testimony and materials in the staff reports, accompanying documents and exhibits; and,

**WHEREAS**, the City Council considered and approved the Initial Study and Mitigated Negative Declaration (2274) for the project, finding that these documents adequately

addressed the impacts of the proposed project, were prepared in accordance with the California Environmental Quality Act, and reflects the independent judgment of the City Council; and,

**WHEREAS**, all legal prerequisites for the adoption of this resolution have occurred.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Perris as follows:

**Section 1.** The above recitals are all true and correct.

**Section 2.** The City Council has reviewed and considered the environmental information included in the staff report and accompanying attachments prior to taking action on the applications for the proposed project and finds that based on the Initial Study prepared for the project, the project could not have significant effects on the environment because mitigation measures have been applied to the project and agreed to by the project proponent, therefore a Mitigated Negative Declaration 2274 has been prepared.

The City Council further finds and determines that the City has complied with the California Environmental Quality Act and the City Council determination reflects the independent judgment of the City Council.

**Section 3.** Based on the information contained in the staff report and supporting exhibits and plans, this Commission finds:

- A. The proposed Development Plan Review will not result in a significant adverse effect on the environment;
- B. As conditioned, the design of the Development Plan Review is consistent with the General Plan, and City development standards of the General Industrial zone;
- C. The project site is physically suitable for the type and density of the proposed industrial development;
- D. The project is an industrial development that is compatible with the surrounding land uses and zoning designations in the area;
- E. The proposed Development Plan Review application will not have a negative affect on public health, safety, or general welfare;
- F. The Development Plan Review complies with the Subdivision Map Act.
- G. The proposed project site is located approximately 4 miles north of the Perris Valley Airport and outside the safety zones and main approach areas. No Airport Land Use Compatibility Plan has been adopted for the Perris Valley Airport.

- H. The proposed project site is located 3,700 feet south of the March ARB runway, within Accident Potential Zone 1 (APZ 1). The ALUC has recommended a 20 percent lot coverage restriction but has failed to show how such a restriction would create safe places for emergency landings or minimize impacts from crash landings. Lot coverage restrictions do not preclude groupings of buildings on adjacent parcels. Nor do they create a pattern of development that would accommodate emergency / crash landings of planes, which would require several City blocks of open area. To truly comply with the ALUC's recommendation, a planned expansion of the "Clear Zone" is in order. Parcels of land could then be consolidated, streets vacated or realigned, and property owners compensated for loss of development rights. However, the ALUC has failed to provide empirical evidence of the need to extend the Clear Zone, nor are they offering compensation to land owners in the affected area.
- I. Since lot coverage restrictions are not effective and an expansion of the Clear Zone is indefinite if not impractical, the best method of regulating risk is to restrict development on the site to land uses which have an extremely low density of employment. A methodology for determining appropriate densities of employees is set forth in ALUC planning documents, and warehouse / distribution facilities meet ALUC criteria. Allowing such uses on this site would therefore satisfy public safety concerns, while offering property owners an economic return on their investment in a manner that supports use of March Field as a global port.
- J. The Land Use Plan and corresponding Goals, Policies and Implementation Measures in the City of Perris General Plan 2030 reflect the land use allowed in the ALUP and AICUZ studies for Influence Area 1. However, the proposed project exceeds the lot coverage allowances provided in the AICUZ study. Such a lot coverage restriction would render all distribution/warehouse facilities infeasible thereby discouraging development and not promoting businesses that would support the conversion of the March Air Reserve Base to a commercial airport.
- K. In connection with adoption of General Plan 2030, and certification of a Final Environmental Impact report for General Plan 2030, the City Council found inconsistencies between the General Plan 2030 land use element and the AICUZ to be significant and unavoidable, and adopted the General plan 2030 upon finding overriding considerations. Thus, the City Council has already recognized that development within the City will not necessarily be consistent with the AICUZ.

The boundaries of the March Influence Areas within the City of Perris were adopted as part of the Riverside County ALUP in 1986 and the AICUZ studies. The 1986 ALUP influence areas were based largely on a heavily used military installation located in a rural area. Up until that time, much of the airport planning area within the City of Perris was agricultural and large-lot,

rural residential development and the need for more precisely defined Influence Area boundaries were not recognized.

In the 1990s, the Federal Government ceased or reduced military operations at several military bases throughout the United States. The bases were “realigned” for civilian use and/or military reserve uses. Subsequent to the base realignment process in 1996, March Air Force Base (AFB) became March Air Reserve Base (ARB), and portions of the former Air Force base were reserved for use as a commercial airport. The March Joint Powers Authority (JPA) was created to oversee conversion and operation of the commercial airport, March Global Port. Airport Influence Area boundaries around March AFB were adopted by the County of Riverside Airport Land Use Commission (ALUC) in May, 1986 (see Exhibit C), and became part of the County’s Airport Land Use Plan (ALUP). The ALUP has not been updated since the base realignment process in the mid-1990s and does not reflect changes in aircraft operations or aircraft types.

With the explosive population growth in Riverside County, including the City of Perris, the demand for industrial development has grown to support transportation of goods to the growing population. Conformity with the 1986 ALUP and subsequent AICUZ studies would have precluded much of the development in the City that began during the late 1980’s and continues to the present. Accordingly, this proposed project will assist the orderly development of the area surrounding March ARB in a manner consistent with current operations at March ARB. (*Source: City of Perris General Plan 2030, Safety Element, p. 36*)

- L. City of Perris General Plan 2030 includes the following policies to recognize March ARB and ensure that the ALUP and AICUZ are considered as part of new development review:

Safety Element - Goal I - Reduce risk of damage to property or loss of life due to natural or man-made disasters.

Safety Element - Policy I.D: Aircraft - Consult the Air Installation Compatible Use Zone (AICUZ) Land Use Compatibility Guidelines and ALUP Airport Influence Area development restrictions when considering development project applications.

Safety Element - Implementation Measures – I.D.1 Participate in March Operations Assurance Task Force to resolve inconsistencies between local land use regulations and AICUZ and ALUP policies.

I.D.2 Continue to notify March Air Reserve Base of new development applications and consider their input prior to making land use decisions.

- M. According to Table 3-1 of the March Air Reserve Base Installation Compatible Use Zone Study (AICUZ) (1998), the project site is within the March Air Reserve Base's 75 DNL Noise Zone. According to Table 3-1 of the March Air Reserve's AICUZ Study, the proposed industrial development would be generally compatible with the project aircraft-related noise levels, subject to mitigation for noise reduction to the office area of the building (*Source: County of Riverside Airport Land Use Commission, April 12, 2007, Agenda Item 4.2, Staff Report, p.3*)

The following conditions are required for any subdivision on land within the airport land use plan, as per PUC 21675.1:

Avigation Easement. Prior to project development, recordation of the map, or sale of any entity exempt from the subdivision Map Act, the applicant shall grant to the City of Perris and to the Inland Port Authority an avigation easement in the form and manner approved by the City attorney and shall cause such easement to be duly recorded at the office of County Recorder.

Notice of Airport in the Vicinity. A Notice of Airport in the Vicinity and aerial photograph identifying the location of March ARB and the project site shall be displayed and distributed to tenants at the project site. The following statement is required for distribution.

The property is located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

Disclosure. The applicant shall provide full disclosure of the Avigation Easement and Notice of Airport in the Vicinity prior to the sale of individual properties within the project.

Noise Attenuation. The applicant shall incorporate noise attenuation measures into the building construction to ensure interior noise levels are at or below 45 CNEL-decibel levels at the office areas.

- N. To reduce hazards or aircraft flying near the project site, the following City standard conditions of approval are required.

Lighting Plans. Prior to issuance of building permit, lighting plans shall be reviewed and approved by an airport lighting consultant or March Air Reserve Base/March Inland Port (MARB/MIP)

Development Restrictions. The following uses shall be prohibited:

- Any use which would direct a steady light or flashing light of red, white, green or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach towards a landing at an airport, other than FAA-approved navigational signal light or visual approach indicator.
  - Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.
  - Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.
- O. As shown in the above findings, the proposed project is consistent with the public safety purpose stated in the Public Utilities Code.
- P. As shown in the above findings, the proposed project promotes the overall goals and objectives of the California Airport noise standards and prevents the creation of new noise and safety problems through implantation of the project Conditions of Approval stated above.
- Q. As shown in the above findings, the proposed project protects the public, health, safety and welfare by minimizing the public's exposure to excessive noise and safety hazards in the area around public airports.

**Section 4.** The City Council hereby adopts Mitigated Negative Declaration 2274, and approves Development Plan Review 07-09-0018 based on the information and findings presented in the staff report dated October 15, 2008.

**Section 5.** The City Council declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

**Section 6.** The Mayor shall sign this resolution and the City Clerk shall certify to the passage and adoption of this Resolution.

***ADOPTED, SIGNED and APPROVED this 25th day of November 2008.***

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Mayor, Daryl R. Busch

ATTEST:

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City Clerk, Judy Haughney

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) §  
CITY OF PERRIS )

I Judy Haughney, duly elected CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 4162 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 25<sup>th</sup> day of November 2008, by the following vote:

AYES:	COUNCILMEMBERS:	Motte, Rogers, Yarbrough, Landers, Busch
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

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Judy Haughney, City Clerk