

**RESOLUTION NUMBER 5428**

***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA APPROVING THE CERTIFICATION OF THE EIR (SCH NO.: 2017101009) IN ASSOCIATION WITH DEVELOPMENT PLAN REVIEW 17-00001 (AKA DUKE MARKHAM/PATTERSON) AND TENTATIVE PARCEL MAP (TPM 37343) 17-05163 CONSISTING OF CONSTRUCTION OF A 811,628 SQ. FT. HIGH-CUBE WAREHOUSE AT THE SOUTHEAST CORNER OF PATTERSON AVENUE AND MARKHAM STREET, TO CONSOLIDATE TWO (2) LOTS INTO ONE PARCEL, AND TO VACATE THE DEDICATED RIGHT-OF-WAY FOR PERRY STREET ALONG THE PROJECT'S SOUTHERN BOUNDARY., SUBJECT TO THE FINDINGS CONTAINED HEREIN.***

***WHEREAS***, On March 3, 2017, Duke Realty submitted a Development Plan Review application (DPR 17-00001) and Tentative Parcel Map (TPM 37343) for consideration of architectural design and site layout which proposes to construct a 811,628 square feet high-cube warehouse spec building and to consolidate two lots into one parcel and vacate the dedicated right of way for Perry Street on approximately 37 acres of vacant land (“Project”); and

***WHEREAS***, proposed Development Plan Review 17-00001 and Tentative Parcel Map 37343 are considered a “project” as defined by the California Environmental Quality Act (“CEQA”); and

***WHEREAS***, during review of the Project, it was determined that an Environmental Impact Report (State Clearinghouse No. 2017101009) pursuant to the California Environmental Quality Act (“CEQA”) was required to assess environmental impacts associated with the Project; and

***WHEREAS***, pursuant to CEQA and the State CEQA Guidelines (14 Cal. Code Regs. § 15000 *et seq.*), the City is the lead agency for the Project, as it is the public agency with general governmental powers over the Project; and

***WHEREAS***, the City, as lead agency, determined that an Environmental Impact Report (“EIR”) should be prepared pursuant to CEQA in order to analyze all potentially significant adverse environmental impacts of the Project; and

***WHEREAS***, an EIR was prepared for the Project in accordance with Sections 21000 through 21177 of the California Public Resources Code and Sections 15000 through 15387 of the California Code of Regulations (*CEQA Guidelines*); and

***WHEREAS***, a scoping meeting was conducted for the proposed Project on November 1, 2017, by the Planning Commission to hear from public agencies, the public, and all other interested parties concerning the Project’s potential environmental impacts, site planning and building architecture; and

**WHEREAS**, between June 29, 2018, through August 13, 2018, the Project's Draft Environmental Impact Report ("DEIR") was made available for public review and comment during a state-mandated 45-day public review period; and

**WHEREAS**, the DEIR identified air quality and traffic impacts that would result in environmental impacts for which mitigation measures are not available to reduce impacts below levels of significance and a Statement of Overriding Considerations of Environmental Impact must be adopted prior to approval of the Project; and

**WHEREAS**, the DEIR identified all other potential environmental impacts as either not an impact, a less than significant impact, or a less than significant impact with mitigation and a Mitigation Monitoring and Reporting Program has been prepared for those potential impacts requiring mitigation, which is part of the Final EIR; and

**WHEREAS**, on October 26, 2018, the Project's Final EIR was distributed to those agencies and persons that commented in writing on the Draft EIR ("Final EIR"); and

**WHEREAS**, on November 7, 2018, the Planning Commission conducted a duly noticed public hearing concerning the Project, which concluded in a tie vote (3 ayes, 3 noes, 0 abstain) concerning the approval of the Project; and

**WHEREAS**, on November 14, 2018, the applicant, Duke Realty, timely submitted an Appeal application (PLN18-05319) to the City Council regarding the Project (EIR (SCH No.: 2017101009), Development Plan Review 17-00001 and Tentative Parcel Map (TPM 37343) 17-05163) ("Appeal"); and

**WHEREAS**, the City Council has considered the Reimbursement Agreement executed on July 31, 2018 between the City and RB/MRE Optimus LLC ("Optimus") regarding the construction of Patterson Avenue ("Reimbursement Agreement"); and

**WHEREAS**, Section 66411 of the California Government Code (Subdivision Map Act) vests in the legislative bodies of local agencies the regulation and control of the design and improvement of subdivisions; and

**WHEREAS**, Title 18 of the City of Perris Municipal Code (Subdivisions) implements the Subdivision Map Act and authorizes the City Council to take action on a subdivision/parcel map; and

**WHEREAS**, the Project is located within Airport Overlay Zone ("AOZ") Zone C1 (Primary Approach/Departure Zone) of the 2014 March Air Reserve Base/Inland Port Airport Lands Use Compatibility Plan; and

**WHEREAS**, City staff has determined that the Project is consistent with the 2014 March Air Reserve Base/Inland Port Airport Lands Use Compatibility Plan and therefore does not require ALUC (Airport Land Use Commission) review; and

**WHEREAS**, ALUC requires mandatory findings for approval of all discretionary actions requiring a public hearing or notice that are located within the AOZ;

**WHEREAS**, on January 29, 2019, the City Council conducted a duly noticed

public hearing on the Project and its appeal, at which time all interested persons were given full opportunity to be heard to present evidence; and

**WHEREAS**, prior to taking action, the City Council has heard, been presented with, and/or reviewed all of the information and data which constitutes the administrative record for the above-mentioned approvals, including all oral and written evidence presented to the City during all Project meetings and hearings; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS** does resolve as follows:

**Section 1.** The above recitals are all true and correct and incorporated herein by this reference.

**Section 2.** The City Council further finds and determines that the City has complied with the California Environmental Quality Act based upon the information and findings contained in this Resolution, the staff report and its supporting exhibits, and all written and oral testimony and presentations made at the public hearing, and this finding and determination reflects the independent judgment of the City.

**Section 3.** The City Council hereby certifies the Final EIR (*State Clearinghouse No. #2017101009*) on the basis of substantial evidence and in light of the whole record based upon information and findings contained in this Resolution, the staff report and its supporting exhibits, and all written and oral testimony and presentations made at the public hearing. In making this certification, the City Council finds that:

(a) The City has complied with the California Environmental Quality Act (CEQA) and the Final EIR is an accurate and objective statement that fully complies with CEQA and CEQA Guidelines; and

(b) No evidence of new significant impacts as defined by CEQA Guidelines Section 15088.5, has been received by the City after circulation of the Final DEIR which would require recirculation; and

(c) The Final EIR has identified and discussed significant impacts to air quality (long-term NOx emission impacts) and traffic (I-215 freeway segments in Year 2040 condition) which may occur as a result of the Project, and which require mitigation but cannot be mitigated to less than significant levels, thereby requiring adoption of a Statement of Overriding Considerations as set forth in this Resolution; and

(d) The Final EIR has identified and discussed significant environmental impacts which may occur as a result of the Project and which require mitigation, and can be mitigated to less than significant levels (except for unavoidable significant impacts as discussed in Section 3(c), above); and

(e) Environmental, economic, social and other considerations and benefits derived from the Project override and make infeasible any alternatives or further Mitigation Measures beyond those incorporated into the Project; and

**Section 4.** Based upon information and findings contained in this Resolution, the staff report and its supporting exhibits, and all written and oral testimony and presentations made at the public hearing, the City Council hereby adopts a Statement of Overriding Considerations of Environmental Impact finding that:

(a) Pursuant to CEQA Guidelines Section 15093, the City has balanced the benefits of the Project against any unavoidable environmental impacts in determining whether to approve the Project. The benefits include creating temporary construction and long-term operational jobs that would result in increased spending throughout the region, including the City. Also, annual personal earnings would increase through the generation of jobs, and these earnings would ripple through the local and regional economy, creating a one-time increase in output and earnings associated with construction jobs and an on-going increase in output and earnings associated with permanent jobs. Since the benefits of the Project outweigh the unavoidable adverse environmental impacts, those impacts may be considered “acceptable”; and

(b) The City has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project, which includes but is not limited to, the Mitigation Monitoring and Reporting Program attached in the Final EIR; and

(c) To the extent any Mitigation Measure recommended in the Final EIR or Project conditions of approval could not be incorporated, such Mitigation Measure is infeasible because it will impose restrictions on the Project that will prohibit the realization of specific economic, social and other benefits that the City finds outweigh the unmitigated impacts; and

(d) Except for the Project, all other alternatives set forth in the Final EIR are infeasible because they will prohibit the realization of Project objectives and/or specific economic, social and other benefits that the City finds outweigh any environmental benefits of the alternatives; and

(e) Having reduced the adverse significant environmental effects of the Project to the extent feasible by adopting the proposed Mitigation Measures, having considered the entire administrative record on the Project, and having weighed the benefits of the Project against its unavoidable adverse impacts after mitigation, the City has determined that each of the following social, economic and environmental benefits of the Project outweigh the potential unavoidable adverse impacts and render those potential adverse environmental impacts acceptable based upon the Findings of Fact and Statement of Overriding Considerations attached hereto and incorporated herein by reference as if set forth in full; and

(f) The foregoing benefits provided to the public through approval and implementation of the Project outweigh the identified significant adverse environmental impacts of the Project, which cannot be mitigated; and

(g) Each of the Project benefits separately and individually outweighs the unavoidable adverse environmental effects identified in the Final EIR and therefore finds those impacts to be acceptable.

**Section 5.** Based upon information and findings contained in this Resolution, the staff report and its supporting exhibits, and all written and oral testimony and presentations made at the public hearing, the City Council, as the applicable review authority for this Project with respect to the 2014 March Air Reserve Base/Inland Port Airport Lands Use Compatibility Plan, hereby adopts conditions of approval relating to the 2014 March Air Reserve Base/Inland Port Airport Lands Use Compatibility Plan, such that the Project's use and design comply with the noise compatibility policies, noise attenuation policies, non-residential density standards and other required development conditions, the airspace protection policies, and the overflight policies of the AOZ, as follows:

(a) Prior to issuance of building permits, the landowner shall have conveyed an aviation easement to the March Inland Port Airport Authority.

(b) Any outdoor lighting installed shall be shielded to prevent either the spillage of lumens or reflection into the sky. All outdoor lighting shall be downward facing.

(c) The following uses shall be prohibited:

- i. Children's schools, day care centers, libraries, hospitals, congregate care facilities, and places of assembly.
- ii. 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 toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.
- iii. 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.
- iv. Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, fruit trees, composting operations, production of cereal grains, sunflower and row crops, trash transfer stations that are open on one or more sides, recycling centers contain putrescible wastes, construction and demolition debris facilities, and incinerators.)
- v. Any use that would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

(d) The following uses shall be discouraged. Discouraged uses should generally not be permitted unless no feasible alternative is available:

- i. Critical community facilities including power plants, electrical substations, and public communications facilities. (See Countywide ALUC Policy 4.2.3(d). 17).
- ii. Above ground bulk storage of hazardous materials

iii. Airspace required for objects >70 ft. tall. This height criterion is for general guidance. Taller objects may be acceptable if determined not to be obstructions. (See Countywide ALUC Policies 4.3.3 and 4.3.4). Objects up to 35 feet in height are permitted. However, the Federal Aviation Administration or California Department of Transportation Division of Aeronautics may require marking and lighting of certain objects. (See Countywide ALUC Policy 4.3.6 for details.)

(e) A “Notice of Airport in the Vicinity” shall be provided to all potential purchasers of the property and tenants of the building, and shall be recorded as a deed notice.

(f) All retention and water quality basins shall be designed to dewater within 48 hours of a rainfall event.

(g) Prior to the initiation of any land use having an electromagnetic radiation component, March Air Reserve Base must be notified of any such land use to assess whether a potential conflict with Air Base radio communication could result. Sources of electromagnetic radiation include radio wave transmission in conjunction with remote equipment inclusive of irrigation controllers, access gates, etc.

(h) Noise attenuation measures shall be incorporated into the design of the office areas of the structure, to the extent such measures are necessary to ensure that interior noise levels from aircraft operations are at or below 45 CNEL.

(i) The Project does not propose rooftop solar panels at this time. However, if the Project were to propose solar rooftop panels in the future, the applicant/developer shall prepare a solar glare study that analyzes glare impacts, and this study shall be reviewed by the Airport Land Use Commission and March Air Reserve Base.

**Section 6.** The City Council hereby approves Tentative Parcel Map 17-05163 (TPM 37343) to merge two lots into one parcel and vacant an unimproved street, and Development Plan Review 17-00001 to facilitate construction of a 811,628 square foot industrial building on 37 acres located at the southeast corner of Markham Street and Patterson Avenue, based on the information and findings presented in this Resolution, the staff report and supporting exhibits, as well as all written and oral testimony and presentations made at the public hearing, and subject to the attached Conditions of Approval, and finds that:

***Tentative Parcel Map 37343 (TPM 17-50163)***

*1. The proposed map is consistent with applicable general and specific plans.*

The proposed tentative parcel map has been review by the City Engineer’s Department and the Planning Department to insure compliance with City codes and all other applicable regulations. Per the Perris Valley Commerce Center SP, the Project site is zoned “LI” (Light Industrial) with a Specific Plan (SP) General Plan Land Use designation. The proposed warehouse is permitted in the “LI” zone. According to the General Plan, the proposed development is located in Planning Area 1 “North commercial/Industrial” which is primarily designated for industrial land uses. Therefore, City staff has determined that subject site created by TPM 37343 is consistent with the applicable general and specific plan designations.

2. *That the site is physically suitable for the type and density of the proposed development.*

The 37-acre site is a relatively flat, square parcel with frontage on Patterson Avenue that is a north/south street that connects directly to Harley Knox Blvd., which is the designated truck route required to be used to access I-215. Utilities are existing within the adjacent streets and on-site storm drain facilities will be constructed as part of the Project to collect off- and on-site flows and direct them into the master storm drain facilities serving the area. This is a suitable site for the warehouse building proposed.

3. *That the design of the map or the type of improvements will not cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat.*

Pursuant to the California Environmental Quality Act and the Guidelines for Implementation of the California Environmental Quality Act, an EIR (SCH No: 2017101009) was prepared for the Project that determined that less than significant impacts to wildlife and their habitat would occur as a result of the Project with implementation of the required mitigation measures. The map site consists of vacant land consisting of mixed tilled soils and overgrown vegetation. The Mitigation Monitoring and Reporting Program is attached to the Final EIR and is available for review at the City of Perris Development Services Department or on the City website.

4. *That the design of the map or the type of improvements will not cause serious public health problems.*

The Final EIR determined that less than significant impacts to people would occur as a result of the Project, except for certain identified environmental impacts that will result from the construction and operation of the proposed Project, even with implementation of mitigation measures. See the CEQA Findings for the Project.

### ***Development Plan Review***

1. *The location, size, design, density and intensity of the proposed development and improvements are consistent with the City's General Plan, any applicable Specific Plans, the purposes and provisions of this Title, the purposes of the Zone in which the site is located, and the development policies and standards of the City.*

As conditioned, the site development was determined by City staff to be in compliance with all applicable provisions of the General Plan, Perris Valley Commerce Center Specific Plan (PVCCSP), and the Zoning Code. The development standards for Light Industrial development including use, setbacks, height of buildings, lot coverage, architecture, lighting and landscaping are provided by the PVCCSP, with parking regulations contained in Chapter 19.69 of the Zoning Code. In addition, the Project has been deemed consistent with the 2014 March ARB/Inland Port Airport Land Use Compatibility Plan, and, with mitigation, is consistent with the requirements of the Multiple Species Habitat Conservation Plan (MSHCP). The Project has been conditioned as necessary to ensure compliance with all PVCCSP and Zoning regulations.

2. *The subject site is physically suitable, including but not limited to, parcel size, shape, access, and availability of utilities and services, for the type of development proposed.*

The 37-acre site is a relatively flat, square parcel with frontage on Patterson Avenue that is a north/south street that connects directly to Harley Knox Blvd., which is the designated truck route required to be used to access I-215. Utilities are existing within the adjacent streets and on-site storm drain facilities will be constructed as part of the Project to collect off- and on-site flows and direct them into the master storm drain facilities serving the area. This is a suitable site for the warehouse building proposed.

3. *The proposed development and the conditions under which it would be operated or maintained is compatible with abutting properties and will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

The proposed Duke Warehouse at Patterson Avenue and Markham Street and its operations is compatible with abutting properties, and will not be detrimental to the public health, safety or welfare. The adjacent use to the east along Markham Street includes non-conforming contractor storage yards and large-lot residences which include light industrial businesses on their light industrial-zoned lots. Along the remainder of the eastern Project boundary, an industrial warehouse is under construction, in addition to the warehouses under construction to the south of the site and across Markham Street to the north. The land west of the site across Patterson Avenue is vacant and designated as a future basin with an existing church adjacent to the freeway at Markham Street. Since no trucks will be allowed to travel southerly on Webster Avenue past residentially-zoned residences, the Project will be compatible with adjacent uses. These are appropriate uses within the Light Industrial Zone with which the Project is consistent and will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

4. *The architecture proposed is compatible with community standards and protects the character of adjacent development.*

Enhanced architecture, site design, and landscaping have been provided for the Project to ensure that it resembles similar development to the south, east and north, and addresses the requirements of the Major Roadway Visual Overlay Zones along I-215 and Markham Avenue. The Project adheres to the PVCC Specific Plan requirement that the architecture provide a clearly defined base, body and cap. The long expanse of walls is broken up with alternating vertical styles of window pop-out areas. Additionally, the Project provides screen walls to shield from public view the truck bays facing Patterson Avenue and Markham Street. The use of windows and faux windows, Coronado Stone veneer, enhanced entries, a varied color palette, additional fenestration, and roof height variation provides architecture that is compatible with PVCCSP standards and is consistent with the character of adjacent development.

5. *The landscaping plan ensures visual relief and provides an attractive environment for the public's enjoyment.*

The PVCCSP requires landscaping to be provided at a minimum rate of 12% for the Light Industrial zone and the Project includes a Condition of Approval that requires the conceptual landscape plan to include at least 12% landscaped area. Shade trees are also required to be provided throughout car parking areas and the Project landscape plan includes approximately



100 trees within the parking lots adjacent to Markham Street. Berming is used to screen the office parking lot along Markham Street. Along the street frontage of the Project, enhanced landscaping is proposed with layers of trees. On Patterson Avenue, 35 feet of landscaping is provided to screen the truck bay wall where only 15 feet is required. Flowering accent trees are used at all Project entrances. All trees meet or exceed size requirements at 24-inch or 36-inch boxes. In addition, the right of way landscaping will feature large attractive street trees spaced 30 feet apart or less. The abundance of landscaping on- and off-site will provide the public with an interesting and rich streetscape.

6. *The safeguards necessary to protect the public health, safety and general welfare have been required for the proposed Project.*

The City of Perris standard project review practices, compliance with state and local best planning practices, and preparation of the EIR, the safeguards necessary to protect the public health, safety and general welfare have been provided for the proposed Project.

**Section 7.** 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 8.** The Mayor shall sign this Resolution and the City Clerk shall certify to the adoption of this Resolution.

***ADOPTED, SIGNED and APPROVED this 29<sup>th</sup> day of January 2019.***

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Michael M. Vargas, Mayor

ATTEST:

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City Clerk, Nancy Salazar

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

I, **Nancy Salazar**, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 5428 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 29<sup>th</sup> day of January 2019, by the following called vote:

AYES: RABB, ROGERS, VARGAS  
NOES: CORONA, MAGAÑA  
ABSTAIN: NONE  
ABSENT: NONE

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City Clerk, Nancy Salazar