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June 8, 2026

Hon. Dawn Rowe, Chair
Hon. Joe Baca, Jr., Vice Chair
and Members of the Board of Supervisors

via email BoardMeetingComments@cob.sbcounty.gov

Subject: **Support for Appeal**
Minor Use Permit and Negative Declaration

ITEM 125: Board of Supervisors Public Hearing June 9, 2026

**Continued Appeal of Minor Use Permit and Negative Declaration
for the Maverik, Inc., proposal to construct and operate a 5,637
square foot convenience store with 2 canopies and 15 fuel
dispensers on approximately 4.88 acres of an 8.78-acre parcel at the
southwest corner of Highway 138 and Oasis Road, in Pinon Hills in
the Phelan-Pinon Hills General Commercial Zoning District
1st SUPERVISORIAL DISTRICT
APN: 3067-051-29; PROJ-2024-00030**

Dear Honorable Chair Rowe, Vice-Chair Baca, and Members of the Board:

On behalf of a number of concerned citizens of Pinon Hills and environs,
I request that the Board **grant** the above-referenced appeal and either:

- (1) *deny* the Maverik, Inc., project, as allowed via a CEQA exemption, or
- (2) require an EIR process before further consideration of project approval.

While these two actions are well supported, the agenda lists **appeal denial as if your only option** after holding a public hearing. Instead, on the extensive record before you, the sole legal choices are **project denial** or **an EIR process**.

By way of introduction since I have not appeared before this current board, for decades my law practice has focused on the statewide application of CEQA, a citizen-enforced statute. My representation of environmental groups acting in the public interest has resulted in fifty published CEQA cases to date in the California Court of Appeal and California Supreme Court. Some that address negative declarations include *Sierra Club v. County of Sonoma* (1992), *League for Protection v. City of Oakland* (1997), *The Pocket Protectors v. City of Sacramento* (2004), *Preservation Action Council v. City of San Jose* (2008), *Friends of the College of San Mateo Gardens v. San Mateo Community College District* (2016), *Ventura Foothill Neighbors v. County of Ventura* (2017), and *Protect Niles v. City of Fremont* (2018).

Most currently published CEQA opinions address issues relating to categorical and statutory exemptions and EIR adequacy. Negative declaration disputes are less frequently litigated. That is because the California Legislature pronounced 50 years ago that agencies must conduct an EIR process rather than rely on a negative declaration to identify project impacts and feasible mitigations and alternatives whenever a project ‘*may have*’ any significant environmental effect. (Pub. Resources Code, § 21151, (a).) “The EIR is the ‘heart of CEQA’ [citations].” (*Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1138.)

What is known as the ‘fair argument’ standard of review sets a unique low threshold that upends the deference that courts normally accord the land use decisions of elected officials. Reflecting the statutory preference for EIRs, the modest burden of proof for this appeal requires a *fact or fact-based reasonable assumption or expert opinion* that the Maverik project *may have* significant impact.

An EIR process has great benefit as it analyzes environmental impacts and identifies project mitigations and alternatives that must be adopted if feasible. Contrary evidence is of no moment; a dispute among experts cannot support a negative declaration. (E.g., *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Further, this board cannot override a fair argument of the project’s potentially significant environmental impacts via claimed advancement of public benefits such as general plan goals. CEQA *does not allow* a project such as the “minor use permit” before you to be approved based on a finding of public benefit without first preparing an EIR and adopting feasible mitigations and alternatives to reduce impacts. (Public Resources Code, § 21081.)

Here, from the outset, and documented in Tab 1 of the appeal, the public and this board did not receive a finite, stable project description or the evolving technical reports that were not part of the Initial Study. In addition to the lack of due process, the record presents facts and reasonable fact-based assumptions that the Maverik project has potential significant impacts that have neither been addressed or resolved. The negative declaration is inadequate and *unless* the project is substantially amended and adequately mitigated, the environmental review sought in the subject appeal can only be achieved in an EIR process.

Impacts of the Maverik project are documented in the record by experts and Pinon Hills residents and school administrators, including, inter alia, traffic safety. This primary issue is an acknowledged environmental concern triggering CEQA review and mitigation, as addressed in cases such as *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1149-1153. *Protect Niles* upheld a trial court ruling that a mitigated negative declaration was inadequate, for reasons parallel to this project including inadequate traffic turning radii.

Residents' personal observations of traffic conditions where they live and commute may constitute substantial evidence even if they contradict the conclusions of a professional traffic study. (See *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 735-736 & fn. 13. This is especially true where, as here, residents cite specific facts that call into question the underlying assumptions of a traffic study.

(*Id.* at 1152.) Appellant William C. Hale provided expert comment on turning radii danger and other traffic safety issues relating to Maverik impacts on ingress and egress at the US Post Office and dangers to school children as also raised by the local school district. Mr. Hale's expert credentials include:

1983-1993: Ten years with Forensic Physics Field Investigation; court exhibits.

1990-2022: San Bernardino County Dep't of Public Works, Transportation Design. Retired as an Engineering Technician 5, proficient at AutoCad Civil 3-D, TerraModel Engineerings, GC Turn Analysis.

1993—Current: Owner/Operator of "Exhibit A" designing and drafting land development projects; over 370 projects completed.

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The record also supports a fact-based fair argument of potentially significant environmental effects relating to noise, light, aesthetics, historic and community character, and additional varied traffic safety issues, among others.

Please grant the appeal in the public interest and either deny this impactful project via exemption from CEQA or conduct a prescribed EIR process.

Thank you very much for your consideration.

Sincerely,



Susan Brandt-Hawley

cc: Members of the Board of Supervisors

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