



March 10, 2022

City of Stockton Planning Commission  
425 N. El Dorado Street  
Stockton CA 95202  
Via email: City.Clerk@stocktonca.gov

Re: 5.1 22-0228 Environmental Impact Report, Prezone Requests and Development Agreement for a Proposed Industrial Development at 5110, 5150, 5268, 5280, and 5290 Mariposa Road, 4500 East Clark Road, 4600 and 4610 Marfargoa Drive (APNS 179-220-10; -11; -12; -13; 16; -17; -18; -19; -24) (APPLICATION NO. P20-0805)

Dear Planning Commissioners,

We hope that you will consider our comments in whole and as presented during the March 10, 2022, City of Stockton Planning Commission Public Hearing<sup>1</sup>. We submitted comments on the Draft Environmental Impact report and requested that we be notified of next CEQA steps and only learned of this item after the Planning Commission agenda was posted Friday March 4, 2022.

The Final Environmental Impact Report (FEIR) was one of the 17 documents posted by the City of Stockton for Planning Commission consideration on March 10, 2022. The project includes "Conceptual plans" for "high-cube" warehouses with a total of 3,616,870 square feet on 203.48 acres of unincorporated San Joaquin County land. If the FEIR is certified, additional mitigation measures which are needed, as will be explained herein, will not be required as "site review and design review approvals" occur at the "staff level and are ministerial" which do not allow discretion, if the minimum requirements are met. There were "six written communications, all from public agencies" submitted regarding the mitigations proposed in the Draft Environmental Impact Report (DEIR) providing additional information and recommendations to include in the FEIR.

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<sup>1</sup> Any excerpts cited herein were obtained from the City of Stockton documents linked to the Planning Commission agenda: <http://www.stocktonca.gov/clerk/granicusagendas/planning/20220310.pdf>

These public agencies included the California Air Resources Board, San Joaquin Valley Air Pollution Control District, California Department of Justice, Montezuma Fire District, San Joaquin County, and the Sierra Club, Delta-Sierra Group. No changes were made to the mitigation measures and even when the mitigations seemed reasonable to the City of Stockton, no formal language requiring these measures was included in the FEIR. We agree that the impacts identified, concerns, and issues raised by these public agencies are valid, require mitigation, and that deferring informal agreements to City of Stockton staff's recommendations is unacceptable, particularly given the scope of the project and the environmental impacts associated with the project. A robust mitigation plan is needed to incorporate necessary mitigation measures put forth by DEIR comments so that residents can be assured that all feasible mitigation measures have been implemented. Such a document was not provided for your consideration.

We urge further review of possible mitigation measures to lessen the impact on the residents of Stockton and the most impacted adjacent disadvantaged neighborhood which the City of Stockton does not plan to annex and will remain unincorporated San Joaquin County lands. The City of Stockton only plans to annex land for the purposes of industrial development.

We urge the Planning Commission to not certify the Final EIR and associated documents to allow for further analysis of community benefits that consider additional direct and indirect benefits that will further lessen impacts to the adjacent neighborhood and beyond. Further discussion of the valuation of these "unavoidable and significant" impacts is needed for transparency. A planning commission meeting could be spent diving into the "Economic Benefit Report" on the project, prepared by Development Planning and Financing Group, especially the footnote: "Assumes property tax share agreement of 80% County and 20% City".

The FEIR stated that there are no mitigation measures or no feasible mitigation measures for any of the significant environmental effects of the project, and the Lead Agency - the City of Stockton - wishes to approve the project in spite of unmitigated significant environmental effects. The cumulative impact of this Project expected to have 12,000 trips daily did not include adequate consideration of impacts of nearby planned or under development warehousing projects. We disagree that there are no feasible mitigation measures to minimize impacts to less than significant. The time has come that the notion of "feasible" needs to include Community Benefit Agreements between the Community and Developer so that the needs of most impacted residents are considered. The *Community Benefit Agreements Making Development Projects Accountable*<sup>2</sup> by Julian Gross has been referenced as a great example that provides clear direction for all parties interested in starting a Community Benefits Agreement.

The six significant and unavoidable environmental impacts, are a subset of the other environmental impacts which the City of Stockton and the developer Greenlaw LLC. have deemed to be mitigated to less than significance.

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<sup>2</sup> <https://www.forworkingfamilies.org/sites/default/files/publications/2005CBAHandbook.pdf>

These six significant and unavoidable environmental impacts includes:

- Exposure of Sensitive Receptors (Disadvantaged unincorporated community) to Criteria Pollutants
- Increase in Noise Levels in Excess of Standards-Traffic. (Disadvantaged unincorporated community)
- Air Quality Plans and Standards - Operational Emissions
- Project Greenhouse Gas Emissions
- Transportation Vehicle Miles Traveled (VMT)
- Conversion of Farmland

The Statement of Overriding Consideration describes the anticipated economic, legal, social, technological and/or other benefits or considerations that warrant the City Council's decision to approve the project even though all of the environmental effects of the project are not fully mitigated. We challenge this finding that the economic, legal, social, technological and/or other benefits described in the Statement of Overriding Consideration override the significant environmental impacts which will result from approving this project. The wages for 95.6% of the employees is \$19/hr and the other 4.4% between \$75,000 and \$100,000. By far the vast majority of earned incomes (\$760/weekly gross) are near that which may require public assistance given rents, utility costs, and transportation related costs in Stockton CA. Average rents for homes and apartments in Stockton was recently reported by The Record as \$2,560<sup>3</sup>. Additional jobs in Stockton of a more economically diverse nature will be of a notable benefit not continued dead end job opportunities.

Statements such as "The project is estimated to fund more than \$6 million in development fees to the City and \$1.3 million to the Stockton Unified School District" seem like a lot of money but are very small amounts compared to annual budgets and reserves. "Of these, City development impact fees contribute to capital costs of new facilities or upgrades to existing streets, utilities, fire, police, medical, libraries and parks facilities required by new development." The City of Stockton "is in the planning development of a new fire station to serve ongoing industrial development in the southern portion of the City." The City of Stockton will have ongoing salaries and retirement contributions to fill fire fighting positions in addition to construction and equipment cost. The City of Stockton has a backlog of deferred maintenance projects, and a temporary influx of development fees seems like a good idea but please consider the extra maintenance costs to our roadways from the 12,000 plus truck trips a day that the project will generate. Airport Way near Arch Road has some serious buckles related to heavy truck traffic. The residents are left to pay to maintain truck routes and breathe the resultant air pollution emissions.

The Statement of Overriding Consideration acknowledged that the project is subject to the requirements of the Stockton Agricultural Lands Mitigation Program. "The project will involve a substantial contribution of conservation easement-protected land or payment of in-lieu fees of

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<https://www.recordnet.com/story/business/economy/2022/03/09/how-much-rent-stockton-data-shows-rose-13-percent-in-2021-california-housing-market/9444582002/>

approximately \$1 million to the Mitigation Program as compensation for the agricultural land conversion impacts of the project. The project will involve a contribution of more than \$4.6 million in habitat conservation fees to the San Joaquin County Multi-Species Habitat Conservation Program.”

These Statement of Overriding Consideration statements do not correspond to the “Economic Benefit Report” included the following fees:

- Impact Fees \$5,997,979
  - Habitat/Open Space (SJCOG) \$3,533,371
  - School District Fees (SUSD) \$1,296,177
- Total Project Development Fees \$10,827,527

The agricultural mitigation in the CEQA Findings and Mitigation Monitoring/Reporting Program dated February 28,2022 is inadequate because more farmland 1:1 could and should be conserved in our county and community gardens funded to replace the loss of local farmland. No one was identified as having implementing or monitoring/reporting responsibility for Agricultural Land Conversion mitigation nor was the mitigation identified in the Mitigation/Monitoring Reporting document for the project.

The Agricultural Land Mitigation Program was conceived to protect the agricultural industry not just mitigating for open space agricultural lands which occurs under the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan. The 2021 Community Strategic Priorities Survey commissioned by San Joaquin County <sup>4</sup> surveyed residents of Stockton and San Joaquin County and identified agricultural preservation and sustainability as extremely important or very important by 84.9% of respondents. Small farming operations are needed for food resiliency.

In addition to the loss of productive farmland, the project would substitute views of new industrial development for existing views of agricultural and vacant land. These agricultural and vacant land views provide a connection to the land and the living creatures that share the land. Connection with nature is important to good mental health<sup>5</sup>. The California Department of Justice DEIR comment letter requested further description of the proposed aesthetics mitigations for a “possible 100-foot height variance”. The Final EIR outlined a staff process for approval which does not have community input. The public draft Development Agreement included a requirement that the Stockton City Council adopt an ordinance authorizing the City to execute the Agreement and allow structures of up to 100 feet tall on the Property. The adjacent disadvantaged neighborhood should have undergone some community outreach to determine their thoughts and needs. Our community deserves better.

The public draft Development Agreement stated that the Parties intend to work in good faith to consider potential use of public financing under the Mello-Roos Community Facilities Act

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<sup>4</sup> [san-joaquin-county-topline-data-01-11-22.pdf \(sjgov.org\)](https://www.sjgov.org/ceqa/2021-Community-Strategic-Priorities-Survey-Data-01-11-22.pdf)

<sup>5</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5114301/pdf/fpubh-04-00260.pdf>

of 1982. Mello-Roos financing offers a tax-exempt interest rate that is lower than private financing, making it more attractive to developers. Tax exemption lowers the special tax or assessment lien paid, providing developers a discount. This would elevate a development project that does not pay a living wage in Stockton and will significantly impact the health and lives of the adjacent disadvantaged neighborhood and City of Stockton residents. Mello-Roos financing should be used for funding affordable workforce housing, recreation facilities, land conservation and other environmentally beneficial projects.

Responses to many concerns raised by the Delta-Sierra Group and others were met with language suggesting that there is no need to worry that all the City's policies will be followed and we are doing the best we can. The noise impact was deemed unavoidable because a sound wall would have to have entry and exit points affecting the effectiveness of the sound wall. Many other mitigation measures should have been evaluated including replacing neighborhood windows to improve sound proofing, amongst other possible mitigation measures<sup>6</sup> Statements such as "The City also recognizes that the subject residences are legal non-conforming uses in an area designated for and committed to industrial development in the foreseeable future as described in the Stockton General Plan", seem threatening. Those residents were likely there long before the Stockton 2040 General Plan was developed and adopted. These residents also are reportedly to be under governmental land use authority of San Joaquin County. The County of San Joaquin submitted comments outlining impacts to these residents that were not mitigated. Are these residences not to be valued because of non-conforming use? Mitigation should be an utmost priority regardless of whether the residence is in Brookside or off of Mariposa Road.

The City of Stockton should not enter into the draft Development Agreement at this time with the stipulation that the project is only subject to rules in place at the time of signing. The City of Stockton has not held a meeting of a climate planning body since 2018 when the 2014 Climate Action Plan was adopted. In the 8 years since the 2014 Climate Action Plan was developed much has changed and an update is needed. A greenhouse gas emission mitigation could have included sponsoring a robust outreach and data analysis leading toward the development of a 2023 Climate Action Plan. We should be focusing on matters that will improve existing conditions and do not make things worse.

Every time the City of Stockton as lead CEQA agency adopts Statements of Overriding Consideration, the record grows such that a developer of 3 million square feet warehouse project can include statements such as this: "these impacts were also addressed in the Stockton General Plan 2040 EIR and accepted in the Statement of Overriding Considerations adopted in conjunction with adoption of the General Plan." General plan statements of overriding consideration are not "Project-level" whereas this project has direct control over the activities associated with the use of the property.

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<sup>6</sup> <https://www.acousticresearch.org/noise-mitigation>

Mitigation measures that were put forth by the San Joaquin Valley Air Pollution Control District, California Air Resources Board, and California Department of Justice were acknowledged but without any enforceable commitment such as inclusion in future tenant agreements or listed in the Mitigation/Monitoring and Reporting document. Additionally: review seems to indicate that those mitigation measures which were included in the 2014 Climate Action Plan decreased the mitigation proposed. The agencies commenting on the Mariposa Industrial Draft EIR have identified a range of potential air quality mitigation measures, which have been incorporated into the Final EIR to the degree feasible. All of the mitigations put forth by the San Joaquin Valley Air Pollution Control District, California Air Resources Board, and California Department of Justice are feasible. No energy mitigations were included in the mitigation measures, yet solar is a feasible renewable energy alternative. Solar should have been required as should have all “Green Building Standards”<sup>7</sup> which are required to reduce greenhouse gasses associated with residential and non-residential buildings.

No information was provided as to how fair-share costs are determined by the Public Works Department. The City of Stockton Community Development Department was identified as being responsible for mitigation monitoring and reporting while other mitigation monitoring was assigned to “the City”, or the Public Works Department. If the public is to have access and the ability to review mitigation monitoring results, the department that is responsible must be disclosed.

The documents attached to the March 10, 2022 Stockton Planning Commission agenda for the public hearing are drafts. More mitigation is needed and it is up to you to ask. As there is another 6 million square foot warehouse project upcoming for your consideration, public information workshops specifically relating to warehousing mitigation and public benefit considerations could be held so that questions about mitigation measures being adopted throughout the state can be answered. Please add the signatories of this letter to the City of Stockton CEQA notification list so that the public will have more time to review and consider alternative solutions to decrease the heavy pollutant burden and environmental impacts related to warehousing projects within the City of Stockton’s sphere of influence. You may contact us using the contact information below if you would like to speak more about ways to outreach to residents so that their needs and concerns can be considered.

Sincerely,

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<sup>7</sup> <https://codes.iccsafe.org/content/CAGBC2019JUL21S/chapter-5-nonresidential-mandatory-measures>

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