

UPPER WESTSIDE COMPILED DEIR COMMENTS

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From: Amanda Johnson <eden900573@gmail.com>

Sent: Monday, September 9, 2024 10:23 AM

To: PER-CEQA <CEQA@saccounty.gov>

Subject: Upper Westside Specific Plan draft

Hello,

Here are my comments with regards to the Upper Westside Natomas plan.

I HATE IT!!!

Urban sprawl often leads to increased traffic congestion, longer commutes, and a higher cost of living. I don't want Sacramento to become Roseville or Elk Grove. Rather than expanding into our precious farmland, we should focus on building walkable, mixed-use neighborhoods. Only 38% of the world's land can be used for farmland. Sacramento is "farm to fork" and you want to get rid of our farms?

Preserving green spaces should also be a top priority. Green spaces improve our mental and physical well-being and offer vital habitats for animals. This is a flood zone, I know because I live here, this isn't the place to build more suburban development. By protecting these areas from development, we safeguard our environment, contribute to climate resilience, and provide sanctuary for wildlife that is increasingly displaced by unchecked growth.

Suburban developments once they are completed are the best they are ever going to be. After that they decay, they cost the city more because they never adapt or grow. Never allowing more people to move into a neighborhood. Encouraging mixed-use zoning for current existing areas would allow for affordable housing options that are sorely needed, especially for low-income residents who are often priced out of traditional suburban developments. Why expand when we can do better and make Sacramento less like Elk Grove and Roseville and more like downtown.

I ask you to protect Natomas' farmland and instead prioritize urban planning strategies that emphasize walkability, mixed-use development, affordable housing, public transportation, and environmental conservation. Let's create a city where people and nature thrive together, rather than one where unchecked development diminishes the quality of life for all.

Thank you,

Amanda Burnitt

From: Albert Plantilla <aplantilla@gmail.com>
Sent: Tuesday, September 10, 2024 9:26 AM
To: PER-CEQA <ceqa@saccounty.gov>
Subject: Comment on Proposed Project County Control PLNP2018-00284

Good morning,

I support this development project. Sacramento has growing needs for housing with a growing population. It appears to have high density housing which will help to keep the market rate for housing down by increasing supply. The county should look for means to improve transit options to reduce traffic load as more population moves out of the central Sacramento area.

Alberto Plantilla

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"The brightest light is invisible. It shines through your deeds. And warms the universe."

From: Mark D'Elicio <mdelicio@mac.com>
Sent: Tuesday, September 10, 2024 10:08 AM
To: PER-CEQA <CEQA@saccounty.gov>
Cc: Karina Talamantes <ktalamantes@cityofsacramento.org>; Supervisor Serna <SupervisorSerna@saccounty.gov>
Subject: Opposition to Upper Westside Specific Plan (UWSP)

To whom it may concern,

I am writing to express my strong opposition to the Upper Westside Specific Plan (UWSP). As a resident of Sacramento County, I am deeply concerned about the significant and unavoidable impacts this project would have on our community.

The Draft Environmental Impact Report (DEIR) has clearly identified numerous areas where the UWSP would cause irreversible damage. These impacts include:

- Aesthetics
- Agricultural resources
- Air quality
- Cultural resources
- Noise
- Tribal cultural resources

The fact that the county itself acknowledges these unavoidable impacts is alarming. It is unacceptable to sacrifice the well-being of our community and environment for the sake of development.

In addition to the concerns raised in the DEIR, I am also deeply troubled by two critical issues:

1. The increased traffic generated by the UWSP will only exacerbate existing congestion, leading to longer commute times, increased air pollution, and a decline in overall quality of life.
2. The land slated for development serves as a crucial spillway, designed to alleviate flooding in the event the Sacramento Weir is opened to protect the city. Building in this area not only compromises its intended function but also significantly increases the risk of property damage and potential loss of life during major flood events. The development would essentially constrict the natural flow of water, potentially exacerbating flooding in other areas and

undermining the effectiveness of the Weir system.

Beyond these specific issues, I believe the UWSP is fundamentally flawed. It prioritizes short-term gains over long-term sustainability. It disregards the voices of residents who have expressed their opposition. It sets a dangerous precedent for future development projects in our county.

I urge you to protect our community from this harmful project. I believe that together, we can create a future for Sacramento County that is both prosperous and sustainable.

Thank you for your time and consideration.

Sincerely,

-Mark D'Elicio
3060 Edgeview Drive
Sacramento, CA 95833
(415) 912-9546
mdelicio@mac.com

From: [King Tunson](#)
To: [Newton, Julie](#)
Subject: RE: Notice of Availability of Draft EIR for the Upper Westside Specific Plan
Date: Tuesday, September 10, 2024 2:51:04 PM

Hi Julie,

I reviewed the above-referenced document and don't have any additional comments.
Thanks

King Tunson
Program Specialist
Fire Planning/Administration
Sacramento Fire Department
5770 Freeport Blvd, Ste 200
Sacramento, CA 95822
Office (916) 808-1358
ktunson@sfd.cityofsacramento.org

From: Marvin Fontanilla <mfontanilla@gmail.com>
Sent: Wednesday, September 11, 2024 6:12 AM
To: PER-CEQA <CEQA@saccounty.gov>
Subject: Support for Upper Westside Plan

Dear Sacramento County Planning Commission,

I am writing to express my support for the Upper Westside Specific Plan. While I acknowledge the environmental challenges outlined in the Draft Environmental Impact Report, I believe this development is crucial for addressing our housing needs and creating sustainable communities. This plan undoubtedly will attract affluent residents, potentially leading to improved schools and increased community safety, much like the successes seen in Elk Grove and Roseville. These developments make our region more attractive to families and individuals looking for vibrant, well-rounded communities.

Sacramento is changing. It's time to recognize that and lean in—to the future.

Thank you for considering my support for this important project.

Sincerely,

Marvin Fontanilla

September 12, 2024

Sacramento County, Department of Community Development, Planning and Environmental Review Division
Attn: Environmental Coordinator
827 7th Street, Room 225
Sacramento, CA 95814

RE: Upper Westside Specific Plan (State Clearinghouse 2020100069, County Control PLNP2018-00284)

Position: Oppose

Dear Planning Commission, Supervisors, CEQA Review Team, County Officials, et al,

I am a homeowner and proud resident of the Gateway West neighborhood that borders the proposed project site. I strongly oppose this development because it will significantly harm wildlife, local farms, and the existing community.

Habitat Conservation

This region provides vital habitat for wildlife including migratory and resident birds, mammals, reptiles and insects. Consider protecting these lands as part of a mitigation bank rather than developing, to maintain open space and support Swainson hawk, VELB, western pond turtle and other threatened species. This area provides contiguous habitat along the Sacramento River and Bypass Wildlife Areas that should be protected. Open space bordering our Garden Highway levee provides flood protection for greater Natomas, and permeable surfaces promote groundwater recharge.

Prime Farm Land

The existing farms on these lands feed our community and people around the world. My family enjoys watching the tomatoes, sunflowers, pumpkins, and corn grow in the fields down the street, and shopping at the Cuevas stand on El Centro for the freshest produce. Sacramento prides itself on being the Farm-to-Fork capitol. Please don't pave over these iconic family farms.

Impacts to Locals

The 49er Travel Plaza is also a cornerstone of our community, serving travelers and truckers for more than 50 years. Their proximity to the I-5 and I-80 junction and being just offset from residential tracts is ideal. Don't build around them and force them out.

I do not want the added noise and air pollution, strain on our infrastructure and utilities, increased traffic, loss of wildlife, loss of existing community & tradition, and destruction of natural resources. Open space is precious and disappearing quickly. Let the developer go elsewhere to get rich. It's already a nightmare trying to get homeowner's and flood insurance in this area. Build somewhere else. Please protect these farms that are the symbol and heart of Sacramento, and the reason I chose to live here.

Thank you,



Amy Rodrigues
23 Alcanon Ct
Sacramento, CA 95833



10060 Goethe Road
Sacramento, CA 95827-3553
Tel 916.876.6000
Fax 916.876.6160
www.sacsewer.com

September 24, 2024

County of Sacramento Department of Community Development -
Planning and Environmental Review Division
827 7th Street, Room 225
Sacramento, CA 95814

**Subject: NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT
REPORT FOR THE UPPER WESTSIDE SPECIFIC PLAN (SCH# 2020100069)**
Project No: PLNP2018-00284

Dear Environmental Coordinator,

The Sacramento Area Sewer District (SacSewer) has reviewed the subject document and has the following comments.

The Upper Westside Specific Plan Project area (Project) encompasses approximately 2,066 acres in the unincorporated Natomas community of Sacramento County, approximately 3.5 miles from downtown Sacramento. The Project area is bounded by Interstate 80 to the south, the West Main Drainage Canal to the east, Fisherman's Lake Slough to the north, and Garden Highway to the west.

The Specific Plan would encompass a 1,532-acre development area and a 534-acre ag buffer area that is located west of the development area, providing a transition to the Garden Highway. Within the development area, the project proposes an urban, commercial, mixed-use town center district near the intersection of El Centro Road and West El Camino Avenue, surrounded by neighborhoods. The development area includes 9,356 dwelling units and 3,096,245 square feet of commercial uses, with three K-8 school sites, one high school site, and several parks.

The Project area is located outside the SacSewer service areas. As such, SacSewer has not planned, designed, or constructed facilities to provide service to the Project area. To receive sewer service, annexation into SacSewer's Collection service area and the SacSewer Treatment and Resource Recovery service area will be required. The Project applicant should work closely with the Sacramento Local Agency Formation Commission (<https://saclafco.saccounty.net>) to begin the annexation process.

Upon annexation from LAFCo, SacSewer will provide local sewer service for the Project area via its collection system, which conveys sewage from the collection system to the EchoWater Resource Recovery Facility for treatment, resource recovery, and disposal.

www.sacsewer.com

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Director of Communications

Upper Westside Specific Plan
SCH# 2020100069
PLNP2018-00284
September 24, 2024

Note: Effective January 1, 2024, the Sacramento Regional County Sanitation District and the Sacramento Area Sewer District merged into one district called the Sacramento Area Sewer District, or SacSewer for short.

SacSewer is not a land-use authority and plans and designs its sewer systems using information from land-use authorities. SacSewer bases the projects identified within its planning documents on growth projections provided by these land-use authorities.

To receive sewer service, the project proponent must complete Sewer Master Plans that include connection points and phasing information to assess the existing and buildout available capacity of the collection systems and determine if the current facilities can convey the additional flows generated by the Project area.

The Project proponents propose connecting the Project area's sewage collection facilities to the SacSewer New Natomas Pump Station (NNPS) through proposed and existing SacSewer facilities. The Project area was never intended to be provided service by the SacSewer NNPS, Lower Northwest Interceptor (LNWI), or the South River Pump Station (SRPS) during the design of these facilities. Allowing connection of the Project area may result in significant capacity constraints within the existing SacSewer collections and interceptor systems. These capacity constraints must be thoroughly addressed by the project proponent before receiving service from SacSewer. Entitlements located in the Project area may require projects to be constructed with improvements to store and meter flow into the collection system. The Project proponents should work closely with SacSewer to ensure proper connection to any existing SacSewer facilities.

This environmental impact report should contemplate the onsite and offsite environmental impacts associated with extending sewer service to the Project area.

In March 2021, the SacSewer Board of Directors approved the most current SacSewer planning document, the 2020 System Capacity Plan Update (SCP). In February 2013, the SacSewer Board of Directors adopted the Interceptor Sequencing Study (ISS). The SCP and ISS are on the SacSewer website at [System Capacity Plans - Sacramento Area Sewer District \(sacsewer.com\)](https://www.sacsewer.com/system-capacity-plans).

Customers receiving service from SacSewer are responsible for rates and fees outlined within the latest SacSewer ordinance. Fees for connecting to the sewer system recover the capital investment of sewer and treatment facilities that serve new customers. SacSewer does not guarantee sewer service or system capacity to the Project site until the proper permits are obtained to connect to the system and all facility impact (capacity) fees are paid. The SacSewer ordinances are on the SacSewer website at [Ordinances - Sacramento Area Sewer District \(sacsewer.com\)](https://www.sacsewer.com/ordinances).

- *References to the Sacramento Regional Wastewater Treatment Plant (SRWTP) are to be revised to accurately reflect the new name as the EchoWater Resource Recovery Facility (EchoWater Facility) throughout the document. Please revise any references to this in the document.*

Upper Westside Specific Plan
SCH# 2020100069
PLNP2018-00284
September 24, 2024

- *References to the Sacramento Area Sewer District (SASD) are to be revised to accurately reflect the new name as the Sacramento Area Sewer District (SacSewer) throughout the document. Please revise any references to this in the document.*

If you have any questions regarding these comments, please call me at (916) 876-6104.

Sincerely,

Robb Armstrong

Robb Armstrong
Policy & Planning

From: Rod <whiskeyrodjohn@gmail.com>

Sent: Tuesday, September 24, 2024 10:46 AM

To: Clerk of the Board Public Email <boardclerk@saccounty.gov>; PER-CEQA <ceqa@saccounty.gov>

Subject: Natomas Upper West Side Public Comment

To County Supervisors,

I live in Natomas and oppose the Upper Westside Specific Plan. This area is not vacant, neglected lots in need of rehab. It is family farms and productive working lands. I'm not making plans for what to do with your wife after you're out of the picture, don't insult our landowners by making plans for what to do with their soil after they've been pushed out.

Emotions aside, the Upper Westside Specific Plan does not align with the City of Sacramento's [2040 General Plan](#) and I urge you to scrap it and protect our farms.

Highlights from the 2040 Plan to keep in mind:

Sustainable and Responsible Growth lists as its #1 objective "Concentrate new growth within Sacramento's existing footprint to promote a compact development pattern that supports efficient delivery of public services and infrastructure, while protecting surrounding open space lands." Appendix A, Vision and Guiding Principles

The Upper Westside Specific Plan falls within an area the City identifies as a "Special Study Area" currently composed of "Prime Farmland" and "Other Farmland." 3-3 p61

Land Use and Placemaking highlights Sacramento's "1.5million acres of some of the most fertile farmland in the United States," and as such, "planning efforts are guided by 'smart growth' principles that aim to promote a compact development footprint, helping to minimize urban sprawl and pollution." 3-2 p60

The Community Issues and Opportunities section of the plan notes that "North Natomas has some of Sacramento's biggest opportunities for infill and redevelopment," pointing out that "vacant and underutilized properties along the I-5 corridor, Del Paso Road, and Truxel Road are opportunities for infill development that make use of existing infrastructure and community resources." 11-NN-5 p367

The 2040 Plan does not endorse expanding the urban services boundary or rezoning

agriculture to residential or commercial use.

When mentioning the proposals for the Upper Westside and Grandpark Specific Plans, community feedback showed “North Natomas residents want to see preservation of natural areas, including wildlife habitats and corridors within the unincorporated area consistent with the HCP; and want new development to have a compact form, integrated with existing development within the city so as to minimize traffic impacts and utility demand, and take advantage of opportunities for improved bicycle and pedestrian connectivity.” 11-NN-5 p367-8

Environmental Resources and Constraints objective #2 is “Thriving rivers, wildlife, and natural open spaces that contribute to public health, livability, and protection of the environment for future generations.” 6-3 p131

Sprawling beyond the City's current boundary to pave over food production and destroy wildlife habitat is not what we want. The Upper Westside Specific Plan is a direct contradiction to the goals and wishes of our community.

Stop this nonsense. Your time and resources are better spent elsewhere.

Thank you,
R.J.

From: Ashley Cajigas <ashleycajigas@gmail.com>
Sent: Thursday, October 3, 2024 8:02 PM
To: Clerk of the Board Public Email <BoardClerk@saccounty.gov>
Cc: PER-CEQA <ceqa@saccounty.gov>; Supervisor Serna <SupervisorSerna@saccounty.gov>
Subject: Natomas is OPPOSED! No to the Upper Westside Specific Plan!

Greetings,

I am sending this email in opposition to the Upper Westside Specific Plan that threatens our environment, wildlife habitat, and our community. As the Draft Environmental Impact Report clearly states, the project would result in **SIGNIFICANT** and **UNAVOIDABLE** impact on the aesthetics, agricultural resources, air quality, cultural and historical resources, noise, population and housing, transportation, and tribal cultural resources. It will further impact climate change, geology, soils, hydrology, drainage, water quality, public services, and water supply to name just a few of the impacts on our region and community.

As a homeowner on Garden Highway, my family and neighbors have already seen the destruction of habitat, increased traffic, noise, impact on our water supply, and pollution resulting from the levee project. We have seen public safety response times decrease in addition to increased crime. I am deeply concerned about the additional pressure and burdens placed on our community if the Upper Westside Specific Plan moves forward.

Those of us who live in and around Natomas enjoy living in close proximity to locally owned and operated farms and farm stands, such as Cuevas Garden Hwy Gardens and Nick & Ray's Pumpkin Patch, formerly known as Goblin Gardens Pumpkin Patch at Bastiao Farms, that have been operating for generations. THIS is what community looks like; not some overly modernized grid developed by greedy developers.

The Upper Westside Specific Plan is a bad proposition for the public and our community; designed only to profit developers and increase the tax base, at the expense of the rest of us and our environment.

I urge you to reject this proposal.

Sincerely,
Ashley Cajigas
Garden Hwy Resident

From: Alexandra Reagan <office@ecosacramento.net>
Sent: Thursday, October 3, 2024 10:05 AM
To: Clerk of the Board Public Email <BoardClerk@saccounty.gov>; PER-CEQA <CEQA@saccounty.gov>; Rallanka. Rochelle <rallankar@saccounty.gov>
Subject: Natomas CPAC Agenda Item #1, on October 3, 2024 - Upper Westside Specific Plan

Dear Members of CPAC,

On behalf of the Environmental Council of Sacramento, I am submitting by way of this email our comments on Natomas CPAC Agenda Item #1, on October 3, 2024 - Upper Westside Specific Plan. Please see the attached letter and respond to this email to confirm its receipt.

Regards,

Alexandra Reagan (she/her)
Director of Operations
Environmental Council of Sacramento (ECOS)
P.O. Box 1526, Sacramento, CA, 95812
Cell: (916) 765-4977
Email: office@ecosacramento.net
www.ecosacramento.net



ECOS
 ENVIRONMENTAL
 COUNCIL
 OF SACRAMENTO

Post Office Box 1526 | Sacramento, CA 95812-1526

October 3, 2024

Natomas Community Planning Advisory Council
 Kyle Christopher, Chairperson
 Don Keller
 D.E. "Red" Baner
 Jill Zito

Alice Montes, Vice Chairperson
 Zack Clark
 Mian Ali Ahmad Zia
 Sent by email to BoardClerk@saccounty.gov

SUBJECT: Natomas CPAC Agenda Item #1, October 3, 2024 - Upper Westside Specific Plan

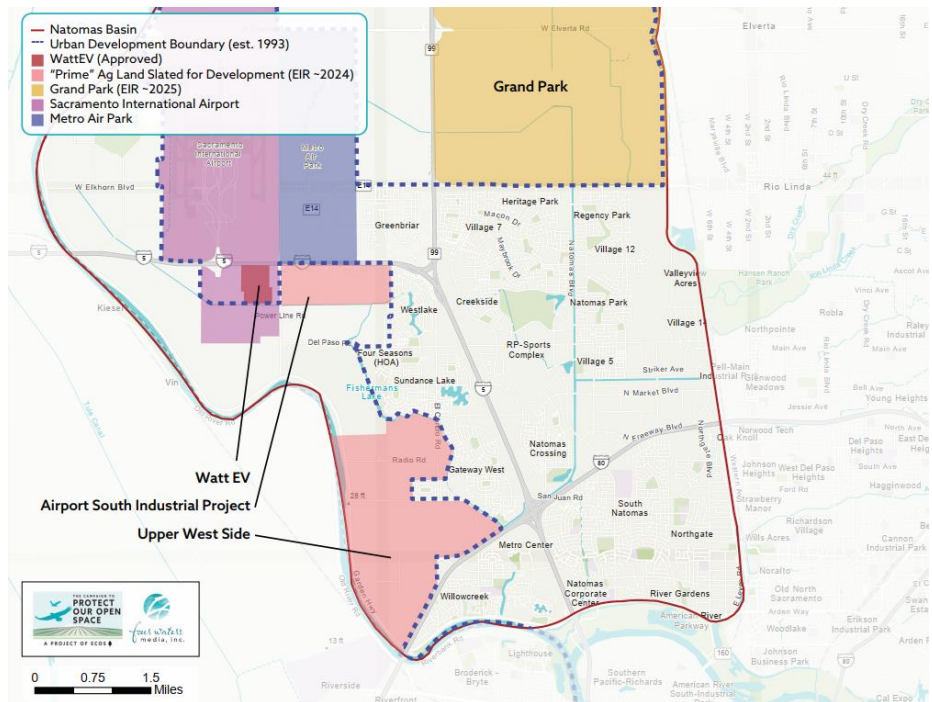
Dear Members of CPAC,

Thank you for serving on the Natomas Community Planning Advisory Council and taking on the responsibility of gathering community responses to proposed projects. The Environmental Council of Sacramento, which includes a number of Natomas residents, asks you to consider the following issues as you review the Upper Westside project and its Draft Environmental Impact Report.

- 1) **Consider all of the developments currently being proposed.** Review the Upper Westside in the context of the entire 8,000 acres across three projects now proposed for development in the Natomas Basin in Sacramento County.

The map at right highlights the Upper Westside, Airport South Industrial, and Grand Park projects.

These projects would dramatically decrease open land in Natomas and present impacts to traffic, air quality, flood control, the Natomas Basin Habitat Conservation Plan, and City services -- all of which should be considered together.



- 2) **Consider what it means to break through the Urban Services Boundary (USB).** This boundary, in place for three decades, is based upon jurisdictional, natural and environmental constraints to urban growth and “is intended to be a permanent growth boundary not subject to modification except under extraordinary circumstances.”¹

All three of the projects would break through the USB. Changes to the USB are to be made only for “extraordinary projects” and yet there is nothing extraordinary about Upper Westside except that it is close to the City of Sacramento. What is extraordinary about the area is the deep, prime agricultural soil from many years of overflow from the Sacramento River.

The USB was drawn in 1993 to protect development from the risk of flood and fire, and to preserve agriculture, ranch, and habitat lands. The image below of Sacramento County shows the urbanized area inside the USB, with areas outside of it in GREEN. With climate change, the USB is a bulwark of sustainability for our region.

Consider the requirements in Sacramento County’s General Plan Policy LU-127 for projects that propose to break through the USB:

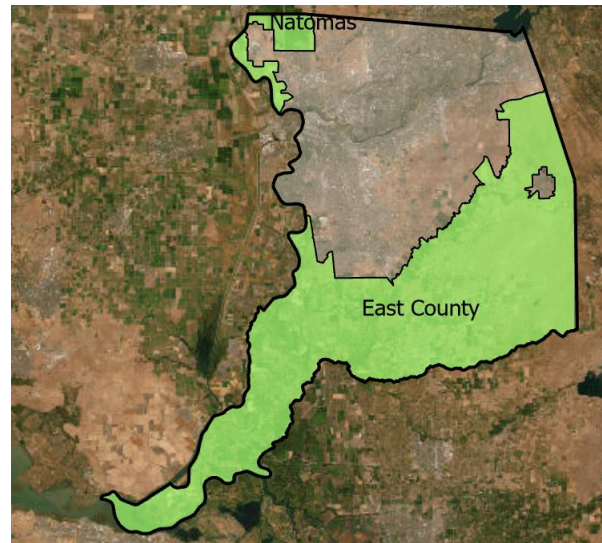
LU-127. The County shall not expand the Urban Service Boundary unless:

- *There is inadequate vacant land within the USB to accommodate the projected 25-year demand for urban uses; and*
- *The proposal calling for such expansion can satisfy the requirements of a master water plan as contained in the Conservation Element; and*
- *The proposal calling for such expansion can satisfy the requirements of the Sacramento County Air Quality Attainment Plan; and*
- *The area of expansion does not incorporate open space areas for which previously secured open space easements would need to be relinquished; and*
- *The area of expansion does not include the development of important natural resource areas, aquifer recharge lands or prime agricultural lands;*
- *The area of expansion does not preclude implementation of a Sacramento County-adopted Habitat Conservation Plan;*

OR

- *The Board approves such expansion by a 4/5ths vote based upon on finding that the expansion would provide extraordinary environmental, social or economic benefits and opportunities to the County.*

Given the impacts of this project on the region and the Natomas community, the Upper Westside project does not meet most of the listed requirements, nor does it merit a finding of extraordinary benefits and opportunities by 4/5ths of the Board of Supervisors.



¹ [Sacramento County General Plan, Land Use Element](#)

- 3) **Consider what it means to develop on land not within the NBHCP/MAPHCP Permit Acres.** The NBHCP is basin-wide for important biological reasons. The hatched areas on the Natomas Basin Habitat Conservation Plan (NBHCP) below indicate where development is permitted. Land outside of the NBHCP/MAPHCP Permit Acres “is designated for retention as Agricultural Cropland by the Sacramento County General Plan.”²

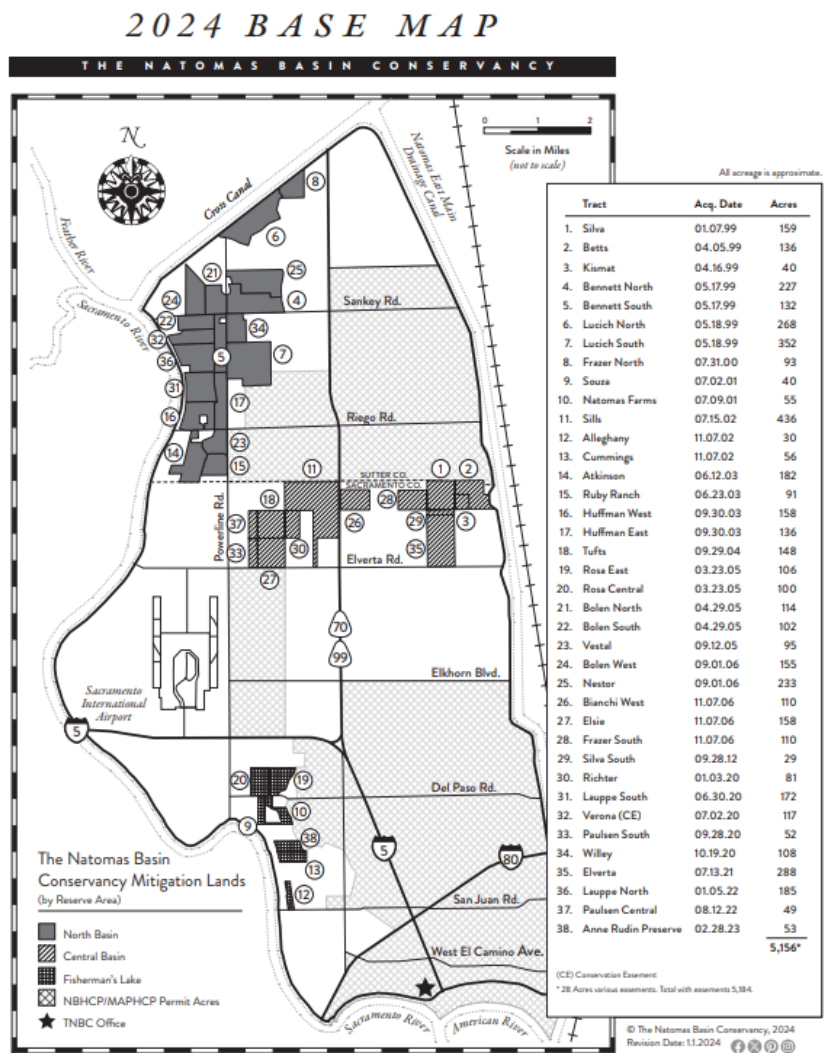
The Upper Westside project (Airport South Industrial and Grand Park as well) is proposed for areas outside of the NBHCP/MAPHCP Permit Acres. It would replace wildlife-supportive agriculture with concrete, vehicles and houses, severely impacting the resident wildlife in the Basin. The protection of resident wildlife in the Basin became a commitment when the City of Sacramento signed a contract with the federal government and approved the NBHCP. Sacramento Area Flood Control Agency (SAFCA) also agreed to protect resident wildlife. The Upper Westside project cannot mitigate for its impacts to resident wildlife as the Natomas Basin is finite – the harm to the Basin’s wildlife conservation efforts will be irreparable.

The Natomas Basin is a deep flood basin. Much of the interior of the Basin is lower than the elevation of the Sacramento and American Rivers, particularly during annual high-water flows in winter and spring.

The Natomas levees were designed for a 200-year storm, as it was understood at the time of design in the late 1990s. Climate change is creating a moving target for flood protection, we no longer can accurately estimate size and frequency of floods.

In a crisis, flood mitigation requires everything to work perfectly – pumps, electricity, detention basins, canals, river levels, and people. Hurricane Helene just provided an example of what happens when systems are overwhelmed by water.

Development in the Natomas Basin should be consistent with the NBHCP.



² https://natomasbasin.org/wp-content/uploads/natomas-basin-habitat-conservation-plan/5nbhcland_use2006_a11y.pdf, pg III-13

- 4) **Consider how Upper Westside is inconsistent with the goals of the Blueprint.** On November 4, 2020, SACOG commented on the Notice of Preparation of the Upper Westside DEIR, stating “implementation of the Blueprint vision depends greatly on the efforts of cities and counties through local plans and projects. . . [and] the Upper Westside project and the project area itself are not anticipated for development in either the MTP/SCS or the Blueprint.”³

This is still true today. SACOG’s selected land use scenario for the 2025 MTP/SCS, dated April 2024, does not include the Upper Westside, or Airport South Industrial, or Grand Park – it includes no buildout in the coming decades, as shown in the excerpt at right.

SACOG went on to say “The Upper Westside project . . . raises important policy questions for the region’s implementation of the Blueprint. For example, the capacity for growth in existing entitled lands far exceeds expected demand

over the next twenty years: collectively, the region’s jurisdictions have entitled, or are in the process of entitling **2.5 times the region’s projected need for the next 20 years**. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development.”⁴ This means there is far more entitled acreage for new homes than the market will bear. Upper Westside is not needed.

- 5) **Consider how Upper Westside is inconsistent with General Plans.** The project proposes a change to Sacramento County’s General Plan from agricultural to residential/commercial uses. While the project would be in Sacramento County, it would obviously impact the City of Sacramento.
- 6) **Consider the project’s effect on our Air Quality Plan.** The proposed project would worsen the Sacramento regions ability to meet state and federal air quality standards by interfering with implementation of our Air Quality Plan. The Upper Westside DEIR makes clear that the project’s air quality impacts are significant and unavoidable. Failure to honor our Air Quality Plan could result in our area losing access to federal transportation funds.

Attachment A								
2025 Blueprint (MTP/SCS) Discussion Scenario								
April 2024								
Jurisdiction/Community Type	Baseyear and Buildout				Spring 24 Discussion Scenario			
	Existing Conditions (2020)		Potential Buildout		2020 - 2035		2020 - 2050	
	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units
Sacramento City								
Potential Developing Communities (not yet under construction)								
<i>Panhandle</i>	-	-	-	1,620	-	595	130	1,295
<i>Airport South Industrial Project</i>	-	-	-	-	-	-	-	-
Sacramento County Unincorporated								
Potential Developing Communities (not yet under construction)								
<i>Cordova Hills</i>	-	-	3,190	8,000	320	350	600	1,500
<i>Glenborough at Easton</i>	-	-	1,800	3,239	-	-	80	300
<i>South Mather</i>	-	-	940	3,522	-	400	730	1,805
<i>Aerojet</i>	1,600	-	40,180	-	-	-	-	-
<i>Elverta</i>	10	50	200	5,627	-	-	-	-
<i>Grand Park</i>	20	10	3,010	23,892	-	-	-	-
<i>Jackson Township</i>	10	30	900	5,690	-	-	-	-
<i>Jackson West</i>	1,240	110	11,210	16,484	-	-	-	-
<i>Newbridge</i>	110	10	450	3,075	-	-	-	-
<i>Upper Westside</i>	430	60	3,820	9,356	-	-	-	-
<i>New Induced Growth Areas</i>	200	500	-	-	-	-	-	-

³ MTP/SCS or Blueprint - <https://www.sacog.org/planning/blueprint>

⁴ James Corless, SACOG Ex Dir., November 4, 2020 letter to County Environmental Planning, Notice of Preparation of DEIR for Upper West Side Specific Plan (PLNP2018- 00284, p. 6)

- 7) **Consider the other areas available for development.** Open land inside the Urban Services Boundary (USB) is available for housing, both in the City of Sacramento and unincorporated Sacramento County – land that is not in a deep flood basin or on prime farmland. In addition, there is enormous capacity for infill development in existing communities, especially around transit stations. Building in communities with existing public infrastructure and services can limit costs to local jurisdictions for maintenance and operations, and it can lower the combined housing-transportation costs to households. While the Upper Westside project proposes the City of Sacramento extend its utilities and services to the project, the City’s new 2040 General Plan strongly emphasizes infill development to provide needed housing.
- 8) **Consider the land uses being proposed.** We need more housing, but it does not need to be located in the Natomas Basin; and the Upper Westside project does not address our most critical housing need -- for low income households.

The project proposes three million square feet of commercial space. For comparison, the Westfield Galleria shopping mall in Roseville is 1.3 million square feet. If this commercial space is built, will it take the life out of the 100,000 square-foot shopping mall at West El Camino and Truxel Road?

The proposed site is on the urban edge, bounded by the Sacramento River. For an educational campus, this means difficult access by automobile, and certainly by public transit.

- 9) **Consider the traffic impacts.** The project proposes 9,000 residences and three million square feet of commercial space, plus the schools. The project will be almost entirely auto-centric. Thousands of auto-trips each day will significantly impact El Centro Road and West El Camino (whose width varies from 2 lanes to 6 lanes between I-80 and Northgate Blvd), as well as Garden Highway and San Juan Road (neither of which can be widened.)

Traffic will increase throughout South Natomas. The six-lane West El Camino overpass of I-80 and El Centro Road, at the primary gateway to the project, will be especially congested. This junction and the gateway itself, intended to be a “smart growth street”, will be bumper to bumper.

In conclusion, the Upper Westside conflicts with land use planning actions of regional significance including the Blueprint, Urban Services Boundary, and Natomas Basin Habitat Conservation Plan -- each hard won, painstakingly agreed to, and in place for decades. These land use actions are our legacy; they represent our core values; and now, in 2024, they are sustainability bulwarks against climate change. Let’s not toss them aside.

Thank you for considering what we have written above. As you carefully review the Draft EIR before making your recommendation, consider it in the context of the entire Natomas Basin. We will provide more extensive comments on the Draft EIR in the days to come. You represent us, the Natomas Community as well as future generations of this community who will live with increasingly extreme weather in our changing climate.

Sincerely,

Heather Fargo

Heather Fargo, Chair
ECOS Natomas Team



Susan Herre AIA AICP
President of the Board of Directors

From: Lisa Boyle <grandmalezah@gmail.com>
Sent: Friday, October 4, 2024 10:21 AM
To: Clerk of the Board Public Email <BoardClerk@saccounty.gov>
Cc: PER-CEQA <ceqa@saccounty.gov>; Supervisor Serna <SupervisorSerna@saccounty.gov>
Subject: Natomas is OPPOSED! No to the Upper Westside Specific Plan!

Greetings,

I am sending this email in opposition to the Upper Westside Specific Plan that threatens our environment, wildlife habitat, and our community. As the Draft Environmental Impact Report clearly states, the project would result in **SIGNIFICANT** and **UNAVOIDABLE** impact on the aesthetics, agricultural resources, air quality, cultural and historical resources, noise, population and housing, transportation, and tribal cultural resources. It will further impact climate change, geology, soils, hydrology, drainage, water quality, public services, and water supply to name just a few of the impacts on our region and community.

As a homeowner on Garden Highway, my family and neighbors have already seen the destruction of habitat, increased traffic, noise, impact on our water supply, and pollution resulting from the levee project. We have seen public safety response times decrease in addition to increased crime. I am deeply concerned about the additional pressure and burdens placed on our community if the Upper Westside Specific Plan moves forward.

Those of us who live in and around Natomas enjoy living in close proximity to locally owned and operated farms and farm stands, such as Cuevas Garden Hwy Gardens and Nick & Ray's Pumpkin Patch, formerly known as Goblin Gardens Pumpkin Patch at Bastiao Farms, that have been operating for generations. THIS is what community looks like; not some overly modernized grid developed by greedy developers.

The Upper Westside Specific Plan is a bad proposition for the public and our community; designed only to profit developers and increase the tax base, at the expense of the rest of us and our environment.

I urge you to reject this proposal.

Sincerely,
Lisa Boyle
Garden Hwy Resident

October 7, 2024

Sacramento County Department of Community Development

Planning and Environmental Review Division

827 7th Street, Room 225

Sacramento, CA 95814

Subject: Opposition to the Upper Westside Specific Plan Draft Environmental Impact Report

To Whom It May Concern:

I am writing to express my strong opposition to the Upper Westside Specific Plan as outlined in the Draft Environmental Impact Report (DEIR), dated August 2024. The project presents significant and unacceptable environmental and community impacts that cannot be sufficiently mitigated. Specifically, I am concerned about the increase in traffic, deterioration of air quality, irreversible loss of agricultural land, destruction of critical habitat for endangered species, and disruption of migratory bird patterns.

1. Unacceptable Increase in Traffic

The proposed development will result in a substantial and unavoidable increase in traffic congestion. The DEIR's acknowledgment of traffic impacts, including the projected rise in vehicle miles traveled (VMT), is deeply concerning. The existing infrastructure is ill-equipped to handle the dramatic increase in population and vehicular traffic, particularly along critical roads like El Centro Road and West El Camino Avenue. This will lead to worsened commute times, increased air pollution from vehicle emissions, and heightened risks of accidents.

The mitigation measures outlined in the DEIR, such as improvements to local roads and intersection upgrades, are inadequate given the scale of the development. No amount of roadway expansion can fully address the significant traffic burden this project will impose. I strongly oppose the project on the grounds that it will create unmanageable traffic conditions, further degrading the quality of life for existing residents.

More specifically, as a resident of Swallows Nest (at the corner of Garden Highway and Orchard Lane), I travel Garden Highway frequently. It is a narrow two-lane road that cannot be widened. The impact on Garden Highway alone should be significant cause for concern. Cars already exceed the 40 MPH speed limit and unsafely pass other cars on a regular basis. The significant increase in traffic on Garden Highway because of this project will surely lead to an increase in fatal accidents.

The other significant impact will be the overpass of West El Camino Avenue at Interstate 80. It sounds as though the mitigation measure in the DEIR may or may not happen. The overpass is also a two-lane roadway that is already bumper to bumper on a regular basis. If this project is approved, widening of this key overpass should be a requirement prior to beginning development.

2. Detrimental Impact on Air Quality

The construction and operation of the Upper Westside Specific Plan will lead to a sharp increase in air pollution, exacerbating already poor air quality in the region. The DEIR acknowledges significant emissions of particulate matter (PM2.5), nitrogen oxides (NOx), and other harmful pollutants. The nearby residential communities, particularly vulnerable populations such as children and the elderly, will suffer the health consequences of this increased pollution.

The proposed mitigation measures, while helpful, are not sufficient to protect public health or meet the necessary air quality standards. The scale of development is simply too large for effective mitigation, and I oppose this project due to its unacceptable risks to air quality and public health.

3. Irreversible Loss of Farmland

The Upper Westside Specific Plan will result in the permanent conversion of 1,372 acres of valuable farmland to urban uses. This represents a tragic and irreversible loss for Sacramento County's agricultural industry, a key component of the local economy. The mitigation measures proposed in the DEIR, such as the 1:1 farmland preservation ratio, do not compensate for the destruction of prime agricultural land that has sustained our community for generations.

Sacramento County's farmland is a finite resource, and this project's large-scale urban sprawl will permanently destroy it. This loss is unacceptable, and I oppose the project for its unsustainable consumption of irreplaceable agricultural land.

4. Destruction of Habitat for Endangered Species

The project will have devastating effects on critical habitats for several endangered and threatened species, including the giant garter snake and Swainson's hawk. Despite the mitigation measures outlined in the DEIR, the destruction of habitat will lead to a decline in these species, undermining years of conservation efforts in the region.

Urbanization on such a large scale is incompatible with the preservation of sensitive ecosystems. Habitat corridors and conservation easements are insufficient to counteract the profound disruption this development will cause to wildlife. I oppose the project because of its irreversible harm to endangered species and their habitats.

5. Disruption of Migratory Bird Patterns

The project area serves as a crucial stopover for migratory birds protected under the Migratory Bird Treaty Act (MBTA). The DEIR outlines significant risks to nesting and migratory patterns, which are vital to the survival of many bird species. The loss of open space and wetlands will severely impact these birds, whose populations are already in decline.

The seasonal restrictions on construction and other mitigation measures mentioned in the DEIR are inadequate to protect the migratory bird populations. I oppose the project because it will cause significant and irreversible harm to these important avian species.

Conclusion

In conclusion, I strongly oppose the Upper Westside Specific Plan. The project will have severe, long-lasting, and irreversible impacts on traffic, air quality, agricultural land, endangered species, and migratory birds. The proposed mitigation measures are insufficient to address the scale of harm this project will cause. I urge Sacramento County to reconsider and ultimately reject this unsustainable development.

Thank you for considering my opposition to the project. I hope that the County will prioritize long-term environmental and community health over short-term development interests.

Sincerely,

Liz Bergeron
2301 Wailea Pl
Sacramento, CA 95833

October 8, 2024

Sacramento County
Department of Community Development, Planning and Environmental Review Division
Attention: Environmental Coordinator
827 7th Street, Room 225
Sacramento, CA 95814

RE: Upper Westside Specific Plan
State Clearinghouse No. 2020100069
County Control Number PLNP2018-00284
Draft Environmental Impact Report

Dear Environmental Coordinator:

The Sacramento Area Flood Control Agency (SAFCA) has received the Notice of Availability for the subject Draft Environmental Impact Report (DEIR) and offers the following comments.

1. GENERAL

As you may be aware, SAFCA is responsible for providing flood protection for the Natomas Basin where the subject project is located. SAFCA has undertaken a number of actions over the last several years to improve the level of flood protection provided to the Natomas Basin.

The Natomas Levee Evaluation Study Final Report, dated July 14, 2006 (Final Report), identified improvements to levees required to provide the Natomas Basin with 200-year flood protection. In response to the Final Report, SAFCA embarked on a long-term, multi-phased project to provide the Natomas Basin with 200-year flood protection, referred to as the Natomas Levee Improvement Project (NLIP), which has been implemented in Phases 1, 2, 3, 4a and 4b. The completion of all phases of the NLIP is necessary to provide adequate flood protection for the Natomas Basin.

In 2008, in response to the United States Army Corps of Engineers' (USACE's) notification that the levees protecting the Natomas Basin were inadequate to prevent severe flooding, the Federal Emergency Management Agency (FEMA) changed the Flood Insurance Rate Map (FIRM) Panels (i.e. floodplain zoning maps) for the Natomas Basin for Sutter County (December 2, 2008) and the City and County of Sacramento (December 8, 2008) and designated the Natomas Basin as Special Flood Hazard Zone AE (2008 Designation). The 2008 Designation required local land use regulatory agencies to limit development of new structures in the Natomas Basin such that the lowest occupied floor would be constructed at least ten feet above grade, effectively preventing development of new structures in the

Natomas Basin. The NLIP has been designed to provide flood protection for the residents, businesses and other improvements within the Natomas Basin.

On June 16, 2015, in response to the construction of flood control improvements in the initial phases of the NLIP between 2007 and 2013, FEMA revised the FIRM Panels to designate the Natomas Basin as Zone A99 (2015 Designation). The local floodplain management agencies, including the County of Sutter, the County of Sacramento and the City of Sacramento, then adopted that designation, thereby lifting or modifying their building limitations in response to the 2015 Designation. A Zone A99 designation requires homeowners and businesses with federally backed loans to carry flood insurance but does not require the elevation of structures above the 100-year water surface elevation. FEMA issued the 2015 Designation because SAFCA had completed the flood control improvements in Phases 1-3 and a portion of Phase 4a of the NLIP and it reasonably anticipated that the Project Partners would complete the later phases of the NLIP to improve the levee system that encircles the Natomas Basin.

In June 2014, Congress authorized the Water Resources Reform and Development Act, including the American River Watershed Project, Natomas Basin improvements, under which the USACE will continue the work initiated by SAFCA in the earlier phases of the NLIP.

On August 16, 2016, the Central Valley Flood Protection Board and SAFCA entered into the Local Project Partnership Agreement for the American River Watershed Project, Natomas Basin improvements. On August 18, 2016, the U.S. Department of the Army, the State, and SAFCA entered into the Project Partnership Agreement for the American River Watershed Project, Natomas Basin improvements.

To continue implementing the Project, the USACE, in cooperation with the State of California Central Valley Flood Protection Board (CVFPB) and SAFCA, plans to build flood control improvements along the Sacramento River East Levee, the Natomas Cross Canal south levee, the Pleasant Grove Creek Canal (PGCC) West Levee, the Natomas East Main Drainage Canal (NEMDC) West Levee, and the American River north levee in the Natomas Basin area of the City and County of Sacramento and County of Sutter.

As discussed in Chapter 13 - Hydrology and Water Quality of the DEIR, in 2007 the California Water Code and Government Code were amended to require local land use agencies such as the County of Sacramento to make one of four findings regarding the provision of an Urban Level of Flood Protection (ULOP) before approving new development agreements, discretionary entitlements, permits allowing building one or more new homes, or tentative maps or parcel maps. in specified floodplains. As listed in the DEIR, the County General Plan policies related to ULOP include SA-5, SA-22, SA-22a, and SA-22b.

2. COMMENTS

The comments presented below are related to the Specific Plan and various chapters of the DEIR.

A. Road 9

The new Road 9 roadway connection to the Garden Highway, which sits atop the Sacramento River east levee, will not be allowed at the location shown on the Upper West Side Roadway Master Plan. If the County wishes to have a connection to garden Highway in this area, it should utilize the ramp that has been constructed at Farm Road. See the attached markup of the Roadway Master Plan.

B. Continuation of Legal Access to TNBC Cummings Tract and SAFCA Johnson Ranch

The legal access to The Natomas Basin Conservancy's (TNBC) Cummings Tract (Sacramento County Assessor's Parcel Numbers [APNs] 225-0110-061 and 225-0110-060) and SAFCA's Johnson Ranch property (APNs 225-0010-019 and 225-0110-020) is through the private road reservation shown along the east side of Lots 8, 9, 10, 11 and 12 and the west side of Lot 7 of Natomas Riverside Subdivision No. 3, filed for recording on August 6, 1918 in Book 15 of Maps, Page 43, Records of Sacramento County, California.

The proposed development along the west side of APN 225-0110-025 should be modified to include an OS-AG corridor to preserve the existing private road reservation. See the attached markup of the Roadway Master Plan.

C. Conversion of Radio Road and Farm Road to Public Use

The Radio Road roadway connection to the Garden Highway is currently within a private road and canal reservation shown along the south side of Lot 8 of the Map of Natomas Riverside Subdivision No. 3. The Farm Road roadway connection to the Garden Highway is currently within a private road reservation shown along the south side of Lot 9 and the north side of Lot 23 of the Map of Natomas Riverside Subdivision No. 2, filed for recording on February 26, 1918 in Book 15 of Maps, Page 41, Records of Sacramento County, California.

Converting these private road rights to a public road right of way will require the property owner to grant a public road easement for this use. SAFCA expects to be compensated for these conveyances on SAFCA-owned property.

D. TNBC's Alleghany Tract

DEIR Plate PD-4 shows all of TNBC's Alleghany Tract (APN 225-0190-011) as being owned by SAFCA. This is also discussed in Footnote 1 at the bottom of DEIR Page 2-27. SAFCA only purchased a portion of this parcel from TNBC. SAFCA's parcel is now known as APN 225-0190-023. TNBC's remainder parcel is now known as APN 225-0190-024.

E. Chapter 13 - Pages 13-3, 13-9, and 13-25

The discussion of the levees surrounding the Natomas Basin in the second paragraph of the section entitled "Flood Protection" on Page 13-3 of the DEIR should add the Pleasant Grove Creek Canal in the list of flood sources.

“ULOP” is an acronym commonly used for “Urban Level of Flood Protection.” The word “Flood” should be inserted into the phrase “Urban Level of Protection” on page 12 and in two places on page 13-9.

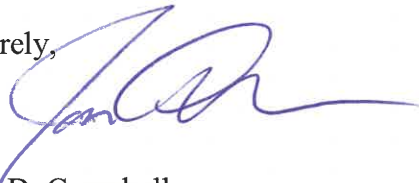
As noted on page 13-25, completion of American River Common Features Natomas Basin Project is expected to lead to achievement of ULOP. The County should consider the necessity of making ULOP findings at the time of each development approval based on the status of the Project, the specifics of the requested approval, and any changes in or new information regarding flood hazards, facility conditions, and other considerations as described in more detail in the Department of Water Resources ULOP Criteria from November 2013.

F. Chapter 20 - Page 20-12

The discussion of the existing Stormwater Drainage on Page 20-12 and 20-13 does not accurately describe the stormwater drainage system in the Specific Plan area. The San Juan Pump Station and the Riverside Pump Station discussed in the text serve the urbanized development in the adjacent City of Sacramento areas and do not serve the Specific Plan area. RD 1000 should be contacted to obtain a correct description of the stormwater drainage system.

If you have any questions on the above comments, please contact Mr. John Bassett of my office at (916) 704-8731 or bassettj@saccounty.gov.

Sincerely,



Jason D. Campbell
Deputy Executive Director

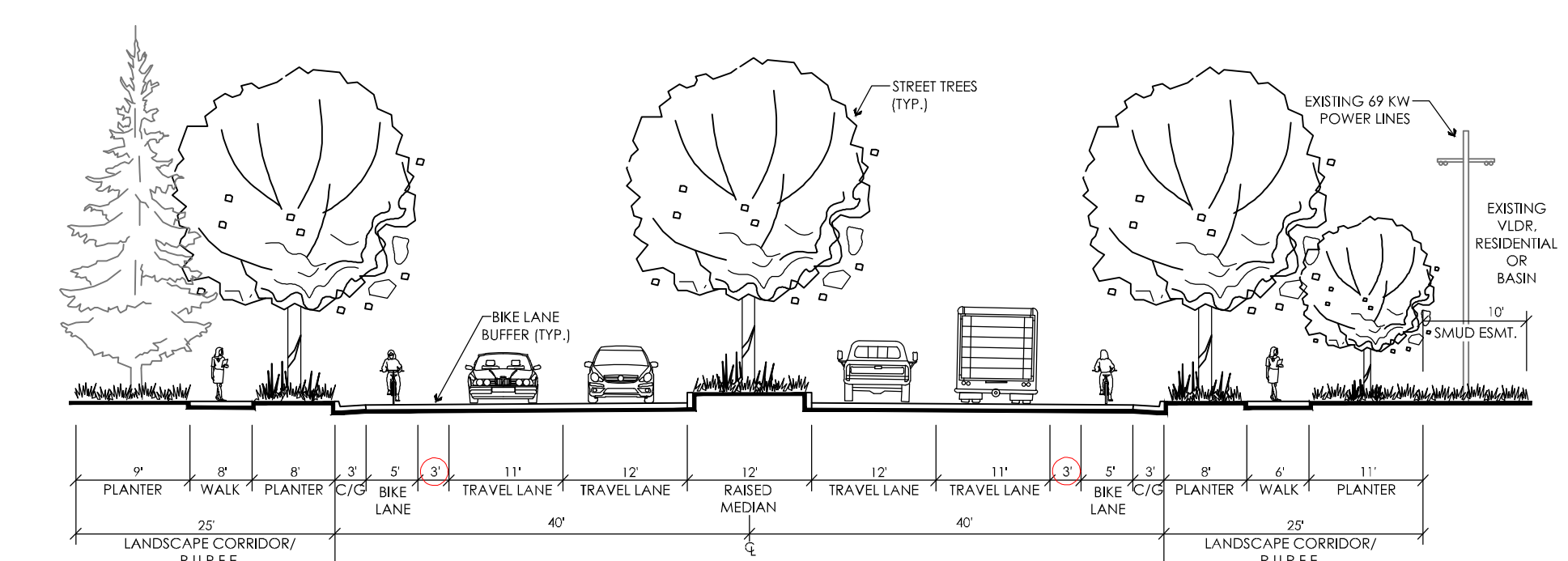


John A. Bassett
Director of Engineering
Design Construction Maintenance

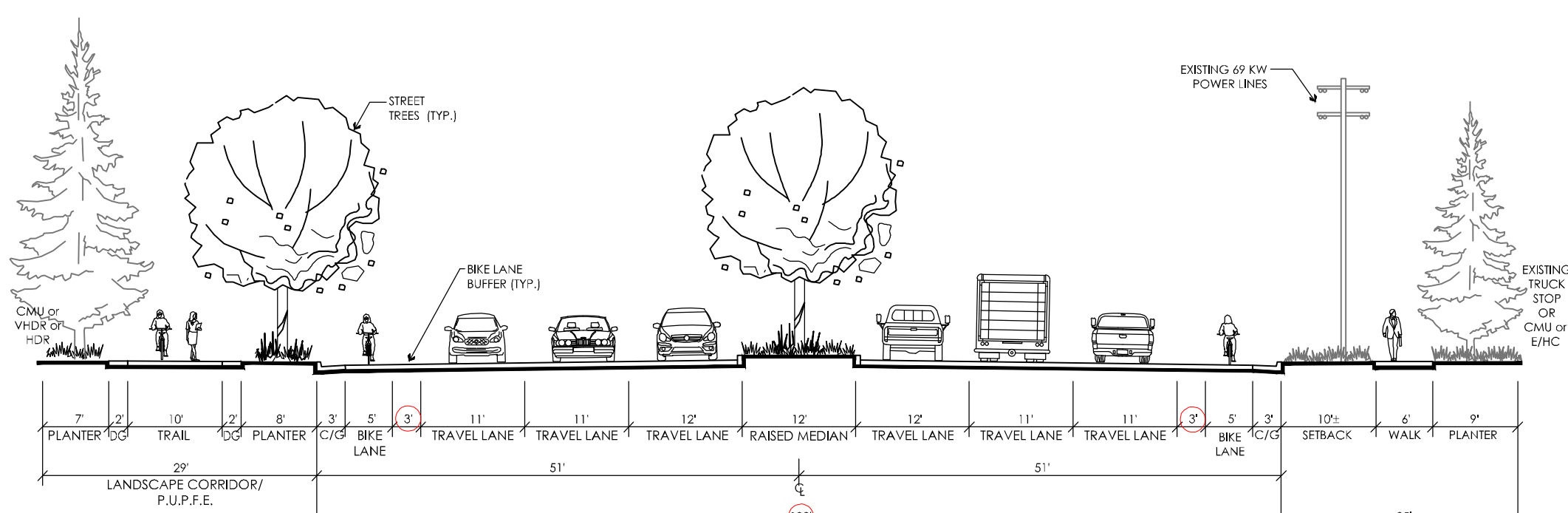
cc: Kevin King - RD 1000
John Roberts - TNBC

ROADWAY MASTER PLAN UPPER WESTSIDE COUNTY OF SACRAMENTO, CALIFORNIA

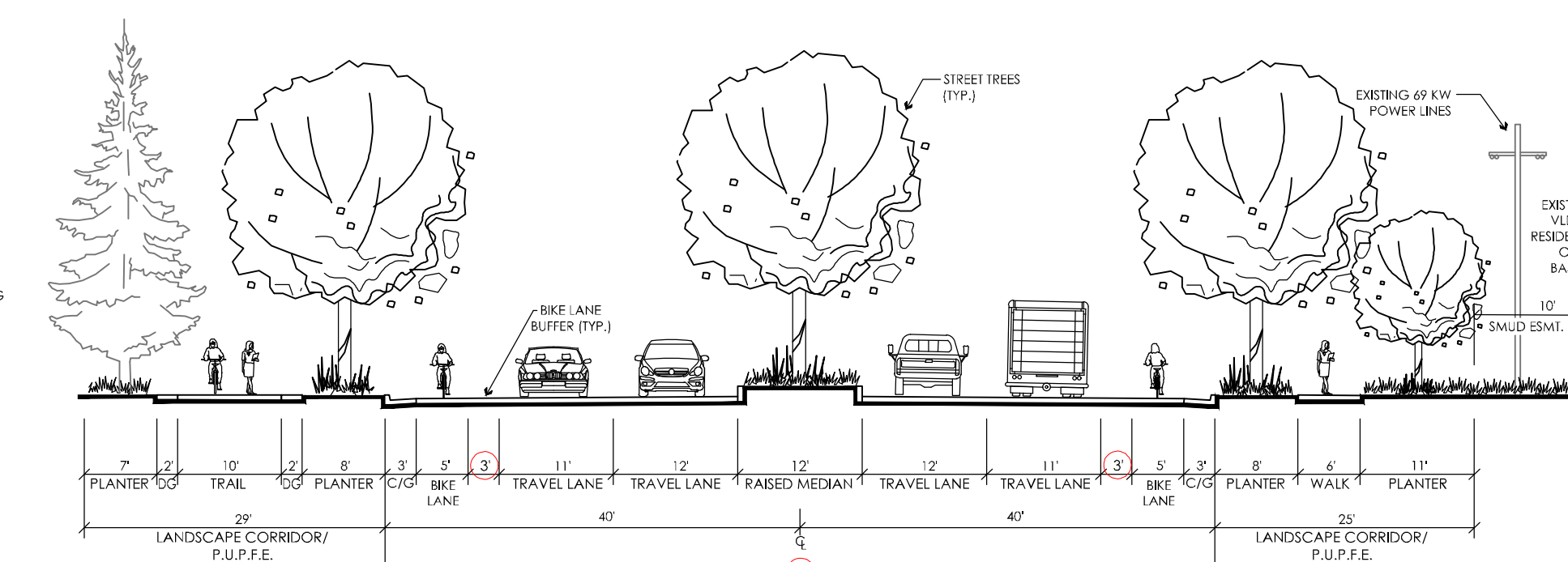
JANUARY 15, 2024



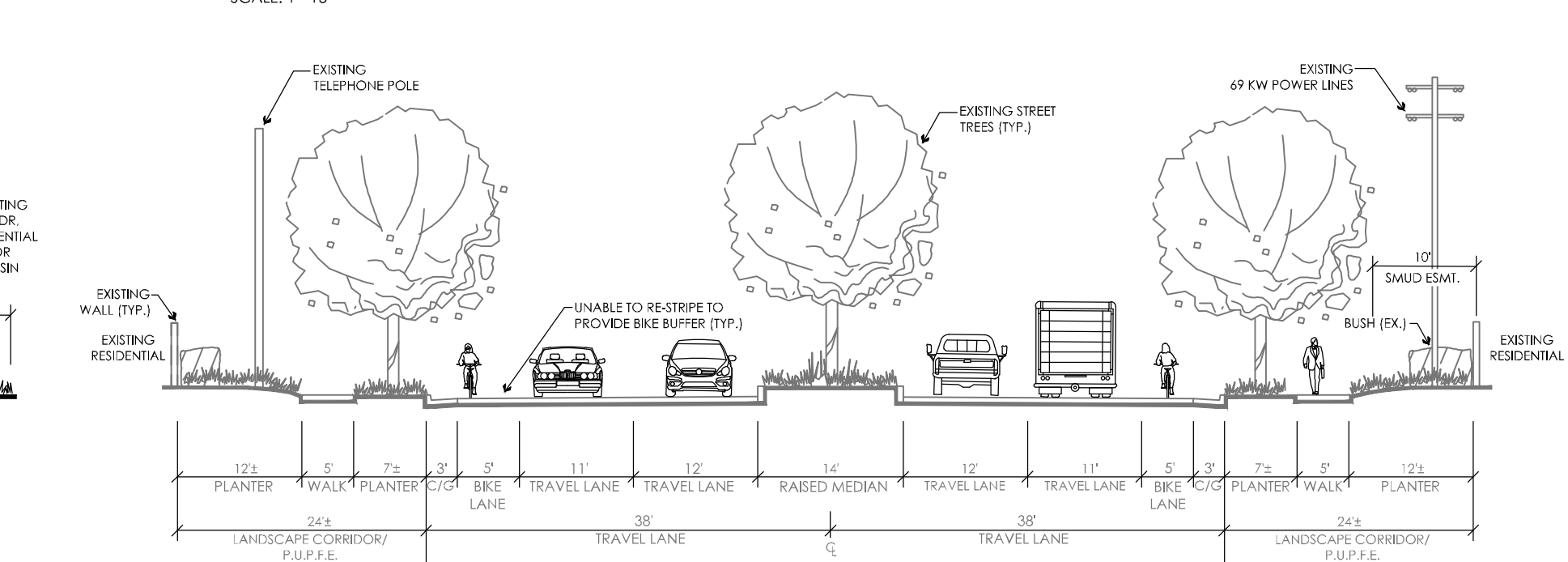
B6 ARTERIAL (El Centro Road - adjacent to North Lake Basin)
80 STREET SECTION
SCALE: 1"=10'



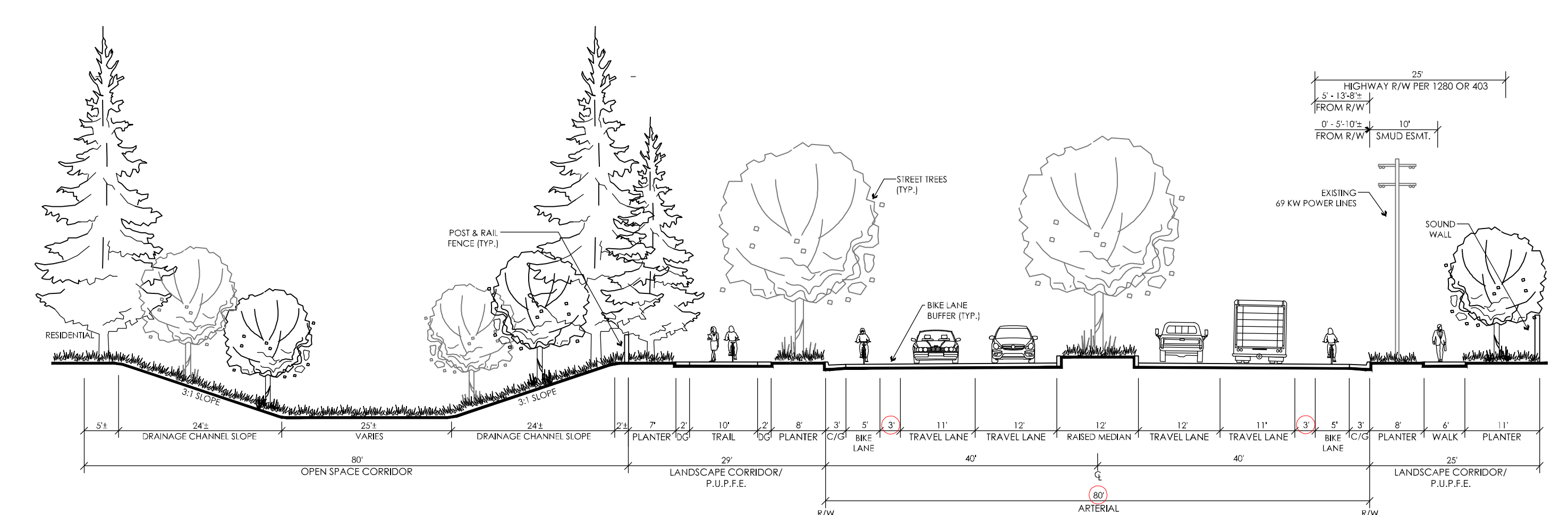
A THOROUGHFARE (El Centro Road at Truck Stop)
76 STREET SECTION IN COUNTY STANDARDS
SCALE: 1"=10'



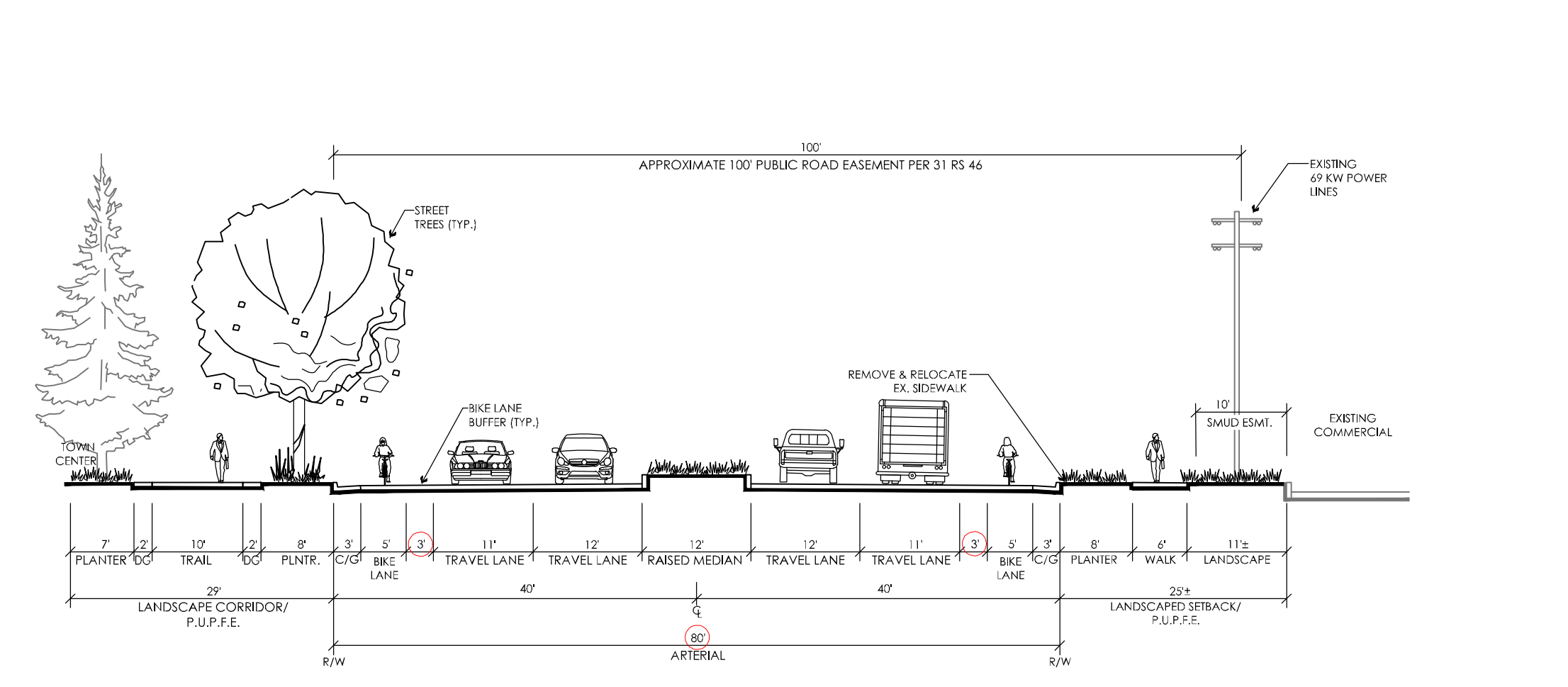
B1 ARTERIAL (El Centro Road - North of Existing Subdivision)
80 STREET SECTION
SCALE: 1"=10'



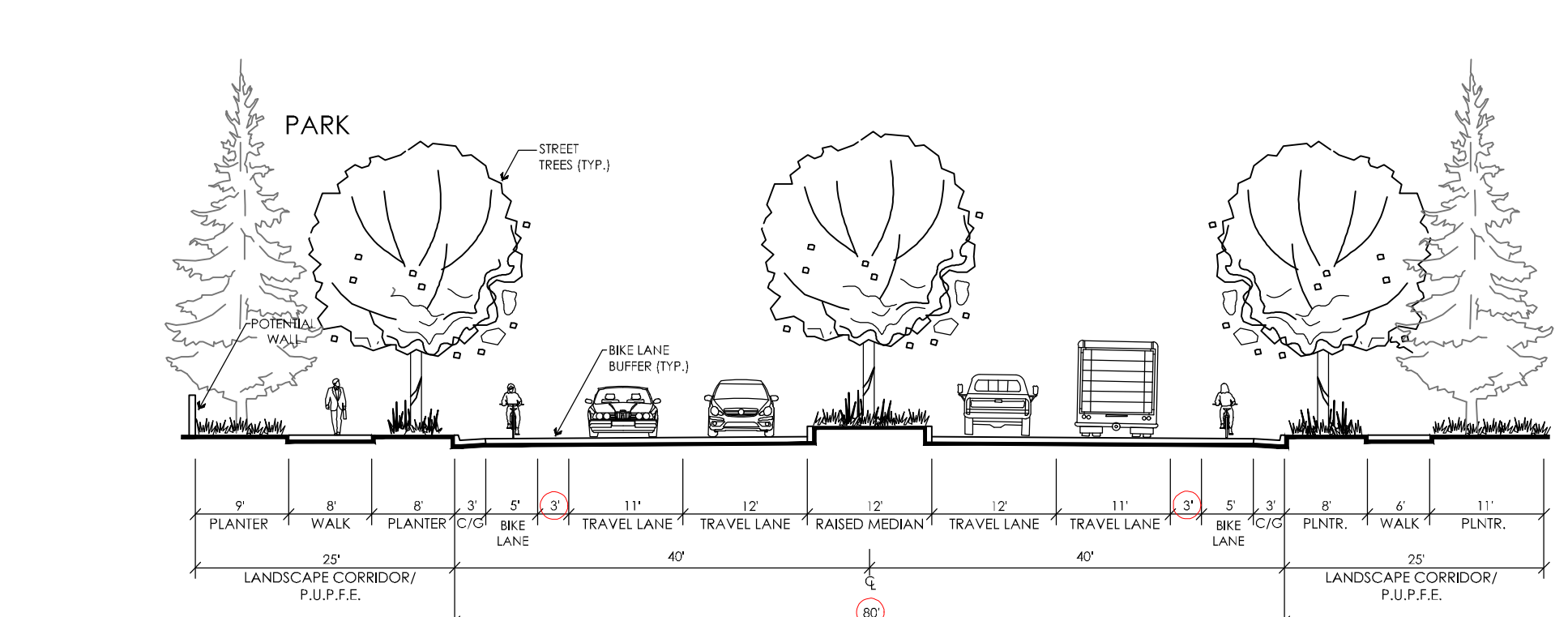
B2 EL CENTRO ROAD (At Existing Subdivision)
77 STREET SECTION IN COUNTY STANDARDS
SCALE: 1"=10'



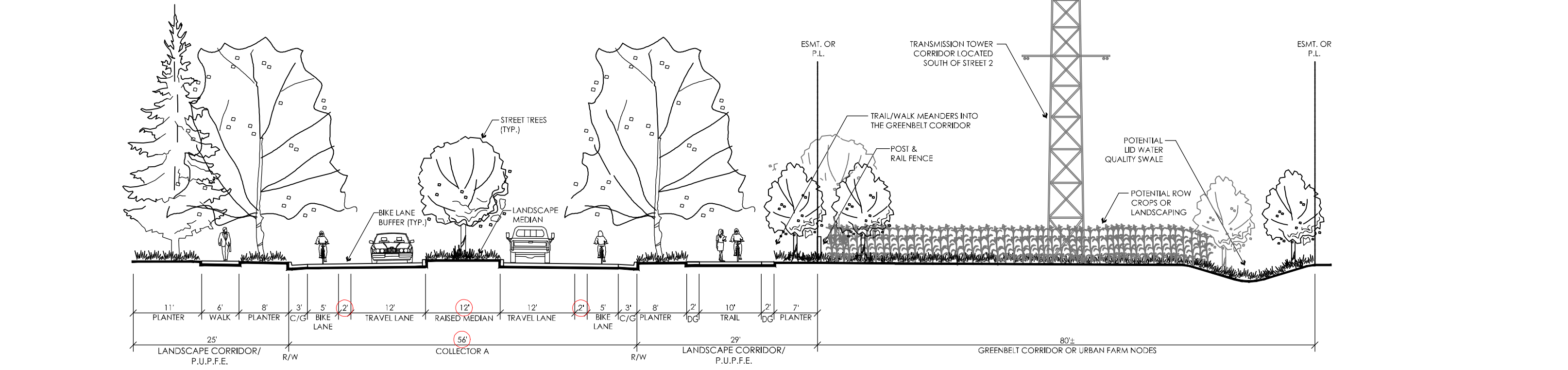
B3 EL CENTRO ROAD (Between Farm Road & San Juan Road)
74 STREET SECTION IN COUNTY STANDARDS
SCALE: 1"=10'



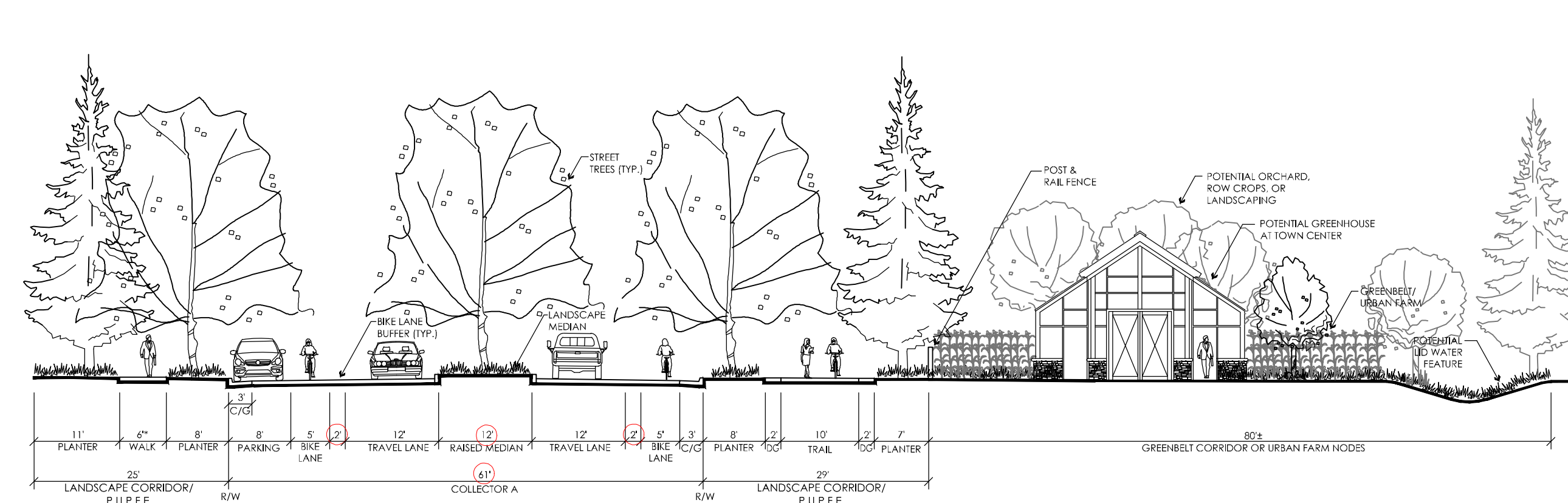
B4 EL CENTRO ROAD (South of West El Camino Avenue)
80 STREET SECTION
SCALE: 1"=10'



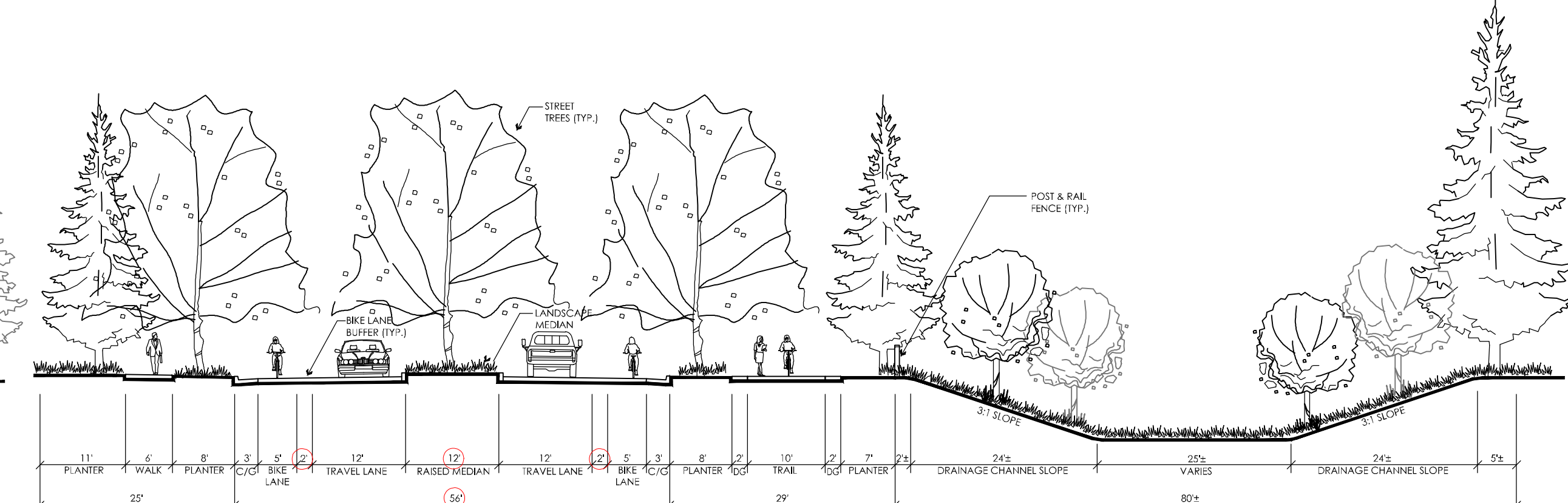
B5 ARTERIAL (Farm Road east of El Centro Road)
80 STREET SECTION
SCALE: 1"=10'



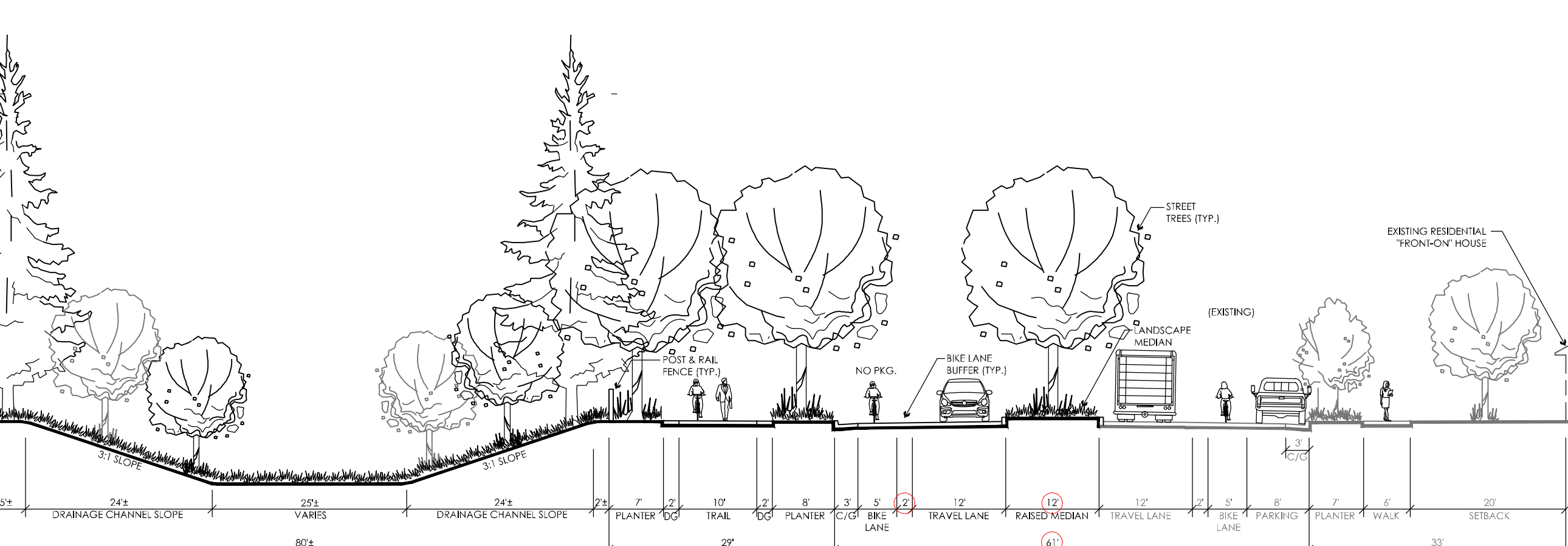
C1 BRYTE BEND ROAD - South of Street 2 (Collector A Street)
80 STREET SECTION IN COUNTY STANDARDS
SCALE: 1"=10'



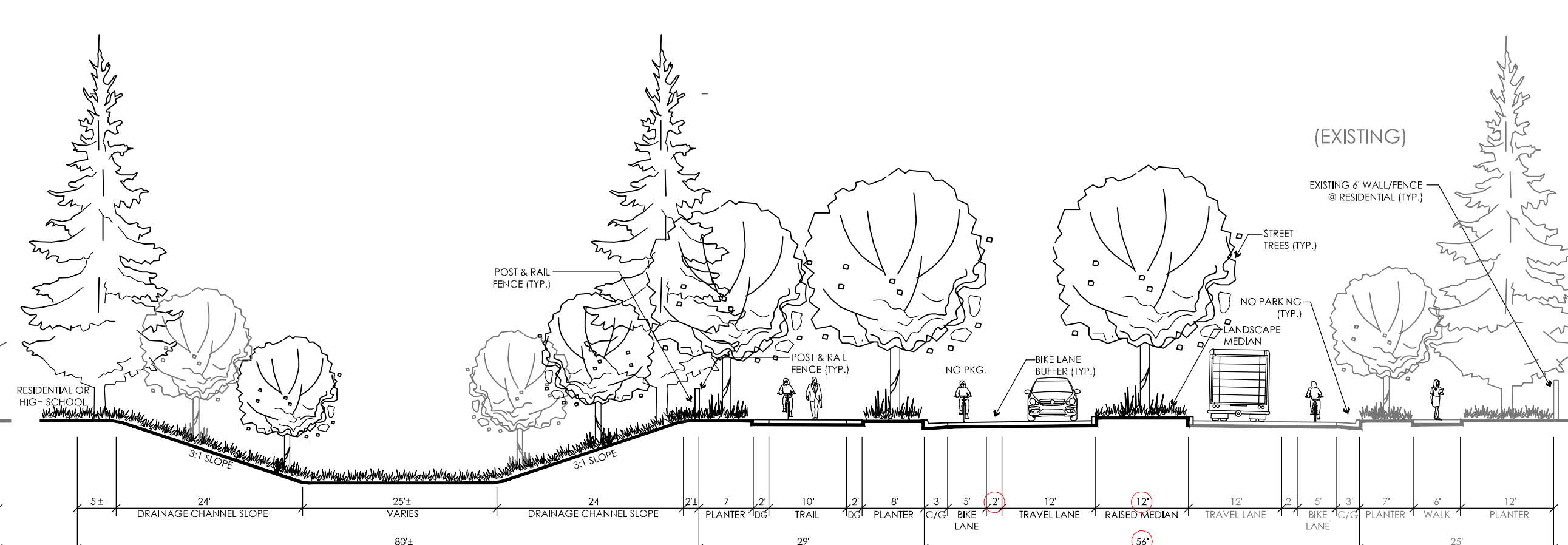
C2 BRYTE BEND ROAD - Between Street 2 and Farm Road & North of San Juan Road (Collector A Street)
80 STREET SECTION
SCALE: 1"=10'



C3 BRYTE BEND ROAD - North of Farm Road (Collector A Street)
80 STREET SECTION
SCALE: 1"=10'

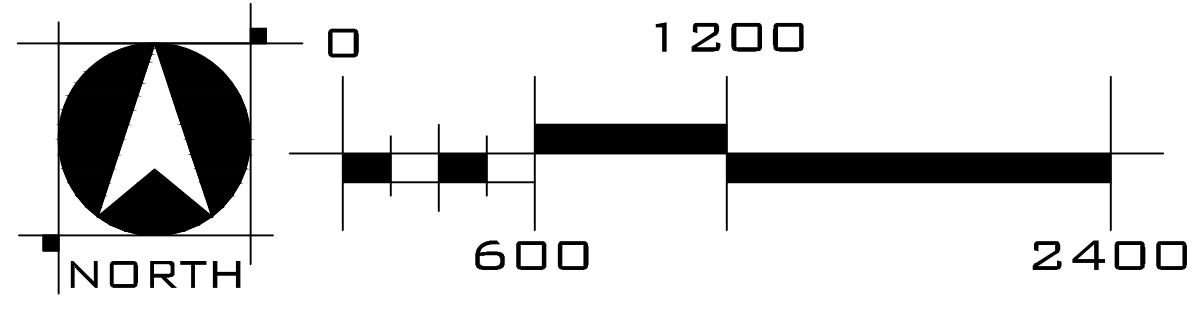


C4 SAN JUAN ROAD - Between El Centro Road and Bryte Bend Road at Existing Front-On Lots (Collector Street)
80 STREET SECTION
SCALE: 1"=10'



C5 SAN JUAN ROAD - East of El Centro Road & Radio Road - East of Bryte Bend Road (Collector Street)
80 STREET SECTION IN COUNTY STANDARDS
SCALE: 1"=10'

NOTE: DIMENSIONS CIRCLED IN RED VARY FROM APPLICABLE STREET SECTION STANDARDS FOUND IN THE SACRAMENTO COUNTY 2018 IMPROVEMENT STANDARDS, SECTION 4: STREET DESIGN



SACRAMENTO METROPOLITAN



October 7, 2024

Sacramento County, Planning and Environmental Review
 Environmental Coordinator
 827 7th Street, Room 225
 Sacramento, CA 95814
CEQA@saccounty.gov

Re: Comments on Draft Environmental Impact Report (DEIR) for Upper Westside Specific Plan (SAC201902113)(PLNP2018-00284)

Dear Julie,

Thank you for allowing the Sac Metro Air District (District) the opportunity to review the Draft Environmental Impact Report (DEIR) for Upper Westside Specific Plan. The Project encompasses approximately 2,066 acres in the unincorporated Natomas community of Sacramento County, approximately 3.5 miles from downtown Sacramento. The Project area is bounded by Interstate 80 to the south, the West Drainage Canal to the east, Fisherman's Lake Slough to the north, and Garden Highway to the west. The Project is located outside of the County's Urban Policy Area and Urban Services Boundary, and is bounded on three sides by the City of Sacramento, bordering the communities of North and South Natomas. Below are our comments:

The following comments pertain to the Upper Westside Specific Plan DEIR Mitigation Measures.

Mitigation Measure AQ1B

Super-Compliant VOC Architectural Coating during Operations

To ensure compliance into the future, please consider having an appropriate successor agency (such as the HOA) and not the project sponsor be responsible for implementation of this mitigation measure.

Best Available Emissions Controls for Stationary Emergency Generators

When evaluating BACT we include NOx with VOC/ROG and PM when looking at technology that reduces multiple pollutants. Under Best Available Emissions Controls for Stationary Emergency Generators, please revise the first bullet, last sentence to read *If the CARB adopts future emissions standards that exceed the Tier 4 requirement, the emissions standards resulting in the lowest ~~ROG and DPM~~ emissions shall apply, up to and including zero emissions.*

Promote Use of Green Consumer Products

Promoting the use of green consumer products is a good idea, but individuals can have different interpretations of what this means, and the term can be vague and misleading,

leading to confusion. Please consider focusing this mitigation measure on specific, actionable education campaigns that a successor agency (such as the HOA) can implement. Examples include waste diversion programs at local schools, promoting tips to save electricity, energy savings tools and conserving energy at home.

Mitigation Measure AQ 4B

Not all eligible existing receptors may have heating, ventilation, and air conditioning (HVAC) systems that are compatible with MERV-13 or higher filters. Please consider revising the language to clarify that indoor air filtration for the project may, if an HVAC system is not compatible, either upgrade the HVAC systems to use MERV-13 or higher (for vulnerable populations such as schools and nursing homes, MERV-14 or higher should be used) capable of at least 0.5 air exchanges per hour or provide California certified portable air-cleaning devices. Residential users should be provided with at least one air-cleaning device per occupied bedroom, with sufficient air flow to complete at least two air exchanges per hour. Residents will be trained on their use, optimal placement, and are encouraged to move the air-cleaning device(s) to where they will be breathing.

Mitigation Measure AQ4C

While we appreciate the specificity of the language, due to climate change and urban forestry practices, we recommend generalizing language on the last bullet. For example, redwoods may be an inappropriate choice due to current climate. Last sentence would read, "Trees that are best suited to trapping PM shall be planted, ~~including one or more of the following species~~ such as

The following comments pertain to the Air Quality Section of the Upper Westside Specific Plan DEIR Report

Chapter 6.0 Air Quality

Page 6-15, Table AQ-4 and the second paragraph on page 6-14 refers to Sacramento County as an attainment-maintenance area for both CO and PM-10. Sacramento County is no longer a maintenance area and is in attainment now for CO (for both 1 and 8 hour CO)– see <https://ww2.arb.ca.gov/resources/documents/2023-carbon-monoxide-sip-revision> but is still an attainment-maintenance area for PM-10. Table AQ-4 should be corrected to refer to ozone as severe-15 and not moderate for 8-hour ozone.

Local, Sacramento Metro Air Quality Management District

The most recent Ozone Air Quality Plan for Ozone is for the 2008 NAAQS (not for the 1997 Plan as referenced) which is available at:

<https://www.airquality.org/ProgramCoordination/Documents/Sac%20Regional%202008%20NAQS%20Attainment%20and%20RFP%20Plan.pdf> An updated list of SMAQMD's most recent plans can be found at: <https://www.airquality.org/Air-Quality-Health/Air-Quality-Plans>.

The most recent PM10 Plan was the second PM10 Maintenance Plan was approved by EPA on March 14, 2024 and can be found at <https://www.airquality.org/ProgramCoordination/Documents/PM10%20Second%20MP%20Final%20Draft%202021-07-23.pdf> Please see: <https://www.airquality.org/Air-Quality-Health/Air-Quality-Plans> for list of most recent plans.

For CO the most recent plan from SMAQMD is stated from 2004. Please add a footnote to clarify that Sacramento is in Attainment for Carbon Monoxide and that the 20-year maintenance period is over. see <https://ww2.arb.ca.gov/resources/documents/2023-carbon-monoxide-sip-revision>

Sacramento Area Council of Governments

Page 6-20, the second to the last sentence should clarify that SACOG Is responsible for transportation (and not general) conformity.

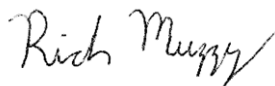
Sacramento County General Plan

Page 6-21 has a reference date of 2011 for the goals and policies from the Sacramento County General Plan. Please make sure that the air quality goals and policies are consistent with the latest version of the General Plan Air Quality Element which was last amended on October 25, 2022 and can be found at: <https://planning.saccounty.gov/PlansandProjectsIn-Progress/Documents/General%20Plan%20Amendments/5.%20Air%20Quality%20Element%20-%20Amended%2010-25-2022.pdf>

Impact AQ-1: Conflict with or Obstruct Implementation of an Applicable Air Quality Plan

This section references the 2008 8-Hour Ozone Attainment and RFP Plan which is accurate but is inconsistent with Local, Sacramento AQMD section (see previous comment) which references an earlier SIP.

Sincerely,



Rich Muzzy
Air Quality Planner/Analyst
CEQA and Land Use

cc: Paul Philley, AICP, Program Supervisor

**Department of Environmental
Management**Jenea Monasterio
Director**Divisions**Administration
Environmental Compliance
Environmental Health**County of Sacramento**

October 8, 2024

TO: CEQA@saccounty.gov**FROM:** Leana Nguyen (nguyenl@saccounty.gov)**SUBJECT:** PLNP2018-00284 Upper Westside Specific Plan

LOCATION: *The Project encompasses approximately 2,066 acres in the unincorporated Natomas community of Sacramento County, approximately 3.5 miles from downtown Sacramento. The Project area is bounded by Interstate 80 to the south, the West Drainage Canal to the east, Fisherman's Lake Slough to the north, and Garden Highway to the west. The Project is located outside of the County's Urban Policy Area (UPA) and Urban Services Boundary (USB), and is bounded on three sides by the City of Sacramento, bordering the communities of North and South Natomas.*

EMD PROJECT COMMENTS:

1. **CONDITION:** Prior to final occupancy, each lot that is newly developed as part of the Legado Specific Plan must connect to public water.
2. **CONDITION:** Prior to final occupancy, each lot that is newly developed as part of the Legado Specific Plan must connect to public sewer.
3. **CONDITION:** The applicant must contact the Environmental Health Plan Check Department prior to beginning construction of any food facility. Environmental Health may be contacted at (916) 874-6010.
4. **ADVISORY:** Prior to recordation of the final map, if an abandoned well is found on the property, it must be issued an inactivation permit (subject to review and approval from EMD), repaired and brought back into service, or it must be destroyed at the parcel owner's cost. All well-related activities must be performed in compliance with EMD's well permitting and inspection program requirements. Contact wells@saccounty.gov with any questions.

5. **ADVISORY:** Prior to recordation of the final map, if an abandoned septic system tank is discovered on the property, it must be destroyed in compliance with EMD's liquid waste permitting and inspection program requirements. When these septic systems are no longer in use, the septic tanks must be abandoned under a permit issued by EMD. Contact septicinfo@saccounty.gov with any questions.
6. **ADVISORY:** Any facility in Sacramento County that handles and/or stores a hazardous material equal to or greater than the minimum reportable quantities (55 gallons for liquids, 500 pounds for solids and 200 cubic feet (at standard temperature and pressure) for compressed gases) must obtain a permit and submit a Hazardous Materials Business Plan (HMBP) to EMD. The purpose of the HMBP Program is to protect public health and the environment and groundwater from risks or adverse effects associated with the storage of hazardous materials. Contact Thomas Vohoska at vohoskat@saccounty.gov with any questions.
7. **ADVISORY:** Any facility in Sacramento County that generates hazardous waste must obtain a permit from EMD. The purpose of the program is to ensure compliance with the Hazardous Waste Control Act, verify Hazardous Waste accumulation, labeling, container and tank management standards, and waste generator status, respond to complaints of illegal disposal of hazardous waste, and issue permits and inspects businesses that treat hazardous waste pursuant to permit by rule, conditional authorization, or conditional exemption laws and regulations. Contact Thomas Vohoska at vohoskat@saccounty.gov with any questions.
8. **ADVISORY:** Any facility in Sacramento County that stores petroleum products in above ground tanks in quantities 1,320 gallons or greater must obtain a permit from EMD per the Above Ground Petroleum Storage Act (APSA). You must also develop and implement the Spill Prevention Control and Countermeasures (SPCC) Plan requirements per Code of Federal Regulations, Title 40, Part 112. Contact Thomas Vohoska at vohoskat@saccounty.gov with any questions.

From: Executive Director <executivedirector@sacfarmbureau.org>

Sent: Wednesday, October 9, 2024 4:02 PM

To: PER-CEQA <CEQA@saccounty.gov>

Cc: Pat Hume <PatHume@saccounty.gov>

Subject: Upper Westside Specific Plan Comment Letter

Hello,

Please see the attached comment letter from Sacramento County Farm Bureau in regard to the Upper Westside Specific Plan (State Clearinghouse No 2020100069, County Control Number PLNP2018-00284). Please keep the SCFB informed of any updates and future notices.

Thank you.

Amber McDowell | Executive Director

Sacramento County Farm Bureau

8970 Elk Grove Blvd.

Elk Grove, CA 95624

O: (916) 685-6958 | C: (916) 513-1619





SACRAMENTO COUNTY FARM BUREAU

PUTTING THE FOOD ON YOUR FORK SINCE 1917

October 9, 2024

Sacramento County,
Department of Community Development, Planning & Environmental Review Division
Attn: Environmental Coordinator
827 7th St, Rm 225
Sacramento, CA 95814
CEQA@sacounty.gov

RE: Upper Westside Specific Plan (State Clearinghouse No 2020100069, County Control Number PLNP2018-00284)

Dear Environmental Coordinator,

The Sacramento County Farm Bureau is a non-governmental, non-profit, grassroots membership organization. Our purpose is to preserve and protect our agricultural economy and rural lifestyle since 1917. Four thousand acres of vital farmland are lost each year to urbanization. There is great concern among farmers and ranchers that not only is the practice of farming and ranching decreasing, but their rural way of life is being threatened. Area growers work hard to supply consumers with high quality products while battling obstacles such as increased production costs and water availability. As the earth's original conservationists, farmers and ranchers have a keen interest in preserving our precious land for future generations. Farmers are concerned with natural resources, animal health, water, and air quality, among other imperative issues. Farm Bureau's voluntary elected leaders and professional staff work hard for all Californians to ensure the rural economy's growth, to protect the family farm, and to maintain the treasured natural resources that are important to this state's vitality and lifestyle.

The Sacramento County Farm Bureau has several concerns with the Specific Plan that will develop over 1,532 acres and detrimentally impact the remaining 534 acres left of the 2,066 acres in the project area. The Draft EIR further supports the issues that we address with the proposed project. The Draft EIR identifies multiple significant and unavoidable impacts to agricultural land with the proposed project. All this area needs to be preserved as agricultural lands for flood control, health benefits derived from agricultural lands, wildlife habitat, and a sustainable local food supply.

The proposed narrow strip of remaining agricultural land, some as narrow as 700 feet, will be detrimentally impacted by the urban zone. The placement of the elementary school is a poor choice due to the state regulatory requirements placed on agriculture operations. The neighboring school will disrupt production for most of that parcel and will lead to pest and disease outbreaks, food quality and health issues, and crop losses because operational practices



SACRAMENTO COUNTY FARM BUREAU

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including pest management will be blocked due to the school's location. In addition, the 30-50 foot buffer gravel access trail and farm fence is not a conducive buffer to protect the agricultural land against food safety hazards, pest infestations, or maintain quality production while also maintaining public safety. The minimum buffer to protect agricultural production needs to be a quarter mile.

This project area is already the needed flood buffer between the river and the urban city. The County needs to preserve this appropriately sized flood buffer which also consists of mostly prime agricultural land. These lands are classified by the State and County as important for a reason and need to remain intact as such. The county needs to protect the actual agricultural lands already here without trying to mitigate with other land that most likely is already protected or classified as important. Agricultural land cannot be created; what land is here is all that is left. Trying to substitute other land is not an acceptable or equitable mitigation. The county must be cognizant about these classifications to ensure priority is maintained in preserving these limited land resources that cannot be created. Agricultural lands provide numerous benefits to the community including cooler temperatures, cleaner air, a diverse and reliable food supply that often is healthier and cheaper the less distance it must travel, carbon sequestration, producing oxygen essential for humans and wildlife, flood and fire control buffer, groundwater basin sustainability with recharge, and a habitat for wildlife. The technological advances and efficiencies applied to farming practices also assist in improving the environment and food quality.

These agricultural lands are full of wildlife. Wildlife and agricultural lands have a symbiotic relationship that benefits wildlife survival because of the agricultural practices on those lands. Agricultural lands provide food sources, a living habitat, protection from predators, functional water resources, and spacing needs for both individuals and specie population. The wildlife utilizes this particular area because of the resources the agricultural land provides and allows them to thrive. Moving them to other areas only impacts those other areas that already contain populations of various diverse species. The phasing buildout of this Specific Plan is backwards and will cause major issues for wildlife to be able to migrate from the area and will trap many species in the phasing buildout. Buildout needs to start next to the current existing developed edge and work out from that location to direct wildlife towards the future remaining agricultural land and river. Ultimately, this project causes an overall loss of land; therefore, leaving a substantial small area for all wildlife to concentrate on for the sake of surviving and thriving. Agricultural lands also provide a buffer to limit wildlife impacts within the residential and urban areas.

The DEIR mentions that the City of Sacramento is to provide the water to this new development. Where will the water to supply this new development come from? There will be less groundwater to pull from as around 1,500 acres will now be permanently covered, preventing water to infiltrate down into the groundwater basin. This project reduces the



SACRAMENTO COUNTY FARM BUREAU

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amount of water that can recharge this basin and increases the amount of flooding for this and neighboring areas. This land has been in agriculture not only because of its prime soil quality to grow food but also to be a flood buffer for the urban zone. The annual crops grown in this area are grown because the ground is too wet in the winter. It is designated by FEMA as a high-risk flood zone. Developing this low-lying area puts more people at risk and causes more economic damage when flooding occurs. The narrow strip of agricultural land left to be a flood buffer is not large enough. The DEIR points out under PH-1, the contradictory plans of the General Plan and SACOG which will create a huge unplanned population growth of about 25,460 residents in 9,356 housing units of whom will need water, food, and other vital resources that must be obtained and maintained. In addition, the impact of traffic, noise, carbon emissions that previously were very minimal for the area will be greatly elevated and disruptive to the current rural residents' lifestyle. Their way of life will be destroyed. Even the remaining agricultural zone and wildlife will be heavily disrupted and degraded with the bombardment of trash, traffic congestion, trespassing, and other damaging impacts. The people on these agricultural lands and rural residences value the land and the livelihood with it.

Our organization has concerns with the perception the county has of how to protect our local food system. The Project Description states under the Sustainable Community section of incorporating measures that would preserve sensitive habitat and conserve agricultural lands. How can this Specific Plan state that when they will remove 1,324 acres (over 70%) of the agricultural land and the wildlife associated with it? It is contradicting. While small urban farms are important to the diversity of produce, they cannot sustain the region or a large city like the neighboring City of Sacramento. It requires large acreage of good land to grow the quantity and variety of food required to provide a balanced diet and plentiful supply to sustain grocery stores, restaurants, and farmers markets for all residents and guests within the entire region. Relying on other areas for a food supply and sending our dollars to those areas is not a sustainable decision. Quality agricultural land is a finite and priceless resource. The cities that preserve these types of lands now will benefit the best later as food, which is essential for life, becomes a very limited resource in most areas. Preserving agricultural land in our county reduces transportation of those foods allowing for a lower carbon footprint, less pollution, fresher and healthier products, and maintains local control with jobs and economic dollars staying in the area.

The County needs to understand this agricultural land currently assists with lowering the carbon footprint with carbon sequestration, provide resources for the wildlife on them, and as a buffer for flooding and wildfires. The County is doing a disservice to its current residents and businesses by eliminating agricultural lands from this area. In addition, human health and safety will be threatened. Agricultural lands and managed conservation areas are the key for carbon sequestration. This project will add to the carbon the county emits. The County needs to preserve this project area in its current state to provide aid in balancing its carbon footprint.



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The County needs to determine the value of all aspects of this project area and not focus on one component that will ruin everything else for the one. In addition, a quick profit for one component but then leaves an entire community in dire straits with potential issues with water availability and quality, food shortages, poor air quality, increased flooding, and climate change is not a valid strategy the County should support. This project area has a lot of State designated Prime Farmland. Most other counties do not have any Prime Farmland. Our county is privileged to have so much abundant prime and statewide important farmland. This makes Sacramento County very valuable as other areas continue to develop more urban centers.

The County needs to support Alternative 2: No project/Existing Zoning as the best option for this area. It has the ideal proper placement, proper growth, proper preservation of resources including land, food, wildlife, water and air quality, and carbon sequestration. As more areas remove agricultural land, the need for food and land to produce food will increase. Preservation of agricultural land for long term options is best in this drastically developing region. Once covered over, the land able to produce food will be gone forever and leaves our county dependent on other areas for the resources vital for human survival. It is a priceless resource we cannot get back.

Absolute consideration of preserving agricultural lands in Sacramento County is imperative to sustain the county with an abundant food supply, carbon sequestration, wildlife habitat, and the local economy. The Draft EIR acknowledges these issues and that this specific plan will lead to an overall loss of farmland. This is deemed unacceptable. Therefore, the project should not move forward. Please keep the Sacramento County Farm Bureau informed with any updates and future notices.

Sincerely,

Amber McDowell
Executive Director

State Water Resources Control Board

October 14, 2024

Julie Newton
Sacramento County
827 7th Street, Room 225
Sacramento, CA 95814

COMMENT LETTER ON THE SACRAMENTO COUNTY (COUNTY),
ENVIRONMENTAL IMPACT REPORT (ENVIRONMENTAL DOCUMENT) FOR THE
PLNP2018-00284 UPPER WESTSIDE SPECIFIC PLAN PROJECT (PROJECT);
STATE CLEARINGHOUSE #2020100069

Dear Julie Newton:

Thank you for the opportunity to review the Environmental Document for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board, DDW) is responsible for regulating public water systems and issuing water supply permits pursuant to the Safe Drinking Water Act. This Project is within the jurisdiction of the State Water Board, DDW's Sacramento District.

If the above noted project results in the formation of a new public water system, an application must be submitted, and a permit must be obtained from the DDW Sacramento District before water can be provided for human consumption. "Human consumption" means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes." Health & Saf. Code § 116275 subd. (e).

Note, Health & Saf. Code § 116527 subd. (b) requires that any person submitting a permit application for a proposed new public water system must first submit a technical report at least six months before initiating construction of any drinking water-related improvements. The technical report must include an examination of the possibility of connecting to or being annexed by an existing adjacent community water system.

A permit amendment must also be obtained from the DDW Sacramento District when changes are made to a permitted domestic water supply source, storage, or treatment and for the operation of new water system components- as specified in the Cal. Code Regs. § 64556.

The State Water Board, DDW, as a responsible agency under the California Environmental Quality Act has the following comments on the County's Environmental Document:

- The Project will be served domestic water by a new or existing public water system. Under section 2. "Project Description", "Intended Uses of the EIR" please add "The State Water Board, Division of Drinking Water" as an approving agency and "water supply permit" as the approval (PDF page 221-223).
- The City of Sacramento (City), through an agreement with the Sacramento County Water Agency (SCWA), will provide potable water for the Project as a wholesaler [PDF Page 207]. The Sacramento County Local Agency Formation Commission will need to approve an annexation of the service area to the SCWA (PDF page 182). Please clearly disclose if a new "public water system", pursuant to Health and safety Code section 116275 subd. (h), will be created under the authority of SCWA. The State Water Board, DDW encourages projects that would otherwise create a new public water system to connect with nearby community water systems, where possible, instead of forming a new public water system. If no nearby systems will agree to serve the Project, the applicant will need to submit a technical report to DDW Sacramento District pursuant to Health and Saf. Code § 116527 subd. (b).
- The City plans to sell water to the new development. The City has domestic wells in both the North American Groundwater Basin and the South American Groundwater Basin (PDF page 815). The South American Groundwater Basin is designated as a high priority groundwater basin by Department of Water Resources (Sustainable Groundwater Management Act Basin Prioritization Dashboard), but the Project impacts on this basin were not discussed in the Environmental Document. If water will be pumped from the South American Basin for the Project, please discuss the amount of water that will be pumped and the impacts of that pumping on the South American Groundwater Basin.
- The City will provide 4,313 acre-feet per year of treated water to meet the Project's total water demand (PDF page 841). Please explain why the City water system can't directly serve the Project and needs to provide treated water.
 - Will other sources of water besides purchased water from the City be used to serve the Project? If so please explain these sources and discuss the impacts of the use of these sources, as needed.
- Please disclose if the existing groundwater wells are on the Project site. If so, explain what actions will be taken to protect water quality. Has a well assessment or will a well assessment for the existing wells occur? Are there plans to use any of the wells as domestic supply or destroy them for the protection of water quality?
- Cal. Code. Regs. § 64572 requires separation of drinking water service lines from sources of potential contamination such as irrigation drainage channels, sewer mains, and stormwater detention basins. The Project site includes existing irrigation drainage channels and will also install new irrigation drainage channels, sewer mains, and four stormwater detention basins (PDF pages 206, 209, and 616). Please indicate if separation requirements can be met or if a waiver or alternative to Waterworks Standards (Cal. Code. Regs. § 64551.100)

will be needed. If a waiver is needed, the water system will need to provide the DDW Sacramento District with the alternative plans and a waiver approval should be listed as part of the needed DDW approvals in the Environmental Document.

Once the Environmental Document is certified, please forward the following items in support of water system's permit application to the State Water Board, DDW Sacramento District Office at DWPDIST09@waterboards.ca.gov:

- A copy of the Environmental Document and Mitigation Monitoring and Reporting Plan (MMRP);
- A copy of comment letters received and the lead agency responses as appropriate;
- A copy of the Resolution or Board Minutes certifying the Environmental Document and adopting the MMRP; and
- A copy of the date stamped Notice of Determination filed at the County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

Please contact Lori Schmitz of the State Water Board at (916) 449-5285 or Lori.Schmitz@waterboards.ca.gov, for questions regarding this comment letter.

Sincerely,

Lori Schmitz
Environmental Scientist
Division of Financial Assistance
Special Project Review Unit
1001 I Street, 16th floor
Sacramento, CA 95814

Cc:

Office of Planning and Research, State Clearinghouse

Austin Peterson
District Engineer
Sacramento District



Central Valley Regional Water Quality Control Board

14 October 2024

Julie Newton
 Sacramento County Planning
 827 7th Street, Suite 225
 Sacramento, CA 95814
 newtonj@saccounty.net

COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, PLNP2018-00284 UPPER WESTSIDE SPECIFIC PLAN, SCH#2020100069, SACRAMENTO COUNTY

Pursuant to the State Clearinghouse's 30 August 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environmental Impact Report* for the PLNP2018-00284 Upper Westside Specific Plan, located in Sacramento County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.



Peter G. Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

From: Kaushal Sharma <kaushalsharma29264@gmail.com>
Sent: Thursday, October 17, 2024 2:10 PM
To: PER-CEQA <CEQA@saccounty.gov>
Subject: Comments & Concerns regarding the Upper Westside Specific Plan

Hello,

I am a Natomas resident and here are my concerns/comments regarding the Upper West Side Project.

1. Traffic: Since this development will tremendously increase the flow of traffic, what are the plans to overcome that congestion?
2. Environmental Impact: Are there any native species that will be impacted by the project? If so, how are you mitigating it? Aren't we decreasing the natural habitat for those species?
3. Flood Impact: Will this project decrease the area for groundwater recharge? Will the project increase the chance of flooding during a high water event? Will more impervious layers create high risk of flooding?
4. Wildlife Impact: This project will cause significant and long term impact on existing wildlife habitat.

Regards,
Kaushal
Natomas Resident

From: linnhom@winfirst.com <linnhom@winfirst.com>
Sent: Saturday, October 12, 2024 2:54 PM
To: PER-CEQA <ceqa@saccounty.gov>
Subject: Opposition: Upper Westside Specific Project

October 12, 2024

Chair Christopher and members of the Natomas CPAC
700 H Street
Sacramento, CA 95814

Re: Upper Westside Specific Project

Dear Chair Christopher and members of the Natomas CPAC,

I oppose the Upper Westside Plan. This project greatly threatens our environment, wildlife habitat and our community. As the draft Environmental Impact Report states that this project would result in **significant** and **unavoidable** impact on the aesthetics, precious resources (such as agricultural, cultural, historical and tribal), air quality, noise, population, and transportation.

I object to the paving over farmland which will increase traffic congestion on Interstate 5 and 80 and its connecting roads, along with increasing the poor air quality from cars and trucks.

Another threat of this project is to public safety because it increases flood danger to current residents.

I urge the members of the CPAC to **reject** this project.

Linn Hom

From: Angie S. <angiek.studios@gmail.com>
Sent: Sunday, October 13, 2024 1:45 PM
To: PER-CEQA <CEQA@saccounty.net>; Sac.Plan <sacplan@saccounty.gov>
Subject: Written Public Comment for: Upper West Side Specific Plan: PLNP2021-00177

Re: Upper West Side Specific Plan, **PLNP2021-00177**

To Whom It May Concern,

I am writing to express my strong opposition to the Upper Westside Specific Plan as currently proposed. While I recognize the need for urban development, the proposed project fails to adequately address the significant environmental concerns posed by its proximity to the Natomas Basin and Fisherman's Lake, critical habitats for several protected species, including the **Swainson's Hawk (*Buteo swainsoni*)** and the **Giant Garter Snake (*Thamnophis gigas*)**. Both species are listed as threatened under California and federal laws, and this project poses severe risks to their populations, as well as to the broader ecosystem of the region.

1. Inadequate Buffer Zones and Encroachment on Habitat

The proposed development plans to extend dangerously close to the boundaries of the Natomas Basin and Fisherman's Lake. For species like the Swainson's Hawk and the Giant Garter Snake, maintaining appropriate buffer zones is critical for minimizing disturbances. The Swainson's Hawk relies on open grasslands for nesting and foraging, and the close proximity of residential and commercial development will drastically reduce the available habitat and increase the risk of disturbance. Urban encroachment within **0.5 miles** of Swainson's Hawk nesting sites can lead to nest abandonment and population decline, yet the plan does not offer adequate setbacks from known nesting areas.

Similarly, the Giant Garter Snake depends on wetland habitats, and the project's proximity to these sensitive wetlands risks both habitat destruction and fragmentation. Current research indicates that this species requires extensive wetland corridors for foraging and migration, and buffer zones of at least **300 feet** from wetland edges are necessary to preserve this habitat. The Upper Westside Specific Plan fails to provide sufficient protection for these wetland areas, leading to potential habitat loss and further population declines.

2. Long-term Construction Disturbance and Habitat Degradation

The multi-year construction process associated with a development of this scale will have a prolonged and cumulative impact on the wildlife in and around Fisherman's Lake. Noise, light pollution, and physical disturbances caused by heavy machinery will disrupt the natural behaviors of both the Swainson's Hawk and Giant Garter Snake, particularly during critical periods such as nesting, foraging, and migration. Continuous construction activities may lead to nest abandonment for the hawk, and could displace or even kill Giant Garter Snakes during their active season.

3. Traffic Congestion and Infrastructure Strain

The DEIR acknowledges that the introduction of thousands of housing units and commercial space will increase traffic in the area, yet the mitigation strategies outlined in the report are insufficient to address the scale of the congestion that will follow. The surrounding freeway systems, including major interchanges, are already heavily trafficked, and the addition of this development will exacerbate an already strained infrastructure. Without significant upgrades to these systems and the development of alternative transportation solutions, traffic congestion will become a major quality-of-life issue for both existing and new residents.

The DEIR does not adequately account for the impact on nearby interchanges, particularly those connecting to the I-5 and I-80 corridors, which will experience heightened congestion as a direct result of this project. Further evaluation and traffic impact studies need to be conducted to provide a more realistic picture of how this development will affect commuting patterns and regional traffic flows.

4. Noise Pollution from Sacramento International Airport

The proximity of this development to Sacramento International Airport introduces a significant noise pollution risk that has not been fully addressed in the DEIR. The noise generated by airport traffic, including both passenger and cargo flights, will have detrimental effects on residents' health and quality of life, particularly in the absence of appropriate mitigation measures.

Despite recognition of noise as a potential issue, the DEIR does not offer robust solutions for how to mitigate airport noise for the thousands of new residents expected in the area. Sound insulation and other building standards need to be enforced to ensure that homes are adequately protected from constant aircraft noise. Additionally, establishing more comprehensive buffer zones between the airport and residential areas is critical. I urge Sacramento County to ensure that all possible measures to minimize noise pollution are fully considered and implemented before any further development takes place.

5. Recommendations

Given the numerous environmental risks posed by this project, I urge the County of Sacramento and all relevant stakeholders to:

- Increase the size of buffer zones to **at least 0.5 miles** for Swainson's Hawk nesting sites and **300 feet** for wetlands critical to the Giant Garter Snake.
- Conduct further studies on the long-term impacts of construction and post-construction habitat degradation on these sensitive species, and revise the

DEIR to reflect these findings.

- Implement stronger, locally-focused mitigation measures, including on-site habitat restoration and enhancements, rather than relying on off-site mitigation banks.
- Address the projected traffic impacts more comprehensively, focusing on the major freeways and interchanges affected by the new developments.
- Enforce soundproofing measures in buildings near the airport and implement larger buffer zones to mitigate the adverse effects of noise pollution.

In conclusion, the Upper Westside Specific Plan, as currently proposed, presents significant risks to the Swainson's Hawk, Giant Garter Snake, and other wildlife that depend on the habitats within and around Fisherman's Lake. The environmental impacts of this development are far-reaching and potentially irreversible. The plan also fails to provide sufficient solutions to the significant increases in traffic and noise pollution. For these reasons, I strongly urge you to reject this plan or substantially revise it to prioritize the protection of the sensitive ecosystems, mitigate traffic concerns, and implement robust noise pollution controls before proceeding.

Sincerely,

Angie Sawaya



www.swainsonshawk.org

Send all notices & correspondence to: Friends of the Swainson's Hawk, 8867 Bluff Lane, Fair Oaks, CA 95628 916-769-2857 friendsoftheswainsonshawk@gmail.com

October 21, 2024

Sacramento County,
 Department of Community Development, Planning and Environmental Review
 Division Attention: Environmental Coordinator
 827 7th Street, Room 225 Sacramento, CA 95814;
 Via email CEQA@saccounty.gov

Re: Upper Westside Specific Plan (State Clearinghouse No 2020100069, County Control Number PLNP2018-00284)

Friends of the Swainson's Hawks concurs with the comments of the Environmental Council of Sacramento (ECOS), forthcoming, which incorporate our concerns about the DEIR as an informational document and address the deficiencies in the DEIR.

We are transmitting via separate attachments to this letter, references not included in the DEIR which are referenced in the ECOS comments. Please include these documents in the record.

The following two documents are included in Appendix J, to the NBHCP, on the Natomas Basin Conservancy website, attached.

1994 Permit Number 199200719 U.S.ARMY ENGINEER DISTRICT.SACRAMENTO CORPS OF ENGINEERS 1325 J STREET SACRAMENTO,CALIFORNIA 95814-2922

March 11, 1994, US Fish and Wildlife Service, Endangered Species Act Consultation on the Revised Natomas Area Flood Control Improvement Project (PN 199200719) in Sacramento and Sutter Counties, California

2003 IMPLEMENTATION AGREEMENT FOR THE NATOMAS BASIN HABITAT CONSERVATION PLAN

June 24, 2003 United States Department of the Interior FISH AND WILDLIFE SERVICE,
Sacramento Fish and Wildlife Office
Intra-Service Biological and Conference Opinion on Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the City of Sacramento and Sutter County for Urban Development in the Natomas Basin, Sacramento and Sutter Counties, California.

National Wildlife Federation v. Norton, Civ-S-04-0579 DFL JFM (E.D. Cal. Sep. 8, 2005)

ICF. 2024. *Natomas Basin Habitat Conservation Plan Area Biological Effectiveness Monitoring Report: 2023 Annual Survey Results*. July. Prepared for the Natomas Basin Conservancy, Sacramento, CA. Prepared by ICF, Sacramento, CA).

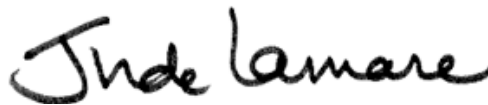
Yolo County Ordinance Chapter 10, "Habitat Mitigation Ordinance"

Wood, et al, "Defining Population Structure And Genetic Signatures Of Decline In The Giant Gartersnake (*Thamnophis gigas*)" Conservation Genetics (April 11, 2015)

Thank you for your assistance in this matter.



James P. Pacht



Judith L. Lamare

Josh W. Harmatz
4171 Garden Hwy
Sacramento, CA, 95834
joshharmatz@gmail.com
916-284-2507

October 13, 2024

Sacramento County Board of Supervisors
827 7th Street, Room 225
Sacramento, CA 95814

Subject: Comments on the Draft Environmental Impact Report for the Upper Westside Specific Plan (Control Number: PLNP2018-00284)

Dear Members of the County Board of Supervisors,

I am writing to submit my formal comments on the Draft Environmental Impact Report (EIR) for the Upper Westside Specific Plan (UWSP). As a resident of the area, I have serious concerns regarding the traffic impacts, road safety issues, and quality of life reductions that the proposed development will impose, specifically related to Garden Highway, Powerline Road, and West side of Del Paso Road.

Traffic Impacts and Roadway Conditions

The roads in question, including Garden Highway, are currently narrow, single-lane roads that do not meet current county standards, with lane widths ranging from 8 feet to 10 feet. According to the Local Transportation Analysis (March 2022), these roads are already at or near capacity in peak travel times, and the additional traffic from the proposed 25,000 new residents, heavy commercial vehicles, and workers commuting to the commercial spaces at Metro Air Park will severely exacerbate the existing problems.

The Draft EIR acknowledges the requirement to widen Garden Highway to 12 feet in each direction, with a 6-foot shoulder. However, the current development proposal does not provide adequate solutions for how this widening will be funded or executed. Recent improvements to the levee system along Garden Highway, including setback levees and power pole relocations, have already been completed without considering the road widening necessary for this project. Additionally, neither the U.S. Army Corps of Engineers nor the Central Valley Flood Protection Board have been consulted regarding these modifications, which are crucial to ensure both traffic safety and flood protection.

Recommendation: I strongly urge the Board to delay approval of the Upper Westside Specific Plan until the necessary road improvements are fully funded and coordinated with the U.S. Army Corps of Engineers and the Central Valley Flood Protection Board. This coordination is

essential to prevent conflicts with existing flood protection measures and to ensure that these roads can safely accommodate the additional traffic load.

Request for Updated Freeway and Local Road Impact Study

The current traffic analysis does not adequately address the potential for freeway congestion along highways I-5 and 99 to divert traffic onto local roads such as Powerline Road and Garden Highway. During peak congestion, vehicles, including heavy trucks, often reroute through these roads to access I-80 or downtown Sacramento. With future developments such as 3 million square feet of commercial space at Metro Air Park, the Watt EV project, Sacramento Airport expansion, Airport South Industrial Project, and the Upper Westside development, freeway congestion and traffic rerouting will worsen significantly and were not adequately modeled in the 2022 traffic study.

Recommendation: A revised comprehensive freeway impact study should be commissioned to evaluate the rerouting effects during peak traffic times. The study should assess how increased traffic from these developments will impact Powerline Road and Garden Highway and provide mitigation measures to prevent traffic volumes from exceeding road capacity. It is critical to address these freeway impacts before development moves forward.

Sand Cove Park and Beach – Environmental Impact on Salmon Population

Sand Cove Park, located at 2005 Garden Highway, will likely experience a sharp increase in visitors due to the 25,000 new residents joining the Upper Westside community. The EIR fails to address how this increased activity will impact the park's resources, such as parking, trash management, and safety, as well as the environmental impact on the Sacramento River and its protected salmon populations.

The Sacramento River is home to several protected salmon species under federal and state regulations. Increased human access to the river through the park could lead to pollution, illegal fishing, and habitat disruption, potentially harming these vulnerable species.

Recommendation: I urge the County to conduct a thorough study on the expected increase in visitors to Sand Cove Park, other riverside beach access areas, and its impact on the river's salmon population. This study should also include a plan for increased funding for trash management, parking, and enforcement of fishing regulations to protect the ecosystem. The potential harm to native fish populations due to increased human activity needs to be fully assessed and mitigated.

Class 1 Bike Path on Garden Highway Setback Levee

The proposed Class 1 bike path along the Garden Highway setback levee raises concerns. A Class 1 bike path must meet specific standards, such as providing an 8-12 foot wide paved right-of-way for exclusive bicycle and pedestrian use, with a 2-foot shoulder on each side.

However, the Draft EIR lacks details on funding, the construction timeline, and coordination with the Central Valley Flood Protection Board and the U.S. Army Corps of Engineers to remove existing barriers like power poles and steel barriers.

Recommendation: The County should require a fully developed plan for the Class 1 bike path, detailing how it will meet Sacramento County's design standards. This plan must include specific funding sources and commitments from the Central Valley Flood Protection Board and the U.S. Army Corps of Engineers to remove existing obstacles. Additionally, the timeline for the bike path's construction should align with the overall development project to ensure that it is built in a timely manner.

Safety Concerns for Pedestrians and Residents

The increased traffic, particularly from large commercial vehicles (over 7 tons) that the project will bring, will pose significant safety risks to pedestrians, cyclists, and local residents along Garden Highway, Powerline Road, and West Del Paso Road. These roads are currently not suitable for high-traffic volumes, and the narrow widths, lack of proper shoulders, and deteriorating conditions make them dangerous for both motorists and non-motorists.

The Draft EIR acknowledges that operational deficiencies and potential safety issues at key intersections will remain significant and unavoidable, even with proposed mitigation measures. However, the plan does not provide adequate detail on how safety improvements will be implemented or who will fund these measures.

Recommendation: I urge the County to require the developer to provide detailed safety mitigation measures, including specific funding commitments and timelines for road widening, signage upgrades, and pedestrian infrastructure. Additionally, there should be traffic calming measures to slow down vehicles and protect non-motorists.

Impact on Emergency Response Times

The increased traffic and congestion from this development will also affect emergency response times. Garden Highway is a critical access route for emergency services, and increased congestion could significantly delay response times for fire, medical, and law enforcement services. The relocation of the primary fire station that serves the area compounds this concern.

Recommendation: The County should require an updated traffic study that addresses emergency vehicle access and response times under increased traffic conditions. This analysis should ensure that emergency services can maintain current response times, particularly during peak congestion periods.

Quality of Life and Long-Term Impacts

The projected traffic increases will not only affect road safety and emergency services but will also significantly reduce the quality of life for existing residents. Increased noise levels, air pollution, and the constant flow of large vehicles will make the area less livable and more hazardous for residents. The lack of current infrastructure to support this level of development will worsen congestion, leading to longer commute times and decreased property values.

Recommendation: The County should require a more current and detailed transportation study that takes into account post-pandemic traffic conditions, and the project should be delayed until all necessary infrastructure improvements are fully funded and approved. Additionally, any future development should include provisions for mitigating long-term impacts on air quality, noise, and local traffic congestion.

Conclusion

In conclusion, the Upper Westside Specific Plan, as currently proposed, will have severe and unavoidable impacts on traffic, safety, emergency services, and the overall quality of life for existing residents. These issues are not adequately addressed in the Draft EIR, and there is a clear need for more comprehensive planning and coordination before this project can proceed.

I respectfully urge the Board of Supervisors to delay approval of the project until the following conditions are met:

1. Completion of a fully funded and detailed plan for widening Garden Highway to County standards (12 feet wide lanes with 6-foot shoulders) in coordination with the U.S. Army Corps of Engineers and the Central Valley Flood Protection Board.
2. Commissioning of a revised freeway impact study to analyze rerouting effects from post-pandemic traffic and nearby developments in the approval and development process, and their impacts on Powerline Road and Garden Highway.
3. Implementation of clear and specific safety measures for pedestrians, cyclists, and motorists, with funding commitments from the developer.
4. Completion of a current, updated urban road traffic study that takes into account post-pandemic traffic patterns and ensures that the roadways can handle the projected traffic volumes.
5. Coordination with emergency services to ensure that response times are not adversely affected by increased traffic and congestion.

6. A comprehensive study on the environmental impacts to Sand Cove Park and the Sacramento River to assess increased human activity's effects on the protected salmon population, with mitigation measures to address trash management, fishing regulations, and park infrastructure.

7. A fully developed plan for the proposed Class 1 bike path, detailing the design, funding sources, and agency commitments necessary to remove existing barriers.

Thank you for your consideration of these critical issues.



ECOS
ENVIRONMENTAL
COUNCIL
OF SACRAMENTO

Post Office Box 1526 | Sacramento, CA 95812-1526

October 21, 2024

Sacramento County Planning Commission

Justin Raithel, Chair
Jofil Borja, Vice Chair
Damon Conklin
Mariana Corona Sabeniano
Joseph Devlin

Sent by email to BoardClerk@saccounty.gov

SUBJECT: AGENDA ITEM 3, October 21, 2024 Sacramento County Planning Commission
Natomas – Upper Westside, PLNP2018-00284 – GP Amendment, Specific Plan, etc.

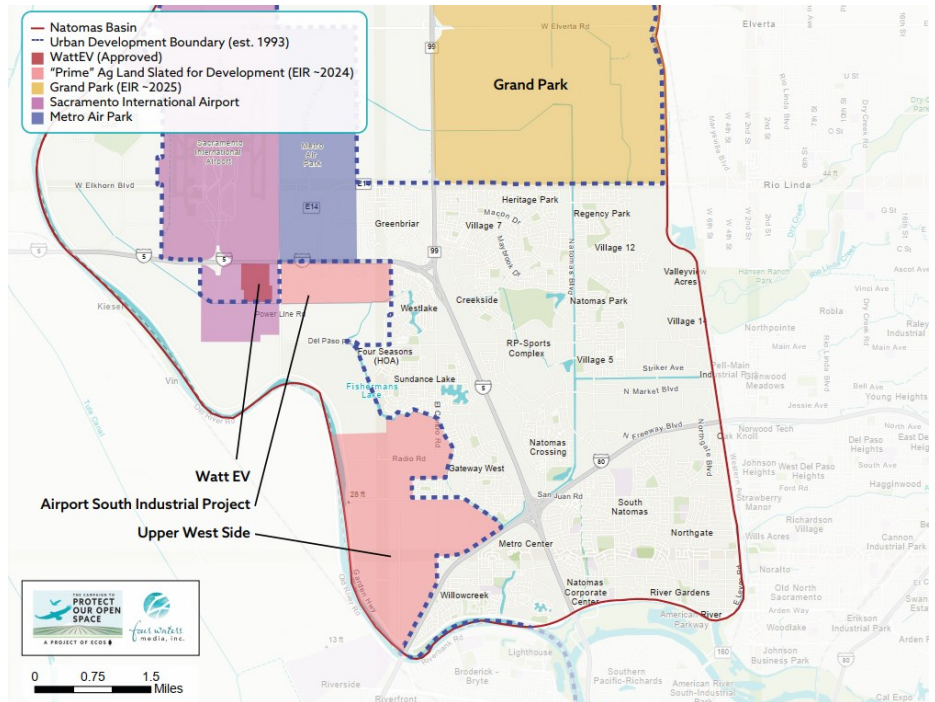
Dear Chair Raithel and Planning Commissioners,

The Environmental Council of Sacramento, which includes a number of Natomas residents, asks you to consider the following issues as you review the Upper Westside project and its Draft Environmental Impact Report.

1) **Consider all of the developments currently being proposed.** Review the Upper Westside in the context of the entire 8,000 acres across three projects now proposed for development in the Natomas Basin in Sacramento County.

The map at right highlights the Upper Westside, Airport South Industrial, and Grand Park projects.

These projects would dramatically decrease open land in Natomas and present impacts to traffic, air quality, flood control, the Natomas Basin Habitat Conservation Plan, and City services -- all of which should be considered together.



2) **Consider what it means to break through the Urban Services Boundary (USB).** This boundary, in place for three decades, is based upon jurisdictional, natural and environmental constraints to urban growth and “is intended to be a permanent growth boundary not subject to modification except under extraordinary circumstances.”¹

All three of the projects would break through the USB. Changes to the USB are to be made only for “extraordinary projects” and yet there is nothing extraordinary about Upper Westside except that it is close to the City of Sacramento. What is extraordinary about the area is the deep, prime agricultural soil from many years of overflow from the Sacramento River.

The USB was drawn in 1993 to protect development from the risk of flood and fire, and to preserve agriculture, ranch, and habitat lands. The image below of Sacramento County shows the urbanized area inside the USB, with areas outside of it in GREEN. With climate change, the USB is a bulwark of sustainability for our region.

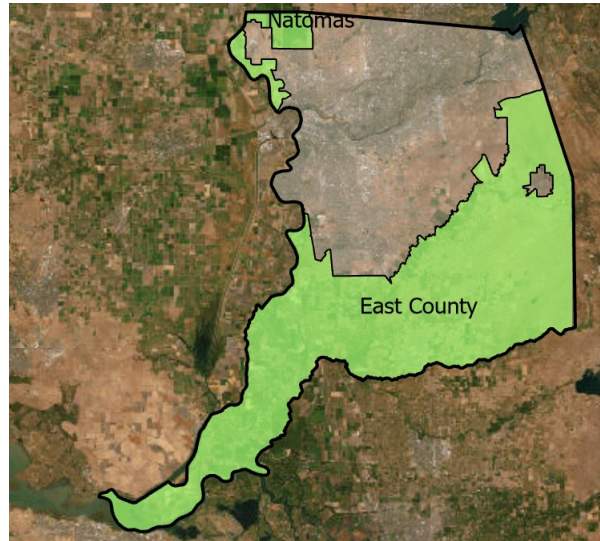
Consider the requirements in Sacramento County’s General Plan Policy LU-127 for projects that propose to break through the USB:

LU-127. The County shall not expand the Urban Service Boundary unless:

- *There is inadequate vacant land within the USB to accommodate the projected 25-year demand for urban uses; and*
- *The proposal calling for such expansion can satisfy the requirements of a master water plan as contained in the Conservation Element; and*
- *The proposal calling for such expansion can satisfy the requirements of the Sacramento County Air Quality Attainment Plan; and*
- *The area of expansion does not incorporate open space areas for which previously secured open space easements would need to be relinquished; and*
- *The area of expansion does not include the development of important natural resource areas, aquifer recharge lands or prime agricultural lands;*
- *The area of expansion does not preclude implementation of a Sacramento County-adopted Habitat Conservation Plan;*

OR

- *The Board approves such expansion by a 4/5ths vote based upon on finding that the expansion would provide extraordinary environmental, social or economic benefits and opportunities to the County.*



Given the impacts of this project on the region and the Natomas community, the Upper Westside project does not meet most of the listed requirements, nor does it merit a finding of extraordinary benefits and opportunities by 4/5ths of the Board of Supervisors.

¹ [Sacramento County General Plan, Land Use Element](#)

3) Consider what it means to develop on land not within the NBHCP/MAPHCP Permit Acres. The NBHCP is basin-wide for important biological reasons. The hatched areas on the Natomas Basin Habitat Conservation Plan (NBHCP) below indicate where development is permitted. Land outside of the NBHCP/MAPHCP Permit Acres “is designated for retention as Agricultural Cropland by the Sacramento County General Plan.”²

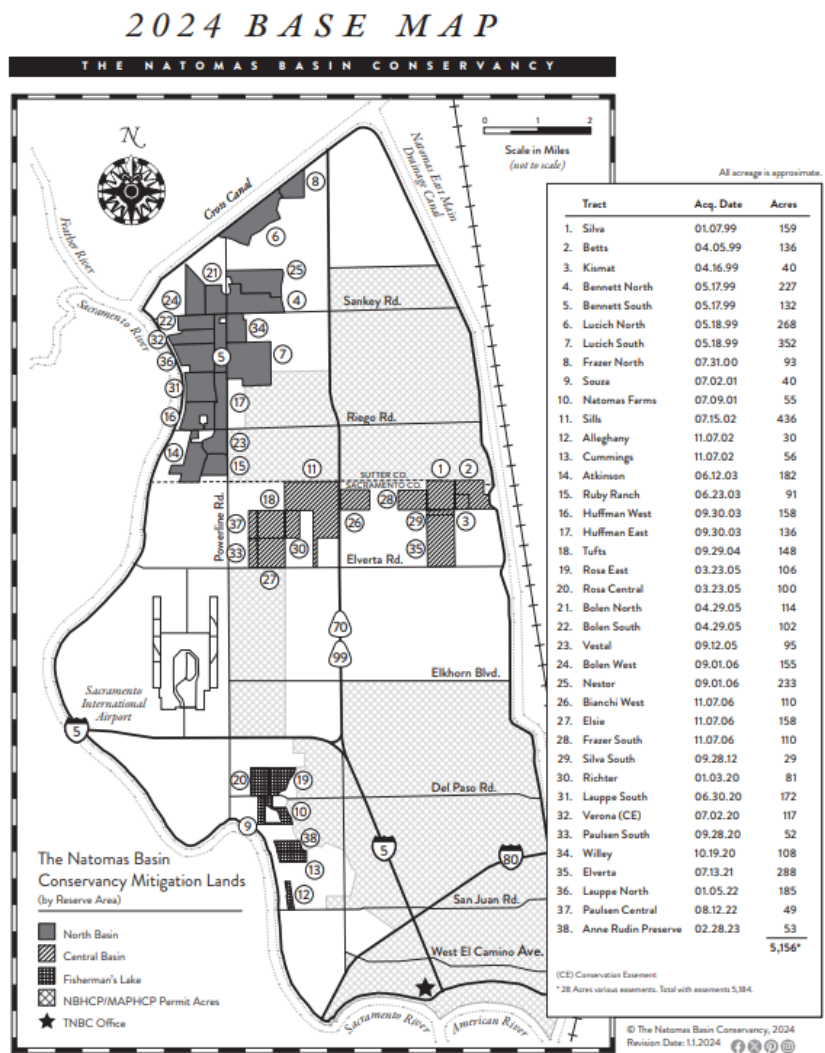
The Upper Westside project (Airport South Industrial and Grand Park as well) is proposed for areas outside of the NBHCP/MAPHCP Permit Acres. It would replace wildlife-supportive agriculture with concrete, vehicles and houses, severely impacting the resident wildlife in the Basin. The protection of resident wildlife in the Basin was promised when the City signed a contract with the federal government and approved the Natomas Basin Habitat Conservation Plan. Sacramento Area Flood Control Agency (SAFCA) also agreed to protect resident wildlife. The Upper Westside project cannot mitigate for its impacts to resident wildlife as the Natomas Basin is finite – the harm to the Basin’s wildlife conservation efforts will be irreparable.

The Natomas Basin is a deep flood basin. Much of the interior of the Basin is lower than the elevation of the Sacramento and American Rivers, particularly during annual high-water flows in winter and spring.

The Natomas levees were designed for a 200-year storm, as it was understood at the time of design in the late 1990s. Climate change is creating a moving target for flood protection, we no longer can accurately estimate size and frequency of floods.

In a crisis, flood mitigation requires everything to work perfectly – pumps, electricity, detention basins, canals, river levels, and people. Hurricane Helene just provided an example of what happens when systems are overwhelmed by water.

Development in the Natomas Basin should be consistent with the NBHCP.



² https://natomasbasin.org/wp-content/uploads/natomas-basin-habitat-conservation-plan/5nbhcland_use2006_a11y.pdf, pg III-13

- 4) **Consider how Upper Westside is inconsistent with the goals of the Blueprint.** On November 4, 2020, SACOG commented on the Notice of Preparation of the Upper Westside DEIR, stating “implementation of the Blueprint vision depends greatly on the efforts of cities and counties through local plans and projects. . . [and] the Upper Westside project and the project area itself are not anticipated for development in either the MTP/SCS or the Blueprint.”³

This is still true today. SACOG’s selected land use scenario for the 2025 MTP/SCS, dated April 2024, does not include the Upper Westside, or Airport South Industrial, or Grand Park – it includes no buildout in the coming decades, as shown in the excerpt at right.

SACOG went on to say “The Upper Westside project . . . raises important policy questions for the region’s implementation of the Blueprint. For example, the capacity for growth in existing entitled lands far exceeds expected demand

over the next twenty years: collectively, the region’s jurisdictions have entitled, or are in the process of entitling **2.5 times the region’s projected need for the next 20 years**. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development.”⁴ This means there is far more entitled acreage for new homes than the market will bear. Upper Westside is not needed.

- 5) **Consider how Upper Westside is inconsistent with General Plans.** The project proposes a change to Sacramento County’s General Plan from agricultural to residential/commercial uses. While the project would be in Sacramento County, it would likely be served with utilities and services by the City of Sacramento, and, in future, could be fully annexed into the City.
- 6) **Consider the project’s effect on our Air Quality Plan.** The proposed project would worsen the Sacramento regions ability to meet state and federal air quality standards by interfering with implementation of our Air Quality Plan. The Upper Westside DEIR makes clear that the project’s air quality impacts are significant and unavoidable. Failure to honor our Air Quality Plan could result in our area losing access to federal transportation funds.

Attachment A								
2025 Blueprint (MTP/SCS) Discussion Scenario								
April 2024								
Jurisdiction/Community Type	Baseyear and Buildout				Spring 24 Discussion Scenario			
	Existing Conditions (2020)		Potential Buildout		2020 - 2035		2020 - 2050	
	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units
Sacramento City								
Potential Developing Communities (not yet under construction)								
<i>Panhandle</i>	-	-	-	1,620	-	595	130	1,295
<i>Airport South Industrial Project</i>	-	-	-	-	-	-	-	-
Sacramento County Unincorporated								
Potential Developing Communities (not yet under construction)								
<i>Cordova Hills</i>	-	-	3,190	8,000	320	350	600	1,500
<i>Glenborough at Easton</i>	-	-	1,800	3,239	-	-	80	300
<i>South Mather</i>	-	-	940	3,522	-	400	730	1,805
<i>Aerojet</i>	1,600	-	40,180	-	-	-	-	-
<i>Elverta</i>	10	50	200	5,627	-	-	-	-
<i>Grand Park</i>	20	10	3,010	23,892	-	-	-	-
<i>Jackson Township</i>	10	30	900	5,690	-	-	-	-
<i>Jackson West</i>	1,240	110	11,210	16,484	-	-	-	-
<i>Newbridge</i>	110	10	450	3,075	-	-	-	-
<i>Upper Westside</i>	430	60	3,820	9,356	-	-	-	-
<i>New Induced Growth Areas</i>	200	500	-	-	-	-	-	-

³ MTP/SCS or Blueprint - <https://www.sacog.org/planning/blueprint>

⁴ James Corless, SACOG Ex Dir., November 4, 2020 letter to County Environmental Planning, Notice of Preparation of DEIR for Upper West Side Specific Plan (PLNP2018- 00284, p. 6)

- 7) Consider the other areas available for development.** Open land inside the Urban Services Boundary (USB) is available for housing, both in the City of Sacramento and unincorporated Sacramento County – land that is not in a deep flood basin or on prime farmland. In addition, there is enormous capacity for infill development in existing communities, especially around transit stations. Building in communities with existing public infrastructure and services can limit costs to local jurisdictions for maintenance and operations, and it can lower the combined housing-transportation costs to households. While the Upper Westside project proposes the City of Sacramento extend its utilities and services to the project, the City’s new 2040 General Plan strongly emphasizes infill development to provide needed housing.
- 8) Consider the land uses being proposed.** We need more housing, but it does not need to be located in the Natomas Basin; and the Upper Westside project does not address our most critical housing need -- for low income households.

The project proposes three million square feet of commercial space. For comparison, the Westfield Galleria shopping mall in Roseville is 1.3 million square feet. If this commercial space is built, will it take the life out of the 100,000 square-foot shopping mall at West El Camino and Truxel Road?

The proposed site is on the urban edge, bounded by the Sacramento River. For an educational campus, this means difficult access by automobile, and certainly by public transit.

- 9) Consider the traffic impacts.** The project proposes 9,000 residences and three million square feet of commercial space, plus the schools. The project will be almost entirely auto-centric. Thousands of auto-trips each day will significantly impact El Centro Road and West El Camino (whose width varies from 2 lanes to 6 lanes between I-80 and Northgate Blvd), as well as Garden Highway and San Juan Road (neither of which can be widened.)

Traffic will increase throughout South Natomas. The six-lane West El Camino overpass of I-80 and El Centro Road, at the primary gateway to the project, will be especially congested. This junction and the gateway itself, intended to be a “smart growth street”, will be bumper to bumper.

- 10) Consider impacts on biological resources.** The Upper Westside Specific Plan (UWSP), if approved, would harm the viability of the NBHCP conservation strategy and impair NBC’s ability to protect wildlife in its preserve system. The UWSP conflicts with the NBHCP’s intent to conserve wildlife in the Basin and fails to comply with the NBHCP’s proviso that additional development outside of the NBHCP/MAPHCP Permit Acres be mitigated by amending the NBHCP or writing/obtaining approval of a new HCP to cover the project’s impacts.

The NBHCP/MAPHCP Permit Acres are not built out so the impact on wildlife of full buildout is yet to be determined. At this time, key species are showing signs of serious decline, so, now is not the time to remove habitat. Instead NBC should respond with strategic and tactical remedial actions and additional resources.

NBC’s monitoring studies show Giant Garter Snake (GGS) has not been found at Fisherman’s Lake since 2017. This key indicator of species protection performance shows that the range of this federally endangered species has been reduced by development despite significant effort by NBC to build robust GGS preserves. This problem must be corrected before any more development outside of the NBHCP/MAPHCP Permit Acres is considered. The UWSP would have direct and indirect impacts on the Fisherman’s Lake preserve area and NBC and SAFCA mitigation properties included in and adjacent to the UWSP. The proposed mitigation is deferred, speculative, out of basin, and inadequate.

The UWSP removes 2,000 acres of essential habitat in the Swainson's Hawk zone, a key part of the NBHCP conservation strategy. Yet the Draft Environmental Impact Report does not mention the NBHCP's requirement for development projects proposed for land outside of the NBHCP/MAPHCP Permit Acres to obtain 2081 permits from the CA Department of Fish and Wildlife. Swainson's Hawk monitoring by the NBC has shown huge swings in nesting productivity, indicating a population under stress and unstable. The NBHCP is designed to support the Basin population of Swainson's Hawks through the various natural stresses in the environment. But this guarantee is only with the availability of at least 13,000 acres of foraging habitat, focused in the Swainson's Hawk Zone, maintained in the Basin in perpetuity per the 2003 NBHCP. UWSP proposes to mitigate for these impacts somewhere out of Basin. The project will result in the reduction of the range of the Swainson's Hawk and severely compromise its sustainability in the Natomas Basin.

11) Consider impacts on ground conditions. Development of the region would likely cause subsidence of the project area and exacerbate risks for natural hazards like flooding.

With 3 million square feet of commercial use, the weight load of construction may increase subsidence. The land proposed for the Upper Westside development, with its particular soil type, flood plain status, and proximity to the Hunting Creek-Berryessa fault system, has experienced "moderate to high land subsidence in the past." (DEIR, 11-15) Considering the area consists largely of expansive soils that shrink and expand dynamically, additional subsidence should be expected. In addition to the structural hazards that progressive subsidence poses, further depression of the already low-lying land would increase the intensity and range of flooding in and surrounding the area.

Project designs for Upper Westside should factor in the subsidence and flooding that the buildings will cause; should evaluate the buildings' contribution to regional subsidence and flooding and ensure that existing structures in the surrounding areas will not be compromised as a result of new construction-related subsidence.

While safe, code-compliant designs can mitigate the subsidence and flood risks to the buildings, the required structural and seismic measures may alter the land itself, and they may be costly. How costly would development of California Building Code- and County-compliant structures be, compared to development in other already approved greenfield plots within the USB?

12) "It's housing – what's not to like?!"

The capacity for growth in existing entitled lands far exceeds expected demand over the next twenty years according to SACOG. "Collectively, the region's jurisdictions have entitled, or are in the process of entitling **2.5 times the region's projected need for the next 20 years**. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development."⁵

This means there is far more entitled acreage for new homes than the market will bear. Upper Westside is not needed.

⁵ James Corless, SACOG Ex Dir., November 4, 2020 letter to County Environmental Planning, Notice of Preparation of DEIR for Upper West Side Specific Plan (PLNP2018- 00284, p. 6)

Conclusion:

The Upper Westside conflicts with land use planning actions of regional significance including:

- Blueprint – the Sacramento region’s smart growth plan concept that then-Senator Darrell Steinberg applied statewide in 2008 through SB375;
- Urban Services Boundary (USB) -- a Sacramento County construct, but which now in light of climate change has regional significance) [See the Powerpoint on why the USB was delineated as it was](#) – the forces that shaped it;
- Natomas Basin Habitat Conservation Plan – to protect twenty-two threatened species.

Each of these actions was hard won, painstakingly agreed to, and in place for decades. These land use actions are our legacy; they represent our core values. They are sustainability bulwarks against climate change. Don’t toss them aside.

Today, Sacramento County staff recommends that you end the DEIR process and “direct staff to prepare the FEIR.”

If you do this, you will turn your back on our planning legacy. Instead, we ask that you direct staff to reject the project and stop the process.

Sincerely,

Heather Fargo

Heather Fargo, Chair
ECOS Natomas Team



Susan Herre AIA AICP
President of the Board of Directors

Emma Patten
Senior Planner
Planning and Environmental Review
827 7th Street
Sacramento, CA. 95814

Re: Draft EIR for the Proposed Upper Westside Specific Plan

Dear Mrs. Patten,

Thank you for your previous responses to the Natomas Unified School District (NUSD) comments on the last drafts and the opportunity to provide comments on the current drafts of the Upper Westside Facilities Financing Plan (3rd draft) and Urban Services Plan (2nd draft).

NUSD is very appreciative of the efforts to provide for adequate school sites, central to proposed residential areas, with a focus on convenient and safe active transportation routes between proposed residential development and the proposed school sites. We agree with the need for four schools, and believe that the DEIR fundamentally includes them and they are required. The district respectfully requests the County require the evidence of a satisfactory plan that will ensure adequate funding of the schools before approval of the EIR. NUSD wholeheartedly supports the intent of the General Plan and General Plan policies, and we believe that the County's policy framework provides clear guidance for this Specific Plan and implementing documents, including:

Land Use Element, page 43 (Intent): "...Each residential development should have access to a variety of local destinations that provide for residents' daily needs, including retail, employment, recreational amenities, schools, and municipal and social services. The resulting non-automobile street activity will promote human contact and a sense of neighborhood, as well as reduce automobile traffic and the associated impacts."

Policy PC-6. Infrastructure Master Plan and Financing Plan (Requirements for Amending the General Plan Land Use Diagram). Required: Inclusion of an Infrastructure Master Plan and Financing Plan that include the following:

- The Infrastructure Master Plan shall identify required public facilities and infrastructure (including roads, transit, water, sewer, storm drainage, schools, fire, park, library, and



other needed community facilities) and associated costs for the development of the proposed UPA expansion/Master Plan;

- The Financing Plan shall:
 - ...Identify the phase or timing for when the facilities are needed;
 - Identify the funding mechanisms proposed to pay for the identified infrastructure and facilities...

Public Facilities Element, page 18 (Intent): “Schools are an important part of any neighborhood. In addition to their central educational role, they serve as a place for meetings, special programs, after-school play, soccer and little league games, and precinct voting. How well the school functions in these various roles depend very much on the school's location with respect to other community uses and how accessible it is... school siting and design should be a key element of a neighborhood planning effort. There remain many opportunities for design innovation and good, sensible planning to achieve neighborhoods which better integrate the school into the fabric of neighborhood life.”

Policy PF-29. Schools shall be planned as a focal point of neighborhood activity and interrelated with neighborhood retail uses, churches, neighborhood and community parks, greenways and off-street paths whenever possible.

Policy PF-30. New elementary schools in the urban area should be planned whenever possible so that almost all residences will be within walking distance of the school (one mile or less) and all residences are within two miles of a school.

Policy PF-35. New schools should link with planned bikeways and pedestrian paths wherever possible.

Public Facilities Element, page 20 (Intent): ...from a school facilities perspective, school enrollment and the size of the school site are basic requirements... in growing districts the problems of timely school construction and, above all, funding new school facilities requires resolution in order to achieve this objective.

NUSD greatly appreciates the County’s efforts to involve us in reviewing draft versions of the Public Facilities Financing Plan and also for the opportunity to review the Draft Specific Plan and Draft Environmental Impact Report (Draft EIR). As we move from draft to final versions of these documents, NUSD believes that the County’s General Plan – particularly the direction related to identifying the cost of required public facilities, identifying when public facilities are required, and providing funding for such public facilities – will be very helpful.

NUSD applauds the County’s planning efforts here – particularly the greenbelt system placement relative to school sites (summarized on Draft EIR page 2-23) and the strategic planning of school sites so that “over 90 percent of the proposed residential units would be within three-quarters of a mile of a K-8 school site” (Draft EIR, page 2-53).

In the Final EIR, Final Specific Plan, and Final Public Facilities Financing Plan, it will be important to arrive at mutually agreeable language that ensures funding in adequate amounts, and with the right timing such that school sites can be constructed within the Specific Plan Area when schools are needed by Specific Plan Area residents. This is important to meet expectations expressed in the aforementioned General Plan policies, but also because the analysis presented in the Draft EIR relies on the presence of school sites. For example, on page 8-41 of the Draft EIR is a description of the features of the Draft Specific Plan that would reduce vehicular travel demand and associated greenhouse gas emissions, including a note that “the proposed UWSP would include the development of commercial mixed use and employment/highway commercial uses, as well as schools... [and that]...[b]y providing a range of residential, commercial, and school uses within the UWSP area, approximately 22.9 percent of home-based trips associated with the proposed UWSP would be internal.” The rate of internal trips used in the air quality, greenhouse gas emissions, transportation, and transportation noise analysis in the Draft EIR would need to be adjusted if school construction is ultimately not feasible as presented in the Draft Specific Plan and Draft EIR.

Specific Comments and Questions

Page ES-15: Toxic Air Contaminants (and page 24-4). On page ES-15, in the Executive Summary table, the toxic air contaminants impact notes that there is a significant impact for exposure of sensitive uses to substantial pollutant concentrations. School uses are identified as being within 1,000 feet of Interstate 80. From the Land Use Plan, it does appear that there is a proposed K-8 school site within approximately 1,000 feet of Interstate 80, though we only have a PDF version of the Land Use Plan and cannot create an accurate estimate of this distance. Would Mitigation Measure AQ-4c apply to this school site – the mitigation measure that requires installation of high-efficiency filtration systems – to this school site? How would the ongoing maintenance, repair, and replacement of such a system (as described in the second bullet of this mitigation measure) apply to this school site?

Page ES-64: Greenhouse Gas Reduction Plan. The strategy for reducing GHG emissions relies on the preparation of Greenhouse Gas Reduction Plans for future project tentative maps (Mitigation Measure CC-1b). The District is interested in how this may relate to school facilities master planning as well as more detailed transportation facilities planning and improvements that ensure safe walking and bicycling routes between homes and school sites within the Specific Plan Area.

Bullet 2 of Mitigation Measure CC-1b identifies a performance standard of 1.42 metric tons of carbon dioxide equivalent per thousand square feet, measured in a future year. Does the estimate proposed in the Draft EIR include non-residential development proposed for school uses? If so, how would the strategies related to a prohibition on natural gas, on-site renewable energy, purchase of zero GHG electricity, tree planting, etc. apply to the proposed school sites? On page ES-64, there is reference to a strategy to reduce vehicular travel demand and associated GHG emissions through an “increase access to common goods and services, such as groceries, schools, and daycare.” Would this increase in access be achieved through augmenting the current active transportation plan to increase connectivity and ensure a very low stress active transportation network between proposed homes and school sites? The District is highly supportive of a transportation system that would distribute

traffic and provide very low stress and convenient pedestrian and bicycle routes to the school sites, but we are unclear how an increase would be pursued beyond the estimates presented in the Draft EIR.

Additionally, since the estimates of GHG emissions rely on the presence of the four proposed school sites, what mechanism would be most effective for ensuring adequate funding for these school sites for the Specific Plan and EIR? How would the future GHG Reduction Plans prepared at the tentative map level guarantee adequate funding to provide for school sites?

Page ES-98, Subsequent Review for School Parking Lot Noise (and page 15-46). On this page of the Executive Summary is an overview of an impact related to the placement of proposed noise-sensitive uses near proposed school sites that would have parking areas. Mitigation Measure NOI-4a (page 15-48) suggests that there would be a future acoustical study to evaluate parking lot-generated noise relative to the County’s exterior noise performance standards with building placement, buffering through distance, or a sound wall to shield adjacent proposed noise-sensitive uses from parking lot-generated noise. NUSD supports strategies to avoid land use-noise compatibility issues in this Specific Plan – both issues that would affect educational activities at the proposed school sites and issues that could be caused by school-generated noise. However, NUSD is interested in clarifying that, if buffering is required in the future, that this buffer would be required outside of the proposed school sites, if a sound wall is proposed, that this would be constructed by others outside of school property, and that if a sound wall is constructed, that it not interrupt casual surveillance of the area and not interrupt pedestrian and bicycle connectivity in the vicinity of school sites. In addition, it may not be feasible to place buildings in locations that would break the line of site between future parking fields and adjacent noise-sensitive uses.

Page ES-108, Subsequent Review for School Parking Lot Noise (and pages 15-46 and 15-64). NUSD has the same questions about the school parking lot noise discussion and Mitigation Measure NOI-7h on page ES-108 as we have in relation to the discussion on page ES-98 and Mitigation Measure NOI-4a.

Page ES-108 and 109, Subsequent Review for School Playground Noise (and page 15-64). The Draft EIR includes an impact related to the placement of proposed residential uses near possible future playground areas within future school sites. NUSD strongly supports the County’s goal to avoid land use-noise compatibility issues that could arise but we do feel that this should be balanced with a goal of making sure that school sites are fully integrated into planned residential areas in a way that supports safe and convenient walking and bicycling to school. Mitigation Measure NOI-7i recommends a minimum 90-foot setback between the center of play areas and adjacent “residential boundaries.” NUSD assumes this setback would be from the center of future playground activity areas and outdoor gathering spaces associated with future residential developments, rather than 90 feet from the edge of adjacent residential property boundaries, but this clarification could be helpful. In addition, the proposed mitigation seems to suggest that the recommended buffer would be provided by future school site planning. While such a buffer may be feasible, NUSD must consider a broad range of criteria in site planning, and it may not be possible in all cases to ensure such a buffer on the school property. It may be necessary to relax the referenced exterior and interior

standards for residential dwellings adjacent to school sites or to consider building orientation and the location of outdoor gathering spaces for future residential development in areas adjacent to school sites.

Page ES-109, Subsequent Review for School Stadium and Sports Fields Noise (pages 15-64 and 15-65). On this page of the Executive Summary is an overview of an impact related to the placement of proposed noise-sensitive uses near proposed school sites that would have a stadium and sports fields. Mitigation Measure NOI-7j requires an acoustical study demonstrating compliance with County exterior noise performance standards prior to issuance of a building permit for proposed school uses. NUSD has a somewhat different process for school site planning and permitting that does not involve issuance of a building permit from the County. We are also interested in understanding who would prepare this acoustical study, and whether strategies to reduce noise exposure (distance, intervening structures, etc.) would be the responsibility of adjacent proposed residential tentative maps or other form of residential applications. NUSD absolutely supports the goal of avoiding adverse noise impacts associated with special events and use of sports fields. However, we do not believe that future residential sensitive outdoor areas near the proposed school sites have been identified, and NUSD has not done any programming or site planning for the school sites, either. Therefore, unless the site planning for proposed residential adjacent residential areas occurs in tandem with school site planning and there is flexibility on the placement and methods of noise attenuation, it may be necessary to relax the exterior noise standards for special events and school use of outdoor sports fields. In addition to "operational limits on amplified sound equipment," it may be possible to reduce noise exposure through design of public address systems, such as through the sizing and placement of loudspeakers, but this option involves additional expense, and NUSD is not in a position at this time to determine definitively whether such additional expense would be feasible for future school sites within the Upper Westside Specific Plan Area.

Page ES-113, School Impacts (and page 17-17). In this portion of the Executive Summary, the Draft EIR explains that "the NUSD has existing capacity for the elementary and middle school students generated by the proposed UWSP, it does not have existing capacity for the high school students generated by the proposed project." The Draft EIR goes on to explain that school facilities "impacts are included as part of the analysis of physical impacts to the environment." This is true so long as the school sites that are proposed are developed with school facilities as identified in the Draft Specific Plan and Draft EIR. The Draft EIR assumes the presence of these schools, and impact analysis related to criteria air pollutant emissions, greenhouse gas emissions, transportation noise, and other topics assumes that the proposed school sites are operational for K-8 and high schools. Since the analysis assumes the presence of the planned schools, and since NUSD has provided information on the current cost of school facilities and the need for additional funding to ensure that schools can be provided as identified in the Specific Plan and Draft EIR, it will be important to include language in the County's documents that ensures adequate funding and requires that adequate funding is available for construction of planned schools once they are needed to serve proposed residential development in the Specific Plan Area.

Also, in this part of the Executive Summary, the Draft EIR notes that, "compliance with mitigation measures... would reduce construction-related effects to the extent feasible." NUSD would typically

conduct environmental review for proposed school sites, and in the past, NUSD has coordinated this review with Sacramento County as a responsible agency. Assuming NUSD conducts environmental review of the planned school sites within the Specific Plan Area, this environmental review would require feasible mitigation for potentially significant impacts, including construction-related impacts. It may be helpful to understand which mitigation measures specifically are being referenced here for future school sites in the Draft EIR.

Page 2-59, Phasing. The text on page 2-59 suggests that, “non-residential development anticipated under Phase 1 includes 1.3 million square feet of office development, an elementary school, and a 33.5-acre community park.” Certainly, the first phase of development will require school facilities, and the analysis in the Draft EIR relies on the presence of school facilities, but it appears that Plate PD-22 shows the southern half only of a proposed K through 8 site rather than a complete school site. Clarification here could be helpful regarding the details of the phasing (and funding) approach for school sites to serve proposed residential development.

Page 4-18, Lighting Impacts. The Draft EIR discusses the planned high school site and associated outdoor lighting impacts. The Draft EIR identifies that such lighting would be required to comply with “Countywide Design Guidelines and Commercial Lot and Commercial and Institutional Project Development Standards in Chapter 5 of the Zoning Code.” NUSD would typically conduct environmental review for proposed school sites, and would include feasible mitigation to address potentially significant impacts. If the future high school site includes outdoor sports lighting standards, and if there could be a potentially significant impact associated with this component of a future high school project, NUSD may indeed require that sports lighting include certain design components to avoid light spillage and glare. However, it would be helpful to have more clarity about any mechanism that would require school sites to comply with the County’s Zoning Code.

Page 5-12, Pesticides. The Draft EIR includes a reference to a requirement for agricultural operators to notify schools if their agricultural operation is within a quarter mile from the school boundary and identify all pesticides to be used during the school year. What pesticides are currently applied during the school year in areas near planned school sites? Please provide documentation that sites designated AG-Cropland near the planned school sites will not use pesticides during the school year once these schools are operational.

Page 8-40, Greenhouse Gas Reduction Actions in the 2022 Scoping Plan Update. Appendix D of the 2022 Scoping Plan identifies local actions that can be taken to reduce greenhouse gas emissions, including off-site mitigation (California Air Resources Board 2022 Scoping Plan, Appendix ED, page 30). Among off-site mitigation options is:

“Off-site EV chargers can increase access to EV charging throughout a community. Some examples could include EV chargers in multi-unit dwellings in disadvantaged or low-income areas, public locations (schools, libraries, city centers), workplaces, key destinations (e.g., parks, recreation areas, sports arenas).”

It may be worth considering identifying the funding of EV chargers within the proposed school sites as an additional greenhouse gas emissions mitigation strategy.

Page 15-49, Sound Generation Area of the Pavilion. There is discussion here of a plan for amplified music events at “the pavilion,” but NUSD is unable to find a discussion of this element in the Draft Specific Plan. It may be helpful to understand the location of this planned facility vis-à-vis planned school sites. On page 24-6 of the Draft EIR, there is a discussion of an outdoor pavilion in a proposed 25.8-acre park in the west-central portion of the Specific Plan Area, but NUSD is unable to find any park site of this land area on the Land Use Plan.

Page 17-8, School Downsizing. The Draft EIR includes a statement here that NUSD would like to have clarified: “[t]hrough careful planning, a reduced Plan Area school site could follow the recent trend of school downsizing and meet the Department's criteria.”

Page 22-63, Construction of K-8 and High Schools. Here, the Draft EIR includes a statement that “[t]he proposed UWSP would construct K-8 schools and a high school to serve the needs of students generated in the UWSP area.” It is our understanding that NUSD would be responsible for construction and operation of the proposed school sites, though it is important to clarify the funding mechanisms for the construction of school sites and to include language requiring that such funding is available in amounts and with the right timing to ensure NUSD schools can serve students in the Specific Plan Area once dwelling units are occupied.

Again, NUSD is very appreciative of the County’s collaborative approach on the Public Facilities Financing Plan. We appreciate the opportunity to review the Draft Specific Plan and Draft Environmental Impact Report (Draft EIR). NUSD looks forward to continued collaboration with the County to find mutually agreeable language related to school funding for this ambitious and important development Plan.

Sincerely,

Lalanya Rothenberger
Lalanya Rothenberger
Executive Director, Facilities and Strategic Planning
Natomas Unified School District

County Planning Commission:

The following items are my comments for the County Planning Commission 21 Oct meeting, agenda item 3 (Upper Westside Specific Plan) and for the UWSP DEIR:

1. Agricultural Resources: The loss of local farmland and local produce (1805 acres) is very significant and irreplaceable. Mitigation Measure AG-1 (replacing on a 1:1 ratio) does not guarantee local farmland will be replaced "locally", with similar "prime soil", or even be actively farmed. Does the developer plan on buying currently unused "prime soil" land locally (1:1) and pay farmers to ensure it is actively farmed as it is today?
2. Cultural Resources: The land planning on being developed in the UWSP was originally part of the watershed for the Sacramento River before the levee was built and was a known area of historical tribal activity and burial site. When any construction on Garden Hwy is planned there is a requirement to investigate "on a parcel by parcel" basis for any historic-era archaeological resources even though all the land on Garden Hwy was elevated by dredging from the river and fill from elsewhere to build the aforementioned levee. Any development in the UWSP will have to excavate into the original watershed to the actual depth (and below) of these culturally significant areas, potentially causing irreparable harm. Is there a plan to investigate via Mitigation Measure CUL-2a and CUL-2b on a "plot by plot" basis based on the size of each new parcel (home/apartment) being built?
3. Noise: The increased traffic noise on Garden Hwy (and other previously low-use roads) will be substantially increased according to the UWSP DEIR. Speed reductions have been tried before but have not been effective and there is no room for any kind of noise wall / barrier. Other than "rubberized asphalt" how does the developer plan on reducing this new, unacceptable noise? The plan proposal of a stadium in the flat geometry of the previous farm land would greatly increase the noise levels as it travels unhindered across the new project.
4. Population and Housing: This project envisions population density equivalent to the most crowded parts of New York City of ~18,000 people per sq mile (taking into account most of the housing will be within 1 sq mile), with no real mass transit and a "job geography" that requires most people to drive. The DEIR states they believe a significant portion of residents will work in the project footprint and walk, bike, Uber, or carpool - but that does not reflect the reality of life in California. Directly from page 15 of the agenda proposal, the proposed UWSP "is ultimately inconsistent with SACOG plans, and thus would be considered to directly induce substantial unplanned population growth in the region." This in itself is reason enough to stop this ill-conceived project. The SACOG Blueprint was developed for a reason, stick to it. The County's Urban Services Boundary document says, "The County shall not expand the Urban Service Boundary unless there is inadequate vacant land within the USB." There is adequate vacancy inside the Urban Services Boundary for the number of housing units and commercial space the project proposes. Before considering this project, I urge you to hold public hearings on expanding the Urban Services Boundary if truly deemed necessary.
5. Transportation: The proposed addition of substantial traffic to an already bottlenecked I-5/I-80 via the already sub-par and "landlocked" West El Camino interchange is the Achilles heel of

this entire project. Based on their "Traffic Conceptual Feasibility Analysis", this project is already not feasible. It shows going from 16,000 daily traffic on the West El Camino / I-80 interchange (which is already gridlocked at certain times of day) to 69,000 with a LOS (Level of Service) of "F". Does this even account for all the new housing recently built to the east of the interchange? The DEIR envisions West El Camino being enlarged to 6 lanes (+ bike, pedestrian). This would also require increasing the width of the on/off ramps to 2 lanes, which there does not appear to be room for based on development already completed surrounding the interchange. Furthermore, what is the point of increasing the capacity of an interchange to a frequently gridlocked freeway that can't handle that capacity? All this development would exacerbate the use of surface roads to find alternate access to freeways away from the gridlock. The UWSP DEIR states on page 22-67 that traffic on Garden Hwy from Powerline to San Juan would double from 3300-4700 ADT to 7000-9500 ADT. Many commuters continue down Garden Hwy south of San Juan and thus I believe the additional traffic would constitute all of Garden Hwy from Powerline Rd to the I-5 interchange (near Chevy's restaurant). This is especially so considering all the proposed traffic to Garden Hwy from the new entrances (Radio Rd, Farm Rd [renamed Street 9 since no Farms], and Brytle Bend Rd [by I-80 bridge]) that the UWSP proposes. The DEIR states this volume exceeding 6000 ADT would necessitate a widening of Garden Hwy to conform with current County design standards. This widening could possibly have occurred when the adjacent levee was built in the last 10 years, but the County did not fund it and USACE would not approve it. The USACE has very strict levee guidelines and they would not authorize the new power poles to extend into the new widened levee "foot print" past where they currently are. Hundreds of these poles were removed and replaced in the last 10 years for the widened levee, and without removing and replacing them again (which the USACE won't allow) there is no room to upgrade Garden Hwy to the required County standards. The DEIR also states many of their other "required" transportation mitigation strategies require approval from other various agencies outside of County jurisdiction. Does the County plan on approving the UWSP before approval of all required agencies is assured? If this plan is approved, I believe we are setting ourselves up for Los Angeles style gridlock on our decidedly smaller Sacramento roads.

Unless the aforementioned issues can be resolved and a feasible design for the projected exponential traffic increase can be proven and paid for, any further time and money spent on this project is unwarranted.

Thank you for your time,

Arthur Gibson Howell
Natomas Resident

From: Amreen Gill <Amreen.X.Gill@kp.org>
Sent: Tuesday, October 22, 2024 1:05 PM
To: PER-CEQA <CEQA@saccounty.gov>
Subject: Upper Westside Project - In support

Hi there,

My name is Amreen Gill and I am a homeowner in Westshore and have been here since 2020. We are so excited about this project and the tremendous value that it will bring to our community. I listened to the public comments that were made yesterday and realized that the majority of those opposing this project are the elderly population who are not ready for change. The voices from our younger generation are really what we should be listening to as this project will probably take about 10-20 years to complete and will be the population frequenting this location.

As a new younger family with a toddler, we are so excited to hear about the schools, parks and housing developments this project will bring. Retail structure in this area would be amazing. It's difficult to find things to do in Natomas so we often find ourselves visiting downtown Sacramento or Roseville for entertainment. We would love to put our money spent back into our own community. We would fully support local business and want to be proud of our community aesthetics and show our friends the beautiful Westside canal and Town Center.

The infrastructure should be addressed including roadways to support this level of traffic and the levees to prevent flooding. As long as there are solutions for these issues, we are in full support of the Upper Westside Project.

Thank you so much,
Amreen Gill PA-C. MPH

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Thank you.

Sacramento County
Community Development, Planning and Environmental Review
827 7th St, Room 225
Sacramento, CA 95814

OCT 03 2024

County of Sacramento
Department of Community Development
Planning and Environmental Review Division

RE: **Public Comment on Draft EIR for Upper Westside Specific Plan (SCH No. 202100069)**

Dear Sacramento County Planning Commission,

As a coalition of residents living in Natomas' Gateway West, Sundance Lake, Willow Creek, Natomas Crossing, Westlake, Creekside, Village 7 and Natomas Park communities, we are submitting the following comments in opposition to the Upper Westside Specific Plan (UWSP) in Natomas as proposed in the Draft Environmental Impact Report (DEIR). As concerned residents and advocates for responsible development and environmental conservation, we urge you to reconsider the long-term environmental and social impacts that this project would impose on the Sacramento region.

1. Impact on Vernal Pools and Wetlands

The Upper Westside area is home to vernal pools, wetlands, and unique ecosystems that support a wide array of native species, including several threatened and endangered species such as the Vernal Pool Fairy Shrimp and Giant Garter Snake. The DEIR acknowledges significant impacts on these sensitive habitats, yet the mitigation measures proposed do not adequately ensure the preservation of these fragile ecosystems. These ecosystems serve critical ecological functions, including water filtration, flood control, and providing habitat for migratory birds.

It is essential that development in this area be halted or scaled back to protect these vital wetland habitats. There are insufficient guarantees that the mitigation banking proposed will fully offset the habitat destruction caused by the UWSP. Once these ecosystems are lost, they're gone.

2. Flood Risks

The Natomas Basin is highly flood-prone, and the area identified for the UWSP sits within a FEMA-designated floodplain. Although the DEIR discusses levee improvements, the increased urbanization of this area would exacerbate flood risks and strain existing infrastructure. Climate change is expected to intensify the frequency and severity of extreme weather events, which could lead to catastrophic flooding, particularly as the Sacramento River and its tributaries swell.

Increased development in a flood-prone area runs counter to the region's commitment to climate resilience and puts both future residents and current taxpayers at risk, as levee failures or extreme floods would require significant public funding to mitigate the damage.

3. Increased Traffic and Air Pollution

The proposed UWSP would lead to an increase in vehicle traffic, contributing to greater air pollution and greenhouse gas emissions. The DEIR suggests that roadway improvements and

public transportation will address these issues, but realistically, the majority of residents will rely on personal vehicles. With climate change already affecting California, adding thousands of new car trips per day will only exacerbate the region's air quality problems and hinder the state's ability to meet its emissions reduction goals under SB 32.

4. Water Supply and Sustainability Concerns

The region is already experiencing significant water supply challenges due to prolonged droughts and over-extraction of groundwater. The Upper Westside Specific Plan would place additional stress on water resources, further threatening the long-term sustainability of the Sacramento Valley's water supply. The DEIR's analysis of water resources fails to adequately address how the proposed development will impact both surface and groundwater in the long term, particularly in light of recent droughts and climate forecasts predicting decreased water availability in the region.

5. Inconsistent with Regional Conservation and Smart Growth Principles

The UWSP is inconsistent with the Sacramento Area Council of Government's (SACOG) Blueprint for Smart Growth, which emphasizes compact, transit-oriented development that conserves open space and minimizes environmental impacts. The vast scale of the proposed development contradicts these principles and sets a dangerous precedent for unchecked urban sprawl, threatening not only natural habitats but also agricultural lands in the region.

Instead of encouraging suburban sprawl, Sacramento County should focus on infill development and increasing density within existing urban areas, where infrastructure can be more sustainably managed, and impacts on natural landscapes are minimized.

Conclusion

For the reasons outlined above, we strongly urge Sacramento County to reject the Upper Westside Specific Plan in its current form. The irreversible damage to vernal pools and wetlands, increased flood risks, traffic congestion, and strain on water resources pose significant threats to the environment, public safety, and regional sustainability. We respectfully request that the County explore alternative approaches that prioritize environmental preservation, smart growth, and long-term resilience to climate change.

Thank you for your attention to these important matters. We trust that the County will carefully consider the lasting impacts of the Upper Westside Specific Plan and act in the best interests of both the environment and future generations.

Sincerely,

Residents living in Creekside, Gateway West, Natomas Crossing, Natomas Park, Sundance Lake, Village 7, Westlake, and Willow Creek.

CREEKSIDE

V.7

Gateway West

WESTLAKE

Natomas Crossing

Willow Creek

Natomas Park

SUNDANCE LAKE

October 28, 2024

29

TO: CEQA@saccounty.net

FROM: Christine Olsen, Garden Highway, Sacramento County

SUBJECT: Comments on the UWSP EIR

Issues Throughout the EIR

Falsehoods, Inaccuracies, Misrepresentations

EIR's are intended, by law, to present the public and decision-makers with factual, evidence-based, unbiased information about current circumstances and a project's potential impacts. The UWSP EIR throughout contains false, inaccurate, and misleading statements, raising questions about the truthfulness, completeness and accuracy of the entire EIR document. False statements must be deleted. Misleading statements must be clarified. The EIR does not meet legal requirements or serve the public or decision-makers if it is not reliably thorough and accurate.

The project applicant does not have the necessary entitlements to proceed with the project. The UWSP EIR identifies changes the project applicant is seeking to the County's 2030 General Plan policies, County zoning, to the Urban Services Boundary, and to the Urban Policy Area, among others. But throughout the EIR, the EIR makes false claims that the project does not conflict with County plans and policies. That is not true. If the UWSP project was already consistent with, and had no conflicts with County plans and policies, then the project would not be seeking amendments and other entitlements in order to be compliant.

Under Agricultural Resources, the EIR says, "the proposed UWSP would not conflict with existing agricultural use and zoning." That is untrue. The project site is mostly zoned and used for agriculture and would be rezoned for urban uses, a violation of County policy. Under Land Use, the EIR says, "the proposed UWSP would not conflict with Sacramento County's Land Use Plans." That is inaccurate. There is a long list of County land use plans, policies and codes that the UWSP project seeks to change in order for the project to comply with and not to be in conflict with County policies.

Under Growth Inducement impacts, the EIR completely fails to address growth inducement impacts directly due to the project applicant's requested changes to County plans, policies and codes.

The EIR is required by law to identify existing conditions and accurately state impacts from a proposed project. The current zoning for the project area is largely agricultural and has not yet changed. The EIR cannot legally assume a proposed project has entitlements it does not have, such as in the Agricultural Resources section where the EIR says, "Because the entitlements requested as components of the proposed UWSP would change the zoning to make it consistent with the proposal, the proposed UWSP would not conflict with zoning for agricultural use within the UWSP area." That statement is grossly inaccurate, violates the legal requirements for an EIR, and it and any similar assumptions in the EIR that the project applicant has entitlements that the project applicant does not have and is seeking, should be removed.

Statements in the EIR must be deleted that say or suggest the UWSP project complies with or is consistent with County land use plans, policies and codes when in fact the UWSP does not currently comply with those County policies and when in fact the UWSP is seeking to change those County policy in order to comply.

Any statement that the project agrees in principle with or agrees with objectives in County plans and policies must be restated to make clear that the project does not in fact comply with County plans and policies, and changes would be needed to County plans, policies and codes for the project to comply and not conflict with County policies.

Mitigation is not Preservation

Throughout the EIR, the County's preservation policies are inaccurately equated with mitigation. The County has policies to preserve habitat and farmland. To preserve means to keep as is, intact. If habitat and farmland that County policy seeks to preserve are lost to urbanization, then there is a significant impact that is not identified in the EIR. Mitigations attempt to replace the loss somewhere else, but that is very different than keeping what exists intact. If the UWSP project is approved, an impact is that the farmland and habitat County policies sought to protect is lost forever. Mitigation may lessen the impact of the environmental harm but does not change the fact that farmland and habitat is not preserved where it currently exists. If I accidentally destroyed a family heirloom you were preserving, I could mitigate the loss by paying you, but the loss would remain.

Impacts Not Identified

The County's stated General Plan, Urban Services Boundary, and Urban Policy Area policies are intended to reduce urban sprawl and its impacts, preserve habitat and open space, and protect local farming. The UWSP project would have significant environmental impacts that conflict with those policies. These impacts should be and are not fully stated in the EIR.

Mitigations Outside Sacramento

The EIR fails to state that when mitigations occur outside Sacramento, Sacramento residents lose the benefits of those resources in their community.

Tables-Charts

The EIR is intended to be a public information document with clearly presented information. As recommended in CEQA guidelines, graphics help decisionmakers and the public rapidly understand the documents. The UWSP EIR would greatly benefit from more charts and tables where existing conditions and proposed changes are easier to see and compare, such as for commercial and retail square footage discussed under Urban Decay, in sections on agricultural acreage, housing units and elsewhere in the EIR where there are presentations of a lot of numbers that should be presented in tables for easy comparison.

Comments Specific to EIR Sections

Aesthetics

- The EIR notes that nighttime lighting from the UWSP project would have a permanent impact in the area. But the EIR fails to adequately address the harmful impacts of nighttime lighting on human health and on wildlife, including migratory birds using the Pacific Flyway.
- The EIR fails to identify possible nighttime lighting mitigations, such as establishing a minimum one-half mile setback between the UWSP project and any rural areas (i.e. Garden Highway), with the setback to include a minimum 100-foot-wide densely planted tree buffer of tall native evergreen trees at the western project boundary, with the setback established and the tree buffer installed before the first stage of project construction.

Agricultural Resources

- The proposed UWSP project site is currently primarily farmland classified as prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance. The EIR fails to state clearly that the UWSP project violates County policies that say the County shall protect these types of farmlands located outside of the Urban Services Boundary from the urban encroachment represented by the UWSP project.
- The UWSP is requesting a General Plan amendment to rezone prime farmland for urban use. The EIR fails to state clearly that the UWSP request conflicts with existing County policy which says the County shall not accept applications for General Plan amendments outside the Urban Services Boundary re-designating valuable farmland for urban use.

- The EIR fails to adequately assess impacts from changes the UWSP is proposing to County policies regarding farmland preservation.
- The EIR says, “the proposed UWSP would not conflict with existing agricultural use and zoning.” That is not true and must be deleted. The UWSP would conflict with existing agricultural use and zoning, turning farmland to urban use.
- The EIR says, “Because the entitlements requested as components of the proposed UWSP would change the zoning to make it consistent with the proposal, the proposed UWSP would not conflict with zoning for agricultural use within the UWSP area.” That statement is inaccurate, violates the legal requirements for an EIR, and should be removed. The project does not have requested entitlements. Project impacts must be assessed based on existing conditions.
- The EIR fails to make clear that County policy is focused on farmland rather than on land zoned for agriculture. Land zoned for agriculture may or may not be used for farming. The EIR should more clearly present the current number of acres available for farming, the number acres of farmland the UWSP project would rezone to urban uses, the number of acres of land available for farming if the project is approved, and the number of acres of farmland (land available for farming) that would be lost if the project is approved.
- The UWSP EIR gives the inaccurate impression that 534 acres of the UWSP would remain as farmland. That is not correct. The EIR must make a clear distinction between the acreage of land that can be farmed if the project is approved, and the acreage of agriculturally zoned open space land (buffer) that will not be used for farming.
- The EIR fails to identify that land in the UWSP area that would remain available for farming will be long and narrow, just 700 feet wide in some areas, bisected in 4 places by heavily trafficked project roads, and within 30-50 feet of UWSP urban activity conflicts, which together could make the remaining farmland impractical for any commercial farming. If that happened, it would mean the project would wipe out 100% of the farmland in that area – farmland County policy seeks to preserve.
- If County zoning has setback requirements between farming and urban activity, those setbacks should be clearly identified in the EIR. If the County does not have such setback requirements, the EIR team should contact an appropriate government agency or reputable nonprofit organization that has studied what setbacks should occur between farming and urban activity in order to avoid urban conflicts, and the findings of that research should be included in the EIR next to the proposed setback. The proposed setback of 30-50 feet, basically the width of a rural roadway, seems wholly inadequate.
- In considering impacts, the EIR fails to make clear that farmland provides multiple community benefits such as health benefits associated with open space, wildlife habitat, fresh food produced locally, as a food resource when there are disruptions to the food distribution system such as happened during the pandemic, and as a flood protection area between the Sacramento River and the Sacramento community.

Air Quality

- The EIR asserts, with no evidence, that the majority of employment related vehicle trips, and the pollution they create, will be to downtown Sacramento. It is wrong for the EIR to present VMT data as fact when it is not based on evidence. Focusing so much on VMT to downtown Sacramento serves to minimize air pollution generation data. The EIR should have considered VMT more realistically to multiple job centers. While downtown Sacramento is a job center, Sacramento County has more jobs than downtown, as noted in the EIR. Yolo County and Placer County are also job centers.
- The EIR fails to adequately address that project related air pollution and its resulting serious health impacts, as well as project construction dust, could be more severe on Garden Highway because of the prevailing wind that blows toward Garden Highway. Again, this impact could be partially mitigated by

establishing a minimum one-half mile setback between the UWSP project and any rural areas (i.e. Garden Highway), with the setback to include a minimum 100-foot-wide densely planted tree buffer of tall native evergreen trees at the western project boundary, with the setback established and the tree buffer installed before the first stage of project construction.

- The EIR fails to adequately address that project related air pollution and its resulting serious health impacts would directly impact children in UWSP area schools.

Biological Resources

- Sacramento County's 2030 General Plan and Urban Services Boundary explicitly state the purposes of the plans, in part, are to preserve habitat and open space. The UWSP project would violate those County goals. The EIR fails to state those violations clearly and fails to clearly and honestly identify impacts from the UWSP violation of those goals.

- Sacramento County policy says planning and development of new growth areas should be consistent with Sacramento County-adopted Habitat Conservation Plans and other efforts to preserve and protect natural resources. The UWSP project would put urban activity in a habitat conservation corridor in violation of County policy. The UWSP is not currently consistent with the Natomas Basin Habitat Conservation Plan and the Metro Airpark Habitat Conservation Plan. The UWSP conflicts with habitat conservation plans and conflicts with County policy are not clearly identified in the EIR and should be explicitly stated.

- The EIR fails to discuss the UWSP project impacts to the Sacramento River riparian area by putting urban development so close to the Sacramento River and its unique biological resources, habitat, and provision of a habitat corridor.

- Sacramento County policy is to actively plan to protect, as open space, areas of natural resource value, which may include but are not limited to wetlands preserves, riparian corridors, woodlands, and floodplains associated with riparian drainages. The EIR fails to point out that the UWSP project area is in the Sacramento River corridor, less than 1,000 feet from the Sacramento River. The EIR says, "No wetlands preserves, riparian corridors or floodplains associated with riparian drainages are present in the UWSP area so none will be affected by the project's development." That is incorrect. The farmland soils, wildlife and other biological resources present within the UWSP area are associated with proximity to the river and are part of the Sacramento River corridor.

- The UWSP EIR falsely equates the County's stated goals of habitat preservation with habitat mitigation. The EIR says the project's approach for habitat and biological resources present within the UWSP area is to provide compensatory mitigation. Mitigation is very different from the County's goal of preservation. Preservation means to keep as is, in place. Mitigation means to make a significant impact, such as loss of habitat, less severe. Making an environmental impact less severe still means there is an impact. The EIR should make clear the distinction between preservation and mitigation. The EIR should also make clear that even with compensatory mitigation, the UWSP project would still have a significant negative impact on existing area habitat and wildlife, and that loss would be permanent.

Hydrology and Water Quality

- Sacramento County policy is to actively plan to protect, as open space, areas of natural resource value, which may include but are not limited to riparian corridors and floodplains associated with riparian drainages. The EIR fails to point out that the UWSP project area is in the Sacramento River corridor, less than 1,000 feet from the Sacramento River. The EIR says, "No wetlands preserves, riparian corridors or floodplains associated with riparian drainages are present in the UWSP area so none will be affected by the project's development." That is incorrect. Farmland soils, wildlife and other biological resources, and tribal cultural resources present within the UWSP area are associated with proximity to the river and are part of the Sacramento River corridor. The EIR fails to provide this information.

- The EIR fails to identify that the proposed UWSP would put new urban development in the Sacramento River floodplain. In addition to exposing new populations to flooding, the impervious surfaces associated with urbanization increase flood risk beyond the project area. While the new Natomas levee is expected to provide 200-year flood protection from the Sacramento River, climate change increases the chance of extreme flooding. Recent flooding in Ashville, North Carolina is proof of that. Around the United States, communities are starting to reserve land near waterways to use as open space for flood protection. Current open space and farmland in the UWSP project area provides an additional level of community flood protection. The EIR fails to indicate that the proposed UWSP project would eliminate this community flood protection.

Land Use

Violations of County Plans and Policies

- Sacramento County's 2030 General Plan was intended to promote the efficient use of land, encourage economic vitality and reduce urban sprawl and its impacts, preserve habitat and open space, and protect local farming. The Urban Services Boundary was intended to implement that vision and promote orderly growth within the County. The EIR fails to state that the UWSP project violates the County's 2030 General Plan, County zoning, the Urban Services Boundary, the Urban Policy Area, and SACOG's Blueprint for regional development. The EIR fails to clearly and honestly identify impacts from the UWSP violation of those goals and fails to identify impacts from proposed changes to County policies.

- The EIR falsely says, "the proposed UWSP would not conflict with Sacramento County's Land Use Plans." That is not true. The UWSP violates the County's General Plan land use policies, as well as the Urban Services Boundary, the Urban Policy Area, and zoning policies. False statements do not belong in the EIR and should be removed.

- County policy says planning and development of new growth areas should be consistent with Sacramento County-adopted Habitat Conservation Plans and other plans and policies to preserve and protect natural resources within an existing community. The EIR then falsely says the UWSP proposes development that would be consistent with the County's growth management policies. The UWSP project violates current County General Plan, Urban Services Boundary and Urban Policy Area growth management policies. False statements must be removed from the EIR.

USB Violation

- The UWSP EIR does not present or discuss that Sacramento County has an Urban Services Boundary policy that says the County shall not expand the Urban Service Boundary unless there is inadequate vacant land within the USB to accommodate the projected 25-year demand for urban uses..." The EIR does not state clearly under Land Use that there is adequate vacancy inside the Urban Services Boundary for the number of housing units and commercial space the project proposes.

- The EIR offers no rationale for the County approving urban development outside the Urban Services Boundary.

- One of the goals of the Urban Services Boundary was to encourage infill development. Infill development advantages residents inside the new development and infill development adds vitality and benefits to the nearby community, maximizes the cost-efficiency of urban services such as transit, and reduces environmental impacts associated with urban sprawl. The EIR fails to discuss ways in which allowing development outside the Urban Services Boundary discourages infill development and disadvantages communities inside the Urban Services Boundary.

River Corridor Conflicts

- The UWSP project is within 1,000 feet of the Sacramento River. The UWSP's location in the river corridor should be but is never mentioned in the EIR. River corridors are unique land areas in a community,

providing rich habitat, habitat corridors, farmland, open space, important tribal cultural landscapes, and flood mitigation specifically associated with proximity to the river.

- River corridors are rare and valuable resources to residents of any community, and are particularly valued by residents throughout Sacramento County for the health benefits of open space as a respite from the urban environment, for the opportunity to see wildlife in their community, and for the benefits of locally grown food in soils enriched by centuries of river overflow. The loss of these river corridor benefits are not presented and discussed as impacts in the EIR and should be.

- Current Sacramento County policy has a goal to actively plan to protect, as open space, areas of natural resource value, which may include riparian corridors and floodplains associated with riparian drainages. The EIR fails to point out that the UWSP project area is in the Sacramento River corridor, less than 1,000 feet from the Sacramento River. The EIR says, "No wetlands preserves, riparian corridors or floodplains associated with riparian drainages are present in the UWSP area so none will be affected by the project's development." That is incorrect. False statements should be removed from the EIR. The farmland soils, wildlife and other biological resources, and tribal cultural resources present within the UWSP area are associated with proximity to the river and are part of the Sacramento River corridor.

- The UWSP EIR fails to identify impacts from locating UWSP urban development in a river corridor.

- The EIR fails to identify that river corridor degradation can only partially be mitigated in other river corridor areas. Loss of habitat corridor, loss of existing open space health benefits to local residents, loss of farmland and farm produce for Sacramentans in their community, loss of existing river overflow flood protection, and loss of a tribal cultural landscape will not be mitigated.

- The policies of the County's 2030 General Plan and the Urban Services Boundary protect a one-mile-wide river corridor, protecting river corridor habitat, farmland, tribal resources, and floodway overflow protection. The EIR fails to state that the UWSP would destroy those protections.

New Urban-Rural Land Use Conflicts

- Other than changing the aesthetics and rural character of the area, the EIR fails to address impacts from putting urban development within 700 feet of rural residential zoning, changing the expectations for area rural residents choosing to live in a rural residential zone (this is true for Garden Highway rural residential homeowners and homeowners on UWSP area farmland).

- The EIR should and does not identify feasible mitigations that might reduce urban-rural conflicts for a project like UWSP near rural residential areas like Garden Highway, such as requiring that the 20–30-year UWSP project construction begin closest to existing urban uses (i.e. near El Centro road), reaching rural areas last (i.e. Garden Highway), and this impact could be partially mitigated by establishing a minimum one-half mile setback between the UWSP project and any rural residential areas (i.e. Garden Highway), with the setback to include a minimum 100-foot-wide densely planted tree buffer of tall native evergreen trees at the western project boundary, with the setback established and the tree buffer installed before the first stage of project construction.

- If County zoning has setback requirements between rural residential zoning and urban activity, those setbacks should be clearly identified in the EIR. If the County does not have such setback requirements, the EIR team should contact an appropriate government agency or reputable nonprofit organization that has studied what setbacks should occur between rural residential zoning and urban activity in order to avoid conflicts, and the findings of that research should be included in the EIR next to the proposed setbacks.

Noise

- The EIR fails to adequately address the impacts from a proposed stadium, which would be close to residences in and all around the UWSP project area, including Garden Highway. Stadium traffic, noise,

and light do not belong in or near residential areas. Stadium noise can travel miles. County and City Code Enforcement offices and Sacramento stadium operators can confirm stadium conflicts with residential areas. Any stadium should be miles from any homes.

- The EIR fails to adequately address the impacts from amplified sound from the UWSP area, such as at the outdoor pavilion. Amplified sound should be prohibited in all residential areas. In the past, developers and the County have said that amplified sound can be regulated to minimize impacts. That has proven to be untrue. Over time, sound equipment and the location of speakers can change and noise makers like bull horns and portable sound systems can be introduced, resulting in uncontrolled noise that can travel more than 2 miles.

- The EIR fails to identify the health impacts of traffic noise, school and park noise, and amplified noise from the outdoor pavilion and stadium.

- The EIR fails to adequately address that project related noise, as well as project construction noise, could be serious impacts on Garden Highway residents because of the prevailing wind that carries sound toward Garden Highway.

Population and Housing

- The EIR should, and does not make clear that the UWSP has no commitment to a specific number or percentage of the type of housing Sacramento needs, including very affordable, affordable, missing middle duplexes and triplexes, senior housing and handicapped housing all located near transit.

- The EIR should and does not make clear that the UWSP has no commitment to including affordable housing as part of each housing development, so affordable housing is integrated in each phase of development, and not targeted for one area of the project, or built in the last phase of development in 20-30 years.

- The EIR should and does not make clear that the UWSP is unlikely to result in the development of any housing for at least 7 years (the projected time for construction of Phase 1). This project will not help with Sacramento's urgent housing needs.

Public Services and Recreation

- The EIR fails to mention that County policy says the County shall not provide urban services beyond the Urban Policy Area (UPA), because it is the intent of the County to focus investment of public resources on revitalization efforts within existing communities. The EIR fails to mention that the UWSP project violates this policy, and the EIR fails to identify impacts from the UWSP's violation of this policy.

- The EIR fails to indicate that the extension of public services to the project area is unanticipated and unplanned.

- The EIR fails to say the UWSP has no control over when some of the services and recreation areas would be available in the project area, which would, at least, increase vehicle trips to access services in other areas.

- The EIR fails to identify harms caused by the unplanned extension of public infrastructure and services to accommodate the UWSP outside the Urban Services Boundary and the Urban Policy Area, particularly the harms to the County's efforts to focus investment of public resources on revitalization efforts within existing communities.

Transportation

- The project EIR says traffic safety is a key consideration. However, the EIR fails to adequately address the severe and dangerous impacts UWSP traffic would have on the Garden Highway roadway and existing

Garden Highway roadway users. The EIR suggests the project could add 4,000 trips a day on Garden Highway. Garden Highway is a rural 2-lane, undivided, elevated roadway. Garden Highway is half the width it should be for traffic safety. It has blind curves, no shoulders and no guard rails. The greatest safety issue on Garden Highway, which the EIR fails to identify, is the mixed use of the road by personal vehicles, semitrucks, agricultural equipment, cars pulling boats, golf carts, individual and groups of cyclists, pedestrians, and wildlife, any of which can enter the roadway unexpectedly from farm roads, driveways, and the riverbank. Adding traffic to Garden Highway has life safety consequences which cannot be mitigated.

- The EIR fails to identify that a mitigation to serious Garden Highway traffic and other rural road safety impacts identified in the EIR is to reroute UWSP traffic to avoid and actively discourage UWSP traffic from using rural roads including Garden Highway.

- The EIR fails to identify that adding traffic to Garden Highway would change the physical safety characteristics and make recreational use of Garden Highway too dangerous for cyclists and for vehicle clubs such as antique car clubs and motorcycle groups, eliminating a valuable Sacramento recreational opportunity.

- The EIR fails to highlight that the UWSP would introduce freeway and rural roadway traffic hazards for Sacramentans for which the project applicant has no ability to compel or control mitigations. That could subject Sacramento roadway and freeway users to increased traffic safety hazards, potentially for many years.

- The EIR asserts, with no evidence, that most employment related vehicle trips will be to downtown Sacramento. It is wrong for the EIR to present VMT data as fact when it is not based on evidence. Focusing so much on VMT to downtown Sacramento serves to minimize VMT. The EIR should have considered VMT more realistically to multiple job centers. While downtown Sacramento is a job center, Sacramento County has more jobs than downtown, as noted in the EIR. Yolo County and Placer County are also job centers.

- The EIR fails to consider traffic impacts on the surrounding area from the UWSP stadium, outdoor pavilion, or schools.

- The EIR fails to suggest traffic mitigations such as locating UWSP traffic generating uses (e.g. stadium, outdoor pavilion or schools) near major roadways and commercial uses to reduce traffic dangers, congestion, noise and air pollution in residential areas.

- The EIR fails to mention that County policy says the County shall not provide urban services, such as road improvements and transit, beyond the Urban Policy Area (UPA), because it is the intent of the County to focus investment of public resources on revitalization efforts within existing communities. The EIR fails to present the impacts from the UWSP violation of this policy and the impacts from the changes to this policy proposed by the project applicant.

- The EIR fails to identify impacts caused by the unplanned extension of public infrastructure and services, such as transit and roadway improvements, to accommodate the UWSP outside the Urban Services Boundary and the Urban Policy Area, particularly the harms to the County's efforts to focus investment of public resources on revitalization efforts within existing communities.

Tribal Cultural Resources

- While the UWSP would have a holistic impact on the tribal cultural landscape, the EIR fails to identify priority sites for tribal resource protection within the UWSP area.

Utilities

- The EIR fails to state that the UWSP violates the County's Urban Services Boundary policy which says that the County shall maintain an Urban Services Boundary (USB) that defines the long-range plans (beyond twenty-five years) for urbanization and extension of public infrastructure and services. The EIR fails to identify impacts associated with this violation and UWSP impacts associated with proposed changes to the County's Urban Services Boundary policy.

- The EIR fails to mention that County policy says the County shall not provide urban services beyond the Urban Policy Area (UPA), because it is the intent of the County to focus investment of public resources on revitalization efforts within existing communities. The EIR fails to identify UWSP impacts associated with this violation and impacts associated with proposed changes to the County's Urban Policy Area policy.

- The EIR fails to identify harms caused by the unplanned extension of public infrastructure and services, such as utility services, to accommodate the UWSP outside the Urban Services Boundary and the Urban Policy Area, particularly the harms to the County's efforts to focus investment of public resources on revitalization within existing communities.

Other Resource Topics- Wildfire

- The EIR says the UWSP is outside an area where CalFire establishes fire hazard zones. Then the EIR makes the misleading statement that the project area is not in a fire hazard zone. It is wrong to say, and dishonest to leave the impression that the area has been assessed for fire hazard when it has not been assessed by CalFire or any other fire agency. The EIR should delete incorrect and misleading information and just say the area has not been assessed for wildfire risk and the wildfire risk is unknown.

- The EIR is also incorrect about area conditions that could contribute to a wildfire hazard. There is heavy wooded growth adjacent to the river, less than 1,000 feet from the project area, from Sacramento up into rural wildfire hazard areas in Butte County. There are also at different times of the year dried crops and hay bales on farmland on both the Yolo and Sacramento sides of the Sacramento river that could and have caught fire (hay bales can be seen in EIR photos). A wind driven fire could easily jump the river as it has jumped freeways. The 2017 Tubbs fire burned into the City of Santa Rosa where more than a dozen people lost their lives and more than 2500 homes and one Hilton Hotel were destroyed. Wildfire could happen in the project area.

Cumulative Impacts

- The UWSP projects a 20–30-year buildout. The EIR fails to address ongoing impacts from construction noise, dust, traffic, etc. on area residents over an extensive period of time during which time mitigations the project applicant does not control may not be available to diminish impacts on existing area residents and new project area residents.

Growth Inducement and Urban Decay

- The EIR fails to accurately identify the UWSP project as unplanned urban development. The UWSP is unplanned – not included or anticipated in the County's General Plan, or the Urban Services Boundary, or the SACOG Blueprint for regional development or plans for transit, regional roadway improvements, utility services extensions, or air quality improvement.

- In violation of CEQA, the EIR entirely fails to include in this section the long list of changes the UWSP project would require to County plans, policies, codes, etc., and the growth inducement impacts of changing those County plans and policies and codes.

- Sacramento County's 2030 General Plan and the County's Urban Services Boundary (USB) explicitly state that one of their purposes is to reduce unplanned urban development and its impacts outside the

Urban Services Boundary. The EIR fails to clearly state that the UWSP violates the County's policies to prevent urban sprawl.

- The EIR fails to clearly identify all growth inducement impacts from the UWSP's development outside the County's Urban Services Boundary.

- The EIR falsely says, "the proposed UWSP is consistent with Sacramento County General Plan Policy LU-120, which is intended to reduce impacts of many different types – such as growth inducement, unacceptable operating conditions on roadways, poor air quality, and lack of appropriate infrastructure." As stated in the EIR, the UWSP creates unacceptable operating conditions on roadways, poor air quality, currently lacks appropriate infrastructure, and in most cases the project applicant cannot compel, and does not control possible mitigations. False statements should be removed from the EIR.

- The EIR falsely claims the pressure for future development in the area would be reduced because of the need to show consistency with the County General Plan and to receive approval from the Sacramento County Board of Supervisors. Those impediments are not enough to stop the UWSP project applicant. Why would they stop other project applicants? The EIR does not say, and should say, that if the Sacramento County Board of Supervisors approves the project, other similar urban development projects may also be approved using the same criteria.

From: Harriet Steiner <steinerstern@gmail.com>
Sent: Thursday, October 24, 2024 8:47 PM
To: PER-CEQA <CEQA@saccounty.gov>
Subject: Upper Westside Specific Plan and DEIR Comments

I am a resident of Natomas and would like to make the following comments on the DEIR and the Upper Westside Project, in addition to the comments I made at the Planning Commission and at the CPAC.

First, to the best of my knowledge, the DEIR does not analyze the impact of conversion of agricultural lands and conservation lands by this project because it is located outside of the Urban Services Boundary. In addition, there are other projects that also want to develop that are located outside of the Urban Services Boundary, including Airport South Industrial and Grand Park.. All of these developments are inconsistent with existing and long established policies of the County, its general plan; the City of Sacramento and the Natomas Basin Plan. All of these projects need to be analyzed together for their cumulative impact on agriculture, wildlife conservation, the Pacific Flyway, air quality, flooding and traffic. None of these projects should proceed until a separate EIR on modification of the Urban Services Boundaries and the County's General plan are analyzed and the the County has made a decision whether to proceed with any changes to the Urban Services Boundary and the General Plan. Taking any one of these projects separately will not disclose the full cumulative impacts of these projects and will result in piecemeal analysis that underestimates the impact of urbanization outside of the Urban Services Boundaries.

The DEIR also needs to analyze whether the factual bases for any of the findings in LU-127 can be made. If analyzed it is unlikely that the findings can be made and the Project(s) will then have, at a minimum, additional unavoidable significant adverse impacts that have not yet been disclosed. This analysis could warrant recirculation of the DEIR.

The DEIR should also analyze the impact of this Project on the Natomas Basin Habitat Conservation Plan and its ability to meet its goals and the goals of the HCP permits and the County's Climate Action Plans. Further, the County has not met the goals of the 30 by 30 Executive Order. Conversion of the land within the Upper Westside project, alone and with the other proposed projects will increase conversion of land to urban uses, could result in urban sprawl, and premature conversion of agricultural lands while still leaving un or underdeveloped lands in the urban areas. Thses facts will result in more unavoidable impacts not yet disclosed in the DEIR.

To the extent that the Project proposes to mitigate the loss of over 2000 across of farmland with strips of land along the inner land side of the levee, this proposal has not been adequately

analyzed. The DEIR should analyze whether this land, in the after condition, can be feasibly and economically farmed. If not, then this mitigation land is not feasible and the applicants should be required to provide land that can be farmed. If not, then there should be an alternative plan for the lands and that alternative should be analyzed in the DEIR. In the alternative, the Project should be denied because of the conversion of agricultural lands not needed for the next 20 years of more for urban uses. (See SACOG land estimate for housing referenced above.)

The DEIR should analyze the impacts of flooding in the Natomas area if the Upper Westside lands are developed and paved. Sacramento has been lucky that it has not had a major flooding event since the 1986 and 1994 floods. However, regional floods will occur in the future. More that shoring up the levees is needed to be ready for the flooding that is surely coming. We should take climate change, the significant changes to the wildfire season and the lessons of Hurricanes Helene and Milton, among others, for the increased risk of back to back storms, to analyze and determine the flooding risks associated with urbanization of thousands of acres of farmland. Included in that analysis should be work on how saturated the lands within the Natomas Basin are now, their ability to absorb more drainage and the added risks to the developed areas.

The DEIR should also analyze the impact of development of the Upper Westside project in the County as opposed to the City. Existing policies call for development of urban lands in cities. Here, in Natomas the City provides all urban services, is responsible to the existing roads, for flooding and utilities. If the County moves forward, all new services must be built and maintained, such as sewer and water services. The impacts of Upper West side will all be felt in the City and there is currently no plan to pay/mitigate the traffic, air quality, aesthetics and other impacts on the city and its residents. Further, annexation to the City should be required as it is inappropriate to have neighbors some in the City and others in this new county area having different obligations for maintenance and public services and structures. The DEIR should analyze and consider the impacts of having this large project developed in the County and should look at the impacts of other projects built in the county that are adjacent to urban lands in the City and whether the past difficulties or servicing urban areas that are surrounded by city lands can be avoided or mitigated.

Lastly, the DEIR should be revised to review the traffic impacts of this proposed project on the existing roads in Natomas and on the Garden Highway. It is my understanding that the Garden Highway cannot be widened and is already overburdened with traffic. Similarly the roads in the South Natomas, all of which are inside the city, need to be considered and the impacts mitigated. In addition, the interchange at El Camino already appears to be at capacity. I-5 headed in both directions is often just gridlock. The Upper westside Project with a proposed a large shopping area, a community college and the housing will add significant traffic to this area that is already saturated with traffic. further, because this Project is not in the County or the City's general Plans for development the traffic generated is not included in any modeling nor are there any plans to provide additional infrastructure to offset the traffic impacts. The DEIR should do a deeper analysis including all the surface streets and the freeways and determine what mitigation is possible. If there is no feasible mitigation the county should deny this project.

While I fully understand that we have an affordable housing crisis, this project does not address affordable housing. If housing is the justification for this project, then the housing needs to actually provide the housing needed. As noted by SACOG, the region currently has 2.5 times the land needed for the next 20 years of housing growth. Therefore just providing single family and high end rental housing is not needed and does not warrant approving this project.

Please respond to these comments along with the many other comments received in a revised EIR. Given the depth and breadth of the comments, the DEIR should be recirculated.

Thank you for your consideration of these comments.

Harriet Steiner
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I



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October 28, 2024

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SUBJECT: Review/Comment on Upper Westside Specific Plan Draft Environmental Impact Report

Dear Ms. Newton and Ms. Patten:

Please accept these comments from the Environmental Council of Sacramento (ECOS) on the Upper Westside Project draft Environmental Impact Report (DEIR).

The Upper Westside Project Applicant has produced attractive materials promoting the project since at least 2019. The buzz words are there, but the foundations beneath the project are weak.

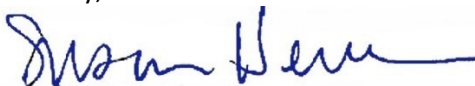
- The EIR must be an informational document, not a sales brochure. The Applicant owns just 1.54 percent of the property, 31 of the 2,066 acres proposed for the project. It is difficult to discern the level of involvement of the balance of land owners. It is also difficult to see how owning only 1.54 percent of the property can expect to drive the re-zoning and annexation of such a large area. The DEIR does not say that an agreement with the other landowners has been developed. This project appears to be simple developer-driven speculation.
- Housing is a hot button issue in the City and the County. However, it is important to put the need for housing in context. The DEIR does not disclose that the County's General Plan includes already approved and zoned housing units on greenfield sites that will not be fully built out until after the year 2100. It does not disclose that the land use scenario in SACOG's draft 2025 Blueprint does not include the Upper Westside project area.
- The EIR must disclose the environmental impacts of the entire proposed Upper Westside project, as well as the cumulative impacts of it with the other proposed developments in the Natomas Basin – Grand Park (5,000 acres) and Airport South Industrial (475 acres). Instead, the DEIR picks and chooses what it

discloses. Individually and together, the projects would require changes to a number of foundational agreements and policies – the County’s General Plan, the County’s location of the Urban Service Boundary and Urban Policy Area, and the Natomas Basin Habitat Conservation Plan. These agreements are the result of painstaking compromise between the County, City, California Fish & Wildlife, and U.S. Fish & Wildlife, to guide and control development in the Natomas Basin.

The Upper Westside would make the work of the Natomas Basin Conservancy infinitely more difficult due to the loss of agricultural land in close proximity to Fisherman’s Lake. The three projects together would spell the failure of the Natomas Basin Habitat Conservation Plan.

- The DEIR says the Westside project would have to rely on the City of Sacramento for water and sewer services and infrastructure. However, it does not disclose that the City has an agreement with State and federal wildlife agencies to not develop outside of its Permit area. Questions remain over how emergency services, police, fire, medical as well as park maintenance and recreation programs will be provided, as build-out proceeds over many years. How would infrastructure be built out if property owners are not part of the project and will services be available to non-participating land owners? Would the project area be annexed by the City to facilitate the extension of utilities?
- We do not understand why this project is allowed to proceed. Why has the County not stopped it as it teeters on multiple foundational weaknesses? Why is the County entertaining the idea of building a community the size of Galt or El Cerrito, (25,000 people), next to the Sacramento River, with only four exit roads in case of an evacuation?
- This project is not Smart Growth, it is rampant speculation. It is not needed given the excess existing housing entitlements in the Sacramento region, and in Sacramento County. The project does not provide extraordinary benefits and should not merit a change to the County’s Urban Services Boundary.
- Please see our comments in the pages below and note that our attorney, Patrick Soluri, will submit comments on our behalf separately.

Sincerely,



Susan Herre AIA AICP
President of the Board of Directors

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1) Key Information missing in the DEIR

The DEIR omits considerations that should be key to the County in its decision-making:

- a) Impacts on provisions of the Natomas Basin Habitat Conservation Plan, and on Natomas Basin and other mitigation properties, are not identified nor analyzed;
- b) The requirement that the project obtain incidental take permits to reduce impacts to less than significant is not included;
- c) Location and policy significance of the County of Sacramento Urban Services Boundary, and associated land use policies, are ignored; also, there is no discussion of the implications for the Urban Services Boundary and Urban Policy Area, and future development in the Natomas Basin, if the project is approved;
- d) Analysis of impacts on water quality from storm water drainage from the project area, and cumulative impact from development upstream from the project, is not provided;
- e) National Annual Particulate Matter (PM) 2.5 standard has changed but this is not acknowledged.

2) Sacramento County Urban Services Boundary

The Upper Westside project would be located outside of Sacramento County's Urban Services Boundary (USB), yet the DEIR does not address the fact that it encroaches beyond the boundary of the USB. If the Upper Westside project is approved, apart from the direct impacts to farmland and habitat, it would set a precedent for other development projects in Natomas to encroach beyond the USB.

The DEIR does not address:

- a) the importance of the USB as a land use planning act of regional significance;
- b) the USB as the "ultimate boundary of the urban area" in the unincorporated County, based upon jurisdictional, natural and environmental constraints to urban growth;
- c) the precedent-setting impact of the Upper Westside project encroachment on the USB for other development projects, both in Natomas and east Sacramento County;
- d) the requirements of County General Plan Policy LU-127 for changing the USB;
- e) the two other proposed projects that are outside the USB

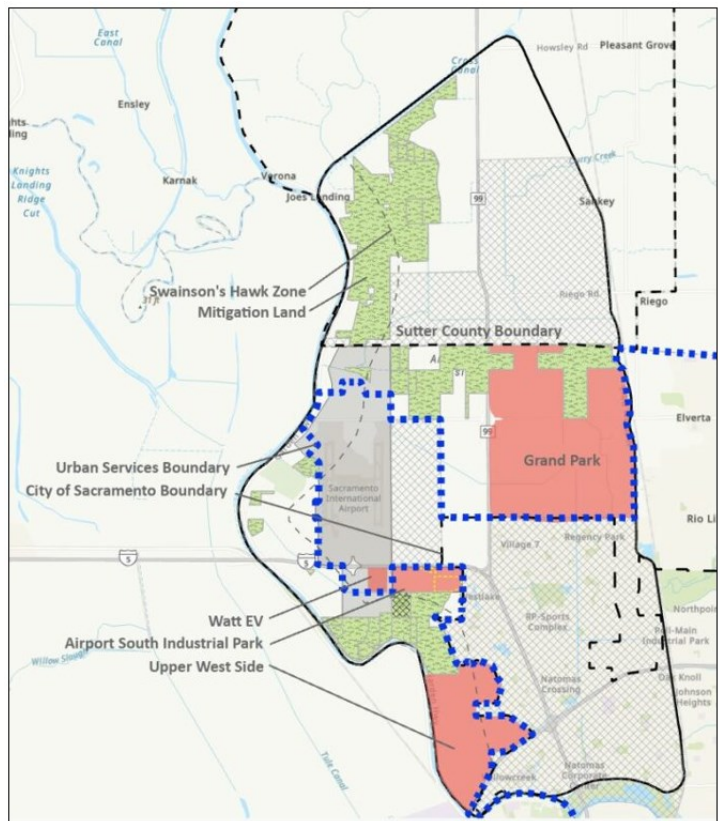


FIGURE 1: Map showing Upper Westside and the two other proposed projects outside USB
Source: ECOS

Refer to the map at right, FIGURE 1 to see the USB as a blue dotted line, and the other proposed projects that are outside the USB, the Airport South Industrial (475 acres for warehouse space) and Grand Park (5,000 acres for residential/commercial).

The County General Plan includes an Urban Services Boundary, agricultural protection policies and other commitments to maintain the project area in agriculture. These policies in turn underpin regional planning for climate change, air quality, transportation, land use and other urban infrastructure. Permitting urbanization in an area designated by the County General Plan and regional plans as agriculture has profound impacts on the entire region.

The map at right, FIGURE 2, shows the area included within the USB – about 449 square mile area. This area is about ten times the size of Paris and Washington D.C, and four times the size of the City of Sacramento.

The exact boundary line of the USB was shaped by river watersheds, creeks, the Delta, and FEMA-designated flood areas; by the history of fires and future fire risk; and by the need to preserve important farmland and to protect habitat for threatened plant and animal species. It was also shaped by the edges of existing urbanized areas and cities, and Sacramento International Airport.

Consider what it means to break through the Urban Services Boundary (USB):

This boundary, established in 1993, is defined in the Sacramento County General Plan as the “ultimate boundary of the urban area” in the unincorporated County, based upon jurisdictional, natural and environmental constraints to urban growth; intended to be a permanent growth boundary not subject to modification except under extraordinary circumstances.”

All three of the projects would break through the USB. Changes to the USB are to be made only for “extraordinary projects” and yet there is nothing extraordinary about Upper Westside except that it is close to the City of Sacramento. What is extraordinary about the area is the deep, prime agricultural soil from many years of overflow from the Sacramento River.

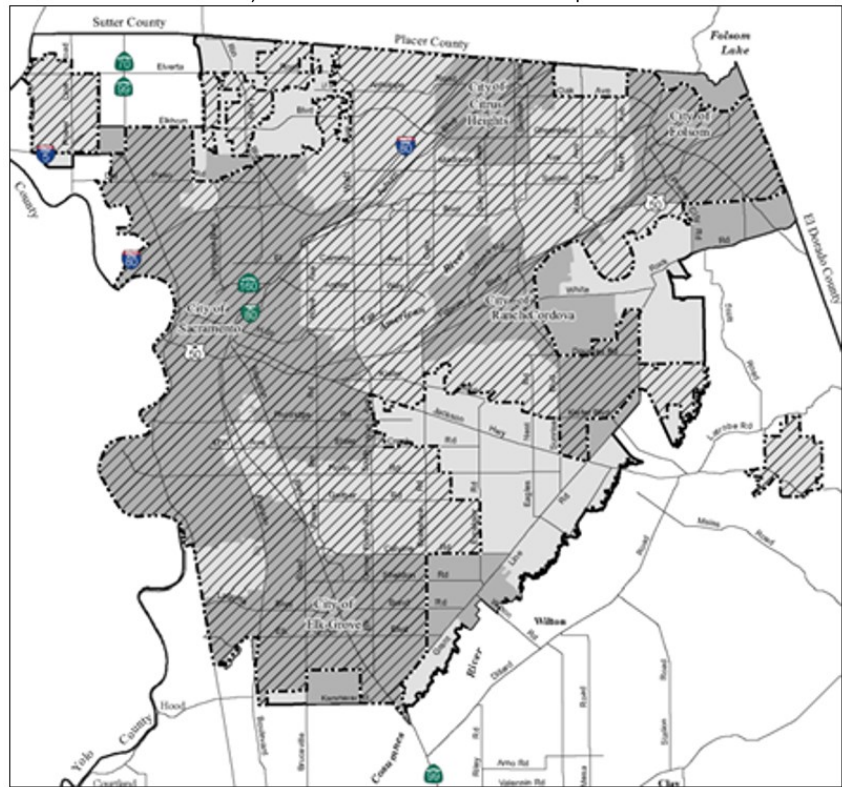


FIGURE 2: Area within the USB

Source: Sac County General Plan Land Use Element, Figure 1, USB and UPA Boundaries

<https://planning.sacounty.gov/Documents/B12.%20Land%20Use%20Element%20Amended%2012-13-22.pdf>

Consider the County's General Plan Policy LU-127 strictures for projects proposing to expand the USB in FIGURE 3 below.

Given the impacts of this project on the region and the Natomas community, the Upper Westside project does not meet the listed requirements, nor does it merit a finding of extraordinary benefits and opportunities by 4/5ths of the Board of Supervisors.

LU-127. The County shall not expand the Urban Service Boundary unless:

- There is inadequate vacant land within the USB to accommodate the projected 25 year demand for urban uses; and
 - The proposal calling for such expansion can satisfy the requirements of a master water plan as contained in the Conservation Element; and
 - The proposal calling for such expansion can satisfy the requirements of the Sacramento County Air Quality Attainment Plan; and
 - The area of expansion does not incorporate open space areas for which previously secured open space easements would need to be relinquished; and
 - The area of expansion does not include the development of important natural resource areas, aquifer recharge lands or prime agricultural lands;
 - The area of expansion does not preclude implementation of a Sacramento County-adopted Habitat Conservation Plan;
- OR
- The Board approves such expansion by a 4/5ths vote based upon on finding that the expansion would provide extraordinary environmental, social or economic benefits and opportunities to the County.

FIGURE 3: General Plan Policy LU-127

Source: Sac County General Plan Land Use Element, page 144

<https://planning.saccounty.gov/Documents/B12.%20Land%20Use%20Element%20Amended%2012-13-22.pdf>

3) Conflicts with the Natomas Basin Habitat Conservation Plan (NBHCP)

The proposed Upper Westside project conflicts with the NBHCP. Biological resources are inadequately assessed with faulty mitigation measures that do not reduce impacts to less than significant.

- a) The DEIR falsely claims that the project does not conflict with the NBHCP. The DEIR claims that any conflicts with the 2003 NBHCP and the Metro Air Park Habitat Conservation Plan (MAPHCP) which adopted the NBHCP are less than significant impacts. (ES-55)

DEIR MM "BR-14: Conflict With Natomas Basin HCP and Metro Air Park HCP. The Natomas Basin HCP and Metro Air Park HCP are adopted conservation plans with respective plan areas that cover portions of the Natomas Basin. Implementation of Mitigation Measures BR-1 through BR-9 would avoid and minimize impacts to covered species in the Natomas Basin HCP and Metro Air Park HCP and have been designed to avoid conflicts with the strategies and provisions of the respective HCPs. Given these considerations, the proposed UWSP and required offsite improvements would not conflict with the provisions of existing adopted HCPs, and the overall impact would be less than significant."

As explained more fully below, the EIR's analysis fails as an informational document with respect to this impact by conspicuously omitting critical information required to understand the project's individual and cumulative impacts. Further, the EIR's finding of less than significant impact is not supported by substantial evidence. The impacts on the HCPs are significant, and evaluation and mitigation for these impacts require compliance with the terms of the NBHCP regarding development in the Basin.

- i) The Natomas Basin Habitat Conservation Plan was created as a basinwide HCP in response to the federal Army Corp of Engineers flood control permit which permitted construction of flood control infrastructure that enabled 17,500 acres of new urban development within designated NBHCP Permit Areas (City, Sutter County, MetroAirPark) in the Basin with basinwide impacts on habitat and endangered species. The basinwide plan was required as a condition of those permits by the US Fish and Wildlife Service. The Corps permit #199200719, pg 4, undated, (**ATTACHMENT 1**)¹ states:

"I. The permit applicant shall not begin construction on the pumping station along the East Main Drain or otherwise complete the proposed project by providing 100-year flood protection for the lower American Basin until the Service first issues an incidental take permit and associated implementing agreement pursuant to Section 10(a) (1) (b) of the Act to the City and County of Sacramento, Sutter County and any other parties necessary to guarantee the successful implementation of a habitat conservation plan for the giant garter snake resident in the American Basin. This plan shall be compatible with and a component of the multispecies habitat management plan otherwise required by the Department of the Army as a condition of permit authorization. The Biological Opinion from the U.S. Fish and Wildlife Service to the U.S. Army Corps of Engineers dated March 11, 1994 is expressly incorporated as a condition of this permit."

That 1994 USFWS Biological Opinion, March 11, 1994, pg. 5 (**ATTACHMENT 2**)², expressly conditions the USFWS approval of the flood control project on a "multispecies habitat management plan for

¹ Attachment 1: 1994 Permit Number 199200719 U.S. ARMY ENGINEER DISTRICT.SACRAMENTO CORPS OF ENGINEERS 1325 J STREET SACRAMENTO, CALIFORNIA 95814-2922

² Attachment 2: March 11, 1994, US Fish and Wildlife Service, Endangered Species Act Consultation on the Revised Natomas Area Flood Control Improvement Project (PN 199200719) in Sacramento and Sutter Counties, California

the 55,000 acre lower American Basin" (i.e. Natomas Basin in Sacramento and Sutter counties) and issuance of Incidental Take Permit from USFWS and 2081 Permit from CDFW.

While the County of Sacramento did not participate in the HCP process and was not included in the Incidental Take Permit, approval of the Upper Westside project would interfere with these permits. The CDFW's NOP comment letter, pg. 13, made this point with clarity, explaining that the Project "marks an apparent departure by the County" from the Joint Vision MOU that "has been critical to the integrity of the NBHCP." The County must now come into compliance to avoid violation of the terms of the Army Corps of Engineers permits for flood control in the Natomas Basin. A previous private development in the unincorporated area of the County, Metro AirPark, agreed to comply with the NBHCP, and therefore the Metro AirPark HCP was approved by the wildlife agencies and included within the 17,500-acre Permit Areas.

- ii) The NBHCP includes clear guidance as to how development outside the NBHCP and MAPHCP permit areas, totaling 17,500 acres, must be assessed and permitted by the Federal and State wildlife agencies, which agencies can deny permits.

The Implementing Agreement ("IA") (**ATTACHMENT 3**)³ for the 2003 NBHCP requires that: "in the event that future urban development should occur, prior to approval of any related rezoning or pre-zoning, such future urban development shall trigger a reevaluation of the Plan and Permits, a new effects analysis, potential amendments and/or revisions to the Plan and Permits, a separate conservation strategy and issuance of Incidental Take Permits to the permittee for that additional development and/or possible suspension or revocation of [Permit] in the event that the City or Sutter violates such limitations. " (IA 3.1 (a))."

The DEIR fails to disclose this document and does not identify the impact of the Upper Westside project on the future implementation and viability of this agreement. Nor does it include acknowledgement of the need for mitigation that will be required to come into compliance with this process for consideration. The DEIR fails to require as mitigation the CDFW take authorization required.

- iii) The California Department of Fish and Wildlife NOP Comment letter, November 6, 2020, at page 11, states:

"A robust analysis of whether, in what way, and to what extent the Project may affect future implementation and the continued viability of the NBHCP and MAPHCP in the Natomas Basin is essential to the County's informed review of the Project."

"CDFW appreciates the Project proponent and the County's previous commitment to prepare a related effects analysis as part of the County's review of the Project. The analysis will provide critical information essential to a meaningful understanding of the Project's regional setting. That, in turn, will also help ensure the EIR's environmental analysis is robust and includes all the potentially significant effects on fish and wildlife that may be caused by the Project."

In fact, there is no effects analysis in the DEIR as described by CDFW's letter. Also in CDFW's November 6, 2020 letter, page 12, CDFW recommends that the EIR address, specific to the effects analysis, the following:

³ Attachment 3: 2003 IMPLEMENTATION AGREEMENT FOR THE NATOMAS BASIN HABITAT CONSERVATION PLAN

“· Persistence of NBHCP and MAP HCP Covered Species in the Natomas Basin

- Impacts to established reserve land managed by the Natomas Basin Conservancy (TNBC)
- Reduction of available reserve land in the Natomas Basin under the NBHCP and MAPHCP (with appropriate buffers and setbacks as detailed in the NBHCP)
- Reduction of ability for TNBC to establish or enhance Covered Species range and habitats in the southern Natomas Basin
- Continued viability of the land uses in the Natomas Basin as detailed in the NBHCP and MAPHCP
- Financial impacts to TNBC and fee payers under the NBHCP and MAPHCP, including the recent action by TNBC Board of Directors and the Sacramento City Council to address related ongoing financial challenges of continuing to implement the required conservation strategy in the Natomas Basin, and
- Cumulative impact of the Project, in combination with other development in the Natomas Basin approved since 2003 that is outside of the City of Sacramento and Sutter County’s permitted area under the NBHCP (e.g., levee improvements by the Sacramento Area Flood Control Agency and the Greenbriar project). A visual representation of the mounting pressure on the continued viability of the NBHCP is shown in Figure 1.”

Figure 1 is on page 17 of the CDFW letter and is titled Figure 1. Comparison of proposed land uses in the Natomas Basin (2020 & NBHCP signing in 2003). It reflects 2020 data and should be updated in your analysis to 2024.

The 17,500-acre permit area for the NBHCP is about 50 percent built out, mostly by City of Sacramento and MetroAirpark, with Permitted development in Sutter County’s 7,467-acre Permit Area mostly unbuilt but subject to an adopted Specific Plan expected to start construction soon. The DEIR must consider the impacts on the species of all existing and permitted future development (i.e. Sutter Permit Area), as well as the proposed Upper Westside project, on the covered species and the implementation of the NBHCP. The DEIR does not provide this information.

- iv) Federal Court Decision Finds Any Additional Development in the Basin Outside NBHCP Permit Area is a Significant Impact.

The USFWS Biological Opinion for the 2003 NBHCP, June 24, 2003, pp 11-12 (**ATTACHMENT 4**)⁴; the 2003 NBHCP pp. I-3; I-5,6; I-7,8; the 2003 NBHCP Implementation Agreement (IA) §3.1(a) and 3.1.2(c); and the decision of Judge David Levy in National Wildlife Federation v. Norton, Civ-S-04-0579 DFL JFM (E.D. Cal. Sep. 8, 2005) pg. 30 (**ATTACHMENT 5**)⁵, clearly state that any additional development in the Basin outside the 17,500 acre permit areas of the NBHCP would constitute a significant departure from the operating conservation plan and thus a significant impact on the NBHCP and the Natomas Basin populations of the species protected by the NBHCP.

⁴ Attachment 4: June 24, 2003 United States Department of the Interior FISH AND WILDLIFE SERVICE, Sacramento Fish and Wildlife Office Intra-Service Biological and Conference Opinion on Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the City of Sacramento and Sutter County for Urban Development in the Natomas Basin, Sacramento and Sutter Counties, California.

⁵ Attachment 5: National Wildlife Federation v. Norton, Civ-S-04-0579 DFL JFM (E.D. Cal. Sep. 8, 2005)

The project must apply and receive an Incidental Take Permit from the USFWS and a 2081 permit from CDFW, which these agencies may approve or deny, in order to justify a finding of no significant impact on the NBHCP. Yet the DEIR asserts without evidence that the Upper Westside project would have no significant impact on the NBHCP or MAPHCP.

As stated above, the NBHCP was prepared to satisfy a condition of an U.S. Army Corp of Engineers permit, with the program implementation under the direction of the U.S. Fish and Wildlife Service, CA Dept of Fish and Wildlife, City of Sacramento, and the County of Sutter. Any project in the Basin must meet the same criteria since the flood control provided as a result of the permit is Basin wide.

As stated in NWF v. Norton, *ibid* p. 28, any additional development in the Basin is a federal project requiring a federal permit. NWF v Norton, *ibid*. p. 28, states that "through the implementation agreement, the City has committed to ensuring that additional development does not occur in the Basin without federal review. . . any further development will necessarily be a federal action because further federal approval will be required under any scenario that could impair the efficacy of the NBHCP." (emphasis added)

NWF v. Norton affirms that the USFWS relied upon the remaining agricultural areas in the Natomas Basin to provide species protection benefits to issue the incidental take permits for City and Sutter County development in the Natomas Basin. On page 10, the decision references USFWS Biological Opinion (BioOp) to affirm that the NBHCP depends upon several key factors to ensure viability of the Giant Garter Snake population including:

"(3) the maintenance of connectivity between reserve lands; and (4) the continued existence of 16,000 acres of GGS habitat that will remain in the Basin after development;"

Likewise NWF v. Norton quotes the USFWS Biological Opinion (BioOp) that the proposed action [NBHCP] will not jeopardize the survival of the Central Valley population of the Swainson's Hawk or the species as a whole because "in part" (2) approximately 13,000 acres of foraging habitat will not be affected." (NWF v Norton, *ibid*, p. 11.) On p.12, the court references the USFWS BioOp that harm to Swainson's Hawk will be low because "substantial foraging habitat will exist in the Basin even after the planned development."

These elements are critical to the conservation strategy and would be affected by the Upper Westside project development since the project removes 2000 acres of foraging habitat in the Swainson's Hawk Zone of the NBHCP. Yet the DEIR does not address these important impacts of the project.

Further, "The court notes. . . that the Service and those seeking an ITP in the future will face an uphill battle if they attempt to argue that additional development in the Basin beyond 17,500 acres will not result in jeopardy. The NBHCP, BiOp, EIR/EIS, and Findings and Recommendations are all predicated on the assumption that development in the Basin will be limited to 17,500 acres and that the remaining lands will remain in agricultural use." (NWF v Norton, *ibid*, p 30, footnote 13)

- v) The City may not participate in development beyond the NBHCP Permit Area permitted under the NBHCP, yet the Upper Westside project, located in the County's jurisdiction outside the City, expects to use City sewer services and water rights and services; and project proponents reportedly have stated an intent to annex to the City after the County approves the development.

The UWSP conflicts with City obligations under 2003 NBHCP Implementation Agreement not to approve development beyond the City's NBHCP Permit Area. City's development in the Basin is subject to the 2003 NBHCP, and its Implementation Agreement, an agreement signed by the City, Sutter County and the Federal and State Wildlife Agencies. The 2003 NBHCP Implementation Agreement ("IA") §3.1.1 provides that "CITY agrees not to approve more than 8,050 acres of Authorized Development and to ensure that all Authorized Development is confined to CITY's Permit Area as depicted on Exhibit B. . . ." (see NBHCP IA, Exhibit B).

The City also agreed in the NBHCP that "in the event that future urban development should occur, prior to approval of any related rezoning or pre-zoning, such future urban development shall trigger a reevaluation of the Plan and Permits, a new effects analysis, potential amendments and/or revisions to the Plan and Permits, a separate conservation strategy and issuance of Incidental Take Permits to the permittee for that additional development and/or possible suspension or revocation of [Permit] in the event that the City or Sutter violates such limitations." ((IA 3.1 (a))."

The DEIR states that City water provision impact would be less than significant on pages ES-125 and ES-129:

"Water Treatment. The City of Sacramento would provide water to development allowed under the proposed UWSP. The City owns and operates two water diversion and treatment facilities: the Sacramento River Water Treatment Plant on the Sacramento River and the Fairbairn Water Treatment Plant on the American River. Enough excess treatment capacity exists at these two facilities to serve development allowed under the proposed UWSP, and thus no additional water treatment capacity would need to be constructed to accommodate the increase in water demand anticipated under the proposed UWSP. This impact would be less than significant."

"UT-2: Result in a Project Water Demand That Cannot Be Met by Supply. The City of Sacramento would provide water to development allowed under the proposed UWSP. The City of Sacramento would have adequate planned water supply to serve development allowed under the proposed UWSP during normal, single dry, and multiple dry years. This impact would be less than significant."

The DEIR at page 2-43 states:

"SacSewer would provide wastewater collection and treatment service to land uses allowed under the proposed UWSP. Wastewater generated within the UWSP area would be conveyed through local sewer systems to the regional interceptor system for treatment at the Sacramento Regional Wastewater Treatment Plant in Elk Grove. As discussed above, the proposed UWSP would require SacSewer annexation."

In fact, provision of water and sewer services by the City to new development outside the Permit area directly violates its obligations to state and federal governments included in the Implementation Agreement for the NBHCP cited above. (IA 3.1.1). These are significant impacts not identified or mitigated in the DEIR.

- vi) The Project would urbanize part of the NBHCP Swainson's Hawk Zone (SHZ), obliterating its conservation value, which is a key element of the NBHCP Conservation Strategy for Swainson's Hawks in the Natomas Basin.

CDFW's NOP comment letter, page 13, (Nov. 6, 2020, in DEIR Appendix heading "Notice of Preparation") noted that "high value foraging habitat present in a majority of the Project area could contribute to foraging ability for hundreds of Swainson's hawks in the Natomas Basin, as well as those using surrounding nests in Yolo and east and south Sacramento County, and Swainson's hawk migrating through the Project area. (CDFW 2020). This highlights the Natomas Basin's unique contribution in providing valuable nesting and foraging habitat, both of which are essential for the species' life history. As such, a thorough evaluation in the EIR of the Project's impacts to both nesting and foraging habitat as independent factors will be crucial, considering the value of the Natomas Basin for the species."

The November 6, 2020 NOP comment letter by CDFW, page 14, also stated regarding analysis of the SHZ:

"Much of the Project area is mapped within the Swainson's Hawk Zone (SHZ), which the NBHCP describes as the area within one mile of the Sacramento River in the Natomas Basin. The SHZ was derived from the high density of Swainson's hawk nests within this area and scientific evidence for the value of the habitat (NBHCP 2003). The NBHCP recognizes the importance of the SHZ to this species and the viability of their plan which resulted in substantial effort from the City of Sacramento and Sutter County to replan development outside of this area. Replanning efforts in the SHZ have been vital to preserve the area's ecological value and the overall goals of the NBHCP, despite the associated economic and political opportunity costs. Although the County is not party to the NBHCP, CDFW recommends the County considers the Project's 1) biological impact in an ecologically valuable area and 2) the effect that Project development in the SHZ will have on the continued implementation and viability of the NBHCP, as well as the MAP HCP."

"As such, robust analysis of the Project's potentially significant effects on Swainson's hawk will be a critical part of the development of the EIR. With the Project in the SHZ, there could be several potentially significant effects to the species, both in the project- specific and cumulative context. Creating a feasible mitigation approach should be an early and focal part of the EIR development given the high utilization of the area by the species." CDFW, *ibid*, pg. 14.

"While typical projects often focus on initial surveys, this Project is in a particularly unique area where extensive surveys and biological resource mapping has already been completed. The most recent surveys indicated that 14 Swainson's hawk nests are present within the Project area or within a 0.5-mile radius that Project activities may impact (TNBC 2019, CDFW 2020). Due to the density of known nest sites, CDFW recommends the EIR analyze the individual nesting and foraging behavior patterns associated with each known nest pair and propose avoidance, minimization and mitigation that specifically addresses those patterns, rather than simply acknowledging presence. CDFW also recommends the EIR analyze the Project's regional impacts to the species, both to the overall persistence of Swainson's hawk within the Natomas Basin and indirect impacts to individual Swainson's hawk that may depend on the Project area's foraging habitat. Data from such studies can more effectively inform a mitigation strategy that complies with CESA." CDFW, *ibid* pg. 14.

The DEIR does not provide these analyses of the impacts of the project on nesting Swainson's Hawks in the project area.

The Swainson's Hawk Zone protects the Swainson's Hawk population which nests along the Sacramento River from urban disturbance and is of particular value as foraging habitat for reproduction of Swainson's Hawks because of its proximity to Swainson's Hawks' nests in tall riparian trees along the river. The success of the NBHCP in mitigating for the impacts of development on the Swainson's Hawk within the NBHCP Permit Areas (City, Sutter County, Metro Air Park) depends in large part on excluding urban uses within the Swainson's Hawk Zone and acquiring permanent preserve lands within the Swainson's Hawk zone. "The NBHCP's primary strategies to mitigate impacts to Swainson's hawks caused by Authorized Development are to avoid development within the Swainson's Hawk Zone" . . . " and to acquire upland habitat as Mitigation Lands inside the Swainson's Hawk Zone. . . " (NBHCP, IV-28-29. See also NBHCP pp. V-9, -10; V-20; VII-19; -20; NBHCP IA p. 4, §3.1.2; 2003 USFWS Biological Opinion p. 36.) Accordingly, the proposed project directly conflicts with and interferes with the NBHCP conservation strategy for Swainson's Hawks.

The DEIR fails to disclose what percentage of the area of the Swainson's Hawk Zone the project will convert to urban uses or in other ways render the land unavailable or unsuitable for Swainson's Hawk foraging habitat.

This impact needs to be disclosed. What will be the estimated impact on the Basin's Swainson's Hawk population reproductive capacity? How much will the project reduce the population of Swainson's Hawks in the Basin? The DEIR does not disclose the nesting territories within the project area, within one mile of the Upper Westside project area, within two miles of the project area and within five miles of the project area. What has been the typical productivity of those nesting sites over the last 20 years?

- vii) The NBHCP permit area remains partly in habitat and undeveloped at this time so the impact of already permitted but unbuilt development on the performance of the NBHCP in protecting the species is not known.

Over half of the 17,500-acre NBHCP permit area remains in agricultural land as Sutter County is just now beginning to build in its Permit area. The NBHCP has not been fully tested as a conservation program for the species in the Basin. Yet the DEIR fails to fully consider how the already declining Swainson's Hawk population in Natomas will survive with the additional development of the Upper Westside project.

What is the likelihood that the increased reduction in habitat created by Upper Westside will result in the failure of the NBHCP and the reduction in range of the Swainson's Hawk and Giant Garter Snake in California?

- b) Surveys for Giant Garter Snake and Swainson's Hawk presence and habitat were incomplete.

Species surveys by Applicant's biologist (Bargas) for presence and habitat of Swainson's Hawk and Giant Garter Snake were limited to 568.7 acres of the 2,066-acre project site, which is incomplete. See DEIR Appendix, Supplemental Biological Resources Assessment by Helix, §§3.2.4, 3.2.5.1, 3.2.5.2, pp 20, 21.

The DEIR fails to disclose impacts on key protected species in the project area.

c) Impacts on the Swainson's Hawk

The DEIR claims that "With the implementation of Mitigation Measures BR-2a and BR-7a, the impact on Swainson's hawk nesting habitat would be less than significant." This claim is contrary to recent monitoring data, conflicts with the NBHCP which protects Swainson's Hawk population in the Basin, and cannot be supported by the evidence in the EIR biological resources analysis which is inadequate and covers only a small part of the Upper Westside Specific Plan project area.

Recent monitoring data indicate a downward trend in reproduction in the Basin, and as pointed out earlier, the project interferes with the NBHCP which mitigates impacts within the Basin to less than significant for development already approved and permitted in the Basin. That build out is not complete and impacts of full build out of permitted development are not now known.

Even without build out of all the Swainson's Hawk habitat permitted in the Basin, the species is showing negative impacts. Monitoring data from Natomas Basin Conservancy show that "the number of young produced per occupied territory, per active nest, and per successful nest all now exhibit a statistically significant downward trend over the entire monitoring period (1999-2023. . . ." (p. 4.5, ICF. 2024. Natomas Basin Habitat Conservation Plan Area Biological Effectiveness Monitoring Report: 2023 Annual Survey Results. July. Prepared for the Natomas Basin Conservancy, Sacramento, CA. Prepared by ICF, Sacramento, CA) (**ATTACHMENT 6**)⁶.

SWH nesting productivity has dropped over the last decade. "Since the first precipitous drop in 2011, reproductive metrics have exhibited a high degree of annual variation, suggesting instability in the population." (ICF, *ibid.*, p. 4.5)

"The nesting of the Swainson's Hawk population in Natomas is concentrated in the project area. "Swainson's hawks continued to nest primarily in the southern portion and along the far western and northern edges of the Basin in 2023. The nest sites are predominantly located along the Sacramento River and within approximately 1 mile of the river." (ICF, *Ibid.*, p. 4.5)

The removal of 2,000 acres of foraging habitat from an area directly serving nesting Swainson's Hawks can only further exacerbate that downward trend. The DEIR acknowledges this:

"Conversion of agricultural land to developed/landscaped land in the UWSP area would also potentially result in the loss of nesting territories, displacement of nesting pairs, reduction in reproductive potential, or decreased survival rates, particularly for Swainson's hawk nesting within 1 mile of the UWSP area, but also for Swainson's hawk nesting outside of the UWSP area. A telemetry study of Swainson's hawk nesting in the Natomas Basin found that adult Swainson's hawk travel distances of up to 6 miles from the nest to forage throughout the breeding season (Fleishman et al. 2016). Plate BR-4 shows suitable Swainson's hawk foraging habitat within 10 miles of the Natomas Basin. The impact associated with the loss of foraging habitat would be potentially significant." (DEIR pg. 7-58).

Further exacerbating the downward trend is the seemingly arbitrary ten-mile radius for replacement habitat in the proposed mitigation program. Based on the above, ten miles appears too distant for

⁶ Attachment 6: ICF. 2024. Natomas Basin Habitat Conservation Plan Area Biological Effectiveness Monitoring Report: 2023 Annual Survey Results. July. Prepared for the Natomas Basin Conservancy, Sacramento, CA. Prepared by ICF, Sacramento, CA).

effective replacement habitat. How was ten miles selected? What is the availability and the quality of foraging habitat within 6 miles of the project area? Isn't six miles the more appropriate radius for assessment of the impact of the project on the foraging habitat available to the nesting pairs in or near the project location?

While the DEIR references the existence of the Natomas Basin Conservancy monitoring surveys of Swainson's Hawk nesting in the Basin, it fails to correctly identify the typical and historical reproductive capacity of these nesting sites. Instead it uses the Bargas surveys in just two recent low nesting success years to identify the number of territories and young fledged (DEIR p. 7-57), an historically low number, limited to only a portion of the plan area. This is an incorrect approach. The environmental document needs to identify the total nesting territories within 6 miles of the project as documented by the NBC over the last decade.

Removal of 2,000 acres of foraging habitat in close proximity to a number of nesting territories is very likely to have a substantial negative impact on reproduction for those nesting territories. The DEIR fails to fully disclose the likely impact and does not mitigate to less than significant.

SWH Mitigation Proposed in the DEIR Is Inadequate and Does Not Mitigate Impacts to Less than Significant:

The proposed mitigation does not identify the requirement that the project obtain a §2081 permit from the California Department of Fish and Wildlife, or an explanation for why such permit would not be required. This is an informational deficiency. The project cannot reduce its impacts on Swainson's Hawks to less than significant absent a §2081 permit from California Department of Fish and Game. Given the existence of a state and federally approved habitat conservation plan to conserve the Swainson's Hawk population in the Natomas Basin, and the conflict between the Upper Westside project and this plan, the project is obligated to obtain a §2081 permit to reduce impacts to less than significant.

Mitigation is described (DEIR pp. 7-60-61) as:

"BR-7b Compensate for Permanent Impacts on Swainson's Hawk Foraging Habitat
Compensation for the permanent loss of foraging habitat shall be determined for each development phase. The applicant for each development phase shall retain a Qualified Biologist to verify, map, and quantify (acres) foraging habitat (including annual grasses and forbs, field crops, grain and hay, partially irrigated crops, and truck crops), that would be permanently impacted by the current development phase."

"Prior to the approval of either grading permits or building permits, whichever is first, project applicants for each construction phase shall compensate for permanent loss of foraging habitat through the preservation of foraging habitat. This compensatory mitigation shall be at a ratio of at least 1:1 (mitigation habitat to permanently lost habitat). Mitigation sites shall be located outside, and within 10 miles of, the Natomas Basin."

"This mitigation may be provided through purchase of credits from a CDFW-approved conservation bank, or through protection of habitat, including acquisition of a conservation easement and funding long-term administration, monitoring, and enforcement of the easement".

“Mitigation provided through acquisition of a conservation easement must satisfy the following requirements”:

- “The mitigation site(s) shall be subject to consultation with CDFW and approved by the County.
- “The form and content of the easement shall be acceptable to the County and CDFW, prohibit activities that substantially impair or diminish the land’s suitability as Swainson’s hawk foraging habitat, and protect any existing water rights necessary to maintain foraging habitat in agricultural production.
- “An endowment in an amount, form, and structure acceptable to the County and CDFW shall be established for administering, monitoring, and enforcing the conservation easement.”

This mitigation program has a number of severe defects and fails to comply with CEQA:

- i) Deferral of mitigation guarantees to a future stage is not consistent with CEQA. The EIR fails to provide sufficient information to indicate that mitigation will be effective. Further, piecemeal determination of mitigation requirements within the proposed Upper Westside project area is not consistent with CEQA or with the basinwide habitat conservation plan that the wildlife agencies have agreed to for the Natomas Basin and have found necessary to avoid significant impacts to protected species.
 - ii) The DEIR fails to identify suitable, available mitigation land. It appears to rely on unidentified land in Yolo County, but Yolo County Ordinance Chapter 10, “Habitat Mitigation Ordinance” (**ATTACHMENT 7**)⁷ requires a discretionary use permit for mitigation projects exceeding 40 acres intended to mitigate for projects occurring outside of Yolo County. Yolo County may or may not approve a Sacramento County mitigation project in Yolo. Reliance on Yolo County for mitigation land is speculative and infeasible unless Yolo County issues a permit for an Upper Westside mitigation project.
 - iii) The DEIR requires only "consultation" with CDFW on the mitigation site on a development phase by development phase basis. In this critical location, where CDFW has already adopted a basin wide conservation plan, the CDFW must have approval on location as well as the endowment and conservation operator for all mitigation properties. The appropriate way to mitigate in this location is to accomplish an amendment to the NBHCP or to obtain state and federal approval for a separate HCP, as was done by Metro Airpark. Less than that cannot reduce impacts to less than significant.
- d) Giant Garter Snake Impacts Not Mitigated to Less than Significant; Mitigation Program Inadequate.

The DEIR identifies a weak and unjustified mitigation program for impacts on the Giant Garter Snake, a federal and state listed threatened species covered by the NBHCP. In particular, the proposed options for a mitigation program outside the Natomas Basin are not compliant with CEQA in that they are speculative, deferred, and inadequate to mitigate for Upper Westside project impacts to the Giant Garter Snake.

The NBHCP defines the conservation strategy for the Giant Garter Snake in the Natomas Basin. However, the proposed Upper Westside project prohibits mitigation within the Natomas Basin, and states that GGS mitigation shall be somewhere in the American Basin. The American Basin is an historic flood basin running along the east side of the Feather and Sacramento Rivers from Oroville southward

⁷ Attachment 7: Yolo County Ordinance Chapter 10, “Habitat Mitigation Ordinance”

to the American River, which includes the Natomas Basin. The 2017 USFWS Giant Garter Snake Recovery Plan, page II-8, shows the majority of known GGS recorded locations as being in Natomas Basin, some of which have not been occupied for some years and some of which have been urbanized and no longer provide habitat.

The proposed mitigation is not consistent with the NBHCP conservation strategy; in fact, it undermines and contradicts the provisions of the NBHCP regarding how additional development in the Basin should mitigate for its impacts. Specifically:

- i) the location of mitigation is not identified;
- ii) the requirements and availability of suitable conservation management in perpetuity are not identified;
- iii) the suitability of the habitat is not specified, including water availability, water chemistry and security of availability;
- iv) locating outside the Basin but within the American Basin means locating in an area lacking linked conservation lands already under protection;
- v) the mitigation does not support the existing conservation strategy for Giant Garter Snake;
- vi) piecemeal mitigation is far inferior to a comprehensive conservation strategy;
- vii) there is no explanation as to how the mitigation supports the Giant Garter Snake Recovery Plan;
- viii) the mitigation plan relies on availability of a CDFW approved Giant Garter Snake mitigation bank in the American Basin which does not exist.

The Giant Garter Snake in the Natomas Basin has suffered decline over the last 25 years of habitat loss, and urban disturbance. The Natomas Basin Conservancy monitoring reports document this problem. According to the NBC Biological Effectiveness Monitoring (ICF 2023: Figure 3-14) the probability of capture of giant garter snakes in HCP reserves steadily declined from 2011 through 2022. No giant garter snakes have been captured in the Fisherman's Lake Reserve since 2017 (Ibid., Table 3-10).

The DEIR fails to disclose and address the very real prospect that further development in the Basin could result in the reduction of the range of Giant Garter Snake in the American Basin by precluding options to expand and improve the southern portion (south of I-5) of conserved lands managed for Giant Garter Snake. The DEIR provides no explanation how the mitigation for this project would avert this possibility. What is needed is strengthening of the habitat values and protections in the Fisherman's Lake preserve area and the connectivity in the Basin. Instead it is more likely that this project will further degrade the Fisherman's Lake preserve area by bringing more people, vehicles and disturbance to the Fisherman's Lake area with its existing GGS habitat preserves. The development likely will preclude the area from ever serving conservation of the Giant Garter Snake, despite millions of dollars of investment in habitat creation and protection by the NBHCP and SAFCA habitat mitigation preserves. The project proponents in this DEIR offer almost nothing to offset this devastating impact on past conservation efforts and the permanent protection of a federally endangered species.

There are nine GGS populations in the Central Valley, in relatively small isolated patches of habitat separated by highly altered landscapes. Studies of genetic differentiation among Central Valley GGS populations have shown significant genetic differentiation between populations of GGS east of the Sacramento River (American, Sutter, and Butte Basins) and the few GGS West of the Sacramento River. The majority of GGS records have been in the Natomas Basin, which has already been impacted by urbanization under the NBHCP and would be further reduced by the Upper Westside project. (Wood, et al, "Defining Population Structure And Genetic Signatures Of Decline In The Giant Gartersnake

(Thamnophis gigas)” Conservation Genetics (April 11, 2015) p. 10 (**ATTACHMENT 8**)⁸. There is the real possibility that further reduction of GGS in the American Basin resulting from this project individually, in combination with future development in the Basin authorized under NBHCP, could cumulatively reduce the American Basin GGS population to less than viable, potentially leading to a jeopardy determination by USFWS and CDFW, which would halt development under existing permits in Sutter County and City of Sacramento.

The DEIR fails to consider that the current inadequacy of the Giant Garter Snake protections in the Fisherman’s Lake preserve must be understood and corrected before any further disturbance and degradation of the habitat in the area can be permitted.

e) Mitigation Program Is Speculative, Deferred, Unenforceable, Infeasible, Not Compliant with CEQA

The DEIR must demonstrate that the impacts of the project on protected wildlife are mitigated to less than significant. The DEIR presents no evidence to support that finding. The mitigation program described for impacted species does not meet the requirements of CEQA:

- i) it fails to commit to any deadlines for compliance with mitigation requirements; there is no correlation between destruction of habitat and actual acquisition or protection of compensatory habitat. Mitigation must be acquired and protection guaranteed before the habitat is removed, which is currently a requirement of the NBHCP.
- ii) it fails to identify the amount of habitat to be removed and the amount of habitat to be conserved to mitigate for that loss. The public and wildlife agencies have not had the opportunity to assess whether the amount of mitigation land would be adequate to compensate for the loss because it is not disclosed.
- iii) it fails to identify where mitigation will be achieved, with what guarantees that the habitat is occupied by GGS and capable of sustaining a GGS population in perpetuity. The 2017 Giant Garter Snake Recovery Plan, pg II-8, shows the preponderance of GGS sightings in the American Basin to be in the Natomas Basin. No conservation planning has been done in the rest of the American Basin. GGS planning has been ongoing in the Natomas Basin for almost 30 years under the NBHCP, and the species is declining. The project adds to the factors leading to decline and does nothing to strengthen and bolster conservation efforts where it counts, in the Natomas Basin.
- iv) it defers ultimate mitigation commitments to a potential future permit process with the wildlife agencies, outside the CEQA process and at an open-ended unspecified future date. Instead, the project should have created its mitigation program in consultation with the wildlife agencies and included it in the CEQA document for public review and comment.

The DEIR says that mitigation options for Giant Garter Snake include purchase of credits from a CDFW- and USFWS-approved conservation bank but no such bank exists in the American Basin Recovery Unit;

- i) mitigation options for Giant Garter Snake include payment to an “existing in-lieu fee program” which does not exist; an in-lieu fee program is not a guarantee for habitat protection at the specified mitigation ratios of 1 to 1 or, for rice field mitigation, 2 to 1, and does not meet the requirements of CEQA that mitigation be fully enforceable and feasible. Fees are not habitat conserved.

⁸ Attachment 8: Wood, et al, “Defining Population Structure And Genetic Signatures Of Decline In The Giant Gartersnake (Thamnophis gigas)” Conservation Genetics (April 11, 2015)

- ii) mitigation options for Giant Garter Snake include "Creation, restoration, or enhancement, and preservation and management of suitable aquatic and associated upland habitat for giant garter snake" by a non-existent entity.
- iii) mitigation options for Giant Garter Snake include "Preservation and management of existing giant garter snake habitat through acquisition of fee-title or a conservation easement and funding for long-term management of giant garter snake habitat at a site" by a non-existent entity.

This piecemeal mitigation program is inappropriate due to the designation of the entire basin as part of a multispecies state and federal habitat conservation plan in which all the agricultural land in the basin is designated as habitat due to unique and historical factors underlying species occupancy.

A project by project mitigation assessment and mitigation program – as described in the DEIR -- is entirely inappropriate for a specific plan that will enable development in an area supporting threatened species through a multi species conservation plan.

The NBHCP relies on an interconnected reserve system within an agricultural landscape. Please refer to the biological opinions referred to above. The DEIR mitigation program disregards this critical context and proposes both out of basin mitigation that is not guaranteed to be available and species by species mitigation measures that are not consistent with the state and federal requirements for multispecies conservation planning to protect wildlife in the Natomas Basin.

Refer to FIGURE 1 (above). This map shows the Upper Westside project and the two other proposed projects, all outside USB; Source: ECOS. This map also shows the mitigation properties (green squiggles) in the Natomas Basin, forming an interconnected system of wildlife preserves managed via agreements with the state and federal wildlife agency permits. It also shows the Permitted development areas (hatched).

4) Other impacts that Should be Classified as Significant and Unavoidable

Impacts to biological resources and geology should be classified as “significant and unavoidable” in the DEIR. Instead the DEIR minimizes the irreparable impact that the Upper Westside project would have on them.

5) Significant Impacts that Cannot Be Mitigated to Less than Significant

ECOS finds it disturbing that there are so many significant and unavoidable impacts identified for the Upper Westside Project that CANNOT be mitigated. Aesthetics, agriculture, air quality, cultural resources, noise, population and housing, and transportation all matter to the quality of the environment and our quality of life.

ECOS believes there are other impacts as well, including biological resources, the impact on the Natomas Basin Conservancy, and of course, cumulative impacts of developing over 8,000 acres of prime farmland, if Upper Westside, Airport South Industrial, and Grand Park go forward.

a) Aesthetics

To the residents of Sacramento, being close to and seeing farmland, migrating birds, habitat and open space is one of our area's most cherished traits. Sacramentans list open space as the top reason they like living here.

“Natural spaces, trails, and community assets make the Sacramento region special. In the 2023 poll (and the polls dating back to 2017), people most value the natural places in our region, including parks, trails, waterfronts, and open space.” — 2023 Valley Vision Livability Poll

Many residents of the Natomas Basin live in Natomas because they value seeing fields of sun flowers, rows of corn and pumpkin patches. They like walking in open spaces where they can see migrating birds. They also appreciate the local farm stands which sell local produce. Aesthetics are important to many in the Natomas community.

b) Agricultural Resources

The loss of agricultural land in the “Farm to Fork Capital” is ironic. Once farmland is lost, it’s lost for good. Agricultural land is so important to the area’s economy, and the world. When you are lucky enough to have the combination of good soil, water and weather, you have a role to preserve that land and produce food to a world struggling with hunger. Other areas have faced crop failure and famine due to drought, floods, war and climate change. We’d also lose the opportunity to sequester carbon, recharge ground water, and cool the climate.

Role of Locally Important Farmland. [Page 5-21] There are 429 acres of farmland of local importance in the project area. The analysis needs to clearly state that farmland of local importance as defined by and for Sacramento County, includes agricultural land that is no longer irrigated that would otherwise be included prime or statewide in significance if it were irrigated. [get proper wording from Conservation Dept]

Inconsistency with Policy AG-2. [Page 5-19] The Project is inconsistent with Policy AG-2 pertaining to the acceptance of applications outside the USB which would develop on prime ag lands. The County has already violated this policy by accepting the application for this project. One could argue that the whole process of approving this project, including this EIR, has been inconsistent with County policy from the get-go.

Agricultural Buffer Adequacy. [Page 5-19] The project would designate an agricultural buffer to the west of the developed area. There are several problems with this designation:

- i) Despite the inclusion of a 30-50-foot open space strip, (a buffer for the buffer), a hedgerow and a fence, the buffer between development and the agricultural buffer will not eliminate noise, pesticide application and other impacts on neighbors and the resultant pressure for limitations on agricultural operations in the agricultural buffer.
- ii) There is nothing in the DEIR suggesting that adequate maintenance of the buffer for the buffer be required and funded.
- iii) None of the parcels included in that buffer are owned by the applicants, and it cannot be assumed that the owners of the buffer parcels will support that designation in the long term. Project development will inflate land prices in the agricultural buffer and lead to requests for residential development. Countless examples from around the country attest to the fact that this is inevitable rather than speculative.
- iv) The only guarantee of permanent protection of the agricultural buffer from more intensive development is to acquire permanent agricultural easements for the buffer parcels. Even if the project is approved with such a condition, it is likely that the project developers will request its subsequent removal, claiming that the buffer landowners were not willing to sell the easements. In the interest of a complete and acceptable DEIR, easement mitigation and its limitations should be included in the analysis.

The DEIR notes that the proposed mitigation measure to acquire in-kind agricultural resource protection at a 1:1 ratio does not adequately mitigate the loss of quality farmland. The measure would be significantly strengthened by requiring mitigation within the Natomas Basin, mitigation at a minimum 1:1 ratio, and more specificity at what point in the approval process mitigation will be determined to be adequate. Moreover, given the County's own definition of farmland of local importance, the mitigation should not allow the County to set aside the requirement for farmland of local importance. Removal of this farmland also increases the likelihood that the Natomas Basin Habitat Conservation Plan (NBHCP) will fail. The NBHCP is designed to promote the continuation of agriculture within the 53,341-acre Natomas Basin, and the development of the ASIP acreage would increase the likelihood of failure for NBHCP's strategy to limit development in the basin. (See discussion of NBHCP impacts).

c) Air Quality

Sacramento has long been challenged with poor air quality due to our geography, climate, and auto-centric design. Despite those challenges, we must meet federal requirements or face the loss of federal funding. The cost here is too great to ignore.

- i) The DEIR finds a significant and unavoidable conflict with state and federally adopted regional clean air plans but fails to explain the consequences for the County and the Sacramento region, particularly with respect to loss of federal funding for lack of compliance with the Clean Air Act's conformity clause.
- ii) (p. 15) The statement is made, under "Local Air Quality Monitoring", that the Woodland-Gibson Road monitoring site is the closest to the project site, at approximately 10 miles. This is not correct as the SMAQMD Bercut Drive monitoring station, which records NO₂, is only about 3 miles from the center of the project. Correspondingly, the CARB 13th & T Street monitoring station is approximately 4 miles from the center of the project and is much closer than the Davis-UCD Campus station referenced in the Analysis. These errors should be corrected and Table 4 (Air Quality Data Summary) should be revised accordingly.
- iii) In February, US EPA tightened the PM_{2.5} air quality standard nationwide (from 12 to 9 micrograms per cubic meter), which means that our region is no longer in attainment of this federally mandated

standard. SMAQMD will need to come up with a new attainment plan, which would be made more difficult by U WS development.

- iv) (p.63) "Full buildout of the project area would include operations of fast-food and sit-down restaurants...". The analysis fails to identify charbroilers in fast-food restaurants as significant sources of condensable PM2.5. The DEIR needs to be expanded to quantify anticipated PM2.5 emissions and impacts from these charbroilers.
- v) The DEIR fails to include analyses of battery storage units as mitigation for operation of standby electrical generators, and of afterburners as controls for PM2.5 on fast-food charbroilers.

d) Noise

Upper Westside Specific Plan DEIR Comment draft, Noise Element (Section 15) excessively relies on deferred and speculative mitigation measures that basically require future project applicants to perform studies regarding what can be accomplished. This may make sense when individual applicants come before the County, but when over 1500 acres will include numerous, large projects and their components to be built over decades, in unknown configurations, over existing conditions that will vary from year to year, deferred and speculative global mitigation measures for the entire Upper Westside project do not serve the goals of the County as set forth in its General Plan Noise Element on page 9.

The establishment of a school stadium, hospitals, or new roadways, for instance, will increase the noise levels at existing surrounding properties and affect their desirability or market value, lessening the economic value of the Upper Westside project itself.

When environmental impacts are significant and unavoidable, CEQA requires identifying a "range of alternatives" as necessary to permit a reasoned choice and sets forth some broad parameters regarding these alternatives. The EIR must include "feasible" alternatives that foster meaningful public participation and informed decision making.

The General Plan establishes that setbacks and site design can be primary mitigation measures. Accepting deferred and speculative mitigation measures lessens the ability of the County to adhere to its own goals and violates CEQA.

The DEIR doesn't establish any alternatives for significant or potentially significant noise, and instead it relies on the results of studies to be conducted in the future, and fails under CEQA by doing so. Specific instances of deferred and speculative noise mitigation measures in the DEIR are as follows:

- i) NOI-1, general construction noise. Project applicants for any new construction must prepare a Master Construction Noise Reduction Plan that limits daytime construction noise to 10 dBA or less over existing ambient noise in noise-sensitive land areas.

The Master Plan shall consider as mitigation measures scheduling limitations, site perimeter barriers of specific materials, best equipment placement, equipment noise local barriers, temporary power sources, exhaust mufflers, restricting truck idling, locating loud construction tools (such as pile driving) away from property lines, using alternative methods of pile driving, and creating a noise liaison and construction noise notification system for residents within 500 feet. Other measures may be needed; for example, large scale construction may need to be curtailed to reduce noise impacts to less than significant.

These measures are potentially noise controlling, but as stated there is no guarantee what specific measures will accomplish, nor whether they are practically feasible and economical.

It is difficult to understand why this overarching measure is considered mitigated to less than significant. It is a “plan to plan” to mitigate, not a mitigation plan. The County must create a real plan for noise mitigation or admit in the DEIR that impacts from noise are significant both during construction and for the project in operation.

- ii) NOI-3, increased traffic noise at existing sensitive receptors. The DEIR finds this noise significant and unavoidable. In an attempt to reduce noise, a study is required examining feasible traffic speed reductions and the value of noise barriers. The DEIR admits that lowering vehicle speed would require collaboration with Sacramento County DOT and may not be useful, and that noise barriers are cost prohibitive.

It also requires laying down rubberized asphalt. The Federal Highway Administration, as admitted by the DEIR, does not recognize special wearing roadways because they wear down with use and their noise reducing properties degrade. Given the scale of contemplated increased traffic and noise, the ineffectiveness of the two potential mitigation measures is not acceptable. Other alternatives should be identified and considered.

- iii) NOI-4, increased stationary noise from plan components at existing receptors.

The DEIR adequately addresses noise impacts from HVAC equipment, car washes, parking lots, and delivery docks. It inadequately addresses noise impacts from school parking lots, high school sports fields and stadiums, and a pavilion area in a proposed park. The DEIR requires acoustical studies before building any of these components and defers to controls that will later be adopted. This is speculative and deferred.

Importantly, the DEIR indicates that nighttime crowds at local stadiums will create significant noise. The DEIR incorrectly identifies the maximum nighttime noise permitted under the GP. The level is 50 dB/70 dB, not 55 dB/75 dB. Mitigating to a level below 50/70 dB is more difficult than mitigating to 55/75 dB. Desirable noise limits are 30 dB or less; this extends dissipation to 600 feet from the sound source.

The DEIR does not cite the decibel level of a school stadium. The average level is about 95 dBA, with maximums over 115 dBA. If this is considered a large stationary source of noise and not a line source, the noise dissipates 6 decibels every 50 feet. A level of 95 dB will dissipate to 50 dB at approximately 500 feet. This can only be reasonably achieved by locating the stadium and its parking lot over 500 feet away from a noise sensitive receptor, such as a residence. The DEIR does not address whether this reasonable alternative is feasible or not.

The DEIR also identifies amplified events at a proposed park pavilion and analyzes the impact to be the same as that of a stadium. It also would have a significant and unavoidable impact.

- iv) NOI-7, increase in stationary noise from plan components at proposed sensitive receptors including NOI-7a, commercial parking noise; NOI-7b, truck delivery noise; NOI-7c, commercial HVAC. These noise sources are identified as potentially significant. The DEIR requires an acoustical study to identify noise controls that would mitigate parking noise. It identifies a distance barrier between truck delivery unloading areas and residential boundaries, but if this is not possible, then the noise

shall be mitigated by reliance on a noise impact study. Noise from other commercial noises is to be mitigated by ensuring applicants use equipment that conforms to General Plan limits, but also requires an acoustical study to evaluate potential noise generated by mechanical equipment. Studies do not mitigate environmental impacts. This is not a mitigation plan.

Other types of stationary noise include: NOI-7d, employment highway parking noise; NOI-7e, truck delivery noise along employment highways; NOI-7f drive through restaurant noise; NOI-7g, car wash; NOI-7h, school parking noise; NOI-7i, school playground noise; NOI-7j, sports school stadium noise; NOI-7k, park activity noise. An acoustical study is all that is initially required to mitigate noise along employment highways near existing noise-sensitive receptors. Truck delivery unloading areas that cannot be located 150 feet from residential areas must be mitigated by a noise impact study. HVAC noise along employment highways is mitigated just as with HVAC and other mechanical noise along commercial highways, i.e., by distance barriers and an acoustical study as part of subsequent application review.

These are deferred measures that can only be speculated to mitigate these noise sources. Studies do not mitigate environmental impacts.

Drive through restaurants will either be located beyond a distance barrier, or an acoustical study will be prepared to evaluate available noise controls. Car wash noise must be addressed by acoustical study to identify feasible noise controls. Similarly, school parking noise will be addressed by an acoustical study identifying noise controls such as distance barriers. School playground noise will be mitigated by setbacks.

As in mitigation identified under NOI-4b, school stadium noise is potentially significant and unavoidable, but noise controls must be identified. Again, applicants must submit acoustical studies. Acoustical studies or something similar will be used to mitigate in seven of the above potentially significant, and significant and unavoidable noise levels. Studying everything is laudable, but these studies are likely to be flawed given the deferred and speculative nature of these components.

e) Population and Housing

Policies and a plan to ensure build-out of affordable housing and “missing middle housing” are not included in the DEIR. They are deferred to the release of a separate Affordable Housing Strategy. By contrast, the DEIR (pg. 2-28) identifies the mega-houses on Leona Circle, like the one shown in the photo below, as prototypes for the project’s 1-acre lots.



f) Transportation - There is no transit to the proposed project area at this time. Refer to the 350 Sacramento’s comment letter.

6) Cumulative Setting inadequately described/disclosed/analyzed

Chapter 4.0, Introduction to the Analysis, Page 4.0-4 states:

"the cumulative setting for the proposed project is generally considered to be a summary of projections contained in the City of Sacramento 2040 General Plan and the Sacramento County General Plan."

The cumulative setting is not fully disclosed. It is not clear what is included.

It should include the proposed Airport South Industrial and Grand Park projects in Unincorporated Sacramento County in the Natomas Basin.

It should include the traffic impacts of semi-trucks that will use I-5 and its side roads by the truck charging stations at the Watt EV project and the Airport South Industrial warehouse project. When traffic is backed up on I-5, overflow traffic will divert to El Centro Rd.

It should include the buildout of South Sutter County, the Sutter Pointe Specific Plan, which has been approved and has permits from US Fish and Wildlife and California Department of Fish and Wildlife.

It is essential to disclose and evaluate cumulative impacts to the Natomas Basin, including to the NBHCP, as well as impacts to agriculture, air quality, transportation, traffic congestion, flooding, evacuation plans, and wildlife habitat.

7) Geology, Soils, and Paleontology Impacts and Mitigation

Impacts were inadequately assessed. Impact evaluation and mitigation plans are deferred to future individual projects.

- a) “Less than significant” classifications for impacts relating to seismic-related ground failure, soil erosion, unstable soil, and expansive soils are contingent upon site evaluations that have not yet been conducted. Impacts GEO-1–5 are classified as “less than significant” with the condition that construction requires compliance with the California Building Code (CBC), the County code, and the storm water pollution prevention plan (SWPPP). Additionally, impact GEO-6 indicates that a classification of “potentially significant” impacts relating to paleontological resources would be reduced to “less than significant” impacts based on the involvement of a project paleontologist. Deferred evaluation of the condition of sites and the necessary protocols that would be necessary to ensure code-compliant construction may significantly impact project affordability and regional impacts on the land.
- b) The Upper Westside development would likely cause subsidence of the project area and exacerbate risks for natural hazards like flooding. The weight load of construction can have significant impacts on subsidence of an area. A recent study⁹ demonstrates consistently higher rates and amounts of subsidence in areas where the ground has been loaded by urban development. Considering the proposed project area has experienced “moderate to high land subsidence in the past,” (DEIR, 11-15) and considering that area consists largely of expansive soils that shrink and expand dynamically, then development-related subsidence should be expected. In addition to the structural hazards that progressive subsidence poses, further depression of the already low-lying land would increase the intensity and range of flooding in and surrounding the proposed project area.

The EIR must establish standards and protocols to ensure that Upper Westside project designs will fully mitigate the increased subsidence and flooding that construction will cause in the region. Additionally, the EIR should ensure that project proposals evaluate their contribution to regional subsidence and flooding and ensure that existing structures in the surrounding areas will not be compromised as a result of new construction-related subsidence.

- c) Questions about construction design costs and doubts surrounding project buildout: While safe, code-compliant designs would certainly mitigate the risks that the proposed project area’s natural structure poses for construction, the selected method of risk-aversion/preparedness may significantly alter the land itself. Additionally, these methods may be incredibly costly, as the soil type, flood plain status, and proximity to the Hunting Creek-Berryessa fault system would require significant safety precautions in design. How costly would development of CBC- and County-compliant structures be, compared to development in already zoned vacant land within the USB? How do these costs affect the affordability of the housing constructed? Is it financially feasible to construct this infrastructure on a phase by phase basis? Typically, infrastructure is financed over the plan area to reduce individual project costs and to achieve economies of scale.

⁹ Bateson, L., Novellino, A., Hussain, E., Arnhardt, R., Nguyen, H.K., 2023. Urban development induced subsidence in deltaic environments: A case study in Hanoi, Vietnam. *International Journal of Applied Earth Observation and Geoinformation*, 125.

8) Lack of Water Supply Assessment

The UWSP DEIR does not include the required water supply assessment (WSA) and, instead, requests the approval of a WSA for the 1,532-acre Development Area as an entitlement. Without the WSA, the DEIR fails to prove that the City accounted for the Project's water demands and will provide for the area's water needs. The EIR's request for entitlement of a WSA, combined with the claim that the City's urban water management plan (UWMP) accounted for the Project's water demand, as made by the applicant's legal counsel, is misleading and confusing. Moreover, this deferred compliance with CEQA requirements avoids providing information to the public and decision makers.

Please refer to Attorney Patrick Soluri's comments on the DEIR's failure to include a lawful WSA.

9) Water Management and Drainage Capacity

The cumulative analysis of the drainage impacts presumes that all potential projects will be required to have sufficient detention capacity to eliminate "down-drainage" impacts and, given that, concludes that the cumulative impacts with respect to drainage issues would be less than significant (pg 22-42). But questions remain:

- a) Would the stormwater drainage for other developments in the drainage basin be routed to the same pump station that pumps drainage water into the Sacramento River as that proposed for the Upper Westside project?
- b) In the area of the proposed Upper Westside project, are the drainage systems/basins designed to hold all the water from a 200-year event without any pumping into the Sacramento River? And for how many days? What about a 500-year event?
- c) Are other existing and planned development's drainage systems designed to hold all water from a 200-year event without pumping into the Sacramento River? A 500-year event?
- d) What if the pumps that pump water over the levee into the Sacramento River fail, or enough of those pumps fail, so that the ability to pump water out of the basin into the Sacramento River is substantially limited for an x amount of time? What if the Sacramento River is running too high to allow pumping water out of the Natomas Basin into the River?
- e) The build-out plan for Upper Westside is phased. Logically, and for safety, the water management and drainage infrastructure for the entire project should be built during the first phase. It cannot be piecemealed as different land owners decide to join the project. There are accumulating risks to the residents of the Natomas Basin as increasing amounts of open space are paved. The area of Upper Westside is important for holding run off and for water recharge in the Natomas Basin. Levees and drainage systems have the potential to fail, and that potential increases with the increasing impacts of climate change and extreme weather. Adding 25,000 more residents and acres of pavement to a floodplain is an increasingly risky proposition.

10) Public Services

Questions remain over who will provide emergency services, police, fire, medical as well as park maintenance and recreation programs. As build out is proposed to occur over a long period of time, how will these services be provided and how will infrastructure be built out?

a) Police Protection

DEIR states that the Sacramento County Sheriff will service the project area, but all reports from Garden Highway and area residents are that response time is very slow or nonexistent, even for serious traffic accidents. This area is far removed from the majority of unincorporated population of North Highlands and Foothill Farms that are served by the North quadrant, and sheriffs are rarely seen west of the City limits. The County must identify its plan and funding source for service to a new community of 25,000.

b) Fire Protection

If fire and emergency medical response is planned to be provided by the City of Sacramento under contract with the Natomas Fire Protection District, please identify the funding source and evidence that the city of Sacramento will not be subsidizing another unincorporated area of 25,000 and reducing services to city residents and businesses. Mutual aid requirements would require city response to police and fire in a community outside the city limits. The County must demonstrate that the City of Sacramento has agreed to provide fire and emergency medical services to the Upper Westside project area.

c) Public Schools

A representative of the Natomas Unified School District which includes this area, stated at the October 21, 2024 County Planning Commission meeting, that the funds generated by the project are inadequate to build the schools specified within the Upper Westside project plan. The County must explain how educational facilities will be funded for construction, operation, and maintenance.

d) Parks and Recreation

DEIR states that there is no park district serving the Upper Westside project area, and the Sacramento County Regional Parks department does not build or maintain local parks as shown in the Upper Westside plan.

Parks are identified and touted in the Upper Westside plan but no information about who will build these parks and how they will be maintained is provided. The County must identify what entity will build the parks, who will maintain them, manage recreation programs, and how they will be funded.

The DEIR identifies the benefits of the nearby Sacramento River Parkway, however, it only exists on paper in this area. The access and trails run from Discovery Park to south Sacramento. Given the Upper Westside project's plans for 25,000 more residents, a significant contribution to extend the Parkway would be appropriate. The County must state what the contribution of the Upper Westside project will be to the Sacramento River Parkway.

11) Inconsistency with City General Plan

The proposed Upper Westside project would rely on the City of Sacramento for water and sewer services, despite its location in Sacramento County. This contradicts the City's General Plan's policies.

12) Inconsistency with County General Plan

Items in the DEIR that conflict with the County General Plan include:

a) Agricultural Land Use - The Land Use Diagram (map), FIGURE 4 below, of the County's General Plan, updated in 2017, shows agricultural use at the proposed project site.

b) Urban Services Boundary
- The proposed project would change the USB which was established in the Land Use Element of the County's General Plan, updated as recently as 2022, as "the ultimate boundary of the urban area."

c) Requirements for changing the USB - The requirements of County's General Plan Policy LU-127 are not addressed. Refer to Section 2 Sacramento County Urban Services Boundary of this letter.

d) Agricultural land protection policies are not adhered to.

e) Housing - The County's General Plan calls for affordable housing, the DEIR merely provides for developing a strategy for affordable housing.

f) Noise - See d) Noise in Section 6, Significant Impacts that Cannot Be Mitigated to Less than Significant, of this letter.

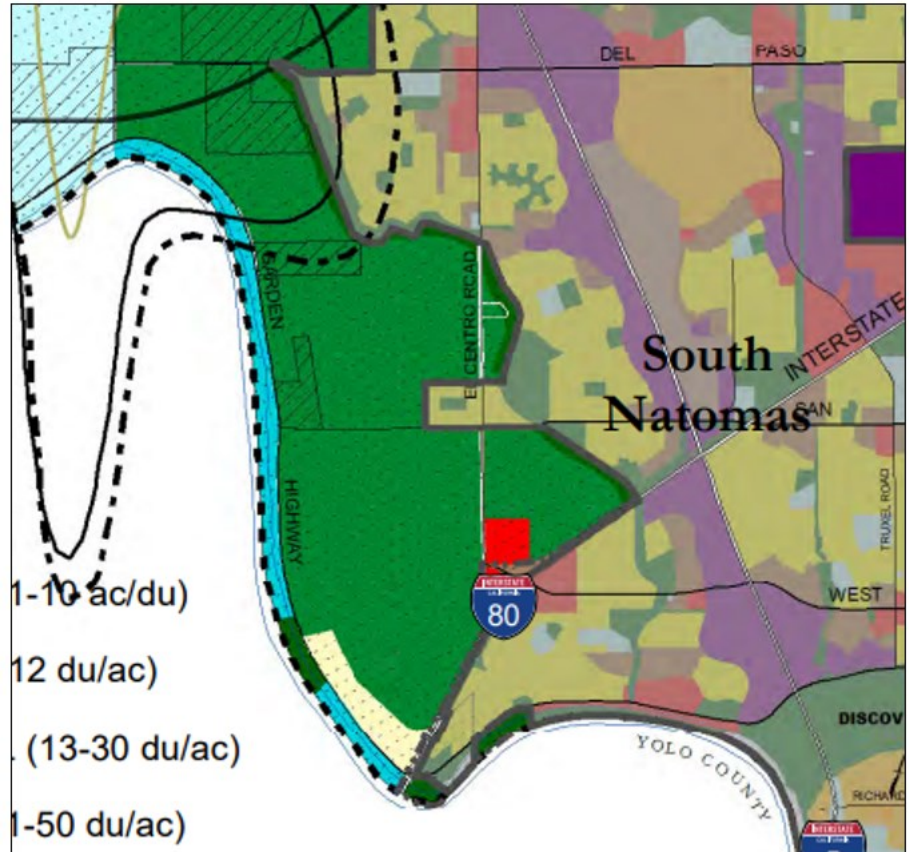


FIGURE 4: Excerpt from County Land Use Diagram from General Plan

Source: https://planning.saccounty.gov/LandUseRegulationDocuments/Documents/General-Plan/GPLU2030_UPDATED_FINAL_0918.pdf

See letter from Attorney Patrick Soluri for additional comments.

13) Inconsistency with Regional Planning for Growth

The proposed Upper Westside project is inconsistent with SACOG’s current Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) and the selected land use scenario of the draft 2025 Blueprint, as well as the Air Quality Plan.

Inconsistencies with SACOG’s draft 2025 Blueprint:

On November 4, 2020, SACOG commented on the Notice of Preparation of the Upper Westside DEIR, stating “implementation of the Blueprint vision depends greatly on the efforts of cities and counties through local plans and projects. . . [and] the Upper Westside project and the project area itself are not anticipated for development in either the MTP/SCS or the Blueprint.”

This is still true today. SACOG’s selected land use scenario for the draft 2025 Blueprint, dated April 2024, does not include the Upper Westside, or the other proposed developments in the Natomas Basin, the Airport South Industrial and Grand Park projects. The 2025 Blueprint projects no housing units built for the three projects between now and 2050, as shown in FIGURE 5 below.

Attachment A									
2025 Blueprint (MTP/SCS) Discussion Scenario									
April 2024									
Jurisdiction/Community Type	Base-year and Potential				Spring 28 Discussion Scenario				
	Existing Conditions [2024]		Potential		2029 - 2035		2039 - 2050		
	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units	Jobs	Housing Units	
Sacramento City									
Potential Developing Communities (not yet under construction)									
	Panhandle	-	-	-	1,620	-	595	130	1,225
	Airport South Industrial Project	-	-	-	-	-	-	-	-
Sacramento County Unincorporated									
Potential Developing Communities (not yet under construction)									
	Cordova Hills	-	-	3,190	8,000	320	350	600	1,500
	Glenborough at Easton	-	-	1,800	3,229	-	-	20	300
	South Mather	-	-	940	3,522	-	400	730	1,805
	Aerjet	1,600	-	40,180	-	-	-	-	-
	Elverta	10	50	200	5,627	-	-	-	-
	Grand Park	20	10	3,010	23,892	-	-	-	-
	Jackson Township	10	30	900	5,690	-	-	-	-
	Jackson West	1,240	110	11,210	16,494	-	-	-	-
	Newbridge	110	10	450	3,075	-	-	-	-
	Upper Westside	430	60	3,820	9,356	-	-	-	-
	New Induced Growth Areas	200	500	-	-	-	-	-	-

FIGURE 5: Excerpt from SACOG’s Attachment A, Discussion Land Use Scenario, April 2024
 Source: SACOG <https://www.sacog.org/planning/2025-blueprint/blueprint-land-use>

In November of 2020, SACOG went on to say “The Upper Westside project . . . raises important policy questions for the region’s implementation of the Blueprint. For example, the capacity for growth in existing entitled lands far exceeds expected demand over the next twenty years: collectively, the region’s jurisdictions have entitled, or are in the process of entitling 2.5 times the region’s projected need for the next 20 years. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development.”

This means there is far more entitled acreage for new homes than the market will bear. The EIR needs to disclose the excess capacity of housing units in Sacramento region and in Sacramento County.

For Sacramento County, the draft 2025 Blueprint does include six developments on greenfield sites with a total capacity of nearly 37,000 housing units. These units are already part of the County’s general plan and are either under construction or in planning/design.

Between now and 2050, only 11,600 housing units are projected to be built. And using the rate of build-out projected for the 2020-2050 period, none of these developments will fully build out by 2050. One development may complete in 2066, and two may in 2079. The remaining three won’t fully build out until the next century.

There is no housing need for Upper Westside.

Refer to FIGURE 6 below.

EXCERPT FROM 2025 Blueprint (MTP/SCS) Adopted Land Use Assumptions June 2024										
Jurisdiction/Developing Communities	Baseyear									
	Existing Conditions (2020)	Potential Buildout	2020 - 2035	2020 - 2050 Built	Percentage of Development Built Out by 2050	2020-2050 ave per year	Total built by 2050	Total unbuilt in 2051	Years to complete after 2050	Est Year Complete based on rate of build out 2020-2050
	Housing Units	Housing Units	Housing Units	Housing Units						
Sacramento County Unincorporated										
<i>North Vineyard Station</i>	1,620	6,063	1,165	2,895	74%	97	4,515	1,548	16	2066
<i>Mather South</i>	0	3,522	400	1,805	51%	60	1,805	1,717	29	2079
<i>Vineyard Springs</i>	2,600	5,942	710	1,700	72%	57	4,300	1,642	29	2079
<i>Florin Vineyard</i>	690	9,919	1,305	3,400	41%	113	4,090	5,829	51	2101
<i>Cordova Hills</i>	0	8,000	350	1,500	19%	50	1,500	6,500	130	2180
<i>Glenborough at Easton</i>	0	3,239	0	300	9%	10	300	2,939	294	2344
Total	4910	36,685		11,600			16,510	20,175		

FIGURE 6: Estimation of year of full build-out

Source: SACOG <https://www.sacog.org/planning/2025-blueprint/blueprint-land-use>

14) Growth Inducement and Urban Decay

DEIR Chapter 23 provides an analysis of growth inducing impacts. The analysis must include the most significant growth inducing impact, that is, the increase in the value of the land in the Natomas Basin. Increased land values will encourage speculation on agricultural land by development interests, and make it more difficult for the Natomas Basin Conservancy to afford mitigation land (acquire the necessary conservation easements to meet the requirements of the NBHCP.)

The DEIR minimizes the impact that the Upper Westside project would have on growth inducement within and around the project area, stating that, “as the USB and UPA would not be extended to include the adjacent 534-acre Ag Buffer, the pressure to develop properties to the west of the development area would be reduced as any future development in this area would need to show consistency with General Plan Policy LU-120 and seek discretionary approval from the Sacramento County Board of Supervisors.” (DEIR 23-2).

In this statement, the DEIR does not acknowledge the precedent-setting nature of the approval of the Upper Westside on the other two proposed developments -- Grand Park and Airport South Industrial – and related increases to land values and alterations to the USB and UPA, prompting more property owners in the Sacramento portion of the Natomas Basin to seek plan and zoning changes to allow conversion of agricultural land to urban uses. Upper Westside would provide the precedent, rationale, and justification for the approval of subsequent projects that convert agricultural land to urban uses. The DEIR avoids identifying and analyzing this impact.

15) Alternatives Analysis is Misleading and Deficient

The critical point of the alternatives analysis is whether there is an alternative location within Sacramento County jurisdiction that could accommodate the project and that would have reduced significant impacts.

The alternatives analysis in the DEIR does not adequately address this question by improperly eliminating unincorporated areas of the County that are suitable for similarly scaled development.

There are two major flaws in the Analysis of Project Alternatives:

First, the project objectives are designed to rule out alternative sites that don't meet the objectives – there are 18 very specific project objectives, at least two of which are specific to the project's location:

- Objective 5: Provide residential housing within five miles of the existing job centers of downtown Sacramento and West Sacramento, as well as in close proximity to newly developing or proposed job centers.
- Objective 10: Make efficient use of development opportunity as the project site is bordered on three sides by existing or planned urban development.

These objectives are self-serving. Taken together, they rule out any other area of suitable size that would meet those objectives.

Second, the document argues that “the applicants only control 292 acres of the UWSP area and an offsite alternative would not be feasible as the project applicants do not control any other properties within Sacramento County.” This is another completely self-serving objective. Whether the applicant controls other lands that would afford a suitable alternative site is irrelevant. In addition, the “project applicants” only control 14 percent of the project area, and so it is difficult to see how the DEIR can rely on this factor to exclude consideration of offsite alternatives.

The alternative analysis does briefly address the possibility of alternative sites within the County that could accommodate a new planned community, but in a limited way, and only with respect to northwest Sacramento County:

“...while other large vacant properties located adjacent to the City of Sacramento in northwest Sacramento County could feasibly achieve many of the project objectives, those lands are not available as planning applications for these lands have already been filed with the City of Sacramento and with the County of Sacramento. Furthermore, while other large vacant properties are available in other portions of the county that could feasibly achieve many of the project objectives, none are located along a major transportation corridor within proximity of existing job centers in downtown Sacramento and West Sacramento, as well as near newly developing or proposed job centers, which is an objective of the proposed UWSP.” [DEIR, pages 3-4,5]

The only reference to other alternative sites in the County that could accommodate a new planned community is in the context of the California State CEQA Guidelines, and the need for addressing them is blithely dismissed without substantive evidence:

“Only those locations that would avoid or substantially lessen any of the significant effects of the project need be considered. If no feasible alternative locations exist, the agency must disclose the reasons for this

conclusion. (Section 15126.6[f][2][B].) In this case, alternative sites would entail either the same or new significant environmental effects as those that would occur within the UWSP area. For example, development of the proposed UWSP on any suitable alternative site in or around the County may not avoid or substantially lessen the project's air quality or greenhouse gas (GHG) impacts, as those impacts would occur no matter where the development is located and could be worse if located farther away from a major transportation corridor or in areas with existing unacceptable traffic levels. Moreover, an alternative site that is not adjacent to already developed lands would likely result in greater aesthetic and utilities impacts than those that would occur within the UWSP area." [DEIR, page 3-4]

The County is considering three large new community development projects along the Jackson Highway Corridor. Although they may have greater air quality or greenhouse gas impacts, there are other areas of impact that would be reduced: they are within the planned growth area and would be less growth inducing, they are more consistent with existing County and regional plans, they do not involve prime agricultural land loss, they would not adversely impact a Habitat Conservation Plan, and they are in an area with likely fewer archaeological resources. A comparison of these impacts needs to be provided in the alternatives analysis for this project

Relevant CEQA Requirements:

- (f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.
- (1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553; see Save Our Residential Environment v. City of West Hollywood (1992) 9 Cal.App.4th 1745, 1753, fn. 1).
- (Cal. Code Regs., tit. 14, § 15126.6 (Lexis Advance through Register 2024, No. 37, September 13, 2024).)

The Alternatives Analysis has been closely linked to the self-serving objectives of the project, objectives that are designed to exclude all other alternatives. The section should have been written from the perspective of significant impacts that cannot be mitigated - and how alternative sites would have fewer significant impacts.

Refer also to Attorney Patrick Soluri's comment letter on this topic.

16) Upper Westside conflicts with State Environmental Initiative

Inconsistency with Nature Based Solutions. Nature-based solutions (NBS) is a California State program established to harness the power of nature to build California's resilience to future climate-driven extremes, protect communities from the climate crisis, and remove carbon from our atmosphere. California State leaders recognize that expanding NBS is essential to meeting California's core climate goals.

In October 2020, Governor Newsom issued the Nature-Based Solutions Executive Order N-82-20, advancing biodiversity conservation as an administration priority and elevating the role of nature in the fight against climate change. As part of this Executive Order, California committed to the goal of conserving 30 percent of our lands and coastal waters by 2030. The initiative is called 30x30.

The Sierra Club has identified four land areas which are critical to accomplishing our Sacramento region's contribution to 30x30. The Natomas Basin is one of these areas.

The Sacramento Region has only conserved seven percent of its land and must conserve an additional 900,000+ acres to meet State planning goals. We are far behind other major metropolitan areas in California. For example, the Bay Area is near thirty percent. The conservation of accessible open lands, and specifically the conservation of lands in Natomas, would readily expand the total protected areas in the Sacramento Region to 19%.

Development of farmland in Natomas removes a key opportunity in Sacramento County to conserve natural and working lands to fulfill this commitment.

The area on which the Upper Westside is proposed is predominantly in agriculture that also serves as habitat for endangered species and a vital ecosystem for carbon sequestration. Development of this land would further encourage speculation of adjacent open lands for development, move us ever further from achieving State goals. The impact related to the goals of 30x30 is not addressed in the DEIR.

17) Attachments

Attachment 1: 1994 Permit Number 199200719 U.S. ARMY ENGINEER DISTRICT.SACRAMENTO CORPS OF ENGINEERS 1325 J STREET SACRAMENTO, CALIFORNIA 95814-2922

Attachment 2: March 11, 1994, US Fish and Wildlife Service, Endangered Species Act Consultation on the Revised Natomas Area Flood Control Improvement Project (PN 199200719) in Sacramento and Sutter Counties, California

Attachment 3: 2003 IMPLEMENTATION AGREEMENT FOR THE NATOMAS BASIN HABITAT CONSERVATION PLAN

Attachment 4: June 24, 2003 United States Department of the Interior FISH AND WILDLIFE SERVICE, Sacramento Fish and Wildlife Office Intra-Service Biological and Conference Opinion on Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the City of Sacramento and Sutter County for Urban Development in the Natomas Basin, Sacramento and Sutter Counties, California.

Attachment 5: National Wildlife Federation v. Norton, Civ-S-04-0579 DFL JFM (E.D. Cal. Sep. 8, 2005)

Attachment 6: ICF. 2024. Natomas Basin Habitat Conservation Plan Area Biological Effectiveness Monitoring Report: 2023 Annual Survey Results. July. Prepared for the Natomas Basin Conservancy, Sacramento, CA. Prepared by ICF, Sacramento, CA).

Attachment 7: Yolo County Ordinance Chapter 10, "Habitat Mitigation Ordinance"

Attachment 8: Wood, et al, "Defining Population Structure And Genetic Signatures Of Decline In The Giant Gartersnake (*Thamnophis gigas*)" Conservation Genetics (April 11, 2015)

From: 2wingdam33@gmail.com
To: [Clerk of the Board Public Email](#)
Cc: [SupervisorSerna](#)
Subject: Upper Westside Development
Date: Monday, October 21, 2024 10:42:06 AM

EXTERNAL EMAIL: If unknown sender, **do not** click links/attachments.
If you have concerns about this email, please report it via the Phish Alert button.

October 21, 2024

To: Sacramento County Planning Commissioners (BoardClerk@saccounty.gov)

From: Christine Olsen, Garden Highway, Sacramento County

Subject: Upper Westside Development Plan

Hundreds of Sacramento residents, interest groups, experts, and government agencies have come together repeatedly, over many years, and spent thousands of hours in workshops and hearings to tell the County we don't want sprawl. We want planned growth that makes life better for everyone. The Upper Westside development is urban sprawl. Sacramento County's 2030 General Plan was designed to promote the efficient use of land, encourage economic vitality and reduce urban sprawl and its impacts, preserve habitat and open space, and protect local farming. The Urban Services Boundary was intended to implement that vision and promote orderly growth within the County. The Upper Westside project unnecessarily violates those County plans as well as the Urban Policy Area, County zoning and other County codes, SACOG's Blueprint for regional development, and agreed upon habit conservation plans.

On behalf of all the Sacramento County residents who worked to ensure the countywide benefits of planned growth, you are urged to pause consideration of any projects outside the Urban Services Boundary and hold public hearings on whether the Urban Services Boundary should be expanded. If one project is approved beyond the Urban Services Boundary, other developments will surely follow, and the Urban Services Boundary will no longer function as intended to preserve open space, habitat and prime farmland, or to encourage infill development. Changing the Urban Services Boundary will have irreparable negative impacts on the County's environment, and on Sacramento County residents far beyond the Upper Westside project.

Getting planning right ensures a community we love to live in and a community that works for everyone. The Upper Westside project is the spawl we all want to avoid. The County made a commitment to the people of Sacramento that the County would not expand the Urban Service Boundary unless there was inadequate vacant land within the USB to accommodate the demand for urban uses. There is, today, more than ample land within the Urban Services Boundary for the number of housing units and the amount of commercial space the Upper Westside Project proposes.

Allowing development outside the Urban Services Boundary harms the Sacramento community outside and inside the Urban Services Boundary. An important achievement of infill development is that it not only advantages residents inside the new development, it adds vitality and benefits to the nearby community, maximizes the cost-efficiency of urban services such as transit, and reduces environmental impacts associated with urban sprawl. The Upper Westside applicant may have no interest in infill development and that is their prerogative, but their proposed project outside the Urban Services Boundary is unnecessary and harmful far beyond the project area.

If the County does permit development outside the Urban Services Boundary, please at least protect a minimum one-mile-wide river corridor. River corridors are unique and highly

valued by Sacramentans for recreation, for open space that provides a respite from urban environments, for wildlife and unique wildlife habitats and corridors, for prime farmland, for flood protection buffers, and as important tribal cultural landscapes.

With regard to the Upper Westside EIR, the EIR is fundamentally flawed and should be rejected. EIR's are intended, by law, to present the public and decisionmakers with factual, evidence-based information about a project's potential impacts. The Upper Westside EIR identifies changes the project applicant is seeking to the County's 2030 General Plan, County zoning, to the Urban Services Boundary, and to the Urban Policy Area, among others. Then, throughout the EIR, the EIR makes false claims that the project does not conflict with County land use policies. For example, under Agricultural Resources, the EIR says, "the proposed UWSP would not conflict with existing agricultural use and zoning," That is profoundly untrue. The project site is mostly zoned and used for agriculture and would be rezoned for urban uses. The project may totally wipe out local farming because the remaining 400 acres that could be used for farming is a long narrow space (some just 700 feet wide), and just 30 to 50 feet from urban conflicts, which may make the remaining farmland impractical for commercial farming. The EIR says the proposed project would not conflict with existing habitat conservation plans. That is also untrue as detailed by the Environmental Council of Sacramento. Under Land Use, the EIR says, "the proposed UWSP would not conflict with Sacramento County's Land Use Plans," despite the long list of County land use plans, policies and codes that the project seeks to change. Under Growth Inducement impacts, no rationale is presented for approving urban development outside the Urban Services Boundary and the EIR completely fails to address the growth inducement impacts due to the project applicant's requested changes to County plans, policies and codes. Developers have a right to spin the truth in their communication with Planning Commissioners and County Supervisors, but deceit and spin has no place in an EIR.

More detailed EIR comments will be submitted to the County. Here I want to highlight serious impacts the project would have on Garden Highway, where I live. The proposed project would come within 700 feet of Garden Highway. The EIR suggests the Upper Westside project could add 4,000 vehicle trips a day to Garden Highway. Intersection improvements on Garden Highway are discussed in the EIR, but there is no discussion of traffic safety impacts on the Garden Highway roadway. Garden Highway is a rural 2-lane, undivided and elevated roadway. Garden Highway is half the width it should be for traffic safety. It has blind curves, no shoulders and no guard rails. The greatest traffic safety issue on Garden Highway is the mixed use of the roadway by personal vehicles, semitrucks, agricultural equipment, cars pulling boats, golf carts, individual and groups of cyclists, pedestrians, and wildlife, any of which can enter the roadway unexpectedly from farm roads, driveways, and the riverbank. Adding traffic to Garden Highway has life safety consequences and should be rejected as unnecessary and too dangerous.

The EIR does not identify or suggest mitigations that might reduce urban-rural conflicts for a project like Upper Westside and a rural residential area such as Garden Highway. The project proposes a stadium close to residences all around the project, including Garden Highway. Stadium traffic, noise, and light do not belong in or near residential areas. Stadium noise can travel miles. County and City Code Enforcement offices and Sacramento stadium operators can confirm stadium conflicts with residential areas. Traffic and noise generating land uses, such as schools and an outdoor pavilion, should be located close to major roadways and commercial uses to reduce all residential impacts. Amplified sound should be prohibited in all residential areas. In the past, developers and the County have determined that amplified sound can be regulated to minimize impacts. That has proven to be untrue. Over time, sound equipment and the location of speakers

can change and noise makers like bull horns can be introduced, resulting in uncontrolled noise that can easily travel more than 2 miles (based on real life experience). The EIR fails to address impacts from putting urban development within 700 feet of rural residential zoning on Garden Highway and fails to identify mitigations such as requiring that project construction begin closest to existing urban uses, reaching rural areas last.

The EIR says nighttime lighting is an impact, but fails to address the harmful impacts of nighttime lighting on human health and on wildlife, including migratory birds using the Pacific Flyway. And the EIR fails to identify possible light mitigations, such as establishing a minimum one-half mile setback between the project and any rural areas (i.e. Garden Highway), with the setback to include a minimum 100-foot-wide densely planted tree buffer of tall native evergreen trees at the western project boundary, with the setback established and the tree buffer installed at the beginning of project construction.

The proposed Upper West project is unnecessary and harmful. The EIR fails to honestly present impacts from changing County plans, policies and codes. The EIR highlights an unacceptably long list of significant, harmful and unavoidable impacts countywide that cannot be mitigated, including unplanned growth, urbanization of a rural area and a river corridor, increased costs for taxpayers and ratepayers because of the unplanned extension of urban services, increased traffic and roadway hazards, increased air pollution, loss of wildlife, loss of habitat, loss of productive farmland, and the permanent loss of an important landscape for indigenous communities of Sacramento County.

For the benefit of current and future Sacramento County residents, the County should reject all development outside the Urban Services Boundary, including the Upper Westside project. What is the point of urban development if a project like Upper Westside can violate so many County plans and policies and still be approved.

From: [Melissa Brown](#)
To: [Clerk of the Board Public Email: SupervisorSerna](#)
Cc: [Don Fraulob](#); [Patrick Tully](#); [GHCA Board](#)
Subject: Opposition to Upper Westside Plan
Date: Monday, October 21, 2024 11:07:28 AM

EXTERNAL EMAIL: If unknown sender, **do not** click links/attachments.
 If you have concerns about this email, please report it via the Phish Alert button.

Greetings,

Please accept this communication in opposition to the Upper Westside Plan. As a residents and homeowners of the Garden Highway for over 35 years, I have witnessed the gradual degradation of our neighborhood as a result of the levee project. The destruction of habitat is quite apparent. And already, the increased traffic has resulted in accidents, killing of wildlife and pets. This is before the proposed massive increase in population, traffic, pollution, and pressure on public safety that will result from the Westside Plan. Moreover, the project's 20-30 year buildout schedule creates unacceptable noise, dust, air pollution and general area disruption over decades. The EIR fails to consider how current and future residents will be provided with safe mitigation during the decades of construction.

The following are specific comments that we ask you to address.

- 1. Public hearings on expanding the Urban Services Boundary are necessary.** This project is outside the Urban Services Boundary. Before considering any development outside the Urban Services Boundary, the County should pause development applications outside the Urban Services Boundary and hold hearings on whether the Urban Services Boundary should be expanded and consider the significant negative impacts on the environment and Sacramento County residents far beyond the Upper Westside project area.
- 2. This project's urban sprawl is unacceptable.** . The County's 2030 General Plan, County zoning, the Urban Services Boundary, the Urban Policy Area, and SACOG's Blueprint for regional development all seek to avoid. The land use strategies and policies of the Sacramento County 2030 General Plan were designed to promote the efficient use of land, encourage economic vitality and reduce urban sprawl and its impacts, preserve habitat and open space, and protect local farming. The Urban Services Boundary was intended to implement that vision and promote orderly growth within the County. The proposed project violates the County's 2030 General Plan, County zoning, the Urban Services Boundary, the Urban Policy Area, and SACOG's Blueprint for regional development. There is no rationale is presented in the EIR, for approving this project outside the Urban Services Boundary.
- 3. This project harms the entire Sacramento community** because of the loss of open space, and habitat and their associated recreational benefits; the loss of farmland; a significant increase in roadway dangers because of increased traffic on rural roads and increased congestion and conflicts at freeway on and off ramps which may not be able to be mitigated for some time; and a significant increase in area air pollution which has health consequences for the entire Sacramento area. **The EIR fails to recognize that the project reduces Sacramento recreational opportunities**, because increased traffic in the project area, would make it unsafe for individual cyclists and cycling clubs, as well as motorcycle clubs and antique or specialty car clubs that use Garden Highway for recreation.
- 4. The EIR falsely claims that the project does not violate habitat conservation plans.** We agree with the Environmental Council of Sacramento that the proposed project does violate approved habitat

conservation plans and would lead to the permanent destruction of open space, habitat and wildlife.

5. The EIR fails to identify that river corridors are rare and valuable resources to residents of any community, and are particularly valued by Sacramento County residents for recreation, open space, wildlife, and local farmland. The proposed project introduces permanent harms by urbanizing a river corridor, putting urban activity within about 700 feet of Garden Highway and the river. River corridors need to be protected for current and future area residents.

6. The proposed project changes the existing one-mile river corridor protection buffer to 700 feet. Years ago, during County hearings on the Urban Services Boundary, many residents argued for a miles wide protection buffer for the Sacramento River corridor to protect recreation, open space, habitat and local farmland. The County settled on a one-mile buffer. This project would reduce that buffer to a wholly inadequate 700 feet in some areas, up to a maximum of one-half mile.

7. The proposed project would result in the significant and permanent loss of open space, habitat, already diminished local farmland, and floodplain protections. Once these community resources are gone, they are gone forever.

8. Mitigation for loss of farmland, wildlife and wildlife habitat would most likely occur beyond the Sacramento area, depriving Sacramento County residents of those benefits. The project applicant says loss of farmland, wildlife, and wildlife habitat would be mitigated outside the Natomas Basin. People in Sacramento value and find benefit in farmland, wildlife, and the open space that serves as wildlife habitat. **The EIR fails to identify the communitywide loss of farmland, wildlife and wildlife habitat resources as community assets.** If the project is approved farmland and wildlife mitigations should be required within the Natomas basin where those resources would continue to benefit community residents.

9. The EIR fails to identify that the proposed project could result in a total loss of project area farmland. Most of the project area is currently farmland that would be converted to urban uses. In the past 10 years Sacramento has lost more than 14,000 acres of farmland. This project could result in the permanent loss of another 1500 acres or more of high-value, productive local farmland. The project applicant says 534 acres of farmland would remain, but about 130 acres of that is intended as buffer land that will not be useable for farming. The remaining 400 acres of farmland is a long narrow space (some just 700 feet wide), and just 30 to 50 feet from potential urban conflicts, which may make the remaining farmland impractical to use for commercial farming.

The recent pandemic made clear that farmland is important community infrastructure. **The EIR fails to address the loss of area farmland as a community food resource** when there are disruptions to the food distribution system.

10. The EIR fails to identify that the proposed project could reduce existing floodplain protection. Around the United States, communities are starting to reserve land near waterways to use as open space for flood protection. This project puts housing in a floodplain close to the river. While the new Natomas levee is expected to provide 200-year flood protection, climate change increases the chance of extreme flooding. Recent flooding in Asheville, North Carolina is proof of that. Current open space and farmland near the river provides urban areas with an additional level of flood protection. The proposed project would eliminate this protection.

11. This project has an unacceptably long list of significant and unavoidable impacts, many that are harmful, permanent, and cannot be mitigated, including unplanned growth, urbanization of a rural area, increased traffic and roadway hazards, increased air pollution, increased noise, loss of wildlife, loss of habitat, loss of productive farmland, and the permanent loss of an important landscape for indigenous communities of Sacramento County.

20. The project significantly and unacceptably increases air pollution, possibly exceeding thresholds of significance for everyone, and posing serious health risks, including an increased risk of cancer. In addition, operation of the proposed project would significantly conflict with and obstruct implementation of the Sacramento Metropolitan Air Quality Management District air quality improvement efforts.

13. Sacramento does need affordable housing, but the EIR fails to note that this project makes no commitment to a specific number of very affordable, affordable, and missing middle housing (duplexes, etc.) units or a specific percentage of affordable housing units. In addition, the buildout of this project will take 20-30 years, and the first phase will take 7 years. So, there would not be housing from this project for many years. If the project is approved it should have specific affordable housing requirements, with a high percentage of affordable housing units in each housing development.

14. The EIR fails to adequately address the severe and dangerous impacts project traffic would have on Garden Highway and existing Garden Highway users. The EIR suggests the project could add 4,000 trips a day to Garden Highway. Garden Highway is a rural 2-lane, undivided road. Garden Highway is an elevated roadway on top of a levee, so widening is not feasible. Garden Highway is half the width it should be for traffic safety. It has blind curves, no shoulders and no guard rails. The project EIR emphasized concerns about traffic safety, including hazardous conditions at Garden Highway intersections. However, the EIR fully failed to address the greatest safety issue on Garden Highway, which is the mixed use of the road by personal vehicles, semitrucks, agricultural equipment, cars pulling boats, golf carts, individual and groups of cyclists, pedestrians, and wildlife, any of which can enter the roadway unexpectedly from farm roads, driveways, and the riverbank. Adding traffic to Garden Highway is unacceptably dangerous. If the project is approved, a new traffic circulation plan should be required and agreed to by the Garden Highway Community Association, that discourages project vehicle traffic on Garden Highway.

15. The EIR fails to adequately address the impacts from a proposed stadium, which would be close to residences all around the project, including Garden Highway. Stadium traffic, noise, and light do not belong in/near residential areas. Stadium noise can travel miles. County and City Code Enforcement offices and Sacramento stadium operators can confirm stadium conflicts with residential areas. Any stadium should be miles from any residences. We already experience amplified noise, travelling miles with concert events such as Aftershock and the CHP Firing Range across the river in West Sacramento. If the project is approved, no amplified sound should be permitted (except at school sites for emergencies).

The EIR notes that nighttime lighting would have a permanent impact on the area. **But the EIR fails to adequately address the harmful impacts of nighttime lighting on human health and on wildlife**, including migratory birds using the Pacific Flyway. **The EIR fails to provide adequate light mitigations for humans and wildlife.** If the project is approved, there should be a minimum one-half mile buffer between the project and Garden Highway that includes a minimum 100 foot wide densely planted tree buffer adjacent to the project. The tree buffer must include tall native evergreen trees planted at the beginning of project construction.

16. The EIR fails to adequately address that project related air pollution and its resulting serious health impacts, as well as construction dust, could be more severe on Garden Highway because of the prevailing wind that blows toward Garden Highway.

We trust you will carefully consider the negative impact this project will have on our community and reject efforts to greenlight the project until these and other issues are resolved. Those of us in the community are living through the years long levee improvement project which has had significant and negative impact on our well-being. The Westside project adds decades to the disruption of our lives and environment.

Sincerely,

Don Fraulon and Melissa Brown

2517 Garden Highway

Sacramento, CA 95822



SUTTER COUNTY

DEVELOPMENT SERVICES DEPARTMENT

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Building Inspection
Environmental Health/CUPA

Code Enforcement
Engineering/Water Resources

Planning

Admin & Finance
Road Maintenance

October 28, 2024

Sacramento County
Department of Community Development
Planning and Environmental Review Division
Attention: Emma Patten, Senior Planner
827 7th Street, Room 225
Sacramento, CA 95814

Re: Draft Environmental Impact Report for the Upper Westside Specific Plan (State Clearinghouse No. 2020100069, County Control Number PLNP2018-00284)

Dear Emma Patten:

Sutter County has reviewed the Draft Environmental Impact Report (DEIR) for the Upper Westside Specific Plan (UWSP) project (PLNP2018-00284) and provides the following comments:

1. As a signatory to the Natomas Basin Habitat Conservation Plan (NBHCP), Sutter County has serious concerns regarding this project and its potential to jeopardize the validity of the NBHCP. Under the NBHCP and Incidental Take Permit (ITP), Sutter County and the City of Sacramento were permitted a designated amount of development within the Natomas Basin in exchange for compliance with the NBHCP and ITP to allow for preservation of habitat lands for threatened and endangered species. The Severability section of the NBHCP states that if one of the plan's participants has its permits revoked for failure to comply with the NBHCP, the essential effect to the implementation of the NBHCP is that less Authorized Development is covered by the plan.
2. The DEIR identifies the consistency of the UWSP mitigation measures with the provisions of the NBHCP and Metro Air Park Habitat Conservation Plan (MAPHCP), but does not fully evaluate nor consider the various conflicts the development itself and implementation of these mitigation measures would have with the related ITPs and Implementation Agreements (IA) for both HCPs, which is a significant and avoidable oversight that should be fully evaluated prior to approval of any environmental documents and mitigation measure for this proposal.
3. The approval of the development of this property within the Natomas Basin would constitute a significant departure from the NBHCP's Operating Conservation Plan and could trigger a re-evaluation of the NBHCP. As a signatory to the NBHCP, this is unacceptable to Sutter County, since approval of this project places the integrity of the NBHCP in jeopardy and could impact Sutter County's ability to develop within its own permitted development area.
4. As discussed in the document, the project applicants only control 292 acres or 14 percent of the UWSP area but are proposing a significant shift of 1,532 acres from agriculture/farmland to 9,356 units and 3.1 million square feet of commercial, retail, and office uses. How does Sacramento County intend to hold the larger non-participating property owners of the

remaining 1,774 acres accountable and tied to biological resources and mitigation contained in this document that has also not been reviewed and approved by CDFW or USFWS?

5. **BR-12: Loss of Wildlife Movement and Nursery Sites.** The permanent loss of giant garter snake dispersal habitat within the Natomas Basin, proposed with this development, will not adequately be mitigated by providing mitigation outside of the Natomas Basin. The permanent loss within the Natomas Basin will be a further detriment to available dispersal habitat, is contrary to the NBHCP and MAPHCP, and will remain a significant impact.
6. **BR-13: Conflict with Any Local Policies or Ordinances Protecting Biological Resources.** Although Sacramento County has adopted a Swainson's Hawk Ordinance and Impact Mitigation Program, this would still not sufficiently mitigate for the loss of 40 acres of Swainson's Hawk foraging habitat that this development would eliminate in the Natomas Basin, which is also contrary to the policies of the NBHCP and MAPHCP. Therefore, this would also still remain a significant impact.
7. **BR-14: Conflict with Natomas Basin HCP and Metro Air Park HCP.** The NBHCP and MAPHCP are adopted conservation plans with respective plan areas that cover all of the Natomas Basin, not portions of the Natomas Basin. Although the applicant is proposing to implement some similar mitigation measures included in both plans to help to minimize impacts to covered species in the NBHCP and MAPHCP, the approval and development of the UWSP area could permanently disturb/harm over 975 acres of habitat/foraging area for these protected species, which is directly contrary to both the NBHCP and the MAPHCP documents and policies. Approval and construction of this development as proposed would potentially pose significant impacts to the long-term implementation and success of both HCPs, with or without the proposed mitigation measures.
8. It is premature to propose such significant land use changes, potential changes in habitat for protected species, and mitigation without fully evaluating the proposal's impacts to the existing NBHCP and MAPHCP (which have both already been reviewed and approved by USFWS and CDFW) without first obtaining each agencies' requirements and approvals through each of their existing permitting processes.
9. As we believe this proposal may have significant and potentially avoidable conflicts with the approved NBHCP and MAPHCP, and this EIR is intended to be used for the permitting processes for USFWS, CDFW, and other applicable agencies, Sutter County should be involved in any discussion and/or permitting review process within the Natomas Basin that may affect our implementation and validity of the existing NBHCP, ITP, and IA.

In summary, the topics discussed above are of great concern to Sutter County. This project lies outside of the boundaries designated in the NBHCP for development. Sacramento County land use designation, boundaries, and policies should not be modified to accommodate growth which is neither contemplated nor permitted by the NBHCP. Sutter County cannot support a proposal that may undermine the adopted NBHCP, or potentially threaten Sutter County's ability to develop within its already permitted development area. Accordingly, Sutter County strongly encourages Sacramento County to fully evaluate the impacts of this development proposal on all affected parties before reviewing and/or approving such a significant change.

DEIR for the Upper Westside Specific Plan (SC No. 2020100069 / PLNP2018-00284)
October 28, 2024
Page 3

Please provide Sutter County and my office with all future notices regarding this project.

Sincerely,

Arwen Wacht
Principal Planner

Ec: Steven Smith, County Administrator
Neal Hay, Development Services Director
William Vanasek, County Counsel
Sutter County Board of Supervisors

Cheryle Hodge, Principal Planner/New Growth Manager, City of Sacramento

John Roberts, Executive Director, The Natomas Basin Conservancy



October 28, 2024

SENT VIA EMAIL

Sacramento County
Department of Community Development, Planning and Environmental Review Division
Attention: Environmental Coordinator
827 7th Street, Room 225
Sacramento, CA 95814

**SUBJECT: Upper Westside Specific Plan (State Clearinghouse No 2020100069,
County Control Number PLNP2018-00284)**

Mrs. Newton,

Thank you for contacting Sacramento Local Agency Formation Commission (LAFCo) regarding the Upper Westside specific Plan Draft Environmental Impact Report (DEIR). The proposed project is a Specific Plan for a multi-use development located in the northwest portion of unincorporated Sacramento County outside of the County's Urban Policy Area (UPA) and Urban Services Boundary (USB). Also, we thank you for allowing us to submit additional comments a little after the deadline.

Upper Westside is bounded on three sides by the City of Sacramento, adjacent to the existing City of Sacramento communities of North and South Natomas. According to the City's comment on the June 2021 Notice of Preparation, the proposed project site is located outside of the City's Sphere of Influence boundaries.

The Draft EIR prepared by Sacramento County to evaluate the proposed project has been prepared as a Project EIR to meet the requirements of the State CEQA Guidelines. The EIR notes that Sacramento LAFCo may be a responsible agency that would review and approve revised boundaries for urban service providers. Sacramento LAFCo's responsibilities and processes as a responsible agency are set forth in Section 15096 of the State CEQA Guidelines.

LAFCo has reviewed the Notice of Preparation, our June 2021 Response to the NOP, the Draft EIR, and the Appendices to the Draft EIR in order to understand how the County has responded in the DEIR to LAFCo's previous requests to evaluate environmental

Commissioners

Sue Frost, Rich Desmond, County Members ■ *Patrick Hume, Alternate*
Iva Walton, Lisa Kaplan, City Members ■ *Jay Vandenburg, Katie Valenzuela, Alternates*
Chris Little, Public Member ■ *Timothy Murphy, Alternate*
Lindsey Carter, Gay Jones, Special District Members ■ *Charlea Moore, Alternate*

Staff

José C. Henriquez, Executive Officer ■ *Desirae Fox, Kristi Grabow, Policy Analysts*
Nancy Miller, DeeAnne Gillick, Commission Counsel

issues required of LAFCo by the Cortese-Knox-Hertzberg Act. Our comments on the DEIR follow the order of our 2021 NOP comments.

1. Revise the DEIR to properly describe the type and timing of the LAFCo entitlements necessary to provide services to the USWP project area.

LAFCo's NOP response notes that much of the project site is unserved by urban utilities, and that Sphere of Influence Amendments (SOIAs), annexations, or formations of new service providers would be necessary to serve the proposed UWSP.

2. Request for an exclusive Executive Summary to set forth LAFCo procedures and necessary actions.

Because the project site has previously been used primarily for agriculture, the project is outside of the service boundaries of many of the providers; for several of the providers, the project area is outside of the providers sphere of influence. For these providers, consistent with LAFCo policies, it would be necessary for the Commission to amend their Spheres of Influence prior to considering an annexation of the project area into the utility service area.

The DEIR inconsistently describes the types of LAFCo entitlements that would be necessary to extend existing urban services to the project site or to create a new service provider to serve the project area. For example, the project description indicates that a proposed annexation to Sacramento County Water Agency to provide water services to the subject area. SCWA is not a service district under the jurisdiction of LAFCo, and therefore should be removed from the project description. Should SCWA need to extend infrastructure to the subject area, but it will not be accomplished through LAFCo's annexation process. Additionally, the subject area is not included in the SOI for SacSewer. As such the project description would need to be updated to include a SOI amendment to SacSewer with a subsequent Annexation to the service district.

3. Request To Meet with Lead Agency

LAFCo adopted policy is to retain CEQA lead agency status for those projects that require a Sphere of Influence Amendment, as may be necessary for extending urban services to the USWP project area. As noted in our June 2021 NOP comments, in cases where the Sphere amendment(s) is/are part(s) of a larger project, such as the USWP project, LAFCo may consider entering into a Memorandum of Understanding to establish LAFCo as a co-lead agency in concert with the land use agency. Although this request was made previously in our NOP comments, Sacramento County has not responded to our query. We request to have a meeting with County staff pursuant to Section 15104 of the California Environmental Quality Act, which states that the Lead

Agency shall convene a meeting with responsible agency representatives to discuss the scope and content of the environmental information as soon as possible but no later than 30 days after receiving a request for the meeting.

4. Request for an exclusive Executive Summary to set forth LAFCo procedures and necessary actions.

Given the authority of LAFCo in the project consideration and our NOP comment requesting a discussion in the EIR of LAFCo's role in the entitlement process, including the Commission's procedures, and necessary actions. Our review of the DEIR indicates that no such discussion is offered in the DEIR. Please amend the EIR to include this information.

5. Evaluation of public services should describe and assess LAFCo standards and requirements

The evaluation of public services should explicitly meet LAFCo requirements. The DEIR appears to properly evaluate the environmental effects of physical facilities that would need to be constructed to serve the project, including those outside of the project site, whose construction potentially could have environmental effects.

Additionally, the evaluation should assess whether service providers have (1) the service capability and capacity to serve the project area, and (2) whether they can provide services to the project area without adversely affecting existing service levels elsewhere in their service areas.

The analysis may benefit from consideration of the required service provider Plans for Services regarding the financing and timely provision of services with no adverse impact to existing ratepayers, including sustainable water supplies/treatment/distribution and wastewater collection and treatment, as well as other public services and utilities.

The evaluation should assess whether new service providers would perform any services that are now being provided by another service provider in the project area, and whether substitution of the new provider for the existing provider would have any adverse effects on the existing provider's ability to maintain services elsewhere in its service area.

Although LAFCo responsibilities regarding public services and utilities are set forth in DEIR Chapter 20, Utilities they are not mentioned, completed or utilized in the environmental assessment within the Chapter. We request that the DEIR's evaluation of utilities be revised to include our requested information.

6. Evaluation of potential impacts to Prime Farmlands to meet LAFCo statutory requirements

LAFCo's required definition of prime farmland is set forth in the Cortese-Knox-Hertzberg Act. The regulatory setting contained in Chapter 5 of the DEIR properly sets forth the standards of Government Code Section 56064 in defining prime farmlands, but these criteria are not used in the evaluation of the project's effects on important farmlands elsewhere in the chapter. We request that the DEIR be amended to either include a revision of Impact AG-1 to include a parallel calculation of prime farmland lost using LAFCo's definition of such farmland, or that a standalone impact statement be drafted to evaluate the loss of such farmland.

The EIR should also assess the interface between planned urban uses and existing and ongoing agricultural uses. Specifically, the analysis should determine the types of crops typically grown in interface areas and the types of pesticides/biocides and other chemicals used on identified crops. For each identified chemical, the EIR should determine any setback required by the State and the Sacramento County Agricultural Commissioner between the application site and sensitive uses such as residences and schools. Any low sensitivity land use buffers necessary to permit continued farming operations should be identified.

7. Evaluation of potential impacts to Prime Farmlands assessed using LAFCo Policies, Standards, and Procedures

The DEIR contains an evaluation of the consistency of the proposed UWSP with Standard E of the LAFCo Policies, Standards, and Procedures. The consideration of the consistency of the proposed project assessed in the EIR is the sole responsibility of the Commission, and not the preparers of the DEIR. Please delete the discussion Sacramento County LAFCo Criteria Factors 1 through Factor 5.

8. Evaluation of potential impacts to Open Space to meet LAFCo statutory requirements

LAFCo is required by its enabling legislation to evaluate a project's impact on open space. Based on our review, we note that the loss of open space with implementation of the project is not explicitly evaluated in the DEIR (e.g., there is no impact that assesses the loss of open space with implementation of the project). Additionally, there is no discussion of the County-wide loss of open space as requested in LAFCo's June 2021 NOP comment letter. Non-agricultural open space is discussed in DEIR Chapter 4, Aesthetics. Impacts AE-1 and AE-2 evaluate the project induced loss of open space as a change in visual quality. No mitigation measures are offered for either impact, and both are determined to be significant and unavoidable. Agriculture as open space is evaluated in Chapter 5, Agricultural Resources.

LAFCo requests that the EIR be modified to include an evaluation of the project's effect on open space, both at a project level and at a countywide level.

9. Evaluation of an alternative project that includes expansion of the City's Sphere of Influence and annexation of the project area

LAFCo's NOP comment requested that the range of alternatives assessed in the EIR should include an alternative that would amend the Sphere of Influence of the City of Sacramento and annex the project site to the City.

LAFCo requested that this alternative be evaluated to provide information to the Commission to permit them to evaluate the project's consistency with LAFCo policy to favor the most efficient and comprehensive service provider to the proposed project. As set forth in the DEIR, the project anticipates that the City may furnish a water supply to the project as well as potentially treating and distributing potable water. Additionally, according to the NOP, the City currently provides fire protection services to the site.

This alternative was not included in the DEIR, and no rationale for its absence was provided either in response to our NOP comment or in the DEIR. We request that the DEIR be amended to include an evaluation of this alternative.

Advisories:

10. Sphere of Influence Amendment for County Service Ara No.10 (CSA-10):

CSA-10 provides transportation and related services for new development to comply with air quality control measures. The project description includes an annexation to CSA-10 or the creation of a new CSA. Please be advised that forming a new service district has a different process than Annexation. Regardless of the route, LAFCo will need to assess the Sphere of Influence for the service area.

If you have any questions regarding the comments above, please do not hesitate to reach out to our office. Thank you again for including LAFCo in this process.

Regards,

Desirae N. Fox

Desirae N. Fox
Policy Analyst



October 28, 2024

Julie Newton, Environmental Coordinator
 Planning and Environmental Review
 Sacramento County
 827 7th Street
 Sacramento, CA 95814

Via Email Only: CEQA@saccounty.gov.

Dear Ms. Newton:

UPPER WEST SIDE PROJECT, DRAFT SEIR

We appreciate the opportunity to comment on the County's August 2024 draft Specific Plan and Supplemental Environmental Impact Report (SEIR) for the subject project. Because of the length and complexity of the SEIR, our review is at this time necessarily incomplete, but we have tried to provide feedback on key aspects of the documents.

We include the following outline to facilitate review.

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 - 2. County Historic Growth Rate
- B. THE COUNTY'S THREE GROWTH STRATEGIES
 - 1. "Infill" Strategy, Including Commercial Corrido
 - 2. "Buildout of Planned Communities" Strategy
 - 3. "New Growth Areas" Strategy
- C. COUNTY HAS APPROVED FAR MORE HOMES THAN THE MARKET REQUIRES
 - 1. Sacramento County – Existing Housing Capacity
 - 2. Growth Capacity Greatly Exceeds Foreseeable Market Demand
- D. LAND USE EFFECTS OF EXCESS ENTITLEMENTS
 - 1. Scattered Sprawl Development.
 - 2. Incomplete Development.

IV. UWSP ENVIRONMENTAL IMPACTS

- A. CUMULATIVE EFFECTS CONTRARY TO STATE PLANS AND GUIDANCE
- B. CHAPTER 8, CLIMATE CHANGE
 - 1. MM CC-1b is Inconsistent with SMAQMD Requirements
 - 2. Avoiding Residential Gas Infrastructure is Not Additional
 - 3. Procuring Renewable Energy to Mitigate Commercial GHG Emissions Would be Non-Additional
 - 4. Table CC-6 Inaccurately Claims Consistency with CARB Scoping Plan
 - 5. The Mitigation Scheme Conflicts with the Normal Development Cycle
- C. CHAPTER 14, LAND USE
 - 1. The SEIR Relies on GPU Policy LU-120
 - 2. The Efficacy of Policy LU-120 is Unsubstantiated
- D. CHAPTER 18, TRANSPORTATION
 - 1. Urban Sprawl Induces Increased VMT
 - 2. UWSP Mitigation for Induced VMT is Based on Full Build-out.
 - 3. Excess Entitlements will Delay or Preclude the Proposed Mitigation

V. FEIR/GP CONFLICTS

- A. FAILURE TO MITIGATE GHG EMISSIONS BY ADOPTING A CAP
 - 1. Sacramento County Promised to Adopt a CAP
 - 2. The Advantages of CAPs
 - 3. The County has Failed to Adopt a CAP
 - 4. The County Must Adopt a CAP Before Approving the UWSP
- B. FAILURE TO IMPLEMENT GP POLICIES PRIORITIZING INFILL
 - 1. GP Direction on Growth Location is Broad
 - 2. The GP Prioritizes Infill over "New Growth"
 - 3. Prioritizing is a Practical Necessity
 - 4. The County has Improperly Prioritized New Growth

C. FAILURE TO ENSURE LOGICAL PROJECT BOUNDARIES

1. The GP Requires Logical Boundaries
2. The UWSP Boundary is Not Substantiated as “Logical

D. FAILURE TO JUSTIFY USB BOUNDARY CHANGE

1. The Role of County Growth Boundaries
2. The SEIR Identifies No Justifying “Extraordinary Circumstances”

E. FAILURE TO IMPLEMENT THE COUNTY’S 2011 PHASE I CAP

1. Policy Role of the Phase 1 CAP
2. Phase 1 CAP and VMT Reduction
3. County Failure to Implement Phase I CAP’s VMT-Reduction Focus

F. FAILURE TO COMPLY WITH GPU REQUIREMENTS FOR EFFICIENT, LOGICAL PLANNING

G. THE PROBLEM OF THE GENERAL PLAN’S INCOHERENT GUIDANCE

[Attachment 1](#). Current Effects of the Climate Crises

[Attachment 2](#). The Importance of Local Climate Action

[Attachment 3](#). Sacramento County’s Sprawl Mitigation is Unsupported

[Attachment 4](#). Sacramento County Failures in Meeting Climate Commitments

[Attachment 5](#). FEIR GHG Mitigation Commitments

SECTION I. GENERAL COMMENTS

A. THE CLIMATE CRISIS

350 Sacramento’s primary focus is local action to accelerate the transition to climate stability, and we are concerned that the UWSP would make reaching that goal more difficult. Temperatures on our planet are now higher than at aimesime since before the last ice age, at least 125,000 years ago and potentially going back at least 1 million years.

To provide further context for these comments, please see [Attachment 1, Current Effects of the Climate Crises](#).

B. THE IMPORTANCE OF LOCAL ACTION

Local Action is critical to effectively address climate change. The two largest sources of greenhouse gas (GHG) emissions are on-road passenger vehicles and building energy, both of which are best and most directly managed through the well-established land-use authorities of local governments. For a Summary of federal, State, Regional, and County guidance. [See Attachment 2 for further substantiation.](#)

C. SACRAMENTO COUNTY’S IMPLEMENTATION HISTORY

Sacramento County has failed consistently to implement adopted climate mitigation measures, including promises made when adopting its:

- 2011 General Plan Update (GPU), re adopting measures into the General Plan;
- 2011 GPU, re adopting a CAP and implementing other climate measures;
- 2011 Phase 1 CAP, “*Strategy and Framework Document*”;

- 2012 County Operations Plan; and
- 2020 Climate Emergency Declaration.

See Attachment 4, County Climate Commitment Failures for further substantiation.

II. EFFECTS NOT PREVIOUSLY EXAMINED

PRC § 21094 stipulates that a lead agency may tier from a prior EIR if, “*the lead agency determines*” that the prior EIR mitigated or avoided impacts, or examined the impacts in enough detail to allow imposition of effective site-specific conditions on the later project. Such lead agency determination must consider any significant new information or changes in circumstance relevant to the effectiveness of the prior mitigation and/or examination (PRC § 21088; see also CEQA Guidelines § § 15063(b)(1)(C), (c)(3)(D), 15152). The UWSP presents circumstances and environmental effects not earlier known, examined, or mitigated, as discussed below.

The SEIR must therefore examine and propose mitigation for such previously unconsidered and unmitigated effects, and recirculate that new material for public review.

Specifically, Sacramento County’s GPU FEIR did not:

- Substantiate the effectiveness of the County’s “*new growth management policies*”
- Examine environmental impacts associated with the County’s excess development approvals.

A. THE COUNTY’S GPU FEIR DID NOT EXAMINE OR SUBSTANTIATE THE GPU’S “NEW GROWTH” POLICIES

1. The County’s GPU FEIR Included an Alternative 3: “Mixed Use”.

The County’s April 2010 FEIR considered three project alternatives. Per the certified FEIR, “Alternative 3, Mixed Use”:

“...is highly consistent with smart growth principles. [It] directs all development toward the urban core, which will increase densities and support alternative transportation (principle 1); ...directs most growth into areas that are already built up, resulting in more compact growth (principle 3); ...directs all growth toward existing urban areas (principle 5); and avoids any development within the large open space, farmland, and critical environmental areas of the county (principle 7)...does not identify large new growth areas, and relies on revitalizing existing urbanized areas and infill development”^{1,2}

2. The County Adopted a “Modified Mixed Use Alternative”

During the 18 months between the FEIR’s April 2010 publication, and the County’s November 2011 adoption/certification of the GPU/FEIR, the County developed and did adopt what it called, “*a modified version of the Mixed Use Alternative described in the FEIR*”. The “modified version” varied from the one analyzed in the FEIR by,³

¹ Sacramento County, GPU FEIR, Summary of CEQA Alternatives, p. 18-3.

² Ibid, p. 18-7

³ Sacramento County. General Plan Update, Findings of Fact and Statement of Overriding Considerations, pp. 1-2. November 2011.

- a. Deleting policies requiring new housing densification.
- b. Reducing the amount of growth assumed within the County's Urban Policy Area growth boundary.⁴
- c. Adding "*new growth management policies*" specifying criteria to be met by new development. The new policies (LU-119 and LU-120) authorize the County to expand the County's adopted UPA growth boundary to accommodate "new growth areas" on a project-specific basis (Section VI.D.1 of these comments reviews the role and importance of the County's growth boundaries).

3. Effect of the County's "Modification"

As detailed in Section III of these comments, the effect of the County's "modifications" to FEIR Alternative 3 has been to invite, approve, and continue to plan multiple large-scale development projects outside the UPA, of which the UWSP is one. Such projects are directly contrary to the intention of the FEIR's Alternative 3 as quoted in section A.1 above, because they:

- a. Are outside, "*the urban core*"
- b. Are not in areas, "*already built up*" or "*existing urban*"
- c. Do not "*avoid any development within the large open space, farmland, and critical environmental areas of the county*".
- d. Do, "*identify large new growth areas*".
- e. Do not, "*rel[y] on revitalizing existing urbanized areas and infill development*".

The County's 2011 CEQA Findings assert that the decision to modify Alternative 3, and adopt the "*new growth management policies*",

"...is supported by the environmental analysis provided in the FEIR, because the approved Project falls within the range of physical impacts which were addressed by the EIR".⁵

However, the County provided no substantiation for that assertion.

The County supported its "modification" of Alternative 3 by citing an apparently inapposite legal precedent, Laguna Beach,⁶ quoting from the decision: "*It is not unreasonable to conclude that an alternative not discussed in an EIR could be intelligently considered by studying the adequate descriptions of the plans that are discussed*".

However, we question whether adoption of measures not at all considered in the FEIR's analysis; the efficacy of which cannot be deduced from the FEIR's findings; and which in fact conflicts with the FEIR's conclusions, properly falls within the decision-space of Laguna Beach.

⁴ The Urban Policy Area (UPA) defines the area expected to receive urban infrastructure and services within the planning period.

⁵ GPU FEIR Findings, p. 2.

⁶ Village Laguna of Laguna Beach, Inc. v. Orange County Board of Supervisors (1982) 134 Cal.App.3d 1022, 1028-1029 (Laguna Beach)

5. The County Failed to Examine Potential Impacts of the “*New Growth Management Policies*”

The GPU FEIR did not examine the “*new growth management policies*”, LU-119 and LU-120, which were not proposed until after the FEIR was published. On the contrary, the FEIR found that development outside the UPA would cause significant impacts, mitigable only by phasing development outward from the urban core.

Attachment 3, Sacramento County’s Sprawl Mitigation Is Unsupported reviews the FEIR’s analysis.

In adopting the “*modified Mixed use alternative*”, and “*New Growth Management Policies*” LU-119 and LU-120, the County included some of the FEIR’s Alternative 3 “smart growth” principles, but discarded its central focus: directing growth to densification of the existing urban area. The County assumed, but did not substantiate, that those principles would suffice to mitigate the environmental impacts of the “*new growth management policies*”.

In fact, the County’s “*new growth management policies*” present a development strategy not contemplated in the FEIR’s examination of Alternative 3, and substantially diverging from it. The GPU FEIR neither examined the potential project-specific and cumulative impacts of Policies LU-119 and LU-120 nor substantiated their claimed mitigation efficacy. To the contrary, as detailed in Attachment 3 the FEIR determined that project-specific expansion of the UPA would result in significant impacts.

The UWSP SEIR references and relies on these policies. Their impacts and mitigation, because never before examined, must be evaluated in the current SEIR.

B. THE GPU FEIR DID NOT EXAMINE OR MITIGATE EFFECTS OF THE COUNTY’S EXCESS ENTITLEMENTS

Section II.A above documents the County’s 2011 claim of “*modified...mixed use*” as the panacea curing the ills of far-flung, disjunct (aka “sprawl” or “leapfrog”) development; and with Attachment 3 demonstrates that the claim is not substantiated by the GPU FEIR.

Here, we additionally assert that the claimed merits of such, “*modified...mixed use*” could not in any case be realized in Sacramento County, because:

- The County has approved, and has in planning, multiple developments with capacity far surpassing housing market demand, and
- Such excess entitlements preclude realizing the mixed-use development the County claims as mitigation.

We substantiate this assertion below.

1. The County's Approvals Far Exceed Housing Market Demand

The County's long history of permissively approving developments far in excess of foreseeable market demand was formalized and accelerated with the 2011 adoption of "new growth management policies". In the County's telling:

"When adopted in 2011, the General Plan added policies to the Land Use Element to allow applicants to request an expansion of the UPA anywhere within the USB regardless of demand or existing capacity. The County's intent was to let the market determine the need and location for new growth so long as it could meet the "Smart Growth Criteria" of policies LU-119 and LU-120".⁷

As a result, the County has approved construction of far more housing than the market requires, and is actively preparing to approve more. As the County reports:

"These three master plans [planned outside the UPA and including the UWSP] propose 49,732 additional units. If all of these new master plans are approved, and combined with the potential for infill and the already approved growth areas, the County will have approved growth far exceeding the growth that is projected over the next 20 years. This is apparent given the fact that the County only permitted a total of 5,194 units during the nine years of the last RHNA cycle (2013-2021)".⁸

"In fact, at the most recent rate of permit activity in the unincorporated County from 2020 (which is higher than any of the preceding years in the APR) ... this existing [infill and approved planned projects] and potential capacity of over 109,000 units would represent over 140 years of potential capacity".⁹

2. Excess Entitlements Preclude Mixed-Use Development as Claimed Mitigation

The County's historic approval of multiple competing projects, which in their aggregate capacity far exceed market demand, means it is impossible that the competing projects will build-out as quickly or completely as envisioned. In "mixed use" projects, investment in commercial development occurs only after residential growth has built-out enough to support commercial activity.¹⁰ As a direct and foreseeable result of delayed and incomplete build-out, commercial development and the claimed environmental benefits of "mixed use" development (e.g., reduced vehicle miles traveled (VMT) and GHG emissions) will be delayed indefinitely and perhaps permanently, resulting in unmitigated impacts.

3. Effects of Excess Entitlements on "New Growth Management" Policies

As noted above, the County's "modified Alternative 3" growth management strategy, allowing consideration of UWSP and other development outside the UPA, is effectuated by new GPU Policies LU-119 and LU-120. LU-120 presents five "criteria based" (CB)

⁷ Sacramento County. 2030 General Plan 2022 Annual Report, p. 2). March 28, 2023.

⁸ Ibid.

⁹ Sacramento County. 2030 General Plan 2020 Annual Report, p. 15). March 24, 2021.

¹⁰ "Typically, commercial development lags behind residential development because retail and service commercial uses are dependent on a critical mass of resident population for support, ...retail and service commercial uses envisioned within the heart of the Town Center will develop once enough rooftops are in place to support these uses..." (UWSP Specific Plan, p. 8-6).

standards intended to demonstrate compliance with “smart growth” principles. However, the efficacy of all six is sensitive to the effects of delayed, incomplete build-out:

- a. CB-1. Minimum net density. Partial build-out means that planned densities will not be achieved
- b. CB-2. Proximity of residential units to amenities. Incomplete build-out means that commercial, “mixed use” amenities, which would rely on an assumed customer base, will not be built.
- c. CB-3. Mixed use. As with the previous criterion, investment in commercial “mixed use” is based on expectation of a customer base at full build-out, absent which commercial enterprise will not occur.
- d. CB-4. Transit. Transit service is dependent on ridership density, absent which planned transit will not materialize.¹¹
- e. CB-5. Proximity to employment. Mixed use development of a planned size and density is expected to generate a certain amount of on-site employment, with resulting VMT-reduction. Incomplete and delayed build-out means this expectation will not be met.

4. Effects of Excess Entitlements on UWSP Have Not Been Previously Reviewed

- a. The SEIR’s mitigation for VMT assumes, and relies on, complete build-out supporting “mixed use” development and its claimed mitigation benefits.¹² The reality that excess entitlements will constrain such build-out is not examined in either the GPU FEIR or this draft UWSP SEIR.
- b. The UWSP assumes a 20-year build-out.¹³ Build-out period is important, because the mitigation claimed through mixed-use development will only occur, and is only modeled for SEIR analysis, at full build-out. During the build-out period, community population will not support either the planned commercial development or the transit service claimed as VMT mitigation. The longer buildout is delayed, the longer GHG emissions from partial development will be inadequately mitigated. Based on the data presented in Section III of these comments, such build-out is likely to take several generations.
- c. The assumed 20-year build-out rate is not substantiated, and is inconsistent with the County’s historical housing growth rate; SACOG’s growth projections for the County; and the fact of long-delayed build-out for numerous already-approved projects, as documented in Section III of these comments.

The SEIR must therefore substantiate the assumed buildout period; and model and mitigate GHG and AQ emissions, and any related impacts during the protracted build-out period.

¹¹ “It is the County’s intent for the Plan area to be served by public transit at such time that it is warranted by demand. However, the county cannot compel Regional Transit to provide such service” (SEIR, p. 8-28)

¹² E.g., SEIR Table LU-3: Criteria-Based Standards Determination for Proposed UWSP (p.14-29 ff.); SEIR Table TR-1: Project Trip Generation, showing full build-out (p. 18-29).

¹³ UWS LLC. UWS Specific Plan, p. 8-6. August 2024.

Section IV of these comments considers UWSP-specific and cumulative environmental impacts, including from incomplete build-out.

III. THE COUNTY’S EXCESS ENTITLEMENTS

As noted in section II.B above, Sacramento County has approved and is planning multiple residential developments totaling far more homes than the market requires into the foreseeable future. Some of these projects go back decades and are within the UPA. But, since adopting the 2011 GPU and its “*new managed growth strategy*”, the County has focused on very large projects outside the UPA, basing its mitigation scheme on “mixed-use” build-out, as set forth in GP Policies LU-119 and LU-120. However, the County has failed to explain how these projects, totaling 67-210 years-worth of growth (documented below) could build-out as quickly or completely as envisioned, given documented market constraints.

In fact, few if any projects can build-out as planned; and certainly not all can be completed as assumed, but not substantiated. As explained below, the result of such incomplete build-out, will be widely scattered, partly-completed projects, without sufficient urban mass and density to support transit service or the “mixed use” commercial investment that the UWSP SEIR claims will result in reduced VMT and GHG emissions. The County did not address this impact in its 2011 GPU FEIR. We substantiate these concerns below.

1. SACOG Projected Growth Projections

The Sacramento Area Council of Governments (SACOG) projects regional population, jobs, and housing growth to support mandated regional transportation and land use plans.¹⁴

Table 1. SACOG PROJECTED GROWTH PROJECTIONS

Planning Period	Needed New Housing	No. of Years	Annual Avg
2016-2040	37,230	24	1,551 ⁽¹⁾
2020-2035	16,470	15	1,098 ⁽²⁾
2020-2050	35,610	30	1,187 ⁽²⁾
Median of SACOG’s current (June 2024) projections			1,143

(1) SACOG. 2020 MTP/SCS.¹⁵

(2) SACOG. 2025 Blueprint (MTP/SCS) Adopted Land Use Assumptions. June 2024. Online: <https://www.sacog.org/home/showpublisheddocument/2432/638554228380389235>

¹⁴ Sacramento Region Draft Growth Projections – Technical Memo. Online: <https://www.sacog.org/home/showpublisheddocument/1414/638334168171000000>

¹⁵ Cited in: Sacramento County. 2030 General Plan of 2005-2030 2023 Annual Report, Attachment 1, p.7. April 10, 2024. Online: https://agendanet.saccounty.gov/BoardofSupervisors/Documents/ViewDocument/ATT_1_-_Sacramento_County_2030_General_Plan_2023_Annual_Report.pdf?meetingId=9015&documentType=Minutes&itemId=427588&publishId=1352635&isSection=false

2. Historic County Growth Rate

The actual growth rate over a recent eleven-year period is substantially lower than SACOG’s optimistic projections, as show in Table 2 below.

Table 2. HISTORIC COUNTY GROWTH RATE

Period	Permitted New Housing	No. of Years	Annual Avg
2013-2020 ¹⁶	4,658	8	582
2021-2023 ¹⁷	2,189	3	728
Total for Period	6,757	11	655

B. THE COUNTY’S THREE GROWTH STRATEGIES

The County’s General Plan plans for new growth primarily through the following strategies:¹⁸

- 1) *infill development in existing communities (including commercial corridors);*
- 2) *buildout of [approved] planned communities; and,*
- 3) *master-planning of new growth areas.”*

We review below the available housing capacity in each of these categories:

1. “Infill” Strategy, Including Commercial Corridors

The County reports,

“Infill is highlighted as a priority in the goals, policies, and implementation measures of multiple General Plan elements... The General Plan estimated that between 10,000 to 18,000 housing units could be accommodated on vacant or underutilized properties in infill areas, and that up to 19,000 housing units could be accommodated by revitalizing commercial corridors.”¹⁹

¹⁶ Sacramento County. 2030 General Plan 2020 Annual Report, Attachment 2, Annual Element Progress Report, Table B, Regional Housing Needs Allocation Progress, p. 3. March 24, 2021 Online: [https://agendanet.saccounty.gov/BoardofSupervisors/Documents/ViewDocument/ATT%202%20-%20Annual%20Housing%20Element%20Progress%20Report%20\(Appendix%20A%20to%20the%20Annual%20R.pdf?meetingId=6898&documentType=Agenda&itemId=378086&publishId=921887&isSection=](https://agendanet.saccounty.gov/BoardofSupervisors/Documents/ViewDocument/ATT%202%20-%20Annual%20Housing%20Element%20Progress%20Report%20(Appendix%20A%20to%20the%20Annual%20R.pdf?meetingId=6898&documentType=Agenda&itemId=378086&publishId=921887&isSection=)

¹⁷ Sacramento County. 2030 General Plan Annual Report for Calendar Year 2023. Attachment 2, p. 1, Table B, Regional Housing Needs Allocation Progress. April 10, 2024. Online: [https://agendanet.saccounty.gov/BoardofSupervisors/Documents/ViewDocument/ATT_2_-_Annual_Housing_Element_Progress_Report_\(Appendix_A_to_the_Annual_Report\).pdf?meetingId=9015&documentType=Minutes&itemId=427588&publishId=1352636&isSection=false](https://agendanet.saccounty.gov/BoardofSupervisors/Documents/ViewDocument/ATT_2_-_Annual_Housing_Element_Progress_Report_(Appendix_A_to_the_Annual_Report).pdf?meetingId=9015&documentType=Minutes&itemId=427588&publishId=1352636&isSection=false)

¹⁸ Sacramento County. 2030 General Plan Annual Report for Calendar Year 2023. Attachment 1, p. 6-7. April 10, 2024. Online: <https://agendanet.saccounty.gov/BoardofSupervisors/Documents/ViewDocument/ATT%201%20-%200Sacramento%20County%202030%20General%20Plan%2C%202023%20Annual%20Report.pdf.pdf?meetingId=9015&documentType=Agenda&itemId=424991&publishId=1350011&isSection=false>

¹⁹ Ibid., p. 7.

Accordingly, infill and revitalizing commercial corridors together provide an estimated 29,000-37,000 dwelling units (DU) of available housing capacity.

2. “Buildout of Planned Communities” Strategy

Since 1969 Sacramento County has approved 12 “planned communities” providing 59,175 DU of new housing capacity. None of these have completed build-out – five are in some phase of construction and seven have yet to break ground.²⁰ The County notes:

“Many of these growth areas have yet to begin construction and offer a stock of land for growth that is anticipated in the unincorporated County”.²¹

Table 3 below, displays the twelve approved projects. Of the approved 59,175 DU, 43,348 DU (73 percent) remain unbuilt, and could provide 66 years of approved, appropriately zoned, growth capacity at the historic growth rate (Table 2 above).

TABLE 3. APPROVED RESIDENTIAL DEVELOPMENT PLANS

Approved Plan	Number of Dwelling Units	When Approved	Buildout Status
Rancho Murieta	5,189	1969	50% BO (est) ²²
North Vineyard Station	6,063	1998	63% BO
Vineyard Springs	5,942	2000	68% BO
Elverta	5,601	2007	Not begun
Easton	1,644	2009	Not begun
Glenborough	3,239	2009	Not begun
Florin Vineyard (Gap)	9,919	2010	28% BO
Cordova Hills (Braden)	8,000	2013	Ground broken
Mather Field	1,291	2016	Not begun
Mather South	3,522	2020	Not begun
NewBridge	3,075	2020	Not begun
Jackson Township	5,690	2022	Not begun
Total	59,175	Avail Un-built Capacity:	43,348

²⁰ Ibid., p. 8.

²¹ Ibid., p. 8

²² Rancho Murieta County Service District. Current Active projects. January 2021. Online: <https://www.ranchomurieta.com/files/524809a78/%402021-01+Development+project+updates+AWpsAW.pdf>

3. “New Growth Areas” Strategy

The County reports,

“When adopted in 2011, the General Plan added policies to the Land Use Element to allow applicants to request an expansion of the Urban Policy Area (UPA) within the Urban Services Boundary...subject to...proposing logical planning boundaries and “Smart Growth” criteria. Since these new growth policies were added to the General Plan, the County has accepted seven applications... for new growth areas. Three master plans amending the UPA have been approved... [shown in Table 3] the four remaining ...are still in-progress....[comprising] a total of 48,495 additional units”

Table 4 shows the four pending plans, the three largest of which lie outside the UPA .

Table 4. PENDING “NEW GROWTH” AREAS

Pending New Growth Plans	Number of Dwelling Units
Upper Westside **	9,356
Grandpark **	21,705
West Jackson *	16,484
Antelope Acres	950
Total Pending	48,495

* Outside the Urban Planning Area (UPA), which is designated in the General Plan as accommodating all growth for the current planning period (2005-2030).

** Outside both the UPA, and the Urban Services Boundary (USB), which is designated in the General Plan as the boundary of ultimate growth beyond which it is intended urban services will never be provided, and which should be modified only under “extraordinary circumstances.”²³

Table 5 below shows the five large projects outside the UPA, two of which are approved and three pending:

²³ Sacramento County. General Plan 2030, Land Use Element, p.20. November 2011..

TABLE 5. “NEW GROWTH” OUTSIDE UPA

Project	Status	Number of Dwelling Units
NewBridge	Approved	3,075
Jackson Township		5,690
Sub Total - Approved		8,765
West Jackson	Pending	16,484
Upper Westside		9,356
Grandpark		21,705
Sub-Total - Pending		47,545
Total - Approved & Pending		56,310

C. THE COUNTY HAS APPROVED FAR MORE HOMES THAN THE MARKET REQUIRES

Sacramento County has ignored housing growth projections and historical growth rates in its development decisions; has allowed planning of every “new growth” project proposed to it; has approved two such projects; and has three more in planning. Added to existing infill capacity and the twelve previously approved projects, the result is a many-fold over-supply of approved homes over market demand, as documented below.

1. Sacramento County – Existing Housing Capacity

The below table displays the County’s current housing capacity in each of its three growth accommodation strategies, and the total available capacity.

TABLE 6. AVAILABLE COUNTY HOUSING CAPACITY

Growth Strategies	Available Growth Capacities (DU)
Infill, incl. Commercial Corridors	29,000-37,000 Median = 33,000
Approved Planned Communities	43,348
Subtotal – Currently Avail Capacity	76,348
Pending “New Growth” Projects	48,495
Total Avail and Planned Capacity	120,843-128,843 Median = ~125,000

2. Growth Capacity Greatly Exceeds Foreseeable Market Demand

As displayed below in Table 7, applying SACOG’s current growth projections, the County has to-date approved 67 years-worth of growth.

Applying the probably more realistic historical County growth rate, and recognizing that Supervisors have historically approved every proposal put before them, and will likely favor approving the currently pending projects, the County is on course to approve almost 200 years-worth of growth.

TABLE 7. YEARS TO BUILD OUT EXISTING AND PLANNED CAPACITIES

Foreseeable Annual Growth Rates (DU)		Years to Build Out	
		Currently Available Capacity (76,348 DU)	Incl. Pending New Growth (125,000 DU)
SACOG Median Projection (Table 1)	1,143	67 years	109 years
County Historical (Table 2)	655	116 years	190 years
County Calculation	–	–	140+ years ²⁴

As previously noted, Sacramento County’s 2011 GPU,

“...allow[ed] applicants to request an expansion of the UPA anywhere within the USB regardless of demand or existing capacity...[t]he County’s intent was to let the market determine the need and location for new growth....”

However, a 67-190 year timeframe to recoup development investment defies normal market supply/demand dynamics, and suggests the County’s “come one, come all” approvals have encouraged speculation on future land values, to the detriment of investment in well-planned, lower VMT infill housing.²⁵

D. LAND USE EFFECTS OF EXCESS ENTITLEMENTS

The direct effects of excess entitlements would be scattered, disjunct, incomplete development, incapable of supporting claimed “mixed use” development and transit service.

1. Scattered Sprawl Development

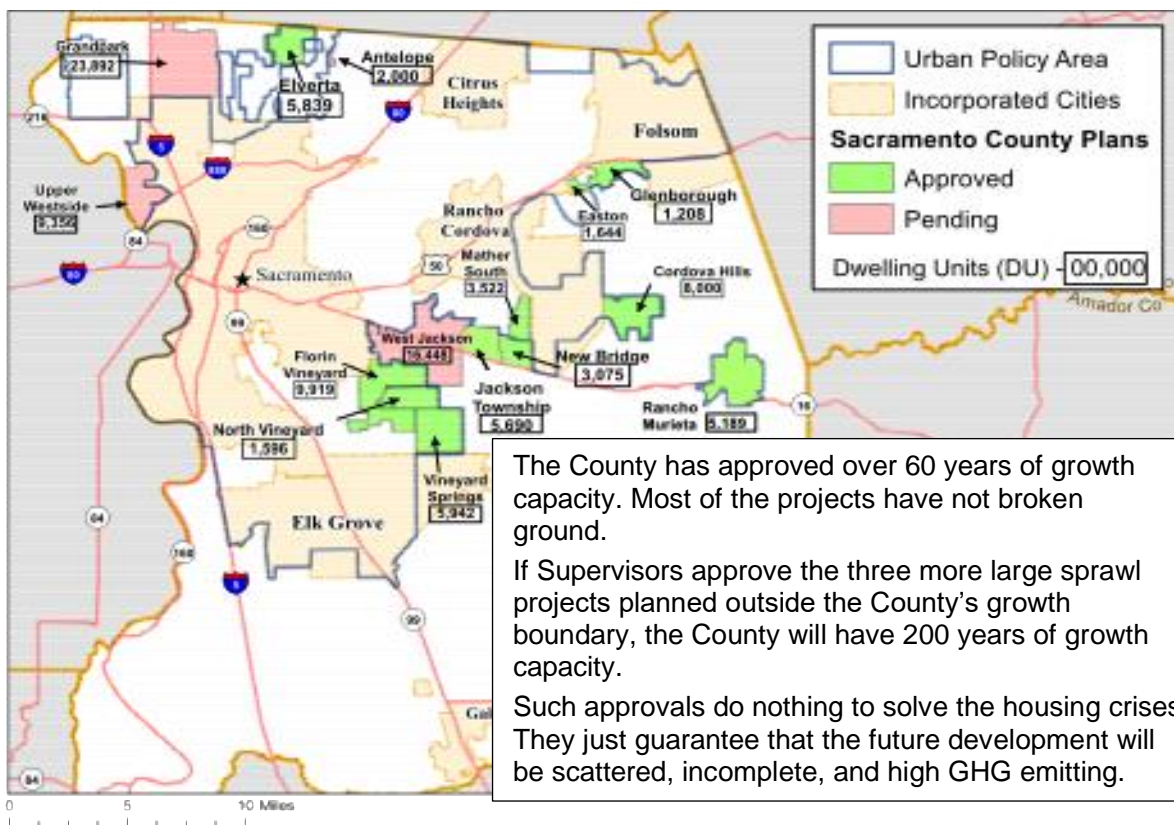
As displayed on the below map, the County’s 12 approved and four currently planned sprawl projects are scattered across much of the County. Of the approved projects only the three Vineyard projects and Rancho Murieta are in some phase of construction. Their remaining capacity, and that of the others awaiting ground-breaking, represent

²⁴ Sacramento County. Sacramento County 2030 General Plan 2020 Annual Report, Attachment 1, p. 13.

²⁵ “Locating...growth...within an area dominated by open space and agriculture conflicts with smart growth. ...this superabundance of greenfield growth area is likely to draw development away from the more challenging infill and redevelopment projects...” (GPU FEIR, pp. 3-31 - 3-32).

undeveloped, approved, available, housing capacity. Clearly, the County housing crises is not caused by insufficient approvals, nor will it be cured by additional approvals.

Fig 1. COUNTY RESIDENTIAL DEVELOPMENT PROJECTS, APPROVED AND PENDING



2. Incomplete Development

As demonstrated in Table 3, premature land entitlements have resulted in “zombie” subdivisions, lying undeveloped, or at best partially developed, for decades, with adverse social, economic, and environmental effects.²⁶

²⁶ “Local jurisdictions shape the future of their communities through the entitlement of land... When land is entitled and subdivided prematurely, before the market demands new housing, the following problems can result:
 “Threats to health and safety. Lots that sit undeveloped for many years can foster ...[environmental] and other health and safety hazards...
 Fiscal threats. ...local...costs... from houses that were planned but remain unconstructed.
 “Fragmented development patterns. Remote...poorly located developments ... worsen the environmental impacts of roads and other public services. [and] disrupt wildlife habitat and migration corridors.
 “Market flooding and distortions. The oversupply of vacant lots depresses the value of even...well-located lots that could and should be serving... demand...”. (Lincoln Institute of Land Policy. Arrested

IV. UWSP ENVIRONMENTAL IMPACTS

A. CUMULATIVE EFFECTS CONTRARY TO STATE AND REGIONAL PLANS AND GUIDANCE

The cumulative effects of the County's approved and proposed development outside the UPA to open space, agricultural, and habitat lands would be considerable. Such greenfield development is far more impacting than would be accommodating growth in infill development.^{27, 28}

In addition, the State has long and clearly maintained that, notwithstanding future phase-out of gasoline-fueled vehicles, reducing VMT by directing growth into existing communities is critical to meeting the State's GHG ; and avoids a wide variety of other environmental harms. For example (emphases added):

1. SB 375 states:

"Section 1(c). Greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve significant additional greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32", (emphasis added).

A chief way to achieve "improved transportation" is expanded public transit, which depends heavily on increasing rider density through infill development.

2. CARB's Scoping Document States:²⁹

"...strategies that support more compact development infill areas...have the greatest potential to reduce emissions (p. 5) ... the State has long been clear that urban infill projects, particularly in high-resource and low-VMT areas, would be generally supportive of the State's climate and regional air quality goals" (p. 20).

Developments, Combating Zombie Subdivisions and Other Excess Entitlements", pp. 6-8. January 2014. Online: <https://www.lincolnst.edu/publications/policy-focus-reports/arrested-developments>).

²⁷ Decker, N. et al. Right Type, Right Place - Assessing the Environmental and Economic Impacts of Infill Residential Development through 2030. Next 10. March 28, 2017. Online: <https://www.next10.org/publications/right-housing>.

²⁸ Popovich, N et al. The Climate Impact of Your Neighborhood, Mapped. NY Times. December 13, 2022. Online: <https://www.nytimes.com/interactive/2022/12/13/climate/climate-footprint-map-neighborhood.html> <https://www.nytimes.com/interactive/2022/12/13/climate/climate-footprint-map-neighborhood.html>

²⁹ California Air Resources Board. 2022 Scoping Plan, appendix D, Local Actions. November 2022. Online: https://ww2.arb.ca.gov/sites/default/files/2022-05/2022-draft-sp-appendix-d-local-actions_0.pdfAppendx D

3. CARB’s Priority GHG Reduction Strategies” include:³⁰

“... enable mixed-use, walkable, transit-oriented, and compact infill development”, and, “Preserve natural and working lands ... guide development toward infill areas and do not convert “greenfield” land to urban uses (p.12).

4. CARB’s SCS Progress Report

SB 375 requires regional agencies like the Sacramento Council of Governments (SACOG) to adopt a regional Sustainable Community Strategies (SCS) to reduce VMT through coordinated transportation, housing, and land use planning. CARB sets VMT-reduction targets SCS’s and evaluates compliance. Developments consistent with the SCS are relieved of certain CEQA requirements.³¹ However, CARB reports,

*“Many local agencies have not successfully advanced infill and climate-friendly development as needed, even with many regions identifying priority areas in the SCSs to do that. Too often growth is still being planned for land outside existing communities or built there first”.*³²

5. CARB Mitigation Recommendations

In the context of SCS consistency in Sacramento County, CARB has recommended mitigation criteria:³³

“SB 375 GHG emissions mitigation should address diversion of investment from more environmentally sustainable infill ... inclusion of transit and active transportation... does not resolve the negative impacts from continuing those types of longstanding investment patterns. Mitigation should address this by...increasing investment in infill...”

“Over three quarters of Californians see climate change as a threat to our economy and quality of life. The significant and negative impacts of climate change already occurring today on our shared transportation infrastructure and mobility are warnings of the dire future impacts that will occur without consistent and sustained local and regional investment consistent with climate commitments”.

6. The Office of Planning and Research states,

“Infill development is critical to... be environmentally- and socially-sustainable. OPR is committed to promoting compact development in order to: Reduce greenhouse gas emissions and improve regional air quality by reducing the distance people need to travel; reduce conversion of agricultural land, sensitive habitat, and

³⁰ *“...designated as ‘priority’ because they are the GHG reduction opportunities over which local governments have the most authority and that have the highest GHG reduction potential” (CARB, Scoping Plan, Table 1, 2022).*

³¹ CARB. Sustainable Communities & Climate Protection Program. Online: <https://ww2.arb.ca.gov/our-work/programs/sustainable-communities-climate-protection-program>

³² California Air Resources Board. 2022 Progress Report, California’s Sustainable Communities and Climate Protection Act (SB 375) (p. 36). 2022.

³³ CARB. Comments on the Sacramento County Transportation Maintenance, Safety, and Congestion Relief Act of 2022—Retail Transactions and Use Tax (Measure A). October 10, 2022. Online: https://drive.google.com/file/d/1-vFaHEOCBJDzs26rNj_3Po9Fk3evyi17/view?usp=sharing.

open space for new development; reduce costs to build and maintain expensive infrastructure; facilitate healthy and environmentally-friendly active transportation; reduce storm-water runoff resulting in flooding and pollution of waterways; bring vibrancy, community and social connection to neighborhoods".³⁴

B. CHAPTER 8, CLIMATE CHANGE

Mitigation Measure (MM) CC-1b claims to mitigate operational GHG emissions, but despite a great deal of verbiage avoids imposing substantive GHG-reduction requirements on either the residential or commercial components of the UWSP. We have the following comments.

1. MM CC-1b is Inconsistent with SMAQMD Requirements

SEIR MM CC-1b incorrectly asserts that the UWSP is consistent with the Sacramento Metropolitan Air Quality Management District (SMAQMD)'s best management practices (BMPs) to mitigate GHG emissions³⁵ (the SMAQMD BMPs have also been adopted by Sacramento County³⁶).

SMAQMD's GHG BMP 1 requires that, "Projects shall be designed and constructed without natural gas infrastructure" (SEIR, p. 8-26); whereas SEIR MM CC-1b states, "Consistent with SMAQMD's GHG BMP 1, natural gas shall be prohibited in all residential land uses".

The assertion of consistency is unfounded, since the UWSP proposes that only residential uses be without natural gas infrastructure; and per the SEIR, natural gas use in UWSP commercial spaces would emit 5,996 MTCO_{2e} per year. The key failing is that SMAQMD's BMPs avoid impacts; whereas the UWSP will cause impacts, for which the SEIR proposes various mitigations, the feasibility of which is questioned below in these comments.

The SEIR should explain why it is infeasible to avoid installing natural gas service to commercial spaces as well as residential, in order to prevent the above-cited emissions of 5,996 MTCO_{2e} per year.

2. Avoiding Residential Gas Infrastructure is Not Additional

MM CC-1b states, "Consistent with SMAQMD's GHG BMP 1, natural gas shall be prohibited in all residential land uses" (SEIR, p. 8-34). This requirement repeats State Building Code requirements, which strongly dis-incentivize new mixed-fuel residential construction.³⁷

CEQA requires that mitigation be additional to what is already required (Guidelines § 15126.4(c)(3)). To the extent that new construction will avoid natural gas infrastructure

³⁴ Office of Planning and Research. Infill Development. Online: <https://opr.ca.gov/planning/land-use/infill-development>.

³⁵ SEIR, p. 8-31.

³⁶ "Sacramento County adopted SMAQMD's thresholds of significance...on December 16, 2020, by Resolution #2020-0855" (SEIR, p. 8-24)

³⁷ Natural Resources Defense Council. California Code Takes Another Step Toward Clean Buildings. September 11, 2024. Online: <https://www.nrdc.org/bio/merrian-borgeson/california-code-takes-another-step-toward-clean-buildings>

due to State regulatory action, the propose mitigation is not eligible for mitigation credit under CEQA.

3. Procuring Renewable Energy to Mitigate Commercial GHG Emissions Would be Non-Additional.

MM CC-1b identifies numerous options to demonstrate GHG reductions from future commercial uses, the simplest and most direct being , *“Procure renewable energy...via purchases from...SMUD...”* (SEIR, p. 8-36).

The State of California requires all-renewable electricity. SB 100 directs that all electrical utilities generate 100 percent carbon-free (i.e. renewable) electricity on a mandated schedule: 50 percent by 2026; 60 percent by 2020; and 100 percent by 2045. In addition, SMUD has adopted a policy-goal of generating 100 percent of its electrical production renewably by 2030. SMUD is progressing towards that goal, and will almost certainly reach it well before 2045. All these dates are within the UPWSP’s 20-year build-out timeframe.

CEQA requires that mitigation be additional to what is already required (Guidelines § 15126.4(c)(3)) or already existing. To the extent that renewable, carbon-free energy is available as a result of State legal requirements and/or SMUD’s initiative, it is not eligible for mitigation credit under CEQA. The SEIR should reflect this caution in the SEIR’s discussion, and substantiate the feasibility of any such mitigation by describing how mitigation credits (MTCO_{2e} per year) would be calculated over time to reflect the source’s increasing renewable energy mix, phasing out non-renewable energy in 2045 or earlier.

4. SEIR Table CC-6 Inaccurately Claims Consistency with CARB’s Scoping Plan

Table CC-6 (SEIR, pp. 8-40 - 8-42) purportedly demonstrates that, “the proposed UWSP generally aligns with most of the recommended project attributes outlined in the 2022 Scoping Plan and would be consistent with the state’s GHG goals” (SEIR, p. 8-43).

This is incorrect. Notwithstanding the SEIR’s rationalizations and claims of equivalency, the UWSP is inconsistent with at least the following of CARB’s “key suggested project attributes”. As with assertion of consistency with the SMAQMD BMPs, the key failing is that CARB’s “project attributes” all avoid impacts; whereas the UWSP will cause impacts, for which the SEIR proposes various mitigations, the feasibility of which is questioned elsewhere in these comments.

CARB Key Attributes:

- a. CARB Attribute: “Is located on infill sites that are surrounded by existing urban uses and reuses or redevelops previously undeveloped or underutilized land that is presently served by existing utilities and essential public services (e.g., transit, streets, water, sewer).”

, the UWSP is not infill, surrounded by existing urban uses , or on a site with existing utilities and services.

- b. CARB Attribute: “Does not result in the loss or conversion of natural and working lands”.

, the UWSP will result in the loss or conversion of natural and working lands

- c. CARB Attribute: “Consists of transit-supportive densities (minimum of 20 residential dwelling units per acre), is in proximity to existing transit stops (within a half mile) or satisfies more detailed and stringent criteria specified in the region’s SCS.”

, the UWSP does not consist of transit-supportive densities (only a portion of the project meets this criterion), and the project site is not in proximity to existing transit.

- d. CARB Attribute: “Uses all-electric appliances without any natural gas connections and does not use propane or other fossil fuels for space heating, water heating, or indoor cooking”.

, the UWSP would use fossil fuels for commercial property space heating, water heating, or indoor cooking, resulting in emissions of 5,996 MTCO₂e per year.

5. The Mitigation Scheme Conflicts with the Normal Development Cycle

- a. Commercial Space in Early Phases is Unlikely to Build-out.³⁸ MM CC-1b directs that a GHG Reduction Plan by each individual development will demonstrate that its share of commercial space will contribute to the project’s total required GHG reductions. This scheme would require that each individual project includes, in addition to a portion of the UWSP’s residential build-out, a commensurate share of the UWSP’s total planned commercial development. However, early stages of residential construction will not provide an adequate customer base to support the commercial build-out envisioned at UWSP completion; and the dedicated space will remain un-developed until such time as adequate urban mass has accumulated to support commercial activity.
- b. Lack of Commercial Build-out will Trigger Mitigation Change Requests. The County’s excess entitlements would delay build-out of the UWSP and its commercial space long beyond normal investment horizons, and perhaps indefinitely. In response developers will ask the County to modify the Specific Plan, converting the planned commercial space to residential development, thereby further reducing the benefits of mixed-use. This is not a mere speculative possibility – Sacramento County and other jurisdictions have responded, and are responding, favorably to economically-based requests to modify development mitigation conditions.³⁹,

C. CHAPTER 14, LAND USE – THE SEIR’S RELIANCE ON LU-120 IS UNSUPPORTED

1. The SEIR Relies on GPU Policy LU-120

The SEIR states:

³⁸ UWSP Specific Plan, p. 8-6; see earlier quote and full citation, Section II.

³⁹ “On February 28, 2023, the Board adopted a major amendment to the North Vineyard Station Specific Plan to implement the updated North Vineyard Station Transportation Mitigation Strategy. This strategy was well-received by the development community with many acknowledging that it significantly reduces the infrastructure and financial burdens...”. Sacramento County is also currently re-considering previously approved mitigation conditions for the Florin Vineyard, Vineyard Springs, and Elverta Specific Plans, regarding roadway improvement, transportation infrastructure, and water supply requirements (Sacramento County, General Plan of 2005-2030 2023 Annual Report, Attachment 1, p. 9).

“General Plan Policy LU-120 is intended to reduce impacts of many different types – such as growth inducement, unacceptable operating conditions on roadways, poor air quality, and lack of appropriate infrastructure – by establishing design criteria for all amendments to the UPA. A project must be consistent with the policy before it may be considered for approval ...the proposed UWSP would meet the requirements of LU-120. The tables below (Table LU-2 and Table LU-3) summarize how the proposed UWSP complies with ...Policy LU-120. Given that the proposed UWSP has been deemed consistent, impacts related to conflict with growth management policy would be less than significant (SEIR p. 14-23).

2. The Efficacy of Policy LU-120 is Unsubstantiated

As discussed in Section II.A of these comments and Attachment 3, the County’s GPU FEIR did not review Policy LU-120. On the contrary, the GPU FEIR determined that project-specific expansion of the UPA would cause significant impacts.

D. CHAPTER 18, TRANSPORTATION

1. Urban Sprawl Induces Increased VMT

That sprawl induces increased VMT is well established.^{40,41,42} As noted elsewhere in these comments, State and regional guidance and the County’s own planning documents emphasize the need to change the post-WWII paradigm of auto-centric, dispersed development to an infill approach that helps address numerous environmental problems, including by reducing VMT/GHG emissions.

However, as substantiated in Section III of these comments, Sacramento County continues to approve disjunct greenfield projects remote from existing jobs, services, and infrastructure – i.e. “urban sprawl”.

2. UWSP Mitigation for Induced VMT is Based on Full Build-out.

The SEIR asserts that the UWSP will mitigate induced VMT through the benefits of mixed-use development – residents will reduce or eliminate car travel to and from required goods and services because such amenities will be locally available; commercial development will generate local employment opportunities; and there will be regular transit service to more distant locations with frequent headways and conveniently located bus stops.

However, such benefits are illusory because they are premised on unattainable full and timely project build-out.^{43,44}

⁴⁰ Karlamangla, S. *What’s Your Neighborhood’s Climate Impact?* New York Times. February. 6, 2023. Online: <https://www.nytimes.com/2023/02/06/us/california-neighborhood-climate-impact.html>

⁴¹ Sacramento County. See quote at Section V.E.2 of these comments.

⁴² State of California. Senate Bill 375, Section 1. 2008.

⁴³ SEIR, Table TR-1: Project Trip Generation, p. 18-29. Assumed number of homes is 9,356, the UWSP’s full build-out (SEIR, p. 18-29).

⁴⁴ *“...a GHG Reduction Plan ...[will] document GHG emissions reduction for each future development project through project specific GHG reduction measures...to meet the total reduction ... upon complete buildout of the proposed UWSP (SEIR p. 8-35, emphasis added).*

3. Excess Entitlements will Delay or Preclude the Proposed Mitigation

As discussed in Section III of these comments, Sacramento County's past and planned approvals of far more development than the housing market can absorb will result in widely scattered, partially built-out projects.

The 'Regional Retail' and local commercial development to which MM CC-1b assigns a major mitigation role will not occur in the timeframe envisioned, if ever. Since GHG-impacts are caused by emissions accumulating in the atmosphere over time, delayed mitigation is a no mitigation.

The normal lack of commercial development during the early phases of project development will be extended indefinitely, precluding the internal "trip capture" benefits of mixed-use development, and resulting in VMT and GHG emissions greater than modeled.

And the presumed transit service will not be in place until full build-out provides the requisite ridership.

4. Excess Entitlements as a Regional Problem

The Sacramento Area Council of Governments (SACOG) substantiates this concern, in connection with the region's SB 375-mandated "2025 Sustainable Community Strategy/Metropolitan Traffic Plan" (SCS/MTP). SACOG is required to consider economic constraints (e.g., market demand) in formulating the SCS/MTP. Applying the growth projections and the traffic analysis model used to develop the SCS/MTP, SACOG calculated VMT profiles for regional projects planned and under-construction, and concluded:

"... many... developing communities...show poor VMT and GHG performance because they are only being partially built out over the timeframe of the plan...[partly because] locally planned housing growth in developing communities greatly outnumbers SACOG's regional housing demand projection for 2050; there is more than 400,000 units of developing community housing capacity compared to a total of 278,000 additional units anticipated between 2020 and 2050... This small amount of initial growth is usually insufficient to achieve the mix, density, and intensity of land uses ... required to generate the lower VMT performance that many project-specific traffic analyses indicate will be possible at buildout" (emphasis added).⁴⁵

Sacramento County projects analyzed by SACOG are shown below, with their projected percents of current regional per capita VMT through at least 2050 (the current SACOG planning period).

⁴⁵ SACOG. Board of Directors Meeting, Agenda Item No. 15: Staff Report, 2025 Blueprint Discussion Scenario. April 18, 2024.

Table 8: Sacramento County Project-Induced VMT with Economically Constrained Build-Out

Sacramento County Project	Projected Percent of Regional VMT
Jackson West *	120-130
Jackson Township *	120-130
Glenborough *	120-130
Grand Park *	120-130
Vineyard Springs	110-120
North Vineyard Station	110-120
South Mather	110-120
Upper West Side *	<u>100-120</u>
Florin Vinyard	85-100

* Projects outside UPA

Due to incomplete build-out caused by the over-supply of entitled, competing developments, nearly all the projects would exceed current per capita VMT, which means they would increase total County GHGs in a greater proportion than the rate of population growth. This directly conflicts with the State’s goal to reduce total GHGs to net zero by 2045, notwithstanding population growth.

The UWSP compares favorably to most of the other projects, but is still substantially higher than the 85 percent below regional per capita VMT target established in the County’s General Plan,⁴⁶ consistent with requirements pursuant to SB 743.

⁴⁶ Sacramento County. General Plan, Circulation Element, Table CI-1, Significance Thresholds for CEQA Transportation Analysis for Development Projects.

SECTION V. FEIR/GP CONFLICTS

A. FAILURE TO MITIGATE GHG EMISSIONS BY ADOPTING A CAP

1. Sacramento County Promised to Adopt a CAP

The County's 2011 GPU FEIR committed to adopt a climate action plan (CAP) to mitigate climate change impacts of the GPU:

"Comprehensive plans to address climate change are being adopted by many jurisdictions, and they have come to be called Climate Action Plans.⁴⁷ ...As stated, mitigation...requires County adoption of the AB 32 goal as a General Plan policy, a Climate Action Plan, and development thresholds. In concert with state and federal activities, this mitigation is intended to offset the Project climate change impact, which has been determined to be significant".⁴⁸

The FEIR's explicit GHG mitigation language is presented in Attachment 5.

As noted in Section I of these comments, almost none of the County's climate change commitments, including adopting a CAP ("within one year") have been fulfilled.

2. The Advantages of CAPs

The State encourages the use of CAPs for GHG mitigation.^{49,50} As noted in the FEIR, CAPs can be "comprehensive". As programmatic plans subject to programmatic CEQA review, CAPs can offer better GHG-reduction than project-specific mitigation because they can,

- a. Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action;
- b. Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis;
- c. Avoid duplicative reconsideration of basic policy considerations;
- d. Allow the lead agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts; and
- e. Allow reduction in paperwork".⁵¹

Properly done, CAPs can also provide co-benefits such as improved air quality, better health outcomes, energy efficiencies, better mobility options, and more equitable, livable communities.

⁴⁷ Sacramento County. General Plan Update FEIR, p. 12-32. April 2010

⁴⁸ Ibid, p. 12-38.

⁴⁹ California Office of Planning and Research. General Plan Guidance, Chapter 8. Climate Change". Online: https://www.lci.ca.gov/docs/OPR_C8_final.pdf

⁵⁰ California Air Resources Board. 2022 Scoping Plan, Appendix D, Local Actions, pp. 4, 7 ff. November 2022.

⁵¹ 14 CCR § 15168(b)

These environmental advantages of CAPs over project-specific environmental analysis and mitigation are what made the County’s deferred mitigation promise credible as preferable to the CEQA default of project-specific environmental review.

3. The County has Failed to Adopt a CAP

Section I of these comments reviews the County’s 13-year failure to honor its GPU climate commitments, including by failing to adopt a CAP. As a result, the County has since 2011 approved three large-scale development projects, two outside the UPA, totaling 12,287 new dwelling units (DU),⁵² subject to individual, project-specific environmental review – exactly as if the County had failed in 2011 to offer any climate mitigation at all. The approved projects outside the UPA growth boundary relied on the “*new growth management policies* which in Section II of these comments we assert are of unsubstantiated efficacy.

Consistent with its 2011 mitigation commitments, the County must adopt a CAP to provide comprehensive, programmatic CEQA review and mitigation of GHG emissions, including consideration of the potential cumulative impacts of the enormous amount of growth planned in the County outside the UPA.

B. FAILURE TO IMPLEMENT GP POLICIES PRIORITIZING INFILL

1. GPU Direction on Growth Location is Ambiguously Broad

Sacramento County’s General Plan provides broad guidance regarding where County growth will occur, stating that new growth should be directed to, “...*previously urbanized areas, planned growth areas and strategically located new growth areas...*” (GP LU Element, Strategy I., Goal, p. 20). GP Policy LU-3, similarly directs,

“It is the intent of the County to focus investment of public resources on revitalization efforts within existing communities, especially within commercial corridors, while also allowing planning and development to occur within strategic new growth areas.” (GP LU Element, p. 25,)

Problems associated with such overly-broad, conflicting direction are discussed below in section V.G of these comments)

2. The GP Prioritizes Infill over “New Growth”

While the GP directs growth broadly, including to “*new growth areas*”, it makes clear that infill, corridor revitalization, and buildout of already planned projects has priority:

“Near-term urban development will be accommodated through redevelopment and infill of vacant and underutilized parcels within existing urban communities and build-out of planned communities, because it is in these areas that urban infrastructure and services presently exist. New urban growth areas may also accommodate a portion of anticipated future growth” (GP LU Element, “Growth Accommodation”, p. 24, emphasis added).

“...a balance must be achieved so that reinvestment in existing communities is not overshadowed by planning and development activity in new growth areas. The County must ensure that resources are not prematurely shifted away from corridor

⁵² Mather South, 3,522 DU; Newbridge, 3,075 DU; Jackson Township, 5,690 DU.

revitalization efforts and buildout of planned communities” (GP LU Element, “Assumption-Based vs. Proactive Strategies”, p. 25, emphasis added).

Similarly, Policy LU-3 directs:

“It is the intent of the County to focus investment of public resources on revitalization efforts within existing communities, especially within commercial corridors, while also allowing planning and development to occur within strategic new growth areas” (GP LU Element, p. 25, emphasis added)

The GP’s “Urban Growth Accommodation Strategy” further states:

“It is the strategy of the County to accommodate as much residential, commercial and employment capacity as feasible within the existing urban area during the timeframe of the Plan” (GP LU Element, p. 26, emphasis added).

Other GP policies similarly direct the County to prioritize its resources to support infill development and commercial corridor redevelopment:

“Give the highest priority for public funding to projects that facilitate infill, reuse, redevelopment and rehabilitation, mixed-use development, and that will result in per person vehicle miles traveled lower than the County average” (GPU Land Use Element, LU-68 p. 71, emphasis added).

“Focus investment of County resources in commercial corridors to facilitate... infrastructure and public amenities to encourage and stimulate private investment” (GPU LU Element, LU-90, p.106, emphasis added).

3. Prioritizing is a Practical Necessity

The GP warns about “prematurely” directing staff to “new growth” because processing major sprawl applications is enormously time-consuming and could dominate County workload, to the detriment of infill, rehabilitating urban corridors, and completing already planned and approved projects:

“...buildout of infill parcels and planned communities [will occur] at existing zoned or planned densities... [and] will be done on a case by case basis... [so] will not often require significant additional County resources....

On the other hand, ...new growth areas...will require significant investment of County resources, including both financial capital and numerous full-time staff...

The County must ensure that resources are not prematurely shifted away from corridor revitalization efforts and buildout of planned communities to plan for development in the new growth areas” (GP LU Element, Assumption-Based vs. Proactive Strategies, p. 25, emphasis added).

For example, staff involvement in the UWSP includes:

“County Accounting and Fiscal Services, County Counsel, Planning and Environmental Review, Transportation, Water Resources, Special Districts Section, Economic Development, Regional Parks, Libraries”, and other departments, “which

*shall be useful to County in the review and processing of the [UWSP] Specific Plan”.*⁵³

Staff is required to extensively negotiate with applicants; develop, oversee, and/or review major planning documents, including 1,000-page environmental analyses and technical appendices; conduct numerous briefings, workshops, and hearings; catalog a voluminous administrative record over a multi-year planning period, and prepare multiple decision documents and entitlements; e.g., for the UWSP staff would be required to:

1. Amend the GP to expand the UPA and USB boundaries.
2. Amend the GP Land Use Diagram
3. Amend the GP Transportation Plan
4. Amend the Bicycle Master Plan
5. Amend GP text and policies to align policies with development in Natomas Joint Vision Area,
6. Amend the Zoning Ordinance
7. Ensure adequacy of and process adoption documents for an Urban Services Plan, Affordable Housing Strategy, Water Supply Master Plan, and Public Facilities Financing Plan Adopt a Water Supply Master Plan.

Further indication of work involved in processing “new growth” projects is outlined on County project websites.^{54 55}

4. The County has Improperly Prioritized New Growth

No GP policies direct that planning “new growth area” projects should have priority over infill, revitalizing urban corridors, and buildout of planned projects. To the contrary, the GP repeatedly warns against prematurely shifting resources to “new growth”, as cited above. GPU Land Use Element Strategy IV, “Built Environment Preservation and Enhancement” discusses infill and corridor revitalization extensively.

But focusing the County’s resources on new growth areas is exactly what the County has done.

The GP’s admonishments have been ignored. As noted in Section III of these comments, the County has in recent years approved three very large, staff-intensive, “new growth area” projects (two outside the UPA), and is currently planning three more outside the UPA, including the UWSP, for a total of 56,310 DU. These recently adopted and planned projects would together provide 86 years of growth capacity at the historical growth rate shown in Table 2 of these comments.

Meanwhile, as shown in Section III of these comments, numerous already-approved “planned communities” await buildout; and since at least 2011 the County’s 2008 infill program - which would have supported, “*revitalization efforts within existing*

⁵³ Sacramento County. Funding Agreement for Upper Westside Master Plan Process, Paragraph K. February 26, 2019.

⁵⁴ Sacramento County. Website: Jackson Township Specific Plan. Online (but out of date): <https://planning.saccounty.gov/PlansandProjectsIn-Progress/Pages/JacksonTownshipSpecificPlan.aspx>

⁵⁵ Sacramento County. Website: New Growth Areas and Master Plans. Online (but out of date): <https://planning.saccounty.gov/PlansandProjectsIn-Progress/Pages/New-Growth-Areas-and-Master-Plans.aspx>

communities” - has been moribund, and only recently re-activated with non-competitive State grant funds.⁵⁶

The failure to follow the GP’s clear direction to prioritize infill has resulted in shifting growth away from more efficient infill development, with low or no GHG, air quality, and open space impacts, to high-impact sprawl, contrary to State plans as, as noted in Section IV.A and elsewhere in these comments.

C. FAILURE TO ENSURE LOGICAL PROJECT BOUNDARIES

1. The GP Requires Logical Boundaries

As reviewed in Section II.A of these comments, in 2011 the County adopted “*new growth management policies*” allowing project-specific expansion of the UPA, subject to specified conditions. The effectuating “new policies” are Policies LU-119 and LU-120. Policy LU-119 states in part:

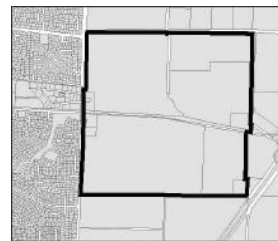
“The County shall only accept applications to expand the UPA...if the Board finds that the proposal meets the following:

... Logical, comprehensive, and cohesive planning boundaries: Proposed UPA expansions/Master Plan processes must consist of a contiguous set of parcels that have a regular outside boundary consistent with the logical planning boundary illustrations below...”.

LU-119 provides the following diagrams to illustrate “logical boundaries”:



Example of logical planning boundary.

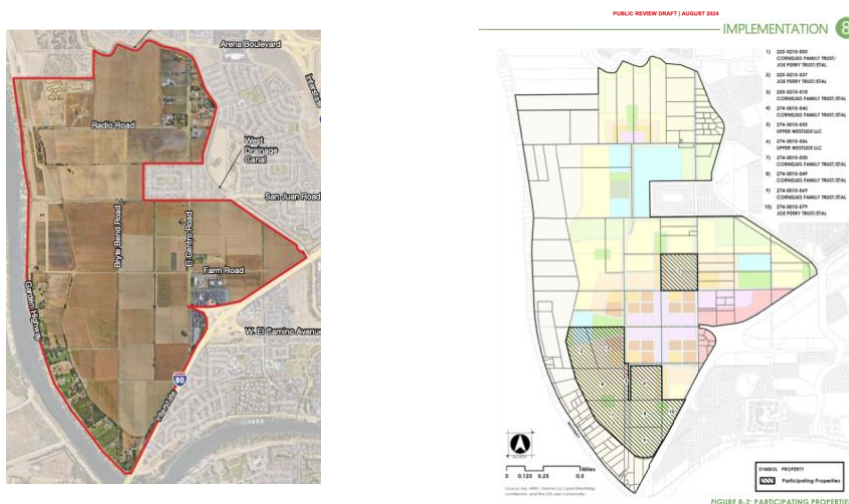


Example of logical planning boundary.

2. The UWSP Boundary is Not Substantiated as “Logical”

⁵⁶ Sacramento County. General plan of 2005-2030, 2023 Annual Report, p. 8.

UWSP boundaries are shown on the following diagrams:



The diagram on the left (UWSP SEIR, Plate PD-3, “UWSP Area”) displays an arbitrary, conceptual project boundary, evidently designed to comply with LU-119’s “logical, comprehensive, cohesive, contiguous” criteria.

The diagram on the right (UWS Specific Plan, Chapter 18, Figure.

Since over 80 percent of the claimed project boundary is in the ownership of non-participating owners, absent further substantiation it appears speculative, at best, to assume the proposed boundaries will be realized so as to satisfy the LU-119 criteria.

Absence of “Logical, comprehensive, and cohesive planning boundaries”, and an accurate notion of the actual project area, makes it impossible effectively plan for project features, including environmental impact mitigation.

D. FAILURE TO JUSTIFY USB BOUNDARY CHANGE

1. The Role of County Growth Boundaries

Sacramento County has adopted two growth boundaries, as described below:

“The UPA and USB are the backbone of Sacramento County’s urban planning philosophy. These growth boundaries are intended to protect the County’s natural resources from urban encroachment, as well as to limit costly sprawling development patterns...the USB is intended to be a permanent boundary” (GP LU Element, Strategy I: Logical Progression of Urban Development, p.19, emphasis added).

“Intent: The Urban Service Boundary (USB)... indicates the ultimate boundary of the urban area in the unincorporated County... based upon jurisdictional, natural and environmental constraints to urban growth. It is intended to be a permanent growth boundary not subject to modification except under extraordinary circumstances...”

...The USB allows for the permanent preservation of agriculture and rangelands, critical habitat and natural resources...” (GP Land Use Element, Logical Progression of Urban Development, p. 20, emphasis added).

2. The SEIR Identifies No Justifying “Extraordinary Circumstances”

The SEIR offers no justification for its required project-specific expansion of the USB (p. 14-18). It only:

- a. Provides bland assertions, absent substantiation, that the UWSP would be consistent with GP policies (e.g., pp. 5-19, 5-20, 5-23, 14-21, 14-23, 16-13, 22-60, passim)
- b. Incorrectly asserts that, “*The Sacramento County 2030 General Plan includes a framework for considering requests to expand the USB and UPA and requires any expansion to meet a series of ‘smart growth’ performance criteria*”. (p. 14-21). Such a framework exists only for the UPA, as reviewed in Section II.A of these comments.
- c. Notes that GP Policy LU-120 requires a statement of, “*how the development will connect to other adjacent...development within the USB*”. The question clearly is premised on the assumption that the development itself will be “within the USB”. In response, the SEIR simply ignores its need for an expansion of the existing USB (SEIR Table LU-2, “PC-1”, p. 14-24).

3. The Proposed Change Has Not been Subject to Environmental Review

The GPU states,

“Natomas Joint Vision Area. Subject to the preparation and certification of the appropriate environmental documentation, this development shall be accomplished...by an expansion of the USB...” (GPU LU Element, p. 15).

Neither the GPU FEIR nor the UWSP SEIR provides the requisite “*appropriate environmental documentation*”.

E. FAILURE TO IMPLEMENT THE COUNTY’S 2011 PHASE I CAP

1. Policy Role of the Phase 1 CAP

When the County updated its General Plan in 2011, it did not identify substantive mitigation measures to reduce GHG. Instead, it obligated itself to, among other things, adopt a “*Community Climate Action Plan*” within one year, which would present GHG-reduction measures.

To help justify its deferral of mitigation and, “*rather than delaying County action*”,⁵⁷ the County adopted, concurrent with the General Plan, a “*Phase I CAP, Strategy and Framework Document*”,⁵⁸ meant to be the “*roadmap*” for the promised phase 2 Community CAP, which would “*flesh out*” the Phase 1 strategy.⁵⁹ In adopting the Phase 1 CAP, the Board affirmed its policy role as presenting,

⁵⁷ Sacramento County, General Plan FEIR, Chapter 2, “Climate Change”, p. 12-33. April 2010., 2011.

⁵⁸ Sacramento County, Phase 1 Climate Action Plan Framework and Policy Document. October, 2011. Online: <https://planning.saccounty.gov/PlansandProjectsIn-Progress/Documents/Climate%20Action%20Plan/CAP%20Strategy%20and%20Framework%20Document.PDF>

⁵⁹ Sacramento County. GPU FEIR, p. 12-32. November 2011.

“...overall strategies and goals... [to] augment and inform the Goals, Objectives, Policies and Implementation Measures of the 2030 General Plan”... [and provide] the foundation for the [Community] CAP components which follow”.⁶⁰

2. Phase 1 CAP and VMT Reduction

The Strategy document recognizes infill and VMT reduction as critical to reducing GHG emissions within the unincorporated County, e.g.:

“Since transportation accounts for more greenhouse gas emissions than any other sector in the County, reducing transportation-related GHG emissions is critical ... As the land use planning authority for the unincorporated county, Sacramento County determines land use patterns, which in turn affect transportation patterns and therefore associated GHG emissions.

As VMT is directly tied to how communities are planned and developed, reducing VMT will require changes to and coordination of land use and transportation policy and practice. Channeling new development to urban areas...can increase walking, bicycling, and transit use and reduce per capita transportation-related emissions ...compact development and ...smart transportation policies, can significantly reduce carbon emissions. For example, compact development clustered around transit lines can reduce VMT per capita from 20% to 40%. (Ewing, 2008 (Ph1-FSD, p. 33)”
(Sacramento County, Strategy and Framework Document, p. 6).

3. County Failure to Implement Phase I CAP’s VMT-Reduction Focus

As noted above, rather than, “*Channeling new development to urban areas*”, Sacramento County has since 2011 approved construction of 12,287 new dwelling units (DU) in greenfield natural and working lands, and plans to approve 47,545 more such outside the UPA, including the present UWSP. Such sprawl development has far higher environmental impact than the “*compact development clustered around transit lines*” cited by the Phase 1 CAP, but subsequently ignored by the County in its development approvals.

F. FAILURE TO COMPLY WITH GPU REQUIREMENTS FOR ORDERLY, LOGICAL, EFFICIENT LAND USE

1. The GPU Directs Orderly, Logical, and Efficient Land Use

The GPU Land Use Element’s overarching policy goal is that land use should be orderly, logical, and efficient.

- a Land Use Element Section II, “Land Use Strategies and Policies”, articulates the Land Use Element’s fundamental goal (emphases added to quotes in this sub-section):

“Goal: An orderly pattern of land use that concentrates urban development... is functionally linked with transit...and protects the County’s natural, environmental and agricultural resources”.

⁶⁰ Sacramento County. Resolution of the Board of Supervisors of the County of Sacramento, State of California Adopting a Strategy and Framework Document. November 9, 2011.

The Section elaborates:

“Strategies for urban and rural development presented in this Element ...have a common theme: efficient land and resource use. ...achieved by ...land use that concentrates development ... to protect valuable agricultural and rangelands, conserve natural areas..., reduce travel distances, reduce air pollutant emissions, conserve energy, and enhance the efficiency of providing infrastructure . Efficient use of land requires reinvestment in existing communities... Efficiency is the central theme ...” (GPU LU Element, p. 18, emphases added).

- b. Strategy I: “Logical Progression of Urban Development”, identifies the County’s UPA and USB growth boundaries as the means to support “orderly”, “systematic” development through logical geographic progression.

“Objective: Reserve the land supply to amounts that can be systematically provided with urban services and confines the ultimate urban area within limits established by natural resources”. (;GPU LU Element, p. 20).

“The UPA and USB are the backbone of Sacramento County’s urban planning philosophy. ... intended to protect the County’s natural resources from urban encroachment, as well as to limit costly sprawling development ...”. (GPU LU Element, p. 19)

The UPA and the USB are designed to promote maximum efficiency of land uses and protection of the County’s natural resources (GPU LU Element, p.20).

2. The UWSP Would Not Provide Orderly, Logical, Efficient Land Use

- a. The UWSP would not be “Orderly” because,
- i. It does not “*concentrate urban development*” - on the contrary, it disperses development onto open space distant from the urban core, claiming to justify its location by pointing to nearby small-scale sprawl, in effect arguing that past land use mistakes would somehow justify or mitigate its vastly increased leapfrog impacts.
 - ii. It is not “*functionally linked with transit*” and likely never will be, as discussed in Sections III.B and IV.C of these comments.
 - iii. It does not “*protect the County’s natural, environmental and agricultural resources.*”; on the contrary it would diminish them.
 - iv. It would add to the cumulative dis-order resulting from the County’s numerous, scattered, approved projects, and the enormous superfluity of entitled DUs. Future County land use - the timing, location, size, and intensity of future development - will be impossible to predict or plan for, because contingent on future un-knowable and un-coordinated market decisions by many individual home builders and investors, with a surfeit of entitled locations to choose from. The UWSP, individually and in tandem with other planned sprawl projects, would exacerbate this antithesis of “orderly” development.
- b. The UWSP would not be “Logical”, because it would ignore the UPA and USB boundaries, which are clearly identified in Strategy I as the way the County will achieve the GPU’s primary land use goal: “*an orderly pattern of land use*”.

A fundamental failure of logic is that Sacramento County's 2011 adoption of Policies LU-119 and LU-120 untethered County land use decisions from both real-world market constraints;⁶¹ and the logic of environmental resource protection as cited in the Land Use Element's fundamental Goal, and in numerous other sections and policies of the Land Use Element and other GP elements.

- c. The UWSP would not be "Efficient", because the County's helter-skelter approvals, in disregard of the UPA and USB, confound rational long-term planning of infrastructure and protection of natural resources:

"Defining the Urban Policy Area is of key importance in the provision of urban services and infrastructure to the unincorporated County, as it provides the geographic basis for infrastructure master plans, particularly for public water and sewerage, which require large capital investment and relatively long lead time for the installation of capital improvements. ...The UPA and the USB are designed to promote maximum efficiency of land uses and protection of the County's natural resources.... These two growth boundaries work in tandem to manage and direct future development, as well as provide infrastructure and service providers with intermediate and ultimate growth boundaries to use to plan for future expansion" (GPU LU Element, p. 20, emphasis added). "

G. THE PROBLEM OF THE GENERAL PLAN'S INCOHERENT GUIDANCE

General Plans represent a jurisdiction's efforts to balance many competing priorities. As such, total consistency across a plan's many policies may not always be achieved. Interpretation and reconciliation of inconsistencies is generally about policy issue best left to elected decision-makers most closely in touch with the temper of the community and intent of the plan.

At the same time, it is the purpose of a general plan to provide meaningful guidance to decision makers and the public on what the community values are, and to prevent arbitrary decisions. This the Sacramento County's GPU fails to do. The reason is that, as cited elsewhere in these comments, after completion of the 2010 FEIR, Policies LU-119 and LU-120 were added to the GPU, imposing a land use approach at odds with the original draft text that was reviewed by the EIR. In support of those new *laissez faire* policies, references to "**new growth areas**" were liberally grafted onto the Land Use Element's prior verbiage. But there was no attempt to reconcile the intrinsic conflicts with the pre-existing text, which was oriented to "*manage and direct*", "*orderly, logical, efficient*" land use; with growth directed to infill of existing neighborhoods and build-out of approved projects within the UPA, and to protection of natural resources.

As a result, the Land Use element is replete with contradictory non-sequiturs defying sensible interpretation. The overall sense is that everything is possible, that there is

⁶¹ "[I]n 2011, the General Plan added policies...to allow applicants to request an expansion of the UPA anywhere within the USB, regardless of demand or existing capacity. The County's intent was to let the market determine the need and location for new growth...". (Sacramento County, General Plan 2022 Annual Report, See these comments, Attachment 3, Section E.4 for further reference)

no conflict between throwing open the doors to sprawl (with accompanying land speculation) on one hand, and supporting the County's other growth strategies on the other (infill and buildout of approved projects, as reviewed in Section III.B of these comments).

For example:

*"This Element's policies...direct future development...toward previously urbanized communities **and strategically-located new growth areas** to:*

- *...improve...existing communities. Plan ...commercial corridor...and protection of natural resource...implementing more compact land use patterns*
- *Infill vacant parcels and intensify development on underutilized lands improve... existing neighborhoods ...relieve growth pressure on the urban fringe.*
- *...reduce automobile dependence,...*
- *Stimulate reinvestment in targeted commercial corridors...*
- *Direct growth toward previously urbanized areas **and strategic new growth areas** to reduce sprawling development, strengthen existing communities, relieve traffic congestion, improve air quality, preserve open space and natural resources, protect valuable agriculture and rangelands, and realize economies of scale for infrastructure and services. GPY Land Use Element, p. 2).*

How directing growth to, "strategically-located new growth areas" (all of which are in greenfields outside the UPA) will accomplish any of the diametrically opposed stated objectives is unexplained. The term "*strategic*" is undefined. With a few crude inserts, the "smart growth" intent of the earlier wording was contradicted and scrambled.

The Land Use Element has numerous such passages, e.g., on pp. 2, 19, 20, 24, 25.

With some sense of reality, the Element cautions that the other growth strategies should be given priority; but as shown in Section V.B of these comments, that caution has been ignored.

Presented with this morass of ill-considered, conflicting guidance, all emanating from policies LU-119 and LU-120 - which as discussed in section II.A of these comments were neither reviewed or substantiated in the GPU FEIR - we believe the most reasonable course is to refer to the Element's fundamental Goal, of orderly, logical, efficient land use, and its "backbone" Strategy I, respecting the UPA and USB.

The UWSP does not comply with either the Goal or the Strategy.

Thank you for considering our comments. As always, our goal is to support the County in adopting feasible, effective, and enforceable local climate change mitigation, as an important contribution to help achieve climate stability.

Sincerely,

A handwritten signature in black ink, appearing to read "Oscar Balaguer". The signature is fluid and cursive, with a large initial "O" and a long, sweeping tail.

Oscar Balaguer, Chair
350 Sacramento CAP Team

cc: Liaisons, CCL, ECOS, Sierra Club, SCC

October 28, 2024

TO: CEQA@saccounty.net

FROM: Patrick Tully, President Garden Highway Community Association (GHCA)

SUBJECT: Comments on the UWSP EIR

Issues Throughout the EIR

Falsehoods, Inaccuracies, Misrepresentations

EIR's are intended, by law, to present the public and decision-makers with factual, evidence-based, unbiased information about current circumstances and a project's potential impacts. The UWSP EIR throughout contains false, inaccurate, and misleading statements, raising questions about the truthfulness, completeness and accuracy of the entire EIR document. False statements must be deleted. Misleading statements must be clarified. The EIR does not meet legal requirements or serve the public or decisionmakers if it is not reliably thorough and accurate.

The project applicant does not have the necessary entitlements to proceed with the project. The UWSP EIR identifies changes the project applicant is seeking to the County's 2030 General Plan policies, County zoning, to the Urban Services Boundary, and to the Urban Policy Area, among others. But throughout the EIR, the EIR makes false claims that the project does not conflict with County plans and policies. That is not true. If the UWSP project was already consistent with, and had no conflicts with County plans and policies, then the project would not be seeking amendments and other entitlements in order to be compliant.

Under Agricultural Resources, the EIR says, "the proposed UWSP would not conflict with existing agricultural use and zoning." That is untrue. The project site is mostly zoned and used for agriculture and would be rezoned for urban uses, a violation of County policy. Under Land Use, the EIR says, "the proposed UWSP would not conflict with Sacramento County's Land Use Plans." That is inaccurate. There is a long list of County land use plans, policies and codes that the UWSP project seeks to change in order for the project to comply with and not to be in conflict with County policies.

Under Growth Inducement impacts, the EIR completely fails to address growth inducement impacts directly due to the project applicant's requested changes to County plans, policies and codes.

The EIR is required by law to identify existing conditions and accurately state impacts from a proposed project. The current zoning for the project area is largely agricultural and has not yet changed. The EIR cannot legally assume a proposed project has entitlements it does not have, such as in the Agricultural Resources section where the EIR says, "Because the entitlements requested as components of the proposed UWSP would change the zoning to make it consistent with the proposal, the proposed UWSP would not conflict with zoning for agricultural use within the UWSP area." That statement is grossly inaccurate, violates the legal requirements for an EIR, and it and any similar assumptions in the EIR that the project applicant has entitlements that the project applicant does not have and is seeking, should be removed.

Statements in the EIR must be deleted that say or suggest the UWSP project complies with or is consistent with County land use plans, policies and codes when in fact the UWSP does not currently comply with those County policies and when in fact the UWSP is seeking to change those County policy in order to comply.

Any statement that the project agrees in principle with or agrees with objectives in County plans and policies must be restated to make clear that the project does not in fact comply with County plans and policies, and changes would be needed to County plans, policies and codes for the project to comply and not conflict with County policies.

Mitigation is not Preservation

Throughout the EIR, the County's preservation policies are inaccurately equated with mitigation. The County has policies to preserve habitat and farmland. To preserve means to keep as is, intact. If habitat and farmland that County policy seeks to preserve are lost to urbanization, then there is a significant impact that is not identified in the EIR. Mitigations attempt to replace the loss somewhere else, but that is very different than keeping what exists intact. If the UWSP project is approved, an impact is that the farmland and habitat County policies sought to protect is lost forever. Mitigation may lessen the impact of the environmental harm but does not change the fact that farmland and habitat is not preserved where it currently exists. If I accidentally destroyed a family heirloom you were preserving, I could mitigate the loss by paying you, but the loss would remain.

Impacts Not Identified

The County's stated General Plan, Urban Services Boundary, and Urban Policy Area policies are intended to reduce urban sprawl and its impacts, preserve habitat and open space, and protect local farming. The UWSP project would have significant environmental impacts that conflict with those policies. These impacts should be and are not fully stated in the EIR.

Mitigations Outside Sacramento

The EIR fails to state that when mitigations occur outside Sacramento, Sacramento residents lose the benefits of those resources in their community.

Tables-Charts

The EIR is intended to be a public information document with clearly presented information. As recommended in CEQA guidelines, graphics help decisionmakers and the public rapidly understand the documents. The UWSP EIR would greatly benefit from more charts and tables where existing conditions and proposed changes are easier to see and compare, such as for commercial and retail square footage discussed under Urban Decay, in sections on agricultural acreage, housing units and elsewhere in the EIR where there are presentations of a lot of numbers that should be presented in tables for easy comparison.

Comments Specific to EIR Sections

Aesthetics

- The EIR notes that nighttime lighting from the UWSP project would have a permanent impact in the area. But the EIR fails to adequately address the harmful impacts of nighttime lighting on human health and on wildlife, including migratory birds using the Pacific Flyway.
- The EIR fails to identify possible nighttime lighting mitigations, such as establishing a minimum one-half mile setback between the UWSP project and any rural areas (i.e. Garden Highway), with the setback to include a minimum 100-foot-wide densely planted tree buffer of tall native evergreen trees at the western project boundary, with the setback established and the tree buffer installed before the first stage of project construction.

Agricultural Resources

- The proposed UWSP project site is currently primarily farmland classified as prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance. The EIR fails to state clearly that the UWSP project violates County policies that say the County shall protect these types of farmlands located outside of the Urban Services Boundary from the urban encroachment represented by the UWSP project.
- The UWSP is requesting a General Plan amendment to rezone prime farmland for urban use. The EIR fails to state clearly that the UWSP request conflicts with existing County policy which says the County shall not accept applications for General Plan amendments outside the Urban Services Boundary redesignating valuable farmland for urban use.

- The EIR fails to adequately assess impacts from changes the UWSP is proposing to County policies regarding farmland preservation.
- The EIR says, “the proposed UWSP would not conflict with existing agricultural use and zoning.” That is not true and must be deleted. The UWSP would conflict with existing agricultural use and zoning, turning farmland to urban use.
- The EIR says, “Because the entitlements requested as components of the proposed UWSP would change the zoning to make it consistent with the proposal, the proposed UWSP would not conflict with zoning for agricultural use within the UWSP area.” That statement is inaccurate, violates the legal requirements for an EIR, and should be removed. The project does not have requested entitlements. Project impacts must be assessed based on existing conditions.
- The EIR fails to make clear that County policy is focused on farmland rather than on land zoned for agriculture. Land zoned for agriculture may or may not be used for farming. The EIR should more clearly present the current number of acres available for farming, the number acres of farmland the UWSP project would rezone to urban uses, the number of acres of land available for farming if the project is approved, and the number of acres of farmland (land available for farming) that would be lost if the project is approved.
- The UWSP EIR gives the inaccurate impression that 534 acres of the UWSP would remain as farmland. That is not correct. The EIR must make a clear distinction between the acreage of land that can be farmed if the project is approved, and the acreage of agriculturally zoned open space land (buffer) that will not be used for farming.
- The EIR fails to identify that land in the UWSP area that would remain available for farming will be long and narrow, just 700 feet wide in some areas, bisected in 4 places by heavily trafficked project roads, and within 30-50 feet of UWSP urban activity conflicts, which together could make the remaining farmland impractical for any commercial farming. If that happened, it would mean the project would wipe out 100% of the farmland in that area – farmland County policy seeks to preserve.
- If County zoning has setback requirements between farming and urban activity, those setbacks should be clearly identified in the EIR. If the County does not have such setback requirements, the EIR team should contact an appropriate government agency or reputable nonprofit organization that has studied what setbacks should occur between farming and urban activity in order to avoid urban conflicts, and the findings of that research should be included in the EIR next to the proposed setback. The proposed setback of 30-50 feet, basically the width of a rural roadway, seems wholly inadequate.
- In considering impacts, the EIR fails to make clear that farmland provides multiple community benefits such as health benefits associated with open space, wildlife habitat, fresh food produced locally, as a food resource when there are disruptions to the food distribution system such as happened during the pandemic, and as a flood protection area between the Sacramento River and the Sacramento community.

Air Quality

- The EIR asserts, with no evidence, that the majority of employment related vehicle trips, and the pollution they create, will be to downtown Sacramento. It is wrong for the EIR to present VMT data as fact when it is not based on evidence. Focusing so much on VMT to downtown Sacramento serves to minimize air pollution generation data. The EIR should have considered VMT more realistically to multiple job centers. While downtown Sacramento is a job center, Sacramento County has more jobs than downtown, as noted in the EIR. Yolo County and Placer County are also job centers.
- The EIR fails to adequately address that project related air pollution and its resulting serious health impacts, as well as project construction dust, could be more severe on Garden Highway because of the prevailing wind that blows toward Garden Highway. Again, this impact could be partially mitigated by establishing a minimum one-half

mile setback between the UWSP project and any rural areas (i.e. Garden Highway), with the setback to include a minimum 100-foot-wide densely planted tree buffer of tall native evergreen trees at the western project boundary, with the setback established and the tree buffer installed before the first stage of project construction.

- The EIR fails to adequately address that project related air pollution and its resulting serious health impacts would directly impact children in UWSP area schools.

Biological Resources

- Sacramento County's 2030 General Plan and Urban Services Boundary explicitly state the purposes of the plans, in part, are to preserve habitat and open space. The UWSP project would violate those County goals. The EIR fails to state those violations clearly and fails to clearly and honestly identify impacts from the UWSP violation of those goals.

- Sacramento County policy says planning and development of new growth areas should be consistent with Sacramento County-adopted Habitat Conservation Plans and other efforts to preserve and protect natural resources. The UWSP project would put urban activity in a habitat conservation corridor in violation of County policy. The UWSP is not currently consistent with the Natomas Basin Habitat Conservation Plan and the Metro Airpark Habitat Conservation Plan. The UWSP conflicts with habitat conservation plans and conflicts with County policy are not clearly identified in the EIR and should be explicitly stated.

- The EIR fails to discuss the UWSP project impacts to the Sacramento River riparian area by putting urban development so close to the Sacramento River and its unique biological resources, habitat, and provision of a habitat corridor.

- Sacramento County policy is to actively plan to protect, as open space, areas of natural resource value, which may include but are not limited to wetlands preserves, riparian corridors, woodlands, and floodplains associated with riparian drainages. The EIR fails to point out that the UWSP project area is in the Sacramento River corridor, less than 1,000 feet from the Sacramento River. The EIR says, "No wetlands preserves, riparian corridors or floodplains associated with riparian drainages are present in the UWSP area so none will be affected by the project's development." That is incorrect. The farmland soils, wildlife and other biological resources present within the UWSP area are associated with proximity to the river and are part of the Sacramento River corridor.

- The UWSP EIR falsely equates the County's stated goals of habitat preservation with habitat mitigation. The EIR says the project's approach for habitat and biological resources present within the UWSP area is to provide compensatory mitigation. Mitigation is very different from the County's goal of preservation. Preservation means to keep as is, in place. Mitigation means to make a significant impact, such as loss of habitat, less severe. Making an environmental impact less severe still means there is an impact. The EIR should make clear the distinction between preservation and mitigation. The EIR should also make clear that even with compensatory mitigation, the UWSP project would still have a significant negative impact on existing area habitat and wildlife, and that loss would be permanent.

Hydrology and Water Quality

- Sacramento County policy is to actively plan to protect, as open space, areas of natural resource value, which may include but are not limited to riparian corridors and floodplains associated with riparian drainages. The EIR fails to point out that the UWSP project area is in the Sacramento River corridor, less than 1,000 feet from the Sacramento River. The EIR says, "No wetlands preserves, riparian corridors or floodplains associated with riparian drainages are present in the UWSP area so none will be affected by the project's development." That is incorrect. Farmland soils, wildlife and other biological resources, and tribal cultural resources present within the UWSP area are associated with proximity to the river and are part of the Sacramento River corridor. The EIR fails to provide this information.

- The EIR fails to identify that the proposed UWSP would put new urban development in the Sacramento River floodplain. In addition to exposing new populations to flooding, the impervious surfaces associated with urbanization increase flood risk beyond the project area. While the new Natomas levee is expected to provide 200-year flood protection from the Sacramento River, climate change increases the chance of extreme flooding. Recent flooding in Ashville, North Carolina is proof of that. Around the United States, communities are starting to reserve land near waterways to use as open space for flood protection. Current open space and farmland in the UWSP project area provides an additional level of community flood protection. The EIR fails to indicate that the proposed UWSP project would eliminate this community flood protection.

Land Use

Violations of County Plans and Policies

- Sacramento County's 2030 General Plan was intended to promote the efficient use of land, encourage economic vitality and reduce urban sprawl and its impacts, preserve habitat and open space, and protect local farming. The Urban Services Boundary was intended to implement that vision and promote orderly growth within the County. The EIR fails to state that the UWSP project violates the County's 2030 General Plan, County zoning, the Urban Services Boundary, the Urban Policy Area, and SACOG's Blueprint for regional development. The EIR fails to clearly and honestly identify impacts from the UWSP violation of those goals and fails to identify impacts from proposed changes to County policies.

- The EIR falsely says, "the proposed UWSP would not conflict with Sacramento County's Land Use Plans." That is not true. The UWSP violates the County's General Plan land use policies, as well as the Urban Services Boundary, the Urban Policy Area, and zoning policies. False statements do not belong in the EIR and should be removed.

- County policy says planning and development of new growth areas should be consistent with Sacramento County-adopted Habitat Conservation Plans and other plans and policies to preserve and protect natural resources within an existing community. The EIR then falsely says the UWSP proposes development that would be consistent with the County's growth management policies. The UWSP project violates current County General Plan, Urban Services Boundary and Urban Policy Area growth management policies. False statements must be removed from the EIR.

USB Violation

- The UWSP EIR does not present or discuss that Sacramento County has an Urban Services Boundary policy that says the County shall not expand the Urban Service Boundary unless there is inadequate vacant land within the USB to accommodate the projected 25-year demand for urban uses..." The EIR does not state clearly under Land Use that there is adequate vacancy inside the Urban Services Boundary for the number of housing units and commercial space the project proposes.

- The EIR offers no rationale for the County approving urban development outside the Urban Services Boundary.

- One of the goals of the Urban Services Boundary was to encourage infill development. Infill development advantages residents inside the new development and infill development adds vitality and benefits to the nearby community, maximizes the cost-efficiency of urban services such as transit, and reduces environmental impacts associated with urban sprawl. The EIR fails to discuss ways in which allowing development outside the Urban Services Boundary discourages infill development and disadvantages communities inside the Urban Services Boundary.

River Corridor Conflicts

New Urban-Rural Land Use Conflicts

- Other than changing the aesthetics and rural character of the area, the EIR fails to address impacts from putting urban development within 700 feet of rural residential zoning, changing the expectations for area rural residents choosing to live in a rural residential zone (this is true for Garden Highway rural residential homeowners and homeowners on UWSP area farmland).

- The EIR should and does not identify feasible mitigations that might reduce urban-rural conflicts for a project like UWSP near rural residential areas like Garden Highway, such as requiring that the 20–30-year UWSP project construction begin closest to existing urban uses (i.e. near El Centro road), reaching rural areas last (i.e. Garden Highway), and this impact could be partially mitigated by establishing a minimum one-half mile setback between the UWSP project and any rural residential areas (i.e. Garden Highway), with the setback to include a minimum 100-foot-wide densely planted tree buffer of tall native evergreen trees at the western project boundary, with the setback established and the tree buffer installed before the first stage of project construction.

- If County zoning has setback requirements between rural residential zoning and urban activity, those setbacks should be clearly identified in the EIR. If the County does not have such setback requirements, the EIR team should contact an appropriate government agency or reputable nonprofit organization that has studied what setbacks should occur between rural residential zoning and urban activity in order to avoid conflicts, and the findings of that research should be included in the EIR next to the proposed setbacks.

Noise

- The EIR fails to adequately address the impacts from a proposed stadium, which would be close to residences in and all around the UWSP project area, including Garden Highway. Stadium traffic, noise, and light do not belong in or near residential areas. Stadium noise can travel miles. County and City Code Enforcement offices and Sacramento stadium operators can confirm stadium conflicts with residential areas. Any stadium should be miles from any homes.

- The EIR fails to adequately address the impacts from amplified sound from the UWSP area, such as at the outdoor pavilion. Amplified sound should be prohibited in all residential areas. In the past, developers and the County have said that amplified sound can be regulated to minimize impacts. That has proven to be untrue. Over time, sound equipment and the location of speakers can change and noise makers like bull horns and portable sound systems can be introduced, resulting in uncontrolled noise that can travel more than 2 miles.

- The EIR fails to identify the health impacts of traffic noise, school and park noise, and amplified noise from the outdoor pavilion and stadium.

- The EIR fails to adequately address that project related noise, as well as project construction noise, could be serious impacts on Garden Highway residents because of the prevailing wind that carries sound toward Garden Highway.

Population and Housing

- The EIR should, and does not make clear that the UWSP has no commitment to a specific number or percentage of the type of housing Sacramento needs, including very affordable, affordable, missing middle duplexes and triplexes, senior housing and handicapped housing all located near transit.

- The EIR should and does not make clear that the UWSP has no commitment to including affordable housing as part of each housing development, so affordable housing is integrated in each phase of development, and not targeted for one area of the project, or built in the last phase of development in 20-30 years.
- The EIR should and does not make clear that the UWSP is unlikely to result in the development of any housing for at least 7 years (the projected time for construction of Phase 1). This project will not help with Sacramento's urgent housing needs.

Public Services and Recreation

- The EIR fails to mention that County policy says the County shall not provide urban services beyond the Urban Policy Area (UPA), because it is the intent of the County to focus investment of public resources on revitalization efforts within existing communities. The EIR fails to mention that the UWSP project violates this policy, and the EIR fails to identify impacts from the UWSP's violation of this policy.
- The EIR fails to indicate that the extension of public services to the project area is unanticipated and unplanned.
- The EIR fails to say the UWSP has no control over when some of the services and recreation areas would be available in the project area, which would, at least, increase vehicle trips to access services in other areas.
- The EIR fails to identify harms caused by the unplanned extension of public infrastructure and services to accommodate the UWSP outside the Urban Services Boundary and the Urban Policy Area, particularly the harms to the County's efforts to focus investment of public resources on revitalization efforts within existing communities.

Transportation

- The project EIR says traffic safety is a key consideration. However, the EIR fails to adequately address the severe and dangerous impacts UWSP traffic would have on the Garden Highway roadway and existing Garden Highway roadway users. The EIR suggests the project could add 4,000 trips a day on Garden Highway. Garden Highway is a rural 2-lane, undivided, elevated roadway. Garden Highway is half the width it should be for traffic safety. It has blind curves, no shoulders and no guard rails. The greatest safety issue on Garden Highway, which the EIR fails to identify, is the mixed use of the road by personal vehicles, semitrucks, agricultural equipment, cars pulling boats, golf carts, individual and groups of cyclists, pedestrians, and wildlife, any of which can enter the roadway unexpectedly from farm roads, driveways, and the riverbank. Adding traffic to Garden Highway has life safety consequences which cannot be mitigated.
- The EIR fails to identify that a mitigation to serious Garden Highway traffic and other rural road safety impacts identified in the EIR is to reroute UWSP traffic to avoid and actively discourage UWSP traffic from using rural roads including Garden Highway.
- The EIR fails to identify that adding traffic to Garden Highway would change the physical safety characteristics and make recreational use of Garden Highway too dangerous for cyclists and for vehicle clubs such as antique car clubs and motorcycle groups, eliminating a valuable Sacramento recreational opportunity.
- The EIR fails to highlight that the UWSP would introduce freeway and rural roadway traffic hazards for Sacramentans for which the project applicant has no ability to compel or control mitigations. That could subject Sacramento roadway and freeway users to increased traffic safety hazards, potentially for many years.
- The EIR asserts, with no evidence, that most employment related vehicle trips will be to downtown Sacramento. It is wrong for the EIR to present VMT data as fact when it is not based on evidence. Focusing so much on VMT to downtown Sacramento serves to minimize VMT. The EIR should have considered VMT more realistically

to multiple job centers. While downtown Sacramento is a job center, Sacramento County has more jobs than downtown, as noted in the EIR. Yolo County and Placer County are also job centers.

- The EIR fails to consider traffic impacts on the surrounding area from the UWSP stadium, outdoor pavilion, or schools.
- The EIR fails to suggest traffic mitigations such as locating UWSP traffic generating uses (e.g. stadium, outdoor pavilion or schools) near major roadways and commercial uses to reduce traffic dangers, congestion, noise and air pollution in residential areas.
- The EIR fails to mention that County policy says the County shall not provide urban services, such as road improvements and transit, beyond the Urban Policy Area (UPA), because it is the intent of the County to focus investment of public resources on revitalization efforts within existing communities. The EIR fails to present the impacts from the UWSP violation of this policy and the impacts from the changes to this policy proposed by the project applicant.
- The EIR fails to identify impacts caused by the unplanned extension of public infrastructure and services, such as transit and roadway improvements, to accommodate the UWSP outside the Urban Services Boundary and the Urban Policy Area, particularly the harms to the County's efforts to focus investment of public resources on revitalization efforts within existing communities.

Tribal Cultural Resources

- While the UWSP would have a holistic impact on the tribal cultural landscape, the EIR fails to identify priority sites for tribal resource protection within the UWSP area.

Utilities

- The EIR fails to state that the UWSP violates the County's Urban Services Boundary policy which says that the County shall maintain an Urban Services Boundary (USB) that defines the long-range plans (beyond twenty-five years) for urbanization and extension of public infrastructure and services. The EIR fails to identify impacts associated with this violation and UWSP impacts associated with proposed changes to the County's Urban Services Boundary policy.
- The EIR fails to mention that County policy says the County shall not provide urban services beyond the Urban Policy Area (UPA), because it is the intent of the County to focus investment of public resources on revitalization efforts within existing communities. The EIR fails to identify UWSP impacts associated with this violation and impacts associated with proposed changes to the County's Urban Policy Area policy.
- The EIR fails to identify harms caused by the unplanned extension of public infrastructure and services, such as utility services, to accommodate the UWSP outside the Urban Services Boundary and the Urban Policy Area, particularly the harms to the County's efforts to focus investment of public resources on revitalization within existing communities.

Other Resource Topics- Wildfire

- The EIR says the UWSP is outside an area where CalFire establishes fire hazard zones. Then the EIR makes the misleading statement that the project area is not in a fire hazard zone. It is wrong to say, and dishonest to leave the impression that the area has been assessed for fire hazard when it has not been assessed by CalFire or any other fire

agency. The EIR should delete incorrect and misleading information and just say the area has not been assessed for wildfire risk and the wildfire risk is unknown.

- The EIR is also incorrect about area conditions that could contribute to a wildfire hazard. There is heavy wooded growth adjacent to the river, less than 1,000 feet from the project area, from Sacramento up into rural wildfire hazard areas in Butte County. There are also at different times of the year dried crops and hay bales on farmland on both the Yolo and Sacramento sides of the Sacramento river that could and have caught fire (hay bales can be seen in EIR photos). A wind driven fire could easily jump the river as it has jumped freeways. The 2017 Tubbs fire burned into the City of Santa Rosa where more than a dozen people lost their lives and more than 2500 homes and one Hilton Hotel were destroyed. Wildfire could happen in the project area.

Cumulative Impacts

- The UWSP projects a 20–30-year buildout. The EIR fails to address ongoing impacts from construction noise, dust, traffic, etc. on area residents over an extensive period of time during which time mitigations the project applicant does not control may not be available to diminish impacts on existing area residents and new project area residents.

Growth Inducement and Urban Decay

- The EIR fails to accurately identify the UWSP project as unplanned urban development. The UWSP is unplanned – not included or anticipated in the County’s General Plan, or the Urban Services Boundary, or the SACOG Blueprint for regional development or plans for transit, regional roadway improvements, utility services extensions, or air quality improvement.

- In violation of CEQA, the EIR entirely fails to include in this section the long list of changes the UWSP project would require to County plans, policies, codes, etc., and the growth inducement impacts of changing those County plans and policies and codes.

- Sacramento County’s 2030 General Plan and the County’s Urban Services Boundary (USB) explicitly state that one of their purposes is to reduce unplanned urban development and its impacts outside the Urban Services Boundary. The EIR fails to clearly state that the UWSP violates the County’s policies to prevent urban sprawl.

- The EIR fails to clearly identify all growth inducement impacts from the UWSP’s development outside the County’s Urban Services Boundary.

- The EIR falsely says, “the proposed UWSP is consistent with Sacramento County General Plan Policy LU-120, which is intended to reduce impacts of many different types – such as growth inducement, unacceptable operating conditions on roadways, poor air quality, and lack of appropriate infrastructure.” As stated in the EIR, the UWSP creates unacceptable operating conditions on roadways, poor air quality, currently lacks appropriate infrastructure, and in most cases the project applicant cannot compel, and does not control possible mitigations. False statements should be removed from the EIR.

- The EIR falsely claims the pressure for future development in the area would be reduced because of the need to show consistency with the County General Plan and to receive approval from the Sacramento County Board of Supervisors. Those impediments are not enough to stop the UWSP project applicant. Why would they stop other project applicants? The EIR does not say, and should say, that if the Sacramento County Board of Supervisors approves the project, other similar urban development projects may also be approved using the same criteria.

October 28, 2024

Letter submitted via e-mail at: CEQA@saccounty.gov.

Sacramento County,
Department of Community Development, Planning and Environmental Review Division
Attention: Environmental Coordinator
827 7th Street, Room 225
Sacramento, CA 95814

Subject: COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE UPPER WESTSIDE SPECIFIC PLAN (PLNP2018-00284).

Dear Environmental Coordinator,

On August 30, 2024, Sacramento County released the Draft Environmental Impact Report (DEIR) for the Upper Westside Specific Plan (UWSP). The proposed UWSP would include development of approximately 1,532± acres within a 2,066 acres project area located north and west of Interstate 80 and north and east of Garden Highway. The proposal includes the addition of 9,356 dwelling units (25,460 population) and 3,106,700± square feet of commercial uses into the unincorporated Natomas area bounded by the City of Sacramento. The project plan includes development consisting of residential, neighborhood mixed-use, neighborhood commercial, community mixed-use, office mixed-use and health & hospitality mixed-use. The plan includes three K-8 school sites, one high school site, several parks, and a 10.0± acre urban farm site on property owned by the Los Rios Community College District that is envisioned to be part of a 16.0± acre vocational training campus.

The proposed UWSP borders the City of Sacramento on three sides. This area is located within the City's American River Place of Use (POU) for water rights and the Natomas Basin Habitat Conservation Plan (NBHCP). The Sacramento unincorporated area of Natomas Basin is designated as an Area of Concern and a Study Area per the City's 2040 General Plan. The UWSP is located in an area that is also known as the "Boot" per the Natomas Joint Vision Plan that was a joint planning effort undertaken years ago with a group of landowners, Sacramento County and the City of Sacramento.

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The magnitude of the project is significant in that the proposal consists of the development of 1,532 acres of the 2,066 acres of rural agricultural lands. This area along with other open space lands located in Natomas Basin has been mostly undeveloped primarily because the City of Sacramento has been committed to the implementation of the Natomas Basin Habitat Conservation Plan (NBHCP) for over 25 years while prioritizing infill development.

The DEIR comments presented in this letter address multiple topical areas. The following provides a brief listing of significant comment topic points that are later detailed further in this letter along with additional comments:

- **Prior NOP Comments Not Addressed** – City staff submitted comments in response to the Notice of Preparation (NOP) for the UWSP. These comments provided input on the scope of the EIR as requested by the County. However, the UWSP DEIR analysis does not properly address the issues raised in our NOP comment letter dated November 20, 2020. This letter documents the areas that are deficient in the DEIR.
- **NBHCP Conflict & Viability** – The UWSP is in direct conflict with the conservation strategy of the adopted NBHCP and Incidental Take Permits (ITPs) issued by the U.S. Fish and Wildlife Service (FWS) and California Department of Fish and Wildlife (CDFW) to the City of Sacramento. Specifically, the ITPs limit urban development in the “Basin” to 17,500 acres which is the total combined authorized development of the City of Sacramento, Sutter County and Metro Air Park. The limitation of 17,500 acres pertains to the “Basin” for the approved conservation strategy to be successfully completed. If Sacramento County approves any urbanization beyond the 17,500 acres authorized by the wildlife resources agencies doing so would be in direct violation of the existing ITPs that the wildlife resource agencies enforce. Sacramento County may recall being asked on to join the City of Sacramento and Sutter County to participate in the NBHCP (see Attachment A letter dated 11/28/2000). If Sacramento County is considering allowing further urbanization of the Basin that was not contemplated by the NBHCP how will the County provide assurances to the NBHCP signatory parties that the conservation strategy can still be successfully completed especially without the County’s HCP participation?

The following provides a partial listing of the issues that City staff has determined conflict with the NBHCP:

- Proposed UWSP directly impacts the protected one-mile Swainson’s Hawk buffer zone approved by the wildlife resource agencies.
- Proposed UWSP would allow development of 1,532 acres of land that currently is rural agricultural lands beneficial to the NBHCP and that could potentially be acquired in the future for habitat lands.

- Proposed UWSP would decrease the remaining open space lands in Natomas Basin which directly impacts the viability of the NBHCP by jeopardizing the successful completion of the NBHCP and placing urbanization near protected areas such as Fisherman’s Lake and existing Conservancy owned HCP mitigation lands.
 - Future development of 1,532 acres of UWSP would place a greater burden on the existing planned growth authorized by the NBHCP which in turn will most likely cause HCP fee payers increased HCP fee rates and the inability to secure mitigation lands that meet all of the rigorous HCP mitigation land criteria.
 - An Amendment to the NBHCP and obligations of the issued ITPs would be needed for any development to occur within the one-mile SWHZ and an in-depth effects analysis in relation to the existing adopted NBHCP conservation strategy including future viability to meet all requirements of the NBHCP considering the loss of 1,532 acres due to UWSP and cumulative impacts associated with the proposed Grandpark Specific Plan (approximately 5,400 acres) in process with the County. The County is essentially considering allowing roughly 7,000 acres of land located in the unincorporated Sacramento County portion of the Natomas Basin to be removed from benefiting and contribution to the completion of the NBHCP conservation strategy.
 - Biological – the Draft EIR concludes that with mitigation the UWSP biological impacts can be mitigated to a less than significant level. City staff disagrees with this conclusion.
- **NBHCP Participation** – If the County intends to allow urbanization beyond its Urban Services Boundary (USB) and Urban Policy Boundary (UPB) why would the County not join the NBHCP as the City of Sacramento and Sutter County have done? Sacramento County may recall being asked to participate in the NBHCP (see Attachment A letter dated 11/28/2000). If Sacramento County is considering allowing further urbanization of the Basin that was not contemplated by the NBHCP how will the County provide assurances to the NBHCP signatory parties that the conservation strategy can still be successfully completed especially without the County’s HCP participation? This has been an issue and concern expressed for over 25 years and to date has not been resolved.
 - **Water** – During the County’s preparation of the Draft EIR, the City in compliance with State law provided a water supply assessment as requested by the County. The water supply assessment is not an agreement nor commitment by the City to provide water for the future development of UWSP. The City has not entered into any agreement to provide water for the UWSP development. The Draft EIR incorrectly assumes and seems to have pre-determined that the City would provide water to UWSP per an agreement to do so with Sacramento County

Water Agency (SCWA). Page 2-24 of Section 2 Project Description of the UWSP Draft EIR states the following:

“WATER

The City of Sacramento through an agreement with the SCWA would provide water service to land uses allowed under the proposed UWSP. The City of Sacramento obtains most of its water supply from surface water in the American and Sacramento rivers, while groundwater obtained from the North American and South American subbasins of the Sacramento Valley Groundwater Basin provides the remainder.

As discussed above, the proposed UWSP would require SCWA annexation. Water supply would be delivered to the UWSP area through the City’s water treatment and distribution system, which consists of two water treatment plants, eight pump stations, many storage reservoirs, 28 municipal wells, thousands of hydrants, and nearly 1,800 miles of pipeline.”

The DEIR conflicts with the City’s 2040 General Plan policy that pertains to provisions of City services to new development in unincorporated areas. The specific policy is presented below:

“LUP-1.4 City Services Prior to Annexation. Prior to the provisions of City services to new development in unincorporated areas, the City shall require that the unincorporated properties be annexed into the City. Alternatively, the City may provide utility service to properties in advance of annexation only if the annexation process has been initiated and the landowner and City have executed a conditional agreement for services that stipulates minimum standards for the development of roads and urban infrastructure and criteria and conditions for annexation into the City.”

The Draft EIR page 14-29 lists future Service District Annexation requests to the Sacramento Local Agency Formation Commission (LAFCo). City staff opposes any filing of Service District Annexation requests including for example the listed annexation to Sacramento County Water Agency (SCWA) until to the satisfaction of the City of Sacramento pending concerns and issues are resolved such as water supply/service, Natomas Basin Habitat Conservation Plan conflicts, and provision of public services such as police and fire protection.

- **Transportation** – The UWSP has significant implications to the transportation network and facilities located with the City of Sacramento in addition to the nearby freeways and Garden Highway. These concerns are documented in further detail in this letter.

- **Public Services** – The Draft EIR does not adequately address the impacts of the UWSP on existing public services (police, fire, parks) nor details how these services would be provided considering the lack of current County services in the area due to the existing rural nature and that the UWSP is geographically removed from proximity to nearby County services.

ADDITIONAL DETAILED COMMENTS:

The City's comments below respond specifically to the information presented and analysis provided in the DEIR. The Planning Division of the Community Development Department presents the comments below as a single letter representing multiple City departments.

Memorandum of Understanding between City & County

On December 10, 2002, the City & County entered into a Memorandum of Understanding (MOU) (City Resolution 2002-830 and County Resolution 2002-1566) regarding Principles of Land Use and Revenue Sharing for the Natomas Area. The MOU (Attachment B) specifically calls for any future urbanization efforts in the Natomas Joint Vision Area (NJVA) to be processed through the City, with the County remaining a steward of agricultural lands and open spaces.

The DEIR inadequately addresses the implications of this MOU, particularly the agreement that future urbanization efforts in the NJVA would be processed through the City, with the County remaining a steward of agricultural lands and open spaces. Furthermore, the EIR does not acknowledge or analyze the City's intent to designate the Natomas Basin Study Area, which includes the project area, as an Area of Concern. The City's General Plan policy LUP-A.1 explicitly states the City's near-term goal (2024-2029) to work with LAFCo on this designation, which would give the City "greater influence on land use decisions and other governmental actions" in the area.

City staff does not support the proposed County General Plan Amendment for text amendments to align County policies in various General Plan Elements regarding development in the Natomas Joint Vision Area. There has been no coordination with City staff regarding proposed text amendments to the County's General Plan that are relative to potential future development in the Natomas Joint Vision Area. Since this specifically pertains to potential development in Natomas Basin which the City has designated as an Area of Concern per the City's 2040 General Plan and located within our designated Natomas Basin Study Area it would seem that the County would provide some coordination with the City prior to moving forward with changes that pertain to a subject that has been of interest to the City for more than 25 years.

Economic Impacts

Our concerns about the concentration of commercial development along the westerly extension of El Camino Avenue remain unaddressed. The DEIR does not sufficiently analyze the potential regional nature of this retail development and its implications for traffic patterns and associated environmental impacts. It fails to address the potential secondary physical and economic impacts within the City that may result from locating retail, hospitality, and other commercial uses adjacent to the City boundary.

The 2002 City/County MOU recognized mutual economic interests in the future of NJVA and outlined a revenue sharing framework. The DEIR does not address how the UWSP aligns with or impacts this framework. There is insufficient discussion of how the County plans to address these economic issues, especially considering the entitlements being sought by project proponents.

Growth Inducement

While the DEIR addresses some concerns raised in our NOP comment, particularly regarding the extension of urban infrastructure and potential growth-inducing effects, certain aspects of our request for analysis have not been adequately addressed, especially as they pertain to impacts on the City of Sacramento.

The DEIR acknowledges that the project would eliminate obstacles to growth by extending the Urban Services Boundary and Urban Policy Area. However, it does not sufficiently analyze the project's consistency with long-range plans, particularly its inclusion or absence from the Region's Sustainable Communities Strategy. This omission is significant, as it relates directly to the broader regional planning context and potential cumulative impacts on the City of Sacramento.

Furthermore, the DEIR lacks a comprehensive analysis of the project's growth-inducing effects on the City of Sacramento. While it mentions consistency with Sacramento County General Plan Policy LU-120, it fails to provide a detailed, quantitative examination of how the project's infrastructure extensions might stimulate additional development within our City limits. This analysis should include estimates of the scale, type, and timing of potential new development, as well as a thorough assessment of the resulting environmental impacts. The DEIR's current list of general impact categories is insufficient without a location-specific analysis of how these effects would manifest within Sacramento.

We request that these areas of analysis be expanded to fully address the growth-inducing impacts of the proposed project on the City of Sacramento, as originally outlined and requested in our NOP comment.

Habitat Conservation Plan

Hydrological connectivity

Our NOP comment requested an analysis of hydrological connectivity to existing preserves in Natomas Basin. The DEIR states that the UWSP "is not expected to significantly affect the connectivity of aquatic habitat for giant garter snake" and "would not affect the delivery of water to existing reserves." However, this brief statement lacks the detailed analysis we sought. We request a more thorough examination of potential impacts on existing preserves, particularly the adjacent Cummings Reserve.

Effects on land inventory and mitigation prices

We specifically asked for an analysis of the effects of reducing land available for mitigation while increasing demand, potentially driving up mitigation prices for existing permit holders. The DEIR does not directly address this issue. While it states that mitigation lands "would not unnecessarily directly compete with TNBC for habitat mitigation opportunities," this assertion lacks supporting evidence. We request a detailed analysis of how the UWSP might affect land availability and mitigation costs for existing NBHCP and Metro Air Park (MAP) HCP parties.

Land availability for HCP parties

We asked how and where HCP parties with authorized development would find land for mitigation given the cumulative impacts of proposed developments in the Natomas Basin Area. The DEIR's treatment of this issue is insufficient, stating only that mitigation measures BR-3 & BR-7b are "not expected to interfere with the ability of TNBC to satisfy its mitigation responsibilities." We request a more comprehensive analysis of cumulative impacts on mitigation land availability. Based on our direct experience implementing the NBHCP for over 25 years, we question if there is enough suitable land that would remain available to The Natomas Basin Conservancy to mitigate the already approved authorized development of 17,500 acres granted to the City, Sutter County and Metro Air Park if Sacramento County allows the UWSP and Grandpark Specific Plan projects to be approved. We request that Sacramento County evaluate the HCP mitigation land criteria requirements, total mitigation including size of habitat reserves that are required for completion of the HCP conservation strategy. The UWSP DEIR focuses on the impacts and mitigation of the UWSP project itself but does not address the existing HCP acreage requirements that must be completed in the Basin.

Prior to conducting any public hearings for potential action on the UWSP by the County Planning Commission and Board of Supervisors, we request Sacramento County provide the NBHCP signatory parties (City of Sacramento, Sutter County, FWS and CDFW) a

detailed accounting and graphics demonstrating of how HCP total acreage requirements could be accomplished with the potential approval and implementation of the UWSP and Grandpark Specific Plan projects. This information and data should also be included as part of the proposed Final EIR when it becomes available.

Consistency with NBHCP Conservation Strategies

We request further clarification on the adequacy of the proposed 250-foot open space buffer between planned development and the Cummings Reserve, compared to the NBHCP's 800-foot setback requirement. The DEIR notes that exceptions to the 800-foot setback have been made in the past. While this explanation is helpful, we request further analysis on whether this 250-foot buffer is sufficient to protect the Cummings Reserve from potential edge effects of urban development.

We urge the County to provide a more robust analysis of these issues in the Final EIR to ensure the UWSP does not compromise the NBHCP's conservation goals or the ability of existing HCP parties to meet their mitigation obligations.

One-Mile Buffer Swainson's Hawk Zone

The City of Sacramento must express its opposition to the proposed Upper Westside Specific Plan (UWSP) due to its direct conflict with the Natomas Basin Habitat Conservation Plan (NBHCP).

The City of Sacramento, as a signatory to the NBHCP, has a legal obligation to ensure the continued integrity of this regional conservation strategy. Our analysis of the UWSP reveals that significant portions of the proposed development would encroach into the Swainson's Hawk Zone - a critical one-mile-wide buffer adjacent to the Sacramento River that was explicitly established in the NBHCP to protect essential Swainson's Hawk habitat and foraging areas. The NBHCP categorically prohibits development within this zone, with only a strictly limited exception of 252 acres granted to the City of Sacramento.

While Sacramento County is not a direct signatory to the NBHCP, both the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) are bound to the NBHCP as "Permitters" with mandatory obligations to enforce its provisions. These wildlife agencies would be required to issue permits for the UWSP, yet doing so would fundamentally conflict with their legal obligations under the NBHCP, which states that any additional urban development within the Swainson's Hawk Zone "would constitute a significant departure from the Plan's Operating Conservation Program."

The project's inadequate agricultural buffer of 534 acres, ranging from merely 700 to 2,700 feet in width, is insufficient compared to the one mile (5,280 feet) protective

buffer mandated by the NBHCP. This reduction in buffer width would severely compromise a core conservation measure that both wildlife agencies have previously determined to be essential for the protection of Swainson's Hawk habitat.

The NBHCP is explicit: development beyond the permitted activities necessitates a comprehensive reevaluation of the Plan, a new effects analysis, potential amendments to the Plan and/or permits, and a separate conservation strategy. For the wildlife agencies to issue permits for this project as currently designed would require the completion of all these actions - none of which have been undertaken.

We are particularly alarmed that approval of development within the Swainson's Hawk Zone would directly threaten the biological effectiveness of the NBHCP's conservation strategy, which both the City of Sacramento and Sutter County depend upon for our incidental take permits. The one-mile buffer zone was established through rigorous biological analysis and stands as an indispensable component of the plan's mitigation strategy for impacts to Swainson's Hawk.

The County must either:

- Substantially redesign the project to eliminate all development within the one-mile Swainson's Hawk Zone buffer; or
- Undertake the mandatory comprehensive reevaluation of the NBHCP required when proposing development within this zone, including preparation of a new effects analysis and development of a separate conservation strategy that definitively ensures no net loss of the effectiveness of this critical conservation measure. This reevaluation must be conducted under the strict oversight of USFWS and CDFW to ensure absolute compliance with their obligations as Permittees under the NBHCP.
- For any County approval of development that directly disturbs the one-mile Swainson's Hawk Zone (SWZ), we request that the County first initiate an amendment to the NBHCP with the wildlife resource agencies to modify the requirements and obligations placed on the City of Sacramento and Sutter County that pertain to the one-mile SWZ. Any action by Sacramento County to approve and allow development within the SWZ is in direct conflict with the adopted NBHCP and enforceable requirements by the wildlife resource agencies including for example, the Incidental Take Permits issued by U.S. Fish and Wildlife Services (FWS) and the California Department of Fish and Wildlife (CDFW) to the City of Sacramento and Sutter County.

Agriculture

The Draft EIR falls short in addressing crucial concerns regarding the project's impact on agricultural resources and the Natomas Basin Habitat Conservation Plan (NBHCP). While the EIR quantifies the conversion of approximately 1,372 acres of farmland within the project area, it fails to provide a comprehensive analysis of how this loss might affect the NBHCP's requirement to maintain 4,375 acres in rice cultivation for Giant Garter Snake habitat. The EIR should evaluate not only the direct loss of farmland but also the potential indirect effect of increased development pressure on remaining agricultural lands in the Natomas Basin, which could make it more challenging to maintain the required acreage of rice cultivation.

Transportation

Roadway Widening and City Responsibility

The DEIR continues to rely on fair share contributions toward roadway widening projects within City limits without adequately addressing our concerns about implementation responsibility. For instance, Mitigation Measure TR-3b still assumes City involvement in implementing improvements at I-5 on-ramps, despite our previous statement that the City should not be assumed to have matching funds. The DEIR does not propose alternative mitigation approaches that avoid placing implementation responsibility on the City, nor does it explain how these projects would be fully funded and executed given the City's financial constraints.

TR-3a and TR-3b Impacts & Mitigations on Page ES-119 & ES-120: The City of Sacramento looks forward to working collaboratively with the County on the required I-80 West El Camino Avenue interchange improvements being triggered by the project's development. As specified in the Upper Westside Specific Plan Public Facilities Financing Plan on page 23, the traffic analysis estimated that approximately 90 percent of trips caused by new development in the County using this interchange would be caused by development in the UWSP. The City looks forward to seeing the UWSP project fulfill the required improvements and phasing to ensure the ultimate improvements are constructed when triggered by the UWSP project.

Conflict with City Transportation Policies

Our NOP comments highlighted the City's current focus on reducing lanes on City roadways to align with our Climate Change goals. However, the DEIR does not acknowledge or analyze how the proposed roadway widenings, such as those in Mitigation Measure TR-3a, align with or conflict with this policy direction. We request that the Final EIR include an analysis of how the proposed transportation improvements align with the City's current transportation policies and goals.

Regional Growth and VMT Impacts

The DEIR's VMT analysis remains narrowly focused on project-level impacts and does not address our request to examine how the UWSP may redistribute growth away from the City or impact the City's VMT relative to the regional average. We continue to be concerned about potential impacts on the City's growth patterns and overall regional VMT efficiency. We request that the Final EIR include modeling scenarios that evaluate these broader impacts as originally suggested in our NOP comments.

Ongoing Technical Coordination

While the DEIR mentions some collaboration with the City, it does not outline a specific process for ongoing coordination throughout project development and implementation as we had requested. Given the project's potential impacts on City infrastructure and services, we believe a more detailed plan for continued technical coordination is necessary.

Water

In our NOP comments, we identified three potential alternatives for providing domestic water to serve the proposed UWSP area. While the DEIR focuses on Alternative 3 - utilizing City of Sacramento water rights and infrastructure - it does not provide a comprehensive analysis or clear dismissal of Alternatives 1 and 2 involving Natomas Central Mutual Water Company (NCMWC) water rights. We request that the Final EIR include a thorough evaluation of all three alternatives to ensure a complete understanding of the project's water supply and water retailer options.

Furthermore, our NOP comments requested specific details regarding the water delivery system engineering, including the size of mains, distribution, volume, future capacity, system pressurization, storage capacity, and measures to protect the water supply and prevent contamination of the City's existing system. While the DEIR provides some information about the proposed water delivery system, including a water storage tank and transmission mains, it lacks the level of detail we requested. We urge the County to include more comprehensive information on these aspects in the Final EIR to fully assess the potential environmental impacts and ensure the adequacy of the proposed water infrastructure.

Sewer System

The City of Sacramento notes the EIR's discussion of new wastewater infrastructure needed to serve the Upper Westside Specific Plan area, including the proposed sewer pump station and force main. However, we note that our previous comment requesting

analysis of impacts to the Sacramento Regional County Sewer Interceptor has not been adequately addressed. Specifically, the EIR lacks a comprehensive evaluation of the interceptor system's capacity downstream of the New Natomas Pump Station to accommodate additional flows from this project in combination with buildout of the existing Natomas area and other proposed development in the Natomas Joint Vision area. We remain concerned about the potential cumulative impacts on this critical piece of regional infrastructure and whether it has sufficient capacity to serve all these areas without requiring significant upgrades. The City requests that the EIR be revised to include a thorough analysis of existing and projected flows in the interceptor system, an assessment of its available capacity at key points along its alignment, and an evaluation of whether system upgrades may be necessary to handle the increased wastewater volumes. If upgrades to the interceptor are required, the potential environmental impacts of such improvements should also be discussed.

Fire Protection

The City of Sacramento notes the acknowledgment in the DEIR that the City's Fire Department currently provides and will continue to provide fire protection and emergency medical services to the Upper Westside Specific Plan (UWSP) area under contract with the Natomas Fire Protection District. We also note the inclusion of a site for a new fire station within the proposed plan. However, we find that the DEIR does not adequately address several key concerns raised in our NOP comments.

The DEIR lacks a comprehensive analysis of fire protection services and facilities as requested. While it provides a basic assessment of increased demand and the need for a new station, it falls short of the in-depth analysis needed for a project of this scale. We request a more detailed evaluation of current service levels, response times, equipment needs, and long-term planning for fire protection services. Furthermore, the DEIR does not sufficiently address how the project proponent will mitigate service demand impacts and maintain current levels of service throughout the project's implementation. We request more specific information on phasing, funding mechanisms, and interim measures to ensure consistent service levels during development.

Given the City's extensive experience in providing municipal services, including over 100 years of fire protection services, we reiterate our position that the City is best equipped to provide a full range of municipal services to the UWSP area. We request that the EIR include a more robust discussion of the City's role in long-term service provision and planning for the area.

Law Enforcement

The DEIR fails to adequately address the concerns raised in our NOP comment regarding potential impacts to City of Sacramento police protection services. The DEIR focuses

exclusively on Sacramento County Sheriff's Office services without acknowledging or evaluating potential impacts to the City of Sacramento Police Department (SPD). This oversight is particularly concerning given the project's unique geographical context - adjacent to the City but isolated from developed County areas - which could potentially strain City services.

Furthermore, the DEIR does not provide the requested evaluation of how and when law enforcement services and facilities will be provided to ensure no impacts to the City of Sacramento. While plans for a new County sheriff's substation are discussed, this does not address the potential cross-jurisdictional impacts or need for coordinated services with the City.

The California Highway Patrol's role is only briefly mentioned, without fully addressing its responsibilities for state highways, state-owned buildings, and state property within the City, as noted in our NOP comment.

Given the project's location and potential to affect multiple jurisdictions, we reiterate our request for a more comprehensive analysis that considers impacts to both County and City services, as well as inter-agency coordination strategies. This analysis should evaluate how the proposed development's law enforcement needs will be met without adversely impacting existing City services or response times.

Schools

We appreciate that the DEIR identifies the existing schools that would serve different portions of the UWSP area, including Witter Ranch Elementary School, Two Rivers Elementary School, Natomas Middle School, Inderkum High School, and Natomas High School. This information adequately addresses which schools would serve residents both inside and outside the specific development plan areas within the UWSP.

However, the DEIR does not fully address our question regarding which schools would serve the area while the proposed schools are being built. While Table PS-2 provides helpful enrollment and capacity data for existing schools, the DEIR lacks a clear explanation of how school services will be provided during the interim period before new schools are operational. We request that the Final EIR include a phasing plan showing when the proposed schools would be constructed relative to residential development, an explicit discussion of which existing schools would absorb students during the construction phases, and an analysis of whether those existing schools have sufficient capacity to handle temporary increases in enrollment. This information is crucial for understanding the full impacts of the project on school services throughout its implementation.

Parks & Recreation Facilities

The Draft EIR for the UWSP analyzed the project's impact on the existing setting for Parks and Recreation Facilities by considering whether an increase in use of public parks and recreation facilities resulting from the UWSP would cause the substantial physical deterioration of those facilities (e.g., damage to vegetation, accelerated wear on sports facilities and fields, or erosion along trails) or in the need for new or expanded facilities, the construction or operation of which would result in substantial adverse physical effects. This analysis further considers whether implementation of the proposed UWSP would diminish or otherwise adversely affect recreational opportunities and existing facilities within the UWSP area based on facility capacity.

Within a 1-mile radius of the UWSP area, there are approximately 20 parks, most of which are within the City of Sacramento and comprising a total of 160 acres of parklands. The closest parks to the UWSP area include River Otter Park, located directly adjacent to the southeastern edge of the UWSP area across Interstate 80, Peregrine Park, located directly adjacent to the eastern edge of the area, and San Juan Reservoir Park, located directly adjacent to the northwestern edge of the area. The North Natomas Regional Park, at 212 acres, located 1.6 miles northwest of the UWSP serves the entire region.

As stated in the DEIR, the proposed UWSP would facilitate development of up to 9,356 housing units and yield 25,460 residents. The Sacramento County 2030 General Plan, Policy PF-123 requires 5.0 acres of parkland per 1,000 residents. As a result, approximately 127.9 acres of parkland is required to serve the needs of the proposed UWSP. As there are no parks currently located directly within the UWSP area, the 160 acres of nearby parks previously described could be adversely affected by the increase of residents generated by the proposed UWSP. The areas surrounding the UWSP area, in which the existing parks are located, are developed, and contain existing residents that utilize these facilities. Therefore, there is a need for new parks to serve the UWSP area and to alleviate pressure which would occur to nearby parks from increased residential uses in this area.

To accommodate the increase in residents resulting from the proposed UWSP, the plan includes a "parks program," which outlines the proposed parks and recreational facilities to be implemented in the UWSP area. The proposed UWSP parks program proposes a diverse mix of recreational amenities and public gathering spaces which are sized and distributed to serve the anticipated needs of the residents within the UWSP. A total of 146.6 acres of parks and amenities would be provided in the UWSP area, which accounts for 11 percent of the Development Area. Parks and amenities would include 76.5 of active parks and the 2.6-acre Town Center median park as well as the 15-acre Westside Canal, 34.1 acres of greenbelt space, a 10-acre urban farm, a 12.1-acre West Edge Buffer, and a 14.7-acre Basin Edge Parkways trail.

The UWSP concludes that these facilities would be sufficient to accommodate the 25,460 proposed residents and would meet the requirements for parkland under the Sacramento County 2030 General Plan. Therefore, no additional means would need to be utilized to meet any demands in the UWSP area for parks and recreation services. Objectives for parks and recreation in the UWSP area would be met under the proposed plan, and the impact would be less than significant.

The proposed project's "parks program" includes 76.5 – 79 acres of parkland which meets the minimum guidelines of 3 acres per 1,000 residents. The 76.5 acres of parkland are considered neighborhood/community serving parks, which will be programmed with active recreation uses. However, the DEIR analyzes the project at the minimum dedication requirement under the Quimby Act of 3 acres per 1,000 residents, less than the County's (and City's) policy requirement of 5 acres per 1,000. If the project were to dedicate neighborhood/community parkland at the County standard of 5 acres per 1,000 resident, the proposed project's parkland dedication requirement would total approximately 128 acres of neighborhood/community serving parks.

The proposed project's "parks program" supplements the 79 acres of parkland with an additional 86 acres of parkland. The 86 acres of parks and recreation facilities are identified as having permanent drainage facilities, a greenbelt without recreation amenities, urban farms that will likely be leased and operated by community based or non-profit organizations, agricultural buffers, and a median with a trail. These types of facilities do not take the pressure off adjacent neighborhood and community parks that do contain active recreation, which is in high demand in the City of Sacramento.

The proposed UWSP is located adjacent to communities of the City of Sacramento; South Natomas and North Natomas. Each community was established and planned to be well-served by neighborhood and community parks that are located within a 10-minute walk of almost all the residential areas. The proposed project's gap of 51.5 acres that are not identified as neighborhood/community parkland will likely result in an adverse physical effect on the nearby parks within the two adjacent communities. Additionally, the proposed 79 acres of parkland will likely be diminished or adversely affected at a quicker rate than industry standards. This would be a significant impact.

The City of Sacramento Youth, Parks, & Community Enrichment Department (YPCE) recommends the project reduce the impacts to existing City parks by adding, or converting, 51.5 acres of neighborhood/community serving parkland in order to meet the 5 acres per 1,000 resident standard. The proposed project should incorporate the City's standards and guidelines for neighborhood and community parks, as adopted by the Parks Plan 2040, a subsequent project of the 2040 General Plan Master EIR. The existing parks within the adjacent communities are well-used, and it can be expected that the UWSP parks will be as well. Additional recommendations for the UWSP's park program are to consider community input from residents within the adjacent communities. They want to see regular enhancements and to the parks, such as lighting,

restrooms, outdoor exercise equipment, an all-weather field, and an integrated bicycle network. Residents are also advocating for accessible parks for all ages, drought-tolerant landscaping, and the preservation of wildlife habitat.

The UWSP's investment of over \$143 million into the acquisition and development of parks, trails, and open space converts to approximately \$1 million per acre with an annual estimated cost of \$3.5 million to maintain each park facility. These costs exceed the City of Sacramento's Park development impact fee credit limits set for turnkey parks, and the estimated annual maintenance costs currently funded by Community Facilities Districts and Landscape and Lighting Districts within North Natomas. The full development of the UWSP park program will likely result in amenities that are attractive to use, and likely a financial impact on Parks annual workplans to repair and replace in 20 years from development. The proposed project's Public Facilities Finance Plan includes a fee for the provision of repair and replacement of facilities (e.g. parks, pump stations) as well as infrastructure after their useful life. The County may consider funding the long-term repair and replacement costs through a combination of the proposed infrastructure CFDs and through the new services CFD that will fund the share of urban services not paid for by property taxes. The City encourages the County to include an infrastructure CFD to fund long term repair and replacement costs of park facilities. Additionally, the utilities costs to maintain the 146.6 acres of parkland should also be included in the infrastructure CFD.

The conversion of 51.5 acres to neighborhood/community parkland, incorporation of the parks Plan 2040 standards and guidelines for park and facility development, incorporation of the 2040 General Plan park access policies for South and North Natomas, and funding for long term repair and replacement of facilities will reduce impacts to the existing parks within the adjacent communities and proposed parks within the UWSP.

Land Use Planning (City's 2040 General Plan)

On February 27, 2024, the City of Sacramento adopted the new 2040 General Plan. The new General Plan identifies five Special Study Areas that are adjacent to existing City limits and are of interest to the City of Sacramento. Planning for the future of these unincorporated areas requires collaboration between the City and the County.

The proposed Upper Westside Specific Plan (UW SP) is located within the Natomas Basin Special Study Area which bears relation to the planning of the City of Sacramento. The City of Sacramento is projected to see significant growth by 2040 (69,000 new homes, and 76,000 new jobs), and with careful land use planning, new development can help make Sacramento a model of sustainable, equitable growth and community development.

Updating the 2040 General Plan was a major undertaking and a multi-year process in effort to develop a land use framework and policies which provide for strategic growth and change that seek to concentrate new growth within the existing City limits.

The City is concerned about how the UW SP could induce sprawl and redistribute growth away from the City especially if the proposed development does not comport with the City's new land use standards and innovative policies.

The intent of the City's General Plan land use vision is to promote greater integration of uses along the corridors and in centers to broaden the range of housing types in the City, support the vitality of local businesses, lay the foundation for high-frequency transit, and make it easier to provide electric vehicle charging infrastructure and also to get around without a car.

The building intensity standards are intended to provide more flexibility and innovation in building design. Minimum density standards apply in all areas where residential development is permitted and a primarily FAR-based system could incentivize the design and construction of smaller units, potentially resulting in units that are more affordable by design.

For your reference below is a link to the City of Sacramento's new 2040 General Plan. Building intensity standards are shown on **Maps LUP-6, LUP-7, LUP-8, and Figure LUP-5.**

https://www.Cityofsacramento.gov/content/dam/portal/cdd/Planning/General-Plan/2040-General-Plan/Adopted%202040%20General%20Plan_20240227.pdf

Additionally, below two key innovative policies that support our emission reduction and sustainability goals in the 2040 General Plan. Policy LUP-4.13 requires new or expanded gas stations provide EV charging infrastructure. Policy LUP-4.14 eliminates vehicle parking minimums Citywide.

- **LUP-4.13 Future-Ready Gas Stations.**
The City shall prohibit the establishment of new gas stations or the expansion of new fossil fuel infrastructure at existing gas stations unless the project proponent provides 50kW or greater Direct Current Fast Charger (DCFC) electric vehicle charging stations on site at a ratio of at least 1 new charging station per 1 new gas fuel nozzle.
- **LUP-4.14 Elimination of Vehicle Parking Minimums.**
The City shall not require new or existing development to provide off-street vehicle parking spaces.

Conclusion

As this project progresses through planning, environmental review, and engineering, we request the County's continued coordination and that we receive all project public notifications including those for any future public meetings and hearings. If you have follow-up questions or seek clarifications on any of the above issues, please contact Cheryle Hodge at chodge@Cityofsacramento.org or 808-5971.

Sincerely,



Cheryle Hodge
New Growth Manager, Community Development Department

cc: Michael Jasso, Assistant City Manager, City of Sacramento
Tom Pace, Director, Community Development Dept., City of Sacramento
Greg Sandlund, Planning Director, Community Development Dept.
Matt Eierman, Director, Department of Public Works
Lucinda Willcox, Assistant Director, Dept. of Public Works,
Jennifer Donlon Wyant, Transportation Planning Manager, Dept. of Public Works
Pravani Vandeyar, Director, Department of Utilities
Brett Ewart, Supervising Engineer, Department of Utilities
Pelle Clarke, Senior Engineer, Department of Public Works
Jackie Beecham, Director, Youth, Parks & Community Enrichment Dept.
Shannon Brown, Assistant Director, Youth, Parks & Community Enrichment Dept.
Chris Costamagna, Fire Chief, Sacramento Fire Department
King Tunson, Program Specialist, Sacramento Fire Department
Kathy Lester, Police Chief, Sacramento Police Department
Eddie Macaulay, Lieutenant, Sacramento Police Department
Tom Bufford, Principal Planner, Environmental Planning Services
Scott Johnson, Senior Planner, Environmental Planning Services
Remi Mendoza, Senior Planner, Long Range Planning



OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 101
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95814-2684

PH 916-264-5704
FAX 916-264-7618

November 28, 2000

Terry Schutten, County Executive
Sacramento County
700 H Street, Suite 7650
Sacramento, CA 95814

Dear Terry:

Subject: Natomas Basin Habitat Conservation Plan--Revisions to Plan and
Preparation of Plan EIS/EIR.

The purpose of this letter is again to invite Sacramento County to partner with Sutter County, Reclamation District 1000, Natomas Central Mutual Water Company and the City of Sacramento in revising the Natomas Basin Habitat Conservation Plan (NBHCP) and preparing new NEPA and CEQA documents for the Plan.

As you are aware, United States District Judge David F. Levi has issued a Memorandum of Opinion and Order in the case National Wildlife Federation v. Bruce Babbitt. In his Order, Judge Levi noted that while the NBHCP was designed to be a basin-wide plan, only the City of Sacramento of the five agencies, was participating as a permittee. Throughout his Order, Judge Levi questioned the viability of the NBHCP if only the City participated. The Court also found that the Fish and Wildlife Service should have prepared and EIS for the Plan and it's Incidental Take Permit(ITP).

The final drafting of the NBHCP was a cooperative effort by the three land use agencies coordinated by SAFCA and their consultant Thomas Reid Associates. Mr. Patrick Groff was the County's representative. As the final draft neared completion, and the SAFCA Board relinquished the document to the three land use agencies for ITP application, it became obvious that the agency applications were governed by different time lines. The City's need was immediate, while the two Counties preferred to proceed more cautiously. To this end the City applied for and received a ITP. It was always assumed the Counties would participate as their needs demanded. Likewise, RD1000 and NCMWC were proceeding independently to complete HCP's governing their maintenance practices. If not for the lawsuit and Court Order, this approach would have continued.

We now have an opportunity to once again partner to ensure the success of the NBHCP. Sutter County and the City have agreed to be the lead agencies for the revision of the NBHCP, and preparation of the new CEQA documentation. While FWS will be the lead agency for NEPA, both the EIR and EIS will be prepared by CH2MHill, under contract with the City. The CH2MHill contract costs will be borne by the City, Sutter County, RD1000 and NCMWC. Upon completion of the NBHCP revision and environmental process, all four agencies will apply for ITPs. We would like to invite Sacramento County to participate with Sutter County and the City as lead agencies, and to join us in applying for ITPs.

We realize the Board of Supervisors will need to take action on the proposed County participation. In the mean time, we would encourage assignment of senior County staff, to attend the team meetings and to speak to the issues of importance to the County.

Please contact me or Tom Lee if you have further questions regarding our proposal. Ms. Carol Shearly, Natomas Manager, of my staff, will be coordinating all team activities. She may be reached at 264-5893.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert P. Thomas', written in a cursive style.

Robert P. Thomas
City Manager

RESOLUTION NO. 2002-830

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON THE DATE OF DEC 10 2002

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND COUNTY OF SACRAMENTO REGARDING PRINCIPLES OF LAND USE AND REVENUE SHARING FOR THE NATOMAS AREA (JOINT VISION). (M02-014)

CERTIFIED AS TRUE COPY
OF Resolution 2002-830
DATE CERTIFIED January 13, 2003
Valerie Burrowes
CITY CLERK, CITY OF SACRAMENTO

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

WHEREAS, the County and the City have mutual policy and economic interests in the long term development and permanent preservation of open space within that area of the County known as Natomas, which area is generally depicted on Exhibit A of the Memorandum of Understanding (MOU); and

WHEREAS, cooperation between the County and the City is an opportunity to develop a vision for Natomas which reflects areas of collective interest. This Shared Policy Vision is contained in Exhibit B to this memo; and

WHEREAS, the County and City desire to establish principles to form the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area.

NOW THEREFORE, be it resolved by the City Council of the City of Sacramento, as follows:

The City Manager is authorized to execute on behalf of the City the Memorandum of Understanding between the City and County of Sacramento regarding principles of land use and revenue sharing for the Natomas area (Joint Vision) on file with the City Clerk.

HEATHER FARGO

MAYOR

ATTEST:

VALERIE BURROWES
CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2002-830
DATE ADOPTED: DEC 10 2002

WHEREAS, the County and the City have mutual policy and economic interests in the long term development and permanent preservation of open space within that area of the County known as Natomas, which area is generally depicted on Exhibit A of the Memorandum of Understanding (MOU); and

WHEREAS, cooperation between the County and the City is an opportunity to develop a vision for Natomas which reflects areas of collective interest. This Shared Policy Vision is contained in Exhibit B to this memo; and

WHEREAS, the County and City desire to establish principles to form the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors Authorizes the County Executive to execute on behalf of the County the Memorandum of Understanding between the City and County of Sacramento regarding principles of land use and revenue sharing for the Natomas area (Joint Vision) on file with the City Clerk.

On a motion by Supervisor Dickinson, Seconded by Supervisor Collin, the foregoing resolution was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, at a regular meeting thereof this 10th day of December, 2002 by the following vote, to wit:

- AYES: Supervisors: Collin, Dickinson, Johnson, Niello, Nottoli
- NOES: Supervisors: None
- ABSENT: Supervisors: None
- ABSTAIN: Supervisors: None



In accordance with Section 25103 of the Government Code of the State of California a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on

By Kay F. Johnson
Deputy Clerk, Board of Supervisors

Don Nottoli

Chair, Board of Supervisors

the foregoing is a correct copy of a resolution adopted by the Board of Supervisors, Sacramento County, California

FILED

DEC 10 2002

BOARD OF SUPERVISORS
Andy H. Turner
CLERK OF THE BOARD

ATTEST: Sandra Leahy
Deputy Clerk, Board Of Supervisors

on 12-10-2002
Dated 1-17-2003
Clerk of said Board of Supervisors
By Kay F. Johnson Deputy

Attachment A
**MEMORANDUM OF UNDERSTANDING BETWEEN
THE COUNTY OF SACRAMENTO AND
THE CITY OF SACRAMENTO
REGARDING PRINCIPLES OF LAND USE AND REVENUE SHARING
FOR NATOMAS AREA**

This Memorandum of Understanding (MOU) is entered into this 10th day of December 2002, by and between the County of Sacramento, a political subdivision of the State of California (hereinafter referred to as "County") and the City of Sacramento, a chartered, California municipal corporation (hereinafter referred to as "City");

WHEREAS, the intent of the MOU and Joint City and County Natomas Vision is to reach a formal conceptual agreement for broad collaboration between the City and County regarding principles for growth, revenue sharing, and permanent open space preservation in the unincorporated portion of the Natomas Basin within Sacramento County.

WHEREAS, the County and the City have mutual policy and economic interests in accommodating long term development while securing permanent preservation of open space within that area of the County known as Natomas, which area is generally depicted on Exhibit A to this MOU; and

WHEREAS, cooperation between the County and the City is an opportunity to develop a vision for Natomas which reflects areas of collective interest. Protecting and maximizing existing, and future, airport operations, open space preservation, and fair distribution of revenue are shared core values. There is a common stake in pro-actively influencing the emerging urban form, by guiding inevitable growth to provide for residential and employment opportunities close to the region's urban core. This promotes improved air quality through trip reductions, and distance traveled, and maximizes the return on existing and future public infrastructure investment in Natomas, this Shared Policy Vision is contained in Exhibit B to this memo; and

WHEREAS, together, the City and County can forge a leadership role on a regional scale for growth management. Such a cooperative effort can address land use, economic development, and environmental opportunities and challenges in Natomas. The result can be quality development balanced with permanent open space preservation systems; and

WHEREAS, Cities and counties are dependent upon tax revenues generated by continued commercial and industrial growth. The tax system creates intense competition between jurisdictions and can lead to economic development at the expense of good land use planning. Such competition between the City and County can be reduced or eliminated by establishing a revenue sharing agreement. In this way, each jurisdiction can benefit from economic development through cooperation rather than competition; and

WHEREAS, the County and City desire to establish principles to form the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area; and

CITY
AGREEMENT NO. 2002-224

CITY
AGREEMENT NO. 2002-224

WHEREAS, the County and the City desire to pursue jointly proposed common principles to define the parameters of a future agreement or agreements encompassing the manner in which the County and City share revenue and land use decisions within the Natomas area; and

WHEREAS, should the County and the City wish to adopt and implement the proposed common principles set forth in the MOU, each will be required to undertake a series of discretionary legislative actions, including but not limited to amendments of their respective general plans and agreements concerning revenue sharing, all of which will require the exercise of legislative discretion, and all of which will require compliance with CEQA, notice and public hearings, and satisfaction of all other applicable requirements of federal, state and local law.

WHEREAS, the County and the City recognize that, pursuant to the California Environmental Quality Act (CEQA) and other state and federal statutes, additional environmental analysis will be required for any development beyond that contemplated by the current land use plans of the jurisdictions, including the current North Natomas Community Plan (NNCP) of the City of Sacramento; and

WHEREAS, the County and City recognize that, should the governmental entities interested in, or involved with, any further development of the North Natomas Basin wish to pursue such development, they will necessarily have to propose and consider a new, separate or enhanced Habitat Conservation Plan (HCP) to address development impacts to protected species under federal and state endangered species laws; and

WHEREAS, the County and City recognize that, the proposed HCP currently under consideration by the City, Sutter county and the relevant federal (U.S. Fish & Wildlife Service) and state (Department of Fish and Game) agencies deals solely with the mitigation requirements for development under the current land use plans for those jurisdictions, including the current NNCP of the City, and that any further Natomas Basin development plans for these jurisdictions and the County, including future development pursuant to the proposed principles set forth in this MOU, will require additional or alternative mitigation, and additional environmental analysis.

WHEREAS, the County and the City acknowledge that approval of this MOU changes no existing land uses approved by either the County or the City nor commits the County or the City to specific land uses or to agreement on any specific annexations to the City. Approvals necessary for such commitments have not been considered by either the County, the City or any other appropriate authority.

NOW, THEREFORE, the County and City agree as follows:

Purpose of MOU: The purpose of this MOU is to define a mutually acceptable set of proposed principles that the City and the County are prepared to consider when considering the future land use planning and revenue sharing in the Natomas area. This MOU reflects the parties' definition of a proposed set of principles to govern future development in the Natomas areas that they are interested in studying and analyzing for possible future adoption and implementation upon completion of all necessary studies and work, including but not limited to the completion of all necessary environmental analyses under CEQA and other federal and state statutes.

I. Land use and revenue sharing within the Natomas areas should be guided as follows:

A. Open Space.

- (1) Open space planning will rely on, and coordinate with, existing open space programs, and will address linkage issues. Some specific areas will be designated for preservation as permanent open space to provide assurance that community separators are implemented. Other areas may not require active preservation.
- (2) Open space mitigation may be in conjunction with or distinct from any applicable criteria of the Natomas Basin Habitat Conservation Plan (HCP) and may, depending upon circumstances, exceed that of the HCP. Any new development beyond that analyzed in the Natomas Basin HCP shall be required, subject to state and federal laws and regulations, adequate habitat and buffer areas sufficient to protect impacted endangered species. A joint funding mechanism will provide funding for land and easement acquisitions.
- (3) Land to be preserved as farmland must not be restricted by nearby development and needs to have a secure supply of affordable water. Buffer areas will be derived from developing lands.
- (4) An airport protection plan will protect the airport by preserving open space around it and keeping noise-sensitive development and waterfowl attractors in relatively distant areas. An emphasis on open space will also lend permanence to any buffers that are established. Such a plan may be achieved through a multi-jurisdictional agreement as to land uses designed to maximize airport protection.

B. Future Growth.

- (1) Consideration of new growth should be done in partnership with the preservation of open space. The urban form should include a well integrated mixture of residential, employment, commercial, and civic uses, interdependent on quality transit service with connections linking activity centers with streets, transit routes, and linear parkways with ped/bike trails.
- (2) The City, rather than the County, is the appropriate agent for planning new growth in Natomas and can better provide a full range of municipal services. The County is the appropriate agent for preserving open space, agricultural and rural land uses.
- (3) The County will preserve its interest in the planning and development of Sacramento International Airport and Metro AirPark.
- (4) New growth will be supportive of the City's Infill Strategy. It will contribute to the sustainability of established neighborhoods/ commercial corridors/business districts.
- (5) Development in Natomas will build on the vision of the currently planned growth in North Natomas, including the application of the City Council adopted (Resolution No. 2001-805) Smart Growth Principles.
- (6) Future Growth areas shall foster development patterns which achieve a whole and complete, mixed-use community.
- (7) The City, as the agent of development, will apply the adopted Smart Growth Principles to any new development in Natomas. Smart Growth Principles emphasize pedestrian and

transit orientation by addressing density, efficient design, and urban open space to provide sustainable, livable communities with fewer impacts than standard development.

- (8) The City and County will develop a joint planning process for major uses in Natomas that are likely to have important economic impacts to existing commercial facilities in the city or county. Among the goals of that process will be to avoid competition for tax revenues, in favor of balanced regional planning.

C. Economic Development.

- (1) The area subject to revenue sharing between the County and the City shall include all that area depicted on Exhibit A except for those areas designated as Metro Air Park and the grounds of Sacramento International Airport, excepting those Airport properties currently used as buffer lands for Airport operations. If retail or commercial development other than Airport-related operations is permitted on such buffer lands, revenues derived from such development shall be subject to this MOU. For purposes of this section, airport-related operations are defined as airport support services such as terminal expansion, aviation fuel sales, aircraft maintenance and support; and hotel motel uses, to the extent such uses are existing or are relocated from existing premises.
- (2) The one percent, general ad valorem tax levy on all property within defined area, which is annexed to the City, shall be distributed, from the effective date of annexation, equally between the County and the City prior to accounting for the impact of distribution of such taxes to the Education Revenue Augmentation Fund.
- (3) It is generally intended that all other revenues from the area be shared as follows subject to an agreed upon projection of need for County or City services:
 - (a) Upon the effective date of the annexation of undeveloped property for single-purpose/regional tax generating land use the County and City will share the 1% Bradley-Burns sales tax and City General Fund share of transient occupancy tax equally.
 - (b) Upon issuance of certificates of occupancy, or their equivalent, property within the unincorporated area, except as excluded in Section C (1), which is approved for single-purpose/regional tax generating land use by County, the County and City will share the 1% Bradley-Burns sales tax and County General Fund share of transient occupancy tax equally.
 - (c) Upon the effective date of the annexation of undeveloped property for a Multi-Purpose/Master Planned Community Area but prior to commencement of development beginning, revenues (including the general ad valorem property tax but excluding special taxes, fees or assessments) shall be shared by comparing the projected City municipal revenues to projected City municipal expenses including capital/development costs funded by the City.

In the event of a projected City surplus (revenues exceed expenses), 50% of such surplus shall be allocated to the County by adjusting the County's property tax share for the area.

- (d) Upon the effective date of Annexation of any area developed for urban purposes as of the date of this MOU, the County municipal revenues transferred with the area shall be calculated against the costs of municipal services being transferred. The County's property tax share will be increased in the case of a surplus (i.e. County revenues transferred exceed County expenses transferred), and the City's share will be increased in case of a deficit (i.e. County revenues transferred are less than County expenses transferred). The County will consider a one-time contribution to the City upon annexation of any such area calculated on the basis of avoided, near-term capital maintenance costs together with a one-time contribution for the costs of necessary, significant infrastructure repairs which are identified prior to completion of annexation.
- (e) In the event either the County or the City approve development in a fashion which would require payment pursuant to Government Code Section 53084, the County or the City, as the case may be, should be entitled to the greater of the revenue calculated pursuant to either that section or the ultimate provisions of a revenue sharing agreement.
- (f) Should legislation be enacted which alters the manner in which local agencies are allocated revenue derived from property or sales taxes, any agreement shall be subject to good faith renegotiations.

II. The principles set forth are intended to guide further discussions and the ultimate negotiation of an agreement between the County and the City. It is recognized that certain of the terms used are subject to further definition and refined during the process of negotiation. It is the intent of the County and the City to work cooperatively to establish a review process, by agreement, to evaluate the likely impacts of large-scale commercial uses in Natomas on competing uses in the County and City. The goals of such a process will be to avoid competition for tax revenues, in favor of balanced regional planning and to assure that proposed land uses conform to the principles articulated in this MOU. It is further the intent of the County and the City that the revenue sharing principles set forth in this MOU shall govern the adoption of a Master Tax Sharing and Land Use Agreement for annexations.

Nevertheless, this Memorandum of Understanding is a good faith expression of the intent of the County and the City to cooperatively approach development and revenue within the Natomas area of our regional community.

CITY OF SACRAMENTO
A Municipal Corporation

COUNTY OF SACRAMENTO

By [Signature] Thomas V. Lee
Deputy City Manager
For: Robert P. Thomas, City Manager

By [Signature]
Terry Schotten, County Executive

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Richard E. Archbold 12-23-02

[Signature]

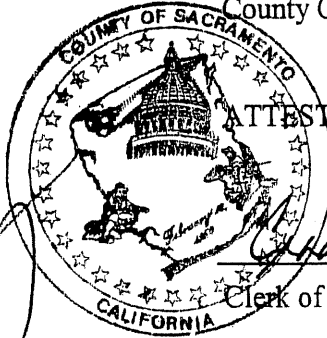
City Attorney

County Counsel

ATTEST:

ATTEST:

[Signature]
City Clerk



[Signature]
Clerk of the Board

CITY
AGREEMENT NO. 2002-224

CITY
AGREEMENT NO. 2002-224⁶

EXHIBIT B
Joint City-County Shared Policy Vision in Natomas

I. Statement of Intent

The intent of this joint City and County Planning exercise is that both the City Council and Board of Supervisors will reach a formal agreement regarding growth, economic development and permanent open space preservation in the unincorporated portion of the Natomas Basin within Sacramento County. The agreement will be adopted by Sacramento County and the City of Sacramento.

1. Introduction

A. Background

A preliminary set of planning principles for Natomas was presented to the Board of Supervisors at a public workshop in May 2001. Before that, in June 2000, the City Council held a public hearing to consider goals and policies to modify the City Sphere of Influence for several study areas, including Natomas.

Subsequent discussions among City and County management and staff have fostered a spirit of mutual gain. There is opportunity to develop a vision for Natomas, which reflects areas of collective interest. Protecting and maximizing existing, and future, airport operations, open space preservation, and fair distribution of revenue are shared core values. There is a common stake in pro-actively influencing the emerging urban form, by guiding inevitable growth to provide for residential and employment opportunities in close to the regions urban core. This promotes air quality measures through trip reductions, and distance traveled, and maximizes the return on existing and future public infrastructure investment.

Together, the City and County will forge a leadership role on a regional scale for growth management. The cooperative effort addresses land use, economic development, and environmental opportunities and challenges in Natomas. The result will be quality development balanced with permanent open space preservation systems.

B. Vision - Cooperative Land Use Planning

The best way to insure sustainable community building in Natomas is for the City and County to plan jointly. Such an effort will provide opportunity to focus more on sound long-term planning principles, and less on quick return revenue generation. Such a planning policy foundation may be without precedent, however, the highly regarded American River Parkway Plan (ARP) stands as an excellent result of City-County cooperation. That plan also provides an example of an administrative structure that involves third-party ratification of any amendments to the plan.

II. Basic Issues

There are three main areas where the City and County will come to agreement, each comprised of several sub-issues.

1. Open Space

The planning principles offer agreement regarding the size, location, and nature of open space preservation areas in the Natomas area. The location of open space areas will be based in part on the natural value of the land (e.g. habitat value, community separators), but also on constraints to development (e.g. airport protection or flood-prone areas). This agreement will ultimately designate the location of open space and provide principles for its permanent preservation. Ideally, the County will be the agent for maintaining rural and agricultural land uses, and permanent open space preservation.

Open Space systems provide multiple values/ benefits for human needs (health, public safety, cultural, recreational, economic prosperity, and civic identity), for wildlife, for productive agriculture, and for a healthy, sustainable built environment. Open Space also contributes to the provision of clean air and water for the region. Open Space systems must be of adequate size to support their intended purpose, e.g., agricultural areas must be large enough to maintain the agricultural economy; regional recreation facilities must be diverse enough to accommodate multiple passive and active uses; habitat areas must be large enough to support the requirements of native species; vistas/viewsheds should be sufficient to provide a sense of place. Open Space systems should be linked by trails, act as community separators, and accommodate habitat conservation plan requirements.

2. Economic Development

Cities and counties are dependent upon tax revenues generated by continued commercial and industrial growth. The tax system creates intense competition between jurisdictions and can lead to economic development at the expense of good land use planning. This joint agreement will lessen competition between the City and County by establishing a revenue sharing agreement. In this way, each jurisdiction stands to benefit from economic development, without becoming subject to the forces of competition.

New development will be consistent with the City's Smart Growth Principles, by supporting reinvestment in existing communities, particularly designated infill areas, as an alternative to greenfield development. New growth will not detract from the sustainability of established neighborhoods, commercial corridors, and business districts in the city and county.

Sacramento International Airport is recognized as a regional asset for economic development. The vision will incorporate effective measures for protection of airport operations and expansion, such as where residential development will not be considered.

The Natomas Mutual Water District and Rio Linda/Elverta Parks and Recreation District currently provide services to the Natomas area and are, therefore, stakeholders in the economic development of the area. The City and County will cooperate with the districts to address their unique circumstances prior to the LAFCo process. The LAFCo process required for consideration of amendments to spheres of influence and annexation proposals will determine the appropriate roles for these districts.

3. Future Growth

The vision will provide the acreage and location for future growth, and identify principles to define the nature of growth appropriate for Natomas. Constraints and opportunities inherent in the land (e.g. habitat values) or its location (e.g. proximity to existing urbanization) will help define where growth is desired. The City will be the agent for growth, by planning areas to be developed.

Conclusion. Now is the time to seize the opportunity to craft the common vision for Natomas. This is best addressed through a cooperative planning effort between Sacramento City and County. This will curb land speculation, competition between jurisdictions and establish planning principles to guide growth in concert with permanent open space preservation.

III. Planning Issues and Principles

The City and County discussions regarding Natomas identified seven primary issues areas related to possible development in Natomas. Those issues areas are listed below along with principles that address the general concerns of the City or County. These principles will constitute the basis of an agreement between the City and County for making decisions regarding land uses.

1. Open Space
 - A. Open Space Preservation
 - B. Farmland Preservation
 - C. Airport Protection
2. Economic Development
 - A. Fiscal Collaboration
3. Future Growth
 - A. Jurisdictional Roles
 - B. Infill Linkages

1. Open Space

A. Open Space Preservation

1. Permanent Protection of Open Space. Achieve a permanent open space by acquiring land or easements. A variety of funding sources will be used to make land and easement acquisitions. Open Space encompasses lands that essentially are unimproved and that have limited development potential due to the physical characteristics of the land, due to value as a drainage or habitat corridor, due to land being restricted to agricultural production, due to location of the land as a community separator/ buffer between developed areas, or due to the scenic value of the land and its role in maintaining a community's sense of place or heritage.

2. Community Separators. Provide community separators at the Sutter/ Sacramento County line, by using open space that defines urban shape by providing gateways, landscaped freeway corridors, defined edges and view sheds. The community separator is land designated as permanent open space, by both the City and County General Plans, in order to avoid an uninterrupted pattern of urbanization, and to retain the character of distinct communities.

3. Open Space Linkages. Coordinate and connect permanent open space in Natomas with the larger open space systems to provide linkages for trail extensions and biological connectivity.

4. Mitigation Ratio. Require development to provide permanent open space, preserved in the Natomas area, at a mitigation ratio of at least one-to-one.

Implementation. The agreement will establish a policy framework for open space planning in Natomas which will rely on, and coordinate with, existing open space programs, and will address linkage issues. Some specific areas will be designated for preservation as permanent open space to provide assurance that community separators are implemented. Other areas, such as west of Sacramento International Airport, may not require active preservation because of specific constraints related to inadequate infrastructure or public ownership.

This mitigation may be in conjunction with or distinct from any applicable criteria of the Natomas Basin Habitat Conservation Plan (HCP). A minimum one-to-one mitigation ratio within the Sacramento unincorporated area of Natomas will exceed that of the HCP by one-half acre of mitigation per acre of development. A joint funding mechanism will provide funding for land and easement acquisitions.

B. Farmland Preservation

1. Require Mitigation for Losses. Plan land use in Natomas in a manner that minimizes and mitigates loss of overall agricultural productivity.

Implementation. Identify areas of Natomas that are to be developed or remain in general agriculture. Land to be preserved as farmland must not be restricted by nearby development and needs to have a secure supply of affordable water. Buffer areas will be derived from developing lands. The City and County shall work jointly with agricultural interests to develop a comprehensive program to assist in farmland viability.

C. Airport Protection

1. Protect Future Airport Operations. Plan land use in Natomas in a manner that will protect Sacramento International Airport from complaints originating from encroaching uses that might eventually limit its operations or future expansion.

2. Coordinate long range land use planning. The various affected jurisdictions will coordinate planning efforts to ensure the continued viable operations and expansion of Sacramento International Airport

3. Maintain Airport Safety Related to Habitat. Avoid compromising airplane safety when establishing open space by keeping waterfowl habitat at safe distances from the airport.

Implementation. A multi-jurisdictional airport protection plan will protect the airport by preserving open space around it and keeping noise-sensitive development and waterfowl attractors in relatively distant areas. An emphasis on open space will also lend permanence to any buffers that are established.

2. Economic Development

A. Fiscal Collaboration

1. Revenue Agreement. Adopt a Revenue Exchange Agreement.

Implementation. The City and County will negotiate an agreement that defines, and provides for, revenue exchange for development that occurs within the agreement area.

3. Future Growth

A. Jurisdictional Roles

1. City and County Roles. The City is the appropriate agent for planning new growth in Natomas. The County is the appropriate agent for preserving open space, agricultural and rural land uses.

2. Maintain County Interests. The County will preserve its interest in the planning and development of Sacramento International Airport and Metro AirPark.

Implementation. Define the roles of each jurisdiction in the agreement.

B. Infill Linkage

1. Support City Infill Strategy. New growth will be supportive of the City's Infill Strategy. It will contribute to the sustainability of established neighborhoods/ commercial corridors/ business districts.

Implementation. Create a linkage program between new growth and the City's Infill Strategy, extension of the Downtown/Natomas/Airport transit line and implementation of the North Natomas Community Plan goals and objectives as a part of the General Plan amendment process.

4. Urban Growth Principles

1. Smart Growth. Development in Natomas will build on the vision of the currently planned growth in North Natomas, including the application of Smart Growth Principles.

2. Regionally Significant Land Uses. The City and County will develop a joint planning process for major uses in Natomas that are likely to have important economic impacts to existing commercial facilities in the city or county.

3. Balanced Communities. Undeveloped areas shall foster development patterns which achieve a whole and complete, mixed-use community.

Implementation. The City, as the agent of development, will apply Smart Growth Principles to any new development in Natomas. Smart Growth Principles emphasize pedestrian and transit orientation by addressing density, efficient design, and urban open space to provide sustainable, livable communities with fewer impacts than standard development.

Establish a review committee, by agreement, to evaluate the likely impacts of large scale commercial uses in Natomas on competing uses in the county and city. The committee's goal will be to avoid competition for tax revenues, in favor of balanced regional planning.

IV. Identify Areas for Growth and Permanent Open Space Preservation

Consideration of new growth should be done in partnership with the preservation of open space. The urban form should include a well integrated mixture of residential, employment, commercial, and civic uses, interdependent on quality transit service with connections linking activity centers with streets, transit routes, and linear parkways with ped/bike trails.

V. Plan Administration and Agreement

The agreement will be adopted by Sacramento County and the City of Sacramento. It may also be desirable to have the agreement adopted by an outside party, e.g. the State Legislature (similar to the American River Parkway Plan) to provide additional strength to the agreement, and to require inter-jurisdictional coordination on agreement implementation.

The means to implement this common vision is yet to be defined. There are various instruments available for the legislative bodies of the City and County, such as a Joint Resolution, or a Memorandum of Understanding.

The agreement will consist of:

- A map clearly delineating the areas for growth and for permanent open space and agricultural preservation.
- The Planning Principles.
- The implementation program including adoption of permanent open space and agricultural preservation strategies.

The implementation includes:

- A third party agreement
- Amendments to both General Plans to incorporate the common vision
- Adoption of a Revenue Sharing Agreement
- Define Goals, Roles and Responsibilities for the respective jurisdictions, and a mechanism for future, regional scale participation.

- Benchmarks for performance
- A funding program for permanent open space and agricultural preservation.

This cooperative planning effort is consistent with the Capitol Regional Compact, endorsed by both jurisdictions recently. Developed by Valley Vision, it promotes regional coordination, cooperation and collaboration. The compact defines four goals for future collaboration:

- Create Regional Growth and Development Patterns
- Coordinate Land Use, Infrastructure, Public Services and Transportation
- Reinforce our Community Identities and Sense of Place
- Protect and Enhance Open Space and Recreational Opportunities.



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October 28, 2024

SENT VIA EMAIL (CEQA@saccounty.gov)

Sacramento County, Department of Community Development
Planning and Environmental Review Division
Attention: Environmental Coordinator
827 7th Street, Room 225
Sacramento, CA 95814

**RE: Draft Environmental Impact Report for the
Upper Westside Specific Plan
(State Clearinghouse No 2020100069,
County Control No. PLNP2018-00284)**

Dear Environmental Coordinator for the Upper Westside Specific Plan Project:

On behalf of Environmental Council of Sacramento (“ECOS”) and Friends of Swainson’s Hawk (“FOSH”), and Natomas resident Brandon Castillo, this letter provides comments regarding the Environmental Impact Report (“DEIR”) for the Upper Westside Specific Plan (“Project”).

After extensive review,¹ we conclude that the DEIR is woefully inadequate as an informational document. This letter also transmits expert comments on biological resource issues prepared by Shawn Smallwood, PhD (Exhibit 1), expert comments on transportation impacts by Dan Smith (Exhibit 2), and expert comments on air quality by SWAPE (Exhibit 3), which are all incorporated by reference. The County of Sacramento (“County”) must prepare and recirculate a new DEIR that addresses the many shortcomings identified in this comment letter and other comment letters. The County must also seriously consider how to prepare a new EIR that complies with its legal duty to objectively analyze the Project and project alternatives including the no project alternative.

¹ While we have expended extraordinary efforts reviewing the DEIR within the allotted 60 days, the DEIR’s pervasive informational deficiencies in a variety of resource areas prevent us from confidently representing that all such defects have been identified. We therefore reserve the right to supplement these comments. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.* (2007) 60 Cal.App.4th 1109, 1121.)

As a threshold matter, the unprecedented scope of the Project's acknowledged significant impacts should give one pause when considering "why" it is proposed. The Project's acknowledged significant and purported unavoidable impacts include:

- Degradation of Existing Views and Visual Quality
- Substantially Degrade Existing Visual Character or Quality
- New Sources of Light
- Conversion of Farmland to Nonagricultural Uses
- Conflict with or Obstruct Implementation of an Applicable Air Quality Plan During Project Operation
- Long-term Operational Emissions of Criteria Air Pollutants and Precursors
- Exposure of Existing Off-site Sensitive Receptors to Toxic Air Contaminants During Operation
- Exposure of Future On-site Sensitive Receptors to Toxic Air Contaminants During Operation
- Historical Resources
- Archaeological Resources
- Human Remains
- Increase in Traffic Noise at Existing Sensitive Receptors
- Increase in Stationary Noise from Plan Components at Existing Receptors
- Increase in Stationary Noise from Plan Components at Proposed Sensitive Receptors
- Induce Substantial Unplanned Population Growth
- Conflict with a Program, Plan, Ordinance or Policy Addressing the Circulation System
- Hazards Due to Design or Incompatible Uses
- Degradation of Existing Views and Visual Quality [cumulative]
- Substantially Degrade Existing Visual Character or Quality [cumulative]
- New Sources of Light [cumulative]
- Conversion of Farmland to Nonagricultural Uses [cumulative]
- Long-term Operational Emissions of Criteria Air Pollutants and Precursors [cumulative]
- Exposure of Existing Sensitive Receptors to Toxic Air Contaminants [cumulative]
- Exposure of Future Sensitive Receptors to Toxic Air Contaminants [cumulative]
- Historical and Archaeological Resources, including Human Remains [cumulative]
- Exceedance of Established Noise Standards – Traffic [cumulative]
- Population Growth [cumulative]
- Program, Plan, Ordinance or Policy Addressing the Circulation System [cumulative]
- Hazards Due to Design or Incompatible Uses [cumulative]

The sheer breath of these significant and unavoidable impacts alone demonstrates that the Project is fundamentally misguided. This is precisely why the CEQA Guidelines advise, “Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and ***the reasons why the project is being proposed, notwithstanding their effect, should be described.***” (CEQA Guidelines, § 15126.2, subd. (c), emphasis added.) It is telling that the DEIR makes no attempt to “explain why the project is being proposed” notwithstanding the unprecedented significant and unavoidable impacts. As will be explained more fully below, the Project’s “why” is not to serve any legitimate land use goals – the record amply establishes that the Project is inconsistent with all land use planning in the area – but rather to maximize the financial return on the applicant’s speculation on 31 acres of agricultural land.

Moreover, conspicuously absent from the DEIR is any mention, much less analysis, of County General Plan Land Use Policy LU-127, which provides:

The County ***shall not expand the Urban Service Boundary unless:***

- There is inadequate vacant land within the USB to accommodate the projected 25 year demand for urban uses; and
- The proposal calling for such expansion can satisfy the requirements of a master water plan as contained in the Conservation Element; and
- The proposal calling for such expansion can satisfy the requirements of the Sacramento County Air Quality Attainment Plan; and
- The area of expansion does not incorporate open space areas for which previously secured open space easements would need to be relinquished; and
- ***The area of expansion does not include the development of important natural resource areas, aquifer recharge lands or prime agricultural lands;***
- The area of expansion does not preclude implementation of a Sacramento County-adopted Habitat Conservation Plan;

OR

- The Board approves such expansion by a 4/5ths vote based upon on finding that the expansion would provide extraordinary environmental, social or economic benefits and opportunities to the County.

(Emphasis added.)

One of the Project’s defining characteristics is that it consists almost entirely of prime farmland located outside of the County’s urban service boundary (“USB”), and

therefore require expansion of the USB. LU-127 articulates, in clear prohibitory language, the County’s policy to prohibit expansion of the USB involving: (i) “development of important natural resource areas,” (ii) “aquifer recharge lands,” or (iii) “prime agricultural lands.” The Project would involve all three of these triggers for prohibiting USB expansion. Even the most cursory reference to LU-127 reveals why the Project is wholly fundamentally misguided—which begs the question why LU-127 was inexcusably omitted from any reference in the DEIR.

Applicants are free to seek land use entitlements for their proposed land development projects—no matter how fundamentally flawed and misguided. However, it is the legal and duty of the local land and CEQA lead agency, here the County, to perform an objective analysis of the Project’s impacts, mitigation measures, and project alternatives. As will be explained more fully below, the DEIR wholly fails to discharge the County’s legal duty to perform that objective analysis. Here, the DEIR is not a document of objective analysis and accountability, but rather a document of advocacy on behalf of the Project applicant.

The Project would destroy approximately 2,000 acres of productive important farmland² that also serves as important habitat for sensitive species, will result in roadway safety hazards to existing and future residents (including families with their driveways on the Garden Highway), and even increased cancer risks to existing and future Natomas residents. Maximizing profit from the applicant’s purchase of 31 acres does not override these impacts, and any marginal benefit resulting from increased development in the unincorporated County areas can easily be achieved from alternative locations widely available within the USB.

I. PROJECT BACKGROUND

The DEIR purports to describe the “Project Background.” (DEIR, p. 2-11.) The DEIR unfortunately presents an incomplete and misleading background to the Project. Further, the DEIR dismisses otherwise feasible alternative locations expressly because they are not “controlled” by the applicant. Thus, it is necessary to present a more complete and accurate background of the Project that also sets forth facts relevant to “control.”

The project applicant here is an entity named Upper Westside, LLC (“Upper Westside”). Upper Westside was formed on March 15, 2018 (Exhibit 4, Upper Westside

² Expert comments from the Sacramento County Farm Bureau establish that the so-called “ag buffer” will not result in continued productive agricultural uses of that land.

LLC articles.) Upper Westside owns a 31.64-acre parcel within the 2,066-acre Project site that it purchased on May 14, 2019, for a price of \$909,500. (Exhibit 5, Property Details.) Upper Westside owns no other land within the 2,066-acre Project area.

Upper Westside is managed solely by Yolo County developer Steve Gidaro. (Exhibit 6, Upper Westside Statement of Information.) No other ownership or management of Upper Westside is disclosed. That said, Upper Westside has been delinquent in filing its updated statement of information since 2022, and so it is possible that Mr. Gidaro has transferred his interest in Upper Westside since that time without any public disclosure. (Exhibit 7, CA Secretary of State database entry.))

In short, the applicant for the Project is an entity wholly controlled by a single person, who purchased merely 31.64 acres for \$909,500 back in 2019, and now seeks to leverage that slim ownership (1.53 percent) in order to dictate urban development of 2,066 acres of important and productive farmland.

This DEIR conspicuously fails to disclose this information, instead suggesting that the Project's "applicants" include a larger "ownership group" that owns "292 acres or 14 percent of the UWSP area." This is false and misleading. The NOP plainly asserts that the "Applicant" is "Upper Westside, LLC." This is repeated in the DEIR: "The project applicant is Upper Westside LLC." (DEIR, p. 2-1.) These other parties are not "applicants," but instead merely "participating properties." (DEIR, Plate PD-4.) The DEIR asserts, "[T]he project applicant owns and/or controls 10 parcels totaling approximately 292 acres, or 14 percent of the plan area." (DEIR, p. 2-2.) The DEIR provides no information demonstrating such "control" of these properties by Mr. Gidaro. That said, whether Mr. Gidaro controls 1.53 percent or 14 percent of the Project site is of no matter; the vast majority of the Project site, either 86 or 98.47, is not controlled by Mr. Gidaro. This is important because the DEIR relies on the absence of Mr. Gidaro's "control" of alternative locations to dismiss them without any consideration.

Finally, the DEIR's "Project Background" includes a discussion of the Natomas Joint Vision, which it describes as a "Master Plan process for a proposal to move the Urban Services Boundary (USB) and the Urban Policy Area (UPA)." The DEIR suggests that the Project is an outgrowth of the Natomas Joint Visions. Not so. As explained by the California Department of Fish and Wildlife ("CDFW") in response to the NOP:

The Projects marks an apparent departure by the County from the principles detailed in its shared vision with the City. The County's web page reads currently, for example, that the Joint Vision project has been withdrawn

and individual landowners are moving forward with their own projects, including this Project.

Indeed, CDFW is correct that the County’s webpage now asserts, “The Natomas Joint Vision project has been withdrawn and individual landowners have moved forward with their own projects.” (Exhibit 8, County website for the Natomas Vision.) As CDFW further explains, “The MOU, importantly, recognizes the City as the agent of development in the Sacramento portion of the basin and *the County as the agent of permanent open space, habitat, and farmland/ranchland preservation.*” (Emphasis added.) Thus, it is misleading for the DEIR to suggest that the Project is somehow an extension of the Natomas Joint Vision. As explained more fully below, the Project is inconsistent with the Joint Vision as well as decades of land use planning for the Natomas basin.

II. THE DEIR’S PROJECT DESCRIPTION AND ASSOCIATED CEQA REVIEW STRATEGY ARE FUNDAMENTALLY FLAWED

The CEQA Guidelines explain, “The statement of objectives should include the underlying purpose of the project.” (CEQA Guidelines, § 15124, subd. (b).) The leading CEQA treatise advises, “To avoid claims the project objectives are too narrow, the statement of objectives should not simply repeat the EIR’s description of the proposed project, but instead should be based on the project’s underlying purpose.” (Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2024) § 12.13, p. 12-23 [“Kostka”].) Here, the EIR fails to comply with both recommendations: (i) the DEIR asserts a list of manipulated “objectives” that merely describes the nature of the Proposed Project, and (ii) the DEIR fails to identify the Project’s underlying purpose.

The Project’s background will reveal precisely why the DEIR conspicuously fails to identify an underlying purpose of the Project. This is unsurprising because the Project serves no underlying purpose other than to generate revenue for the project applicant. This is demonstrated with clarity by reviewing the Project’s background.

A. Expansion of the USB and UPA Is Not Necessary to Accommodate the County’s Share of Future Regional Population Growth

While the Project does not have an underlying purpose (other than maximizing return for the applicant’s land speculation), the DEIR’s first objective asserts that “expanding the USB and UPA” is required to “accommodat[e] the County’s share of future regional population growth.” This Project Objective is not supported by substantial evidence. To put it bluntly, no planning documents by the County or the

Sacramento Area Council of Governments (“SACOG”) support the DEIR’s false assertion that expansion of the USB is necessary to accommodate the County’s share of future regional population growth. In fact, SACOG plainly stated in response to the Project’s NOP, “Throughout much of the Sacramento region, the capacity for growth in existing entitled lands far exceeds expected demand for new growth over the next twenty years.” SACOG’s conclusion is amply supported by the County’s Housing Element, which identifies a Regional Housing Needs Allocation (“RHNA”) allocation of 21,272 units and supply of 23,653 units. The identified supply number does not account for literally tens of thousands of additional residential units that are part of master plan and specific plan communities virtually identical to the Project. The Housing Element explains:

The Vineyard Springs Comprehensive Plan, North Vineyard Station Specific Plan, Florin Vineyard Comprehensive Plan, Glenborough at Easton and Easton Place are approved Master Plan with sites that may have been included in prior Housing Elements. The County has also recently approved two additional Master Plans with sites included in this inventory: the Mather South Community Master Plan (Mather South) on January 28, 2020 and the NewBridge Specific Plan (NewBridge) on October 6, 2020.

(Housing Element, p. 134.)

More specifically, Mather South would provide 3,522 units, Newbridge would provide 3,075 units, Cordova Hills would provide 8,000 units, and Easton Place and Glenborough at Easton would provide 4,883. (Housing Element, pp. 134–148.)³

While it is true that the Housing Element identifies a deficit of 2,884 units of lower-income units, the Project is not providing lower-income housing. One of the Project’s requested entitlements is an “Affordable Housing Strategy that discusses the plan for the provision of moderate, low, and very-low-income housing.” The applicant chose not to prepare that Affordable Housing Strategy along with the DEIR, which could have demonstrated a commitment to constructing. This is of no consequence, however, because the lack of any commitment by the applicant is revealed in the draft Specific

³ Several of these projects also provide “a balanced mix of uses, employment opportunities” through commercial and residential areas. (*Ibid*; compare Project Objective 3.) Contrary to the DEIR’s improper advocacy, there is nothing novel about including commercial and residential uses in a large specific plan. In particular, see the Cordova Hills and Easton Place land use maps. (Housing Element, pp. 144–146.)

Plan.⁴ Unlike other master and specific plan developers in the unincorporated County, the applicant here makes no commitment to constructing affordable housing—which is the one type of housing that is arguably needed in the County. (Compare Housing Element, p. 132 [“Nine sites are in locations where there is an adopted Master Plan, or Specific Plan that guarantees certain sites will be set aside for the construction of deed restricted affordable housing projects”].)

In short, substantial evidence does not support the DEIR’s first project objective that expansion of the USB and UPA are required to “accommodat[e] the County’s share of future regional population growth.” There is a surplus of entitled sites within the existing USB and UBA to accommodate the County’s share of regional population growth. To put the matter bluntly, the project serves no actual purpose other than increasing the project applicant’s profit from his \$900,000 land speculation on a 30-acre parcel within 2,000 acres of important farmland.

B. The EIR’s Project Objectives are Not Supported by Substantial Evidence and Manipulated to Avoid Otherwise Feasible Project Alternatives

The Project’s background, described above, reveals why the DEIR conspicuously fails to identify an underlying purpose of the Project. This is unsurprising because no serious planning document that includes the Natomas basin—the County’s Land Use Element, the County’s Housing Element and SACOG’s Blueprint—find urban uses necessary or even appropriate for the Project site. Thus, the Project serves no underlying purpose other than to generate a return on investment for the applicant’s 31-acre land speculation.

Rather than identify a legitimate underlying purpose for the Project, the DEIR instead identifies several project “objectives” that are not supported by substantial evidence and are otherwise manipulated in order to exclude from consideration otherwise feasible project alternatives. The first project objective is addressed in detail immediately above. All of the DEIR’s project objectives are addressed in detail below.

1. Formulate a specific plan and related land use planning documents and regulatory approvals for the UWSP area as a means of expanding the USB and UPA in an orderly manner and accommodating the County’s share of future regional population growth.

⁴ The draft Specific Plan states that the Project would “allocate[] 4,007 residential units to high density residential uses (on both residential [791 VHDR] and mixed-use [3,216 CMU] designated lands) with planned densities of 30 du/ac or higher.”

- This object is both manipulated and unsupported by substantial evidence. First, formulating a specific plan and related land use planning documents “for the UWSP area” is a transparent attempt to exclude otherwise-feasible off-site project alternatives. Second, as explained above, “expanding the USB and UPA” is unsupported by substantial evidence. Further, expansion of the USB and UPA are themselves not legitimate objectives since General Plan policy is to prohibit expansion involving destruction of farmland, habitat for species, and areas of groundwater recharge.
2. Create a land use plan that satisfies County policies, regulations, and expectations, as defined in the General Plan, including Policies LU-114, LU-119, and LU-120.
 - This objective is transparently manipulated and not supported by substantial evidence. First, any development project will be required to meet County policies, regulations and expectations. Indeed, the DEIR here reveals that the Project fails to achieve consistency with County policies for growth. Finally, the objective is manipulated because it wholly ignores the most important County Land Use Policy, LU-127.
 3. Provide a comprehensively planned, high quality, large-scale, residential-based community in northwestern Sacramento County, directly northwest of the City of Sacramento, with a balanced mix of uses, employment opportunities, a wide variety of housing types, park and open space, and supporting public and quasi-public uses.
 - Again, this objective is manipulated by requiring a community “in northwestern Sacramento County, directly northwest of the city of Sacramento.” Further, the balance of the project objective can be satisfied by developments at other locations. As explained by SACOG, “[T]he capacity for growth in existing entitled lands far exceeds expected demand over the next twenty years: collectively, the region’s jurisdictions have entitled, or are in the process of entitling 2.5 times the region’s projected need for the next 20 years. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development.”
 4. Develop a master-planned community that can be efficiently served by existing infrastructure or proposed infrastructure that would encourage logical, orderly development and would discourage leapfrog or piecemeal development and sprawl.
 - This is arguably a legitimate objective, but one that is not met by this Project (including with particularity inadequate transportation infrastructure) and yet can be met by other locations throughout the County. Moreover, substantial evidence does not support this objective since it fails to explain “piecemeal development and sprawl.” The Project arguable represents “sprawl” by requiring expansion of

the USB and UPA to accommodate development that is not required in the County's Land Use Element or Housing Element, or SACOG's Blueprint. Indeed, the DEIR identifies as a significant and unavoidable impact the Project's contribution to growth-inducement. As explained by SACOG, "[T]he capacity for growth in existing entitled lands far exceeds expected demand over the next twenty years: collectively, the region's jurisdictions have entitled, or are in the process of entitling 2.5 times the region's projected need for the next 20 years. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development."

5. Provide residential housing within five miles of the existing job centers of downtown Sacramento and West Sacramento, as well as in close proximity to newly developing or proposed job centers.
 - This objective is manipulated and not supported by substantial evidence. While providing residential housing within existing job centers is arguably valid, the same is not true for the undefined terms "newly development or proposed job centers." If a "proposed job center[]" is not approved then what is the value of providing nearby housing? Also, the DEIR fails to explain what is meant by "newly developing" job centers. As explained by SACOG, "[T]he capacity for growth in existing entitled lands far exceeds expected demand over the next twenty years: collectively, the region's jurisdictions have entitled, or are in the process of entitling 2.5 times the region's projected need for the next 20 years. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development."
6. Create a development that has an overall positive economic impact on Sacramento County and achieves a neutral to positive fiscal impact on the County's finances and existing ratepayers.
 - This finding is not based on any specific location for a "positive economic impact on Sacramento." Further, if it is feasible for the Project to achieve this goal (based on "control" of only 1.53 or 14 percent), then it is feasible for alternative locations to achieve the goal.
7. Create a community that can be logically and efficiently phased to allow the orderly build-out of the community.
 - This objective is arguably valid, but substantial evidence does not support a finding that the Project meets this objective. First, the record establishes that the Project only includes "preliminary" phasing that may be altered at any time without any review or approval by the County or any other public agency. Thus, the Project does not include phasing of any kind, local or otherwise. Second, the

Project’s “preliminary” project phasing is in no way local or orderly because it would first place high-density urban development in the middle of 2,000 acres of prime farmland. This is not logical or orderly; it is based instead on the project applicant’s incredibly small ownership of the specific plan area. The Project’s phasing is therefore the opposite of logical, efficient and orderly.

8. Provide a safe and efficient circulation system that interconnects land uses and promotes pedestrian and bicycle circulation and transit options that will encourage non-vehicular trips, thereby reducing vehicle miles traveled (“VMT”).
 - This is arguably a legitimate project objective, but one that is required by the County’s General Plan policies and so would be met by any development in the area. That said, as explained below and in the comments by Dan Smith, the Project does not provide a safe and efficient circulation system. As just one example, the Project would result in unsafe conditions for existing families living on the Garden Highway.
9. Incorporate parks and open space, including an urban farm-greenbelt and canal, into the project design in a manner that provides community connectivity and encourages walking and bicycle use.
 - This is a manipulated project objective that does nothing more than “repeat the EIR’s description of the proposed project.” (Kostka, *supra*, § 12.13.)
10. Make efficient use of development opportunities as the project site is bordered on three sides by existing or planned urban development.
 - First, this is a manipulated project objective that does nothing more than “repeat the EIR’s description of the proposed project.” (Kostka, *supra*, § 12.13.) Further, a development at any location would be able to “make efficient use of development opportunities” from nearby development. As explained by SACOG, “[T]he capacity for growth in existing entitled lands far exceeds expected demand over the next twenty years: collectively, the region’s jurisdictions have entitled, or are in the process of entitling 2.5 times the region’s projected need for the next 20 years. More than half of that capacity—387,000 units—is in greenfield areas that are on the edge of existing development.”
11. Plan for enough units to provide housing choices in varying densities to respond to a range of market segments, including opportunities for rental units and affordable housing, and significant commercial uses, consistent with the General Plan and Housing Element.
 - While a potentially legitimate objective, this objective can be achieved by a development at any location. What is more, alternate locations—unlike the

Project—may actually be consistent with the County’s General Plan and Housing Element. Neither the County’s General Plan Land Use Element nor Housing Element call for any residential development at the Project site.

12. Design a land use plan where the development footprint avoids impacts to wetland resources to the extent feasible.

- This is not a legitimate project objective since it simply restates applicable law and can be achieved at any location.

13. Develop a specific plan that respects existing agricultural land uses and operations to the west of the proposed 1,532-acre Development Area.

- This is a manipulated project objective that does nothing more than “repeat the EIR’s description of the proposed project.” (Kostka, *supra*, § 12.13.) Further, substantial evidence does not support that the Project satisfies this objective by directly destroying approximately 1,500 acres of prime farm land and indirectly destroying the rest by ill-conceived “ag buffer” that does not result in productive agricultural operations.

14. Provide for development that meets the seven identified SACOG Blueprint principles, including provision of transportation choice, compact development, mixed use development, housing choice and diversity, use of existing assets, natural resource conservation, and quality design.

- This is a manipulated project objective that does nothing more than “repeat the EIR’s description of the proposed project.” (Kostka, *supra*, § 12.13.) A legitimate project objective would be for a development that is consistent with SACOG’s Blueprint. As SACOG explains, “The Upper West Side project and the project area itself are not anticipated for development in either the MTP/SCS or the Blueprint.” Further, substantial evidence does not support a finding that the Project is consistent with Blueprint principles. The Project is far from “compact,” and is in no way conserves natural resources by destroying prime farmland that provides important habitat for numerous special-status species.

15. Develop the project and any associated on- and/or off-site mitigation to complement the Natomas Basin Habitat Conservation Plan (“NBHCP”) and the Metro Airpark Habitat Conservation Plan.

- This is a manipulated project objective that does nothing more than “repeat the EIR’s description of the proposed project.”

16. Designate open space preserves along the south side of Fisherman’s Lake Slough or along the West Drainage Canal (Witter Canal) that provide natural buffer to these

features, and along the westerly edge of the proposed 1,532-acre Development Area to provide a transition between residential and agricultural designations to the west, which will provide a regional benefit for habitat, resources, and open space amenities.

- This is a manipulated project objective that does nothing more than “repeat the EIR’s description of the proposed project.”

17. Balance development with resource protection in an inter-connected, permanent open space.

- This is a legitimate project objective that can be accomplished at any location. Indeed, other locations that do not include 2,000 acres of prime farmland and habitat for special-status species are far better at striking an appropriate balance.

18. Create multi-functional habitat within open space corridors that provide on-site habitat and contribute to water quality.

- This is a manipulated project objective that does nothing more than “repeat the EIR’s description of the proposed project.” Further, it is nonsensical. Urban development should be located as far away as possible from habitat and open space corridors. The need to “create multi-functional habitat within open space corridors” arises precisely because urban development is proposed for areas that will have a negative impact on existing habitat. The legitimate objective would be therefore to locate urban uses in areas that avoid existing habitat and so there is no need to create habitat.

In sum, the DEIR’s project objectives are clearly manipulated in order to justify finding that any alternative other than the Project is infeasible.

C. The DEIR Purports to Analyze the Project Based on a “Phasing Plan” that is Both Arbitrary and Not Enforceable.

An “accurate and stable project description” is a bedrock requirement of CEQA—the *sine qua non* (that without which there is nothing) of an adequate CEQA document:

Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the “no project” alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.

(*Inyo v. Los Angeles* (1977) 71 Cal.App.3d 185, 192–93 [*Inyo*].)

The courts have consistently held that the ability of informed citizens to participate in environmental review is a key component of CEQA. (*Washoe Meadows v. Dept. of Parks and Rec.* (2017) 17 Cal.App.5th 277, 285 [“Informed public participation is essential to environmental review under CEQA.”]; *Inyo, supra*, 71 Cal.App.3d at 192 [“The EIR process facilitates CEQA’s policy of supplying citizen input.”].) An interrelated bedrock CEQA principle of informed public participation is that all aspects of a proposed project, i.e., the “whole of the action,” must be analyzed in an EIR. (See CEQA Guidelines, § 15378, subd. (a) [a project is the “whole of an action” which may result in direct or indirect physical changes to the environment].) This requires an EIR to include analysis of “all phases of a project” and all “reasonably foreseeable consequences” of a project. (CEQA Guidelines, § 15126 [EIR’s impact analysis must consider all phases of a project]; *Laurel Height Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376 [*Laurel Heights I*] [EIR must analyze “reasonably foreseeable consequence” of a project].)

The DEIR violates these principles with respect to its so-called “phasing plan.” The DEIR repeatedly asserts that the Project would be developed in “phases,” beginning with “Phase I,” and followed by Phases 2 through 4. A careful review of the DEIR, however, reveals this project description to be inaccurate:

A preliminary phasing plan is illustrated in **Plate PD-22** but would be subject to change as development occurs in response to market demand over time. Changes to the sequencing of individual development phases are permitted without an amendment to the proposed UWSP, provided that the improvements in each phase adequately support the associated development. This includes the ability for the Town Center to commence construction in an earlier phase than is identified on the preliminary phasing plan exhibit. Ultimate development phasing would be coordinated with and approved by County staff with processing of subsequent improvement plans for construction of public facilities.

The above-quoted language rebuts the DEIR’s express assumption that “phase 1” will be constructed first, and the EIR’s resulting methodology to analyze “Phase I” at a greater level of detail than future phases.⁵ Since phases 2 through 4 may ultimately be

⁵ As just one example, the EIR’s analysis of biological resources includes biological surveys for only 586.7 acres of the Project’s 2,066 total acres. What is more, the majority of this limited survey area includes the so-called “ag buffer” area that would not be

constructed before Phase 1 “without amendment to the proposed UWSP” and corresponding CEQA review, then the EIR must analyze all phases of the Project at the same level of detail.

The informational defects associated with the Project’s sham “phasing” are wide ranging. The DEIR repeatedly justifies its perfunctory and inadequate environmental analysis by claiming more detailed review will occur in future “phases.” As just one example, the DEIR asserts with respect with Impact BR-1:

Because the proposed UWSP is anticipated to be built out in phases by different applicants over an estimated 20 years, different suites of mitigation measures may be required specific to the potential biological resources associated with phases of the build-out. In addition, land cover, land use, and consequently, plant and wildlife habitat may change during the intervening years relative to what is documented in this EIR. To identify whether, when, and where each measure applies, Mitigation Measure BR-1 is provided below, which requires that ***a pre-construction baseline biological resources report be prepared for each phase of development.***

(DEIR, p. 7-40, emphasis added.)

The EIR makes similar representations regarding weed control and greenhouse gas (“GHG”) emissions. (DEIR, p. 7-41 [“Prior to the issuance of a grading permit, the applicant for each phase of the UWSP area development shall prepare a weed control plan for review and approval by the Environmental Coordinator.”], p. 8-29 [“As required by Mitigation Measure CC-1b, the applicant would be required to reduce GHG emissions associated with each phase of the proposed UWSP”].) Contrary to the promises of future CEQA review for these “phases,” the Project does not identify any County approvals associated with Project “phases.” (Draft Specific Plan, pp. 8–6 [Preliminary Development Phasing], 8–15 [Subsequent Entitlements].) Nor is there any identifiable CEQA review associated with these non-existent future Project “phases.” (*Ibid.*) In other words, the EIR’s claim of future review associated with future Project “phases” is unsupported by the record. There is no County review and approval of “phases,” and certainly no identifiable CEQA review associated with such “phases.” Accordingly, the EIR may not defer this analysis.

subject to development. (DEIR, p.7-45 [Plate BR-3].) The vast majority of the Project area, primarily “phases” 2 through 4, has not been surveyed for biological resources.

In short, a careful review of the DEIR and draft Specific Plan reveals that any claimed Project “phasing” and associated future CEQA review is misleading to say the least. The “preliminary phasing plan” is expressly subject to revision at any time without any amendment to the Specific Plan, which also does not provide for actual project “phases” triggering preparation of the deferred environmental analysis that is offered by the EIR to justify the present inadequate review. The EIR’s project description and strategy of deferred CEQA review based on that claimed phasing are therefore contrary to CEQA’s mandates.

III. THE DEIR FAILS TO ADEQUATELY ANALYSIS THE PROJECT’S IMPACTS TO AGRICULTURAL RESOURCES

A. The DEIR Fails to Analyze Countywide Impacts Resulting from General Plan Text Amendments

The DEIR fails to analyze the Project’s impacts that extend well beyond the Project’s boundaries. Specifically, the Project includes a General Plan text amendment to eliminate County requirement that replacement agricultural land must be within the County. (General Plan Policies AG-1, AG-5). Nothing limits the scope of these text amendments to the Project. Accordingly, the County has a duty under CEQA to analyze all impacts associated with text amendments that would apply to all remaining agricultural lands throughout the County. The DEIR does not even recognize the broad scope of these text amendments, much less provide a good faith analysis of their countywide impacts. The DEIR simply ignores that these General Plan text amendments would apply countywide and makes no attempt to analyze the impact of the countywide effects on the remaining agricultural lands in the County.

B. The DEIR Fails to Disclose and Analyze General Plan Land Use Policy LU-127 that Prohibits the Project in Order to Protect Prime Farmland

The DEIR further fails as an informational document by conspicuously ignoring the County General Plan land use policy directly related to conserving agricultural resources, LU-127, which provides, “The County *shall not expand* the Urban Service Boundary unless . . . The area of expansion does not include the development of important natural resource areas, aquifer recharge lands or *prime agricultural lands*.” (Emphasis added.) The impact of LU-127 is unmistakable, and not subject to dispute. County policy is to prohibit expansion of the USB unless proposed development “does not include the development of . . . prime agricultural lands.” Here, the DEIR acknowledges that the Project includes 1,207 acres of prime farmland, which represents approximately 1.4 percent of all prime farmland within the County. General Plan policy

is clear that this is disqualifying. The County's wholesale failure to disclose LU-127, much less address it, renders the DEIR deficient as an informational document.⁶

Finally, the informational deficiency resulting from the DEIR's wholesale failure to mention LU-127 is not limited to agricultural impacts. On its face, LU-127 is intended to protect agricultural production as well as biological resources that rely on agricultural lands for habit and water quality since agricultural lands also facilitate groundwater recharge. Thus, the DEIR's failure to address LU-127 results in informational deficiencies running throughout the DEIR including at minimum, the project description, agricultural impacts, biological impacts, hydrology and water quality, land use and project alternatives.

C. The "Ag Buffer" Is Inadequate to Minimize and Mitigate Significant Impacts Associated with the Loss of Agricultural Production

The DEIR asserts that the so-called "ag buffer" will "allow or the continuation of existing agricultural, ag-residential, and mitigation uses." (DEIR, p. 2-27.) Accordingly, the DEIR relies on the "ag buffer" to dismiss, minimize and mitigate significant impacts. A few non-exclusive examples include agricultural impacts (DEIR, p. 5-19), biological impacts (DEIR, pp. 7-80-82) and growth inducement (DEIR, p. 23-2.) However, the Sacramento County Farm Bureau letter provides expert testimony that the so-called "ag buffer" is inadequate due to its size and location to allow for ongoing agricultural operations. Accordingly, the "ag buffer" is not effective mitigation for impacts, and may not be relied upon to dismiss, minimize and mitigate significant impacts.

IV. THE DEIR FAILS AS AN INFORMATIONAL DOCUMENT WITH RESPECT TO BIOLOGICAL RESOURCE IMPACTS

Other commenters, including expert comments by Shawn Smallwood (Exhibit 1) have explained in detail the DEIR's failure to analyze in good faith the Project's impacts

⁶ The DEIR's omission of any reference to LU-127 strongly suggests an intent to mislead since LU-127 was expressly referenced by County staff when the County approved the commencement of master planning for the area: "While Policy LU-119 addresses Master Plan initiation, there are other policies such as LU-120, **LU-127** and LU-15 which will be utilized by County staff, later in the Master Plan process, to determine whether or not the Master Plan could be recommended for approval. Initiation of the Master Plan process is only the first step and is not a guarantee of approval. The County strongly cautions that the applicants proceed at their own risk." (Emphasis added.)

on biological resources, including species and habitat addressed by the NBHCP. Those comments do not need to be repeated here. Rather, this comment focuses on the informational deficiency resulting from the DEIR's failure to disclose—and even affirmative misrepresentations regarding—the NBHCP's relevance to this Project.

As part of its analysis of impacts, an EIR must disclose related environmental review and consultation requirements of other jurisdictions and integrate these related requirements into CEQA review. (CEQA Guidelines, § 15124, subd. (d)(1)(C); see *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 936 [*Banning Ranch*].) Thus, agencies are encouraged to consult with responsible agencies before and during preparation of an EIR so that the document will meet the needs of all the agencies which will rely on it. (CEQA Guidelines, § 15006, subd. (g); *Banning Ranch, supra*, 2 Cal.5th at 936.) Such information is not only necessary for analysis of environmental impacts, but also project alternatives and mitigation measures. (*Banning Ranch, supra*, 2 Cal.5th at 937.) Failing to discuss other regulatory and permitting regimes with authority over the project violates the information disclosure requirements of CEQA and is a prejudicial error depriving the public of a full understanding of a project. (*Banning Ranch, supra*, 2 Cal.5th at 942.) The coordination between lead agencies and other permitting authorities “serves the laudable purpose of minimizing the chance the [lead agency] will approve the Project, only to have later permits for the project denied . . .” (*Cal. Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 642.)

Banning Ranch is instructive. There, the lead agency failed to identify potential environmentally sensitive habitat areas (“ESHA”) and analyze the impacts of the project on those areas, which are governed by the Coastal Commission under the Coastal Act. (*Banning Ranch, supra*, 2 Cal.5th at 935–936.) Doing so undermined the EIR as an informational document. (*Id.* at 941–942.) The County's informational deficiency here is significantly worse than in *Banning Ranch*. When the County initially agreed to conduct planning for development in this area, staff explained:

Development in the Natomas Basin has been met with challenges from environmental groups due to the presence of numerous threatened, endangered or special status species. Two of the species of greatest concern are the giant garter snake and the Swainson's hawk. There have been several lawsuits filed over past environmental approvals associated with the NBHCP and the MAPHCP. A final ruling by United States District Judge David F. Levi on September 7, 2005 (Attachment 8) declared the HCPs valid and cleared the way for development. . . . [W]ith respect to

the issues of potential future growth in Sacramento County, Judge Levi ruled the following:

The NBHCP and BiOp [Biological Opinion (BiOp) utilized by the Secretary of the Interior and United States Fish and Wildlife Service] do assume that development in the basin will be limited to the 17,500 acres [15,517 acres under the NBHCP and 1,983 acres from the previously approved MAPHCP to total 17,500 acres cumulatively] in the permit areas and relies on that assumption in concluding that sufficient habitat will remain for the covered species. This assumption is based on the current land use plans of Sacramento County. The NBHCP, BiOp, and EIR/EIS also conclude that because any future development in the Basin not covered by the HCP and ITPs [Incidental Take Permit allowing for “take” of an endangered species] would likely result in injury to listed species, any future development in the Basin would require new federal approvals. Any such approvals would in turn require a new HCP and ITP for the particular project, and could also lead to revision of the existing NBHCP, were the additional development to exceed assumed limits.

Judge Levi went on to say,

The NBHCP anticipates that development by the City and Sutter will be limited to 15,517 acres – 8,050 acres within the City [of Sacramento] and 7,467 acres in Sutter County – and provides that approval of any development beyond this limit – whether by the City and Sutter or by other entities – will trigger reevaluation and possible amendment of the plan, and could result in suspension or revocation of the City and Sutter permits.

With regard to the City/County Natomas Joint Vision, which plaintiffs claimed would fatally undermine the NBHCP, Judge Levi ruled the following:

The Service, and the court, are entitled to assume at this point that future development will not be permitted if sufficient

mitigation land is unavailable and the development will result in jeopardy.

The Judge footnoted the above sentence with the following:

The court notes, however, that the Service and those seeking an ITP in the future will face an uphill battle if they attempt to argue that additional development in the Basin beyond 17,500 acres will not result in jeopardy. The NBHCP, BiOp, EIR/EIS, and Findings and Recommendations are all predicated on the assumption that development in the Basin will be limited to 17,500 acres and that the remaining lands will remain in agricultural use.

Staff recognizes that any new development in the Natomas Basin above the 17,500 acres already approved and permitted by the Natomas Basin and Metro Air Park HCPs *will require careful coordination and consideration of existing approved developments, their mitigation strategies, and the regional conservation context.*

(Exhibit 9, 2019 County Staff Report, emphasis added.)

Following County staff's express acknowledgement of the "uphill battle" that will require "careful coordination and consideration," the DEIR is now conspicuously silent regarding this history and, critically, the detrimental impact that the Project may have on the existing habitat conservations plans. The DEIR fails as an informational document by not addressing these critical interrelationships—as County staff previously promised to do at the beginning of this process.

V. THE DEIR'S TWO TRANSPORTATION ANALYSES VIOLATE CEQA AND REVEAL VIOLATIONS OF GENERAL PLAN POLICIES REQUIRING PROJECT DENIAL

A. The DEIR Violates CEQA by Not Adequately Analyzing the Project's VMT and Transportation Safety Impacts

Transportation Engineer Dan Smith reviewed the DEIR's technical transportation studies and prepared comments identifying numerous deficiencies. (Exhibit 2.) These comments are incorporated by reference and do not require repetition here.

B. The Local Transportation Analysis Reveals Violations of the County's General Plan LOS Standards

The local transportation analysis reveals that the Project would be inconsistent with the County's General Plan. Specifically, Table 12 discloses that the Project would individually result in unacceptable level of service ("LOS" F) conditions at no fewer than 13 different intersections.

The DEIR dismisses this violation of General Plan standards by asserting: Consistent with Policy CI-9, the proposed roadway system included in the proposed UWSP would be designed in a manner that meets level of service operating standards *with just a few exceptions*. In instances where operating standards are not met, physical improvements to increase capacity (e.g., widening El Centro Road to an eight-lane cross section) *have been deemed by Sacramento County to be either infeasible or would be inconsistent* with the proposed UWSP's goal of creating an environment conducive to walking and bicycling.

(DEIR, p. 18-19, emphasis added.)

The problem is that the Project's "just a few exceptions" to the County's LOS E standard for urban roadways means that the Project is not "consistent" with General Plan Policy CI-9. While it is true that Policy CI-9 allows for deviation from these standards when "it is infeasible to implement project alternatives or improvements that would achieve" the LOS standards, the DEIR does not support its assertion that specific physical improvements necessary to provide an adequate LOS for the Project already "have been deemed by Sacramento County to be either infeasible or would be inconsistent with the UWSP's goal of creating an environment conducive to walking and bicycling." The DEIR does not disclose when the County previously made this determination regarding the Project's circulation plan, much less any information documenting the feasibility determination. Further, it is unclear whether any such determination of feasibility is properly made before project approval and even release of the DEIR.

What is more, the language of CI-9 does not support violating the County's LOS standards on the basis that physical improvements "would be inconsistent with the proposed USWSP's goal of creating an environment conducive to walking and bicycling." Even if this is a proper basis for violating the County's LOS standards (the plain language of CI-9 contradicts this), the DEIR fails to provide any analysis identifying the proposed physical improvements or how they are inconsistent with the stated goal.

Finally, even if the County can credibly explain how physical improvements to existing intersections are not feasible (perhaps due to right-of-way constraints), it strains logic to suggest that the same is true regarding intersections not presently in existence. (See Table 12, intersections 61, 63, 68, 69.) The DEIR fails to explain how it is infeasible to design new intersections at a minimum LOS E.

In summary, the Project's roadway system patently violates the County's General Plan LOS standards, and the County fails to explain how it is infeasible to construct a system that meets the minimum LOS E standards. The Project's General Plan inconsistencies will increase cut-through traffic on other roadways such as along Garden Highway thereby further increasing undisclosed congestion and roadway hazards to existing residents.

C. The EIR Fails as an Informational Document Regarding the Project's Proposed Transit System, Impacts and Mitigation

The DEIR claims that the Project employs "smart growth" principles that include "Transportation Choices – Development should encourage people to walk, bike, use public transit, or carpool to their destination." Nothing could be further from the truth. In fact, the EIR fails as an informational document with respect to the Project's impact and mitigation regarding transit impacts.

As a threshold matter, buried in the DEIR's appendix is the revelation that "[U]se of transit for travel to external destinations is estimated at two percent for the purposed project." The DEIR fails to explain how this abysmal transit mode share is consistent to its claim that the Project is somehow "encouraging" transit use.⁷ In fact, the Project fails to provide adequate transit facilities, and the DEIR fails to adequately disclose this to the public and decision-makers.

The DEIR notes that the Project would result in a significant transportation impact if it "[s]ubstantially increase[s] transit demand and fail[s] to provide adequate transit service." (DEIR, p. 18–16.) Although the transit mode split of 2.0 – 2.3 percent is well below the split for an infill or "smart growth" project, the mode split would still result in 3,576 daily transit trips. The DEIR fails to set forth enforceable mitigation to address this transit demand. The DEIR acknowledges this failure:

⁷ The DEIR's transportation appendix indicates that its assumed transit trip generation is more than the "base" rate assumed for a "suburban" development but fails to identify the assumed "base" transit trip generation number.

[T]he proposed UWSP would substantially increase transit ridership demand that may not be fully accommodated by the proposed transit service as described in the transit plan that has been prepared for the Specific Plan. Specifically, severe congestion along El Centro Road between West El Camino Avenue and Farm Road would cause substantial delays to bus service that would operate along this route as part of the UWSP. Additionally, the lack of planned fixed-route bus service may lead to an unmet demand for transit service.

The DEIR fails to describe the Project's transportation network. The DEIR asserts, "Plate TR-5 shows the proposed transit system included in the proposed UWSP, which would include an on-site shuttle that would operate along key roadways during peak periods." Plate TR-5, however, fails to reveal the on-site shuttle, much less provide any information regarding its operation.

Setting aside its failure to describe the proposed transit network, the DEIR proposes to mitigate the Project's failure to provide for the Project's transit demand with mitigation measure TR-1b, which requires the Project applicant to "coordinate with the County and SacRT" to provide the transit "assumed" in the DEIR's transportation analysis "or a cost-effective equivalent." However, the EIR fails to identify with any specificity the specific transit infrastructure that would be required to handle 3,576 daily external transit trips. Compounding this informational failure, funding for this uncertain transit plan would be by "annexation to County Service Area 10, formation of a transportation services district, or other secured funding mechanism."

An EIR may not simply label an impact significant without describing the severity of the significant impact and identifying all feasible mitigation measures to reduce it to less than significant. The DEIR's failure to adequately describe the transit plan, coupled with the uncertainty regarding its funding, renders the DEIR defective as an informational document with respect to transit impacts. Moreover, the DEIR's analysis and mitigation for transit impacts, including its vague transit plan, fails to support a finding that the Project "promotes . . . transit options that will encourage non-vehicular trips."

VI. THE DEIR FAILS TO INCLUDE A LAWFUL WATER SUPPLY ASSESSMENT FOR THE PROJECT

The project requires a water supply assessment ("WSA") pursuant to SB 610. No such WSA appears to have been prepared for the Project, much less attached to the EIR

as required by law. (Wat. Code, 10911, subd. (b).) Rather than the legally mandated WSA for the Project, the EIR includes a “water supply analysis” form prepared by the applicant’s legal counsel. This form fails to provide the information required for a legally-adequate WSA set forth in Water Code section 10910, subdivisions (d), (e), (f), and (g). Indeed, the only information in the “water supply analysis” prepared by the applicant’s counsel is information about the Project’s proposed water demand. This falls well short of the information required for a WSA. As a result, the EIR fails as an informational document regarding whether an adequate water supply is available to support the Project.

While a WSA may incorporate information from a water supplier’s urban water management plan (“UWMP”) into a project’s WSA, that was not done here. The “water supply analysis” makes no attempt to set forth information required by subdivisions (d), (e), (f) and (g), much less reference where that information is provided in the City’s UWMP.

Moreover, a WSA may incorporate a water supplier’s UWMP “[i]f the projected water demand associated with the proposed project was accounted for in the most recently adopted urban water management plan.” (Wat. Code, §10910, subd. (c)(2).) The applicant’s legal counsel checked a box asserting that the City’s UWMP accounted for the Project’s water demand. This representation is demonstrably false. Nothing in the City’s UWMP indicates that the Project’s demand was accounted for in the City’s UWMP. (See Exhibit 10, chapters 3 and 4 of the City’s UWMP.) Indeed, all evidence points to the opposite conclusion. The City’s UWMP determines its demand projections based upon a combination of its retail and wholesale demands. (Exhibit 10, pp. 3-11–3-18; 4-3–4-10.) The Project site is located outside the City’s retail service area, and so it is not a retail customer of the City. (Exhibit 10, Figure 3-1.) Moreover, the Project site is presently served by Natomas Central Mutual Water Company, which is not a wholesale customer of the City. (Exhibit 10, p. 3-18.) Since the Project site is neither a retail nor wholesale customer of the City, nothing from the City’s UWMP demonstrates that it accounted for any water demand from the Project site, much less the 4,242 AFY set forth in the applicant’s “water supply analysis.”

Implicitly acknowledging that the Project’s water demand is not “accounted for,” the City’s approval of the applicant’s “water supply analysis” engages in obfuscation, asserting, “The area addressed in this WSA *lies within an area contemplated* by the City’s 2020 Urban Water Management Plan demand forecast and within the legal boundaries of the City’s water rights entitlement.” (Exhibit 11, City staff report dated December 6, 2022, Consent Item 14, emphasis added.) That a project site (notably not the specific Project demand) is only somehow merely “contemplated”—whatever that

term may mean—is not the same as affirmatively “accounting for” a specific water demand. The same is true regarding the City’s irrelevant finding that the Project area is “within the legal boundaries” of the City’s water right. That the City may lawfully provide water to a parcel is in no way the same as demonstrating that the City affirmatively accounted for the parcel’s water demand, much less and increased water demand from a proposed (and unapproved) development project.

In short, the Project’s proposed demand of 4,242 AFY was not “accounted for” in the City’s UWMP, and so information from the UWMP may not be incorporated into a WSA for the Project—even if one had been prepared (it has not). A reviewing court will have no difficulty disapproving the County’s reliance on the false and misleading “water supply analysis” prepared by the applicant.⁸ A lawful WSA will need to be prepared for the Project along with a recirculated DEIR.

VII. THE DEIR FAILS AS AN INFORMATIONAL DOCUMENT REGARDING AIR QUALITY EMISSIONS AND RESULTING HUMAN HEALTH IMPACTS

The Project would result in significant air quality emissions and human health impacts resulting from air emissions. The DEIR fails as an informational document by not adequately disclosing such impacts. Expert comments by SWAPE are attached as Exhibit 3, incorporated by reference, and do not require repetition here.

A. The DEIR Fails to Disclose All Human Health Impacts Resulting from Acknowledged Significant Toxic Air Contaminant Emissions

The DEIR discloses that operation of the Project would result in significant cancer risk to both existing residents and future occupants of the Project. (DEIR, p. 6-49.) Indeed, the cancer risk to maximally exposed residents is greater than 44 increased cancer risks, which is more than four times the relevant significance standard of ten increased cancer risks. While this human health impact to residents is itself shocking, it unfortunately comes nowhere near to telling the whole story regarding the human health implications from the Project’s toxic air emissions (“TAC”).

⁸ While the City purported to approve the “water supply analysis” back in 2022, a legal challenge to its adequacy is not be ripe unless and until it is relied upon by the County to approve the Project. (*California Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464.)

In addition to TAC emissions, the DEIR fails as an informational document by failing to adequately address the human health impacts associated with the Project's contribution to ultrafine particulate ("UFP") emissions.

The DEIR's local transportation analysis reveals that the Project will increase auto and heavy-truck trips along I-80 and I-5, including increased vehicle queuing and resulting vehicle braking. This will exacerbate UFP emissions. (Exhibit 12 ["Very fine and ultrafine iron, nickel, copper, and zinc were identified as vehicular, with the most probable sources being brake drums and pads and the lubrication oil additive zinc thiophosphate . . . The braking systems of cars and trucks must now be considered along with direct exhaust emissions in estimating the health impacts from traffic."].) The DEIR fails as an informational document by not adequately analyzing the human health impacts of increased UFP emissions on nearby residents, including existing residents and future occupants of the Project.

The human health impacts resulting from UFP emissions are very real, and include:

- Early heart attacks from ultra-fine metals from the upwind braking,
- Increases in cancer from diesels exhaust . . .
- High rates of childhood asthma
- Rapid and permanent loss of lung function in children from ultra-fine metals, with 18 year olds having the lung function of 70 year olds.

(Exhibits 12,13,14,15.)

These health impacts, and others, are documented in several peer-reviewed technical studies. (Exhibits 12,13,14,15.) A peer-reviewed study entitled, "Prenatal Air Pollution and Newborns' Predisposition to Accelerated Biological Aging" found that mothers "with higher residential exposure to PM2.5 . . . gave birth to newborns with significantly lower telomere length [a maker for biological aging] that could not be explained by other factors." (Exhibit 14.) Another peer-reviewed study found that health impacts, including mortality, can be correlated to UFP exposure. (Exhibit 12.)

Notwithstanding the serious health impacts resulting from UFP emissions—particularly at particulate emissions giving rise to such high cancer risks—the DEIR makes no mention whatsoever of UFP emissions, much less the resulting health risk exposure. The DEIR's failure to disclose health risk from UFP emissions violates CEQA. The California Supreme Court has held that an EIR must correlate air emissions to human health effects if it is feasible to do so. (*Sierra Club v. County of Fresno* (2018))

6 Cal.5th 502 [*Sierra Club*].) *Sierra Club* addressed a challenge to an EIR's air quality discussion that, as here, simply listed various health conditions with no attempt to correlate those impacts to air emissions. The court explained:

The EIR's discussion of health impacts of the named pollutants provides only a general description of symptoms that are associated with exposure to the ozone, particulate matter (PM), carbon monoxide (CO), and nitrogen dioxide (NOx), and the discussion of health impacts regarding each type of pollutant ***is at most a few sentences of general information***. The disclosures of the health effects related to PM, CO, and sulfur dioxide ***fail to indicate the concentrations at which such pollutants would trigger the identified symptoms***.

(*Id.* at 519, emphasis added.)

The defect identified in *Sierra Club* applies with equal force here. The DEIR in *Sierra Club* at least disclosed potential health risks. Here, by contrast, human health impacts are ignored. A new DEIR will need to be prepared, and that new DEIR will need to disclose the Project's increased UFP emissions and correlate those UFP emissions to human health impacts if it is feasible to do so. If it is not feasible to correlate UFP emissions to health impacts, the DEIR must plainly state so and support that conclusion with substantial evidence.

B. The DEIR Fails to Set Forth All Feasible Mitigation for Acknowledged Human Health Impacts

As set forth above, the Project will significantly increase the risk of cancer to existing and future residents. Although exposing residents to more than four times the significance threshold for cancer risk, the DEIR purports to rely on mitigation that is ineffective rather than effective mitigation strategies.

DEIR acknowledges a significant operational health risk to existing residents located south of I-80. The only proposed mitigation is to install MERV 13 or greater air filters. The DEIR fails to explain, however, that this mitigation strategy is ineffective unless the HVAC system is actually running with all doors and windows closed. A study cited in the DEIR explains:

In the province of Ontario, building construction and equipment is regulated by NBC and the Ontario Building Code (OBC) [4], [5]. These codes establish the limiting design factors such as minimum ventilation

rates per person, minimum building envelope insulation values and guidance on use of filters for safety and fire protection purposes. Residential buildings adopting the building codes typically install Heat Recovery Ventilators (HRVs). Future revisions of NBC include possible reduction of PM2.5 using air cleaning devices in the HVAC system if the outdoor air pollution levels are above ambient threshold levels.

In addition to the above mentioned building codes, the R-2000 standard is a voluntary standard meant to exceed building code requirements, regulating and promoting high energy efficiency and improved air quality initiatives by offering incentives on retrofit and new construction. ***Typical R-2000 houses have high-efficiency heating and ventilation systems (e.g. installation of HRV and exhaust fans certified by the Home Ventilating Institute), additional insulation, and an airtight building envelope.***

(Emphasis added.)⁹

According to the DEIR's own reference material, an "airtight building envelope" is required for the air filter to actually be effective at reducing TAC exposure inside the home. This means that all doors and windows must be closed, and the HVAC must be running. Further, and importantly, the study indicates specialized high-efficiency heating and ventilation systems are required in order to obtain any benefit, and so simply installing a MERV 13 air filter into a random gas furnace as suggested by the DEIR is not effective to reduce the cancer risk. Effective mitigation would include a program to pay the costs for high-efficiency heating and ventilation systems and airtight building envelopes.

The DEIR also proposes as mitigation to "include consideration of recommendations in land use siting found in CARB's Air Quality and Land Use Handbook: A Community Health Perspective." (Mitigation Measure AQ-4a.) This is patently ineffective and unenforceable since requiring "consideration of recommendations" provides no performance standard.

With respect to the cancer impact to on-site residents, the DEIR continues to offer ineffective mitigation. While the Project application can control design and construction, the DEIR does not require residential construction to include non-opening windows, which is required for increased air filtration to be effective. Similarly, the DEIR asserts as mitigation "Prohibit siting new sensitive land uses within 500 feet of urban roads

⁹ <https://www.sciencedirect.com/science/article/abs/pii/S0360132315001171>

carrying 100,000 vehicles per pay,” and yet the Project’s site plan plainly violates this proposed mitigation measure. (See DEIR Plate PD-13, which proposes residential land uses adjacent to I-80.)

VIII. THE EIR FAILS TO ANALYZE A REASONABLE RANGE OF ALTERNATIVES

CEQA requires that lead agencies consider alternatives at two stages in the EIR process. First, a DEIR must analyze a range of reasonable alternatives to the project. (CEQA Guidelines, § 15126.6.) Later, when the agency considers whether to approve or carry out the project as proposed, it cannot do so if a feasible alternative would substantially reduce significant effects. (CEQA Guidelines, § 15092, sub. (b)(2)(A).)

To explore ways for a project to meet as many goals as possible while protecting the environment, EIRs thus must evaluate alternatives that accomplish “most” basic objectives. (CEQA Guidelines, § 15126.6 (a).) Alternatives warrant study in the EIR process if they can reduce or avoid impacts and are “potentially feasible.” (CEQA Guidelines, §§ 15126.6. subds. (a), (c), (f); *Watsonville Pilots Association v City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087 [*Watsonville Pilots*].) As to whether an EIR has analyzed an adequate range of reasonable alternatives, “[e]ach case must be evaluated on its facts . . . in light of the statutory purpose.” (*Watsonville Pilots, supra*, 183 Cal.App.4th at 1086.) The nature and scope of the alternatives to be studied are governed by the rule of reason. (CEQA Guidelines, § 15126., subd. (a).)

Feasible alternatives are allowed to “impede to some degree the attainment of the project objectives, or . . . be more costly.” (CEQA Guidelines, § 15126.6, subd. (b).) An “alternative that is potentially feasible should not be excluded from an EIR simply because it may not further all of the agency’s policy objectives.” (*Watsonville Pilots, supra*, 183 Cal.App.4th at 1087.) *Watsonville Pilots* found legal error when a draft EIR failed to evaluate a reduced development because it failed to meet two of twelve objectives: “The City’s argument on this issue is premised on its claim that no discussion of an alternative is required if that alternative would not meet a project objective. This premise is mistaken.” (*Ibid.*)

Finally, CEQA requires consideration of “alternative locations” for a project based on the answer to a “key question”:

The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or

substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

(CEQA Guidelines, § 15126.6, subd. (f)(2)(A).)

Many of the Project's unprecedented laundry list of significant and unavoidable impacts would be avoided or substantially lessened by an alternative location, i.e., one that is within the County's USB and UPA and does not consist of productive farmland that also provide habitat for special-status species. CEQA therefore requires analysis of alternative locations. Rather than comply with its legal duty to analyze offsite locations, the DEIR instead refuses to do so based on three specious arguments: (i) any alternative location would "entail either the same or new significant environmental effects as those that would occur within the UWSP area," (ii) alternative sites that "could feasibly achieve many of the project objectives [are] not available as planning applications for those lands have already been filed with the City of Sacramento and with the County of Sacramento," and (iii) an offsite alternative would not be feasible as the project applicants do not control any other properties within Sacramento County." All of these are without merit.

A. The DEIR Fails to Support Its Assertion That All Alternative Sites Would Have the Same or New Significant Impacts

The DEIR broadly asserts that any alternative location would result in the same or new significant impacts, and then purports to support that claim with a few "examples." This applies an incorrect standard because consideration of an alternative location is required if any significant impact is reduced or lessened. Here, the DEIR acknowledges that the Project would result in an incredible 29 different significant and unavoidable impacts. CEQA requires considering an alternative if any of these 29 significant impacts would be reduced. Alternative locations not consisting of prime farmland outside of the USB have reduced impacts associated with agricultural land conversion and inducing unplanned growth. These are just the impacts that are acknowledged in the DEIR. An objective analysis of the Project would disclose significant impacts associated with biological resources and land use consistency that would also be reduced by an alternative location.

Indeed, the DEIR acknowledges there are "other large vacant properties located adjacent to the City of Sacramento that could feasibly achieve many of the project objectives." (DEIR, p. 3-4.) At minimum, the DEIR must disclose and analyze these alternative locations since the DEIR acknowledges that they are potentially feasible.

B. The Existence of Otherwise Feasible Alternative Locations Demonstrates That the No Project Alternative Is Feasible

It is very rare that a “no project alternative” is also a feasible alternative. This is one of those cases. As indicated above, the DEIR acknowledges the existence of “other large vacant properties located adjacent to the City of Sacramento that could feasibly achieve many of the project objectives.” Thus, these projects satisfy the test for “potential feasibility” and must be analyzed in the DEIR. (*Watsonville Pilots, supra*, 183 Cal.App.4th at 1087.) Also, and importantly, the existence of other projects that satisfy most of the DEIR’s project objectives squarely supports the “no project” alternative as a feasible alternative. To put it simply, the DEIR’s concession that other projects will satisfy most of the DEIR’s project objectives means that the County can deny the Project and still achieve the majority of its project objectives through other developments.

Implicitly recognizing this conclusion, the DEIR asserts that these other projects do not achieve one of the Project’s objectives, but this is not the relevant standard for determining feasibility. (*Watsonville Pilots, supra*, 183 Cal.App.4th at 1087 [“alternative that is potentially feasible should not be excluded from an EIR simply because it may not further all of the agency’s policy objectives”].)¹⁰ Finally, that planning applications for these alternative locations have already been filed by developers other than Mr. Gidaro is of no consequence since CEQA does not provide guarantees to any specific developer. (*Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1179 [“Ownership of the land used and the identity of the developer are factors of lesser significance”] [*Goleta I*].) County staff made this point with clarity in 2019 by explaining, “Initiation of the Master Plan process is only the first step and is not a guarantee of approval. The County strongly cautions that the applicants proceed at their own risk.” The DEIR now unfortunately represents a dramatic departure by transparently advocating for the Project, and even relying on unlawful reasons to avoid any consideration of feasible alternatives including the no project alternative.

C. Alternative Sites May Not Lawfully Be Dismissed from Consideration Because They are Not “Controlled” by the Applicant

The DEIR’s final argument for rejecting consideration of any alternative location is that they are not “controlled” by the “project applicants.” As a threshold matter, the DEIR’s reference to “project applicants” is false and misleading since there is only one project applicant, Upper Westside, which ones merely 1.53 percent of the Project area.

¹⁰ This analysis sets aside that the referenced project objective is manipulated and impermissibly narrow as explained above.

The “participating properties” are not project applicants, and the DEIR provides nothing supporting its assertion that Mr. Gidaro controls these other properties for purposes of land development. That said, even if Mr. Gidaro actually controlled these “participating” properties, this would translate to merely 14 percent control over the 2,066-acre Project area.

In other words, Mr. Gidaro does not control the vast majority (either 98.47 percent or 86 percent) of the Project area. This is critical because the DEIR fails to explain how zero percent control makes a project infeasible whereas 1.53 percent (or 14 percent) control somehow makes a project feasible. In both instances the vast amount of contemplated development is wholly outside the control of the project applicant.

In any event, the DEIR’s reliance on “control” to dismiss alternative locations is contrary to CEQA since it is merely one consideration out of many. Although misquoted in the DEIR, the relevant CEQA Guideline explains:

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). Not one of these factors establishes a fixed limit on the scope of reasonable alternatives.

(CEQA Guidelines, § 15126.6, subd. (f)(1).) Further, caselaw rejects assertions of inability to acquire alternate locations to avoid consideration of alternative locations. (*Goleta I, supra*, 197 Cal.App.3d at 1179 [“Ownership of the land used and the identity of the developer are factors of lesser significance”].)¹¹

Finally, and importantly, allowing EIRs to dismiss consideration of alternative locations under these facts would eviscerate CEQA’s requirement to consider alternative

¹¹ While *Goleta I* was distinguished in *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, the court’s analysis was based on its finding that “in order to meet the objectives of the General Plan, the project was required to be located within a very limited geographical area.” This analysis does not apply here since the Project is admittedly inconsistent with the County’s General Plan. There is no argument that the General Plan requires Mr. Gidaro’s proposed urban development “within a very limited geographic area.”

locations. While Mr. Gidaro is free to acquire property at a discount price (precisely because the land is unsuitable for urban develop), Mr. Gidaro is not allowed to rely on his discounted land acquisition as a shield to prevent the County's DEIR from considering whether alternate locations (i.e., locations that are more appropriately zoned for urban development and therefore commanding a higher price) would result in reduced environmental impacts. This is precisely what the DEIR's alternatives analysis purports do to, and it flagrantly violates CEQA's mandate to consider alternative locations where significant impacts are associated with the proposed project's location.

The County will need to prepare a new alternatives analysis that objectively analyzes the feasibility of the no project alternative as well as alternative locations.

IX. THE DEIR FAILS TO SATISFY THE COUNTY'S DUTY TO OBJECTIVELY ASSESS THE PROJECT, ITS IMPACTS, MITIGATION MEASURES AND PROJECT ALTERNATIVES

As the CEQA lead agency for the Project, the County has a legal duty to prepare an EIR that *objectively* analyzes the Project. (*Citizens for Ceres v. Superior Court* (2013) 217 Cal.App.4th 889, 918–919 [*Ceres*].) *Ceres* provides:

It is this neutral role which could cause [the agency] to reject the project or certify an EIR supporting one of the project alternatives or calling for mitigation measures to which the applicant is opposed. The agency's unbiased evaluation of the environmental impacts of the applicant's proposal is the bedrock on which the rest of the CEQA process is based.

...

This means that the product of the agency's efforts in conducting environmental review must reveal the true impacts of the proposed project, no matter how unattractive. The agency must unblinkingly include all significant impacts in the EIR and consider them with an open mind when deciding on project approval.

...

The relationship between a lead agency and project applicant is unique. Before project approval, the agency must *objectively judge* whether the project as proposed is environmentally acceptable and therefore must make a decision about *whether* it will align itself with the applicant in part, in whole, or not at all.

(*Ceres, supra*, 217 Cal.App.4th at 918–919.)

As *Ceres* explains, an objective analysis of a Project is one that may support rejection of the Project or selection of a Project alternative. An objective analysis is not one that transparently advocates for applicant's proposed project by, as here, attempting to sweep troublesome issues under the rug or avoid consideration of feasible project alternatives.

While the law presumes the agency acts in accordance with its legal duty to be objective, the law is settled that the presumption can be overcome by evidence. Some of the DEIR's most egregious violations of CEQA described above—ignoring General Plan Policy LU-127, ignoring the Project's impact on existing habitat conservation plans, reliance on lack of applicant "control" to justify dismissing alternative locations, falsely asserting that expansion of the USB is necessary to accommodate the County's share of future population growth—strongly suggest the DEIR was not prepared to advance the County's duty to objectively analyze the Project but rather to promote the Project and avoid consideration of alternatives.

* * *

The DEIR is fundamentally flawed as an informational document. An entirely new DEIR will need to be prepared for the Project that objectively analyzes the Project's significant impacts, mitigation measures and a reasonable range of alternatives.

Thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

Attachments:

- Exhibit 1 Comments from Shawn Smallwood, PhD
- Exhibit 2 Comments from Dan Smith, Smith Engineering & Management
- Exhibit 3 Comments from SWAPE
- Exhibit 4 Upper Westside, LLC Articles of Incorporation
- Exhibit 5 Property Details for Applicant's Property

- Exhibit 6 Upper Westside, LLC's Statement of Information
- Exhibit 7 Secretary of State Entry Database Entry for Upper Westside, LLC
- Exhibit 8 County Website regarding Natomas Joint Vision
- Exhibit 9 Recommended Action of the Office of Planning and Environmental Review to the Sacramento County Board of Supervisors for the meeting agenda for February 26, 2019
- Exhibit 10 City of Sacramento's Urban Water Management Plan, Chapters 3, 4
- Exhibit 11 City staff report dated December 6, 2022, Consent Item 14
- Exhibit 12 Cahill, T. A., Barnes, D. E., Spada, N. J., Lawton, J. A., and Cahill, T. M. (2010). Very Fine and Ultra-Fine Metals and Ischemic Heart Disease in the California Central Valley 1: 2003-2007. *Aerosol Sci. Technol.*, 45:1123-1134.
- Exhibit 13 Cahill, T. A., Barnes, D. E., Withycombe, E., and Watnik, M. (2010). Very Fine and Ultra-Fine Metals and Ischemic Heart Disease in the California Central Valley 2: 1-74-1991. *Aerosol Sci. Technol.*, 45:1135-1142.
- Exhibit 14 Martens D.S., Cox B, Janssen, B.G., Clemente, D., Gasparrini, A., Vanpoucke, C, Lefebvre, W., Roles, H.A., Plusquin, M., Nawrot, T. S. (2017). Prenatal Air Pollution and Newborns' Predisposition to Accelerated Biological Aging. *JAMA Pediatr.*, 171(12):1160-1167.
- Exhibit 15 Cahill, T. A., Barnes, D. E., Lawton, J.A., Miller, R., Nicholas, S., Willis, R.D., Kimbrough, S. (2016). Transition metals in coarse, fine, very fine and ultra-fine particles from an interstate highway transect near Detroit. *Atmos. Environ.*, 145:158-175.



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October 30, 2024

Julie Newton
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Subject: Upper Westside Specific Plan
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH No. 2020100069

Dear Julie Newton:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DEIR from Sacramento County for the Upper Westside Specific Plan (Project) pursuant to the California Environmental Quality Act (CEQA) statute and guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located in unincorporated Sacramento County adjacent to the existing City of Sacramento communities of North and South Natomas. The Upper Westside Specific Plan (UWSP) area is bounded by Fisherman's Lake Slough to the north, the West Drainage Canal (Witter Canal) to the east, I-80 to the south, and Garden Highway to the west.

The Project consists of construction of a new development on 2,066 acres of unincorporated land in northwestern Sacramento County. The UWSP would provide a mix of residential and non-residential land uses to accommodate 9,356 housing units with a mixture of densities that support all population segments, and over 3 million square feet of commercial, retail, and office uses that serve the community's needs. Key features of the UWSP would include a mixed-use Town Center, 10 active parks, and an extensive system of greenbelts and multi-use trails with linkages to downtown Sacramento. Development would be limited to a 1,532-acre Development Area while the remaining 534 acres would serve as an agricultural buffer (Ag Buffer) along the western edge of the UWSP area.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Sacramento County (the County) in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

CDFW is primarily concerned with the Project impacts to the West Drainage Canal, agricultural land, nesting birds, burrowing owl (BUOW), Swainson's hawk (SWHA), and their habitats.

COMMENT 1: Cumulative Agricultural Land Loss and Covered Species Habitat Loss, Conversion of Farmland to Nonagricultural Uses and Conflict with Natomas Basin HCP and Metro Air Park HCP, page numbers 5-20 to 5-23, 7-76 to 7-84

Issue: The Project is near the boundaries of the Natomas Basin Habitat Conservation Plan (NBHCP) Area and Metro Air Park Habitat Conservation Plan (MAP HCP) Area. CEQA

Guidelines section 15125(d) states that EIRs must discuss any inconsistencies between projects and applicable plans (including habitat conservation plans/natural community conservation plans). The HCPs anticipate a certain amount of acreage to sustain the agricultural land that Covered Species can utilize for habitat (foraging, nesting, dispersal, cover, etc.). Since the HCPs' implementation, projects in the Natomas Basin have resulted in a decrease in the amount of agricultural land available to Covered Species. CDFW is concerned that this Project will further contribute to the habitat loss and a reduction in the effectiveness of the NBHCP's Conservation Strategy. When the NBHCP was first implemented in 2003 it was anticipated that 15,095 acres of agricultural land would remain, specifically as buffers for habitat reserves and supporting ecological functions of the Covered Species that rely on agricultural resources (Natomas Basin Habitat Conservation Plan, Page IV-11 through Page IV-13). However, agricultural land remaining for Covered Species has decreased since the NBHCP was adopted, through projects such as Greenbriar (1041 acres) and the Sacramento Area Flood Control Agency Natomas Levee Improvement Project (1600 acres). Further development projects under consideration, including this Project, Airport South Industrial Project (353.5 acres), and Grandpark (5676 acres) will further decrease the remaining agricultural lands. CDFW is concerned that further agricultural land loss will contribute to significant cumulative impacts to biological resources and will make maintaining 15,095 acres of agricultural land, as described in the NBHCP, unreachable.

Recommendation or Recommended Mitigation Measure: To identify any potential inconsistencies with the NBHCP and MAP HCP, CDFW recommends that the DEIR analyze Project related impacts from developing up to 1532 acres within areas anticipated to remain in agricultural uses and providing available habitat for NBHCP and MAP HCP Covered Species. CDFW also recommends the DEIR discuss the persistence of the NBHCP and MAP HCP Covered Species, critical for the success of both plans, including what actions are needed to sustain the appropriate levels of habitat to support all Covered Species within the NBHCP and MAP HCP boundaries. Additionally, CDFW recommends the DEIR include a discussion on how the County will ensure that implementation of the Project will not impede the NBHCP and MAP HCP's biological goals and measurable objectives as it relates to agricultural lands.

COMMENT 2: Conservation Strategy for Upland Habitat, Page 7-84

Issue: The NBHCP conservation strategy for upland habitat is to avoid development in the Swainson's Hawk Zone (SHZ) (and to preserve upland habitat within and outside of the Swainson's Hawk Zone). The SHZ encompasses undeveloped land in the Natomas Basin that is within 1 mile of the inside toe of the levee along the Sacramento River from the Natomas Cross Canal south to Interstate 80. The SHZ was derived from the high density of Swainson's hawk nests within this area and scientific evidence for the value of the habitat (NBHCP 2003). The NBHCP recognizes the importance of the SHZ to this species and the viability of their plan which resulted in substantial effort from the City of Sacramento and Sutter County to replan development outside of this area. Replanning efforts in the SHZ have been vital to preserve the area's ecological value and the overall goals of the NBHCP, despite the associated economic and political opportunity costs. The

NBHCP states that the “greatest impact of urban development on the Swainson’s hawk in the Natomas Basin would occur if significant portions of the Swainson’s Hawk Zone were developed.” CEQA Guidelines section 15125(d) states that EIRs must discuss any inconsistencies between projects and applicable plans (including habitat conservation plans/natural community conservation plans). The UWSP describes 975 acres of permanent habitat impacts within the SHZ, which is inconsistent with the NBHCP and therefore potentially significant as analyzed in the DEIR.

Mitigation Measure BR-7b of the DEIR proposes to minimize any potential conflict with this NBHCP strategy through applying a higher mitigation ratio (1:1) for conservation of Swainson’s hawk foraging habitat than proposed in the NBHCP (0.5:1); however, the NBHCP does not propose *any* additional development (and subsequent mitigation) within this area because of its ecological value, so only providing a comparison of the ratios without further analysis does not justify mitigation to a level of less than significant. At a 1:1 ratio, the current Mitigation Measure BR-7b will incur a net loss of available habitat for Swainson’s hawk in addition to the loss of a highly productive area within the SHZ.

Recommendation or Recommended Mitigation Measure: CDFW recommends to further analyze the impact to the SHZ by providing further discussion on the Project’s 1) biological impact in an ecologically valuable area; 2) the effect that Project development in the SHZ will have on the continued implementation and viability of the NBHCP, as well as the MAP HCP and 3) a comprehensive justification for how the mitigation proposed mitigates the impacts to a significant habitat.

COMMENT 3: Non-Special Status Migratory Bird and Raptor Survey Radius, BR-5 Avoid and Minimize Impacts on Nesting Birds, page number 7-53

Issue: The DEIR states that surveys shall be performed for the Project area, vehicle and equipment staging areas, and suitable habitat within 250 feet to locate any active passerine (perching bird) nests and within 500 feet to locate any active raptor (bird of prey) nests. CDFW believes a larger survey buffer with a minimum of 500 feet for migratory birds and 0.5-mile for raptors, as well as conducting them no more than seven (7) calendar days before construction commences would be more appropriate and protective for species that rebuild a nest quickly.

Recommendation or Recommended Mitigation Measure: CDFW recommends the DEIR describe how the considerations identified below will be implemented and incorporated into the appropriate DEIR section(s):

1. CDFW recommends the Project proponent add specific avoidance and minimization measures to the Mitigation Measures section. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, visual barriers, and buffers, where appropriate. The DEIR should include appropriate preconstruction surveys for non-listed migratory birds at a minimum radius of 500 feet (for migratory birds) and 0.5-mile (for raptors) around the Project area that can

be accessed by the Project proponent. The DEIR should include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. One example is a nest buffer radius which can be determined by monitoring the active nests and determining the distance at which the activities will disturb the nesting birds.

2. CDFW recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and Fish and Game Code. While some birds may tolerate disturbance within 500 feet of construction activities, other birds may have a different disturbance threshold and “take” could occur if the temporary disturbance buffers are not designed to reduce stress to that individual pair. It is the Project proponent's responsibility to confirm that the buffer is sufficient to avoid take/nest failure.
3. CDFW recommends a final preconstruction bird survey be required no more than seven (7) calendar days prior to the start of vegetation clearing or ground disturbance activities, as instances of nesting could be missed in earlier surveys. Monitoring of potential nesting activities in the Project area should continue, at a minimum, until the end of the avian nesting season (September 1). If a lapse in Project-related work of seven (7) calendar days or longer occurs, another focused bird survey should be completed before Project work can be reinitiated. It is the Project proponent's responsibility to comply with Fish and Game Code Sections 3503, 3503.5, and 3513, regardless of the time of year.
4. CDFW recommends that any removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat.

COMMENT 4: SWHA's Nesting Habitat Mitigation, Swainson's Hawk Mitigation Measures, page numbers 7-58 to 7-61

Issue: The DEIR lists mitigation measures for impacts to SWHA, including compensation for permanent impacts on SWHA foraging habitat (Measure BR-7b). However, there is no mitigation measure for potential impacts on SWHA nesting habitat. Recent surveys indicated that 14 Swainson's hawk nests are present within the Project area or within a 0.5-mile radius that Project activities may impact (TNBC 2019-2024, CDFW 2020-2024). The UWSP area also contains a number of mature trees that are planned to be removed by the Project which can be utilized for nesting by the SWHA. There is high likelihood that the Project may result in the take of SWHA through the removal of a nest (nesting tree) that is considered active within the last 5 years. The DEIR fails to provide a mitigation proposal for potential permanent impacts to an active SWHA nest and the measures in the DEIR (environmental training, preconstruction survey, avoidance and minimization plan, and biological monitor) are insufficient to reduce Project impacts to a less and significant level.

Recommendation or Recommended Mitigation Measure: Projects with potential impacts to active SWHA nests are required to comply with CESA. CDFW recommends that the Project proponent obtain an incident take permit (ITP) for the Project if potential take of any active SWHA nests cannot be avoided during the life of the Project. CDFW recommends the DEIR include more detailed measures for how the UWSP will mitigate for potential permanent impacts to SWHA nesting habitat before construction commences. These measures can include purchasing SWHA nesting mitigation credits from a CDFW-approved conservation bank, purchasing and placing a conservation easement on nearby biologically suitable, occupied SWHA nesting habitat, or any other method approved by CDFW. The additional measure should be incorporated into the appropriate DEIR section(s).

COMMENT 5: BUOW's CESA Protection, Burrowing Owl Mitigation Measures, page number 7-22

Issue: The BUOW is listed as a State Species of Special Concern in the DEIR. On October 10, 2024, the California Fish and Game Commission granted the western burrowing owls candidate species protections under CESA. The candidacy designation temporarily affords the BUOW broad CESA protections (including prohibitions against "take" without permit authorization) throughout the entirety of California over the next 12-18 months while CDFW conducts a species status review to confirm whether (and where) listing is warranted and to recommend management and recovery actions. Projects with potential Project impacts to the burrowing owl will now be required to comply with CESA. In the event that CDFW does confirm that listing is warranted for the BUOW in the future when the Project's construction phase is to occur and take of BUOW and its nest is unavoidable, the Project proponent will be required to comply with CESA and provide suitable mitigation for loss of nesting habitat.

Recommendation or Recommended Mitigation Measure: CDFW recommends the relevant DEIR section should be modified to note the recent CESA candidate status of the BUOW. If take of BUOW cannot be avoided, then CDFW recommends the Project proponent obtain an ITP and provide suitable mitigation that fully mitigates the Project impacts.

COMMENT 6: Streambed Alteration Agreement, Table PD-3: Subsequent Permits, Approvals, Review, and Consultation Requirements, page number 2-61

Issue: The DEIR contains a table which lists the various permits and approvals required from government agencies in order for the Project to be constructed. However, the table is missing the Streambed Alteration Agreement issued by CDFW. On page 2-55 of the DEIR, various off-site improvements are listed that may impact the West Drainage Canal. This includes the upgrades to the West Drainage Canal (Witter Canal) culvert south of the El Centro Road and Natomas Central Drive/Arena Boulevard intersection, construction of the new bike trail crossing bridge, and the levee bank reinforcement (bank armoring) for the stormwater pump discharge location. These activities will require notification for a Streambed Alteration Agreement.

Recommendation or Recommended Mitigation Measure: CDFW recommends that Table PD-3 be modified to include the Project's need for a Streambed Alteration Agreement from CDFW. CDFW also recommends the DEIR clearly state that notification for a Streambed Alteration Agreement will be required for the three Project activities listed above as well as any other activities that will impact the West Drainage Canal. The notification should include mitigation proposals for compensation to any permanent impacts to the canal which may include the purchase of suitable mitigation credits at a 3:1 replacement to loss ratio, habitat restoration/enhancement onsite or offsite, habitat connectivity enhancements (wildlife crossings), partnership with other agencies or non-profit groups on restoration projects, or other mechanisms pre-approved by CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

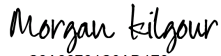
Upper Westside Specific Plan

October 30, 2024

Page 8 of 9

CDFW appreciates the opportunity to comment on the DEIR for the Upper Westside Specific Plan to assist Sacramento County in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Harvey Tran, Senior Environmental Scientist (Specialist) at (916) 358-4035 or harvey.tran@wildlife.ca.gov.

Sincerely,

DocuSigned by:

C3A86764C0AD4F6...

Morgan Kilgour
Regional Manager

ec: Dylan Wood, Senior Environmental Scientist (Supervisory)
Harvey Tran, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse, Sacramento

REFERENCES

2016 Five-year Status Review of the Swainson's Hawk (*Buteo swainsoni*) in California, California Department of Fish and Wildlife, Available at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline>

2023 Biological Effectiveness Monitoring Report for the Natomas Basin HCP Area, Available at: <https://natomasbasin.org/reports/monitoring-reports/>

RECEIVED 41

OCT 28 2024

County of Sacramento
Planning and Environmental Review

1 Edward J. Costa (in pro per)
2 6929 Larkspur Avenue
3 Citrus Heights, CA 95610
4 916-599-2986
5 tedcosta@tedcosta.com

6
7 IN THE MATTER OF UPPER WEST SIDE E.I.R.

8 DATE: October 28, 2024

9 DECLARATION OF EDWARD J. COSTA

10 I Edward J. (Ted) Costa do declare:


- 11 1. I am a trustee of the Manuel Costa Trust which owns some 20 acres of
12 property located at 3201 El Centro Rd.
- 13 2. The property was purchased by my uncle in 1917 from the Natomas Co. and
14 passed down four generations.
- 15 3. On October 21, 2024, I testified before the county Plenning Commission. I
16 told them that in my 83 years being associated and living on this property, I
17 have never seen a Swanson Hawk on the property, and challenged the
18 planning commission and county staff to tell me if they had ever seen a
19 Swanson Hawk on the property. To this date no one has responded.
- 20 4. Some people from the audience spoke up and said they had seen Swanson
21 Hawks on the Garden Highway---some one and a half miles away from my
22 property. However, others who live on the Garder Highway, testified that the
23 big trees a-long-side the river where the Swanson Hawks like to hang out
24 were being cut down.

25
26
DECLARATION OF EDWARD J. COSTA - 1

1 5. From 1966 to 1969 I worked for the Reclamation district 1000 where among
2 other things, I operated the drag line that was used to clean out the canals. In
3 so doing, I came across thousands of Giant Garden Snakes---all in the water.
4 Knowing this and studding survey research at U.C. Davis, I seriously
5 challenge the methodology used in counting Giant Garder Snakes. I will stop
6 short of saying I have never seen a Giant Garder Snakes non the property, but,
7 if so, no more than a couple, but only in the winter when the ground is wet.
8

9 I declare under penalty of perjury that the foregoing statements are true and
10 correct, and I am aware that if I present any material matter as true which I know
11 false, I may be subject to penalties under the penal code of the State of California.
12

13
14 Executed at Citrus Heights California this 28 day of October 2024
15

16
17 
18 Edward J "Ted" Costa
19
20
21
22
23
24
25
26

California Department of Transportation

DISTRICT 3
703 B STREET | MARYSVILLE, CA 95901-5556
(530) 821-8401
www.dot.ca.gov



November 6, 2024

GTS# 03-SAC-2022-01943
SCH# 2020100069

Ms. Julie Newton
Environmental Coordinator
Sacramento County
Community Development Department
827 7th Street, Room 225
Sacramento, CA 95814

PLNP2018-00284 - Upper Westside Specific Plan Draft Environmental Impact Report

Dear Ms. Newton:

Thank you for including the California Department of Transportation (Caltrans) in the review process for the project referenced above. We reviewed this local development for impacts to the State Highway System (SHS) in keeping with our mission, vision, and goals, some of which includes addressing equity, climate change, and safety, as outlined in our statewide plans such as the California Transportation Plan, Caltrans Strategic Plan, and Climate Action Plan for Transportation Infrastructure.

The project encompasses approximately 2,066 acres in the unincorporated Natomas community of Sacramento County, approximately 3.5 miles from downtown Sacramento. The Project area is bounded by Interstate 80 (I-80) to the south, the West Drainage Canal to the east, Fisherman's Lake Slough to the north, and Garden Highway to the west. The Project is located outside of the County's Urban Policy Area and Urban Services Boundary and is bounded on three sides by the City of Sacramento, bordering the communities of North and South Natomas. The Specific Plan would encompass a 1,532± acre Development Area and a 534± acre Ag Buffer Area that is located west of the Development Area, providing a transition to the Garden Highway. The Upper Westside Specific Plan, which would construct an urban, commercial mixed-use town center district near the intersection of El Centro Road and West El Camino Avenue in Sacramento County. The plan includes 9,356 residential dwelling units and 3.1 million square-feet of commercial uses, with three K-8 school sites, one high school site, and several public parks. Other amenities include trail networks, a greenbelt and urban farm corridor, and a canal system that will

encourage pedestrian and bicycle activity by providing connections between neighborhoods. Based on the Draft Environmental Impact Report (DEIR) provided, Caltrans has the following requests and recommendations:

Freeway Operations / Traffic Safety

The submittal of the DEIR includes its appendices, which contain the Transportation Impact Analysis (TIA) (Appendix TR-1), and Local Transportation Impact Analysis (LTA) (Appendix TR-2). Both documents inform the conclusions of the Transportation chapter of the DEIR (Chapter 18) and were prepared March 2022 by Fehr & Peers in accordance with the Sacramento County *Transportation Analysis Guidelines*. However, the appendices and technical calculations of the TIA and LTA were not included in the appendix of the DEIR, and therefore were not reviewed by Freeway Operations. Freeway Operations requests the technical calculations and files used for these analyses to verify their accuracy and validity.

Comments on the DEIR are as follows:

- For Plate TR-5, please include which Regional Transit routes operate/will operate along the navy path shown. Please clarify does the gold route represent the “on-site shuttle” described in the last paragraph on page 10. If so, please consider using consistent terminology between the text and the figure so it is clearer.
 - The legend includes conceptual stop locations for the gold route, but none are shown on the map. Please clarify will these be determined at a later date. If so, please consider removing or including a note that explains why they are not on the map.
 - Please include a description of the headways and hours of operation for these transit routes.
- On page 18-33, there is discussion that states that the off-ramp queue that exceeds available storage on the I-5 southbound ramp to J Street during the peak hour with the addition of the project. It argues that this is not a significant impact because the speed differential between the off-ramp queue and adjacent travel lane would be less than 30 miles per hour. Please provide technical calculations that show support this statement.
- Plate TR-8 shows a potential configuration for improvements to the I-80/West El Camino Avenue interchange. The figure includes the widening of West El Camino Avenue to 6 lanes as well as the widened intersection of West El Camino Avenue/El Centro Road.

- The West El Camino Avenue/El Centro Road intersection includes two channelized right-turn lanes on the westbound approach that would operate with free operation. Please clarify what will be done to accommodate pedestrian crossings that conflict with this movement (i.e., pedestrians on the north leg of the intersection).
- Please provide what are the safety implications of the triple left-turn lanes on the southbound approach the dual right-turn lanes on the northbound approach, and the dual right-turn lanes on the westbound approach of the West El Camino Avenue/El Centro Road intersection.
- Mitigation Measure TR-3a lists improvements on West El Camino Avenue and El Centro Road. One of these improvements is channelizing the dual westbound right-turn (WBR) lanes at the West El Camino Avenue/El Centro Road intersection. This movement will be extremely heavy with the addition of the project during peak hours and will conflict with the crosswalk that will be added to the north leg of the intersection. As mentioned previously, Freeway Operations has concerns over the safety of pedestrians using the crosswalk. Please clarify whether additional enhancements or accommodations be added to this intersection to protect pedestrians. The LTA specifically mentions grade-separated pedestrian overcrossings for the north and west legs.

Comments on Appendix TR-1, the TIA, are as follows:

- For Figure 1, the city boundary is very faint and difficult to see. Please consider revising so the boundary in the map matches the legend more closely.
- Previous comments on Plate TR-5 in the DEIR apply to Figure 5.
- On page 22, please clean up the grammar in this sentence: "By definition, one VMT occurs when a vehicle is driven one mile."
- Please refer to previous comments on Plate TR-8 from the DEIR, as they apply to Figure 11.
- Please refer to previous comments on the I-5 SB/J Street off-ramp queue exceeding available storage during the AM peak hour under Existing Plus Project conditions in the DEIR.
- For the results in Table 14, Please clarify what assumptions were made for the ramp metering at the I-80/West El Camino Avenue interchange. With these improvements, it is very likely that the HOV preferential lane (HOVPL) would be metered along with the GP lanes.
- One page 53, Mitigation TR-2 states that the Garden Highway on-ramp existing operational issue is "caused in part by Caltrans' decision to apply metering rates

of about 800 vehicles per hour (due to congestion along I-5).” These ramp meters currently operate with metering rates of 900+ vehicles per hour.

- On page 55, there is discussion of a potential sidewalk on the south side of West El Camino Avenue east of El Centro Road across the interchange. The paragraph states that this sidewalk may not be built, as pedestrians using it would encounter three on/off ramps carrying considerable levels of traffic. However, the Class I path along the north side of West El Camino Avenue would also encounter similar conflicts.

Comments on Appendix TR-2, the LTA, are as follows:

- Table ES-1 lists operational improvements that would address operational deficiencies that result from the addition of the project under Existing Plus Project conditions.
 - In Table ES-1, the improvements at the I-80/West El Camino Avenue interchange include installation of two metered lanes on the I-80 westbound (WB)/diagonal loop on-ramp. However, in Table 14 of the TIA, the ramp meter analysis assumed there would be 1 GP lane and 1 HOVPL at the West El Camino Avenue on-ramp to I-80 eastbound (EB). Please explain why this improvement is not included in Table ES-1.
 - Please explain why the improvements are described in the Mitigations TR-2, TR-3, and TR-5b from the TIA not included in Table ES-1. Some of these improvements address “operational deficiencies.”
 - These comments also apply to Table 20.
- Table ES-2 lists operational improvements that would address operational deficiencies that result from the addition of the project under Cumulative conditions.
 - In Table ES-2, the improvements at the I-80/West El Camino Avenue interchange include installation of two metered lanes on the I-80 WB/diagonal loop on-ramp. However, in Table 17 of the TIA, the ramp meter analysis assumed there would be 1 GP lane and 1 HOVPL at the West El Camino Avenue on-ramp to I-80 EB. Please explain why this improvement is not included in Table ES-2.
 - Please explain why the improvements are described in Mitigations TR-8 not included in Table ES-2 and Figure ES-1. Some of these improvements address “operational deficiencies,” such as the widening of the I-5 SB diagonal on-ramp at Del Paso Road from 1 to 2 GP lanes in order to avoid

severely over-capacity conditions along Del Paso Road and El Centro Road.

- These comments also apply to Table 23 and Figure 22.
- Please refer to previous comments on Figures 1 and 5 on the TIA, as they apply to Figures 1 and 5 of the LTA.
- Please consider including a note that the 7th Edition of the *Highway Capacity Manual* (published February 2022) was not available at the time the analysis was conducted.
- Page 38 of the LTA states that a peak hour factor (PHF) of 1.0 was applied for this analysis in accordance with current practices from City of Sacramento and Sacramento County. The effective PHF of SimTraffic is 0.98. However, it is likely that the PHF is lower than 1.0 or 0.98, so can we be certain that the conclusions around queueing for the off- and on-ramps are accurate. Please determine the PHF at/near the study interchanges so we can be informed of the difference between actual conditions and what was modeled.
- Chapter 4 (on page 83) describes the lack of land use assumptions for the redevelopment of the Sleep Train Arena area at the time of analysis. In February 2022, plans for the proposed Innovation Park were approved by the City Council of Sacramento. Please clarify whether sensitivity tests be conducted with both the Innovation Park and Upper Westside Specific Plans to determine the effects on transportation and circulation for both projects.
- On page 106, the LTA states that traffic signals were not re-optimized between Cumulative No Project and Cumulative Plus Project conditions. However, it is probably safe to assume that traffic signals would be optimized to accommodate the 2040 level of project traffic, regardless of the project is built or not.
- The description of improvements for the I-80 WB Ramps/West El Camino Avenue intersection on page 119 is confusing because the off-ramp is regarded as the westbound approach, but the intersection peak hour turning movements/lane configurations figures show it as the southbound approach. Please consider revising for consistency.
- The intersection peak hour turning movement/lane configurations diagrams for intersection 33 show 3 through lanes and 2 free right-turn lanes on the eastbound approach. However, the diagram in Figure 20 shows 2 through lanes, 1 shared through/right-turn lane, and one free-right turn lane on this approach at this intersection. However, these changes are not described or justified in the list of improvements on page 119. Please revise.

- Page 121 includes discussion of grade-separated pedestrian overcrossings for the north and west legs of the West El Camino Avenue/El Centro Road intersection. These were ultimately ruled out as design features because they did not yield improved operations in the microsimulation models and would reduce pedestrian inconvenience. Freeway Operations has a few rebuttals to these statements:
 - The microsimulation models used for this analysis were created in SimTraffic, which does not model pedestrian activity as well as other softwares such as VISSIM. The crosswalk across the WBR channelization at this intersection will conflict with over 2200 vehicles during the PM peak hour under Cumulative Plus Project conditions, that will operate with free operation. Please clarify what were the pedestrian demands assumed in the SimTraffic model, and can the consultant confirm that the pedestrians using the north leg crosswalk also used the crosswalk across the WBR channelization.
 - Furthermore, the safety implications of this set-up are not discussed, nor are the safety implications of the triple left-turn lanes on the westbound and northbound approaches as well as the dual right-turn lanes on the northbound approach.
- Please consider including more discussion as to what effect the geometric improvements on West El Camino Avenue and El Centro Road would have on Cumulative Plus Project conditions. Please include screenshots of SimTraffic, bar charts of percent demand served, etc.
- Please confirm that the dual right turn lanes on the westbound approach of West El Camino Avenue/El Centro Road Intersection is not a free operation and is signaled as is mentioned in TR-3a.

Forecasting & Modeling

In the CEQA Transportation Impact Analysis Final Report of Fehr & Peers, which is in the file titled "Upper_Westside_SP_DEIR_Appendix_Aug_2024," it says that the project will result in a net decrease in VMT. Yet, the SACOG residential VMT HEX map shows that the project's site has parcels with residential VMT that is more than 85% of that of the regional average. Similarly, some parcels of the project's site have work related VMT that is higher than 85% of that of the regional average as per the SACOG work related VMT HEX map. Please provide an explanation for the discrepancy between the results of the VMT analysis that are documented in the CEQA Transportation Impact Analysis Final Report and what the SACOG VMT HEX maps are showing.

Right of Way

As project moves forward, Caltrans requests the County show the State right of way (ROW) delineated in the site plans. Caltrans record maps for State Highway ROW can be by contacting: d3rwmaprequest@dot.ca.gov

- Caltrans recommends showing any monument preservation plans (if applicable) to identify any vulnerable survey monuments that will need to be perpetuated, as required.

Hydraulics

Upper Westside Specific Plan has large footprint that will invariably alter the drainage pattern of the area. The project's net new impervious layer may result in runoff increase in a 100-year storm event which may trigger erosion and siltation. The owner should show how these concerns will be reduced to a less than significant level on Caltrans/State's drainage facilities. Developer may be held liable for future damages due to impacts for which adequate mitigation was not undertaken or sustained.

Encroachment Permit

Any project or work, including access modification and drainage work, that takes place along or within the State's ROW requires an encroachment permit issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five sets of plans clearly indicating State ROW must be submitted to Encroachment Permits Offices as indicated below:

Hikmat Bsaibess
California Department of Transportation
District 3, Office of Permits
703 B Street
Marysville, CA 95901
D3encpermit@dot.ca.gov

Please provide our office with copies of any further actions regarding this proposal. We would appreciate the opportunity to review and comment on any changes related to this development.

Ms. Julie Newton, Environmental Coordinator
November 6, 2024
Page 8

If you have any questions regarding these comments or require additional information, please contact Satwinder Dhatt, Local Development Review Coordinator, by phone (530) 821-8261 or via email at satwinder.dhatt@dot.ca.gov.

Sincerely,



GARY ARNOLD, Branch Chief
Local Development Review and Complete Streets
Division of Planning, Local Assistance, and Sustainability
California Department of Transportation, District 3

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Attn: Julie Newton, Environmental Coordinator
County of Sacramento
Department of Community Development
Planning and Environmental Review Division
827 7th Street, Room 225 Sacramento, California 95814

25 October 2024

RE: Upper Westside Specific Plan DEIR

Dear Ms. Newton,

Having been retained by ECOS and Friends of the Swainson's Hawk, I write to comment on potentially significant impacts to biological resources from the proposed Upper Westside Specific Plan and their analysis in the Draft Environmental Impact Report (DEIR). I understand the project would add 9,356 housing units for a predicted 25,578 people (the DEIR also predicts 25,200 residents and 25,460 residents), and >3 million square feet of commercial, retail, office buildings as well as parks and greenbelts on 1,532 acres, and on another 534 acres agricultural buffer to the Sacramento River.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

To prepare my testimony, I visited the site to complete a reconnaissance survey to sample the wildlife community. On 23 October 2024, from 07:00 to 08:42 hours, I surveyed from San Juan Road, scanning for wildlife with use of binoculars. After 1 hour and 42 minutes, I relocated to Radio Road because a tractor-drawn disk assembly covered my survey area with dust. I surveyed at my second site until 10:50 hours. I recorded all species of vertebrate wildlife we detected, including those whose members flew over the site or we saw nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were clear with no wind and temperatures of 47–66° F. Most of the site is in agriculture, which is irrigated by canals and interspersed by ditches, annual grassland and small stands of trees including willows, oaks and Fremont cottonwoods (Photos 1 through 4).

I completed my survey was too late in the season for detecting Swainson’s hawks, as by October 1st the last of the local Swainson’s hawks would have departed on their annual winter migration to Mexico. However, I have seen Swainson’s hawks on the Specific Plan area many times before.



Photos 1 and 2. *Western king amid a stand of willows on the project site, 14 May 2024.*



Photos 3 and 4. Mallards on one of the water channels on the project site, 14 May 2024.

On the Specific Plan area, I observed two pairs of white-tailed kites and a peregrine falcon (Photos 5 and 6), California ground squirrels and sign of bobcat (Photos 7 and 8), coyotes (Photo 9), American kestrels and Anna’s hummingbirds (Photos 10 and 11), California scrub-jays and yellow-rumped warblers (Photos 12 and 13), Dark-eyed juncos and house finches (Photos 14 and 15), Great egrets and northern flickers (Photos 16 and 17), song sparrows and lesser goldfinches (Photos 18 and 19), white-crowned sparrows and golden-crowned sparrows (Photos 20 and 21), Lincoln’s sparrows and Nashville warbler (Photos 22 and 23), and many more species (Table 1).



Photos 5 and 6. A pair of white-tailed kites atop an oak (top) and a peregrine falcon on the hunt (right) on the Specific Plan area, 23 October 2024.





Photos 7 and 8. *California ground squirrel (L) and track of a bobcat (R) on the Specific Plan area, 23 October 2024.*



Photo 9. *One of four coyotes on the Specific Plan area, 23 October 2024.*



Photos 10 and 11. *American kestrel (L) and Anna's hummingbird (R) on the Specific Plan area, 23 October 2024.*



Photos 12 and 13. *California scrub-jay (L) and yellow-rumped warbler (R) on the Specific Plan area, 23 October 2024.*



Photos 14 and 15. *Dark-eyed junco and house finches on the Specific Plan area, 23 October 2024.*

Photos 16 and 17. Great egret and northern flicker on the Specific Plan area, 23 October 2024.



Photos 18 and 19.
*Song sparrow and
lesser goldfinch on the
Specific Plan area, 23
October 2024.*



Photos 20 and 21.
*White-crowned sparrow
and golden-crowned
sparrow on the Specific
Plan area, 23 October
2024.*



Photos 22 and 23.
Lincoln's sparrow (top)
and Nashville warbler
(bottom) on the Specific
Plan area, 23 October
2024.



Among the 73 species I detected, 17 (23%) are special-status species (Table 1), including tricolored blackbird, which is listed as Threatened under the California Endangered Species Act, white-tailed kite, which is a California Fully Protected Species. Combining my results with those of Bargas (2022) and Helix (2024), we have detected 119 species of vertebrate wildlife on the Specific Plan area, 100 of which were detected by Bargas over their 40 surveys spanning more than two years, three additional species detected by Helix and 16 more detected by myself (Table 1). Our combined 119 species include 26 special-status species, including two Threatened species under CESA.

Although I saw 73 species of vertebrate wildlife during my brief 3.83-hour survey, the species of wildlife I detected comprised only a sampling of the species that were present during our survey, as was evidenced by the Bargas and Helix surveys. Reconnaissance surveys, such as the one I completed at the project site, cannot support determinations of species' absence, but they can confirm species' presence. Such surveys can also be useful for estimating the number of species that were not detected, thereby revealing the degree to which the survey sampled the local wildlife community that was available at the time of the survey. One way to do this is to model the pattern in species detections with time into a survey. The cumulative number of species' detections increases with increasing survey time, but eventually with diminishing returns (Figure 1). In the case of my survey on the project site, the pattern in the data predicts that had I spent more time on the site, or had I help from more biologists, I would have detected 135 species of vertebrate wildlife during the morning of 23 October 2024, or 62 more species than I actually detected.

The pattern in my data also indicates that my rate of species detections at the project site far exceeded the upper bound of the 95% confidence interval I estimated from 52 surveys at other project sites that I have surveyed in the Sacramento-San Joaquin Valley since 2019 (Figure 1). In other words, wildlife species richness at the project site far exceeds the species richness my surveys indicated at other project sites in the region, despite the agricultural activities on the Specific Plan area.

The Specific Plan area supports many species of wildlife, including many more than I could detect during a brief reconnaissance survey. However, although this modeling approach is useful for more realistically representing the species richness of the site at the time of a survey, it cannot represent the species richness throughout the year or across multiple years because many species are seasonal or even multi-annual in their movement patterns and in their occupancy of habitat. I surveyed only in October, and therefore I was unlikely to see some of the species that would use the site in winter, spring or summer.

Table 1. Species of wildlife observed by Bargas during 40 surveys from March 2019 to July 2021, by Helix on 7 and 8 March 2023, and by myself (KSS) 3.83 hours on the morning of 23 October 2024.

Common name	Species name	Status ¹	Bargas	Helix	KSS	Notes
Western fence lizard	<i>Sceloporus occidentalis</i>		X			
Red-eared slider	<i>Trachemys scripta elegans</i>	Non-native	X	X		
Giant gartersnake	<i>Thamnophis gigas</i>	FT, CT	X ²			
Snow goose	<i>Anser caerulescens</i>		X			
Canada goose	<i>Branta canadensis</i>		X	X	X	Low-flying flocks
Cinnamon teal	<i>Spatula cyanoptera</i>		X			
Northern shoveler	<i>Anas clypeata</i>				X	Just off site
Gadwall	<i>Mareca strepera</i>		X			
Mallard	<i>Anas platyrhynchos</i>		X	X	X	
California quail	<i>Callipepla californica</i>		X			
Wild turkey	<i>Meleagris gallopavo</i>		X			
Ring-necked pheasant	<i>Phasianus colchicus</i>	Non-native	X			
Pied-billed grebe	<i>Podilymbus podiceps</i>		X			
Rock pigeon	<i>Columba livia</i>	Non-native	X	X	X	Hundreds
Band-tailed pigeon	<i>Patagioenas fasciata</i>				X	
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	X		X	
Mourning dove	<i>Zenaida macroura</i>		X	X	X	
White-throated swift	<i>Aeronautes saxatalis</i>		X			
Anna's hummingbird	<i>Calypte anna</i>		X		X	
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC	X			
American coot	<i>Fulica americana</i>		X		X	
Black-necked stilt	<i>Himantopus mexicanus</i>				X	Just off site
Killdeer	<i>Charadrius vociferus</i>		X		X	
Whimbrel	<i>Numenius phaeopus</i>		X			
Greater yellowlegs	<i>Tringa melanoleuca</i>				X	Just off site
Western gull	<i>Larus occidentalis</i>	BCC			X	
Double-crested cormorant	<i>Nannopterum auritum</i>	TWL	X	X	X	
American white pelican	<i>Pelicanus erythrorhynchos</i>	SSC1	X	X		
American bittern	<i>Botaurus lentiginosus</i>		X			
Great blue heron	<i>Ardea herodias</i>		X	X	X	

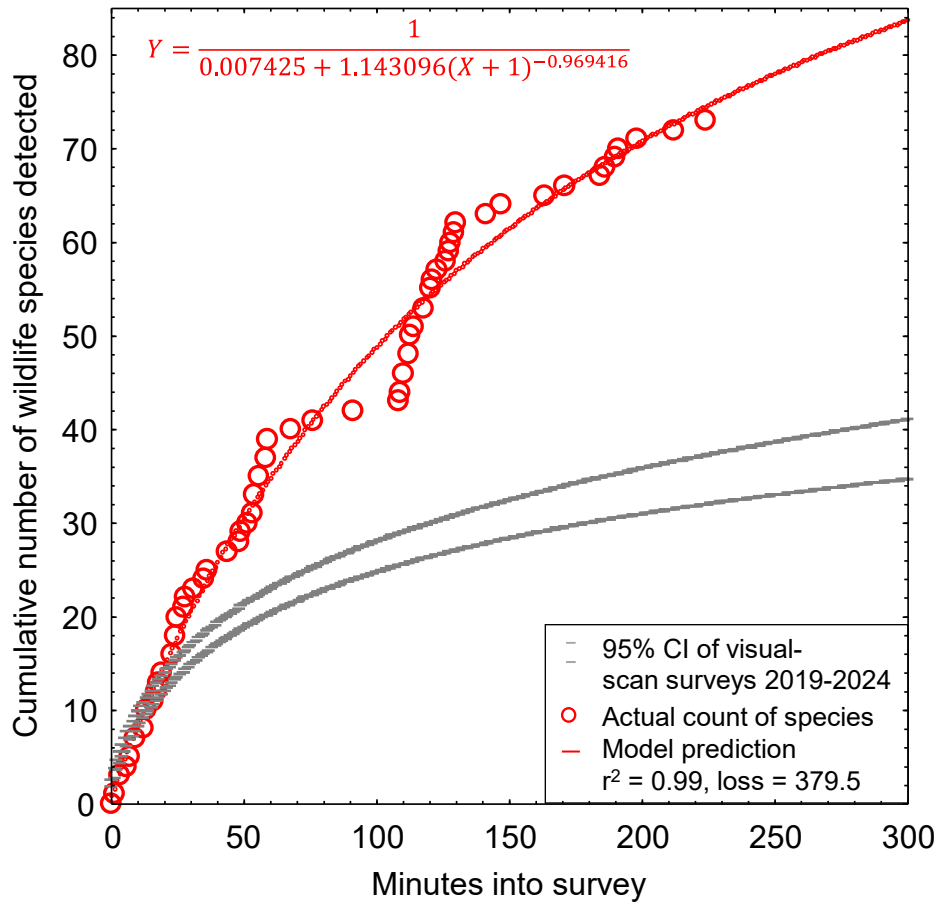
Common name	Species name	Status¹	Bargas	Helix	KSS	Notes
Great egret	<i>Ardea alba</i>		X	X	X	
Snowy egret	<i>Egretta thula</i>		X	X	X	
White-faced ibis	<i>Plegadis chihi</i>	TWL			X	
Turkey vulture	<i>Cathartes aura</i>	BOP	X	X	X	
Osprey	<i>Pandion haliaetus</i>	TWL, BOP	X	X		
White-tailed kite	<i>Elanus leucurus</i>	CFP, BOP	X		X	Two pairs
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP	X		X	Harassed by yellow-headed blackbirds
Cooper's hawk	<i>Accipiter cooperii</i>	TWL, BOP	X	X	X	
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP	X	X		
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP	X			
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	X	X	X	
Rough-legged hawk	<i>Buteo lagopus</i>	BOP	X			
Great horned owl	<i>Bubo virginianus</i>	BOP	X		X	
Belted kingfisher	<i>Ceryle alcyon</i>		X			
Acorn woodpecker	<i>Melanerpes formicivorus</i>		X	X	X	
Downy woodpecker	<i>Dryobates pubescens</i>		X			
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC	X	X	X	
Northern flicker	<i>Colaptes auratus</i>		X	X	X	
American kestrel	<i>Falco sparverius</i>	BOP	X		X	Several
Peregrine falcon	<i>Falco peregrinus</i>	BOP			X	Foraging
Prairie falcon	<i>Falco mexicanus</i>	TWL, BOP	X			
Western kingbird	<i>Tyrannus verticalis</i>		X		X	
Black phoebe	<i>Sayornis nigricans</i>		X	X	X	
Say's phoebe	<i>Sayornis saya</i>		X	X	X	
California scrub-jay	<i>Aphelocoma californica</i>		X	X	X	
Yellow-billed magpie	<i>Pica nuttalli</i>	BCC	X	X	X	
American crow	<i>Corvus brachyrhynchos</i>		X	X	X	Many
Common raven	<i>Corvus corax</i>		X	X	X	
Oak titmouse	<i>Baeolophus inornatus</i>	BCC	X	X	X	
Horned lark	<i>Eremophila alpestris</i>		X		X	Many
Tree swallow	<i>Tachycineta bicolor</i>		X	X		

Common name	Species name	Status¹	Bargas	Helix	KSS	Notes
Violet-green swallow	<i>Tachycineta thalassina</i>			X		
Northern rough-winged swallow	<i>Stelgidopteryx serripennis</i>		X			
Barn swallow	<i>Hirundo rustica</i>		X			
Cliff swallow	<i>Petrochelidon pyrrhonota</i>		X			
Bushtit	<i>Psaltriparus minimus</i>		X		X	
Ruby-crowned kinglet	<i>Regulus calendula</i>		X		X	
Golden-crowned kinglet	<i>Regulus satrapa</i>		X			
Cedar waxwing	<i>Bombycilla cedrorum</i>		X		X	
Phainopepla	<i>Phainopepla nitens</i>			X		
White-breasted nuthatch	<i>Sitta carolinensis</i>		X	X	X	
Bewick's wren	<i>Thryomanes bewickii</i>		X	X		
House wren	<i>Troglodytes aedon</i>		X			
Northern mockingbird	<i>Mimus polyglottos</i>			X	X	
European starling	<i>Sturnus vulgaris</i>	Non-native	X	X	X	
Western bluebird	<i>Sialia mexicana</i>		X	X	X	
American robin	<i>Turdus migratorius</i>		X	X		
House sparrow	<i>Passer domesticus</i>	Non-native	X		X	
American pipit	<i>Anthus rubescens</i>		X		X	
House finch	<i>Haemorphous mexicanus</i>		X	X	X	
Lesser goldfinch	<i>Spinus psaltria</i>		X	X	X	
American goldfinch	<i>Spinus tristis</i>		X		X	
Lark sparrow	<i>Chondestes grammacus</i>		X			
Dark-eyed junco	<i>Junco hyemalis</i>		X		X	
White-crowned sparrow	<i>Zonotrichia leucophrys</i>		X	X	X	Many
Golden-crowned sparrow	<i>Zonotrichia atricapilla</i>		X		X	
Savannah sparrow	<i>Passerculus sandwichensis</i>		X		X	
Modesto song sparrow	<i>Melospiza melodia</i>	SSC3	X		X	
Lincoln's sparrow	<i>Melospiza lincolni</i>		X		X	
California towhee	<i>Melozone crissalis</i>		X			
Spotted towhee	<i>Pipilo maculatus</i>		X			
Yellow-headed blackbird	<i>X. xanthocephalus</i>	SSC3	X		X	Many

Common name	Species name	Status ¹	Bargas	Helix	KSS	Notes
Western meadowlark	<i>Sturnella neglecta</i>		X	X	X	
Hooded oriole	<i>Icterus cucullatus</i>		X			
Bullock's oriole	<i>Icterus bullockii</i>	BCC	X			
Red-winged blackbird	<i>Agelaius phoeniceus</i>		X	X	X	
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1			X	Multiple small flocks
Brown-headed cowbird	<i>Molothrus ater</i>		X			
Brewer's blackbird	<i>Euphagus cyanocephalus</i>		X	X	X	
Great-tailed grackle	<i>Quiscalus mexicanus</i>		X		X	Flock
Orange-crowned warbler	<i>Oreothlypis celata</i>				X	
Nashville warbler	<i>Vermivora ruficapilla</i>				X	
Common yellowthroat	<i>Geothlypis trichas</i>		X			
Yellow warbler	<i>Setophaga petechia</i>	SSC2	X			
Yellow-rumped warbler	<i>Setophaga coronata</i>		X	X	X	Many
Black-headed grosbeak	<i>Pheucticus melanocephalus</i>		X			
Blue grosbeak	<i>Passerina caerulea</i>		X			
Black-tailed jackrabbit	<i>Lepus californicus</i>		X	X	X	
Desert cottontail	<i>Sylvilagus audubonii</i>				X	One a roadkill
Eastern fox squirrel	<i>Sciurus niger</i>		X			
California ground squirrel	<i>Otospermophilus beecheyi</i>		X		X	
Raccoon	<i>Procyon lotor</i>				X	One a roadkill
Striped skunk	<i>Mephitis mephitis</i>				X	
American mink	<i>Neovison vison</i>		X			
River otter	<i>Lontra canadensis</i>		X			
North American beaver	<i>Castor canadensis</i>		X			
Bobcat	<i>Lynx rufus</i>				X	
Coyote	<i>Canis latrans</i>				X	
Gray fox	<i>Urocyon cinereoargenteus</i>				X	

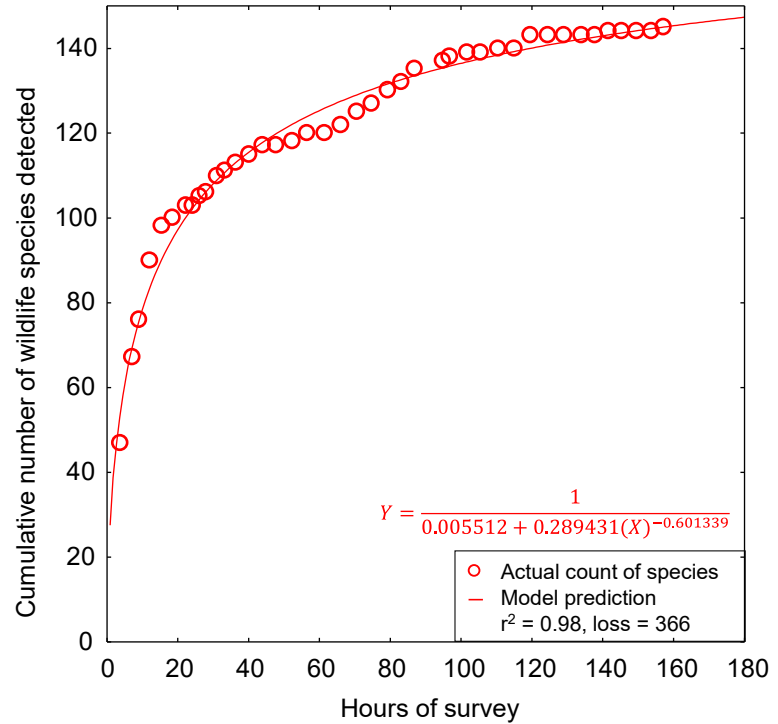
¹ Listed as FT or FE = federal threatened or endangered, CT or CE = California threatened or endangered, CFP = California Fully Protected (CFG Code 3511), SSC = California Species of Special Concern, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern with priorities 1, 2 and 3, TWL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (California Fish and Game Code 3503.5). ² Eric Hansen detected eDNA on site.

Figure 1. Actual and predicted relationships between the number of vertebrate wildlife species detected and my elapsed survey time on 23 October 2024.



At least a year’s worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the Specific Plan area, but I only my one brief diurnal survey. However, by use of an analytical bridge, a modeling effort applied to a more expansive data set from a research site can predict the number of vertebrate wildlife species that likely make use of the Upper Westside Specific Plan area over the longer term. As part of my research, I completed 41 diurnal surveys on the Kassis property in Rancho Cordova, California. I used binoculars and otherwise the methods were the same as the methods I used on the Specific Plan area. I selected the Kassis data set as the basis of an analytical bridge because the species richness I detected there in my initial survey was similar to that of the Upper Westside Specific Plan area. I tallied new species detected with each sequential survey, and then related the cumulative species detected to the hours used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey: $\hat{R} = \frac{1}{1/a+b \times (\text{Hours})^c}$, where \hat{R} represented cumulative species richness detected. The coefficient of determination, r^2 , was 0.98, indicating the model was an excellent fit to the data (Figure 2).

Figure 2. Cumulative number of species of vertebrate wildlife detected with increasing number of hours of survey at the Kassis site in Rancho Cordova, California, which was surveyed 41 times from 3 December 2020 through 27 October 2023.

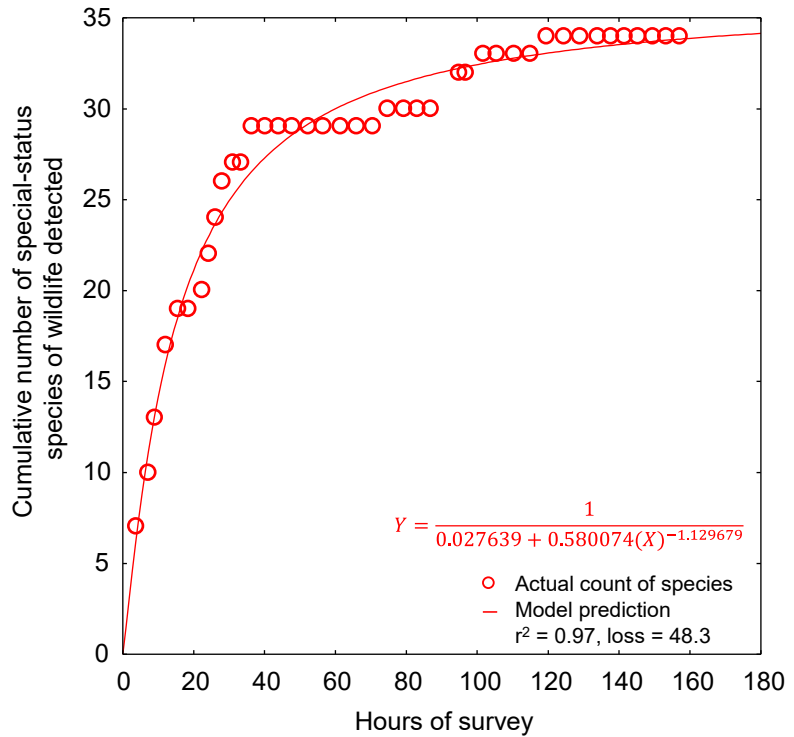


The model-predicted asymptote of species richness at the Kassis site was 180 following many more hours of visual-scan surveys than I actually completed. On average I would have detected 53.8 species over my first 3.83 hours of surveys at Kassis (3.83 hours to match the 3.83 hours I surveyed at the Upper Westside Specific Plan area during daylight), which composed 29.9% of the predicted total number of species I would detect with a much larger survey effort at Kassis. Given the example illustrated in Figure 2, the 73 species I detected after 3.83 hours of diurnal survey on the Upper Westside Specific Plan area likely represented 29.9% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, I would likely detect $73/0.299 = 244$ species of vertebrate wildlife on the Upper Westside Specific Plan area. Assuming my ratio of special-status to non-special-status species was to hold through the detections of all 244 predicted species, then continued surveys would eventually detect 54 special-status species of vertebrate wildlife.

I applied the same analytical approach to special-status species, where at Kassis I detected 34 special-status species after 157 hours across 41 surveys. The model-predicted asymptote of special-status species richness at Kassis was 36 following many more hours of visual-scan surveys than I actually completed (Figure 3). On average I would have detected 6.45 special-status species over my first 3.83 hours of surveys at Kassis (again, the 3.83 hours used here is to match the 3.83 hours I surveyed on the Upper Westside Specific Plan area), which composed 17.9% of the predicted total number of special-status species I would detect with a much larger survey effort at Kassis. Given the example illustrated in Figure 3), the 17 special-status species I detected after 3.83 hours of survey on the Upper Westside Specific Plan area likely represented 17.9% of the special-status species to be detected after many more visual-

scan surveys over another year or longer. With many more repeat surveys through the year, I would likely detect $17/0.179 = 95$ special-status species of vertebrate wildlife on the Upper Westside Specific Plan area.

Figure 3. Cumulative number of special-status species of vertebrate wildlife detected with increasing number of hours of survey at the Kassis site in Rancho Cordova, California, which was surveyed 41 times from 3 December 2020 through 27 October 2023.



Because my predictions of 244 species of vertebrate wildlife including 54 to 95 special-status species of vertebrate wildlife are derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the Upper Westside Specific Plan area must be larger. My reconnaissance survey combined with the surveys of Bargas (2022) and Helix (2024) have so far detected fewer than half of the vertebrate wildlife species that occur on the Specific Plan area, and between a third to half the number of special-status species that occur there. The wildlife community has yet to be inventoried, and therefore has yet to be accurately characterized as part of the existing environmental setting. More surveys are needed, as the wildlife community is far richer in species than depicted in Helix (2024) and the DEIR.

Known for certain is that the project Upper Westside Specific Plan area supports Swainson’s hawk and tricolored blackbird, both species of which are listed as Threatened under the California Endangered Species Act. Helix (2024) also reports the presence of the federally- and state-listed threatened giant gartersnake on the Specific Plan area. It also supports yellow warbler, which is considered by the California Department of Fish and Wildlife to be a Species of Special Concern with priority level 2. Also certainly present is Bullock’s oriole, which is listed by the U.S. Fish and Wildlife Service as a Bird of Conservation Concern. Double-crested cormorants are present, as are multiple species protected under California’s Birds of Prey statute. As my modeling

suggests, many additional special-status species use the site, but I just did not have the fortune to see them on the project site during my survey.

EXISTING ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the baseline against which to analyze potential project impacts and to formulate appropriate mitigation measures. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these required steps remain incomplete and misleading.

Environmental Setting Informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the project site or nearby, and which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

Bargas (2022) committed to a serious survey effort of the Specific Plan area, and documented the presence of multiple special-status species. It is unfortunate, however, that Bargas (2022) refers the reader to other reports that purportedly include the details of study methods. These other reports are not provided with the DEIR, so I am unable to assess the methods, which makes it very difficult to assess Bargas's findings.

Helix (2024) surveyed the Specific Plan area only on two consecutive days, and like Bargas, fails to report survey start times and survey duration, which are critical methodological details that the reader needs in order to assess the survey findings. Helix detected fewer than half the number of species detected by Bargas, but it is unreported exactly where Helix surveyed or for how long. Nonetheless, Helix (2024) detected three more species of wildlife that Bargas did not.

Although 102 species of vertebrate wildlife were detected by Bargas (2022) and Helix (2024), the DEIR does not summarize the survey findings into a coherent characterization of the wildlife community as part of the existing environmental setting. Most of the species that truly occur in the area are never mentioned, nor is the species richness or biological diversity of the area summarized. The result is an unfortunate insinuation that the Specific Plan area is of low overall value to wildlife. My survey

results indicate the opposite, which is that despite the annual disking of most of the acreage on the Specific Plan area, the area is inherently species-rich.

Environmental Setting Informed by Desktop Review

The purpose of literature and database review, and of consulting with local experts, is to inform the reconnaissance-level survey, to augment it, and to help determine which protocol-level detection surveys should be implemented. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and site conditions. This step is important because the reconnaissance surveys are not going to detect all of the species of wildlife that make use of the site. This step can identify those species yet to be detected at the site but which have been documented to occur nearby or whose available habitat associations are consistent with site conditions. Some special-status species can be ruled out of further analysis, but only if compelling evidence is available in support of such determinations.

First Bargas (2022:22) and then Helix (2024:18-19) established an initial pool of special-status species considered for inclusion in their respective analyses of occurrence based on queries of CNDDDB occurrence records. It is unclear to what spatial extent the CNDDDB queries were made, but regardless this screening step is flawed. CNDDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDDB, "The CNDDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present." And in its letter of 6 November 2020 to the County, CDFW writes, "Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the Project site." Bargas (2022), Helix (2024) and the DEIR misuse CNDDDB.

CNDDDB relies entirely on volunteer or permit reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDDB. Furthermore, CNDDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDDB than were species assigned special status since CNDDDB's inception. The lack of CNDDDB records for species only recently assigned special status would have been due to insufficient time having elapsed since the assignments. And because negative findings are not reported to CNDDDB, CNDDDB cannot provide the basis for estimating occurrence likelihoods, either. The DEIR's analysis of special-status species occurrence likelihoods is fundamentally flawed.

The DEIR is also internally inconsistent in its occurrence likelihood determinations (Table 2). Bargas (2022) analyzes the occurrence potential of only 22 species of vertebrate wildlife, whereas Helix (2024) does so for 30 species and the DEIR does so for 36 species. Bargas, Helix and the DEIR agree that five species are unlikely to occur, and they agree on four species known or suspected to be present, but determinations of occurrence likelihood vary among the other species considered. Bargas's determinations mostly comport with my analysis of occurrence records, although Bargas's determination of low likelihood of giant gartersnake occurrence does not comport with its own finding of eDNA evidence of the snake right in the middle of the Specific Plan area. Helix determines 15 species will not occur or are not expected, yet three of these are assigned moderate potential by Bargas and I saw two of these species on the Specific Plan area on October 23rd.

In my assessment of database review and site visit, 102 special-status species of wildlife are known to occur near enough to the Specific Plan area to be analyzed for potential to occur at one time or another (Table 2). Of these 102 species, 31 (30%) have been documented on the Specific Plan area (I confirmed 17 of these), and 23 (22.5%) have been documented in databases within 1.5 miles of the Specific Plan area ('Very close'), 20 (19.6%) within 1.5 and 4 miles ('Nearby'), and another 23 (22.5%) within 4 to 30 miles ('In region'). Three quarters (74) of the special-status species in Table 2 have been reportedly seen within 4 miles of the Specific Plan area. Therefore, the Specific Plan area supports multiple special-status species of wildlife, and likely supports many more.

POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how the proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. In the following I describe three types of impacts likely to result from the project, and which need to be analyzed in a revised DEIR.

INTERFERENCE WITH EXISTING HCPs

The DEIR fails to consider the need for the Natomas Basin Habitat Conservation Plan (NBHCP) to be reevaluated and new incidental take permits (ITPs) issued with a new conservation strategy. According to the DEIR (p. 7-37), "While the UWSP area is in the Natomas Basin, the County is not a participant in either the NBHCP or the MAP HCP. Therefore, the applicant (and any future applicants for buildout of the UWSP area) is not eligible for the take coverage granted by USFWS and CDFW under the NBHCP or MAP HCP. The proposed UWSP is also outside of the planned development areas of the NBHCP and MAP HCP and potential impacts resulting from development allowed under the proposed UWSP were not considered in the NBHCP." These conclusions, however, lack the analysis of whether the Specific Plan would require a reevaluation of the NBHCP. The 2003 NBHCP Implementation Agreement states, "...prior to approval of any related rezoning or pre-zoning, such future urban development shall trigger a reevaluation of the Plan and Permits, a new effects analysis, potential amendments and/or revisions to the Plan and Permits, a separate conservation strategy and issuance of Incidental Take Permits to the permittee for that additional development..."

Table 2. Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (<https://eBird.org>, <https://www.inaturalist.org>) and on-site survey findings, where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles, and ‘in range’ means the species’ geographic range overlaps the site. Entries in **Bold** identify species I detected.

Common name	Species name	Status ¹	Occurrence potential			
			Bargas 2022	Helix 2024	DEIR	Data base records, Site visits
Conservancy fairy shrimp	<i>Branchinecta conservatio</i>	FE	Absent	Won't occur	Not expected	In range
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	FT	Low	Won't occur	Low	In region
Vernal pool tadpole shrimp	<i>Lepidurus packardi</i>	FE	Absent	Won't occur	Not expected	In region
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	FT	Low	Not expected / Habitat present	Moderate	In region
Monarch	<i>Danaus plexippus</i>	FC		Won't occur		Very close
Crotch's bumble bee	<i>Bombus crotchii</i>	CCE		Won't occur	Not expected	In region
Northwestern pond turtle	<i>Emys marmorata</i>	SSC	High	May occur / Habitat present	Moderate	Very close
Giant gartersnake	<i>Thamnophis gigas</i>	FT, CT	Low	Present / Habitat present	High	On site
Brant	<i>Branta bernicla</i>	SSC ₂				In region
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL	Moderate	Won't occur	Low	Nearby
Redhead	<i>Aythya americana</i>	SSC ₂				Nearby
Barrow's goldeneye	<i>Bucephala islandica</i>	SSC				Very close
Western grebe	<i>Aechmophorus occidentalis</i>	BCC				Nearby
Clark's grebe	<i>Aechmophorus clarkii</i>	BCC				Nearby
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, CE	Absent	Won't occur	Not expected	In region
Black swift	<i>Cypseloides niger</i>	SSC ₃ , BCC				Nearby

Common name	Species name	Status ¹	Occurrence potential			
			Bargas 2022	Helix 2024	DEIR	Data base records, Site visits
Vaux's swift	<i>Chaetura vauxi</i>	SSC2				Very close
Calliope hummingbird	<i>Selasphorus calliope</i>	BCC				Very close
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC				On site
Allen's hummingbird	<i>Selasphorus sasin</i>	BCC				Nearby
Lesser sandhill crane	<i>Antigone canadensis canadensis</i>	SSC3				In region
Greater sandhill crane	<i>Antigone canadensis tabida</i>	CT, FP			Low	In region
Mountain plover	<i>Charadrius montanus</i>	SSC2, BCC		Not expected	Low	In region
Snowy plover	<i>Charadrius nivosus</i>	BCC				Nearby
Western snowy plover	<i>Charadrius n. nivosus</i>	FT, SSC	Absent	Won't occur	Not expected	In region
Long-billed curlew	<i>Numenius americanus</i>	WL				Very close
Marbled godwit	<i>Limosa fedoa</i>	BCC				Nearby
Pectoral sandpiper	<i>Calidris melanotos</i>	BCC				Nearby
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC				Very close
Lesser yellowlegs	<i>Tringa flavipes</i>	BCC				Very close
Willet	<i>Tringa semipalmata</i>	BCC				Nearby
Franklin's gull	<i>Leucophaeus pipixcan</i>	BCC				Nearby
Western gull	<i>Larus occidentalis</i>	BCC				On site
California gull	<i>Larus californicus</i>	BCC, WL				On site, ebird
California least tern	<i>Sternula antillarum browni</i>	FE, CE, FP				In region
Black tern	<i>Chlidonias niger</i>	SSC2, BCC				Nearby
Common loon	<i>Gavia immer</i>	SSC				Very close
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL		Won't occur	Not expected	On site
American white pelican	<i>Pelacanus erythrorhynchos</i>	SSC1	Present		High	On site

Common name	Species name	Status ¹	Occurrence potential			
			Bargas 2022	Helix 2024	DEIR	Data base records, Site visits
California brown pelican	<i>Pelecanus occidentalis californicus</i>	FP				In region
Least bittern	<i>Ixobrychus exilis</i>	SSC2				Very close
White-faced ibis	<i>Plegadis chihi</i>	WL	Moderate	Not expected / Habitat present	Moderate	On site ebird
Turkey vulture	<i>Cathartes aura</i>	BOP				On site
Osprey	<i>Pandion haliaetus</i>	WL, BOP		Present	Present	On site
White-tailed kite	<i>Elanus leucurus</i>	CFP, BOP	Present	High / Habitat present	High	On site
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP, WL				Very close
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP	Present	Present	Present	On site
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP				Very close
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP		Present / Habitat present	Present	On site
Bald eagle	<i>Haliaeetus leucocephalus</i>	CE, BGEPA, BOP				Very close
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP				On site
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP	Present	High / Present	High	On site
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP				On site
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP		Not expected	Low	Very close
Rough-legged hawk	<i>Buteo lagopus</i>	BOP				On site
Barn owl	<i>Tyto alba</i>	BOP				On site, eBird
Western screech-owl	<i>Megascops kennicotti</i>	BOP				Very close
Great horned owl	<i>Bubo virginianus</i>	BOP				On site
Burrowing owl	<i>Athene cunicularia</i>	BCC, SSC2, BOP	Moderate	May occur / Habitat present	Moderate	On site

Common name	Species name	Status ¹	Occurrence potential			
			Bargas 2022	Helix 2024	DEIR	Data base records, Site visits
Long-eared owl	<i>Asio otus</i>	BCC, SSC3, BOP				In region
Short-eared owl	<i>Asia flammeus</i>	BCC, SSC3, BOP				Nearby
Northern saw-whet owl	<i>Aegolius acadicus</i>	BOP				Nearby
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC				Very close
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC				On site
American kestrel	<i>Falco sparverius</i>	BOP				On site
Merlin	<i>Falco columbarius</i>	WL, BOP		Not expected	Low	Very close
Peregrine falcon	<i>Falco peregrinus</i>	BOP			Low	On site
Prairie falcon	<i>Falco mexicanus</i>	WL, BOP				On site
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2				Very close
Willow flycatcher	<i>Empidonax trailii</i>	CE				Very close
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2				Nearby
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, CE	Absent	Won't occur	Not expected	In region
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC2	High	High / Habitat present	High	Very close
Yellow-billed magpie	<i>Pica nuttalli</i>	BCC				On site
Oak titmouse	<i>Baeolophus inornatus</i>	BCC				On site
Bank swallow	<i>Riparia riparia</i>	CT	Moderate	Won't occur	Low	Very close
Purple martin	<i>Progne subis</i>	SSC2		May occur / Habitat present	Moderate	On site, eBird
Wrentit	<i>Chamaea fasciata</i>	BCC				Very close
California thrasher	<i>Toxostoma redivivum</i>	BCC				Nearby
Cassin's finch	<i>Haemorhous cassinii</i>	BCC				In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC				Nearby
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2		Won't occur	Low	Nearby

Common name	Species name	Status ¹	Occurrence potential			
			Bargas 2022	Helix 2024	DEIR	Data base records, Site visits
Modesto song sparrow	<i>Melospiza melodia mailliardi</i>	SSC3		High / Habitat present	High	On site
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC				In region
Gray-headed junco	<i>Junco hyemalis caniceps</i>	WL				In region
Oregon vesper sparrow	<i>Poocetes gramineus affinis</i>	SSC2				In range
Yellow-breasted chat	<i>Icteria virens</i>	SSC3				Very close
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC3	High	May occur / Habitat present	Moderate	On site
Bullock's oriole	<i>Icterus bullockii</i>	BCC				On site
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1	Moderate	May occur / Habitat present	Moderate	On site
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC				In region
Yellow warbler	<i>Setophaga petechia</i>	SSC2	High		High	On site
Summer tanager	<i>Piranga rubra</i>	SSC1				In region
Yuma myotis	<i>Myotis yumanensis</i>	WBWG:LM				In region
Small-footed myotis	<i>Myotis ciliolabrum</i>	WBWG: M				In range
Canyon bat	<i>Parastrellus hesperus</i>	WBWG:M				In region
Silver-haired bat	<i>Lasionycteris noctivagans</i>	WBWG:M			Low	Nearby
Hoary bat	<i>Lasiurus cinereus</i>	WBWG:M			Low	Nearby
Western red bat	<i>Lasiurus blossevillii</i>	SSC, WBWG:H				In region
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC, WBWG:H				In range
Pallid bat	<i>Antrozous pallidus</i>	SSC, WBWG:H		May occur / Habitat present	Moderate	In region
American badger	<i>Taxidea taxus</i>	SSC		Won't occur	Not expected	In region

¹ Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

The need for a reevaluation of NBHCP’s conservation strategy was recognized by Leighann Moffitt, County Planning Director, in a 26 November 2019 letter to the County Supervisors regarding PLNP2018-00284. Initiation of the Upper Westside Specific Plan Process. The County’s letter cites United States District Judge David F. Levi’s 7 September 2005 warning that “The NBHCP anticipates that development by the City and Sutter will be limited to 15,517 acres – 8,050 acres within the City [of Sacramento] and 7,467 acres in Sutter County – and provides that approval of any development beyond this limit – whether by the City and Sutter or by other entities – will trigger reevaluation and possible amendment of the plan, and could result in suspension or revocation of the City and Sutter permits.” The letter goes on to conclude that “Staff recognizes that any new development in the Natomas Basin above the 17,500 acres already approved and permitted by the Natomas Basin and Metro Air Park HCPs will require careful coordination and consideration of existing approved developments, their mitigation strategies, and the regional conservation context.” Despite this recognition of the need for NBHCP reevaluation, it appears that no such reevaluation has occurred.

The need to reevaluate the NBHCP in the face of the proposed Upper Westside Specific Plan is obvious considering the frontloading of development and the holding of only 5,185.78 acres of mitigation land in the Natomas Basin as of 2023 (see the Conservancy’s 2023 audit). The Upper Westside Specific Plan occurs within the Natomas Basin and it supports special-status species that are covered by the NBHCP’s ITP. The land of the Upper Westside Specific Plan therefore provides candidate mitigation opportunities for the NBHCP to meet its mitigation obligations.

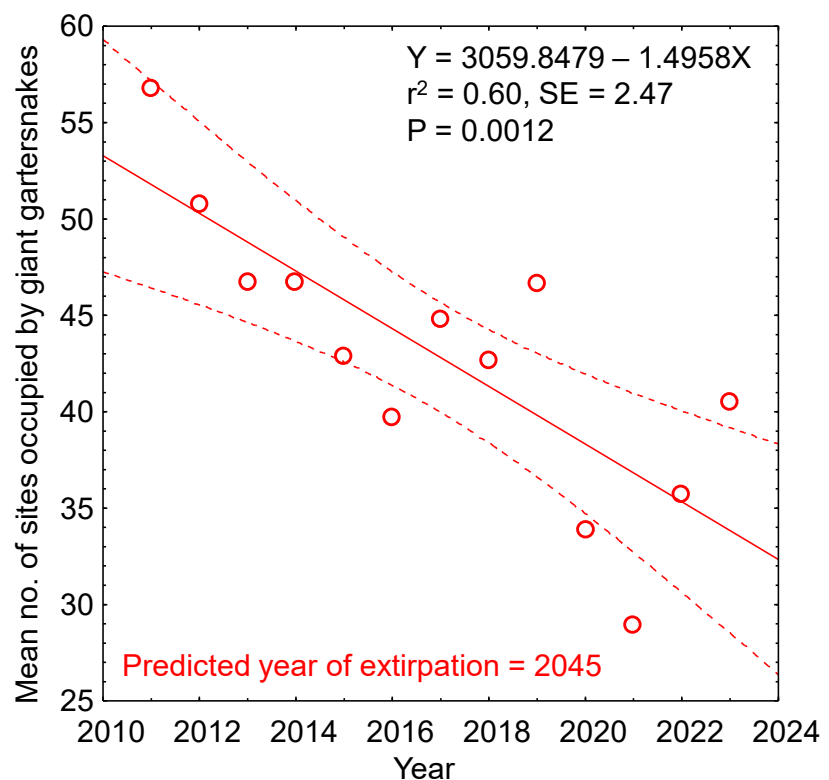
The NBHCP’s conservation strategy was not formulated with the proposed Specific Plan in mind. There was no effects analysis inclusive of the Specific Plan when the NBHCP’s conservation strategy was planned out, nor does the DEIR provide the needed effects analysis inclusive of the Specific Plan’s development of 1,532 acres and the NBHCP-planned development of 17,500 acres. This is important because the Specific Plan would degrade the existing NBHCP’s conservation strategy. Indeed, ICF (2023:3-21; <https://natomasbasin.org/wp-content/uploads/2014/05/2004-ggs-monitoring-report.pdf>) posits, “The most significant corridors spanning the Basin from north to south are the primary drainages managed by Reclamation District 1000; these include ... West Drainage Canal (including Fisherman’s Lake) ...” It is the West Drainage Canal that abuts the northern and eastern sides of the Specific Plan area. ICF (2024) identifies giant gartersnake habitat within the Specific Plan area. The Specific Plan would eliminate land that remains available for mitigation from within the Natomas Basin, and direct and indirect takings of giant gartersnake would impair the NBHCP’s conservation strategy for giant gartersnake, which according to ICF (2023) is “to create a system of reserves that contain both wetland and upland components that will support viable populations of Swainson’s hawk (*Buteo swainsoni*), giant gartersnake (*Thamnophis gigas*), and other species covered under the Plan.”

The requirements of the 2003 NBHCP Implementation Agreement must be taken seriously. As revealed by Biological Effectiveness Monitoring, there is no room for additional mistakes in the NBHCP’s conservation strategy. The covered species given highest priority in the NBHCP – giant gartersnake and Swainson’s hawk – are showing

signs of steady decline and of population stress, respectively. According to Biological Effectiveness Monitoring (ICF 2024: Figure 3-14), the probability of capture of giant gartersnakes in HCP reserves steadily declined from 2011 through 2022. Estimating a trend line through the mean probability of capture in Figure 3-14 reveals a 40% decline in only 11 years. Similarly, estimating a trend line to the mean number of monitored sites occupied by giant garter snake from 2011 through 2022 reveals a 43% decline in only 11 years (ICF 2024: Figure 3-15).¹

Because ICF (2024: Figure 3-15) did not fit a trend line to the change in indicators of giant gartersnake abundance, I fit a linear regression model to their data, specifically to the mean number of sites occupied by giant gartersnakes in the Natomas Basin (Figure 4). A model fit to the data is useful for prediction, so long as the prediction is not made too far beyond the scope of inference of the model. In this case, the model predicts that based on its current trend, giant gartersnake will be extirpated from the Natomas Basin by the year 2045, or 8 years short of the end of its permit period. It is possible, the linear pattern of decline will change. The rate of decline might slow should conditions improve for giant gartersnakes in the Natomas Basin. Alternatively, the rate of decline might accelerate if the species' habitat is lost, degraded or further fragmented by development projects such as the proposed project.

Figure 4. Mean number of sites occupied by giant gartersnakes in the Natomas Basin by year. Data source: ICF (2024).



¹ Examining the trend in relative abundance indicators since the start of monitoring in 2002 is not possible based on current reporting, because the metrics of abundance changed from density in 2002-2004 to capture probability and site occupancy in 2011-2022, and because no reports are posted for the years 2005 through 2010. Only use of a common metric would enable examination of the population trend of giant gartersnakes within the Natomas Basin from 2002 through the present.

According to Biological Effectiveness Monitoring (ICF 2024: Figure 4-7), the number of Swainson’s hawk nest sites increased steadily from 2001 through 2022, from 46 nest sites to 68 – a 48% increase. However, over the same period, the number of Swainson’s hawks fledged per successful nest declined steadily from an average of 1.79 in 1999 to 1.14 in 2022, which was a 36% decrease. These data are displayed along with a best-fit linear regression model in Figure 4-9 of ICF (2024). Projecting the linear regression model forward to 2028, the number of fledglings per successful nest is predicted to be half of what it was in 1999. According to the data, the average number of fledglings per successful nest four years from now will be only 50% of what it was 25 years ago, but nevertheless there will be more occupied territories (nest sites).

More revealing than the graphs in ICF (2024), the data collected via Biological Effectiveness Monitoring reveal an important functional relationship between Swainson’s hawk productivity and the number of successful nests within the Natomas Basin (Figure 5). Because the number of fledglings per successful nest varies much less interannually than does the number of successful nests, it is the latter that contributes most to the local Swainson’s hawk population. Even though the number of nest territories (nest sites) has increased through the period of monitoring (ICF 2024: Figure 4-7), the number of fledglings per nest site has not. This is because the annual number of successful nests relates negatively with the annual number of nests without success, especially after excluding data from the years 1999 and 2000, which are obvious outliers (Figure 6). (Data were likely collected using different methods in the outlier years.) Since the earliest years of the NBHCP, the annual number of nests without success have increased in the Natomas Basin, and have increased in variation between years (Figure 7). This increasing variation in the annual number of nests without success has resulted in increasingly greater variation in the annual number of successful nests and hence the annual variation in productivity.

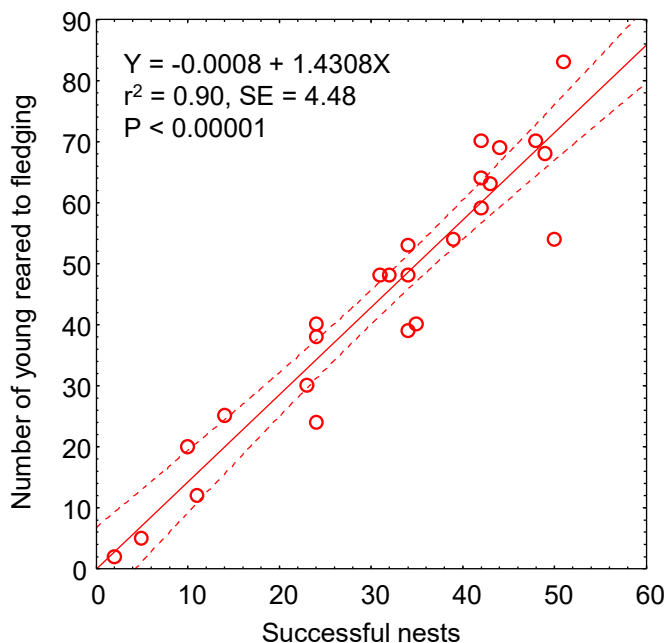


Figure 5. Annual number of Swainson’s hawk young raised to fledging regressed on the annual number of successful nests within the Natomas Basin reveals a near-constant 1.43 fledglings per successful nest. Data source: ICF (2024).

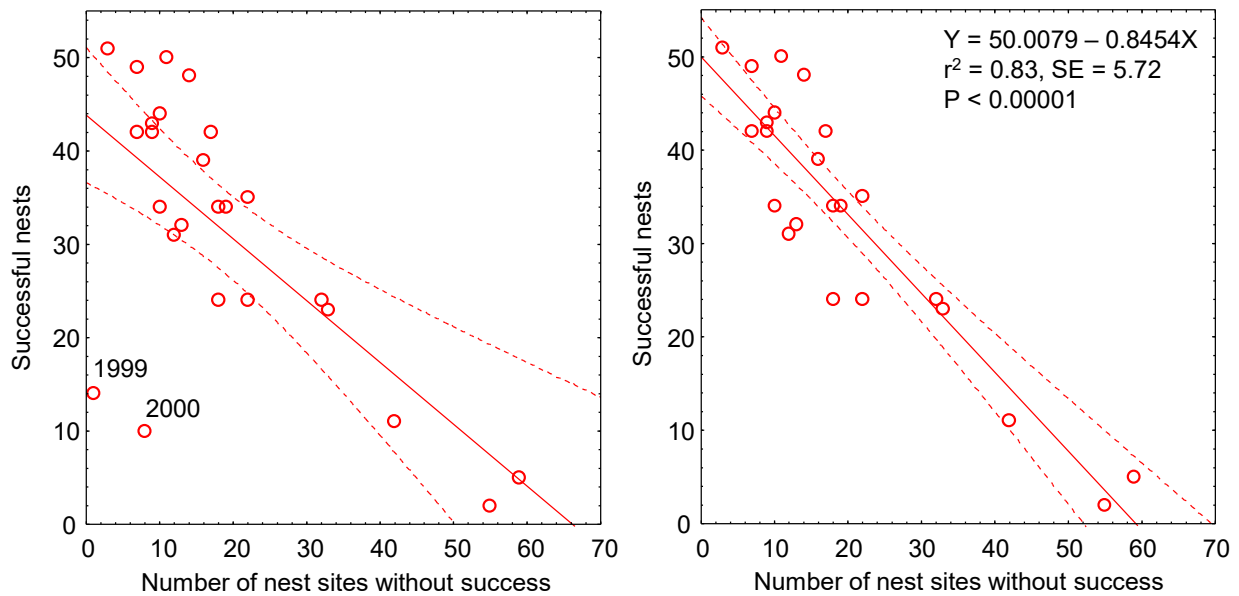
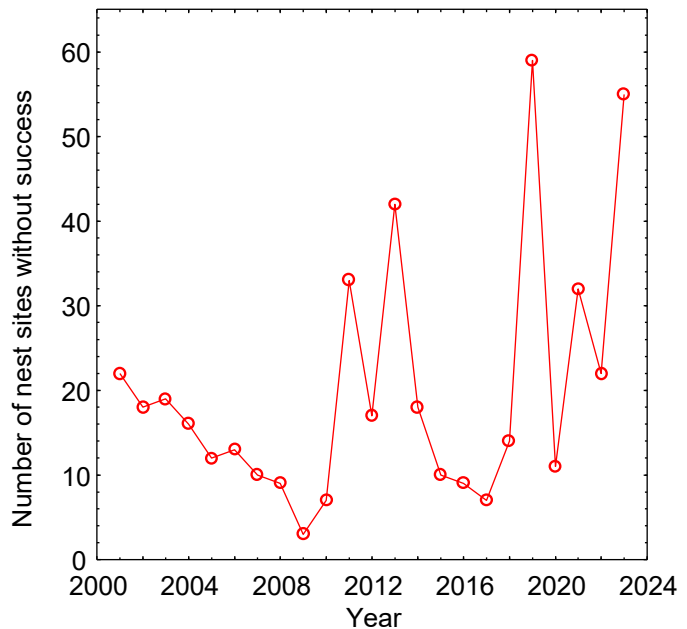


Figure 6. Annual number of Swainson’s hawk successful nests regressed on the annual number of nests without success within the Natomas Basin, including the years 1999 and 2000 (left graph) and excluding the years 1999 and 2000 (right graph). Data source: ICF (2024).

Figure 7. Annual number of Swainson’s hawk nests without success by year. Data source: ICF (2024).



The increased annual number of Swainson’s hawk nest sites reflects well on the NBHCP, but the functional relationship between the annual number of successful nests and the annual number of nests without success, and the less-varying number of fledglings per successful nest, indicate that the productive capacity of the NBHCP reserve lands has been reached, and that the number of successful nests can be suppressed by overcrowding of Swainson’s hawks of breeding age within the Natomas Basin.

Swainson's hawks maintain breeding territories, the integrity of which is more stable than is the availability of forage. In other words, even with surplus forage available on enhanced habitat, only so many breeding territories can be established within the available space to exploit the enhanced forage. With the number of breeding territories relatively fixed based on the available space, the more the number of nonbreeding adults crowded into that space, the fewer of the nest attempts will succeed because there will be a lesser share of forage to convert into fledglings. The Specific Plan would further crowd the remaining habitat in the Natomas Basin with more Swainson's hawk refugees.

I note, however, that Fleishman et al. (2016), after tracking telemetered Swainson's hawks throughout the Natomas Basin, came to a different conclusion. Fleishman et al. (2016) hypothesized that the availability of suitable nest substrate is the primary limiting factor of the Swainson's hawk population in the Natomas Basin. My argument against their hypothesis is that the number of occupied territories continued to increase since Fleishman et al. (2016) published their hypothesis, and this increase would serve to indicate there was more available nest substrate than Fleishman et al. realized, at least within the Natomas Basin. The trends in Figures 5–7 suggest to me that lands available for foraging is more limiting within the Natomas Basine, and dispersing Swainson's hawks are finding fewer opportunities for breeding outside the Natomas Basin. The Specific Plan would worsen this situation.

To more effectively conserve Swainson's hawks in the Natomas Basin, a change to the conservation strategy of the NBHCP might be warranted. Needed is more habitat within and without the Natomas Basin. Young Swainson's hawks need to be able to find breeding opportunities outside their natal areas. However, Swainson's hawks are rapidly losing breeding habitat in San Joaquin County and Yolo County, much of it to development and much of it to agricultural conversions to nut orchards and vineyards. Furthermore, changes to more intensive agricultural practices and increased efforts to poison ground squirrels are diminishing forage across large portions of the areas used by Swainson's hawks for decades.

In addition to giant gartersnake, multiple species covered by the NBHCP are showing signs of decline. According to ICF (2023), species on the decline from 2005 through 2022 include northern harrier, loggerhead shrike and burrowing owl. The trend of Pacific pond turtle is unknown because counts of turtles combine individuals of Pacific pond turtles and red-eared slider. It is also difficult to determine the trends of white-faced ibis and tricolored blackbird, partly due to inconsistent trends between metrics and partly due to lack of reported confidence intervals. I did not find any monitoring results for bank swallow, cackling goose, western spadefoot, Valley elderberry longhorn beetle, or multiple other species.

Complicating interpretation of the trends of the other covered species was the change in field methods, which shifted the seasonal weightings of survey results averaged per year. All tracts within NBHCP reserves had been surveyed once per month through 2017, but afterwards the tracts were surveyed twice per month during April through June, once per month during July and August, never more during September through November, and – but only on tracts with rice fields and wetlands – monthly during December

through February (whether surveys were completed in March is unreported). Any species more detectable in spring would have been over-represented in the years following 2017 compared to the years 2005–2017. The same was true for any species partial to rice or wetlands in winter. For example, the graphed increases in white-faced ibis and tricolored blackbird were likely due to the change in field methods (see Figures 5-8 and 5-9 in ICF 2023).

Along with the other covered species, wildlife species not covered by the NBHCP were expected to benefit from the conservation of the two umbrella species – giant gartersnake and Swainson’s hawk. However, the effectiveness monitoring suggests declines of waterfowl as a group, neotropical migrants as a group, shorebirds as a group, and yellow-billed magpie. Again, without reported confidence intervals, some of the trends are difficult to ascertain. Overall, however, very little of the monitoring data indicates the NBHCP and MAPHCP are achieving their conservation objectives. The only covered species that has substantially benefitted from the mitigation measures of the NBHCP is Swainson’s hawk, and this species has benefitted to the maximum degree that it can unless and until more reserve land is acquired and converted to habitat within the Natomas Basin, or more breeding substrate and foraging habitat becomes available in the Sacramento Valley outside the Natomas Basin.

Considering the foregoing, I concur with CDFW (6 November 2020 letter to Todd Smith, Sacramento County Planning, from Kelley Barker, California Department of Fish and Wildlife), where CDFW’s Kelley Barker writes “robust analysis of whether, in what way, and to what extent the Project may affect future implementation and the continued viability of the NBHCP and MAP HCP in the Natomas Basin is essential to the County’s informed review of the Project.” I entirely agree with Kelley Barker’s recommendations that the effects analysis should include the following:

- Persistence of NBHCP and MAP HCP Covered Species in the Natomas Basin
- Impacts to established reserve land managed by the Natomas Basin Conservancy (TNBC)
- Reduction of available reserve land in the Natomas Basin under the NBHCP and MAP HCP (with appropriate buffers and setbacks as detailed in the NBHCP)
- Reduction of ability for TNBC to establish or enhance Covered Species range and habitats in the southern Natomas Basin.
- Continued viability of the land uses in the Natomas Basin as detailed in the NBHCP and MAP HCP
- Financial impacts to TNBC and fee payers under the NBHCP and MAP HCP, including the recent action by TNBC Board of Directors and the Sacramento City Council to address related ongoing financial challenges of continuing to implement the required conservation strategy in the Natomas Basin, and
- Cumulative impact of the Project, in combination with other development in the Natomas Basin approved since 2003 that is outside of the City of Sacramento and Sutter County’s permitted area under the NBHCP (e.g., levee improvements by the Sacramento Area Flood Control Agency and the Greenbriar project).

I reiterate that the requirement of the 2003 NBHCP Implementation Agreement that a project such as the Upper Westside Specific Plan triggers a reevaluation of the original NBHCP's Plan and Permits.

PRODUCTIVE CAPACITY REDUCED BY HABITAT LOSS

Development of the Specific Plan Area would contribute substantially to habitat loss and to habitat fragmentation, which together pose serious problems to wildlife in the region. Habitat fragmentation and habitat loss have been recognized as the most likely leading causes of a documented 29% decline in overall bird abundance across North America over the last 48 years (Rosenberg et al. 2019). Habitat loss not only results in the immediate numerical decline of wildlife, but it also results in permanent loss of productive capacity. Habitat fragmentation multiplies the negative effects of habitat loss on the productive capacities of biological species by isolating habitat patches from recruitment and by leaving some patches too small to support functionally important demographic units (Smallwood 2001, 2015). None of these impacts, however, are adequately addressed in the DEIR.

In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the Specific Plan. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method is to infer productive capacity from estimates of total nest density elsewhere. Two study sites in grassland-wetland-woodland complexes had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982). However, whereas these estimates might apply to portions of the Project site, they were acquired from far away. To acquire total nest densities closer to conditions in California, I surveyed two research sites through the breeding seasons of 2023 and 2024. I surveyed in grassland, woodlands, wetlands, and thickets of blackberry, elderberry, ornamentals and fig at the two sites in east Yolo County and in Rancho Cordova. I applied total nest density estimates from ground cover types in my studies that best matched the mapped ground cover types of the Specific Plan area (Table 3). Based on these acreages, I estimate the Specific Plan area supports 11,748 nest sites (Table 3).

However, the impact does not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the Upper Westside Specific Plan would be lost with the loss of nest sites. Assuming 1.39 broods per nest site, which is the average among 322 North American bird species I asked my daughter, Noriko Smallwood, to review, I predict the project would cost California 16,330 nest attempts/year.

The average number of fledglings per nest attempt in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the Specific Plan would prevent the production of 47,356 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): $\{(nests/year \times chicks/nest \times number\ of\ years) + (2\ adults/nest \times nests/year) \times (number\ of\ years \div years/generation)\} \div (number\ of\ years) = 52,055$ birds per year denied to California

from the build-out of the Upper Westside Specific Plan. The impact of these losses of avian productivity would be significant, but they are not considered in the DEIR.

Table 3. *Estimated numbers of nests by ground cover vegetation types on the area of the Upper Westside Specific Plan.*

Cover	Acres	Nesting density	No. of nests (rounded)	Source
Annual grassland	17.31	5.08	88	1
Deciduous orchard	4.38	14.38	63	2
Vineyard	17.23	7.19	124	3
Annual field crops	681.65	1.77	1,207	4
Grain and hay (alfalfa)	792.79	2.54	2,014	5
Pasture	17.91	3.81	68	6
Ruderal	285.5	5.08	1,450	7
Urban (rural)	258.18	21.25	5,486	8
Canals	45.08	0.00	0	9
Valley oak and Fremont cottonwood	35.66	28.79	1,027	10
Created wetlands	43.62	5.08	222	11
Total	2,199.00		11,748	

- 1 K. S. Smallwood 2024 unpubl. data, Grassland/wetland complex in eastern Yolo County
- 2 K. S. Smallwood 2023 unpubl. data, walnut orchard, Rancho Cordova
- 3 Best guess half the nest density of orchard (Smallwood 2023, unpublished data)
- 4 Assumed 25% the density as in grassland
- 5 Assumed 50% the density as in grassland
- 6 Assumed 75% the density as in grassland
- 7 Assumed equal density to grassland
- 8 K. S. Smallwood 2023 unpubl. data, shrub thickets between orchard and adjacent neighborhood, including blackberries, blue elderberry and fig, Rancho Cordova
- 9 Best guess
- 10 K. S. Smallwood 2023 unpubl. data, American River riparian, Rancho Cordova
- 11 Same as 1

INTERFERENCE WITH WILDLIFE MOVEMENT IN THE REGION

One of CEQA’s principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. The DEIR devotes very little analysis to the question of whether the Specific Plan would interfere with wildlife movement in the region, limiting discussion to the Pacific Flyway’s role as a migration corridor for birds, and to the roles of canals and ditches in channeling movement of several special-status species. Other than mention of the ditches and canals, missing from the analysis is any consideration of wildlife movement within the region of the Specific Plan area. Birds fly through the local atmosphere of the Specific Plan area, and mammals walk across it.

Neither Bargas (2022) nor Helix (2024) implemented any sort of program of observation capable of characterizing movement patterns or determining how and to what degrees wildlife use the Specific Plan area for movement. No methods are described of how Bargas or Helix might have assessed the site in the field for its role in wildlife movement in the region. Other than speculation, there is no analysis. And in fact, I saw plenty of wildlife movement across the project site, mostly of birds headed north or south. I saw hundreds of blackbirds flying across the project site, including red-winged blackbirds, yellow-headed blackbirds and tricolored blackbirds. I saw hundreds of horned larks and American pipits flying across the site, as well as Canada geese, double-crested cormorants and white-faced ibises. The 119 species of wildlife detected by Bargas, Helix and myself would not have been on the Specific Plan area had their members not been able to move to it. The Specific Plan area is obviously important to wildlife movement in the region, and the project would obviously interfere with wildlife movement in the region.

Whether the Specific Plan area includes or is within a wildlife movement corridor is not the only consideration when it comes to the standard CEQA Checklist question of whether the project would interfere with wildlife movement in the region. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. In fact, a site such as the Specific Plan area is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the area for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The Specific Plan, due to its elimination of 1,532 acres of open space, would cut wildlife off from expansive stopover and staging opportunities in the Specific Plan area, forcing volant wildlife to travel even farther between remaining stopover sites. This impact would be significant, and as the project is currently proposed, it would be effectively unmitigated. In fact, the impact would be worse than usual should Phase 1 of the Specific Plan be sited in the middle of the Specific Plan area, or along the western edge of it. Such siting of Phase 1 would sever existing movement pathways, including of birds using the aerosphere (Photos 24 and 25) and of terrestrial animals moving along the ground (Photo 26). I saw nothing in the DEIR that would prevent this type of siting of Phase 1, resulting in habitat fragmentation.



Photos 24 and 25.
One of multiple flocks of Canada goose flying along the west side of the Specific Plan area (top), and one small portion of a one of multiple flocks of yellow-headed blackbirds flying north along the west-central aspect of the Specific Plan area (right), 23 October 2024.





Photo 26. *Three of four members of a coyote family on the Specific Plan area, 23 October 2024. I watched these coyotes travel north for at least 0.5 miles.*

HOUSE CAT DEPREDATION

Considering national trends, it is safe to assume that house cats would be introduced to the Upper Westside Specific Plan Area by residents of the proposed residential units. This is significant because house cats serve as one of the largest sources of avian mortality in North America (Dauphiné and Cooper 2009, Blancher 2013, Loss et al. 2013, Loyd et al. 2017). Loss et al. (2013) estimated 139 million cats in the USA in 2013 (range 114 to 164 million), which killed an estimated 16.95 billion vertebrate wildlife annually (range 7.6 to 26.3 billion). In 2012 there were 0.44 house cats per human, and 122 vertebrate animals were killed per cat, free-ranging members of which killed disproportionately larger numbers of vertebrate wildlife. The DEIR predicts there would be 25,578 new residents in the Specific Plan. The above rates of cat ownership applied to this number of new residents **would predict 11,254 new cats, which would kill 1,373,027 vertebrate wildlife per year.** Many of the wildlife fatalities caused by house cats would be in neighboring open spaces.

House cats also contribute to downstream loading of *Toxoplasma gondii*. According to a UC Davis wildlife health research program, “*Toxoplasma gondii* is a parasite that can infect virtually all warm-blooded animals, but the only known definitive hosts are cats – domesticated and feral house cats included. Cats catch the parasite through hunting rodents and birds and they offload it into the environment through their feces... and ...rain that falls on cement creates more runoff than rain that falls on natural earth, which contributes to increased runoff that can carry fecal pathogens to the sea” (<http://www.evotis.org/toxoplasma-gondii-sea-otters/>).

Impacts to wildlife from the introduction of house cats into the environment would be highly significant, and yet these impacts are not considered in the DEIR. A fair argument can be made for the need to revise the DEIR with more meaningful review of

potential impacts to wildlife due to depredation by free-ranging house cats introduced by residents of the projects in the Specific Plan. An obvious mitigation measure would be to constrain house cat ownership such as requiring cats to remain indoors.

WINDOW COLLISION MORTALITY

The Upper Westside Specific Plan would add 9,356 residential units to open space that is currently habitat to many birds. These new residences would present glass windows to birds attempting to use an essential portion of their habitat – that portion of the gaseous atmosphere that is referred to as the aerosphere (Davy et al. 2017, Diehl et al. 2017). The aerosphere is where birds and bats and other volant animals with wings migrate, disperse, forage, perform courtship and where some of them mate. Birds are some of the many types of animals that evolved wings as a morphological adaptation to thrive by moving through the medium of the aerosphere. The aerosphere is habitat. Indeed, an entire discipline of ecology has emerged to study this essential aspect of habitat – the discipline of aeroecology (Kunz et al. 2008). Many special-status species of birds have been recorded at or near the aerosphere of the Upper Westside Specific Plan area, and I saw many birds using the aerosphere while I surveyed the site. Bird-window collision mortality is a potentially significant impact that warrants analysis.

Window collisions are often characterized as either the second or third largest source of human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988 million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed Project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-

window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source, their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager et al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during

migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed Upper Westside Specific Plan would result in many collision fatalities of birds.

Bird-window impact prediction

I have reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m² of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a site of a proposed new project.

I found no information on the extent of glass windows on the proposed new residential units. I therefore relied on another source for estimating the extent of glass windows in the Upper Westside Specific Plan. I have maintained a database of the extent of glass windows relative to the extents of floor space among other projects for which I have prepared expert testimony. For 25 recently proposed California residential projects, the ratio of m² of windows to ft² of floor space was 0.017 (95% CI: 0.0088–0.0253). Assuming 2,000 sf per residential unit, the 9,356 residential units anticipated in the Upper Westside Specific Plan would total 18,712,000 sf, which multiplied against the ratio reported above would predict 318,104 m² (95% CI: 164,666–473,414 m²). Applying the mean fatality rate (above) to my estimate of 318,104 m² of glass in the Upper Westside Specific Plan, **I predict annual bird deaths of 23,253 (95% CI: 13,806–32,701)**. I could update this prediction if I was to see more details about the Specific Plan. With or without more details, however, a bird-window collision mortality of this predicted magnitude would be highly significant. My analysis, updated or not, reveals that the impacts of bird-window collision mortality would be highly significant in the Upper Westside Specific Plan. This impact is not considered in the DEIR. The DEIR

needs to be revised with a more meaningful review of potential impacts to wildlife due to collisions with windows.

ROAD COLLISION MORTALITY

The DEIR fails to consider impacts on wildlife from road collision mortality. Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project-generated traffic (Photos 27–30), including along roads far from the villages. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 27. *A coyote uses the crosswalk to cross a street and was fortunate that one driver showed the good grace to stop for it, 2 February 2023. Not all drivers stop, nor do all animals use the crosswalk. Too often, animals are injured or killed when they attempt to cross roads. Increased traffic volume increases collision risk to wildlife.*



Photo 28. A Gambel's quail dashes across a road on 3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.



Photo 29. Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.



Photo 30. Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is

needed of whether increased traffic generated by the project would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis, although it would be helpful to have the availability of more studies like that of Mendelsohn et al. (2009) at additional locations. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Animal-vehicle collision mortality prediction

The DEIR does not directly predict annual VMT, but at p. 23-8 it predicts 7,575 non-resident employees and 25,460 residents, and earlier it predicted daily VMT of 15.31 per employee and 14.34 per resident. Extended over the period of a year, these predictions would predict 175,590,422 annual VMT resulting from the project. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks $\times 2.5$ miles $\times 365$ days/year $\times 1.25$ years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the above-predicted annual VMT would predict 96,214 vertebrate wildlife fatalities per year. Even if the mortality is half this rate, it would be highly significant. Even if the mortality is a tenth of this rate, it would be highly significant.

Based on my analysis, the project-generated traffic from and within the Upper Westside Specific Plan project area would cause substantial, significant impacts to wildlife. Given the predicted level of traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. However, these impacts are not considered in the DEIR.

CUMULATIVE IMPACTS

The DEIR asserts that the Specific Plan, as well as all the other development projects within the DEIR's defined geographic scope of cumulative impacts analysis, must meet the mitigation requirements of the Sacramento County 2030 General Plan, the Endangered Species Act, and other existing regulations, permits, and requirements. The DEIR concludes that the permanent loss of habitats to various special-status species of

wildlife would be potentially significant, but implies that compliance with existing regulations would minimize cumulative impacts. Because I had seen this same argument made in CEQA reviews prepared by many of California’s Cities and Counties, I decided to test it (Smallwood and Smallwood 2023).

To measure the impacts of habitat loss to wildlife caused by development projects, and to measure cumulative impacts of development, Noriko Smallwood and I revisited 80 sites of proposed projects that we had originally surveyed in support of comments on CEQA review documents (Smallwood and Smallwood 2023). We revisited the sites to repeat the survey methods at the same time of year, the same start time in the day, and the same methods and survey duration in order to measure the effects of mitigated development on wildlife. We structured the experiment in a before-after, control-impact experimental design, as some of the sites had been developed since our initial survey and some had remained undeveloped. All of the developed sites had included mitigation measures to avoid, minimize or compensate for impacts to wildlife. Nevertheless, we found that mitigated development resulted in a 66% loss of species on site, and 48% loss of species in the project area. Counts of vertebrate animals declined 90%. We reported that “Development impacts measured by the mean number of species detected per survey were greatest for amphibians (-100%), followed by mammals (-86%), grassland birds (-75%), raptors (-53%), special-status species (-49%), all birds as a group (-48%), non-native birds (-44%), and synanthropic birds (-28%). Our results indicated that urban development substantially reduced vertebrate species richness and numerical abundance, even after richness and abundance had likely already been depleted by the cumulative effects of loss, fragmentation, and degradation of habitat in the urbanizing environment,” and despite all of the mitigation measures and existing policies and regulations.

The DEIR’s implication that existing regulations would minimize cumulative impacts is also largely inconsistent with the CEQA. According to the CEQA Guidelines §15064(h)(3), “When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project’s incremental contribution to the cumulative effect is not cumulatively considerable.” The DEIR does not explain how any of its cited laws or regulations would minimize the Specific Plan’s contributions to cumulative impacts.

The DEIR does cite its own mitigation measures as they might relate to cumulative impacts. However, a Worker Environmental Awareness Program, weed surveys, and preconstruction surveys for wildlife are not going to prevent or even minimize the Specific Plan’s contributions to cumulative impacts. The DEIR includes no specific mitigation measure to avoid, minimize or compensate for the Specific Plan’s contributions to cumulative impacts.

MITIGATION

BR-1 Pre-construction Baseline Biological Resources Report *Before the construction phase—specific development applications are deemed complete by the County, a qualified biologist shall prepare a Baseline Biological Resources Report*

documenting current land cover, land use, plant and wildlife habitat, and the locations of potential jurisdictional aquatic resources, native and non-native trees, and any other biological resources needed to reach a conclusion regarding which of the following mitigation measures are required for the specific project phase.

The baseline biological resources report is the characterization of the biological portion of the existing environmental setting that is required by the CEQA. This measure is flawed, however, by shifting the timing of the characterization of the existing environmental setting from before the public circulation of the DEIR to after FEIR certification. The CEQA never intended the characterization of the existing environmental setting to be completed by preconstruction surveys. The methods and results of preconstruction surveys would not undergo public review, as even the formulation of the survey methods are deferred until after FEIR certification. Furthermore, preconstruction surveys do not carry anywhere close to the same probabilities of detections of plant and wildlife species as do surveys designed to characterize the environmental setting for the purpose of informing the public and decision-makers in an EIR. This measure is inconsistent with the CEQA's primary objectives.

BR-2a Worker Environmental Awareness Program *All project personnel involved in ground-disturbing activities will receive a comprehensive Worker Environmental Awareness Program (WEAP) presentation on the first day on a site prior to the initiation of construction provided by a qualified biologist. ...*

I concur with the measure should the project go forward, but I must point out that its conservation benefits are far outweighed by the project's potential impacts to wildlife. BR-2a would do very little to avoid direct impacts, and would do nothing to avoid, minimize or compensate for losses of the productive capacity of the Specific Plan area to wildlife.

BR-2b Weed Control Plan *Prior to the issuance of a grading permit, the applicant for each phase of the UWSP area development shall prepare a weed control plan for review and approval by the Environmental Coordinator. ... shall only apply to UWSP properties that are within 100 feet of NBHCP and SAFCA reserve areas (e.g., the Alleghany Reserve and the Cummings Reserve) and the levee for the West Drainage Canal (Witter Canal) toe drain ...*

I concur with the measure should the project go forward, but I must point out that its conservation benefits are far outweighed by the project's potential impacts to plants and wildlife. BR-2b would do very little to avoid, minimize or compensate for weed invasions of the areas targeted for protection, which are themselves very small relative to the extent of the Specific Plan area.

BR-2c Avoid and Minimize Impacts on Rare Plant Species *Adequate measures shall be taken to avoid inadvertent take of Sanford's arrowhead (*Sagittaria sanfordii*) and other special-status plants by ... conduct[ing] a properly timed special-status plant survey ... [that] follow the CDFW Protocols for Surveying and Evaluating*

Impacts to Special Status Plan Populations and Sensitive Natural Communities (CDFW 2018) ...

Measure BR-2c misrepresents the CDFW (2018) rare plant survey guidelines as a form of preconstruction survey. Preconstruction surveys are take-avoidance surveys, and as such they are a form of mitigation. The CDFW (2018) survey guidelines are intended to guide reconnaissance surveys for rare plants, and as such they are intended to support the characterization of the existing environmental setting as part of CEQA review. The DEIR misappropriates CDFW (2018).

BR-3 Avoid, Minimize, and Compensate for Impacts on Giant Garter Snake

Project applicants shall obtain authorization for take of giant garter snake from USFWS and CDFW and implement all measures required therein to avoid, minimize, and compensate for impacts to giant garter snake. In addition, ... where construction activities will be conducted within 200 feet of aquatic giant garter snake habitat, project applicants shall: • [Implement] BR-2a, “Worker Environmental Awareness Program”); • Restrict construction activities to the giant garter snake active season; • Conduct pre-construction habitat surveys; • Dewater aquatic habitat prior to construction; • Conduct pre-construction surveys for giant garter snake presence; • Minimize vegetation clearing and avoid retained habitat; • Monitor ground-disturbing construction activities; and/or • Remove temporary fill and construction debris. To compensate for unavoidable permanent loss of aquatic giant garter snake habitat, project applicants shall either: (i) create, restore, or enhance, and preserve and manage suitable aquatic and associated upland habitat to provide giant garter snake habitat at a 1:1 or greater ratio (mitigation acreage to impact acreage), (ii) preserve and manage rice fields as habitat for giant garter snake at a 2:1 or greater ratio, and/or (iii) provide compensatory giant garter snake habitat of equal or greater ecological value as established in separate authorizations or permits by the USFWS and CDFW. Mitigation to compensate for losses of giant garter snake habitat may be fulfilled through a combination of these options, assuming minimum ratios are met. These mitigation measures are described further below. • Secure Authorization from the USFWS and CDFW for the Incidental Take of Giant Garter Snake ...

*Unless take authorizations from CDFW or USFWS require compensatory mitigation of equal or greater ecological value to giant garter snake, compensatory mitigation shall be as follows. ♣ Compensatory mitigation shall be provided through creation, preservation, and management of suitable aquatic and associated upland habitat for giant garter snake; and/or preservation and management of rice fields or other suitable aquatic habitat, as habitat for giant garter snake. ♣ Mitigation sites shall be located outside of the Natomas Basin and in the American Basin Recovery Unit as defined in the Recovery Plan for the Giant Garter Snake (*Thamnophis gigas*) (USFWS 2017a). This mitigation may be provided through: • Purchase of credits from a CDFW- and USFWS-approved conservation bank; • Payment to an existing in-lieu fee program; • Creation, restoration, or enhancement, and preservation and management of suitable aquatic and associated upland habitat for giant garter snake; or • Preservation and management of existing giant garter snake habitat through*

acquisition of fee-title or a conservation easement and funding for long-term management of giant garter snake habitat at a site. ... • The selection of mitigation site(s) shall be approved by the County in coordination with CDFW and USFWS. • The form and content of the easement, and the amount of the endowment for long-term management, shall be acceptable to the County, CDFW, and USFWS, and the easement shall prohibit any activity that substantially impairs or diminishes the land's capacity as suitable giant garter snake habitat and protect any existing water rights necessary to maintain giant garter snake habitat, in accordance with then-current water allocations and in coordination with USFWS. ... For mitigation that creates, restores, or enhances suitable aquatic and associated upland giant garter snake habitat, a restoration plan shall be developed, approved by the USFWS, CDFW, and the County.

...

The NBHCP effectiveness monitoring (ICF 2024) shows that the measures of BR-3 are not working to conserve giant gartersnakes in the Natomas Basin. The giant gartersnake is disappearing from NBHCP Reserves, and at the present rate the species will be extirpated from the Natomas Basin by 2014. Given the current trend, it is unlikely the USFWS is going to approve the Specific Plan's BR-3. BR-3 therefore presents only a speculative disposition of mitigation measures in lieu of any reevaluation of the NBHCP's conservation strategy directed to giant gartersnake.

BR-4 Avoid and Minimize Impacts on Northwestern Pond Turtle *As recommended in the Natomas Basin Habitat Conservation Plan or NBHCP, take of the northwestern pond turtle as a result of habitat destruction during construction activities, including the removal of irrigation ditches and drains, and during ditch and drain maintenance, will be minimized by the dewatering requirement described under BR-3. In addition: • For sites that contain northwestern pond turtle habitat, no more than 24 hours prior to start of construction activities (site preparation and/or grading), the project area shall be surveyed for the presence of northwestern pond turtle. ... • Clearing shall be confined to the minimal area necessary to facilitate construction activities. If a live northwestern pond turtle is found during construction activities, the biological monitor shall immediately notify USFWS and CDFW. ... The biological monitor shall also report any northwestern pond turtle mortality within one working day to USFWS. Any project-related activity that results in northwestern pond turtle mortality shall cease so that this activity can be modified to the extent practicable to avoid future mortality. ...*

Should the project go forward, this measure should be implemented. However, it does not avoid the reduction productive capacity of northwestern pond turtles that would result from habitat loss. Northwestern pond turtles require upland areas for nesting.

BR-5 Avoid and Minimize Impacts on Nesting Birds *Mitigation Measure BR-5 applies to projects that include removal of trees or vegetation, tree trimming, or use of heavy equipment (e.g., earthwork, demolition).*

Some bird species, including special-status species of some birds, are ground-nesters. Examples include northern harrier and western snowy plover. BR-5 ignores these species.

BR-5 Avoid and Minimize Impacts on Nesting Birds *A qualified wildlife biologist shall conduct pre-construction nesting surveys during the avian nesting breeding season (approximately February 1 to August 31) within 7 days prior to construction. ... If bird nests are found, an adequate no-disturbance buffer shall be established around the nest location and construction activities shall be restricted within the buffer until the qualified biologist has confirmed that any young birds have fledged and are able to leave the construction area. Required setback distances for the no-disturbance zone shall be established by the qualified biologist and may vary depending on species, line of sight between the nest and the construction activity, and the birds' sensitivity to disturbance. ...*

This mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

BR-5 Avoid and Minimize Impacts on Nesting Birds *Any birds that begin nesting within the project area and survey buffers amid construction activities shall be assumed to be habituated to construction-related or similar noise and disturbance levels and no disturbance zones shall not be established around active nests in these cases; however, should birds nesting within the project area and survey buffers amid construction activities begin to show disturbance associated with construction activities, no-disturbance buffers shall be established as determined by the qualified wildlife biologist.*

The more realistic assumption to apply to birds that begin nesting after construction activities begin is that the breeding birds are demonstrating strong nest site fidelity, which is common. This assumption can be supported by ample scientific evidence, whereas the DEIR's assumption is merely convenient to the developer and the lead agency.

BR-5 Avoid and Minimize Impacts on Nesting Birds *Any work that must occur within established no-disturbance buffers around active nests shall be monitored by a qualified biologist. If adverse effects in response to project work within the buffer are observed and the biologist determines the activities are likely to compromise the nest's success, work within the no-disturbance buffer shall halt until the nest occupants have fledged. If the qualified biologist determines that the activities are unlikely to compromise the nest's success, work can continue.*

This mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

BR-6 Avoid and Minimize Impacts on Western Burrowing Owl ... *A qualified biologist shall conduct focused burrowing owl surveys in suitable habitat in the area ... in accordance ... Appendix D of CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report), published March 7, 2012. ... If nest sites are found, CDFW shall be contacted regarding suitable mitigation measures, which may include on-site avoidance ... or implementation of a relocation effort ... Take avoidance surveys may also be conducted. ... Where on-site avoidance is not possible, disturbance and/or destruction of occupied burrows shall be offset through development of suitable habitat on upland reserves. Such habitat shall include creation of new burrows with adequate foraging area (a minimum of 6.5 acres) or 300 feet radii around the newly created burrows. Additional habitat design and mitigation measures are described in the Staff Report.*

The DEIR inaccurately characterizes breeding season detection surveys as a mitigation measure. CDFW (2012) clearly intends for these surveys to be completed in support of the preparation of the environmental review document, and not as a mitigation measure.

I must also point out that CDFW (2012) warns that burrowing owl relocations can be interpreted as a form of take. Furthermore, the DEIR identifies no candidate locations to where burrowing owls might be relocated.

Finally, following a unanimous vote of the California Fish and Game Commission, the burrowing owl is now a candidate species for listing under the California Endangered Species Act. Burrowing owls have sharply declined in the Sacramento region, and are near extirpation (Miller 2024). It is imperative that the surveys be implemented as CDFW (2012) recommends, which is prior to the circulation of the DEIR.

BR-7a Avoid and Minimize Impacts on Nesting Swainson's Hawk *Project applicants for each construction phase shall avoid, minimize, and compensate for impacts on Swainson's hawk ... If construction activities will begin during the Swainson's hawk nesting season ..., a qualified biologist shall conduct surveys in accordance with ... Swainson's Hawk Technical Advisory Committee 2000 ... If an active Swainson's hawk nest is found on or within 0.5 mile of the project footprint, a survey report shall be submitted to the County and CDFW, and an avoidance and minimization plan shall be developed and implemented ...*

Should the Specific Plan go forward, I concur with BR-7a. However, BR-7a would not prevent the permanent loss of productive capacity caused by Swainson's hawk habitat destruction. Nor would BR-7a shift the need to reevaluate the NBHCP conservation strategy. With the number of unsuccessful nests increasing in the Natomas Basin (Figure 7), the Upper Westside Specific Plan must trigger the reevaluation of the NBHCP conservation strategy.

BR-7b Compensate for Permanent Impacts on Swainson's Hawk Foraging Habitat *Compensation for the permanent loss of foraging habitat shall be determined for each development phase. ... project applicants ... shall compensate for permanent*

loss of foraging habitat through the preservation of foraging habitat ... at a ratio of at least 1:1 ... Mitigation sites shall be located outside, and within 10 miles of, the Natomas Basin ... through purchase of credits from a CDFW-approved conservation bank, or through protection of habitat, including acquisition of a conservation easement and funding long-term administration, monitoring, and enforcement of the easement.

A 1:1 mitigation ratio assures a 50% net loss of Swainson's hawk habitat and of Swainson's hawks. Additionally, BR-7b is flawed for not identifying where Swainson's hawk habitat can be found and protected within 10 miles of the Natomas Basin. Failing to show where Swainson's hawk habitat can be protected within 10 miles of the Natomas Basin calls into question whether 1,538 acres of Swainson's hawk habitat can be found and protected.

BR-8 Avoid and Minimize Impacts on Pallid Bat *A qualified biologist who is experienced with bat surveying techniques (including auditory sampling methods), behavior, roosting habitat, and identification of local bat species shall be consulted prior to building or bridge demolition, building relocation activities, or tree work to conduct a pre-construction habitat assessment of the project area (focusing on buildings to be demolished or relocated) to characterize potential bat habitat and identify potentially active roost sites. ... The following measures shall be implemented should potential roosting habitat or potentially active bat roosts be identified ...: ... initial bridge or building demolition, relocation, and any tree work (trimming or removal) shall occur when bats are active ... to the extent feasible. ... If seasonal avoidance of potential roosting habitat is infeasible, the qualified biologist shall conduct pre-construction surveys of potential bat roost sites identified during the initial habitat assessment no more than 14 days prior to bridge or building demolition or relocation, or any tree trimming or removal. ...*

There was no reason not to survey for bat activity and bat roost sites prior to the public circulation of the DEIR. Instead, the DEIR defers the surveys until after EIR certification, which is after the time when the public and decision-makers needed an accurate characterization of the wildlife community, disclosure of potential project impacts to bats, and the survey-informed formulation of mitigation measures.

Moreover, the measure fails to avoid or compensate for reduced productive capacity of bats that would result from habitat destruction.

BR-9a Avoid and Minimize Impacts on Valley Elderberry Longhorn Beetle *A pre-construction survey will be conducted by a qualified biologist prior to construction-related ground disturbance. If such a survey determines that valley elderberry longhorn beetle habitat is present, ... the County shall require ... to avoid and minimize take of individuals: ... a 100-foot wide avoidance buffer ... Compensatory mitigation for adverse effects may include the transplanting of elderberry shrubs during the dormant season ... to an area protected in perpetuity as well as required additional elderberry and associated native plantings as approved by the USFWS. ... If elderberry plants cannot be avoided, or if project activities will result*

in the death of stems or the entire shrub, they shall be transplanted during the dormant season ... to an area protected in perpetuity and approved by the USFWS. ... Replacement seedling plants will be provided at a ratio of 2 to 1 to 5 to 1 depending on the extent of valley elderberry longhorn beetle utilization of the plants moved or lost. An 1,800-square-foot area will be provided for each transplanted elderberry shrub or every five elderberry seedling plants.

In my experience, translocations of VELB-inhabited elderberry shrubs tend to fail to provide habitat to VELB (Morrison et al. 2002). The measure translocations and plants new elderberry shrubs, but not necessarily where they can support VELB. The measure also includes no monitoring of the outcome directly related to VELB, and there are no consequences for failures of translocated or planted elderberry shrubs to support VELB.

Wildlife Movement: The following measures are listed as supposed mitigation of potential project impacts to wildlife movement in the region:

BR-2a Worker Environmental Awareness Program – See Impact BR-2: Special Status Plant Species.

BR-3 Compensate for Permanent Impacts to Giant Garter Snake Habitat – See Impact BR-3: Giant Garter Snake.

BR-5 Avoid and Minimize Impacts on Nesting Birds – See Impact BR-5: Special Status Bird Species (Other Than Burrowing Owl and Swainson’s Hawk), Birds Protected by the Migratory Bird Treaty Act, and Nesting Raptors.

None of these measures would avoid, minimize or compensate for project impacts to wildlife movement in the region. None of these measures nor any other measures can mitigate such impacts without there first being some understanding of how wildlife move within and beyond the Specific Plan area.

BR-14 Conflict with Natomas Basin Hcp and Metro Air Park HCP Mitigation Measures BR-1 and BR-10a through BR-10c ... would contribute to protection of species covered under the NBHCP and MAP HCP.

As I commented on most of these mitigation measures above, BR-1 through BR-10 cannot eliminate the interference of the Specific Plan with the NBHCP. The geographic scope of the NBHCP’s conservation strategy is the entire Natomas Basin. As County Staff (Todd Smith) wrote to Scott Johnson, Senior Planner, City of Sacramento on 4 April 2022, “In the Natomas Basin, any future development not covered by an existing Habitat Conservation Plan (HCP) must obtain take authorization under the Endangered Species Act (ESA). The NBHCP along with the MAP HCP require that a total of 8,750 acres of mitigation be located within Natomas Basin and the mitigation must adhere to specific requirements of the HCP. The HCPs provide a conservation strategy for the protection of 22 covered species, and their implementation has been underway for over 20 years.” (Airport South Industrial Project Notice of Preparation of Environmental Impact Report (Project P21-017).) The County must know that BR-14 is inadequate.

RECOMMENDED MEASURES

Construction Phasing: Should the Specific Plan go forward, construction phasing should begin with land nearest existing residential or commercial uses, and it should proceed sequentially from there. The way I read the DEIR, the developer can decide at any time prior to initial construction to construct Phase 1 anywhere within the Specific Plan area. Siting Phase 1 in the middle of the Specific Plan area, or farthest to the west toward the River would disrupt wildlife movement across the Specific Plan area, and if another economic crisis was to arrive, Phase 1 could be stranded for many years or even permanently. Siting Phase 1 far from existing development would also increase wildlife-automobile collision mortality as residents drive rural roads between their homes and the City, intersecting wildlife attempting to travel across roads on the only open spaces that remain. Already, there exists considerable commuter traffic on San Juan Road, as commuters seek shortcuts around the crowded arterial roads and highways. And already there are animals dead on the road – I found a road-killed desert cottontail and raccoon on the Specific Plan area.

Preconstruction Surveys: Following the completion of protocol-level detection surveys to inform a revised DEIR, take-avoidance surveys should be performed for special-status species and breeding birds prior to construction. For the most part, these surveys are already required by the DEIR, but they need to follow properly implemented detection surveys for the purpose of informing the DEIR. Whereas Bargas (2022) performed detection surveys for giant gartersnake and Swainson's hawk, its surveys are up to five years old, and therefore are outdated and should be repeated. Lastly, a report of preconstruction surveys and their outcomes should be prepared and made available to the public.

Habitat Loss: If the Specific Plan goes forward, compensatory mitigation is warranted for the acres of habitat that would be lost. At minimum, an equal area of open space should be protected in perpetuity close to any new developments.

Substantial upland buffers are needed to protect wetland areas. I recommended at least 600 feet of clearance between the wetland features and the nearest impervious surface. Buffered areas should be restored to natural vegetation cover appropriate to the area.

Pest Control: The Specific Plan should commit to no use of rodenticides and avicides. It should commit to no placement of poison bait stations outside commercial buildings and residential units.

House Cats: If the Specific Plan goes forward, homeowners should not be allowed to let their cats range free. A fund should be established for long-term management of house cats in the Specific Plan. Management could include public education about the environmental effects of outdoor and free-ranging cats. It could also include a program to spade and neuter cats, especially free-ranging cats. It could also involve some removals of feral cats.

Minimize Bird-Window Collision Mortality: If the Project goes forward, it should adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples.

New research results inform of the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland’s Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015). For example, Feather Friendly® circular adhesive markers applied in a grid pattern across all windows reduced bird-window collision mortality by 95% in one study (Riggs et al. 2023) and by 95% in another (de Groot et al. 2021). Another study tested the efficacy of two filmshades to be applied exteriorly to windows prior to installations: BirdShades increased bird-window avoidance by 47% and Haverkamp increased avoidance by 39% (Swaddle et al. 2023).

Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision mortality to zero. The only way to assess mitigation efficacy and to quantify post-construction fatalities is to monitor newly constructed buildings or homes for fatalities.

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by regional road traffic generated by the Specific Plan. I suggest that this mitigation be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments.

Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with automobiles and windows and by depredation attempts by house cats and dogs.

Landscaping: If the Project goes forward, California native plant landscaping (i.e., grassland and locally appropriate scrub plants) should be considered to be used as opposed to landscaping with lawn and exotic shrubs and trees. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn and ornamental trees. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threatened insects require native host plants for reproduction and migration, e.g., monarch butterfly. Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al. 2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your consideration,



Shawn Smallwood, Ph.D.

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