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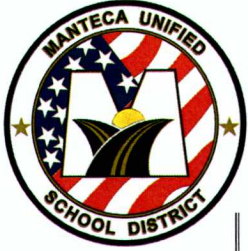
VIA E-MAIL (TMTUNGA@CI.MANTECA.CI.US) & HAND-DELIVERY

Tendai Mtunga
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Re: Rebuttal to Responses to Comments on the Proposed Mitigated Negative
Declaration for the Yosemite Greens Project

Dear Mr. Mtunga:

The Manteca Unified School District ("District") hereby submits the following rebuttals on the proposed responses to the District's comments by the City of Manteca ("City") on the Mitigated Negative Declaration ("MND") for the Yosemite Greens Project ("Project"). Specifically, this letter highlights the inadequacies in the proposed responses in the areas of aesthetics and visual resources, agriculture resources, air quality, biological resources, cultural resources, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, adequate school facilities, recreation, transportation, utilities, and mandatory findings of significance. As a result, the MND needs revision and recirculation to provide adequate analyses and mitigation for public review and comment before considering the MND's adoption and Project approval. This letter is organized by the District's comment number and followed by the City's proposed response and the District's rebuttal.



COMMENT C-1

The Manteca Unified School District (“District”) hereby submits the following comments on the proposed Mitigated Negative Declaration (“MND”) pursuant to the California Environmental Quality Act (“CEQA”) for the City of Manteca’s (“City”) Yosemite Greens Project (“Project”). Specifically, this letter provides the District’s comments on the Project’s MND and identifies the need for further analysis and/or mitigation in the areas of aesthetics and visual resources, agriculture resources, air quality, biological resources, cultural resources, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, adequate school facilities, recreation, transportation, utilities, and mandatory findings of significance. As a result, the MND needs revision and recirculation to disclose the significant new information to the public and allow comment on such new information.

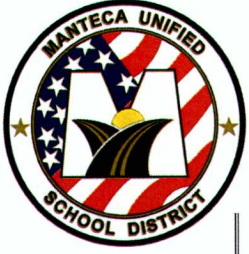
In addition to its concerns on the overall environmental impacts of the Project, the public has entrusted the District with providing its students with a high-quality education, which includes insuring that its students have adequate facilities, are safe, and not significantly or cumulatively impacted by development. The District instructs the City’s children at 30 public schools. Two schools will serve this Project: Stella Brockman Elementary School and Sierra High School, not Manteca High School, as claimed in the MND. The Project’s addition of 71 students to these schools raises concerns that construction and operation of the Project will adversely affect the traffic and parking at these schools, which was completely omitted from the MND. These impacts must be adequately evaluated and mitigated to prevent an undue burden on our students, parents, faculty, and staff.

Although this letter is technical in nature due to the subject matter, the District wishes to emphasize that its comments are meant to help the City fully evaluate and mitigate the potential impacts to the schools—not to be critical or confrontational. Instead, the District wishes to continue cooperating and collaborating with the City to insure the continued high quality of life in the City and education in its schools.

City’s Response C-1

The commentor provides introductory statements, stating that the Manteca Unified School District (“District”) submits comments pursuant to CEQA for the Yosemite Greens Project (“Project”). The introductory statement lists out the environmental topics that the commentor believes require further analysis and/or mitigation, which the commentor identifies as: aesthetics and visual resources, agriculture resources, air quality, biological resources, cultural resources, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, adequate school facilities, recreation, transportation, utilities, and mandatory findings of significance. The commentor then states that the MND needs revision and recirculation.

The commentor indicates that two schools will serve this Project: Stella Brockman Elementary School and Sierra High School. The commentor clarifies that Manteca High School, as claimed



in the MND, will not serve the project. The commentor describes that the addition of 71 students to the Stella Brockman Elementary School and Sierra High School raises concerns that construction and operation of the proposed project would adversely affect traffic and parking at these schools. The commentor states that these impacts were completely omitted from the MND and that they must be adequately evaluated and mitigated to prevent undue burden on students, parents, faculty, and staff.

Comment A-1 serves as an introduction to the comment letter. Detailed responses to each of the individual issues and/or topics that the commentor has identified here, and throughout the commentor letter, is provided in the following responses. Specifically, the comments regarding traffic related impacts are addressed under Response C-17.

District's Rebuttal to City's Response C-1

The City does not address the misnamed school or the fact that parking was not addressed in the MND.

COMMENT C-2

The Project is a substantial residential development within the City that would demolish all potentially historical buildings and structures; convert 13.2 acres of recognized important farmland into suburban sprawl consisting of 99 detached single-family units; add 934 vehicle trips per day [340,910 per year] to the City's road system; generate 71 K-12 students for the District to educate; release 1,832.5 metric tons of Greenhouse Gases per year into the air; consume 2,557,630 kBTUs of natural gas per year; consume 835,934 kWhs of electricity per year; and generate 182.5 tons of solid waste per year to add to landfill that will close next year.

City's Response C-2

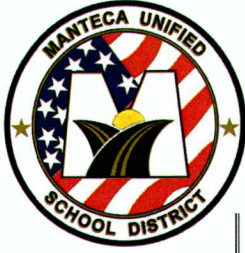
The commentor provides a brief summary of proposed project details. No response is warranted for this comment.

District's Rebuttal to City's Response C-2

The City's response is adequate.

COMMENT C-3

It is noted that much of the Project site is active agricultural land. Missing from this MND, but included in the Griffin Park EIR, the City acknowledged, "Agricultural land in California's Great Central Valley is generally accepted as an important visual resource." (Griffin Park Master Plan Draft EIR, Mar. 2017, p. 3.1-3, emph. added.) The Project contains 13.2 acres of agricultural land. (MND, pdf, p. 1 and MND, p. 22.) Yet, the MND does not define a significance threshold for the loss of visually important agricultural lands and fails to explain how the loss of 13.2 acres of agricultural land by the Project is not a significant visual impact. The MND also fails to analyze the view impact of the Project blocking the views of the forest-like golf course along Crom Street and N. Airport Way, especially where the surrounding areas



are devoid of such tree density. The MND talks about providing landscaping to shield the project from view, but it is clear from the map that no landscaping could be provided along Crom Street, and given that there will be at least an eight-foot noise wall along N. Airport Drive (*id.*, p. 83), it is not clear if there is sufficient space for landscaping along N. Airport Way. (*Id.* Figure 3, p. 21.) Instead of the current pastoral and forest-like views along Crom Street and N. Airport Way, motorists will soon have the pleasure of enjoying up-close views of block walls and an occasional treetop. Without these analyses, the reader is unable to know whether the Project would cause a significant visual impact or not.

Further, “The site contains minimal existing lighting. (*Id.* p. 21.) Section 17.50.010 of the City’s Municipal Code describes, “the City’s desire to preserve dark skies and to ensure that light trespass and glare have negligible impact on surrounding property (especially residential) and roadways.” The MND acknowledges, “there is a potential for the implementation of the proposed project to introduce new sources of light and glare into the project area.” (MND, p. 21.) The MND does not evaluate any other Project lighting besides street lighting and claims, “All street lighting would have to comply with the City of Manteca lighting standards. Section 17.50.060 of the Manteca Municipal Code identifies general lighting standards for light shielding, illumination levels, and nuisance prevention.” (*Id.*, p. 21.) Missing from the analysis is an explanation that compliance with the Manteca Municipal Code would render the lighting impact less than significant. Additionally, there is no commitment to require the other Project lighting to be designed to prevent glare, lighting trespass, and light pollution.

Moreover, there is no analysis in the MND discussing the sky glow impact from the Project’s lighting. Sky glow is a significant impediment to preserving dark skies and causes environmental impacts. “Aesthetically, sky glow (artificial light which is scattered and reflected back to earth by the atmosphere) obscures our view of natural starlight and moonlight.” (Davies et al., *Artificial light alters natural regimes of night-time sky brightness*, Open, April 24, 2013, p. 1, **Exhibit 1**.) “Urban development has brought the need for artificial lighting of roadways, shopping centers, stadiums, and homes. Some of this light strays and scatters in the atmosphere, bringing about a brightening of the natural sky beyond background levels, called urban sky glow [15,16]. Light pollution has demonstrated effects on daily human life.” (Navara and Nelson, *The dark side of light at night: physiological, epidemiological, and ecological consequences*, Journal of Pineal Research, May 29, 2007, pp. 215-16, **Exhibit 2**.) “Artificial light scattered in the atmosphere raises night sky luminance, creating the most visible negative effect of light pollution—artificial skyglow. Light pollution is one of the most pervasive forms of environmental alteration (5). It affects even otherwise pristine sites because it is easily observed during the night hundreds of kilometres from its source in landscapes that seem untouched by humans during the day (6), damaging the nighttime landscapes even in protected areas, such as national parks (for example, the light domes of Los Vegas and Los Angeles as seen from Death Valley National Park.)” (Falchi et al., *The new world atlas of artificial night sky brightness*, Science Advisor, June 10, 2016, p. 1, **Exhibit 3**.) Because skyglow causes light pollution, its impact must be analyzed and mitigated, if found to cause significant light pollution.

Given the lack of analyses on view and lighting impacts, the MND must be revised to include such analyses, mitigated as required, and recirculated for public comment.



City's Response C-3

As discussed on page 20-21 of the Initial Study, the project site is not considered a “significant” visual resource or vista. First, as stated in the Initial Study, *“the City of Manteca General Plan does not specifically designate any scenic viewsheds within the city.”* The absence of a designation is due to the fact that there are no scenic viewshed within the City. The Initial Study explains that *“a scenic vista can be discussed in terms of a foreground, middleground, and background viewshed. The middleground and background viewshed is often referred to as the broad viewshed. Examples of scenic vistas can include mountain ranges, valleys, ridgelines, or water bodies from a focal point of the forefront of the broad viewshed, such as visually important trees, rocks, or historic buildings. An impact would generally occur if a project would change the view to the middle ground or background elements of the broad viewshed, or remove the visually important trees, rocks, or historic buildings in the foreground.”* The Initial Study concludes that *“The proposed project will not significantly disrupt middleground or background views from public viewpoints.”* This conclusion is based on the fact that there are no scenic middleground or background views from the project site that would be significantly affected. The Initial Study also addresses the foreground views from the public viewpoint when it states, *“The proposed project would result in changes to the foreground views from the public viewpoint by adding residential buildings to a site that is currently used as a dairy farm.”* The Initial Study indicates that *“the project would be of similar visual character to nearby and adjacent developments (such as the residential community located to the north of the project site). For motorists travelling along nearby roadways, such as Airport Way or Crom Street, the project would appear to be a continuation of adjacent residential land uses and would not present unexpected or otherwise unpleasant aesthetic values within the general project vicinity.”* The Initial Study goes on to indicate that *“The greatest visual change would apply to neighbors that are located south of the project site with a direct view of the area. Views of the project site are generally visible from immediately adjacent residences. Upon development of the project, landscaping would be provided throughout the project site. The proposed landscaping includes a variety of plants and support materials at varying heights that would provide some shielding from existing residences in the vicinity.”* Ultimately, the Initial Study concludes that the *“change in character of the project site, once developed, is anticipated by the General Plan and would be visually compatible with surrounding existing commercial uses to the west, and residential uses to the north and south. Setbacks and landscaping around the perimeter of the site will buffer the foreground viewshed from residents in the immediate vicinity. Therefore, implementation of the proposed project would have a **less than significant** impact relative to this topic.”* This conclusion is consistent with the fact that the General Plan has not established scenic viewsheds within the city because they do not exist, and is consistent with the fact that a 13.2-acre dairy site is considered more of a nuisance within the city limits, then it is a scenic amenity.

Lighting and glare is addressed on Page 21 of the Initial Study. The Initial Study indicates that the *“The site contains minimal existing lighting. There is a potential for the proposed project to create new sources of light and glare. Examples of lighting would include construction lighting, street lighting, security lighting along sidewalks, exterior building lighting, interior building lighting, and automobile lighting. Examples of glare would include reflective building materials and automobiles...There is a potential for the implementation of the proposed project to introduce new sources of light and glare into the project area.*



Contributors to light and glare impacts would include construction lighting and street lighting that would create ongoing light impacts to the area.” This statement regarding the potential for new sources of light and glare is consistent with the City’s expectations for any new residential subdivision in the City. To minimize light and glare impacts the City has adopted ordinances that establish lighting standards for all new and existing development. These ordinances are existing standards, and function to mitigate a potential light and glare impact. Given that the ordinance is an existing standard by which all development must adhere to, it is not necessary to specifically incorporate the requirement by mitigation within this Initial Study. The existence of the ordinance, coupled with the City’s history of enforcing its ordinances, is a de facto commitment that the requirements of the lighting ordinances will be incorporated into building and street designs to ensure that there is not a light/glare impact.

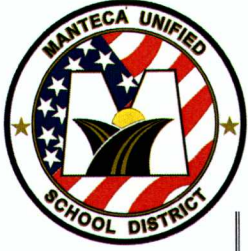
Moreover, the City of Manteca is in the process of adopting a Crime Prevention Through Environmental Design (CPTED) Ordinance. Supporting this effort, the City has two planners aboard who are (CPTED) certified. The new CPTED Ordinance will require all illumination sources to use LED. The exterior lighting will be aimed down and towards the site to provide adequate illumination without glare effect. Fixtures will have bulbs that are fully recessed and shielded and will not emit light above the horizontal plane of the shielding.

LED is the best illumination source for reducing urban glare. All street lights within the Yosemite Greens Subdivision will comply with the CPTED street light illumination standards. LED lights are 40 to 60% more energy efficient than traditional lighting technologies. By using LED luminaries, it is possible to provide better quality lighting with no glare, lower energy consumption, and reduce CO₂ emissions.

It is noted that sky glow is an effect of light pollution, which has historically not been an environmental concern in the City of Manteca given their enforcement of their lighting ordinance which imposes design conditions on lighting within the City’s jurisdiction. It is also noted that sky glow can also be a function of lighting density, which is a function of building density. For instance, nighttime light pollution and sky glow is much more common in densely populated urban environments, but is not common within the small suburban communities of the Central Valley. The Initial Study states that *“All street lighting would have to comply with the City of Manteca lighting standards. Section 17.50.060 of the Manteca Municipal Code identifies general lighting standards for light shielding, illumination levels, and nuisance prevention. Therefore, implementation of the proposed project would have a less than significant impact relative to this topic.”*

District’s Rebuttal to City’s Response C-3

The City’s response fails to acknowledge the visual impact of destroying the Project site’s active agricultural lands, which is an important visual resource according to the City itself. (See, e.g., Griffin Park Master Plan Draft EIR, Mar. 2017, p. 3.1-3.) The City therefore contradicts itself in its response when it states, “[A] 13.2-acre dairy site is considered more of a nuisance within the city limits, then it is a scenic amenity.” The City appears to be changing its tune regarding the visual importance of agricultural lands when it is most convenient. This contradiction thereby emphasizes the need for a significance threshold for the loss of visually important agricultural lands in the MND and an analysis on how the clearing of agricultural



land as a result of Project implementation is not a significant visual impact. A General Plan designation of a scenic viewshed is not required for the existence of a visual resource that can be significantly impacted under CEQA. Since the City has already acknowledged that active agricultural lands are an important visual resource, it must treat it as such in its analysis. The City provides no evidence that the Project site is a nuisance. Thus, its bare conclusion is unsupported and cannot support a conclusion that the visual impact of wiping out the agricultural land on the Project is not a significant environmental impact. Common sense indicates that such destruction would be a significant view impact.

The visual character of nearby developments is not discussed in any detail in the MND or the City's response. The City's response ignores the District's point that the MND lacks any discussion regarding the Project blocking views of the golf course and interrupting blockwalls when on either side of the Project, block walls do not exist. Moreover, the City does not respond to the District's observation that it appears there is insufficient space view on Crom Street and N. Airport Way for the landscaping purported to shield the Project from view.

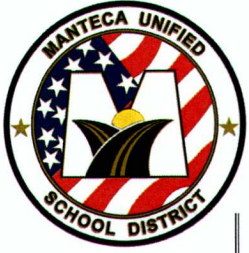
The City's response on light and glare impacts only focuses on street lighting and continues to ignore other Project lighting that contributes to light and glare impacts. The mere existence of a City ordinance regarding street lighting does not constitute mitigation of all lighting sources. Moreover, the City's response fails to explain how compliance with the Manteca Municipal Code would render the lighting impact less than significant. Moreover, the City cannot rely on the CPTED without making it a mitigation measure because it has not yet been adopted and compliance is not assured. As the City acknowledges, it is still in process.

Other than referencing a draft ordinance, the City's response does not address the District's comment that the MND does not evaluate any other type of the residential Project's lighting besides street lighting. As noted by the District's comments, there is similarly no commitment to require the other Project lighting to be designed to prevent glare, lighting trespass, and light pollution.

The City's response that nightglow is not a consideration directly contradicts its municipal code's determination to preserve dark skies. Given that skyglow contributes to the destruction of dark skies over the City, a cogent analysis of skyglow impact from the Project must be included in the MND and recirculated.

COMMENT C-4

The MND admits that half the project site is officially designated as, "Farmland of Local Importance". (MND, p. 22.) To mitigate this significant loss of agricultural resources, Mitigation Measure AG-1 is identified to require the Project applicant to pay into the City's agricultural mitigation fee program and the San Joaquin Multi-Species Habitat Conservation and Open Space Plan. (*Ibid.*) "Fees paid toward the City's program shall be used to fund conservation easement on comparable or better agricultural land to provide compensatory mitigation." (*Ibid.*) However, the MND fails to explain whether comparable or better agricultural land exists for such easements and whether sufficient funds would be gathered to obtain such easements. Without such an analysis, it is speculative that the fees paid would actually provide mitigation for the significant loss of the agricultural resources.



City's Response C-4

As the commentor notes, the project site contains “*Farmland of Local Importance*” has designated by the California Resources Agency. However, as noted in Appendix G of the CEQA Guidelines, under Section II Agriculture and Forestry Resources, the question asks whether the project would convert “Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.” The commentor apparently misunderstands that “Farmland of Local Importance” is not one of these categories. Given that the project does not contain one of the three categories of Important Farmland, the Initial Study accurately concludes that the impact is less than significant. Nevertheless, the Initial Study includes a discussion of the various fees that are collected and used to offset the loss of agricultural resources. Mitigation Measure AG-1 requires participation in the City’s agricultural mitigation fee program and the SJMSCP. Payment of these fees is standard for the conversion of farmland in the City of Manteca. Each of the relevant agricultural mitigation fees are established and have historically been implemented by the City and by SJCOG. Applicants pay mitigation fees on a per-acre basis, as established by the SJCOG. Different types of land require different levels of mitigation. The entire County is mapped according to these categories so that land owners, project proponents and project reviewers are easily aware of the applicable SJMSCP fees for the proposed development. The appropriate fees are collected by the City and remitted to SJCOG for administration. SJCOG uses the funds to preserve open space land of comparable types throughout the County, often coordinating with other private or public land trusts to purchase conservation easements or buy land outright for preservation. Although the fees are automatically adjusted on an annual basis.

District's Rebuttal to City's Response C-4

While the City’s response provides some additional details regarding the City’s agricultural mitigation fee program, it still does not explain whether comparable or better agricultural land exists in the County, or whether enough funds would be gathered to obtain the easements or land. Without this analysis, the MND is still speculative in concluding that the mitigation fees would actually mitigate the significant loss of agricultural resources as a result of this Project. It also appears that the City did not provide a complete response, since the last sentence reads “Although the fees are automatically adjusted on an annual basis...”

COMMENT C-5

It is common sense that most parents drive the students to school, especially where the District would not provide busing. However, the MND does not consider or analyze the Project’s vehicle trips to and from the Project’s serving schools—Stella Brockman Elementary School and Sierra High School. Without a description and analysis of such trips, it is impossible to understand the secondary air quality impacts from such trips, and the claim that the Project’s air quality impact is less than significant is not supported.

Further, without any explanation why, the MND defers analysis of whether Rule 9510, Indirect Source Review, is applicable to the Project and whether impact fees would be required under the rule.



Furthermore, the MND does not disclose the volume of soils to be exported from or imported to the Project site. The only inkling is in Table ENERGY-2, which states that grading will take 30 days, but this is in an incomplete picture of the what the dump-truck traffic and corresponding air quality impact would be. This is even more concerning given that no haul routes are specified and could involve truck traffic adjacent to the District's schools. The volume of construction truck traffic and its corresponding air quality impacts need to be analyzed and disclosed in a recirculated MND.

City's Response C-5

The IS/MND includes a Transportation Impact Analysis Report (Appendix C of the IS/MND), developed by Fehr & Peers. The study intersections that were included in the analysis were:

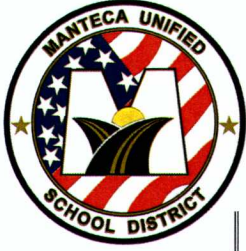
1. Airport Way / Crom Street;
2. Crom Street / Project Access Intersection #1 (full access); and
3. Airport Way / Project Access Intersection #2 (right-turn in / right-turn out only).

The study intersections were chosen based on consultation between the City of Manteca and the traffic consultants (Fehr & Peers). The IS/MND includes an analysis of Cumulative Plus Project Conditions (see page 100 of the IS/MND), which demonstrates that the under such conditions, the addition of vehicle traffic generated by the proposed project would result in only a minor change in the average delay at the Airport Way/Crom Street signalized intersection. Nevertheless, a traffic signal with crosswalks would be installed at the Airport Way/Crom Street intersection, as provided under Mitigation Measure TT-1.

The traffic analysis includes utilization of the City's traffic model, which looks at traffic dispersal and movements. The traffic model utilizes a daily trip generation factor that is established by the Institute of Traffic Engineers. The project site is located on the outskirts of the City of Manteca, with a relatively low volume of traffic occurring on nearby roadways. Construction traffic would be temporary and minor. According to the *Transportation Impact Analysis Report* prepared by Fehr & Peers, during project operation, the proposed project would generate approximately 934 daily vehicle trips, 73 AM peak hour trips, and 98 PM peak hour trips. This would increase the amount of traffic that currently occurs at and within the vicinity of the project site. However, the increase in traffic expected to be generated by the proposed project during project operation would be added to roadways that maintain low volumes, since the project site is located in an area with a relatively low volume of traffic. The traffic analysis generated for the proposed project adequately analyzes the trip generation, daily trips, peak hour trips, and LOS.

The Initial Study adequately addresses the four Appendix G checklist questions. The scope of the traffic analysis was appropriate for the scale of the project.

The Initial Study discusses Rule 9510 on page 25. This is an existing Rule established by the Air District, and requires an Indirect Source Review with the Air District. During that review the Air District performs a model and determines the applicability and the fee necessary to offset any emissions. It is noted that certain built-in design measures can reduce the fee, while



the lack of design measures can increase the fee. The review by the Air District is required prior to any construction activities.

It is also noted that the proposed project fits the descriptions of a Small Project (SPAL screening thresholds), which is deemed to have a less than significant impact on air quality due to criteria pollutant emissions and as such are excluded from quantifying criteria pollutant emissions for CEQA purposes. The Single-Family land use category was chosen for the purposes of the SPAL screening thresholds. According to the SPAL screening thresholds, Single Family projects that are less than 390 units in project size would have a less than significant impact on air quality due to criteria pollutant emissions. The proposed project would develop up to 99 single-family units, which is smaller than the 390-unit SPAL screening threshold for Single Family Projects. The 99 units is also smaller than the SPAL screening thresholds of 590 units for low rise apartments, 600 units for high rise apartments, and 590 units for general condominiums and high-rise condominiums. Furthermore, the SPAL by vehicle trips (for residential housing) is 1,453 trips/day. The Transportation Impact Analysis Report prepared by Fehr & Peers for the proposed project demonstrates that proposed project would generate approximately 934 trips/day. Therefore, the proposed project trip generation is below the SPAL by vehicles trips for the land use category appropriate for the proposed project.

District's Rebuttal to City's Response C-5

The City's response completely ignores the District's comment that the MND does not consider or analyze the Project's vehicle trips to and from the Project's serving schools. Since the air quality impacts of these additional trips have not been analyzed, the MND's conclusion that the Project's air quality impact is less than significant is incomplete, unsubstantiated, and violates CEQA.

The City cannot defer the modeling and determination of whether a fee applies. The City provides no explanation why these cannot be done at this time. Thus, the City's deferral violates CEQA's requirement to analyze and mitigate impacts in the MND.

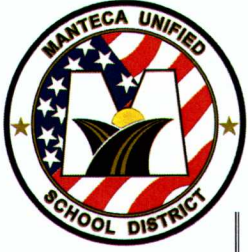
The MND's analysis of the Project's air quality impacts during construction is incomplete. It, and the City's response, fail to include an air quality impact analysis from construction truck traffic. This must be remedied in a revised and recirculated MND.

COMMENT C-6

The City's divided the comment up into three sections, which we identify as A through C.

Comment C-6(A)

The Resource Conservation Element of the General Plan contains Policy RC-P-36 that seeks the "development of new drainage channels planted with native vegetation, which would provide habitat as well as drainage." (MND, p. 39.) The MND goes on to claim that the Project is consistent because it does not include new drainage channels. (*Ibid.*) This does not make the Project consistent. To be consistent, the Project needs to include feasible new, vegetated



drainage channels to help infiltrate storm water into the ground and support habitat. No analysis is done to show that new drainage channels have been considered or whether they are feasible or not. Thus, the MND needs to be revised to include this analysis before making a consistency determination.

City's Response C-6(A)

The Initial Study accurately reflects the fact that the proposed project does not include drainage channels. Instead, the storm drainage design is consistent with the City's storm drainage master plan. The use of a drainage channel within a residential subdivision with density that is proposed is not a feasible storm drainage design. Instead, a residential subdivision as proposed is appropriately designed with a series of gutters, inlets, and pipes that drain to a storm drainage basin. A subdivision such as what is proposed, does not provide adequate space along the perimeter of the lots or within the roadway street section for a channel and fencing around the channel. Drainage channels in populated areas present health and safety considerations given the presence of water and the potential for drowning. This is considered in other types of developments within the City, but is not desired within a residential subdivision.

District's Rebuttal to City's Response C-6(A)

The MND remains misleading in that it states that the Project is consistent with the General Plan's Resource Conservation Element, when it is not. Policy RC-P-36 states that the development of new drainage channels should be considered. The General Plan Policy does not limit the consideration of new drainage channels to certain types of land uses. The MND needs to be revised with this missing analysis and presented in a recirculated MND.

Comment C-6(B)

The MND essentially admits that the Project would create a significant impact to special status species' habitat and specifies Mitigation Measure BIO-1 to require the Project Applicant to pay fees "for the conversion of lands that may provide habitat for covered special status species." (*Id.* p. 34.) The MND acknowledges, "The Project site may provide suitable foraging habitat for a variety of potentially occurring special-status birds.... Potential nesting habitat is present in a variety of trees located within the Project site...." (*Id.* p. 35.) "Additionally, the agricultural land represents potentially suitable nesting habitat for the ground-nesting birds...." (*Id.* p. 36.) "Development of the Project site would eliminate foraging habitat for special status bats by removing the agricultural areas." (*Id.* p. 37.) Unfortunately, the MND stops there and does not provide any information on how such fees would actually mitigate the lost habitat or whether replacement habitats are available. Without such an analysis, the claim that the impact to special status species habitat is less than significant is unsupported.

As discussed below in more detail, Project lighting has not been adequately analyzed. Yet, the MND admits, "New sources of noise and light during the construction and operational phases of the project could adversely affect nesters if they [are] located adjacent to the project site in any given year." (*Ibid.*) Despite this admission, the MND does not attempt to analyze the Project's lighting impacts on nesting or foraging birds and simply relies on the payment of fees



under Mitigation Measure BIO-1. This mitigation measure is meant to make up for the loss of habitat, it is not mitigation for significant impacts to surrounding and remaining habitats.

City's Response C-6(B)

It is noted that the Mitigation Measure BIO-1 requires the project proponent to seek coverage under the SJMSCP to mitigate for habitat impacts to covered special status species. The SJMSCP is administered by a Joint Powers Authority consisting of members of the San Joaquin County Council of Governments (SJCOG), the CDFW, and the USFWS. According to the SJMSCP, adoption and implementation by local planning jurisdictions provides full compensation and mitigation for impacts to plants, fish and wildlife. Adoption and implementation of the SJMSCP also secures compliance pursuant to the state and federal laws such as CEQA, the National Environmental Policy Act (NEPA), the Planning and Zoning Law, the State Subdivision Map Act, the Porter-Cologne Act and the Cortese-Knox Act in regard to species covered under the SJMSCP. Applicants pay mitigation fees on a per-acre basis. The entire County is mapped according to these categories so that land owners, project proponents and project reviewers are easily aware of the applicable SJMSCP fees for the proposed development. The appropriate fees are collected by the City and remitted to SJCOG for administration. SJCOG uses the funds to preserve open space land of comparable types throughout the County, often coordinating with other private or public land trusts to purchase conservation easements or buy land outright for preservation. The fees are automatically adjusted on an annual basis.

District's Rebuttal to City's Response C-6(B)

Although the City has provided some additional information regarding the SJMSCP, the City's response lacks analysis on how the fees paid will mitigate the significant loss of habitat as a result of the Project. It therefore still appears speculative that such a significant impact on special status species habitat is mitigated to less than significant by Mitigation Measure BIO-1.

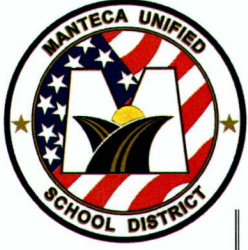
Comment C-6(C)

The MND notes that heritage trees are protected and to be avoided. (*Id.* p. 39.) But it does not disclose whether any of the trees on the Project site are heritage or not. Instead, it sets for Mitigation Measure BIO-2 to require replacement trees on the Project site. (*Ibid.*) Missing from the analysis is whether there is sufficient space on the Project site for the replacement trees. This is a concern given the highly congested development plan for the site. (*Id.* Figure 3.)

Thus, further analysis is needed support the claim that the Project's impacts to biological resources would be adequately mitigated.

City's Response C-6(C)

Page 39 of the Initial Study indicates that the Project site contains two trees, both of which are associated with the existing residence. These trees did not have evidence of nesting. Trees that



cannot remain in the final design must be replaced in accordance with the *Manteca Municipal Code (17.19.060)* if deemed applicable at the time of removal. This is a standard requirement of all projects within the city. Mitigation Measure BIO-2 requires applicant to provide a landscape plan that includes tree planting specifications established by the Manteca Municipal Code (17.19.060) for the replacement of any trees, excluding orchard and non-native trees, to be removed at a ratio of 1:1. Replacement trees shall be planted on-site at a location that is agreeable to the City. It is anticipated that the trees located on site will be removed, and that that each house will contain a minimum of one tree. In effect, there will be a minimum of 100 new trees planted on the site, which will significantly exceed the 1:1 replacement ratio established by the City's ordinance.

District's Rebuttal to City's Response C-6(C)

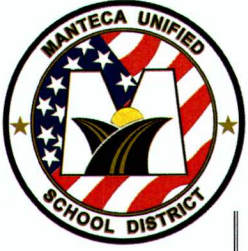
The City's response fails to answer the District's question of whether a heritage tree is present on the Project site. The additional analysis provided in the City's Response must be further expanded on in a revised and recirculated MND.

COMMENT C-7

The MND discloses, "that there is a moderate to high possibility of finding historical era resources on the site and that additional surveys/evaluations should be performed prior to and during excavation." (MND, p. 42.) Mitigation Measure CLT-1 is proposed to perform a historical resources determination of any structures that cannot be retained as part of the Project. (*Ibid.*) However, the MND already stated, "all existing structures within the project site (e.g., barn buildings) would be demolished and associated structures removed." (MND, pdf, p. 6.) The MND does not disclose the ages of the buildings and structures on the Project site and there is no explanation on why it is infeasible to conduct the historical resources evaluations now. Without such and explanation, the MND impermissibly defers analysis of potentially significant impacts to cultural resources and fails to identify historical resources that could be significantly impacted by the Project.

City's Response C-7

As noted on page 42 of the IS/MND, a record search was conducted through the Central California Information Center (CCaIC) in March 2019 to identify previously recorded sites and previous cultural resources studies in and near the project site. While the region is generally known as an area that has moderate to high potential for cultural resources, the CCaIC did not identify any recorded prehistoric or historic-era archaeological resources or historic properties. The barn buildings associated with the dairy farm were not noted in the records search as being of historic significance. There are no other buildings on the project site. Mitigation Measure CLT-1 was developed to require a survey of the site and monitoring of the construction activities to ensure that there are not any buried cultural resources, including human remains, that are damaged during the construction phase. Additionally, as part of any demolition of the barn buildings, the cultural expert would fill out the appropriate data forms as part of a final evaluation of the buildings. Given the absence of any records that suggest that there are significant cultural resources on the site, and given mitigation



requirements that call for monitoring and preconstruction surveys, the impact is considered less than significant.

District's Rebuttal to City's Response C-7

The age of the structures/buildings onsite must be provided in the MND, and the City does not give this information in its response. Moreover, the City's response does not explain why the analysis must be deferred. Without these, the Project's impact on historical resources has not been sufficiently analyzed to reach the conclusion of "less than significant."

COMMENT C-8

It is claimed that Table ENERGY 1 demonstrates that the Project's operational energy usage would be reduced with mitigation. (*Id.* p. 45.) However, Table ENERGY 1 only shows the unmitigated scenario. (*Ibid.*) The table needs to be updated with mitigated information to prove that operational energy usage would be reduced.

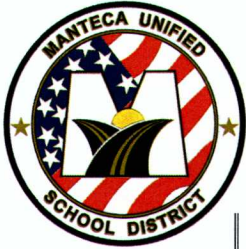
The MND reports that the average trip length is nine miles. (*Ibid.*) This does not account for the trips for drop-off and pick-up of students as the Project serving schools. Although the MND considers construction worker and vendor construction traffic, it says nothing about the construction truck trips for demolition debris or soil export and import. Thus, the calculations of energy usage are understated and need to be corrected to reasonably portray the Project's anticipated energy usage.

Solar photovoltaic power is claimed to be utilized on residential rooftops. (*Id.* p. 46.) But the Project description does not mention solar power as a Project component or commitment to including solar power, nor does the MND provide any data on how much solar power would be generated.

The MND fails to disclose the existing energy usage on the Project site or define a significant energy impact threshold. Without this information, the MND cannot rightly conclude that the Project would have a less than significant energy impact.

City's Response C-8

It is noted that the MND reports that the average trip length is nine miles. This accounts for all trips, including the drop-off and pick-up of students at the project-serving schools. Nine miles is the average trip length provided for total trips within the 'Single Family Housing' land use in the 9th Edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers (ITE). This was derived based off of a weighted average of trip lengths for each of the project trip types, as shown in the energy modeling portion of Appendix A of the IS/MND. The trip lengths from the 9th Edition of the *Trip Generation Manual* for the proposed project land use are also provided within the CalEEMod modeling for this project. The applicable trip lengths provided in the 9th Edition of the *Trip Generation Manual* provide the best estimates to derive average project trip length, inclusive of school pick-up and drop-off trips.



The commentor notes that the MND does not present the haul trips for demolition or soil export and import. It is noted that the project site is flat (as noted on page 3 of the IS/MND), and it is anticipated that the site can be balanced on site, meaning that there would be limited to no cut and fill (i.e. import/export). The grading assumptions do not include import/export, or haul trips associated with such import/export of soil because this is not an anticipated activity. The CalEEMod model has been refined in the demolition phase of the project to reflect debris haul off of the existing structures. It is noted that the model run assumed a 20-day schedule, with 15 daily worker trips, which is very likely an overestimate of time. However, this worst-case scenario was assumed in the event that there is a special condition in the building materials that require special treatment (i.e. lead or asbestos). In the event that there are no special conditions, it is estimated that there would be up to five workers, and the demolition would occur over approximately two days. The estimated truck haul trips are three trips, which equates to six round trips. This phase of construction is The [sic] refined model run is provided in an errata (below). This to reflect the energy and emissions associated with the three truck haul trips during demolition. The refinements do not change the impact conclusion, the impact associated with Air Quality criteria pollutants, GHG, and Energy, remain below the significance thresholds and the conclusion remains less than significant. Based on this comment, we have updated Table ENERGY-2 on page 45 of the IS/MND as follows (with underline for new text, ~~strike-out~~ for deleted text):

TABLE ENERGY-2: ON-ROAD MOBILE FUEL GENERATED BY PROJECT CONSTRUCTION ACTIVITIES – BY PHASE

<i>Construction Phase</i>	<i># of Days</i>	<i>Total Daily Worker Trips^(a)</i>	<i>Total Daily Vendor Trips^(a)</i>	<i>Total Hauling Trips^(a)</i>	<i>Gallons of Gasoline Fuel^(b)</i>	<i>Gallons of Diesel Fuel^(b)</i>
Demolition	20	15	-	<u>6</u>	126	<u>35</u>
Site Preparation	10	18	-	=	76	-
Grading	30	20	-	=	252	-
Building Construction	300	36	11	=	4,542	3,556
Paving	20	15	-	=	126	-
Architectural Coating	20	7	-	=	59	-
Total	N/A	N/A	N/A	<u>6</u>	5,181	<u>3,556</u>3,591

NOTE: ^(a) PROVIDED BY CALEEMOD. ^(b) SEE APPENDIX A FOR FURTHER DETAIL
SOURCE: CALEEMOD (v.2016.3.2); EMFAC2014.

Reflective of this modeling update, we have also updated Table GHG-1 on page 58 of the IS/MND as follows (with underline for new text, ~~strike-out~~ for deleted text):



TABLE GHG-1: CONSTRUCTION GHG EMISSIONS (UNMITIGATED METRIC TONS/YEAR)

Year	Bio-CO ₂	NBio-CO ₂	Total CO ₂	CH ₄	N ₂ O	CO ₂ e
2020	0	425.76.1	425.76.1	0.1	0	428.27
2021	0	163.9	163.9	<0.1	0	164.8
Maximum	0	425.76.1	425.76.1	0.1	0	428.27

SOURCE: CAL EEMOD (v.2016.3.2).

Separately, Table ENERGY-1 on page 45 of the IS/MND includes the unmitigated modeling scenario, which represents the worst-case scenario (i.e. no mitigation provided). With the implementation of mitigation, emissions would be reduced, which would be an improvement over the unmitigated scenario. We have provided an errata (below) to add in the mitigated scenario which reflects the emission improvements from mitigation. Based on this comment, we have updated page 45 of the IS/MND as follows (with underline for new text, ~~strike-out~~ for deleted text):

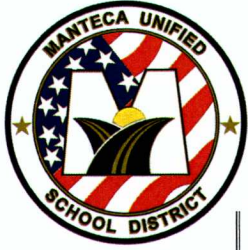
TABLE ENERGY-1: PROJECT OPERATIONAL NATURAL GAS AND ELECTRICITY USAGE (UNMITIGATED SCENARIO)

UNMITIGATED		
<i>Emissions^(a)</i>	<i>Natural Gas (kBTU/year)</i>	<i>Electricity (kWh/year)</i>
Single Family Housing	2,557,630	835,934
Total	2,557,630	835,934
MITIGATED		
<u><i>Emissions^(a)</i></u>	<u><i>Natural Gas (kBTU/year)</i></u>	<u><i>Electricity (kWh/year)</i></u>
Single Family Housing	2,557,630	819,291
Total	2,557,630	819,291

NOTE: ^(A) NUMBERS PROVIDED HERE MAY NOT ADD UP EXACTLY TO TOTAL DUE TO ROUNDING.

SOURCE: CAL EEMOD (v.2016.3.2).

As shown in Table ENERGY-1, project building electricity usage would be reduced with implementation of project components considered mitigation by CalEEMod (note: given the limited mitigation options available in the current version of CalEEMod, the reduction attributable to mitigation represents a conservative analysis). These project components include installation of Energy Star appliances (consistent with the requirements under the current version of California's Building Energy Efficiency Standards), and compliance with the Model Water Efficient Landscape Ordinance (as contained in the California Code of Regulations and as prescribed in Chapter 17.48 of the Manteca Municipal Code). These reductions in overall proposed project energy usage also reflect a reduction in the project's energy intensity.



Additionally, the commentor references text provided in the Initial Study regarding the use of solar photovoltaic power. For clarification, page 46 of the Initial Study accurately states that the “*proposed project could also use other sources of energy not identified here. Examples of other energy sources include alternative and/or renewable energy (such as solar PV) and/or on-site stationary sources (such as on-site diesel generators) for electricity generation.*” This statement in the Initial Study reflects the fact that solar systems will be an option for homebuyers to have installed as part of the home construction, however, it is not an improvement that is proposed as part of the project description, nor is it a mitigation that is warranted given that the emissions are below the thresholds of significance. The Initial Study does include an error in the following sentence, where it states “*The proposed project would (emphasis added) introduce solar PV onto residential rooftops, which would (emphasis added) reduce the need for fossil fuel-based energy (for proposed project buildings), including for electricity.*” The error is in the use of the word “*would*”. The intent of the sentence was to emphasize that if solar systems were to be installed, they would be placed on the residential rooftops, and would reduce the need for fossil fuel-based energy. However, because solar is not proposed, nor is it warranted, the sentence is deleted. The deletion of this sentence is a clarification and correction. Therefore, we have provided an errata (below) to reflect these changes.

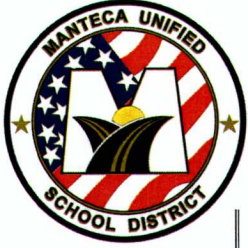
Based on this comment, we have updated page 46 of the IS/MND as follows (with underline for new text, ~~strike-out~~ for deleted text):

The proposed project could also use other sources of energy not identified here. Examples of other energy sources include alternative and/or renewable energy (such as solar PV) and/or on-site stationary sources (such as on-site diesel generators) for electricity generation. However, the proposed project does not propose to use other sources of energy at this time. ~~The proposed project would introduce solar PV onto residential rooftops, which would reduce the need for fossil fuel-based energy (for proposed project buildings), including for electricity.~~

Lastly, the commentor states that “the MND fails to disclose the existing energy usage on the Project site or define a significant energy impact threshold”. It should be noted that there is no specific numerical threshold to determine a significant energy impact. Consistent with Appendix G of the CEQA Guidelines, energy-related impacts are considered significant if implementation of the proposed project would do any of the following:

1. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?
2. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

The IS/MND analyzes the potential of the proposed project to do each of the aforementioned requirements contained in Appendix G of the CEQA Guidelines. Additionally, Appendix F of the State CEQA Guidelines requires consideration of the potentially significant energy implications of a project. CEQA requires mitigation measures to reduce “wasteful, inefficient



and unnecessary” energy usage (Public Resources Code Section 21100, subdivision [b][3]). According to Appendix F of the CEQA Guidelines, the means to achieve the goal of conserving energy include decreasing overall energy consumption, decreasing reliance on natural gas and oil, and increasing reliance on renewable energy sources. In particular, the proposed project would be considered “wasteful, inefficient, and unnecessary” if it were to violate state and federal energy standards and/or result in significant adverse impacts related to project energy requirements, energy inefficiencies, energy intensiveness of materials, cause significant impacts on local and regional energy supplies or generate requirements for additional capacity, fail to comply with existing energy standards, otherwise result in significant adverse impacts on energy resources, or conflict or create an inconsistency with applicable plan, policy, or regulation.

As provided on pages 44 through 47 of the IS/MND, IS/MND discloses that “the proposed project would be in compliance with all applicable federal, state, and local regulations regulating energy usage”, which would ensure that the proposed project would not result in any significant adverse impacts related to project energy requirements, energy use inefficiencies, and/or the energy intensiveness of materials by amount and fuel type for each stage of the project including construction, operations, maintenance, and/or removal. Furthermore, the IS/MND provides a thorough disclosure and analysis of proposed project-specific energy usage throughout pages 44-47 of the IS/MND, including for electricity and natural gas, on-road vehicles during project operation and construction, off-road vehicles during project construction, and energy usage for other activities. The Initial Study demonstrates that the proposed project would not generate a significant energy impact.

District’s Rebuttal to City’s Response C-8

Despite its response, the City has still failed to disclose the existing energy usage on the Project site. The City must disclose this information and provide an analysis of the Project’s energy consumption against the baseline energy consumption.

COMMENT C-9

During operations, the Project will emit 1,832.5 metric tons of greenhouse gases a year into the surrounding air. (*Id.* p. 58.) The MND fails to determine the existing greenhouse gas emissions from the Project site and compare that to the Project’s calculated emissions. The MND does not define a significance threshold for greenhouse gas emissions. As such, the MND’s claim that Greenhouse gas emissions would be less than significant is bare conclusion despite the City’s Climate Action Plan. The MND does not explain how the Project is consistent with the Climate Action Plan or if it and other present and future projects would also be consistent. The MND needs revision to provide the required analytical path from the data to the determination that the impact would be less than significant. Anything less is a violation of CEQA.

City’s Response C-9

Consistent with Appendix G of the CEQA Guidelines, climate change-related impacts are considered significant if implementation of the proposed Project would do any of the following:



1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.
2. Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

The vast majority of individual projects do not generate sufficient GHG emissions to create a project-specific impact through a direct influence to climate change; therefore, the issue of climate change typically involves an analysis of whether a project's contribution towards an impact is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, other current projects, and probable future projects (CEQA Guidelines, Section 15355).

The SJVAPCD's has evaluated different approaches for estimating impacts, and summarizing potential GHG emission reduction measures. The SJVAPCD staff has concluded that "*existing science is inadequate to support quantification of impacts that project specific GHG emissions have on global climatic change.*" This is readily understood when one considers that global climatic change is the result of the sum total of GHG emissions, both man-made and natural that occurred in the past; that is occurring now; and will occur in the future. The effects of project specific GHG emissions are cumulative, and unless reduced or mitigated, their incremental contribution to global climatic change could be considered significant.

The *Final Draft Guidance for Assessing and Mitigating Air Quality Impacts* (SJVAPCD, 2015) provides an approach to assessing a Project's impacts on greenhouse gas emissions by evaluating the Project's emissions to the "reduction targets" established in ARB's AB 32 Scoping Plan. For instance, the SJVAPCD's guidance recommends that projects should demonstrate that "*project specific GHG emissions would be reduced or mitigated by at least 29%, compared to Business as Usual (BAU), including GHG emission reductions achieved since the 2002-2004 baseline period, consistent with GHG emission reduction targets established in ARB's AB 32 Scoping Plan. Projects achieving at least a 29% GHG emission reduction compared to BAU would be determined to have a less than significant individual and cumulative impact for GHG.*"

Subsequent to the SJVAPCD's approval of the *Final Draft Guidance for Assessing and Mitigating Air Quality Impacts* (SJVAPCD 2015), the California Supreme Court issued an opinion that affects the conclusions that should/should not be drawn from a GHG emissions analysis that is based on consistency with the AB 32 Scoping Plan. More specifically, in *Center for Biological Diversity v. California Department of Fish and Wildlife*, the Court ruled that showing a "project-level reduction" that meets or exceeds the Scoping Plan's overall statewide GHG reduction goal is not necessarily sufficient to show that the project's GHG impacts will be adequately mitigated: "*the Scoping Plan nowhere related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects...*" According to the Court, the lead agency cannot simply assume that the overall level of effort required to achieve the statewide goal for emissions reductions will suffice for a specific project.



Given this Court decision, reliance on a 29 percent GHG emissions reduction from projected BAU levels compared to the Project's estimated 2020 levels as recommended in the SJVAPCD's guidance documents is not an appropriate basis for an impact conclusion in the MND. Given that the SJVAPCD staff has concluded that "*existing science is inadequate to support quantification of impacts that project specific GHG emissions have on global climatic change,*" this MND instead relied on a qualitative approach for this analysis. The approach still relied on the Appendix G of the CEQA Guidelines thresholds which indicate that climate change-related impacts are considered significant if implementation of the proposed Project would do any of the following:

1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.
2. Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

These two CEQA Appendix G threshold questions are provided within the Initial Study checklist and were the thresholds used for the analysis. The focus of the analysis is on the project's consistency with the City of Manteca Climate Action Plan (CAP) (2013), which has been determined to reduce GHG emissions in accordance with AB 32 and SB 375 levels. The CAP contains an inventory of GHG emissions, reduction strategies, and a means to implement, monitor, and fund the Plan. The purpose of the CAP is to outline a course of action for the City government and the community of Manteca to reduce per capita greenhouse gas emissions by amounts required to show consistency with AB 32 goals for the year 2020 and to adapt to effects of climate change. The CAP also provides clear guidance to City staff regarding when and how to implement key provisions of the CAP. Lastly, the CAP provides a streamlined mechanism for projects that are consistent with the CAP to demonstrate that they would not contribute significant greenhouse gas impacts. The analysis provided in the MND includes quantitative modeling to show the construction and operational emissions of GHGs as a result of the project, however, the conclusions are based on the fact that the project is consistent with the CAP which includes GHG reduction strategies that are expected to reduce community-wide GHG emissions by 15% below 2005 levels by 2020.

The analysis focused on gross emissions, as opposed to net emissions. It is noted, that a quantification of the existing emissions results in net new emissions that are less than the gross emissions that is reported in the MND. For instance, the EPA lists annual emission factors for dairy cattle from 111.8 to 139.4 kg/cow/year (EPA, 1999). The existing dairy operates with an average of 40 cows. This would result in approximately 5.56 metric tones per year of methane. There is also a small amount of existing GHG associated with the daily milk truck, commodity/feed deliveries, labor trips, on-site motor vehicles/tractors, and decomposition of manure. However, total existing emissions from the existing dairy operation would be less than a percent of the total new emissions that were disclosed on page 58 of the Initial Study.



District's Rebuttal to City's Response C-9

The City misquotes the draft SJVAPCD. It actually states, “the existing science is inadequate to support quantification of the extent to which project specific GHG emissions would impact global climate features such as average air temperature, average rainfall, or average annual snow pack.”

<https://www.valleyair.org/transportation/GAMAQI-2015/FINAL-DRAFT-GAMAQI.PDF>.

Moreover, the City cannot rely on a draft document from the SJVAPCD because it does not reflect the opinion of the SJVAPCD until it is final.

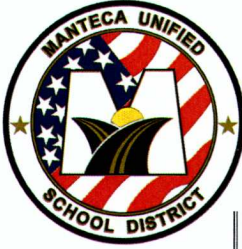
The City's full GHG analysis must be presented in a recirculated MND; however, the City still fails to consider the cumulative impact of other past, present, and future projects along with the Project in determining whether a cumulatively considerable GHG impact would occur. The MND does not mention a single other project considered. Additionally, the MND and the City's response are completely void of analysis to support the MND's conclusion that the Project is consistent with the CAP despite much discussion on what the CAP is. The MND must be revised and recirculated.

COMMENT C-10

The MND does not disclose whether the Project site's existing buildings and structures contain asbestos, lead, or other hazardous substances in their building materials. Instead, the MND states, “The barns and equipment storage areas located on-site would require removal prior to any construction. If the structures are demolished, they will require evaluation for asbestos and lead containing materials.” (*Id.* p. 61.) As discussed above, these buildings and structures will be demolished and there is no other articulated reason why the evaluation for hazardous substances cannot be completed now and reported on in the MND. As such, the MND seeks to impermissibly defer assessment of the hazardous substances.

City's Response C-10

As provided on page 61 of the IS/MND, and as provided within the IS/MND Appendix D, a Phase 1 Environmental Site Assessment and limited Phase 2 Soil Sampling and Analysis for the project site were conducted by Advanced GeoEnvironmental on February 19, 2018. The Environmental Site Assessment did not find any recognized environmental conditions that warranted further environmental investigation at the project site. Page 63 of the Initial Study indicates that the barns and equipment storage areas located on-site would require removal prior to any construction, and that they will require evaluation for asbestos and lead containing materials. Such an evaluation is part of the permit process that requires special demolition and disposal practices in accordance with state regulations to ensure their safe handling. For instance, if asbestos or lead is present, there is a special demolition process, as well as special landfills that are permitted to accept such demolition debris. However, if the asbestos or lead is not present, then the demolition process would not require any special handling.



District's Rebuttal to City's Response C-10

The scope of a Phase I Environmental Site Assessment and the limited Phase 2 Soil Sampling and analysis do not include consideration of whether building materials contain hazardous materials. Rather the assessment and sampling focus to discharges of hazardous substances to the soil of the Project Site. Thus, the City's response does not address the potential hazardous materials contained in the buildings and their potential release and exposure to the public when they are demolished and carried away. Further, the City does not explain why the assessment of the buildings cannot be completed now. Hazardous materials in the building must be analyzed and disclosed in a recirculated MND.

COMMENT C-11

Although the MND states that City's 2015 Urban Water Management Plan ("UWMP") confirms that there will be adequate water supply for the Project (*id.* p. 103), the MND does not disclose what the anticipated water demand will be for the Project. Only 17-percent (i.e., 4,534 acre-feet) of the water supply is available. Moreover, there is no explanation that compliance with the dwelling density limit for the General Plan designation of MDR ensures that sufficient water supplies exist. Without information on the estimated water usage from the Project and other existing and future projects, it is impossible for the reader to be able to confirm whether the UWMP would actually accommodate the Project's need or the cumulative impact from the Project and other present and future projects.

The Project's reliance on groundwater is disturbing. (See MND, p. 103.) The MND fails to acknowledge that the current Eastern San Joaquin Groundwater Basin Management Plan discloses that the groundwater basin is in critical overdraft and difficult to mitigate. (ESJ Groundwater Basin Management Plan, p. 1, <http://www.gbawater.org/Portals/0/assets/docs/IRWMP-2014/Groundwater-Management-Plan-Final.pdf>). How can the Project rely on groundwater when the basin is already in critical overdraft? The MND's conclusion that there is sufficient water supply for the Project is unsupported.

City's Response C-11

It is noted that the commentor's agency, Manteca Unified School District (MUSD), draws an estimated 500 AFY (163 million gallons per year) from the groundwater basin for their school facilities. The commentor indicates that "reliance on groundwater is disturbing", and yet the MUSD is fully reliant on groundwater and has provided no alternative source of water for their existing or future facilities. In addition, the MUSD continues to build and expand school facilities, which is further exacerbating their demand on groundwater without planning for an alternative.

To the contrary, as described throughout the City's UWMP, the City's future reliance on groundwater has a limit and it is focusing on surface water from SCWSP Deliveries.

As described on pages 99-100 of the IS/MND, the City's 2015 Urban Water Management Plan (UWMP) estimates for City water demand and supply takes into account the project site and



the land uses proposed by the project. The City's 2015 UWMP Planning Area corresponds with the City SOI established in the City's 2023 General Plan. The 2023 General Plan includes a designation of area planned to be developed by 2023. The City's current water distribution service area coincides with the City limits. It is assumed that water supply will be extended to areas within the Planning Area outside the existing City limits as those areas are approved for development and annexed into the City.

The Initial Study also indicates that it is anticipated that water supply for the proposed project would be a combination of local groundwater and treated surface water from SSJID's SCWSP. According to the City's 2015 UWMP, the sustainable yield of the groundwater basin was estimated in a 1985 study¹ to be approximately 1 acre-foot per acre per year. As part of the SCWSP, the City intends to limit groundwater pumping to that rate or less. Projected groundwater availability is therefore based on an assumption that 1 AFY of groundwater is available per acre of City service area.

The estimated water use is 2,240 gallons per acre per day for residential uses, which equates to approximately 29,568 gallons per day for the proposed project. As stated in the Initial Study, page 66, the City's 2023 General Plan allows for residential densities of up to 15 dwelling units per acre, which would allow up to 183 units. The proposed project is well below this total allowed units and would result in less water consumption compared to the maximum allowed units of 183.

The Initial Study indicates that the City has adequate water supplies to support existing demand in the City in addition to the proposed project. As discussed in the UWMP, the principal component of future water supply for the City is deliveries from the SSJID's South County Water Supply Program (SCWSP). The City, along with four other cities/retail water suppliers (Escalon, Lathrop, Tracy, and Ripon), signed water supply agreements with SSJID to supply treated potable water to the participating cities.

The Nick C. DeGroot Water Treatment Plant (WTP) is commissioned for the SCWSP and is currently operated by SSJID. The WTP has a total Phase 1 capacity of 40,350 AFY and the Phase 2 capacity is anticipated to be 63,600 AFY. However, Phase 2 has not yet been implemented and there are no immediate plans to bring Phase 2 online. Currently, the City is allotted 11,500 AFY under Phase 1 and a total of 18,500 AFY under Phase 2. The term of the City's water supply agreement with SSJID is through December 2029. After this time, ownership of the WTP reverts to the cities unless the agreement is renewed. Historically, the City has not utilized its full allocation of surface water due to system constraints and, more recently, State and SSJID supply limits in response to the drought. The City anticipates utilizing the full amount of the SCWSP by 2025.

District's Rebuttal to City's Response C-11

¹ This study is possibly the study that is referenced in Bulletin 118 (1/20/2006 version), "Eastern San Joaquin County Groundwater Study. Final Report." San Joaquin County Flood Control and Water Conservation District, prepared by Brown & Caldwell Consulting Engineers, 1985.



The District's current use of water is immaterial to whether the Project will cause a significant impact to water supplies. The Project's demand on groundwater must be provided in a revised and recirculated MND. The City's analysis of the availability of water resources in its response must also be included in the MND. As it is drafted, the MND does not adequately address the Project's impacts on water resources that distinctly include a groundwater basin in critical overdraft.

COMMENT C-12

As discussed in the Adequate School Facilities section below, the Project is inconsistent with the General Plan 2023. The Project needs to contribute its fair share of funding for the adequate school facilities as required by the General Plan 2023 and its Mitigation Monitoring and Reporting Program. An additional mitigation measure for the Project's developer to enter into a Mello-Roos District or a mitigation agreement with the District is required to be consistent with the General Plan 2023 and its EIR.

City's Response C-12

This comment is noted. Please see the response provided under Response C-15 to this topic, which adequately addresses these concerns. No further response is required.

District's Rebuttal to City's Response C-12

See below under the District's rebuttal to the City's Response to Comment C-15.

COMMENT C-13

As discussed above, the MND fails to identify construction truck routes or disclose the amount of construction dump truck traffic. Construction dump trucks can generate 76 decibels 50 feet way. Such a noise level would disturb school operations and be inconsistent with the outdoor playground noise limit of 70 Leq. dB and an indoor school noise limit of 45 Leq. dB. The haul routes need to be identified to know whether construction truck traffic will significantly impact the District's schools, and without the analysis, the claim that the Project's noise would not create a significant impact is unsupported.

City's Response C-13

This comment is noted. The City considers all hauling activities to ensure that they are routed to the City's major roadway network. Given the location, it is anticipated that any hauling, would be located south along Airport Way and/or west on Yosemite Avenue to the SR120. Locating hauling trips on major roadways is consistent with the City's practices. The exact haul routes are generally defined during the review of grading plans, which is a step in the engineering phase of the project. The noise levels on these roadways from hauling would be short-lived and would cease after construction. Mitigation Measure NOISE-1 requires that construction activities be limited to the hours of 7:00 a.m. and 7:00 p.m. These construction time requirements would apply to any hauling activities. The haul routes will not be adjacent



to a school facility, given that there are no school facilities on these major haul routes throughout the City.

District's Rebuttal to City's Response C-13

The City's response appears acceptable; however, it must be provided in a revised and recirculated MND. The City cannot cure an incomplete MND analysis in its responses to comments.

COMMENT C-14

The MND does not adequately analyze the impact on fire department services. The Manteca Fire Department "is not currently meeting the Response Effectiveness goal. In May of 2016, the Department arrived on-scene within 5 minutes approximately 66% of the time. The percentage continues to decline. The Department has recently seen increased calls and expanded areas of coverage. The proposed project will be served by the Department's most impacted fire station (Station No. 2, 1154 S. Union Rd)." (MND, p. 88.) Although a future Fire Station No. 5 is planned for southeast Manteca, there is no analysis in the MND demonstrating that the new fire station would achieve the Response Effectiveness goal with the Project. Further, Fire Station No. 5 is speculative at this time, since its funding "is dependent on additional annexations and development in the area." (*Id.* p. 89.) The City's intention to discuss Fire Department funding by fees and charges during annual budget meetings is no a guarantee of obtaining the necessary funding. (See *Ibid.*) The MND notes the Fire Department has recently staffed a "rescue" in District 2. (*Id.* p. 88.) However, the MND does not demonstrate how this "Rescue" would reduce the Project's significant impact on the Fire Department to less than significant. No metrics, either observed or estimated, are provided. Furthermore, and more critically, there is no statement from the Fire Department that it could adequately provide fire protection services to the Project without additional facilities. Thus, the MND's analysis is incomplete and the conclusion that the impact on fire protection services is less than significant is unsupported. The Fire Department must be consulted with and the results reported in a revised Draft EIR that is recirculated for public comment.

Also missing from the MND is consultation with the Manteca Police Department to determine whether the Project would have a significant impact on police protection services. The reliance of existing response times is not indicative of the Police Department's ability to adequately serve this large Project. The Police Department must be consulted with and the results be reported in a revised Draft EIR. Further, the reliance on the City's intention to discuss police funding through fees and charge at annual budget hearings does not ensure sufficient police services for the Project. (See MND, p. 90.)

City's Response C-14

Fire Station 5 is planned, has 30 percent design, and as mentioned by the commentor, it is funded by new development, including the proposed project. The proposed project will pay their prorata fair share of impact fees, and the City fully intends on moving forward with their planned fire station as described. This is not a speculative project; it is a project that has been



contemplated for many years and is deep in the design process with an expected construction start within the year.

Additionally, The City of Manteca General Plan Policy (PF-P-42) states that the City shall endeavor to maintain an overall fire insurance (ISO) rating of 4 or better. In the ISO rating scale, a lower number is better. Currently, the City's ISO is at 2, which is better than most of the jurisdictions in San Joaquin and Stanislaus County.

As provided on pages 89 and 90 of the IS/MND, the proposed project would contribute the appropriate level of impacts fees for fire and police services. Impact fees from new development are collected based upon projected impacts from each development. The adequacy of impact fees is reviewed on an annual basis to ensure that the fee is commensurate with the service. Payment of the applicable impact fees by the project applicant, and ongoing revenues that would come from property taxes, sales taxes, and other revenues generated by the proposed project, would fund capital and labor costs associated with fire and police protection services. Payment of such fees is adequate to ensure that the proposed project would not result in any CEQA impacts related to this topic, including the potential for the proposed project to cause substantial adverse physical impact associated with the provision of new or physically alternated governmental services, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts. Although fire and police response times within the City of Manteca may require improvement, it does not follow that the proposed project would generate a substantial impact to this topic, after payment of all applicable fees.

District's Rebuttal to City's Response C-14

The City has failed to demonstrate that there will be sufficient fire and police services to serve the Project, especially from day one of Project operations. It does not appear that the City has communicated with either the fire or police departments about their capacities to serve the Project. The City claims that the new Fire Station No. 5 "has been contemplated for many years" but ignores the fact that it will not be implemented where no funding exists or may be delayed for years to come. The MND does not analyze the impact of the Project with and without the construction of Fire Station No. 5. While the City's response provides part of the analysis of the Project's impact on police and fire services, this level of analysis is lacking from the MND and must be included and recirculated.

COMMENT C-15

The MND notes that the Project would include the development of 99 single-family homes. (MND, pdf, p. 6.) These dwelling units will generate 48 K-8 students and 23 9-12 students, for a total of 71 new students. (*Id.* p. 91.) The District's School Mitigation Fee Justification Study, dated October 9, 2018, determined that upon development project build out, there will be a shortage of classroom facilities for 6,112 students. (Fee Study, Table 6, p. 10.) Since the Project was not identified as new development in the Fee Study (See *Id.* Appendix B, Table B-1), the Project exacerbates the school facilities' shortfall. The cost of providing school facilities is \$13.40 per square foot of single-family detached residential units. (*Id.* Table 11, p. 13.)



However, the District levies Level 1 Developer Fees in the amount of \$3.79 per square foot—which only accounts for 28% of the costs for adequate school facilities, respectively.

A recent analysis of the Project’s significant impact on school facilities was performed by California Financial Services. See attached **Exhibit 4**. This revealed that the cost of adequately housing the Project’s students will cost a total of \$3,243,680.55. With only 27% of this cost covered by Level 1 Developer Fees to be collected from the Project (\$873,864.09), there remains a significant shortfall of **\$2,369,816.46**. This is a real, not imaginary, significant impact on the District, which it will not and cannot make up.

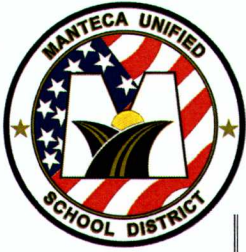
The MND claims that payment of developer fees is full and complete mitigation for school construction. (MND, p. 91.) That is not the case. Developer fees alone are not adequate mitigation. The MND claims that the Project is consistent with the City’s General Plan and attendant EIR, but it is not. The City’s General Plan EIR acknowledged that implementation of the General Plan 2023 would require additional school facilities and that the impact was potentially significant and identified three important mitigation measures. (Draft General Plan EIR, pp. 1-57, 1-58, and 14-19; <https://www.sjgov.org/lafco/manteca%20msr/gp%20deir%20full.pdf>.) Goal PF-13 states, “Provide for the educational needs of Manteca residents.” (*Id.* pp. 1-58 and 14-21.) PF-P-33 states in part, “Adequate facilities shall be planned to accommodate new residential development.” (*Ibid.*) PF-P-35 states, “***Financing of new school facilities will be planned concurrent with new development.***” (*Ibid.*, *emph. added*. Note that PF-P-35 is labeled PF-P-34 on p. 14-21.)

These General Plan 2023 mitigation measures require funding beyond collected developer fees to ensure adequate school facilities. The failure to provide (i.e., planned) fair-share funding for necessary adequate school facilities violates the commitment made in the General Plan 2023 EIR and is inconsistent with it. Further, the lack of a consistent mitigation measure in the MND to provide the fair-share funding leaves an unmitigated potentially significant impact, as acknowledged in the General Plan 2023 EIR. In such a circumstance, the MND cannot claim that the Project’s impact to school facilities would be less than significant by simply relying on collected Level 1 Developer Fees. To honor and comply with the General Plan 2023, its EIR, and the City’s adopted Mitigation Monitoring and Report Program, the Project developer must provide its fair-share funding for adequate school facilities for the Project’s new students. This can be accomplished by the Project developer’s entry into a Mello-Roos District or a mitigation agreement with the District.

If the Project developer refuses to provide sufficient school facility funding, the District will have no choice but provide the Project’s students with portable classrooms and Project students will have no choice but to share existing overcrowded support facilities at the serving schools.

City’s Response C-15

The MND concludes that (1) payment of school impact fees under the Leroy F. Greene School Facilities Act constitutes full and complete mitigation under CEQA for school construction to serve new development; (2) State law precludes the City from reaching a conclusion under CEQA that payment of such impact fees would not completely mitigate new development



impacts on school facilities; and (3) the City of Manteca is without the legal authority under CEQA to use the inadequacy of school facilities as a basis for denying or conditioning development approvals.

All of these conclusions are legally sound. The Leroy F. Greene School Facilities Act of 1998, enacted by Senate Bill 50 (“SB 50”), restricts the ability of local agencies to deny or condition land use approvals on the basis that school facilities are inadequate and precludes local agencies from requiring anything other than payment of the prevailing developer fee adopted by the local school district. SB 50 sets forth the “exclusive methods of considering and mitigating impacts on school facilities” resulting from any planning and/or development project, regardless of whether its character is legislative, adjudicative, or both. Govt. Code § 65996(a) (emphasis added).

Section 65995(h) provides that “[t]he payment or satisfaction of a fee, charge, or other requirement levied or imposed pursuant to Section 17620 of the Education Code in the amount specified in Section 65995 ... is hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving but not limited to, the planning, use, or development of real property ... on the provision of adequate school facilities.” (emphasis added).

The reference in Section 65995(h) to fees “imposed pursuant to Section 17620 of the Education Code in the amount specified in Section 65995” is to per-square-foot school fees that can be imposed by school districts on new residential and commercial and industrial construction. Pursuant to this authority, the District has adopted a Level 1 fee in the amount of \$3.79 per square foot of assessable space of new residential construction. Payment of this Level 1 fee by the applicant constitutes full and complete mitigation of all impacts of the project on the District’s school facilities as a matter of law. (Gov’t Code § 65995h.)

Under SB 50, the City of Manteca is legally precluded from concluding, under CEQA or otherwise, that payment of the prevailing Level 1 fee will not completely mitigate the impacts of the project. Government Code § 65995(a) provides that SB 50 constitutes sets forth the “exclusive methods of considering and mitigating impacts on school facilities” when evaluating a development project. Because the methods of both “considering and mitigating” impacts on school facilities set forth in Government Code section 65996(a) are exclusive, SB 50 obviates the need for CEQA documents even to contain a description and analysis of a development project’s impacts on school facilities. See *Chawanakee Unified Sch. Dist. v. Cty. of Madera*, 196 Cal. App. 4th 1016, 1027 (2011). Further, these statutes prohibit local agencies from concluding that payment of the authorized fees do not constitute full and complete mitigation of a project’s school facilities impacts. Local agencies have no power to supersede the legislature’s express and unambiguous directives on this subject.

Nor, contrary to the District’s claim, does the City possess the authority to deny or condition the project unless the applicant agrees to pay fees or provide other mitigation beyond the duly adopted Level 1 fee. Under Government Code § 65995(a), a “local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property . . . on the basis of a person’s refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to [SB 50.]”



In short, payment of the Level 1 fee is “deemed to provide full and complete school facilities mitigation and, notwithstanding [Government Code] Section 65858, or [CEQA], or any other provision of state or local law, a state or local agency may not deny or refuse to approve [the] development of real property ... on the basis that school facilities are inadequate.” The District’s position that the City is obligated to condition or deny the project based on the inadequacy of Level 1 fees is legally meritless.

The Comment Letter also claims that the City’s General Plan 2023 contains “mitigation measures” that require “funding beyond collected developer fees to ensure adequate facilities.” It further asserts that the “failure to provide . . . fair-share funding for necessary adequate school facilities violates the commitment made in the General Plan 2013 EIR and is inconsistent with it.” None of these allegations withstands scrutiny.

As indicated, under SB 50 the legislature has fully preempted the field of financing of school facilities required to mitigate development. The Legislature's findings and declaration of policy on these subjects is contained in Government Code section 65995(e):

“[T]he financing of school facilities and the mitigation of the impacts of land use approvals ... on the need for school facilities are matters of statewide concern. For this reason, the Legislature hereby occupies the subject matter of requirements related to school facilities levied or imposed in connection with, or made a condition of, any land use approval, ... and the mitigation of the impacts of land use approvals ... on the need for school facilities, to the exclusion of all other measures, financial or nonfinancial, on the subjects. For purposes of this subdivision, ‘school facilities’ means any school-related consideration relating to a school district’s ability to accommodate enrollment.” (Emphasis added.)

SB 50 itself establishes a comprehensive program for financing of school facilities through the School Facility Program. Under this program, new school construction projects are funded 50% by the state (with bond funds administered by the State Allocation Board) and 50% by local school districts. School districts have a number of options, in addition to property tax revenues, for financing their local match share. These include general obligation bonds (which are exempt from the two-thirds vote requirement and subject only to 55% voter approval), lease financing (through certificates of participation), and tax and revenue anticipation notes. School districts that are unable to finance their proportionate share of needed school facilities through the normal methods may apply for “hardship” funding under the Financial Hardship Program of the State School Facility Program.

The financing of school facilities is thus an obligation of the state and of local school districts -- cities and counties are not part of that process. Indeed, as noted, cities and counties are expressly prohibited from enacting “measures, financial or nonfinancial” concerning financing of school facilities. “School facilities” is defined very broadly to include “any school-related consideration relating to a school district’s ability to accommodate enrollment.” (§ 65995(e).)



The City's General Plan 2023 was enacted many years after adoption of SB 50 and must be read and interpreted consistently with the provisions of this statute and in such a manner as to render it valid. If the terms of the General Plan, as with any other local law, are capable of a meaning consistent with the requirements of state law and the constitution, they must be given that construction. See *Cranston v. City of Richmond* 40 Cal.3d 755, 768–769 (1985); *Welton v. City of Los Angeles*, 18 Cal. 3d 497, 505–06 (1976). Moreover, adoption or amendment of a general plan is a legislative act (Gov't Code, § 65301.5.), and legislative acts are entitled to a presumption of validity. *Federal of Hillside & Canyon Assns. v. City of Los Angeles*, 126 Cal.App. 4th 1180, 1195 (1978).

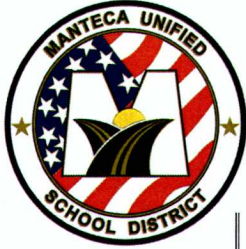
The District's Comment Letter disregards this factual and legal background and relies on isolated excerpts from the General Plan and its EIR for the proposition that the General Plan requires the City to condition approval of the project on the developer providing its "fair-share funding for adequate facilities." The District contends that the policy in General Plan that "[f]inancing of new school facilities will be planned concurrent with new development" means that the City intends to finance such school facilities through conditions imposed on new development. This ignores not only the broader framework of state law, but also the specific context in which this statement appears in the General Plan. The immediately preceding policies state that (1) the "City shall cooperate with the Manteca Unified School District and others in locating and reserving appropriate school sites for new schools;" and (2) the "City shall cooperate with the Manteca Unified School District in their collection of school facility development fees from new development." (General Plan, PF-p-33; PF-P-34, emphasis.)

The referenced provisions of the General Plan, reasonably interpreted in context and in light of state law, express policies favoring cooperation with the District in the planning and financing of school facilities to accommodate student growth from new development. They do not state or imply that the City itself plans to finance or build new school facilities. Nor, contrary to the District's assertion, do they "require funding beyond collected fees to ensure adequate school facilities" much less mandate that development projects be conditioned to finance the difference between school impact fees and the cost of new school facilities. The District's position relies on the premise that the City Council, in direct violation of SB 50, intentionally adopted measures in its General Plan regarding the financing of school facilities and the mitigation of the impacts of land use approvals on the need for school facilities. It also assumes that the City Council thereby deliberately engaged in an idle act, since any such measures are indisputably preempted by SB 50 and would have been unenforceable. *Mobilepark W. Homeowners Assn. v. Escondido Mobilepark W.*, 35 Cal. App. 4th 32, 45–46 (1995) (local measures that duplicate, contradict or enter an area fully occupied by state law are preempted and hence unenforceable.)

The District's position concerning the requirements of the General Plan is unsupported by the language of the General Plan, wholly inconsistent with principles of statutory interpretation, and contrary to state law. No further response is required.

District's Rebuttal to City's Response C-15

Due to the obvious discrepancy between the District's estimated cost of providing classroom facilities and the Level 1 Developer Fees, the City should provide an adequate analysis under



CEQA of the Project's impact on schools. The City now admits that its own General Plan is illegal and that its General Plan EIR violates CEQA. The City certified its General Plan EIR based upon express, enforceable mitigation measures to reduce significant impacts, which include the significant impact on school facilities. The City's reliance on SB 50 is essentially the same tact it took with visual resources by disregarding its own policies and guidelines when it suits the City. Even if there is no legal obligation to provide additional funding (which the District disputes), the City fails to acknowledge that without the additional funding, the Project is not consistent with the General Plan or its EIR. This is a critical flaw in the MND that must be addressed in a revised and recirculated MND.

COMMENT C-16

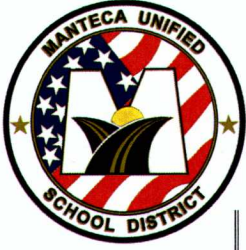
The MND fails to analyze the Project's increased usage of the Stella Brockman Elementary School and Sierra High School's recreational facilities. With the addition of so many homes, those residents will be looking for recreational facilities, and these two schools are the closest. Thus, the Project's residents will increase the usage of the schools' recreational facilities, and by doing so, will accelerate deterioration of these facilities. The Project applicant's payment of park fees to the City, does not pay for the maintain of the schools' recreational facilities. Thus, the MND must identify mitigation to reduce this accelerated deterioration.

City's Response C-16

The Initial Study addresses parks on page 92, where it discusses the Quimby Act (California Government Code Section 66477) which states: *The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4.*

The City's General Plan identifies a park standard based on a goal of five acres of developed parkland per 1,000 residents within the city limits. Further, the City's Parks and Recreation Master Plan (December 2016) states that the City currently strives to provide 3.5 acres of Neighborhood Park land per thousand residents, and 1.5 acres of Community Park land. Due to the active sports needs of the community, the recommendation of the City's Master Plan is to shift the acreage goals to achieve a better balance of park land in the future, resulting in a new goal for developing adequate Special Use Park land. The total goal of 5 acres per 1,000 residents remains intact, and the summary of the goals is broken down below:

- Neighborhood Park: 3 acres / 1,000 residents
- Community Park: 1 acre / 1,000 residents
- Special Use Park: 1 acre / 1,000 residents



According to the Master Plan, the City currently has a deficit of 5.67 acres of Neighborhood Park, and a surplus of Community Parks (5.58 acres) and Special Use Parks (18.06 acres). Using the above parkland goals, the proposed project would be required to provide approximately:

- Neighborhood Park: 0.95 acres
- Community Park: 0.32 acres
- Special Use Park: 0.32 acres

The Quimby Act allows a development to provide the parkland onsite, or to pay the in-lieu fees to the City for the future development of park elsewhere in the City. The Initial Study concludes that the proposed project is subject to the City park dedication in-lieu fees and that the payment of the City park dedication in-lieu fees would serve as an adequate offset for the park demand to meet the need of the project.

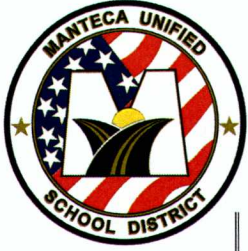
District's Rebuttal to City's Response C-16

The City's response does not address how payment of City park dedication in-lieu fees would render this impact less than significant.

COMMENT C-17

The MND only analyzes three intersections, it does not analyze any of those intersections that are adjacent or near the two Project-serving schools. This is especially important given that most parents will drive their children to and from school, as discussed in detail above. The drop-off and pick-up events at Stella Brockman Elementary School are severely congested, as verified by the Principal of Stella Brockman Elementary School, Candace Espinola. Both the main and annex parking lots (northern and southern, respectively) provide drop-off and pick-up areas and are full and choked with vehicles. Waiting vehicles typically back up along Silverado Drive all the way down to Crom Street. Any additional school could cause a significant traffic impact. As a result, the following street segments and intersections need to be analyzed for significant and cumulative traffic impacts: Silverado Dr./Crom St. intersection, Silverado Dr. and school's Annex Parking Lot Driveway, and Silverado Dr. and the school's Main Parking Lot Driveway. To accurately determine the Project's impact on school traffic, both intersection and queue lengths must be analyzed.

The Assistant Principal of Sierra High School, Anthony Chapman, reports that the existing traffic around Sierra High School is severely congested during each drop-off and pick-up time (7:00 a.m. to 7:35 a.m. and 2:20 p.m. to 2:55 p.m., respectively) due to 1,500 students and over 100 employees entering and exiting the school. The drop-off and pick-up area is the drive circle located in the northeast corner of the campus. It, the on-campus parking lot, and all the perimeter roads quickly fill up with vehicles waiting to access the campus. There are typically between eight and ten minor vehicle collisions during drop-off and pick-up times each school year. As a result, the following street segments and intersections need to be analyzed for potential significant traffic impacts by the Project's addition to the drop-off and pick-up traffic:



both directions of Fishback Drive, Thomas Street, Winters Drive that front the school and the intersections of Fishback Drive/Thomas Street, Thomas Street/Winters Drive, Fishback Road/Wawona Street, and Winters Drive/Wawona Street. To accurately determine the Project's impact on school traffic both intersection and queue lengths must be analyzed.

Additionally, the cumulative impact of the Project together with existing and future other projects must be analyzed and appropriately mitigated. Without traffic impact analyses at these locations, the Project's traffic impact to its serving schools are unknown. It is apparent that the MND's Project trip assignment did not consider student drop-off and pick-up. If this is not reflected in the Project's trip assignment, the traffic study is flawed and must be redone.

Neither the MND nor the Transportation Impact Analysis Report discloses when the existing traffic was studied. To have an accurate traffic analysis, the existing traffic during the school year must be performed. If the traffic analysis was done during non-school days, the existing traffic will be understated. Thus, the existing traffic conditions must be determined when school is session, and it was not done so, it must be redone.

Although the Transportation Impact Analysis Report purports to provide a cumulative traffic analysis, it does not describe how cumulative conditions were established and does not identify any other projects considered. This fails to provide the required analytical bridge from the data to the traffic conclusions because the reader has no way of checking the cumulative traffic analysis for her or himself. The report and MND must be revised to provide a complete analysis describing and justifying their traffic impact conclusions.

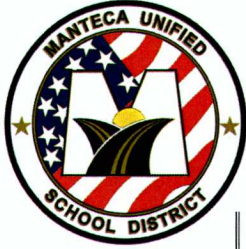
The MND does not include a parking impact analysis. With the addition of new students to the District's schools, how will the added students impact parking at the schools? Both Stella Brockman Elementary School and Sierra High School's parking lots and adjacent off-street parking are at full capacity during drop-off and pick-up. Undoubtedly, the increased commuting of students to and from these schools will create greater spill-over parking and increase congestion on the streets fronting the schools. Thus, parking capacity studies at Stella Brockman Elementary School and Sierra High School need to be done to determine if any significant parking and secondary impacts would occur as a result of the Project.

City's Response C-17

The IS/MND includes an analysis of Cumulative Plus Project Conditions (see page 100 of the IS/MND), which demonstrates that under such conditions, the addition of vehicle traffic generated by the proposed project would result in only a minor change in the average delay at the Airport Way/Crom Street signalized intersection. Nevertheless, a traffic signal with crosswalks would be installed at the Airport Way/Crom Street intersection, as provided under Mitigation Measure TT-1.

The IS/MND includes a Transportation Impact Analysis Report (Appendix C of the IS/MND), developed by Fehr & Peers. The study intersections that were included in the analysis were:

1. Airport Way / Crom Street;
2. Crom Street / Project Access Intersection #1 (full access); and



3. Airport Way / Project Access Intersection #2 (right-turn in / right-turn out only).

The study intersections were chosen based on consultation between the City of Manteca and the traffic consultants (Fehr & Peers). The traffic analysis includes utilization of the City's traffic model, which looks at traffic dispersal and movements. The traffic model utilizes a daily trip generation factor that is established by the Institute of Traffic Engineers. The project site is located on the outskirts of the City of Manteca, with a relatively low volume of traffic occurring on nearby roadways. Construction traffic would be temporary and minor. According to the *Transportation Impact Analysis Report* prepared by Fehr & Peers, during project operation, the proposed project would generate approximately 934 daily vehicle trips, 73 AM peak hour trips, and 98 PM peak hour trips. This would increase the amount of traffic that currently occurs at and within the vicinity of the project site. However, the increase in traffic expected to be generated by the proposed project during project operation would be added to roadways that maintain low volumes, since the project site is located in an area with a relatively low volume of traffic. The traffic analysis generated for the proposed project adequately analyzes the trip generation, daily trips, peak hour trips, and LOS.

The Initial Study adequately addresses the four Appendix G checklist questions. The scope of the traffic analysis was appropriate for the scale of the project.

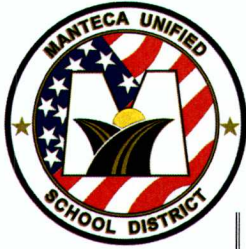
District's Rebuttal to City's Response C-17

The City is completely unresponsive to the District's comment. See the District's original comment above.

COMMENT C-18

The MND points out that Forward Landfill has an 8,668-ton daily limit, the average daily disposal is 620 tons per day, and that the Project is expected to generate approximately 0.5 tons per day. (*Id.* p. 105.) While this all well and good for a tonnage determination, the MND does not identify the daily volume of the Project's solid waste, which is another important metric in determining whether there is a significant impact in two ways. First, the landfill has a capacity based on cubic yards, not tonnage. This is important because the MND acknowledges that Forward Landfill will reach capacity and close next year, and another unspecified landfill would be required. The volume impact of the Project's solid waste at the follow-on landfill needs to be analyzed to fully understand the Project's impact on solid waste disposal resources. The MND does not do this and must be accordingly revised to disclose the Project's estimated solid waste in cubic yards and assess whether such generation would cause a significant impact at another landfill.

Second, since Forward Landfill is closing next year, the MND must also analyze the secondary impacts of dumping the Project's solid waste at a specific follow-on landfill, which includes increased trash truck trip lengths. Moreover, solid waste volume is an important metric because a trash truck is not only limited by tonnage, but by volume.



The MND attempts to justify its conclusion of a less than significant impact by claiming that the General Plan MDR designation assumes up to 15 units per acre. (*Ibid.*) Missing is an explanation on how the General Plan dealt with solid waste and its conclusions. Without this explanation, the analysis is impermissibly incomplete. Thus, further analysis of the Project's solid waste disposal needs to be included in the MND.

As discussed in the Hydrology section above, the MND ignores the fact that the groundwater basin is in **critical overdraft**. The Project is relying on groundwater to meet its water demand. (*Id.* p. 65.) The MND's failure to consider the critical overdraft of groundwater in the basin makes the conclusion that their an adequate water supply for the Project unsupported and incomplete.

Again, the MND's reliance upon the Project's compliance with the dwelling density of the MDR designation does not explain how that translates to the provision of adequate water supply for the Project. The analysis is incomplete.

City's Response C-18

As described on page 105 of the Draft EIR, development of the project site for MDR uses, which allows for up to 15 units per acre of residential, was assumed in the City's General Plan EIR. Therefore, the availability of landfill capacity for the project site has been planned for in the City's General Plan and General Plan EIR, which would ensure that the proposed project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, otherwise impair the attainment of solid waste reduction goals. The City of Manteca General Plan EIR states that there may be a potentially significant impact for the General Plan 2023 to create demand for solid waste services beyond the capacity of current landfill facilities. However, this is mitigated through the following goals and policies:

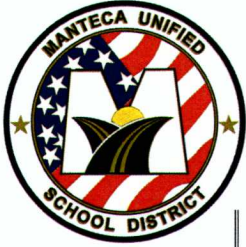
- Goal PF-11 Provide for the implementation and enforcement of the provisions for the Source Reduction and Recycling Element, as mandated by the State.

- Goal PF-12 Maintain efficient, effective and economical solid waste services for the residents, businesses and visitors to Manteca.

- PF-P-30 The City shall support the continued use of the Lovelace Transfer Station on Lovelace Road, between Union Road and Airport Way, for the processing and shipping of solid waste materials.

Additionally, the City of Manteca General Plan EIR states that there may be a potentially significant impact for the General Plan 2023 relating to compliance with statutes and regulations related to solid waste. However, this is mitigated through the following goals and policies:

- Goal PF-11 Provide for the implementation and enforcement of the provisions for the Source Reduction and Recycling Element, as mandated by the State.



PF-P-29 The City will implement and enforce the provisions of its Source Reduction and Recycling Element.

Development of the project site has been planned for under the City General Plan, and the General Plan EIR mitigates potential impacts to solid waste to an insignificant impact related to solid waste. Once the Forward Landfill closes, the City can utilize the Foothill Landfill as a location for solid waste disposal. Alternatively, the City may look for other facilities for disposal of solid waste for all waste generated in the City.

Separately, an analysis of the groundwater basin is provided under Response C-11.

District's Rebuttal to City's Response C-18

Stating that the City's General Plan "anticipates" the development of the Project is entirely insufficient analysis of the Project's waste generation. The City's response does not state the anticipated volume of waste generated by the completed Project. The MND lacks the discussion in the City's response about the mitigation measures to be implemented by the City's General Plan EIR regarding solid waste. Additionally, the City's suggestion that Foothill Landfill can be used when Forward Landfill closes literally next year, likely before the project is even complete, appears to be speculative and not confirmed. The City must confirm availability of landfill space and provide additional analysis of solid waste impacts of the project in the MND. Nowhere in the MND or the City's response is any cumulative impact analysis provided on waste generation and disposal. The MND must be revised and recirculated with a complete impact analysis on waste generation and disposal.

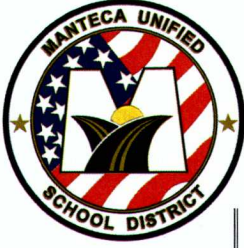
COMMENT C-19

Pages 108 and 109 of the MND contain the mandatory findings of significance; however, one is missing. Section 15065(a)(2) of the CEQA Guidelines sets forth the missing mandatory finding, which states, "The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals." The analysis of this mandatory finding of significance must be included in the MND and recirculated for public comment.

As discussed above in detail, the MND lacks numerous cumulative impact analyses and fails to identify any other projects (past, current, or future) that may contribute to cumulative impacts. Further, there are no cumulatively considerable impact thresholds set forth in the MND. To understand whether the Project would have a considerably cumulative impact, thresholds must be established in order to determine the significance of the impact.

City's Response C-19

The commentator states that one of the mandatory findings of significance on pages 108 and 109 of the MND is missing. However, the Governor's Office of Planning and Research publishes a sample CEQA Appendix G Environmental Checklist form. The latest version (2019) demonstrates provides only three thresholds for determining the significance of Topic



XXI (Mandatory Findings of Significance). These are the same three Appendix G checklist items that were identified on page 108 of the IS/MND. These are:

“a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?”

b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?”

Each of these three checklist items were analyzed fully within the IS/MND. Therefore, the IS/MND does not contain any missing mandatory findings. The commentor apparently is using a dated checklist, and was unaware of the 2019 changes to the Appendix G checklist.

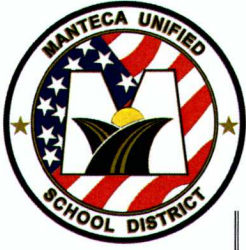
Separately, an analysis of cumulative impacts is contained on pages 108 and 109 of the IS/MND. That is, checklist item b), on page 108 of the IS/MND, requires an analysis of impacts that are individually limited, but cumulatively considerable. As provided on pages 108 and 109 of the IS/MND:

“There are no significant cumulative or cumulatively considerable effects that are identified associated with the proposed project after the implementation of all mitigation measures presented in this Initial Study.” Therefore, further response to this comment is required.

District’s Rebuttal to City’s Response C-19

The Appendix G form does not embody the entirety of CEQA analyses required in an MND. By its own terms, Appendix G “may be used to meet the requirements for an initial study ***when the criteria set forth in the CEQA Guidelines have been met.***” (Emph. added.) CEQA Guidelines section 15065(a)(2) sets for a mandatory finding of significance that must be addressed by the City in the MND. The CEQA Guidelines control, not Appendix G.

Moreover, the City’s response is conclusory and merely restates the incomplete findings of the MND. Per CEQA Guidelines section 15088(c), the City is prohibited from making unsupported conclusory statements in its responses to comments. Further, the MND does not address any other past, current, or future project that could cause be a cumulative impact along with the Project. The MND does not disclose on other single project, so how could the MND provide complete cumulative impact analyses. As such, the MND requires revision and recirculation.



Although this is likely a typo, the District wholeheartedly agrees with the City that “further response to this comment is required.”

COMMENT C-20

The District desires that the Project’s potential significant and cumulative impacts to the students, parents, faculty, and staff of the District’s schools are fully analyzed and mitigated. Given the widespread lack of required analyses in the MND, the District respectfully requests that the MND be revised to include those required analyses and mitigation measures, as set forth herein and recirculated per the requirements of CEQA.

Thank you for the opportunity to participate in the review process and for your consideration of the above and please include this letter in the Project’s record of proceedings. Please provide us with a copy of any future notices issued pursuant to Public Resources Code sections 21080.4, 21083.9, 21092, 21108, or 21152 for the Project. Additionally, please provide us with a copy of any future notices pursuant to Government Code sections 65090 or 65091 for the Project.

City’s Response C-20

The commentor provides a conclusion to their comments. The commentor requests that the IS/MND be further revised to include additional analyses and mitigation measures, as set forth within the comment letter, and recirculated per the requirements of CEQA. The commentor requests that the comment letter be included in the project’s record of proceedings, and also requests that the City provide a copy of any future notices issued pursuant to Public Resources Code sections 21080.4, 21083.9, 21092, 21108, or 21152 for the project.

This comment is noted. **District’s Rebuttal to City’s Response C-20**

The City’s responses fail to provide sufficient, complete impact analyses. Thus, in large part, the City’s responses are inadequate and do not cure the infirm MND. The MND must be revised according to District’s comments and rebuttals and recirculated for public review before the City may adopt the MND and approve the Project.

Sincerely,

Jacqui Breitenbucher
Senior Director of Business Services/CBO

cc: Victoria Brunn, Director of Community Outreach - MUSD