

ATTACHMENT H

Correspondence Submitted at the January 25, 2024 Planning
Commission Hearing

RECEIVED
COUNTY OF FRESNO

JAN 22 2024

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION



January 22, 2024

Chris Motta
Principal Planner
County of Fresno, Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, California 93721

Re: 2024 PEIR on Fresno County General Plan Review and Zoning Ordinance Update

Dear Mr. Motta:

I am writing on behalf of Sequoia Riverlands Trust (SRT) to comment on the recently-revised Programmatic Environmental Impact Report ("2024 PEIR") regarding the Fresno County General Plan Review and Zoning Ordinance Update, including the accompanying General Plan Policy Document ("2024 Policy Document"). SRT is a regional, accredited land trust that has partnered with willing landowners to conserve over 44,000 acres of habitat and agricultural land, including multiple properties in Fresno County and elsewhere in the Southern San Joaquin Valley. Our land protection work includes holding mitigation easements, and we have extensive experience helping local jurisdictions to develop and implement farmland mitigation programs.

In our June 27, 2023 comment letter on the Draft PEIR (attached as Appendix A and incorporated herein by reference), we raised concerns about a proposed change to General Plan Policy LU-A.1 that could weaken the County's commitment to directing growth away from agricultural land, and about the use of "should" rather than "shall" in Policy LU-A.17's language on accepting Williamson Act contracts. We continue to believe that measures to protect our region's remaining agricultural land should be as robust as possible, and would respectfully urge that Policies LU-A.1 and LU-A.17 be strengthened in accordance with the recommendations in our June 2023 letter.

As noted in the same letter, we were encouraged by the addition of Policy LU-A.23 (included within Draft PEIR Mitigation Measure AG-1), which took a step toward establishing a county-level farmland mitigation program.¹ Today, we are grateful to see that this policy has been revised to protect a wider range of farmland types (farmland of statewide importance and unique farmland, in addition to prime farmland), and to lower the size threshold from forty to twenty acres.² But we would respectfully urge the County to go further by making 1:1 mitigation mandatory, rather than one out of four possible alternatives.

We would also ask the County to consider whether its agencies have the mission, resources and expertise to steward conservation easements that run with the land in perpetuity, or whether this work should instead be delegated to nonprofit land trusts. Other jurisdictions' mitigation programs often include specific criteria for designating entities qualified to hold easements. The City of Tulare, for example, requires that such an entity

be a nonprofit public benefit corporation, operating within the state of California, that is qualified to hold conservation easements under § 815.3 of the Cal. Civil Code and in compliance with the requirements of § 65965 et seq. of the Cal. Gov't Code, and be approved by the City Council for the purpose of holding and managing agricultural conservation easements.³

In deciding whether to approve an entity, the Tulare City Council considers several factors connected with the ability to hold and administer conservation easements, including the following:

- (1) Whether the entity's principal purpose includes holding and administering easements for the purposes of conserving and maintaining lands in agricultural production;
- (2) Whether the entity has an established record of holding and administering easements for the purposes of conserving and maintaining lands in agricultural production;
- (3) The extent and duration of the entity's involvement in agricultural land conservation within the San Joaquin Valley, specifically Tulare County;

¹ 2023 Draft Policy Document, Policy LU-A.23.

² 2024 Policy Document, Policy LU-A.23.

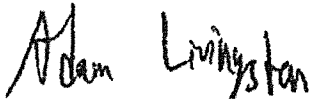
³ City of Tulare Municipal Code § 10.222.080(A).

- (4) Whether the entity has been accredited by the Land Trust Accreditation Commission;
- (5) Whether the entity is a member in good standing of an established and widely recognized California statewide association of land trusts; and
- (6) Any other information or requirements the city finds relevant under given circumstances.⁴

The City of Visalia’s recently-passed Agricultural Preservation Ordinance includes similar criteria for selecting entities to hold conservation easements.⁵ We would respectfully urge the County to follow these examples, and ensure that conservation easements are held and administered by nonprofit organizations that have proven their ability to do this type of work. As a regional, accredited land trust with extensive experience informing and implementing agricultural mitigation programs, SRT is one such organization, and we would welcome the chance to assist in implementing Fresno County’s program.

We appreciate the opportunity to comment, and look forward to your response.

Sincerely,



Adam J. Livingston
Director of Planning and Policy
Sequoia Riverlands Trust

⁴ City of Tulare Municipal Code § 10.222.080(B).

⁵ City of Visalia Municipal Code § 18.04.100.



June 27, 2023

Chris Motta
Principal Planner
County of Fresno, Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, California 93721

Re: Draft PEIR on Fresno County General Plan Review and Zoning Ordinance Update

Dear Mr. Motta:

I am writing on behalf of Sequoia Riverlands Trust (SRT) to comment on the Draft Programmatic Environmental Impact Report (“Draft PEIR”) regarding the Fresno County General Plan Review and Zoning Ordinance Update, including the Public Review Draft of the General Plan Policy Document (“Draft Policy Document”) released for review in April 2023. SRT is a regional, accredited land trust that has partnered with willing landowners to conserve over 44,000 acres of habitat and agricultural land, including multiple properties in Fresno County and elsewhere in the Southern San Joaquin Valley. Our land protection work includes holding mitigation easements, and we have extensive experience helping local jurisdictions to develop and implement farmland mitigation programs.

As the Draft Policy Document notes, Fresno County “has been the leading agricultural county in the United States in the value of farm products” since the mid-20th Century, but “most of the [C]ounty’s highly productive agricultural soils could be easily developed by urban, rural residential, and other non-agricultural uses.”¹ SRT shares the County’s view that “careful land use decision-making is essential” to prevent this from happening.² We also recognize the importance of achieving long-term sustainability in the use of water resources on which farms, cities and habitat alike depend. To that end, we are grateful to see policies supporting water conservation, including commitments to “ensure that new development does not limit the capacity or function of groundwater recharge areas,” to inventory those areas and direct available

¹ Draft Policy Document, 2-27.

² Draft Policy Document, 2-27.

water resources to them, and to consult with Groundwater Sustainability Agencies prior to significant General Plan Amendments.³

But as noted in our comments on the 2021 Draft, we are concerned about the proposal to alter General Plan Policy LU-A.1, which calls for “direct[ing] urban growth away from valuable agricultural land to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available.”⁴ In both the 2021 and 2023 Draft Policy Documents, the last clause now reads “other areas planned for such development where public facilities and infrastructure are available *or can be provided consistent with the adopted General or Community Plan*”⁵—a change that could significantly expand the areas where urban development is permitted. If the General Plan is going to call for new infrastructure, it should distinguish between existing communities (including disadvantaged communities) where such infrastructure is needed, and new towns, which are inconsistent with the goal of directing growth away from agricultural land.

We are also concerned about the potential weakening of the County’s commitment to accept Williamson Act contracts, which can help to reduce the economic pressure on farmers to sell viable agricultural land to developers. In the 2000 General Plan, Policy LU-A.17 states that “[t]he County *shall* accept California Land Conservation [Williamson Act] contracts on all designated agricultural land subject to location, acreage, and use limitations. . . .”⁶ The 2023 Draft Policy Document states that the County “should” accept such contracts subject to the same limitations, provided that the County receives subvention payments for foregone property tax revenue.⁷ While we do not object to the language on subvention payments, we would respectfully recommend restoring mandatory language (“shall” rather than “should”) to this policy.

We are encouraged by the addition of Policy LU-A.23 (included within Draft PEIR Mitigation Measure AG-1), which takes a step toward establishing a county-level farmland mitigation program.⁸ But given the County’s stated concern that “most of the [C]ounty’s highly productive agricultural soils could be easily developed by . . . non-agricultural uses,”⁹ we believe that Policy LU-A.23 needs to be strengthened considerably. Other agricultural mitigation programs (both in the San Joaquin Valley and around the state) provide examples worth following. The City of Tulare’s highly successful Farmland Mitigation Ordinance, for example, protects more of the agricultural land vulnerable to development by setting a threshold of one acre (rather than forty

³ Draft Policy Document, Policies OS-A.6 - OS-A.8; Policy OS-A.10.

⁴ 2000 Policy Document, Policy LU-A.1.

⁵ Draft Policy Document, Policy LU-A.1 (emphasis added).

⁶ 2000 Policy Document, Policy LU-A.17 (emphasis added).

⁷ Draft Policy Document, Policy LU-A.17.

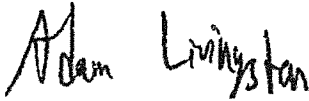
⁸ Draft Policy Document, Policy LU-A.23.

⁹ Draft Policy Document, 2-27.

acres).¹⁰ At the same time, it protects a wider range of land types, requiring mitigation not only for prime farmland, but also for farmland of statewide importance, unique farmland and grazing land.¹¹ Many jurisdictions set a specific ratio of acres to be conserved for each acre converted (generally at least 1:1),¹² and most make mitigation mandatory, rather than permissive. With these changes, Policy LU-A.23 could play a significant role in mitigating impacts to Fresno County's agricultural land. As a regional, accredited land trust with extensive experience informing and implementing agricultural mitigation programs, SRT would welcome the chance to assist in this effort.

We appreciate the opportunity to comment, and look forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Adam Livingston". The signature is written in a cursive, slightly slanted style.

Adam J. Livingston
Director of Planning and Policy
Sequoia Riverlands Trust

¹⁰ City of Tulare Municipal Code § 10.222.050(F) (setting the threshold for the mitigation requirement at one acre).

¹¹ City of Tulare Municipal Code § 10.222.040 (defining “Critical Farmland” subject to the Tulare Farmland Mitigation Ordinance to include areas designated by the California Department of Conservation as prime farmland, farmland of statewide importance, unique farmland and grazing land).

¹² See, e.g., Yolo County Zoning Code § 8-2.404(c)(1) (3:1 ratio for prime farmland and 2:1 ratio for non-prime farmland); City of Davis Municipal Code § 40A.03.025 (2:1 ratio); City of Tulare Municipal Code § 10.222.050(A) (1:1 ratio); City of Visalia Ordinance 2023-02, to be codified at Municipal Code § 18.04.070(A) (1:1 ratio). See also Stanislaus LAFCO Policy 22(A)(2) (requiring any municipality seeking a sphere of influence expansion to prepare a Plan for Agricultural Preservation, and stating that one acceptable strategy for such plans is “[a]n adopted policy or condition requiring agricultural mitigation at a ratio of at least 1:1”).

RR

January 23, 2024

Fresno County Planning Commission
2220 Tulare Street, 6th floor
Fresno, CA 93721

RECEIVED
COUNTY OF FRESNO

JAN 25 2024

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Dear Planning Commissioners:

The County's Annual Progress Report (APR) on the implementation of the Fresno County General Plan for calendar year 2023 is due to the Board of Supervisors, the Office and Planning and Research (OPR) and the Department of Housing and Community Development by April 1, 2024.

The reporting requirements are detailed in Government Code § 65400. Please note that the most recent amendment of Government Code § 65400 went into effective January 1, 2023 through the following legislation: Assembly Bill 2653 (Santiago).

For the purposes of this communication, the salient portions of Government Code § 65400 are those shown below:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

:

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2¹ and the date of the last revision to the general plan.

¹ Section 65040.2 requires OPR to adopt and periodically revise the State's General Plan Guidelines (GPG) for the preparation and content of general plans for all cities and counties in California. The GPG serves as a "how to" resource for drafting general plans. Notably, the GPG details the most recent statutory requirements (mandates) enacted by the Legislature.

Due to fact that OPR's website was updated on October 5, 2023, OPR recommends that cities and counties redownload any general plan guideline documents obtained before that date so that the content remains current.

The statutory requirement to prepare annual progress reports was also made part of the General Plan itself. The text of General Plan Policy LU-H.12 and General Plan Program LU-H.D reference that requirement:

General Plan Policy LU-H.12

The County shall review the General Plan annually and revise it as deemed necessary.

General Plan Program LU-H.D

The Planning Commission shall review the General Plan annually, focusing principally on actions undertaken in the previous year to carry out the implementation programs of the plan. The Planning Commission's report to the Board of Supervisors shall include, as the Commission deems appropriate, recommendations for amendments to the General Plan. This review shall also be used to satisfy the requirements of Public Resources Code 21081.6 for a mitigation monitoring program. (See Policy LU-H.12)

The critical importance of such annual reviews was noted by the Planning Commission in its first formal review of the 2000 General Plan in May 2003, which reported on the implementation of the General Plan for fiscal year 2001/2002. The Planning Commission wrote...

“Because the role of the General Plan is to act as a ‘constitution’ for the long-term physical development of the County and because it is required to be updated periodically to reflect current circumstances, it is critical that the County periodically review the General Plan and its implementation. The Annual Report serves as a tool for this purpose.” (2001/2002 APR, page I-1)

The County's first APR is a delight to read, being, by present-day reporting standards, uncommonly thorough and accurate. It accurately reports both the successes and the failures associated with plan implementation, and it contains numerous well-reasoned recommendations for making the General Plan a more effective guide for orderly growth and development.

Unfortunately, the APRs a decade later are a huge disappointment, being neither complete nor transparent in their reporting of the County's struggle to implement the General Plan. As will be described in this communication, the volume of inadequate reporting became so untenable that the League of Women of Voters of Fresno was prompted in 2019, by way of example, to draft and provide to the Planning Commission a more thorough and accurate report of General Plan implementation.

The County learned little from receipt of the League's sample APR, and the County's most recent APR for calendar year 2022 is equally incomplete and misleading.

A change is long overdue. That is why I'm asking your Commission to direct the County's planning staff to bring to the Commission an APR for calendar year 2023 that includes...

- 1) The degree to which the County's General Plan complies with Government Code § 65400,
- 2) Full disclosure of the County's ability/inability to fully implement General Plan programs, and
- 3) A comprehensive report on the implementation of mitigation measures adopted in 2000 to lessen the adverse effects of buildout under the General Plan.

Background

The General Plan Policy Document was last updated October 3, 2000.

The County's first annual progress report (APR) under the new 2000 Plan evaluated plan implementation through June 30, 2002. That APR was finalized by the Planning Commission in May of 2003 and accepted by the Board of Supervisors in June of that year.

The County's first APR is respected for its insight and candor. The 2001/2002 report recommended the adoption of eight plan modifications, established a timeframe for the update of regional and community plans and recommended creation of an Indicators Program to "serve as a tool with which to evaluate or assess progress toward attainment of the goals of the General Plan." (2001/2002 APR, page III-1.)

The report also revealed that two years into the operation of the 2000 General Plan, insufficient funding was delaying the implementation of several programs. Said the Planning Commission,

"While progress has been made for most of the programs, there are some programs where progress has not been made within the timeframe set out in the particular implementation program. The lack of progress is principally due to the allocation of resources associated with funding and/or staffing." (2001/2002 APR, page V-3.)

On August 26, 2003, two months after accepting the Planning Commission's APR for fiscal year 2001/2002, the Board of Supervisors approved the concept of using indicators in future APRs and directed staff to return to the Board with a plan to do so on a regular basis. The minutes of that Board meeting read as follows:

"Agenda Item No. 9.

Consider presentation on Pilot Indicator Project 'Using Indicators to Track Changes in Implementation of the Fresno County General Plan' by League of Women Voters, and consensus Resolution adopted by Fresno County Planning Commission recommending use of indicators in future Annual Reports on General Plan

APPROVED AS RECOMMENDED; DIRECTED STAFF TO RETURN TO THE BOARD WITH IMPLEMENTATION PLAN ON THE INDICATORS FOR USE ON A REGULAR BASIS..."

But then something went terribly wrong. No indicators program ever materialized, there was no attempt to resolve the funding problem identified by the Planning Commission, and the County discontinued the preparation of annual reports.

In 2013, the League of Women Voters of Fresno (League)² began to press the County to comply with the reporting requirements in Government Code § 65400 and General Plan Program LU-H.D. The League sent letters to the County dated April 11, 2013, May 27, 2013, September 11, 2013, December 12, 2013, December 23, 2013 and January 25, 2014. The League also addressed the Planning Commission and the Board of Supervisors in person and met with County planning staff respecting the need to comply with these reporting requirements.

² The League of Women Voters of Fresno is a nonpartisan political organization encouraging informed and active participation in government. It influences public policy through education and advocacy.

When no report materialized by the April 1, 2014 due date, the League filed a complaint with the Fresno County Grand Jury.³

A year later, the County resumed the preparation of APRs with a report covering calendar years 2013 and 2014. Since then, the County has prepared an APR for each calendar year. The most recent APR, for calendar year 2022, was approved by the Board of Supervisors March 28, 2023.

Unfortunately, the APRs covering the last ten years (2013 – 2022) are a resounding disappointment, all being incomplete and misleading, this despite repeated complaints by county residents calling for full disclosure with respect to the implementation of the General Plan.

Incomplete

By incomplete, I mean that none of the County's APRs from 2013 through 2022 contain the information required by Government Code § 65400(A)(2)(F), namely, "*The degree to which [the County's 2000] general plan complies with the guidelines developed and adopted pursuant to [Government Code] Section 65040.2....*" (For an description of Government Code Section 65040.2, please see the footnote on page 1.)

By incomplete, I mean that none of the County's APRs from 2013 through 2022 contain the information required by General Plan Program LU-H.D. That program requires the County to include in its APRs, as per Public Resources Code § 21081.6, the monitoring of mitigation measures adopted in 2000 to mitigate the adverse effects of buildout under the 2000 General Plan. The mitigation measures requiring monitoring were identified in the EIR prepared for the adoption of the plan.⁴

By incomplete, I mean that none of the County's APRs from 2013 through 2022 contain the information required by General Plan Program OS-A.C, namely, a report on the County's groundwater monitoring program.

³ The April 23, 2014 complaint to the Fresno County Grand Jury read in part, "*For the past 11 years, the County has failed to prepare annual reports on the implementation of the Fresno County General Plan....The League of Women Voters of Fresno maintains that in the process of conducting the people's business, the County has a moral and legal obligation to comply with all laws. League members are available to fully brief the Grand Jury with respect to the threats to basic constitutional rights and to the deleterious effects of the County having failed to comply with Government Code 65400.*"

⁴ The text on page 7 of the Introduction to the 2000 EIR reads, "**Mitigation Monitoring.** CEQA requires that when a public agency makes findings based on an EIR, the public agency must adopt a reporting or monitoring program for those measures which it has adopted or made a condition of the project approval in order to mitigate or avoid significant effects on the environment (Public Resources Code Section 21081.6). The reporting or monitoring program must be designed to ensure compliance during project implementation (Public Resources Code Section 21081.6). The Mitigation Monitoring Program for the General Plan will be prepared for all mitigation measures identified in the EIR." (My underlining.)

Page 3-3 of the Chapter in the 2000 EIR titled "Summary of Impacts and Mitigation Measures" reads as follows: "*If an impact is determined to be significant or potentially significant, applicable mitigation measures are identified as appropriate. These mitigation measures are also summarized in Table 3-1. The mitigation measures presented in the EIR will form the basis of the Mitigation Monitoring and Reporting Program (MMP).*" Table 3-1 identified — and the County adopted — more than 300 General Plan policies as mitigation measures. (My underlining.)

Misleading

By misleading, I mean that the County's APRs for calendar years 2013 through 2022 do not accurately describe the County's inability to fully implement General Plan programs.

Developed in the late 1990s with input from a broad range of community interests, Fresno County's 2000 General Plan was cutting edge for its time — a blueprint for future development that promised to end the county's chronic poverty, protect the environment and provide adequate facilities and services for all county residents. But the plan was only as good as the County's ability to implement it. Those who have studied the matter closely understand that the County has had considerable difficulty implementing the plan as written and that its annual progress reports misrepresent this fact.

On September 1, 2016, the League published a study comparing the degree of success in implementing General Plan programs in six of seven elements in the General Plan Policy Document. The League compared data in the APR for fiscal year 2001/2002 with that from the APR for calendar year 2015. The League study reported considerable success in implementing programs during 2001/2002 but much less success during 2015. The data indicated that successful implementation fell by 45% between 2001/2002 and 2015. For fiscal year 2001/2002, the County reported it was successfully implementing 86 of 121 programs (71%), but for calendar year 2015, the County could demonstrate successful implementation of only 47 of those same programs (39%). Nonetheless, the APR for calendar year 2015 did not explore the reasons for the decline in success nor did it present any suggestions for improving plan implementation.

On November 11, 2019, the League provided the Planning Commission with a sample APR for calendar year 2017 in the hope that it would serve as a catalyst for improving the County's annual reporting. The League's APR included an analysis demonstrating that the County's report of a 90% success rate⁵ for the implementation of General Plan programs during 2017 was far from accurate. The rate of success was closer to 33%. The League found that the County's 2017 APR demonstrated successful implementation of 46 programs (33%), poor implementation of 44 programs (31%) and no implementation or failed implementation of 50 programs (36%).

In the summer of 2020, the League carefully examined the County's APR for calendar year 2019 and summarized its findings in a report to the Board of Supervisors dated November 21, 2020. This more-recent League report showed that over the course of seventeen years (2003 through 2019) the County's report of the successful implementation of General Plan programs fell from 71% to 40% while the report of no progress rose from 14% to 37%. And, just as with earlier APRs, the County's APR for 2019 did not discuss the need to improve implementation.

⁵ The County's 2017 APR identified only 14 of 140 General Plan programs (10%) as being unsatisfactorily implemented, leaving the reader to assume that the County was successfully implementing 90% of its programs. The 14 programs listed as unsatisfactorily implemented were Implementation Programs ED-B.A, LU-A.I, LU-C.A, LU-H.A, TR-A.B, PF-B.A, PF-B.B, PF-C.E, PF-G.A, OS-D.B, OS-F.B, OS-H.A, OS-J.A and HS-G.B. (The County did not report deficiencies in the implementation of any programs in the Housing Element.)

Three Requests of the Planning Commission

In light of the information presented above, I ask the Planning Commission to give the following instruction the County's planning staff.

1. **Bring to the Planning Commission an APR for calendar year 2023 that includes an explanation of the degree to which the County's General Plan complies with Government Code § 65400.** (See Appendix A below for a review of APR reporting on compliance with Gov. Code § 65400.)

The Introduction to the state's General Plan Guidelines reads, "*For mandatory and common optional elements of the general plan, the General Plan Guidelines sets out each statutory requirement in detail, provides OPR recommended policy language, and includes online links to city and county general plans that have adopted similar policies.*" (My underlining.)

Commissioners and county residents alike are entitled to information regarding the degree to which the County's General Plan complies with statutory requirements. The County's APRs do not provide this information. Below are two illustrations.

- A) Assembly Bill 170 (Reyes, 2003, approved by the Governor on September 22, 2003 and codified in Government Code § 65302.1) required the County to amend the General Plan no later than June 30, 2009 to include a comprehensive set of goals, policies, objectives and feasible implementation measures to improve air quality. As of today, the County has not complied with this statutory requirement, and none of the County's APRs (2013 – 2022) identified the lack of compliance. Had the County complied with the requirements of § 65400, the problem would have been identified — and possibly corrected.
- B) Senate Bill 379 (Jackson, 2015, approved by the Governor on October 8, 2015 and codified in Government Code § 65302) required the County to amend its General Plan Safety Element no later than April 23, 2019 to include a comprehensive set of goals, policies, objectives and feasible implementation measures to address climate adaptation and resiliency strategies. As of today, the County has not complied with this statutory requirement, and none of the County's APRs (2019 – 2022) identified the lack of compliance. Had the County complied with the requirements of § 65400, the problem would have been identified— and possibly corrected.

Due to the County's noncompliance with Government Code § 65400, county residents are unaware of the County's noncompliance with state laws. And with respect to the County's lack of compliance with Assembly Bill 170 and Senate Bill 379, it's possible that county residents are at increased risk due to poor air quality and hazardous conditions.

2. **Bring to the Planning Commission an APR for calendar year 2023 that includes full disclosure of the County's ability or inability to fully implement programs in the General Policy Document.**

General Plan programs can be thought of as the engine that drives General Plan implementation, being a set of actions, procedures and techniques that are designed to implement the County's General Plan policies, which themselves are specific statements guiding action and implying a clear commitment to achieving General Plan goals.

Commissioners and county residents alike are entitled to full disclosure regarding the County's successes and failures with respect to the implementation of General Plan programs. The County's APRs do not provide this information. Below are two illustrations.

- A) Printed below in full are Implementation Program ED-A.C and the report about the implementation of that program from the County's APR for calendar year 2022.

ED-A.C The County shall retain an independent and qualified institution to conduct an evaluation at least every five (5) years of success in achieving the goals and targets of the Economic Development Strategy. (See Policy ED-A.4)

Report In 2022, the EDC initiated plans toward updating the 5 Year CEDS with County of Fresno staff. The EDC, City of Fresno and County of Fresno agreed to coordinate around a shared CEDS planning grant. The EDC, on behalf of the County, cost-shared a grant writing consultant hired by the City and served as a co-applicant. Unfortunately, the EDA grant was not awarded. Since that time, the EDC received an EDA Good Jobs Challenge Grant. EDC is communicating with EDA on next steps for the CEDS update the (sic) includes Good Jobs Challenge program.

The APR for calendar year 2022 does not address whether the County's Economic Development Strategy is being routinely evaluated. Instead, it addresses a failed attempt to attain a planning grant. In truth, there is no evidence in any of the APRs for calendar years 2013 through 2022 that the County has ever retained an independent institution to conduct an evaluation of the success in achieving the goals and targets of the County's Economic Development Strategy. Due to the absence of regular evaluations, it's unlikely that that Commissioners and county residents will ever know whether the goals and targets of the County's Economic Development Strategy are being achieved.

- B) Printed below in full are Implementation Program LU-A.D and the report about the implementation of that program from the County's APR for calendar year 2022.

LU-A.D The County shall periodically review agricultural land preservation programs and assess their effectiveness in furthering the County's agricultural goals and policies. (See Policies LU-A.13 and LU-A.16)

Report There was no comprehensive evaluation of agricultural land preservation programs in 2022.

Both the Williamson Act Program and conservation easements are considered effective methods for preserving agricultural land in Fresno County as they provide financial benefits to the landowners for the continued utilization of their land for agricultural purposes, which furthers the County's goals and policies for the preservation of productive agricultural land. The County continues to administer the Williamson Act Program for participating properties and at the request of property owners, will assist with reviewing, supporting or processing conservation easements.

County staff continue to audit Williamson Act contracts for conformity with State and County requirements when a landowner submits a development application or building permit proposal. County staff also work with the Agricultural Land Conservation Committee to review cancellation petitions and forward the Committee's recommendations to the Board of Supervisors

The APR for calendar year 2022 does not address whether the County is conducting periodic evaluations of the County's land preservation programs to assess their effectiveness in furthering the County's agricultural goals and policies. Instead, it reports no implementation of Program LU-A.D during 2022 (without explanation) and the fact that the County administers the Williamson Act Program, which is not useful information. In truth, there is no evidence in any of the APRs for calendar years 2013 through 2022 that the County has ever evaluated the effectiveness of the County's land preservation programs in furthering the County's agricultural goals and policies.

Due to the absence of periodic County review, it's unlikely that that Commissioners and county residents will ever know whether the County's agricultural land preservation programs are effective in furthering the County's agricultural goals and policies.

The examples above are indicative of a common disclosure problem in the County's APRs.

The lack of transparency keeps Commissioners and county residents from knowing the full extent of the County's inability to implement the General Plan and, thus, to achieve the goals of the plan.

3. Bring to the Planning Commission an APR for calendar year 2023 that includes a full report on the implementation of every mitigation measure adopted in 2000 to lessen the adverse effects of the implementation of the 2000 General Plan.

In 2000, the County adopted more than 300 mitigation measures to lessen the adverse impact of buildout under the 2000 General Plan. The 2000 EIR identified these significant and unavoidable impacts:

Public Services

- Inability to meet the demand for police and fire protection and other public services.
- Inability to meet the demand for recreation facilities (parks) and library services.

Transportation and Circulation

- Operation of roadway segments at unacceptable levels of service.
- Reduction in the ability to maintain adequate pavement conditions on rural roadways.
- Inability to meet the demand for transit services.
- Inability to meet the demand for bicycle facilities.

Agricultural Resources

- Permanent loss of important farmland.
- Significant reduction in agricultural production.

Water Resources

- Demand for water exceeding available supply, resulting in overdraft conditions.
- Demand for water exceeding available supply, resulting in adverse effects on groundwater recharge potential.
- Exacerbation of groundwater overdraft conditions, resulting in land subsidence.
- Alteration of the rate and direction of the flows of contaminated groundwater.

Biological Resources

- Degradation of riparian and aquatic habitat.
- Loss of wetland and grassland habitat.
- Loss of habitat for special-status wildlife and plant species.

Mineral Resources

- Reduction of the amount of land available for mineral resource extraction.

Historical Resources

- Devaluation, disturbance, or destruction of unidentified subsurface prehistoric resources and historic sites.

Air Resources

- Increase in air pollution caused by mobile and stationary sources.

Wastewater and Hazardous materials

- Demand for wastewater treatment beyond the capacities of existing facilities.
- Increase in the use of hazardous materials and an increase in the generation of hazardous waste.

Storm Drainage and Flooding

- Increase in stormwater runoff and the potential for downstream flooding.

Noise

- Permanent increase in ambient noise levels that could affect sensitive receptors.

Esthetics

- Permanent alteration of the existing visual character of the region and/or visual access to scenic resources.
- Introduction of new sources of light and glare into development areas and surrounding rural areas.

Commissioners and county residents alike are entitled to full disclosure regarding the County's successes and failures with respect to the implementation of mitigation measures.

General Plan Program LU-H.D directs that the County's APRs shall be used to satisfy the state requirement for a mitigation monitoring program (Public Resources Code 21081.6). Even so, the County's APRs do not include such monitoring. Below are two illustrations.

- A) Printed below in full is General Plan Policy PF-C.5, which was adopted as a mitigation measure in 2000 to help the lessen adverse impact on water resources.

PF-C.5 The County shall develop a County water budget to determine long-term needs and to determine whether existing and planned water resource enhancements will meet the county's needs over the twenty (20) year General Plan horizon.

I cannot find in the County record any reference to the existence of a water budget and assume, therefore, that one does not exist. The County's APR for fiscal year 2001/2002 stated that the Water, Geology and Natural Resources Section was gathering data for a database that would include a water budget. But since the County never undertook any mitigation monitoring and since the County chose not to prepare APRs for calendar years 2003 through 2012, there is no way for the public to know if Policy PF-C.5 was ever implemented.

The failure to monitor General Plan Policy PF-C.5 may have contributed to the seriousness of the overdraft of groundwater in Fresno County.

- B) Printed below in full is General Plan Policy OS-G.1, which was adopted as a mitigation measure in 2000 to help the lessen adverse impact on air quality.

OS-G.1 The County shall develop standard methods for determining and mitigating project air quality impacts and related thresholds of significance for use in environmental documents. The County will do this in conjunction with the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and the cities in Fresno County.

I cannot find in the County record any reference to the existence of standard methods for determining and mitigating project air quality impacts developed by the County in conjunction with the Air District and the county's 15 cities and assume, therefore, that such methods do not exist. However, that said, there is information in some APRs suggesting that standard methods may have been developed⁶ — albeit, unlikely.

The lack of transparency regarding the County's failure to implement a policy designed to lessen adverse impacts on air quality is certainly troubling, and the County's wholesale failure to monitor General Plan mitigation measures puts the environment and the health of county residents at risk.

The Importance of Honoring these Three Requests

It's always best for government officials to comply fully with state and local regulations. Doing so upholds the integrity of government processes, demonstrates due diligence, helps foster civic engagement, protects the public interest and shields the government from legal repercussions.

Doing so also keeps people suitably informed. So the question is this: How can effective planning take place when the only documents available to planners, Commissions and county residents are incomplete and unreliable? This is why I'm asking your Planning Commission to direct the County's planning staff to prepare an APR for calendar year 2023 that includes (1) the degree to which the County's General Plan complies with Government Code § 65400, (2) full disclosure of the County's ability or inability to fully implement General Plan programs and (3) a full report on the implementation of the mitigation measures adopted in 2000 to lessen the adverse effects of buildout under the General Plan.

Thank you,



Radley Reep

radleyreep@netzero.com

⁶ Because the 2000 General Plan contained Program OS-G.A, which was specifically designed to implement Policy OS-G.1, some information about the implementation of Policy OS-G.1 can be gleaned from prior APRs. The APR for fiscal year 2001/2002 reported that the County was working with the Air District to "possibly revise" the County's existing standard methods/procedures for determining and mitigating project air quality impacts for use in County environmental documents. Ten years later, the APR for calendar years 2013 and 2014 reported that implementation of Policy OS-G.1 had been delayed due to a "lack of available funding." But then the APR for the following year (2015) reported that the policy had been implemented. Adding to the confusion, the County's APR for calendar year 2017 proposed moving implementation of Program OS-G.A to a future date, which suggested that the program had not been implemented. At present, the County proposes to retain Policy OS-G.1 (as written) in its forthcoming 2042 General Plan, which again suggests that the policy has not been implemented.

Appendix A

Appendix A contains excerpts from Fresno County's General Plan Annual Progress Reports and associated staff reports that address the matter of compliance with Gov. Code § 65400.

APR for Calendar Years 2013-2014

(Excerpts from Pages i, 1, 5 and 6)

PURPOSE OF THE ANNUAL REPORT

An Annual Report including the following information is **required** to be prepared and submitted to the County Board of Supervisors, Office of Planning and Research, and the Department of Housing and Community Development (HCD) by April 1st of each year:

1. The status of the General Plan and progress in its implementation;
2. The County's progress in meeting its share of the regional housing needs;
3. Local efforts to remove governmental constraints to the maintenance, improvement, and development of housing; and
4. The degree to which the County's approved General Plan complies with the State General Plan Guidelines and the date of last revision to the General Plan.

This Report summarizes the planning activities for the unincorporated portions of Fresno County from January 1, 2013 to December 31, 2014. **In addition to the required above-listed information**, the Report includes on-going and completed relevant planning activities, programs, and permits.

EXECUTIVE SUMMARY

The Development Services Division (DSD) of the Department of Public Works and Planning (PW&P) has prepared this 2014 General Plan Annual Progress Report (APR) in accordance with guidance provided by the State Office of Planning and Research (OPR).

State General Plan Guidelines for Annual Progress Report

The OPR Guidance provides **suggested content** for the APR. **The content provided below is based on suggestions from the Guidance.**

⋮

4. **The degree to which the General Plan complies with OPR's General Plan Guidelines....**

Note: The APR for calendar years 2013 and 2014 correctly states that Government Code § 65400 "**requires**" the County to include in its APR the degree to which the County's approved General Plan complies with the OPR's General Plan Guidelines. However, the APR also contradicts itself in stating that OPR's "**Guidance**" only "**suggests**" the contents for APRs. It's questionable which set of guidelines the County is referring to: OPR's Guidance for completing APRs or OPR's General Plan Guidelines, but any event, the statutory requirement has primacy over any APR guidance provided by OPR.

APR for Calendar Year 2015

(Excerpts from pages i, 1 and 2)

PURPOSE OF THE ANNUAL REPORT

Government Code Section 65400 requires that the County submit a report on the status of carrying out the implementation of its General Plan....

State law requires generalized reporting on General Plan Implementation....

EXECUTIVE SUMMARY

The Department of Public Works and Planning (PW&P) has prepared this 2015 General Plan Annual Progress Report (APR) in accordance with guidance provided by the State Office of Planning and Research (OPR).

STATE GENERAL PLAN GUIDELINES FOR ANNUAL PROGRESS REPORTS

The OPR Guidance provides **suggested content** for the APR. **The content provided below is based on suggestions from the Guidance.**

⋮

4. **The degree to which the General Plan complies with OPR's General Plan Guidelines....**

Note: The County's APR for calendar year 2015 (as well as the County's APRs for calendar years 2016 through 2019) states that California law "requires" the County to include in its APRs only "generalized reporting." There is no such requirement in the law.

The APR for calendar year 2015 does not state that the County is required to include in its report the degree to which the General Plan complies with OPR's General Plan Guidelines. Instead, it states that such reporting is only suggested by OPR's "Guidance" document.

APR for Calendar Year 2016

(Excerpts from Pages i, 1 and 2)

PURPOSE OF THE ANNUAL REPORT

Government Code Section 65400 requires that the County submit a report on the status of carrying out the implementation of its General Plan....

State law requires generalized reporting on General Plan implementation...

EXECUTIVE SUMMARY

The Department of Public Works and Planning (PW&P) has prepared this 2016 General Plan Annual Progress Report (APR) in accordance with guidance provided by the State Office of Planning and Research (OPR).

STATE GENERAL PLAN GUIDELINES FOR ANNUAL PROGRESS REPORTS

The OPR Guidance provides **suggested content** for the APR. **The content provided below is based on suggestions from the Guidance.**

⋮

4. **The degree to which the General Plan complies with OPR's General Plan Guidelines...**

Note: The County's APR for calendar year 2016 contains statements identical to those in its 2015 APR.

APR for Calendar Year 2017

(Excerpts from Pages i, 1 and 2)

PURPOSE OF THE ANNUAL REPORT

Government Code Section 65400 requires that the County provide a report on the status of implementing the General Plan....

State law requires generalized reporting on General Plan Implementation....

EXECUTIVE SUMMARY

The Department of Public Works and Planning (PW&P) has prepared this 2017 General Plan Annual Progress Report (APR) in accordance with guidance provided by the State Office of Planning and Research (OPR).

STATE GENERAL PLAN GUIDELINES FOR ANNUAL PROGRESS REPORTS

The OPR provides information on preparation of the Annual Progress Report (APR) for the Housing Element...as well as **suggestions** on the topics to be included in the APR. **The content provided below is based on the OPR Guidance.**

⋮

4. **The degree to which the General Plan complies with OPR's General Plan Guidelines — This APR complies with the General Plan Guidelines provided by OPR.**

Note: Here the County's position is abundantly clear. The County contends that its APR for 2017 need not report the degree to which the General Plan complies with OPR's "General Plan Guidelines" because OPR's "Guidance" only contains "suggestions" for topics to be included in an APR.

It's important to understand that Government Code § 65400 refers to a specific guidance document titled "General Plan Guidelines" and not to an OPR's advisory memos for the preparation of APRs. Certainly, the County knows this, which calls to question as to why the County is citing the wrong document.

OPR publishes Annual Progress Report advisory memos that provide guidance for completing APRs, but such guidance documents are not legal authority. In fact, these guidance documents typically contain this statement: "The guidance that follows is intended to assist local governments with the development of the General Plan Annual Progress Report (APR) and is not intended to be construed as legal advice."

APR for Calendar Year 2018

(Excerpts from Pages i, 1 and 2)

PURPOSE OF THE ANNUAL REPORT

Government Code Section 65400 requires that the County provide a report on the status of implementing the General Plan....

State law requires generalized reporting on implementation of the General Plan...

EXECUTIVE SUMMARY

The Department of Public Works and Planning (PW&P) has prepared this 2018 General Plan Annual Progress Report (APR) in accordance with guidance provided by the State Office of Planning and Research (OPR)....

STATE OFFICE OF PLANNING AND RESEARCH (OPR) GUIDANCE FOR PREPARATION OF ANNUAL PROGRESS REPORTS

There is no standardized form or format for the preparation of the General Plan APR. **The following recommendations** have been provided by OPR to serve as guidance in developing an APR for cities and counties.

- 6. **The degree to which the General Plan complies with OPR's General Plan Guidelines**, including environmental justice considerations collaborative planning with the military lands and facilities, and consultation with native American tribes.

Note: The County's APR for calendar year 2018 states that OPR only "recommends" that APRs report the degree to which a county's general plan complies with OPR's General Plan Guidelines.

But the statutory requirements is not a recommendation; it's a mandate. Note the use of the word "shall" in Government Code § 65400: "(a) After the legislative body has adopted...a general plan, the planning agency **shall**....(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:...(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2...."

APR for Calendar Year 2019

(Excerpts from Pages i and 1)

PURPOSE OF THE ANNUAL REPORT

Government Code Section 65400 requires that the County provide a report on the status of implementing the General Plan....

State law requires generalized reporting on implementation of the General Plan.

EXECUTIVE SUMMARY

The Department of Public Works and Planning (PW&P) has prepared this 2019 General Plan Annual Progress Report (APR) **in accordance with guidance** provided by the State Office of Planning and Research (OPR)....

Note: The County's APR for calendar year 2019 states that the APR was prepared "*in accordance with guidance*" provided by OPR. There's no problem with this — as long as the County is referring to the appropriate guidance document, the one titled "General Plan Guidance."

Note: The March 12, 2020 staff report to the Planning Commission for the approval of the APR for calendar year 2019 contains the following text:

"Summary:

The 2019 APR meets the requirement of Government Code Section 65400 regarding reasonable and practical means for implementing the general plan so that it will serve as an effective guide for orderly growth and development."

The statement above references Government Code § 65400(a)(1), which directs a planning agency (planning commission and planning staff) to "*investigate and make recommendations to the legislative body [board of supervisors] regarding reasonable and practical means for implementing the general plan...so that it will serve as an effective guide for orderly growth and development...*"

Actually, this subsection of Government Code § 65400 doesn't pertain to the preparation of APRs per se. However, the County's citing of the code does raise an important issue, for although the Planning Commission received credible evidence for a decade (2013 – 2022) that funding problems prevented full implementation of General Plan programs, neither the County's planning staff nor the Planning Commission ever initiated an "*investigation*" into the matter to ensure the effectiveness of the General Plan.

APR for Calendar Year 2020

(Excerpts from Pages i and ii)

EXECUTIVE SUMMARY

The Department of Public Works and Planning is pleased to present the 2020 General Plan Annual Process (sic) Report....Because the General Plan is so broad ranging, it is unrealistic to annually implement every Goal, Policy, and Implementation Program. Rather, each year represents a continuation of implementation progress, with some years having greater progress than others. Despite the challenges of 2020, Fresno County continues to make progress towards implementing the 2000 General Plan.

The Department has prepared this 2020 General Plan Annual Progress Report (APR) per guidance provided by the State Office of Planning and Research (OPR) in its January 25, 2021 advisory memorandum....

Purpose of the General Plan Annual Report and Housing Element Annual Report

The intent of the General Plan Annual Report (APR) is to demonstrate the County's compliance with the requirements of Government Code Sections 65400 and 65700 which mandate that the County prepare an annual report on the status of the General Plan and progress in its implementation.

Note: The County's APR for calendar year 2020 states that the "intent" of the County's APR is to "demonstrate the County's compliance with the requirements of Government Code § 65400." Other than the difficulty associated with the word "*intent*", the statement is generally correct. But what does "*compliance*" entail? I contend that compliance is more than meeting the "*mandate that the County prepare an annual report.*" Compliance includes meeting the mandates expressed in subsections "A" through "M" of that same statute. Subsection F explains that the County's APR must include "*the degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2.*" Those guidelines are OPR's General Plan Guidelines, last comprehensively updated in 2017.

APR for Calendar Year 2021

(Excerpts from the First Page of the Executive Summary, Pages 3 and 4)

EXECUTIVE SUMMARY

California Government Code section 65400 requires jurisdictions to include the degree to which the approved General Plan complies with the state General Plan Guidelines (Guidelines) in the APR. Department staff reviewed the Guidelines and determined that the County's General Plan meets the mandatory requirements described therein.

The Guidelines provide an interpretation of state statutes and case law as they relate to planning. In addition, the Guidelines outline the general framework for the preparation and revision of a General Plan...and the relationship of the General Plan to State of California Environmental Quality Act requirements....the Guidelines are **advisory rather than prescriptive**, thus preserving opportunities for local jurisdictions to address contemporary planning topics in a locally appropriate manner.

GENERAL PLAN ANNUAL REPORT AND OPR GUIDELINES

It should be noted that since the adoption date of the General Plan document in October of 2000, there have been several legislative changes which prompted the OPR to prepare the General Plan Guidelines that were released in 2017, guidelines provided to ensure local government General Plans are prepared in compliance with the law. **The intent of the General Plan Review and Zoning Ordinance Update is to bring these documents in compliance with the law by using the 2017 General Plan Guidelines as a guide.**

... General Plan requirements that have been added since 2000 and which will be addressed in the 2022 General Plan Review include:

- Updates to the Circulation Element to address Senate Bill 743 which shifts traffic analysis to Vehicle Miles Traveled
- Updates to the Safety Element to incorporate the County-adopted Local Hazard Mitigation Plan into the General Plan by reference....

Note: The text above presents a quandary. There's the statement that the County has determined that the General Plan is compliant with the mandatory general plan requirements described in OPR's General Plan Guidelines. But that claim is followed by a converse statement that the County is currently using those same guidelines to bring the General Plan into compliance with state law.

Bringing the General Plan into compliance with state law is well and good, and the County is correct in stating that OPR's General Plan Guidelines "*provide an interpretation of state statutes and case law as they relate to planning.*" But the County can't be both compliant and noncompliant at the same time. It appears the blanket statement the County's General Plan "*meets the mandatory requirements*" described in OPR's General Plan Guidelines is simply not true.

Note also that since the County is using OPR's General Plan Guidelines to bring the County's General Plan into compliance with state law, the County can easily comply with Government Code § 65400 by including in its APRs the degree to which the 2000 General Plan complies with the statutes cited in those same General Plan Guidelines.

APR for Calendar Year 2022

(Excerpts from the First Page of the Executive Summary and Page 2)

EXECUTIVE SUMMARY

The Department of Public Works and Planning prepared the 2022 APR in accordance with OPR’s October 6, 2022, APR preparation memorandum and HCD’s 2022 Housing Element APR Instructions.

GENERAL PLAN ANNUAL PROGRESS REPORT (APR) OVERVIEW

OPR’s APR preparation memorandum **suggests** the following content to be included in the APR:

•

- Degree to which the General Plan complies with OPR General Plan Guidelines (including environmental justice considerations, collaborative planning with military facilities, and consultation with Native American Tribes)

Note: The statement above makes it is clear that the County believes there is no obligation to include in its APRs the “*degree to which the General Plan complies with OPR General Plan Guidelines.*”

For further explanation as to why the County’s position is incorrect, see the AFTERWORD below. The AFTERWORD compares information from two documents: the County’s APR for calendar year 2022 and Government Code § 65400.

Based on an advisory memo from OPR dated October 6, 2022, the County identifies in its APR for calendar year 2022 a **suggested** list of APR components, including the two shown below.

- *The date of the last update to the General Plan*
- *Degree to which the General Plan complies with OPR General Plan Guidelines (including environmental justice considerations, collaborative planning with military facilities, and consultation with Native American Tribes)*

These same components are **required** by Government Code § 65400.

65400. (a)...the planning agency shall...provide by April 1 of each year an annual report...that includes all of the following:...the degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

The fact that OPR includes among its list of suggested APR components two components required by state law (namely, the degree to which the County’s General Plan complies with the state’s General Plan Guidelines and the date of the last revision of the General Plan) in no way negates the requirement to include that information in APRs. Said another way, the insertion of a prescriptive statement in an advisory document does not transform the requirement into an option.

AFTERWORD

For a decade, county residents have expressed concern to the Fresno County Planning Commission that the County’s annual progress reports on the implementation of the 2000 General Plan have failed to include a description of the degree to which the General Plan complies with the General Plan Guidelines developed by the Office of Planning and Research.

Below, on the left, is a quote from the County’s 2022 APR regarding a suggested list of components for an APR. On the right is a summary of required components per Government Code § 65400. The two lists are different except for the reference to Government Code § 65400(a)(2)(F) (in blue). OPR’s error in including subsection “F” as a “suggested” component of an APR does not negate the fact that it’s actually required.

County Reasoning Regarding the Composition of an APR (Citation from the 2022 APR)	Summary of Required Components of an APR as per Government Code § 65400
<p>“According to OPR’s October 6, 2022, APR preparation memorandum, there is no mandated format for the APR other than Housing Element reporting, which is prescribed by HCD. Further, the OPR’s APR preparation memorandum states that each jurisdiction should determine what locally relevant issues are important to include in the APR. However, the OPR’s APR preparation memorandum <u>suggests</u> the following content to be included in the APR:</p> <ul style="list-style-type: none"> • Introduction • Table of contents • Date of acceptance by the local legislative body • The date of the last update to the General Plan • Measures associated with the implementation of the General Plan with specific reference to individual Elements • Housing Element reporting per HCD requirements • Degree to which the General Plan complies with OPR General Plan Guidelines (including environmental justice considerations, collaborative planning with military facilities, and consultation with Native American Tribes) • Priorities for land use decision making established by local legislative body • Goals, policies, objectives, standards, or other planning proposals that need to be added or amended or were deleted • Lists of the following: <ul style="list-style-type: none"> o Planning activities initiated o General Plan Amendments o Development applications” 	<p>The APR shall include all of the following:</p> <ul style="list-style-type: none"> A The status of the General Plan and progress in its implementation. B The progress in meeting the County’s share of regional housing needs. C The number of housing development applications received in the prior year. D The number of housing units included in all development applications in the prior year. E The number of housing units approved and disapproved in the prior year. F The degree to which the County’s approved general plan complies with OPR’s General Plan Guideline, and the date of the last revision to the General Plan. G A listing of sites rezoned to accommodate the County’s share of the regional housing need. H (Special instructions for the County of Napa; does not apply to Fresno County.) I The number of applications submitted pursuant to subject to the state’s streamlined ministerial housing development approval process. J Information pertaining to funding pursuant to the Local Government Planning Support Grants Program. K Progress in amending the County’s General Plan in compliance with its obligations to consult with California Native American tribes. L Information with respect to density bonuses granted the development of housing. M Information with respect to Affordable Housing and High Road Jobs Act of 2022.

RECEIVED
COUNTY OF FRESNO

JAN 24 2024

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION



January 24, 2024

Fresno County Planning Commissioners
Fresno County
2281 Tulare Street
Fresno, CA 93721

Sent via email

RE: January 25th, 2024, Agenda Item #5 - Fresno County General Plan Review (General Plan Amendment No. 529 and Amendment Application No. 3862), Comprehensive Zoning Ordinance Update (Amendment to Text No 385), Final Program Environmental Impact Report (SCH No. 2018031066) and Related Documents

Dear Planning Commission Members,

Leadership Counsel for Justice and Accountability works alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. On June 27, 2023, we submitted two comment letters¹ to Fresno County staff to address the General Plan documents and draft Environmental Impact Report. We submit the following comments to highlight four goals that continue to be a community priority for residents in Cantua Creek, Three Rocks², Lanare, Tombstone Territory, Calwa, and South Central Fresno and need to be included in the final General Plan.

Goal 1: Fresno County commits to updating land use zoning policies in the General Plan to prevent further concentration of facilities in overburdened communities.

- Specifically, for any disadvantaged communities identified in the EIR that will bear significant and unavoidable impacts, the County must prohibit any new industrial development.
- Rezoning and remediating nonconforming land uses to phase out light and heavy industrial zoning near vulnerable or sensitive receptors.

¹ Both comment letters have been included with the submission of these comments

² Also known as El Porvenir

- To further protect communities from the impacts of polluting land uses, County leadership must develop and adopt specific plans that identify the goals, policies, and commitments that prioritize the needs of community members.

Goal 2: Fresno County adopts strict development standards for industrial development.

- The zoning ordinance requires all freight facilities to be built and designed for zero-emission operation and to achieve zero-emission operations by adopting zero-emission technology, trucks, and equipment.
- Freight developments implement exposure reduction approaches such as:
 - Installing and replacing of high efficiency air filtration devices throughout the freight building
 - Constructing and maintaining vegetative walls or other barriers to reduce exposure to surrounding sensitive receptors
- For freight operations, the County identifies designated truck routes and places any routes 1000 feet away from residential homes.

Goal 3: Fresno County commits to allocating local funds and applying for state and federal funds to help address at least one infrastructure project in a disadvantaged community (DAC) every two years.

- For transparency purposes, the County needs to annually update a document that lists all the projects, funding availability, project cost, etc to update the community on the County's progress in this process.
- This will ensure the County is intentional about allocating funding for underdeveloped communities rather than aiding in building entirely new communities.

Goal 4: Fresno County implements environmental justice policies that address SB 1000 requirements in disadvantaged communities to aid in creating programs and goals that can be fulfilled within the next five years.

- For example, residents would like to see grocery stores in their community but lack the zoning to facilitate this development, and want to go on walks or bike riding but lack sidewalks and bike lanes.
- There is an urgent need for the County to allocate local funds to be able to address and implement the proposed EJ policies in the General Plan. This will ensure the programs and goals are implemented within five years if state and federal funds are not secured.

These four goals are not an exhaustive list of community goals but rather serve to highlight some of the goals that continue to remain priorities for the residents we work with. We will continue to

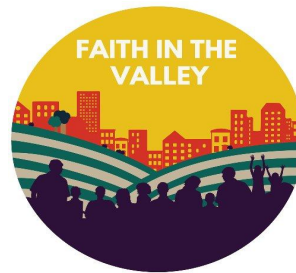
follow this process closely and monitor the changes made to the General Plan before adoption by the Board of Supervisors. Thank you for your time and consideration in this important matter.

Sincerely,

Mariana Alvarenga
Policy Advocate
Leadership Counsel for Justice and
Accountability

Sincerely,

Natalie Delgado
Policy Advocate
Leadership Counsel for Justice and
Accountability



June 27, 2023

Chris Motta
County of Fresno Department of Public Works and Planning
Development Services Division
2220 Tulare Street, Sixth Floor
Fresno, CA 93721

Sent Via Email to: CMotta@fresnocountyca.gov

RE: Fresno County's 2023 General Plan Background Report, Policy Document, and Zoning Ordinance

Dear Mr. Motta,

Thank you for the opportunity to comment on Fresno County's 2023 General Plan Background Report, Policy Document, and Zoning Ordinance. The Fresno County General Plan update is long overdue. We are encouraged to see Fresno County undergoing the process to update the General Plan as we have been following this process closely for several years. Nevertheless, the County has failed to meaningfully and adequately incorporate input provided by residents of

2210 San Joaquin Street, Fresno, CA 93721
Telephone: (559) 369-2790

disadvantaged communities (DACs) and community based organizations to ensure that the plan invests in and supports healthy, thriving communities and equity. The undersigned organizations and groups write this letter to highlight our priorities, concerns, and recommendations noted in the released documents. This letter will focus on concerns and discrepancies noted in the Background Report, Policy Document, and Zoning Ordinance document to aid the County in updating the General Plan to ensure it is a plan that addresses the priorities of Fresno County residents. We are also submitting another letter to address the Draft Program Environmental Impact Report which takes a legal focus on several of the issues included in this letter.

The recommendations and observations noted in this letter stem from lived experiences and support from residents in the disadvantaged unincorporated communities of Cantua Creek, Three Rocks,¹ Lanare, Tombstone Territory,² Calwa, and South Central Fresno. Residents in these communities have actively sought to engage the County and other government entities to invest in and address historic disparities impacting their communities. For many years, Leadership Counsel for Justice and Accountability, Community United in Lanare, Friends of Calwa, South Fresno Community Alliance, and Central California Environmental Justice Network have worked alongside community residents in the aforementioned communities and have heard directly from residents the issues and solutions they would like to see come to their community. Based on this relationship we are able to elevate residents' concerns in this letter.

I. Insufficiencies in SB 244 Analysis

According to Government Code Section 65302.10.(a), cities and counties must include an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each of the identified communities in the land use element.³ In late 2018, Leadership Counsel for Justice and Accountability and Public Interest Law Project sued the County on behalf of Comunidades Unidas Por Un Cambio when the County failed to comply with SB 244. This lawsuit resulted in the County including a SB 244 analysis in the General Plan and beginning to name community deficiencies. However, the County fails to collect adequate information on community needs to truly identify water, wastewater, stormwater drainage, and fire protection deficiencies. It is crucial that the County conduct a complete SB 244 analysis to address infrastructure deficiencies and historically disinvestment in disadvantaged unincorporated communities. Doing otherwise will continue to harm residents and contribute to the ongoing local neglect that has impeded communities to see change.

¹ Also known as El Porvenir

² Also referred to as "Tombstone" throughout the letter

³ State of California Governor's Office of Planning and Research General Plan Guidelines, pg 5

Drinking Water Inadequacies

California has endured many years of dry summers and severe drought conditions that have greatly impacted the groundwater levels in communities that rely on groundwater. The County lacks critical information to determine the current and future status of private wells in the community. For example, Central Kings Groundwater Sustainability Agency includes several communities such as Tombstone, Caruthers, Selma and others. According to the GSP Dry Wells Tool,⁴ the number of dry wells is projected to increase in the Central Kings Groundwater Sustainability Agency where it is anticipated that there will be 397 to 405 dry wells in the next 20 years. In Tombstone alone, there are currently at least 15 dry wells and with many more at risk of going dry. The County's analysis fails to account for shallow and dry wells which have left residents without water and puts residents' water supply at risk. Residents in communities like Tombstone as well as Britten Ave continue to experience the negative effects of the drought and have resorted to getting a water tank installed outside their home and getting water delivered once a week to be able to have access to drinking water. This is worrisome because it does not only impact Tombstone and Britten Ave as this is the fate of many other communities in Fresno County who rely on private wells. Having access to this data allows the County to not only provide an analysis but also work on solutions with other agencies such as Groundwater Sustainability Agencies.

Moreover, for the community of Britten Ave the County states that residents depend on private wells to access their water. However, the County fails to acknowledge that the testing done for wells in Britten Ave have shown higher levels of nitrates and uranium beyond maximum contaminant levels. The current analysis is missing this critical information necessary to inform the County of actions it can take to address drinking water contamination.

There are other drinking water inaccuracies in the drinking water analysis, in addition to incompleteness. For the community of Lanare, the analysis inaccurately notes that the community relies on two community wells. The community has relied on one community well since at least Fall 2021 because the other well had to be shut off due to benzene issues. This is a concern to residents and puts them in a situation where they risk running out of water and not having another well to supply water to the community. According to a wastewater feasibility study conducted by Black Water Consulting Engineers, Inc. in 2021, the Lanare Community Services District water system has 152 residential connections, 3 agricultural connections, and one commercial connection.⁵ When there is an emergency, the existing community well will not have the capacity to adequately supply water to everyone in the community.

⁴ <https://www.gspdrywells.com/gsas/central-kings/mt/>

⁵ Lanare Community Services District Wastewater Collection, Treatment, and Disposal Planning, pg 6

Wastewater Inadequacies

The SB 244 analysis states that several communities do not have a community wastewater system and residents rely on septic tanks. However, the County fails to elaborate the extent to which residents experience septic failure. Due to the lack of wastewater infrastructure in unincorporated communities like Lanare, Tombstone, South Central and Britten residents often have to deal with the consequences of failing septic tanks. Septic tank failure causes wastewater to back up into the house, leads to groundwater contamination that affects drinking water sources, results in noxious odors, and impacts public health. The Office of Planning and Research (OPR) guidelines state that the County “should consider where there may be opportunities to provide more efficient, high quality service through consolidation, extension of services, and other regional solutions to address inadequacy of services and infrastructure.”⁶ The County disregards this guidance and simply states that communities are not a part of a wastewater system. Residents in these communities want to be connected to a wastewater system to end deficiencies such as leaching and increased water contamination. We therefore recommend the county incorporate all impacts associated with wastewater deficiencies and identify implementation actions it can take to address issues.

Stormwater Drainage Inadequacies

Throughout the analysis, the County inaccurately states that certain communities do not experience flooding. The communities of Cantua Creek, Three Rocks, Lanare, Tombstone Territory, and Britten Ave all experience flooding due to lack of storm drainage infrastructure. The County reached this conclusion based on a lack of flooding reported to the County and a site visit to County DUCs on a dry spring day in 2019. For example, for Britten Ave “No incident of flooding was reported during the winter of 2018 – 2019 or during the spring of 2019, which experienced average rainfall in the Fresno area.”⁷ This method of analysis results in inaccurate conclusions. This analysis fails to acknowledge the constant flooding, the effects of flooding, and the impact to day to day activities during this time period and beyond. Flooding in Britten creates puddles, a muddy road, and exacerbates road conditions causing residents to struggle to enter and leave their community. This is a huge impediment to getting children to school on time, adults to their jobs, and emergency services from entering and exiting the community. Residents share that postal service providers such as the United States Postal Service, FedEx, and Amazon have difficulty getting mail delivered when road conditions are impacted by flooding. Road conditions have gotten worse over time especially with the recent atmospheric rivers we have been experiencing this past winter.

⁶ 2017 General Plan Guidelines by the Governor’s Office of Planning and Research, pg 67

⁷ Fresno County Background Report SB 244 Analysis, pg 16

SB 244 Analysis Must Consider Climate Impacts

The 2017 General Plan Guidelines by the Governor’s Office of Planning and Research (OPR) states that, “[T]he analysis should consider both the horizon year and the impacts of a changing climate.”⁸ However, in the SB 244 analysis the County fails to mention that climate change is intensifying impacts on water, wastewater, stormwater, and fire protection infrastructure. Additionally, the current analysis for communities under SB 244 depicts a false representation of community needs when all the necessary information is not included. Therefore, we urge the County to complete an adequate analysis to determine water, wastewater, stormwater drainage, fire protection needs, and other infrastructure deficiencies in Fresno County.

Gaps In Funding Opportunities

Government Code 65302.10 states that cities and counties need to complete an “...analysis of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible.”⁹ Although we appreciate the County including Table 2¹⁰ to list potential funding and financing mechanisms to address SB 244 deficiencies, it is impossible for the County to name which funding opportunities communities can access when the SB 244 analysis is incomplete. As noted in this section, the County should first ensure information is adequate and include all the issues communities are facing. Additionally, the County should specify which funding source each community qualifies for and which deficiency will be addressed through that funding opportunity.

II. The County Needs to Play a More Active Role to Ensure Drinking Water and Wastewater Availability

Access to Safe and Affordable Drinking Water

Throughout the policy document, there is a common theme centered around protecting water for agricultural purposes but not policies to ensure communities have access to safe drinking water and wastewater services. This is despite the ongoing drinking water crisis in the County, with many households and communities with dry or contaminated wells. At the same time, the General Plan has various policies supporting the proliferation of agriculture, sprawl development, and oil and gas development all of which has the potential to negatively impact groundwater and drinking water supplies.

⁸ 2017 General Plan Guidelines by the Governor’s Office of Planning and Research, pg 66

⁹ State of California Governor’s Office of Planning and Research General Plan Guidelines, pg 11

¹⁰ Background Report, Fresno County SB 244 Analysis pg 241

Policy LU-A.22 should be changed to include the following language, “The County shall adopt and support policies and programs that seek to minimize the impact of reoccurring drought conditions and groundwater over pumping on ground water supply **for drinking water users dependent on groundwater supply in existing disadvantaged communities, including those reliant on domestic wells, state small water systems, and small community water systems.**”

Furthermore, the County must commit to implement a **policy during drought declarations to not approve new or replacement agricultural wells within a half mile of existing domestic wells, small water systems, and community water systems.**¹¹ During non-drought periods, at a minimum, the county must require a written report that ensures any new proposed agricultural and/or industrial well is both consistent with groundwater management planning and will not interfere with or dewater any domestic well, small water system and/or community water system within a quarter-mile of the new proposed well. **The County should adopt a presumption that new and replacement agricultural wells within a half mile of existing wells will cause well interference.** This will ensure communities do not have to compete with agricultural wells that are generally much deeper and higher capacity than domestic supply wells.

We acknowledge that there are other agencies who also play an active role in managing groundwater and ensuring there is a plan in place to mitigate overdraft. This means the County should be actively working with other agencies to ensure collaboration and help reach groundwater sustainability goals. This year the Department of Water Resources has started to review Groundwater Sustainability Plans (GSP) and has approved, denied or asked Groundwater Sustainability Agencies (GSA) to provide corrections to their plan to achieve sustainability by 2040. As per our Focused Technical Review of Groundwater Management Plans in the Kings subbasin, at least 43% of these domestic wells would be expected to be fully dewatered and an additional 14% of these wells would be expected to be partially dewatered based on current minimum thresholds.¹² This is a frightening statistic and a warning to the County to work with GSAs and drinking water users to establish clear demand reduction measures and timelines to ensure adequate groundwater management that is protective of domestic wells, small water systems, and community water systems. Adequate groundwater management and planning will also ensure groundwater supplies will be available to support potential growth in disadvantaged communities.

¹¹ For most high volume irrigation wells, the cone of depression is around half a mile. see Pfeiffer, Lisa, and C-Y. Cynthia Lin. "Groundwater pumping and spatial externalities in agriculture." *Journal of Environmental Economics and Management* 64.1 (2012): 16-30

¹² Central Kings GSP Technical Review; Focused Technical Review: July 22, 2019 North Fork Kings Groundwater Sustainability Agency Public Review Draft Groundwater Sustainability Plan; Focused Technical Review: August 15, 2019 North Kings GSA Public Review Draft Groundwater Sustainability Plan; available at <https://drive.google.com/drive/folders/1fARFXS91mksdmx4DJB0a-3HOCSBZ5UwE?usp=sharing>

Policy OS-A.10 should be changed to include the following language, “The County shall **review yearly water availability data** and coordinate with the relevant Groundwater Sustainability Agency(ies) concerning their Groundwater Sustainability Plan(s) and refer any substantial proposed General Plan amendment to the agency for review and comment prior to adoption. The County shall give consideration to the adopted groundwater sustainability plan when determining the adequacy of water supply.”¹³ The addition to this policy to have the County review yearly data on water availability will help the County plan for water availability needs rather than respond to water emergencies.

Furthermore, under SB 552 counties are “required to have a standing drought task force to facilitate drought and water shortage preparedness for state small water systems (serving 5 to 14 connections), domestic wells, and other privately supplied homes within the county’s jurisdiction.”¹⁴ The County is also responsible for developing a drought and water shortage plan in order to propose short and long term solutions to address drinking water availability. Examples of short and long term solutions include, but are not limited to, consolidating communities with existing water systems, private well drinking water mitigation programs, and emergency drinking water solutions such as delivery of bottled water, water tanks, and emergency interties. In our SB 244 analysis we have included drinking water issues communities face thus the County’s role in implementing SB 552 can serve as an additional tool to complement the role of GSAs in monitoring and protecting groundwater.

Lastly, Fresno County communities that are surrounded by agriculture have constantly sought greater drinking water protections. Due to the overuse of fertilizers, pesticides and chemicals as well as substantial quantities of manure on nearby livestock operations, groundwater contamination continues to get worse, making it difficult and costly for water providers to deliver safe drinking water to communities and residents reliant on domestic wells to ensure safe drinking water supplies. Therefore, the County should revise **OS-A.18 to include clearly identifying sources of groundwater contamination impacting residential wells, protect communities from exacerbation of such contamination, address existing contamination of residents’ drinking water supplies and enact long-term solutions to ensure that residents have reliable access to safe and affordable drinking water.** This is necessary in order for the County to ensure consistency with Affirmatively Furthering Fair Housing duties and address a critical health and safety need that is an environmental justice (EJ) issue per the EJ Element.

¹³ Fresno County Policy Document, pg 2-121

¹⁴ Drought Planning for Small Water Suppliers and Rural Communities (SB 552), Department of Water Resources

Access To Adequate Wastewater Service

The General Plan does not contain any policies and programs to address adequate wastewater service in unincorporated communities reliant on failing septic tanks and/or where there is currently no sewer system. As mentioned in the SB 244 section, several communities we work with have failing septic tanks. The long term solution is often to connect these communities to existing wastewater systems, but as an interim measure for communities that are good septic-to-sewer candidates, and a long-term measure for those that are not, the County needs to create **policies centered around funding septic maintenance, repair, and replacement, as well as related education and outreach**. The County should create a program to assist with septic maintenance similar to the housing programs currently available for home improvements.¹⁵ This is a health and safety issue that requires immediate attention and response by the County.

III. Environmental Justice Element

Government Code Section 65302(h) requires the County to add an environmental justice (EJ) element to the General Plan to address the following three components:

1. “Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.”¹⁶
2. “Identify objectives and policies to promote civic engagement in the public decision-making process.”¹⁷
3. “Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.”¹⁸

If implemented correctly this element can begin to address long lasting environmental injustices and serve as a powerful tool to bring positive changes to disadvantaged communities. We appreciate the efforts the County has made to include several new policies in the EJ element. Nonetheless, the County should include policies that intentionally address and reduce health risks in disadvantaged communities. This section addresses ways the County can improve the EJ element but the recommendations are not limited to only the following policies.

¹⁵See Calabretta, Investing in America’s Onsite Wastewater Treatment Systems for Equity and Sustainability, Environmental Policy Innovation Center (2022), available at https://static1.squarespace.com/static/611cc20b78b5f677dad664ab/t/62e7bcf56ab0635d9c1ecf0c/1659354397043/FI_NAL_EPIC_SepticFinancingReport_2022.pdf.

¹⁶ Office of Planning and Research General Plan Guidelines Chapter 4: Required Elements, pg 3

¹⁷ Office of Planning and Research General Plan Guidelines Chapter 4: Required Elements, pg 3

¹⁸ Office of Planning and Research General Plan Guidelines Chapter 4: Required Elements, pg 3

Pollution from Existing and Future Land Uses

Residents within the South Central Fresno area are disproportionately overburdened by different pollution sources. The County attempts to address the process for project development in this area in policy EJ-A.7.

While EJ-A.7¹⁹ is a policy that will require the Air Pollution Control District to be involved in the development review process for applicants located within the South-Central Fresno AB 617 bounded area, this policy will not support efforts to reduce pollution in other disadvantaged communities of the County, nor will it allow these other overburdened communities to have an environmentally just review of impactful incoming development. To ensure that EJ-A.7 policy is effectively serving the AB 617 South Central Fresno area, the policy language should also state that **“the County should consult the established Community Steering Committee and the Air District. When the Community Steering Committee and the Air District gives comments and recommends that an industrial development application not be approved due to the oversaturation of polluting sources and detrimental environmental impacts on a community, then the County should honor that recommendation and not move forward with that industrial project.**

Additionally, policy EJ-A.2 also targets polluting land uses. We recommend the County include the following language,

“The County shall require buffering and screening requirements as part of the development review process for all new and existing potentially pollution producing land uses proposed to be located adjacent to existing sensitive land uses that have historically been associated with heightened levels of pollution. These land uses associated with pollution include industrial land uses, agricultural operations using pesticides applied by spray techniques, wastewater treatment plants, and landfills and waste treatment facilities.”²⁰

The way policy EJ-A.2 is currently worded does not apply to existing pollution producing land uses where pesticides exposure and industrial pollution are present and cause several health issues. Residents in Cantua Creek, Three Rocks, Lanare, Tombstone, and South Fresno are surrounded by agriculture and would not benefit from this policy despite being vocal over the years about how their health has suffered as a result of pesticide exposure. The County needs to create policies that are truly enforceable. All residents deserve to live in a community where they can go outside and breathe clean air. While greater distance between new industrial uses and existing communities and sensitive receptors through buffering policies are needed, buffering

¹⁹ Fresno County General Plan, Policy Document pg 2-204

²⁰ Fresno County General Plan, Policy Document pg 2-204

only through set-backs on parcels planned for industrial development is not sufficient to address the environmental injustice perpetrated by the County through its designation and zoning of land surrounding communities for industrial use. We urge the County to redesignate and rezone land within a 1/2 mile of existing and planned sensitive uses to community-serving, non-industrial land uses. This will both help protect communities from further industrial encroachment and concentrated environmental burdens and create new opportunities for land uses desired by residents, including parks, housing, retail, education, and more.

Environmental Justice must be at the forefront of policy planning and land use decisions.

Another policy that needs to be improved is Policy EJ-A.6: Caltrans Coordination which states that, “The County shall coordinate with Caltrans to encourage the development of projects to mitigate roadway pollution along major interstates, such as the development of green barriers near existing sensitive land uses.” This policy language should be revised to, “**The County shall not pursue projects with or support projects by Caltrans that harm environmental justice communities.**” The current policy fails to protect environmental justice communities from continued harm and is unenforceable. Our proposed policy is consistent with Caltrans commitments to racial equity.

Green Spaces in Disadvantaged Communities

The General Plan places an emphasis on the County's location near Yosemite, Sequoia, and Kings Canyon National Park as tourist assets, but the County does not do enough to make these areas accessible to residents or to directly address park deficiencies within disadvantaged communities. Throughout the years, residents in disadvantaged communities have asked for trails and parks in their communities to allow them to partake in physical activities. **Policy OS-H.6** states that the County “shall encourage the development of parks near public facilities such as schools...” which is the case in Cantua Creek and Riverdale where there are currently schools in these communities. However despite multiple requests from residents over the years to bring a park to their community, the County has failed to accomplish this and the language in this policy will not allow this to happen. Using words like “encourage” creates a false hope that the County is working to bring parks to communities near certain facilities. Instead we ask the County to create a **policy that commits the County to rezone land for parks to facilitate the development of parks.** Furthermore, some park benefits include improved mental and physical health, brings communities together, and improves air quality. While we appreciate that the Draft General Plan now includes a policy for the County to seek funding for parks, **Policy EJ-B.7**, as drafted, the policy provides little assurance that communities will actually benefit from increased or improved park space as a result. First, the policy fails to state how often the County will seek this funding and how the County will prioritize funding across different communities. The County should create a local fund in the likely case there are difficulties and delays in regularly

securing the funding mentioned in this policy. Additionally, **Policy EJ-B.2** states that the County will promote physical activity by removing barriers to outdoor activity. The absence of green spaces, trails, bike lanes, and sidewalks are currently barriers in partaking in outdoor activities. Therefore, the County needs to allocate local funding to go directly to disadvantaged communities to begin to address these barriers. The County can start by recording the lack of these amenities in each community on a document that can be updated each year to reflect the County's progress.

Policy EJ-B.2 and EJ-B.7 state that the County will work with community services districts (CSD) but fails to include communities that do not have this local government entity in place. Engaging with current CSDs is a good way to work and invest in these communities but the County needs to also ensure funding will be allocated to communities without a CSD especially in a County Service Area where the County already has an active role. In summary, we are asking the County to do the following:

- **Policy OS-H.6:** Rezone land to develop parks in communities that have schools.
- **Policy EJ-B.7:** Create a local fund to secure park funding from local, state, and federal sources and determine which communities will be prioritized. The County should also develop a parks master plan.
- **Policy EJ-B.2:** Create a local fund to bring trails, bike lanes, and sidewalks to disadvantaged communities.

IV. Disadvantaged Unincorporated Communities Require Additional Public Services

Despite repeated requests for planning and investment, disadvantaged unincorporated communities remain extremely vulnerable to the impacts of climate change, lack access to basic services and amenities, are exposed to disproportionate sources of pollution, and lack the basic features of healthy and thriving communities, including safe and affordable housing, active transportation infrastructure (sidewalks, curb and gutter, streetlights, tree canopy), and green spaces.

For these reasons, we are particularly concerned with the inclusion of the following policy:

“LU-E.25 State Route 180/Trimmer Springs Road Special Study Area The approximately 7,000-acre generally located north of the State Route 180/Trimmer Springs Road interchange is designated as a Special Study Area. The County shall evaluate this Special Study Area for possible future urban residential, educational, office, and commercial land uses.”

As noted throughout this letter, significant infrastructure and basic service deficiencies exist in long established disadvantaged unincorporated communities. We urge the adoption of policies focused on addressing needs and opportunities in existing disadvantaged unincorporated

communities before resources are directed towards new growth areas. Doing so would not only comply with the goals of SB 1000, but would also align with state climate and equity goals and state planning priorities. The County must also take proactive steps to eliminate barriers to investment in existing communities such as policies that prioritize investment and planning in new areas or where the county deems they can be built.

Fire Protection Infrastructure

Residents in Cantua Creek, Three Rocks, Lanare, and Tombstone all lack access to a fire station in their community. It is important to note that in the past Cantua Creek did have a fire station, however the building is now empty. As a result, Cantua Creek residents pay higher home insurance rates due to lack of a fire station within certain miles of the community. There is a County wide slow response rate that does not allow the County to adequately protect residents from fire-related threats. In Lanare, it takes 30-40 minutes for a fire truck to arrive and respond to a call. In some instances, residents have reported illegal burning of tires, mattresses, and other items and have received no response. Therefore we recommend adding the following sentence to policy PF-H.3, “The County shall require that new fire stations be located to achieve and maintain a service level capability consistent with services for existing land uses. **The siting of new fire stations should have a response rate of less than 15 minutes.**”²¹ If the County can not provide fire stations in all communities in Fresno County, it is imperative that the County work with existing fire stations to bring reliable, efficient fire protection services as stated in Policy PF-H.1.

V. The County Needs to Urgently Address Climate Adaptation Planning

Fresno County is experiencing the effects of climate change through extreme heat, drought, wildfires, storms, and more. It is past time for the County to be proactive by creating policies that truly address climate change and the disproportionate threats faced by low-income communities and communities of color which experience the most acute climate-related threats and impacts.

The threat to climate change impacts has been noted in the SB 244 analysis of our letter along with stormwater drainage deficiencies. The urgency to address these impacts and create policies need to be clearly stated in the General Plan. **Policy HS-C.6** can be more effective if the following changes are made, “The County shall **expand** stormwater and flood protection infrastructure capacity in order to accommodate changes in precipitation and extreme weather events including the establishment or expansion of recharge basins.”²² By using words like “encourage expansion” this policy does not clearly apply to communities that do not have stormwater or flood protection. Therefore, the wording should be changed to explicitly apply to

²¹ Fresno County General Plan Policy Document, pg 2-114

²² Fresno County General Plan Policy Document, pg 2-172

2210 San Joaquin Street, Fresno, CA 93721

Telephone: (559) 369-2790

communities that lack such protection, especially disadvantaged communities which lack resources to finance and address flood protection needs. Without the County's commitment to seek financial assistance to ensure the installation and maintenance of stormwater and flood protection infrastructure that meets these communities needs, it will not accommodate changes in precipitation and extreme weather events. Again, there are several communities in the County that need this basic infrastructure.

Last year the Board of Supervisors voted to disapprove a grant proposal which would have provided funding to do the following, “[S]upport existing efforts mandated through legislation aimed at climate resilience, which aims to anticipate and prepare for impacts to reduce the damage from extreme weather events, as well as chronic, long-term shifts, including those resulting from or aggravated by drought, flood, wildfire, extreme heat, and rising seas”.²³ This funding would have supported a necessary step to address climate change impacts in Fresno County and the alarming and counterintuitive decision to reject the funding was a disservice and detrimental to residents and future residents of the County. We recommend **policy HS-G.1** to include the following language, **“The County will actively take steps to develop and implement plans based on sound science to reduce the impacts of climate change.”** This change should not enable future decision makers in the County to reject funding, projects and regulations that will aid in fighting climate change. Additionally, the County should commit to provide a valid explanation to the community if there is ever an instance when future funding to address climate change is rejected.

Finally, **policy HS-G.2 should be changed to have the County update the Fresno County Climate Change Vulnerability Assessment every five years.** Again, the impacts of climate change are not taking a pause and continue to harm communities every day. Updating this assessment and working on strategies centered around climate crisis response allows the County to prepare for emergencies rather than respond to them when the impact is greater.

Investing in Community Resilience Centers

Community resilience centers can serve as a space to access resources, serve as a cooling and warming center, host food distribution, host physical activity classes, mobile health clinics, educational workshops, and more.

The County includes policies HS-A.3 and HS-A.4 which focus on responding to emergencies such as flooding, fires, and earthquakes where there is a physical space to attend to the needs of a community. This is vital in the County where communities are spread throughout the County and need to have a space to shelter in case of an emergency. In addition to HS-A.3 and HS-A.4, the

²³ February 22, 2022 Board of Supervisors Agenda, Board Agenda Item 50, pg 2

County should develop community resilience centers at existing and new facilities by committing to seek local and state funding. Consequently, this policy will aid in fulfilling several policies in the environmental justice element such as EJ-A.4, EJ-A.8, EJ-A.9, EJ-C.1, EJ-C.2, EJ-C.3, EJ-C.4, EJ-C.5, and EJ-C.6.

VI. Economic/ Industrial Development Must be Equitable

Policies must not exacerbate the environmental degradation of disadvantaged communities

Despite requirements under Government Code sections 65302(h) (environmental justice planning), 65302.1 (air quality element), and civil rights laws, the Draft Policy Document continues to describe an economic development strategy that directs polluting land uses to disadvantaged communities and fail to meaningfully protect communities from both existing and future industrial, waste management, and energy-production land uses. For example, in Chapter 2, policy ED-A.7 refers to Locating New Industrial Sites. While it is a positive change that the language was deleted from the policy draft that stated that the “Initial focus of potential new or redeveloped industrial areas shall include Malaga, Calwa, and the Golden State Industrial Corridor”²⁴, without changing existing land use designations that direct industrial development into the same disadvantaged communities, the effect is still the same. There are many clusters of homes and small apartment units along the Golden State Corridor as well as the communities of Malaga and Calwa. It is well documented and known that the focus of additional industrial sites in this area will increase the levels of air, light, noise and traffic pollution in an area that already ranks in the top 1% of census tracts of the most overburdened areas in CA according to the CalEnviroScreen 4.0.²⁵ This area also overlaps with the designated AB617 area of South Central Fresno which was chosen for its extreme concentration and over accumulation of pollution sources.

Furthermore, policy ED-A.9: Fresno County Business and Industrial Campus Special Study Area, is being introduced in an attempt to still move forward with planning for additional industrial land uses in an area that should be completely off limits for further industrial development. The communities of Malaga, Calwa, and South Central Fresno are already overburdened ranking in the top 1% of census tracts of the most overburdened areas, and yet this Special Study Area will be located only ½ mile east of Malaga and will be a business park that is approximately 3,000 acres with 19 million square feet of industrial building space. The location of this study area will logistically require all of its heavy duty truck traffic to travel through Malaga from Highway 99 located to the west. The current community concerns already have the unresolved challenges of truck routes passing by the elementary school and running through the

²⁴ Fresno County General Plan pg 2-5

²⁵ CalEnviroScreen 4.0, OEHHA.ca.gov Census Tract 6019001500

residential areas of the community. This will also only be exacerbated by the increased amount of truck trips.

We propose that the County commit to performing an Industrial Compatibility Study. Also, for land that qualifies as disadvantaged communities according to the CalEnviroScreen, the County should redesignate land within a 1/2 mile of sensitive uses from industrial to commercial uses or other buffer-spaces or uses that meet community needs. We also propose that the County commit to developing a study that identifies areas for industrial development that will not impact DACs and redesignates land accordingly.

Policy ED-A.16: Regional Processing Facilities, states that, “ The County shall encourage processing facilities that ... may logically be expected to expand into regional processing facilities, to locate in industrial parks under city jurisdiction or within existing unincorporated communities areas with adequate infrastructure.” The areas of South Central, Malaga, and Calwa communities are classified as disadvantaged communities. As disadvantaged communities, they are already oversaturated with industrial facilities and cumulative impacts. Therefore, even though the remainder of the language of ED A.16 states that, “Processing facilities located in proximity to disadvantaged communities shall comply with the applicable provisions of the Environmental Justice Element”, there should be no intention nor plans to place more industrial parks within these communities, especially when this policy is written to encourage expansions of processing facilities..

The General Plan must not allow additional industrial development in the areas classified as disadvantaged communities.

Unfortunately, the Environmental Justice policy is written with the intent to continue industrial development in communities that are already confirmed to be overburdened with industrial and pollution impacts and yet the County wants to ignore this and continue the same practices. In the following policy, ED-B.4, again, there are no precautionary measures nor protections that are being written into this plan and the sole focus is on development regardless of the cost to the existing residents.

Policy ED-B.4 High-Speed Rail and Heavy Maintenance and Operations Facility states that “ If the heavy maintenance and operations facility is located in an unincorporated area of Fresno County, the County shall plan and identify land uses necessary to support and serve the heavy maintenance and operations facility of these facilities.”²⁶ There is no mention of what impacts that this could have on any existing communities that may be in the vicinity of these high speed rail facilities that are not yet constructed. **The policy should state that, “the County shall ensure that the HSR heavy maintenance and operations facility will not be constructed**

²⁶ Fresno County General Plan pg 2-7

near land uses of sensitive receptors nor shall these sensitive receptor land uses be changed in the future for the citing of heavy industrial uses.”

The Public Facilities and Services Element policy PF-A.3 Industrial Infrastructure, states that “The County shall require new industrial development to be served by community sewer, stormwater, and water systems where such systems are available or can feasibly be provided.” The consequences of this policy with its lack of accountability to the residential communities are that private wells are completely running dry while large industrial facilities have the means to have clean water. **The policy must include language that states that when industrial facilities are served by community sewer, stormwater, and water systems, then so shall the communities have the option of connecting to the same water and sewer systems.**

VII. Agriculture and Land Use Policies Must Prioritize Human Health

The Central Valley of California prides itself on its agricultural industries and yet the humans whose labor allows this multi billion dollar industry to flourish are those that suffer the most without the basic human rights of clean water, air, and healthy living conditions. The policies within the Agriculture and Land Use Element portion of the General Plan, focus on promoting agriculture without adequate protections needed for the residents of the rural communities near agricultural operations. This element must include protections from: fugitive dust from harvesting; exposure to toxic pesticides and its drift; and from contaminated groundwater from pesticide runoff and dairy biogas.

LU-A.13: Agricultural Buffers, states that “The County shall protect agricultural operations from conflicts with non-agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations. Additionally, the County shall consider buffers between agricultural uses and proposed sensitive receptors when processing discretionary land use applications.”²⁷

The language should state that, “The County shall protect sensitive receptors from proposed agricultural and industrial uses when processing discretionary land use applications and that buffers should be required, as well as set backs, on parcels zoned for agricultural and industrial uses.” This will ensure that if and when existing uses are replaced and when new ones are proposed there is a protection from impacts through physical separations between agricultural and industrial uses and sensitive receptors.

Also, this policy only applies to proposed new development and does nothing for existing communities in the form of: 1) preventative protections from pesticides through the use of a notification system and 2) protections from harmful pesticide chemicals that drift onto the homes

²⁷ Fresno County General Plan pg 2-33

2210 San Joaquin Street, Fresno, CA 93721

Telephone: (559) 369-2790

and schools of rural communities. There are no adequate notification provisions built into the requirements for agricultural uses that impact humans, and yet there are protections of the agriculture lands.

We urge the County to establish a pesticide notification program led by the community. It is important to create a tool to inform the community of when pesticide application is allowed and how residents are notified. Therefore, create a Land Use Policy with language that states, **“In communities that are exposed to pesticide usage and drift, the County shall establish a notification system that is informed by residents including those who have suffered from impacts from the exposure. The Notification system will also include what type of non harmful chemical pesticide applications can be applied.”**

The County should also play an active role in only allowing non harmful chemicals to be applied to fields. The County Ag Commissioner, with the input from the community, should be required to create and adhere to a pesticide reduction plan with the goal of reducing the use of hazardous pesticides near sensitive receptors, especially in disadvantaged rural communities. Residents who live in communities surrounded by agriculture are often the residents working the fields near their house and understand that their job depends on the survival of agriculture. However, their livelihood does not depend on the continuation of applying toxic chemicals that are harming them and their community. In the Background Report the County notes the effects of pesticides by stating that “Exposure to high levels of certain pesticides can cause immediate health problems or even birth defects or cancer later in life. Farmworkers and anyone living near agricultural fields are most exposed to pesticides.”²⁸ Residents report that they experience elevated cancer incidences, asthma and other respiratory and health complications in many disadvantaged communities which are surrounded by agriculture and cumulative impacts of pesticide exposure, groundwater contamination, and diesel fumes from agricultural equipment. Residents attribute in part to the lack of buffers and increased exposures to pesticides and dust. The County must not ignore these risks and include actionable policies to reduce and wherever possible, avoid them.

The county’s response to the inhumane treatment of rural communities can not be the policy of LU-A.15: The Right-to-Farm Notice. While this policy states that, “residents in the area should be prepared to accept the inconveniences and discomfort associated with normal farming activities and that an established agricultural operation shall not be considered a nuisance due to changes in the surrounding area”,²⁹ residents' constant reports of nosebleeds, asthma attacks, cancer hot spots, peeling bleeding skin due to pesticide exposure is beyond a discomfort or a nuisance. This policy prioritizes the convenience of commercial agriculture over the health and

²⁸ Background Report, pg 3-73

²⁹ Fresno County General Plan pg 2-33

well-being of County residents, and in particular, residents of disadvantaged communities and people of color whose communities' are disproportionately surrounded by agriculture. Therefore LU-A.15 should be completely removed from the General Plan as it is not consistent with the environmental justice goals of EJ-A which states to ensure "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies do not disproportionately impact any individual race, any culture, income or education level."

New and Expanding Dairy Operations

Large and expanding dairy operations impact Fresno County communities by contributing to air pollution, groundwater pollution, groundwater depletion, and odors and mosquitos. Lanare and Riverdale, for example, are surrounded by dairies and residents feel the impacts everyday, especially residents who have asthma and allergies. The General Plan should include a policy to protect sensitive receptors and other residents from the impacts of dairies and the zoning code should be updated to prevent further encroachment of large dairy facilities on residential communities and other sensitive receptors as follows:

LU.A.: The County shall work with community residents living within five miles of dairies, relevant local agencies including the air district, regional water quality control board, and groundwater sustainability agencies to develop enforceable policies and programs to prevent dairy operations from contributing to groundwater pollution, groundwater overdraft, air pollution, odor, and other nuisances including mosquitoes and flies.

The County must also update the zoning code to increase the required distance between dairy operations and residential uses and other sensitive receptors, especially with respect to unincorporated communities. We are particularly concerned that the required distance between dairies and unincorporated communities is only a half mile while the distance between city spheres of influence and dairies is one mile. This implicates increased impacts and burdens on disadvantaged unincorporated communities. **Accordingly, the zoning code should be updated to require at least a one mile buffer between unincorporated communities and dairy operations.**

While we recommend that the County prohibit the citing and expansion of dairies in the county unless a dairy can demonstrate that it will not in any way impact air quality, water quality, or groundwater resources or increase odor or flies and mosquitos, at the very least, **the county must change the zoning code to require all new dairies and dairy expansions to secure conditional use permits and go through a full CEQA review.**

Residents want to coexist with agriculture and dairies without having to jeopardize their lives for profit.

VIII. Transportation and Circulation Element

Transportation and Circulation improvements must include the improvements needed to benefit communities and not cause further environmentally unjust degradation.

As stated earlier in section IV, access to everyday amenities and meeting the transportation needs for rural and fringe communities is a constant challenge, along with the need to decrease the detrimental health and safety impacts from industrial development. There is great need to have transportation routes that allow for community members of rural areas to reach the larger cities of Fresno. This leads to the topic of the need for improved infrastructure, for the purpose of improving community, however, the policies of this plan are only focused on the needs of development and expansion for industrial facilities and the heavy duty truck logistical circulations.. Accordingly, we recommend changes to the following policies:

Truck Routes Must Reroute Heavy Duty Trucks and Industrial Traffic away from disadvantaged communities

Policy TR-A.16: Truck Routes, states that “The County shall work with the cities of Fresno County in establishing a system of designated truck routes through urban areas.”

TR-A.16 language needs to be changed and state that,

- **“The County shall work with the cities of Fresno County in establishing a system that will reroute trucks away from urban and residential disadvantaged communities.**
- **The County shall also participate in the city of Fresno’s AB617 truck reroute study and implementation of outcomes as proposed by the community steering committee and that avoid sensitive receptors to the greatest extent feasible.**

Communities of Calwa, Malaga, and South Central Fresno continue to suffer the impacts of air pollution with high concentrations of diesel PM2.5, light and noise pollution, and vibrational impacts due to the heavy duty trucks that drive within 20 feet from the front steps of their homes. The history of the poor planning and inadequate land use determinations created by the County as well as the City of Fresno have completely disregarded the needs and well being of disadvantaged communities of color. Policy TR-A.16 does not state that the County will prioritize the re-routing of heavy duty trucks outside of a community. Instead, it states that it will purposefully work to establish a system through urban areas. Again, there are no indications in the language of this policy that ensure that there will be a decrease in any industrial uses near the sensitive receptors of communities.

- **The circulation diagram needs to be revised to include routes off-limit to trucks based on routes being located within a community and include a policy to enforce prohibition.**

- **The county wide truck routes must minimize exposure to sensitive receptors and prioritize minimizing exposures for communities impacted by high levels of air pollution.**

Land designated for industrial development that is located near sensitive receptors and/or which would require trucks to use roadways with sensitive uses in disadvantaged communities, needs to be rezoned to a less impactful use that will not allow for heavy duty truck traffic.

Policy TR-A.17 Sensitive Land Uses, states that “The County shall limit within Urban Areas the expansion of existing or designation of new truck routes within 500 feet of sensitive land uses such as schools and residential areas.”³⁰ TR-A.17 policy only indicates that expansions of truck routes will only have to go as far as a maximum of 500 feet away from a sensitive receptor. While this is an improvement in comparison to prior language, the distance of 500 feet away from a sensitive receptor will not reduce health impacts when **it actually takes a minimum of 2500 feet from a truck route to begin to see a statistically significant decrease in the exposure to cancer risk from diesel PM2.5.**³¹

In the county’s pursuit of transportation planning through the Central Valley, the FCGP policies must require protections to be built into the language of all of its policies that will improve the quality of life of the communities that are being impacted.

- Policy language must include plans that will actually reduce exposure to air pollution such as diesel PM2.5 by improved rezoning of impact land uses away from sensitive receptors.
- Transportation goals must prioritize funding investments for projects that will create complete streets, improve bike lanes, tree canopy and improved public transit for disadvantaged communities.

IX. The Draft Zoning Ordinance Does not Promote the General Welfare of Fresno County Residents

The purpose of the Zoning Ordinance states that it is, “adopted to protect and to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents and businesses in the County.” However, several of these goals appear to be forgotten when all priority is given to developmental growth without consideration of the long standing, existing communities.

³⁰ Fresno County General Plan pg 2-95

³¹ CARB Freight Handbook: pg 13 Figure 2: Diesel PM Concentration and Associated Cancer Risk

In Article 1 Chapter 800.1 (E)(2) (page 1-3) of the Zoning Ordinance, it states that, “ An approved development for which construction has not begun as of the effective date of this Zoning Ordinance or amendment, may still be constructed as approved, as long as construction is diligently pursued, as determined by the Director, before the expiration of an applicable land use permit (Section 868.6.080, Expiration) or, where applicable, before the expiration of an approved time extension. “

This is of concern, especially in the county areas that are within the sphere of influence of the city of Fresno’s South Central area and Malaga and Calwa communities. As the focus of the County continues to be industrial development, these grandfathered permits will allow industrial facilities to be constructed within extremely close proximity to residential communities, without any prior notifications given to the residential property owners and without having to adhere to the Environmental Justice Policies that are being included in this updated General Plan.

This Zoning Ordinance Update must adhere to the Environmental Justice policy goals and any prior approved development projects for which construction has not yet begun must also adhere to the Environmental Justice policy goals.

In Article 2, Chapter 808.2, Agricultural Zones, all Agricultural Zones are written to give specific protections of different types of agricultural uses. However the same amount of protections are not given to residential uses nor to the areas zoned for residential use that are near industrial uses. For example, 808.2.010 (A) is for Exclusive Agricultural zoning which states that this zoning is, “intended to protect agricultural land and provide for those uses which are necessary...and to protect the general welfare of the agricultural community from encroachments of non-related agricultural uses.”

Residential land uses should have the same equal protection from the encroachment of agricultural and industrial land uses, especially from the encroachment of: agricultural land that uses pesticides near communities; agricultural land that has been or is applying for rezoning to heavy and light industrial land uses; and protection from agricultural roads that are being transitioned into high capacity infrastructure build out for the sole purpose of increasing industrial development that will encroach upon residential communities.

Again, the language related to this Zoning Ordinance prioritizes the needs of the agricultural industry over the needs and impacts of communities. Another policy that needs protections in its policy language is Chapter 816.2 on page 2-95. It states that Farmworker housing complexes will be included in special purpose land use zones. While there is a need for more affordable housing options for vulnerable and low income residents, the housing environment must allow for provisions that will protect people from over exposure to pesticides and dust created within the farmlands.

In Article 3, Table 3-1 shows the Land Use Compatibility for Community Noise Environments.³² It states that the land use category of Residential should not have decibel(dB) uses more than 75dB. It also states that Industrial, Manufacturing, Utilities, Agriculture can be conditionally acceptable with decibel uses starting at 70dB. The present concern is that when these permitted land uses of Residential and Industrial physically abut each other or are too close in proximity to each other, these decibel levels are too high. The County's own language in this diagram of Table 3-1 confirms what community members continue to state, which is that the noise pollution is too high and causes deafness and the inability to have healthy sleep patterns. While noise limitations are adequately addressed in Chapter 820.3.150, there are no safeguards to enforce that the noise limitations and standards will be adhered to and enforced.

In Chapter 820.3.150 - Vibration states that "No use shall generate vibrations that may be considered a nuisance or hazard on any abutting property. " However, the complaints of the community regarding noise and vibration pollution continue to be ignored by the county. The vibrations felt inside the homes cause attention disruption as heavy duty trucks pass by constantly on farm roads that were never meant to carry such massive amounts of weight. **The policy needs to include clear steps in which community members can make complaints when noise levels go beyond a nuisance.**

Chapter 822.3.090 Property Development and Use Standards-Screening and Buffering Section E and F (Table 2-6 and Table 2-8)³³ states that the maximum landscape buffer that is required only has to be 20 feet wide and a 10 foot high cinder block wall when it is 400,000 sq ft or greater. These minimal requirements are even less if the square footage of the facility is less than this square footage. Instead, **these standards should include increased landscape buffers with a minimum of 40 feet wide and a minimum of a 20 foot high cinder block when it is 400,000 sq ft or greater.**

Chapter 826.3.020: Commercial/Industrial/Warehousing Landscaping Standards states that frontage buffers will require a minimum 24-inch box drought tolerant trees. This is not sufficient as this is only a sapling of a tree that will take a minimum of 5 years to even begin to create a green buffer. Developers are only going to submit to the minimum and not go above and beyond for the protection of a community. **Therefore, the required tree size must be larger than a 36 inch box.**

Chapter 828.3.080: Loading and Truck Parking for Designated Commercial/Industrial Warehousing Development states that (B) "Warehouses or commercial/industrial structures larger than 400,000 square feet in floor area. The building's loading docks shall be oriented to provide minimal impact to surrounding sensitive receptors and located a minimum of 700 feet

³² Fresno County General Plan Zoning Ordinance pg 3-7

³³ Fresno County General Plan Zoning Ordinance pg 3-25

2210 San Joaquin Street, Fresno, CA 93721

Telephone: (559) 369-2790

away, measured from the nearest property line adjacent to the sensitive receptor “³⁴ While this is an attempt to create mitigations of the vicinity of trucks near sensitive receptors, this distance needs to be a minimum of 2500 ft away from the sensitive receptor based on the importance of decreasing the risk of cancer from PM2.5 diesel exposure.³⁵

While many of these comments and concerns uplifted in the zoning ordinance are very specific in the requests to improve the limitations or the standards allowed, it is because it directly impacts the environmental conditions in which community members continue to have to live in as the county allows for increased industrial growth within their neighborhoods.

X. Draft Public Engagement Policies Fail to Meet their Intended Goals and Objectives

Adequate Public Engagement is essential in ensuring a General Plan meets the needs of residents. The state also requires that the planning agency shall “provide opportunities for the involvement of citizens, California Native American tribes, public agencies, public utility companies, and civic, education, and other community groups.³⁶ Effective public engagement ensures all voices are represented, promoting good governance and avoids conflicting policies or land uses.

Unfortunately, some communities are situated as far as one hour away from where local elected officials meet and are too often left out of important decision making processes. For this reason, it is crucial to have community engagement before, during, and after the General Plan is adopted this Fall. Throughout the General Plan documents the County commits to evaluate different programs and policies periodically and on a yearly basis. Thus, the commitment to engage residents does not end this year. By the County engaging residents in the General Plan update, the new plan can be reflective of community needs and priorities and be shaped by the community. We also know there will soon be a process the County will use to determine which community plan will be updated next. We expect the County to continue to do outreach when this process is completed to inform residents of this update.

Further, the current land use maps included in the general plan and zoning ordinance fail to include a land use map that illustrates land use designations for areas of unincorporated Fresno County which are within the sphere of influence of cities. Other included maps do not assign land designation for these areas either. Without a clear map, the GPR/ZOU fails to comply with Gov Code § 65302(a) which requires a plan to designate the general location and extent of land uses. Without its inclusion, residents are unable to accurately and easily interact and engage with General Plan amendments.

³⁴ Fresno County General Plan Zoning Ordinance pg 3-73

³⁵ CARB Freight Handbook: pg 13 Figure 2: Diesel PM Concentration and Associated Cancer Risk

³⁶ Government Code 65351

OPR guidelines also state the, “State law requires the local planning agency to provide opportunities for the involvement of the community”³⁷ We have attended past workshops when the County first began the process to update the General Plan and have continued to attend the most recent workshops the past two months. It should be evident that we want to continue to be included and see our feedback taken into consideration once the current General Plan documents are updated before adoption. Keeping this in mind, this is not the case for everyone in the County. There are residents who may not be aware of the workshops or that the County is undergoing this process. We recommend the County work with local organizations, agencies, water districts, etc to help spread the word and mail out this information to those who do not use social media or email. The County needs to make sure that the material and flyers are created in primary languages including, but not limited to, Spanish, Hmong, and Punjabi. These points need to be added to **policy EJ-E.4** where it simply states the diversity of the County will be taken into consideration when developing material.

In addition to the General Plan workshops, **Policy EJ-A.8** states that “The County shall provide residents within disadvantaged communities the opportunity to review and comment on discretionary development projects within their communities.”³⁸ The County should update this policy to include how far in advance residents can expect to be notified and how they will be notified.

We urge the County to be intentional about conducting outreach and including Fresno County residents in current and future processes. It is imperative that the County include community’s feedback and not treat it simply as a task that needs to be completed.

XI. Conclusion

Thank you for your consideration and time in reviewing our letter. We look forward to the County incorporating our recommendations in the final General Plan documents. The County has the ability to positively impact the future of Fresno County and must keep community concerns in mind when creating policies and programs. We urge the County to be intentional and proactive about including all communities but especially historically disinvested communities.

³⁷ OPR Guidelines, Chapter Community Engagement and Outreach, pg 26

³⁸ Fresno County Draft Policy Document, pg 2-204

Sincerely,

Mariana Alvarenga
Policy Advocate
Leadership Counsel for Justice and Accountability

Ivanka Saunders
Regional Policy Manager
Leadership Counsel for Justice and Accountability

Socorro Santillan
Director of Public Affairs
Planned Parenthood Mar Monte

Nayamin Martinez
Executive Director
Central California Environmental Justice Network

Alexandra Alvarado
Faith in the Valley

Jim Grant
Human Rights Coalition of the Central Valley

Kevin Hall

Friends of Calwa

Community United in Lanare

South Fresno Community Alliance

Comunidades Unidas por un Cambio

Cantua Creek y El Porvenir Prioridades

Tombstone Territory Por Un Futuro Mejor

Lanare y Riverdale Trabajando Por Cambios



THE HUMAN RIGHTS COALITION OF THE CENTRAL VALLEY

June 27, 2023

Chris Motta, Principal Planner
County of Fresno, Department of Public Works and Planning
Development Services and Capital Division
2220 Tulare Street, Sixth Floor
Fresno, California 93721

Sent Via Email

RE: DPEIR for FCGPR and ZOU

Dear Mr Motta,

We submit this letter on behalf of Cantua Creek y El Porvenir Prioridades, Lanare y Riverdale Trabajando Por Cambios, Tombstone Territory Por Un Futuro Mejor, Community United in Lanare, Comunidades Unidas, South Fresno Community Alliance, Friends of Calwa, Planned Parenthood Mar Monte, Central California Environmental Justice Network, Faith in the Valley, Human Rights Coalition of the Central Valley, Kevin Hall, and Leadership Counsel for Justice and Accountability in response to Fresno County’s April 2023 General Plan Review and Revision Public Review Draft Background Report and Policy Document (together, “Draft GPR/ZOU”) and Public Review Draft Zoning Ordinance Update and their Draft Program Environmental Impact Report (“DPEIR”).

It is imperative that the GPR/ZOU, which direct growth and investment, acknowledge and protect and advance the priorities of disadvantaged communities in Fresno County. The General Plan Revision and Zoning Ordinance Update provide directives that will shape how growth occurs throughout the County for decades to come. The plan updates impact every facet of daily life, especially for communities that lack access to basic services, and who will be least able to absorb negative changes to transportation, air quality, and land use patterns. For years, residents and community-based organizations have sought County action to resolve long-standing issues of poor land use decisions and disinvestment which have harmed disadvantaged

communities. For all the time and energy expended by residents and advocates over the years, including input provided on previous GPR/ZOU iterations, the proposed GPR/ZOU fails to meaningfully address or ameliorate the issues raised and even threatens to deepen existing disparities in contravention of environmental, environmental justice, and civil rights mandates that apply to the County.

This letter compliments and should be read together with another policy-focused letter addressing the GPR/ZOU submitted concurrently by the signatories hereto. This letter describes the Draft GPR/ZOU's failure to satisfactorily address land use, housing, environmental health and investment disparities impacting disadvantaged communities and to include analysis and policy commitments that comply with state planning laws, the California Environmental Quality Act, and civil rights laws. The letter identifies areas for further analysis and revisions to avoid and reduce the GPR/ZOU's adverse impacts to disadvantaged communities and vulnerable populations in particular and to ensure that the GPR/ZOU includes commitments that advance quality of life, environmental quality, and public health for Fresno County residents.

I. The Draft General Plan Revision is inconsistent with State Planning and Zoning Law requirements designed to advance environmental justice, respond to climate change, and protect public health

A. The Environmental Justice Element Does Not Satisfy SB 1000's Minimum Requirements

SB 1000 (Stats. 2016, Ch. 587), codified at Government Code section 65302(h), requires cities and counties to amend their general plans to identify and describe disadvantaged communities (or "DACs") within the local jurisdiction and include environmental justice goals, policies, and objectives addressing eight topics. Gov. Code § 65302(h). These EJ Policies must (1) reduce unique or compounded health risks in disadvantaged communities by reducing pollution exposures, improving air quality, promoting public facilities, increasing food access, providing safe and sanitary homes, and promoting physical activity; (2) promote civic engagement in the public decision-making process, and (3) prioritize improvements and programs that address the needs of the disadvantaged communities. California law defines environmental justice to include "deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities" and "at a minimum, the meaningful consideration of recommendations from communities most impacted by pollution into environmental and land use decisions." (Gov. Code § 65040.12(e)(2)). Thus state law is clear that general plan environmental justice policies must actually help transform the conditions giving rise to the health and investment disparities that impact disadvantaged communities and create inclusive decision-making processes which create space for and residents' voices and carefully weigh to the messages they share.

Although the County has made certain revisions to its 2023 draft Environmental Justice Element, the draft EJ Element still fails to incorporate many of the recommendations and

requests provided to the County on the 2021 draft EJ Element and fails to identify objectives and policies necessary to address the requirements of SB 1000.

1. The Environmental Justice Element Fails to identify Objectives and Policies to Meaningfully Reduce the Unique or Compounded Health Risks in Disadvantaged Communities

Many disadvantaged communities in Fresno County are ranked among the worst in the state for the cumulative environmental burdens and are surrounded and interspersed with noxious and polluting land uses including warehouses, landfills, glass manufacturing, meat rendering, and biomass facilities, freeways and other heavily trafficked roadways, commercial agriculture, dairies, and more – in significant part, as a result of County land use designations and siting practices. With County support, the development and expansion of polluting land uses surrounding and within disadvantaged communities and near homes, schools, and other sensitive receptors in Fresno County has continued to proliferate, deepening the environmental and health inequities experienced by these communities. Despite SB 1000’s mandate that the County adopt policies that will reduce unique and compounded health risks impacting DACs, policies throughout the Draft GPR/ZOU would entrench and exacerbate risks resulting from the concentration of polluting land uses in and around DACs, including through policies supporting the development and expansion of industrial facilities, oil and gas operations, agriculture, and new greenfield residential communities in rural Fresno County (i.e., sprawl) without incorporating protections for environmental impacts on nearby and vulnerable communities. *See e.g.*, GPR Policy Document Figure LU-1a (depicting agricultural land use designations entirely surrounding Lanare, Huron, and other DACs); Figure LU-6 and Policy ED-A.9 (respectively depicting and committing the County to study development of a 3,000 acre industrial business campus study area adjacent to the community of Malaga); Figure LU-5 (depicting industrial corridors along State Route 99 and Golden State Boulevard in areas proximate to environmentally-burdened communities); Policies ED-A.7 & 16 (providing that the County will support development and expansion of industrial and processing facilities while failing to address County land use and zoning which directs these facilities to DACs¹); LU-E.25

¹ Based on our review of the GPR and ZOU documents, we are not able to locate a land use map or land use maps which depict land use designations for certain areas of unincorporated Fresno County, including unincorporated South Fresno neighborhoods located within or near the Sphere of Influence of the City of Fresno and other Fresno County cities. Figure LU-1a, the “Countywide Land Use Diagram,” omits designations for areas it identifies as “Cities”, yet these areas include significant unincorporated county land. Figures LU-1c and LU-1d depict rural residential land use designations and some other designations on unincorporated land located in the City of Fresno’s and City of Clovis’ SOI. These maps notably fail to depict any land use designations for significant swaths of unincorporated land depicted on these maps, including extensive land on the Southern fringes of the City of Fresno which is designated for industrial land use under the 2000 General Plan and currently zoned industrial. No other maps appear to assign land use designations to these areas. As a result, the General Plan appears to fail to satisfy Government Code section 65302(a)’s requirement that the plan include a map that designates the distribution of land uses within the jurisdiction. This omission creates uncertainty for South Fresno residents and stakeholders and undermines the Draft EIR’s analysis of the GP/ZOU’s environmental impacts, which by virtue of the omission cannot assess the potential impacts of development allowed under land use designations which will be applied to those parcels.

(establishing a 7,000 acre study area in the Sierra Nevada foothills for new community development); LU-A.1, B.10, OS-C.16 (allowing oil and gas exploration and extraction approval without protections for nearby sensitive uses); Economic Development Chapter (identifying expanding agriculture as a primary economic development strategy and including policies to direct County resources towards implementing that policy without complimentary policies to prevent air and water impacts on communities). At the same time, the EJ Element's policies, due to their vague language and limited scope, will do little to offset the new and amplified risks created by those policies let alone reduce the risks associated with the status quo.

EJ Element Policy EJ-A.1 demonstrates the County's lackluster effort to respond to SB 1000 and how, while some policies included in the EJ Element do represent an improvement from previous General Plan Revision iterations, those policies fail to address or prevent the exacerbation of existing health burdens in DACs. EJ-A.1 states that "[t]he County, during the development review process, shall require proposed new sensitive land uses (such as residential uses, schools, senior care facilities, and daycare facilities) to be located an appropriate distance, to be determined during the development review process, from freeways, major roadways, and railroad tracks based on analysis of physical circumstances of the project location so as to minimize potential impacts including, but not limited to, air and water pollution exposure, odor emissions, light, and glare." The Draft General Plan critically fails to define what constitutes an "appropriate distance" and fails to set a minimum distance that might qualify as such, allowing the County great discretion to determine what distance between new sensitive receptors and heavily trafficked corridors will satisfy this policy and no option for the public to ensure compliance by the County or developers with a specific distance that actually protects occupants from health-harming exposures.

While the Draft GPR laudably removes some language that specifically targeted disadvantaged communities, and Malaga and Calwa in particular, for industrial development, the Draft GP and EJ Element fail to demonstrate that the GPR change the heavy industrial land use designations that direct industrial development to Calwa, Malaga and other South Fresno DACs, includes policies promoting industrial development which based on existing land use designations can occur primarily in South Fresno neighborhoods and almost exclusively in DACs, and plans for the creation of a new 3,000 acre industrial park adjacent to Malaga. See Footnote 1; GPR 2-65. Together, these policies render the deletion of explicit language targeting disadvantaged communities for industrial development nothing more than symbolism.

We commend the County for adding language to the Draft GPR that supports "buffers" between sensitive land uses and polluting land uses and enhanced landscaping to enclose industrial facilities, but they are wholly insufficient without correction of the policies mentioned above and without additional specifics representing firm commitments. Additionally, some of the protective measures in the EJ Element would only apply to discretionary approvals. The ZOU Table 2-8 makes clear that many industrial facilities (i.e., meat packing and processing, various manufacturing, plastics products, large recycling collection facilities) would be allowed by right, therefore only requiring ministerial approval and sidestepping the few protections that would have been otherwise provided. Further, the current EJ element contains measures that are

already required by other laws, or simply require consideration. See EJ-A.8. To the extent that the County continues to apply industrial land use designations to land adjoining and surrounding sensitive land uses and DACs, robust, specific, and enforceable protections from and environmental review for all uses with potentially adverse impacts on communities are even more critical.

Finally, SB 1000 requires the County to reduce the unique or compounded health risks to safe and sanitary homes in disadvantaged communities. In response to this requirement, the Draft EJ Element only includes two policies, EJ-D.1 and EJ-D.2 which identify two total programs that the County is already administering, the Housing Assistance Rehabilitation Program and unspecified programs to support housing rehabilitation for seniors, residents with disabilities, and low-income residents. GPR 2-207. While the inclusion of EJ-D.1 and EJ-D.2 represents an improvement from the County's 2021 Draft GP, which contained no policies aimed at supporting safe and healthy homes in the EJ Element, both programs identified are funded through limited federal grants that include only limited funding which is subject to federal budget reduction and which have not significantly met community housing needs. In fact, the County's 2021 Annual Progress Report states that the County "did not receive applications from qualified applicants for HARP loans" and "did not provide any Rental Rehabilitation Program loans for housing" in the unincorporated county in 2021.² The APR does not reflect the provision of any funding support for any housing rehabilitation projects for senior residents or persons with disabilities in 2021. Therefore, it is unlikely that policies EJ-D.1 and EJ-D.2 will in fact reduce unique and compounded health risks in DACs by improving safe and sanitary homes, as required by SB 1000. Gov. Code § 65302(h)(1)(A).

Further, disadvantaged communities in Fresno County experience a range of health and safety issues associated with housing that EJ-D.1 and EJ-D.2 entirely fail to address. Disadvantaged communities in several areas of the County lack access to potable water, community wastewater systems, and hazardous conditions in housing, including severe dilapidation, faulty electrical systems, pest infestations, inadequate insulation and cooling to protect residents from extreme weather conditions, and more. Not only does the County fail to identify meaningful safe and sanitary home policies to address these issues, but it further entrenches inadequate supply and unaffordable prices for low-income households, patterns of segregation, resource disparities, and regional air pollution through growth strategies supporting market rate new town development and sprawl. LU-E.25 creates a 7,000 acre study area in the rural Sierra Nevada foothills for residential and commercial development, and LU-G-14 allows the County to approve to approve developments in a City's SOI without first referring it to the City for annexation. Several policies also eliminate restrictions in the 2000 General Plan that development occur where infrastructure exists; instead of allowing development to occur in existing DACs that currently lack infrastructure and supporting the development infrastructure in DACs to make development possible, the Draft GPR simply allows development to occur

² See Fresno County 2021 APR, 12. Housing Assistance Rehabilitation Program, 13. Rental Rehabilitation Program, available at <https://www.fresnocountyca.gov/files/sharedassets/county/vision-files/files/63480-2021-general-plan-progress-report.pdf>

anywhere that infrastructure “can be provided.” *See e.g.*, p. 1-2, 2-29. The policies will unlock the floodgates for even more sprawl in Fresno County without guaranteeing affordability, thereby ensuring a further decline in public services without guaranteeing affordable, safe, and sanitary homes for already disadvantaged communities. Policies encouraging smart growth, inclusive housing opportunities for low-income residents both within existing DACs and in all new growth areas, and investment in disadvantaged communities should be identified and policies promoting sprawl should be revised or deleted.

2. The Environmental Justice Element Must identify Objectives and Policies to Promote Civil Engagement in the Public Decisionmaking Process

Government Code section 65302(h)(1)(B) makes explicit that local jurisdictions must identify objectives and policies to promote civil engagement in the public decisionmaking process. Gov Code 65302 § (h)(1)(B).

Disadvantaged communities are often underrepresented in civic life and are not substantially engaged in meaningfully altering decision-making. Identifying and creating opportunities for DACs to engage creates a more holistic and inclusive decisionmaking process. Since its original draft, the County has altered and expanded some policies. Still these policies are unlikely to accomplish the goal set out in SB1000 to engage and involve DACs. For example, EJ-A.8 states “the County shall provide residents within disadvantaged communities the opportunity to review and comment on discretionary development projects within their community” FCGP Review 2-204. The policy essentially states what CEQA already requires the County to do. Additionally, E.J-E.4 requires the County to consider the diversity of residents when developing notice and outreach efforts. Although a positive step, the policy does not elaborate on how notice and outreach would be expanded and conducted. County sponsored workshops are often poorly attended and act more as a checkbox ticking activity instead of incorporating and reaching out to a larger group of disadvantaged residents. As mentioned above, as the County increases industrial development through by right development, the opportunity for disadvantaged communities to engage are further reduced.

We encourage the County to expand its notification efforts to increase greater participation in civic life. For example, increasing the distance from a proposed project that a community will receive notifications, explaining the project's potential effects upon notification, and holding events in a format that is helpful for an exchange of information (discussion groups, not simply a presentation with questions). Without identifying additional measures to increase civic engagement, the County will fail to increase civic engagement among disadvantaged communities, thereby failing to identify policies to comply with SB1000.

3. The Environmental Justice Element Must Identify Objectives and Policies that Prioritize Improvements and Programs that address the Needs of Disadvantaged Communities

Those policies must identify objective and policies that prioritize improvement and programs that address the needs of disadvantaged communities. Gov Code 65302 § (h)(1)©. This broad requirement allows the County to tailor its policies and objectives to suit the disadvantaged communities within its jurisdiction.

Communities have continually requested greater investment in their communities through community gardens, trails, sidewalks, or suitable transportation options. EJ policies to effectively address disadvantaged communities' requests should be considered and reflected through objectives and policies. Those policies should go further than simply considering the policy. For example, considering an agricultural buffer does little for the community exposed to higher pesticide use and increased cancer rates. Instead, the policy should fully consider and implement the use of an agricultural barrier. SB 1000 was not passed as a paper exercise; its goal was for local jurisdictions to consider the needs of disadvantaged communities to address their concerns meaningfully.

B. The General Plan fails to comply with Gov Code § 65302.1

Acknowledging the particularly poor air quality in the San Joaquin Valley, the legislature implemented additional requirements for local jurisdictions' general plans in the SJV. Gov Code § 65302.1(a)(1). The County must amend the elements relating to land use, circulation, housing, conservation, and open space, to include data and analysis, goals, policies, and objectives, and feasible implementation strategies to improve air quality and lower vehicle miles traveled. Gov Code § 65302.1(b). Fresno County must plan for land uses in ways that support a multimodal transportation system and plan land uses to minimize exposure to toxic air pollutant emissions from industrial and other sources, and reduce particulate matter emissions from sources under local jurisdiction. Gov Code § 65302.1 (3) (C), (E), (F). The adoption of air quality amendments to a general plan shall include a comprehensive set of feasible implementation measures designed to carry out those goals, policies, and objectives. Gov Code § 65302.1 (c)(4)

Fresno County attempts to meet its obligations by creating largely empty goals without actionable policies that would improve air quality or vehicle miles traveled as Gov Code § 65302.1 intended. Policies TR-A.7, TR-A.8, TR-A.14, TR-A.15 largely only require the County to "coordinate," identify funding, or consider the possibility of future policies that could potentially improve air quality and vehicle miles traveled. And yet, these go further than some Goals lack even a policy of "consideration." For example, Goal TR-C states, "[t]o reduce travel demand on the County's roadway system and maximize the operating efficiency of transportation facilities so as to reduce the quantity of vehicle emissions and reduce the amount of investment required in new or expanded facilities." The goal includes no policies to achieve the stated goal; therefore, it only provides a façade for improving air quality. Without actionable policies behind each goal included in the general plan, the County will fail to carry out its duty to improve air quality.

C. The General Plan does not fully address the climate change adaptation and

resiliency requirements provided by Gov. Code § 65302(g)(4).

Fresno County was required under Senate Bill 379 (“SB 379”) to address climate adaptation and resiliency in the Safety Element of its General Plan (GP) by May 2018, upon the most recent update to the County’s Multi-Jurisdictional Hazard Mitigation Plan. As such, the County is five years overdue to address these requirements. Gov. Code § 65302(g)(4). This section obligates the County to (1) prepare a climate vulnerability assessment, (2) adopt climate adaptation and resilience goals, policies, and objectives based on this assessment, and (3) approve feasible implementation measures to carry out these goals, policies, and objectives. *Id.* We appreciate the County’s efforts thus far in taking affirmative steps to meet these requirements. These attempts, however, fall short of achieving the conformity standards envisioned by SB 379. We find it necessary that the County more explicitly address disadvantaged communities and their specific vulnerabilities to climate change, provide the Fresno County Climate Change Vulnerability Assessment, demonstrate how policies incorporated from other elements of the GP specifically meet SB 379 requirements, and commit to more definite and proactive policies designed to remedy these communities’ specific needs.

1. The Draft Policy Document and Background Report Fail to Provide Substantive Climate Change Vulnerability Assessment Information with Regard to Specific Sensitive Communities Within the County.

The Draft GP Review’s (GPR) discussions of existing conditions within the County fail to meaningfully account for the systemic lack of infrastructure and resources that render its disadvantaged communities especially exposed to climate change impacts. In reviewing the Draft GP, SB 379 mandates that the County “shall consider advice” provided in the Office of Planning and Research’s (OPR) General Plan Guidelines—which provide the state’s interpretation of SB 379’s requirements as well as the best practices for compliance to create an effective analysis—but it appears the County has not taken them into account. *Id.* The County must also include in its vulnerability assessment information on populations that will be sensitive to various climate change exposures, maps of vulnerable areas, and existing and planned development in identified at-risk areas. Gov. Code § 65302(g)(4)(A)(ii)(III), (V), & (VI). The guidelines state that “in all cases” reviewing the information and process guidance in the California Adaptation Planning Guide (APG) should “be the first step, in parallel with reviewing data and information in the Cal-Adapt tool.” OPR General Plan Guidelines (2017), p. 156. We find that the County has fallen short of completing these obligations.

Throughout the Health & Safety Element, the County cites information contained within the Fresno County Climate Change Vulnerability Assessment, which it references as “Appendix C.” Whereas the Draft Policy Document broadly lists vulnerable populations—those most sensitive to climate change hazards—as those that are low-income, non-White, outdoor workers, or pollution burdened, among many others, it then refers to Appendix C for mapped communities most at risk in unincorporated Fresno County, detailed descriptions of vulnerable populations groups, and adaptive capacity in the County. We find it troubling that there is no Appendix C

attached in the documents to begin with, nor is Appendix C posted to the County's GPR update. In its current state, the Draft GPR thus not only fails to meet SB 379's explicit requirements pursuant to Gov. Code § 65302(g)(4)(A)(i), but it also prevents policy makers and the public from utilizing this information to inform policies within the Climate Adaptation section of the Draft GP.

Equity should be treated as a "critical component of all planning, including climate adaptation planning," and is essential for jurisdictions' compliance with their duties under civil rights laws. California APG (2020), p. 28. This involves identifying persons who may be most vulnerable to climate change and ensuring that planning processes, distribution of resources, and efforts to address systemic wrongs are all conducted in an equitable manner. *Id.* Without more, the Draft Policy Document's summary discussion and lack of substantive information on this topic run directly counter to state requirements. The only other information about these sensitivities is found in the Draft Background Report, which utilizes Cal-Adapt to analyze projected increases in temperatures, extreme heat days, variable precipitation, extreme storm events, and flooding in the County over the coming decades. While certainly useful, these figures describe general trends throughout the County without referring to how climate change impacts may exacerbate existing vulnerabilities and infrastructural deficiencies in particular sensitive communities. As a result, the Draft GP leaves decision-makers and the public in the dark about the unique and acute risks faced by Fresno County's most vulnerable communities, and fails to effectively inform climate adaptation and resiliency policy to ensure their preparedness and protection.

This may be amended by expanding upon the County's use of the California Environmental Health Tracking Program tool to detail disparities in resources and how they heighten at-risk residents' exposure at the census tract level. *See* OPR General Plan Guidelines at p. 147 ("increases in average temperature, a greater incidence of extreme weather conditions...all will not only exacerbate existing hazards...but may also create new hazards where none previously existed"). The County should also draw from written and verbal input provided by residents of disadvantaged communities and community-based organizations (CBOs) that work with them during the GPR process and in other related processes. This is crucial due to the prevalence of community-specific climate impacts that are not uniformly felt throughout the County, but are instead localized on neighborhoods with historic disinvestment and lack of resources. For example, unincorporated fringe communities near south Fresno City limits experience unique extreme heat impacts that are magnified by the rapid development of concrete e-commerce warehouses. This extreme heat has also triggered fires at warehouses, recycling centers, and industrial facilities that store flammable and hazardous materials, which create serious air quality hazards for nearby residents when ignited. These impacts are only compounded by other health risks when hotter, sunnier days increase ozone formation; this itself is then exacerbated by air pollution hot spots in these communities produced by truck traffic to and from adjacent industrial and warehouse facilities. Communities in these areas are additionally exposed to flood risks because of a lack of paved or maintained streets. As such, emphasis on County engagement with CBOs and local residents is the most effective manner of directly remedying current and future climate consequences.

2. *The Safety Element's incorporation of policies from other elements that address adaptation and resiliency do not meet Gov. Code § 65302(g)(4)(D)(ii).*

In the Climate Adaptation section of the Health and Safety Element, the County incorporates by reference a large number of policies from other elements of the Draft GP in Table HS-1. These policies cover a range of topics including but not limited to agriculture, water resources, storm drainage and flood control, and fire protection. The County states that these policies address health and safety risks associated with climate change for County residents, but fails to explain how they do so. The County then mentions that the goals, policies, and implementation programs in the Health and Safety Element aim to “fill the gaps” and ensure the GP “fully addresses the needs of residents.” But given the ineffectiveness of these referenced policies at directly addressing climate impacts in disadvantaged communities, as seen in Policy PF-C.7 which requires the creation of infrastructure master plans for the provision of potable water only “for areas undergoing urban growth,” these gaps are surely much wider than the County anticipated.

When a city or county incorporates other provisions, plans, or documents, it must do so by “specifically showing how each requirement” has been met by those policies. Gov. Code § 65302(g)(4)(D)(ii). By merely listing the names of these policies in a table and stating that they address climate adaptation and resiliency strategies, the County attempts to circumvent these explicit requirements and fails to demonstrate that these referenced policies are supported by feasible implementation measures that are actually based on specific risks identified in the climate change vulnerability assessment. Accordingly, the County must clearly acknowledge the obligations set forth by Gov. Code § 65302(g) with respect to how these policies satisfy the subdivision.

3. *The General Plan's Identified Climate Adaptation Goals, Policies, Objectives, and Associated Implementation Measures are Vague and Indefinite.*

In Fresno County, many disadvantaged communities already feel the cumulative burden of climate change, environmental pollution, and historical socioeconomic disparities. California APG at p. 28. Identifying and acknowledging these communities is important, as there is an opportunity in climate adaptation planning to address issues holistically. *Id.* As equity in adaptation planning is multidimensional, it may involve resource prioritization for communities that experience disproportionate inequities, unmet needs, and impacts; correcting past harms and preventing future unintended consequences; and fairly distributing resources, benefits, and burdens. *Id.* Such an approach is also consistent with the County’s obligations pursuant to its duty to affirmatively further fair housing (AFFH), which requires the County to take meaningful actions to overcome patterns of segregation and disparities and access to opportunity, since communities most impacted by climate change are also those impacted by historic segregation and disinvestment. Gov. Code § 8899.50(a) & (b). The California Department of Housing and Community Development (HCD) states that the AFFH duty requires jurisdictions to creatively

use both land use planning and public investments in mitigation measures to solve for issues including environmental hazard risk and climate change adaptation. *See* California HCD AFFH Guidance for All Public Entities and for Housing Elements (2021) p. 42. The guidance also provides an example of an AFFH action by addressing the negative impacts of climate change through investments in adaptation measures, such as urban forestry or flood prevention measures in disadvantaged communities. *Id.* at p. 73.

- a. *Existing policies within the Draft Policy Document Allow for improper County Discretion and Would Exacerbate Climate Change and Its Impacts.*

The degree of specificity desired by SB 379 has been demonstrated by the California Attorney General’s Office Bureau of Environmental Justice. In one case, the Office commended the City of Placentia for the equitable climate adaptation policies in its General Plan. Not only did the City explain the impact of climate change in disadvantaged communities, but it also linked specific existing conditions—like low tree canopy coverage—in these communities to threats such as the urban heat island effect. *See* Attorney General’s SB 1000 Comment Letter to the City of Placentia (2019). One City policy thus committed to planting trees along all streets in its disadvantaged communities by 2023. The Attorney General’s Office praised these comprehensive, clear policies as an example of those with concrete deadlines that will yield specific benefits for these neighborhoods. The climate adaptation and resiliency goals, policies, objectives, and implementation measures provided by Fresno County comparatively leave much to be desired. Policy HS-G.1, for example, states that “when based on sound science, the County shall support” plans and other investments to reduce climate change impacts. But it fails to provide any legitimate criteria, standard, or implementation measure defining what sufficiently constitutes sound science, allowing the County excessive discretion to pick and choose as it pleases.

Numerous other policies currently included in the Draft GP not only provide the County with this discretion, but also threaten to exacerbate climate change and climate change impacts. While those policies should be revised to avoid that scenario, their current inclusion makes it all the more imperative that the County study their impacts both in the vulnerability assessment component of SB 379 as well as the in the development of robust climate adaptation policies and implementation measures. These policies include several supporting new Greenfield development and sprawl by planning for entirely new communities in the Sierra Nevada foothills; by allowing new development anywhere that infrastructure can be developed, this contributes to increased driving, air pollution, and greenhouse gases directly within the County. Other Draft GP policies support oil and gas drilling, expanding the agricultural economy, and industrial development without providing adequate, clear policies to reduce emissions or other climate impacts resulting from that development. Ultimately, this will result in heightened

impacts on groundwater resources, air quality (through pollution-emitting equipment use), and local temperatures as more warehouses produce more and more intense urban heat islands.

- b. Policies in the Health & Safety Element fail to account for disproportionate existing and future vulnerabilities to flood, depleting water resources, wildfire and poor air quality, and rising temperatures in disadvantaged County communities.*

In disadvantaged communities throughout the County, existing conditions have the potential to intensify residents' exposure to climate risks. The County has failed to account for this exceptional vulnerability under SB 379's requirement that feasible implementation measures include the "designation of adequate and feasible infrastructure located in an at-risk area." Gov. Code § 65302(g)(4)(C)(iii). In addition to the previous examples regarding extreme heat, fires, air pollution hot spots, and other health risks in unincorporated fringe communities in South Fresno, the County has not considered that many communities lack sidewalks, complete streets, or adequate stormwater drainage. Other unincorporated communities such as Cantua Creek and El Porvenir additionally lack wastewater facilities and are forced to rely on leaking and failing septic tanks, which may even back up into residents' homes and yards. With changing precipitation patterns bringing heavier flood risks, these communities face additional exposure due to deficient infrastructure. This will worsen the degrading environmental quality in these areas from nearby agricultural uses, pesticide risks, and impaired waters. Policy HS-C.6, and program HS-C.F implementing it, only mandates that the County "shall encourage" expansion of stormwater and flood protection infrastructure capacity, including recharge basins. In doing so, it fails to describe any specific action the County will take to actually advance such projects beyond "participating" in the investigation and "supporting" the construction of water storage and banking facilities by other entities in the general upper San Joaquin River Basin area, measures which in themselves pose significant environmental and resource risks and are not clearly aimed at addressing impacts in communities with the greatest need. The Draft GP further fails to provide definite implementation measures to hold the County to specific actions to improve stormwater and flood protection infrastructure, including for DACs. Flood hazard policies HS-C.5, HS-C.9, HS-C.12, and HS-C.18 similarly rely on weak "encourage" language that do not provide clear direction for actions the County will take. Moreover, their associated implementation programs do not appear to fully address all objectives identified in each policy, or provide any real accountability for future policies. To comply with SB 379 and fulfill its purposes, the County must amend these flood policies and implementation programs by approaches including but not limited to: supplying stronger language committing the County to these actions, providing community-specific information about the effectiveness of existing infrastructure to drain stormwater, including both rudimentary (e.g. roadside ditches) and absent infrastructure, and investing in pervious or climate-smart surfaces and low-impact development to mitigate future flood harms on County buildings and residents. California APG, Appendix D: Examples of Local Adaptation Strategies by Sector.

This lack of infrastructure will further deteriorate access to clean drinking and potable

water, which will only worsen in the coming decades as climate change progresses. Many disadvantaged communities in Fresno County are reliant on groundwater wells and resources for domestic use, particularly in unincorporated areas. But these wells are often contaminated by nitrates, arsenic, hexavalent chromium, and 123-TCP, while surface water is often impacted by treatment byproducts. Even if uncontaminated, wells are often vulnerable to complete failure due to reduced groundwater levels from drought and excessive agricultural pumping. As climate-related groundwater changes continue to affect the availability and adequacy of drinking water through variable annual snowpack and rainfall, there must be strong policies to connect communities to permanent water supplies. The County must meet the needs of impacted residents by taking a proactive role in extending, retrofitting, and upgrading water infrastructure to disadvantaged communities. This may additionally involve developing standards for the retrofit of existing buildings to increase water efficiency, residential or commercial low water fixtures such as low flow toilets or faucets. *Id.* The County should revise its climate adaptation goals, policies, and objectives to commit to such actions.

Furthermore, the escalation of wildfire frequency and severity associated with climate change will continue to disproportionately place disadvantaged residents at risk. Many low-income communities within the County are not well insulated, including residents in older or mobile homes. In combination with farmworkers, construction workers, and other outdoor laborers, they are faced with extraordinary smoke exposure during wildfires. As instances of wildfire increase in the coming decades due to climate impacts, increased smoke will exacerbate the extremely poor air quality that is already burdening disadvantaged communities. This comes as a result of heavy contaminants including PM 2.5, diesel, toxic facility releases, and pesticides due to these communities' locations next to freeways, commercial agricultural operations, dairies, industrial facilities, and other significant sources of pollution. The County must acknowledge these conditions and include policy solutions such as hardening residents' homes for better indoor air quality, expanding fire protection infrastructure programs and services in disadvantaged unincorporated communities, and equipping residents and outdoor laborers with appropriate N95 masks. The County should also strengthen Policy HS-G.8 by explicitly catering to the communication and noticing needs of local residents and workers in advance of smoke events through additional language and accessibility options.

On top of these numerous threats, of utmost concern for disadvantaged County residents are the rising air and surface temperatures expected in the coming decades. The Draft Background Report itself states that there is a high vulnerability in urbanized areas, especially in areas with low air conditioner and car ownership among residents. Given the close proximity of disadvantaged communities to heavy industrial and commercialized developments as well as incompatible and other harmful land uses, overall rising temperatures will only compound the intense urban heat island effects in these areas. The County must address these inequities by preventing further heavy development in proximity of these homes, encouraging infill and mixed-use development, and preventing increased developments and urbanization on farmland or new growth areas. Although we appreciate that Policy HS-G.7 takes initiative to utilize drought-tolerant plantings and shade structures for applicable County projects, the County should strengthen this policy by collaborating with CBOs to identify other areas in disadvantaged

communities that will greatly benefit from urban greening and native vegetation. The County can bolster its urban greening commitment even further by investing in park spaces designed to reduce heat island impacts; investing in climate resilient public transportation infrastructure, such as those for cooling features and flood protection; requiring the incorporation of heat island mitigating features (such as green roofs, cool pavement, or greater landscaping) in new development located in or near heat islands; and creating and requiring developer fee contributions to a community benefit fund, like that created by the City of Fresno, to mitigate development impacts and those that exacerbate climate threats on housing, schools, and other sensitive land uses. This mitigation may include programs such as those implementing energy efficient HVAC systems, which both provides insulation to reduce heat exposure and reduces air pollution exposure. The cumulative benefits provided by such policies—including cleaning the air quality, sequestering carbon, cooling neighborhoods, reducing stormwater costs, buffering noise, and providing wildlife habitat—cannot be understated.

II. General CEQA Inadequacies

The following are general comments on the legal inadequacies found throughout the Fresno County General Plan Review and Zoning Ordinance Update Draft Program Environmental Impact Report. More specific comments on individual comments on individual sections of the document are included below. Unless the inadequacies are addressed and additional mitigation measures considered, the DPEIR fails to comply with the legal requirements of CEQA.

A. The DPEIR Improperly Attempts to Avoid Analysis and Mitigation of the General Plans' Impacts by Concluding They Are Significant and Unavoidable.

Where all available and feasible mitigation measures have been proposed, but are inadequate to reduce an environmental impact to a less-than-significant level, an EIR may conclude that the impact is significant and unavoidable. See CEQA Guidelines § 15126.2. If supported by substantial evidence, the lead agency may make findings of overriding considerations and approve the project in spite of its significant and unavoidable impacts. *Id.* at §§ 15091, 15093. However, the lead agency cannot simply conclude that an impact is significant and unavoidable and move on. See *Berkeley Keep Jets Over the Bay Comm. v. Port Commissioners*, (2001) 91 Cal.App.4th 1344, 1371 (holding agency violated CEQA by finding project would have a significant environmental impact and adopting statement of overriding considerations without adequately analyzing the impact). A conclusion of residual significance does not excuse the agency from (1) performing a thorough evaluation and description of the impact and its severity before and after mitigation, and (2) proposing all feasible mitigation to “substantially lessen the significant environmental effect.” CEQA Guidelines § 15091(a)(1); see also *id.* § 15126.2(b) (requiring an EIR to discuss “any significant impacts, including those which can be mitigated but not reduced to a level of insignificance” (emphasis added). “A mitigation measure may reduce or minimize a significant impact without avoiding the impact

entirely.”¹ Stephen Kostka & Michael Zischke, Practice Under the California Environmental Quality Act § 14.6 (2d ed. 2008).

The DPEIR finds that the County’s plans for future growth and development as set out in the General Plan will result in significant and unavoidable impacts in multiple topic areas. DPEIR at 5-3. As detailed below, in numerous instances, the PEIR fails to thoroughly assess impacts deemed to be significant and unavoidable and/or fails to identify all feasible mitigation measures to reduce the severity of the impacts.

B. The DPEIR Fails to Analyze the Impacts of All Development That Could Result from Buildout under the General Plan.

The General Plan implicitly acknowledges the harmful effects of unrestricted growth in the County, including increased reliance on personal automobile use and the inability to provide efficient public transit, increased vehicle miles traveled, and insufficient water availability. GPR/ZOU DPEIR pp 2-22. To minimize these impacts, the DPEIR proposes to promote “urban-centered growth” by directing most new urban development to incorporated cities and existing unincorporated urban where public facilities and infrastructure are available and can be provided. Further, it prohibits designation of new areas as Planned Rural Community and restricts the designation of new areas for rural residential development. Unfortunately, these vague goals and restrictions do little to inform the public of intended new growth. These terms and restrictions are impermissibly vague under CEQA, which does not require blind trust by the public, especially in light of CEQA’s fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials.” *Laurel Heights Improvement Assn v. Regents of the University of California* (1988) 47 Cal.3d 376, at 404.

The DPEIR continuously provides vague and unhelpful language to describe the GPR’s growth. For example, “the GPR/ ZOU facilitates growth primarily as infill and redevelopment within urbanized areas of the County where infrastructure and roads currently exist.” GPR/ZOU DPEIR pp ES-21. The language fails to provide any specificity in the location or intensity of planned development. The language is frustratingly vague, and unusable for environmental analysis. Impact UTL-1 admits “[h]owever it is not known where or how extensive new facilities would be required; therefore potential impacts would be significant and unavoidable.” GPR/ZOU pp ES-20. The impact itself alludes to significant growth outside infill areas with sufficient infrastructure to accommodate increased growth. Without indicating where growth would be directed with anymore specificity, and alluding to inconsistent growth directing policies, the GPR/ZOU DPEIR is a vague and ineffective environmental document that does not comply with CEQA.

Other examples of ineffective environmental analysis due to unanalyzed buildout include: Impact AG-1, Impact AG-2, Impact AQ-1, Impact AQ-2, Impact AQ-3, Impact PS-1, Impact T-2, Impact UTL-2, Impact UTL-3, Impact UTL-4.

C. The DPEIR Ignores Feasible Mitigation, Such as Changes to the Land use Designations and Densities and Intensities Proposed in the GPR/ZOU

For several of the General Plan's significant and unavoidable impacts, notably the GPR/ZOU's significant impacts related to greenhouse gas emissions, air quality, and transportation, the DPEIR fails to consider all feasible mitigation. The DPEIR only tacitly considers changes to land use designations, densities, and intensities as potential mitigation, even though such changes could significantly reduce greenhouse gas emissions and other significant impacts disclosed in the DPEIR. CEQA requires the EIR to consider such mitigation.

The County cannot approve projects with significant environmental impacts if any feasible mitigation measure or alternative is available that will substantially lessen the severity of any impact. Pub. Res. Code § 21002; CEQA Guidelines § 15126(a). The County is legally required to mitigate or avoid the significant impacts of the projects it approves whenever it is feasible to do so. Pub. Res. Code § 21002.1(b). "In the case of the adoption of a plan, policy, regulation, or other public project [such as the General Plan], mitigation measures can be incorporated into the plan, policy, regulation, or project design." CEQA Guidelines § 15126.4(a)(2). Mitigation is defined by CEQA to include "[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation." CEQA Guidelines § 15370(b). In addition to proposing new "policies" as mitigation, mitigation should include changes in where development is planned, what kind is planned, and how dense or intense that development is planned to be, i.e., changes to the land use diagram and land use designations.

Here, the County "considers" increasing density through Policy LU-F.14 which allows the County to permit land designated low and medium density residential to develop to the next higher density when such development will not have an adverse impact on the surrounding land use. GPR/ZOU DPEIR 4.1-11. The building height of the proposed structure may not exceed the height of the surrounding structures. GPR/ZOU DPEIR 4.1-11. The policy limitation demonstrates that in practice, the policy will be ineffective and will not serve as a needed mitigation measure to reduce impacts to identified significant impacts. Therefore, the County did not meaningfully consider the policy.

The County also fails to consider changing the designation of existing industrial sites further from sensitive receptors. Instead, it only "considers" the implications siting new industrial facilities near sensitive receptors.

D. The DPEIR Cannot Rely on Unenforceable and Noncommittal General Plan Policies to Mitigate the Project's Significant Impacts

Mitigation measures proposed in an EIR must be "fully enforceable" through permit conditions, agreements, or other legally binding instruments. Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(2). The DPEIR relies on a on a number of General Plan policies to mitigate significant environmental impacts. Many of these General Plan policies and programs are vague, optional, directory, or otherwise unenforceable.

The GPR fails to require even the simplest enforcement policies. For example, it relies on language like “encourage” to mitigate environmental impacts. See, e.g., Policy OS-G.12 (the County shall review development projects and encourage the use of architectural coating materials as defined in the SJVAPCD Rule 4601). Vague and unenforceable policies fail to describe how the County would meaningfully “encourage” each development to opt for a specific architectural coating. As a result, this policy, and many like it will likely be seldom, if ever used.

Other examples of ineffective mitigation – out of numerous instances – include the following: Policy HS-H.10, Policy HS-H.11, Policy TR-A.25, Policy TR-A.14, Policy ED-A.7.

A general plan’s goals and policies are necessarily general and aspirational. The County may rely on such policies to mitigate environmental impacts under CEQA, however, only if they will be implemented through specific implementation programs that represent a firm, enforceable commitment to mitigate. See *Napa Citizens for Honest Gov’t v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 358 (citing *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 377). CEQA requires that mitigation measures be implemented—not merely adopted and disregarded. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-87; *Fed’n of Hillside & Canyon Ass’ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.

The County has included an abundance of vague, unenforceable noncommittal policies and programs (and policies for which no implementation programs are identified), allowing the County to evade mitigation requirements and thus fail to meet its CEQA requirements. See *Anderson First*, 130 Cal.App.4th at 1186-87. The County leaves out a mitigation monitoring program to ensure implementation of the county’s proposed mitigation measures. Without a mitigation monitoring program, the public cannot be certain that the mitigation measures proposed would be dutifully implemented.

III. The DPEIR Fails to Adequately Analyze and Mitigate the GPR/ZOU’s Air Quality Impacts

The County of Fresno and the surrounding San Joaquin Valley Air Basin suffer from some of the nation’s worst air pollution. In its 2023 State of the Air Report, the American Lung Association ranked the Fresno-Madera-Hanford metropolitan area as the second, third, and fourth worst for 24-hour particle pollution, annual particle pollution, and high ozone days, respectively, out of the metropolitan areas studied.³ The region’s poor air impacts all Fresno County residents, but vulnerable populations, including people of color, low-income residents, children, and people with underlying health conditions, face heightened health risks. The DPEIR estimates that operational emissions under the DPEIR would exceed significance thresholds for

³ <https://www.lung.org/research/sota/city-rankings/msas/fresno-madera-hanford-ca> (Accessed June 20, 2023)

ROG, NO_x, CO, PM₁₀, and PM_{2.5}. GPR/ZOU DPEIR 4.3-20. Through GPR/ZOU buildout, total daily VMT would increase by approximately 248,599. GPR/ZOU DPEIR 4.8-1.5.

The GPR/ZOU actively seeks to attract increased industrial development in Southeast Fresno, and in industrial corridors between Fresno/Fowler, Fowler/Selma, and Selma/Kingsburg. DPEIR LU-5. The GPR/ZOU assumed there would be 7,9096,135 square feet of manufacturing, mining, and other industrial uses by full GPR/ZOU buildout in 2042. Fresno Co GPR/ZOU – Fresno County, Annual Page 1. Industrial parks would generate 4,916,191 annual VMT while manufacturing would generate 35,777,975 annual VMT. Fresno Co GPR/ZOU – Fresno County, Annual Page 22. The increase in industrial and manufacturing would lower air quality throughout the region, but most dramatically for residents near the facilities.⁴

Due to existing and planned industrialization, it is essential that the DPEIR provide an accurate assessment of the GPR/ZOU’s potential to degrade air quality in the region further. To minimize these impacts, the DPEIR must identify and adopt all feasible mitigation measures to minimize those impacts. Despite this, the DPEIR omits critical air quality analysis to allow the public and decision-makers to understand the magnitude of its impacts while failing to identify enforceable mitigation to address those impacts.

A. The DPEIR Fails to Connect the Amount of a Pollutant with its Health Impacts

The DPEIR failed to adequately analyze the GPR/ZOU’s air quality impacts to public health. In *Sierra Club v. County of Fresno*, the Court held that a discussion of air quality impacts must include an explanation of the nature and magnitude of the health and safety problems caused by the physical change of the project. *Sierra Club v. Cty. of Fresno*, 6 Cal. 5th 502, 241. As the DPEIR notes, “an EIR must reflect a reasonable effort to discuss relevant specifics regarding the connection between and the estimated amount of a given pollutant the project will produce and the health impacts associated with that pollutant. GPR/ZOU DPEIR 4.3-15. Unfortunately, instead of carrying out the required analysis, the DPEIR relies on a amicus curiae brief submitted by SCAQMD in the case. The County relies on the brief to argue “quantifying specific health risks that may result from ozone precursors and other air pollutants from individual development projects (like those that would result from the GPR/ZOU) would be unreliable and misleading due to the relatively small scale of these individual projects (from a regional perspective), unknown variables related to pollutant generation/release and receptor exposure, and regional model limitations.” GPR/ZOU DPEIR 4.3-15. The DPEIR concludes that current scientific, technological, and modeling limitations prevent accurate and quantifiable relation of the GPR/ZOU’s emissions to likely health outcomes for local and regional receptors. Despite the County’s assertions, other jurisdictions have been able to comply with the statewide holding, yet it refuses to do so.

Other jurisdictions have been able to connect air quality impacts of a project to public health. For example, the Bay Area Air Quality Management District (BAAQMD) has developed

⁴ <https://www.epa.gov/air-research/research-health-effects-air-pollution#health-effects-vulnerable-pops>

such a tool that several projects have successfully used over the years.⁵ It is clear the County had access to guidelines, thresholds, and models that would surely comply with the Court's holding but instead chose to make assumptions that likely underestimate air pollution consequences on public health. As a result, the GPR/ZOU DPEIR fails to comply with CEQA.

The County's accurate analysis of air pollutants is especially important due to planned expansions of industrial facilities near residential areas. See LU-F.38. Further, the County lacks truck studies that would guide truck traffic away from residential areas. The County must prioritize connecting air quality impacts with public health impacts on varying receptors.

B. The DPEIR Fails to Identify Adequate Mitigation for the Project's Criteria Air Pollutants

The DPEIR argues that, despite mitigation measures, significant but unavoidable environmental impacts will exist. Yet, the DPEIR only relies on the bare minimum of mitigation measures without considering further feasible measures. The DPEIR primarily relies on AQ-1, AQ-2, and AQ-3. As previously discussed, AQ-1 is largely unenforceable. AQ-2 fails to mitigate the environmental impacts of construction adequately. It only reduces diesel particulate from construction equipment.

The project also includes AQ-3 Policy EJ-A.15: Sensitive Receptor Setbacks, which states:

“Consistent with the provisions contained in the California Air Resources Board (CARB) Air Quality and Land Use Handbook, project applicants shall identify appropriate measures for projects with sensitive uses located within 500 feet of freeways, heavily traveled arterials (daily vehicle trips of 10,000 or more), railways, and other sources of diesel particulate matter (DPM) and other known carcinogens. The County shall require development projects that are located within 500 feet of freeways, heavily traveled arterials (daily vehicle trips of 10,000 or more), railways, and other sources of DPM and other known carcinogens to retain a qualified air quality consultant to prepare a health risk assessment (HRA) in accordance with the CARB and the California Environmental Protection Agency's Office of Environmental Health and Hazard Assessment requirements to determine the exposure of nearby sensitive receptors to emission sources.” GPR/ZOU DPEIR 4.3-25

AQ-3 goes the furthest in addressing project impacts but still falls short of addressing the GPR/ZOU's air quality impacts. The mitigation measure would only capture new emission sources. Additionally, the proximity to sensitive receptors is overly restrictive. Air quality impacts felt by sensitive receptors are likely to be felt much further than 500ft from a project, yet only impacts within those 500 ft would be captured in this

⁵ <https://cms6.revize.com/revize/burlingamecity/App%20B%20-%20HRA%20ASMBLD.pdf>

mitigation measure. Additionally, although sensitive receptors are the most vulnerable, all residents will have be impacted by the increased air pollution.

Further, the measures would unlawfully defer the formulation of mitigation to future projects without incorporation of specific performance standards the mitigation will achieve. CEQA Guidelines § 15126.4(a)(1)(B). The County may not rely on mitigation measures AQ-3 as currently drafted.

The DPEIR is required to identify and consider all feasible mitigation. The County must revise the DPEIR to incorporate mitigation measures that apply to all projects (not only those subject to discretionary review) that contribute to the General Plan's significant air impacts and identify enforceable and feasible mitigation. Examples of effective mitigation measures include but are not limited to:

- the re-designation of industrial land uses near residential land uses, schools, and other sensitive receptors to less intensive and community-serving uses;
- amendment of the Development Code to incorporate enhanced protections for disadvantaged communities and vulnerable populations, including adopting Conditional Use Permit requirements for warehouse facilities and other land uses known for significant air quality impacts;
- heightened standards for acceptable impact levels for permit issuance; heightened performance standards; and specific penalties and enforcement measures to reduce air quality-related violations for projects which would have air quality impacts and are located in or near disadvantaged communities;
- the adoption, funding, and staffing of a program to conduct proactive code enforcement of air quality-related rules, regulations, and mitigation measures applicable to industrial facilities, warehouse and distribution centers, and other facilities which result in significant air impacts on sensitive receptors; and
- the creation of a program to dedicate funds for enforcement of air quality-related rules and regulations to programs to reduce the impacts of air pollution exposure on vulnerable populations.

For a more exhaustive list of feasible mitigation measures specifically tailored for warehouse and distribution projects the attorney general's office released "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act." The guide identifies warehouse-feasible mitigation measures that have been successfully implemented throughout the state. As the County embarks on setting aside large swaths of land for industrial development and actively seeks industrial growth in the County, we encourage the County to incorporate both our suggestions, and that of the Attorney General's Office.

IV. The DPEIR Fails to Adequately Analyze and Mitigate the GPR/ZOU's GHG Emission Impacts

Reducing GHG emissions to minimize the harms of climate change is one of the most urgent challenges of our time. The County of Fresno and the surrounding region face mounting risks from climate change, including wildfire, precipitation extremes, decreased water supply, and increased air pollution formation. GPR/ZOU DPEIR 4.8-5. Moreover, the effects of climate change in California and the San Joaquin Valley in particular – such as extreme heat events, flooding, and drought – disproportionately impact low-income communities and communities of color. These communities often have more limited resources to access cooler and safer conditions during heat events and are more likely to suffer from chronic health conditions that heighten the risk of death during heat waves and other extreme weather events.

A. The DPEIR Presents Mitigation Measures That Cannot Produce the Necessary Emission Reductions and Lacks Evidence it will be Implemented.

The GHG analysis' most fundamental weakness may be its failure to identify a set of GHG reduction measures that come anywhere near aligning the County's emission with that of the state. The County argues "[c]urrently it is infeasible to meet the State's long term targets because achieving these targets will depend on substantial technological innovation in GHG emission reduction measures and changes in legislation and regulations that will need to occur over the next 23 years. GPR/ZOU DPEIR 4.8-12. To remedy this "inability" the County uses an efficiency bases threshold based on the CARB 2017 Scoping Plan as the appropriate threshold of significance to apply for the GPR/ZOU DPEIR. Even using the higher threshold the County's buildout of the GPR/ZOU would exceed its thresholds and miss the reduction targets identified in SB 32. GPR/ZOU DPEIR 4.8-13.

To mitigate the GPR/ZOU's GHG emissions, the County proposes 2 mitigation measures. Policy HS-H.10 Funding for a Greenhouse Gas Inventory and Preparation of a Climate Action Plan would seek a variety of sources, but not limited to, grants, state funding, and or impact fees to fund the preparation of a Fresno County-specific Climate Action Plan. Once funding is available, the County shall proceed to prepare a Climate Action Plan. Next, Policy HS-H.11 Preparation and Implementation of a Climate Action Plan would require the County to begin a countywide Climate Action Plan within two years of adopting the General Plan Amendment No. 529 (General Plan Review) to meet a GHG reduction trajectory consistent with State law.

Critically, both policies violate CEQA in that they defer mitigation to future projects, without specific performance standards the mitigation will achieve. CEQA Guidelines § 15126.4(a)(1)(B).

V. The DPEIR Fails to Adequately Mitigate the GPR/ZOU's Transportation Impacts

GPR/ZOU buildout would not reduce VMT below significance thresholds. In 2019, VMT per capita was 16.1, while VMT per employee was 25.7. Through GPR/ZOU buildout, VMT per capita is expected to be 14.4, while VMT per employee is expected to be 23.7. The GPR/ZOU buildout would generate VMT per capita that exceeds 87 percent of the countywide average rate

of VMT per capita. Although the GPR/ZOU proposes several policies to reduce VMT, they are largely aspirational. As the GPR/ZOU DPEIR acknowledges “implementation of regional VMT-reducing strategies such as extending transit services, may not be feasible as there are currently no procedures or policies in place to establish such actions.” GPR/ZOU DPEIR 4.15-20. As noted above, the County may rely on such policies to mitigate environmental impacts under CEQA; however, only if they will be implemented through specific implementation programs that represent a firm, enforceable commitment to mitigate. CEQA requires that mitigation measures be implemented—not merely adopted and disregarded. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-87. Here it is clear that County intended to simply place aspirational policies to reduce VMT but in no way intended to seek or identify funding to implement the mitigation measures.

VI. The DPEIR Fails to Adequately Analyze and Mitigate the GPR/ZOU’s Impacts to Utilities and Service Systems

A. The DPEIR Fails to Disclose and Identify Adequate Mitigation to Minimize the Project’s Groundwater Supply Impact on Neighborhoods Reliant on Well Water

Fresno County is located across 4 Groundwater basins: the Kings, Delta-Mendota, Westside, and Pleasant Valley Groundwater Basins, which are all subbasins of the San Joaquin Valley groundwater Basin. The California Department of Water Resources (DWR) has designated the Kings, Delta-Mendota, and Westside subbasins as high-priority basins. These subbasins are subject to a condition of critical overdraft as identified in DWR’s Bulletin 118 and are subject to the Sustainable Groundwater Management Act (SGMA). All four subbasins have developed Groundwater Sustainability Plans to achieve groundwater sustainability by 2040 or 2042. Because water demand associated with population growth under the General Plan Update are the same as would occur under the General Plan, which was used to inform the GSPs to reach groundwater sustainability, the County argues that water supply impacts are less than significant.

The County must analyze the GPR/ZOU’s groundwater impacts beyond this. Some proposed policies in the GPR would exacerbate groundwater depletion by increasing groundwater use, lowering groundwater infiltration, and increasing groundwater contamination risk through the continued use of septic systems. The GPR includes several policies and programs that seek to protect and enhance surface water and groundwater resources critical to agriculture yet fail to extend those protections to existing disadvantaged communities. See LU-A.20. Additionally, despite claims that the GPR/ZOU would promote urban growth and limit sprawl, the GPR/ZOU includes policies such as LU-F.13, which require a minimum of 36,000 square feet per dwelling unity in low-density residential areas with community water.

The DPEIR contains no discussion about the current groundwater availability for residential communities and households that rely on domestic wells for their everyday water needs and the project’s potential groundwater impacts on these communities and households. A well will lose access to water as the water table falls below its lowest depths, while losing

pressure in the meantime. Because residential wells are often much shallower, they are at greater risk of dewatering due to overpumping by deep aquifer wells. For example, the North Kings GSA GSP minimum groundwater thresholds allow for a 107 ft decline in groundwater levels⁶ Certain communities are more dependent on domestic or shallow wells than others; therefore, it is essential to analyze the effects of continued groundwater depletion before sustainability is reached.

Finally, the County fails to consider the effects of climate change on water supplies. As climate change progresses, severe and prolonged drought will likely occur, increasing the need for groundwater pumping, further endangering communities that rely on groundwater. Without information relating to the impacts of climate change on groundwater supply between the present and the potential attainment of balanced water demand in 2040, the DPEIR fails to accurately inform decision-makers of the nature and magnitude of the project's significant impacts on groundwater supplies in the subbasins that make up Fresno County.

To mitigate the significant negative effects of groundwater depletion, we suggest the County adopt the following:

- Pursue groundwater system consolidation.
- Reconsider, and adjust the utilities and services section of the general related to water supplies every 5 years using the most recent available data.
- Reject all new agricultural wells within 1 mile of residential wells during periods of drought.
- Require municipal water and wastewater extensions to disadvantaged communities when additional development occurs within .5 mile of the disadvantaged communities that receives a service extension.

VII. The DPEIR Fails to Identify a Reasonable Range of Potentially Feasible Alternatives

An EIR must consider a reasonable range of potentially feasible alternatives that would avoid or lessen a project's potentially significant effects. 14 C.C.R. § 15126.6(a). "The core of an EIR is the mitigation and alternatives section." *Watsonville Pilots Association v. City of Watsonville* (2010), 183 Cal.App.4th 1059, 1089. Alternatives must be able to implement most project objectives, though they need not implement all of them. 14 C.C.R. § 15126.6; *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 CA4th 477, 489. The range of alternatives required in an EIR are those that are necessary to permit a reasoned choice. 14 C.C.R. § 15126.6(f). The scope of alternatives reviewed must be considered in light of the nature of the project, the project's impacts, relevant agency policies and other material facts. *Rancho Palos Verdes v. City Council* (1976) 59 Cal. App. 3d 869, 891. The "purpose of an alternatives analysis is to allow the decision maker to determine whether there is an environmentally superior

⁶ Available at <https://northkingsgsa.org/wp-content/uploads/2021/04/4-Sustainable-Management-Criteria.pdf>

alternative that will meet most of the project's objectives." *Watsonville Pilots Ass'n*, 183 Cal.App.4th at 1089.

In evaluating only the "No Project Alternative," "Increased Development near the City of Fresno Alternative 2," and the "Increased Development near Cities of Fresno and Clovis and in Community Plan Areas Alternative 3" the County has failed to meet CEQA's standards for its alternative analysis. Courts have made clear that the "No Project Alternative" is not in fact an "alternative" pursuant to the CEQA Guidelines, since the No Project Alternative by default does not advance the Project's objectives. The "Increased Development near the City of Fresno Alternative" similarly does not advance the Project's goals. As the County admits "The County doesn't control the annexation process, and projects within these areas would likely be dependent on urban services from the cities of Fresno and Clovis; therefore, Alternative 2 may be infeasible." GPR/ZOU DPEIR 6-21. The County therefore effectively evaluates only one alternative, the "Increased Development near Cities of Fresno and Clovis and in Community Plan Areas Alternative 3." For a guidance document that is likely to last decades, having only analyzed one alternative is unreasonable.

Further, the County found that Alternative 2 was the would be environmentally superior alternative as it would result in reduced impacts compared to the proposed GPR/ZOU. GPR/ZOU DPEIR 6-21. The County's failure to analyze an environmentally superior alternative that is feasible exacerbates the inadequacy of the DPEIR's alternative analysis. The policies and measures proposed in "Increased Development near the City of Fresno" would be largely identical to the proposed GPR/ZOU with the only critical difference being concentrating almost all growth near the Cities near Fresno and Clovis.

Confusingly, the DPEIR misclassifies its own alternatives. On GPR/ZOU DPEIR ES-4 the DPEIR classifies its Alternatives as Alternative 1: no project, Alternative 2, moderately increased density, and alternative 3 substantially increased density. Finally, it finds, that Alternative 3 is the environmentally superior alternative, followed by Alternative 2, and Alternative 1.

The County failed to include a reduced industrial development alternative analysis, instead only considering general growth. An EIR is required to consider those alternatives that will "attain most of the basic objectives" while avoiding or substantially reducing the environmental impacts of the project. A reduced development alternative may be required where it is capable of avoiding or substantially lessening any significant effects of the project," even if it "would impede to some degree the attainment of the project objectives. *Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1058, 1088-1089 (General Plan EIR was inadequate where it failed to consider a reduced development alternative that would have met most general plan objectives and would have reduced environmental impacts attributable primarily to growth itself). A reduced development alternative which replaces heavy industrial land use designations with less intensive, non-industrial designations with land use designations that meet community needs directly surrounding existing residential and other sensitive neighborhood uses would achieve the CEQA requirement that alternatives considered avoid or

substantially reduce the project's significant environmental impacts. Importantly, such a reduced development alternative would reduce health impacts, noise, vibration, while improving pedestrian safety and housing quality for vulnerable populations in Southeast Fresno, Fowler, and Selma. Additionally, the County could consider alternative development patterns that would place industrial development further from vulnerable communities.

The County must revise and recirculate the DPEIR to comply with CEQA's requirements for selecting and analyzing project alternatives.

VIII. The GPR/ZOU and DPEIR are Inconsistent with Civil Rights Laws

The FPEIR's deficiencies violate state and federal fair housing and civil rights laws which prohibit the County from engaging in actions and omissions that disproportionately adversely impact residents and/or their housing opportunities on the basis of race, color, country of origin, and other protected characteristics and that require the County to affirmatively further fair housing and not act inconsistently with that duty. Cal. Gov. Code §§ 12900, et. seq., 11135, 8899.50. These deficiencies include the DPEIR's failure to acknowledge and fully analyze impacts that uniquely, acutely, and/or disproportionately burden lower-income communities of color and non-English speaking populations; the DPEIR's failure to analyze project alternatives that would reduce or eliminate impacts that disproportionately impact lower income communities of color and non-English speaking populations; and the DPEIR's failure to identify and include adequate mitigation measures for the same. Thus, the DPEIR not only violates CEQA but results in violations of state civil rights laws which require the County to both avoid discrimination and to affirmatively further fair housing.

A. The GPR/ZOU Violates The California Fair Employment and Housing Act

The GPR/ZOU continues the practice of directing polluting land uses to disadvantaged communities. Continued industrial development near low-income people of color likely violates housing discrimination laws. The California Fair Employment and Housing Act (FEHA) prohibits discrimination either intentionally or through a facially neutral land use practice with a discriminatory effect that "make[s] housing opportunities unavailable" based on race or other protected characteristics. Gov. Code, § 12955(i). This prohibition includes any land use practice that "[r]esults in the location of toxic, polluting and/or hazardous land uses in a manner that ... adversely impacts ... the enjoyment of residence...or any other land use benefit related to residential use...." (C. C. R., tit 2, § 12161(b)(10).)

As the Attorney General's office noted for the County in its letter to the County's Draft General Plan, intent is irrelevant in a discriminatory effect challenge. (*Sisemore v. Master Financial, Inc.* (2007) 151 Cal.App.4th 1386, 1419.) FEHA may provide greater protection than federal law and cannot be construed to provide lesser protection. (Gov. Code, § 12955.6.) A plaintiff must show that "a challenged practice caused or predictably will cause a discriminatory effect." (C. C. R., tit. 2, § 12061, (a); see also *Southwest Fair Housing Council, Inc. v. Maricopa Domestic Water Improvement District* (9th Cir. 2021) 17 F.4th 950, 962 (permitting challenge

where a policy “exacerbated a discriminatory effect”). Upon proof that a policy has a discriminatory effect, it would fall to the County to establish a “legally sufficient justification” for the land use policy, including without limitation the absence of an alternative with a less discriminatory effect. (C. C. R., tit. 2, § 12062, (b).)

The GPR/ZOU would create a 2,940-acre special study area to evaluate possible future urban industrial, office, and commercial land uses. LU-F.38 Special Study Area for Fresno County Business and Industrial Campus. Commercial square footage available to businesses in the Study Area could total about 19 million square feet.⁷ The large designation would bring large amounts of heavy truck traffic to the area. The size and concentration of industrial uses would disproportionately affect Calwa and Malaga as the Malaga County Water District pointed out “industrial saturation or intensity in or around the Malaga Community will result in ... greater pollution burden” on the residents and that “the current and proposed land use and zoning within the Malaga Community has resulted in poor road conditions and inadequate circulation for the high frequency of truck traffic..., inadequate availability of housing particularly low-income housing, inadequate open space and parks, and inadequate economic opportunity for the residents....”⁸ Calwa and Malaga consistently rank in the top percentile for pollution burden and are further burdened by high rates of low education, linguistic isolation, and poverty.⁹

The increased pollution brought by industrial concentration would concentrate polluting land uses near protected groups, adversely affecting the enjoyment of their residence, thereby having a discriminatory effect and violating FEHA. (C. C. R. § 12161(b)(10).) As noted above, the County attempted to remove Calwa and Malaga from ED-A.7, specifically targeting them, but refused to alter or remove the underlying land use designation that would continue concentrating polluting land uses near protected groups. The insistence in keeping the land use designation but only changing the wording of the policy could demonstrate intentional discrimination by the County.

B. The GPR/ZOU Violates the County’s Duty to Affirmatively Further Fair Housing

As a public agency the County has a duty to affirmatively further fair housing. Gov Code § 8899.50 (a)(2)(B). This means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty

⁷ Statement made by Lee Ann Eager, President and CEO of the EDC at Fresno County Board of Supervisors Meeting on August 24, 2021.

⁸ Comment Letter to Fresno County Department of Public Works and Planning (March 13, 2018), Malaga County Water District

⁹ [CalEnviroScreen 4.0](#) | [OEHA](#)

into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. Gov Code § 8899.50 (a)(1). The mandate is broad and the County must administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, taking no action that is materially inconsistent with its obligation to affirmatively further fair housing.

Here, the County has taken several actions inconsistent with its duty. Most glaringly, as pointed out above the County insists in concentrating industrial uses near Calwa and Malaga. Continuing to industrialize the area would continue to segregate the area and increase pollution burdens.

IX. Conclusion

For the reasons included in this letter, we request that the City revise the DPEIR to address the issues identified and recirculate the revised DPEIR for public review and comment. The revised DPEIR must consider the impacts of the GPR/ZOU through the full buildout and implementation of the Project. This must include identifying alternatives to avoid significant impacts, mitigating significant impacts, and fully analyzing the Project's impacts. In addition, we request the County reconsider the proposed GPR/ZOU to fully comply with state planning laws, as well as civil rights laws.

Feel free to contact Isaac Serratos at iserratos@leadershipcounsel.org or (925) 768-4863 if you would like to set up a time to discuss these comments.

Sincerely,

Isaac Serratos
Staff Attorney
Leadership Counsel for Justice and Accountability

Cassandra Vo
Legal Intern
Leadership Counsel for Justice and Accountability

Socorro Santillan
Director of Public Affairs
Planned Parenthood Mar Monte

Nayamin Martinez
Executive Director
Central California Environmental Justice Network

Alexandra Alvarado

Chris Motta
June 27, 2023
Page 28 of 28

Faith in the Valley

Jim Grant
Human Rights Coalition of the Central Valley

Cantua Creek y El Porvenir Prioridades

Lanare y Riverdale Trabajando Por Cambios

Tombstone Territory Por Un Futuro Mejor

Community United in Lanare

Comunidades Unidas por un Cambio

South Fresno Community Alliance

Friends of Calwa

Kevin Hall

PR

January 25, 2024

Fresno County Planning Commission
2220 Tulare Street, 6th floor
Fresno, CA 93721

RECEIVED
COUNTY OF FRESNO

JAN 25 2024

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Re: Agenda Item No. 5: Fresno County General Plan Review (General Plan Amendment No. 529 and Amendment Application No. 3862), Comprehensive Zoning Ordinance Update (Amendment to Text No. 385), Final Program Environmental Impact Report (SCH No. 2018031066) and Related Documents

Dear Planning Commissioners:

This my understanding of the project. The County's current General Plan Policy Document was updated in 2000 with a 20-year planning horizon, and today you are considering a plan revision (begun 18 years ago in 2006) that will enable the County to add an additional 22 years to the life of the plan, thereby extending the time between plan updates to 42 years.

I'm sorry that what follows is a litany of faults with the proposed project, but from my perspective, nothing good will come of it. The 2000 plan is being gutted. It seems that one or more County officials or planners simply deleted programs and policies that the County has not been able to implement or does not want to implement, turning a cutting-edge plan from 2000 into a shell of itself in 2024.

Deleted are most every program pertaining to economic development, along with requirements to (1) conduct periodic evaluations of the success in achieving the goals and targets of the County's Economic Development Strategy, (2) conduct periodic major reviews of the plan and (3) engage in annual mitigation monitoring. It seems that changes are being made without much thought; for example, without explanation, the County is proposing to retain a policy establishing riparian protection zones around water courses but deleting the very program that will produce the ordinance to get that done, which makes no sense at all.

I'm surprised at other deletions. Gone is the requirement to prepare a regional plan for the Friant-Millerton area ahead of development of the area as well as a program calling for the County to engage with cities and adjacent counties to address planning and growth issues of common interest and concern. It seems that with regard to economic development and land use planning, County government has decided to fly solo.

Missing is the Indicators Program recommended by the Board years ago, which would measure progress toward meeting General Plan goals. And because the assessment of the project does not include an analysis of the costs of implementation, given that the County has not identified a revenue stream for plan implementation and currently cannot fully implement the plan due to budget constraints, it seems obvious to me that successful implementation of a revised plan is doomed from the start.

When the General Plan was adopted in 2000, the County decided to defer updating regional and community plans, which are also part of the General Plan. Unbelievably, the County is doing the same thing again. Some of these lesser plans are 40-or-more years old, and no one in government seems concerned that the pending revision may create inconsistencies between the Policy Document and these subordinate plans.

The proposed revision is missing the goals, policies and feasible implementation strategies to improve air quality required by Assembly Bill 170 as well as the goals, policies, objectives and feasible implementation measures to address adaptation to climate change required by Senate Bill 379.

Some of the proposed changes in the plan are unbelievably bad, including revision of the General Plan theme for Urban-Centered Development and Policy LU-A.1 that would allow commercial and residential development most anywhere in unincorporated Fresno County where infrastructure can be provided. This is an invitation to renewed urban sprawl. Equally bad is the decision to delay the preparation of a climate action plan for two years — or longer if funding can't be found. The County's new policy to protect ag land from conversion to nonagricultural uses is so weak as to be practically useless.

Over the past decade, public engagement in the review of this project has been poor, and the fault for that lies at the feet of the County. In 2000 when the County first updated the plan, prior to proceeding to hearing on plan adoption, the Planning Commission held four town hall hearings. At that time, the Commission was actively engaged with the public in the design of the project. Today, the plan is undergoing comprehensive revision, and how many townhall hearings has the Commission held? None.

To conclude, to make a revised General Plan work well, I suggest the Commission take the following steps.

1. Hold a series of town hall hearings to discuss the revision of the plan with county residents so that you and the public become more knowledgeable about proposed changes and can work together to improve the project.
2. Determine how close this project is to being a plan update and, if it is close to being so, proceed to an update.
3. Delay adoption of a revised plan until you have a complete and thoroughly transparent annual progress report that explains how well the plan is currently being implemented and extent to which it is noncompliant with state law.
4. Require staff to prepare a single redlined version of the Policy Document so that you and the public can easily see proposed changes. At present, there is no such document, which makes reviewing proposed changes exceedingly difficult.

Thank you,

Radley Reep
radleyreep@netzero.com

RECEIVED
COUNTY OF FRESNO

JAN 25 2024

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION



Planning & Development Department

2600 Fresno Street, Third Floor, Room 3065
Fresno, California 93721-3604
(559) 621-8003

Jennifer K. Clark, AICP
Director



SOPHIA PAGOULATOS

Planning Manager
Planning and Development Department
Long Range Planning

Fresno City Hall
2600 Fresno Street, Room 3049
Fresno, CA 93721
www.fresno.gov

Office (559) 621-8062
Cell (559) 907-5221
FAX (559) 488-1020
Sophia.Pagoulatos@fresno.gov

January 25, 2024

County of Fresno
Planning Commission
2281 Tulare Street
Fresno, CA 93721

Re: Fresno County General Plan Review (General Plan Amendment No. 529 and Amendment Application No. 3862, Comprehensive Zoning Ordinance Update (Amendment to Text No. 385, Final Program Environmental Impact Report (SCH No. 2018031066))

Dear Chair Abrahamian and Members of the Planning Commission:

As the largest City within the County of Fresno, the City has a great interest in the County of Fresno's plans for future development under its proposed General Plan Update ("GPU"). As such, the City has carefully reviewed the GPU and the Environmental Impact Report prepared for the General Plan Update ("GPU EIR") and submitted two lengthy letters dated July 27, 2023 and October 24, 2023 to the County's Department of Public Works and Planning commenting on the GPU and the GPU EIR.

In reviewing the Final GPU EIR, the City notes the County provided responses to the comments in the City's July 27, 2023 correspondence. However, the City could not find any information in the staff report to the Planning Commission or its attachments that directly respond to the City's October 24, 2023 correspondence. The City recognizes that the October 24, 2023 letter was submitted after the 60 day comment period provided to comply with the California Environmental Quality Act and therefore CEQA did not require the County to respond to these comments. However, in light of the significance of the GPU to the future of the County and the City of Fresno, we encourage the County to consider and respond the City's comments in the City's October 24, 2023 letter.

The October 24, 2023 letter raises significant issues with (1) the adequacy and completeness of the GPU EIR's project description, (2) the GPU EIR's use of GPU policies as mitigation, (3) the GPU EIR's analysis of environmental impacts related aesthetics, agricultural resource, air quality, greenhouse gas, land use, hydrology, water quality, utilities, and transportation, and (4) the adequacy of the GPU EIR's analysis of alternatives.

Attached is a copy of the October 24, 2023 letter. We request that this letter as well as the October 24, 2023 letter be placed in the record of proceedings pertaining to the GPU and the GPU EIR.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jennifer Clark".

Jennifer Clark, Director
Planning and Development
Jennifer.Clark@fresno.gov

Attachment: October 24, 2023 correspondence



Planning & Development Department

2600 Fresno Street, Third Floor, Room 3065
Fresno, California 93721-3604
(559) 621-8003

Jennifer K. Clark, AICP
Director

October 24, 2023

Bernard Jimenez, Planning & Resource Management Officer
Public Works and Planning Administration
2220 Tulare St. 6th Floor
Fresno, CA 93721

Dear Mr. Jimenez:

The City has prepared comments on the County of Fresno's Comprehensive General Plan Review and Revision Draft Environmental Impact Report for your consideration. While we acknowledge that the comment period has passed, we hope these comments will be helpful. Our letter highlights potential concerns and then identifies possible solutions.

I. Project Description

The Project Description is vague in its description of changes to the County's land use map to address changes in state law. For instance, the DEIR at p. 2-21 states this General Plan Review and Zoning Ordinance Update does not designate/expand new growth areas or new development, with the exception of those sites within urbanized areas to be identified for additional housing as required to meet the State mandated Regional Housing Needs Assessment ("RHNA") for the sixth (6th) Cycle Housing Element. However, the DEIR fails to provide clear and comprehensive exhibits showing the locations of the changes in the land use map, the number of acres involved with regard to each change and the nature of the changes. The maps provided are small, inconsistent in formatting and difficult to read and understand. This information is important to understanding the potential environmental impacts associated with the buildout of the General Plan as updated.

In addition, the project description creates confusion regarding how the Housing Element update fits into the General Plan update and the content of the DEIR. At p. 2-5 the DEIR states, "The update of the Housing Element is a separate process than the General Plan review and Zoning Ordinance Update. This seems to imply the Housing Element update is not part of the project analyzed in the DEIR. However, at p. 2-23, the DEIR states " . . . the Fresno County Board of Supervisors will need to take the following discretionary

action in conjunction with the proposed project . . . Adoption of the Housing Element.” This indicates the GP Update includes the adoption of the Housing Element Update. If the approval of the Housing Element Update is a part of the Project then it may be the case the County is impermissibly piecemealing the environmental review of the Project. An environmental impact report must include an analysis of the environmental effects of a future action (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. This DEIR identifies the adoption of the Housing Element as a future approval. Furthermore, the Housing Element will identify programs to achieve the construction of the necessary housing to achieve the current RHNA number allocated to the County, which the DEIR acknowledges is 2350 residential units, and properties available for the construction of new housing. These additional programs and the identification of potential housing project sites provides sufficient information to provide at least some environmental analysis of the reasonable foreseeable environmental effects of the construction of the additional housing.

II. Use of General Plan Goals and Policies as Mitigation

It appears the DEIR relies entirely upon implementation of approximately 12 General Plan policies¹ as the exclusive mitigation for the significant impacts identified in the DEIR but as to the significant impacts the DEIR concludes that even with the implementation of the applicable policies, the environmental impacts remain significant and unavoidable. However, for other environmental topics, such as Aesthetics, the analysis relies upon various General Plan policies to conclude the particular impacts are less than significant but does not identify the General Plan policies as mitigation measures. As such, this appears to create an inconsistency in the DEIR's approach to the analysis of environmental impacts. To be consistent, the environmental analysis all impact analysis that relies upon the implementation of General Plan policies to reduce environmental impacts to less than significant should identify the policies relied upon as mitigation measures.

In addition, though CEQA states mitigation measures can be incorporated into a plan, such as County's General Plan (CEQA Guidelines, section 15126.4(a)(2).) However, policies intended to serve as mitigation must comply with CEQA's requirements for mitigation measures. Specifically, mitigation measures must be formulated to actually avoid or substantially lessen significant environmental impacts. To the extent the GP policies anticipate the formulation of more detailed mitigation measures when particular development projects are considered for approval, the policies must (1) commit the County to the mitigation; (2) include specific performance standards the mitigation will achieve; and (3) identify the types of potential actions that can feasibly achieve that performance standard and that will be considered, analyzed and potentially incorporated in the project specific mitigation measures. (CEQA Guidelines, section 15126.4(a)(1)(B))

¹ The DEIR identifies the following General Plan policies as mitigation measures: LU-A.23, LU-A.24, OS-G.12, OS-G.13, EJ-A.15, OS-E.19, OS-J.2, OS-J.4, HS-H.10, HS-H.11, HS-H.12, TR-A.25,

The policies identified as mitigation measures in the DEIR do not meet some or all of the requirements identified above. For instance, policy LU-A-23 applies only to discretionary land use projects that involve 40 acres or more of land to be converted from agricultural uses and does not apply to land zoned or designated in the General Plan for non-agricultural land uses. As such, this policy seems to be illusory as a measure to prevent the conversion of prime farmland. LU-A-24 merely states the County shall "encourage" the Department of Conservation to update its important Farmland Map. Again, this does not appear to result in enforceable mitigation that will reduce the conversion of prime farmland to nonagricultural uses. OS-G.12 states, "The County shall review development projects, and encourage the use of architectural coating materials that are zero-emission or have a low-ROG content." Encouraging is not the same as mandating. OS-G.13's requirement for development projects to use construction equipment that meets Tier 4 emissions standards is eliminated if it is determined by unknown individuals that such equipment is not "available." The policy fails to identify who determines if the equipment is not available and what constitutes "available." EJ-A.15 requires the preparation of a Health Risk Assessment for certain development projects with sensitive uses within 500 feet of freeways, heavily traveled arterials, railways and other sources of diesel particulate matter. However, the policy fails to establish performance measures for mitigation identified in the HRA or provide examples of the types of mitigation that would be considered feasible and effective. Namely, if the HRA prepared by a consultant hired by a developer determines no mitigation is feasible, based upon the plain language of this policy, the County would not have the ability to challenge the conclusions in the HRA or require additional mitigation the County determines to be feasible. At a minimum, this policy should be revised to require the County to review and approve or reject the HRA and permit the County to require additional analysis related to feasible mitigation measures if the County reasonably concludes the HRA's consideration of feasible mitigation measures is inadequate.

OS-J.13 appears to be an attempt to address development projects that could exacerbate physical conditions that precipitate valley fever. However, the policy merely requires activities relating to educating about valley fever. The policy does not require developers to take any concrete actions to prevent the spread of the spores that cause valley fever. As such, this policy appears to be illusory and ineffective mitigation. OS-E.19 is intended to address potential impacts to nesting birds. However, this policy is flawed as mitigation as it fails to identify who is responsible for implementing the measure and who is to pay the cost of having a biologist survey the site for nesting birds. These are just some examples of the how the policies identified in the DEIR as "mitigation" do not meet CEQA standards for mitigation measures. If the County intends to continue to rely upon these 12 policies as mitigation, they should be revised to comply with CEQA's requirements.

III. Aesthetic Impacts

The discussion of Impact AES-3 is summarized as follows: "The proposed general plan could create land use patterns that would substantially alter the existing visual character of the region, including the quality of public views. In developed areas, changes in zoning designations could result in increased density and more mixed-use-style development. Goals and policies in the general plan protect visual resources and guide new development in a way that is visually compatible with existing uses, much that impacts would be reduced. Furthermore, new development would be subject to design review. Impacts would be less than significant." (DEIR p. 4.1-20) However, this analysis fails to acknowledge the significant limitations contained in the Housing Accountability Act ("HAA") (Government Code, section 65589.5) on the ability of cities and counties to address visual character and the compatibility of development with existing uses in conditionally approving residential development. For residential projects subject to the HAA, an approving agency may only apply objective general plan, zoning, and subdivision standards and criteria, including design review standards Cal. Gov't Code § 65589.5(j). The General Plan policies on which the County relies in determining the impact will be less than significant contain language that courts have determined do not qualify as objective standards. For instance, the language in General Plan Policy LU-B.11 contains several subjective standards that would probably not be enforceable against residential development projects subject to the HAA. This undermines the conclusion the aesthetic impacts from new development would be less than significant because of the implementation of these General Plan policies addressing aesthetics.

IV. Agricultural Resource Impacts

Page 1-3 the DEIR discusses the utility of a Program EIR including its use with the approval of future development projects that fall within the scope of the Program EIR. Specifically, the DEIR states:

If the Program EIR addresses the program's effects as specifically and comprehensively as possible, many subsequent activities could be found to be within the Program EIR scope and additional environmental documents may not be required (CEQA Guidelines Section 15168(c)). When a Program EIR is relied on for a subsequent activity, the Lead Agency must incorporate feasible mitigation measures and alternatives developed in the Program EIR into the subsequent activities (State CEQA Guidelines Section 15168(c)(3)). If a subsequent activity would have effects not within the scope of the Program EIR, the Lead Agency must prepare a new Initial Study leading to a Negative Declaration ("ND"), Mitigated Negative Declaration ("MND"), or a project level EIR.

This summary misstates, in part, the language of CEQA Guidelines Section 15168 regarding use of the Program EIR as the environmental clearance for subsequent activities.

CEQA Guidelines, section 15168(c)(1) states, "If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration." This language appears to indicate the new Initial Study would need to only address those environmental impact areas for the later activity that were not examined in the Program EIR. As such, it may very well be the case that future development projects that would have a significant and unavoidable impact on agricultural resources would be able to rely upon the analysis contained in the General Plan EIR and thus not be required to perform further environmental analysis of the future project's significant and unavoidable impacts to agricultural resources. Thus, it is critical that the DEIR's analysis of impacts to agricultural resources and of the feasibility of mitigation measures to substantially reduce impacts to agricultural resources is robust.

In this context, the DEIR's analysis of significant impacts to agricultural resources appears to be rather cursory. For instance, the DEIR states, "[D]ue to regional housing needs, the County may be required to approve urban development in areas that are currently not planned for urban development, including agricultural lands and thus growth envisioned by the GPR/ZOU could result in conversion of agricultural land and forest land into more urban uses." (DEIR, pp. 4.2-10-11). As stated above, the DEIR states the County's RHNA allocation for the 6th Cycle of the Housing Element is 2,350 residential units between 2023 and 2031. (DEIR p. 2-5) However, the DEIR fails to analyze how many acres of Prime Farmland, Unique Farmland or Farmland of Statewide Importance ("Farmland") the County reasonably believes will need to be converted to residential uses to accommodate these 2,350 residential units. Furthermore, the DEIR fails to or provide any analysis of the most likely locations of the Farmland that will need to be converted to residential uses to accommodate the 2,350 residential units. In addition, as stated above, the analysis of the environmental impacts related to Farmland resulting from the implementation of the General Plan relies exclusively on General Plan policy LU-A.23 as mitigation. Setting aside whether this policy even meets the CEQA's technical requirements for mitigation, which is discussed above, this policy is not intended to stop the conversion of Farmland to urban uses but is merely to provide compensation for the loss of the Farmland. As such, this does not result in effective mitigation for the loss of Farmland. (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 875-876) In addition, LU-A.23 states, "This policy does not apply to land zoned or designated in the General Plan for non-agricultural land uses." Yet, the environmental analysis fails to provide an estimate regarding the number of acres that fall within this exception. Furthermore, the environmental analysis fails to explain why this exception is necessary. Finally, the environmental analysis fails to analyze the feasibility of mitigation measures that would actually prevent the loss of Farmland, including mitigation measures that would prohibit the County from approving the conversion of Farmland to non-agricultural uses. As such, this analysis fails to comply with CEQA Guidelines, section 15126.4(a)(1)(B) which states, "Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified."

V. Air Quality Impacts

The analysis of air quality impacts AQ-1 through AQ-3 does not appear to comply with CEQA's informational requirements. The DEIR states at p. 4.3-15, "This analysis uses the guidance and methodologies recommended in the SJVAPCD's GAMAQI to determine whether air quality impacts resulting from the GPR/ZOU would have a significant impact. However, on the next page, the DEIR states that with regard to air quality impacts related to construction, the DEIR states, "At this time, there is not sufficient detail to allow project-level analysis and thus it would be speculative to analyze project-level impacts. Rather, construction impacts for the project are discussed qualitatively and emissions are not compared to project-level thresholds." So in essence, after stating that it would rely upon the guidance in GAMAQI to evaluate air quality impacts, with regard to air quality impacts related to construction it would not be relying upon the guidance in GAMAQI, and instead will utilize a qualitative analysis. Yet, in the analysis of Impact AQ-3 related to localized emissions near sensitive receptors, Table 4.3-7 provides a quantitative analysis of construction emissions. This seems to contradict the statement that there is insufficient detail regarding construction activities to prepare a quantitative analysis of cumulative construction emission impacts. This back and forth creates confusion and lack of clarity regarding the basis for the DEIR's air quality impact determinations.

With regard to air quality impacts related to operations, the DEIR at p. 4.3-16 states, "Operational emissions associated with buildout of the GPR/ZOU were modeled in CalEEMod. Project emissions represent only the expected growth in development by 2042 as described in Table 2-1 in Section 2, Project Description." However, Table 2-1 merely provides a list of land use designations. It does not provide any information regarding the parcels with such land use designations or the total number of acreage within the County for each land use designation. Furthermore, the DEIR in Table 2-2 merely provides the projected growth by 2042 of population (+24,607), residential units (+11,276) and jobs (+20745) based upon Fresno COG projections. However, the DEIR fails to provide any analysis of where these population increases will occur, a breakdown of the anticipated types of residential units that will make up the 11,276 increase or the location of the new jobs in relation to the new residential units. This makes it extremely difficult to understand the operational emission estimates in Table 4.3-6 which delineates the total unmitigated operational air quality emissions.

Furthermore, certain statements in this section analyzing air quality emissions do not seem to withstand careful scrutiny. Specifically, the DEIR at p. 4.3-17, states:

Policies TR-A.14, OS-G.1, and OS-G.2 included in the GPR/ZOU are examples of initiatives designed to incentivize infill development, improve the efficiency of transportation systems, and minimize emissions from stationary and mobile sources. These policies **would** reduce emissions of ozone precursors in the Planning Area. (Emphasis added.)

Policies OS-G.1 and OS-G.2 appear to work hand in hand. OS-G.1 states, "The County shall develop standard methods for determining and mitigating project air quality impacts and related thresholds of significance for use in environmental documents. The County will do this in conjunction with the San Joaquin Valley Air Pollution Control District ("SJVAPCD") and the cities in Fresno County." OS-G.2 then appears to require applying the standard methods developed under OS-G.1 to development projects, stating, "The County shall ensure that air quality impacts identified during the CEQA review process are fairly and consistently mitigated. The County shall require projects to comply with the County's adopted air quality impact assessment and mitigation procedures. However, the General Plan fails to provide any guarantees that these standard methods called for in OS-G.1 will ever be developed. The development of these standard methods is included in General Plan Implementation Program OS-G.A which the General Plan estimates will be completed between 2021 and 2025. (GP, p. 3-21) However, the General Plan at p. 1-13 states, "Implementation programs specify the primary responsibility for carrying out the action and an estimated time frame for its accomplishment. The time frames provided for implementation are general guidelines and may be adjusted based on County staffing and budgetary considerations." (Underlining added.) Therefore, these standard methods will not be developed if the County determines there is insufficient staffing or budgeted funds to complete the task. Accordingly, the DEIR's statement that these policies **would** reduce emissions of ozone precursors in the Planning Area is not well founded.

VI. Greenhouse Gas Impacts

The Regulatory Setting discusses the 2017 CARB Scoping Plan which the DEIR then relies upon, along with Fresno COG's growth forecasts and analysis, to establish the GHG Performance Threshold of .8 MT of CO₂e per service population by 2042. The DEIR then utilizes that Performance Threshold as the basis for the analysis of the threshold question set forth under **Impact GHG-1** and its conclusion that:

Development envisioned under the GPR/ZOU would generate both short-term and long-term GHG emissions. implementation of the GPR/ZOU would result in GHG emissions exceeding the locally applicable, project-specific efficiency thresholds. impacts would be significant and unavoidable.

(DEIR, p. 4.8-16) However, in December, 2022 CARB adopted a new Scoping Plan setting new goals for GHG reductions. The DEIR fails to discuss the 2022 Scoping Plan or analyze whether the 2022 Scoping Plan requires different analysis or different thresholds than what is set forth in the DEIR. It appears the analysis in this section was drafted prior to CARB's adoption of the 2022 Scoping Plan and was not updated after the new scoping plan was adopted.

The mitigation identified as Mitigation Measures GHG-1 and GHG-2 suffer from the same legal deficiencies identified in Section II above as they merely reference GP Update policies HS-H.10 and HS-H.11, neither of which complies with the requirements set forth in CEQA Guidelines, section 15126.4. Furthermore, it does not appear that the implementation of either of these policies was included in an GP Update Implementation Program. (GP Update, pp. 3-6 through 3-36). This raises additional concerns that these policies will ever be implemented.

With regard to Impact GHG-2, the DEIR concludes:

The GPR/ZOU would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. Impacts would be less than significant

However, this analysis fails to analyze whether the GP Update is consistent with the 2022 CARB Scoping Plan. Furthermore, it fails to explain how the impact determination related to Impact GHG-1 is significant and avoidable based upon a performance metric tied to the 2017 CARB Scoping Plan but that the impact determination related to Impact GHG-2 is less than significant based upon a finding, in part, on consistency with the 2017 CARB Scoping Plan.

V. Land Use Impacts

The DEIR's analysis of potential environmental impacts related to Land Use appears to meet CEQA requirements. The DEIR has provided analysis as to whether development under the GP Update would physically divide an established community and whether said development would be consistent with applicable land use plans, policies, or regulations adopted to avoid or mitigate environmental effects. The DEIR provides evidence in the form of analysis of consistency with the Fresno COG RTP/SCS and with applicable GP Update policies that bear upon environmental issues, including loss of Farmland.

VI. Hydrology & Water Quality/Utilities

The DEIR's discussion of potential environmental impacts related to water supply is rather abbreviated as no estimates are provided as to the amount of water that will be necessary for future growth through 2042. Furthermore, there is no discussion as to the sources of water supply that will provide for this future growth. Instead, the analysis states that the GP Update does not increase the level of development accounted for in the current general plan which served as the basis for the development of the current Groundwater Sustainability Plan ("GSP") that the County is currently implementing. Finally, the DEIR states that according to the GSP the County should reach groundwater equilibrium by 2040. Finally, the DEIR relies upon numerous GP Update policies to support its conclusion that the environmental impacts related to groundwater are less than significant.

However, some of those policies are not mandatory and other policies, such as Policy PF.C.23 are dependent upon the City completing GP Update Implementation Programs. As stated previously, the implementation of these programs are dependent upon staff resources and budget considerations.

VII. Transportation Impacts

The DEIR at pp. 4.15-15 through 4.15-20 analyzes whether development under the GP Update would result in significant impacts related to Vehicle Miles Traveled ("VMT") using as thresholds whether the development under the GP Update would generate VMT per capita that exceeds 87 percent of the countywide average rate of VMT per capita, or VMT per employee that exceeds 87 percent of the countywide average rate of VMT per employee. The analysis concludes that development under the GP Update would exceed these thresholds and the proposes the following new GP Update policy to mitigate these impacts:

Policy TR-A.25: VMT Threshold. Projects that would generate or attract more than 110 daily vehicle trips shall be evaluated for a transportation VMT impact on an individual basis. The threshold of significance shall be 87 percent below the countywide average rate of VMT. Any individual project resulting in VMT that exceeds 87 percent below the countywide average shall be required to implement project-specific mitigation measures aimed at reducing VMT generated by the project.

However, this policy does not require individual projects exceeding the VMT threshold to implement mitigation measures to reduce VMT generated by the project to below the threshold. It merely requires some reduction.

VIII. Alternatives Analysis

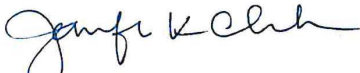
The DEIR at p. 6-3 states that the GP Update has significant and unavoidable aesthetic impacts. However, this is inconsistent with the analysis in Section 4.1 which states that all impacts related to aesthetics are less than significant. In addition, the Alternatives section fails to identify any alternatives that were considered by the County but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the County's determination as required by CEQA Guidelines, section 15126.6(c).

Finally, the DEIR states, "The County sees its primary role to be the protector of productive agricultural lands, open space, recreational opportunities, and environmental quality, and the coordinator of countywide efforts to promote economic development. (DEIR, p. 2.1). Though the two alternatives, other than the No Project alternative, that are analyzed in the DEIR direct development to the spheres of influence of Fresno and Clovis and state this would reduce impacts to agricultural resources, the County failed to consider an alternative that would prohibit the County from approving any development

that would require the conversion of Farmland, as defined above, and require such development be approved only by the City in whose sphere of influence the proposed project is located. This alternative would do the most to preserve Farmland and also accomplish the goals of Alternatives 2 and 3 to concentrate new urban development within the boundaries of existing cities.

Please feel free to contact us if you wish to discuss any of these items.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Clark". The signature is fluid and cursive, with the first name being more prominent.

Jennifer Clark, Director
Planning and Development
Jennifer.Clark@fresno.gov