



June 29, 2020

Chris Erias, Community Development Director  
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City of Galt  
495 Industrial Drive, Galt, CA 95632

*Sent via email to [cerias@ci.galt.ca.us](mailto:cerias@ci.galt.ca.us)* Dear Mr. Erias,

### **FAIRWAY OAKS VESTING / ANNEXATION, MITIGATED NEG DEC: COMMENTS**

We appreciate the opportunity to provide comments on the subject mitigated negative declaration (MND). Our comments focus on potential Greenhouse Gas (GHG) impacts, which the MND finds to be less than significant, based on:

1. The City's adopted climate action plan (CAP)
2. A checklist used to determine consistency with the CAP
3. Six listed measures incumbent on the project pursuant to State and City mandates\
4. Three project-specific mitigation measures.

We are concerned that the above provisions do not provide substantial evidence of less than significant impact, as discussed with other concerns below.

#### **1. CAP is Inadequate to Determine and Mitigate Simmerhorn GHG Impacts**

The MND does not set forth or establish compliance with any GHG threshold, relying on assertion of compliance with the City's recently adopted CAP, buttressed with several project-specific measures.

We question this approach because, while pursuant to CEQA a lead agency may rely on the findings of a prior CEQA analysis, it may do so only to the extent that the prior analysis adequately fulfills CEQA requirements.

We suggest that using the CAP to assert potential Simmerhorn GHG impacts are not significant is inappropriate on two counts:

##### **a. The CAP's Thresholds are Inconsistent with CEQA Requirements**

For CAP purposes, the City used the California Air Resources Board's statewide targets without modification or analysis.<sup>1</sup> However, using a statewide criterion requires evidence and explanation to substantiate that the effort required in a statewide context will suffice for

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<sup>1</sup> CAP. p. 4-1, Table 1

a specific project; and a greater degree of GHG reduction may be needed from new land use projects than from the economy as a whole.<sup>2</sup>

b. Effectiveness of the CAP's GHG-Reduction Actions is Unsupported

Consistent with our earlier comments on the draft CAP,<sup>3</sup> most or all of the adopted final CAP's 89 Actions are conceptual or aspirational and do not meet CEQA's enforceability requirements, rendering the CAP's purported GHG benefits moot:

*"Quantifying GHG reduction measures is not synonymous with implementing them. Whether a measure is effective requires more than quantification, but an assessment of the likelihood of implementation".<sup>4</sup>*

**2. Checklist does Not Ensure Compliance with CEQA or the CAP**

The City's CAP includes a Checklist which states, "*The ... Checklist will help the City and developers establish a project's compliance with the CAP and CEQA guidelines*". The Checklist's "Streamlined Review..." diagram indicates it is in fact intended to be the only means to determine GHG compliance.<sup>5</sup>

Insofar as the Checklist can be used to determine compliance with the CAP, it necessarily suffers the defects of the CAP's Action items, as discussed in section 1.b.above.

However, although the MND repeatedly emphasizes that the Checklist is meant to demonstrate compliance with the CAP, the Checklist's questions and explanatory text often have no basis in the CAP, e.g., in regard to mandatory language included in the Checklist but absent in the CAP itself. Such deviations are not subject to CEQA analysis in the CAP's or in Fairway Oak's MNDs, and their enforceability and regulatory significance are unclear. The fact that the Fairway Oak Checklist is denoted as "Draft" compounds this regulatory uncertainty.

Several of the non-conforming Checklist items require compliance with existing State mandates. Although these mandates are not reflected in the CAP's Action items, their effects are already factored into the CAP's claimed GHG reductions.

Section 2 of the Checklist presents eight "Sustainable Design Options". Few if any of these are based on the CAP; their mitigation efficacy has similarly not been subject to CEQA review; and at least one of them could be fulfilled through already mandatory compliance with existing City code.

In addition, the MND asserts, "*With ... inclusion of the [six mandatory, below discussed] design practices ... Fairway Oaks ... would comply with ... [the Sustainable Design Options]*". This conflation of existing mandates and "*sustainable design practices*" means that the project would fulfill one of the two required "options" simply by complying with its legal responsibilities.

**3. Efficacy of Applying Six Specified, Already-Mandated Measures is Unsupported.**

The MND separately presents a list of six current mandates, which overlap those in the

<sup>2</sup> *Center for Biological Diversity supra; Sierra Club v County of San Diego* (2018) Cal App 4th.

<sup>3</sup> 350 Sacramento, ECOS, Sierra Club: Draft CAP Comments, September 30, 2019

<sup>4</sup> *Sierra Club v San Diego County*, Ct. App. 4th, 10/29/2014

<sup>5</sup> *IS/MND Appendix C, p.1.*

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Checklist. None of the six measures are included in the CAP, and their GHG-reduction benefits are not substantiated in the CAP or Fairway Oaks MNDs.

#### **4. The Efficacy of Proposed Project-Specific Measures is Unsupported**

The MND presents three project-specific mitigation measures listed and discussed below, stating, *“Implementation of the following mitigation measures would reduce the above potential impact to a less-than-significant level”*.

##### **a. Efficacy of U.S. EPA Tier 4 Engine Requirements is Not Substantiated**

Measure VIII-1 states, *“... the project applicant shall [comply] with U.S. EPA Tier 4 engine requirements....”*

USEPA Tier 4 standards for non-road diesel engines regulate nitrogen oxide and particulate matter pollution, and in no way address GHG emissions<sup>6</sup>. In any case, GHG emissions from diesel engines during the construction phase of the project, mitigated or not, would be trivial compared to annual and cumulative operational emissions over the many decades of the project’s life.

##### **b. Applicability of City Code Chapter 18.52.040 is Not Substantiated**

Measure VIII-2 states, *“...the ... developer shall submit a Landscaping Plan for ... approval ... prepared in accordance with Chapter 18.52.040 of the Municipal Code”*. This Measure is not based on the CAP, and has not been reviewed in either the CAP or Fairway Oaks MNDs.

##### **c. GHG Reduction from Using Electrical Landscaping Equipment is Speculative**

Measure VIII-2 states, *“... the project applicant/developer shall demonstrate ... the incorporation of outdoor electrical outlets or other infrastructure into project Improvement Plans for review and approval by the City Engineer”*.

The City has not substantiated GHG-reductions from this measure. Since there is no City requirement for use of electric landscaping equipment in new developments, or any other supporting analysis, any GHG reductions are speculative. Moreover the inclusion of undefined “other infrastructure”, approvable without reference to GHG-reduction or other stated criteria, renders this measure meaningless.

#### **5. Non-Significance of Mobile GHG Impacts is Not Established**

The MND states, *“The primary source of GHG emissions for ... Fairway Oaks ...would be mobile source emissions”*. On-road traffic is the major source of GHG emissions not only in Galt but statewide. State analysis and guidance are clear that local mitigation of mobile emissions is feasible and absolutely essential to reach California’s GHG goals. Galt has chosen to not voluntarily adopt vehicle miles traveled (VMT) as the metric for CEQA traffic analysis, as is mandatory beginning July 1, 2020. Nevertheless the potential impact of project-related mobile emissions must be documented, and if significant mitigated to the extent feasible.

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<sup>6</sup> USEPA. Regulatory Announcement ,Clean Air Nonroad Diesel Rule, Table 1. Online: <https://nepis.epa.gov/Exe/ZyPDF.cgi/P10001RN.PDF?Dockey=P10001RN.PDF>.

The Fairway Oaks project will add 173 single-family homes to Galt's housing stock, with no commercial, business, or industrial component to mitigate Galt's already unfavorable jobs-housing balance. The project is adjacent to State Route 99, abutting the Glendale Avenue Interchange. It is reasonable to expect that a number of potential residents would find Fairway Oaks attractive because it facilitates work commutes to job centers in Stockton and Sacramento, with resulting substantial additions to GHG emissions. Such potential emissions are not considered by the MND or its Appendices, which assume average ten mile round trip commutes.

## **6. That Potential Impacts are Adequately Evaluated in the GP EIR is Not Substantiated**

The MND asserts that, "...impacts have been anticipated by the City and analyzed in the General Plan EIR", and, "... *the proposed project would not result in any significant environmental impacts peculiar to the project, and ... not previously analyzed in the General Plan EIR*".<sup>7</sup>

Given the inherent differences between general and specific plans and the dynamic nature of the CEQA *Guidelines*, it seems doubtful that Galt's 2009 general plan EIR fully addresses all potential GHG and other impacts of a development such as Fairway Oaks. Unfortunately the public is unable to evaluate the MND's assertion because the text of Galt's general plan EIR is not posted on the City's website.

## **7. Annexation Area Potential Impacts are Not Addressed**

The MND (p. 9) states that in accordance with its land use designation the area proposed for annexation could be built out with 273 homes, but a lower density of 158 home is assumed. This lack of clarity is troubling, but in any case no CEQA analysis is presented for the proposed annexation. The MND (p. 85, and elsewhere) notes here is no current development proposal for the area, and asserts, "Buildout ... *would be consistent with the General Plan ... impacts have been anticipated ... in the General Plan EIR ... [and] would ... comply with the City's CAP. Consequently, ... the proposed project would not result in ... GHG emissions*".

We question this approach on three grounds:

- a. Development of the annexed area and associated potential impacts are a reasonably foreseeable result of the proposed annexation.
- b. Per Comment 1 above, the adequacy of the CAP is unsupported.
- c. Per Comment 5 above, reliance on the 2009 GP EIR has not been shown to be appropriate.

## **8. The MND Does Not Consider Land Use Measures to Reduce GHG Emissions**

The proposed Fairway Oaks development is a traditional suburban, low density, auto-centric design with cul de sacs<sup>8</sup>, inherently bicycle and pedestrian unfriendly notwithstanding the proposed narrow bike/pedestrian path.

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<sup>7</sup> MND, *Section VIII and Mandatory Findings of Significance*, respectively

<sup>8</sup> Fairway Oaks MND, Figure 3, "Tentative Subdivision Map"

Thank you for considering our comments, which we hope will support the City's efforts to achieve sustainable growth congruent with the threat of climate change and State requirements.

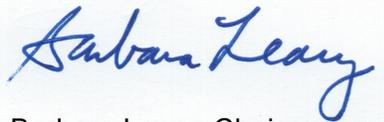
Sincerely,



Laurie Litman, President  
350 Sacramento



Ralph Propper, President  
Environmental Council of Sacramento



Barbara Leary, Chair  
Sacrament Group, Sierra Club

cc:

City of Galt, City Council Members

Mayor Paul Sandhu  
Vice-Mayor Rich Lozano  
Council Member Shawn Farmer  
Council Member Curt Champion  
Council Member Paige Lampson

Alberto Ayala, Executive Officer  
Sacramento Metropolitan Air Quality Management District