

VOLUME 2: COMMENTS AND RESPONSES

VILLAGES OF PATTERSON
DEVELOPMENT PLAN PROJECT

STATE CLEARINGHOUSE NO. 2006032043

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Prepared for the City of Patterson by:

TURNSTONE CONSULTING

VILLAGES OF PATTERSON
DEVELOPMENT PLAN PROJECT

FINAL ENVIRONMENTAL IMPACT REPORT

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**VILLAGES OF PATTERSON DEVELOPMENT PLAN
FINAL ENVIRONMENTAL IMPACT REPORT**

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**VILLAGES OF PATTERSON DEVELOPMENT PLAN
DRAFT ENVIRONMENTAL IMPACT REPORT
COMMENTS AND RESPONSES**

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I. INTRODUCTION

The Draft Environmental Impact Report (EIR) for the Villages of Patterson Development Plan Project was circulated for public review from July 19, 2006 through September 1, 2006. During this period, the City of Patterson Community Development Department held a public hearing on August 10, 2006, to provide the public with an opportunity to present oral comments on the Draft EIR. Comments were also submitted in the form of letters and e-mail.

The California Environmental Quality Act (CEQA) requires that a list of agencies and persons commenting on the Draft EIR be included in the comments and responses document, and that written responses be prepared for all substantive comments received that raise environmental issues. In compliance with this requirement, Chapter II of this Comments and Responses document presents a list of agencies and persons commenting, and Chapter III presents the letters received and the public hearing minutes, with responses to environmental issues.

Each comment letter is designated alphabetically, and environmental issues in each letter are identified by the letter designation and a sequential number (e.g., Letter A includes Comments A.1, A.2, and A.3). Immediately following each comment letter are responses to the comments in that letter. Each response is identified by the letter/number designation that corresponds to the comment it addresses (e.g., Comment A.1 is addressed in Response A.1). Items discussed in comment letters that do not raise environmental issues are not designated and do not require responses.

Responses generally explain information in the Draft EIR and refer to EIR pages that discuss the topic of the comment. Some responses include minor modifications to the Draft EIR text. New text is shown in **boldface** type and deleted text is shown as ~~strikethrough~~.

II. LIST OF COMMENTORS ON THE DRAFT EIR

WRITTEN COMMENTS

The following persons submitted written comments on the Draft EIR for the Villages of Patterson Development Plan Project:

- California Department of Fish and Game, San Joaquin Valley and Southern Sierra Region – W.E. Loudermilk, Regional Manager, letter dated August 28, 2006
- California Department of Transportation – Tom Dumas, Chief, Office of Intermodal Planning, letter dated August 28, 2006
- California Department of Water Resources – Al Vargas, Staff Environmental Scientist, letter dated September 5, 2006
- California Public Utilities Commission – Kevin Boles, Utilities Engineer, Rail Crossings Engineering Section, Consumer Protection and Safety Division, letter dated August 7, 2006
- Stanislaus Local Agency Formation Commission – Marjorie Blom, Executive Officer, letter dated August 30, 2006
- Alexander Bowie, Bowie, Arneson, Wiles & Giannone, for the Patterson Joint Unified School District, letter dated August 29, 2006
- Adam U. Lindgren, Myers Nave Riback Silver and Wilson, for the Del Puerto Health Care District, letter dated September 1, 2006
- Turlock Irrigation District – Arie W. Vander Pol, Engineering Technician, letter dated July 25, 2006.
- Jay and Carmen Endersbe, letter dated August 1, 2006
- John Granelli, letter dated August 1, 2006
- Ray Walker, CEO, Patterson Frozen Foods, Inc., letter dated March 22, 2006 (resubmitted to City on August 10, 2006)
- Ron West, Consultant, for Patterson Frozen Foods, Inc., letter dated April 7, 2006 (resubmitted to City on August 10, 2006)
- Reagan M. Wilson, President, Zacharias Partners LP, letter dated September 1, 2006
- David L. Priess, Wendel, Rosen, Black & Dean LLP, for Patterson Frozen Foods, Inc., letter dated September 1, 2006
- US Fish and Wildlife Service – Susan Jones, San Joaquin Valley Branch Chief, e-mail dated October 27, 2006

PUBLIC HEARING COMMENTS

The following persons spoke at the public hearing held on August 10, 2006, to receive comments on the Draft Environmental Impact Report:

- Ron West, Ron West & Associates, for Patterson Frozen Foods
- Patrick Sweeney, Patterson Joint Unified School District
- Angelo Ielmini

III. COMMENTS AND RESPONSES

This section presents the comment letters received on the Draft EIR for the Villages of Patterson Development Plan Project and responses to the environmental issues raised in the comments.



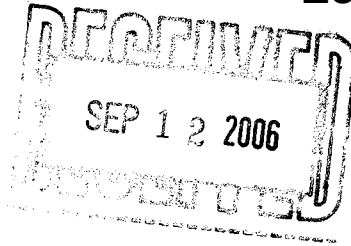
DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>



San Joaquin Valley and Southern Sierra Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4014

Letter A



August 28, 2006

Rod Simpson
Community Development Director
City of Patterson
Community Development Department
33 S. Del Puerto Avenue
Patterson, California 95363

Dear Mr. Simpson:

**Draft Environmental Impact Report (DEIR)
City of Patterson
Villages of Patterson
SCH# 2006032043**

The California Department of Fish and Game (Department) has reviewed the Villages of Patterson DEIR (Project). Approval of the proposed Project would establish a detailed framework for development of an approximately 692 acre Project site in by identifying allowable land uses and their locations, and providing development standards and design guidelines. The Project proposes a mixed-use central core that would be surrounded by four residential quadrants and integrated commercial and office uses linked by a system of roads, parks, and bicycle/pedestrian trails. The Project area is located north and east of the city of Patterson, in unincorporated Stanislaus County, contiguous to and outside of the incorporated boundaries of Patterson. The Project area is generally bounded by north 1st Street and Highway 33 to the west, Eucalyptus Avenue to the north, Sycamore Avenue to the east, and Walnut Avenue to the south.

There may be special status biological resources present in the Project area. The Department also has concerns about potential development-related impacts to waterways (Patterson Irrigation District Laterals 3 and 4 and Salado Creek), which could occur as a result of development projects. In order to adequately assess any potential impacts to biological resources within the Project area, additional focused biological surveys may need to be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s). This information is necessary to identify any mitigation, minimization, and avoidance measures (including setbacks, etc.) which should be included as part of the Villages of Patterson Development Plan. Biological issues should be evaluated and

A.1

analyzed in the finalized California Environmental Quality Act (CEQA) document prepared for this Project and prior to any subsequent development approvals.

A preliminary survey was conducted by H.T. Harvey & Associates on March 10, 2006. The survey was conducted to document the biotic resources associated with the Project site. Properly conducted biological surveys, and the information assembled from them, are essential to adequately identify any project-related impacts under CEQA and the California Endangered Species Act (CESA), as well as appropriate mitigation and avoidance measures to minimize or avoid potential project-related impacts to endangered and/or threatened species and other species of concern.

Our specific comments pertaining to the project follow.

Department Jurisdiction

Trustee Agency Authority: The Department is a Trustee Agency with responsibility under the CEQA for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment upon environmental documents and impacts arising from project activities, as those terms are used under CEQA (Division 13 (commencing with Section 21000) of the Public Resources Code).

California Endangered Species Act: The Department has regulatory authority over projects that could result in the “take” of any species listed by the State as threatened or endangered pursuant to Fish and Game Code Section 2081. If the project could result in the “take” of any species listed as threatened or endangered under the California Endangered Species Act (CESA), the Department may need to issue an Incidental Take Permit for the Project. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Sections 21001{c}, 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code Section 2080.

Development within portions of the Villages of Patterson Project area has the potential to reduce the number or restrict the range of endangered, rare, or threatened species (as

A.1

A.2

A.3

defined in Section 15380 of CEQA) including the following Federal and/or State-listed species known to occur in the Project area vicinity.

<u>Species</u>	<u>Listing</u>
Swainson's hawk <i>Buteo swainsoni</i>	State listed - Threatened
San Joaquin kit fox <i>Vulpes macrotis mutica</i>	Federally listed – Endangered State listed - Threatened

A.3

The following special status species may also be present: tricolored blackbird (*Agelaius tricolor*) and burrowing owl (*Athene cunicularia*). Although burrowing owls are not listed under CESA, impacts to burrowing owl and their nest burrows must be avoided in order to comply with the Federal Migratory Bird Treaty Act (MBTA) and Fish and Game Code Sections 3503, 3503.5, and 3513, which are explained in more detail below. Additionally, northern harrier (*Circus cyaneus*) and loggerhead shrike (*Lanius ludovicianus*) were both observed on the project site during the March 2006 biotic surveys.

Stream Alteration Notification: The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. Based on the project description, it appears there may be the potential to divert or obstruct the natural flow, or change the bed, channel, or bank (which may include riparian resources) of Salado Creek and segments of the two irrigation water supply laterals. Through the course of implementation of development projects, the Department may require a Stream Alteration Agreement (SAA). Generally, the Department requires minimization of impacts to waterways under the jurisdiction of Fish and Game Code Section 1600 et seq. We recommend contacting Gerald Hatler, Environmental Scientist, at (559) 243-4014, extension 231, to discuss the feasibility of waterway fill and rerouting and riparian vegetation removal, as well as for further information regarding notification requirements.

A.4

The issuance of both an Incidental Take Permit and SAA is subject to CEQA review. The Department, as a Responsible Agency under CEQA, would consider the CEQA document prepared for the Project. If a SAA or Incidental Take Permit would be needed, the CEQA document prepared for this Project by the Lead Agency (City of Patterson), as well as any project-specific CEQA documents should identify the Department as a Responsible Agency. The CEQA document also should describe and address the potential impacts to listed species and the potential impacts to streams and associated riparian resources. In the event that a CEQA document will not be prepared, and another public agency is not

taking a discretionary action over this Project, the Department would need to act as the Lead CEQA Agency prior to issuance of a discretionary permit.

A.4

Bird Protection: The Department has jurisdiction over actions which may result in the disturbance or destruction of active nest sites or the unauthorized “take” of birds. Fish and Game Code Sections that protect birds, their eggs and nests include, Section 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory non-game bird). Since many mature trees and other vegetation is present on the Project site and presumably will need to be removed for implementation of the proposed Project, appropriate avoidance and minimization measures for raptors and other nesting birds potentially present in the project area should be included in the CEQA document prepared for this Project.

A.5

Water Pollution: Pursuant to Fish and Game Code Section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into the “Waters of the State” any substance or material deleterious to fish, plant life, or bird life, including non-native species. The Regional Water Quality Control Board also has jurisdiction regarding discharge and pollution to “Waters of the State”.

A.6

It is possible that without mitigation measures this Project could result in pollution of a “Waters of the State” from increased road, parking, stormwater runoff, or construction-related erosion. This could impact the fish and wildlife resources associated with the Salado Creek, and other surface waters by causing: increased sediment input from structure and road runoff; toxic runoff from household chemicals, light industrial and commercial operations, and impairment of wildlife movement along riparian corridors.

Riparian Habitat and Wetlands: Riparian habitat is of extreme importance to a wide variety of plant and wildlife species. Riparian habitat is known to exist within the proposed Project area. The Department considers projects that impact these resources as significant if they result in a net loss of acreage or habitat value. The Department has a no-net-loss policy regarding impacts to wetlands. Potential impacts to special status resources posed by wetland creation should also be considered. Wetlands that have been inadvertently created by leaks, dams or other structures, or failures in man-made water systems are not exempt from this policy.

A.7

In addition, we recommend delineating all surface waters and wetlands with a minimum 50-foot no-disturbance buffer around the outer edge of these areas, with the exception of necessary road crossings over drainages. A 100-foot no-disturbance buffer around the high water mark of surface water channels should be clearly identified. The riparian

vegetation along waterways should also be protected with a 200-foot no-disturbance buffer delineated from the high water mark of each surface water body.

A.7

San Joaquin kit fox: San Joaquin kit fox populations are known to fluctuate over years and absence during any one survey does not necessarily indicate the potential for kit fox to occur on a site at a future time. The Department recommends that the United States Fish and Wildlife Service's (USFWS) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance," (1999) be followed prior to any ground disturbing activities occurring within the non-irrigated agriculture portion of the Project area. These surveys should also be conducted a maximum of 30 days prior to ground disturbing activities. In the event that this species is detected during protocol-level surveys, consultation with the Department is warranted to discuss how to implement the Project and avoid take under CESA. Take under the Federal Endangered Species Act (FESA) is more stringently defined than the California Endangered Species Act; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of Project implementation.

A.8

Swainson's hawk: This State-threatened species is known to nest within a few miles of the general plan area boundary, and it is highly probable that this species nests within or closer to the Villages of Patterson general plan area than the observations currently reported in the California Natural Diversity Database (CNDDB). Removal of mature trees is a potentially significant impact to nesting raptors that should be mitigated. The Department considers removal of known raptor nest trees, even outside of the nesting season, to be a significant impact under CEQA, and in the case of Swainson's hawk could also result in take under the CESA. This is especially true with species such as Swainson's hawk that exhibit high site fidelity to their nest and nest trees year after year.

A.9

To avoid such impacts, prior to each development project or development phase within the Project area, Mitigation measure H.5 states surveys for nesting raptors should be conducted following the survey methodology developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC, 2000) prior to any disturbance within 5 miles of a potential nest tree (DFG, 1994). These surveys, the parameters of which were designed to optimize detectability, must be conducted to reasonably assure the Department that take of this species will not occur as a result of disturbance associated with Project implementation. In the event that this species is detected during protocol-level surveys, consultation with the Department is warranted to discuss how to implement the Project and avoid take. Moreover, if avoidance of a known nest tree is not feasible, consultation with the Department is warranted prior to taking any action and a

determination of take potential under CESA or under Fish and Game Code Sections 3503.5 and 3513 will be made.

If there are not nesting Swainson's Hawks closer to the project site than currently reported in the CNDDDB, impacts to potential Swainson's hawk foraging habitat (including ag land) should be mitigated by the purchase of conservation easements and or fee title acquisition of suitable foraging habitat at a minimum of a 1:1 ratio (e.g. 1 acre conserved for every acre impacted), as well as establishment of an associated management endowment to fund management of these lands in perpetuity. According to the DEIR, approximately 506 acres of Swainson's hawk foraging habitat is projected to be lost through Project implementation.

A.9

The CEQA Guidelines state (Section 15126.4) that mitigation measures should be fully enforceable through permit conditions, agreements, or other legally binding agreements. *As a result of the large loss of foraging habitat acreage, prior to the discretionary approval by the City of Patterson of any development projects, a stipulation of approval should adopt this mitigation measure as an enforceable permit condition. In addition, prior to Project implementation (e.g. ground breaking) acquisition of these mitigation lands and the establishment of the funding mechanism should be secured and evidence of these transactions provided to the Department.* This is in reference to the appropriate mitigation under CEQA; if take under CESA will occur, the "fully mitigate" requirement will likely require additional mitigation.

Burrowing Owl: Burrowing owls are known to occur near the project area. If any ground disturbing activities will occur during the burrowing owl nesting season (approximately February 1 through August 31) implementation of avoidance measures is required. Mitigation Measure H.7 of the DEIR states the recommendations of the Department's Staff Report on Burrowing Owl Mitigation (CDFG 1995) will be followed, including the implementation of a no-construction buffer zone of a minimum 250 feet from occupied burrows. Failure to implement this buffer zone could cause adult burrowing owls to abandon the nest, cause eggs or young to be directly impacted (crushed), and/or result in reproductive failure.

A.10

The Department's Staff Report on Burrowing Owl Mitigation also recommends that a minimum of 6.4 acres of foraging habitat per pair or unpaired resident burrowing owl should be acquired and permanently protected to offset the loss of foraging and burrowing habitat and this mitigation measure should also be included as an enforceable permit condition on any subsequent development projects within the Plan area.

Rod Simpson
August 28, 2006
Page 7

CEQA Compliance: CEQA Guidelines Section 15378 defines "project" to mean the whole of an action that may result in either a direct or reasonably foreseeable indirect physical change in the environment. The final CEQA document should adequately address all impacts to natural resources of the Project site. Proposed development of access routes and infrastructure (water, electric, natural gas, septic or sewer, and telephone) related to this Project should also be delineated and analyzed for impacts to natural resources.

A.11

Depending upon the results of the previously mentioned biological surveys, we may have additional comments and recommendations regarding avoidance, minimization, and mitigation of Project impacts to habitat and special status species. If you have any questions on these issues, please contact Annee Ferranti, Staff Environmental Scientist, at the address or telephone number (extension 227) provided on this letterhead.

Sincerely,



W. E. Loudermilk
Regional Manager

cc: See Page Eight

Rod Simpson
August 28, 2006
Page 8

cc: Scott Morgan
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit
Post Office Box 3044
Sacramento, California 95812-3044

San Joaquin Valley Office
United States Corps of Engineers
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Sacramento, California 95814-2922

California Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, California 93706-2020

Maryann Owens
United States Fish and
Wildlife Service
2800 Cottage Way, Suite W-2605
Sacramento, California 95825

Responses to Letter A: California Department of Fish and Game, San Joaquin Valley and Southern Sierra Region – W.E. Loudermilk, Regional Manager

Response to Comment A.1

This introductory comment summarizes the Department's general concerns regarding potential impacts of the project on special status biological resources. These are addressed more specifically in the letter's subsequent comments. A response to each of those comments is provided below.

Response to Comment A.2

This introductory comment is a discussion of the Department's authority as a "Trustee Agency" under CEQA, and discusses the Department's regulatory authority under the California Endangered Species Act. This comment requires no response in this EIR Responses to Comments.

Response to Comment A.3

Swainson's Hawk, Northern Harrier, Burrowing Owl, Loggerheaded Shrike, and Tricolored Blackbird are discussed on pp. III.H.7-10 of the EIR. Potential project impacts related to these special status species are discussed on pp. III.H.11-16.

See Response to Comment A.8 below, which explains that San Joaquin kit fox are absent from the project area.

Response to Comment A.4

As described in the EIR, p. III.H.6, field surveys were conducted within the Villages of Patterson project area for streams and other waterways potentially under the regulatory jurisdiction of the CDFG. As described in the EIR under Impact H.1, p. III.H.11, development of the Villages of Patterson project site would result in the permanent loss of approximately 9.4 acres of exposed aquatic habitat in the concrete-lined laterals. These canals are artificially created irrigation ditches used for the conveyance of irrigation water. Neither lateral contained any vegetation at the time of the survey. Neither appears to be a jurisdictional Water of the U.S., subject to Corps of Engineers jurisdiction, nor do they come under the Section 1600 provisions of the Fish & Game Code, administered by the CDFG. On this basis, the EIR concludes that impacts associated with converting the exposed canals to closed conveyance features are considered to be less than significant in the EIR.

In the opinion of H.T. Harvey & Associates, the preparers of the Biotic Study, included as Appendix C to the EIR, the project would not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake. Furthermore, because the laterals are controlled with gates and can be dewatered prior to placement within underground culverts, the proposed project will not deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Per CDFG's comment, Gerald Hatler was contacted and was provided with representative photographs of the laterals. He commented that the laterals may be jurisdictional and requested more information. He recommended that the project applicants submit written notification regarding the project by completing a *Notification of Lake or Streambed Alteration Form* (FG2023). Assuming CDFG agrees with the assessment of the EIR, they will inform the project applicant, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the project applicant may commence the activity without an agreement, if the project applicant conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources. If the CDFG determines that the laterals come under the provisions of Section 1600 of the Fish & Game Code, the project proponent will obtain a Streambed Alteration Agreement from the CDFG prior to initiating construction. This comment also notes that if a Streambed Alteration Agreement or an Incidental Take Permit is needed, the Department should be identified as a Responsible Agency for the purposes of CEQA.

Response to Comment A.5

The EIR identifies Mitigation Measures H.5a and H.5b, pp. III.H.12-13, that call for avoidance and minimization measures to mitigate a potentially significant impact to Swainson's Hawk. Even where the proposed project would not result in a potential significant impact under CEQA, the project must still comply with applicable Fish and Game Code sections that protect birds, their eggs and nests, including Sections 3503, 3503.5, and 3513. The Regulatory Framework discussion in Chapter III, Section H, Biological Resources, p. III.H.1, outlines the state and federal regulations related to the protection of special-status plant and animal species. The EIR, p. III.H.2, also discusses applicable state and federal regulations related specifically to birds.

Response to Comment A.6

The degradation of water quality as a result of project implementation is addressed in impact H.9, p. III.H.17 of the EIR. Salado Creek is referenced in the comment, but this creek enters an underground culvert west of the project area so the fish and wildlife resources will not be affected

by the proposed project. The proposed project has the potential to degrade water quality within both laterals on the project site or in the reaches north of the project site, and in Del Puerto Creek at the terminus of Lateral 3 North as a result of pollution, sedimentation, and litter stemming from site construction. These factors could result in significant indirect effects to downstream biological resources.

Under Mitigation Measures H.9 and I.4a, the project must comply with state and federal water quality regulations, including California's General Construction Stormwater Permit, which requires preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP). SWPPPs are designed to manage stormwater quality degradation through best management practices during and after construction. These practices may include temporary drainage ditches, culverts, berms, and/or straw bales that confine stormwater and prevent it from carrying sedimentation off of the project site. Compliance with the SWPPP, identified in Mitigation Measure I.4a in Section III.I, Hydrology and Water Quality, pp. III.I.17-18, would reduce the potential for indirect impacts to biological resources to less than significant levels.

Response to Comment A.7

As described in the EIR, p. III.H.6-7, and under Impact H.1, p. III.H.11, the project site is devoid of riparian areas and areas considered as "wetlands" under CDFG's no-net-loss policy and the laterals on the site are of little value for wildlife species. When in use, the laterals on the project site may provide a source of drinking water for birds and mammals. Some hydrophytes ("water-loving" plants) could be present in areas at the terminus of irrigation trenches where ponding may occur as a result of flood-irrigating practices within the project site. However, neither standing water nor hydrophytes were observed within irrigation trenches during the field survey and recent scraping and clearing of the laterals was evident at the time of the survey.

Response to Comment A.8

The San Joaquin Kit Fox is discussed in the Biotic Study, Appendix C of the Draft EIR. As noted in Table 3, p. 11, of that study, the kit fox was presumed to be absent from the project site because there is a very low potential for occurrence, based on the marginal foraging habitat on agricultural lands, the absence of potential dens, and the unsuitability of surrounding habitat. The kit fox was therefore not included among the species discussed in Section III.H.

In preparation of the EIR for the West Patterson Business Park Master Development Plan and Patterson Gardens projects in 2002, H. T. Harvey & Associates completed walking transects of the entire 1,177-acre area, southwest of the Villages of Patterson project site, in order to detect occupied or potential dens; conducted spotlighting surveys; installed automatic camera stations;

surveyed track plate stations; and compiled results of independent surveys and other available information regarding kit fox observations in the vicinity.

No identifiable tracks, scat, or other signs of San Joaquin kit fox activity were observed within the 1,177-acre survey area. Furthermore, only five records of kit fox occur within a 10-mile radius of the Villages of Patterson project site and all of these records occur west of Interstate 5. The open grasslands of the foothills west of Interstate 5 provide much higher quality, and potentially less threatening, habitat than the proposed project area. The EIR for the West Patterson Business Park Master Development Plan and Patterson Gardens projects concluded that potential foraging and denning habitat on the area west of the Villages of Patterson project site was of low value for kit fox and was expected to be used only infrequently, if at all. Moreover, the EIR stated that “further east in the project area, the less likely it is that kit foxes currently utilize the sites.”

Since the approval of the EIR for the West Patterson Business Park Master Development Plan and Patterson Gardens projects, H. T. Harvey & Associates has completed pre-construction surveys for 445 acres within the vicinity of the Villages of Patterson project with the same results; no identifiable tracks, scat, or other signs of San Joaquin kit fox activity has been detected. Therefore, all available data indicates that kit foxes are absent from the Villages of Patterson project site and that pre-construction surveys are not warranted.

Response to Comment A.9

Reconnaissance-level surveys conducted in association with the preparation of the Biotic Study and EIR for the project identified approximately 506.5 acres (205 ha) of suitable foraging habitat for Swainson’s Hawks on the project site. Project implementation would result in the loss of this foraging habitat and represent a significant adverse effect to this state-threatened species through habitat modification. As described on p. III.H.13-14 of the EIR, loss of foraging habitat for Swainson’s Hawks would be mitigated by providing offsite Habitat Management (HM) lands as described in the Biotic Study, Draft EIR, and CDFG’s *Staff Report regarding Mitigation for Impacts to Swainson’s Hawks (Buteo swainsoni) in the Central Valley of California*, based on the proximity of the project site to active Swainson’s Hawk nest(s). Therefore, protocol-level nest surveys were conducted on April 17, May 18, and June 20, 2006 by a qualified ornithologist from H. T. Harvey & Associates to determine the final acreage of offsite management lands necessary to reduce impacts to less-than-significant levels.

As discussed in the EIR on p. III.H.12, a nesting season survey confirmed the presence of one Swainson’s Hawk nest. Two more were also confirmed within five miles of the project site. The nest on the project site was found on April 17, 2006 in the larger of two walnut trees adjacent to

an apricot orchard in the southwestern portion of the project site. On May 18, 2006, an adult Swainson's Hawk was observed on this nest in incubating posture.

Based on the results of the reconnaissance-level surveys conducted in association with the preparation of the Biotic Study and EIR for the project and the protocol-level Swainson's Hawk nest surveys, the project site contains approximately 506.5 acres (205 ha) of suitable foraging habitat for Swainson's Hawks and is within 1 mile (on-site) of a known active Swainson's Hawk nest.

In response to this comment, the EIR text on p. III.H.12, under "Mitigation Measure H.5a" is revised to clarify that pre-construction surveys would follow the methodology developed by the Swainson's Hawk Technical Advisory Committee, as follows (new text is shown in **boldface** type, deleted text is shown as ~~striketrough~~):

In order to assure that nesting Swainson's Hawks will not be disturbed by construction activities, a qualified ornithologist shall be retained by each developer to conduct pre-construction surveys of each development site and adjacent areas within one mile of the development site. **Such surveys shall follow the survey methodology developed by the Swainson's Hawk Advisory Committee (SWHA TAC, 2000) prior to any disturbance within 5 miles of a potential nest tree (DFG, 1994).** Survey Period I occurs from January 1 to March 20, Period II from March 20 to April 5, Period III from April 5 to April 20, Period IV from April 21 to June 10 (surveys not recommended during this period because identification is difficult as the adults tend to remain within the nest for longer periods of time), and Period V from June 10 to July 30. No fewer than three surveys shall be completed, in at least the two survey periods immediately prior to project initiation. **In the event that this species is detected during protocol-level surveys,** ~~C~~consultation with CDFG shall be required to establish site-specific procedures that ensure project initiation would not result in nest disturbance (see Mitigation Measure H.5b).

Mitigation Measure H.5b, p. III.H.13, calls for retention of nest trees on the project site unless avoidance measures are determined to be infeasible. If a nest tree must be removed, a Management Authorization must be obtained from CDFG. The Management Authorization would specify the tree removal period and conditions to offset the loss of the nest tree.

Implementation of Mitigation Measure H.6 would offset the loss of Swainson's Hawk foraging habitat. As described on p. III.H.15, this measure calls for the provision of offsite Habitat Management lands.

In response to this comment, the EIR text on p. III.H.13, under "Mitigation Measure H.6" is revised to clarify that the mitigation lands would be secured prior to project implementation, as follows (new text is shown in **boldface** type, deleted text is shown as ~~striketrough~~):

As a condition precedent to the City's issuance of any building permit for the project, the project sponsor (or its successor(s)) shall furnish documentation, in a form acceptable to the City, that it has provided funding for mitigation for the loss of foraging habitat for Swainson's Hawks ~~shall be mitigated~~ by providing offsite Habitat Management (HM) lands as described in the CDFG's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* because the site is known foraging habitat for Swainson's Hawks.

Response to Comment A.10

This comment underscores that Mitigation Measures H.7a and H.7b, identified in the EIR on pp. III.H.15-16 for impacts associated with the loss of occupied burrowing owl foraging habitat, should be implemented.

Response to Comment A.11

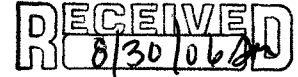
The EIR adequately assesses the direct and reasonably foreseeable indirect impacts related to biological resources. The Biological Resources section of the EIR assumes full build-out of the project site including access routes and infrastructure.

DEPARTMENT OF TRANSPORTATION

P.O. BOX 2048 STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR. MARTIN
LUTHER KING JR. BLVD. 95205)
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*Flex your power!
Be energy efficient!*

Letter B

August 28, 2006

10-STA-33-PM 13.70
Draft EIR for
Villages Of Patterson
Terra Firma Entitlement Company
SCH# 2006032043

Mr. Rod Simpson
Community Development Department
33 S. Del Puerto Avenue
Patterson, CA 95363

Dear Mr. Simpson:

Thank you for the opportunity to review the Draft EIR dated July 19, 2006 for the Villages of Patterson. This project proposes to establish a detailed framework for development of the project site by identifying allowable land uses and their locations, and providing development standards and design guidelines. A mixed-use central core would be surrounded by four residential neighborhood quadrants offering a diverse range of housing types and integrated commercial /office/light industrial area planned from the western edge of the plan area to buffer the plan area from SPRR and SR 33. The plan area would be linked by a system of roads, parks, and bicycle/pedestrian trails. This project is located at north 1st and State Hwy 33 to the west, Eucalyptus Avenue to the north, Sycamore Avenue to the east and Walnut Avenue to the south in Patterson .

We have circulated copies of the application, plans and supporting documentation to our functional units for review. Caltrans has the following comments:

Existing Condition, AM(PM) Peak

1. Location # 14, SR-33/Zacharias, Synchro input data shows NBT 137 vph. Figure 2 shows NBT 173 vph. Incorrect input data.
2. Location # 16 SR-33/Rogers Rd, Synchro input data shows WBT 23 vph. Figure 2 shows 231 vph. Incorrect input data.

"Caltrans improves mobility across California"

EPAP No Project Condition.

3. DEIR, Traffic Study, page 18, Table IV shows ICU LOS for unsignalized intersections. It is incorrect. The LOS for unsignalized intersection should be based on the worst movement.

EPAP-AM(PM) Peak-Mitigated

4. Figure 6 (EPAP) shows the existing and mitigated lane configuration for the intersection approaches. In order to identify a proper mitigation, need to provide the lane configuration for the receiving lanes, transition length, left-turn and right turn storage and deceleration lengths.
5. Location 15, SR-33/Baldwin, Synchro input NB lane configuration does not match with Figure 6.
6. Location 19, SR-33/Walnut, Synchro input WB lane configuration does not match with Figure 6.
7. Location 2, I-5 NB On-ramps, Synchro input NB lane configuration does not match with the Figure 6.
8. Location 15, SR-33/Balwin, Synchro input NB lane configuration does not match with Figure 6.
9. Location 19, SR-33/Walnut, Synchro input WB lane configuration does not match with Figure 6.
10. DEIR Traffic Study, page 19, Table V Roadway Segment LOS EPAP conditions, need to add Existing condition Roadway Segment LOS.

EPAP Plus Proposed Project.

11. The trip generation provided in Table VI on page 22 of the July 12, 2006 Draft Environmental Impact Report (DEIR) is based on the StanCOG Travel Demand Model. The trip generation should be based on Institute of Transportation Engineers Trip Generation 7th Edition Books.
12. On page 22, DEIR Traffic Study, Trip Generation, it states "It is estimated that there will be less trips generated per dwelling units due to reduced journey to work/from work as

well as some link and pass-by trips to the neighborhood oriented commercial". Traffic Operations does not agree with this assumption. There would not be enough jobs to provide for every dwelling unit within the proposed project location in City of Patterson. It is expected that there will be higher percentage of people do work out side of City of Patterson.

13. Similarly to Comment #3, DEIR, Traffic Study, page 28, Table VII shows ICU LOS for unsignalized intersections. It is incorrect. The LOS for unsignalized intersection should be based on the worst movement.

EPAP Plus Proposed Project AM(PM) Peak-Mitigated

14. Location 10, SR-33/Sperry Rd, Synchro input EB lane configuration does not match with Figure 9.
15. Location 17, SR-33/Eucalyptus, Synchro input NB and SB lanes configuration do not match with Figure 9.
16. See comment #3 and #13 for ICU LOS.

Future Year 2030 AM(PM) Condition

17. DEIR, page 41, Table IX Intersection LOS, change the column title Future 2030 Base Plus Project Condition to Future 2030 Base.
18. See comment #3 and #13 for ICU LOS.

Future Year 2030 AM(PM) Condition-Mitigated

19. Location 13, SR-33/Ward, Synchro input NB and SB lane configurations do not match with Figure 11.
20. Location 14, SR-33/Zacharias, Synchro input shows intersection control as a stop controlled. Figure 11 shows this intersection as a signal controlled.
21. Location 15, SR-33/Balwin, Synchro input NB lane configuration does not match with Figure 11.
22. Location 17, SR-33/Eucalyptus, Synchro input SB lane configuration does not match with Figure 11.

Future Year 2030 AM(PM) Condition Plus Project

23. Location 14, SR-33/Zacharias, Synchro input shows intersection control as a stop controlled. Figure 13 shows this intersection as a signal controlled.
24. See comment #3 and #13 for ICU LOS.
25. Location 13, SR-33/Ward, Synchro input NB and SB lane configurations do not match with Figure 13.

Future Year 2030 AM(PM) Condition Plus Project-Mitigated

26. Location 14, SR-33/Zacharias, Synchro input NB and SB lane configurations do not match with Figure 13.
27. Location 17, SR-33/Eucalyptus, Synchro input NB and SB lane configurations do not match with Figure 13.
28. Location 2, I-5 NB On-ramps/Sperry, Synchro input NB lane configuration does not match Figure 13.

**Synchro/SimTraffic
(EPAP) Plus Project AM(PM)Condition-Mitigated.**

29. Location 10, SR-33/Sperry, Synchro/SimTraffic shows NB dual left-turn lane with one WB receiving lane.
30. Location 1, I-5/SB Off-ramps, Synchro/SimTraffic shows SB dual left-turn with EB one through and left-turn trap lane. Need to revise EB with two through lanes and a dedicated left-turn lane.
31. Synchro/SimTraffic shows incorrect coding for left-turn and right-turn storage lengths.
32. Location 17, SR-33/Eucalyptus, incorrect coding for NB and SB lane configurations.
33. Incorrect coding through lanes.
34. Set traffic signal controller type to Actuated-Coordinated for Locations 1,2 and 3.

35. Adjust heavy vehicle percentage to greater than 2%.
36. Incorrect coding link speed (mph) for NB and SB on-ramp, Sperry Rd and SR-33.
37. Need to code conflicting/pedestrian (#/hr) for all intersections within the City area.

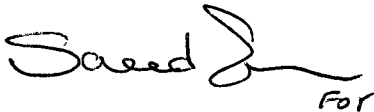
Year 2030 Plus Project AM(PM) Condition-Mitigated

38. Location 2, I-5 NB On-ramps/Sperry, incorrect coding NB off-ramp three EB left-turn lanes.
39. See comments #31, #33, #34, #35, #36 and #37.
40. Set traffic signal controller type to Actuated-Coordinated for Locations 10, 11, 13, 14, 17, 18, 19.
41. Location 14, SR-33/Zacharias, Synchro/SimTraffic shows NB dual left-turn lanes with one WB receiving lane. Incorrect lane configuration coding.
42. Need to provide HCM worksheets for Roadway Segment LOS for review.
43. Please revise and submit the Traffic Study. It is found that there are so many flaws such as incorrect Trip Generation assumption, inconsistent lane configurations and incorrect input data coding. It is recommended the DEIR Traffic Study should be revised to address all the above comments. The Lead Agency, City of Patterson and Developers should be responsible mitigating the project's (Approved Projects plus Project) traffic that is impacting the state highway and local roadway systems. The Department does look forward to working closely with the City of Patterson to ensure that a complete traffic study of the effects associated with the Villages of Patterson Development and other approved projects is addressed and mitigated for. The District would like to meet to discuss these comments and concerns. We look forward to working with you on this and future projects.

Mr. Simpson
August 28, 2006
Page 6

If you have any questions or would like to discuss these comments in more detail, please contact Saeed Erfan at (209) 948-7936 (e-mail: serfan@dot.ca.gov) or myself at (209) 941-1921. We look forward in continuing to work with you in a cooperative manner.

Sincerely,

A handwritten signature in black ink that reads "Saeed" followed by a stylized flourish. Below the signature, the word "For" is written in a smaller, handwritten font.

TOM DUMAS, Chief
Office of Intermodal Planning

Bc: Scott Morgan, State Clearinghouse

**Responses to Letter B: California Department of Transportation – Tom Dumas, Chief,
Office of Intermodal Planning**

Response to Comment B.1 and B.2

Figure 2 in the Traffic Study (Appendix C of the Draft EIR), on p. 8, is revised to show the correct volumes at intersections 14 (Zacharias Rd at SR-33) and 16 (Rogers Rd at SR-33). These are the a.m. peak northbound through movement at intersection 14(=137) and the a.m. peak northbound through movement at intersection 16(=23). The revised figure is shown on the following page. This revision corrects the figure. It does not change any of the data, analyses or conclusions of the EIR and Traffic Study.

Response to Comment B.3

The Traffic Study and EIR Section III.D, Transportation and Circulation, are revised to add the LOS for minor approaches to the tables in the Traffic Study and the corresponding tables appearing in the EIR presenting the same data. The revised Traffic Study tables are: Table I: Intersection LOS – Existing Conditions (EIR Table III.D-3); Table IV: Intersection LOS – EPAP No Project Conditions (not presented in the EIR); Table VII: Intersection LOS – EPAP plus Project Conditions (EIR Table III.D-7); Table IX: Intersection LOS – Future 2030 Base Conditions (EIR Table III.D-9); Table XI: Future 2030 Base Condition plus Project Levels of Service (EIR Table III.D-9). The revised Traffic Study tables are presented on pp. C&R.III.B-9 through C&R.III.B-14 (the new information is shown in (parentheses)).

No rerun of the Synchro model was necessary for this task since the LOS for the minor approach was available in the analysis prepared for the Draft EIR. However, these tables also reflect the results of Synchro model rerun associated with other comments. These revisions do not change any of the conclusions of the Traffic Study or EIR. The EIR tables have been revised concurrently with the Traffic Study tables.

Response to Comment B.4

Figure 6 in the Traffic Study shows an appropriate level of detail to identify existing and mitigated conditions for the purposes of CEQA. The detailed elements of the mitigation measures (receiving lanes, transition lengths, storage lengths) would be addressed during the design stage of the project.

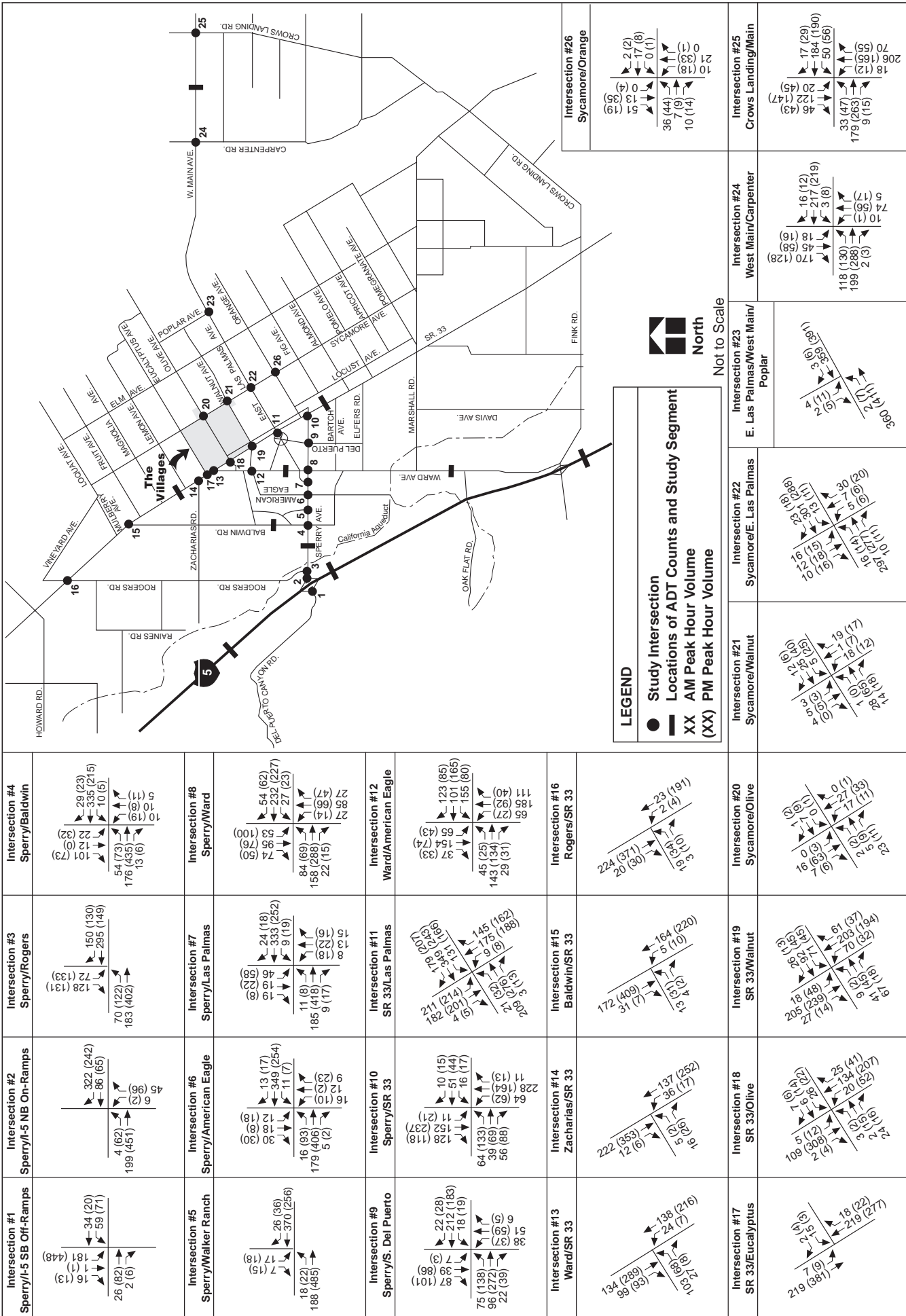


Figure 2

City of Patterson
The Villages of Patterson Traffic Study
Existing Peak Hour Turning Movement Volumes

III. Comments and Responses
Letter B. California Department of Transportation

TABLE I: INTERSECTION LEVELS OF SERVICE – EXISTING CONDITIONS (REVISED)

<i>Intersection</i>	<i>Existing Intersection Control</i>	<i>A.M.</i>		<i>P.M.</i>	
		<i>Delay</i>	<i>LOS</i>	<i>Delay</i>	<i>LOS</i>
1. Sperry Ave/I-5 SB Off-Ramps	Unsignalized	8.6 (11.6)	A (B)	19.0 (25.2)	A (D)
2. Sperry Ave/I-5 NB On-Ramps	Unsignalized	0.9 (10.2)	A (B)	2.3 (13.0)	A (B)
3. Sperry Ave/Rogers Road	Signalized	7.0	A	7.9	A
4. Sperry Ave/Baldwin Rd	Signalized	7.9	A	6.3	A
5. Sperry Avenue/Walker Parkway	Signalized	2.6	A	2.2	A
6. Sperry Ave/American Eagle Dr	Signalized	3.7	A	5.5	A
7. Sperry Ave/Las Palmas Ave	Unsignalized	2.6 (14.0)	A (B)	3.0 (17.0)	A (C)
8. Sperry Ave/Ward Ave	Signalized	8.1	A	8.9	A
9. Sperry Ave/S Del Puerto Ave	Signalized	4.5	A	6.0	A
10. Sperry Ave/SR-33	Unsignalized	6.1 (18.5)	A (C)	14.6 (41.6)	B (E)
11. SR-33/Las Palmas Ave	Signalized	11.7	B	11.9	B
12. Ward Ave/ American Eagle Dr	Signalized	8.5	A	5.9	A
13. Ward Ave/SR-33	Unsignalized	3.5 (12.3)	A (B)	1.7 (14.3)	A (B)
14. Zacharias Rd/SR-33	Unsignalized	1.2 (10.2)	A (B)	0.7 (11.0)	A (B)
15. Baldwin Rd/SR-33	Unsignalized	0.6 (10.7)	A (B)	0.9 (14.7)	A (B)
16. Rogers Rd/SR-33	Unsignalized	0.8 (10.2)	A (B)	1.0 (13.5)	A (B)
17. SR-33/Eucalyptus	Unsignalized	0.6 (11.8)	A (B)	0.3(12.0)	A (B)
18. Olive Avenue/SR-33	Unsignalized	2.6 (11.4)	A (B)	2.6 (17.3)	A (B)
19. Walnut Avenue/M Street/SR-33	Unsignalized	9.9 (34.5)	A (D)	5.2 (20.6)	A (C)
20. Olive Ave/Sycamore Ave	All-Way Stop	7.1	A	7.3	A
21. Walnut Ave/Sycamore Ave	Unsignalized	7.0 (9.3)	A (A)	8.1 (9.8)	A (A)
22. Las Palmas Avenue/Sycamore Ave	All-Way Stop	13.4	B	12.4	B
23. Poplar Ave/Las Palmas Ave	Unsignalized	0.1 (13.6)	A (B)	0.6 (11.4)	A (B)
24. Carpenter Rd/W Main Ave	All-Way Stop	12.1	B	14.3	B
25. Crows Landing Rd/W Main Ave	All-Way Stop	13.2	B	16.3	C
26. Sycamore Av./Orange Ave.	All-Way Stop	7.2	A	7.4	A

*Notes: LOS = Level of Service
X (X) = Intersection level of service (Level of service for the minor approach)
X.X (X.X) = Average Intersection Delay in seconds per vehicle (Average Delay in seconds per vehicle for the minor approach)*

TABLE IV: INTERSECTION LEVELS OF SERVICE – EPAP NO PROJECT CONDITIONS (REVISED)

Intersection	Existing Traffic Control	EPAP Intersection Control (Mitigated)	Existing Conditions						Existing plus Approved Project Conditions					
			A.M.		P.M.		A.M.		A.M. Mitigated		P.M.		P.M. Mitigated	
			Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
1. Sperry Ave/I-5 SB Off-Ramps	Unsignalized	Signalized	8.6(11.6)	A (B)	19.0(25.2)	A (D)	>120(>120)	F(F)	6.6	A	>120(>120)	F(F)	20.0	B
2. Sperry Ave/I-5 NB On-Ramps	Unsignalized	Signalized	0.9(10.2)	A (B)	2.3(13.0)	A (B)	>120(>120)	F(F)	9.1	A	15.9(>120)	C(F)	8.6	A
3. Sperry Ave/Rogers Road	Signalized	Signalized	7.0	A	7.9	A	— ³	— ³	21.8	C	— ³	— ³	19.4	B
4. Sperry Ave/Baldwin Rd	Signalized	Signalized	7.9	A	6.3	A	82.1	F	17.3	B	63.7	E	18.6	B
5. Sperry Avenue/Walker Pkwy	Signalized	Signalized	2.6	A	2.2	A	7.2	A	—	—	9.8	A	—	—
6. Sperry Ave/American Eagle Dr	Signalized	Signalized	3.7	A	5.5	A	42.3	D	22.7	C	45.0	D	19.0	B
7. Sperry Ave/Las Palmas Ave	Unsignalized	Signalized	2.6(14.0)	A (B)	3.0(17.0)	A (C)	>120(>120)	F(F)	7.7	A	>120(>120)	F(F)	12.8	B
8. Sperry Ave/Ward Ave	Signalized	Signalized	8.1	A	8.9	A	>120	F	23.1	C	>120	F	23.8	C
9. Sperry Ave/S Del Puerto Ave	Signalized	Signalized	4.5	A	6.0	A	4.7	A	—	—	5.4	A	—	—
10. Sperry Ave/SR-33	Unsignalized	Signalized	6.1(18.5)	A (C)	14.6(41.6)	B (E)	>120(>120)	F(F)	12.6	B	>120(>120)	F(F)	11.4	B
11. SR-33/Las Palmas Ave	Signalized	Signalized	11.7	B	11.9	B	10.5	B	—	—	10.1	B	—	—
12. Ward Ave/American Eagle Dr	Signalized	Signalized	8.5	A	5.9	A	6.6	A	—	—	6.0	A	—	—
13. Ward Ave/SR-33	Unsignalized	Unsignalized	3.5(12.3)	A (B)	1.7(14.3)	A (B)	3.1(13.3)	A(B)	—	—	2.5(13.9)	A(B)	—	—
14. Zacharias Rd/SR-33 ¹	Unsignalized	Signalized	1.2(10.2)	A (B)	0.7(11.0)	A (B)	5.0(16.9)	A(C)	1.8	A	8.2(16.1)	A(C)	4.5	A
15. Baldwin Rd/SR-33 ¹	Unsignalized	Unsignalized	0.6(10.7)	A (B)	0.9(14.7)	A (B)	2.2(12.9)	A(B)	2.1(12.9)	A(B)	8.0(16.7)	A(C)	7.9(16.7)	A(C)
16. Rogers Rd/SR-33	Unsignalized	Unsignalized	0.8(10.2)	A (B)	1.0(13.5)	A (B)	0.9(16.4)	A(C)	—	—	14.1(49.3)	B(E)	—	—
17. SR-33/Eucalyptus ²	Unsignalized	Unsignalized	0.6(11.8)	A (B)	0.3(12.0)	A (B)	2.7(12.4)	A(B)	2.6(12.4)	A(B)	3.0(21.9)	A(C)	2.3(21.9)	A(C)
18. Olive Avenue/SR-33	Unsignalized	Unsignalized	2.6(11.4)	A (B)	2.6(17.3)	A (B)	4.0(12.4)	A(B)	—	—	3.5(13.9)	A(B)	—	—
19. Walnut Avenue/M Street/SR-33	Unsignalized	Unsignalized	9.9(34.5)	A (D)	5.2(20.6)	A (C)	36.4(70.2)	D(F)	17.1(29.7)	C(D)	59.3(>120)	E(F)	28.2(58.2)	C(F)
20. Olive Ave/Sycamore Ave	Unsignalized	Unsignalized	7.1	A	7.3	A	8.3	A	—	—	8.7	A	—	—

(continued)

Table IV (continued)

Intersection	Existing Traffic Control	EPAP Intersection Control (Mitigated)	Existing Conditions						Existing plus Approved Project Conditions					
			A.M.		P.M.		A.M.		A.M. Mitigated		P.M.		P.M. Mitigated	
			Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
21. Walnut Ave/Sycamore Ave	Unsignalized	Unsignalized	7.0(9.3)	A (A)	8.1 (9.8)	A (A)	5.4(12.0)	A(B)	—	—	3.4(11.1)	A(B)	—	—
22. Las Palmas Avenue/Sycamore Ave	Unsignalized	Signalized	13.4	B	12.4	B	>120	F	5.9	A	>120	F	10.6	B
23. Poplar Ave/Las Palmas Ave	Unsignalized	Unsignalized	0.1(13.6)	A (B)	0.6 (11.4)	A (B)	0.9(24.1)	A(C)	—	—	1.8(49.3)	A(E)	—	—
24. Carpenter Rd/W Main Ave	Unsignalized	Signalized	12.1	B	14.3	B	114.3	F	6.5	A	>120	F	6.4	A
25. Crows Landing Rd/W Main Ave	Unsignalized	Signalized	13.2	B	16.3	C	>120	F	7.8	A	>120	F	6.7	A
26. Sycamore Ave/Orange Ave	Unsignalized	Unsignalized	7.2	A	7.4	A	7.2	A	—	—	7.3	A	—	—

Notes: LOS = Level of Service

X (X) = Intersection level of service (Level of service for the minor approach)

XX (X:X) = Average Intersection Delay in seconds per vehicle (Average Delay in seconds per vehicle for the minor approach)

Signalized in Bold is a mitigation measure

¹ An exclusive northbound left turn lane is warranted

² An exclusive southbound left turn is recommended

³ Existing configurations not applicable since additional lane configuration required for future development to the south of the intersection

III. Comments and Responses
Letter B. California Department of Transportation

TABLE VII: INTERSECTION LEVELS OF SERVICE: EPAP PLUS PROJECT CONDITIONS (REVISED)

Intersection	Existing Traffic Control	EPAP + Project Intersection Control (Mitigated)	Existing Condition				Existing plus Approved plus Project Condition							
			A.M.		P.M.		A.M.		A.M. Mitigated		P.M.		P.M. Mitigated	
			Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
1. Sperry Ave/I-5 SB Off-Ramps	Unsignalized	Signalized	8.6(11.6)	A (B)	19.0(25.2)	A (D)	102.1(>120)	F(F)	12.1	B	>120(>120)	F(F)	16.0	B
2. Sperry Ave/I-5 NB On-Ramps	Unsignalized	Signalized	0.9(10.2)	A (B)	2.3(13.0)	A (B)	>120(>120)	F(F)	7.7	A	12.9(105.0)	B(F)	1.1	A
3. Sperry Ave/Rogers Road	Signalized	Signalized	7.0	A	7.9	A	— ³	—	19.5	B	— ³	—	19.1	B
4. Sperry Ave/Baldwin Rd	Signalized	Signalized	7.9	A	6.3	A	61.1	E	13.8	B	76.6	E	25.1	B
5. Sperry Avenue/Walker Parkway	Signalized	Signalized	2.6	A	2.2	A	7.3	A	—	—	7.3	A	—	—
6. Sperry Ave/American Eagle	Signalized	Signalized	3.7	A	5.5	A	83.7	F	34.4	C	44.5	D	26.0	C
7. Sperry Ave/Las Palmas Ave	Unsignalized	Signalized	2.6(14.0)	A (B)	3.0 (17.0)	A (C)	>120(>120)	F(F)	4.2	A	>120(>120)	F(F)	10.6	B
8. Sperry Ave/Ward Ave	Signalized	Signalized	8.1	A	8.9	A	100.8	F	13.9	B	>120	F	18.0	B
9. Sperry Ave/S Del Puerto Ave	Signalized	Signalized	4.5	A	6.0	A	4.0	A	—	—	4.5	A	—	—
10. Sperry Ave/SR-33	Unsignalized	Signalized	6.1(18.5)	A (C)	14.6(41.6)	B (E)	>120(>120)	F(F)	12.1	B	>120(>120)	F(F)	11.8	B
11. SR-33/Las Palmas Ave	Signalized	Signalized	11.7	B	11.9	B	11.1	B	—	—	12.2	B	—	—
12. Ward Ave/American Eagle Dr	Signalized	Signalized	8.5	A	5.9	A	9.6	A	—	—	21.6	C	—	—
13. Ward Ave/SR-33	Unsignalized	Unsignalized	3.5(12.3)	A (B)	1.7 (14.3)	A (B)	4.7(24.5)	A(C)	—	—	5.0(33.1)	A(D)	—	—
14. Zacharias Rd/SR-33 ¹	Unsignalized	Signalized	1.2(10.2)	A (B)	0.7 (11.0)	A (B)	10.0(45.4)	A(E)	19.7	B	28.9(72.1)	C(F)	9.1	A
15. Baldwin Rd/SR-33	Unsignalized	Unsignalized	0.6(10.7)	A (B)	0.9 (14.7)	A (B)	1.6(15.1)	A(C)	—	—	8.8(30.5)	A(D)	—	—
16. Rogers Rd/SR-33	Unsignalized	Unsignalized	0.8(10.2)	A (B)	1.0 (13.5)	A (B)	0.9(18.7)	A(C)	—	—	21.1(103.6)	C(F)	—	—
17. SR-33/Eucalyptus Ave ²	Unsignalized	Signalized	0.6(11.8)	A (B)	0.3(12.0)	A (B)	15.2(57.4)	C(F)	6.0	A	24.0(>120)	C(F)	4.9	A
18. Olive Avenue/SR-33	Unsignalized	Signalized	2.6(11.4)	A (B)	2.6 (17.3)	A (B)	114.2(>120)	F(F)	7.7	A	>120(>120)	F(F)	8.0	A
19. Walnut Avenue/M Street/SR-33	Unsignalized	Signalized	9.9(34.5)	A (D)	5.2 (20.6)	A (C)	>120(>120)	F(F)	6.9	A	>120(>120)	F(F)	7.5	A
20. Olive Ave/Sycamore Ave	Unsignalized	Unsignalized	7.1	A	7.3	A	8.9	A	—	—	8.5	A	—	—
21. Walnut Ave/Sycamore Ave	Unsignalized	Unsignalized	7.0(9.3)	A (A)	8.1 (9.8)	A (A)	5.3(15.2)	A(C)	—	—	4.9(15.1)	A(C)	—	—
22. Las Palmas Avenue/Sycamore Ave	Unsignalized	Signalized	13.4	B	12.4	B	>120	F	12.5	B	>120	F	11.9	B
23. Poplar Ave/Las Palmas Ave	Unsignalized	Unsignalized	0.1(13.6)	A (B)	0.6 (11.4)	A (B)	1.0(30.4)	A(D)	—	—	6.1(106.1)	A(F)	—	—
24. Carpenter Rd/W Main Ave	Unsignalized	Signalized	12.1	B	14.3	B	87.6(>120)	F(F)	6.8	A	>120(>120)	F(F)	6.1	A
25. Crows Landing Rd/W Main Ave	Unsignalized	Signalized	13.2	B	16.3	C	109.7	F	9.3	A	>120(>120)	F(F)	7.1	A
26. Sycamore Ave./Orange Ave.	Unsignalized	Unsignalized	7.2	A	7.4	A	7.5	A	—	—	7.5	A	—	—

Notes: LOS = Level of Service
X = Intersection level of service
X.X = Overall intersection delay in seconds per vehicle
Delay = Average stopped delay at signalized intersections and average delay for all movements at STOP-controlled intersections.
Mitigated lane configurations are shown in Figure 7. Same mitigation measures assumed for both AM and PM peak hours as appropriate
Signalized in Bold is a mitigation measure
¹ An exclusive northbound left turn lane is warranted
² An exclusive southbound left turn is recommended
³ Existing configurations not applicable since additional lane configuration required for future development to the south of the intersection

III. Comments and Responses
Letter B. California Department of Transportation

TABLE IX: INTERSECTION LEVELS OF SERVICE – FUTURE 2030 BASE CONDITIONS (REVISED)

Study Intersections	Existing Control	Future 2030 Base (Mitigated)	Future 2030 Base Conditions							
			A.M.		A.M. Mitigated		P.M.		P.M. Mitigated	
			Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
1. Sperry Ave/I-5 SB Off-Ramps	Unsignalized	Signalized	103.1(>120)	F(F)	14.8	B	>120(>120)	F(F)	25.5	C
2. Sperry Ave/I-5 NB On-Ramps	Unsignalized	Signalized	>120(>120)	F(F)	18.7	B	83.7(>120)	F(F)	5.6	A
3. Sperry Ave/Rogers Road	Signalized	Signalized	30.4	C	–	–	24.4	C	–	–
4. Sperry Ave/Baldwin Rd	Signalized	Signalized	15.5	B	–	–	10.8	B	–	–
5. Sperry Avenue/Walker Parkway	Signalized	Signalized	7.8	A	–	–	7.2	A	–	–
6. Sperry Ave/American Eagle Dr	Signalized	Signalized	22.8	C	–	–	17.6	B	–	–
7. Sperry Ave/Las Palmas Ave	Unsignalized	Signalized	>120(>120)	F(F)	4.0	A	>120(>120)	F(F)	8.3	A
8. Sperry Ave/Ward Ave	Signalized	Signalized	>120	F	26.7	C	>120	F	16.1	B
9. Sperry Ave/S Del Puerto Ave	Signalized	Signalized	19.1	B	19.0	B	14.1	B	13.8	B
10. Sperry Ave/SR-33	Unsignalized	Signalized	>120(>120)	F(F)	14.3	B	>120(>120)	F(F)	12.2	B
11. SR-33/Las Palmas Ave	Signalized	Signalized	11.7	B	–	–	17.0	B	–	–
12. Ward Ave/ American Eagle Dr	Signalized	Signalized	7.4	A	–	–	7.4	A	–	–
13. Ward Ave/SR-33	Unsignalized	Signalized	42.7(>120)	E(F)	6.9	A	11.4(76.7)	B(F)	5.2	A
14. Zacharias Rd/SR-33 ¹	Unsignalized	Signalized	6.8(41.7)	A(E)	2.7	A	13.0(56.7)	B(F)	5.2	A
15. Baldwin Rd/SR-33	Unsignalized	Unsignalized	2.5(23.8)	A(C)	–	–	7.7(49.8)	A(E)	–	–
16. Rogers Rd/SR-33	Unsignalized	Signalized	12.6(111.5)	A(F)	6.2	A	>120(>120)	F(F)	9.3	A
17. SR-33/Eucalyptus Ave	Unsignalized	Unsignalized	0.8(33.9)	A(D)	0.6(29.3)	A(D)	1.1(25.4)	A(D)	0.6(16.9)	A(C)
18. Olive Avenue/SR-33	Unsignalized	Unsignalized	3.0(24.1)	A(C)	–	–	3.5(25.8)	A(D)	–	–
19. Walnut Avenue/M Street/SR-33	Unsignalized	Signalized	57.7(>120)	F(F)	7.0	A	102.9(>120)	F(F)	6.1	A
20. Olive Ave/Sycamore Ave	Unsignalized	Unsignalized	7.8	A	–	–	8.4	A	–	–
21. Walnut Ave/Sycamore Ave	Unsignalized	Unsignalized	4.4(10.4)	A(B)	–	–	3.2(11.1)	A(B)	–	–
22. Las Palmas Avenue/Sycamore Ave	Unsignalized	Signalized	>120(>120)	F(F)	8.0	A	110.3(>120)	F(F)	6.9	A
23. Poplar Ave/Las Palmas Ave	Unsignalized	Signalized	4.8	A	–	–	4.8	A	–	–
24. Carpenter Rd/W Main Ave	Unsignalized	Signalized	10.7	B	–	–	9.8	A	–	–
25. Crows Landing Rd/W Main Ave	Unsignalized	Signalized	10.9	B	–	–	13.7	B	–	–
26. West Main/Carpenter	Unsignalized	Unsignalized	8.1	A	–	–	7.9	A	–	–

Notes: LOS = Level of Service
X = Intersection level of service
X.X = Overall intersection delay in seconds per vehicle
(X) = Level of service for the minor approach
Delay = Average stopped delay at signalized intersections and average delay for all movements at STOP-controlled intersections.
Signalized in Bold is a mitigation measure
¹ An exclusive northbound left turn lane is warranted

III. Comments and Responses
Letter B. California Department of Transportation

TABLE XI: FUTURE 2030 BASE CONDITION PLUS PROJECT LEVELS OF SERVICE (REVISED)

Study Intersections	Future Year 2030 Base Control	Future 2030 Base plus Project (Mitigated)	Future 2030 Base plus Project Conditions							
			A.M.		A.M. Mitigated		P.M.		P.M. Mitigated	
			Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
1. Sperry Ave/I-5 SB Off-Ramps	Signalized	Signalized	17.9	B	12.2	B	74.5		20.7	C
2. Sperry Ave/I-5 NB On-Ramps	Signalized	Signalized	>120(>120)	F	19.9	B	>120(>120)	F	11.2	B
3. Sperry Ave/Rogers Road	Signalized	Signalized	26.5	C	—	—	29.0	C	—	—
4. Sperry Ave/Baldwin Rd	Signalized	Signalized	17.7	B	—	—	14.8	B	—	—
5. Sperry Avenue/Walker Parkway	Signalized	Signalized	6.4	A	—	—	12.0	B	—	—
6. Sperry Ave/American Eagle Dr	Signalized	Signalized	31.0	C	—	—	22.0	C	—	—
7. Sperry Ave/Las Palmas Ave	Signalized	Signalized	4.1	A	—	—	15.1	B	—	—
8. Sperry Ave/Ward Ave	Signalized	Signalized	26.3	C	—	—	20.0	B	—	—
9. Sperry Ave/S Del Puerto Ave	Signalized	Signalized	20.5	C	11.3	B	13.0	B	7.2	A
10. Sperry Ave/SR-33	Signalized	Signalized	14.0	B	14.3	B	13.0	B	12.0	B
11. SR-33/Las Palmas Ave	Signalized	Signalized	13.3	B	—	—	14.6	B	—	—
12. Ward Ave/ American Eagle Dr	Signalized	Signalized	11.5	B	7.2	A	35.6	D	11.3	B
13. Ward Ave/SR-33	Signalized	Signalized	6.9	A	8.4	A	6.3	A	6.6	A
14. Zacharias Rd/SR-33	Signalized	Signalized	19.9	B	3.2	A	13.1	B	9.7	A
15. Baldwin Rd/SR-33	Unsignalized	Unsignalized	2.4(38.6)	A(E)	—	—	5.8(42.7)	A(E)	—	—
16. Rogers Rd/SR-33	Signalized	Signalized	6.6	A	5.6	A	24.4	C	10.8	B
17. SR-33/Eucalyptus	Unsignalized	Signalized	5.2(24.4)	A(C)	5.5	A	35.3(>120)	E(F)	4.8	A
18. Olive Avenue/SR-33	Unsignalized	Signalized	>120(>120)	F(F)	8.7	A	>120(>120)	F(F)	10.0	B
19. Walnut Avenue/M Street/SR-33	Signalized	Signalized	8.8	A	9.7	A	8.6	A	10.4	B
20. Olive Ave/Sycamore Ave	Unsignalized	Unsignalized	14.4	B	—	—	11.2	B	—	—
21. Walnut Ave/Sycamore Ave	Unsignalized	Unsignalized	4.0(22.8)	A(C)	—	—	3.9(22.2)	A(C)	—	—
22. Las Palmas Avenue/Sycamore Ave	Signalized	Signalized	18.4	B	—	—	17.3	B	—	—
23. Poplar Ave/Las Palmas Ave	Signalized	Signalized	4.7	A	—	—	4.8	A	—	—
24. Carpenter Rd/W Main Ave	Signalized	Signalized	6.6	A	—	—	5.9	A	—	—
25. Crows Landing Rd/W Main Ave	Signalized	Signalized	6.7	A	—	—	7.2	A	—	—
26. West Main/Carpenter	Unsignalized	Unsignalized	9.3	A	—	—	9.0	A	—	—

Notes: LOS = Level of Service
 X (X) = Intersection level of service (Level of service for the minor approach)
 X.X (X.X) = Average Intersection Delay in seconds per vehicle (Average Delay in seconds per vehicle for the minor approach)

Response to Comments B.5, B.6, B.7, B.8, B.9

Figure 6 in the Traffic Study, on p. 16, is revised to match the Synchro files for intersections 2 (Sperry Ave/I-5 NB On-Ramps), 15 (Baldwin Rd at SR-33), and 19 (Walnut Ave at M St and SR-33). The revised figure is shown on the following page. This revision corrects the figure. It does not change any of the data, analyses or conclusions of the EIR and Traffic Study.

Response to Comment B.10

Table V, p. 19 of the Traffic Study and the corresponding EIR Table III.D-8, which presents the same data, are revised to add the existing LOS conditions. The revised Traffic Study Table V is presented on p. C&R.III.B-17. This revision clarifies the table. It does not change any of the data, analyses or conclusions of the EIR and Traffic Study.

Response to Comment B.11

The commentator contends that the Traffic Study employs trip generation factors that appear to underestimate trip generation, as compared to trip generation rates provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Generally, when a reliable gravity based model is not available, traffic impact studies have been conducted using ITE trip rates. However, a reliable gravity based model is available for the streets around the City of Patterson including the Plan Area. The EIR Traffic Study employs the StanCOG gravity-based model calibrated for the Patterson area (see p. 12 in the Traffic Study, Appendix B of the EIR, for a discussion of model calibration). A gravity based model trip generation/distribution avoids the potential for double-counting when using ITE trip rates, since the ITE independently factors trip generation for each type of land use. For example, a trip generation calculation using the ITE factors for residential uses includes a trip end from home to work and perhaps home to shopping and from work to home, etc. If a proposed project also includes office and retail uses, the trip generation calculations using ITE will include trip ends from home to office, perhaps office to retail and returning from work to home. As such, use of the ITE trip generation rates would result in double counting of trip ends for the various types of land uses. That is one reason why it becomes necessary to estimate adjustments for pass-by trips, diverted trips and internal trips when using ITE rates. A gravity based model distinguishes between trip attractors and trip generators; attractors are generally uses like workplaces, schools, and retail stores, and generators are usually residences. Thus a gravity based model avoids double-counting of trips such as those made from home to school to work.

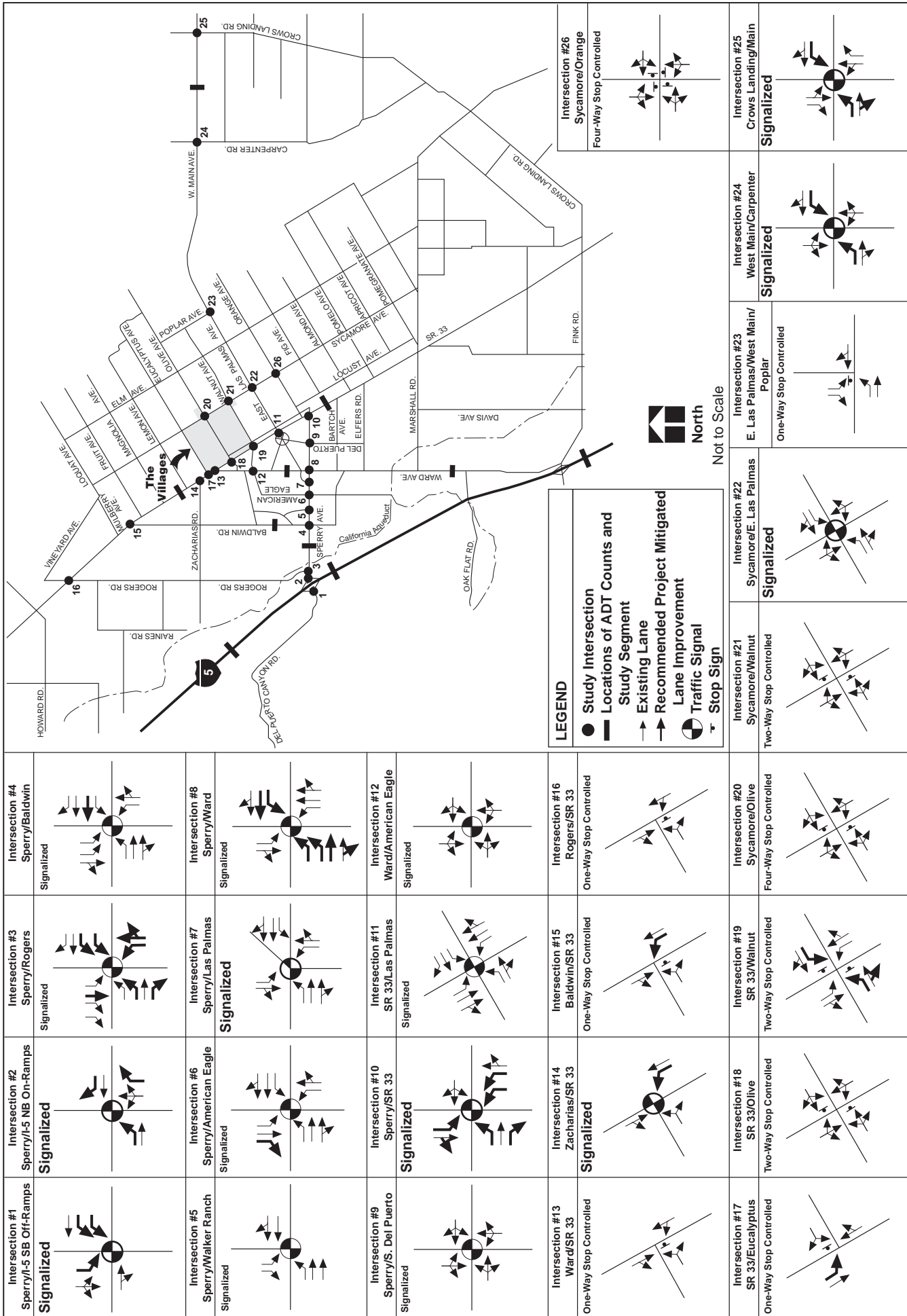


Figure 6

City of Patterson
The Villages of Patterson Traffic Study
Existing plus Approved Project (EPAP) Lane Geometry

III. Comments and Responses
Letter B. California Department of Transportation

TABLE V: ROADWAY SEGMENT LEVELS OF SERVICE – EPAP CONDITIONS (REVISED)

No.	Freeway / Roadway Segment	Direction	Dir.	Lanes	Capacity	Existing Conditions						EPAP Conditions					
						A.M. Peak Hour			P.M. Peak Hour			A.M. Peak Hour			P.M. Peak Hour		
						Volume (Veh.)	Speed (mph)	LOS	Volume (Veh.)	Speed (mph)	LOS	Volume (Veh.)	Speed (mph)	LOS	Volume (Veh.)	Speed (mph)	LOS
1	I-5, n/o Sperry Ave. ¹	NB	2	4,600	2,050	-	B	2,487	-	C	2,074	-	B	2,581	-	C	
		SB	2	4,600	2,600	-	C	2,086	-	B	2,631	-	C	2,245	-	B	
2	I-5, s/o Sperry Ave. ¹	NB	2	4,600	1,719	-	B	2,181	-	B	2,566	-	C	1,926	-	B	
		SB	2	4,600	2,086	-	B	1,814	-	B	1,763	-	B	2,366	-	B	
3	I-5, s/o Fink Rd. ¹	NB	2	4,600	2,204	-	B	2,674	-	C	1,863	-	B	1,687	-	B	
		SB	2	4,600	2,796	-	C	2,326	-	B	1,686	-	B	1,800	-	B	
4	Sperry Ave. ² e/o Rogers Rd.	EB	2	2,280	255	26.5	C	535	27	C	1,096	25.5	C	794	26	B	
		WB	2	2,280	445	26	C	279	26.5	C	453	26.5	C	1,046	25.5	B	
5	Baldwin Rd, n/o Sperry Ave. ²	EB	1	890	93	19.5	C	104	19.5	C	477	17.5	D	212	19	B	
		WB	1	890	135	19	C	105	19.5	C	245	19	C	350	18	B	
6	SR-33, n/o Zacharias Rd. ²	NB	1	1,140	178	31	C	254	30.5	C	77	31	C	365	29.5	C	
		SB	1	1,140	234	30.5	C	359	29.5	C	465	29	C	244	30.5	C	
7	SR-33, s/o Sperry Ave. ²	NB	1	1,140	303	30	C	239	30.5	C	846	25.5	C	520	29	C	
		SB	1	1,140	224	30.5	C	342	30	C	213	30.5	C	760	26	D	
8	Ward Ave., n/o Las Palmas Ave. ²	NB	1	1,140	361	26	C	159	26.5	C	285	26	C	563	25	C	
		SB	1	1,140	338	26	C	185	26.5	C	584	25	C	547	25	C	
9	Ward Ave., s/o Marshall Rd. ²	NB	1	1,140	139	26.5	C	127	26.5	C	128	26.5	C	352	26	C	
		SB	1	1,140	144	26.5	C	114	26.5	C	286	26	C	76	27	C	
10	E. Las Palmas Ave., e/o Sycamore Ave. ²	EB	1	1,140	343	26	C	312	26	C	77	27	C	297	26	C	
		WB	1	1,140	337	26	C	317	26	C	416	26	C	211	26.5	C	
11	Main St., e/o Carpenter Rd. ²	EB	1	1,140	222	27	C	321	26	C	175	26.5	C	752	24	C	
		WB	1	1,140	236	27	C	239	26.5	C	695	24	C	490	25.5	C	

Notes: ¹Highway Capacity Manual 2000 – Basic Freeway Segments Analysis: LOS based on density, not speed.
²Highway Capacity Manual 2000 – Urban Streets Analysis.
LOS I - Mitigated LOS based on four lanes Sperry Avenue

Response to Comment B.12

The paragraph and statement to which the commentor refers applies only to the mixed-use Village Circle with its opportunities for home-based businesses and its mix of retail and services in a pedestrian-oriented setting. Among the objectives of the planning for this area are convenience, walkability and vehicular trip reduction. It does not suggest that the project would provide sufficient employment within the project. In fact, the model showed only 18 percent internalized trips that include employment, school, shopping and other service trips. The remaining are external trips.

Response to Comment B.13

See Response to Comment B.3.

Response to Comment B.14 and B.15

The Synchro files are revised to match Figure 9 of the Traffic Study for Intersections 10 (Sperry Avenue at SR-33) and 17 (SR-33 at Eucalyptus). The eastbound lane geometry for Intersection 10, the northbound and southbound lane geometry at Intersection 17 are modified in the Synchro files to match Figure 9. The revised results show that both intersections would continue to operate at LOS F. With mitigation, LOS at Sperry Avenue and SR-33 would remain B and at Eucalyptus Avenue at SR-33 would remain A, as shown in the EIR in Table IV.D-7 and the Traffic Study Table VII, as revised on C&R.III.B-12.

Response to Comment B.16

See Response to Comment B.3.

Response to Comment B.17

The column heading for Table IX, p. 41 of the Traffic Study, is corrected to change to heading “Future 2030 Base plus Project Conditions” to “Future 2030 Base Conditions.” The corrected table is shown on p. C&R.III.B-13.

Response to Comment B.18

See Response to Comment B.3.

Response to Comment B.19, 20, 21, 22

The Synchro files for the mitigated scenario in 2030 are revised to match Figure 11 of the Traffic Study for Intersections 13 (Ward Ave/SR-33), 14 (Zacharias Rd at SR-33), 15 (Baldwin Rd at

SR-33), and 17 (SR-33 at Eucalyptus Ave). The number of through lanes on SR-33 are revised in the Synchro files at the four study intersection to match Figure 11. There is no change in LOS at these study intersections for the mitigated scenario (see Table IX, p. C&R.III.B-13); they continue to show LOS A, as in the Draft EIR Table IV.D.9. The mitigated scenario would include improving this segment of SR-33 to a four-lane road.

Response to Comment B.23

The Synchro files in this scenario are corrected to match the lane geometry shown in Figure 13, p. 47 of the Traffic Study. The number of through lanes on SR-33 in the 2030 scenario with the project is revised in the Synchro files at the four study intersections (Intersections 13, 14, 15, and 17) to match Figure 13. The results of the Synchro rerun show that there is no change in the LOS reported at these study intersections, as shown in Table IX, p. C&R.III.B-13.

Response to Comment B.24

See Response to Comment B.3.

Response to Comment B.25

See Response to Comment B.23.

Response to Comment B.26 and 27

The Synchro files are revised to match Figure 13, p. 47 of the Traffic Study, for Intersections 14 (Zacharias Rd and SR-33) and 17 (SR-33 and Eucalyptus Ave). The lane geometry at Intersections 14 and 17 is corrected in the Synchro files to match Figure 13. The LOS at Intersection 14 improves from LOS C to LOS B without mitigation, and from LOS B to LOS A with mitigation, in the p.m. peak hour (see Table XI, p. C&R.III.B-14). Intersection 17 would continue to operate at LOS F in the p.m. peak hour in 2030 with the project, and would still improve to LOS A with mitigation, with these revisions to the Synchro model.

Response to Comment B.28

Figure 13, p. 47 of the Traffic Study, is revised to match the Synchro file, as shown in the revised Figure 13 on the following page.

Response to Comment B.29

The number of receiving lanes does not change the intersection LOS results. The two northbound left turn lanes would merge into one westbound through lane at intersection 9 (Sperry Ave and S. Del Puerto Ave).

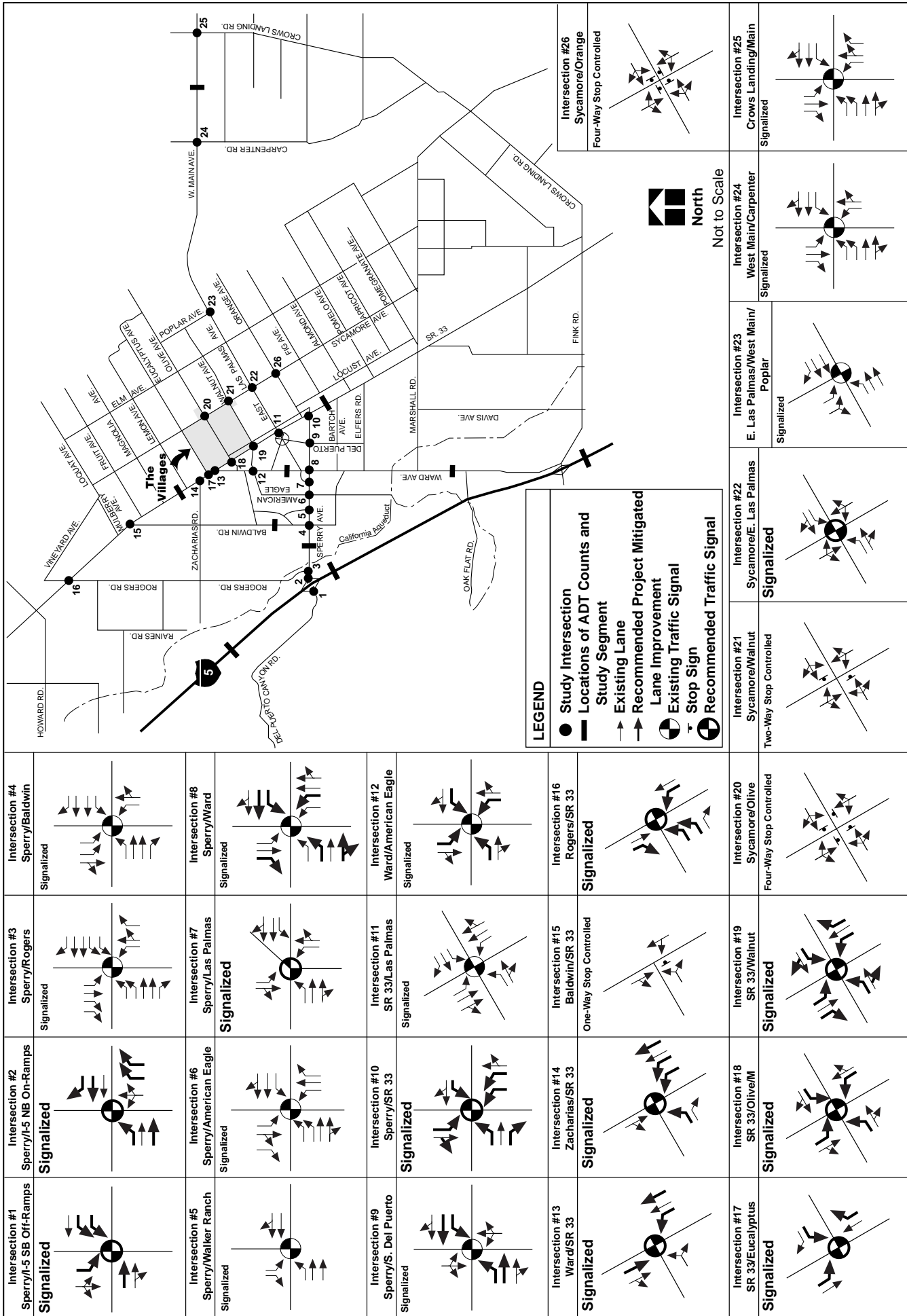


Figure 13

City of Patterson
The Villages of Patterson Traffic Study
2030 Plus Project Lane Geometry

Response to Comment B.30

Intersection 2 (Sperry Ave and I-5 NB On-Ramps) on Figure 9 is revised to show two eastbound through lanes under the Existing plus Approved Project plus Project Mitigated conditions. The revised Traffic Study Figure 9 is shown on the following page. There is no change in the LOS at Intersection 2 (see Table VII, p. C&R.III.B-12).

Response to Comments B.31

The correct coding of through lanes and storage lengths is usually needed for accurate Simtraffic runs for the animated display and simulation of traffic. However, changes in coding for storage lengths and through traffic do not result in any changes to the intersection level of service. The HCM LOS methodology is based on entering and approach lanes. The LOS analysis generates the storage length for the average and the 95th percentile storage length. That is, storage length in LOS analysis is an output and not an input item. Therefore, the storage length with Simtraffic will not affect the results of the levels of service analysis at the intersection (see Table VII, p. C&R.III.B-12).

Response to Comment B.32

The Synchro files for the Existing plus Approved Project plus Project scenario are revised for the a.m. peak hour mitigated scenario to reflect the correct number of lanes at Intersection 17 (SR-33 and Eucalyptus Ave). This correction results in a slight reduction in traffic delay from 6.6 seconds to 6.0 seconds during the a.m. peak hour and from 5.6 seconds to 4.9 seconds during the p.m. peak hour) but the LOS remains unchanged at LOS A as shown in Table VII (p. C&R.III.B-12). The unmitigated condition remains the same at LOS F.

Response to Comments B.33

See Response to Comment B.31.

Response to Comment B.34

The requested changes in the Synchro/Simtraffic model, to set the signal controls to actuated-coordinates for Intersections 1, 2 and 3, are made in the Existing plus Approved Project plus Project Mitigated scenario. The analysis presented in the Traffic Study is conservative; with signal coordination, Intersections 1 (Sperry Ave and I-5 SB Off-Ramps), 2 (Sperry Ave and I-5 NB On-Ramps) and 3 (Sperry Ave and Rogers Rd) continue to operate at acceptable levels of service with mitigation. With the revisions, the LOS for the a.m. peak hour at Intersection 1 changed from LOS A to LOS B and the LOS at Intersection 3 improved from LOS C to

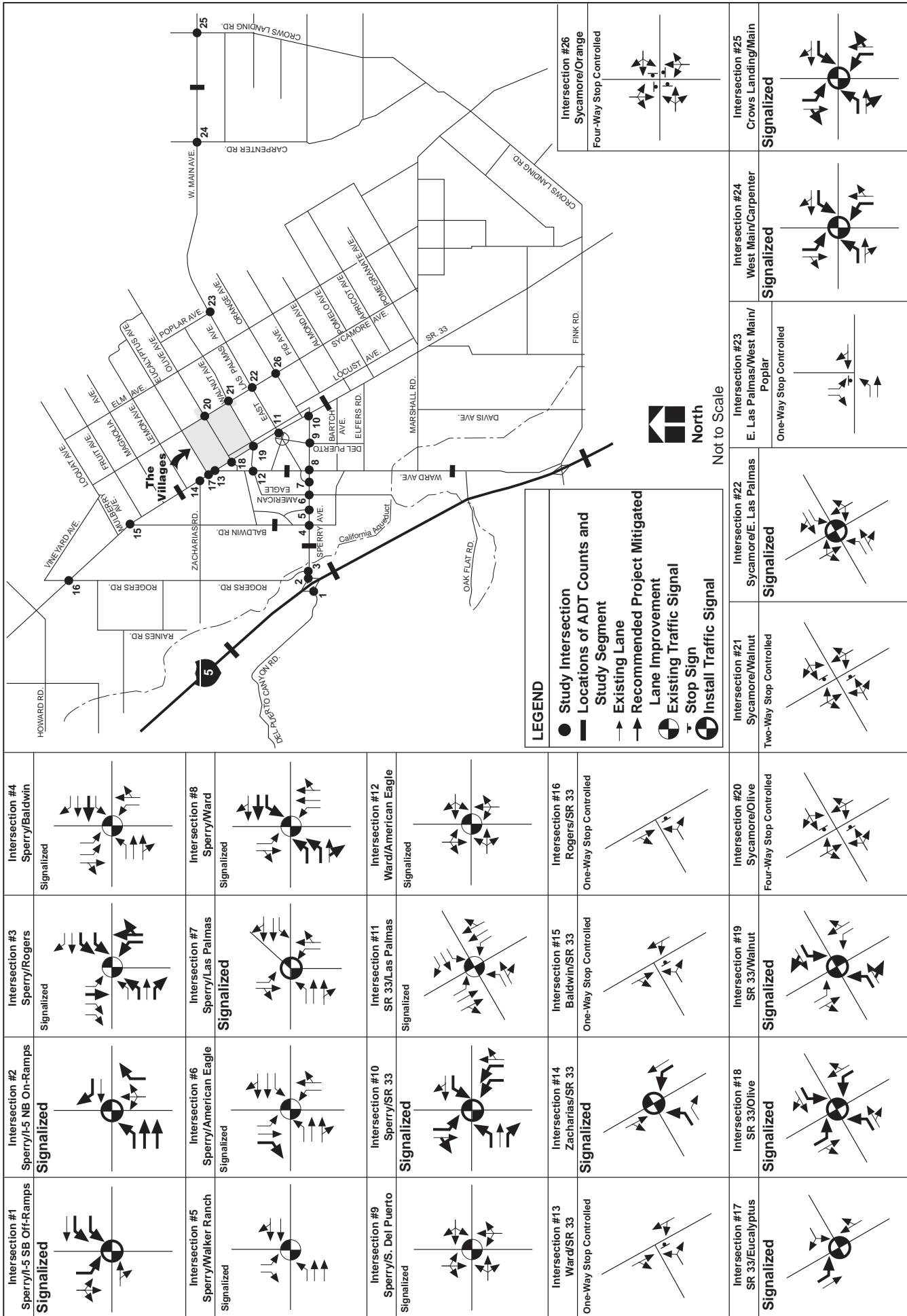


Figure 9

City of Patterson
 The Villages of Patterson Traffic Study
Existing plus Approved (EPAP) + Project Lane Geometry

LOS A. Table VII on C&R.III.B-12 in these Responses to Comments reflects these changes. The unmitigated scenario at these locations remains unchanged at LOS F for Intersection 1 and 2.

Response to Comment B.35

A heavy vehicle percentage of 2 percent is typical. However, to account for locations that might experience a higher level of truck traffic, truck traffic of 5 percent could be used for Intersections 1, 2, 3 and 4 along Sperry Avenue and all study intersections along SR-33 (Intersections 10, 11, 13, 14, 15, 16, 17, 18 and 19). Without the proposed mitigation measures, Intersections 1, 15, 17 and 18 would operate at LOS E/F conditions for the 2030 plus Project scenario, similar to what was identified in the Draft EIR, as shown in Table XI on p. C&R.III.B-14. Other changes in the 2030 plus Project scenario without the proposed mitigation are as follows: Intersection 2 changed from LOS F to LOS D, Intersection 3 from LOS C to LOS D, Intersection 14 from LOS C to LOS B with the additional truck traffic assumption.

With the higher truck percentage, these intersections would still operate at LOS D or better in the Existing plus Approved plus Project and 2030 plus Project scenario with the proposed mitigation measures.

Response to Comment B.36

The Synchro file link speed is corrected for the Existing plus Approved Projects plus Project Mitigated scenario at the intersections listed: 1-10 along Sperry Avenue and 13-19 along SR-33. The link speed for NB and SB off-ramps and Sperry Avenue is set to 35 mph. The link speed on SR-33 in the vicinity of the Downtown areas is set to 35 mph, north of Downtown is set to 55 mph and south of the Downtown is set to 45 mph. The Synchro model was rerun and the results show that there is no change in the intersection LOS results reported in the Draft EIR because link speeds are not used in calculating intersection LOS.

Response to Comment B.37

Field observations indicate a very low level of pedestrian use at downtown locations. To be conservative, we have rerun the Synchro model assuming some pedestrian activity occurs at intersections in the vicinity of the Downtown area. A value of 10 pedestrians/hr was used at Intersections 4 (Sperry Ave and Baldwin Rd), 5 (Sperry Ave and Walker Pkwy), 6 (Sperry Ave and American Eagle Dr), 7 (Sperry Ave and Las Palmas Ave), 8 (Sperry Ave and Ward Ave), 11 (SR-33 and Las Palmas Ave), 18 (Olive Ave and SR-33). The Synchro model results show that there is no change in LOS at these study intersections under Existing plus Approved plus Project and 2030 plus Project conditions with the additional pedestrian activity.

Response to Comment B.38

The Synchro file for the 2030 plus Project Mitigated scenario is revised to change the number of lanes on the northbound off-ramp at Intersection 2 (Sperry Ave and I-5 NB On-Ramps).

While reviewing the intersection lane configuration, it was also found that incorrect off-ramp volumes were coded at Intersection 2 (Sperry and I-5 NB On-Ramps). This has been corrected as shown on the revised Traffic Study Figure 12 on the following page. With this change, the intersection is expected to operate acceptably at LOS B or better in the mitigated scenario as shown in Table XI on p. C&R.III.B-14, and in Table III.D.9 in the Draft EIR and would remain LOS F without mitigation.

Response to Comment B.39

See Responses to Comments B.31, B.33, B.34, B.35, B.36 and B.37, above.

Response to Comment B.40

To address this comment, signal controllers were set to Actuated-Coordinated at Intersections 10 (Sperry Ave and SR-33), 11 (SR-33 and Las Palmas Ave), 13 (Ward Ave and SR-33), 14 (Zacharias Rd and SR-33), 17 (SR-33 and Eucalyptus Ave), 18 (Olive Avenue and SR-33), and 19 (Walnut Ave and M St and SR-33). The Synchro model was rerun, and the results show that the intersections would operate with less delay but at the same LOS as identified in the Draft EIR. Most locations show improvements of two or three seconds. All intersections would operate at LOS B or better with mitigation, as shown in revised Table XI on p. C&R.III.B-14.

Response to Comment B.41

Note that the number of receiving lanes does not change the intersection LOS as shown in the Traffic Study or Draft EIR.

Response to Comment B.42

A methodology to determine the link level of service was developed based on the speed-flow curves for urban streets as shown in Exhibits 15-8 to 15-11 in the Highway Capacity Manual 2000.



City of Patterson
The Villages of Patterson Traffic Study
Future Year 2030 + Project Base Peak Hour Turning Movement Volumes

Figure
12



Response to Comment B.43

The Traffic Study is revised to address all the comments as indicated above. As explained above, the revisions do not change any of the conclusions in the EIR.

In the traffic study, all attempts have been made to mitigate impacted intersections to a very good level of service. In the 2030 Cumulative plus Project scenario, of the 26 study intersections three intersections have been mitigated to LOS C while the remaining 23 intersections have been mitigated to operate at LOS B or better. This good level of service will be able to accommodate a much higher level of 2030 traffic in the future than currently projected. That is, a high level of built-in contingency capacity has been designed at the study intersections.

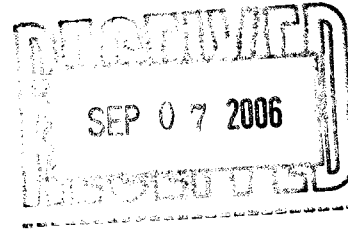
As mentioned earlier, the City of Patterson will be starting an annual traffic monitoring and improvement triggering analysis. The City Council approved a traffic monitoring study at the October 3, 2006 meeting. Once completed, the City will send a copy of the monitoring report to Caltrans. The purpose is to anticipate roadway impact in the two-, four-, and six-year looks and make any necessary roadway improvements in advance of the anticipated demand. It is in the best interest of the City of Patterson to provide a good level of traffic operations for all existing and future residents. The City is committed to implement the recommendations based on the results of the annual traffic monitoring and triggering analysis.

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 5, 2006



Letter C

Mr. Rod Simpson
City of Patterson
Community Development Department
33 South Del Puerto
Patterson, CA 95363

Dear Mr. Simpson:

The enclosed letter was sent to you via facsimile on September 1, 2006. Unfortunately, the attachment was not included. Enclosed here is the attachment to the letter along with a hardcopy of the letter. I would also like to correct an error in the letter. Among the copies, Reclamation District 2103 is an error and should not have been included. Reclamation District 2103 was not included in the copies.

If you have any questions, please call me at (916) 574-1249.

Sincerely,

A handwritten signature in cursive script that reads "Al Vargas".

Al Vargas
Staff Environmental Scientist

Cc: Governors Office of Planning and Research, State Clearing House
Nadell Gayou, DWR

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 1, 2006

Mr. Rod Simpson
City of Patterson Community Development Department
33 South Del Puerto
Patterson, CA 95363

The Villages of Patterson
State Clearinghouse (SCH) Number: 2006032043

Dear Mr. Simpson:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (EIR) for the subject project. California Department of Water Resources (DWR) staff has reviewed the environmental document and provide the following comments.

General Comments

In California, The Reclamation Board is responsible for operations and maintenance of the Federal Flood Control Project Levees in the Central Valley. DWR is the floodplain manager for the State and also coordinate its activities with the Federal Emergency Management Agency (FEMA) in administrating the federal Flood Insurance Program.

A Reclamation Board permit will be required for any plan of work that encroaches on an adopted plan of flood control. A permit will also be required for activities outside of the adopted flood control plan if those activities could be injurious to or interfere with the successful execution, functioning or operation of any facilities of an adopted plan of flood control. The enclosed Fact Sheet (see Attachment I) provides information on the permitting process.

The EIR should describe in appropriate detail how the regulatory concerns of the Reclamation Board will be addressed. The regulations of the Reclamation Board are found in the California Code of Regulations (CCR) Title 23, Division 1. These regulations are designed to protect the integrity and function of the flood control system. Any activity that interferes with the operation, integrity, and function of the adopted plan of flood control is of concern to the Reclamation Board.

C.1

Specific Comments

Drainage and Flooding

The report notes "recent drainage improvements" in which open channel flow of Salado Creek have been directed to underground pipes of 36-in and 96-in diameter. There is however, no discussion of what impacts this drainage alterations have had on the potential flooding conditions on the subject property. What design flow is this conveyance designed for? How has this altered the 100-year flow elevation on the subject property? Did this improvement take place before or after Federal Emergency Management Agency's (FEMA) designation or what is considered by FEMA in their Zone AO designation?

C.2

Project Impacts and Mitigation

Impact 1.1

It is our understanding that potential flooding on the subject site is considered to be a significant impact if not mitigated. It is further our understanding that as mitigation, Garcia Way and reconstructed Olive Avenue will be use to convey flood flows. However, no engineering data has been provided as to design criteria for this conveyance and what is the resulting level of flood hazard for the project site. We understand that this analysis is preliminary and that the mitigation standard will be compliant wit the City of Patterson General Plan policies for flooding and ordinances. These include participation by the City with the National Flood Insurance Program and that the City's regulations will be compliant with current FEMA standards.

C.3

Impact 1.2

As a result of the project, a broad floodplain area will be replaced by a narrow flood conveyance. The report acknowledges potentially increasing base flood elevations down slope. Mitigation measures need to be provided so that neither upstream nor downstream sites are impacted by the project beyond the no project condition.

C.4

While it appears that some mitigation will be provided by a storm water detention basin, no engineering design calculations were provided to demonstrate the ability to prevent on-site flooding and the adequacy of the detention system to retain storm water flows for various storm scenarios (e.g. 100-year). What is the level of protection intended from the detention system?

C.5

Mr. Rod Simpson
September 1, 2006
Page Three

There is also no discussion of the fate of the retained storm water flows. Where will the storm water in the detention basin be discharged to? If the discharge is to the San Joaquin River than an encroachment permit from the Reclamation Board is likely to be needed. Also note that the Reclamation Board, as a condition of the permit will require retention of storm water until the peak discharge has passed.

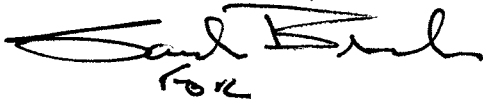
C.6

Operation of the detention basin needs to be discussed with respect to the ability to evacuate the detention basin for protection against subsequent storms and the backup systems to protect against failure of the primary evacuation system.

C.7

Thank you once again for the opportunity to comment on the Draft EIR. If you have any questions or need additional information, please contact me at (916) 574-1249.

Sincerely,



Al Vargas
Staff Environmental Scientist

Cc: Governors Office of Planning and Research, State Clearinghouse
Nadell Gayou, DWR
Reclamation District 2103

Attachment I Fact Sheet – Reclamation Board Encroachment Permit

Fact Sheet

Reclamation Board Encroachment Permit Application Process

Authority

State law (Water Code Sections 8534, 8608, 8609, and 8710 – 8723) tasks the Reclamation Board with enforcing appropriate standards for the construction, maintenance, and protection of adopted flood control plans. Regulations implementing these directives are found in California Code of Regulations (CCR) Title 23, Division 1.

Reclamation Board Jurisdiction

The adopted plan of flood control under the jurisdiction and authority of the Reclamation Board includes the Sacramento and San Joaquin Rivers and their tributaries and distributaries and the designated floodways.

Streams regulated by the Reclamation Board can be found in Title 23 Section 112. Information on designated floodways can be found on the Reclamation Board's website at http://recbd.ca.gov/designated_floodway/ and CCR Title 23 Sections 101 - 107.

Regulatory Process

The Reclamation Board ensures the integrity of the flood control system through a permit process (Water Code Section 8710). A permit must be obtained prior to initiating any activity, including excavation and construction, removal or planting of landscaping within floodways, levees, and 10 feet landward of the landside levee toes. Additionally, activities located outside of the adopted plan of flood control but which may foreseeable interfere with the functioning or operation of the plan of flood control is also subject to a permit of the Reclamation Board [CCR Title 23 Section 6(c)].

Details regarding the permitting process and the regulations can be found on the Reclamation Board's website at <http://recbd.ca.gov/> under "Frequently Asked Questions" and "Regulations," respectively. The application form and the accompanying environmental questionnaire can be found on the Reclamation Board's website at <http://recbd.ca.gov/forms.cfm>.

Application Review Process

Applications when deemed complete will undergo technical and environmental review by Reclamation Board and/or Department of Water Resources staff.

Technical Review

A technical review is conducted of the application to ensure consistency with the regulatory standards designed to ensure the function and structural integrity of the adopted plan of flood control for the protection of public welfare and safety. Standards and permitted uses of designated floodways are found in CCR Title 23 Sections 107 and Article 8 (Sections 111 to 137). The permit contains 12 standard conditions and additional special conditions may be placed on the permit as the situation warrants. Special conditions, for example, may include mitigation for the hydraulic impacts of the project by reducing or eliminating the

additional flood risk to third parties that may be caused by the project.

Additional information may be requested in support of the technical review of your application pursuant to CCR Title 23 Section 8(b)(4). This information may include but not be limited to geotechnical exploration, soil testing, hydraulic or sediment transport studies, and other analyses may be required at any time prior to a determination on the application.

Environmental Review

A determination on an encroachment application is a discretionary action by the Reclamation Board and its staff and subject to the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code 21000 et seq.). Additional environmental considerations are placed on the issuance of the encroachment permit by Water Code Section 8608 and the corresponding implementing regulations (California Code of Regulations – CCR Title 23 Sections 10 and 16).

In most cases, the Reclamation Board will be assuming the role of a “responsible agency” within the meaning of CEQA. In these situations, the application must include a certified CEQA document by the “lead agency” [CCR Title 23 Section 8(b)(2)]. We emphasize that such a document must include within its project description and environmental assessment the activities for which are being considered under the permit.

Encroachment applications will also undergo a review by an interagency Environmental Review Committee (ERC) pursuant to CCR Title 23 Section 10. Review of your application will be facilitated by providing as much additional environmental information as pertinent and available to the applicant at the time of submission of the encroachment application.

These additional documentations may include the following documentation:

- California Department of Fish and Game Streambed Alteration Notification (<http://www.dfg.ca.gov/1600/>),
- Clean Water Act Section 404 applications, and Rivers and Harbors Section 10 application (US Army Corp of Engineers),
- Clean Water Act Section 401 Water Quality Certification, and
- corresponding determinations by the respective regulatory agencies to the aforementioned applications, including Biological Opinions, if available at the time of submission of your application.

The submission of this information, if pertinent to your application, will expedite review and prevent overlapping requirements. This information should be made available as a supplement to your application as it becomes available. Transmittal information should reference the application number provided by the Reclamation Board.

August 25, 2006

In some limited situations, such as for minor projects, there may be no other agency with approval authority over the project, other than the encroachment permit by Reclamation Board. In these limited instances, the Reclamation Board may choose to serve as the "lead agency" within the meaning of CEQA and in most cases the projects are of such a nature that a categorical or statutory exemption will apply. The Reclamation Board cannot invest staff resources to prepare complex environmental documentation.

Additional information may be requested in support of the environmental review of your application pursuant to CCR Title 23 Section 8(b)(4). This information may include biological surveys or other environmental surveys and may be required at anytime prior to a determination on the application.

Responses to Letter C: California Department of Water Resources – Al Vargas, Staff Environmental Scientist

Response to Comment C.1

In response to this comment, the following description of the Reclamation Board is added to p. III.I.11 of the EIR, to follow the first complete paragraph (new text is in **boldface** type):

The Reclamation Board, State of California Resources Agency

The Reclamation Board is charged with controlling flooding along the Sacramento and San Joaquin Rivers and their tributaries in cooperation with the U.S. Army Corps of Engineers. The Board cooperates with various federal, state and local governments in establishing, planning, constructing, operating, and maintaining flood control works.

State law (Water Code Sections 8534, 8608, 8609, 8710 and 8723) tasks the Reclamation Board with enforcing appropriate standards for the construction, maintenance, and protection of adopted flood control plans. Regulations implementing these directives are found in California Code of Regulations (CCR) Title 23, Division 1. The Reclamation Board ensures the integrity of the flood control system through a permit process (Water Code Section 8710). A permit must be obtained prior to initiating any activity, including excavation and construction, removal or planting of landscaping within floodways, levees, and ten feet landward of the landside levee toes. Additionally, activities located outside of the adopted plan of flood control but which may foreseeably interfere with the functioning or operation of the plan of flood control are also subject to a permit of the Reclamation Board [CCR Title 23 Section 6(c)]. At this time it is uncertain whether the proposed project would require a permit from the Reclamation Board. If a permit is required for the actions proposed, the project sponsor would comply with these requirements.

Response to Comment C.2

The commentor requests additional information regarding recent improvements that have been made to the Salado Creek drainage system. This information was summarized in the report entitled “Preliminary Flood Hazard Report, Villages of Patterson Study Area, Stanislaus County, California” prepared by Balance Hydrologics, Inc. in March 2006. A copy of this report is available at the City of Patterson Community Development Department.

Specifically, the improvements along Salado Creek (including installation of the 96-inch line, reconstruction of open channel segments within the City of Patterson, and additional improvements along Walnut Avenue) have significantly increased flood conveyance. The present estimate for peak discharge in Salado Creek downstream of the Delta-Mendota Canal is 710 cubic feet per second (cfs). Hydrodynamic modeling of the drainage system improvements at and downstream of Highway 33 indicate that the addition of the 96-inch line has increased capacity

east of the Union Pacific Railroad tracks to approximately 575 cfs from a previous value of roughly 50 cfs. This has markedly reduced the overland flood flows to the Villages of Patterson site, although the predominant flooding source continues to be overflow from Del Puerto Creek (located to the north of Salado Creek). These improvements were constructed after completion of the currently-effective Federal Emergency Management Agency (FEMA) Flood Insurance Study and are therefore not reflected in the existing Zone AO designations.

Response to Comment C.3

The commentor notes the potential for significant impacts from flooding if not mitigated and notes that no engineering data were provided as to the design criteria for the conveyance of overland flood flows through the project. This information was included in the March 2006 report by Balance Hydrologics (referenced in Response to Comment C.2) and further refined with additional overland flow routing summarized in a letter report by Balance Hydrologics dated June 30, 2006 (this letter report is available from at the City of Patterson Community Development Department), and described in the EIR on p. III.I.15. Together, these documents clearly define the overland flood discharge that must be conveyed through the project and the depth criteria for dispersion of the flows at the downstream end of the project. The commentor is correct in noting that these criteria and the proposed conveyance and dispersion design are compliant with the City of Patterson General Plan and with current FEMA standards.

Response to Comment C.4

The commentor notes that mitigation measures need to be provided with respect to overland flood flows so that upstream and downstream areas are not adversely impacted by the project. The Draft EIR discusses the analyses and modeling that have been completed in this regard. Specifically, the Draft EIR describes the surveying that has been conducted to assess the finished floor elevations of areas downstream of the project and provided mitigation measures/performance standards in Mitigation Measures I.1a and I.1b, p. III.I.14, to ensure that these elevations would not be exceeded during a 100-year flood event. The overland flow conveyance and dispersion strategy presented in the Draft EIR was selected specifically with this goal in mind. The project has also been designed to accommodate all upstream flows through the site.

Response to Comment C.5

The commentor notes that calculations were not provided to demonstrate the ability to prevent on-site flooding and the adequacy of the detention system to retain storm water flows. As discussed in the Draft EIR on p. III.I.13, the 100-year flood runoff would be contained and conveyed in Garcia Way and Olive Avenue.

The detention basin for this project has been designed based on the City of Patterson standards and specifications. The capacity has been designed for a 10-year frequency, 24-hour storm event. This equates to approximately 98 acre-feet of runoff storage. Based on this storm event, the design high water level for the basin is approximately three feet lower than the top of the banks that surround the basin. In the event of the 100-year flood and possible overtopping of Del Puerto Creek banks, the basin would most likely fill to the top of the banks. The total runoff stored in the full basin would be approximately 178 acre-feet. Once the basin is filled from runoff from the development and any Del Puerto Creek runoff routed through Olive Avenue, the northerly and the easterly basin banks would act as weirs to help evenly distribute the flow to the north and east. The total length of the north and south banks of the basin is approximately 2,300 lineal feet.

Response to Comment C.6

The commentator notes that there is no discussion of the fate of retained stormwater flows from the site. This issue was also discussed in detail in the March 2006 report by Balance Hydrologics (referenced above), which showed that all stormwater flows from the site would be discharged to the San Joaquin River through the existing 96-inch storm drain line that runs easterly along Olive Avenue. Therefore, it is not likely that an encroachment permit would be needed from the Reclamation Board as no new outfalls or levee penetrations would be needed. The off-line design of the stormwater basin is such that it responds to peak discharge in the Salado Creek system, passively releasing retained runoff as hydraulic conditions in the 96-inch storm drain line permit.

The new sentence is added to the end of the first paragraph on p. III.I.15 of the Draft EIR for clarification (new text is in **boldface** type):

Discharge from the detention basin would be through the 96-inch storm drain running along Olive Avenue for ultimate discharge to the San Joaquin River.

Response to Comment C.7

The commentator states that operation of the detention basin needs to be discussed with respect to the ability to evacuate the detention basin for protection against subsequent storms and the backup systems to protect against failure of the primary evacuation system. The detention basin for the project would include an existing City basin at the corner of Sycamore Avenue and Olive Avenue that currently empties into the 96-inch Salado Creek project pipeline, as capacity is available. The detention basin would be designed to empty within 48 hours in accordance with the City of Patterson requirements.

The 96-inch Salado Creek pipeline is currently used to convey detained storm drain runoff from various detention basins throughout the City of Patterson to the San Joaquin River. The basins are not allowed to discharge into the pipeline until capacity is available. This allows the peak

III. Comments and Responses
Letter C. California Department of Water Resources

discharge to pass before the basins are allowed to discharge into the pipeline. Most of these are controlled by an existing SCADA system operated by the City.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



August 7, 2006

Letter D

Rod Simpson
City of Patterson
33 S. Del Puerto Avenue
Patterson, CA 95363

Dear Mr. Simpson:

Re: SCH #2006032043; The Villages of Patterson

As the state agency responsible for rail safety within California, we recommend that any development projects planned adjacent to or near the rail corridor in the County be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way.

Safety factors to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade highway-rail crossings due to increase in traffic volumes and appropriate fencing to limit the access of trespassers onto the railroad right-of-way. Of particular concern is that the mitigations of signaling SR 33/Olive Avenue and SR 33/N Street/Walnut Avenue intersections are mandatory mitigations and include railroad preemption. All of the existing at-grade highway-rail crossings in the corridor should be improved for pedestrian and vehicular safety.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

If you have any questions in this matter, please call me at (415) 703-2795.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin Boles".

Kevin Boles
Utilities Engineer
Rail Crossings Engineering Section
Consumer Protection and Safety Division

cc: Pat Kerr, UP
Carol Harris, UP

Responses to Letter D: California Public Utilities Commission – Kevin Boles, Utilities Engineer, Rail Crossing Engineering Section, Consumer Protection and Safety Division

Response to Comment D.1

The comment correctly points out that new development would increase traffic volumes at rail crossings. The comment recommends that the proposed development be planned with the safety of the rail corridor in mind and include safety improvements such as grade separations and fencing to limit access of trespassers onto the railroad right-of-way, and improvements to existing at-grade rail crossings. The comment states, “Of particular concern is that the mitigations of signalizing SR 33/Olive Avenue and SR 33/N Street/Walnut Avenue are mandatory mitigations and include railroad preemption.”

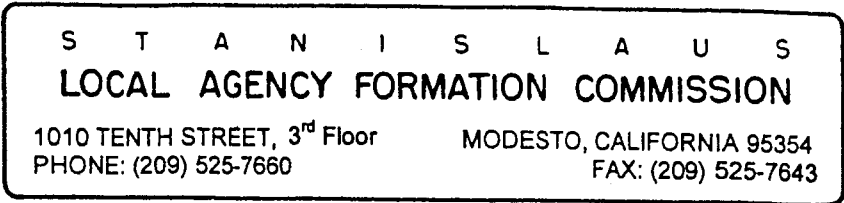
The Traffic Study (Appendix B to the EIR, p. 32) recommends that crossing arms be installed at track crossings in the vicinity of the proposed project. As recommended by the Traffic Study, signalization of the intersections along SR 33 at Olive and Walnut Avenues, called for by Mitigation Measures D.1.k, and D.1.l, respectively, would also include upgrades to the existing railroad crossing arms at these intersections per guidelines contained in the Manual of Uniform Traffic Control, Chapter 8.

Accordingly, Mitigation Measures D.1.k and D.1.l on p. III.D.18 of the Draft EIR are revised to clarify the specific inclusion of these railroad crossing safety features as part of these measures, as follows (new text is shown in **boldface** type, deleted text is shown as ~~striketrough~~):

Mitigation Measure D.1.k: Intersection 18. Olive Avenue/SR 33. Signalize intersection, add left turn lanes on all four approaches, **and upgrade existing railroad crossing arms with automatic signal protection including a four-quadrant flashing light system, based on guidelines contained in the Manual of Uniform Traffic Control, Chapter 8.**

Mitigation Measure D.1.l: Intersection 19. Walnut Avenue/M Street/SR 33. Signalize intersection, add an eastbound and westbound left turn lane, ~~and~~ restripe the eastbound and westbound shared through/left turn lane as a shared through/right turn lane, **and upgrade existing railroad crossing arms with automatic signal protection including a four-quadrant flashing light system, based on guidelines contained in the Manual of Uniform Traffic Control, Chapter 8.**

With the current frequency of one train a day, the justification for grade separation and fencing does not exist. Rail safety concerns could be reasonably managed with signalization and upgrades to existing crossing arms.



Letter E

August 30, 2006

Mr. Rod Simpson, Community Development Director
City of Patterson Community Development Department
33 S. Del Puerto Avenue
Patterson, CA 95363

SUBJECT: Draft Environmental Impact Report – The Villages of Patterson Development Plan

Dear Mr. Simpson:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the Villages of Patterson Development Plan. The following comments are provided for the City's consideration, as Lead Agency in the preparation of the EIR.

LAFCO Actions

On page II.19, the third bullet should read: "Reorganization to annex the entire Plan Area to the City, detachment of the Plan Area from the West Stanislaus Fire Protection District and the Patterson Irrigation District." It is unclear as to how the "addition of the Plan Area to City service areas" relates to a LAFCO action.

E.1

Public Services

One of LAFCO's mandates under State law is to ensure the provision of adequate public services. LAFCO policy also requires that upon annexation and development of new territory, the existing service levels provided by the City be at least maintained in the annexing territory.

- Fire and Police Services: The Draft EIR, on Page II.17, indicates the Villages project would create an increase demand for fire and police services, and on Page 40, the Initial Study includes a discussion on Public Services, including fire and police, which indicates that the proposed project would have a less than significant impact on these services. However, neither document addresses the following questions: What are the current fire and police levels of service being provided within the City limits, and what specific measures will be implemented to improve and/or maintain the current level of services to the territory upon annexation?

E.2

In addition, the proposed project includes expansion of the City's Sphere of Influence and annexation of territory to the City of Patterson. Upon annexation to the City, territory is detached from the affected fire district. Therefore, the City of Patterson, as Lead Agency, should include in the proposed project description and environmental analysis a discussion of the impacts of the detachment from the West Stanislaus Fire Protection District. In assessing the impacts, a description of the current ISO rating levels provided by the District to the area, and the anticipated level, which will be provided by the City upon annexation, would be helpful. Furthermore, although economic impacts of a project are not usually considered in an environmental analysis, the identification of the amount of property tax loss to the District and their anticipated service cost savings would be helpful in assessing the effects of the annexation and detachment.

E.3

SUBJECT: DEIR – The Villages of Patterson Development Plan
Page 2

Williamson Act Program

The DEIR indicates that there are active Williamson Act Contracts within the proposed project area. One of LAFCO's main charges, as put forth by the Legislature, is to protect and promote agriculture. The proposed Villages of Patterson Development Plan study area includes prime farmland and numerous lands under Williamson Act contracts. The Williamson Act is considered a mechanism to preserve agricultural land both in the short and long term. The EIR should discuss the location of these lands as it relates to possible phasing, general plan policies, development, and financing scenarios which would preserve the agricultural viability of this land as long as possible.

E.4

Page III.C.7, third paragraph should read as follows:

“Under Government Code Section 51243.5, where a Williamson Act contract was properly protested by the City upon its execution and such protest was upheld by LAFCO, the Commission shall determine whether the City shall succeed to the Williamson Act rights, duties, and powers of the County, or if the City may exercise its option to not to succeed to the contracts, upon annexation of the property to the City. If the Commission determines the City can exercise its option to not succeed to a contract, the City must record a Certificate of Contract Termination with the County Recorder at the same time as the LAFCO Executive Officer files the Certificate of Completion under Section 57203.”

E.5

In addition, the territory proposed for inclusion in the City's Sphere of Influence includes land under Williamson Act Contracts. Government Code Section 56426.5 prohibits LAFCO from approving a change to the sphere of influence if that territory is subject to a Williamson Act Contract unless it makes certain findings. However, pursuant to Government Code Section 56426.5(c)(3), this section of the law does not apply to the parcels under Williamson Act Contract for which a Notice of Non-renewal has been filed.

If you have any questions regarding the above comments, please call me at your earliest convenience.

Sincerely,



Marjorie Blom
Executive Officer

(I:BLOMERC\NOP.Villages.Patterson)

Responses to Letter E: Stanislaus Local Agency Formation Commission – Marjorie Blom, Executive Officer

Response to Comment E.1

In accordance with the comment, the following text change is made to the third bullet under “LAFCO Actions” on p. II.19 (new text is shown in **boldface** type, deleted text is shown as ~~strikethrough~~):

- Reorganization to annex the entire Plan Area to the City, ~~removal~~ **detachment** of the Plan Area from ~~fire and irrigation districts, and addition of the Plan Area to City service areas~~ **the West Stanislaus Fire Protection District and the Patterson Irrigation District.**

Response to Comment E.2

The commentor requests additional information regarding the City of Patterson’s existing fire and police service levels and standards.

The Villages of Patterson Development Plan Initial Study (Appendix A to the EIR) states that the residential and commercial/light industrial project would create an increased demand for fire and police services. It further states that the increased demand could potentially lead to physical environmental impacts because it would require expansion of existing facilities or construction of new facilities to meet the increased demand. To address the increased demand, the Villages of Patterson Development Plan includes a shared fire and police service facility within its boundaries. The Initial Study concludes that the project’s proposed fire station and satellite police station (to be located at the intersection of North 1st Street and Olive Avenue) would accommodate the increased demand and, as a result, the issue did not need to be discussed in greater detail in the EIR. (See p. 40 of Appendix A to the EIR.)

The City’s municipal facilities fee schedule requires the non-residential component of the Villages of Patterson Project to pay a development impact fee for fire and police services. The development impact fee would contribute towards construction of the new fire and police facility. The residential portion of the project will pay for the facilities through participation in a Community Facilities District pursuant to the Mello-Roos Community Facilities Act of 1982.

As described on p. II.19 of the EIR, among the actions required for the proposed project are LAFCO’s adoption of amendments to the Service Review and Master Service Element for the City’s Sphere of Influence to include the service plans for the proposed project. As part of this process, current fire and police staffing and levels of service will be studied, as will those of the

proposed new fire and police facility included as part of the proposed project to improve and/or maintain the current level of services.

The EIR and the Initial Study have included and analyzed construction of the proposed fire and police facility within the Plan Area as part of the proposed project. The EIR does not find that the proposed new fire and police facility would result in any significant environmental impact under CEQA.

Response to Comment E.3

The commentor requests that the impacts of detachment from the West Stanislaus Fire Protection District be discussed. It should be noted that the Patterson Fire Department and West Stanislaus Fire Protection District share a full-time fire chief and some staff. Facilities and equipment in Patterson are also shared. This arrangement would not change under the proposed project. The implications of detachment from the West Stanislaus Fire Protection District are that the area served by the Fire District would be reduced by 692 acres, along with a commensurate reduction of taxable land within the District. This reduction in service area and revenues for the District would not result in any physical environmental impacts under CEQA.

Response to Comment E.4

The commentor requests additional information in the EIR about the location of Williamson Act parcels in the Plan Area in relation to the phasing, General Plan policies development and financing scenarios.

As discussed on p. II.19, Williamson Act contract cancellations will be sought as part of project approvals. As noted on p. III.C.7, a local government may only approve a request for cancellation of a contract by making specific findings under state law of either consistency with the purposes of the Williamson Act or as a cancellation in the public interest (Cal. Government Code, Section 51282(a)).

The location of Williamson Act parcels within the Plan Area is presented in the Draft EIR in Figure III.C-2: Location of Parcels Subject to Williamson Act and Year of Expiration, on p. III.C.9. As shown in that figure, the westernmost portion of the Plan Area is not subject to Williamson Act contracts. The southernmost portion contains one Williamson Act parcel for which a protest by the City was upheld, and another parcel for which a Notice of Non-renewal was filed (this parcel has a contract that would expire in 2009). This spatial pattern would allow implementation of the Development Plan to proceed in a rational and orderly fashion, as called for in the General Plan, providing first for development of the western and southern portions of

the Plan Area along the existing urbanized developed edge of the City, and allowing agricultural uses to continue on Williamson Act properties until contract expiration or cancellation pursuant to Cal. Government Code, Section 51282(a).

It should further be noted that option agreements between the project sponsor and landowners in the Plan Area would allow existing agricultural operators in the Plan Area to continue to farm the land until notice is given that project construction is imminent. This would preserve the agricultural viability of the land for as long as possible.

Response to Comment E.5

In accordance with the comment, the following text change is made to the third paragraph under “Williamson Act Program” on p. III.C.7 and a new paragraph is added to follow the third one (new text is shown in **boldface** type, deleted text is shown as ~~striketrough~~):

Under Government Code Section 51243.5, where a Williamson Act contract was properly protested by the City upon its execution and such protest was upheld by LAFCO, **the Commission shall determine whether the City shall succeed to the Williamson Act rights, duties, and powers of the County, or if** the City may exercise its option not to succeed to the ~~rights, duties and powers of a Williamson Act contracts,~~ upon annexation of the property ~~by~~ **to** the City. If the **Commission determines the City can** exercises its option to not succeed to a contract, the City must record a ~~eCertificate of eContract eTermination~~ with the ~~eCounty eRecorder~~ at the same time as **the LAFCO Executive Officer files the eCertificate of eCompletion under Section 57203.**

In addition, the territory proposed for inclusion in the City’s Sphere of Influence includes land under Williamson Act Contracts. Government Code Section 56426.5 prohibits LAFCO from approving a change to the sphere of influence if that territory is subject to a Williamson Act Contract unless it makes certain findings. However, pursuant to Government Code Section 56426.5(c)(3), this section of the law does not apply to the parcels under Williamson Act Contract for which a Notice of Non-renewal has been filed.

As noted in the EIR on p. III.C.8, Notices of Non-Renewal have been filed for all parcels subject to the Williamson Act, except for one parcel. The contract for that parcel was protested by the City and was upheld by LAFCO.

BOWIE, ARNESON, WILES & GIANNONE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ATTORNEYS AT LAW

ALEXANDER BOWIE*
JOAN C. ARNESON
WENDY H. WILES*
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August 29, 2006

REF. OUR FILE
15005 E2

Letter F

*A PROFESSIONAL CORPORATION

Via Email (planning@ci.patterson.ca.us) & Overnight Delivery

Mr. Rod Simpson
Community Development Director
City of Patterson
P. O. Box 667
Patterson, CA 95363

**Re: *PJUSD Response & Draft EIR
Villages of Patterson***

Dear Mr. Simpson:

In regard to the above-described matter, the "Applicant", Eli Development Company, et al., and the Patterson Joint Unified School District ("PJUSD") have been diligently pursuing a mutually agreeable proposed "Mitigation Agreement" to timely fund grade K-12 school facilities ("PJUSD School Facilities") for the proposed Villages of Patterson. In part, such funds are anticipated to be funded by a proposed CFD of or on behalf of the City of Patterson ("City").

In this regard, PJUSD and the Applicant have agreed, subject to concurrence by the City, that PJUSD may defer making any comments in addition to those set forth in our letter of April 10, 2006 which is herein incorporated, if any, as to such Draft EIR until September 25, 2006, and that such additional comments, if any, will be deemed to have been submitted prior to the expiration of the comment period on September 1, 2006 and prior to consideration of the Villages of Patterson Project by the Planning Commission of the City.

Please advise as to the concurrence by the City to this understanding between PJUSD and the Applicant.

Very truly yours,

BOWIE, ARNESON, WILES & GIANNONE

Alexander Bowie

By:

Alexander Bowie

AB:kw

BOWIE, ARNESON, WILES & GIANNONE

Mr. Rod Simpson

August 29, 2006

Page 2

cc: Dr. Patrick Sweeney, Superintendent, Patterson Joint Unified School District
Bruce Harrington, President, Eli Development Company
Joe Hollowell, Eli Development Company
L. Ski Harrison, Rutan & Tucker
George Petrulakis, Petrulakis, Jensen and Friedrich, LLP
George Logan, City Attorney, City of Patterson
Jack Schreder, Jack Schreder & Associates
Steve Menge, Assistant Superintendent, Administrative Services,
Patterson Joint Unified School District
Marjorie S. Sullivan, Bowie, Arneson, Wiles & Giannone

BOWIE, ARNESON, WILES & GIANNONE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
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REF. OUR FILE
15005 E 2

April 10, 2006

*A PROFESSIONAL CORPORATION

Via Email (planning@ci.patterson.ca.us) *and US Mail*

Mr. Rod Simpson
Community Development Director
City of Patterson
33 South Del Puerto Avenue
Patterson, CA 95363

Re: Notice of Preparation/Villages of Patterson

Dear Mr. Simpson:

The following initial comments are being submitted on behalf of the Patterson Joint Unified School District ("PJUSD"). Additional comments will be made during the required consultation as a Draft Environmental Impact Report ("D/EIR" and "EIR") are prepared. The following comments are set forth in three categories. These are "Notice of Preparation", grade K-12 school facilities ("School Facilities") and "General Comments."

1. Notice of Preparation. The Notice of Preparation states there is "no significant impact" as regard to School Facilities nor any reference to the study or studies on which such finding is based. That statement is an erroneous finding. There is a definite significant adverse impact on the School Facilities of PJUSD.

F.1

2. School Facilities. As the City of Patterson ("City") is aware, PJUSD on an ongoing basis has been seeking to provide adequate School Facilities for existing and approved development within the area presently within the City. Increasing and future uncertain construction and land costs continue to be a challenge as well as the need to acquire sites and complete facilities as soon as possible. This requires known and certain up-front sources of funding.

F.2

The present estimated 1,133 Grade K-5, 562 Grade 6-8 and 534 Grade 9-12 students are as shown on enclosed Exhibit "A". Exhibit "A" also sets forth a current estimated cost of \$92,844,388 for the estimated 2,229 Grade 9-12 students. No land or site improvement costs for an additional High School have been included.

The above-described Notice of Preparation ("NOP") for the Villages of Patterson ("VOP/Project"), while it proposes to reserve two (2) elementary school sites at an unspecified cost, states the "Developer" has elected (see page 41) to only pay "School Fees" per Dwelling Unit ("Dwelling Unit") pursuant to 1998 legislation known as "SB-50" as each such Dwelling Unit is constructed. This will not provide the required up-front known source of required funding, both as to the amount needed and when such funding is needed.

BOWIE, ARNESON, WILES & GIANNONE

Mr. Rod Simpson
City of Patterson
April 10, 2006
Page 2

Additionally, payment of SB-50 School Fees on a per Dwelling Unit basis does not allow for sites to be acquired or construction contracts to be awarded until after substantial amounts of the VOP Project will have been constructed. This results in additional cost for interim temporary facilities, substantial increased construction costs and increased land acquisition costs as well as bussing costs to interim temporary facilities placed on the playground areas of existing schools in the Community of Patterson ("Interim Facilities"). No funding source for such Interim Facilities I identified.

F.2

The VOP/Project as described in the Notice of Preparation appears to include the following:

- (1) Deviating from the General Plan Growth Management provisions of the City;
- (2) Community Facilities District ("CFD") financing by the City;
- (3) Termination of "Williamson Act Contracts";
- (4) Approval of a Development Agreement and
- (5) Annexation to the City.

F.3

In regard to the foregoing, it should be noted that the provisions of SB-50 do not limit the ability of the City to require that the Developer enter into a "Mitigation Agreement" with PJUSD prior to its consideration of these actions relating to the VOP Project. Such a Mitigation Agreement must provide timely adequate funding to acquire sites and construct School Facilities and provide Interim Facilities concurrent with development of the VOP/Project.

As can be seen above, the VOP/Project will have a significant adverse impact on the Community of Patterson unless School Facilities will be available as the VOP/Project is developed. The City Council, the City and PJUSD must act in their fiduciary capacity as to the present and future parents, students and other residents of the Community of Patterson to ensure such School Facilities are available as needed.

F.4

3. General Comments.

- A. Phase I of the proposed Walnut Grove School has been and is being funded solely by PJUSD to accommodate existing and approved development now within the City, not students from the VOP/Project.
- B. Transportation facilities through the City from the 3100 Dwelling Units in the proposed VOP/Project to the existing High School of PJUSD will create serious adverse environmental impacts such as traffic, air quality and noise.
- C. Williamson Act Contracts cannot be terminated unless an adequate Mitigation Agreement for School Facilities is first entered into by the Developer and PJUSD and required finding of "Public Benefit" have been made.

F.5

F.6

F.7

BOWIE, ARNESON, WILES & GIANNONE

Mr. Rod Simpson
City of Patterson
April 10, 2006
Page 3

- D. A “Bridge and Thoroughfare District” should be considered to ensure timely funding of required road improvements including additional access to “Interstate 5” as development of the VOP/Project occurs. This mechanism will ensure fair share funding and reimbursement by all future development in this area of the Community of Patterson. F.8
- E. Cumulative impacts of other development that at a future date similarly obviate the General Plan Growth Management provisions that preclude annexing additional property also should be addressed in the draft EIR for the VOP/Project. F.9

In conclusion, the City and PJUSD have worked together in the past with the “West Patterson Developers” to protect the interests of the present and future parents, students and other residents of the City as to its education system and School Facilities. PJUSD looks forward to doing so similarly as to this and other projects that at a future date will be proposed to the City for its consideration.

Sincerely,

BOWIE, ARNESON, WILES & GIANONNE

Alexander Bowie

By: Alexander Bowie

AB:kw

- cc: Board of Trustees / Patterson Joint Unified School District (via US Mail)
- Dr. Patrick Sweeney / Superintendent, Patterson Joint Unified School District (via email)
- Steve Menge, Assistant Superintendent, Administrative Services / Patterson Joint Unified School District (via email)
- Jack Schreder / Schreder & Associates (via email)
- City Council / City of Patterson (via US Mail)
- Joe Hollowell / Eli Development Corporation (via email)
- George Petrulakis /Petrulakis, Jensen and Friedrich, LLP (via email)

EXHIBIT "A"

Draft for Northeast Territories/The Villages of Patterson
 April 6, 2006
 Students & Schools generated by 2,634 Single Family Homes

Age	Student Yield	Students	Size of School	Schools Needed
K-5	.395	1,040	600	1.73
6-8	.200	527	1,000	.527
9-12	.196	516	1,500	.344
Total	.791	2,083		

Students & Schools generated by 466 Multi-Family Homes

Age	Student Yield	Students	Size of School	Schools Needed
K-5	.200	93	600	.155
6-8	.076	35	1,000	.035
9-12	.038	18	1,500	.012
Total	.314	146		

Total Cost of Construction with Land & Soft Costs

Age	Size of School	Cost of School	Cost per Student
K-5	600	\$19,637,034	\$32,728
6-8	1,000	\$47,453,630	\$47,453
9-12	1,500	\$73,300,000	\$48,867

Developer Fees: To be determined with Schreder & Bowie

Developer Fee Formula

Age	Students	Cost per Student	Total Construction Cost
K-5	1,133	\$32,728	\$37,080,824
6-8	562	\$47,453	\$26,668,586
9-12	534	\$48,867	\$26,094,978
Total	2,229		\$92,844,388

The cost per home appears to be \$92,844,388 divided 3,100 homes = \$29,950
 Proposed Mitigation Agreement = \$29,950

Total Students & School Generated From Northeast Territories/VOP

Age	Student Yield	Students	Size of School	Schools Needed
K-5	.395/.200	1,133	600	1.89
6-8	.200/.076	562	1,000	.562
9-12	.196/.038	534	1,500	.356
Total	.791/.314	2,229		

Responses to Letter F: Alexander Bowie, Bowie, Arneson, Wiles & Giannone, for the Patterson Joint Unified School District

This letter, dated August 29, 2006, incorporates an April 10, 2006, letter by the same author, submitted as comments on the Notice of Preparation/Initial Study. Accordingly, the April letter is treated as a comment on the EIR. Much of the April 10, 2006, letter was addressed in the EIR in Chapter I, Summary, “D, Potential Areas of Concern or Unresolved Issues,” p. I.5. However, in order to be complete, this response will either (1) direct a reader to the provisions in the EIR where the issues raised have been addressed or (2) respond to the remaining issues in the April 10, 2006, letter.

Response to Comment F.1

The commentator contends that the Notice of Preparation improperly concluded that there is not a significant adverse impact on school facilities.

This comment was addressed in the EIR in Chapter I, Summary, p. I.6. The EIR considers the impact that students generated by the project would have on school facilities in Section III.L, Community Services, pp. III.L.6-7. Pursuant to SB 50, the impacts of the project on school facilities “would be fully and completely mitigated by the project sponsor’s payment of the school impact fee imposed by the School District. . . .The provisions of SB 50 are the exclusive means of both ‘considering’ and ‘mitigating’ a project’s school facility impact” (EIR, pp. III.L.2-4, 6). The School District’s School Facilities Needs Analysis, dated April 5, 2006, Appendix A, p. 12, acknowledges this principle.

Response to Comment F.2

The commentator contends that the payment of the SB 50 school fees per dwelling unit as each unit is constructed does not provide the School District a known and certain up-front funding source to acquire sites and complete facilities as soon as possible for the students generated by the proposed Villages of Patterson project, thereby creating increased costs on interim facilities.

This comment was addressed in EIR Chapter I, Summary, “D. Potential Areas of Concern or Unresolved Issues,” p. I.6. That section explains that the Patterson Joint Unified School District establishes and levies fees on all new residential construction within the District. Under SB 50, the State Legislature has preempted and fully occupied the subject matter of requirements related to the financing of school facilities and the mitigation of impacts of any land use approval on school facilities (Government Code § 65995(e)). Payment of fees levied by school districts under SB 50 is deemed to be “full and complete” mitigation of the impacts of any land use approvals

(Government Code §65995(e)). See the discussion in EIR, Section III.L, Community Services, pp. III.L.2-3, 5-6.

The EIR, p. III.L.5, explains that while the Patterson General Plan Policy IV.G.7 states that “[t]he City shall require, to the extent possible, that new school facilities are constructed concurrently with new residential development,” the City is restricted in implementing this policy consistent with SB 50 adopted after this policy.

Response to Comment F.3

The commentor, mischaracterizes the project approvals listed in the Notice of Preparation on p. 16. Contrary to the commentor’s assertion that the project would require an approval for “[d]eviating from the General Plan Growth Management provisions of the City,” the decisionmakers will make findings as to whether the proposed project is consistent on balance with the General Plan. See Response to Comment N.4. Therefore, no such approval is required.

The commentor contends that the provisions of SB 50 do not limit the City’s ability to require the Developer and the School District to enter into a Mitigation Agreement prior to the City’s consideration of the general plan amendments, CFD financing, Williamson Act Contract cancellation, approval of the development agreement and annexation in order to provide for timely and adequate funding to acquire sites and construct school facilities and provide interim facilities concurrent with development of Villages of Patterson.

SB 50 is discussed in Section III.L, Community Services, pp. III.L.2-3. The EIR, p. III.L.3, quotes the School District’s School Facilities Needs Analysis for Patterson Joint Unified School District, April 5, 2006, on SB 50’s limitation to impose additional mitigation measures:

SB-50 imposes limitations on the power of cities and counties in regard to requiring mitigation of school facilities impacts of new development. This law amends Section 65995(a) to provide that only those fees authorized by Education Code Section 17620 or 65970 may be imposed in connection with or made conditions of any legislative or adjudicative act by a local agency involving a planning, use, or development of real property.

Under SB 50, the City cannot require additional mitigation for school facilities and “may not deny or refuse land use entitlements on the basis that school facilities are inadequate, notwithstanding the provisions of CEQA” (EIR, p. III.L.4). See Government Code Section 65995(h) supporting this proposition. Under Government Code Section 65995(i), the City can not “deny or refuse to approve a legislative or adjudicative act, or both, involving ... development of real property...on the basis of a person’s refusal to provide school facilities mitigation that exceeds the amounts authorized” pursuant to SB 50. The City has no role in voluntary

agreements between the project sponsor and School District. City consideration of school facility issues is prohibited by SB 50 for all of the City actions listed by the School District in their comment.

Response to Comment F.4

The commentator concludes that the proposed project “will have a significant impact on the Community of Patterson unless School Facilities will be available as the VOP Project is developed,” and calls for the City of ensure that facilities are available.

As discussed on p. III.L.5 of the EIR, the project would have a significant impact on school facilities if it “required new or physically altered facilities, the construction and/or operation of which could cause significant environmental impacts.” The proposed project anticipates that three schools would be located in the Plan Area. As discussed on p. III.L.7 of the EIR, one of the sites has already been acquired by the school district, which adopted a Negative Declaration for construction of K-8 school. As discussed on p. III.L.7 of the EIR, two additional school sites within the Plan Area would house students in grades K-5. The construction of these facilities has been included as part of the Villages of Patterson project analyzed in the EIR.

Response to Comment F.5

The commentator contends that Phase I of the proposed Walnut Grove school will not house students generated from the project.

The determination of how many students each school will house is the responsibility of the Board of Trustees. Under Education Code Section 48200, the School District has a mandatory duty to enroll students within its boundaries.

See the SB 50 preemption discussion on pp. III.L.2-4 of the EIR.

Response to Comment F.6

The commentator contends that “[t]ransportation...[from] VOP/Project to the existing High School of PJUSD will create serious adverse environmental impacts such as traffic, air quality and noise.” It should be noted that these issues are outside of the School District’s jurisdiction to comment under CEQA Guidelines Section 15096(d).

Detailed analyses of project impacts related to traffic, air quality and noise are presented in the EIR. See Chapter I, Summary, Table I-1, Summary of Impacts and Mitigation Measures; Section III.D, Transportation and Circulation, pp. III.D.11-28; Section III.E, Air Quality, pp. III.E.15-24;

and Section III.F, Noise, pp. III.F.10-23. The comment presents no evidence that impacts on schools related to these topics would be significant under CEQA.

Response to Comment F.7

The commentator contends that “Williamson Act Contracts cannot be terminated unless an adequate Mitigation Agreement for School Facilities is first entered into by Developer and PJUSD and required findings of ‘Public Benefit’ have been made.”

The City is not aware of any such provision under California law, as noted in EIR Chapter I, Summary, p. I.7.

Response to Comment F.8

The commentator contends that “[a] ‘Bridge and Thoroughfare District’ should be considered to ensure timely funding of required road improvements including additional access to ‘Interstate 5’ as development of VOP/Project occurs.” This will ensure fair share funding and reimbursement by all future development in this area of the Community of Patterson.”

The “Bridge and Thoroughfare District” is one of many mechanisms to fund road improvements. Traffic impacts have been studied thoroughly and appropriate mitigation measures have been identified. Refer to Chapter I, Summary, Table I.1: Summary of Impacts and Mitigation Measures, pp. I.10-15; Section III.D, Transportation and Circulation, pp. III.D.14-28; and Villages of Patterson EIR Traffic Study (Appendix B of the EIR). The Traffic Study does not support any contention that additional access to I-5 would be needed as a result of the proposed Villages of Patterson project.

Response to Comment F.9

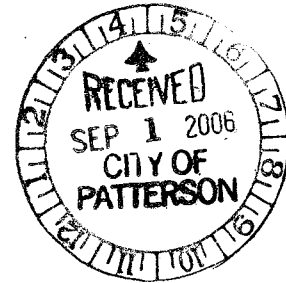
The commentator suggests that the EIR address the cumulative impacts of the project and future development with respect to General Plan Growth Management provisions.

See Response to Comment N.4.

VIA FACSIMILE

September 1, 2006

City of Patterson
Community Development Department
Attn: Rod Simpson
33 S. Del Puerto Avenue
Patterson, CA 95363



Letter G

RE: Comment Letter for the Villages of Patterson Development Plan Project DEIR

Dear Mr. Simpson:

The Del Puerto Health Care District ("District") appreciates the inclusion of the District discussion in the Villages of Patterson Development Plan Project Draft Environmental Impact Report ("DEIR") on pages III.L.7-10. However, the text and analysis are not legally adequate to satisfy the requirements of CEQA. The District respectfully requests that the text of the Final Environmental Impact Report be revised consistent with this letter to require mitigation of the significant impacts on health care facilities.

G.1

CEQA Guidelines section 15064(e) provides that when the economic or social effects of a project cause a physical change in the environment, this change is to be regarded as a significant effect in the same manner as any other physical change resulting from the project. Where economic and social effects result from a physical change that was itself caused by a proposed project, then these economic and social effects may be used to determine that the physical change constitutes a significant effect on the environment.

CEQA Guidelines section 15126.2(c) requires an EIR to evaluate the secondary impacts that are likely to result from the project. The discussion of impacts should include "health and safety problems caused by the physical changes and other aspects of the resource base such as ... public services." CEQA Guidelines section 15126.2(a).

G.1

The DEIR correctly recognizes that development within the Project site would have a significant impact on health care facilities if it required new or physically altered facilities, the construction and/or operation of which would cause significant environmental impacts. However, the DEIR wrongly determines that the environmental impacts of health facilities needed to accommodate the Project's generation of additional residents and employees are too speculative for analysis in the DEIR.

Significantly, the DEIR incorrectly mischaracterizes the "determination of need for new or expanded medical facilities in the greater Patterson area and nearby communities" as "a financial and policy issue, to be determined by the City of Patterson, the Del Puerto Health Care District," and other surrounding

communities. DEIR page III.L.9. The impacts that this Project, as well as its cumulative impacts, on the District are not simply financial and policy issues, they are environmental issues requiring meaningful discussion and mitigation, as provided in CEQA Guidelines section 15064(e), and as recognized by courts.

G.2

The Project will result in additional commercial development and jobs within the boundaries of the District. On a permanent basis, there will be an increase in the population, and number of vehicles entering and leaving the development daily. The Project is expected to accommodate up to approximately 3,100 dwelling units, up to about 723,800 square feet of commercial/office/light industrial uses, and up to about 267,900 square feet of Public/Quasi-Public uses (i.e. parks and schools). DEIR page II.1. On a temporary basis, the development's construction activities will also have an impact on acute care hospitalization.

G.3

Further, build-out of the project area will increase the volume of vehicle trips on area roadways and intersections. Without the construction of the additional facilities described below, the additional traffic generated by the Project will increase response times for ambulance services for the entire District. It can also be expected that noise levels on the project site will increase as a result of construction activities and as a result of increased vehicle trips associated with future development. Additionally, parks, schools, and other recreational component of the project will also increase emergencies in need of ambulances and hospital visits.

Earlier this year, the District provided the City with a report prepared by Vernazza Wolfe Associates, Inc., dated March 31, 2006 projecting future growth in housing units and population. As the report indicated, ideally, General Plan build-out figures for both the City of Patterson and Stanislaus County would be used to determine the service population. However, these plans have lagged behind actual growth in the District and have not been kept current and thus do not provide a general vindication of growth potential in the District. The report states that instead, the District consulted with Patterson and Stanislaus planners and identified major projects that are very likely to occur in the next five to ten years. The report contained a list of different facilities and costs for the facilities that will be needed in order to properly accommodate future growth. All these facilities need to be provided by the District in order to ensure that the community receives adequate health care services.

G.4

Further, the impacts on the health and safety of citizens within the City of Patterson and elsewhere within the District's boundaries of not constructing these facilities have already been identified in the DEIR. The DEIR's inability to provide mitigation for these, namely, a contribution to the Health Care District fee, which is being developed by the District, is inadequate for CEQA purposes.

G.5

The District's March 31st report indicates that the District was in the process of preparing a nexus fee study to determine what facilities are needed and how much it would cost to construct them. The report summarized data and conclusions from the District's recently completed a strategic planning process, in which the District created a comprehensive strategy and action plan to provide a continuum of health care services. This process resulted in the current plans for the development of certain District facilities.

G.6

While some may attempt to engage in a public policy debate about whether all the facilities are needed, there can be no debate as to the necessity for most of them. Increasing population clearly necessitates the expansion of the health care facilities. The District has articulated a viable initial plan for the health care facilities that it intends to build to meet these demands.

G.6

CEQA case law supports the District's position. In *El Dorado Union High School District v. City of Placerville* (1983 3rd Dist.) 144 Cal.App.3d 123, the Court of Appeal rejected the City's EIR discussion on the impacts that a 552-unit project may have on a school district as clearly inadequate because the City chose to ignore various reports indicating the potential need for a new school. The EIR simply recognized an increase in student enrollment. The City concluded that the impact was insignificant, requiring no mitigation measures. The Court of Appeals held that this was a violation of CEQA Guidelines section 15143. *El Dorado Union High School District*, 144 Cal.App.3d. 123, 133.

The Court further held that while increased student enrollment and potential for overcrowding is likely insufficient to implicate CEQA, such effects are relevant when they will lead to construction of new facilities. The Court emphasized that where, "the record contains ample evidence of present overcrowding, projections of gradually increasing high school enrollment, and the necessity for construction of at least one new high school, ... CEQA requires an EIR that addresses the impact [the] project may have on [the] District." *Ibid.* at 131. The EIR also failed to discuss the cumulative impact of projects on the School District, which CEQA expressly requires pursuant to California Public Resources Code §21083. *Ibid.* at 133.

G.7

Similar to *El Dorado Union High School District*, the Villages of Patterson's DEIR discussion regarding the impacts on the District is clearly inadequate. The District provided more than enough evidence regarding the impact that the Project will have on health care facilities. The District's March 31st report provided evidence demonstrating the need for new facilities is well documented and not speculative, as indicated above. The DEIR's statement on page III.L.9, that "[e]valuating the environmental impacts of such facilities would ... be too speculative for analysis in this EIR," clearly goes against the holding in *El Dorado Union High School District*. Meaningful discussion by the City of the Project's impacts on health care facilities is required.

Furthermore, as in *El Dorado Union High School District*, CEQA does not require that the secondary effect be shown as a final decision on a new project. It is enough to show that a new facility will need to be constructed to require the City to provide meaningful discussion of the impacts under CEQA. The District has offered substantial evidence into the record demonstrating that a new facility will be needed to accommodate the new population and employment resulting from the Project, as well as from the cumulative increase of population and employment resulting from similar projects. There is no speculation that new District facilities will be needed. CEQA does not require that the evaluation of impacts on health care services wait until future district facilities are actually designed. Rather, it requires the environmental impacts of a project to be considered at the earliest practicable time. CEQA Guidelines section 15126.2. Here, the appropriate time for evaluation is the approval of the project that is creating the need for such facilities.

When considering an EIR, a lead agency is entitled to weigh the accuracy and sufficiency of the information and decide whether to accept it. CEQA Guidelines section 15151. The District has provided sufficient evidence for the City to conclude that the Project will have a significant effect on Health Care facilities. The delivery of health care services is a critical component of the infrastructure necessary for development. The District has initiated the process of planning and building a significant number of specific facilities that will meet these needs. The construction, noise, traffic, air quality, maintenance and operation impacts associated with providing these facilities will have significant impacts on the environment.

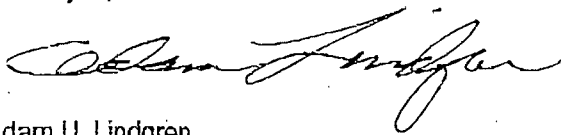
G.8

In order to mitigate these impacts to a level of insignificance, the District requests that the City require the developer to pay a mitigation and development fee in an amount to be determined in the future by the District in consultation with the City based upon the Project's fair share of the costs to construct and mitigate the impacts on health care services.

G.9

Please contact me if you have any questions.

Thank you,



Adam U. Lindgren
Special Council to Del Puerto Health Care District

c: Chair and Board Members of Del Puerto Health Care District
Cleve Morris, City Manager
Margo Arnold, District Administrator

855447.6

Responses to Letter G: Adam U. Lindgren, Myers Nave Riback Silver and Wilson, for the Del Puerto Health Care District

Introductory Response

The commentator cites various CEQA provisions and one case to support its contention that the project would have a significant environmental impact on the operations and capital facility planning efforts of the Del Puerto Health Care District. As noted on EIR p. III.L.9, demand for such district facilities could have an adverse effect on the environment under CEQA if it required new or physically altered facilities, the construction and/or operation of which would cause significant environmental impacts. The commentator offers no evidence that the proposed project would result in the need for construction of new health care facilities. The only evidence cited in the letter is a fee study prepared by the District's consultants Vernazza Wolfe Associates, dated March 2006 (revised in June 2006 and September 2006).¹

The commentator's own evidence indicates that the proposed project would not result in the need for construction of new health care facilities. The fee study lists a number of possible new facilities including a hospital, medical office building, ambulatory surgery center, assisted living facility, skilled nursing facility, and new ambulances. To justify the need for these facilities, the fee study accounts for existing and approved developments, as well as the proposed Villages of Patterson project. However, in addition to the existing and anticipated population and employees within the District boundaries, the fee study also adds the nearby communities of Newman and Gustine as part of the District's service area. These communities are not within the District's legal boundaries and are located in a different health care district - the Westside Community Health Care District (WCHCD). Under the June version of the report, these two out-of-district communities would constitute 29,165 of the 74,060 total service unit equivalents² (adding 65% to projected in-district demand, and comprising 39.4% of total projected demand). Under the September revision to the report, these two out-of-district communities constitute 29,165 of the 84,676 total service unit equivalents (adding 52 % to projected in-district demand, and comprising 34.4 % of total projected demand). This indicates that the District area would not generate the need for its desired facilities from the existing and anticipated in-district population (including the proposed Villages of Patterson Project).

¹ Del Puerto Health Care District Impact Fee Study, Vernazza Wolfe Associates, Inc., March 2006, as revised June 2006 and September 2006.

² "Service unit equivalents" is the district's phrase for its methodology of combining population with an employment factor to determine demand for its services. (See Vernazza Wolfe Associates, Memorandum, March 31, 2006).

No discussion is provided by the District as to whether any cooperative discussions have taken place with the WCHCD regarding facility needs. In addition, no evidence exists that the District has received LAFCO approval to provide services outside of its boundaries as required under the Cortese-Knox-Hertzburg Act (Government Code Sections 56000-57550). The adopted Municipal Service Review and Sphere of Influence Update for the Del Puerto and Westside Community Health Care Districts, prepared by Stanislaus LAFCO and adopted October 27, 2004, makes no mention of the District providing significant health care services for the residents of the WCHCD. Under these facts, the proposed project cannot be shown to create the need for additional District facilities either on a project or cumulative basis.

The EIR acknowledges that the proposed project would contribute to the demand for health services in the area. However, a determination of the need for particular health care facilities, its location, and characteristics, is a financial and policy issue, to be determined by the City of Patterson, the Del Puerto Health Care District, the communities of Newman and Gustine, the Westside Community Health Care District and the Counties of Stanislaus and Merced. Sufficient information necessary for meaningful evaluation of the desired healthcare facilities is not available. Therefore, analysis of the environmental effects of such facilities at this time would be remote and speculative. The impacts of construction and operation of a new District health care facility must be reviewed by the District under CEQA when basic information (e.g., the facility's proposed location, size, design, and program) is sufficiently developed for analysis under CEQA.

The City has recognized through its General Plan for some time that it will cooperate with the District in improving health care to the residents of Patterson (see General Plan, Policies IV.H.1-4, shown on p. III.L.8 of the EIR). The District is a California health care district created under The Local Health Care District Law (Cal. Health & Safety Code Sections 32000 et seq.) which allows communities to supplement the provision of health care through raising additional taxes to operate health care districts. Originally known as hospital districts, the state legislature passed The Hospital District Law in 1945 so that these districts could be created to “respond to the inadequacy of acute care services in the non-urban areas of the state.”³

The intent was to give rural, low income areas without ready access to hospital facilities a source of tax dollars that could be used to construct and operate community hospitals and health care institutions, and, in medically underserved areas, to recruit physicians and support their practices (e.g., office space, supplies, equipment).⁴

³ Margaret Taylor, *California's Health Care Districts*, April 2006, prepared for the California Health Care Foundation, p. 5.

⁴ Ibid.

Eighty-five districts have been formed under the law, most between “35 and 50 years ago, mainly to build and operate hospitals. . . . Since then, close to a third of these districts have closed, leased, or sold their hospitals; some have declared bankruptcy; and many have changed or expanded their historic mission ...”⁵ The District closed its hospital in 1998.

Rather than the ordinary public services scenario of a project creating a impact on services that must be addressed on a project or cumulative basis, the District’s own evidence indicates that even after the project is considered and the cumulative impacts of all other projects within its boundaries, it must appropriate the population of a neighboring health care district to claim a financially viable program. Under these facts, there cannot be a significant impact on the environment from any aspect of health care services provided by the District.

Response to Comment G.1

The EIR’s analysis of impacts on health care facilities is adequate under CEQA, and no mitigation is called for, as described in the EIR on pp. III.L.7-10, and in the responses to comments below.

Response to Comment G.2

The commentator cites CEQA Guidelines Section 15064(e) for support for its contention that when economic or social impacts cause a physical change that change must be identified as a significant environmental effect. The comment appears to also cite the same section for the reverse proposition that if a physical change causes economic and social changes, it must be identified as a significant environmental effect. CEQA Guidelines Section 15064(e) states in pertinent part:

Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. . .

⁵ Ibid., p.7.

The project would result in several physical changes that are identified as significant environmental effects; they are listed in the EIR in Chapter I, Summary, in Table I-1, Summary of Impacts and Mitigation Measures on pp. I.8-I.39 and discussed in detail in Chapter III, Environmental Setting, Impacts, and Mitigation. Pursuant to the requirements of CEQA Guidelines Section 15126.2(a), the EIR discusses potential hazards to health from materials in soil in Section III.G, Hazardous Materials, pp. III.G.1-25, and by emissions in Section III.E, Air Quality, pp. III.E.1-24. The EIR addresses safety issues related to flood hazards in III.I, Hydrology and Water Quality, pp. III.I.1-20; those related to traffic in the Initial Study (Appendix A of the EIR) on pp. 44-45; and those related to rail crossings in the Traffic Study (Appendix B of the EIR, p. 32; see also Response to Comment D.1 in these Responses to Comments). As noted on p. III.D.11 of the EIR's Transportation and Circulation section, the Initial Study found that the Villages of Patterson project would have a less-than-significant impact with respect to emergency access, and traffic hazards such as sharp curves, and no impact with respect to air traffic patterns. See also Response to Comment G.3, below.

The EIR, p. III.L.9, states that the residential and job-creating components of the Villages of Patterson Development Plan would generate additional residents and employees contributing to increased demand for health care services and facilities. As noted on that page, the project could have an adverse effect on the environment if it required new or physically altered facilities, the construction and/or operation of which would cause significant environmental impacts.

As is stated in the Introductory Response, the commentor offers no evidence that the proposed project would result in the need for construction of new health care facilities. Notably, the only available evidence proves the opposite: even after the project and all other projects are considered by the District, the evidence does not show enough demand for health care services to justify construction of facilities that would be financially viable. The District must appropriate the population of the neighboring health care district to build the demand sufficient to support the new health care facilities that the District desires.

Because the project would not result in the need for new health care facilities, any direct or indirect impacts, secondary impacts, social and/or economic impacts leading to physical changes, either on a project or cumulative basis, would not constitute a significant effect on the environment under CEQA.

Response to Comment G.3

As discussed in the EIR, the proposed development would increase demand for health care services on the project site. To offset the increased burden on health care services caused by the

proposed project (including the increased burden on ambulance services and ambulance response times), the City of Patterson may pass on to the District portions of development fees collected on new development to cover the project's "fair share" of health care services and facility improvements under the City's General Plan Policy IV.H.4 if this fair share exists and is quantified. The City has implemented this policy in the past by requiring projects to pay an "ad hoc" development fee under a Development Agreement if a "fair share" component is determined. However, as discussed above, the District's fee study is deficient in that it relies upon the population of a neighboring health care district to build sufficient demand to support the desired facilities. The project's fair share of new facilities, if any, will be determined by ongoing and future discussion between the City, the District and the project sponsor, as noted by both the commentor on p. 4 of the comment letter and on EIR p. III.L.10 but is not required as CEQA mitigation because no evidence exists that the new facilities the District desires can operate based upon the service demand within the District's boundaries.

The second paragraph of Comment G.3 presents speculative impacts unsupported by evidence. The Traffic Study for the Project (EIR Appendix B) properly addressed traffic impacts of the project. They are summarized in Chapter I, Summary, and discussed in more detail in Section III.D, Transportation and Circulation. It is not clear how construction of the desired facilities would affect ambulance response times. Noise impacts from construction and traffic are discussed in the EIR in Section III.F. Any recreational and related injuries posited by the commentor apparently are not sufficient to support economically viable facilities for the District. See the Introductory Response.

Response to Comment G.4

See Introductory Response. The commentor contends that the City's General Plan buildout figures have not been kept current. It should be noted that the City's General Plan was revised in 2004 and reflects the City's current growth projections and limits. The balance of the comments are editorial in nature and require no response in these Responses to Comments.

Response to Comment G.5

This comment contends that "the impacts on the health and safety of citizens within the City of Patterson and elsewhere with the District's boundaries of not constructing these facilities have already been identified in the DEIR." The Villages of Patterson EIR identifies no such impacts. Note, however, as discussed in the EIR and in Response to Comment G.3, that the City of Patterson may pass on to the District portions of development fees collected on new development to cover the project's "fair share" of health care services and facility improvements if such can be shown. The proposed "fair share" fee, while addressing the financial impacts from the project, is

not required as a matter of CEQA mitigation because there is no evidence of a significant environmental impact involving health care from the project under CEQA.

Response to Comment G.6

See the Introductory Response and Response to Comment G.3.

Response to Comment G.7

The commentator cites *El Dorado Union High School District*⁶ in support of the District's various assertions. However, the commentator misapplies *El Dorado*. In that case, current, actual overcrowding of school facilities would require the construction of a new high school as a result of a housing project with 577 units. In *El Dorado*, the potential environmental effect was based upon "ample evidence of present overcrowding, projections of gradually increasing high school enrollment, and the necessity for construction of at least one new high school."⁷ The record there also disclosed "substantial evidence of the necessity for construction of at least one high school as a consequence of projects such as Whispering Pines."⁸ Under these circumstances, the need for a new high school facility was an appropriate topic of analysis under CEQA. With respect to the Villages of Patterson, the project, along with all other foreseeable projects, would not provide the District with a population base to support its desired health care facilities. For this reason, the District must appropriate the residents of the neighboring health care district to justify its claim of a demand for new health care facilities (adding over 50 percent to in-district demand, and comprising over 1/3 of the total projected demand, according to the District's fee study). While this EIR recognizes that the project will create additional demand for health care facilities, the need would not be significant under CEQA, since no new or altered facilities on a project or cumulative basis can be attributed to the project. With no facilities so needed, there are no physical impacts to be addressed.

Determination of the project's "fair share" allocation for health care fees is a non-CEQA policy decision under the City's General Plan. Even without evidence of a substantial adverse effect on the environment, the City will implement its General Plan Policy IV.H.4 of assisting and cooperating with the District in "levying and collecting fees to aid in the financing of necessary capital improvements to the health care facilities" of the District if the facilities can be shown to be necessary.

⁶ 144 Cal.App.3d 123.

⁷ *Ibid.*, p. 131.

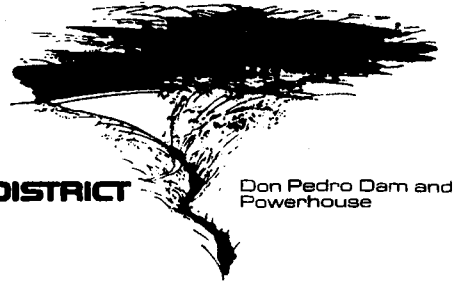
⁸ *Ibid.*, p. 132.

Response to Comment G.8

See the Introductory Response, Response to Comment G.2, and Response to Comment G.3. The commentor contends that the construction and operation of the desired facilities identified in the comment would have significant noise, traffic and air quality impacts. The commentor provides no basis to support or refute this contention. Analysis of impacts of these facilities is too remote and speculative to be analyzed in this EIR at his time.

Response to Comment G.9

See the Introductory Response and Response to Comment G.3.



TURLOCK IRRIGATION DISTRICT
333 EAST CANAL DRIVE
POST OFFICE BOX 949
TURLOCK, CALIFORNIA 95381
(209) 883-8300

Don Pedro Dam and
Powerhouse

July 25, 2006

Letter H

City of Patterson
Community Development Department
Attn: Rod R. Simpson
P.O. Box 667
Patterson, CA 95363

RECEIVED
7/26/06
SM

RE: Villages of Paterson Draft EIR

Dear Mr. Simpson:

The Engineering Department of the Turlock Irrigation District (District) acknowledges the opportunity to review and comment on the referenced project. District standards require development occurring within the District's boundary, that impacts irrigation and electric facilities, to meet the District's requirements.

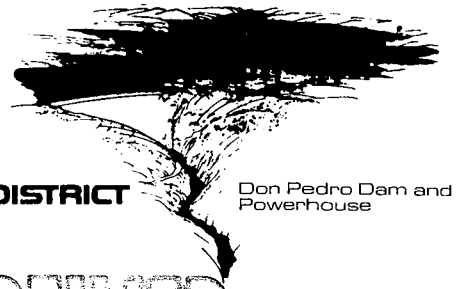
The District has previously commented on this project in a letter dated March 20, 2006, and the same comments and conditions apply.

If you have any questions concerning irrigation system requirements or electric utility requirements, please contact me at (209) 883-8384 or Paul Rodriguez at (209) 883-8438 respectively.

H.1

Sincerely,

Arie W. Vander Pol
Engineering Technician, Civil
CF: 2006030



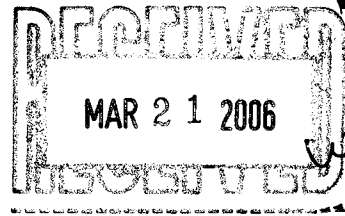
TURLOCK IRRIGATION DISTRICT

333 EAST CANAL DRIVE
POST OFFICE BOX 949
TURLOCK, CALIFORNIA 95381
(209) 883-8300

Don Pedro Dam and
Powerhouse

March 20, 2006

City of Patterson
Community Development Department
Attn: Rod R. Simpson
P.O. Box 667
Patterson, CA 95363



RE: Villages of Patterson Development Plan

Dear Mr. Simpson:

The Engineering Department of the Turlock Irrigation District (District) appreciates the opportunity to review and comment on the referenced project. District standards require development that occurs within the District's boundary, that impacts irrigation and electric facilities, to meet the District's requirements.

The District has no comments on irrigation facilities on the above referenced project, as it is not within the District's irrigation service area.

The District will require appropriate lot-front Public Utility Easements (PUE) and building setbacks to accommodate the installation of underground electrical facilities. For residential areas, the District requires a minimum PUE of 13-feet, unencumbered by sidewalks, building structures and overhangs such as porches, etc. For non-residential areas, a minimum unencumbered PUE of 15-feet is required.

H.1

The District's electrical maps show existing electrical facilities throughout the project area. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.

If you have any questions concerning irrigation system requirements or electric utility requirements, please contact me at (209) 883-8384 or Paul Rodriguez at (209) 883-8438 respectively.

Sincerely,

Arie W. Vander Pol
Engineering Technician, Civil
CF: 2006030



Responses to Letter H: Turlock Irrigation District – Arie W. Vander Pol, Engineering Technician, Civil

Response to Comment H.1

This comment reiterates the Turlock Irrigation District's earlier comments, submitted in March 2006, in response to the Notice of Preparation/Initial Study. That letter described District standards and procedures for electrical facilities.

This comment raises no environmental issues requiring a response in these EIR Responses to Comments.

Jay & Carmen Endersbe
867 Olive Av.
Patterson, Ca 95363

RECEIVED
8/18/06

Letter I

August 1st, 2006

City of Patterson
Attn: Rod Simpson,
Community Development Director
33 S. Del Puerto Av.
Patterson, Ca 95363

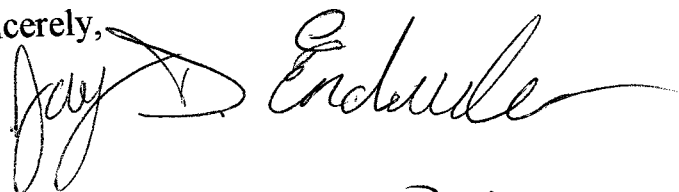
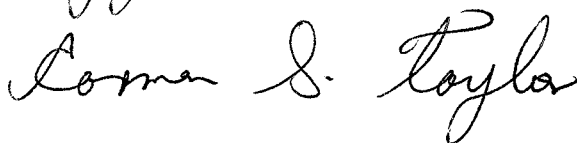
Re: Villages of Patterson Development Plan and Environmental Impact.

We are responding to the letter we received from you, titled Notice of Availability. This is not the first letter we have received on the subject. In the recent past we have received letters and surveys from agencies and developers regarding environmental issues. Sadly to say that all the letters and reports we have read from the City of Patterson, from the developers and from agencies are only concerned about environmental issues regarding hazardous storage, landfills, etc.

Our property is in the middle of the proposed plan and our main concern is WHAT ABOUT THE REAL ENVIRONMENTAL IMPACT ON WILDLIFE??? Patterson was blessed with a one of a kind wildlife only found in our area. What about the Majestic HAWKS?, the large and Regal OWLS?, the Beautiful BIRDS and Cranes?, the endangered KIT FOXES? Their habitat has been destroyed! And nobody seems to care?!

We have not seen a designated reservation area or areas for Wildlife in any of the proposed developmental plans! Our civil hope is that the City Officials and Developers will put greed aside for a moment and incorporate the future of our disappearing wildlife into their plans before it's too late!

Sincerely,

Responses to Letter I: Jay and Carmen Endersbe

Response to Comment I.1

This comment appears to pertain to the Notice of Availability rather than to the Draft EIR itself. It should be clarified that the Notice of Availability serves only to inform the recipient that a Draft EIR has been published and is available for public review and comment for a specific time period. It also provides a brief summary description of the proposed project that is the subject of the Draft EIR and summarizes some of the conclusions of the Draft EIR. It does not provide an analysis of environmental issues. That is the purpose and function of an EIR itself. Section III.H of the Draft EIR analyzes the project's impact on biological resources in the project area (see pp. III.H.1-17), based on a Biotic Study that was prepared specifically for the project. The Biotic Study is included as Appendix C to the Draft EIR.

The commentors express concern about impacts to wildlife, particularly hawks, owls, birds and cranes, and kit foxes. Section III.H addresses the environmental setting and impacts related to biological resources, including threatened, endangered and other special-status species and habitats. Impacts to Northern Harriers, Tricolored Blackbirds, and Loggerhead Shrikes are the subject of Impacts H.3 and H.4, pp. III.H.11-12. The EIR concludes that impacts to these species would be less than significant because suitable habitat is regionally abundant and the project would not substantially reduce the foraging habitat available for these species, restrict their range, or cause their regional populations to drop below a self-sustaining level.

Impacts to Swainson's Hawks are addressed in two places. Impact H.5, p. III.H.12, discusses the project's potential to disturb nesting Swainson's Hawks and states that a recent nesting season survey confirmed the presence of an active nest within the project site. This impact has two corresponding mitigation measures: Mitigation Measure H.5a, p. III.H.12, which requires each development site and adjacent areas within one mile of the site to be surveyed by a qualified ornithologist before construction begins, and Mitigation Measure H.5b, p. III.H.13, which restricts the removal of nest trees and requires nests to be monitored by a qualified biologist. Impact H.6, p. III.H.13, discusses the project's potential to result in loss of Swainson's Hawk habitat. Its corresponding mitigation measure, H.6, p. III.H.13-14, requires that the loss of foraging habitat be offset by acquisition of offsite Habitat Management (HM) lands as described by the California Department of Fish and Game. The EIR concludes that, with implementation of the specified mitigation measures, impacts to Swainson's Hawk would be reduced to a less-than-significant level.

Loss of occupied Burrowing Owl habitat is discussed in Impact H.7, p. III.H.14. As stated in that impact discussion, no burrowing owls or signs of their presence were observed in the project area during the survey. However, the EIR considers the possibility that if farming of the site stops before the project begins, ground squirrels, currently prevented from establishing burrow systems by ongoing farming practices, may occupy the site and establish burrows that the owls can then use. The EIR presents two mitigation measures for this impact: Mitigation Measures H.7a, p. III.H.15, which calls for a habitat assessment before construction on each parcel in the project area begins, and H.7b, pp. III.H.15-16, which calls for Habitat Management (HM) lands to be acquired if Burrowing Owls are found on the site and it is not feasible to avoid their areas. The EIR concludes that implementation of these measures would render impacts to Burrowing Owls less than significant.

See Response to Comment A.8 for a discussion of the San Joaquin Kit Fox.

RECEIVED
8/7/06

Letter J

August 1, 2006

John Granelli
130 Alto Loma
Millbrae, CA 94030

Dear Mr.Simpson,

This letter is our formal comment on the EIR for the proposed Villages of Patterson Development. We are the owners of 10 acres of property at 655 Olive Avenue in Patterson. Our property is located in the Village of Patterson development proposal. The Villages of Patterson EIR shows our property to have townhouses with a shared courtyard adjacent to a roundabout on Olive. Further, the developers state this is a master planned community and they will control the type of development that occurs in the project area.

The purpose of this letter is to go on record and state that we own the property at 655 Olive Avenue. We have no agreement with the developers and they do not speak for us. The developers (Harrington & Ramos) cannot dictate the type of development that will occur on our property as depicted in the EIR as long as we own the property. As owners of the property, we assert our private property rights and intend to evaluate what would be in our best interests in regards to our property. We will evaluate all allowable uses for our property under the city's general plan zoning designation (low density residential) for the area and then pursue a course we feel is most appropriate under the circumstances.

J.1

Sincerely yours,


John Granelli

Responses to Letter J: John Granelli

Response to Comment J.1

The commentor, a property owner within the Plan Area, states that the developer may not dictate the type of development that will occur on the owner's property.

The commentor raises no environmental issues requiring a response in this Comments and Responses document. However, it should be clarified that the Villages of Patterson Development Plan, if adopted, would embody the City's long-term vision for the type and character of development for the Plan Area. It would identify allowable land uses and their locations and provide development standards and design guidelines for new construction.

Sale of property to the developer is voluntary, and even if the proposed Development Plan is adopted, existing legal uses of land may continue in operation. However, any new development or change of use on the property would be required to conform to the Development Plan, and other City laws, ordinances, regulations and standards.



PATTERSON
Frozen Foods, Inc.

P.O. BOX 114 • PATTERSON, CA 95363-0114

PHONE 209 - 892 - 2611 • FAX 209 - 892 - 5209

Letter K

March 22, 2006

City of Patterson
Community Development Department
33 S. Del Puerto Avenue
Patterson, California 95363

RE: Project Title: Villages of Patterson Development Plan.

Dear Sirs:

We believe that the approximately 8,000 to 10,000 plus vehicles from the Village Development should not be just "added" onto Las Palmas Avenue and Hwy-33 which would cause major traffic congestion. A much broader traffic plan needs to be made for the longer term. Traffic plans need to connect to the roads where these new homeowners come from and where they work which is usually the Bay Area via I-5. We request that the following issues and suggestions be looked at by the committee and the EIR.

K.1

1. Traffic circulation by the Villages of Patterson Project needs to take into account the crossing of HWY 33 and the railroad tracks to the west from some street in addition to Las Palmas. Zacharias Road is the only logical road.
2. The long term transportation improvement plan being put together by the County Transportation Agency (STANGOG) in anticipation of a 1/2 cent sales tax vote in the November primary election makes a general reference to a Patterson By-Pass. This by-pass should be Zacharias Road to I-5.
3. There is property along Zacharias Road that is not in the Williamson Act and under state law if this property should be proposed for development the City, LAFCO and the County must consider it before land in the Williamson Act can be converted to non-ag uses. At least 1/2 of the land in the Villages Project is still in the Williamson Act. This means a development coming along after the scope of this EIR is set but prior to it being in final form would more than likely require a significant modification UNLESS Zacharias Road is taken into account in the scope of this EIR.
4. Zacharias to Rogers Road is a more viable transportation route for traffic coming from the north on 33 going south to get to the Sperry I-5 interchange and if planned correctly would resolve some of the trucking ingress and egress issues on Baldwin related to the Keystone Business Park.

K.2

K.3

K.4

K.5

Sincerely Yours,

Patterson Frozen Foods, Inc.
CEO

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Responses to Letter K: Ray Walker, CEO, Patterson Frozen Foods, Inc.

This letter was received in March 2006, before publication of the Draft EIR, in response to the Notice of Preparation. It has been resubmitted during the EIR comment period, and is therefore treated as a comment on the EIR.

Response to Comment K.1

Section III.D, Transportation and Circulation, of the EIR describes existing traffic conditions on local roads and highways in the area surrounding the City of Patterson and the Villages of Patterson Plan Area and analyzes project impacts to these roadways. As discussed on p. III.D.13 of the EIR, it is estimated that the project would generate approximately 2,650 vehicle trips during the a.m. peak hour and approximately 3,340 vehicle trips during the p.m. peak hour, rather than the 8,000 to 10,000-plus vehicles projected by the commentor.

The commentor also contends that the new residents of the project would work primarily in the Bay Area and commute via I-5. See Response to Comment N.8c.

Response to Comment K.2

Section III.D, Transportation and Circulation, of the EIR and the Traffic Study, included as Appendix B to the EIR, study nine intersections along Highway 33 (see Figure III.D-1 on p. III.D.6) at the following cross streets: Rogers Road, Baldwin Road, Zacharias Road, Eucalyptus Avenue, Ward Avenue, Olive Avenue, Walnut Avenue, Las Palmas Avenue, and Sperry Avenue.

Response to Comment K.3

As discussed on p. I.6, an east-west expressway along the existing Zacharias Road and a new interchange at I-5 are not part of the proposed Villages of Patterson project, nor are they required as mitigation for project impacts.

See also Response to Comment N.11.

Response to Comment K.4

See Response to Comment N.14.

Response to Comment K.5

This comment recommends Zacharias Road as a route to the Sperry I-5 interchange for traffic coming from the north on 33. The EIR considers impacts of the project on Zacharias Road.

April 7, 2006

City of Patterson
Community Development Department
33 So. Del Puerto Avenue
Patterson, Ca. 95363

RE: COMMENTS: VILLAGES OF PATTERSON EIR NOTICE OF PREPARATION

On behalf of Patterson Frozen Foods, I would like to submit our comments in response to the NOP of the EIR for the proposed *Villages of Patterson* project. Thank you for this opportunity, and feel free to contact me with any questions.

Patterson Frozen Foods and its owners have been part of Patterson for over 80 years. They have substantial land holdings in the area and are very interested in the long range planning and future for their town. Our comments are based on that perspective, and we hope they will be helpful as the *Villages project* proceeds with its planning and Environmental Impact Report.

Patterson has enjoyed excellent and far-sighted master planning in recent years, and the new homes, services, jobs and community amenities all speak to that vision. We believe that intensive long-range planning must continue to occur, and further, that particular focus be kept on community and area-wide circulation.

Our first comment then is that future Patterson obviously needs a second interchange and major connector from I-5 to Highway 99 and Turlock. We believe that the Zacharias -Eucalyptus corridor is the most obvious alignment, with a future Eucalyptus bridge ultimately connecting to Monte Vista or Fulkerth. This corridor must be planned and reserved as a four-lane facility. It is important to note that this is needed not only to accommodate the traffic from existing Patterson residents and businesses and this proposed development, but to also deal with the very significant and increasing through traffic which must currently find its way through our downtown and historic Las Palmas Ave. Accommodating a true northern bypass is absolutely necessary in any major development plans being considered in Patterson.

L.1

RECEIVED
8-10-06

Ron West & Associates: 4/7/06
Comments on *Villages* NOP

Our second comment is related, and poses the question of how current and future vehicle traffic will be handled at Eucalyptus and the railroad tracks and Highway 33. Again, we must deal with not only existing and proposed homes, but new *Villages* commercial, emergency vehicles, and very significantly, cars and commercial truck traffic passing through. Significant increases in railroad use should be expected from the current plans for a major multi-modal distribution center at the Crows Landing Air Base. The Ports of Oakland and Stockton will also continue to increase their shipments to and from the valley, as well as area-wide truck and train users in general. We believe that to properly plan for future growth in Patterson and the entire area, a grade separation over 33 and the tracks must be ultimately accommodated in any plans along the Eucalyptus - Zacharias "bypass".

L.2

Finally, we hope that other major infrastructure systems (water, sewer, storm drain, etc.) will not be forgotten. With a major new growth area on the east side of 33 and many new homes on the west, all public infrastructure systems must be designed to not prevent or interfere with future looping and connections throughout the area as future public safety and good planning may require.

L.3

Thank you for your time.

Sincerely,

Ron West, Consultant

CC: Patterson Frozen Foods

Responses to Letter L: Ron West, Consultant, Ron West & Associates, for Patterson Frozen Foods

This letter was received in April 2006, before publication of the Draft EIR, in response to the Notice of Preparation. It has been resubmitted during the EIR comment period, and is therefore treated as a comment on the EIR.

Response to Comment L.1

As discussed on p. I.6, an east-west expressway along the existing Zacharias Road and a new interchange at I-5 are not part of the proposed Villages of Patterson project, nor are they required as mitigation for project impacts.

See also Response to Comment N.11.

Response to Comment L.2

See Response to Comment N.9.

Response to Comment L.3

Water Supply is discussed in EIR Section III.J, Water Supply. Wastewater is discussed in the Notice of Preparation/Initial Study (included as Appendix A to the EIR), pp. 45-48. Storm drains are discussed in EIR Section III.I, Hydrology and Water Quality.

Letter M

Delivered by Hand

1408 West Main Street
Suite C
Ripon, California 95366
(209) 599-1000

Zacharias Partners LP



September 1, 2006

Rod Simpson, Community Development Director
City of Patterson
33 S. Del Puerto Avenue
Patterson, California 95363

Dear Mr. Simpson:

We are submitting this response to the Draft Environmental Impact Report your Department prepared on the Villages of Patterson project. Our understanding is the last day to provide written response is September 1, 2006. That at a subsequently scheduled and noticed meeting of the City of Patterson Planning Commission further comments can be delivered during the hearing on the matter. Subsequent to the actions of the Planning Commission the City Council will hold a hearing to consider the DEIR and the actions and testimony that occurred at the Planning Commission meeting. We have been unable to access certain documents and studies associated with this DEIR due to the recent move and City offices and files being in boxes etc. Due to this we encourage the City to extend the review and comment period for this DEIR so that concerned members of the public and organizations that have an interest in commenting have the benefit of all information as required under CEQA law.

M.1

First we want to congratulate the City for moving forward in processing this significant project. We believe that based on our review many issues have been addressed that are required under California Environmental Law, rules and regulations. Our comments are intended to be constructive and point out what we believe to be the absence of the information needed for the City to make a fully informed series of decisions on this projects impact. Our primary focus is on matters related traffic and the costs and timing of the mitigation measures related thereto. However, we strongly urge the City to require this project to complete a specific plan as the City required of the Keystone project several years ago.

M.2

As you know Zacharias Partners and Patterson Frozen Foods Inc. and Lakeside Hills, LLC have recently submitted a pre application on 740 acres owned by PFF and Lakeside Hills and under option to Zacharias Partners LP. We would expect to prepare a specific plan as we process this project through the City and County. We believe that many of the environmental issues and mitigation measures and associated costs will similar to those experienced by Villages of Patterson. A specific plan that addresses both projects would provide the City and the public with the assurances they need to make informed decisions and have those decisions be ones that contribute to the quality of life in Patterson.

M.3

On page III.D.13 of the DEIR the following statements are made. "Measures are available to improve service levels at the affected intersections; many of the measures are expected to be implemented as part of build-out of the West Patterson projects. However, the timing of build-out of the improvements,

M.4

And it is possible that the Villages of Patterson would be developed in advance of portions of the West Patterson projects. Therefore, the improvements are not assumed to have been carried out in the analysis of the Existing –plus-Approved-Projects-plus-Villages of Patterson Scenario.”

It is our understanding of CEQA those EIRs must identify and describe mitigation measures to minimize significant impacts. The City has to have the ability to enforce the mitigation measures through permits and conditions in the various permits. Our reading throughout the DEIR finds a lack of specifics and even where specific impacts are identified the means by which mitigation will be implemented is absent, and the funds required are not identified. At best it will be studied in the future. Future studies are not mitigation measures. This would bring the project into conflict with the City’s General Plan that requires all new development to completely mitigate the transportation impacts and pay all the costs of the needed improvements. This type of mitigation measure has been upheld time and time again as inadequate by the courts.

M.4

The DEIR completely ignores the public record on the north Patterson by Pass contained in the Stanislaus Area Association of Governments 30 year financial transportation plan and that it is one of the projects included in the upcoming Measure K sales tax for roads ballot measure. The Plan specifically states that Zacharias Road will be a “four lane expressway with standard shoulders. The DEIR only states these” future improvements are not part of the proposed Villages of Patterson project, nor are they required as mitigation for project impacts.”

M.5

On the other hand elsewhere in the DEIR, (p.III.D.14) it is states the intersection of Zacharias Road would operate at LOS D exceeding County standards. The proposed mitigation measure adds a turn lane and again ignores the County’s Transportation plans and rejects the mitigation measure under Impact D.2. Which would call for combining the intersections of Zacharias Road/SR33 into a new single intersection by extending Zacharias Road to Eucalyptus Avenue and eliminate the Eucalyptus Avenue intersection? Again none of the mitigation measures is accompanied by a financial impact analysis and therefore the traffic sections of the DEIR are fatally flawed since the absence of that information prevents informed decisions by the City of Patterson.

This absence of a financial plan for adequately addressing these impacts is made clear on page LLL.D.2 where the DEIR states:

M.6

“Insofar as funding is available to implement these mitigation measures, traffic impacts at intersections would be reduced to less-than-significant levels. Future funding sources are uncertain for the following five intersections: Sperry Avenue/Ward Avenue, Sperry Avenue/Del Puerto Avenue, Sperry Avenue/SR33, Ward Avenue/American Eagle Avenue, and Rogers Road/SR33. Therefore impacts at these intersections are considered significant and unavoidable in spite of the availability of mitigation measures.”

Based on this statement we are lead to believe that in the case of the Villages of Patterson project compliance with the General Plan regarding the requirement for “all new development to completely mitigate the transportation impacts and pay all costs of the needed improvements” is to be ignored.

Finally we note that the DEIR fails to describe the impacts on the school system for grades 9-12. Further it ignores the fact the school district has purchased land on the north west corner of Zacharias Road and Baldwin Road. There is no discussion of safety measures to protect students crossing this intersection yet the DEIR notes that 600 or more cars a day will make a left turn from SR33 onto Zacharias Road during morning commute hours which are typically the same hours of school starting.

M.7

We request the City send this DEIR back to the Community Development Department and the project proponent and direct that a specific plan be developed, that adequate financial analysis is conducted that impacts that are significant have appropriate mitigation measures identified and a more compressive general plan amendment be considered so that the growth and development of Patterson is balanced east/ west and north/south.

M.8

Thank you for the opportunity to provide these comments we hope they will prove helpful in assisting the City make the important decisions this type of project requires of a community.

Sincerely yours,

Zacharias Partners LP

By Phoenix Rising Development Inc., General Partner



Reagan M. Wilson, President

Cc: Patterson Frozen Foods

Lakeside Hills, LLC

Wendel Rosen Black & Dean

Responses to Letter M: Reagan M. Wilson, President, Zacharias Partners LP

Response to Comment M.1

See Response to Comment N.2.

Response to Comment M.2

This introductory comment summarizes the general concerns of the letter. These are addressed more specifically in the letter's subsequent comments. A response to each of those comments is provided below.

Response to Comment M.3

See Response to Comment N.5.

Response to Comment M.4

See Response to Comment N.10.

Response to Comment M.5

See Response to Comment N.11.

Response to Comment M.6

See Response to Comment N.8k and Response to Comment N.10.

Response to Comment M.7

Environmental Impacts related to school facilities are discussed in the Notice of Preparation / Initial Study (included as Appendix A to the EIR), pp. 40-42; in Chapter I, Summary, of the EIR, pp. I.6-7; and in EIR Section III.L. Community Services. See also Responses to Letter F in these EIR Responses to Comments.

The commentator contends that the EIR should discuss project impacts on the safety of schoolchildren at a site for a future school that the school district has acquired (at the corner of Zacharias Road and Baldwin Road). CEQA Guidelines Section 15126.2 state:

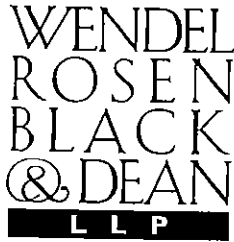
An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of the proposed project on the

environment, the Lead Agency should normally limit its explanation to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published.

Consideration in this EIR of the project in relation to the anticipated future school to which the commentor refers would be speculative at this time. In addition, there is no evidence that increased traffic generated by the proposed project would create an unacceptable hazard for schoolchildren or any other pedestrians.

Response to Comment M.8

This concluding comment summarizes the general concerns of the letter. These are addressed more specifically in the responses provided above.



ATTORNEYS AT LAW

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dpreiss@wendel.com

September 1, 2006

VIA EMAIL AND VIA HAND DELIVERY

Rod Simpson
Community Development Director
City of Patterson
Patterson City Hall
1 Plaza
Patterson, CA 95363

Re: Villages of Patterson ("Project")
Draft Environmental Impact Report, SCH #2006032043 ("DEIR")

Dear Mr. Simpson:

This firm represents Patterson Frozen Foods, Inc., and affiliate Lakeside Hills, LLC (collectively "PFF"). PFF's business and its owners and employees have been integral members of the City of Patterson for over 80 years and active participants in planning for its future. PFF also owns property in the Patterson area, including approximately 740 acres on Zacharias Road, adjacent to the Project site. PFF ardently supports appropriate long-term planning efforts for the logical and orderly growth of the City. PFF had hoped that the Project and its environmental impacts would be fully and adequately disclosed, analyzed and mitigated before the Project is acted upon by the City. However, even the most cursory review of the DEIR shows that the document is fundamentally flawed and both factually and legally inadequate, and fails to meet the most basic requirements established by the California Environmental Quality Act ("CEQA") and related Guidelines ("CEQA Guidelines").¹ In order to correct these flaws and ensure that the public is given a meaningful opportunity to review and comment, the DEIR must be revised and recirculated.²

N.1

As more particularly described below, the DEIR fails to accurately describe the Project, minimizes the scope and significance of multiple environmental impacts of the Project, and fails.

1 Public Resource Code Section 21000 et seq.; California Code of Regulations, Title 14, Chapter 3, Sections 15000-15387.

2 Public Resources Code §21092.1; Guidelines §15088.5 (recirculation is required "when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review ... but before certification."); Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of University of California (1993) 6 Cal.4th 1112, 1129-1130.

to provide for adequate, feasible and enforceable mitigations of those impacts. These impacts include, but are not limited to, many unmitigated traffic and safety impacts as well as numerous conflicts with the express goals, policies and other provisions of the Patterson General Plan. In turn, these failures negate any ability of the Planning Commission and the City Council to make an informed decision regarding the true impacts of the Project and the Project itself. In order to comply with CEQA and afford the City and the public the opportunity to review and consider the true impacts of the Project, it is imperative that the DEIR be revised and recirculated prior to consideration of the Project by City decision makers. Given the significant size of the Project and other anticipated projects in its vicinity, PFF also requests and recommends that the City implement its General Plan goals and policies which call for the preparation and adoption of a Specific Plan for the area as the most logical and orderly tool for long-term comprehensive planning.

N.1

As a preliminary matter, we must note that our analysis of the DEIR is ongoing and not yet complete due to the unavailability of CEQA and Project-related documents on file at the City and therefore PFF also reserves the right to submit additional comments on the DEIR and the Project as this matter may proceed. Our office has been informed by City staff that Project-related documents at the City are and will remain unavailable for public inspection until after expiration of the CEQA comment period due to the pending relocation of City offices. Please be aware that the City's actions in this regard may run afoul of the provisions of CEQA Guidelines §15150(b) which require the City to make available for inspection at its offices all documents incorporated by reference into the DEIR (e.g., the technical appendices to *The Villages of Patterson – EIR Traffic Study*, prepared by TJKM Transportation Consultants, and other technical appendices incorporated by reference into the DEIR). In light of this situation, please be advised that we have submitted a request under the Public Records Act to obtain copies of such documents, a courtesy copy of which is attached hereto as **Exhibit A**. We anticipate that, following our receipt and review of these documents, as well as any staff reports and other information that may be elicited during the CEQA and Project review process, we will submit additional comments on the DEIR (and any draft Final EIR) and the Project.

N.2

I. Need for Preparation of a Specific Plan to Assure Consistency with General Plan

As set forth below, the Project is characterized by multiple unresolved conflicts with the Patterson General Plan. CEQA provides that a conflict between a proposed project and the provisions of applicable Specific, General and regional plans is *per se* evidence of a significant environmental impact.³ CEQA requires that an EIR include a discussion of inconsistencies between a proposed project and applicable General and regional plans, which must be mitigated prior to action upon the Project.⁴ The Goals and Policies of the Patterson General Plan provide that, in order to “ensure that growth occurs in an orderly fashion and in pace with the expansion

N.3

N.4

³ CEQA Guidelines, Appendix G(a).

⁴ CEQA Guidelines §15125(d).

of public facilities and services," the City shall use Specific Plans which link the rate of growth in Patterson to the provision of adequate services and infrastructure.⁵

The Project is adding 8,000 residents and would cause the City to exceed the adopted population limit of 29,000.⁶ The City has already exceeded the growth limit of 21,000 set forth in General Plan Land Use Goal I.A.3, which is designed to control future annexations.⁷ The DEIR notes that the City can waive the requirements of this Goal if a given annexation proposal provides significant public benefits. As this letter shows, any public benefits that the Project might provide are far outweighed by the unmitigated negative impacts of the Project.

N.4

In order to best implement the General Plan goals and policies and resolve these inconsistencies for the good of the City and its present and future citizens, a Specific Plan for the lands near the northern limits and outside the currently adopted Sphere of Influence of the City, incorporating the Project site, PFF's adjacent lands comprising approximately 740 acres, as well as other lands in the vicinity, should first be formulated and adopted by the City. Please note that PFF, together with optionee Zacharias Partners, LP, has proposed development of approximately 945 acres in this area as a major mixed-use residential / commercial / community facilities project, as previously reviewed with City staff and more particularly described in the Pre-Application recently submitted to the City, a copy of which is attached as **Exhibit B** to this letter.

Specific Plans, which are explicitly authorized by statute, specify all of the following in detail: (1) the distribution, location, and extent of the uses of land, including open space, within the area covered by the Plan; (2) the proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the Plan area and needed to support the land uses described in the Plan; (3) standards and criteria by which potential development would proceed, and standards for the conservation, development, and utilization of natural resources; and (4) a program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out the elements of the Plan.⁸

N.5

In this instance, such a Specific Plan would establish the practical means and legal framework to assure consistency with the growth and other objectives of the General Plan and to concertedly address critical land use, circulation, safety and other environmental impact issues, the planning, construction and funding for roadway and other necessary infrastructure components and public facilities (including future schools and healthcare facilities), the

⁵ City of Patterson General Plan Policy Document, revised September 7, 2004 ("General Plan") Land Use Goal I.A and Land Use Policy I.A.5, page II-1; General Plan Land Use Implementation Program I.2, page II-4.

⁶ General Plan Land Use Policy I.A.2, page II-1. As noted on page IV.1 of the DEIR, current population of the City of Patterson is approximately 16,200, currently approved projects will add 5,555 additional residents, and the Project is expected to include 8,000 residents at full buildout, for a total population of 29,771.

⁷ General Plan Land Use Policy I.A.3, page II-1.

⁸ California Government Code §65451(a).

coordination of proposed developments within the planning area as well as cumulative developments in and around Patterson, and to help prevent piecemeal planning. A Specific Plan would also assist in complying with General Plan Land Use Policy I.B.5, which requires that "new residential development pays its share in financing public facilities and services."⁹ Preparation of a Specific Plan could also be coordinated with the pending review and update of the General Plan expressly called for by the General Plan.¹⁰

N.5

II. The DEIR is Defective and Must be Revised and Recirculated Due to an Inaccurate, Incomplete and Inconsistent Project Description

An inadequate description of a proposed development project taints the impact analysis and renders the resulting environmental analysis legally inadequate.¹¹ It is a basic tenet of CEQA that "[a]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."¹² Under CEQA, the definition of a proposed "project" must refer to the "whole of an action" in order to give the lead agency and other parties reviewing the environmental documents an accurate view of the project and the direct and indirect environmental effects related to the proposed project.¹³

N.6

The description of the Project is internally inconsistent within the DEIR. The Project Description and the Transportation and Circulation chapters contain significantly different descriptions of the acreage, number of dwelling units and square footage proposed as part of the Project. For example, the Project Description chapter states that the Project will include 531 low density dwelling units (DUs), 2,457 medium density DUs, and 112 DUs in the Village Circle area.¹⁴ However, the Transportation and Circulation chapter describes the Project as including 2,561 low/medium density DUs, 232 high density DUs, and 307 units in the Village Circle area.¹⁵ This discrepancy must be resolved in a revised DEIR.

The description of the Project in the DEIR is also inadequate in that it fails to recognize that the Project requires that the City take actions which are not described or analyzed in the DEIR, including by definition, appropriate amendments to the text and diagrams contained in the Land Use and Circulation Elements of the General Plan.¹⁶ The DEIR is based on the premise that only the Land Use Map must be amended to permit the Project, and fails to note other significant required modifications to the General Plan. For example, the General Plan's

N.7

⁹ General Plan, page II-1.

¹⁰ General Plan Administrative and Implementation Policy IX.A.1, page II-51.

¹¹ See *San Joaquin Raptor / Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713.

¹² *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.

¹³ See CEQA Guidelines Section 15378.

¹⁴ DEIR Table II-1, page II.9.

¹⁵ DEIR Table III.D-6, page III.D.13.

¹⁶ The list of approvals is included at page II.17 of the DEIR, and summarized at page I.2.

Circulation Plan Diagram does not include any portion of the Project area and accordingly fails to describe the nature of the roads within and otherwise affected by the Project with reference to established General Plan designations (i.e., local streets, collectors or arterials).¹⁷ The City may not simply revise the General Plan Land Use Map without simultaneously making revisions to the Circulation Plan Diagram and the remainder of the Circulation Element to ensure that the General Plan is internally consistent. A General Plan that is internally inconsistent would be legally inadequate, and would result in the City being unable to make the required findings of consistency for any land use approvals, whether or not such approvals are required for the Project.¹⁸ The DEIR must be revised to disclose the full extent of the required General Plan changes, and to properly analyze the impacts of these changes.

N.7

The City will also be required to update the related Street Master Plan, Capital Improvements Program and traffic impact development fee program to ensure that the Project and its newly required roadway improvements are properly reflected.¹⁹ Finally, as discussed further below, the DEIR fails to properly describe the steps and criteria required to annex and develop the land within the Project site which is currently subject to Williamson Act contracts.

III. Failure to Properly Address Transportation Issues

A. Failures and Inadequacies of the Transportation and Circulation Analysis as Identified by Peer Review

We retained the transportation consulting firm of Kimley-Horn and Associates (“KHA”) to review the Transportation and Circulation section of the DEIR and the related Traffic Study prepared by TJKM. As noted in the KHA letter dated August 30, 2006, attached as **Exhibit C** hereto, KHA has identified multiple critical inadequacies and questionable assumptions in the transportation analysis of the DEIR. Each of the issues and questions identified by KHA, as listed below, also must be addressed in a revised and recirculated DEIR:

N.8

- The Traffic Study utilizes trip generation factors which appear to underestimate trip generation from the Project by 50 to 100 percent, as compared to the commonly used trip generation rates provided in the Institute of Transportation Engineers (“ITE”) Trip Generation Manual, 7th Edition. This issue calls into the question the validity of the entire Traffic Study and Transportation and Circulation section of the DEIR. The source of the trip generation factors used in the Traffic Study is not properly documented.

N.8a

¹⁷ The Circulation Plan Diagram is set forth at page I-5 of the General Plan.

¹⁸ Government Code §65300.5; *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal. App.3d 90, 97-98.

¹⁹ See Transportation and Circulation Implementation Programs III.1, III.2 and III.3 on page II-20 of the General Plan.

- As described in Section II, above, the DEIR is internally inconsistent, in that the Traffic Study and Transportation and Circulation chapter are based on a different project description than that utilized elsewhere in the DEIR. N.8b
- The Traffic Study fails to include a project trip distribution and assignment figure, as is typically included in such analyses. N.8c
- As further discussed in Section III.D below, the DEIR and Traffic Study fail to include the proposed I-5/Zacharias interchange and northern bypass along Zacharias Road. This failure calls into question all operational analyses and trip distribution assumptions in the model. N.8d
- KHA is unable to validate and replicate the traffic distribution from the Project based on the information provided in the Traffic Study and DEIR. N.8e
- Although the General Plan calls for the use of Highway Capacity Manual (“HCM”) methodology to determine intersection delay, and the text of the Traffic Study states that the HCM method was used, KHA has determined that the Traffic Study in fact utilized a different method that can produce differing results. N.8f
- The Traffic Study’s analyses for unsignalized intersections is misleading, in that the results of these analyses only present the average intersection delay, which is usually lower than the delay for the minor approach. This practice is inconsistent with the text of the Traffic Study, which states that LOS will be reported for both the minor approach as well as for the whole intersection. N.8g
- The Traffic Study and DEIR fail to address the impact of railroad crossings on the operation of adjacent intersections. N.8h
- The Traffic Study and DEIR fail to describe the selection process for the improvements listed as mitigation measures, provide no way of determining whether the various mitigation measures are consistent with the improvements required for other approved projects, fail to adequately describe the other approved projects, and fail to provide any information as to the funding status for any of the improvements. N.8i
- The Traffic Study and DEIR fail to adequately describe the criteria used to determine the significance of transportation and circulation impacts. N.8j
- As discussed further in Section III.B below, the Traffic Study and DEIR suggest a realignment of the Zacharias Road/Highway 33 and Eucalyptus Avenue/Highway 33 intersections, but fail to adequately define whether these realignments constitute mitigation measures for the Project. N.8k

- As discussed further in Section III.C below, the DEIR does not provide any assurance that the mitigation measures would ever be constructed, and as such fails to create feasible and enforceable mitigation measures.
- As discussed further in Section III.B below, the Traffic Study and DEIR fail to mention or analyze the potential need to provide grade-separated intersections along Highway 33 to address the safety issues caused by the existing at-grade railroad crossings adjacent to the highway.

N.8l

N.8m

B. Failure to Address Transportation Safety Issues

CEQA specifically includes “health and safety problems caused by physical changes” within the definition of environmental impacts that must be analyzed in CEQA environmental documents.²⁰ Additionally, the General Plan specifically requires the City to design streets and to provide for “safe and efficient” travel.²¹ Despite this CEQA and General Plan mandate, despite glaring and obvious transportation safety implications of the Project, and despite the direct conflict between the Project and the General Plan, the DEIR and the associated Traffic Study essentially, and impermissibly, ignore the issue of transportation safety in its entirety.

The major transportation safety impact caused by the Project relates to the California Northern Railroad (“CFNR”) railroad tracks which run between the Project site and Highway 33.²² The only mention of these tracks in the DEIR’s Transportation and Circulation section is a brief paragraph that describes the current limited service on this line and which states that none of the three at-grade crossings in the vicinity of the Project have any crossing arms or warning signals.²³ Nowhere does the DEIR address the issue of conflicts between Project-related traffic and railroad operations. With respect to safety, this failure is especially alarming given the fact that not only will commuters and others be driving across the railroad tracks on a daily basis, but students at the existing high school and the planned new high school on Zacharias Road at Baldwin Road will be forced to cross these dangerous tracks on their way to and from school on a daily basis.

N.9

The DEIR’s failure to address this obvious and important safety issue is exacerbated by the fact that the DEIR also fails to recognize and address the anticipated dramatically increased usage of this line in the future. Stanislaus County is in the midst of a long-term planning process

²⁰ CEQA Guidelines §15126.2(a).

²¹ General Plan Goal III.A, page II-17 (“To create and maintain a roadway network that will ensure the safe and efficient movement of people and goods throughout the City); General Plan Policy III.A.1, page II-17 (“Street design ... shall provide for safe and efficient movement of goods and people”).

²² The DEIR consistently refers to these tracks as being part of the Southern Pacific Railroad (SPRR). However, the SPRR has not been in existence for approximately 10 years – the SPRR was absorbed by the Union Pacific in 1996. Additionally, the former SPRR tracks adjacent to the Project site are now utilized and controlled by CFNR, a subsidiary of RailAmerica, Inc., under a long-term lease from Union Pacific.

²³ DEIR page III.D.10.

for a major redevelopment of the former Crows Landing Air Facility just south of Patterson. Like the Project site, one of the key features of the Crows Landing site is its proximity to the CFNR tracks. The County has long considered the inclusion of an intermodal facility or other industrial development that would utilize these tracks as a key element of the redevelopment plans for the Crows Landing site.²⁴

The County's recently issued *Crows Landing Air Facility and Industrial Business Park; Master Development Plan Concept Review* ("Crows Landing Concept Review") describes three concept plans for the Crows Landing site and surrounding area, each of which include a significant intermodal facility of 70 acres or more.²⁵ As shown in the excerpts from the Crows Landing Concept Review included as **Exhibit D**, Stanislaus County, StanCOG, the Port of Oakland, and other governmental agencies are proposing a specific development of the intermodal area within the Crows Landing site that would result in up to six additional trains per day on the CFNR tracks adjacent to the Project site – and which could also include an additional expansion of the existing Altamont Commuter Express (ACE) passenger service on these same tracks.

N.9

The DEIR must be revised to properly reflect the anticipated increase in usage of the CNFR tracks, and the safety impacts of the Project in light of this increase. The revisions must include appropriate mitigations, such as a grade-separated connection between Zacharias Road and Eucalyptus Avenue, as proposed in the attached letter from KHA.

A critical safety issue relates to the intersections between Highway 33 and each of Zacharias Road, Eucalyptus Avenue and Ward Avenue, which are in close and potentially hazardous proximity to each other. The DEIR notes that the Project will contribute "substantial amounts of traffic" to these intersections.²⁶ The DEIR recommends that these intersections be realigned to "improve traffic flow and safety," although the DEIR strains to avoid referring to the realignments as mitigation measures by instead referring to the realignments as "improvement measures."²⁷ This is consistent with the DEIR's overall failure to consider the negative effect of the Project on safety as an impact. As recommended by KHA and discussed in III.A above, the DEIR must be revised to properly analyze the impacts of the Project on these intersections, and to explicitly determine whether the realignment of these intersections would serve as a mitigation measure for the safety impacts of the Project.

²⁴ Note that the General Plan specifically requires the City to work with Stanislaus County and participate in studies regarding the conversion of the Crows Landing site; General Plan Transportation and Circulation Policy III.H.2, page II-20.

²⁵ Crows Landing Concept Review, Figures 2-1, 2,2 and 2-3.

²⁶ Impact D.2, DEIR pages III.D.18-19. Note that the DEIR's finding regarding the Project's substantial contribution of traffic to this intersection does not reflect the significantly increased level of traffic on Zacharias Road which could be expected from completion of the northern bypass on Zacharias Rd., as discussed in Section III.D below.

²⁷ Impact D.2, DEIR pages III.D.18-19.

C. Failure to Provide Feasible and Enforceable Mitigation Measures

CEQA requires that EIRs describe feasible mitigation measures to minimize significant impacts.²⁸ Such mitigation measures must be “fully enforceable through permit conditions, agreements, or other measures.”²⁹ The DEIR fails meet either of these requirements for the majority of the transportation mitigation measures included in the DEIR, rendering these measures and the DEIR inadequate. Mitigation Measures D.1 and D.5 require the City to construct the intersection improvements listed as Mitigation Measures D.1.a through D.1.o and D5.a through D.5.o, with the Project developer contributing its fair share in some as yet undefined manner, and without identifying any additional source of funding. The DEIR does not contain any information regarding the feasibility of these measures, except to note that the measures will only be effective “[i]nsofar as funding is available to implement these mitigation measures, and to specifically note that funding is uncertain for a number of the measures.”³⁰

N.10

Additionally, the DEIR fails to provide any mechanism for enforcing these Measures, i.e., by explicitly tying each Measure to a specific development level within the Project or a specified performance criteria with scheduled monitoring. The DEIR also does not contain any enforceable and reviewable method for determining the construction timing for the various improvements. The DEIR merely provides a generic statement that the City should construct the intersection improvements “concurrently or in advance of development in the Villages of Patterson Development Plan area that would result in sufficient vehicles trips to reduce the level of service below LOS D at study intersections.”³¹ As such, these Measures, and thus the DEIR itself, fail to comply with CEQA.

Failure to incorporate these revisions into the DEIR will not only ensure that the DEIR is considered a defective CEQA document, but will also constitute a direct conflict between the Project and the City’s General Plan. The General Plan requires all new development to “fully mitigate[]” its transportation impacts, and pay the “total cost” of required improvements.³² Without feasible and enforceable mitigation measures, the City has no means to ensure that the Project contributes to required transportation improvements. Accordingly, the DEIR must be revised so as to include proper mitigation measures for these transportation and circulation impacts.

²⁸ Public Resources Code §§21002.1(a), 21100(b)(3); Guidelines §15126.4(a)(1).

²⁹ Public Resources Code §21081.6(b); Guidelines §15126.4(a)(2).

³⁰ DEIR page III.D.27.

³¹ DEIR page III.D.17.

³² General Plan Transportation and Circulation Policy III.A.9, page II-17.

D. Failure to Include and Analyze Proposed Zacharias Road Bypass and I-5 Interchange

The Project conflicts with and does not address its impacts upon, or provide necessary contribution to funding for, the planned conversion of Zacharias Road into a northern Patterson Bypass connection to I-5, along with the construction of a new I-5 interchange. As noted in Section III.E below, PFF and other commenters on the NOP raised the issue of the northern Patterson Bypass, and suggested that the DEIR consider these planned improvements. In response to these comments, the DEIR states that:

These potential future improvements are not part of the proposed Villages of Patterson project, nor are they required as mitigation for project impacts. Discussions at the City and County level regarding these improvements are preliminary at this time. Study of the need for these improvements has not yet begun.³³

The DEIR's statement that discussions regarding these improvements is "preliminary" and that no study of the need for these improvements has yet begun is blatantly contrary to the facts and an inadequate response under CEQA. The City, as a voting member of StanCOG, should be well aware that these improvements are included within the 30-Year Transportation Financial Expenditure Plan ("Transportation Plan") prepared by the Stanislaus Council of Governments (StanCOG), funding for which will be considered by the County's voters as Measure K in the election on November 7, 2006, and were analyzed in the EIR for the Transportation Plan. See the excerpts from the Transportation Plan and related EIR attached to this letter as **Exhibit E**. Although the Transportation Plan includes a proposed northern Patterson bypass, without specifying its exact alignment, the EIR for that Plan explicitly states that the bypass will be constructed along Zacharias Road, noting that "Zacharias Road will be a four-lane expressway with standard shoulders."³⁴ The EIR tacitly acknowledges the fact that the Zacharias Road alignment represents the only logical and practical location for the bypass. If the City and/or StanCOG were to now take the position that the Transportation Plan does not specify the location for the northern Patterson bypass, this would mean that the Transportation Plan EIR is itself suspect under CEQA. Additionally, the refusal to consider the proposed bypass in the DEIR represents a direct conflict with the General Plan, which requires the City to "continue to participate in state, regional, and local transportation planning efforts to ensure coordination of the expansion and improvement of the region's transportation system."³⁵

N.11

The DEIR must be revised to incorporate the proposed bypass along Zacharias Road and the related Project impacts. A major element of the required revisions to the DEIR must be a determination as to the extent of the Project's required financial contribution to the proposed

³³ DEIR page I.6.

³⁴ *Stanislaus County's 30-Year Transportation Financial Expenditure Plan – June 2006*, page 11; *Draft Environmental Impact Report – StanCOG 30-Year Transportation Sales Tax Financial Plan*, Table 3-6, page 3-21.

³⁵ General Plan Transportation and Circulation Policy III.E.1, page II-18.

bypass and interchange, which will not be fully funded by the proposed half-cent sales tax, and the creation of an enforceable mitigation measure to ensure that this contribution is made and the bypass and interchange constructed in a timely manner, or the Project is phased to coincide with the construction of these roadway improvements.

N.11

E. Failure to Adequately Respond to Letters and Comments on Notice of Preparation

By letters dated March 22, 2006, April 7, 2006, and April 10, 2006, PFF and its consultants submitted comments in response to the Notice of Preparation ("NOP") for the DEIR (copies attached as **Exhibit F** hereto). Additionally, PFF representatives appeared at the March 22, 2006 public scoping session on the NOP. The issues raised by PFF in its oral and written comments included the need for the DEIR to address regional traffic improvements related to increased traffic from the Project, and in particular the planned northern Patterson Bypass connection to I-5 (Zacharias Road). According to the DEIR, other letters raised the same issue.³⁶ As noted in Section III.D above, the authors of the DEIR dismissed this concern by stating (incorrectly) that planning for these proposed improvements has not yet begun, so there was no need to analyze the proposed Zacharias Road bypass in the DEIR.³⁷ Such a dismissive response is not a valid response to comments and is inappropriate under CEQA.

N.12

It also appears that PFF was not the only commenter on the NOP whose concerns were given short shrift in the DEIR. Page I.5 of the DEIR notes that the City received 13 separate letters in response to the NOP and/or the Initial Study for the Project. The DEIR then lists some of the major topics raised by these letters, and states that these topics are addressed in the DEIR and/or the NOP / Initial Study, although the DEIR provides no details as to the specific sections of text where these discussions may be found. Our review has not discerned any discussion in the DEIR or the Initial Study for at least two of the major topics raised by commenters on the NOP. As discussed in Section III.B above, the DEIR contains absolutely no analysis of the important issue raised by the commenters regarding traffic and safety at railroad crossings, and as discussed in Section V below, the DEIR also fails to address the issue raised by the commenters regarding the factual and legal considerations that must be addressed prior to cancellation of Williamson Act contracts for the Project.

In order to ensure that the decision makers and the public are properly informed regarding the Project and its impacts, the DEIR should include copies of each letter submitted in response to the NOP, and list each of the issues raised in the comment letters. The DEIR should then provide an easy method in the "Potential Areas of Concern or Unresolved Issues" section permitting the reader to easily locate these specific analyses in the DEIR text.

³⁶ The DEIR notes at page I.6 that "[a] number of letters" raised the issue of an expressway along Zacharias Road and a new interchange at I-5.

³⁷ DEIR page I.6.

IV. Failure to Consider Impacts of Multiple Conflicts Between Project and General Plan Goals and Policies

As noted above, CEQA requires that an EIR include a discussion of inconsistencies between a proposed project and applicable general and regional plans, which must be mitigated prior to action upon the Project.³⁸ Many such conflicts have been identified in the preceding sections of this letter. This section of the letter describes numerous additional major General Plan conflicts which are not addressed in the DEIR.

N.13

A. Failure to Address Requirement for Positive Fiscal Balance

The General Plan requires the City to “ensure that its designation of land uses and approval of development projects does not hinder efforts to maintain a positive fiscal balance for the City.”³⁹ Given that the Project is mostly residential (less than 9% of the acreage is dedicated to commercial uses), and since new residential development often results in significant negative fiscal impacts, it seems unlikely that the Project will provide sufficient tax revenue to the City to support additional required public services. To address this issue, and to eliminate or mitigate the resulting inconsistency with the General Plan, it is essential that the DEIR be revised to include a fiscal analysis of the Project.

N.13a

B. Failure to Consider and Address Conflicts with General Plan Goals and Policies Related to Downtown

The Project’s inclusion of commercial development specifically planned and designed to echo the downtown’s development pattern would directly conflict with General Plan goals and policies.⁴⁰ The DEIR correctly notes that the General Plan requires the City to promote growth that “reinforces the downtown.”⁴¹ However, the DEIR fails to note is the fact that the General Plan requires that “[m]ajor new commercial development shall be concentrated in a single node near downtown, which complements rather than competes with, the existing downtown.”⁴²

N.13b

The Project’s construction of an self-styled mirror-image of downtown at a significant distance from the existing downtown (in the context of a small town such as Patterson) and on the opposite side of Highway 33 and the CFNR tracks from the commercial center of the City, with a “captive population” of 8,000, directly conflicts with these General Plan policies. Additionally, it is reasonable to expect that the new commercial development in the Project could siphon off existing retail expenditures and businesses from Patterson’s downtown, potentially leading to urban blight in the downtown area. Where such a possibility exists, CEQA

³⁸ CEQA Guidelines §15125(d).

³⁹ General Plan Land Use Policy I.A.7, page II-2

⁴⁰ DEIR page II.7; DEIR Figure II-4, page II.8

⁴¹ General Plan Land Use Policy I.A.8, page II-2; *see* DEIR page III.A.8.

⁴² General Plan Land Use Policy I.C.2, page II-2

requires that proper analysis be performed to determine whether any mitigation measures are required to address the resulting physical impacts.⁴³ The potential reduction in sales from the downtown would increase the Project's negative fiscal impacts on the City. These possibilities must be addressed in a revised DEIR.

Additional inconsistencies between the General Plan Land Use Element and the Project relate to the Project's objective to provide "east side opportunities" for development.⁴⁴ The extensive development on the east side of Patterson proposed as part of the Project is inconsistent with the General Plan's policy which requires the City to "promote growth that reinforces the downtown and its western extension as the geographic and economic center of Patterson."⁴⁵

N.13b

C. The DEIR Fails to Address Conflicts with General Plan Goals and Policies Related to Residential Development Paying its Fair Share

An additional feasibility issue relates to the heavy reliance of the Project on Mello-Roos financing to fund necessary infrastructure, despite its inclusion of a significant component of affordable housing. The General Plan requires that new residential development pay its share to finance public facilities and services.⁴⁶ The prospect that the Project's proposed affordable housing would remain affordable with a significant Mello-Roos debt burden seems unlikely. However, if a larger share of the burden of the required public facilities and services is placed on the market-rate housing and commercial development, the financial feasibility of the entire Project is called into question. Before the City can determine whether the Project is consistent with the General Plan requirement of paying its share for public facilities and services, it is essential that the DEIR be revised to include a financial feasibility of the Project and the proposed Mello-Roos CFD.

N.13c

D. Conflicts with General Plan Goals and Policies Related to School Facilities

The final inconsistency between the General Plan and the Project relates to school facilities. The General Plan requires that new school facilities be constructed concurrently with new residential development.⁴⁷ The Project does include the creation of three schools within the Project area, but does not include any mechanism to ensure that these schools are constructed in a timely manner. Additionally, the schools within the Project only provide for students from grades K-8. The DEIR notes that the Project can be expected to generate 534 students from grade 9-12, but fails to discuss where these students will attend school, and fails to provide any

N.13d

⁴³ Guidelines §15131; See *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal. App. 4th 1184.

⁴⁴ DEIR page II.1.

⁴⁵ General Plan Land Use Policy I.A.8, page II-2.

⁴⁶ General Plan Land Use Policy I.B.5, page II-2.

⁴⁷ General Plan Public Facilities and Services Policy IV.G.7, page II-25.

mechanism to ensure that the new proposed high school is built, if necessary, to accommodate these students.⁴⁸

N.13d

V. Failure to Properly Describe Williamson Act Considerations and to Include Reasonable Alternatives

The DEIR is misleading and incomplete, in that it does not contain an adequate or complete description of the factual and legal findings that must be made prior to cancellation of a Williamson Act contract. Among the findings that must be made by the City is "there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land."⁴⁹ We do not believe that this finding can be made by the City, in part due to the availability of 476 acres of noncontracted land within the area owned by PFF. The City must also make the key finding that the cancellation is not likely to result in the removal of adjacent lands from agricultural use. This issue of potential cumulative loss of agricultural land is not addressed by the DEIR, and it is not clear whether the City would be able to make this finding.

Given the inability of the City to make these findings, it is clear that the DEIR has failed to include a reasonable range of Project alternatives. The CEQA Guidelines require that an EIR "[describe] a reasonable range of alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project and evaluate the comparative merits of the alternatives."⁵⁰ Such alternatives must be discussed "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly."⁵¹ Despite this requirement, and even though a large portion of the Project site is itself outside the City's General Plan area, the only off-site alternative to the Project considered by the DEIR was upon a site within the General Plan area. Additionally, the DEIR failed to consider an alternative which could be constructed upon land which is not subject to Williamson Act contracts. Inclusion of an alternative which would utilize the 476 acres of PFF's nearby property that is not subject to the Williamson Act would remedy this inadequacy.

N.14

The DEIR's discussion of the Williamson Act is also incomplete in that it fails to describe whether the City will be canceling all of the various contracts, or will be allowing some of the contracts to expire on their own terms.

VI. Failure to Properly Address Cumulative Impacts

The DEIR does not include any explicit listing of the projects considered within the DEIR's cumulative analysis. For example, with respect to transportation, the DEIR merely notes

N.15

⁴⁸ DEIR page III.L.6-7.

⁴⁹ Government Code §51282(b)(5).

⁵⁰ CEQA Guidelines §15126(d).

⁵¹ CEQA Guidelines §15126(d)(3).

that the 2030 analysis is based on the land use assumptions from the StanCOG traffic model, which includes buildout of the Patterson General Plan.⁵² Without such a detailed listing of specific projects, it cannot be determined whether the model addresses such major projects as the Crows Landing project described in Section III.B above. However, given the DEIR's failure to address the railroad-related impacts of this project, it can be safely assumed that the Crows Landing project is not yet included in the StanCOG model.

N.15

Each of the three options under consideration by the County for the Crows Landing facility would cause significant increases in traffic at the Sperry Road / I-5 Interchange as well as other area roadways. As noted in the excerpts from the Crows Landing Concept Review attached as **Exhibit D**, the impacts on Patterson would be most acute under Option 1, which would rely most heavily on Sperry Road and the I-5/Sperry Road interchange for access to the site.⁵³ The DEIR must consider the cumulative impacts of the redevelopment of the Crows Landing facility in combination with the Project and other specific projects in the area.

VII. Status of Various Reviews Required by General Plan Policies

As noted above, we have been unable to review the City's Project files and related materials. As a result, we have been unable to determine the status of various reports and reviews required by the General Plan. To the extent these reviews have not been completed, the City will be unable to make a finding that the Project is consistent with the General Plan. The DEIR must accordingly describe the status of the following reports and reviews:

- Review and revision, if necessary, of the General Plan every two years.
- Annual report documenting the City's progress toward meeting the standards set forth in General Plan Land Use Policy I.A.2, which must be considered prior to expanding the area designated for residential development.⁵⁴
- Annual report on the City's population growth in order to determine whether a growth management program is necessary.⁵⁵
- Regular update to the Street Master Plan.⁵⁶
- Periodic update to long-term Capital Improvements Plan, including traffic, sewer, water, drainage, and other improvements, and review for consistency with the General Plan.⁵⁷

N.16

⁵² DEIR page III.D.21.

⁵³ Crows Landing Concept Review, pages 32-33.

⁵⁴ General Plan Land Use Policy I.A.2.C.

⁵⁵ General Plan Land Use Implementation Program I.4.

⁵⁶ General Plan Transportation and Circulation Implementation Program III.2, page II-20.

VIII. Conclusion: The DEIR is Defective and Must be Revised and Recirculated

As we have stated above, we believe that the DEIR is an egregiously flawed document. In order to correct these flaws and ensure that the public is given an meaningful opportunity to review and comment as required by CEQA, and that decision makers have an accurate informational document on which to base their decision, the DEIR must be revised, reissued and recirculated prior to consideration of the Project by the Planning Commission and/or City Council.⁵⁸ Please note that PFF and this office are still reviewing this matter and, as noted above, we have not received copies of numerous documents required to fully and appropriately analyze the DEIR. Accordingly, PFF reserves the right to submit additional comments and testimony on the DEIR and the Project as this matter proceeds.

N.17

Thank you for your consideration of these comments. We hope the City is able to utilize them to facilitate appropriate environmental review of the proposed Project. Please assure that this letter, including all exhibits, is made part of the administrative record for this matter.

Very truly yours,

WENDEL, ROSEN, BLACK & DEAN LLP



David L. Preiss

DLP/NP

cc: Mayor and City Council
Planning Commission
City Attorney
Zacharias Partners, LP
Eli Development Corporation
Patterson Frozen Foods
Lakeside Hills, LLC
Ron West
Sidney A. Israels, Esq.

⁵⁷ General Plan Transportation and Circulation Implementation Program III.3, page II-20; General Plan Public Facilities and Services Implementation Program IV.7, page II-27; General Plan Administration and Implementation Implementation Program IX.3, page II-51.

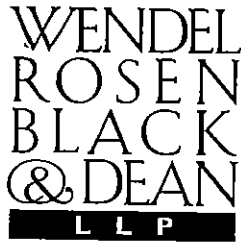
⁵⁸ See Note 2.

Rod Simpson
September 1, 2006

WENDEL, ROSEN, BLACK & DEAN LLP

**EXHIBIT A
PUBLIC RECORDS ACT REQUEST**

Comment N.2



Attorneys at Law

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Telephone: (510) 834-6600 | Fax: (510) 834-1928

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dpreiss@wendel.com

August 31, 2006

VIA EMAIL AND U.S. MAIL

Ms. Maricela Vela
City Clerk
City of Patterson
P.O. Box 667
Patterson, CA 95363

Re: Villages of Patterson; Public Records Act Request

Dear Ms. Vela:

Pursuant to the California Public Records Act, Government Code §6250 *et seq.*, we hereby request that the City of Patterson ("City") provide us with copies of all of the following described public records:

1. All documents contained in the City's project files for the mixed-use project commonly known as the Villages of Patterson Development Plan ("Project"), with the exception of the initial Draft Environmental Impact Report prepared for the Project.
2. To the extent the same are stored, maintained or otherwise located in any location other than the project files for the Project, any and all plans, preliminary plans, architect's drawings, pre-application reviews, permit applications, and notes and correspondence related thereto, and/or any other public records related to the Project.
3. The most recent report documenting the City's biennial review and revision, if necessary, of the City of Patterson General Plan Policy Document ("General Plan").
4. The most recent annual report documenting the City's progress toward meeting the standards set forth in General Plan Land Use Policy I.A.2.
5. The most recent annual report on the City's population growth as required by General Plan Land Use Implementation Program I.4, to the extent such report is different than the report requested under item 4 above.
6. The current versions of the City's Street Master Plan, Water Master Plan and Urban Water Management Plan, Sewer Master Plan, and Drainage Master Plan, along with a copy of the most recent updates to each.

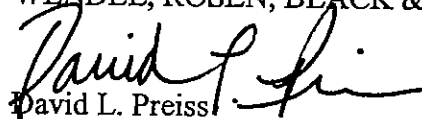
7. The current Capital Improvements Plan or Plans ("CIP") for traffic, sewer, water, drainage, and other improvements, along with the most recent report documenting the CIP's consistency with the General Plan.

We agree to reimburse the City for the direct costs of duplication incurred for this request, in accordance with Government Code Section 6253(b). If applicable, please provide a list of any records withheld from the above request, along with an explanation of the statutory basis for their withholding and your reasons for believing the statutory justification applies. Please also make available any reasonably segregable portions of the records requested, even if other portions of the records are withheld as exempt, and provide the name and title/position of any person responsible for the decision to deny access to any requested records. If the records are too voluminous to copy please notify me as to when and where they will be made available for inspection and copying by a representative of our firm.

If you have any questions regarding this request, please contact me at the phone number above. Thank you for your assistance in this matter.

Very truly yours,

WENDEL, ROSEN, BLACK & DEAN LLP


David L. Preiss

DLP:np

cc: Rod Simpson
Angelo Ielmini
Sidney A. Israels, Esq.

Rod Simpson
September 1, 2006

WENDEL, ROSEN, BLACK & DEAN LLP

Comment N.5

EXHIBIT B PRE-APPLICATION

Zacharias Partners, LP
1408 W. Main Street
Suite C
Ripon, CA 95366
(209) 599-1000

HAND DELIVERED

August 31, 2006

Mr. Rod Simpson
Planning Director
City of Patterson
1 Plaza
Patterson, California 95363

RECEIVED
8/31/06

**Re: Zacharias Hills Project
Pre-Application**

Dear Mr. Simpson:

As suggested by staff, we are submitting this letter and the enclosed Pre-Application as a request for Pre-Application review for a proposed mixed-use residential/commercial/community facilities project, to be known as Zacharias Hills, located adjacent to the Patterson City limits. Also enclosed is our Pre-Application filing fee.

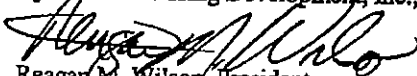
The proposed project sponsors are property owners Patterson Frozen Foods, Inc. and Lakeside Hills, LLC, owners of approximately 740 acres within the proposed project site, and Zacharias Partners, LP, optionee, although other lands are encompassed by the proposal. Our understanding from a review of the application information provided on your department's website and conversation with your planning secretary is that your department will circulate the pre-application package to other City departments and appropriate agencies in order to obtain early feedback regarding informational and other items that should be addressed in a complete application for the proposed project.

While we recognize that a project of this size and scope may have significant implications for the City of Patterson, we are confident that our proposal also offers significant community benefits. We look forward to working with you and other departments of the City toward putting forth a project that will enhance the social, economic, safety, traffic circulation, environment, education and health, and overall quality of life in the City. We greatly appreciate your review and are available at any time to address any questions you may have or to furnish any additional information you may need.

Thank you for the opportunity to submit this Pre-Application package and we look forward to working cooperatively with the City as we move forward with this process.

Sincerely,

Zacharias Partners, LP
By: Phoenix Rising Development, Inc., General Partner


Reagan M. Wilson, President

Encls.

cc: Patterson Frozen Foods
Lakeside Hills, LLC
Wendel Rosen Black & Dean LLP

013952.0003\789164.4



August 31, 2006

PRE-APPLICATION FOR
ZACHARIAS HILLS,
CITY OF PATTERSON

Project Title: Zacharias Hills

Project Applicant: Patterson Frozen Foods, Inc., Owner ("PFF"), Lakeside Hills, LLC, Owner ("Lakeside"), and Zacharias Partners, LP, Optionee

Project Location: The project site, currently under multiple ownerships (including PFF, Lakeside, Patterson Unified School District, and Allistair Allen et al.), is generally divided north/south by Zacharias Road between State Highway 33 in the east and Baldwin Road on the west. The southern boundary is the current northern city limit line running perpendicular to Baldwin Road and the northern boundary is about 1/2 mile north of Zacharias Road. The project area is generally defined as the area described above and extending to Rodgers Road on the west and the existing city limit line to the south. (See attached conceptual Zacharias Hills Master Plan.)

Project Description: The proposed project is a mixed-use residential / commercial / community facilities development encompassing approximately 945 acres which would include approximately 675 acres of residential housing, 75 acres of commercial land, 116 acres of health care, parks and recreation and public safety lands, and a 52 acre high school site. The current concept plan has not yet identified small neighborhood parks and schools but these would be within the total acreage.

The residential component of the project anticipates 39.6 acres of High Density Residential yielding 396 units, 252.41 acres of Medium Density Residential yielding 1721 units and 383.28 acres of Low Density Residential yielding 1531 units. Total units under the concept plan are 3648.

The commercial component includes 14.72 acres of general commercial, 38.98 neighborhood shopping center space and 21.44 acres of Professional/Medical/Dental Office land.

The project anticipates being able to accommodate up to 20 acres of land for a new Westside community hospital, 19.7 acres for a Westside Junior College Campus located adjacent to the existing 52 acre high school site.

August 31, 2006

PRE-APPLICATION FOR
ZACHARIAS HILLS,
CITY OF PATTERSON

Project Title: Zacharias Hills

Project Applicant: Patterson Frozen Foods, Inc., Owner (“PFF”), Lakeside Hills, LLC, Owner (“Lakeside”), and Zacharias Partners, LP, Optionee

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The project anticipates being able to accommodate up to 20 acres of land for a new Westside community hospital, 19.7 acres for a Westside Junior College Campus located adjacent to the existing 52 acre high school site.

The remaining land for parks and recreation, and public safety is either under the control of a related party to the development or is in the process of being acquired.

The attached Zacharias Hills Master Plan is conceptual in nature and is subject to modification with respect to design, uses, parcels, locations, mix, and densities during the entitlement application and review process.

GENERAL PLAN DESIGNATION AND SPHERE OF INFLUENCE:

Stanislaus County

The Stanislaus County General Plan land use designation for the Zacharias Hills project site specifically and the overall project area is generally designated as A-2-40. The specific parcels to be developed include the following APN's: 021-023-017.018, 019,020,021,022,023,024,025,026,027 and 021-020-015,036,037,039,040,041,042. In addition APN's 021-020-013, 014,015,016,022 are included in the specific planning.

City of Patterson

The Plan area is outside the City of Patterson's General Plan area and existing sphere of influence boundaries. However, we believe the plan area needs to be brought into the Patterson General Plan area for the following reasons:

1. **PROXIMITY.** It is adjacent to the existing city limit line and sphere of influence boundary on the north side of Patterson where new residential housing has recently been completed.
2. **BALANCED GENERAL PLANNING AND DEVELOPMENT.** The City of Patterson has in fact been built out to about 90% of its existing boundaries and sphere of influence west of downtown. They have started a general plan amendment process in conjunction with another proposed project (Villages of Patterson) located to the east of this project in north east Patterson.
3. **WILLIAMSON ACT CONSIDERATIONS.** The Villages of Patterson has less than half of its land out of the Williamson Act while 2/3rd of our project is already out and under our development plan the remainder will be out by the time actual construction would begin.
4. **TRANSPORTATION & CIRCULATION.** The Villages of Patterson project has significant transportation issues because it is east of Highway 33 and the railroad tracks. As a result they will require a

fairly significant financial commitment to mitigate the transportation congestion problems that will be created. By combining the financial resources of two projects (one located east of State Highway 33 and the other west of the state highway) the City would have the opportunity to update its circulation element at the same time the General Plan is updated. The two projects together would be able to make highway 33 going north up to Zacharias Road four lanes, realign Eucalyptus Avenue with Zacharias and eliminate a significant traffic safety problem and insure good traffic flow going east to west in north Patterson (including consideration of a grade separation at the railroad tracks). The Zacharias Hills project would help address traffic issues on the west side of town that would otherwise require some intersections being degraded for sometime in the future. This would include widening Zacharias Road to four lanes from Highway 33 to Rodgers Road, and widening Baldwin Road to two city standard lanes and a center turn lane from the current city limit line north to approximately 1/2 mile north of the intersection of Baldwin and Zacharias Roads

5. **NEW HIGH SCHOOL.** The 52 acre parcel at the North West corner of Zacharias and Baldwin Roads has been purchased by the Patterson Unified School District which will be constructing a new High School in the next couple of years. The Zacharias Hills project surrounds the high school site on the west and north and east. This is currently outside the city limits and sphere of influence and historically and as a matter of established good planning school district land that is outside of City limits is brought into the City limits as quickly as possible. The school district will have infrastructure requirements around roads, traffic lighting and safety that must be addressed. We will be able to share in the cost of the studies and the cost of the infrastructure will be shared in by the project and the school district.
6. **COMMUNITY COLLEGE OPPORTUNITY.** The Community College District has indicated an interest in purchasing the land (approximately 20 acres) immediately adjacent to and west of the high school site for a new Stanislaus County west campus. This land is in our project area and has been designated as a possible community campus. The college district is waiting for the project to move forward.
7. **A NEW WESTSIDE HOSPITAL OPPORTUNITY.** The Patterson Hospital District is in the process of doing the planning for a new community hospital to serve the entire Westside of Stanislaus County. The former hospital was closed some six years ago leaving the Patterson area and the rest of the Westside of the County without adequate medical care facilities. The District is, among other considerations in its planning, looking for land for the new health

care campus. We have designated 20 acres of the land on the north side of Zacharias Road, near the intersection with Highway 33, as a potential site. This land and the parcel immediately to the east could be used for a new hospital, Community Park and storm drain basin that would serve our proposed residential and commercial development plan.

8. **THE PLAN WOULD HELP MEET CURRENT COMMUNITY NEEDS.** Meeting Patterson community's needs will be significant assets in addressing broader community goals as stated in their planning principles and guidelines adopted by the City Council. We believe that the items discussed in #'s 4, 5, 6, & 7 above, would go far towards meeting the City's goals for a jobs/housing balance.
9. **JOBS, LOW INCOME HOUSING.** We have incorporated into our conceptual plan a minimum of 396 units that can be constructed to meet the low income housing income eligibility criteria. This is because we can set land prices such that builders will be able to construct a residential unit at a cost effective amount. Additionally we have been evaluating the City's new housing fee structure and policies and think we can accommodate up to several hundred other units spread throughout the project that will also meet the City's low income housing goals. The jobs that would be created by the commercial, health care related and medical facilities, and the college, will create higher than normal wage and benefit opportunities for Westside residents. The overall jobs/housing balance has yet to be fully evaluated, but the overall project should yield several thousand employment opportunities directly and indirectly.

Land Use Plan

The attached conceptual land use plan identifies proposed land use categories and their locations. Development standards for each category will be designed to meet the City's General Plan in all respects. This includes use designations, density, permitted and conditional uses, and lot dimensions, setbacks, building dimensions and parking requirements. Design guidelines are being developed that will create a visually pleasing identity and character, promote high quality construction practices, emphasize pedestrian mobility and safety, and neighborhood traffic safety. The project is bounded on two sides by the existing City limits and Sphere of Influence boundaries of the Patterson General Plan. The use to the south of the project is medium density residential, to the east is light density residential, and to the west is agricultural and south west is industrial.

Water, Wastewater and Storm water

The project anticipates utilizing the City's water system and would include 12, 14 and 16 inch water transmission lines plus 8 and 10 inch distribution lines to individual parcels within the Plan area.

The project would look to connect with the City's existing sewer system and pay its fair share for the expansion of the system to meet the new demands.

The project would utilize the existing Solado Creek storm drain system and where necessary build new and deepen and/or expand detention basins and then pump into the Olive Avenue 96" storm drain line.

Police and Fire Protection

The conceptual land plan places a fire station on Baldwin Road just south of the intersection of Baldwin and Zacharias Roads. In addition, it is anticipated that the creation of a community services financing district will be part of the plan and appropriate fees per unit will be established to address the increased demand for fire protection and law enforcement activities as well as other city services.

Traffic and Circulation Plan

The project will provide for an integrated road and pedestrian and bicycle system by improving the existing streets of Zacharias and Baldwin in the plan area. Zacharias would be widened to four lanes from State highway 33 to Rodgers Road. Signalization would be established at the intersections of Highway 33 and Zacharias, Zacharias and Baldwin, and Zacharias and Rodgers Roads. Collector Roadways would include Rose and Ivy Avenues to the east and new roads to Zacharias and Baldwin Roads and a potential extension going south and connecting to Cliff Swallow Drive in the Walker Ranch subdivision. These collectors would be served by a network of interior residential streets, pedestrian walkways and bicycle paths.

Population

The project has the potential to add some 8,000 persons to the City's population over an 8 to 10 year period depending on housing demand.

Financial Feasibility

As part of the project's development and environmental impact report there will be completed a financial feasibility study that addresses the financial benefits and impacts this project may have on the City, to help assure that the project does not hinder the General Plan goal of maintaining a positive fiscal balance for the City.

Approvals

It is anticipated that the project Entitlement process will include the following approvals by the following public entities:

City of Patterson Approvals

1. Certification of an EIR;
2. Appropriate amendments to the City's General Plan;
3. Pre zoning of the Plan Area to zoning districts that coincide with the proposed Development Plan;
4. Appropriate amendments to the City's Infrastructure Master Plans for water, sewer, storm water, and traffic circulation to include the proposed project;
5. Approval of a Water Supply Assessment;
6. Zacharias Hills Preliminary and Final Development Plan;
7. Vesting Tentative Subdivision Maps and final Subdivision Maps
8. Development Agreements between the City and the project;
9. Initiation of Application to the Local Agency Formation Commission;
10. Creation of Mello-Roos District or other appropriate public financing mechanism;
11. Annexation to a fire assessment district;
12. Building and use permits.

LAFCo Approvals

1. Adoption of amendments to the Service Review and Master Service Element for the City's Sphere of Influence to include the service plans for the proposed project;
2. Amendment to the City's Sphere of Influence to include the project area;

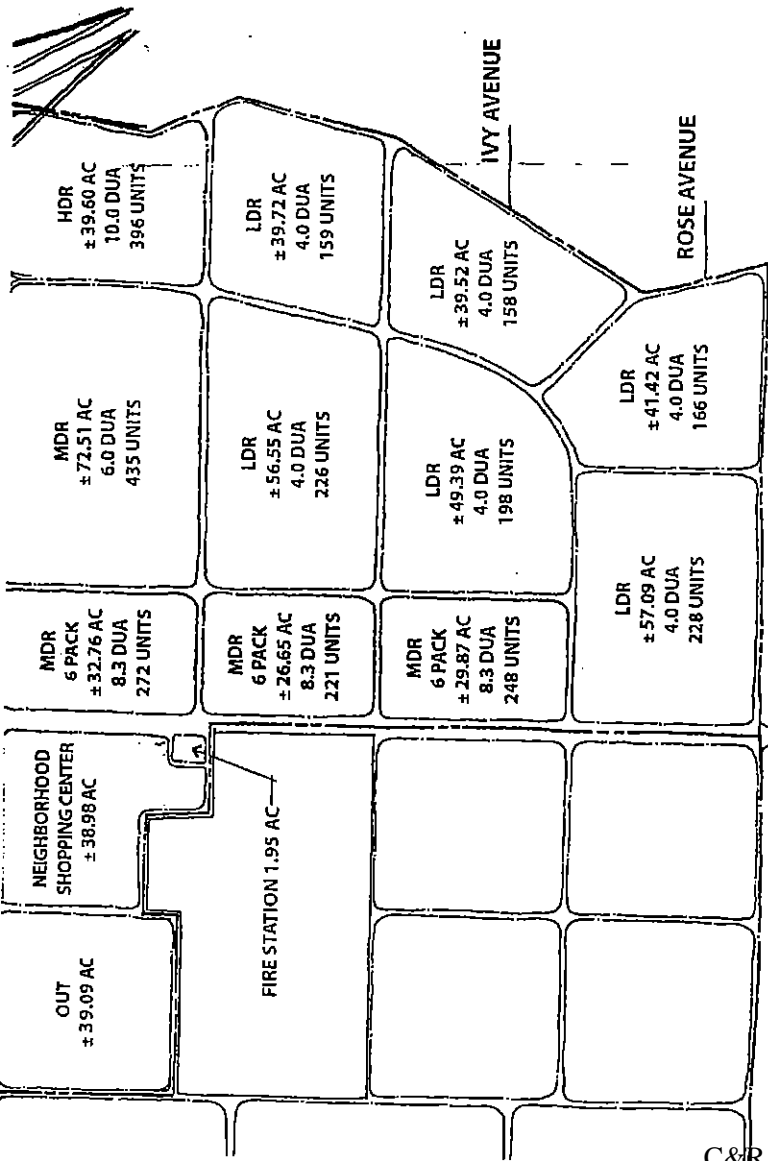
3. Reorganization to annex the entire Plan Area to the City, remove the Plan Area from the irrigation districts and add it to City service areas.

Other Public Agency Approvals

4. Stanislaus County permit for well construction under Stanislaus County Code Chapter 9.36
5. Approval by the Patterson Irrigation District to remove or otherwise cover irrigation Laterals.

REVIEWED
 8/19/05
 SHERRY M. DENIS-WILSON

MDR	39.0	10.0	385
MDR	18.28	8.3	741
6 Pack	182.53	8.3	680
LDR	327.72	4.9	1531
Subtotal	773.29		2589
Commercial			
General Commercial	14.72		
Neighborhood Shopping Center	38.66		
Professional/Medical/Offices	72.42		
Subtotal	125.80		
Community Hospital	22.07		
Jr. College	18.7		
Future Community Park & Recreation Area	58.2		
Fire Station	1.85		
Subtotal	100.84		
Patterson Unified School District			
Proposed High School	52.08		
Remaining acreage under future on-ramp	3.41		
Other Parcels	39.05		
Subtotal	94.54		
TOTAL	642.73		



ZACHARIAS HILLS MASTER PLAN

CONCEPTUAL LAND PLAN - PATTERSON, CA

Rod Simpson
September 1, 2006

WENDEL, ROSEN, BLACK & DEAN LLP

Comment N.8

EXHIBIT C KIMLEY-HORN AND ASSOCIATES LETTER DATED AUGUST 30, 2006



Kimley-Horn
and Associates, Inc.

■
Suite 301
517 Fourth Avenue
San Diego, California
92101

August 30, 2006

Mr. Neal Parish
Wendel, Rosen, Black & Dean LLP
1111 Broadway, 24th Floor
Oakland, CA 94607-4036

Re: Peer Review of EIR Traffic Section and Traffic Study for the Villages of Patterson Project in the City of Patterson, CA

Dear Mr. Parish:

Kimley-Horn and Associates, Inc. (KHA) received the Villages of Patterson EIR Traffic Study, dated July 12, 2006 and related materials prepared by TJKM Transportation Consultants in conjunction with the proposed Villages of Patterson project in Patterson, CA. At your request, KHA has completed a peer review of the traffic materials for the proposed development and offers the following findings and conclusions.

We have identified some issues that appear to affect the adequacy of the Draft Environmental Impact Report (DEIR). These issues can be grouped into the following categories:

- Estimation of project traffic
- Traffic model
- Operational analyses
- Mitigation at impacted intersections/roadway segments
- Traffic safety

■
TEL 619 234 9411
FAX 619 234 9433

Findings

Estimation of Project Traffic

- Based on the information provided in Table VI within the traffic study, which summarizes the project traffic generation, it is unclear on how the project traffic was estimated. Typically, project traffic generation is based on rates provided in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 7th Edition or on trip generation studies that have been performed for unique land uses. For comparison purposes, we calculated the project trip generation based on the information provided in Table VI and applied the rates outlined in the ITE *Trip Generation Manual*, 7th Edition to each respective land use. In general, we found that the total project traffic would be approximately 50 to 100 percent higher than projected in the traffic study, depending on the peak period. Pass-by or internal trip capture may have been used to reduce the number of project trips, but the traffic study does not provide any details regarding trip capture assumptions. N.8a

- The description of the project traffic is not consistent within the traffic study and EIR. As shown in Table VI, the project consists of 3,100 residential dwelling units, 623,800 sf of light industrial, 433,400 sf of public/quasi-public uses, 100,000 sf of retail, and a school on 58.6 acres. In the EIR, the project is described as consisting of 3,100 residential dwelling units, 723,800 sf of commercial/office/light industrial uses, and 267,900 sf of public/quasi-public uses. N.8b

- A project trip distribution and assignment figure would help to show how traffic is distributed in the study area. Due to the large number of residential units in the project and the a large employment center in Pleasanton, San Ramon, and the rest of the San Francisco Bay Area, it would be expected that a large percentage of the project traffic would be destined to/from I-5 during the morning and afternoon peak periods, respectively. However, the traffic study appears to assume that only a small percentage of traffic would be destined to I-5 during the morning peak, but almost all of the project traffic would be destined from I-5 during the afternoon peak. N.8c

Traffic Model

- Under the Year 2030 scenario, the I-5/Zacharias interchange was not included as part of the baseline network. This improvement is part of the Stanislaus County 20-year transportation plan. As noted in the draft EIR for the plan "a new diamond interchange is proposed at the Zacharias Road intersection about 2.5 miles north of Sperry Avenue. Zacharias Road will be a four-lane expressway with standard shoulders. The on-ramps will include two lanes north and two lanes south, similar to the Sperry Avenue N.8d

interchange.” Given the location of the project site and the percentage of project traffic destined to/from I-5, the trip distribution would most likely be affected resulting in different operational analyses and the need to study new intersections along Zacharias Road.

- It is difficult to determine how the project traffic was distributed throughout the study area. The traffic study mentions that the StanCOG model was used for the project after it was calibrated and the difference method was used to obtain future link volumes and intersection turning movement volumes based on the calibrated OD matrices. For comparison purposes, we calculated the project traffic based on the difference between the “With Project” and “Without Project” traffic volumes. Our calculations near the I-5/Sperry Avenue interchange indicate that there would be a decrease in traffic under the Existing Plus Approved Projects conditions during the morning peak period. Also, it appears that project traffic was added to movements that should not have an increase since the project site is located to the east of I-5 (i.e., northbound left-turn at I-5/Sperry Avenue). A more detailed explanation of why traffic volumes decreased or why project traffic was added to movements not related to the project site should be added to the traffic study to help clarify any confusion.

N.8e

Operational Analysis

- The delay reported for signalized intersections is based on the Synchro delay, which is not consistent with the Highway Capacity Manual (HCM) delay. As mentioned under the *General Plan Standards of Significance* section of the traffic study, “the level of service analysis will be conducted based on peak hour intersection LOS as defined in the 2000 HCM.” In general, Synchro and HCM delay produce similar results except in situations where the intersection is operating at capacity or if there are exclusive right-turn lanes. The LOS results and the write-up under the methodology section should be revised to be consistent with each other.
- The delay reported for unsignalized intersections is the intersection average delay. Again, as noted under the *General Plan Standards of Significance* section of the traffic study, “the LOS is reported for both the minor approach as well as for the whole intersection.” The average delay can be misleading because the major street carries more traffic and the through traffic does not have any delay. The minor street approach typically has the higher delay since vehicles have to stop and wait for gaps before traveling through the intersection, resulting in a higher delay. The LOS for the minor street approaches should be added to the tables to ensure that the operations are adequate and would not result in excessive queue lengths, and appropriate mitigation measures added if necessary.
- The existing train tracks are located to the west of the project site and run parallel to SR-33. Many study intersections are located along SR-33. When

N.8f

N.8g

N.8h

a train passes by the project site, the operations at these intersections along SR-33 could potentially be worse than what is reported in the traffic study since vehicles traveling in the east-west direction would have to wait until the train passes. Also, the use of the existing tracks is likely to increase significantly due to the proposed expansion of rail-based distribution facilities, which are being proposed at the former Crows Landing Air Facility located to the south of Patterson. The report fails to analyze how the operations at the intersections would be affected in the future with a higher demand of train usage.

Mitigation

- Under the Existing Plus Approved Projects conditions, it summarizes improvement measures at intersections not operating at an acceptable LOS. However, the report fails to mention how these improvements were selected. Are the improvements listed consistent with improvements listed for other approved projects? It would be helpful to have a figure showing the locations of the other approved projects and a table summarizing each project's intensity. A very important issue related to this is whether the improvements listed have specifically identified funding sources. N.8i
- As noted under the *General Plan Standards of Significance* section of the traffic study, "the City's 2004 General Plan Policy III.A.2 states that the City shall endeavor to maintain a LOS "D", as defined by the 2000 HCM or subsequent revisions, on all streets and intersections within the City." However, the report fails to mention how a significant impact is determined. Is it based on the increase in delay or the increase in the percentage of project traffic? N.8j
- On pages 26 and 27 of the traffic study, the traffic study suggests a realignment of the Zacharias Road/SR-33 and Eucalyptus Avenue/SR-33 intersections. The DEIR and traffic study must specify whether this represents a project mitigation and whether it would be the responsibility of the project to construct these realignments. N.8k
- Tables XIII and XIV in the traffic study summarize the project's fair share at each study intersection. It is unclear why the project's contribution is shown for all intersections, whether they operate at an acceptable LOS (LOS A to D) or unacceptable LOS (LOS E and F). If the project plans to pay a proportionate share towards intersection improvements that does not fully mitigate the project's impacts. There is no assurance that the improvements would ever be constructed. In addition, the DEIR (Mitigation Measure D.1 on page III.D.17) mentions that the City is to construct the various intersection improvements listed as mitigation measures before traffic would result in "sufficient vehicle trips to reduce the level of service below LOS D at study intersections." Also, the DEIR states that the City would establish an appropriate funding mechanism that is N.8l

likely to result in developers of this project contributing a fair share of the costs of these traffic mitigation measures. We do not believe that this is an appropriate way to create valid and enforceable mitigation measures under CEQA because full funding for this improvements is not yet assured.

Traffic Safety

- As mentioned earlier under the *Operation Analysis* section of this letter, the existing train tracks are located to the west and run parallel to SR-33. Assuming that there would be an increase in train operations, the traffic study does not mention or analyze how high school students generated by the project would safely cross SR-33 to reach either the existing high school in downtown Patterson or the new school proposed for Zacharias Road.
- The traffic study fails to mention or analyze the potential need of grade-separating any of the intersections located along SR-33. A more detailed discussion of grade separation should be included in the traffic study.

N.8m

Conclusions

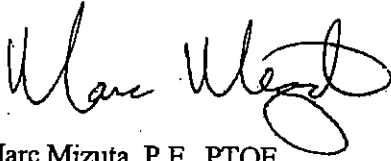
Based on our review of the Villages of Patterson traffic study and DEIR, we recommend the following modifications to the studies to ensure that the DEIR is an adequate document for CEQA:

- Provide more detail regarding the project trip generation.
- Provide additional figures/tables to show the project trip distribution/assignment/volumes.
- Re-run the traffic model to include the new interchange at I-5/Zacharias Road.
- Update the intersection LOS summary tables for consistency between the text and output files.
- Include a discussion on project impacts were determined.
- Provide clarification on how project impacts would be mitigated.
- Provide more details/analyses to address traffic safety regarding the mix of increased traffic from the project combined with existing and potential increases in train operations.

Thank you for the opportunity to review the traffic study and DEIR for the proposed Villages at Patterson project. Please let us know if you have any further questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Marc Mizuta". The signature is fluid and cursive, with the first name "Marc" written in a larger, more prominent script than the last name "Mizuta".

Marc Mizuta, P.E., PTOE
Project Manager, RCE #67801

K:\095590000\Villages of Patterson Peer Review.doc

Rod Simpson
September 1, 2006

WENDEL, ROSEN, BLACK & DEAN LLP

Comment N.9

**EXHIBIT D
SELECTED EXCERPTS FROM
CROWS LANDING AIR FACILITY AND INDUSTRIAL BUSINESS PARK
MASTER DEVELOPMENT PLAN CONCEPT REVIEW**

CROWS LANDING AIR FACILITY AND INDUSTRIAL BUSINESS PARK

Master Development Plan Concept Review

Prepared for:
Stanislaus County
Department of Planning and
Community Development

August 2006

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www.esassoc.com

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Oakland

Orlando

Petaluma

San Francisco

Seattle

Tampa

205531

Land Use

Each concept was reviewed for its ability to create land use configurations that would generate new jobs and economic development in Stanislaus County.

- Concept 1 provides the least amount of available land for on-site development (464 acres). In addition, the runway configuration and existing infrastructure create irregularly shaped areas that would pose challenges to development. The intersecting runways also create barriers to on-site circulation.
- Concept 2 provides a slightly larger development area than Concept 1 (477 acres), with slightly larger parcels and comparatively easier internal circulation. In addition, Concept 2 would require the least amount of off-site agricultural land to achieve full buildout of both runways and rail development.

Similar to Concept 1, the amount of land available under Concept 2 for industrial development is limited, especially on the east side of the site, and the available parcels are long, narrow, and irregularly shaped. To compensate for the smaller amount of industrial opportunity under this Concept 2, there would be an incentive to develop uses that would generate greater income, such as business park or light industrial use.

- Concept 3 provides the greatest amount of land available for development (818 acres) and the greatest opportunity for industrial development on large parcels. Although the site is bisected by runways that create distinct northern and southern portions at full buildout, mobility between adjacent uses is possible within these northern and southern portions.

As shown on Figure 2-3, the land use areas associated with Concept 3 provide the greatest opportunity and flexibility for development. Industrial uses in the northern portion of the property would be more compatible with intermodal development by providing on-site area sufficient area for rail and air cargo links. Industrial uses in the southern portion could be designated for other types of industrial use that would be more closely allied with the adjacent business park and light industrial development.

A significant opportunity is associated with Concept 3 as it would provide for the largest industrial areas compare (600 acres) compared to the other concepts. As discussed in Section 1, few sites are available in the Central Valley that would provide for large industrial parcels, and there is great demand for them. Concept 3 would be more attractive to large-scale industrial and business park developers than the other concepts.

Rail Facilities

One of the guiding principles focuses on the need to explore intermodal uses, including connections to nearby I-5 and rail facilities. Each alternative was evaluated for its ability to support an intermodal rail facility.

- Concept 1 provides sufficient space for an on-site rail facility, but the runway configuration provides barriers to internal circulation and would prevent access between the rail facility and other on-site areas. Approximately 5 acres of off-site property would

be required to develop the rail spur to the site, and a grade separation between Highway 33 and the proposed rail spur would be required.

- Concept 2 would not provide for on-site rail opportunities; only limited area is available on the east side of the site between aviation areas and the eastern site boundary, and all access to and from the site would require the use of Bell Road and Highway 33. Approximately 88 acres of off-site property would be required in the short term to establish an intermodal rail facility and associated infrastructure, and 5 acres would be required to develop the rail spur to the site. A grade separation between Highway 33 and the proposed rail spur would be required.
- Concept 3 would provide for the development of an on-site intermodal rail facility. The location of runways would provide fewer barriers to site access, and internal circulation to the adjacent industrial areas would be possible. Approximately 5 acres of off-site property would be required to develop the facility spur to the site, and a grade separation between Highway 33 and the proposed rail spur would be required.

Although Concepts 1 and 3 would provide for on-site intermodal rail facilities, the increased amount of industrial area associated with Concept 3 and improved on-site circulation in the northern portion of the site would make Concept 3 more favorable with regard to rail facilities and intermodal development.

Traffic

The proposed project area is located within 1 mile of I-5, just east of the Fink Road interchange and approximately 4.3 miles south of the Sperry Road interchange. The possible development associated with any of the three concepts would increase traffic between the site and these interchanges, though the number of trips generated would vary significantly among the concepts.

Each concept was reviewed to identify its potential effects on internal and external traffic circulation.

- Concept 1 would pose the greatest challenge to internal circulation because the runway and associated clear areas would constrain the development of on-site roadways. The proposed business park development, industrial use, and proposed rail facilities would rely upon the Sperry Road/I-5 Interchange and Highway 33 to provide access to and from the site. Full buildout of the runways would require the realignment of Davis Road and Bell Road, and it would require improvements to Medlin Road to allow access to the southern portion of the site without increasing traffic through the community of Crows Landing. The location of the proposed business park offers an advantage, however, as site workers could access the business park using the 1-5/Fink Road interchange and Davis Road. This access route would help to separate business park traffic and truck traffic associated with industrial uses.

- Concept 2 provides the greatest advantages regarding on-site circulation as a result of the runway configuration; however, truck access would be limited on the east side of the site especially at full buildout. Substantial improvements would be required at Marshall Road and Highway 33, and another bridge would be required over the Delta Mendota Canal. Site workers could travel to and from the business park from the west side of the site, thereby avoiding conflicts with truck traffic on the east side. As with Concept 1, improvements to Medlin Road would be required to provide access to the southern portion of the site without increasing traffic through the community of Crows Landing.
- Concept 3 would pose challenges to internal circulation between the northern and southern portions of the site based on runway configuration. However, traffic to the business park could be provided from the southern portion of the site, leading to increased use of the Fink Road/I-5 interchange rather than the Sperry Road interchange. As with Concept 1, Concept 3 would require the realignment of Davis Road and Bell Road, as well as improvements to Medlin Road to provide access to the southern portion of the site. As with Concept 2, another bridge would be required over the Delta Mendota Canal to facilitate internal circulation in the southern portion of the site.

Concept 2 offers clear advantages with regard to on-site circulation, as the proposed runways would not pose barriers to on-site circulation. Unlike Concepts 1 and 3, Davis, and Bell Roads would not require significant realignment. Improvements to Medlin Road and 33 would still be necessary to offset potential impacts to the community of Crows Landing associated with increased truck traffic.

Infrastructure

All three proposed concepts will require substantial investment with regard to the creation of water, drainage, and sewer facilities, and additional police and fire support will be required.

Other

The conversion of prime farmland is an important issue that has been raised by the public. Each of the proposed concepts would result in the loss of prime farmland, some of which is under Williamson contracts. Concept 1 would result in the conversion of approximately 385 acres in cultivation at full runway buildout, Concept 2 would result in the conversion of approximately 93 acres during the construction of rail facilities and runway buildout, and Concept 3 would lead to the conversion of approximately 452 acres. Both Concept 1 and Concept 3 would require mitigation for the conversion of prime farmland prior to the build out of aviation facilities, as would Concept 2 prior to the development of an off-site intermodal rail facility.

Each proposed concept has the potential to cause impacts to Little Salado Creek and its associated drainage ditches. These impacts cannot be quantified at this time, and they would be avoided or minimized during the development of aviation, industrial, and business park facilities. Coordination

BRIEFING PAPER

Northern California Logistical Improvement Program

PROJECT TITLE

Northern California Logistical Improvement Program
[Altamont Trade Corridor Project]

PARTICIPANTS

Stanislaus County
Stanislaus Council of Governments (StanCOG)
Alameda County Congestion Management Agency [all cities represented]
San Joaquin Council of Governments (SJCOG) [all cities represented]
San Joaquin Regional Rail Commission
(Altamont Commuter Express/ACE)
Port of Oakland
Port of Stockton

PROJECT DESCRIPTION

In response to the pending \$19.9 billion dollar transportation infrastructure bond program (voter consideration November 2006 ballot), which includes over \$3 billion targeted to improving goods movement in California – the public entities (see above) are currently reviewing possible options for a regional application for several different categories of the bond program.

Specific to the Northern California Logistical Improvement Program is an awareness that expansion of the Port of Oakland and other seaports in Northern California are critically important to the creation of new jobs and growing the economy for the San Francisco bay area, the great central valley region, and the State of California.

The ability to move goods (and move more goods) from the Port of Oakland to the Central Valley and points east, north, and south is severely hampered by existing regional highway and rail traffic congestion in the Altamont Corridor.

Alameda, San Joaquin and Stanislaus Counties are individually and collectively affected by highway traffic congestion on Interstate 580, which includes an ever-growing need for better, more efficient goods movement. In addition, these congestion issues relate directly to severe deteriorations to air quality standards in the region.

PROCESS TO DATE

The public entities have been meeting for some weeks regarding the realistic development of a Joint Exercise in Powers (JPA) Agreement by and between the entities for purposes of applying for the potential State Infrastructure Bond funding – should the bond funding materialize after November 2006.

The Altamont Trade Corridor Project would include both rail capacity building as well as highway traffic congestion relief projects on the Interstate 580 corridor.

The rail component is defined in three primary areas or regions: the East Bay, Altamont - Tri-valley and Central Valley areas.

Crows Landing (the former military air facility primarily) has been identified as a potential inland port option for proposed short haul rail and transfer facilities in support of perceived long term expansions at the Port of Oakland.

PROJECTS: CENTRAL VALLEY - CROWS LANDING FACILITY

Central Valley specific projects identified in the immediate and short term (2007 – 2012) development window include:

1. **\$5.0 million: Crows Landing Start up Intermodal Facility.** Including siding improvements within Union Pacific Railroad westside line right of way at Crows Landing. It is anticipated that \$2.5 million would come from the State Bond program with \$2.5 million from local or private sources.
2. **\$12 million: Connecting Track at Lyoth Connection.** Provide connecting track between Oakland subdivision and westside line at Lyoth. This would benefit short haul freight options into Crows Landing development facility via Port of Oakland. Again, \$6 million would be requested via the State Bond effort and \$6 million secured from other sources.
3. **\$75 million: Crows Landing on-site intermodal ramp.** Two track intermodal ramp with transload siding and yard lead. Provides initial phase of permanent intermodal freight facility to handle 2 to 6 round trip Short Haul Freight trains per day. This benefits the development park industrial interests, short haul freight and the Port of Oakland. These same one to one match formulas would apply to this funding project as well. Other sources may include other State dollars, Federal dollars, private and/or local match dollars.

There is some discussion regarding local match flexibility that would lower match requirements and/or allow Federal funds as matching funds for the bond funding. These issues are not yet clarified and will be a major topic of discussion as this process continues to develop.

MAP ATTACHMENTS

- Northern California Logistical Triangle
- Short Haul Freight and Passenger Connections

Comment N.11

EXHIBIT E
SELECTED EXCERPTS FROM
STANISLAUS COUNCIL OF GOVERNMENTS
30-YEAR TRANSPORTATION FINANCIAL EXPENDITURE PLAN
AND ENVIRONMENTAL IMPACT REPORT

→ Excellence in Regional Planning



**Stanislaus County's
30-Year Transportation Financial Expenditure Plan
June 2006**



900 H-Street Modesto, CA 95354 209.558.7830 www.stancog.org

Program Descriptions

STATE HIGHWAY CORRIDORS

42.7 % or \$435 million

- State Route 132 West, East and Connector
 - SR 132 West from SR 99 in Modesto to I-5
 - SR 132 Connector from SR 132 West to SR 132 East through Modesto
 - SR 132 East from Riverside Drive to Empire, Widen to 4 lanes with turn lanes
 - SR 132 East from Empire to Waterford, Add turn lanes

20.4 % or \$208 million

- State Route 219-108 Claribel Corridor
From State Route 99 to State Route 120
East of Oakdale

20.3 % or \$207 million

- SR 219 (Kiernan Avenue) from SR 99 to McHenry Avenue, construct an Expressway
- SR 108 (Claribel Corridor) from McHenry Avenue to SR 120 East of Oakdale, construct an Expressway

- State Route 120 Oakdale Bypass
Right-of-Way Acquisition

2.0 % or \$ 20 million

STATE HIGHWAY INTERCHANGES

(Will require Local, State and Federal Matching Funds)

15.7 % or \$160 million

- State Route 99 Interchange Improvements

- Kiernan Avenue – SR 99/SR 219 in Modesto
- Pelandale Avenue in Modesto
- Standiford Avenue/Beckwith Road in Modesto
- Briggsmore Avenue in Modesto
- Whitmore Avenue in Ceres
- Mitchell Road/Service Road in Ceres
- New Route SR 165 Interchange South of Landers Avenue in Turlock

- I-5 Interchange Improvements

- Sperry Avenue in Patterson and widen Sperry Avenue to Rogers Road
- Future I-5 Interchange for Patterson Bypass
- West Stuhr Road interchange near Newman




StanCOG 30-Year Transportation Sales Tax Financial Plan

Draft Environmental Impact Report
SCH No. 2006032032

Prepared for:
Stanislaus Council of Governments

May 2006

**TABLE 3-6
PROPOSED INTERCHANGE IMPROVEMENTS REQUIRING LOCAL FUNDS**

Project	Description
I-5 Interchange Improvements	
I-5 Sperry Interchange and Sperry Road Widening	<p>Sperry Avenue in the City of Patterson is an important transportation corridor between Interstate 5 (I-5) and the City of Modesto. The project would improve the interchange at I-5 and Sperry Road, including modifying on-ramps and off-ramps at the interchange to accommodate future lanes and signalization.</p> <p>It would also include improvements to Sperry Avenue and the creation of the Patterson Bypass, both east of the interchange. Sperry Avenue between Rodgers Road and SR 33 would be widened to four lanes. Continuing east, the Patterson Bypass would serve as a road link between Sperry Avenue and Las Palmas Way. The bypass would continue as a two-lane roadway from SR 33 east toward the river and then head north adjacent to the river until it intersects Las Palmas. The proposed alignment for the bypass would require realigning the intersection of Sperry Avenue with Orange Avenue at SR 33 and then continuing on the alignment of Orange Avenue until it reaches Ash Avenue. The alignment would continue north on Ash Avenue until it intersects Las Palmas Way.</p> <p>The proposed \$34 million Sperry Road project is listed in the RTP as a constrained project associated with the preferred alternative. Approximately \$10 million is needed from Stanislaus County to construct this project, and \$6 million is needed from the City of Patterson, leaving a shortfall in excess of \$18 million. The City of Patterson will be the lead agency for this project.</p>
 Future I-5 Interchange for Patterson Bypass (Patterson)	A new diamond interchange is proposed at the Zacharias Road Intersection about 2.5 miles north of Sperry Avenue. Zacharias Road will be a four-lane expressway with standard shoulders. The on-ramps will include two lanes north and two lanes south, similar to the Sperry Avenue Interchange.
West Stuhr Interchange (Newman)	This project is an improvement to the interchange and will involve widening West Stuhr Road.

3.2.4 Local Transportation Improvements

In accordance to the goals, objectives and policies of the overall San Joaquin Valley RTP, StanCOG focused its efforts for Stanislaus County on enhancing the interregional roadway system and providing for expressways and interchange improvements. While these improvements and enhancements are vital to promoting businesses to Stanislaus County, they do not address the local transportation needs that have evolved both from an aging infrastructure or from the unprecedented population growth in communities adjacent to interregional roadways. In addition, a stable source of funding has not been available to the cities within Stanislaus County to undertake local roadway improvement projects.

To support the needed improvements to local transportation systems, approximately \$100 million generated by the proposed one-half-cent sales tax increase over the 30-year period would be apportioned to the nine cities in Stanislaus County for local transportation improvements. A portion of the money would also be provided to the County. Each jurisdiction could use the funds to support local roadway improvement projects or for additional pavement management. Up to 25 percent of each jurisdiction's share may be used for pedestrian, bicycle, and transit capital projects. Table 3-7 presents the proposed distribution of funds for local projects.

Rod Simpson
September 1, 2006

WENDEL, ROSEN, BLACK & DEAN LLP

Comment N.12

EXHIBIT F PFF COMMENT LETTERS ON NOTICE OF PREPARATION



PATTERSON
Frozen Foods, Inc.

P.O. BOX 114

PATTERSON, CA 95363-0114

PHONE 209 - 882 - 2811

FAX 209 - 882 - 5209

March 22, 2006

City of Patterson
Community Development Department
33 S. Del Puerto Avenue
Patterson, California 95363



RE: Project Title: Villages of Patterson Development Plan.

Dear Sirs:

We believe that the approximately 8,000 to 10,000 plus vehicles from the Village Development should not be just "added" onto Las Palmas Avenue and Hwy-33 which would cause major traffic congestion. A much broader traffic plan needs to be made for the longer term. Traffic plans need to connect to the roads where these new homeowners come from and where they work which is usually the Bay Area via I-5. We request that the following issues and suggestions be looked at by the committee and the EIR.

1. Traffic circulation by the Villages of Patterson Project needs to take into account the crossing of HWY 33 and the railroad tracks to the west from some street in addition to Las Palmas. Zacharias Road is the only logical road.
2. The long term transportation improvement plan being put together by the County Transportation Agency (STANGOG) in anticipation of a 1/2 cent sales tax vote in the November primary election makes a general reference to a Patterson By-Pass. This by-pass should be Zacharias Road to I-5.
3. There is property along Zacharias Road that is not in the Williamson Act and under state law if this property should be proposed for development the City, LAFCO and the County must consider it before land in the Williamson Act can be converted to non-ag uses. At least 1/2 of the land in the Villages Project is still in the Williamson Act. This means a development coming along after the scope of this EIR is set but prior to it being in final form would more than likely require a significant modification UNLESS Zacharias Road is taken into account in the scope of this EIR.
4. Zacharias to Rogers Road is a more viable transportation route for traffic coming from the north on 33 going south to get to the Sperry I-5 interchange and if planned correctly would resolve some of the trucking ingress and egress issues on Baldwin related to the Keystone Business Park.

Sincerely Yours,

Patterson Frozen Foods, Inc.
CEO

Ron West & Associates
Project Development, Land Planning, Entitlements

25 N. El Circulo
Patterson, CA 95363
Email: ronwest@gvni.com

209-895-4600 Office
209-925-8895 Mobile
209-895-4960 Fax

March 22, 2006

Stanislaus County Board of Supervisors
1010 Tenth Street
Modesto, Calif. 95354

RE: COUNTY GENERAL PLAN AMENDMENT- CIRCULATION ELEMENT UPDATE

Dear Chairman Simon and Board Members,

I am working on long range planning with Patterson Frozen Foods, which has been a part of Patterson for over 80 years. We are also communicating with other long-time west Patterson property owners who are concerned about the ongoing County Update of the General Plan Circulation Element. I addressed our concerns at the March 2 Planning Commission meeting, and appreciate the opportunity to express them to you.

It is obvious that northwest Patterson has been and will continue to be a vital part of our community's well-planned residential and jobs growth. However, the proposed Circulation Element Update does not support that assumption. I assured the Planning Commission that future circulation issues must be addressed now, or long before this Update period ends in 2030, the northwest area, and all of Patterson could experience serious circulation problems. Patterson's growth has been well planned, and has attracted important new jobs. That long range planning must continue.

We are requesting designation of a future east-west 4-lane expressway, and suggest that Zacharias Road is an obvious corridor which could serve a future I-5 interchange in that area. With new growth being discussed in the north-east area, it seems logical to also designate Eucalyptus Ave east of 33 as a 4-lane connector. That connection at 33 should allow for a very workable continuation with the Zacharias corridor going west. A complete Circulation Plan also needs a new (Eucalyptus) bridge across the River toward Turlock and 99, connecting to Monte Vista or Fulkerth. Instead of directing local and regional traffic through town, this would serve as a true "bypass". We also note the importance of north-south connections, and suggest that the County portion of Rogers Road be included. With

the Baldwin connector only two lanes and not designed to handle the future truck traffic, north-south circulation will become ever more important.

The Zacharias-Eucalyptus corridor offers long range planning advantages. There is virtually no development along that corridor, and few existing homes or businesses "in the way". The Zacharias portion also has very few property owners, and those I have spoken to have expressed a willingness to reserve a future right of way, and upon a future annexation or development agreement, even consider some dedications prior to development, if needed to accommodate community needs.

This is not a new issue and until September 14, 2005 a Zacharias extension and interchange at I-5 was specifically included on StanCog's Expressway and Sales Tax Improvements lists. Unfortunately, Mayor Keller at that September StanCog meeting, expressed his personal opinion without consulting the Council, and requested that this important future connection be removed. As a result, the StanCog Policy Board then replaced "Zacharias" with a "connection between State Route 99 and 5".

When Councilmembers learned of that change, the issue was placed on the October 18, 2005 City Council agenda for discussion. At that meeting Councilmembers expressed serious concerns, the need for a second future connection to I-5, and the extremely long planning time required. The Council clearly wanted this area to be part of the County's long range circulation planning. The City Manager told the Council that even if Zacharias were not specified, that a second (north) Patterson interchange was still included on the StanCog list. Unfortunately, we were surprised to learn that the current EPA Update did not reflect that assurance. Even if not all of the northwest area is in the current Patterson planning area it must be considered in such a long-range and area-wide Plan.

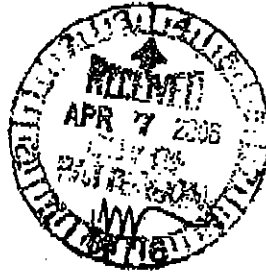
I also personally have some questions about the proposed southern Patterson expressway route connecting Sperry Ave at Highway 33 to Las Palmas going east toward Turlock. That route seems to present some issues, not the least of which is fitting a 4-lane expressway between or around our famous palm trees along Las Palmas from the expressway loop connection (presumably Sycamore) eastward and crossing the River. Any plan which threatens our well loved palms, would of course, be unacceptable. I encourage additional discussion and clarification, and again suggest a second River crossing further north,

Future circulation across and around Patterson must be master planned to accommodate important jobs growth and protect the quality of life for Patterson residents. We are requesting that before you adopt this EPA, you take a little additional time to review this area and its future circulation needs. If logistics do not allow our critical needs to be addressed in this version of the Update, it is very important that the Board specifically acknowledge these deficiencies, and assure Patterson businesses, property owners and tax payers being asked to support higher taxes for future circulation needs, that we will be included. Thank you for your consideration.

Sincerely,

Ron West, Consultant

CC: Patterson City Manager, Mayor and Council
Vincent Harris, StanCog
Ron Freitas, County Planning Director
Patterson Frozen Foods
Larry & Ken Buehner
Jeff Arambel
Patterson Unified School District



P.O. BOX 114 • PATTERSON, CA 95363-0114
PHONE 209 - 892 - 2611 • FAX 209 - 892 - 5209

City of Patterson
Community Development Department
Attn: Rod Simpson
33 S. Del Puerto Avenue
Patterson, CA 95363

April 07, 2006

RE: Villages of Patterson Development Plan

Dear Rod:

Due to the additional approximately 10,000 vehicles expected to be added by the development; and in order that the traffic is not merely "dumped" onto E. Las Palmas Avenue and Hwy 33, but is dealt with in an overall traffic plan including where the traffic comes from (I-5) and includes where the homeowners commute to work. And that must get across Hwy 33 and the railroad to the I-5; we request that a four lane overpass be studied by the EIR to get traffic over Hwy 33 and the railroad from Eucalyptus to Zacharias Road. This not only would accommodate traffic from the Villages of Patterson; it would also serve as a bypass and just as important to good planning, would address future increases in railroad use, should the current plans for a multi-use distribution center be developed at the Crows Landing Air Base. And would allow traffic to get across Hwy 33 without separating the town and become a traffic bottleneck.

We are in process of completing a study and to submit an application soon to develop our property. We look forward to working with the city council and planners in the future. We are also willing to accommodate the city and the county and work with them to plan a Eucalyptus-Zacharias road "bypass." A four lane Zacharias road could continue to a four lane Rogers road to the Sperry avenue I-5 interchange until a new I-5 interchange could be built over the next 20 year plan.

Thank you for your efforts in good planning.

Sincerely yours,

COB

Patterson Frozen Foods, Inc.

Ron West & Associates
Project Management, Land Planning, Entitlements

25 N. El Circulo
Patterson, CA 95363

209-895-4600 Office
209-985-8895 Mobile

April 10, 2006

City of Patterson
Community Development Department
33 So. Del Puerto Avenue
Patterson, Ca. 95363

RE: COMMENTS: *VILLAGES OF PATTERSON* EIR NOTICE OF PREPARATION

On behalf of Patterson Frozen Foods, I would like to submit our comments in response to the NOP of the EIR for the proposed *Villages of Patterson* project. Thank you for this opportunity, and feel free to contact me with any questions.

Patterson Frozen Foods and its owners have been part of Patterson for over 80 years. They have substantial land holdings in the area and are very interested in the long range planning and future for their town. Our comments are based on that perspective, and we hope they will be helpful as the *Villages project* proceeds with its planning and Environmental Impact Report.

Patterson has enjoyed excellent and far-sighted master planning in recent years, and the new homes, services, jobs and community amenities all speak to that vision. We believe that intensive long-range planning must continue to occur, and further, that particular focus be kept on community and area-wide circulation.

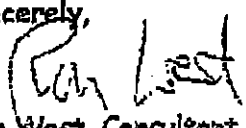
Our first comment then is that future Patterson obviously needs a second interchange and major connector from I-5 to Highway 99 and Turlock. We believe that the Zacharias -Eucalyptus corridor is the most obvious alignment, with a future Eucalyptus bridge ultimately connecting to Monte Vista or Fulkerth. This corridor must be planned and reserved as a four-lane facility. It is important to note that this is needed not only to accommodate the traffic from existing Patterson residents and businesses and this proposed development, but to also deal with the very significant and increasing through traffic which must currently find its way through our downtown and historic Las Palmas Ave. Accommodating a true northern bypass is absolutely necessary in any major development plans being considered in Patterson.

Ron West & Associates: 4/10/06
Comments on *Villages* NOP

Our second comment is related, and poses the question of how current and future vehicle traffic will be handled at Eucalyptus and the railroad tracks and Highway 33. Again, we must deal with not only existing and proposed homes, but new *Villages* commercial, emergency vehicles, and very significantly, cars and commercial truck traffic passing through. Significant increases in railroad use should be expected from the current plans for a major multi-modal distribution center at the Crows Landing Air Base. The Ports of Oakland and Stockton will also continue to increase their shipments to and from the valley, as well as area-wide truck and train users in general. We believe that to properly plan for future growth in Patterson and the entire area, a grade separation over 33 and the tracks must be ultimately accommodated in any plans along the Eucalyptus - Zacharias "bypass".

Finally, we hope that other major infrastructure systems (water, sewer, storm drain, etc.) will not be forgotten. With a major new growth area on the east side of 33 and many new homes on the west, all public infrastructure systems must be designed to not prevent or interfere with future looping and connections throughout the area as future public safety and good planning may require. We believe that all future developments can and should continue the excellent long-range planning tradition which has served Patterson so well. Thank you for your time.

Sincerely,


Ron West, Consultant

CC: Patterson Frozen Foods

Responses to Letter N: David L. Priess, Wendel, Rosen, Black & Dean LLP, for Patterson Frozen Foods, Inc.

Response to Comment N.1

The commentor contends that the EIR is legally inadequate under CEQA and that it must be revised and recirculated. This comment summarizes the letter's various assertions. As described below, in responses to each specific comment, the EIR is adequate under CEQA. Recirculation is not required.

This comment suggests that the City should prepare a Specific Plan that includes the Villages of Patterson Plan Area and the property owned by Patterson Frozen Foods. A response to this comment is found in Response to Comment N.5.

Response to Comment N.2

The commentor states that its analysis of the Draft EIR is ongoing due to the unavailability of CEQA and project-related documents on file at the City. The commentor states that it reserves the right to submit additional comments on the Draft EIR.

It should be noted that the documents that the commentor now seeks in its written Public Records Act request (dated August 31, 2006 included as Exhibit A to its letter) are not part of the EIR, nor are they necessary to review the adequacy of the EIR under CEQA. It should also be noted that the commentor has had ample time to request the documentation it now seeks from the City during the 45-day comment period that began on July 19, 2006. The commentor made an in-person request for the documentation at City offices on or around August 21, 2006. The City generally requires a written request for documents, especially if not part of an EIR, to allow City staff to assemble the requested documents. The technical appendices to the Traffic Study are the only requested documentation that is part of the EIR (these were not published with the EIR due to the large volume of material). Upon the commentor's in-person request, the City promptly forwarded an electronic file of the technical appendices to the Traffic Study by e-mail on August 22, 2006. The commentor has been notified of the availability of the non-EIR documents requested in its August 31, 2006 written records request. It has not responded.

The August 31, 2006 records request raises no environmental issues that require a response in these EIR responses to comments. It should be noted, however, that it is the lead agency's discretion whether to respond to late comments (CEQA Guidelines Section 15088(a)) or comments that are not received within a reasonable time (CEQA Guidelines Section 15207).

Response to Comment N.3

The commentator contends that the project conflicts with the Patterson General Plan and that such conflict constitutes a *per se* significant environmental impact.

CEQA sets forth mandatory findings of significance (CEQA Guidelines Section 15065) listing the conditions that, if found to occur, must be found to have a significant effect under CEQA. Conflict with the General Plan is not among these. In addition to the mandatory findings of significance, a City may also adopt its own thresholds of significance that define the conditions that would be considered a significant impact. The City has adopted no such thresholds with respect to conflicts with the General Plan.

To support its contention that an inconsistency with the General Plan constitutes a significant impact *per se*, the commentator cites CEQA Guidelines Appendix G(a) and CEQA Guidelines Section 15125(d). These authorities are misapplied. Appendix G to the CEQA Guidelines is included in the Guidelines as a sample checklist of environmental topics. Items presented in the checklist are not to be treated as presumptions of significance. Rather, they provide a model checklist of considerations that a lead agency may use in determining the significance of environmental effects. The instructions to the Appendix G Checklist state “[t]his is only a suggested form, and lead agencies are free to use different formats...” CEQA Guidelines Section 15125, also cited by the commentator, is entitled “Environmental Setting.” It requires discussion of consistency between the proposed project and applicable general plans and regional plans as part of a description of Setting (i.e., the existing baseline physical and regulatory conditions). This too, cannot be construed as creating any threshold of significance by which to evaluate environmental impacts.

The City of Patterson Planning Commission and City Council will evaluate the proposed project in the context of applicable goals and policies of the General Plan. This review will take place independent of the environmental review process, as part of the decision to approve, modify or reject the project. The City Council will consider potential conflicts with the General Plan and must balance and prioritize competing goals and policies. Potential conflicts with the General Plan, if identified as part of this process, would not alter the conclusions of the EIR as to the physical environmental effects of the proposed project, although it may affect the decisions made by the Council.

Response to Comment N.4

The General Plan Goals and policies cited by the commentator are discussed on p. III.A.7-8 of the EIR. As noted above in Response to Comment N.3, the City of Patterson Planning Commission

and City Council will evaluate the proposed project in the context of applicable goals and policies of the General Plan.

The commentor mischaracterizes the General Plan's growth policies. Policy I.A.2 is not a 29,000 "population limit" as cited by the commentor. Rather, General Plan Policy I.A.2 sets criteria that the City should consider when deciding whether to expand the area designated for residential development under the General Plan. It provides (among other criteria) that the population should be at or approaching 29,000 when considering such an expansion. Note that this policy does not apply to the proposed project because the proposed project would require no expansion of the area designated for residential development. The residential portions of the Villages of Patterson project are already designated for residential development under the Patterson's General Plan.

The commentor has indicated that his client has made a pre-application submittal to the City for development of that land. The property of commentor's client is entirely outside of the land use boundaries of the City's current General Plan. Under General Plan Policy I.A.2, consideration of that submittal is, therefore, premature. In order for the commentor's project to be considered, the City's population should be at, or be approaching 29,000 people. As the commentor points out, this population would not be reached until the build-out of the proposed project, or presumably some other project or combination of projects within the existing General Plan land use boundaries.

The commentor also contends that the "City has already exceeded the growth limit of 21,000 set forth in General Plan Land Use Goal I.A.3. . ." Again, the commentor misconstrues the City's mechanism for considering new development applications as a "growth limit." General Plan Policy I.A.3 sets criteria that the City should consider when initiating annexation of additional land for residential development. It provides (among other criteria) that the population should be at or approaching 21,000 when considering such an annexation. Whereas the 29,000 population target under Policy I.A.2 addresses when expansion of the City's General Plan land use boundaries would be timely and appropriate, the 21,000 population target under Policy I.A.3 sets criteria for when annexation of land would be timely and appropriate for residential development. The commentor additionally claims that the 21,000 population number has already been exceeded. This only suggests that the proposed annexation of the additional land for residential development, as proposed by the project, may be appropriate at this time (the population of Patterson for 2006 as estimated by the state Department of Finance is 19,269).

The commentor claims that the requirements of the overarching General Plan Goal I.A can be waived under Policy I.A.4, if significant public benefits are provided by an annexation proposal. This is only partially correct. The waiver provisions do not apply to the entirety of General Plan

Goal I.A. They only apply to Policy I.A.3 (determining when annexation of land for residential development is appropriate). In contrast, the criteria of Policy I.A.2 (determining when expansion of the area designated for residential development under the General Plan is appropriate), cannot be waived by the public benefit provisions of Policy I.A.4.

This comment suggests that the City should prepare a Specific Plan that includes the Villages of Patterson Plan Area and the property owned by Patterson Frozen Foods. A response to this comment is found in Response to Comment N.5.

Response to Comment N.5

The commentor represents landowners who own 945 acres of land that they would like the City to approve for development. The comment also notes that the land is optioned by a developer. The commentor requests that the proposed Villages of Patterson project be considered as a part of a Specific Plan that would encompass this additional 945 acres north of the City that commentor's client and a developer desire to develop. The commentor attaches "Pre-Application for Zacharias Hills" as Exhibit B to the letter, as evidence of its intent to pursue development of this area. The Pre-Application was submitted to the City on August 31, 2006 (after publication of the Notice of Preparation and Draft EIR, on the final day of the EIR public comment period). The 945-acre area is entirely outside of the City's General Plan boundaries.

While this comment raises no environmental issues that require a response in the EIR Responses to Comments under CEQA Guidelines Section 15088(a), a number of misstatements should be clarified. First, the commentor suggests that the City requires the use of specific plans. This is incorrect. Under the City's General Plan policy and related implementation policy, the City prepares master development plans. Specific plans are only one option. There is no requirement mandating the use solely of specific plans (see General Plan Policy I.A.5 and Implementation Measure 1.2). Finally, the commentor's suggestion that Policy IX.A.1 requires an update of the General Plan is inaccurate. While the policy calls for a review of the General Plan Policy Document every two years, revisions need only occur "as deemed necessary" (see the General Plan, p. II-51).

Response to Comment N.6

This commentor contends that the project description is inaccurate and incomplete. To support its contention, the commentor states that "[t]he Project Description and the Transportation and Circulation chapter contain significantly different descriptions of the acreage, number of dwelling units and square footage proposed as part of the project."

The commentator is correct in its statement that “[a]n accurate, stable, finite project description is the *sine quo non* of an informative and legally sufficient EIR.”¹ An adequate project description ensures that governmental agencies and the public have the information to consider a proposed project’s environmental impacts, mitigation measures, and alternatives under CEQA.² Recirculation of an EIR is only required where new information, added to the EIR between close of the comment period and certification, is “significant.” “New information is not significant unless the circumstances have changed in a way that ‘deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project’s proponents have declined to implement.’”³ Where new information, as here, “merely clarifies or amplifies [citation] or makes insignificant modifications in [citation] an adequate EIR” recirculation is not required.⁴

The project acreage and total number of dwelling units have not changed since the Initial Study was published. This discrepancy is acknowledged and reconciled on pp. III.D.11-12 of the EIR where the assumptions of the traffic analysis are set out. The EIR explains that after the traffic impact analysis was run, the project sponsor made minor revisions to the mix and location of residential densities. It noted that the total number of residential units remains the same at 3,100. It further explains that vehicle trips under the revised project would be slightly reduced. “Thus, the traffic impacts reported here are conservative and could be somewhat less than presented.” These modifications did not include significant new information about environmental impacts and thus do not frustrate the purpose of CEQA to require informed decisions on projects affecting the environment and do not deprive the public of meaningful review.⁵ Therefore, no recirculation is required.

Response to Comment N.7

The commentator correctly notes that the project will also require amendments to the City’s Street Master Plan, Circulation Plan and Circulation Plan Diagram to incorporate the Plan Area. In accordance with the comment, the following new bulleted item is added for clarification after the third bullet under “City of Patterson Approvals” on p. II.17 (new text is shown in **boldface** type, deleted text is shown as ~~strikethrough~~):

¹ *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185 (1971), p. 193.

² *Ibid.* pp. 192-193. See also *Maintain Our Desert Environment v. Town of Apple Valley*, (2004) 124 Cal.App.4th 430, p. 443.

³ CEQA Guidelines Section 5088.5(a).

⁴ *Sutter Sensible Planning, Inc. v. Board of Supervisors*, (1981) 122 Cal.App.3d 813, pp. 822-823; see also *Laurel Heights Improvement Assn. v. Regents of California*, (1993) 6 Cal.4th 1112, p. 1129; and *Marin Mun. Water Dist. v. KG Land California Corp.*, (1991) 235 Cal.App.3d 1652, p. 1667.

⁵ CEQA Guidelines, Sections 15152 and 15088.5(a).

- Amendment to the City's General Plan Land Use map to change all of about 9 acres currently designated as Heavy Industrial to Light Industrial;
- **Amendments to the Street Master Plan, Circulation Plan and Circulation Plan Diagram to incorporate the Plan Area;**
- Rezoning of the Plan Area to zoning districts that coincide with the Development Plan;

The commentor contends that the City's Capital Improvements Program and traffic impact development fee program must be updated. These actions are not necessitated by the proposed project and no change to the Project Description's list of project actions is therefore required.

The commentor contends that the Draft EIR fails to properly describe the steps and criteria required to annex and develop the land which is currently subject to Williamson Act contracts. See Response to Comment N.14, below.

Responses to Comment N.8

The commentor contends that the traffic analysis in the EIR is inadequate. It has retained a transportation consulting firm to review the EIR Traffic Study. The Kimley-Horn and Associates (KHA) letter is attached as Exhibit C, which forms the basis for each of the comments listed in Section III.A of the comment letter. Each bulleted issue raised in the comment letter under this comment, and the corresponding bulleted item in the Kimley-Horn letter, is addressed below.

Response N.8.a

See Response to Comment B.11.

Response to Comment N.8b

See Response to Comment N.6, above.

Response to Comment N.8c

The traffic distribution is based on the StanCOG model. The requested new figure showing the trip distributions is added to the Traffic Study as "**Figure 7a: Project Trip Distribution (2030 plus Project)**" following p. 22, and presented on the following page of this Response to Comment. The Kimley Horn letter questions the Traffic Study's assumptions for traffic to and from I-5 given the large employment centers in the Bay Area. There are employment centers not just in the Bay Area, but also in Modesto, Tracy and Stockton. Existing Patterson residents work in all of these areas as well as in Patterson. In the future, the model anticipates that more

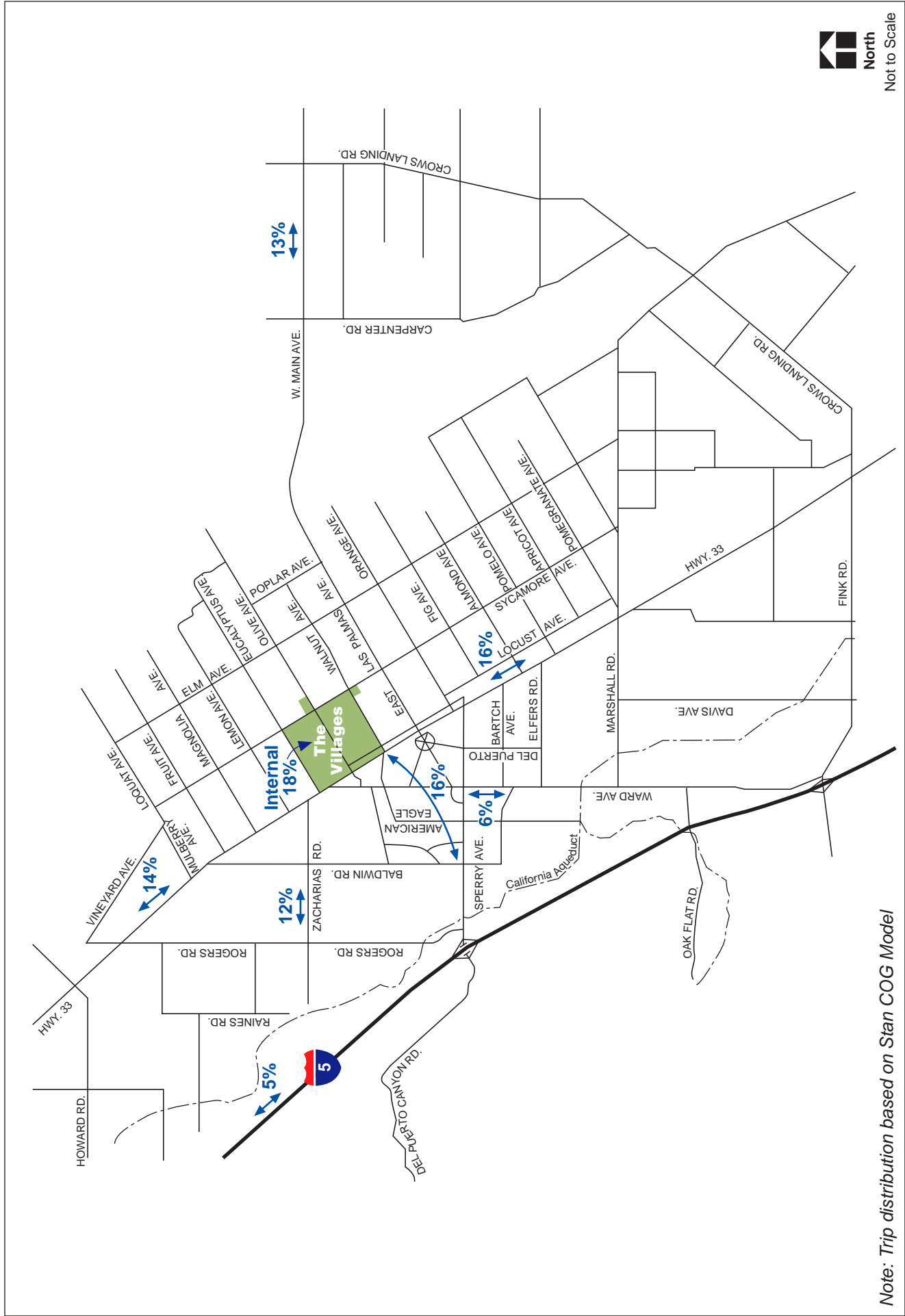


Figure 7a

Note: Trip distribution based on Stan COG Model

City of Patterson
 The Villages of Patterson Traffic Study
Project Trip Distribution (2030 plus Project)

residents of Patterson, including those in the Villages, would be employed closer to home in communities such as Modesto, Turlock, and Patterson itself at the West Patterson Business Park. It is part of the land use planning strategy of the City to promote an improved jobs-housing balance. The StanCOG model includes attractors (employment centers) in all of these closer communities as well as in the Bay Area (the focus of the commentator).

Response to Comment N.8d

See Response to Comment N.11, below.

Response to Comment N.8e

The project traffic was distributed using the StanCOG model. As discussed in Response to Comment B.11, the StanCOG model is a gravity based model. Consequently, with the proposed project trips added to the model total, it is expected that there would be a rebalancing and subsequent distribution of the total model trips. This results in some existing trips being redistributed to less congested streets or intersection when there is more than one reasonable route to get from one point to another.

Response to Comment N.8f

There are several software packages that have been developed to implement HCM. For coordinating and optimizing signal timing, Synchro's delay method is the most widely implemented and used. Based on the field validation for signalized intersections, the New England Section ITE Technical Committee has concluded that only Synchro consistently calculated queues close to field values and performed well in emulating the HCM. In this study, the Synchro method was used in computing the level-of-service analysis.

Response to Comment N.8g

See Response to Comment B.3.

Response to Comment N.8h

See Response to Comment N.9, below.

Response to Comment N.8i

See Response to Comment N.10, below.

Response to Comment N.8j

As described on p. III.D.5 of the EIR, intersection operations are evaluated using the “level of service” (LOS) concept. The Patterson General Plan establishes LOS D as the lowest acceptable service level (see p. III.D.11, “Significance Criteria,” see also Traffic Study, Appendix B, p. 6). LOS D is defined in EIR Table III.D-1 as a 35 to 55 second delay per vehicle.

Response to Comment N.8k

The realignment of Zacharias Road/SR-33 and Eucalyptus Avenue/SR-33 is not identified as a mitigation measure because it is not called for to address a significant impact identified for the proposed Villages of Patterson project. However, it is discussed as a suggested improvement that, due to the short distance between intersections, could further improve traffic flows.

Response to Comment N.8l

See Responses to Comment N.10, below.

Response to Comment N.8m

See Response to Comment D.1 and Response to Comment N.9.

Response to Comment N.9

As a comment on rail safety, a response to this comment is found in Response to Comment D.1.

The commentator further notes that the EIR fails to recognize a potential future increase in usage of the rail line. The commentator attaches Exhibit D which includes excerpts of a concept study entitled “Crows Landing Air Facility and Industrial Business Park, Master Development Plan Concept Review” dated August 2006 (after publication of the Notice of Preparation and Draft EIR). The concept for the Crows Landing Business Park was initiated by the County in late 2005 to determine the feasibility of, and develop options for, the types of uses and layout for the facility. No public capital improvement money has been allocated for such a facility. As described in the “Briefing Paper” included as part of Exhibit D, the study was undertaken in anticipation of a pending transportation infrastructure bond program to appear on the November 2006 ballot. Various public entities are in the process of reviewing possible options or “concepts” in preparation to apply for the infrastructure bond funding should it be approved by the voters. The County has recently released a Request for Qualifications/Proposal (phase I) requesting a master developer for the facility that would make a proposal for the types of uses and timing of development. At this juncture, the potential Crows Landing facility cannot be

considered a “probable future project” for the purposes of analyzing cumulative impacts under CEQA Guidelines Section 15130(b).

Increased rail usage is not a consequence of the Villages of Patterson project and an analysis of the impacts of increased rail usage at this time and in this EIR would be speculative. With the current one train a day frequency, the justification for grade separation does not exist. Rail safety concerns could be reasonably managed with the upgraded train signal protection flashing light system that is included as part of Mitigation Measures D.1.k and D.1.l, as revised in Response to Comment D.1.

If plans for a Crows Landing freight facility move forward, plans for the facility would need to be refined and the potential safety and traffic impacts of additional rail usage of the rail line would need to be analyzed for many grade-level crossings in addition to the three noted in the comment, as part of the environmental review for that facility, as well as options for mitigation of significant impacts if identified. Options such as grade separation, fencing and scheduling trains to avoid the a.m. and p.m. peak hours would be studied at that time.

The commentor points out that the Southern Pacific Railroad (SPRR) was absorbed by the Union Pacific Railroad and that the tracks adjacent to the project site are controlled by the California Northern Railroad (CFNR) under a long-term lease from Union Pacific. Accordingly, all references, throughout the EIR, to the Southern Pacific Railroad (SPRR) are revised to refer to the California Northern Railroad. This revision does not change the analysis and conclusions of the EIR.

The commentor points out safety issues at three (3) interesections along SR 33. The EIR includes mitigation measures, specifically D.1, to improve the traffic flow and safety at these intersections (see EIR, pp. III.D.14-18). See also Response to Comment N.8.e.

Response to Comment N.10

Nothing in CEQA requires that a private developer implement all of the mitigation measures identified in an EIR. As part of its consideration and action on the proposed project, if it decides to approve the proposed project, the City Council will determine whether the mitigation measures identified in the EIR are feasible and if so, must impose those as conditions of approval. Implementation of mitigation measures imposed on the project, the schedule and responsibility are to be identified in a Mitigation Monitoring and Reporting Program (MMRP) (CEQA Guidelines Section 15097). The Council may reject mitigation measures that are found infeasible (e.g., if sufficient funding is not available). The Council will also consider conformity with the City’s General Plan in its deliberations.

The EIR has identified mitigation measures for project traffic impacts that the City has determined will have full funding prior to the necessary construction of the improvements. A combination of mitigation contributions; community facilities district funding, and City and County impact fees from other projects; City and County traffic impact fees paid for by the project; and additional monies derived from the project through development agreement obligations or community facilities district(s) or both, will be used to fund these mitigation measures. All identified impacts will be monitored and the mitigation measures implemented, as necessary to maintain appropriate levels of service. The City is establishing a complete traffic improvement monitoring progress to track and construct necessary traffic improvements, including those required as mitigation for the project. Project mitigation will also be ensured through the MMRP for the project. These are appropriate approaches to providing mitigation since the payment of fees and fair-share contributions “are part of a reasonable plan of actual mitigation” that the City has committed “itself to implementing.”⁶

For cumulative impacts, the City could not identify full funding for mitigation at five (5) locations. Because of the uncertainty of the funding for these cumulative impacts, they were determined to be significant and unavoidable. The project will pay its proportionate share of the cumulative impact mitigation that is not addressed by existing City or County traffic impact fees. Such an approach to cumulative impacts is appropriate because mitigation must be consistent with the constitutional requirements of “nexus” and “rough proportionality” that limit the mitigation measures an agency can apply to those connected to and roughly proportional to the impacts of the project (see CEQA Guidelines Section 15126.4(a)(4)). The remaining mitigation measures for cumulative impacts were treated like the project impacts and mitigation measures described above because the City has a plan to fund the improvements as they are needed. **Table C&R-1: Mitigation Funding for Cumulative Traffic Impacts**, presented on the following page, identifies the mitigation measures and funding sources for them. Those shown “as partially funded” are the five cumulative impacts determined to be significant and unavoidable because full funding is uncertain.



The commentator misstates the City’s General Plan as it applies to traffic improvements. Policy III.A.9 requires the City to “ensure through a combination of traffic impact fees and other funding mechanisms that new development fully mitigates its impact on traffic facilities by *paying its share of the costs* of circulation improvements.” (*Emphasis added*). The commentator omits the legally necessary “fair share” language that is consistent with constitutional requirements as detailed in Guidelines Section 15126.4(a)(4).

⁶ See *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, p. 1188 and *Save Our Peninsula Comm. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, p. 141.

Table C&R-1: Mitigation Funding for Cumulative Traffic Impacts

Intersections	Funding Sources
1. Sperry Ave/I-5 SB Off-Ramps	Existing Mello-Roos
2. Sperry Ave/I-5 NB On-Ramps	Existing Mello-Roos
3. Sperry Ave/Rogers Road	Existing Mello-Roos
4. Sperry Ave/Baldwin Rd	a
5. Sperry Ave/Walker Ranch	Fully improved.
6. Sperry Ave/American Eagle Dr	Existing Mello-Roos
7. Sperry Ave/Las Palmas Ave	Existing Mello-Roos
8. Sperry Ave/Ward Ave	Partially funded
9. Sperry Ave/S Del Puerto Ave	Partially funded
10. Sperry Ave/SR-33	Partially funded
11. SR-33/Las Palmas Ave	Existing Mello-Roos
12. Ward Ave/ American Eagle Dr	Partially funded
13. Ward Ave/SR-33	To be improved by VOP due to proximity
14. Zacharias Rd/SR-33	To be improved by VOP due to proximity
15. Baldwin Rd/SR-33	Existing Mello-Roos
16. Rogers Rd/SR-33	Partially funded
17. Eucalyptus Ave/SR-33	To be improved by VOP due to proximity
18. Olive Ave/SR-33	To be improved by VOP due to proximity
19. Walnut Ave/SR-33	To be improved by VOP due to proximity
20. Sycamore Ave/Olive Ave	No improvement required
21. Sycamore Ave/Walnut Ave	No improvement required
22. Sycamore Ave/E. Las Palmas Ave	Existing Mello-Roos
23. E.Las Palmas/W. Main/ Poplar Ave	b
24. West Main/Carpenter Rd	c
25. West Main/Crows Landing Rd	d

Notes:

-  Significant Impact
-  Significant and Unavoidable Impact

a Stanislaus County Public Facilities Fees (PFF) report, Attachment D.1, City-County Road Projects, Item #18, Sperry Ave, Baldwin Rd to I-5 (\$9,716,000).

b Stanislaus County Public Facilities Fees (PFF) report, Attachment E.1, Inter-City Road Projects, Item #19, West Main, Poplar Ave to Jennings Rd (\$13,842,733).

c Stanislaus County Public Facilities Fees (PFF) report, Attachment E.1, Inter-City Road Projects, Item #1, Carpenter Rd, West Main to Service Rd (\$25,069,462) and Inter-City Traffic Signals, Attachment E.2, Item # 7, Rd improvements under West Main and Carpenter Rd (\$175,000).

d Stanislaus County Public Facilities Fees (PFF) report, Attachment E.1, Inter-City Road Projects, Item #6, Crows Landing Rd, Carpenter Rd to West Main (\$15,386,122) and Item # 7, Crows Landing Rd, West Main to Whitmore Ave (\$26,000,000) and Inter-City Traffic Signals, Attachment E.2, Item # 15, Rd. improvements under Crows Landing and West Main (\$175,000).

Source: TJKM Transportation Consultants

Response to Comment N.11

The commentor contends that the Draft EIR must be revised to incorporate a proposed bypass connection to I-5 along Zacharias Road and a new I-5 interchange. The commentor attaches excerpts from the StanCOG's 30-year Transportation Financial Expenditure Plan (June 2006) and Environmental Impact Report (May 2006), as Exhibit E.

With respect to a potential new I-5 interchange, the traffic study for the EIR indicates that the project does not require an additional interchange at I-5 to meet City standards. As discussed on EIR p. III.D.27, "... a new future freeway connection to I-5 would not be required to accommodate future demand" of the project. The EIR goes on to suggest that should another freeway interchange be chosen, the project may be required to participate in its funding, but not as a matter of environmental mitigation.

With respect to a potential new Zacharias Road bypass connection, Mitigation Measure D.5.o, p. III.D.27, calls for widening Zacharias Road from two to four lanes when traffic conditions warrant. While this road expansion may not transform Zacharias Road into a bypass route to I-5 as desired by the commentor, it would improve the road between SR 33 and Baldwin Road, the portion of the route affected by the project and other foreseeable growth impacts.

The StanCOG Year 2030 Model land use network assumptions were received from StanCOG at the beginning of the Traffic Study. The 2030 traffic network as adopted by StanCOG did not include an I-5/Zacharias Road interchange. Funding for such a project is still not available. To assume that the I-5/Zacharias Road Interchange would be in place could eliminate the need for some mitigation measures identified in the Villages of Patterson EIR that would otherwise be called for. Since the proposed project does not assume such improvements would be in place, the EIR provides a more conservative assumption to mitigate likely traffic impacts.

Although StanCOG's 30-Year Sales Tax Financing Plan EIR mentions a future I-5 interchange for Patterson at Zacharias Road, this interchange has not been officially proposed, discussed or studied in any of the following planning documents: Stanislaus County General Plan Circulation Element Update (2006); StanCOG 2004 Regional Transportation Plan; StanCOG Overall Work Program for Fiscal Year 2006-2007; or the 2007 Federal Transportation Improvement Program (adopted July 12, 2006). Furthermore, an I-5/Zacharias Road interchange is not included as part of the November 7, 2006 Half-Cent Transportation Sales Tax ballot measure itself which only identifies a second I-5 interchange in the Patterson area at an unspecified location.

The commentor's client Patterson Frozen Foods also has made the suggestion of an I-5 interchange at Zacharias Road to the County Board of Supervisors through its consultant, Ron

West, in a letter dated March 22, 2006, and at a Board public hearing on April 18, 2006, on the County's General Plan Update of the Circulation Element. As recognized in Mr. West's letter, the potential I-5/Zacharias Road interchange was rejected by Mayor Keller of the City of Patterson and the StanCOG Policy Board. The Board of Supervisors also rejected the proposed designation of an I-5/ Zacharias Road interchange recognizing it as premature since "[n]either StanCOG or the City of Patterson has formally amended its advance planning documents (the Regional Transportation Plan and the City of Patterson General Plan, respectively) to incorporate the proposed new corridor."⁷

As discussed above, sufficient information does not exist for meaningful evaluation of a potential new I-5 interchange at Zacharias Road in the EIR for the Villages of Patterson project. Analysis of the environmental effects of such an interchange at this time would be remote and speculative and would understate the actual environmental effects of the project on the area road network. Thus, revision of the EIR is not required under CEQA.

Response to Comment N.12

The commentor contends that the EIR fails to adequately respond to letters and comments on the Notice of Preparation. The commentor attaches comment letters on the Notice of Preparation from Patterson Frozen Foods and Ron West and Associates as Exhibit F.

On March 8, 2006, the City of Patterson circulated a Notice of Preparation to solicit agency and general public comments on the scope and content to be included in the EIR that was then to be prepared (see CEQA Guidelines § 15084(c)). CEQA does not require attachment of written comments on the NOP or written responses to comments on a Notice of Preparation. Rather, the responses to comments on the Notice of Preparation were included on p. I.5-7 of the EIR, in fulfillment of CEQA Guidelines Section 15123, which requires that an EIR disclose any areas of controversy that become known to the lead agency.

It should be noted that a number of comment letters on the Notice of Preparation have been resubmitted during the EIR comment period. They are therefore treated as comments on the EIR, and a written response to each of these is provided in these Responses to Comments under the requirements of CEQA Guidelines Section 15088.

Response to Comment N.13

See Response to Comment N.3, above. As noted in that response, conflict with the General Plan is not considered a significant impact under CEQA *per se* (see CEQA Guidelines § 15125(d)). In

⁷ Board of Supervisors of the County of Stanislaus Action Agenda Summary, April 18, 2006, p. 4.

addition, as discussed below, none of the comments reveals an inconsistency between the project and the General Plan.

Response to Comment N.13a

This comment raises economic and fiscal concerns, rather than environmental issues requiring a response in this EIR Responses to Comments. It should be noted, however, that the Villages of Patterson Development Plan includes up to 623,800 sq. ft. of Light Industrial space and 100,000 sq. ft. commercial-retail space. Comparing acreage may therefore be misleading with respect to city tax revenues.

The commentor provides no evidence of inconsistency between the project and the cited General Plan policy.

While not a CEQA concern, it should be noted that the City has undertaken a fiscal analysis of the project that will be considered by the policymakers in the legally mandated public hearing process.

Response to Comment N.13b

The commentor contends that the proposed project would conflict with General Plan policies related to downtown. As noted on p. III.A.8 of the EIR, “[t]he proposed project would create a dense and compact community on the east side of Patterson in close proximity to downtown Patterson supporting downtown businesses.” The project has limited various business uses for The Village Circle to encourage their continued location in the existing downtown. Banks and other financial institutions, financial services, hotels, medical offices, nightclubs are all prohibited in The Village Circle to encourage their location downtown. Permitted uses within The Village Circle primarily are intended to serve the neighborhood and promote walkability rather than compete with downtown businesses. The proposed Light Industrial designation is intended to provide high-quality space for employment-generating uses. As noted on p. II.10 of the EIR, it is anticipated that the Light Industrial designation would serve smaller light industrial users than those served by the West Patterson Business Park. The proposed project would not conflict with the role of downtown and its western extension as the “geographic and economic center of Patterson.”

The commentor misapplies General Plan Land Use Policy I.A.8. In recent years, the City has annexed hundreds of acres of land to the west. The downtown and its western extension have been kept intact as the historic core of the City. Eastside development would balance the recent westside development to maintain the historic downtown as the center of the community.

Response to Comment N.13c

While the commentor places a title on this comment that suggests a conflict between the project and the General Plan, no such conflict is explained in the comment. Rather, the commentor speculates as to whether the project can provide affordable housing, pay for its fair share of infrastructure, and remain financially feasible. There is no inconsistency cited that must be included in an EIR. Environmental impact reports do not need to include financial feasibility studies as suggested by the commentor.

Response to Comment N.13d

See Response to Comment F.2.

The City's General Plan policies cited by commentor have been preempted since their adoption by the legislation commonly known as Senate Bill 50, which limits both the consideration and mitigation of impacts on school facilities. The conflict suggested by the commentor thus is not between the project and the General Plan, but rather it is between the General Plan and preemptive state law. The City has chosen not to amend its General Plan language regarding school facilities because, under certain circumstances, these policies again could be applicable under the preemptive state laws. See Government Code Section 65997.

Response to Comment N.14

The commentor contends that the EIR is incomplete in that it does not contain a complete description of the process under which Williamson Act contracts may be terminated. The EIR contains a discussion of the termination processes relevant to the project on p. III.C.7. The commentor contends that his client has 476 acres of land not subject to Williamson Act contracts that must be considered by the City when making its findings on the cancellation of the Williamson Act. Based upon a review of the acreage that is the subject of the pre-application filed on August 31, 2006, by the commentor's client (the final day of the EIR public comment period), approximately 430.54 acres of the total 916.16 ("PFF Area Land") are currently encumbered by Williamson Act contracts. This equates to 47% of the total PFF Area Land project area being encumbered by Williamson Act contracts. Thus, there is no meaningful difference in Williamson Act encumbrance between the PFF Area Land and the project area. In any case, the Williamson Act termination provisions are a process separate from EIR certification undertaken by a legislative body. Under CEQA Guideline 15206(b)(3) cited on p. III.C.7 of the EIR, a project resulting in a cancellation of a Williamson Act contract on any parcel over 100 acres in size is an impact of statewide, regional, or area significance. No parcel in the project site is over 59 acres in size. In addition, the actual impacts of a Williamson Act contract termination, that is, the loss of prime agricultural lands, is fully addressed on a project and cumulative basis in

Section III.C, Agricultural Resources, of the EIR. The fact that another area landowner would prefer his Williamson Act lands to be considered for development rather than those of the project is of no relevance to the EIR process.

The commentator suggests that an adequate range of project alternatives has not been considered. The EIR fully reviews a range of project alternatives in Chapter V, Alternatives. No particular landowner or developer, such as those represented by commentator, has any right under CEQA to have his preferred project alternative to be studied. There is no ironclad rule governing the nature or scope of the alternatives to be discussed so long as a reasonable effort has been made to review alternatives. “An EIR need not consider every conceivable alternative to a project.” See Guidelines Section 15126.6(a). In addition, a project alternative must “avoid or substantially lessen” the significant effects of the project. In the context of agricultural land resources or Williamson Act contracted lands, the commentator’s proposed project alternative would not avoid or substantially lessen impacts. First, as discussed above, some hundreds of acres of the Patterson Frozen Foods area land are encumbered by the Williamson Act. Second, the underlying impacts of converting agricultural lands would not be avoided or lessened by developing the PFF area land since it is of similar quality to the agricultural lands of the project. To the extent, the PFF area land, on average, is held in larger parcels than the project land, it is better agricultural land since in an increasingly difficult farm economy, parcel size has become a proxy for the economic viability of farm operations. It is also not feasible to consider the PFF area land as an alternative, because under the City’s General Plan policies, expansion of the general plan boundaries will not be considered until the City’s population is approaching or exceeds 29,000. See Response to Comment N.4. General plan consistency is an appropriate factor to consider in determining whether to consider an alternative site feasible (Guidelines Section 15126.6(f)(1)). “An EIR is not required to consider alternatives which are infeasible” (Guidelines Section, 15126.6(a)). Further, an EIR need not consider an alternative whose implementation is remote and speculative (Guidelines Section 15126.6(f)(3)). A project-specific EIR ordinarily is not an occasion to reconsider fundamental policies such as those contained in a general plan. Such ad hoc reconsideration of established general plan policies is antithetical to the principles of good long-range comprehensive planning. See *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553.

Response to Comment N.15

The commentator contends that the EIR does not properly address cumulative impacts because it “does not include any explicit listing of the projects considered within the DEIR’s cumulative analysis.” CEQA does not require any explicit listing of projects. Rather, CEQA Guidelines Section 15130(b)(1) provide for either of two methods of accounting for cumulative impacts:

Either (emphasis added):

- (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, ***or (emphasis added)***
- (B) A summary of projections contained in and adopted general **plan** or related Planning document....

The EIR's analysis of cumulative impacts relies on the "projection approach" provided for in CEQA Guidelines Section 15130(b)(1)(B) which does not require a list of other projects considered. The analyses that are based on future growth projections use the StanCOG projections and the StanCOG transportation model. Even under the "list approach" provided for in CEQA Guidelines Section 15130(b)(1)(A), the potential Crows Landing facility would not be considered a "probable future project" at this juncture, as noted in Response to Comment N.9, above.

Response to Comment N.16

See Response to Comment N.2, above. The 2004 updates to the General Plan are discussed in the EIR on p. III.A.7.

Response to Comment N.17

The commentor contends that the EIR is legally inadequate under CEQA and that it must be revised and recirculated. As described above, in responses to particular comments, the EIR is adequate under CEQA. Recirculation is not required.

Response to Comment N.18

The commentor requests that the letter and exhibits be made part of the administrative record for the project. All comment letters and exhibits, including those of commentor, are a part of the administrative record for the project.

Letter O

[Reproduced below is an e-mail and e-mail attachments from Susan P. Jones of the US Fish & Wildlife Service, to Rod Simpson, City of Patterson Community Development Director]

Subject:Fw: Villages of Patterson - Draft EIR

Date:Fri, 27 Oct 2006 14:36:15 -0700

From:[Susan P Jones@fws.gov](mailto:Susan_P_Jones@fws.gov)

To:planning@ci.patterson.ca.us, mkometani@consultturnstone.com

Mr. Simpson and Mr. Kometani:

Please accept the comments below on your draft EIR via electronic mail, in the interests of speedy delivery. I appreciate your willingness to accept our comments after the comment period has officially closed.

We have no record of having received the Draft EIR when it was circulated at the beginning of the comment period, and were only alerted to this project because we received a copy of other agency's letters concerning the project. We would appreciate receiving CEQA documents from your agency as a normal coordination activity.

Thank you.

Susan Jones, San Joaquin Valley Branch Chief
U.S. Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, CA
95825
916/414-6600, fax 916/414-6713

[The e-mail attaches the following comments by Jana Milliken, Fish and Wildlife Biologist, Sacramento Fish and Wildlife Office, US Fish & Wildlife Service, Sacramento, CA]

To: Rod Simpson, Planning Director, City of Patterson

Rod,

I have reviewed the draft EIR and have the following comments. I understand that the comment period ended on September 1, 2006. My comments are related specifically to federally-listed species which may require separate consultation pursuant to the Endangered Species Act of 1973, as amended.

We understand the proposed project to be a 692-acre master planned community. Currently, the site is composed of 383.4 acres of irrigated row crops, 122.3 acres of orchards, 123.1 acres of fallow fields, 8.8 acres of ruderal vegetated, 9.4 acres of aquatic, and 45 acres of developed.

I am concerned the project may affect the endangered San Joaquin kit fox. The California Natural Diversity Database (CNDDDB) (California Department of Fish and Game) contains a record of this species near the project area. Attachment A shows the CNDDDB record in relation to the project area. Attachment B is a map of the range of the kit fox.

In Table 3 of the Biotic Study, the kit fox is presumed to be absent. We are concerned the project site could provide foraging and/or denning habitat for this species. The following are excerpts from the Service's Recovery Plan (Service 1998):

"Other habitats in which kit foxes are currently found have been extensively modified by humans. These include grasslands and scrublands with active oil fields, wind turbines, and an agricultural matrix of row crops, irrigated pasture, orchards, vineyards, and grazed annual annual grasslands (nonirrigated pasture)."

"In the central portion of the range...Agriculture dominates this region where kit foxes mostly inhabit grazed, nonirrigated grasslands, but also live next to and forage in tilled and fallow fields, irrigated row crops, orchards, and vineyards."

"Kit foxes use some types of agricultural land where uncultivated land is maintained, allowing for denning sites and a suitable prey base (Jensen 1972, Knapp 1978, Hansen 1988). Kit foxes also den on small parcels of native habitat surrounded by intensively maintained agricultural lands (Knapp 1978), and adjacent to dryland farms (Jensen 1972, Kato 1986, Orloff et al. 1986)."

Attachment C is a list of species that may occur in the project area. Take incidental to an otherwise lawful activity is prohibited unless permitted by the Service. If you determine this project could result in take of any federally-listed species, please contact our office for information on how to obtain a permit.

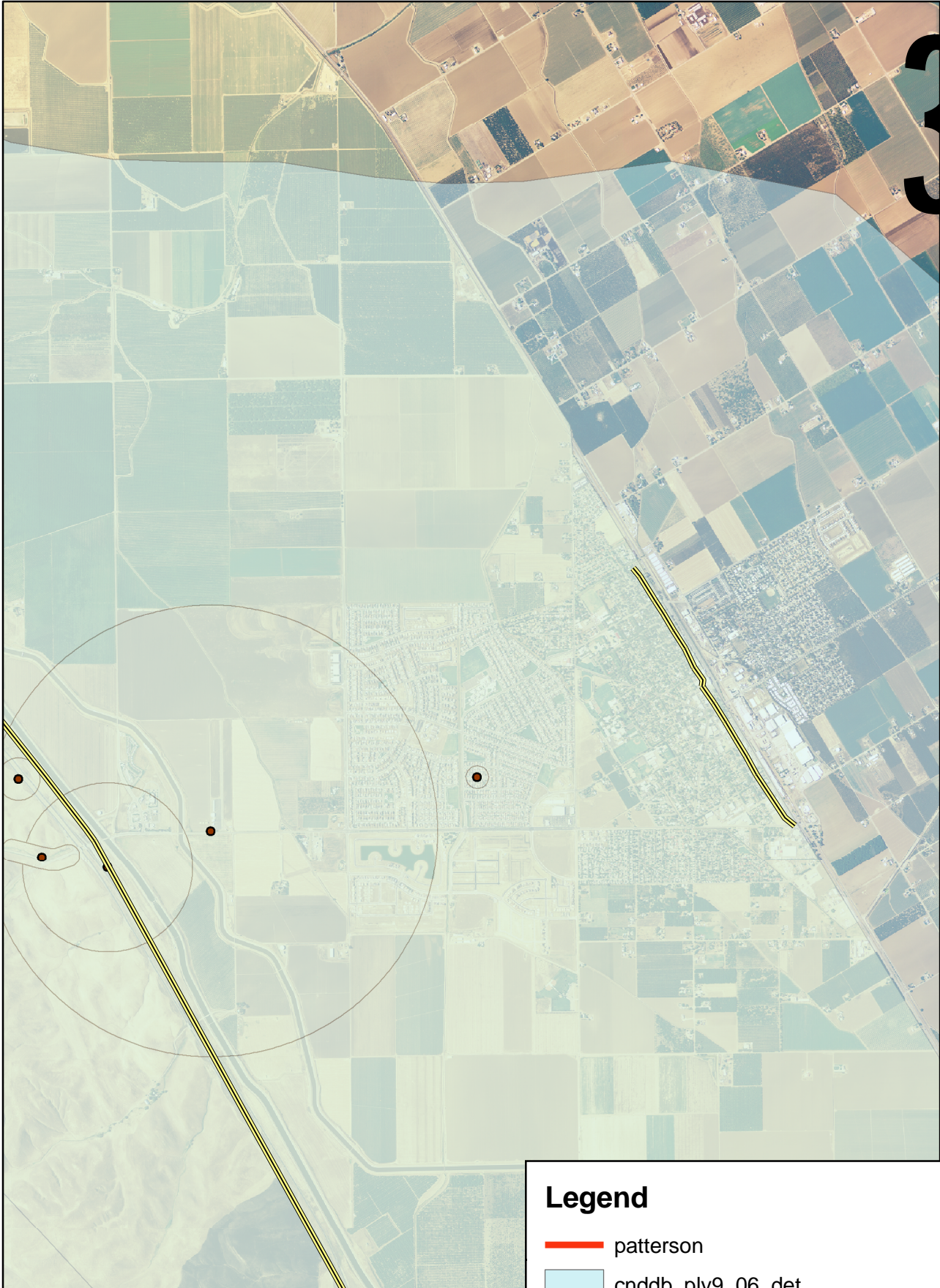
Thanks, Jana

Source: U.S. Fish and Wildlife Service. 1998. Recovery Plan for Upland Species of the San Joaquin Valley, California. Portland Oregon. 319 pp.

(See attached file: Attachment A.MDI) (See attached file: Attachment B.pdf) (See attached file: Attachment C.htm)

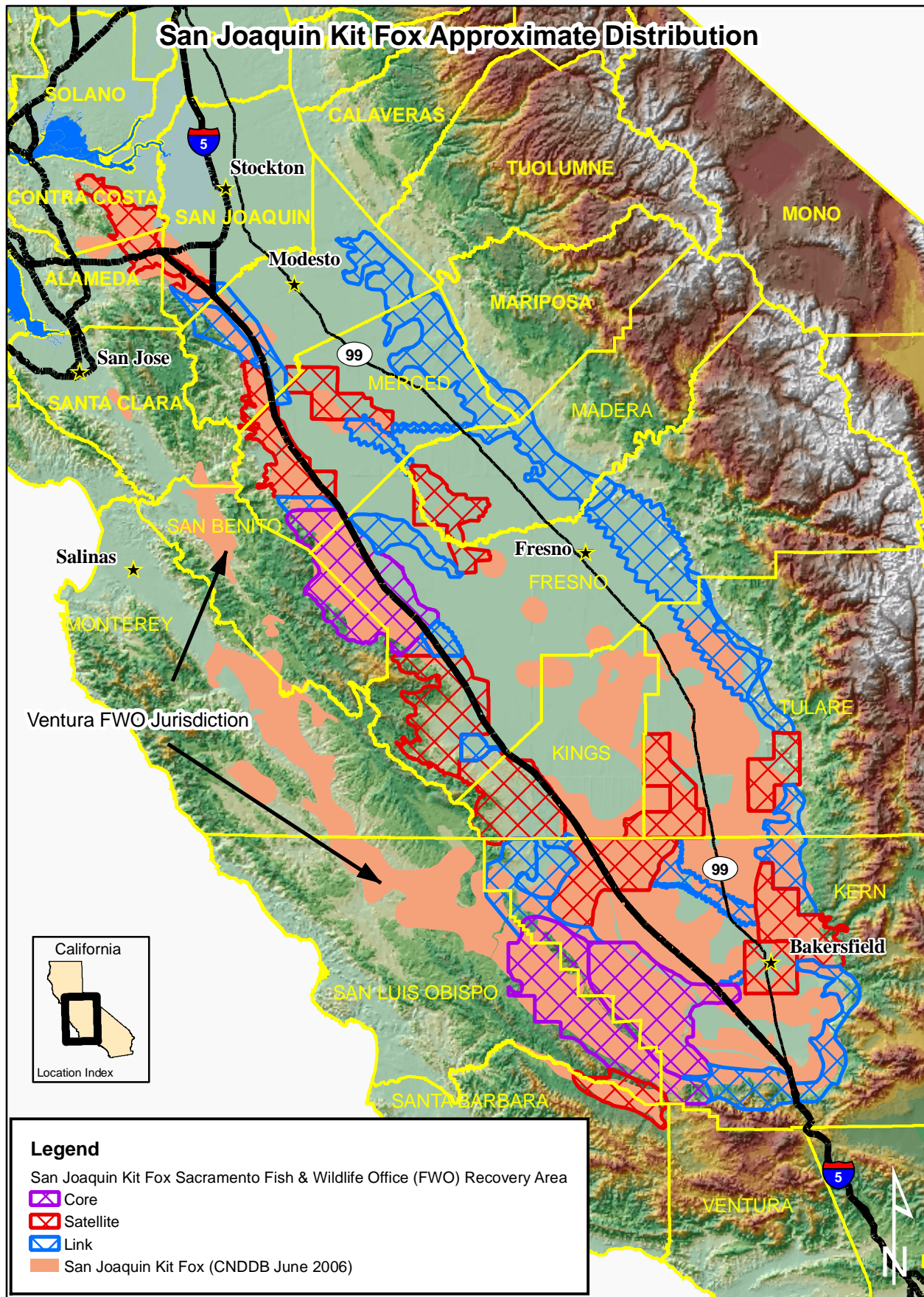
Villages of Patterson

3



Legend

- patterson
- cnddb_ply9_06_det
- sjkitfox_fwsrecoveryarea_042004_draft



August 1, 2006

0 20 40 80 Miles



**Federal Endangered and Threatened Species that Occur in
or may be Affected by Projects in the Counties and/or
U.S.G.S. 7 1/2 Minute Quads you requested**

Document Number: 061026102203

Database Last Updated: October 3, 2006

Species of Concern - The Sacramento Fish & Wildlife Office no longer maintains a list of species of concern. However, various other agencies and organizations maintain lists of at-risk species. These lists provide essential information for land management planning and conservation efforts. See www.fws.gov/sacramento/es/spp_concern.htm for more information and links to these sensitive species lists.

Red-Legged Frog Critical Habitat - The Service has designated final critical habitat for the California red-legged frog. The designation became final on May 15, 2006. See our [map index](#).

Species

Listed Species

Invertebrates

Branchinecta lynchi

vernal pool fairy shrimp (T)

Desmocerus californicus dimorphus

valley elderberry longhorn beetle (T)

Lepidurus packardi

vernal pool tadpole shrimp (E)

Fish

Hypomesus transpacificus

delta smelt (T)

Oncorhynchus mykiss

Central Valley steelhead (T) (NMFS)

Critical habitat, Central Valley steelhead (X) (NMFS)

Oncorhynchus tshawytscha

Central Valley spring-run chinook salmon (T) (NMFS)

winter-run chinook salmon, Sacramento River (E) (NMFS)

Amphibians

Ambystoma californiense

California tiger salamander, central population (T)

Rana aurora draytonii

California red-legged frog (T)

Reptiles

Gambelia (=Crotaphytus) sila

blunt-nosed leopard lizard (E)

Thamnophis gigas

giant garter snake (T)

Birds

Haliaeetus leucocephalus

bald eagle (T)

Mammals

Vulpes macrotis mutica

San Joaquin kit fox (E)

Candidate Species

Fish

Oncorhynchus tshawytscha

Central Valley fall/late fall-run chinook salmon (C) (NMFS)

Selected Quads

CROWS LANDING (424A) PATTERSON (424B)

County Lists

No county species lists requested.

Key:

- (E) Endangered - Listed as being in danger of extinction.
- (T) Threatened - Listed as likely to become endangered within the foreseeable future.
- (P) Proposed - Officially proposed in the Federal Register for listing as endangered or threatened.
- (NMFS) Species under the Jurisdiction of the [National Oceanic & Atmospheric Administration Fisheries Service](#). Consult with them directly about these species.
- Critical Habitat - Area essential to the conservation of a species.
- (PX) Proposed Critical Habitat - The species is already listed. Critical habitat is being proposed for it.
- (C) Candidate - Candidate to become a proposed species.
- (V) Vacated by a court order. Not currently in effect. Being reviewed by the Service.

- (X) Critical Habitat designated for this species

Important Information About Your Species List

How We Make Species Lists

We store information about endangered and threatened species lists by U.S. Geological Survey [7½ minute quads](#). The United States is divided into these quads, which are about the size of San Francisco.

The animals on your species list are ones that occur within, or may be affected by projects within, the quads covered by the list.

- Fish and other aquatic species appear on your list if they are in the same watershed as your quad or if water use in your quad might affect them.
- Amphibians will be on the list for a quad or county if pesticides applied in that area may be carried to their habitat by air currents.
- Birds are shown regardless of whether they are resident or migratory. Relevant birds on the county list should be considered regardless of whether they appear on a quad list.

Plants

Any plants on your list are ones that have actually been observed in the area covered by the list. Plants may exist in an area without ever having been detected there. You can find out what's in the nine surrounding quads through the California Native Plant Society's online [Inventory of Rare and Endangered Plants](#).

Surveying

Some of the species on your list may not be affected by your project. A trained biologist or botanist, familiar with the habitat requirements of the species on your list, should determine whether they or habitats suitable for them may be affected by your project. We recommend that your surveys include any proposed and candidate species on your list.

For plant surveys, we recommend using the [Guidelines for Conducting and Reporting Botanical Inventories](#). The results of your surveys should be published in any environmental documents prepared for your project.

Your Responsibilities Under the Endangered Species Act

All animals identified as listed above are fully protected under the Endangered Species Act of 1973, as amended. Section 9 of the Act and its implementing regulations prohibit the take of a federally listed wildlife species. Take is defined by the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any such animal.

Take may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or shelter (50 CFR §17.3).

Take incidental to an otherwise lawful activity may be authorized by one of two procedures:

- If a Federal agency is involved with the permitting, funding, or carrying out of a project that may result in take, then that agency must engage in a formal [consultation](#) with the Service.
- During formal consultation, the Federal agency, the applicant and the Service work together to avoid or minimize the impact on listed species and their habitat. Such consultation would result in a biological opinion by the Service addressing the anticipated effect of the project on listed and proposed species. The opinion may authorize a limited level of incidental take.
- If no Federal agency is involved with the project, and federally listed species may be taken as part of the project, then you, the applicant, should apply for an incidental take permit. The Service may issue such a permit if you submit a satisfactory conservation plan for the species that would be affected by your project.
- Should your survey determine that federally listed or proposed species occur in the area and are likely to be affected by the project, we recommend that you work with this office and the California Department of Fish and Game to develop a plan that minimizes the project's direct and indirect impacts to listed species and compensates for project-related loss of habitat. You should include the plan in any environmental documents you file.

Critical Habitat

When a species is listed as endangered or threatened, areas of habitat considered essential to its conservation may be designated as critical habitat. These areas may require special management considerations or protection. They provide needed space for growth and normal behavior; food, water, air, light, other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, germination or seed dispersal.

Although critical habitat may be designated on private or State lands, activities on these lands are not restricted unless there is Federal involvement in the activities or direct harm to listed wildlife.

If any species has proposed or designated critical habitat within a quad, there will be a separate line for this on the species list. Boundary descriptions of the critical habitat may be found in the Federal Register. The information is also reprinted in the Code of Federal Regulations (50 CFR 17.95). See our [critical habitat page](#) for maps.

Candidate Species

We recommend that you address impacts to candidate species. We put plants and animals on our candidate list when we have enough scientific information to eventually propose them for listing as threatened or endangered. By considering these species early in your planning process you may be able to avoid the problems that could develop if one of these candidates was listed before the end of your project.

Wetlands

If your project will impact wetlands, riparian habitat, or other jurisdictional waters as defined by section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act, you will need to obtain a permit from the U.S. Army Corps of Engineers. Impacts to wetland habitats require site specific mitigation and monitoring. For questions regarding wetlands, please contact Mark Littlefield of this office at (916) 414-6580.

Updates

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be January 24, 2007.

**Responses to Letter O: US Fish and Wildlife Service – Susan Jones, San Joaquin Valley
Branch Chief**

Response to Comment O.1

The commentor expresses concern that the project may affect the San Joaquin kit fox. See Response to Comment A.8 which explains how the Biotic Study, Appendix D of the Draft EIR, concluded that further discussion of San Joaquin kit fox was not necessary based on the very low potential of occurrence in the vicinity of the project.

The US Fish and Wildlife Service comment cites the *Recovery Plan for Upland Species of the San Joaquin Valley*,¹ as evidence that the San Joaquin kit fox uses agricultural lands for foraging and denning. The commentor also includes maps showing kit fox recovery areas, as Attachments A and B. The citations provided by Service refer to kit foxes using agricultural lands in the central and southern portion of their range. The specific situations referred to in the Recovery Plan cannot be readily compared to the northern, Villages of Patterson project because those instances of agricultural use by kit fox occur in areas that have a robust to moderate kit fox population occupying large areas of natural habitat adjacent to agriculture. During periods of high kit fox densities, kit foxes will use orchards and row crops as foraging areas. However, this behavior should not be considered commonplace wherever kit foxes may occur. The Villages of Patterson project site occurs in the northern range of the kit fox where populations are considered satellites and low in numbers. The agricultural lands referred to in the EIR are isolated from grazed areas west of Interstate 5 (I-5) by several miles (where the CNDDDB records of observances occur), buffered by other agricultural land uses. Kit foxes are unlikely to venture that far within the San Joaquin Valley from stable population areas; the nearest stable population occurs south of Santa Nella, a distance of approximately 40 miles (64 km) from the Villages of Patterson EIR area. The lack of den sites and low prey availability within farmland limit the ability of kit foxes to exploit and occupy these areas.²

The following species on Attachment C of the Service's comments were considered and rejected for occurrence on the Villages of Patterson project site because of the lack of suitable aquatic habitat:

¹ U.S. Fish and Wildlife Service, *Recovery Plan for Upland Species of the San Joaquin Valley, California*. U.S. Fish and Wildlife Service, Region 1. Portland, Oregon, USA, 1998.

² Warrick, G.D., H.O. Clark, Jr., P.A. Kelly, D.F. Williams, and B.L. Cypher. In press. Use of agricultural lands by San Joaquin kit foxes. *Western North American Naturalist*.

- Vernal pool fairy shrimp (*Branchinecta lynchi*)
- Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*)
- Vernal pool tadpole shrimp (*Lepidurus packardii*)
- California tiger salamander (*Ambystoma californiense*)
- California red-legged frog (*Rana aurora draytonii*)
- Giant garter snake (*Thamnophis gigas*)
- Delta smelt (*Hypomesus transpacificus*)
- Central Valley steelhead (*Oncorhynchus mykiss*)
- Central Valley spring-run, winter-run, and fall/late fall-run Chinook salmon (*Oncorhynchus tshawytscha*)

HT Harvey & Associates, the consulting biologist, has reconfirmed that the project site lacks suitable aquatic habitat for these species. Furthermore, no designated critical habitat for California red-legged frogs or Central Valley steelhead occurs within the project site.

The following species on Attachment C of the Service's comments were considered and rejected for occurrence on the Villages of Patterson project site because of the lack of suitable terrestrial habitat:

- Blunt-nosed leopard lizard (*Gambelia (=Crotaphytus) sila*)
- Bald Eagle (*Haliaeetus leucocephalus*)

HT Harvey & Associates, the consulting biologist, has reconfirmed that the project site lacks suitable terrestrial habitat for these species.

Section P: Summary of Public Hearing Comments and Responses

On August 10, 2006, the City of Patterson Community Development Department held a public hearing to receive public comments on the Draft EIR for the Villages of Patterson Development Plan Project. These oral comments are summarized below and presented in the order of the speakers. Each comment is followed by a response.

Ron West, Ron West & Associates, for Patterson Frozen Foods

Ron West stated that he had hoped that circulation issues in the northwest area would be discussed in the EIR and that this is a priority problem. He stated that it was his continued request that circulation be treated at a big picture level. He commended the developers for providing for bikes, affordable housing and mixed use, but stated that these transportation issues can't be ignored.

See Response to Comment N.11.

Patrick Sweeney, Patterson Joint Unified School District

Patrick Sweeney stated that the EIR needs to look at 3,100 units and the impact on schools. He stated that these would generate 2,000 students, and require \$80 million in construction costs. The timing of funding to support these needs is critical. He stated that the District will be talking to the developers.

See Responses to Letter F.

Angelo Ielmini

Angelo Ielmini stated that Sperry Road and Las Palmas Avenue are the only east/west routes. He stated that the General Plan traffic element is outdated and that the Draft EIR shows how the City lacks an adequate traffic plan. He also stated that the two halves of the City need to be connected and that there needs to be an east-west flow. He noted that a planned rail freight center would create 30,000 jobs. He stated that he would like to see a new interchange and a Patterson bypass along Zacharias Road.

See Response to Comment N.11.