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July 26, 2021

Via Email and Hand-Delivered

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City of Elk Grove
c/o City Clerk
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First Floor
Elk Grove, CA 95758
cityclerk@elkgrovecity.org

Via Email Only

Antonio Ablog, Planning Manager, aablog@elkgrovecity.org

Re: Appeal of Planning Commission’s Approval of Environmental Determination, Conditional Use Permit, and Design Review for the Kubota Tractor Corporation Project (PLNG21-026)

Dear Honorable Mayor Singh-Allen and City Council Members:

On behalf of **Sacramento County Residents for Responsible Development (“Residents”)** we are writing to appeal the City of Elk Grove (“City”) Planning Commission’s (“Commission”) approval of the Major Design Review (“MDR”), Conditional Use Permit (“CUP”), Special Parking Permit, and Tree Removal Permit for the Kubota Tractor Corporation Project, planning file number PLNG21-026 (“Project”), including the Commission’s finding that no further environmental review is necessary pursuant to Sections 15168 and 15162 of the California Environmental Quality Act (“CEQA”).

Kubota Tractor Corporation (“Applicant”) proposes the development of a 631,465 square-foot manufacturing and distribution facility on 39.67 acres of City-owned property located at 10251 Grant Line Road, APN: 134-0190-009, with 32.54 acres for building, vehicle circulation and landscaping along and 7.13 acres for a 5360-004j

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stormwater detention facility. The Project site is bordered on three sides by agricultural production uses; the remaining side, to the north of Grant Line Road, is zoned for both commercial and residential uses.

On July 15, 2021, the Commission approved the following discretionary permits: MDR, CUP to allow a “manufacturing, minor” use on the Project site, a Special Parking Permit for a reduction in the number of required parking spaces, and a Tree Removal Permit for the removal of trees of local importance. The City Council will separately consider a purchase and sale agreement (“PSA”) of the Project site to the Applicant, along with an agreement to abandon an existing utility easement on the Project site.

Upon completion, the Applicant will use the Project for the purpose of assembling tractors, construction equipment, and other implements, as well as accessory office and educational uses. The Project will also serve as the company’s hub in the Western United States for warehousing and distribution of Applicant’s products and parts. The site is within the recently annexed Multi-Sport Complex and Southeast Industrial Area Specific Plan area (“Specific Plan”) and is zoned Light Industrial.

Pursuant to the City’s appeal procedure, we have provided an electronic copy of this appeal letter and its exhibits and the Request for Appeal of Decisions Made Pursuant to EGMC Title 23 Form. We have also paid the required appeal fee of \$2,500 to the City.

The reason for this appeal is that the Commission abused its discretion and violated CEQA when it found that no further environmental review was necessary pursuant to CEQA Guidelines Sections 15168 and 15162 and voted to approve the MDR, CUP, Special Parking Permit, and Tree Removal Permit for the Project. CEQA requires that the potential impacts of this Project be evaluated in an environmental impact report (“EIR”) not through a Section 15168 review checklist as was done here, because substantial evidence exists that the Project may have significant, unmitigated environmental impacts to air quality and public health, and from greenhouse gas emissions that are not adequately disclosed or mitigated by the City’s environmental review. We reserve the right to supplement these comments at later hearings and proceedings related to the Project.¹

¹ Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. 5360-004j

Our July 15, 2021, comment letter on the Project is attached hereto and incorporated by reference.² The specific reasons for this appeal are set forth in detail in that letter and summarized below. The City lacks substantial evidence to support its conclusion that the Project's environmental impacts are fully analyzed and mitigated under the Specific Plan Subsequent Environmental Impact Report ("SEIR"). Our comments on the Project show that: (1) the City failed to conduct required analysis of air quality and public health impacts, (2) there are potentially significant, unmitigated impacts from greenhouse gas ("GHG") emissions, (3) there is a significant, unmitigated impact from heavy duty truck traffic, and (4) the Commission's Staff Report and findings were based on erroneous air quality data.

A. The Project's Environmental Review Failed to Study Air Quality and Public Health Impacts

The Commission's findings for the Project conclude that no further environmental review is necessary under the provisions of CEQA as the Project is consistent with land uses analyzed under the SEIR. In our comments we explain that the City failed to adhere to binding mitigation measures to perform analysis of Project specific diesel particulate matter ("DPM") and toxic air contaminant ("TAC") emissions prior to approving development of the Project. To date the City has failed to adequately address this matter.

The SEIR's mitigation measures stipulated that future development of the site would require that the City perform a Health Risk Analysis ("HRA") to analyze the Project's health risks from TACs and to compare the risk to applicable thresholds of significance. The City did not perform an HRA and as such has failed to analyze potentially significant public health impacts from Project construction and operation. The City must perform an HRA and set forth its findings in a subsequent environmental impact report.

B. The Project Will Result in Potentially Significant GHG Emissions

Our comments provide substantial evidence showing that the Project's GHG emissions from mobile sources and on-site energy use will exceed the Sacramento

App. 4th 1109, 1121.

²See **Exhibit 1**: Letter from Kevin Carmichael to George Murphey, re: Agenda Item No. 5.5: Preliminary Comments on Kubota Tractor Corporation Project (PLNG21-026), July 15, 2021.

Municipal Air Quality Management District's ("SMAQMD") significance thresholds. The City failed to analyze the GHG emissions of this Project, and despite preparing updated air modeling, did not address this in the Staff Report or the section 15168 Review for the Project. The City must analyze the GHG emissions from the Project and present the results in a subsequent EIR.

C. The Project Will Cause Significant, Unmitigated Impacts from Heavy Duty Truck Traffic

Our comments show that the SEIR did not analyze the impact that hundreds of heavy duty truck trips will have on sensitive receptors northeast of the Project site. The heavy duty trucks will release DPM and associated TACs that may exceed SMAQMD's thresholds of significance. The City must quantify the emissions from the Project and assess the health risk to local residents. If the health risks exceed SMAQMD's significance thresholds, then the City must implement additional mitigation measures to reduce the health risk to the community to less than significant levels before approving the Project. This analysis must be done in a subsequent EIR.

D. The Commission's Staff Report and Findings Were Based on Erroneous Air Quality Data

In our comments to the Commission, we identified a clear error in the air quality analysis of the Project. The air quality analysis was based on a building size one-tenth the size of the originally proposed Project resulting in false air quality data for the Project. The City's 15168 Review and Staff Report to the Commission were based on this erroneous data, rendering any decision based on the air quality analysis to not be based on significant evidence. Upon reviewing our comments, the City contacted AECOM, the air quality consultant for the Project, who re-ran the air quality modeling with the correct inputs. The remodeled data was supplied to us, and to the Commission during the Commission meeting for the Project.³ The Commission did not have time to review the updated modeling, nor was the City's environmental review or Staff Report updated to analyze the new air quality

³ See Exhibit 2: Email from Jennifer Alves, City of Elk Grove to Kevin Carmichael, FW: Update, July 15, 2021. 5360-004j

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modeling prior to the Commission's decision on the Project. Furthermore, we believe that there are outstanding errors with the City's hastily updated modeling and as stated above, reserve the right to supplement our comments on the Project. The City must prepare a subsequent EIR for this Project that includes the corrected air quality modeling and analysis of the Project's environmental impacts.

As a result of these errors, the Commission's approval of the MDR, CUP, Special Parking Permit, and Tree Removal Permit for the Project, including the finding that no further environmental review is necessary, violated CEQA and must be overturned. We urge the City Council to grant our appeal and order the preparation of a subsequent EIR for the Project. Thank you for your attention to this important matter.

Sincerely,



Kevin T. Carmichael

KTC:lj
Exhibits