

APPEAL TO THE CITY COUNCIL**EXHIBIT A**

December 20th, 2013

MCD North Parcel LLC (d.b.a. MCD North Stockton) is appealing the City of Stockton Planning Commission's recommendation for denial of the Bear Creek East Specific Plan (BCESP) and associated requests on December 12th 2013. MCD North Stockton believes that City Staff provided misinformation to the Planning Commission after the Public Hearing was closed. This prevented MCD North Stockton from having the opportunity to rebut the new information with accurate data. The new information was not included in the Staff Report provided to the Planning Commission and was not consistent with the comprehensive approval recommendation contained within the Staff Report. For reference, the December 12, 2013 Planning Commission Item #5.02 Staff Report Recommendation (Staff Report) for Approval is attached hereto. This Exhibit is prepared to respond to the misinformation by providing factual responses to the issues raised.

1. Vacant Housing

Staff discussed the types of existing residential units available, both vacant homes and foreclosures in the City of Stockton. City Staff stated the following in regards to the number of vacant housing units in the City of Stockton:

"Earlier this year, it was reported in some of the California real estate journals that we're at a count of 11,000 vacant housing units across our town. I don't know if that is a valid number or not. But I can tell you that it represents about 10% of the housing stock in our community, that's twice the normative value that you're looking for in any community in the Valley or Coast, it doesn't matter."

To cite such vacancy numbers, while at the same time questioning their validity, created a sense of confusion, especially in light of Staff's recommendation to approve the requests being made by MCD North Stockton.

The Comprehensive Housing Market Analysis prepared by the United States Department of Housing and Urban Development (HUD) in August of 2012 shows the following vacancy data for the Stockton Metropolitan Area (SMA):

- Current Owner Vacancy Rate: 1.6%
- Current Rental Vacancy Rate: 5.4% (both single family and apartments combined)

HUD notes a total of 7,000 "Other Vacant" units in the entire SMA. Please understand that "Other Vacant" units are not currently available for sale or rent. Since the City of Stockton has approximately 42% of the SMA housing, its share of the "Other Vacant" units is approximately 2,940 (2.9%).

From the HUD data, we can estimate the total number of vacant housing units shown in Table 1 below.

Table 1 – City of Stockton Vacant Unit Analysis

Housing Type	Total	Vacancy Rate	Vacant Units
Housing Units in Stockton	100,000		
"Other Vacant"	2,940		2,940
Owner Occupied Housing (51.9% Homeownership Rate)	50,374	1.60%	806
Rental Housing	46,686	5.40%	2,521
Total Vacant Units			6,267

The HUD data indicates that there are NOT "11,000 vacant housing units" in Stockton. The correct figure according to HUD is approximately 6,000 as of August 2012.

The Stockton market DOES NOT have "twice the normative value" of vacant units. In fact, as HUD has determined, Stockton is a market in "balance".

In its report, HUD cites REIS Inc.'s (REIS) SMA apartment vacancy rate of 3.5% as of the second quarter 2012. As of the third quarter 2013, REIS reports the same vacancy rate to be even lower at 2.8%.

Additionally, the "Other Vacant" home category includes foreclosures, which, as shown above have continued to decline since the report was published in August 2012.

In sum, according to HUD, the Stockton housing market was "balanced" as of August 2012, with evidence of further market improvement since the report was written.

2. Foreclosures

In his comments, City Staff alluded to an ongoing foreclosure crisis in the City of Stockton. Zillow.com tracks homes foreclosed, defined as the number of homes foreclosed upon, but not yet resold to a private party. Data is available as far back as 1998 and is measured in a foreclosure rate per 10,000 units. In reviewing Figure 1 it should be noted that the number of foreclosures in Stockton is down more than 90% from the peak established in August of 2008. Falling steadily from the peak, the current level of foreclosures is now consistent with levels seen in 1998 and 1999.

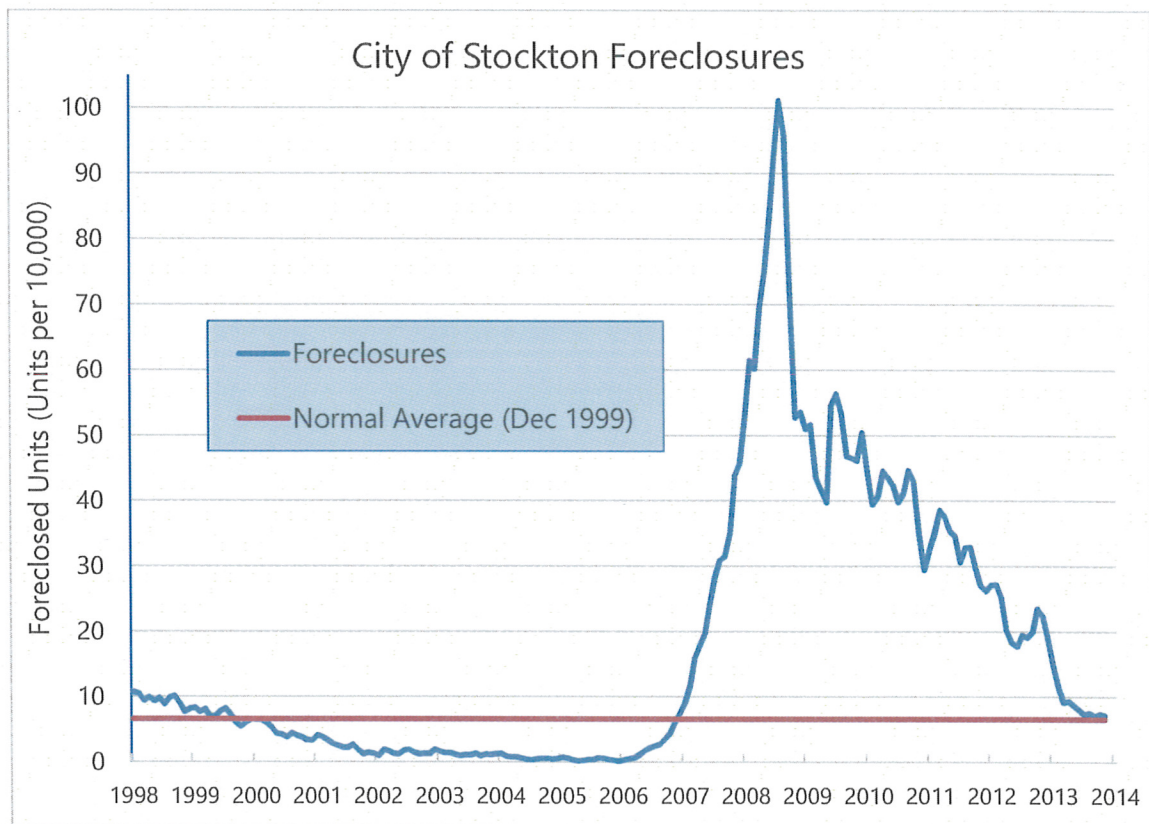


Figure 1 – City of Stockton Foreclosure Trend¹

Figure 1 does not include homes for which the foreclosure process has started, but not yet finished. Data from PropertyRadar.com further details the reduction of this portion of the Stockton foreclosure pipeline as follows:

Notice of Default Filings (first step in the foreclosure process)

¹ Per Zillow.com

- 75 filings in November of 2013
- Down 63% as compared to November 2012 (205 filings).

Pre-foreclosures Inventories (number of properties that have had a Notice of Default filed against the property, but have not yet been scheduled for sale)

- 538 properties in November of 2013
- Down 55% as compared to November 2012 (1,197 properties).

Scheduled for Sale Inventories (number of properties that have had a Notice of Trustee Sale filed against the property, but have not yet been sold or had the sale cancelled)

- 249 properties in November of 2013
- Down 66% as compared to November 2012 (733 properties).

These properties may or may not compete in the same market place as the Bear Creek East (BCE) project. They are dispersed throughout the City of Stockton; their condition and market demand may not be comparable to the BCE.

At a minimum, this data is strong evidence that the foreclosure crisis of the Great Recession has ended in Stockton.

3. Pending Residential Units Available

City Staff discussed the types of pending residential units available, including existing developed lots, accepted or approved Planning Applications and projects in the Pre-Application process. Staff commented on the number of housing unit applications and/or pre-applications currently submitted with the City of Stockton Planning Department stating:

"On our website, is this map, this map has all kinds of projects on it, it's a map of applications received, approved, and anticipated. Five (5) planners within my department; count them five; they have 44,000 housing units of applications or pre applications in front of them. 16,000 undeveloped housing units within the City limits, 28,000 outside the City limits, knocking on our door. And these are pre-application or applications for housing units. If you combine it all together, and you look at our current housing absorption rate, that's 450 years of inventory. You look at the econometric analysis from EPS that Mr. Locke referred to, its 63 years of inventory on file in my little tiny planning department. It's a fact."

In reviewing the City's website, the Residential Subdivision Map illustrates twenty-five (25) approved projects comprising of 28,177 Single Family Dwelling Units (SFDU) and 4,421 Multi-Family Dwelling Units (MFDU) for a total of 32,598 units. Building permits have been issued for 4,503 SFDU's and 308 MFDU's, resulting in a total balance of 27,787 units with 10,514 of those units assigned to Mariposa Lakes. Since Mariposa Lakes is not annexed into the City of Stockton, subtracting its 10,514 units from the total units yields 17,273 units overall (See Table 2). Of the 17,273 units there are only 5,056 SFDU's with finished lots (or partially finished lots) remaining within the approved subdivisions which have completed infrastructure and are ready to construct. It should be noted that more than 2,300 SFDU partially finished lots of the 5,056 are part of one project in northwest Stockton (Westlake Villages).

Table 2- Summary of Entitled and Annexed Projects in the City of Stockton

Type	Units ²
Single Family Dwelling Units (SFDU)	28,177
Multi-Family Dwelling Units (MFDU)	4,421
Total Units [A]	32,598
Permits Issued [B]	4,811
Subtotal of Remaining [C = (A-B)]	27,787
Mariposa Lakes (Not Annexed) [D]	10,514
Total Entitled and Annexed (C-D)	17,273

The majority of the lots represent low density development (average 5,500 to 6,000 square foot lots). The BCESP brings a more aggressive mix of densities and lot sizes. When BCE is ready to build it will bring more housing choices to the Stockton markets.

A second diagram on the City's website labeled "Major Projects" illustrates six (6) projects outside of the City limits totaling 23,355 units. Of these six (6) major projects, only two (2) are active, one (1) being the BCE project and the other is Bear Creek South. The two (2) Bear

² Per Residential Development Summary 9/17/2013

Creek projects total 4,991 units (See Table 3). The remainder of the units are "inactive" or "anticipated" projects, meaning no formal entitlement actions have started.

Table 3 – Summary of Major Projects in the Planning Process

Project	Units ³	
Bear Creek East	2,050	4,991 Units in Active Projects
Bear Creek South	2,941	
Origone Ranch	1,500	18,364 Units in Inactive Projects
Bear Creek West	5,400	
North Stockton Village	3,900	
The Preserve	7,564	
Total	23,355	4,991 Units Active

Table 2 and 3, in total, show Stockton has a combined figure of 22,264 units (tentative mapped lots and finished lots) that are active or could become active in the residential market. To better understand how this inventory compares with neighboring cities and California cities of similar population in the Central Valley, MCD North Stockton reviewed other municipalities in the region. MCD North Stockton compared their municipal population to the number of available lots (see Table 4).

Table 4- Lot Inventory in Cities Near Stockton

City	Population	Approved and Received Applications, Plus Existing Developed Lots	Percentage of Approved and Received Applications to Population
Bakersfield	354,480	34,496	10.3%
Manteca	69,813	12,258	17.5%
Lathrop	17,469	20,258	115.9%
Stockton (Approved/ Annexed⁴ and Active Applications⁵)	295,707	22,264	7.5%

Staff asserted that there are 44,000 units "knocking on our door". That statement is inaccurate and created a sense of doubt at the Planning Commission Hearing regarding

³ Per Major Projects table, projects not listed in the Residential Development Summary Table (revised 11/01/12)

⁴ Per Table 2

⁵ Per Table 3

what is really occurring in the market place. Research of the data presented above indicates that the correct figure is 22,264 units (units that are part of an Approved Project, Annexed Project or Active Application). When considering the inventory of lots to which Staff alluded, one must understand that development occurs in stages. Such stages include entitlements, engineering, construction, and sales.

There is NOT an overabundance of approved lots or active planning projects in Stockton. In fact, as shown in Table 4 above, Bakersfield, Lathrop, and Manteca each have more lots available than Stockton to meet their housing needs (based on Approved and Received Applications relative to Population).

4. "Leap Frog" Development versus Smart Growth.

Though not specifically describing BCE as leap frog development, City Staff stated that they were "...stunned at the classic leap frog development that is in our community." MCD North Stockton disagrees the development of the BCE project constitutes leap frog development. On the contrary, the BCE project represents smart in-fill growth in North Stockton.

Figure 1 below shows the boundaries of both the BCE and Bear Creek South Projects.

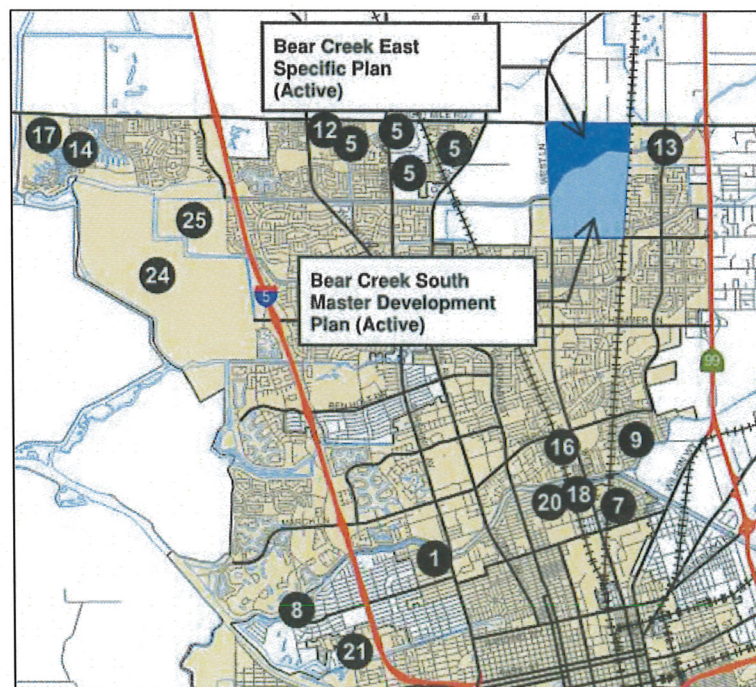


Figure 2 – Excerpt from City of Stockton Residential Subdivision Map Highlighting Bear Creek East

Staff described the 2035 General Plan as broken and in need of fixing. MCD North Stockton asserts that if the project applications were approved by Planning Commission, this would have constituted the first step toward correcting the 2035 General Plan without putting any financial burdens on the City of Stockton. The BCESP replaces the predominately low density residential designation in the 2035 General Plan with a mix of residential densities and uses. Overall the BCESP provides a residential density range of 8.0 to 10.9 units per acre, whereas the existing 2035 General Plan would yield 4.0 to 6.0 units per acre of residential development.

Planning for the project re-locates non-residential uses (commercial) and high density residential, identified in the 2035 General Plan, to locations that function more efficiently with the existing and planned circulation systems, taking into consideration both pedestrian and automotive travel ways. Overarching in this BCESP is the intent of a Village Concept, allowing residents the ability to live, work and play within the project boundary.

Development of the project site continues to close the remaining open sites South of Eight Mile Road. The BCE project is essentially an infill project which will facilitate the completion of both potable water distribution mains and sanitary sewer trunk lines; providing completion of these elements within the City of Stockton's Utility Master Plans. Construction of the project will complete portions of the West Lane and Eight Mile Road arterial streets, consistent with the proposed amendments to the Precise Roadway Plans. It further provides for a construction of a collector street linking the Cannery Park Project via Lt. Col. Mark Taylor Street.

Note that the commercial designation located at the southeast corner of Eight Mile Road and West Lane in the 2035 General Plan, has been relocated to the southeast corner of West Lane and Lt. Col. Mark Taylor Street to better serve a greater area than BCE. This location provides for efficient and safer access from West Lane and is more centrally located when looking at all the remaining development South of Eight Mile Road.

The BCE project is an in-fill project South of Eight Mile Road. Furthermore, this area of development has been included in the City's General Plan at least as far back as the 1990 General Plan and is located inside the City of Stockton's 10-Year Sphere of Influence approved by the Local Area Formation Committee in September of 2008. This project represents smart in-fill growth in North Stockton, not leap frog development.

5. Other Regulatory Processes

Finally, Staff raised general processing concerns on a broader basis associated with the following regulatory laws, standards, plan and codes:

- Assembly Bill (AB) 32 – California Global Warming Solutions Act
- The Climate Action Plan (CAP)
- Revisions to the California Building Standards Code and implementation of the California Green Building Standards Code
- Senate Bill (SB) 375 – Sustainable Communities and Climate Protection Act of 2008
- The Delta Stewardship Council
- SB 5 – Flood Management

As a developer, MCD North Stockton is cognizant of the requirements to comply with AB 32, the CAP, new building codes and SB 375. These requirements are worked into each project to ensure compliance, codified in a Development Agreement and/or required mitigation for a building permit. Upon review of the Final Environmental Impact Report and as noted above, this project far exceeds the requirements for greenhouse gas emission reduction in addition to including transit oriented development and other “green” building components. The project area is not located within the area of the Delta Protection Act. In fact the Eastern limit of the Delta Protection Act Secondary Delta Zone is over three miles West of the development area. SB 5 will be a landmark issue for many development projects in and around the Stockton area. Fortunately, Bear Creek East is not included in either the 100-Year Flood Plain nor indicated in the 200-Year United States Army Corp of Engineers Comprehensive Study.

The way in which Staff presented this laundry list of regulatory processes appeared to overwhelm the Planning Commission with too much information, causing doubts about the project. Because of the Staff’s recommendation to approve the Applicant’s request, the comments made at the end of the hearing, including misrepresentation of information, created confusion and warrants additional discussion in front of the City Council.

6. Downtown Revitalization Fee Program

MCD North Stockton is willing to participate in a reasonable downtown revitalization fee program to be adopted by the City Council and paid for from the sales of housing units within BCE.

7. Conclusion

In the City Council's consideration of this appeal it is important to recognize that its actions are merely extensions and refinements of the planning process and DO NOT grant any entitlements. MCD North Stockton or assignee will be required to return to the Planning Commission and the City Council at some point in the future for consideration on the entitlements, a Development Agreement, a Vesting Tentative Subdivision Map, and Initiation of Annexation.

MCD North Stockton requests that the City Council accept the positive recommendation of the Staff Report, disregard the Planning Commission's recommendation for denial of the Bear Creek East Specific Plan, and as recommend in the Staff Report vote in the affirmative for the following actions:

1. Certify the FEIR and adopt the Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program for the BCESP project, prior to, or in conjunction with, an applicable discretionary approval for this project;
2. Approve a General Plan Amendment to reconfigure Low High Density Residential, Commercial and Industrial designations and add proposed Medium Density Residential, Administrative Professional, Parks and Recreation, Open Space and elementary school symbol;
3. Adopt the BCESP specifying project land use requirements for property located east of West Lane, South of Eight Mile Road, West of the Union Pacific Railroad and north of Bear Creek;
4. Approve Prezoning to RL, Residential Low Density; RLM, Residential Low-Medium Density; RHM, Residential High-Medium Density; RH, Residential High Density; CO, Commercial Office; IL, Industrial, Limited, OS, Open Space; PF, Public Facilities;
5. Approve an Amendment to the Eight Mile Precise Road Plan; and
6. Approve an Amendment to the West Lane Precise Road Plan.

City of Stockton Planning Commission Item #5.02 Staff Report (Staff Report) – Page 34



CITY OF STOCKTON, CALIFORNIA
Community Development Department/Planning Division
345 North El Dorado Street
Stockton, CA 95202

Hearing Date: December 12, 2013

Item Number: 5.02

File Number(s): P10-225

Application Type(s): Environmental Impact Report;
Specific Plan;
General Plan Amendment;
Rezoning;
Eight Mile Road Precise Road Plan
Amendment;
West Lane Precise Road Plan
Amendment;

PLANNING COMMISSION STAFF REPORT

Project Name Bear Creek East Specific Plan

Project Planner: Michael McDowell

Council District: N/A

Application Information

Property Owner (s): MCD South Parcel, LLC
MCD North Parcel, LLC

Pacific Bell Corp.(AT&T); Woodside Teresi, LLC
Central California Financial, LLC, Sacramento & San Joaquin
Drain District, Western States Land, LLC, UPRR

Applicant(s): MCD South Parcel, LLC
MCD North Parcel, LLC

Location: Bounded to the north by Eight Mile Road; west by West Lane; south by Bear
Creek; east by City of Stockton

Address: N/A

**Existing General
Plan:**

Low Density Residential
High Density Residential
Commercial and Industrial

Master APN: 120-020-02

**Existing
Zoning:** N/A

**Proposed General
Plan:**

Low Density Residential
Medium Density Residential
High Density Residential
Administrative Professional
Industrial
Commercial
Elementary School
Parks and Recreation
Open Space

**Proposed
Rezoning:** Residential, Low Density
Residential, Low-Medium Density
Residential, High-Medium Density
Residential, High Density
Commercial, Office
Commercial, General
Industrial, Limited
Open Space
Public Facilities

Project Area: 317.3 acres

**Prop. Dwelling
Units:**

Min.1,557- Max.2,122

Prop. Office: 41,800 square feet

Prop. Retail: 93,200 square feet

Prop. Indust: 95,800 square feet

Surrounding General Plan / Zoning / Land Uses

North:	Village	N/A (County Zoning AG-40)	Agriculture, Industrial
East:	Industrial	IL (Industrial, Limited)	Cannery Park Master Development Plan
	Low Density Residential	RL (Residential, Low Density)	
South:	Low Density Residential	N/A (County Zoning AU-20)	Agriculture
West:	Village	N/A (County Zoning AU-20)	Agriculture

CEQA Determination Environmental Impact Report (State Clearinghouse No. 2005122001)

City of Stockton Planning Commission Item #5.02 Staff Report (Staff Report) – Page 35**RECOMMENDATION**

It is recommended that the Planning Commission make a recommendation to the City Council, based on the findings for decision, as follows:

- a. Certify the Final Environmental Impact Report and adopt the Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program for the Bear Creek East Specific Plan project, prior to, or in conjunction with, any applicable discretionary approvals for this project;
- b. Approve a General Plan Amendment to reconfigure Low High Density Residential, Commercial, and Industrial designations and add proposed Medium Density Residential, Administrative Professional, Parks and Recreation, Open Space, and an elementary school symbol;
- c. Adopt the Bear Creek East Specific Plan specifying project land use requirements for property located east of east of West Lane, south of Eight Mile Road, west of the Union Pacific Railroad, and north of Bear Creek;
- d. Approve Rezoning to RL, Residential Low Density; RLM, Residential Low-Medium Density; RHM, Residential High-Medium Density; RH, Residential High Density; CO, Commercial, Office; CG, Commercial, General; IL, Industrial, Limited; OS, Open Space; PF, Public Facilities;
- e. Approve an Amendment to the Eight Mile Road Precise Road Plan; and
- f. Approve an Amendment to the West Lane Precise Road Plan.

Project Summary

Planning applications have been filed by MCD North Parcel, LLC and MCD South Parcel, LLC for a proposed Specific Plan entitled "Bear Creek East Specific Plan" for a mixed-use community with a range of housing types and densities, commercial, industrial, and office uses and community amenities, including parks and open recreational space; a General Plan Amendment to change the Land Use and Circulation Map, Amendments to the Eight Mile Road and West Lane Precise Road Plans, Rezoning, Annexation, a Development Agreement and Environmental Impact Report.

Vicinity Map