

Exhibit P



June 17th, 2025

Fresno City Planning Commission  
City Hall Council Chamber, 2nd Floor,  
2600 Fresno Street, Fresno, CA 93721

*Sent via email* PublicCommentsPlanning@fresno.gov

Dear Planning Commission,

Leadership Counsel for Justice and Accountability (“LCJA”) submits this letter in opposition to the annexation application No. P21-005778, prezone application P21-05870, and development permit No. P23-00149, all three hereby referred to as “Project”. LCJA works alongside residents from South Central Fresno and other disadvantaged communities throughout the City bearing the brunt of the City’s land use decisions of siting industrial development near residential communities. Alongside residents of Southcentral, we have engaged extensively for more than five years in efforts to improve air quality, traffic concerns, and infrastructure development through the City’s land use planning processes including the development of the Southcentral Fresno Specific Plan. Residents of Southcentral Fresno are also part of the AB 617 Community Steering Committee working to address heavy truck traffic in their neighborhoods by identifying truck routes away from sensitive receptors such as Orange Central Elementary and places of worship. We strongly oppose this Project as approval of the Project will lead to an exacerbation of air quality impacts, traffic congestion and emissions from heavy truck traffic, and further strain on public infrastructure. Furthermore, we are concerned the Project description and Impact Analysis violates CEQA due to inconsistencies in the mitigated negative declaration. We urge the Commission to deny or delay the Project until the Project has undergone a full environmental review.

### **1. The Project Description and Impact Analysis Violate CEQA**

The MND fails to meet the requirements of CEQA because it includes inconsistencies that make the project description unstable and render its conclusions of impact significance indefensible.

#### The project description is unstable and inaccurate

The MND for the proposed project includes contradictory descriptions of the expected heavy truck trips rate, rendering the project description unstable and inaccurate. An initial study is required to include a project description. An “accurate, stable and finite” project description is the “sine qua non” of an environmental review document. (*County of Inyo v. City of Los Angeles*



(1977) 71 Cal.App.3d 185 at 192.) A project description that meets these standards is necessary for evaluation of potential environmental impacts.

Here, inconsistencies within the environmental document mean that the included project description fails to meet the informational standard required under CEQA. The project description included in the environmental checklist form for the project states “[t]he Project includes a total of approximately 84 truck trips per day (42 entering and 42 exiting) and 120 passenger vehicle trips per day (60 entering and 60 exiting).” (MND Appendix G, p.3.) This data appears to be consistent with the analysis included in the discussion of hazards and hazardous materials impacts. (Appendix G, Checklist Item IX.) However, in the discussion of transportation impacts, the truck trips are projected to be “approximately 126 per day” and the passenger vehicle trips as “approximately 180 per day.” (Appendix G, Checklist Item XVI(a).) These figures are in line with the technical data included to support the environmental review. (Emily Bowen, Air Quality, Health Risk, Greenhouse Gas, and Energy Technical Memorandum, November 13, 2024, p.2.) Thus, the vehicle trip estimates included in the project description vary substantially from figures included elsewhere in the document.

The project description includes unsupported estimates of vehicle trips that are inconsistent with the included technical analysis, such that the document provides two possible estimates of vehicle trips, with the upper estimate 1.5 times the lower estimate. Because of the ambiguity that results from these inconsistencies, the project description is unstable and inaccurate. Without a stable, accurate project description of the vehicle trips associated with the buildout of the trucking facility, the IS/MND fails as an informational document and is in violation of CEQA requirements. Where, as in this case, an environmental document “precludes informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred.” (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99 at 128.)

#### Significance determinations are unsupported by the impact analysis

As described above, the environmental document includes multiple estimates of projected project vehicle traffic. In addition to rendering the Project Description unstable and inaccurate, these inconsistencies undermine the conclusion of the environmental document that project impacts will be less than significant with mitigation implemented. A Mitigated Negative Declaration allows a lead agency to avoid the need to complete a full environmental impact report when the Initial Study prepared for the project “identifies potentially significant effects on the environment” but also identifies revisions to the project to “mitigate the effects to a point where clearly no significant effect on the environment would occur” and “there is no substantial evidence...that the project, as revised, may have a significant effect on the environment.” (Pub. Res. Code § 21080(c)(2).)



Here, the environmental document provides multiple estimates for the trip traffic that will result from the proposed project. The number of trips varies between sections of the Initial Study. In addition, the discussion of potential air quality impacts does not specify what daily rate of trips is employed in the analysis of health impacts to support its conclusions. This is despite the fact that the Initial Study concludes that there would be a significant impact under Checklist Item III(c), due to exposure of sensitive receptors to substantial pollutant concentrations. (Appendix G, Checklist Item III.) The Initial Study states that implementation of MM AIR-1 would reduce this impact to less than significant level, but MM AIR-1 only pertains to construction emissions, not operational emissions. Because of the ambiguity surrounding the vehicle trips per day, it is possible that the operational emissions of the project are greater than what is reflected in the discussion of Item III(c). As a result, it is not certain that MM AIR-1 would actually mitigate the significant impact under Checklist Item III(c) to a less than significant impact. Therefore, the MND cannot be shown to meet the requirements of section 21080(c)(2).

Further, the Transportation section of the Initial Study references an Institute of Transportation Engineers (ITE) trip generation manual for the estimated daily truck trip rate. The ITE code used is 30, for an “intermodal truck terminal.” (Appendix G, Table 20.) The analysis does not specify why this code was selected as opposed to other possibly relevant ITE codes, like those for warehouses or parcel fulfillment centers. The discussion also fails to support the inclusion of the rate selected for ITE code 30 (1.97) as opposed to other possible rates included in ITE data sources. (See *ITE Trip Generation Data Plots - Modal, 000s - Port and Terminal - Modal Data Plots 1*, showing average rate 2.14 for ITE code 30, available at: <https://www.ite.org/tripgenappendices/>.) This section also references that trip estimates were based on “information provided by the Project applicant,” without further specificity. (Appendix G, Checklist Item XVII(a).) Despite the ambiguities included in this section of the checklist as to the assumptions of truck traffic, the Initial Study finds that there would be no significant impact with mitigation incorporated. Because the assumptions underlying the analysis are ambiguous, it is not clear that the mitigation would be sufficient to reduce the effect of the project on the environment.

#### Other inconsistencies

In addition to the above inconsistencies, which result in substantial ambiguity about the assumptions that underlie the impact analysis and thus make it unclear whether the identified mitigation measures will actually achieve a reduction in the project’s effect on the environment, the environmental document also includes contradictory statements under Checklist Item X - Hydrology and Water Quality. For Checklist Item X(b), it describes the impact as less than significant with mitigation incorporated. However, the discussion of that item states the impact would just be less than significant, and does not describe any mitigation. For Checklist Item



X(c), there is no impact indicated in the table at the start of the section. Lastly, the analysis should include an analysis of impacts on sensitive receptors including Orange Central Elementary, places of worship, and adjacent disadvantaged unincorporated community as directed to by the District 3 Project Review Committee in 2023.

## 2. Findings For Annexation Approval is Inaccurate

According to the Fresno Municipal Code, annexations shall not be approved unless all criteria as listed in Section 15-6104 are met. Staff finds that “No Disadvantaged Unincorporated Communities are identified adjacent or within the vicinity of the proposed annexation boundary” for Section 15-6104 Annexation Criteria D<sup>1</sup>. The finding is inaccurate as the proposed annexation site is within the City of Fresno’s sphere of influence and is adjacent and contiguous to the disadvantaged unincorporated community (“DUC”) on Cherry Ave and E. Central Ave. The DUC begins with a small cluster of homes directly adjacent to the Project site and in front of the Orange Central Elementary which are in close proximity to homes on E. Daleville Ave and E. Central Ave<sup>2</sup>. See exhibit A. The DUC will be heavily impacted as Cherry Ave is used by truck traffic to enter the facilities. Before moving forward with the Project, staff should comply with Section 15-6104 of the City’s municipal code and partner with the community to determine support for annexation and coordinate terms for a potential annexation process.



Exhibit A

<sup>1</sup> Fresno City Municipal Code Section 15-6104

[https://library.municode.com/ca/fresno/codes/code\\_of\\_ordinances?nodeId=MUCOFR\\_CH15CIDECONRE\\_PTVADPE\\_ART61COPLPNIAN\\_S15-6104ANCR](https://library.municode.com/ca/fresno/codes/code_of_ordinances?nodeId=MUCOFR_CH15CIDECONRE_PTVADPE_ART61COPLPNIAN_S15-6104ANCR) .

<sup>2</sup> Addresses for small cluster of residential parcels include: 3081 S. Chery Ave, 3085 S. Cherry Ave., 3097 S. Cherry Ave. 3103 . Cherry Ave., 3121 S. Cherry Ave., and 3133 S. Cherry Ave.



### **3. The City Must Engage the Community of Southcentral Fresno and Adopt the Southcentral Fresno Specific Plan Before Continuing with Project consideration.**

The City of Fresno must ensure to communicate and collaborate with the community of Southcentral Fresno for the Project. The community of Southcentral Fresno was not informed about the consideration of the Project despite its introduction in 2021 and despite direction from the District 3 Project Review Committee to have better stakeholder engagement notice with a 3,000-foot radius buffer<sup>3</sup>. According to Exhibit J the last time the Project was discussed with the community was February 18th 2021, four years from now. The Staff report does not indicate if Staff followed through with the 3,000-foot radius buffer. We urge the Commission to delay consideration of the Project until notification with a 3,000-foot radius buffer for the Project has been completed and the community has had an opportunity to raise concerns and guide mitigation.

Since the introduction of the project the community of Southcentral Fresno and the AB 617 Community Steering Committee has worked on the development of the Southcentral Specific Plan (SCSP) and the Southcentral Truck Reroute Study. The City should delay the Project until the adoption of the SCSP to ensure future development reduces impacts on the environment and improves the quality of life for residents. Moreover, the Project should be delayed until the SCSP “Good Neighbor” policies and buffering requirements are established to ensure neighboring uses collaborate with residents and impacts are mitigated through buffering.

### **4. Adoption of the Project is inconsistent with the City’s duty to Affirmatively Further fair Fair Housing and the Fair Employment and Housing Act.**

The impacts of industrialization and polluting land uses in Southcentral are extensively documented and known by the City of Fresno. It is very clear that the City’s land use decisions have detrimentally impacted the community leading to high cumulative pollution burden. In approving this Project, the City may violate their duty to affirmatively further fair housing which includes avoiding land use patterns which continue to negatively impact disadvantaged communities and communities of color. Given the Project’s location and likely significant adverse impacts in disproportionately pollution burden community of color, it is essential not only from a CEQA perspective that the City analyze and fully mitigate the Project’s impacts on housing, but it is also necessary in order for the City to comply with its duty to affirmatively furthering fair housing and not take any action that is materially inconsistent with that duty. Gov. Code § 8899.50.

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<sup>3</sup> Fresno District 3 Project Review Committee Minutes, March 28th, 2023.





Moreover, the Fair Employment and Housing Act (“FEHA”) prohibits any public or private land use practices, which include any single act or omission, that intentionally discriminate or that has a discriminatory effect without a legally sufficient justification. 2 C.C.R. § 12161. A legally sufficient justification exists for a discriminatory effect resulting from a public agency’s land use practice only when there is no feasible alternative practice that would equally or better accomplish a substantial, legitimate non-discriminatory purpose, and other factors are met. 2 C.C.R. § 12062(b). Land use practices that may result in unlawful discriminatory effect under FEHA may include the siting of toxic, polluting or hazardous land uses in a manner that adversely impacts housing opportunities. 2 C.C.R. § 12161. In approving the Project, the City is at risk of violating the Fair Employment and Housing Act as its land use decisions continue to create disparate and discriminatory effects on protected classes.

We strongly urge the Commission to oppose or deny the Project until the Project has undergone a full environmental analysis and until the Southcentral Specific Plan has been adopted.

Respectfully,

Seth Alston  
Staff Attorney  
Leadership Counsel for Justice and Accountability