

Exhibit S



August 30, 2021

Planning Commission
2600 Fresno St.
Fresno, Ca 937<sent via email>

Comment Letter RE: Request Denial of Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665 and the related Environmental Assessment No. P20-01665

Dear Planning Commissioners,

The undersigned Southwest Fresno residents and organizations respectfully urge that the **Planning Commission deny the Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665, and the related Environmental Assessment No. P20-01665.**

On April 5th, 2021, Leadership Counsel for Justice and Accountability, Central California Environmental Justice Network, Building Healthy Communities Fresno, and Central Valley Air Quality Coalition submitted the attached letter (Appendix A). We ask that you carefully review our letter. Our main concerns remain, which to recap are:

- I. **Incompliance and inconsistencies with the intent and vision of the Southwest Fresno Specific Plan (SWSP).** The SWSP's development was a two year process that engaged hundreds of residents. Throughout the plan's development residents were abundantly clear they wanted a healthy community with amenities and resources, and eventual dissolution of incompatibly sited industrial land uses.
- II. **Inadequacy of the Environmental Assessment.** Per the California Environmental Quality Act, local jurisdictions must assess the potential environmental impact of a proposed project. The analysis conducted is inadequate and noncompliant with State law.
- III. **Incompliance with the intent and goals of the Transformative Climate Communities (TCC) Program and AB 617: Community Air Protection Program.** Southwest Fresno has suffered decades of poor and racially unjust land use practices that have led to Southwest Fresno being selected for two highly competitive grants known as the TCC and AB617 programs. The goal of these programs are to rectify and support the City of Fresno from continuing the siting of poor land uses within communities of color.



IV. Violation of Duty to Affirmatively Further Fair Housing

Per AB 686, the city of Fresno must plan for housing and community development through the Housing Element process which includes the responsibility to create healthy communities and halt and relieve land-use actions and decisions that place light industry next to sensitive receptors such as the medical clinic, the senior apartments, the future affordable single family homes and two schools.

Per the directive of the Planning Commission, the Applicant was to hold a community meeting to listen to the concerns and attempt to reach a solution with the community. However, during that community meeting of March 21, 2021, the Applicant's attorney did not listen to the concerns of community residents, based on the fact that the Applicant is returning their same application to the Planning Commission without any changes being made from their original application. The Applicant only used the meeting as means to refute all the factual concerns of the community members.

As a reminder, the California Air Resources Board, the State of California's Strategic Growth Council and the San Joaquin Valley Air Pollution Control District have all previously commented and opposed this rezone application. We urge the Planning Commission to not ignore these opinions along with the clear community vision in the SWSP and deny the application.

The passing of the SWSP plan was a monumental decision and a step in the right direction to amend for historic discriminatory and racist policy and land-use practices. We respectfully ask that you deny in its entirety, Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665, and the related Environmental Assessment No. P20-01665.

Sincerely,

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April 5, 2021

Planning Commission
2600 Fresno St.
Fresno, Ca 93721

<sent via email>

Comment Letter RE: Request Denial of Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665 and the related Environmental Assessment No. P20-01665

Dear Planning Commissioners,

We respectfully urge that the **Planning Commission deny the Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665, and the related Environmental Assessment No. P20-01665.**

Leadership Counsel for Justice and Accountability works alongside some of the most impacted communities in the City of Fresno to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. We work in partnership with community leaders on various issues such as affordable housing, essential services, and healthy land-use practices that foster the right to live free from industrial pollution with infrastructure that supports healthy lifestyles. One of these communities include partnering with community members residing in Southwest Fresno to support, elevate, and advocate community-driven priorities and solutions—including that of creating a healthy Southwest Fresno community.

Southwest Fresno ranks in the top 1% of city census tracts of the most environmentally and socio-economically burdened areas of the state according to CalEnviroScreen¹, a statewide tool evaluating socio-economic, public health, and pollution burden. Yet, this city's only priority continues to focus on the economic goals by way of industrial growth rather than a comprehensive approach balancing quality jobs with upward mobility and creating healthy communities. The argument of more jobs, regardless of the source, as the only solution, is not and has not been the answer for improving the Southwest Fresno community. Jobs without living wages and benefits, upward mobility opportunities, community benefits agreements, and

¹ <https://oehha.ca.gov/calenviroscreen/maps-data>



without proven mitigation measures, will only continue to increase the equity gaps and environmental injustices in communities of color. The City of Fresno should plan economic growth that will uplift Southwest Fresno and not continue to propose or approve land-use decisions that sacrifice the lives of communities of color.

We urge the Planning Commission to support the community's decision and deny the plan amendment, rezone, and environmental assessment as it does not comply with the intent and vision of the Southwest Fresno Specific Plan and the General Plan. Moreover, the addendum to the Program Environmental Impact Report is inadequate and does not properly assess the significant environmental and community impacts changing the zoning back to industrial use has on the community. Lastly, the changes are unaligned and violate the intentions and requirements as established in the Transformative Climate Communities Program, AB 617: Community Air Monitoring Program, and AB 686 to affirmatively further fair housing.

I. Incompliance with the intent and vision of the Southwest Fresno Specific Plan (SWFSP)

Historically, the City of Fresno has used its city's southern region as its dumping grounds for any type of land use that is not appropriate for its segregated northern Fresno communities. This City's segregation is no accident as this country's history of redlining, and discriminatory investment and development practices, have created the tale of two cities we have today. As the city tries to right its racially divided and historical wrongs, the SWFSP emerged. It created a twenty-one-member steering committee and engaged hundreds of community members. Throughout the two-year process, the committee and the community specifically stated that any form of heavy and light industrial land uses must stop being placed next to and within their African-American, Latino, and Hmong communities.

The original decision to have the zoning use of Neighborhood Mixed-Use in the SWFSP was to limit the increase of future unhealthy environmental uses on the community. Especially in this area where two schools, two senior housing complexes, a community center, a park, and hundreds of homes are all within close proximity. Neighborhood Mixed-Use will facilitate future planning and investment in businesses that serve this community. For example, a bodega-style grocery store in a food desert could be placed here, owned and managed by the household living above. To change zoning to Light Industrial zoning will create a domino effect perpetuating historically racist development patterns by 'dumping' industry on a community of color.

As previously noted, the proposed changes are counter to what hundreds of residents prioritized, which are reflected in the SWFSP vision document. The proposed rezone and



amendment's findings of the Fresno Municipal Code wrongfully state that the changes ``seem to comply with the intent of the Vision for the SWFSP.” Changing the zoning to Light industrial from Neighborhood Mixed Use does not comply with the vision nor the guiding principles of the SWFSP, Chapter 2 (Vision), Subsection B (Guiding Principles) of “reducing, monitoring, and mitigating negative impacts of industrial uses”; nor does it comply with ‘prohibiting new industrial development’; nor ‘relocating new industrial development away from residential neighborhoods”.

This plan amendment also does the exact opposite of the stated purposes within the SWFSP Chapter 2 (Vision), Subsection B (Guiding Principles). A guiding principle here states the intent of the plan to increase transparency and communication between government agencies, residents, and stakeholders. On Feb 3, 2021, the Planning Commission gave the Applicant the directive to return to the community to do outreach and get feedback regarding the proposed changes. Though the applicant claimed to have increased its outreach to a 2000 feet radius notice, this leaves out countless residents originally engaged in the SWFSP process. Engaging this entire group is necessary to commit to the previously mentioned guiding principle as this application would change the zoning within the Southwest Fresno specific plan.

Moreover, according to the Fresno's Municipal Code Section 15-404 “any legal non-conforming use may be continued indefinitely”.. Meaning, the businesses within this area that were located here legally before the plan was updated can continue doing their business and operations as usual. Matter of factly, the businesses have the right to apply for conditional use permits if they want to expand their businesses. There is no reason to approve these changes as the SWFSP allows existing facilities to remain, meanwhile, working towards the goal of creating fewer to no impacts on the residents that call Southwest Fresno home.

II. Inadequacy of the Environmental Assessment

An addendum for this project is inappropriate because the changes of a rezone from Neighborhood Mixed-Use to Light Industrial are more than technical and minor and have consequential health, safety, air, and environmental impacts on the neighborhoods and schools near it. The addendum to the final PEIR confirms that the San Joaquin Valley Air Pollution Control District (SJVAPCD) finds that the air quality is out of extreme nonattainment based on the Federal standards. Yet this PEIR also counter-intuitively states that no significant impact will result from rezoning an area to Light Industrial, which will by definition cause more allowable polluting factors than Neighborhood Mixed Use zoning.



The City's approval of the proposed Project—which will cause significant adverse impacts on the already overburdened neighborhoods surrounding the Project—does not comply with CEQA. CEQA's central purpose is to inform “the public and government officials of the environmental consequences of decisions before they are made.” *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal.3d 376, 392 (1988). The Addendum does not adequately analyze or attempt to mitigate the proposed Project's significant impacts on the environment, air, safety, and health of the surrounding community, including sensitive receptors such as the West Fresno Elementary and Middle Schools and residential homes and Senior citizens apartments across the street from the Project site. Thus, the City's approval of the proposed Project falls far short of CEQA's informational mandates.

It is inaccurate to state that this proposed addendum to the program EIR and rezone would not result in new or substantially more severe significant effects, or that no new mitigation measures are required for the proposed project because there would be no new impacts to the current environmental issues. It is inaccurate because some of these impacts include:

- The amount of substantial light or glare adversely increases and there will be a decrease in a true visual nighttime level of darkness in the area.
- The amount of heavy duty trucks vibrates the streets and the homes to the point that our public works department can not maintain and prevent severe pot holes and broken water main lines that run under the streets
- The amount of heavy duty trucks and influx of employee cars will cause increased congestion and safety issues for residents.
- There will be an increase in the amount of PM2.5 and NOx air pollution due to increased heavy duty trucks and diesel emissions.
- There will be an increase in detrimental health impacts on: the students at two schools, the residents served at the health center who ride and wait for the bus along Elm Ave and the communities that are 1200 feet away.
- It fails to evaluate the cumulative impact of existing facilities and conditions of the community

III. Incompliance with the intent and goals of the Transformative Climate Communities (TCC) Program and AB 617: Community Air Protection Program

While the city and the developers want to only focus on economic development through the lens of distribution facilities, the community and the state have proactively tried to improve Southwest Fresno who has suffered long-standing environmental injustices. Southwest Fresno has been selected for and has received tens of millions of dollars in funding from two important programs:



the Transformative Climate Communities (TCC) and the AB 617 Community Air Protection Program (AB 617). According to the Strategic Growth Council (SGC), the TCC program empowers the communities most impacted by pollution to choose their own goals, strategies, and projects to reduce greenhouse gas emissions and local air pollution. To comply with TCC's intent, SGC Staff even required as part of the contract the City relocate the firetower in Chinatown so as to not negatively impact the future residents of a housing project nearby.

Similarly, AB 617's focus is to reduce exposure in communities most impacted by air pollution through partnerships between communities, the city of Fresno, the state, and the respective air district to develop and implement new strategies to measure air pollution and reduce health impacts. For over a year, the Community Steering Committee have been working to implement a community-driven emission reduction plan and air monitoring plan for this area. Approving the proposed agenda item, would be completely counter to state law working proactively to combat the current status of this community.

IV. Violation of AB 686 to Affirmatively Further Fair Housing

The California Legislature passed AB 686 to enshrine the Affirm Furthering Fair Housing (AFFH) duty within state law. The duty falls within jurisdictions' ongoing obligations to plan for housing and community development through the Housing Element process. (See generally Gov't Code §§ 65583, 65583.2.) The law specifically defines AFFH to require meaningful actions that "overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity" for groups protected by California law, including racial minorities, people with disabilities, and military veterans. It goes on to require that jurisdictions administer their programs in ways that affirmatively further fair housing and it prohibits jurisdictions from taking actions that are "materially inconsistent" with their obligations to affirmatively further fair housing.

The law also provides specific elements of the analysis to guide jurisdictions in their examinations, including analysis of governmental constraints on development and analysis of access for those with special housing needs, such as seniors. This includes the responsibility to create healthy communities and halt and relieve land-use actions and decisions that place light industry next to sensitive receptors such as the medical clinic, the senior apartments, the future affordable single family homes and two schools. Approving the proposed rezone and plan amendment would be in direct violation of this law intended for circumstances such as these that perpetuate discriminatory land-use patterns. Such violations leave the City open to legal challenges for noncompliance in affirmatively furthering fair housing.



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For the Planning Commission to adopt the proposed changes would be an egregious and blatant racist decision, and an insult to the work that the residents and stakeholders of this city have put into the Southwest Fresno Specific Plan. It has already been proven that if you live in south Fresno, your life expectancy is 20 years less than the citizens that live in north Fresno². We urge this Planning Commission to not approve these changes that are before you. If any questions shall arise do not hesitate to contact me at my email or phone below.

Sincerely,

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² <https://www.naphsis.org/usaleep>