## IS/MND Comments and Responses

| Letter/Comment No. | Comment | Response |
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| **1 – Neighbor Letter (General)** | | |
| 1-1 | We would like to object to the Notice of Intent to Adopt a Mitigated Negative Declaration listed with Parcel Number P24-00794 even though it is a city wide text code amendment. | This comment introduces the comment letter and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-2 | This would affect three parcels in our neighborhood that are currently zoned for office and potentially a number of existing offices. We already have one parcel zoned for high density multi family. This parcel at Prospect and Herndon was rezoned as part of the 2030 rezone during the Holiday Season in 2015 with no input from nearby residents. Steve Brandau did not protect his constituents with provisions to revisit parking and density like were done in District 6. | This comment identifies three parcels within the vicinity of the neighborhood that are the subject of concern. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-3 | We object to the ministerial zoning that "meets the City's development code." There is no planning involved with this code. The Planning Department does not consider any existing or future problems that might be exacerbated by the development. The planners and city council do not consider the preservation and character of the neighborhood. | This comment introduces and describes objection to ministerial zoning. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental |

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| | | issues. Further response is not necessary. In addition, it should be noted that the proposed text amendment does consider future development in that ministerial approval is limited in certain circumstances. |
| 1-4 | The City has created the problems that make multi family development in this neighborhood impractical. We have made the City aware of these problems on NUMEROUS occasions starting with emails to Councilman Karbassi in 2019. We have attended numerous meetings. We delivered 929 signatures to the Planning Department on 9/20/21 and again in May 2024. These signatures were attached to a document that noted: | This comment describes emails, meetings, and signatures that have been provided to the City. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-5 | Inadequate parking for Orchid Park. The parking was inadequate for what they planned the park to be from day 1. It should be noted that original property owners paid park fees and had to wait 10 or more years for the park to be finally built. Councilman Karbassi has acknowledged this problem but it hasn't been fixed. Mayor Jerry Dyer has said that these "neighborhood parks have become regional parks." It should be noted that the Pickleball courts at Orchid Park are one of the most popular in the city. The parking lot often barely accommodates this. | This comment describes a perception of parking constraints for Orchid Park. The text amendment is specific to residential uses and approval processes for residential uses, not park uses. Further, this comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |

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| 1-6 | No street parking for the vehicles that will be generated by new developments. The parking requirements listed by a state code used by the Planning Department are totally inadequate for multi family housing: | This comment describes a perception of parking constraints for multi-family housing. The text amendment is specific to residential uses and approval processes for residential uses. Other standards, such as parking requirements, are not addressed by the project. Further, this comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-7 | The small short street (Prospect) with the POORLY DESIGNED ROUNDABOUT and unworkable traffic flow on one of the two access roads into the neighborhood. The city has long promised to run Fir through to Valentine Avenue when they build the park. It was promised again when Leo Wilson built a large housing development adjacent to the park. Just this year it was considered but then cancelled by Councilman Karbassi at the budget hearing. Jerry Dyer now says those promises from the city are "too old." | This comment describes a perception of traffic constraints and remedies. The text amendment is specific to residential uses and approval processes for residential uses. No development or improvements are proposed by the project. Any projects resulting from Project implementation could require a Traffic Impact Study and further environmental review pursuant to CEQA as the text amendment has thresholds of when ministerial approval is permitted and not permitted. Any required off-site improvements would be subject to applicable standards and City review and approval. Further, this comment does not address the |

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| | | adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-8 | Altered traffic patterns throughout the neighborhood as a result of people avoiding Prospect and using Brawley Avenue instead. Again the city is adding higher density on each parcel leading to roads through the neighborhood that were not designed to handle that traffic. With each new development the quality of life in the existing neighborhood has deteriorated. | This comment describes a perception of traffic constraints. The text amendment is specific to residential uses and approval processes for residential uses. No development or improvements are proposed by the project. Any projects resulting from Project implementation could require a TIS and further environmental review pursuant to CEQA as the text amendment has thresholds of when ministerial approval is permitted and not permitted. Any required off-site improvements would be subject to applicable standards and City review and approval. Further, this comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-9 | School safety. There should be a direct path from both the existing new developments and the proposed new ones for children to walk to their elementary | This comment describes a perception of pedestrian safety and access to |

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| | school. The City Manager, Georgeanne White says that, "they are not required to provide one." The neighborhood is already choked with traffic at peak pick up and drop off times. It is not safe for children to navigate alone which generates even more traffic. | schools. The text amendment is specific to residential uses and approval processes for residential uses. No development or improvements are proposed by the project. Any projects resulting from Project implementation could require a TIS and further environmental review pursuant to CEQA, as the text amendment has thresholds of when ministerial approval is permitted and not permitted. Any required off-site improvements would be subject to applicable standards and City review and approval. Further, this comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-10 | Public Safety Vehicles. Ambulance and Fire Department vehicles have trouble navigating the roundabout and when Valentine is clogged with traffic, they cannot access the neighborhood NOW. | This comment describes a perception of emergency vehicle access. The text amendment is specific to residential uses and approval processes for residential uses. No development or improvements are proposed by the project. Nor does the project revise any standards. Future development in the project area would be reviewed to ensure compliance with applicable standards for on-site emergency access |

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| | | including turn radii and fire access pursuant to the City of Fresno Fire Department, Fire Prevention Manual Development Standards. Compliance would be verified through the review process. Further, this comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-11 | Noise and Air Pollution. Herndon is exponentially busier than it was when the neighborhood was developed. There is a lot more noise that can be heard from blocks away. Sirens, gunning engines, and just the heavier traffic can be heard blocks away. | This comment describes a perception of the existing noise levels and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-12 | Ingress and egress. The City is allowing ingress and egress on the two main feeder streets on proposed plans for new developments. This will exacerbate the congestion on these streets at peak times and cause traffic to back up onto Herndon Avenue. | This comment describes a perception of traffic constraints. The text amendment is specific to residential uses and approval processes for residential uses. The project does not modify City standards and requirements related to roadways. As described in the Initial Study/Mitigated Negative Declaration, the text |

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| | | amendment includes language regarding thresholds for traffic impact studies and infrastructure improvements for proposed projects that would necessitate a development permit. Further, this comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-13 | We are aware that the STATE OF CALIFORNIA is pushing this along with many other policies that DO NOT WORK. These proposed developments will be permanent once they are built no matter what problems they cause. | This comment describes a perception of the State and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-14 | If this amendment is such a good idea, why has the City gone to such great lengths to keep this from the public. When Councilman Karbassi was asked about this notice the response was "was this something you received in the mail?" We never received any answer as to what this was going to do. | This comment describes a perception of the City and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |

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| 1-15 | The City has refused to keep their promises. They refuse to fix the problems brought forth to them. They definitely are not transparent in their actions. | This comment describes a perception of the City and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-16 | High density multi family housing has already been rejected by the Project Review Committee, the Planning Commission, and by the City Council. This amendment would basically overturn those decisions and ruin a neighborhood that already has all types of housing. This amendment would negate the will of the people who have already prevailed on this issue despite a secretive, abusive, and uneven playing ground. | This comment describes prior actions of the City and a perception of future impacts and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 1-17 | As this amendment will further erode the public's right to participate in addressing development in their own communities it should be denied. | This comment describes a perception of public participation and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| **2 – Neighbor Letter (Virgil M. Airola)** | | |
| 2-1 | I am writing to object to the Notice of Intent to Adopt a Mitigated Negative Declaration regarding Parcel P24-00794 and the reconsideration of Building App. No. P21-00989 that previously failed to gain approval by Project Review Committee, | This comment introduces the comment letter and describes a development project. The project analyzed in the |

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| | the Fresno Planning Commission, and the City Council for numerous problematic issues.. The 82 unit 3 and 4 story apartment complex at Herndon Avenue and N. Prospect Avenue as proposed should not be built as currently planned for a number of significant reasons that present several potential risks and liability for future residents of the facility. | Initial Study/Mitigated Negative Declaration is a text amendment. No development is proposed. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-2 | These include:<br>1. Building evacuation in case of fire,<br>2. Access to the proposed project off Prospect by the fire department,<br>3. Safe pedestrian pathways from the proposed project to the H. Roger Tatarian elementary school,<br>4. Increased traffic thru the poorly configured and too small traffic circle on Prospect, north of Herndon, and<br>5.Inadequate parking spaces for the proposed complex. | This comment describes a development project. The project analyzed in the Initial Study/Mitigated Negative Declaration is a text amendment. No development is proposed, nor does the project modify any City policies or standards related to building evacuation, Fire Department access, pedestrian pathways, roadway configurations, or parking. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-3 | The developer's representative at the Planning Commission meeting stated that the target clientele of the proposed project would be senior citizens. Many elderly individuals have limited mobility and some seniors are easily confused when placed in stressful situations, particularly if they have mild dementia. During a | This comment describes a development project. The project analyzed in the Initial Study/Mitigated Negative Declaration is a text |

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| | building evacuation because of fire when elevator use is prohibited, many senior citizens may be unable to quickly negotiate third and fourth floor stairways to move to safety outside the buildings. In addition, the four-story portion will not have windows on the eastern side of the building thereby limiting rescue access by firefighters using ladder trucks. | amendment. No development is proposed. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-4 | N. Prospect Avenue itself is too narrow at the level of the tiny turn-around circle to accommodate a pickup truck towing a moderate-sized trailer. I question the ability of a fire ladder truck to negotiate a turn into the proposed complex especially if and when facility residents are attempting to move their vehicles to safety. These difficulties would certainly delay both fire fighter evacuations of facility residents and delay implementation of fire fighting efforts. | This comment describes emergency access to a development project. The project analyzed in the Initial Study/Mitigated Negative Declaration is a text amendment. No development or improvements are proposed by the project. Nor does the project revise any standards. Future development in the project area would be reviewed to ensure compliance with applicable standards for on-site emergency access including turn radii and fire access pursuant to the City of Fresno Fire Department, Fire Prevention Manual Development Standards. Compliance would be verified through the review process. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental |

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| | | issues. Further response is not necessary. |
| 2-5 | Despite the developer's belief that the proposed complex would be largely inhabited by senior citizens, one must assume that given its proximity to an elementary school, any number of families with children would also be residents of the complex. Safe pedestrian pathways do not exist currently between the proposed complex and H. Roger Tatarian elementary school; rather children would need to either walk along the gravel shoulder of the narrow two lane portion of N. Valentine Avenue that parallels Herndon Avenue or traverse the open field north of that side road. Placing those young children at risk from drivers hurrying to work along the already congested road seems unwise when increased traffic along N. Prospect from the proposed complex must be assumed. | This comment describes pedestrian pathways from a development project. The project analyzed in the Initial Study/Mitigated Negative Declaration is a text amendment. No development or improvements are proposed by the project. Nor does the project revise any standards. Future development in the project area would be reviewed to ensure compliance with applicable standards related to site access. Compliance would be verified through the review process. As described in the Initial Study/Mitigated Negative Declaration, the text amendment includes language regarding thresholds for traffic impact studies and infrastructure improvements for proposed projects that would necessitate a development permit. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-6 | The poorly designed connection of N. Valentine Avenue to Herndon Avenue, where N. Valentine becomes a frontage road that enters Prospect Avenue from the West, has already created a significant obstacle to the smooth flow of traffic from N. | This comment describes a development project on a specific parcel. The project analyzed in the Initial |

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| | Valentine onto Herndon Avenue. Complicating the flow of traffic further at N. Prospect and Herndon by adding additional traffic from an 82 unit apartment complex will lead to undue congestion and innumerable fender-bender accidents along N. Prospect. | Study/Mitigated Negative Declaration is a text amendment. No development is proposed. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-7 | One must expect that most of the target clientele (senior citizens) of the proposed project will be moving into the apartments to "down-size" their remaining years and will have two vehicles or the residents will be working parents with two vehicles. The proposed apartment complex does not have adequate parking facilities to accommodate even 150 vehicles, much less 164 cars and trucks. Local street parking lacks the capacity to support more than a few extra vehicles. | This comment describes a development project on a specific parcel. The project analyzed in the Initial Study/Mitigated Negative Declaration is a text amendment. No development is proposed. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-8 | May I suggest that several changes be made to either or both the proposed complex or the surrounding street traffic infrastructure. Certainly, anticipating the numerous problems noted above and providing solutions prospectively would seem wise. I remember that the traffic signal at Marks and Herndon Avenue was constructed to replace the 4-way stop signs only after a Supervisor's teenage daughter was killed in a traffic accident at that intersection. Prospectively dealing with the above mentioned problems might save lives in the future. | This comment describes solutions to a development project on a specific parcel. The project analyzed in the Initial Study/Mitigated Negative Declaration is a text amendment. No development is proposed. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative |

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| | | Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-9 | I humbly suggest several potential solutions:<br>1.Down-size the proposed project to a maximum of two-story buildings<br>2.Move the entrance and exit from the proposed complex to W. Fir Avenue instead of N. Prospect Avenue.<br>3.Widen the frontage road portion of N. Valentine Avenue that parallels Herndon Avenue and add a sidewalk along the northern portion of that road and along N. Prospect Avenue while widening N. Prospect Avenue itself along with the construction of a larger traffic turning circle to N. Prospect Avenue.<br>4.Maintain or increase the number of parking spaces in the proposed complex despite down-sizing the number of proposed housing units themselves. | This comment describes solutions to a development project on a specific parcel. The project analyzed in the Initial Study/Mitigated Negative Declaration is a text amendment. No development is proposed. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-10 | These corrective suggestions surely might be implemented by either the city or the developer of Parcel Number P24-00794 if the City of Fresno were concerned for any future residents of any development project on the aforementioned parcel of land. | This comment is a conclusion of the letter and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 2-11 | In conclusion, I strenuously object to the Notice of Intent to Adopt a Mitigated Negative Declaration as a city wide code amendment and more specifically for application of any such declaration in regard to Parcel Number P24-00794 for the reasons stated above because development of the parcel per Building App. No. | This comment is a conclusion summary of the letter and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, |

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| | P21-00989 without significant corrective measures would place future resident adults and their children at significant risk of injury. | does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| **3 – Neighbor Letter (Dwight G Nelson)** | | |
| 3-1 | I am writing to formally object to the Notice of Intent to Adopt a Mitigated Negative Declaration related to Parcel Number P24-00794, which is part of a citywide text code amendment. While this amendment affects multiple areas, its implications for our neighborhood are particularly concerning. | This comment introduces the comment letter and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 3-2 | This amendment targets three parcels currently zoned for office use and potentially others, in addition to the one parcel already rezoned for high-density multifamily housing at Prospect and Herndon. That rezoning occurred during the 2015 holiday season with little to no input from affected residents. Unlike other districts, such as District 6, this area lacks adequate protections for parking and density concerns, leaving the community vulnerable to overdevelopment. | This comment identifies three parcels within the vicinity of the neighborhood that are the subject of concern, and describes perceived parking and density concerns. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 3-3 | Specific Concerns: Lack of Planning and Neighborhood Consideration:<br>•Ministerial zoning that "meets the City's development code" disregards the unique needs and existing challenges in our neighborhood. | This comment describes a perception of challenges specific to the neighborhood related to traffic, safety, and quality of life. The project includes |

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| | •There has been no effort to consider how this amendment exacerbates ongoing issues such as traffic congestion, safety, and quality of life. | a text amendment related to residential uses. The text amendment includes various thresholds that must be met to proceed with ministerial approval. Thresholds are related to environmental and infrastructure impacts. Each ministerial project will need to be evaluated against these thresholds on its own merits. All future projects resulting from project implementation would be subject to compliance with City standards, in addition to applicable plans, policies, and programs. The project does not modify any existing City standards, plans, policies, or programs related to these impacts. Further response is not necessary. |
| 3-4 | Broken Promises and Community Frustration:<br>Despite numerous emails, meetings, and petitions-most notably 929 signatures submitted in September 2021 and May 2024-the City has not addressed longstanding issues, including inadequate parking at Orchid Park, poor road infrastructure, and insufficient traffic mitigation measures. | This comment describes a perception of existing issues in the neighborhood, such as parking, infrastructure, and traffic, and lack of address by the City. The project includes a text amendment related to residential uses. The project would not change existing City standards. This comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |

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| 3-5 | Traffic and Safety Concerns:<br>•The poorly designed roundabout on Prospect Street, coupled with inadequate access roads, already causes significant congestion. Increased density will only worsen these conditions.<br>•There is no safe path for children walking to the local elementary school, further endangering students during peak traffic times.<br>•Emergency vehicles such as ambulances and fire trucks struggle to navigate the neighborhood's current infrastructure. | This comment describes a perception of traffic and safety concerns on Prospect Street. The project includes a text amendment related to residential uses. No development is proposed by the project. Traffic impacts, including access for emergency vehicles, are discussed and analyzed in the Initial Study/Mitigated Negative Declaration. All future projects resulting from project implementation would be subject to compliance with City standards, in addition to applicable plans, policies, and programs related to transportation and circulation for vehicles, pedestrians, and emergency vehicles. The project does not modify any existing City standards, plans, policies, or programs related to these impacts. Further response is not necessary. |
| 3-6 | Environmental and Quality-of-Life Impacts:<br>•Increased noise and air pollution clue to heavy traffic on Herndon Avenue directly affect residents' well-being.<br>•The City's allowance for ingress and egress onto main feeder streets will further congest these roads and create backups onto Herndon. | This comment describes a perception of environmental and quality of life impacts related to Herndon Avenue. The project includes a text amendment related to residential uses. Noise, air pollution, and traffic impacts are discussed and analyzed in the Initial Study/Mitigated Negative Declaration. Noise impacts addressed include construction and operational noises. Air quality impacts address criteria pollutants for construction and operations. Traffic impacts address |

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| | | compliance with the applicable policies, programs, and standards. All impacts were found to be less than significant or have incorporated mitigation measures to reduce impacts. Further response is not necessary. |
| 3-7 | Lack of Transparency and Public Engagement:<br>•The City has failed to provide clear and timely communication about this amendment, raising concerns about its commitment to transparency.<br>•High-density housing proposals have previously been rejected by the Project Review Committee, Planning Commission, and City Council. This amendment would overturn those decisions, disregarding the will of the community. | This comment describes a perception of public engagement and past projects and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 3-8 | This amendment undermines the public's right to participate in decisions about their neighborhoods and disregards the valid concerns of residents who have fought for responsible development. The proposed changes would impose permanent, detrimental impacts on our community; further eroding trust in the City's planning process. | This comment describes a perception of public participation and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 3-9 | I respectfully urge the City to reject this amendment. It is imperative that community voices are considered, and that thoughtful, transparent planning takes precedence over rushed policies. | This comment is a conclusion of the letter and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to |

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| | | environmental issues. Further response is not necessary. |
| **4 – Neighbor Letter (Larry Fleming)** | | |
| 4-1 | I would like to object to the Notice of Intent to Adopt a Mitigated Negative Declaration listed with Parcel Number P24-00794 even though it is a city-wide text code amendment. | This comment introduces the comment letter and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 4-2 | Sierra Sky Park is unique. It is the first community in the United States, ever built around aviation. It was built in 1946, far north of Fresno, with wide open spaces and farmland surrounding it. The founders of Sierra Sky Park built a community that safely promoted aviation and prevented any potential problems with a densely populated urban area. It is important to remember that Sierra Sky Park was there first. Fresno has grown over the many years and now borders Sierra Sky Park, slowly and surely encroaching on its way of life; aviation. Although I do not live at Sierra Sky Park, I like airplanes. I love seeing them land and take-off and so do many of my friends. We enjoy the day-to-day operation and events sponsored by the community of Sierra Sky Park. Sierra Sky Park is not just a place for pilots; it is also a place for the general public to watch and enjoy flying; a place where mom and dad take the kids to show them real airplanes, up close. My two sons were even invited to take a flight there when they were young. Sierra Sky Park is one of Fresno's jewels. | This comment describes Sierra Sky Park and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 4-3 | I am concerned to hear that there is a proposal to rezone land around Sierra Sky Park, which may threaten its operations. If this new zoning plan is approved, I believe it will set the scene for future conflict; expensive lawsuits, complaints, and possible safety issues. It will be a lose/lose situation for the Sky Park, for the residences of any new development, and for the City of Fresno. Why would the City of Fresno consider changing an already adopted land use plan; a costly plan that | This comment describes concerns for rezoning land around Sierra Sky Park. The project does not propose a rezone. The project includes a text amendment related to residential uses. As described in the Initial Study/Mitigated Negative |

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| | had been thoroughly studied, agreed upon and makes sense? There are plenty of other places in our city to build apartments, but there is only one Sierra Sky Park. | Declaration, the text amendment would prohibit ministerial approval of new multi-family residential development on parcels within an AIA and designated safety zone including Zone 1 (RPZ), Zone 2 (IADZ), and Zone 3. Parcels in the Sierra Sky Park AIA and safety hazard zones are identified in Table 4-10. Further, this comment does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| 4-4 | The Community of Sierra Sky Park realizes that the city will continue to grow and that stuff is going to be built around the airport. They only want to make sure that development goes according to the existing land use plan and will not threaten the core of the neighborhood; flying. I urge the City of Fresno to work with the people of Sierra Sky Park and only allow development around the airport that is consistent with the its ability to operate. | This comment is a conclusion summary of the letter and does not address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation or additional information relevant to environmental issues. Further response is not necessary. |
| **5 - Fennemore Dowling Aaron** | | |
| 5-1 | On behalf of the Northwest Neighbors for Safe Development, we submit this comment letter in opposition to the City Development Code Text Amendment Project Application P24-00794 and the corresponding Mitigated Negative Declaration, ("Project"). | Introduction statement, no response needed. |
| | The Northwest Neighbors for Safe Development oppose this Development Code Text Amendment because it would make certain projects in the City of Fresno | The Development Code Text Amendment (DCTA) referenced in the |

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| | ministerial and thereby exempt from CEQA despite the fact that projects of certain sizes as contemplated in the MND having significant unmitigated impacts on the environment and public health. | Mitigated Negative Declaration (MND) aligns with state law and local planning objectives to streamline certain types of development while maintaining appropriate environmental review. Ministerial projects, by definition, are those that comply with objective standards and do not require discretionary decision-making by the City. Under CEQA, ministerial projects are not subject to environmental review because they lack discretionary approval authority that would allow the City to impose additional mitigation measures beyond what is already required by existing regulations.<br><br>The MND evaluates the environmental effects of the proposed Development Code Text Amendment and determines that, with the incorporated mitigation measures and compliance with applicable local, state, and federal regulations, no significant unmitigated impacts would result. Furthermore, individual projects subject to this amendment will still be required to comply with all applicable environmental regulations, including but not limited to the Clean Air Act, Clean Water Act, and other state and local environmental protection requirements. |

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| | | The City's General Plan, municipal code and other adopted policies already contain robust environmental protections, and the amendment does not waive or alter any existing standards related to air quality, noise, traffic, or public health. Rather, it provides a streamlined approval process for projects that conform to established zoning and development criteria, ensuring predictability while maintaining environmental safeguards.<br><br>As analyzed in the MND, the proposed amendment does not result in significant environmental impacts that would require the preparation of an Environmental Impact Report (EIR). |
| 5-2 | On November 20, 2024, the City of Fresno ("City") circulated the Project's Mitigation Negative Declaration ("MND") for public comment through submission to the State Clearing House.1 The reasons for the opposition are set forth herein. | Statement related to publication. No response needed. |
| 5-3 | The Northwest Neighbors for Safe Development earlier in 2024 opposed Fresno City Council July 25, 2024 Agenda Item ID 24-899: Appeal of Project at 7056 North Prospect Avenue, Development Permit Application No. P21-00989, and CEQA determination under Class 32 Categorical Exemption ("7065 North Prospect Project"). While the City Council denied that Project, this 7056 North Prospect Avenue Project, was to be located on the northeast corner of West Herndon and North Prospect Avenues in Fresno. Under the proposed Development Code Text Amendment (which includes the northeast corner of West Herndon and North Prospect Avenues) projects of similar size to the 7056 North Prospect Project would not be required to undergo any CEQA analysis, despite the fact that Northwest Neighbors for Safe Development submitted substantial evidence to the City that | The comment raises concerns about the potential for significant environmental and public health impacts from projects similar in size to the previously proposed 7056 North Prospect project, particularly given the denial of that project and the proposed DCTA's exemption of such projects from CEQA review. We acknowledge the commenter's concerns and offer the following clarification: |

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| | projects of that size at that location would cause significant impacts on the environment and public health. | The denial of the 7056 North Prospect project was based on a specific set of circumstances related to that project's location, design, and potential impacts. While informative, the denial of that *specific* project does not automatically equate to a determination that *all* similar-sized projects in *all* locations within the project area covered by the DCTA will necessarily result in significant impacts. Environmental review is inherently project-specific.<br><br>In addition, under the proposed text amendments, certain projects will be required to undergo an additional air quality assessment or health risk assessment. |
| 5-4 | The City now attempts to avoid CEQA for projects of this size throughout the City by making them ministerial. | The City is not avoiding CEQA but rather ensuring that projects meeting strict, objective development standards are appropriately processed as ministerial approvals, in accordance with state law and CEQA guidelines. The Development Code Text Amendment and its accompanying Mitigated Negative Declaration (MND) provide clear thresholds and conditions under which projects remain subject to discretionary review and environmental analysis when necessary. |

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| | | The text amendment does not explicitly make all large projects ministerial. Instead, it preserves CEQA review for projects that:<br>• Are located in sensitive areas, such as Important Farmland, flood hazard areas, hazardous sites, or designated historic resources (Sec. 15-5102.E.2).<br>• Exceed certain environmental thresholds, such as requiring a Phase II Environmental Site Assessment, biological study for special-status species, or a historic resource evaluation (Sec. 15-5102.E.3).<br>• Generate significant traffic, noise, or air quality impacts, requiring studies like a Traffic Impact Analysis, Health Risk Assessment, or Noise Study (Sec. 15-5102.E.3.e–j).<br>• Require major infrastructure improvements beyond standard development requirements, ensuring that large projects do not overburden public services (Sec. 15-5102.E.5).<br>• For projects that exceed these thresholds, a Development Permit is required, triggering |

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| | | discretionary review and potential CEQA analysis.<br>In addition, the proposed text amendment prohibits new residential development on vacant or underutilized office-zoned parcels within 500-feet of a school site.<br><br>The claim that the City is "attempting to avoid CEQA" is not accurate. The amendment does not grant blanket ministerial approvals but instead sets clear limitations, thresholds, and conditions under which projects qualify for streamlined processing. Any project exceeding these thresholds remains subject to discretionary review and CEQA compliance, as outlined in the MND and text amendment. The City's approach is consistent with CEQA case law, state housing legislation, and its own General Plan policies. |
| 5-5 | Our opposition previously was supported by technical comments provided by air quality and hazards expert James Clark, Ph.D,2 and noise expert Derek Watry3 submitted in conjunction with the 7056 North Prospect Project. They are attached here to provide substantial evidence that the Development Code Text Amendment is making projects of a similar size, which cause significant impacts, ministerial and thereby avoiding CEQA. Additionally, the MND lacks proper mitigation to avoid these impacts. | Details contained within these letters were outlined in appellant's letter and thus addressed later in this document(5-6 through 5-18). |
| 5-6 | Approval of this Development Code Text would allow the 7056 North Prospect Project to be submitted again without any changes, and the City would be required | This is not the case. Within the text amendment there are specific requirements that mandate submittal |

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| | to approve the project ministerially despite substantial evidence that these types of projects have unmitigated environmental impacts. | of technical studies when certain project thresholds are met, and may trigger the requirement for a discretionary permit (Development Permit). |
| 5-7 | Specifically, the Development Code Text does not address potential project construction emissions, which may result in emissions of toxic air contaminants ("TACs") that would increase health risks to significant levels. Additionally, construction includes noise-generating activities that may result in significant noise impacts on nearby receptors. These impacts are especially severe due to the proximity of residential receptors to certain sites which now would permit ministerial residential development. | Responded to in later sections (5-15 through 5-19). |
| 5-8 | As a result, an EIR is the correct form of environmental review for the Project, because the MND failed to: (1) properly analyze certain impacts like TACs and construction noise, in addition to (2) not properly mitigating impacts that are likely to occur given the size of projects which will be ministerial under the Development Code Text Amendment. | Responded to in later sections (5-9 through 5-19). |
| 5-9 | Northwest Neighbors for Safe Development respectfully requests that the Planning Commission require the Project to undergo an EIR or recirculate the MND after adding inappropriate levels of mitigation to reduce impact levels to insignificant. | The City acknowledges the concerns raised by the Northwest Neighbors for Safe Development regarding the adequacy of the Mitigated Negative Declaration (MND) and the level of mitigation applied to reduce potential impacts. However, an Environmental Impact Report (EIR) is not required, nor is recirculation of the MND necessary, as the analysis meets CEQA requirements and adequate mitigation measures have been incorporated to reduce potentially significant impacts to a less-than-significant level. |
| 5-10 | Northwest Neighbors for Safe Development is an unincorporated association of individuals that may be adversely affected by the potential public health and safety | This comment provides standing and statement of interest and does not |

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| | hazards, and the environmental and public service impacts of the Project. The coalition includes City of Fresno residents Matt Nutting, Brandon Smittcamp, Kirk Cernigli, J.T. Contrestano, Pat Cornaggia, Rodney J. De Luca, Gary H. Rushing, Peter Nunez, David Scott, Mike Shirinian, Vicki Allen-Westburg, Debbie Nard, Dennis Nard, Rick Martin, along with their families, and other individuals who live and work in the City of Fresno. Individual members of Northwest Neighbors for Safe Development live, work, recreate, and raise their families in the City of Fresno and surrounding communities. Accordingly, they would be directly affected by the Project's environmental, health, and safety impacts. Northwest Neighbors for Safe Development and its members could be aggrieved by the Project allowing ministerial residential development, without proper mitigation of environmental impacts those projects could create. | address the adequacy or completeness of the Initial Study/Mitigated Negative Declaration, does not raise environmental issues, and does not request the incorporation of additional information relevant to environmental issues. Further response is not necessary.<br>CEQA only requires recirculation of an MND under limited circumstances (CEQA Guidelines § 15073.5), such as when:<br>• A new significant environmental impact is identified.<br>• Substantial new information shows that impacts are more severe than originally disclosed.<br>• Mitigation measures are found to be infeasible and new mitigation is required to substantially reduce impacts.<br>In this case:<br>• No new significant impacts have been identified that were not previously addressed.<br>• No new information has been presented to demonstrate that the identified mitigation measures are infeasible or ineffective. |

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| | | • The mitigation measures are consistent with CEQA best practices and ensure compliance with the City's General Plan EIR, applicable State regulations, and local environmental policies.<br>• Therefore, recirculation of the MND is not required under CEQA. |
| 5-11 | CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.4 "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment, but also informed self-government."5 The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."6 | The City fully acknowledges the fundamental role of CEQA in ensuring that potential environmental impacts are properly analyzed before project approval. However, CEQA does not require an Environmental Impact Report (EIR) for every project—it requires an EIR only when substantial evidence supports a fair argument that the project may result in a significant environmental impact that cannot be mitigated (CEQA Guidelines § 15064(f)).<br><br>The comment does not provide specific evidence demonstrating that a significant impact remains unmitigated or that the MND's conclusions are incorrect. |
| 5-12 | CEQA's purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.7 CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare an EIR | The City acknowledges CEQA's intent to ensure informed decision-making regarding environmental impacts. However, CEQA does not create an automatic presumption in favor of |

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| | whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.8 | requiring an Environmental Impact Report (EIR) for all projects. Instead, CEQA provides a structured process where an EIR is required only if substantial evidence in the record supports a fair argument that the project may result in significant, unmitigated environmental impacts (CEQA Guidelines § 15064(f)).<br><br>CEQA expressly allows the use of an MND when a project's impacts can be mitigated to below significance thresholds (CEQA Guidelines § 15070(b)).<br>Courts have upheld the use of MNDs where mitigation successfully reduces environmental impacts, as seen in Save Our Residential Environment v. City of West Hollywood (1992) 9 Cal.App.4th 1745. |
| 5-13 | In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but: (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.9 | The City acknowledges CEQA's framework for using a Mitigated Negative Declaration (MND) and affirms that the MND prepared for the Development Code Text Amendment fully complies with these legal standards.<br>1. The MND Meets CEQA's Requirements Under CEQA Guidelines § 15070<br>CEQA allows a lead agency to adopt an MND only if two conditions are met: |

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| | | 1. Revisions to the project (or agreed-upon mitigation measures) reduce environmental effects to a level where "clearly no significant effect" would occur.<br>2. There is no substantial evidence in the whole record demonstrating that the project, as revised, may have a significant impact.<br>In this case:<br>• The Initial Study analyzed all potential environmental impacts and determined that any potentially significant impacts could be fully mitigated to less than significant.<br>• Mitigation measures have been incorporated into the project to ensure compliance with CEQA standards.<br>• No substantial evidence has been presented that demonstrates a significant, unmitigated environmental impact remains.<br>2. The MND Properly Incorporates Revisions and Mitigation Measures<br>• The text amendment includes clear, enforceable thresholds and mitigation measures for |

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| | | projects that might otherwise have significant environmental effects (Sec. 15-5102.E).<br>• Sensitive areas and environmental impact thresholds are identified, ensuring that projects exceeding those thresholds remain subject to discretionary review and further CEQA analysis (Sec. 15-5102.E.2-E.3).<br>3. No Substantial Evidence Supports a Fair Argument of Significant, Unmitigated Impacts<br>Under CEQA Guidelines § 15384, "substantial evidence" must be fact-based and supported by relevant studies or expert opinions. In this case:<br>• The MND is based on technical studies and regulatory compliance.<br>• Courts have consistently held that mere speculation, assumptions, or unsubstantiated opinions do not constitute substantial evidence under CEQA (Leonoff v. Monterey Board of Supervisors (1990) 222 Cal.App.3d 1337). |

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| | | • No new information has been presented that contradicts the City's findings.<br>4. Conclusion<br>The City's decision to adopt an MND is fully compliant with CEQA because:<br>1. Mitigation measures reduce all impacts to less than significant, satisfying CEQA Guidelines § 15070.<br>2. The record lacks substantial evidence demonstrating that the project, as mitigated, may still cause a significant environmental effect.<br>3. The MND is legally defensible and supported by substantial evidence, including technical studies and applicable mitigation measures.<br>Because CEQA's requirements have been met, the City can lawfully adopt the MND without requiring an EIR. |
| 5-14 | Courts have held that if "no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR."10 The fair argument standard creates a "low threshold" favoring environmental review through an EIR rather than through the issuance of a negative declaration.11 An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.12 | The City recognizes that CEQA applies the fair argument standard when determining whether an Environmental Impact Report (EIR) is required. However, the fair argument standard does not automatically mandate an EIR for every project—rather, an EIR is required only when substantial evidence in the whole record supports a |

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| | "Substantial evidence" required to support a fair argument is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."13 According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f): | fair argument that the project may have significant environmental impacts that cannot be mitigated (CEQA Guidelines § 15064(f)).<br>The Fair Argument Standard Requires Substantial Evidence, Not Mere Speculation. Under CEQA Guidelines § 15384, "substantial evidence" must be based on facts, expert opinion supported by fact, or technical studies rather than speculation, unsubstantiated opinions, or generalized concerns.<br>Mere disagreement over conclusions in the MND does not constitute substantial evidence requiring an EIR (Citizens for Responsible Equitable Environmental Development v. City of Chula Vista (2011) 197 Cal.App.4th 327).<br>In this case:<br>The MND is supported by substantial evidence, including technical analyses and regulatory compliance.<br>The MND Complies with CEQA Guidelines § 15064(f) and Provides a Legally Defensible Basis for Not Requiring an EIR. CEQA does not require an EIR if mitigation measures reduce all impacts to below significance thresholds (CEQA Guidelines § 15070(b)). |

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| | | The MND properly applies technical thresholds and mitigation measures to ensure compliance with CEQA standards, addressing potential impacts related to air quality, traffic, noise, hazardous materials, and biological resources.<br>The comment does not identify any new significant, unmitigated impact that the MND fails to analyze, which is a key requirement to trigger an EIR under the fair argument standard.<br>In addition, the MND Incorporates Appropriate CEQA Mitigation Measures and the text amendment includes threshold for requiring a discretionary application and subsequent CEQA review. The text amendment explicitly requires discretionary review and CEQA analysis for projects exceeding environmental thresholds (Sec. 15-5102.E.2–E.3).<br>The City's decision to adopt an MND is legally sound and compliant with CEQA because:<br>• No substantial evidence has been presented demonstrating that the project may have unmitigated significant environmental impacts, especially given the requirements and thresholds |

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| | | contained in the proposed text amendment.<br>• The MND includes enforceable mitigation measures that reduce all impacts to less-than-significant levels.<br>• The fair argument standard does not require an EIR if mitigation successfully addresses potential impacts.<br>• Thus, the City can lawfully adopt the MND without requiring an EIR. |
| 5-15 | A. There is substantial Evidence Supporting a Fair Argument that the MND Underestimates and Fails to Properly Mitigate Air Quality Impacts<br><br>There is substantial evidence supporting a fair argument that the City failed to analyze the health risk impacts of potential project construction and operation on nearby sensitive receptors, which could occur under future projects that would now be ministerial.<br><br>1. The MND Threshold for Unit and Floor Counts to Screen Out of Air Quality Analysis if Far Above the Level Where Smaller Projects have Found Air Quality Impacts<br><br>First, the MND notes projects up to the following size will be ministerial, and once they exceed the following sizes the project will be discretionary and be required to perform some environmental review:<br><br>If the Project would exceed 224 units for low-rise (1-2 levels), 225 units for mid-rise (3-10 levels), or 340 units for high-rise (10+ levels) apartments, and generate more than 800 average daily one-way trips [ministerial approval is not permitted]. If the | The comment argues that the Mitigated Negative Declaration (MND) underestimates and fails to properly mitigate air quality impacts, specifically regarding health risks from Toxic Air Contaminants (TACs) during construction. The comment relies heavily on the analysis performed for the 7056 North Prospect project, claiming it demonstrates the potential for significant health risks from ministerial projects under this Project. We disagree with this assessment for the following reasons:<br><br>The comment's central flaw is its attempt to extrapolate the specific findings of the 7056 North Prospect project to all potential ministerial |

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| | project exceeds this threshold but a technical assessment for operational and construction emissions determines the project will be below applicable air district thresholds, then the project can be processed as a zone clearance.25<br><br>For context, the 7056 North Prospect Project was 88 units at 4 levels. Any project under the above standard could have significantly more units and significantly more floors than the 7056 North Prospect Project without any level of environmental review.<br>While it is true that more units and floors do not inherently mean environmental impacts at levels that are significant, Dr. Clark presented substantial evidence there will be significant effects on public health in the 7056 North Prospect Project.<br><br>The 7056 North Prospect Project would have increased health risks in the surrounding community by contributing TACs such as Diesel Particulate Matter ("DPM") during construction.26 During the 7056 North Prospect Project's construction, heavy equipment and diesel trucks would emit DPM. DPM has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.27 The 7056 North Prospect Project's emissions of DPM would impact numerous sensitive receptors, including residents in residential buildings located within 25 feet of the 7056 North Prospect Project site.28<br><br>CEQA requires an analysis of human health impacts. CEQA Guidelines Section 15065(a)(4) provides that the City is required to find a project will have a significant impact on the environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings.29 The Supreme Court has also explained that CEQA requires the lead agency to disclose the health consequences that result from exposure to a project's air emissions.30<br><br>For development projects like 7056 North Prospect Project, and ministerial ones under the Project, the Office of Environmental Health Hazard Assessment's ("OEHHA") risk assessment guidelines recommend a formal health risk analysis ("HRA") for short-term construction exposures to TACs lasting longer than 2 | projects under this Project. This is inappropriate. The 7056 North Prospect project involved a specific set of circumstances, including its size, location, proximity to sensitive receptors, and the specific construction methods employed. These factors are highly variable and will differ significantly from project to project. Therefore, the air quality analysis and health risk assessment conducted for that project cannot be automatically applied to other, potentially very different, ministerial projects covered by this Project.<br><br>In addition, the comment incorrectly assumes that the Text Amendment allows large residential projects to bypass air quality review entirely. In fact, the Text Amendment:<br><br>Establishes size and trip-generation thresholds to determine when a project requires discretionary review rather than ministerial approval (Sec. 15-5102.E.3.e). The following thresholds are based on the SJVAPCD's Small Project Analysis Level screening criteria:<br><br>• Low-rise (1-2 stories): 224 units |

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| | months and exposures from projects lasting more than 6 months should be evaluated for the duration of the project.31 In an HRA, lead agencies must first quantify the concentration released into the environment at each of the sensitive receptor locations through air dispersion modeling, calculate the dose of each TAC at that location, and quantify the cancer risk and hazard index for each of the chemicals of concern.32 Following that analysis, then the City can make a determination of the relative significance of the emissions.<br><br>The City did not conduct this analysis. Here, the MND concludes that the Project would not result in significant health risk impacts without conducting any of the above analytical steps. The City fails to disclose or analyze that the actual construction of residential units as described in the Project construction and operation would result in emissions of TACs. For example, the MND's analysis regarding TACs only focuses on not siting residential units near certain uses33 The City fails to analyze that construction from 4,868 units could, in and of itself, result in TACs from construction.34 Next, the City fails to disclose or analyze the health impacts of exposure to certain concentrations of TACs. Then the City fails to quantify the magnitude of TACs emitted by the Project. Lastly, the City fails to model the concentrations of TACs at sensitive receptors.35 In sum, there is no evidence that the City considered health risks from TACs due to the construction of residential units themselves when determining that the Project's ministerial developments would not result in significant impacts on air quality and public health. | • Mid-rise (3-10 stories): 225 units<br>• High-rise (10+ stories): 340 units<br>• Or projects generating more than 800 daily trips<br>• Requires an air quality technical assessment for projects exceeding these thresholds. If the assessment finds that emissions remain below the applicable air district thresholds, the project may still be processed ministerially. If emissions exceed thresholds, the project is subject to discretionary review and further CEQA analysis.<br>• Requires Health Risk Assessments (HRA) for projects near located on parcels adjacent to sensitive receptors to evaluate exposure to TACs from construction and operation (Sec. 15-5102.E.3.f).<br><br>Thus, projects with the potential to have significant air quality impacts are screened out of ministerial approval and remain subject to discretionary review and CEQA compliance. |

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| 5-16 | 2. The City's Significance Standards Rely on the Small Project Analysis Level to Screen Out Projects Based on Size, But the MND Does Not Then Require Projects to Perform Site Specific Analysis Despite the San Joaquin Valley Air Pollution Control District Requiring It for TACs and Sensitive Receptors<br><br>The City reasons that because of the scale and scope of the residential units under the Project, if the residential projects qualify under the Small Project Analysis Level ("SPAL"), there would be no contributions to air quality impacts.36 The SPAL specifically notes that the significance standards for dwelling units and trip counts are to quantify significance standards for "criteria pollutant emissions for CEQA purposes."37 It does not address significance standards for TACs.<br><br>When reviewing the Guidance for Assessing and Mitigating Air Quality Impacts ("GAMAQI") put forth by the San Joaquin Valley Air Pollution Control District ("SJVAPCD").38 This guidance notes that:<br><br>When a project falls under the SPAL, the Lead Agency should use the information in the initial study checklist, or whatever format used, to justify a finding of less than significant air quality impacts. The initial study should also verify that no sensitive receptors would be exposed to substantial pollutant concentrations as a result of the project. Project size, as identified in the SPAL, is not a threshold of significance. SPAL is a screening tool. The Lead Agency has the responsibility to identify and avoid potential land use conflicts, such as potential exposure of sensitive receptors to sources of toxic air contaminants, sources of hazardous materials, and potential odors. (emphasis added).39<br><br>While the SPAL has since 2015 been adopted as a significance standard for criteria pollutants, it has not been adopted for TACs. The City clearly ignored the guidance's recommendations on TACs, and therefore, its conclusions are not supported by substantial evidence and do not mitigate the specific adverse impacts identified below. As SJVAPCD notes, just because a project qualifies as a SPAL, does not mean the project will have no environmental impacts. GAMAQI notes that the Lead Agency is responsible for identifying and avoiding potential exposure of TACs to | The comment argues that the City's reliance on the Small Project Analysis Level (SPAL) to screen out projects based on size is insufficient for assessing Toxic Air Contaminant (TAC) impacts, particularly given the San Joaquin Valley Air Pollution Control District's (SJVAPCD) guidance. We disagree with this interpretation and believe the MND's approach is appropriate.<br><br>The MND recognizes that additional analysis is required where projects could expose sensitive receptors to substantial pollutant concentrations.<br>The Text Amendment explicitly requires Health Risk Assessments (HRA) for projects near sensitive receptors to evaluate exposure to TACs from construction and operation (Sec. 15-5102.E.3.f).<br><br>Thus, projects with potential TAC impacts are screened out of ministerial approval and require discretionary review and further CEQA analysis.<br><br>Contrary to the claim that the City "does not require site-specific analysis," the Text Amendment ensures that TAC exposure is evaluated on a project-by-project basis: |

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| | sensitive receptors. Here, the MND analyzes TACs, but only so far as where to site residential units, not whether the construction of those units can create TACs themselves. Therefore, the City failed to analyze health risk impacts from exposure to TACs during the Project's expected construction of residential units and thus failed to support its finding of a less-than-significant health risk impact. | • Sec. 15-5102.E.3.f: Any project adjacent to sensitive receptors must undergo a Health Risk Assessment (HRA) to determine TAC exposure risks.<br>• Sec. 15-5102.E.3.j: A noise study is also required for projects near sensitive receptors, which may include additional environmental analysis related to air quality impacts.<br>• Sec. 15-5102.E.3.e: If a project generates more than 800 daily trips or exceeds specific unit-count thresholds, it must undergo a technical air quality assessment to determine whether discretionary review is required.<br><br>The City's determination that an MND is appropriate is legally defensible under CEQA because:<br>• The MND does not use SPAL as a significance threshold for TACs but instead relies on project-specific analysis where required.<br>• The Text Amendment includes explicit provisions requiring Health Risk Assessments and discretionary review for projects near sensitive receptors, |

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| | | ensuring that air quality impacts are properly analyzed.<br>• No substantial evidence has been presented demonstrating that the MND underestimates air quality impacts or that the Text Amendment allows projects with significant unmitigated emissions to be processed ministerially.<br>• CEQA does not require an EIR when mitigation and screening mechanisms successfully reduce impacts below significance thresholds. |
| 5-17 | 3. The Project has Potentially Significant Health Risk Impacts from Projects Which Will Now be Ministerial<br><br>Dr. Clark calculated that the 7056 North Prospect Project's emissions of DPM would exceed applicable significance thresholds for health risks set by the SJVAPCD.<br><br>Using OEHHA's HARP 2 Standalone Risk software, Dr. Clark calculated the cancer risk to the most sensitive population – infants less than 3 years old.40 The maximum risk for exposure during construction is 21.5 in 1,000,000, which is greater than the 20 in 1,000,000 threshold set forth by the SJVAPCD for the maximally exposed individual. Dr. Clark's modeling even shows which receptors will be subject to these potentially significant impacts.41 | The comment argues that the Project has potentially significant health risk impacts from ministerial projects, citing Dr. Clark's calculations for the 7056 North Prospect project, which allegedly exceed SJVAPCD health risk thresholds. We disagree with the comment's attempt to extrapolate these findings to all potential ministerial projects under this Project.<br><br>The comment's reliance on the 7056 North Prospect project analysis is fundamentally flawed. That project represents a *specific* set of circumstances, including its size, location, proximity to sensitive |

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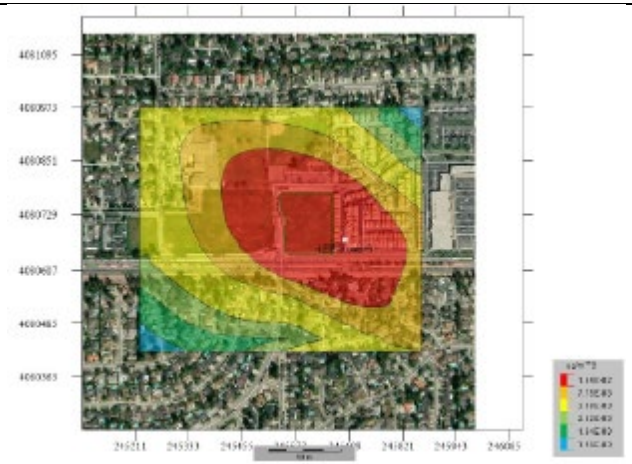
| |  <br>Figure 6: Model output showing DPM concentrations from 2024 through 2025<br><br>As a result of these significant effects, the 7056 North Prospect Project did not qualify for any CEQA exemption, including a Class 32 exemption. Here, the Project would allow projects the same size as the 7056 North Prospect Project and up to 2.5 times larger to not undergo any site-specific analysis. Thus, it is fair to conclude those projects also could create significant impacts that must be disclosed and mitigated in an EIR. | receptors, construction methods, and the specific equipment used. These factors are highly variable and will differ significantly from project to project. Therefore, Dr. Clark's calculations for that *one* project cannot be automatically applied to all other, potentially very different, ministerial projects covered by this Project. Each ministerial project must be evaluated on its own merits.<br><br>The comment's assertion that projects "the same size as the 7056 North Prospect Project and up to 2.5 times larger" could proceed without any site-specific analysis is a mischaracterization. While the Project establishes thresholds for ministerial approval based on size and trip generation, this does *not* mean that air quality impacts, including health risks from TACs, are ignored for projects below those thresholds. Rather, the MND establishes a tiered approach to environmental review, where projects below the ministerial threshold still must comply with applicable regulations and mitigation measures.<br><br>Furthermore, and importantly, the text amendment provides a clear mechanism for further analysis of |

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| | | potential health risks from TACs, during the review process. If a proposed ministerial project meets certain criteria – such as proximity to sensitive receptors, the scale of construction activities, or other factors suggesting the potential for significant TAC emissions – a health risk assessment, *will* be required. This ensures that potential health risks are thoroughly evaluated before any ministerial project is approved.<br><br>In summary, the comment's arguments are based on a misapplication of data from a separate project and a misunderstanding of the MND's approach to addressing potential health risks. The MND provides a reasonable and legally sound framework for evaluating and mitigating potential health risks, including those related to TAC. Therefore, the comment does not provide substantial evidence to rebut the MND's conclusions regarding potential health risk impacts. |
| 5-18 | B. There is Substantial Evidence Supporting a Fair Argument that the MND Underestimates and Fails to Properly Mitigate Noise Impacts –<br><br>1. The City Lacks Substantial Evidence to Conclude That the Project's Noise Impacts From Construction are Less Than Significant | The City has taken a proactive approach to addressing potential construction noise impacts by incorporating a requirement for a noise study into the proposed text amendment. Specifically, the amendment states that a noise study shall be required for any project |

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| | The MND states that the Project would result in less-than-significant construction noise impacts, because "[i]t is not anticipated that future residential development would generate substantial temporary or permanent increase in existing ambient noise levels within the Project Area in excess of standards established in the General Plan or FMC, or in other applicable local, state, or federal standards."42 This is the extent of the City's analysis regarding construction impacts and the basis for its significance determination. The City fails to provide why it believes construction impacts are not anticipated, what assumptions that belief is based upon, or a supporting factual basis for this conclusion.<br><br>Courts have held that compliance with noise regulations alone is not substantial evidence of a less-than-significant impact.43 In Oro Fino Gold Mining Corp. v. County of El Dorado ("Oro Fino"),44 a mining company applied for a special use permit for drilling holes to explore for minerals.45 The mining company argued the proposed mitigated negative declaration prohibited noise levels above the applicable county general plan noise standard maximum of 50 dBA and, therefore, there could be no significant noise impact. The court rejected this argument: "we note that conformity with a general plan does not insulate a project from EIR review where it can be fairly argued that the project will generate significant environmental effects."46 Thus, the court concluded an EIR was required.<br><br>In Citizens for Responsible & Open Government v. City of Grand Terrace ("Grand Terrace"),47 the city approved a 120-unit senior housing facility based on a mitigated negative declaration.48 The noise element of the city's general plan stated exterior noise levels in residential areas should be limited to 65 dB CNEL.49 The initial study concluded the facility's air conditioner units would cause noise impacts, but with mitigating measures the project would operate within the general plan's noise standard. But the court cited Oro Fino for the principle that "'conformity with a general plan does not insulate a project from EIR review where it can be fairly argued that the project will generate significant environmental effects.'"50 A citizen's group provided substantial evidence supporting such a fair argument. This evidence included testimony from an individual in the HVAC industry that the type of air conditioning units proposed by the project "sound like | involving construction activities located adjacent to sensitive receptors. This study will assess noise levels from all construction phases, including demolition, site preparation, grading, excavation, foundation work, building construction, and paving.<br><br>The comment asserts that the Initial Study/Mitigated Negative Declaration (IS/MND) underestimates and fails to properly mitigate noise impacts from construction. However, the IS/MND, in conjunction with the text amendment, provides a detailed framework to ensure that noise impacts are adequately evaluated and mitigated before project approval. The following points address the concerns raised in the comment:<br><br>• The proposed text amendment requires a noise study to be conducted whenever construction activities occur on properties adjacent to sensitive receptors.<br>• The results of the study will determine whether noise levels exceed the 80 dBA threshold.<br>• If the study finds that noise levels remain below 80 dBA, the project will be processed under a zone clearance, indicating that the |

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| | airplanes."51 And at a city council public hearing, community and city council members expressed concern that the air conditioners would be noisy.52 The court considered the testimony about the noise generated by the proposed air conditioners, took into account the mitigation measures, and concluded "there is substantial evidence that it can be fairly argued that the Project may have a significant environmental noise impact."53<br><br>Here the City's conclusions regarding impacts from Construction Noise are not supported by substantial evidence because the City did not perform any analysis to reach said conclusions. Mr. Watry notes that it is possible for a project to cause significant environmental noise impacts regardless of whether the Fresno Municipal Code makes this type of noise a violation.54 The City merely assumed that compliance with the City's noise ordinance means it is impossible for there to also be construction noise impacts. This conflation is wrong and violates CEQA. | impacts are within acceptable standards.<br>• If noise levels exceed 80 dBA, the project must either:<br>✓ Obtain a discretionary permit, ensuring further environmental review under CEQA, or<br>✓ Implement noise control measures to reduce levels below 80 dBA before proceeding with a zone clearance.<br><br>This process ensures that every project is subject to a site-specific noise analysis rather than a general assumption about construction noise levels. This requirement aligns with CEQA's mandate to evaluate potential environmental effects based on substantial evidence. |
| 5-19 | 2. The Project has Potentially Significant Construction Noise Impacts<br>To further demonstrate this, Mr. Watry performed a construction noise analysis for the 7056 North Prospect Project and found that construction noise would exceed the residential noise thresholds of 55 dB from 7:00 p.m. to 10:00 p.m. and 60 dB from 7 a.m. to 7 p.m.55 Mr. Watry recited the City's noise ordinance which described what noise levels are usually prima facie noise violations:<br><br>Any noise or sound exceeding the ambient noise level at the property line of any person offended thereby, or, if a condominium or apartment house, within any adjoining living unit, by more than five decibels shall be deemed to be prima facie evidence of a violation of Section 8-305.56 | The comment asserts that the Project has potentially significant construction noise impacts, citing a construction noise analysis performed by Mr. Watry for a separate project (7056 North Prospect) and applying it to this Project. We disagree with this approach and the conclusions drawn.<br><br>The comment's reliance on the 7056 North Prospect project analysis is fundamentally flawed. Project-specific |

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| | Mr. Watry used this value combined with a significant buffer of an additional 5 dBA to determine what level of noise impacts could constitute potentially significant noise impacts for the 7056 North Prospect Project.57 Using the Environmental Protection Agency's values for Residential Construction Noise, Mr. Watry concluded that every phase of construction for the 7056 North Prospect Project would exceed the residential thresholds by at least 10 dBA significance threshold for residential. While every phase of construction will exceed 70 dBA, some will significantly exceed this based on the average EPA Noise Levels for each phase of construction:58<br><br>**TABLE I EPA NOISE LEVELS FOR RESIDENTIAL CONSTRUCTION**<br><br>**Phase** / **Average** / **Range‡**<br>Ground clearing / 83 dBA / 75 to 91 dBA<br>Excavation / 88 / 80 to 96<br>Foundations / 81 / 71 to 91<br>Erection / 81 / 71 to 91<br>Finishing / 88 / 81 to 95<br><br>As such the MND's conclusions regarding impacts from Construction Noise are not supported by substantial evidence because the City failed to analyze construction noise impacts or present substantial evidence that there will not be potentially significant construction noise impacts. Presumably, there will be many sites in the Project Area that have similar amounts of sensitive receptors as the 7056 North Prospect Project. This amount of proposed residential development means many current residents will face significant impacts that are not accounted for in this MND.<br><br>As a result of these significant effects, the Project's impacts on Noise are significant and not mitigated. The Project's significant impacts must be disclosed and mitigated in an EIR. | conditions, such as the type and intensity of construction activities, the specific equipment used, the distance to sensitive receptors, and existing ambient noise levels, can vary significantly from project to project. Extrapolating noise data from one project to another without considering these variables is inappropriate and does not constitute substantial evidence of significant impacts for *this* Project. Mr. Watry's analysis for a different project, while potentially informative for *that* project, cannot be used to automatically establish significant impacts for the Project addressed in this MND.<br><br>As mentioned above, the analysis presented by Mr. Watry is based on the 7056 North Prospect Project, which is a specific development with its own construction activities, phasing, and surrounding conditions. While this analysis may be informative, it does not provide substantial evidence that all projects within the broader project area will have significant noise impacts.<br><br>The IS/MND does not assume that all future projects will have identical noise impacts. Instead, it mandates that a site-specific noise study be conducted |

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| | | for any project adjacent to sensitive receptors.<br><br>The newly added amendments to the text amendment ensures that each project's noise impacts will be independently assessed based on actual site conditions, construction equipment, and surrounding land uses rather than relying on generalized assumptions.<br><br>If a noise study finds that construction noise will exceed 80 dBA, the project will be required to either:<br>1. Obtain a discretionary permit, subjecting it to further CEQA review, or<br>2. Implement mitigation measures to reduce noise levels below 80 dBA before proceeding under a zone clearance.<br>This approach ensures that no project moves forward without proper noise impact evaluation and mitigation.<br><br>The comment also claims that an EIR is required because the project will cause significant and unmitigated noise impacts. However, CEQA requires an EIR only if substantial evidence shows that a project may have a significant |

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| | | effect on the environment without adequate mitigation.<br><br>The IS/MND does not dismiss potential noise impacts but instead implements a mitigation framework that directly addresses them.<br>The requirement for project-specific noise studies ensures that all potential impacts are evaluated before project approval.<br>If a project's noise levels exceed 80 dBA, it will be subject to additional review and mitigation, ensuring noise impacts are minimized to a less-than-significant level.<br>Because the IS/MND includes a robust process for identifying and mitigating noise impacts, it provides substantial evidence to support a finding of less than significant impact with mitigation, making an EIR unnecessary. |
| | C. There is Substantial Evidence Supporting a Fair Argument that the MND Underestimates and Fails to Properly Mitigate Transportation Impacts<br><br>There is substantial evidence supporting a fair argument that the City failed to analyze transportation risk impacts of potential project construction and operation on nearby sensitive receptors, which could occur under future projects that would now be ministerial.<br><br>Here, the City also failed to review the Project's pedestrian and bicycle safety impacts, for Projects of less than 200 units. For instance, given 7056 North Prospect Project's density and proximity to the Tatarian Elementary School and | The comment asserts that the IS/MND underestimates transportation impacts, particularly regarding pedestrian and bicycle safety, and challenges the 200-unit threshold for requiring additional transportation analysis. The City's approach to transportation impact analysis is both legally sound and aligned with CEQA's requirements. |

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| | Orchard Park, many existing neighbors, with eye-witness experience, and the Fresno Unified School District President Susan Wittrup commented on present traffic and pedestrian safety issues that would be exacerbated by the 7056 North Prospect Project.59<br><br>These comments were for a development that only envisioned 88 units, far below the City's now proposed 200-unit threshold which could occur without analyzing these issues. The City provides no basis or analysis on why 200 units is an appropriate threshold for providing no analysis on pedestrian and bicycle safety impacts. As such the City's conclusions regarding Transportation impacts are not supported by substantial evidence and do not support the use of an exemption. | The 200-unit threshold is not a requirement where further analysis is required. It is a threshold at which additional public improvements are required beyond the standard requirements called out in city codes, plans and policies. Per General Plan policies, the city requires additional traffic analysis when certain peak hour trip thresholds are met. The text amendment is consistent with these thresholds (see proposed FMC section 15-5102-E-3-g).<br><br>The City, during ministerial review of projects, will impose standard requirements based on specific project details, in line with FMC Section 13-208, the Public Works Department's Complete Streets Policy, and the Active Transportation Plan.<br><br>In addition, CEQA Does Not Require an EIR Based on Speculative Future Development Impacts<br><br>The comment suggests that because some future projects may be ministerial under the proposed amendment, their transportation impacts should be analyzed now. However, CEQA does not require an agency to analyze |

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| | | speculative or undefined future projects.<br><br>• CEQA Guidelines § 15145 state that if, after thorough analysis, an impact is determined to be too speculative for evaluation, it does not need to be analyzed.<br>• The IS/MND evaluates the specific impacts of the text amendment itself, which is a regulatory change rather than a physical development project.<br>• Any future ministerial projects (i.e., projects that meet objective standards without discretion) would still be subject to existing transportation safety requirements under the General Plan, Active Transportation Plan and local development regulations (including the municipal code, policies and procedures, adopted Council resolutions, etc.)<br><br>Thus, the City's transportation impact analysis is appropriately scoped to focus on reasonably foreseeable impacts rather than hypothetical future projects. |