

## Item 5.7 Public Comment Provided by Adriana Lopez

**From:** [Teresa Vargas](#)  
**To:** ["AJ Lopez"; City Manager Website Directed E-Mail](#)  
**Subject:** RE: Comment Letter  
**Date:** Monday, August 9, 2021 9:30:56 AM  
**Importance:** High

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Ms. Lopez,

Good morning. The letter has been distributed to staff. Would you like it to be part of tonight's public comment? Would you like me to associated with a particular item? Please let me know so we can coordinate further distribution.

*Thank you,*  
Teresa Vargas  
Government Services Director  
& City Clerk

**From:** AJ Lopez <ajlopez0304@gmail.com>  
**Sent:** Friday, August 6, 2021 10:46 PM  
**To:** City Manager Website Directed E-Mail <citymanager@ci.lathrop.ca.us>  
**Subject:** Comment Letter

Hello Mr. Salvatore,  
This might help you better understand the opposition that Manteca is facing regarding their plan use map and future STAA routes for their General Plan Update. See attached,

Thank you,  
~Adriana

[Attorney letter re Manteca General Plan DEIR wi...](#)

June 10, 2021

J.D. Hightower  
City of Manteca  
1001 W. Center Street  
Manteca, CA 95337  
jhightower@ci.manteca.ca.us

Re: Manteca General Plan Update -- Draft Environmental Impact Report

Dear Mr. Hightower:

We have been retained by the Concerned Citizens for the Airport Way Corridor (“Concerned Citizens”) to review and comment on the draft environmental impact report (“DEIR”) for the City of Manteca General Plan Update (hereinafter referred to “Project” or “General Plan”). Our review of the DEIR reveals serious violations of the California Environmental Quality Act (“CEQA”) (Public Resources Code section 21000 *et seq.*) and CEQA Guidelines (California Code of Regulations, title 14 section 15000 *et seq.*).

The DEIR fundamentally fails to adequately identify or analyze mitigation for the environmental impacts that would inevitably accompany buildout of the General Plan. In particular, the proposal to redesignate the area located west of Airport Way and south of Lathrop Road from residential to light industrial land uses would have dramatic environmental consequences, including significant safety, noise, and air quality impacts. The countless vague, voluntary, and unenforceable policies cited as mitigation measures in the DEIR fail to comply with CEQA, which requires enforceable, concrete commitments to mitigation. As a result, the DEIR fails to describe measures or alternatives that could avoid or substantially lessen the proposed Project’s numerous significant impacts. The pervasive flaws in the DEIR demand that the EIR be substantially modified and recirculated for review and public comment.

## I. Introduction.

The City's General Plan Update process is a critically important planning exercise because so much is at stake. The City touts its proposed General Plan as expressing the community's vision for the City, protecting Manteca's character and sense of community, and conserving its resources. DEIR at 2.0-5; 2.0-6. Yet, our review of the proposed Plan finds that it veers wildly from this lofty vision. Rather than clearly guide industrial development away from established residential neighborhoods, it would place this extraordinarily impactful land use immediately adjacent to homes, schools and businesses in the western part of the City. Specifically, the City proposes to redesignate the area located west of Airport Way and south of Lathrop Road from residential to light industrial land uses. *See* DEIR at 2.0-27 (Figure 2.0-3: Land Use Map), 5.0-36 (Figure 5.0-1: Alternative A Existing General Plan Land Use Map). Not only would this redesignation effectively "downzone" the area for much needed residential uses, the City proposes new industrial uses including manufacturing, processing, trucking terminals, railroad and freight stations, industrial parks, warehouses, and distribution centers adjacent to an established residential community.<sup>1</sup> *See* DEIR at 2.0-16.

With these proposed changes, the City would transform this residential community into an industrial corridor, as trucks that serve these new industrial land uses and existing industrial uses in the City of Lathrop would travel throughout established residential areas. *See* DEIR at 2.0-27 (Figure 2.0-3: Land Use Map), 3.14-57 (Figure 3.14-9: Proposed Truck Routes). The concentration of industrial uses and the proximity of diesel trucks that service them would threaten the health of people living and working near these busy roads. *Id.* Heavy-duty trucks are sources of toxic diesel pollution. They emit large volumes of particulate matter which contribute to health problems that include cardiovascular problems, cancer, asthma, decreased lung function and capacity, reproductive health problems, and premature death.<sup>2</sup> These trucks would also pose an enormous threat

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<sup>1</sup> The EIR must disclose whether the proposed General Plan is in compliance with SB 330, requiring that a jurisdiction ensure that its change to a general plan's land use designations does not result in a net loss in residential capacity. Govt. Code section 66300.

<sup>2</sup> Storing Harm: the Health and Community Impacts of Goods Movement Warehousing and Logistics, January 2012, available at:

to public safety as they interact with motor vehicles, pedestrians and bicyclists. Accommodating these large trucks would likely require the widening of existing roads bringing noisy and polluting trucks closer to the front doors of homes and businesses. If approved in its current form, the General Plan would defy every principle of sound land use planning as it would create long term environmental damage, affecting residents and future generations throughout the City.

Manteca is at a pivotal point in its history; it must direct its industrial growth to suitable locations in order to protect its residents' health and safety and to ensure that residents are not inundated with noise. To this end, the City should consider an alternative to the proposed land use plan that creates a buffer zone between the City of Manteca and the Lathrop Industrial Zone. With such an alternative, there would be no need to designate Truck/Surface Transportation Assistance Act Routes along the community's surface streets, including those planned for Lathrop Road and Louise Avenue. This alternative would move the industrial land uses to the north and east near the proposed Roth Road extension, an area that is already served by Manteca sewer and water. The Concerned Citizens urge the City to seriously investigate such an alternative in a revised the EIR.

## **II. The DEIR Fails to Comply With CEQA.**

### **A. The DEIR's Analyses of and Mitigation for the General Plan's Environmental Impacts Are Legally Inadequate.**

#### **1. The DEIR Inappropriately Defers Environmental Impact Analysis.**

The DEIR's analysis of environmental impacts is strikingly deficient. In violation of CEQA, the DEIR provides no indication as to how environmental impacts were determined and fails to describe their nature and extent. Its analyses read more like a set of general discussions of these types of impacts in a generic city anywhere in California, rather than analyses of how this General Plan would affect this City.

The "programmatic" nature of this DEIR is no excuse for its lack of detailed analysis. Indeed, the DEIR grossly misconstrues the requirements of a

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<https://envhealthcenters.usc.edu/wp-content/uploads/2016/11/Storing-Harm.pdf>;  
accessed June 2, 2021.

“program” EIR by repeatedly asserting that environmental impacts will be analyzed and mitigated when future development is proposed. *See e.g.*, DEIR at 3.3-36 stating that the potential for exposure to toxic air contaminants will be assessed at the project-level; *id.* at 3.14-35 stating that the potential for transportation hazards will be assessed at the project-level. This approach is flawed, at the outset, because CEQA requires that a program EIR provide in-depth analysis of a project, looking at effects “as specifically and comprehensively as possible.” CEQA Guidelines § 15168 (c)(5). Indeed, because it looks at the big picture, a program EIR must provide “more exhaustive consideration” of effects and alternatives than can be accommodated by an EIR for an individual action, and must consider “cumulative impacts that might be slighted in a case-by-case analysis.” CEQA Guidelines § 15168(b)(1)-(2).

Further, it is only at this early stage that the City can design wide-ranging land use alternatives and measures to mitigate City-wide environmental impacts. *See* CEQA Guidelines § 15168(b)(4) (programmatic EIR “[a]llows the Lead Agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility”). A “program” or “first tier” EIR is expressly *not* a device to be used for deferring the analysis of significant environmental impacts. *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 199. It is instead an opportunity to analyze impacts common to a series of smaller projects, in order to avoid repetitious analyses.

Thus, it is particularly important that the DEIR for the proposed General Plan analyze the impacts of the land use development decisions the City is authorizing now, rather than deferring that analysis to a later point when individual specific projects are proposed. A general plan, as the constitution for all future development (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 570), dictates the location and type of future development in the County. An EIR for a general plan must take into account the environmental impacts of all future development permitted by the general plan. *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409; *see also City of Carmel-by-the-Sea v. Bd. of Supervisors* (1986) 183 Cal.App.3d 229, 245. Given the potential for serious environmental degradation that would accompany the General Plan’s proposed industrial land uses in the western section of the City, there is no excuse for the City to not provide detailed environmental analysis now. Once this analysis is conducted, and the full range of environmental impacts is

disclosed, the City will be in a better position to study land use alternatives including the alternative discussed above.

**2. The DEIR Ignores Feasible Mitigation, Such as Changes to the Land Use Designations and Densities and Intensities Proposed in the General Plan.**

For several of the General Plan's significant and unavoidable impacts, notably the Project's significant impacts related to vehicle miles traveled ("VMT") and noise, the DEIR fails to consider all feasible mitigation. The DEIR never considers changes to land use designations or densities and intensities as potential mitigation even though such changes could significantly reduce the General Plan's environmental impacts.

The City is legally required to mitigate or avoid the significant impacts of the projects it approves whenever it is feasible to do so. Pub. Resources Code § 21002.1(b). "In the case of the adoption of a plan, policy, regulation, or other public project [such as the General Plan], mitigation measures can be incorporated into the plan, policy, regulation, or project design." CEQA Guidelines § 15126.4(a)(2). Mitigation is defined by CEQA to include "[m]inimizing impacts by limiting the degree or magnitude of the action and its implementation." CEQA Guidelines § 15370(b). In addition to proposing new "policies" as mitigation, mitigation should include changes in where development is planned, what kind is planned, and how dense or intense that development is planned to be, i.e., changes to the land use diagram and land use designations.

There is no indication that the DEIR considered modifications to land use designations or densities and intensities to mitigate the impacts of the General Plan. This omission is surprising given that those changes are the easiest, most effective, and most obvious ways to lessen or avoid many of the General Plan's impacts. As discussed above, the proposed General Plan would locate a substantial amount of new industrial uses immediately adjacent to established residential areas. This would result in increased traffic including heavy-duty truck traffic traveling on arterial streets thus exposing residents to substantial pollutant concentrations and excessive noise and vibration. This increase in truck traffic would also pose a danger to motor vehicles, pedestrians and bicyclists. Now is the time for the City to comprehensively explore an alternative land use scenario to avoid the potential for these serious impacts.



**3. The DEIR Fails to Adequately Analyze and Mitigate the General Plan's Transportation Impacts.**

**(a) The DEIR Lacks Support for Its Conclusion that the General Plan Would Not Increase Hazards.**

Implementation of the General Plan would result in a significant and unavoidable increase in VMT. DEIR at 3.14-31. It would also increase vehicular trips on all but one of 44 studied roadway segments within the City, and level of service would worsen on 28 of 44 segments. DEIR at 3.14-35. Furthermore, as the DEIR concedes, development would also increase traffic at at-grade rail crossings, potentially increasing collisions between trains and motor vehicles. *Id.* Other than this brief acknowledgement regarding the increased potential for collisions near rail crossings, the DEIR fails to provide *any* analysis of how the General Plan's increase in vehicular trips and traffic congestion would increase hazards.

A critical concern is the increase in heavy-duty truck traffic that would accompany the increase in light industrial land use development in the western part of the City. As Figure 3.14-9 (Proposed Truck Routes) shows, the City is proposing truck routes through residential areas. DEIR at 3.14-57. These newly designated truck routes would not only serve the new industrial land uses proposed by Manteca's General Plan but would also serve the City of Lathrop's large industrial area west of Manteca. Yet, most of the streets in this area of Manteca including Lathrop Road and Louise Avenue were designed for passenger vehicles and light-duty trucks, not semi-trucks.

Recent reporting demonstrates that trucks traveling on the City's streets pose serious hazards. Within the last several years, two trucks traveling down Louise Avenue hit soundwalls that serve as backyard fences for a number of homes.<sup>3</sup> One truck ended up in a backyard swimming pool. Trucks routinely roll over curbs and clip signs where the turn radius is too tight. *Id.* The DEIR's failure to recognize the threat to public safety from increased truck traffic is an egregious flaw. In fact, the DEIR makes no attempt to identify the number of trucks that would be generated by the General Plan's industrial development let alone analyze

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<sup>3</sup> Lathrop Road Fiasco? More Trucks, More Noise, Less Safety, February 3, 2017, Manteca, Ripon Bulletin; available at <https://www.mantecabulletin.com/news/lathrop-road-fiasco/>; accessed June 2, 2021.

whether this increase in truck traffic would cause an increase in vehicular accidents.

Rather than conduct the necessary analysis of impacts, the DEIR simply asserts that General Plan policies and actions would reduce any hazards impacts to a less than significant level. DEIR at 3.14-36 through 3.14-39. Yet, there are only three policies that even tangentially relate to vehicular safety and they are excessively vague, optional, directory or otherwise unenforceable. For example, Policy C-2.18 calls for a prohibition on traffic hazards without any explanation as to how this would be accomplished, and Policies C-2.21 and C-2n call for Manteca to pursue an unspecified amount of funding for grade separations at unspecified railroad crossings. *Id.*

A general plan's goals and policies are necessarily somewhat vague and aspirational. However, the City may rely on such policies to mitigate environmental impacts under CEQA only if they are proposed to be implemented through specific implementation programs that represent a firm, enforceable commitment to mitigate. *See Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 358 (citing *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 377 ). CEQA requires that mitigation measures actually be implemented—not merely adopted and then disregarded. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-87; *Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261. By contrast, the General Plan's vague and noncommittal policies allow the City to decide to take no action and thus fail to mitigate impacts. As a result, the DEIR cannot ensure that the policies relied on will in fact be implemented to mitigate the General Plan's impacts, and therefore they cannot serve as CEQA mitigation. *See Anderson First*, 130 Cal.App.4th at 1186-87.

**(b) The DEIR Fails to Analyze or Mitigate Significant Impacts on Pedestrians and Bicyclists.**

Although the General Plan places a heavy emphasis on the importance of pedestrian and bicycle travel in Manteca's future, and the DEIR purports to describe the potential impacts to the "multi-modal" transportation system, the DEIR does not evaluate the significant impacts on pedestrians and bicyclists that would be caused by the General Plan's increased VMT and traffic congestion. CEQA requires such an analysis. *See City of Maywood v. Los Angeles Unified*



*School Dist.* (2012) 208 Cal.App.4th 362, 392-95 (holding EIR was inadequate because it failed to analyze and mitigate project impacts on pedestrians).

The failure to address the General Plan's impacts on pedestrian and bicyclist safety is particularly concerning given recent trends in pedestrian and cyclist fatalities. A transportation engineering firm, Griffin Cove Transportation Consulting ("GCTC") recently prepared a report in connection with the City of Fresno's General Plan Update. *See* report prepared by Griffin Cove Transportation Consulting, PLLC, May 7, 2021, at 4-6, attached. This report explains that pedestrian fatalities have increased substantially in recent years. Between 2009 and 2019, fatalities increased by 51 percent. *Id.* Pedestrians are 1.5 times more likely than passenger vehicle occupants to be killed in a car crash. *Id.* at 7. In the ten years from 2009 through 2018, the number of bicyclist fatalities have also increased by 36 percent. *Id.*

The DEIR's failure to analyze impacts to pedestrians and cyclists is an egregious oversight given the increase in trucks that would be traveling on City streets to service the new industrial development proposed by the General Plan and Lathrop's extensive industrial uses. Pedestrians and cyclists forced to share the road with intensive truck traffic would undoubtedly create a safety hazard yet the DEIR provides no analysis whatsoever of these potential hazards. At a minimum, the EIR must address the following questions: How many pedestrian and bicycle accidents have occurred on City streets over the last decade? What was the cause of these accidents? What actions has the City taken to prevent such accidents? How many streets in the City lack sidewalks? How many streets have bicycle paths? Of those streets that have bike paths, which locations are and are not separated from motorized vehicular traffic by open space or a barrier? What specific impact would the increase in motor vehicle and heavy-duty truck traffic resulting from implementation of the General Plan have on pedestrian and bicycle travel in the City?

It is critically important that the potential safety impacts associated with implementation of the General Plan be adequately addressed in a revised and recirculated DEIR. Once this analysis is undertaken, it is likely that City will determine that these impacts are significant and that mitigation will be required. The revised DEIR should consider, at a minimum, the following potentially feasible alternatives and mitigation measures:

- An alternative that does not allow industrial land uses near established residential neighborhoods.

- Strengthen General Plan Policy S-5c which calls for truck traffic to avoid residential areas *to the extent possible*. DEIR at 3.12-27. The City must prohibit heavy-duty trucks within residential areas.
- Strengthen General Plan Policy C-6 which calls for accommodating truck and freight movements by developing city-wide truck routes and encouraging the development of freight and warehousing centers near existing rail lines and spurs. The City should revise this policy to prohibit truck routes near established residential neighborhoods.
- Invest in sidewalks, streetlights, crosswalks, transit stops, bicycle lanes, speed bumps and other pedestrian safety infrastructure on heavily travelled routes.
- Prepare an engineering strategic plan to eliminate all traffic fatalities and severe injuries within the City of Manteca. We urge Manteca to model this plan after the City of Berkeley's Vision Zero Program which is a data-driven strategy to eliminate all traffic fatalities and severe injuries while increasing safe, healthy, and equitable mobility for all.<sup>4</sup>

Finally, assuming that the proposed General Plan would in fact result in significant impacts to pedestrians and bicyclists, the Plan would be inconsistent with numerous General Plan policies that require a safe pedestrian and bicycle environment. (See DEIR at 3.14-20, stating that Policies C-P-29 through C-P-40 call for the promotion and development of safe and complete bicycle and pedestrian networks across the city.) These inconsistencies would not only constitute a significant impact on the environment but would also render the General Plan internally inconsistent.

#### **4. The DEIR Fails to Adequately Analyze and Mitigate the General Plan's Air Quality Impacts.**

The City of Manteca and the surrounding San Joaquin Valley has some of the most polluted air and accounts for the second worst air quality region in the

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<sup>4</sup> Berkeley Vision Zero Program available at: <https://www.cityofberkeley.info/visionzero.aspx>; accessed May 26, 2021.

United States.<sup>5</sup> San Joaquin County is in non-attainment of the ozone, PM<sub>10</sub> and PM<sub>2.5</sub> air quality standards. DEIR at 3.3-9. PM<sub>10</sub> and PM<sub>2.5</sub> cause health problems such as asthma and can lead to premature death. Breathing in ground level ozone can also trigger a variety of health problems. DEIR at 3.3-4 through 3.3-7.

In those Manteca neighborhoods where the General Plan would concentrate industrial land uses, residents would end up being disproportionality exposed to concentrated air pollutant emissions generated by industrial development and truck traffic. It is therefore critically important that the DEIR thoroughly assess the General Plan's potential to further degrade local and regional air quality. Unfortunately, the DEIR's analysis of these impacts is severely flawed. And because the DEIR concludes that the General Plan's air quality impacts would be less than significant, it proposes no mitigation for these impacts.

**(a) The DEIR Lacks Support for Its Conclusion that the General Plan Would Not Conflict with Applicable Air Quality Plans.**

The DEIR determines that the proposed General Plan would be consistent with the San Joaquin Valley Air Pollution Control District's ("SJVAPCD") air quality plans. DEIR at 3.3-23. In reaching this conclusion, the DEIR relies primarily on the implementation of the General Plan, stating all future development and infrastructure projects would be subject to the General Plan's goals, policies and actions. *Id.* Yet, in direct violation of CEQA, the DEIR fails to provide the required analytical support that the Project's impacts would be less than significant (i.e., the document fails to provide the necessary roadmap documenting how compliance with the General Plan would ensure air pollutant emissions are sufficiently minimized so that the development authorized by the General Plan would not conflict with the SJVAPCD's air quality plans). Meaningful analysis of impacts effectuates one of CEQA's fundamental purposes: to "inform the public and its responsible officials of the environmental consequences of their decisions before they are made." *Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123 (citation omitted). To accomplish this purpose, an EIR must contain facts and analysis, not just an agency's bare conclusions. *Citizens of Goleta Valley*, 52 al. 3d at 568. Moreover, to conclude, as the DEIR does, that the General

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<sup>5</sup> Air Pollution in the San Joaquin Valley; available at: <https://www.csustan.edu/sites/default/files/groups/Geography/Images/airpe.pdf>; accessed May 27, 2021.

Plan would not conflict with applicable air quality plans, the document's conclusion must be based on substantial evidence. Substantial evidence consists of "fact, a reasonable presumption predicated on fact, or expert opinion supported by fact," not "argument, speculation, unsubstantiated opinion or narrative." Pub. Resources Code § 21080(e)(1)-(2). Because the DEIR's conclusion of insignificance is not based on any actual analysis, it falls far short of this standard.

Land use decisions are critical to air quality planning because land use patterns greatly influence transportation needs, and motor vehicles are the largest source of air pollution in the San Joaquin Valley Air Basin. *See* SJVAPCD Guidance for Assessing and Mitigation Air Quality Impacts ("SJVAPCD Air Quality Guidance") at 40.<sup>6</sup> Because air districts have no authority over land use decisions, it is up to cities and counties to ensure that their general plans provide specific data and analysis demonstrating that implementation of their plans will improve air quality. *Id.* at 41, citing California Government Code § 65302.1. Here, neither the proposed General Plan nor the DEIR for the General Plan provide this data or analysis.

The SJVAPCD Air Quality Guidance establishes thresholds of significance for criteria air pollutants. SJVAPCD Air Quality Guidance at 65. Only those projects which have emissions below these thresholds can be determined to "not conflict with or obstruct implementation of the District's air quality plan." *Id.* While the DEIR identifies the increase in VMT that would result from the General Plan, it makes no attempt to identify the air pollutant emissions that would be generated from this increased vehicular travel. Nor does the DEIR even mention, let alone quantify, the emissions that would result from the development proposed by the General Plan.

The DEIR also fails to evaluate whether emissions from the General Plan would violate an air quality standard or contribute substantially to an existing or projected air quality violation. The need for this evaluation is set forth in the CEQA Guidelines Sample Questions and is also explicitly called out in the SJVAPCD Air Quality Guidance. SJVAPCD Air Quality Guidance at 64. As the SJVAPCD Air Quality Guidance explains, determining whether a project's (or General Plan's) emissions would violate any ambient air quality standards is largely a function of air quality dispersion modeling. If project emissions would not exceed State and Federal ambient air quality standards at the project's property boundaries, the project would be considered to not violate any air quality standard

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<sup>6</sup> <http://www.valleyair.org/transportation/GAMAQL.pdf>; accessed May 27, 2021.

or contribute substantially to an existing or projected air quality violation. *Id.* at 65. Here, the DEIR fails to identify the increase in emissions that would result from the General Plan and fails to provide the necessary air quality dispersion modeling. These omissions constitute fatal flaws requiring that the DEIR be revised and recirculated.

**(b) The DEIR Lacks Support for Its Conclusion that the General Plan Would Not Expose Sensitive Receptors to Substantial Pollutant Concentrations.**

The DEIR concludes that the development proposed by the General Plan would not expose sensitive receptors to substantial pollutant concentrations and that the related impact would be less than significant. DEIR at 3.3-35. Here too, the DEIR lacks evidentiary support for its conclusion. A summary of the DEIR's deficiencies follows.

First, the DEIR myopically focuses its health risk assessment on locations near proposed truck routes. DEIR at 3.3-36 through 3.3-39. While trucks on the proposed truck routes are an important source of toxic air contaminants ("TACs"), they are by no means the only source of TACs. Trucks on existing city streets are also a source of TACs. Motor vehicles on freeways and roads (i.e., not designated truck routes) and off-road sources such as construction equipment and trains are additional significant sources of TAC and PM<sub>2.5</sub> emissions. In addition, as the DEIR acknowledges, there are numerous common stationary sources of TAC and PM<sub>2.5</sub> emissions including gasoline stations, dry cleaners, and diesel backup generators. DEIR at 3.3-35. And, of course, TAC and particulate emissions would undoubtedly be generated from the General Plan's industrial development itself. The fact that the DEIR focuses only on TAC emissions from new truck routes, as opposed to all of the sources of TAC and particulate emissions, is yet another egregious flaw.

Second, the DEIR's health risk assessment relies on a threshold of significance that is inconsistent with the threshold identified in the SJVAPCD Air Quality Guidelines. The DEIR states that a project that contributes a cancer risk in excess of 20 new cases in a population of one million persons would result in a significant impact. DEIR at 3.3-39 (Table 3.3-9). However, the SJVAPCD identifies a cancer risk significance threshold of 10 cases in one million. *See* SJVAPCD Air Quality Guidance at 99. The DEIR provides no explanation as to why it relies on an overly lenient threshold of significance.



Third, the DEIR does not provide any information about the assumptions or methodology that were used to calculate the health risk from trucks. The DEIR asserts that the risk assessment used certain procedures and data from the Office of Environmental Health Hazard Assessment (“OEHHA”) but that the assessment is not intended to satisfy the reporting requirements under AB-2588 “Air Toxics” Hot Spots program. DEIR at 3.3-38. The DEIR’s health risk assessment should have been prepared in compliance with the OEHHA requirements. Alternatively, the DEIR must document, and support with substantial evidence, how its assessment ensures a commensurate protection of public health.

Fourth, largely because the DEIR’s health risk assessment focuses only on risks near the proposed truck routes, it fails to adequately describe the location of all existing sensitive receptors (and their vulnerability to air pollution exposure) that would result from all of the development proposed by the General Plan. The General Plan proposes 18 million square feet of industrial development, some of which would undoubtedly be in the immediate vicinity of homes, schools, businesses, and churches. DEIR at 3.14-22. The DEIR does not identify the location of existing sensitive receptors which may be exposed to air pollution as a result of the Project. This omission renders the EIR inadequate. An EIR’s description of the environmental setting must contain sufficient information to “permit the significant effects of the project to be considered in the full environmental context.” CEQA Guidelines § 15125(c). “If the description of the environmental setting ‘is inaccurate, incomplete or misleading, the EIR does not comply with CEQA.’” *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 439 (citation omitted). An accurate description of the environmental setting is critical, because the significance of an activity may vary with the setting. CEQA Guidelines, § 15064(b). A “project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.” CEQA Guidelines § 15300.2(a); *see also Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718, 721. The revised DEIR must identify the location of sensitive receptors in relation to areas designated for industrial development and other land uses which may be expected to generate substantial quantities of TACs and particulate emissions.

As a result of the aforementioned deficiencies, there is insufficient information provided in the DEIR to determine whether implementation of the General Plan would expose sensitive populations to significant health risks. In its current form, the DEIR certainly lacks the evidentiary basis that such impacts would be less than significant.



**5. The DEIR Fails to Adequately Analyze and Mitigate the General Plan's Noise Impacts.**

Although the DEIR does not disclose this, some percentage of the General Plan's 18 million square feet of industrial development would undoubtedly include warehouse projects. *See* "More Distribution Coming," Manteca/Ripon Bulletin, March 11, 2019<sup>7</sup> and "\$444 In New Construction," Manteca/Ripon Bulletin, January 3, 2020.<sup>8</sup>

The California Attorney General recently observed that the noise from warehouses causes intrusive impacts to nearby sensitive receptors:

The noise associated with logistics facilities can be among their most intrusive impacts to nearby sensitive receptors. Various sources, such as unloading activity, diesel truck movement, and rooftop air conditioning units, can contribute substantial noise pollution. These impacts are exacerbated by logistics facilities' typical 24-hour, seven-days-per-week operation. Construction noise is often even greater than operational noise, so if a project site is near sensitive receptors, developers and lead agencies should adopt measures to reduce the noise generated by both construction and operation activities. *See* Attorney General, Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act at 9.<sup>9</sup>

Given that the development of warehouses and other industrial uses would be located immediately adjacent to homes and schools, it is imperative that the DEIR include a comprehensive analysis of these impacts. Unfortunately, as discussed below, the DEIR's analysis is incomplete and superficial and therefore does not meet CEQA's minimum standards. *See Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 196-97 (a conclusion regarding the significance of an

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<sup>7</sup> <https://www.mantecabulletin.com/news/local-news/more-distribution-coming/>; accessed March 27, 2021.

<sup>8</sup> <https://www.mantecabulletin.com/news/local-news/444m-new-construction/>; accessed March 27, 2021.

<sup>9</sup> <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf>; accessed May 27, 2021.

environmental impact that is not based on an analysis of the relevant facts fails to fulfill CEQA's informational goal); *Citizens of Goleta Valley*, 52 Cal.3d at 568 (same).

**(a) The DEIR Relies on Legally Deficient Thresholds of Significance.**

Although the DEIR identifies the change in noise levels associated with development proposed by the General Plan (*see* DEIR at 3.12-19 through 3.12-23 (Tables 3.12-12, 3.12-13) and determines that noise impacts would be significant and unavoidable, the DEIR's noise analysis is severely flawed because it relies on overly lenient thresholds of significance. As a result, the DEIR substantially underestimates the Project's potential to expose sensitive receptors from excessive noise levels.

The DEIR determines that a significant noise impact would occur if the Project would increase ambient noise levels by 10 dB or more. DEIR at 3.12-16. However, it also states that an increase from 5-10 dB may be substantial. *Id.* Complicating matters further, the Manteca General Plan includes significance thresholds that would appear to be far more restrictive (i.e., protective) than the thresholds used in the DEIR. *See* General Plan policy S-5d, stating that when existing noise levels are less than 60 dB, a 5 dB increase in noise would be considered substantial; when existing noise levels are between 60 dB and 65 dB, a 3 dB increase in noise would be considered substantial; and when existing noise levels exceed 65 dB, a 1.5 dB increase in noise would be considered substantial. DEIR at 3.12-27. Thus, it is unclear which precise increase in noise levels the DEIR determines to constitute a significant impact under CEQA. Nor are any of these potential thresholds supported by substantial evidence as CEQA requires. Guidelines § 15064.7(c).

In any event, a 5-10 dB increase is clearly too high a threshold to protect sensitive receptors from excessive noise. It is perhaps for this reason that most lead agencies in California rely on a 3 dB increase as their significance criterion under CEQA. *See e.g.*, City of Los Angeles CEQA Thresholds Guide at I.2-3 and City of Oakland CEQA thresholds of Significance Guidelines.<sup>10</sup>

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<sup>10</sup> *See e.g.*, City of Los Angeles CEQA Thresholds Guide at I.2-3, stating that “[a] project would normally have a significant impact on noise levels from project operations if the

Although the City of Manteca has some discretion in selecting thresholds of significance, courts have long recognized that agencies violate CEQA by choosing thresholds that obscure rather than elucidate impacts of concern. *See, e.g., Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th 1344, 1381-82 (EIR improperly relied on a daily average threshold for noise impacts that failed to provide critical information about nighttime noise events); *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 (“notwithstanding compliance with a pertinent threshold of significance, the agency must still consider any fair argument that a certain environmental effect may be significant”).

As the DEIR shows, there are almost 30 locations within the City that would experience a 3 dB or greater increase in noise levels resulting from implementation of the General Plan, yet the DEIR identifies just seven locations as exceeding the DEIR’s noise thresholds of significance. DEIR at 3.12-19 (Table 3.12-12). Consequently, by relying on an unreasonably high threshold of significance (5-10 dB), the DEIR obscures the severity of the noise impacts that would result from implementation of the General Plan. *Protect Amador Waterways*, 116 Cal.App.4th at 1110-11 (finding that narrowly designed significance standards improperly foreclose complete consideration of a project’s impacts). Had the DEIR relied on appropriate thresholds of significance, it would have determined that the General Plan’s noise impacts would be far more severe than the DEIR discloses.

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project causes the ambient noise level measured at the property line of affected uses to increase by 3 dBA in CNEL to or within the ‘normally unacceptable’ or ‘clearly unacceptable’ category, or any 5 dBA or greater noise increase....”, available at: <https://planning.lacity.org/eir/CrossroadsHwd/deir/files/references/A07.pdf>; accessed June 3, 2021; *see also* City of Oakland CEQA Thresholds of Significance Guidelines, stating that “a 3 dBA is used to determine if the project-related noise increases are cumulatively considerable. Project-related noise should include both vehicle trips and project operations”; available at: <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak051200.pdf>; accessed June 3, 2021.

**(b) The DEIR Relies on Problematic General Plan Policies to “Mitigate” Impacts from Future Development**

The DEIR asserts that the implementation of certain General Plan policies would ensure that future development would be designed to include noise-attenuating features. DEIR at 3.12-23. Yet, many of these policies are vague and unenforceable and therefore would not ensure that sensitive receptors would not be subjected to ongoing excessive noise from future development and truck traffic. For example, the DEIR points to Policy S-5-7 which calls for the preparation of an acoustical analysis as part of project design so that noise mitigation *may* be considered. DEIR at 3.12.25. To the extent Policy S-5-7 calls for an as-yet-unarticulated acoustical analysis, it impermissibly defers mitigation. CEQA allows a lead agency to defer mitigation only when: (1) an EIR contains criteria, or performance standards, to govern future actions implementing the mitigation; (2) practical considerations preclude development of the measures at the time of initial project approval; and (3) the agency has assurances that the future mitigation will be both “feasible and efficacious.” *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 94-95; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 669-71; CEQA Guidelines § 15126.4(a)(1)(B). Here, the DEIR meets none of these requirements. Moreover, the Policy is further deficient because it merely suggests that the City or the developer *may* consider mitigation rather than requiring that mitigation be implemented.

The DEIR also looks to Policy S-5g to mitigate noise impacts from future development. DEIR at 3.12-28. This policy calls for the City to evaluate new transportation projects, such as truck routes, rail or public transit routes, and transit stations, against the General Plan’s standards. *Id.* Yet, this policy explicitly allows noise from these projects to exceed the General Plan’s standards, if the City Council finds that there are special overriding circumstances. *Id.* A policy that allows the City to allow a project to generate noise that exceeds the City’s standards not only fails to comply with CEQA, it also constitutes extraordinarily poor land use planning.

Although the DEIR sets forth a number of other policies suggesting that future development would be required to mitigate its noise impacts, these policies contain numerous caveats and conditions that make them unenforceable. Moreover, the DEIR offers no assurance that any of these policies would be sufficient to protect nearby sensitive receptors. *See* DEIR at 3.12-25 through 3.12-

29 (Policies C.2-5, S-5.4, S-5.5, S-5.12, S.5-16 S-5.c, S-5e, S-5f). Initially, the DEIR asserts that the policies and actions of the General Plan “would ensure that new development is designed to include noise-attenuating features.” DEIR at 3.12-23. The DEIR mentions specific features such as rubberized asphalt, soundwalls, berms and sound-insulation acknowledging that such measures *could prevent transmission of excessive noise*. *Id.* But then the document does an immediate about face and states that, in many cases, aesthetic concerns, costs, physical constraints, or other issues would actually prevent the implementation of these noise-attenuating features. *Id.* As a result, the public is left with no assurance that future development would not inundate noise receptors with excessive noise.

Finally, the DEIR fails to recognize that allowing new industrial uses immediately adjacent to existing residential uses would be directly inconsistent with a key policy intended to ensure that noise from future development does not adversely affect residential communities. Goal N-1 calls for the City to protect the residents of Manteca from the harmful and annoying effects of exposure to excessive noise. DEIR at 3.10-12. Because the General Plan’s noise impacts would be significant and unavoidable, this inconsistency not only constitutes a significant impact on the environment but it also renders the General Plan internally inconsistent.

#### **B. The DEIR Must Be Revised and Recirculated.**

Under California law, this DEIR cannot properly form the basis of a final EIR, support the findings required by CEQA, or justify the City’s approval of the General Plan. CEQA and the CEQA Guidelines require recirculation of a draft EIR when: (1) the addition of significant new information to the EIR after public notice is given of the availability of the DEIR but before certification, or (2) the draft EIR is so “fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” CEQA Guidelines § 15088.5.

Here, both circumstances apply. Decisionmakers and the public cannot possibly assess the General Plan’s environmental impacts through the present DEIR, which is riddled with errors and omissions. Among other fundamental deficiencies, the DEIR repeatedly understates the Project’s significant environmental impacts and fails to identify feasible mitigation measures or alternatives to effectively reduce these impacts. To correct these issues, the City must prepare a revised EIR that will necessarily include substantial new information and analysis.

J.D. Hightower  
June 10, 2021  
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### **III. Conclusion.**

For the reasons set forth above, we respectfully request that no further consideration be given to the proposed General Plan until an EIR is prepared and circulated that fully complies with CEQA. In addition, the City must consider an alternative that relocates the industrial land uses, and their affiliated truck routes, from the residential neighborhoods located in the western area of the City. Such an alternative would result in a substantive reduction in the General Plan's significant environmental impacts.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Laurel L. Impett, AICP, Urban Planner  
Winter King, Attorney

Exhibits:

Griffin Cove Transportation Consulting, PLLC, May 7, 2021.

cc: Mary Meninga, The Concerned Citizens for the Airport Way Corridor

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# **Griffin Cove Transportation Consulting, PLLC**

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May 7, 2021

Ms. Ashley Werner, Esq.  
Leadership Counsel for Justice and Accountability  
2210 San Joaquin Street  
Fresno, CA 93721

Subject: ***Recirculated Public Review Draft Program Environmental Impact Report  
Fresno General Plan, Fresno, California***

Dear Ms. Werner:

As requested, Griffin Cove Transportation Consulting, PLLC (GCTC) has completed a review of the Recirculated Program Environmental Impact Report (RPEIR) completed with respect to the City of Fresno General Plan (“General Plan”) in Fresno, California. (Reference: LSA, *Fresno General Plan Recirculated Public Review Draft Program Environmental Impact Report*, March 2021.) According to the City’s Notice of Availability for the RPEIR, it was prepared in response to “new information made available” subsequent to circulation of the previous environmental documentation.

On August 7, 2020, GCTC prepared a letter commenting on the Final Program Environmental Impact Report (FPEIR) for the General Plan. In large part, the new information in the RPEIR relates to properly incorporating analyses of vehicle-miles-traveled, as was addressed in our earlier letter.

Appendix J to the RPEIR presents the traffic impact analysis that was incorporated into the document. We note that the technical analysis presented there is unchanged from the previous environmental documents. (Reference: LSA, *City of Fresno General Plan Program EIR Traffic Impact Analysis*, February 2020.)

Our review focused on the technical adequacy of the RPEIR documents, particularly with respect to the analysis of pedestrian and bicycle safety impacts.

## **BACKGROUND**

The adopted General Plan includes policies and provisions emphasizing and encouraging pedestrian and bicycle activity. Examples of this include the following:

- RPEIR Table 3.2.A (p. 3-9), which includes General Plan policies that would be modified or added as a result of establishing VMT as a metric for environmental analysis, contains three General Plan policies relating to consideration of pedestrians and bicyclists and, in general, development of a multi-modal transportation system, with pertinent excerpts shown below:
  - Policy MT-1-k
    - **“Multi-Modal Level of Service Standards.** Develop and use a tiered system of flexible, multi-modal Level of Service standards for streets designated by the Circulation Diagram (Figure MT-1). . . . Establish minimum acceptable service levels for other modes and use them in the development and environmental review process.” [Emphasis not added.]
  - Policy MT-1-m
    - “Give priority to maintaining pedestrian service first, followed by transit service, and then by vehicle LOS [level of service], where conflicts between objectives for service capacity between different modes occur.”

- “Identify pedestrian-priority and transit-priority streets where these modes would have priority in order to apply a multi-modal priority system, as part of the General Plan implementation.”
- Policy MT-4-g
  - “**Advocacy for Bike Accommodation.** Advocate for the accommodation of bike facilities in new or upgraded State Route interchanges and railroad construction projects, and construction of bicycle crossings of freeways and railroads.” [Emphasis not added.]
- Beginning at p. 3-10, the RPEIR describes a range of General Plan text changes. Within that section, the following General Plan text appears:

***Multi-Modal LOS.** As mentioned above, the General Plan proposes a balanced transportation system that serves public transit, bicyclists and pedestrians as well as motor vehicles. . . . Fresno can create a transportation system that performs well for all modes, in part by measuring performance with qualitative indicators for each mode based on inputs covering facility design, facility controls, and volumes. This multi-modal LOS concept is illustrated in Table 4-2. (RPEIR, p. 3-10) [Emphasis not added.]*

We should note that a search of the RPEIR (including Appendix J) failed to locate Table 4-2, so the specific characteristics of the proposed multi-modal LOS concept are unknown.

- The land use categories incorporated in the General Plan are described beginning at RPEIR p. 3-11. Among the pertinent references are the following:
  - “Medium High Density residential is . . . intended to support a fine-grain, pedestrian scale.” (p. 3-15)
  - “Main Street commercial encourages a traditional ‘Main Street’ character with . . . pedestrian-oriented design.” (p. 3-15)
  - “Community commercial is intended for pedestrian-oriented commercial development . . .” (p. 3-15)
  - “The Corridor/Center Mixed Use designation is higher intensity . . . Development will facilitate the transformation of existing transportation corridors into vibrant, highly walkable areas with broad, pedestrian-friendly sidewalks . . . “ (p. 3-17)
  - The Neighborhood Mixed Use designation . . . provides for mixed-use districts of local-serving, pedestrian-oriented commercial development . . .” (p. 3-17)
- Other General Plan policies also address the desire for additional pedestrian and bicycle activity. Selected examples include:
  - “**Policy UF-14-a: Design Guidelines for Walkability.** Develop and use design guidelines and standards for a walkable and pedestrian-scaled environment with a network of streets and connections for pedestrians and bicyclists, as well as transit and autos.” (p. 4.3-31) [Emphasis not added.]
  - “**Policy UF-14-b: Local Street Connectivity.** Design local roadways to connect throughout neighborhoods . . . Create access for pedestrians and bicycles . . .” (p. 4.3-31) [Emphasis not added.]

- **“Policy MT-1-g: Complete Streets Concept Implementation.** Provide transportation facilities based upon a Complete Streets concept that facilitates the balanced use of all viable travel modes (pedestrians, bicyclists, motor vehicle and transit users) . . .” (p. 4.3-37) [Emphasis not added.]
- **“Policy MT-1-h: Update Standards for Complete Streets.** Update the City’s Engineering and Street Design Standards to ensure that roadway and streetscape design specifications reflect the Complete Streets concept, while also addressing the needs of . . . bike lanes, pedestrian accommodation . . .” (p. 4.3-38) [Emphasis not added.]
- **“Objective MT-4:** Establish and maintain a continuous, safe, and easily accessible bikeways system throughout the metropolitan area . . .” (P. 4.3-39) [Emphasis not added.]
- **“Objective MT-5:** Establish a well-integrated network of pedestrian facilities to accommodate safe, convenient, practical, and inviting travel by walking, including for those with physical mobility and vision impairments.” (p. 4.3-40) [Emphasis not added.]
- **“Objective MT-6:** Establish a network of multi-purpose pedestrian and bicycle paths . . .” (p. 4.3-41) [Emphasis not added.]

In short, the General Plan places an emphasis on the importance of pedestrian and bicycle travel in Fresno’s future. However, as described below, our review of the RPEIR transportation analysis revealed that it has largely ignored these non-motorized travel modes.

## **RECIRCULATED PROGRAM ENVIRONMENTAL IMPACT REPORT REVIEW**

The RPEIR transportation analysis is presented in Section 4.16. It is based on the detailed LSA technical report referenced above and presented as Appendix J. Although the RPEIR represents a substantial modification to the transportation analysis, which more fully considers the impact of the General Plan on vehicle-miles-traveled (VMT), the bulk of the analysis still focuses on roadway segment level of service (LOS).

The level of service analysis methodology is described at p. 4.16-4. As noted there:

*This methodology does not consider potential impacts on walking, bicycling, and transit. Pedestrians, bicyclists, and transit riders are all users of the roadway system but may not be fully recognized in the traffic operations analysis and the calculation of LOS.*

Detailed review of the RPEIR reveals that it is a substantial understatement to say that the impacts on pedestrians and bicyclists “may not be fully recognized” in the LOS analysis. In fact, the impacts on those vulnerable transportation system users have been completely ignored in the RPEIR, as well as in the technical report provided in Appendix J.

Aside from references to the General Plan objectives and policies presented above, the only mention of pedestrians and bicyclists in either document is in the description of the existing Fresno transportation system, beginning at RPEIR p. 4.16-8 and Appendix J p. 2-71. Ironically, each of those sections begin with the following statement:

*Fresno has made a strong commitment to improving non-motorized travel.*

The RPEIR fails to live up to this commitment.

This failure is not inconsequential. The transportation significance criteria employed in the RPEIR are presented beginning at p. 4.16-36. Criterion TRA-1 states that the General Plan would have a significant impact if it would:

*Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, **bicycle and pedestrian facilities**; [Emphasis added.]*

The impact finding for this issue states the following (p. 4.16-41):

*Continued implementation of the approved General Plan would increase vehicle traffic and would result in 12 roadways segments to exceed General Plan LOS standards, which is in conflict with LOS-related policies in the Mobility and Transportation Element of the approved General Plan.*

Note the lack of any reference to pedestrian- or bicycle-related impacts in this finding.

Very simply, the impacts on pedestrians and bicyclists are not addressed within the RPEIR in terms of either system operational capacity (i.e., will the City be able to accommodate the demand for these non-motorized travel modes?) or, more importantly, safety.

### **Pedestrian and Bicycle System Operations**

As noted above, General Plan Policy MT-1-k calls for development and use of a multi-modal level of service system that addresses travel modes beyond motor vehicles. The RPEIR, however, has failed to include any multi-modal level of service analysis.

The standard reference for analysis of the capacity of transportation facilities and development of level of service values is the *Highway Capacity Manual – A Guide for Multimodal Mobility Analysis* (Transportation Research Board, Sixth Edition, 2016). That document represents an evolution from previous versions of the document, particularly with respect to consideration of multi-modal transportation operations. As described in the Foreword to the document (p. V1-i), it contains:

*Enhanced methods for analyzing **pedestrian, bicycle, and transit facilities, as well as their interactions with motor vehicles**. [Emphasis not added.]*

Despite the availability of this industry-standard document, the RPEIR has completely ignored the operational impacts of the expanded pedestrian and bicycle systems proposed within the General Plan. Consequently, it is unknown whether adequate capacity will be available to serve the needs of pedestrians and bicyclists. Similarly, the nature and extent of “interactions with motor vehicles” will remain a mystery.

Given the expressed intent of the City to provide expanded opportunities for pedestrians and bicyclists, it is imperative that the RPEIR address these issues.

### **Pedestrian and Bicycle System Safety**

Pedestrians and bicyclists are often described as “vulnerable” users of the transportation system. This is because they operate within a system that has traditionally focused on the needs of motor vehicles weighing thousands of pounds, many of which are operated by drivers who are increasingly distracted by cell phones and unnecessarily complicated automotive infotainment systems.

As described below, recent statistics reveal that pedestrians and bicyclists are increasingly in danger. Nonetheless, the RPEIR includes no consideration of potential safety issues for these individuals.

**Recent Pedestrian Fatality and Injury Trends**

The failure to address pedestrian safety is particularly concerning given recent trends in pedestrian fatalities. Table 1 summarizes pedestrian fatality and injury statistics from the National Highway Traffic Safety Administration (NHTSA) for the years 2009 – 2019.

<b>Table 1 Pedestrian Safety Summary<sup>1</sup></b>				
Year	Pedestrian Fatalities		Pedestrian Injuries	
	Number	Percentage of Total Fatalities	Number	Percentage of Total Injuries
2019 <sup>2</sup>	6,205	17%	76,000	3%
2018	6,283	17%	75,000	3%
2017	6,075	16%	71,000	3%
2016	6,080	16%	86,000	3%
2015	5,494	15%	70,000	3%
2014	4,910	15%	65,000	3%
2013	4,779	15%	66,000	3%
2012	4,818	14%	76,000	3%
2011	4,457	14%	69,000	3%
2010	4,302	13%	70,000	3%
2009	4,109	12%	59,000	3%

Notes:  
<sup>1</sup> Source: NHTSA, *Traffic Safety Facts – 2018 Data – Pedestrians*, March 2020 (except as noted).  
<sup>2</sup> Source: NHTSA, *Traffic Safety Facts – Research Note – Overview of Motor Vehicle Crashes in 2019*, December 2020.

As shown, the number of pedestrian fatalities in the United States has increased substantially in recent years. Between 2009 and 2019 fatalities increased by 51 percent. Further, preliminary data for the first six months of the year 2020 indicate that the total number of pedestrian deaths will be close to the 2019 figure, even though overall motor vehicle travel was substantially reduced due to the COVID-19 pandemic. The largest number of those early 2020 pedestrian fatalities occurred in California – 485 deaths, which constituted 16.4 percent of the national total. (Reference: Governors Highway Safety Association, *Pedestrian Traffic Fatalities by State – 2020 Preliminary Data*, March 2021.)

The pedestrian injury trend is less consistent, but the number of pedestrian injuries is clearly substantial, with no indication that those numbers will be reduced in the near future.

***Recent Bicyclist Fatality and Injury Trends***

Table 2 presents similar NHTSA information for “pedalcyclists” (i.e., the NHTSA term for “bicyclists and other cyclists including riders of two-wheel, nonmotorized vehicles, tricycles, and unicycles powered solely by pedals”). This table covers the years 2009 through 2018.

<b>Table 2 Pedalcyclist Safety Summary</b>				
Year	Pedalcyclist Fatalities		Pedalcyclist Injuries	
	Number	Percentage of Total Fatalities	Number	Percentage of Total Injuries
2018	857	2.3%	47,000	1.7%
2017	806	2.2%	50,000	1.8%
2016	853	2.3%	64,000	2.1%
2015	829	2.3%	45,000	1.8%
2014	729	2.2%	50,000	2.2%
2013	749	2.3%	48,000	2.1%
2012	734	2.2%	49,000	2.1%
2011	682	2.1%	48,000	2.2%
2010	623	1.9%	52,000	2.3%
2009	628	1.9%	51,000	2.3%

Source: NHTSA, *Traffic Safety Facts – 2018 Data – Bicyclists and Other Cyclists*, July 2020 (Revised).

Although the bicyclist numbers are not as dramatic as for pedestrians, they remain indicative of a need to fully address the potential safety impacts associated with increased bicyclist activity, as proposed in the General Plan. In the ten years from 2009 through 2018, the number of bicyclist fatalities increased by 36 percent. Again, the trend in the number of injuries is less clear, but with numbers ranging from 45,000 to 64,000, the potential risks to bicyclists are obvious.

***Relative Risk for Pedestrians and Bicyclists***

It is also critical to recognize that, as stated above, pedestrians and bicyclists are vulnerable users of the transportation system, as they are not protected by thousands of pounds of vehicular structure, airbags, and other such safety devices.



According to the Centers for Disease Control and Prevention “Pedestrian Safety” website ([https://www.cdc.gov/transportationsafety/pedestrian\\_safety/index.html#:~:text=Per%20trip%2C%20pedestrians%20are%201.5,killed%20in%20a%20car%20crash.&text=Who%20is%20most%20at%20risk%3F&text=Almost%20half%20\(47%25\)%20of,driver%20and%20For%20the%20pedestrian](https://www.cdc.gov/transportationsafety/pedestrian_safety/index.html#:~:text=Per%20trip%2C%20pedestrians%20are%201.5,killed%20in%20a%20car%20crash.&text=Who%20is%20most%20at%20risk%3F&text=Almost%20half%20(47%25)%20of,driver%20and%20For%20the%20pedestrian)), “pedestrians are 1.5 times more likely than passenger vehicle occupants to be killed in a car crash.”

In addition, the specific level of risk to which pedestrians and bicyclists are exposed varies depending upon the environment in which they are located, particularly as it relates to the speed of nearby motor vehicles. Table 3 summarizes some of the key conclusions of a study performed for the AAA Foundation for Traffic Safety, which addressed the risk of severe injury or death for pedestrians hit by vehicles traveling at various speeds. The corresponding numbers for bicyclists are likely to be even less favorable, due to the increased level of kinetic energy associated with a moving bicycle, which adds to the severity of the impact.

<b>Table 3 Pedestrian Risk of Severe Injury or Death</b>		
Risk	Motor Vehicle Speed	
	Severe Injury	Death
10%	16 MPH	23 MPH
25%	23 MPH	32 MPH
50%	31 MPH	42 MPH
75%	39 MPH	50 MPH
90%	46 MPH	58 MPH

Source: Tefft, B.C., *Impact Speed and a Pedestrian’s Risk of Severe Injury or Death*, AAA Foundation for Traffic Safety, September 2011.

As shown, even on local, residential streets and other streets with low operating speeds (e.g., 25 – 35 MPH), there is a significant risk of severe injury or death for pedestrians.

Moreover, in a June 2018 article, the Detroit Free Press published the results of an investigation into the adverse pedestrian safety impacts associated with the growth in sales of sport utility vehicles (SUVs). According to that article:

*At crashes where a vehicle is traveling 20 mph, 5 percent of pedestrians die. At 30 mph, the percentage increases to 45 percent. At 40 mph, the percentage skyrockets to 85 percent, according to research from 1995 cited by the European Commission, an arm of the European Union. (Reference: Detroit Free Press, “Death on Foot: America’s love of SUVs is killing pedestrians,” June 28, 2018 (Updated online December 16, 2019).)*

Thus, vulnerable road users such as pedestrians and bicyclists assume a relatively high risk every time they venture onto the transportation system. Because of this, it is critically important that the potential safety impacts associated with continued implementation of the Fresno General Plan be adequately addressed. As currently presented, that is not the case.

### ***Trucks vs. Pedestrians and Bicyclists***

The failure to adequately address pedestrian and bicycle impacts is particularly problematic given the level of warehouse development contemplated by the General Plan. Such developments generate substantial volumes of truck traffic, which poses real safety impacts to pedestrians and bicyclists. (References: City of Fresno General Plan, Figure LU-1 – General Plan Land Use and Circulation Map, p. 3-31 and FirstCarbon Solutions, *Master Environmental Impact Report - General Plan and Development Code Update*, July 22, 2014, Table 3-3 – Incremental Development for Buildout of Fresno General Plan and Development Code Update, p. 3-24.)

The Detroit Free Press article cited above specifically addresses pedestrian safety issues associated with SUVs, but its conclusions also apply to the heavy trucks that will serve the anticipated warehouse development. In fact, the heavy trucks traveling to and from the warehouse facilities will have even greater safety impacts than those portrayed in the article. A key factor contributing to the pedestrian safety problems is the “higher-profile, blunt-nosed” front end found on large vehicles.

The article notes that the recent increase in pedestrian fatalities is:

*. . . primarily an urban plague that kills minorities at a disproportionate rate.*

Further:

*It is most prominent in cities both in the industrial heartland and warm weather spots on the nation’s coasts and Sun Belt.*

With regard to the federal government’s response to interactions between pedestrians and large vehicles, the article states:

*Federal safety regulators have known for years that SUVs, with their higher front-end profile, are at least twice as likely as cars to kill the walkers, joggers and children they hit, yet have done nothing.*

More specifically:

*The National Highway Traffic Safety Administration made the connection in 2015 that SUVs were deadlier for pedestrians than cars . . . citing 12 independent studies of injury data, [which] said pedestrians are two to three times ‘more likely to suffer a fatality when struck by an SUV or pickup than when struck by a passenger car.’*

As noted earlier, all of the above statements regarding the safety issues associated with SUVs also apply to the large trucks that will occur as a result of the warehouse development as envisioned in the General Plan. In fact, given their even higher profile and their much greater weight, the problem is somewhat magnified for such vehicles.

The lack of federal action suggests that it is up to local governments to take the lead in adopting measures aimed at ensuring the safety of pedestrians and bicyclists. Although the City’s General Plan and the RPEIR represent clear opportunities to thoroughly address this matter, they have failed to do so.

## CONCLUSION

Our review of the Recirculated Program Environmental Impact Report completed in connection with the City of Fresno General Plan revealed several deficiencies in the transportation analysis, particularly with respect to consideration of impacts related to pedestrians and bicyclists. Of particular concern is the total failure to provide even a minimal analysis of the operational impacts associated with these non-motorized travel modes. Even more important is the lack of any consideration with respect to the safety impacts to which pedestrians and bicyclists would be exposed under the proposed General Plan including the additional truck traffic that will occur as a result of increased warehouse development. These deficiencies must be addressed prior to approval by the City of Fresno of the General Plan and its environmental documentation.

We hope this information is useful. If you have questions concerning any of the items presented here or would like to discuss them further, please feel free to contact me at (906) 847-8276.

Sincerely,

**GRIFFIN COVE TRANSPORTATION CONSULTING, PLLC**



Neal K. Liddicoat, P.E.  
Principal

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