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Title:	<p>HEARING to consider Development Permit Application No. P22-00565 and related Environmental Assessment No. P22-00565 pertaining to ± 14.78 acres of property located on the southwest corner of East North and South East Avenues (Council District 3) - Planning & Development Department.</p> <p>1. CONSIDER Environmental Assessment No. P22-00565, dated October 28, 2022, a determination that the proposed project is consistent with the existing general plan, community plan, and zoning per Section 15183 of the State of California Environmental Quality Act (CEQA); and,</p> <p>2. DENY the appeal and UPHOLD the action of the Planning Commission and Planning and Development Department Director to approve Development Permit Application No. P22-00565, authorizing the construction of a $\pm 206,881$ square-foot warehouse facility subject to compliance with the Conditions of Approval dated October 28, 2022.</p>				
Sponsors:	Planning and Development Department				
Indexes:					
Code sections:					
Attachments:	<p>1. Exhibit A - Vicinity Map & Aerial Photograph, 2. Exhibit B - Planned Land Use and Zoning Map, 3. Exhibit C - Project Information Tables, 4. Exhibit D - Operational Statement, 5. Exhibit E - Exhibits, 6. Exhibit F - Conditions of Approval [10/28/2022], 7. Exhibit G - Public Hearing Notice & Noticing Map, 8. Exhibit H - Environmental Assessment, 9. Exhibit I - Appeal Letters, 10. Exhibit J - Response to Concerns from Appeal Letters, 11. Exhibit K - Fresno Municipal Code Findings, 12. Exhibit L - Appeal Withdrawal Letter, 13. Exhibit M - Additional Comments and Responses, 14. Exhibit N - Planning Commission Resolution, 15. Exhibit O - Appeal of Planning Commission Action, 16. Exhibit P- City Council Public Hearing Notice & Noticing Map, 17. ID 23-453 (1030) Public Comment Packet, 18. RCCB Fresno Planning Presentation rec'd during council meeting, 19. Supplemental Conditions of Approval by Councilmember Arias, rec'd 3-30-2023</p>				

Date	Ver.	Action By	Action	Result
3/30/2023	1	City Council	APPROVED AS AMENDED	Pass

REPORT TO THE CITY COUNCIL

FROM: JENNIFER K. CLARK, Director
Planning and Development Department

THROUGH: PHILLIP SIEGRIST, Planning Manager
Planning and Development Department

BY: THOMAS VEATCH, Planner
Planning and Development Department

SUBJECT

HEARING to consider Development Permit Application No. P22-00565 and related Environmental Assessment No. P22-00565 pertaining to ± 14.78 acres of property located on the southwest corner

of East North and South East Avenues (Council District 3) - Planning & Development Department.

1. CONSIDER Environmental Assessment No. P22-00565, dated October 28, 2022, a determination that the proposed project is consistent with the existing general plan, community plan, and zoning per Section 15183 of the State of California Environmental Quality Act (CEQA); and,
2. DENY the appeal and UPHOLD the action of the Planning Commission and Planning and Development Department Director to approve Development Permit Application No. P22-00565, authorizing the construction of a ±206,881 square-foot warehouse facility subject to compliance with the Conditions of Approval dated October 28, 2022.

RECOMMENDATION

Staff recommends that the City Council take the following actions:

1. CONSIDER Environmental Assessment No. P22-00565, dated October 28, 2022, a determination that the proposed project is consistent with the existing general plan, community plan, and zoning per Section 15183 of the State of California Environmental Quality Act (CEQA); and,
2. DENY the appeal and UPHOLD the action of the Planning Commission and Planning and Development Department Director to approve Development Permit Application No. P22-00565, authorizing the construction of a ±206,881 square-foot warehouse facility subject to compliance with the Conditions of Approval dated October 28, 2022.

EXECUTIVE SUMMARY

Development Permit Application No. P22-00565 was filed by Dan Nguyen of Gray Construction, on behalf of Lone Oak Fresno LLC and pertains to ±14.78 acres of vacant property located on the southwest corner of East North and South East Avenues.

Development Permit Application No. P22-00565 proposes to construct a ±206,881 square-foot warehouse building with ±23,349 square feet of ancillary office space, a truck wash, and a truck maintenance shop. The project will be primarily utilized as a storage and distribution facility for a food and beverage company (Reyes Coca-Cola Bottling, LLC). The subject property is zoned IH (*Heavy Industrial*).

The project was approved by the Director on October 28, 2022, and was then considered by the Planning Commission on February 1, 2022 based on two (2) appeals received from members of the public (Exhibit I - Appeal Letters). One appeal was withdrawn prior to the public hearing.

The Planning Commission considered the item as presented by staff in accordance with Fresno Municipal Code (FMC) Section 15-5017. Four (4) members of the public spoke in opposition to the project during the hearing. After a complete hearing, the Planning Commission voted to deny the appeal and uphold the Directors decision to approve Development Permit Application No. P22-00565, 5 votes to 0, with two members absent (Exhibit N, Planning Commission Resolution No. 13785).

An appeal of the Planning Commission's action was received from Councilmember Arias on February 15, 2023. Therefore, the City Council is considering this project pursuant to FMC Section 15-5017, which requires a City Council Hearing and Action to consider the appeal.

Staff recommends the City Council uphold the Planning Commission and Planning and Development Director's approvals based on evidence detailed in this staff report and that specific findings made by the Director in approving the Development Permit in Sections 15-5206 of the FMC remain valid.

BACKGROUND

Development Permit Application No. P22-00565 was filed by Dan Nguyen of Gray Construction, on behalf of Lone Oak Fresno LLC and pertains to ±14.78 acres of vacant property located on the southwest corner of East North and South East Avenues.

Surrounding Property Information

The subject property is planned and zoned for heavy industrial uses. The site is located in the South Industrial Priority area, which is identified in Figure IM-1 of the General Plan (Exhibit - B). The immediate project site is in an area generally characterized by existing industrial land uses including Central Valley Trailer Repair (north), a FedEx Ground Facility (south), the Kraft Foods Distribution Center (east), and the State Department of Motor Vehicles Commercial Testing facility (west). Furthermore, surrounding properties are all planned and zoned for Employment - Heavy Industrial land uses. Additional surrounding property information including the existing and planned land use designations, as well as the existing zoning districts surrounding the subject property can be found in Exhibits A, B, and C.

Project Description

The project proposes a ±206,881 square-foot two-story warehouse storage and distribution facility to be utilized by Reyes Coca-Cola Bottling, LLC, a beverage bottling and distribution company. The facility will also include ±23,349 square feet of ancillary office space, a truck wash, and a truck maintenance shop. In addition, on and off-site improvements are proposed including but not limited to three (3) new drive approaches, 273 parking stalls, 54 truck trailer stalls, an outdoor patio area, fencing, landscaping, curbs, gutters, and sidewalks. Approximately 114 on-site employees are projected to work at the facility. The project will operate 24 hours a day, seven (7) days a week.

Article 67 of the Fresno Municipal Code (FMC) provides use classifications which describe one or more uses of land that has similar characteristics (e.g., residential uses, commercial uses, industrial uses, etc.), but do not list every use or activity that may appropriately be within the classification. Pursuant to FMC Section 15-6705 (Industrial Use Classifications), the proposed use would be classified as Indoor Warehousing and Storage, which is a subcategory of the more general Warehousing, Storage, and Distribution use classification. Indoor Warehousing and Storage can be defined as storage within an enclosed building of commercial goods prior to their distribution to wholesale and retail outlets and the storage of industrial equipment, products and materials including, but not limited to, automobiles, feed, and lumber. The use also includes cold storage, draying or freight, moving and storage, and warehouses. The storage of hazardous chemical, mineral, and explosive materials are excluded from the use classification.

Land Use and Zoning

The Fresno General Plan, Roosevelt Community Plan, and North Avenue Industrial Triangle Specific Plan, designate the property for heavy industrial land uses. Pursuant to Table 15-1302 of the Fresno Municipal Code (FMC), Indoor Warehousing and Storage uses are permitted in the IH zone district

“by right” with an approved Development Permit and not subject to specific limitations or additional regulations for special uses pursuant to Article 27 of the FMC.

Given the conditions of approval, the project will meet all the provisions of the FMC and will comply with all applicable design guidelines of the IH (*Heavy Industrial*) zone district including but not limited to setbacks, building size and massing, outdoor storage, screening, parking, open space, pedestrian access, sidewalks, and façade design. Therefore, if the action of the Planning and Development Department Director to approve the project is upheld, the project (Development Permit Application No. P22-00565) would be considered consistent with the planned land use and zoning classification of Heavy Industrial.

Analysis

Traffic & Circulation

The Project site has two (2) existing street frontages, East North Avenue to the north and South East Avenue to east. The Fresno General Plan Circulation Element designates East North Avenue as a 4-lane arterial street and South East Avenue as a 2-lane collector street. At present, no fixed-route transit service, bicycle facilities, or pedestrian facilities serve the project site. The project will include frontage improvements (i.e., curb, gutter, and sidewalk) along both roadways.

Trucks will enter and exit the site from the two (2) drive approaches along East North Avenue and one drive approach on South East Avenue. Employees and guests can enter and exit the site from either of the two previously mentioned drive approaches, or an additional drive approach on East North Avenue which leads to the employee and guest parking area. Truck traffic to and from the project site can utilize East North Avenue to access State Routes 41 and 99.

Pursuant to Figure MT-4 of the Fresno General Plan, the proposed project is located within Traffic Impact Zone IV (TIZ-IV), which represents the southern employment areas within and planned by the City. The threshold established by the Fresno General Plan in TIZ IV is a peak hour Level of Service (LOS) standard of E or better for all intersections and roadway segments. Furthermore, a TIS would be required for all development projected to generate 200 or more peak hour new vehicle trips.

The projected Trip Generation based on operational data for the proposed project consist of 321 total daily passenger car trips and 160 total daily truck trips. The highest peak AM or PM hour trip generation is 69 trips. As no trips are expected to exceed 200 peak hour trips, and the project does not include a General Plan Amendment or Rezone, a Traffic Impact Study was not required.

The Public Works Department, Traffic Engineering Division has reviewed the potential traffic related impacts for the proposed project and has determined that the streets adjacent to and near the subject site will be able to accommodate the quantity and kind of traffic which may be potentially generated subject to the standard city requirements for street improvements and subject to the project specific mitigation measures determined applicable by the City of Fresno Traffic Engineer. These requirements generally include: (1) street dedications; (2) Street improvements, (including, but not limited to, construction of concrete curbs, gutters, pavement, underground street lighting systems; and (3) Payment of applicable impact fees (including, but not limited to, the Traffic Signal Mitigation Impact (TSMI) Fee, Fresno Major Street Impact (FMSI) Fee, and the Regional Transportation Mitigation Fee (RTMF) Fee. These requirements are outlined within the memorandum from the City Traffic Engineer dated June 6, 2022, which are included in the Conditions of Approval dated October

28, 2022 (Exhibit F).

Vehicle Miles Traveled (VMT) Analysis

Senate Bill (SB) 743 requires that relevant California Environmental Quality Act (CEQA) analysis of transportation impacts be conducted using a metric known as vehicle miles traveled (VMT) instead of Level of Service (LOS). VMT measures how much actual auto travel (additional miles driven) a proposed project would create on California roads. If the project adds excessive car travel onto our roads, the project may cause a significant transportation impact.

On June 25, 2020, the City of Fresno adopted CEQA Guidelines for Vehicle Miles Traveled Thresholds pursuant to Senate Bill 743 to be effective of July 1, 2020. The Fresno VMT Thresholds document includes thresholds of significance for development projects, transportation projects, and land use plans. These thresholds of significance were developed using the County of Fresno as the applicable region, and the required reduction of VMT (as adopted in the Fresno VMT Thresholds) corresponds to Fresno County's contribution to the statewide GHG emission reduction target. In order to reach the statewide GHG reduction target of 15%, Fresno County must reduce its GHG emissions by 13%. The method of reducing GHG by 13% is to reduce VMT by 13% as well.

The City of Fresno VMT Thresholds Section 3.0 regarding Project Screening discusses a variety of projects that may be screened out of a VMT analysis including specific development and transportation projects. For development projects, conditions may exist that would presume that a development project has a less than significant impact. These may be size, location, proximity to transit, or trip making potential. For transportation projects, the primary attribute to consider with transportation projects is the potential to increase vehicle travel, sometimes referred to as "induced travel."

Per the adopted guidelines, the proposed project does not exceed the threshold of 500 Active Daily Trips (ADT), as it includes only 321 ADT, therefore the proposed project is eligible to screen out of additional VMT analysis and can be considered to result in a less than significant VMT impact and is consistent with CEQA Guidelines Section 15064.3(b). Heavy truck trips are not considered under VMT guidelines.

Air Quality and Greenhouse Gas Emissions

Based on the analysis presented the Air Quality, Health Risk, Greenhouse Gas, and Energy Impact Report prepared by LSA dated April 2022 which was included with the Environmental Assessment (Exhibit H), the proposed project would not conflict with or obstruct implementation of SJVAPCD air quality plans. In addition, construction and operation of the proposed project would not result in the generation of criteria air pollutants that would exceed SJVAPCD thresholds of significance. The proposed project is not expected to produce significant emissions that would affect nearby sensitive receptors. The project would also not result in objectionable odors affecting a substantial number of people. In addition, the project would not result in substantial GHG emissions during construction or operation. Additionally, the proposed project would not conflict with the City's GHG Reduction Plan Update, or the objectives embodied in State Assembly Bill (AB) AB 32, EO B-30-15, SB 32, or AB 197. Therefore, the proposed project's incremental contribution to cumulative GHG emissions would not be cumulatively considerable.

AB 617

The proposed project is located in a region designated by the California Air Resources Board (CARB) as a disadvantaged community under AB 617. This overall region includes McKinley Avenue to the north, Chestnut Avenue to the east, American Avenue to the south, and includes the community of Malaga and its surrounding industrial area to the southeast. The western portion of the boundary ranges from Nielsen and Brawley Avenues in the northwest to Hwy 41 and American Avenue in the southwest, which incorporates residential and industrial communities along Hwy 99 and west of Hwy 41 such as the Industrial Triangle and parts of West Fresno.

Under AB 617 the air district was required to prepare a Community Emissions Reduction Program (CERP) in an effort to reduce air pollution exposure in impacted disadvantaged communities. This program identifies several policies, current control programs, and regulations of the air district that could apply to industrial projects. These items were identified in the Air District comment letter that was provided with the Conditions of Approval.

As demonstrated in the sections above, no significant impacts were identified in the Environmental Assessment, therefore no project specific mitigation measures to reduce an air quality impact was required, beyond any applicable requirement of state law, the FMC, or Air District regulation that is generally required of any project.

Public Services

Sewer

The nearest sanitary sewer main to serve the proposed project is a 12-inch sewer main located in South East Avenue. The applicant will be required to install sewer house branches to the property, abandon any existing on-site private septic systems, and pay applicable sewer connection charges and fees. The requirements listed above, and additional requirements have been listed in the Department of Public Utilities memo dated June 1, 2022.

Water

The nearest water mains to serve the proposed project is a 12-inch water main located in East North Avenue and a 14-inch water main in South East Avenue. Water facilities are available to provide service to the site subject to the conditions listed in the Department of Public Utilities memo dated June 1, 2022.

Fresno Metropolitan Flood Control District

The subject property is located in the Fresno Metropolitan Flood Control District's (FMFCD) Drainage Area "AW2." The FMFCD has indicated that the proposed development is not located within a flood prone area. Permanent drainage facility service is available, and the developer shall not be required to construct Storm Drainage and Flood Control Master Plan facilities located within the development. These as well as additional requirements are listed in the memorandum from FMFCD dated June 9, 2022.

Fire

The City of Fresno Fire Department reviewed the proposed project and has determined that

adequate Fire service will be available subject to future requirements for development which will include installation of public fire hydrants and the provision of adequate fire apparatus access to the buildings on site.

Review for compliance with fire and life safety requirements for the interior of proposed buildings and the intended use are reviewed by both the Fire Department and the Building and Safety Services Section of the Planning and Development Department when a submittal for building plan review is made as required by the California Building Code.

Police

The City of Fresno Police Department reviewed the proposed development and recommended that the applicant and its operators combat crime with the implementation of Crime Prevention through Environmental Design (CPTED) concepts. Examples that should be incorporated into the development's design include sufficient lighting, video surveillance systems and signage to deter crime.

Other Agencies

All comments received from the applicable agencies have been incorporated into the conditions of approval for and Development Permit Application No. P22-00565. The project will comply with all department comments and conditions and all zoning requirements as incorporated into the conditions of approval dated October 28, 2022.

Fresno Municipal Code

Given the conditions of approval, Development Permit Application No. P22-00565 will meet all provisions of the FMC, including but not limited to setbacks, transition standards, parking, landscaping, and connectivity, and will comply with all applicable design guidelines and development standards for General Industrial uses (specifically Indoor Warehousing and Storage) in the IH (*Heavy Industrial/Urban Growth Management*) zone district.

Land and Use Plans and Policies

Fresno General Plan

As demonstrated above, the subject property is zoned and planned for Heavy Industrial Land uses. According to the Fresno General Plan, the Employment - Heavy Industrial planned land use designation is intended to accommodate the broadest range of industrial uses including manufacturing, assembly, wholesaling, distribution, and storage activities that are essential to the development of a balanced economic base. Small-scale commercial services and ancillary office uses are also permitted.

The Fresno General Plan provides goals, objectives, and policies to guide development. As proposed, the project will be consistent with the following Fresno General Plan goals:

- Increase opportunity, economic development, business, and job creation;
- Support agriculture and food production as an integral industry;
- Emphasize and plan for all modes of travel on local and Major Streets in Fresno;

- Make full use of existing infrastructure, and investment in improvements to increase competitiveness and promote economic growth; and
- Promote orderly land use development in pace with public facilities and services needed to serve development.

These goals contribute to the establishment of a comprehensive city-wide land use planning strategy to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment.

The following are applicable objectives and policies from the Urban Form, Land Use & Design, and Economic Development elements of the Fresno General Plan:

- Objective ED-1: Support economic development by maintaining a strong working relationship with the business community and improving the business climate for current and future businesses.
- Objective LU-1: Establish a comprehensive citywide land use planning strategy to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment.
 - Policy LU-1-a: Promote Development within the Existing City Limits as of December 31, 2012. Promote new development, infill, and rehabilitation of existing building stock in the Downtown Planning Area, along BRT corridors, in established neighborhoods generally south of Herndon Avenue, and on other infill sites and vacant land within the City.
 - Policy LU-1-c: Provision of Public Facilities and Services. Promote orderly land use development in pace with public facilities and services needed to serve development.
- Objective LU-2: Plan for infill development that includes a range of housing types, building forms, and land uses to meet the needs of both current and future residents.
 - Policy LU-2-a: Infill Development and Redevelopment. Promote development of vacant, underdeveloped, and re-developable land within the City Limits where urban services are available by considering the establishment and implementation of supportive regulations and programs.
- Objective LU-7: Plan and support industrial development to promote job growth.
 - Policy LU-7-c: Efficiency of Industrial Uses. Promote industrial land use clusters to maximize the operational efficiency of similar activity.

Approval of the project would help facilitate and achieve the above-mentioned goals, objectives, and policies of the General Plan. The subject property is currently undeveloped and located in an area experiencing growth in development and that can be generally characterized by industrial development. Furthermore, surrounding properties are planned and zoned for Heavy Industrial uses. The property is an appropriate infill site as it has existing infrastructure and is near built-out urban uses. The project also proposes a building of high-quality design and at a scale compatible with the

surrounding area; therefore, the project fosters a high-quality design and would contribute to the mix of amenities in the surrounding area. Lastly, the project supports economic development by retaining an existing Food and Beverage facility, which will provide jobs in Southwest Fresno.

Roosevelt Community Plan

The subject property is designated for Employment - Heavy Industrial planned uses by the Roosevelt Community Plan. Upon reviewing the policies in the Roosevelt Community Plan, staff has determined that no policies are applicable or more restrictive than those in the FMC or the Fresno General Plan. However, pursuant to Section 15-104-D-4 of the FMC, should there be a conflict between the FMC and the Roosevelt Community Plan, the FMC shall control.

North Avenue Industrial Triangle Specific Plan

The subject property is designated for Employment - Heavy Industrial planned uses by the North Avenue Industrial Triangle Specific Plan. Upon reviewing the policies in the plan, staff has determined that no policies are applicable or more restrictive than those in the FMC or the Fresno General Plan. However, pursuant to Section 15-104-D-4 of the FMC, should there be a conflict between the FMC and the North Avenue Industrial Triangle Specific Plan, the FMC shall control.

Public Notice and Input

As a Development Permit application, no public notice was required per the FMC.

Pursuant to Mitigation Measure Air-3.1 of the General Plan Program Environmental Impact Report (PEIR), a notice shall be sent to residents within 1,000 feet of a warehouse project before a discretionary approval. However, the surrounding properties are primarily industrial uses and there are no residential properties within 1,000 feet of the subject property. Therefore, no additional notice was sent.

Council District 3 Project Review Committee

The Council District 3 Project Review Committee voted to recommend approval of the project, four (4) votes to one (1) on June 14, 2022.

Project Approval and Appeal

The Director approved the project on October 28, 2022. A notice of the action taken to approve the project was provided to the applicant and any individual who has previously requested to be notified of project approvals in the industrial triangle. One (1) appeal was received on November 9, 2022, and another on November 14, 2022 (two (2) in total) (Exhibit I - Appeal Letters). Per the procedures of Article 50 of the FMC, the application was scheduled for a public hearing to be considered by the Planning Commission. The appeal letters stated the following concerns with the application:

- *The South-Central Specific Plan is currently incomplete and pending the completion of Environmental Impact Reports that will change current zoning.*
- *The data from both CalEnviroScreen 3.0 and 4.0 confirm that the location of this proposed project is in the top 1% of the most pollution overburdened communities.*
- *This proposed project will have significant negative impacts to the residents of the City and*

County of Fresno due to the increase of heavy industrial uses and increased heavy duty truck traffic.

- *The decision to approve this permit application will perpetuate the citing of heavy industrial uses near communities of color.*
- *The Project May Have Potentially Significant Air Quality Impacts.*
- *The City Fails to Assess the Impact of Project-Generated Traffic on Wildlife Mortality.*
- *The Project's Energy Usage is Wasteful.*

Staff Analysis of Concerns Stated in Appeals

Staff has reviewed the individual concerns stated in the appeal letters and an analysis is provided below:

- *The South-Central Specific Plan is currently incomplete and pending the completion of Environmental Impact Reports that will change current zoning.*

The approval of any entitlement is not subject to any code or operative plan that has not been formally adopted. The SCSP is in draft form and has not been adopted. Further, it is speculative to assume the subject property would be rezoned under the plan. Per FMC Section 15-104-D the application is subject to the requirements that are in effect as of the date the application was accepted as complete. Further, per FMC Section 15-104-B-4, in the event of a conflict between the FMC and any operative plan, the FMC takes precedent over the General Plan or a Specific Plan.

- *The data from both CalEnviroScreen 3.0 and 4.0 confirm that the location of this proposed project is in the top 1% of the most pollution overburdened communities.*

CalEnviroScreen is a socioeconomic score and does not provide evidence that the project would trigger any CEQA impacts.

- *This proposed project will have significant negative impacts to the residents of the City and County of Fresno due to the increase of heavy industrial uses and increased heavy duty truck traffic.*

As demonstrated in the original approval, its environmental assessment, and this report, there are no identified significant negative impacts. Further, as shown in the Traffic and Circulation section above, the proposed traffic from the project does not identify a significant impact or meet a threshold that would require a Traffic Impact Study or elevated environmental analysis.

- *The decision to approve this permit application will perpetuate the citing of heavy industrial uses near communities of color.*

There are no residential properties within 1,000 feet of the subject property, and as surrounding properties within 0.5 miles of the subject property are planned and zoned for industrial uses, any residential property within that area would be considered a non-conforming use. Further, the utilizing East North Avenue, the project has access to Highway 41 and 99 without crossing through neighborhoods.

- *The Project May Have Potentially Significant Air Quality Impacts.*

As shown in the Air Quality and Greenhouse Gas Emissions section above, an Air Quality, Health Risk, Greenhouse Gas, and Energy Impact Report was prepared for the project and no significant impacts were identified. The appeal does not provide substantial evidence to support a conclusion that the air quality analysis is incorrect.

- *The City Fails to Assess the Impact of Project-Generated Traffic on Wildlife Mortality.*

A Biological Technical Memo was prepared by Phoenix Biological Consulting Inc. dated February 2, 2022, which reviewed the subject property and determined that the project site is highly disturbed habitat surrounded by existing development and contains no drainages or sensitive species. A Phase 1 Environmental Site Assessment was also conducted as part of the Environmental Assessment which determined that the subject property was occupied by agricultural uses and structures as far back as 1937.

- *The Project's Energy Usage is Wasteful.*

The appellant claims that because the project does not completely offset its energy usage through the installation of solar panels, it is considered wasteful. As demonstrated in the Environmental Assessment and the previously mentioned Air Quality, Health Risk, Greenhouse Gas, and Energy Impact Report prepared for the application, the construction and operational energy usage of the project was analyzed using CalEEMod and CARB's EMFAC2021 model. The project was shown to only increase the annual electricity consumption in Fresno County by approximately 0.03 percent, the annual natural gas consumption in Fresno County by approximately 0.01 percent, gasoline by 0.04 and diesel by 0.35 percent. The proposed project is required to comply with all energy requirements of California state law, the California Building Code, and Title 24 requirements. Therefore, the project will not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation, and will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

In conclusion, each of the concerns described in the appeal letters do not provide substantial evidence of a concern that was not analyzed in the initial environmental assessment, and no evidence of a significant negative environmental impact is identified. Therefore, additional environmental review is not required.

Notice of Planning Commission Hearing

In accordance with Section 15-5007 of the FMC, the Planning and Development Department mailed notices of this Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property on December 9, 2022 (Exhibit G).

On December 20, 2022, a letter was received from one appellant withdrawing their appeal (Exhibit L).

On December 21, 2022, a letter from the remaining appellant was received. The letter and a response to the concerns raised are attached as Exhibit M. An additional letter from the appellant was received on February 1, 2022, which is also included.

Fresno City Planning Commission Action

On February 1, 2023, the Planning Commission considered the item as presented by staff, followed by a brief presentation by the applicant. No members of the public spoke in support of the project while four (4) members of the public spoke in opposition of the project during the hearing. After a complete hearing, the Planning Commission voted to deny the appeal and uphold the Planning and Development Directors decision to approve the project 5 votes to 0, with 2 Commissioners absent. The Planning Commission resolution is attached as Exhibit N.

Appeal of Planning Commission Action

An appeal of the Planning Commission's action to deny the appeal and uphold the approval was received from Councilmember Arias on February 15, 2023 (Exhibit O). Therefore, the project was scheduled for a public hearing of the City Council pursuant to FMC Section 15-5017, which requires a City Council Hearing and Action to consider the appeal.

Notice of City Council Hearing

On March 17, 2023, the Planning and Development Department mailed notices of the City Council Hearing to surrounding property owners within 1,000 feet of the subject site in accordance with Section 15-5007 of the FMC. See Exhibit P for Notice of City Council Hearing.

ENVIRONMENTAL FINDINGS

Previous Environmental Analyses of The Proposed Project

A Program EIR (PEIR) (SCH #2019050005) was prepared for the 2021 GP Amendment No. P19-04226 (2021 GPA). The 2021 GPA continues the implementation of a majority of the General Plan as approved in 2014, except for specific text changes to the Mobility and Transportation Element related to Vehicle Miles Traveled (VMT) analysis, and an update to the Greenhouse Gas Reduction Plan. The PEIR consists of the Draft PEIR from March 2020, the Response to Comments documents from July 2020, the Recirculated Draft PEIR from March 2021, and the Response to Comments documents from July 2021. The proposed Project would be consistent with the GP designation of Employment - Heavy Industrial, as described above. The PEIR assumed full development and buildout of the Project site, consistent with the uses and development standards proposed by the Project. The cumulative impacts associated with buildout of the City as envisioned in the GP, including the Project site, were fully addressed in the PEIR.

CEQA Guidelines Section 15183 Streamline Analysis

CEQA Guidelines Section 15183 allows a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan or general plan policies for which an EIR was certified. As noted above, the proposed Project is consistent with the land use designation and densities established by the Fresno GP, for which an EIR was certified.

Project-Specific Environmental Review

The Environmental Assessment and checklist include a discussion and analysis of any peculiar or site-specific environmental impacts associated with construction and operation of the proposed Project. Supplemental studies were included in the analysis, including an air quality, health risk, greenhouse gas, and energy impact report; a cultural records search, a noise and vibration analysis;

a phase one environmental site assessment; and a trip generation and VMT screening analysis. The Environmental Checklist identifies the applicable City of Fresno development standards and policies that would apply to the proposed Project during both the construction and operational phases and explains how the application of these uniformly applied standards and policies would ensure that no peculiar or site-specific environmental impacts would occur.

As described above, Development Permit Application No. P22-00565 (proposed Project) is consistent with the land use designation and development intensity assigned to the Project site by the City of Fresno. Cumulative impacts associated with development and buildout of the Project site, as proposed, were fully addressed in the City of Fresno PEIR (SCH No. 2019050005). Since the proposed Project is consistent with the land use designation and development intensity for the site identified in the GP and analyzed in the PEIR, implementation of the proposed Project would not result in any new or altered cumulative impacts beyond those addressed in the PEIR.

The analysis in the Environmental Assessment demonstrates that there are no site-specific or peculiar impacts associated with the Project and identifies uniformly applied standards and policies that would be applied to the Project. The Project Requirements identified in the attached environmental analysis include requirements that must be implemented by the proposed Project in order to ensure that any site-specific impacts or construction-related impacts are reduced to a less-than-significant level. All Project Requirements identified in the attached EA were made a condition of Project approval and shall be implemented within the timeframes identified.

Fresno Municipal Code Findings

Based upon analysis of the applications, staff concludes that the required findings of Sections 15-5206 (Development Permit Findings) of the Fresno Municipal Code can be made. These findings are attached as Exhibit K.

If the City Council decides to uphold the appeal and deny the request to develop the proposed industrial use, the council must find that there is insufficient evidence in the administrative record that the required findings by Section 15-5206 cannot be made and amend them accordingly.

LOCAL PREFERENCE

Local preference was not considered because the project does not include a bid or award of a construction or service contract.

FISCAL IMPACT

Affirmative action by the City Council will result in timely deliverance of the review and processing of the applications as is reasonably expected by the applicant. Prudent financial management is demonstrated by the expeditious completion of this land use application in as much as the applicant has paid to the City a fee for the processing of this application and that fee is, in turn, funding the respective operations of the Planning and Development Department.

Conclusion

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan, North Avenue Industrial Triangle Specific Plan, and

the Fresno County Airport Land Use Compatibility Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment and concludes that the required findings contained within Sections 15-5206 et seq. of the FMC can be made. Upon consideration of this evaluation, it can be concluded that the proposed Development Permit Application No. P22-00565 is appropriate for the subject property.

Attachments

- Exhibit A - Vicinity Map & Aerial Photograph
- Exhibit B - Planned Land Use & Zoning Map
- Exhibit C - Project Information Tables
- Exhibit D - Operational Statement
- Exhibit E - Exhibits (Site Plan, Elevations, Floor Plans, & Landscape Plan)
- Exhibit F - Conditions of Approval [10/28/2022]
- Exhibit G - Public Hearing Notice & Noticing Map
- Exhibit H - Environmental Assessment
- Exhibit I - Appeal Letters
- Exhibit J - Responses to Concerns from Appeal Letters
- Exhibit K - Fresno Municipal Code Findings
- Exhibit L - Appeal Withdrawal Letter
- Exhibit M - Additional Comments and Responses
- Exhibit N - Planning Commission Resolution No. 13785
- Exhibit O - Appeal of Planning Commission Action
- Exhibit P - City Council Public Hearing Notice & Noticing Map