

Planning Commission

September 6, 2023

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Planning & Development Department
City of Fresno



Information Packet

ITEMS

File ID 23-1286

Consideration of Conditional Use Permit Application P22-03146, and related Environmental Assessment P22-03146 pertaining to ±1.38 acres of property located on the south side of West Bullard Avenue, between North Van Ness Boulevard and North Forkner Avenue (Council District 2).

Contents of Supplement:

Exhibit O – Additional Communications received 09/05/2023

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the Commission after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the Planning Commission meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

September 5, 2023

VIA EMAIL

PLANNING AND DEVELOPMENT DEPARTMENT

Attn: Ms. Jennifer K. Clark

PublicCommentsPlanning@fresno.gov

Re: Neighborhood meeting re CUP Application No. P22-03146

Dear Director Clark:

Neighborhood Meeting

The principals of Infinite Living recently held a further meeting with neighbors residing within 1000 feet of the proposed medical commercial development at 2287 W. Bullard Ave, Fresno, CA 93711.

Unfortunately, the meeting did not result in a compromise resolution of the pending Conditional Use Permit Application. The pending Application seeks the alteration of a single-family residential property in a very low-density neighborhood (RS-2 zoning) to a three-building commercial medical development that will operate 24 hours a day, 7 days a week, 365 days a year.

At the meeting, the developers floated the possibility of reducing their proposed commercial operation from: 3 buildings, 54 residents and 13,500 square feet of building plus parking lots; to, 2 buildings, 36 residents, 9000 square feet of buildings and parking lots. This proposal was not well-received by the neighbors given the lighting, traffic, noise, and safety issues associated with the operation of a 24 hour a day commercial facility.

The neighbors in attendance raised the possibility of a single building operation – similar to commercial medical properties at Bullard and Fruit Avenues and Forkner and San Madele Avenue properties. A single building option was dismissed out of hand by the Developers as not economically feasible under their profit models. Further, the neighbors suggested an alternative use that focused on PUD-style residences on the lot to address a significant shortage of single-family homes in the neighborhood. This idea was not responded to by the Developers.

The meeting was marked by rude and dismissive commentary from a principal in the Developers group, which hampered efforts to engage in a constructive dialogue. Unfortunately, the

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Attn: Ms. Jennifer K. Clark

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neighbors are being asked to “trust” an unproven developer group that has never built and operated these type of facilities, much less on the grand scale proposed – 3 buildings and 54 beds.¹ While certain issues of concern to the neighborhood, such as egress and ingress near the elementary school, were discussed – no amendments to the CUP application have occurred to my knowledge and the current application calls for:

3 buildings for a total of 14,500 square feet of structures;

a subdivided lot into 3 parcels;

ingress and egress on Bullard Ave, Morris Ave and Sequoia Ave;

54 beds; and,

a parking lot with commercial lighting standards.

Thus, it is this CUP application which will be considered and voted on by the Planning Commission.

Municipal Code – Use Regulations

At the July meeting, questions were raised by Commissioners as to the proposed medical facilities being characterized as “Residential Care Facilities” (RCFE). The issue arose because the May 24, 2023 Report submitted by Mr. P. Siegrist supporting approval of the Application for the CUP cited to Municipal Code Section 15-902 as support for the conclusion the the proposed Congregate Living Health Facility was an acceptable use in a neighborhood zoned RS-2. Section 15-902 does not reference “Congregate Living Health Facility” as an acceptable or permitted use. Thus, the effort was made in the Siegrist Report to “liken” a Congregate Living Health Facility to an RCFE. This effort must fail. Under California Code of Regulation, Title 22, Section 87891(a)(8), RCFEs under California law are prohibited from accepting residents who require life support systems such as ventilators. The pending CUP Application specifically states that the 3 building will offer “24/7 Sub Acute Nursing (For Vent and Trach Dependent Patients) and 24- Hour Skilled Nursing Care.”(emphasis added) There can be no dispute that a Congregate Living Health Facility is not an RCFE or even “like” an RCFE.

Further, the Planning Department’s Report and the Application fail to adhere to the requirements of Section 15-5020 (“Director’s Determination”) of the Municipal Code, which would otherwise allow the Director to accept a petition to address a non-permitted use.

¹ The neighbors have had to call the Fresno Police Department on multiple occasions to the subject property as it has become a known haven for the unhoused.

Accordingly, the legal mandates of the City's Municipal Code have not been met during the Application process and, as a result, this Application should be denied.

The CUP Application Should Be Denied

1. Section 15-5306 of the Fresno Municipal Code applies to the approval of a CUP application. Section 15-5306 states:

A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code;

[As noted above, the Municipal Code does not allow for Congregate Living Health Facility : 15-902]

- B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;

[The current zoning is RS-2 – single family very low density residential. A 3 building commercial medical facility is not consistent with this use.]

- C. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements;

[The proposed project will irreparably alter the character of the neighborhood, significantly increase noise, traffic, light, and human traffic to a wholly residential neighborhood. It is being shoehorned into a family neighborhood developed over five decades.]

- D. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity;

[The project is unprecedented in the RS-2 low density neighborhood. No other lot in this zoned area has three buildings operating on a 24 /7 / 365 commercial basis.]

- E. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required;

[The traffic, lighting, noise issues represent a wholesale alteration of the residential neighborhood. Bullard Avenue is a major throughfare and the proposal to use it as a primary ingress / egress point for employees, visitors, deliveries, and emergency vehicles is misguided. The lighting will interfere with the contiguous neighbor's enjoyment of his property.]

and,

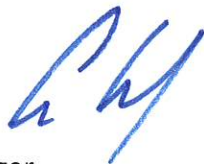
- F. The proposed use is consistent with the Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.
(Fresno Municipal Code, § 15-5306.)(emphasis added)

Conclusion

The unprecedented proposal to build three separate structures on the property and operate them as commercial enterprises with the proposed subdivision of the lot later (into three parcels) constitutes an unusual and unacceptable use of the lot. No such similar property use exists in the neighborhood.

Based on the foregoing, the Planning Commission should reject the pending Application.

Thank you for your consideration of this letter.



Andrew Wanger

cc: Thomas Veatch (thomas.veatch@fresno.gov)