

## Fig Garden Financial Center Office Building – EA No. P18-03659

Responses to Comments: Pax Domus, Inc. letter (letter dated June 4, 2019)

Comment #1 *The Mitigated Negative Declaration (Environmental Assessment) is not sufficient for this project to move forward. A full Environmental Impact Report should be ordered.*

**Response:** Pursuant to Public Resources Code Section 21064.5, a Mitigated Negative Declaration (MND) is properly used “when the Initial Study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” A lead agency *shall* adopt a negative or mitigated negative declaration instead of preparing an Environmental Impact Report (EIR) if there is no substantial evidence in light of the whole record that the project as proposed or revised, may have a significant effect on the environment (CEQA Guidelines Section 15070). Because the proposed Project did not exceed any established CEQA thresholds and/or can be mitigated to a less than significant level, and because no substantial evidence in light of the whole record has been presented to the City that the proposed Project may have a significant effect on the environment, the City prepared a Mitigated Negative Declaration rather than an EIR. See further discussion below.

The comment letter references a previous Environmental Impact Report (EIR) that was prepared for a proposed office complex in the area. It is assumed this is in reference to EIR No. 10147 (SCH No. 2011061087) for the Fig Garden Financial Center Phase IV project. That project involved a 104,000 square foot 4-story office complex with an underground parking area, surface parking, and related improvements that was proposed to be located south of San Jose Avenue on the site of the demolished 44-unit apartment building and on an additional lot to the east of the demolished apartments. EIR No 10147 was certified on December 6, 2012 through Resolution No. 2012-220, however it was certified prior to adoption of the current Fresno General Plan, was based on land uses and zoning from the 2025 Fresno General Plan, and incorporated some of the analysis of the prior MEIR for the 2025 General Plan. In 2014, the 2025 General Plan was superseded through adoption of the Fresno General Plan which was assessed with a new MEIR (SCH No. 2012111015), which was certified through Resolution No. 2014-225. This current project differs from the previous project in several aspects. The previous office building was proposed to be located south of San Jose Avenue at the location of the demolished 44-unit apartment building. That project included additional parking on the parcel immediately east of the demolished apartment building, whereas under the current proposal, there is no project development on that eastern parcel. No vehicle access to the office parking lot or the Fig Garden Financial Center was provided off of San Jose Avenue for the previous project. In addition, the current proposed Project includes a modified road configuration (the previous project did not include road closures), a new park area, and a different parking configuration. Further, the current proposed project and the proposed MND tier from MEIR No. 2012111015 incorporating that updated analysis by reference and applying all updated mitigation measures that are applicable to this project as well as project specific mitigation

measures. As such, the analysis, conclusions, and mitigation of EIR No. 10147 have been superseded and are not applicable to the proposed project site. However, it should also be noted that the previous EIR found all impacts to be less than significant (or could be mitigated to a less than significant level) with the exception of aesthetics. The previous EIR evaluated traffic, air, noise, etc. and determined there would be a less than significant impact from the office building.

A statement was made in the comment letter regarding using the previous EIR as evidence of substantial evidence that should cause the City to prepare an EIR rather than the MND for the proposed Project. However, after extensive analysis, the previous EIR determined that there would be no significant/unavoidable impacts except for aesthetic/visual impacts (see discussion below pertaining to aesthetics). The EIR found less than significant impacts to traffic and all other impact areas. The information and determinations in the previous EIR support the City's decision to prepare an MND for the proposed Project, because significant/unavoidable impacts were not found in the previous 2012 EIR (with the exception of aesthetics) or now in the current MND. The "evidence" in the previous EIR would support the preparation of an MND.

The comment letter makes the statement that their concerns do not involve the aesthetics of the building. However, because the commenter presents the previous EIR as substantial evidence and aesthetics was the only topic that was determined to be significant and unavoidable in the previous EIR, further clarification is warranted here. There is little explanation in the previous EIR as to why a significant/unavoidable determination was made for aesthetics other than to say it will alter the existing visual character of the site compared to existing conditions and will reduce vacant areas. Visual impacts are often a subjective experience and lead agencies (such as the City of Fresno) can address visual impacts in different ways. (Note: The EIR found less than significant impacts related to impacts to *protected* scenic vistas or resources.) Under the current proposal, aesthetic impacts were analyzed and determined to be less than significant because the Project is being constructed on and adjacent to an existing office complex with similar sized buildings in an area with high levels of commercial activity. Improvements such as those proposed by the Project are typical of large City urban areas and are generally expected from residents of the City. These improvements would not substantially degrade the visual character of the area and would not diminish the visual quality of the area, as they would be consistent with the existing visual scale and setting of the area. Generally speaking, infill type projects that are consistent with the scale of the existing built environment (such as the proposed office building located in an existing office complex) typically do not produce significant aesthetic impacts. The Project design is also subject to the City's Design Guidelines adopted for the City's General Plan which apply to site layout, building design, landscaping, lighting, parking and signage. Detailed architectural plans, color palettes and building materials as well as landscaping plans will be submitted by the Project developer to the City of Fresno Development and Resource Management Department. The plans shall be required prior to issuance of any building permits.

Given the fact that the previous EIR came to the same conclusions as the current MND (with the exception of aesthetics, which the commenter stated is not a concern), and because no substantial evidence in light of the whole record has been presented to the City that the proposed Project may have a significant effect on the environment, the City has determined that an MND is the appropriate level of CEQA documentation for the proposed Project.

Comment #2 *Emergency Vehicle Access is not sufficient and creates dangerous situations.*

**Response:** The City's Engineering and Public Works departments have reviewed the proposed street configuration and site plan. The creation of cul-de-sacs at W. San Jose Avenue and N. Colonial Avenue does not eliminate a second route for emergency vehicle access because emergency vehicles will have access available through the barriers at all times. Multiple emergency access points are a requirement of the City and thus have been included in the proposed Project. In addition, vehicles (emergency and non-emergency) will also have available an alternate inlet/outlet point off of San Jose Avenue where the proposed new parking area will be located. Vehicles could enter or exit the neighborhood through the Fig Garden Financial Center parking area, if necessary. As with current conditions, emergency vehicles may have to access the surrounding area through the Fig Garden Financial Center parking lot and access points, depending on the emergency situation. The proposed project does not change or exacerbate this situation, as emergency access will be maintained from at least two points for the adjacent neighborhoods at all times. See Response to Comment #3 for a discussion pertaining to pedestrian safety.

Comment #3 *Both the Negative Declaration and the Traffic Study require that the project provide "pedestrian connectivity to the adjacent commercial shopping center and the existing residential developments to the north and west". The project doesn't adequately provide this.*

**Response:** Pedestrian connectivity is being provided by the Project through sidewalks, pedestrian pathways and a potential gate (that could be coded for the neighboring residents). The coded gate was a suggestion from the community members who participated in some of the earlier informational meetings conducted by the Project Applicant. As described in Mitigation Measure TRA -1, the Project will provide pedestrian connectivity to the adjacent shopping center at the direction of the City.

Issues regarding pedestrian safety within parking lots is an on-going concern for this proposed Project as well as the existing Fig Garden Financial Complex, the adjacent Fig Garden Shopping Center, and City-wide locations where interactions between pedestrians and vehicles occur. As with current conditions, pedestrians and vehicles must use caution when navigating a parking lot. Pedestrians are encouraged to use sidewalks, pathways and other walkable areas to avoid parking lots to the extent feasible. The proposed Project is a continuation of the existing office complex and does not present a use that is unusual or incompatible with the area. Residents who walk to the Fig Garden commercial areas currently have to navigate through parking areas. The proposed Project does not eliminate access or substantially increase hazards to existing pedestrians.

Comment #4 *Traffic Improvements initially required by DARM have been removed from the proposed applications.*

**Response:** The Project is proposing zone changes (from residential to Regional Mixed Use) and General Plan amendments (from residential to Regional Mixed Use). As such, existing zoning conditions/requirements on the Project parcels are proposed to be modified for the Project. The existing zoning requirements were based on zoning designations that included residential land uses, a different site/roadway configuration and different building location. Because the underlying zoning is proposed to be changed and the site configuration is different from previous proposals, it is necessary to modify the conditions of zoning for the Project. The City evaluated the previous site zoning requirements and modified them for the proposed Project.

To address development impacts related to traffic, the Project will be required to pay fair share fees into the City's Major Street Impact Fee, Traffic Signal Mitigation Impact Fee and a Regional Transportation Mitigation Fee. The City will continue to monitor the intersections of Palm/Shaw, Palm/San Jose and Palm/Barstow and adjust signal timing to improve the intersection level of services if necessary. However, based on the Trip Generation Analysis prepared for the environmental analysis, the Project itself does not produce a significant amount of vehicle trips that would result in significant impacts.

Comment #5 *Not enough time has been allowed for our legal counsel to review the applications.*

**Response:** City staff rescheduled the public hearing to accommodate the request for additional time to review Project materials. The rescheduled hearing date is June 19, 2019.

Comment #6 *Return all applications to DARM for the purposes of ordering a full Environmental Impact Report, to subsequently work with the neighborhood to arrive at a plan that adequately addresses life and safety issues, and to allow enough time within the process for legal review.*

**Response:** The last comment is a reiteration and summary of previous comments. Please refer to Responses 1 – 5.