



Douglas T. Sloan  
City Attorney

September 20, 2017

**VIA FIRST CLASS MAIL AND EMAIL to [sherum@herumcrabtree.com](mailto:sherum@herumcrabtree.com)**

Mr. Steven A. Herum, Esq.  
Herum\Crabtree\Suntag  
5757 Pacific Avenue, Suite 222  
Stockton, California 92507

Re: *Appeal of Planning Commission Adoption of Negative Declaration for Conditional Use Permit Number C-17-013*

Dear Mr. Herum:

CEQA Guidelines section 15185 provides:

- (a) Where an agency allows administrative appeals upon the adequacy of an environmental document, an appeal shall be handled according to the procedures of that agency. Public notice shall be handled in accordance with individual agency requirements and Section 15202(e).
- (b) The decision making body to which an appeal has been made shall consider the environmental document and make findings under Sections 15091 and 15093 if appropriate.

The City of Fresno has adopted procedures allowing administrative appeals of CEQA determinations. FMC 15-5005-I states:

I. **Appeals.** Notwithstanding other provisions of this Code, the applicant or any aggrieved person may appeal the following environmental determinations made by non-elected decision making bodies of the City directly to Council in the manner described in Section 15-5017, Appeals, unless the Council is the approving authority for the project:

1. Determination that a project is or is not subject to environmental review.
2. Determination that a project is exempt from environmental review.
3. Approval of a Negative Declaration or Mitigated Negative Declaration.
4. Approval of a Finding of Conformity with the Master EIR.
5. Certification of a Final EIR.

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Re: *Appeal of Planning Commission Adoption of Negative Declaration for CUP No. C-17-013*

September 20, 2017

Page 2

FMC 15-5017 provides the general requirements of an appeal. FMC 15-5017-B requires all appeals to be filed within fifteen days of the date of the action, decision, or CEQA determination.

Most importantly, FMC 15-5017-C-1 states “[t]he timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.”

An appeal of the CEQA determination of the Planning Commission was received within the time limits proscribed. Therefore, the entire proceedings, including the approval of Conditional Use Permit C-17-013, were stayed. The entire Planning Commission decision was set aside, and approval of Conditional Use Permit C-17-013 never became final, thus no property right was granted to the applicant. The City Council has jurisdiction to make a final decision on the entire project.

Sincerely,



MARY RATERMAN-DOIDGE

Deputy City Attorney

cc: Mayor and City Council  
Douglas T. Sloan, City Attorney  
Jennifer Clark, Director of Development and Resource Management

MRD:prn [76877prn/mrd] 09-20-17