

Regular Council Meeting
October 13, 2022

FRESNO CITY COUNCIL



Supplement Packet

ITEM(S)

10:00AM #3 (22-1210)

Consideration of Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665 and the related Environmental Assessment No. P20-01665 pertaining to ±92.53 acres of property bounded by East Vine Avenue to the north, State Route 41 to the east, South Elm Avenue to the west and East Chester/East Samson Avenue (alignment) to the south (Council District 3).

Contents of Supplement

Public Comment Received - Elm Avenue Landowners PowerPoint Slides

Item(s)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council 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 City Council 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.

RECEIVED
2022 OCT 12 P 5:11
CITY OF FRESNO
CITY CLERK'S OFFICE

Todd Stermer

From: Hannah Wilhelm [REDACTED]
Sent: Wednesday, October 12, 2022 3:24 PM
To: Clerk
Subject: FW: RE: Elm Avenue PowerPoint
Attachments: City Council Presentation (01487855).pdf

External Email: Use caution with links and attachments

From: Hannah Wilhelm
Sent: Wednesday, October 12, 2022 3:06 PM
To: Clerk@fresno.gov
Cc: John Kinsey [REDACTED]
Subject: RE: Elm Avenue PowerPoint

Large File Send Sent Files

Powered by 

You shared files with Clerk@fresno.gov [REDACTED]

File(s):
City Council Presentation (01487855).pdf

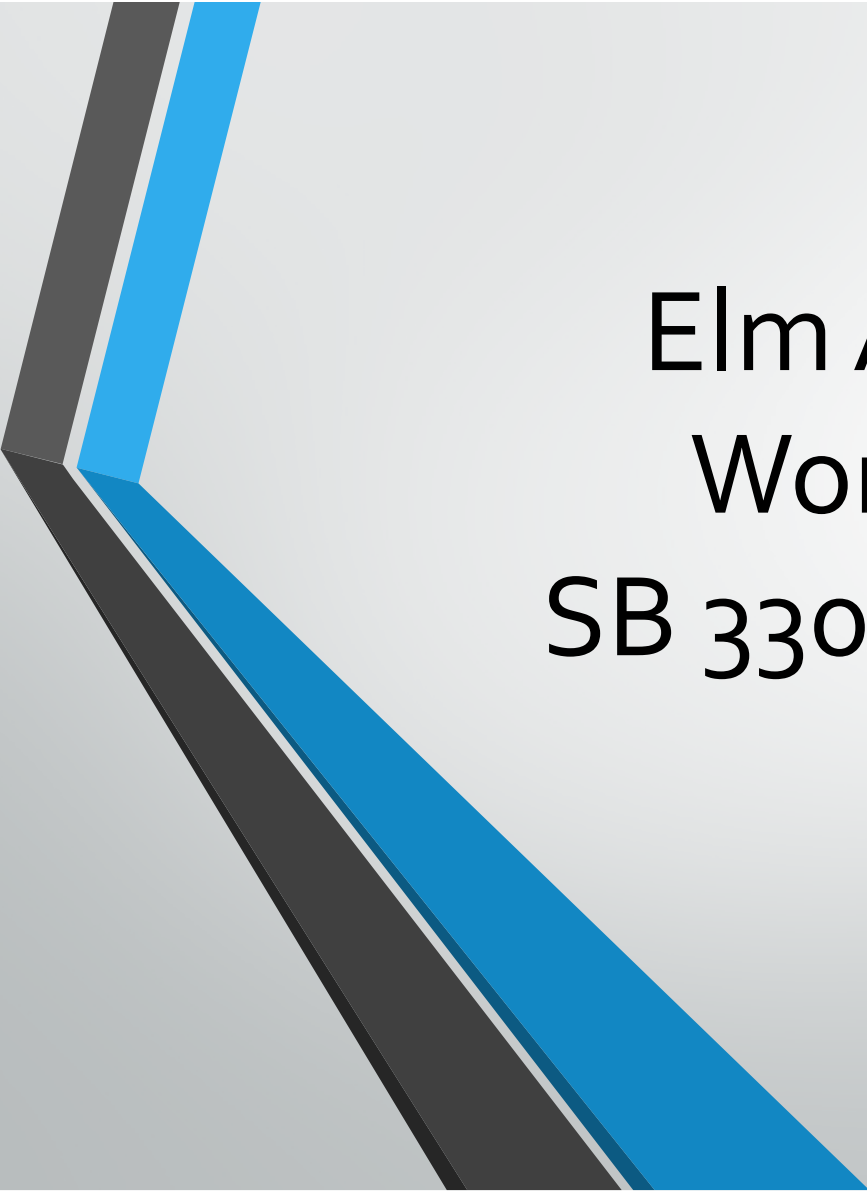
Good Afternoon,

I have attached the PowerPoint in PDF format.

The agenda number is #3 and the file ID is 22-1210 at 10:00 A.M. Thursday, 10/13/2022.

Please let me know if you have any additional questions.

Thank you,
Hannah N. Wilhelm
Legal Assistant/Paralegal to John P. Kinsey
Wanger Jones Helsley PC
[REDACTED]



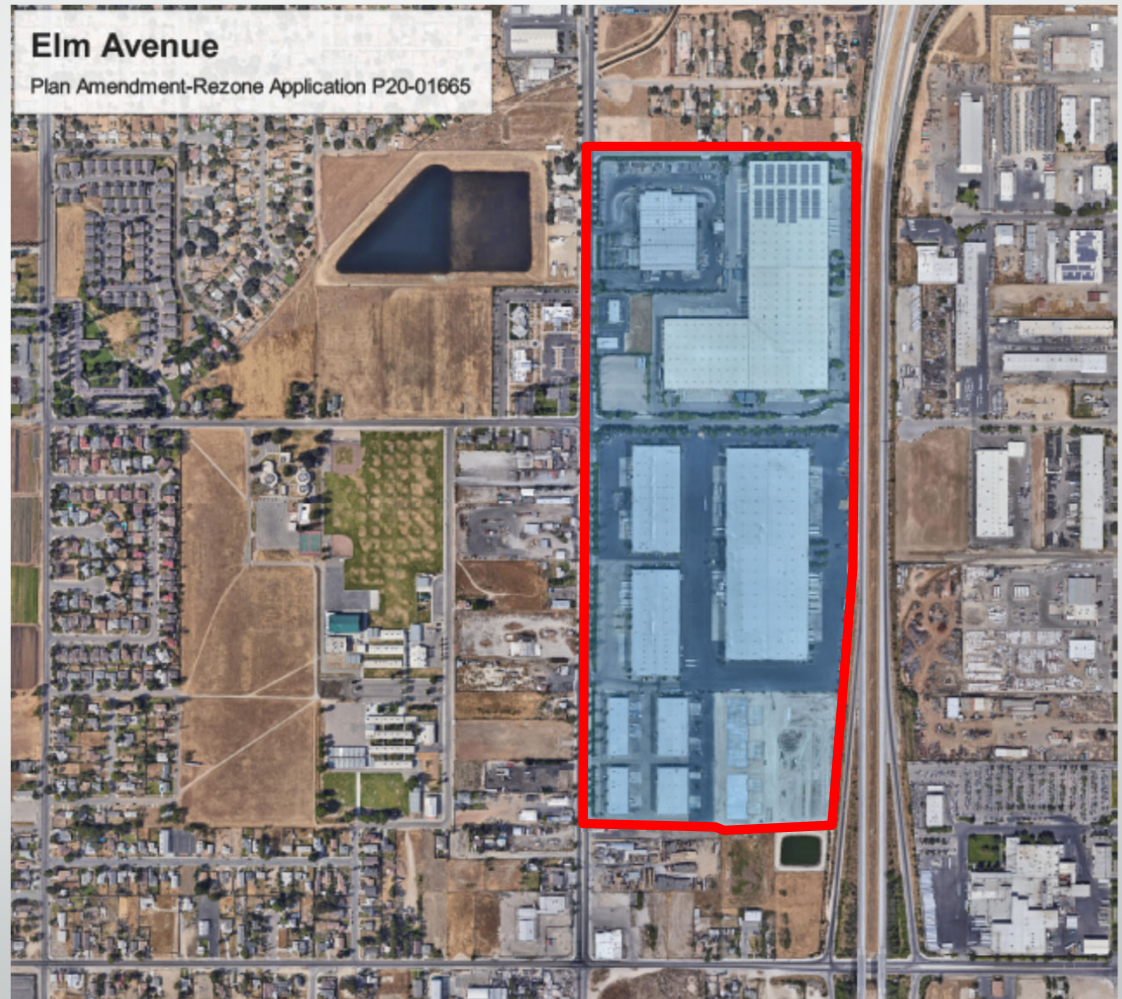
Elm Avenue Plan Rezone: Workshop on Status and SB 330 Compliance Options

City Council, City of Fresno

October 13, 2022

Elm Avenue Plan Amendment-Rezone

- 15 Parcels; Approx. 92.5 acres
- Fully-developed properties; no room for additional growth
- The landowners are seeking a change of Land Use/Zoning from NMX to IL, consistent with existing uses
- No new construction
- No new land uses
- The applicants simply want to preserve what is there



Project Background



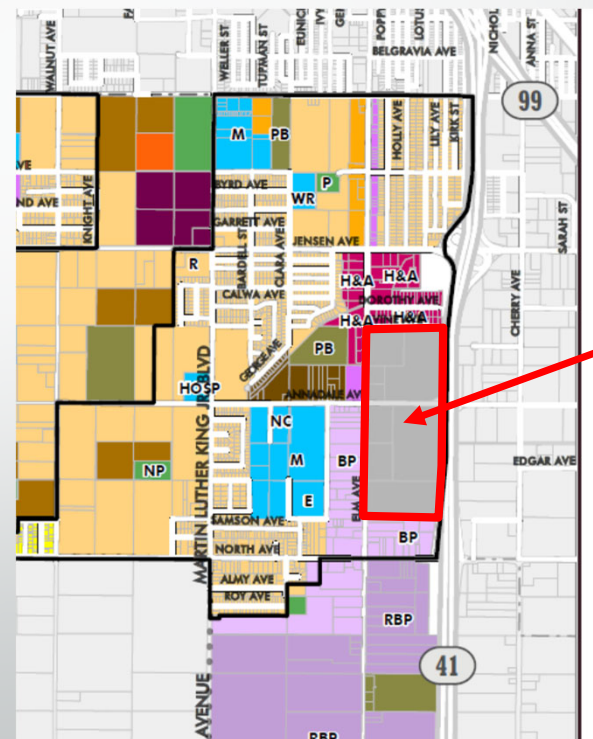
- Properties were redeveloped as part of the City's 1999 "Elm Avenue Corridor Blight Removal, Streetscape and Business Attraction."
- The City actively attracted the current landowners to re-develop the Elm Avenue Corridor between the early 2000s and 2016
- Over \$150 million invested in Southwest Fresno

Overview of Elm Avenue Properties



Background

- Permits pulled for last development within the project area on 6/27/2016
- In 2017, the properties were rezoned in the City's Southwest Specific Plan to Neighborhood Mixed Use (NMX), a residential land use
- Throughout the majority of this process in 2015-16, the Steering Committee contemplated the properties at issue would remain "Light Industrial."
- Shortly before the NOP was released in early 2017, the proposed land use was changed (without Landowners' input or knowledge) to NMX



Subject
Properties
shown as
Light
Industrial

Steering Committee Information
Packet, July 13, 2016

Background

- During this time, the Landowners were in constant communication with the City regarding their zoning, due to inquiries by prospective tenants and lenders.
- During this time, the City continued to confirm the properties were zoned "Light Industrial"
- City staff did not mention that the properties were being actively rezoned to NMX



DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

2600 Fresno Street • Third Floor
Fresno, California 93721-3604
(559) 621-8277 FAX (559) 498-1026

Jennifer K. Clark, AICP, Director

September 29, 2017

Please reply to:
Margo Lerwill
559-621-8153

Protective Life Insurance Company
2801 Highway 280 South
Birmingham, AL 35223

**SUBJECT: ZONING INQUIRY NUMBER Q-17-073 REQUESTING INFORMATION
ON ASSESSOR'S PARCEL NO. 328-240-33,-38, and -40 LOCATED AT
2035 EAST ANNADALE AVENUE, FRESNO, CALIFORNIA**

1. **Parcel 328-240-50 is zoned IL (Light Industrial).** The IL district is intended to provide areas, as identified by the General Plan, for a diverse range of light industrial uses, including limited manufacturing and processing, research and development, fabrication, utility equipment and service yards, wholesaling, warehousing, and distribution activities. Small-scale retail and ancillary office uses are also permitted. Light Industrial areas may serve as buffers between Heavy Industrial Districts and other land uses and otherwise are generally located in areas with good transportation access, such as along railroads and freeways. (FMC, Article 13, Employment Districts, of the new Citywide Development Code).

Background

- The Landowners received this letter ***the same day*** the City Council approved the rezone to NMX
- No mention of the rezoning



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Jennifer K. Clark, AICP, Director

October 26, 2017

Please reply to:
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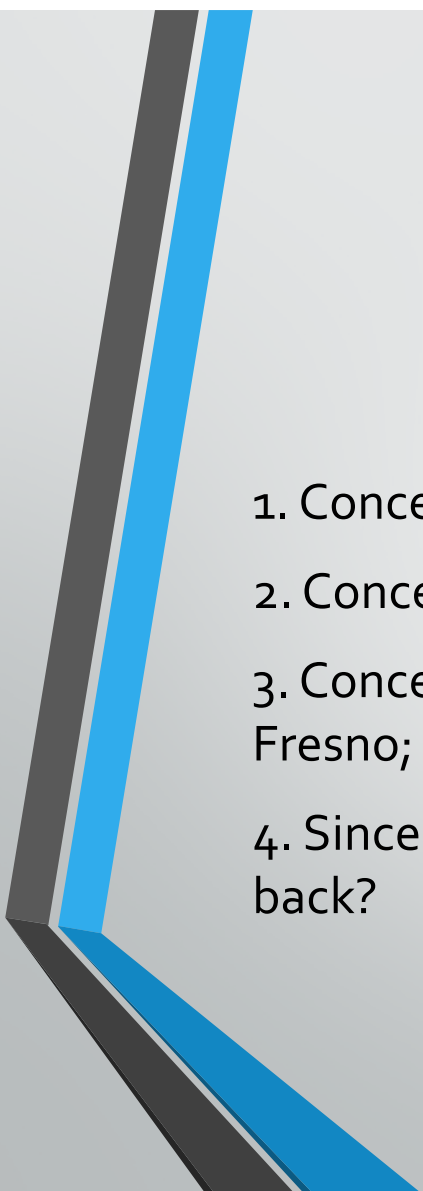
Thank you for your letter of inquiry regarding zoning of the subject parcels. The requested information about Fresno Municipal Code (FMC) zone district compliance has been obtained from public records in the Development and Resource Management (DARM) Department. The City of Fresno, on December 3, 2015, adopted a new Citywide Development Code, Chapter 15 of the FMC. This zoning inquiry reflects the updated zone district classification changes to the property.

This letter verifies that 2035 East Annadale Avenue refers to assessor's parcel number 328-240-50 and pertains to 23.46 acres of property located on the north side of East Annadale Avenue, west of State Route 41 in Fresno, California. The addresses 2001 East Annadale Avenue, 2020 East Vine Avenue, 2090 East Vine Avenue, and site address 2045 East Annadale Avenue S/A are also located on assessor's parcel number 328-240-50. Assessor's parcel numbers 328-240-33,-38, and -40 are no longer valid parcel numbers. Research of records about the subject property reveals the following.

1. Parcel 328-240-50 is zoned IL (*Light Industrial*). The IL district is intended to provide areas, as identified by the General Plan, for a diverse range of light industrial uses, including limited manufacturing and processing, research and

Process to Date

- **2018.** Landowners learned about the rezone to NMX.
- **Early 2020.** Environmental consultants prepared an environmental document and supporting materials in early 2020
 - No negative environmental effects
- **August 25, 2020.** Council District 3 Project Review Committee
- **February 3, 2021.** Initial Planning Commission Meeting
 - Requested further interaction with community members
- **March 1, 2021.** Neighborhood Meeting
 - Landowners have given tours of the property to interested neighbors; Planning Commissioners were also invited
 - Numerous discussions with Fmr. Councilmember Baines (who we understand was the City-designated community liaison)
- **May 18, 2022.** Planning Commission recommended approval of the rezone for the new Busseto project (new construction)
- **June 1, 2022.** Planning Commission recommended approval of the rezone for Elm Avenue
- **September 1, 2022.** Council Workshop



Concerns Raised by the Public At Prior Meetings

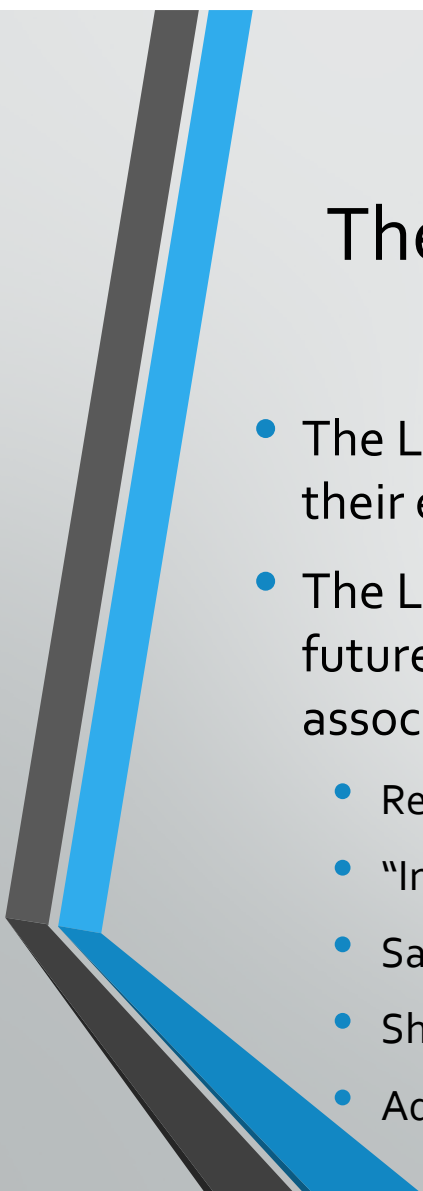
1. Concerns regarding potential environmental impacts – air quality, traffic
2. Concern the applicants would develop new, more intense industrial uses
3. Concern that the existing businesses provide no benefit to Southwest Fresno; more Residential development is needed
4. Since the properties are “grandfathered,” why do they need their zoning back?

The Rezone Will Not Result in any Negative Environmental Effects

- Because the application merely seeks to preserve existing land uses, there will be no negative change in the environment:
 - The rezone “would not generate new trips above existing conditions” and “would not generate new” VMTs. (Addendum at 59.)
 - The rezone would not increase criteria pollutant or GHG emissions. (Addendum at 20, 36.)
- Environmental benefits compared to NMX:
 - Traffic associated with existing uses (3,350 trips/day) is far lower than NMX (14,494 trips/day). (Addendum at 57-58.)
 - The rezone will allow the landowners to receive financing to upgrade to green infrastructure, including electrification, resulting in an environmental benefit.

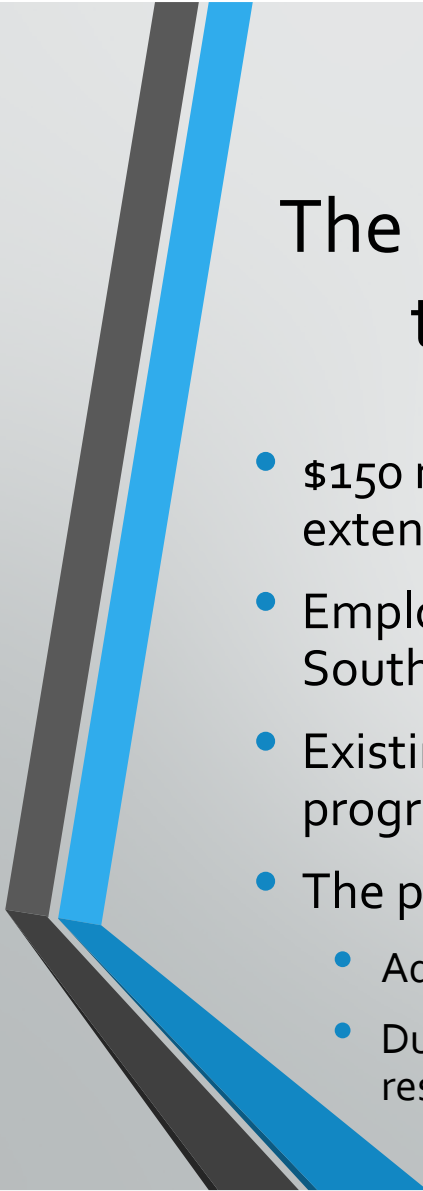
The Rezone Will Not Result in any Negative Environmental Effects

- “[W]e believe that environmental justice and economic development can both occur at the same time. They are not mutually exclusive.”
(AG Rob Bonta)
- The Elm Avenue businesses employ many of the “best practices” recommended by the AG:
 - Physical and vegetative buffers
 - Adequate onsite parking
 - Loading docks located away from sensitive receptors
 - Directed lighting into interior of site
 - Businesses are kept clean and free of trash/debris
 - Rezone needed to facilitate electrification of fleets, onsite equipment, and infrastructure
 - Many more



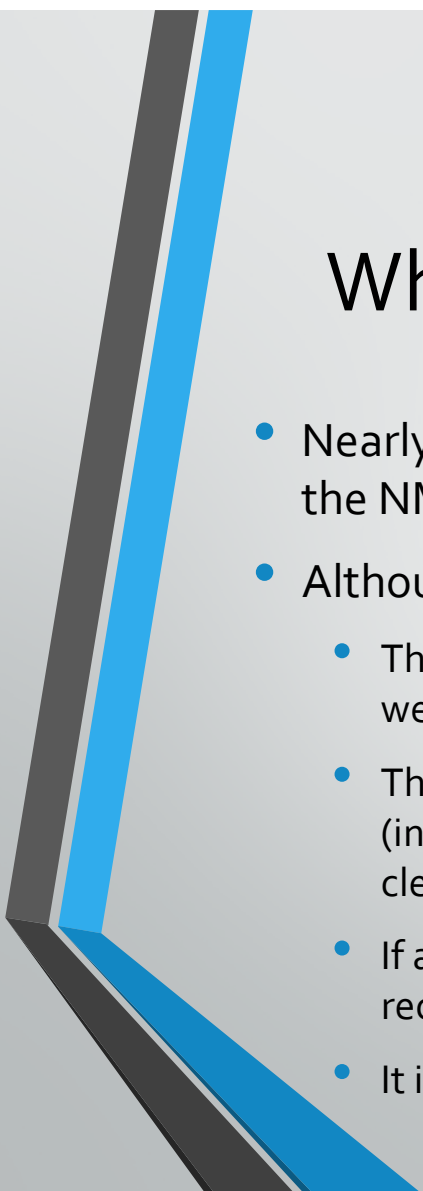
The Landowners Seek to Maintain their Existing Uses, not Engage in More Intense Uses

- The Landowners merely seek to regain what they lost in 2017, and maintain their existing land uses
- The Landowners have agreed to conditions expressly prohibiting them and future landowners from engaging in industrial land uses commonly associated with negative effects on the community:
 - Rendering plants/slaughterhouses
 - “Intensive Industrial” uses—*i.e.*, regular use of hazardous materials
 - Salvage/wrecking yards; towing and impoundment
 - Shooting ranges
 - Adult-oriented uses



The Existing Businesses Benefit Southwest Fresno; the Properties are Not Ideal for Residential

- \$150 million investment in development of well-maintained properties with extensive landscaping
- Employment of thousands of Frenans, including many residents of Southwest Fresno
- Existing businesses add to the tax base of the City, helping to fund City programs, including programs that benefit Southwest Fresno
- The properties are not an ideal location for residential development:
 - Adjacent to S.R. 41 and heavy industrial uses to the east
 - Due to existing, relatively new businesses and warehouse buildings on the properties, residential development would be expensive and highly unlikely to attract investment



Why is the Existing (NMX) Zoning an Issue?

- Nearly all of the existing businesses located on the properties are not authorized in the NMX Zoning District
- Although the existing businesses are now a “legal non-conforming” use:
 - The inconsistent zoning diminishes the ability to attract the reputable, responsible, and well-capitalized businesses the community deserves, such as Glaxosmithkline
 - The inconsistent zoning makes it nearly impossible to receive conventional financing (including capital improvements necessary for ongoing maintenance, beautification, and clean energy improvements), and could result in an event of default under existing loans
 - If a building is unused for a moderate period due to an economic downturn (such as the recent recession), the landowners will lose their legal nonconforming status under the code
 - It is far more difficult to sell properties with legal nonconforming status



The City's Prior Zone Change Has Negatively Affected the Landowners

- Several of the landowner representatives will be making remarks:
 - **Joe Livaich:** Buzz Oates, Elm Avenue Landowner
 - **Nick Audino:** representing Span Development
 - **Steve Brock:** SDG Development
 - **Joseph Kalpakoff:** Mid-Valley Recycling

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Thank you