

## Exhibit J

## Elm Avenue Rezone

### Operational Statement- ~~August 2023~~

Revised 2-3-25

The following describes the proposed Elm Avenue Rezone project (proposed project) that includes rezoning 11 parcels. In addition to the description of the proposed project itself, this statement includes a summary description of the project's location and existing site characteristics. The proposed project is located in the Plan Area of the Southwest Fresno Specific Plan (SWFSP).

In summary, the proposed project includes the following:

- Plan Amendment to rezone and change land use and zoning designations of 11 parcels from Neighborhood Mixed Use (NMZ) to Industrial - Light (IL).
- Exemption from policies LU-8.1, LU-8.2, and LU-8.3 of the SWFSP.
- Addition of Conditions of Zoning restricting future use

#### *Project Location*

The project site is located in the City of Fresno, which occupies approximately 110 square miles in the San Joaquin Valley. Within Fresno, the Project site is located in the SWFSP Plan Area, which consists of approximately 3,255 acres located generally west of State Route (SR) 41 and south of SR 180 in the southwest area of Fresno. The Project site is bounded by South Elm Avenue to the west, Annadale Avenue to the north, SR 41 to the east, and adjacent parcels and East North Avenue to the south.

#### *Surrounding Land Uses*

Regional vehicular access to the project site is provided by SR 41, located directly adjacent to the Project site, SR 99, approximately 1 mile to the east, and SR 180, approximately 3 miles north of the project site. Industrial and commercial uses are located to the north, west, and south of the project site. The surrounding land uses include light industrial to the west and north, SR 41 and industrial uses to the east, industrial use and vacant land to the south.

#### *Site Characteristics and Current Site Conditions*

The Project site consists of 11 parcels totaling approximately 55.31 acres. The Assessor's Parcel Numbers (APNs) and approximate size of each parcel within the project site are included in **Table 1**. The Project site contains several existing light industrial buildings totaling 896,952 square feet and is currently used as a mix of light industrial, manufacturing, warehousing, and distribution land uses.

Table 1: Parcels within the Project site

| Assessor's Parcel Number | Site Address                    | Acreage |
|--------------------------|---------------------------------|---------|
| 328-290-25               | 2855 S Elm Ave Fresno, CA 93706 | 24.73   |
| 328-290-28               | 2875 S Elm Ave Fresno, CA 93706 | 6.36    |
| 328-290-29               | 2825 S Elm Ave Fresno, CA 93706 | 6.25    |
| 328-211-43               | 2909 S Elm Ave Fresno, CA 93706 | 2.41    |
| 328-211-44               | 2925 S Elm Ave Fresno, CA 93706 | 1.88    |
| 328-211-45               | 2929 S Elm Ave Fresno, CA 93706 | 2.84    |
| 328-211-46               | 2933 S Elm Ave Fresno, CA 93706 | 2.83    |
| 328-211-47               | 2949 S Elm Ave Fresno, CA 93706 | 1.95    |

|            |                                 |      |
|------------|---------------------------------|------|
| 328-211-48 | 2947 S Elm Ave Fresno, CA 93706 | 2.13 |
| 328-211-49 | 2945 S Elm Ave Fresno, CA 93706 | 1.73 |
| 328-211-50 | 2935 S Elm Ave Fresno, CA 93706 | 2.2  |

### **General Plan and Southwest Fresno Specific Plan**

The current General Plan Planned Land Use designation and zoning for the Project site is Neighborhood Mixed Use (NMX).

In October 2017, the City adopted the SWFSP to implement the goals and policies set forth in the City of Fresno General Plan (Fresno General Plan) and include ideas and measures that were tailored and reviewed by members of the Southwest Fresno community. The SWFSP identified a development capacity of approximately 748,820 square feet of employment land uses (which includes light industrial uses). However, like the General Plan, the development capacity identified in the SWFSP only identifies new development and only takes into account the development of parcels that have higher opportunities for development, such as parcels that are vacant, open agriculture, or rural residential (partially vacant). The SWFSP does not identify the project site as an opportunity site identified for development. Upon adoption of the SWFSP the land use designation and zoning of the Project site was changed from Industrial – Light (IL) to Neighborhood Mixed Use (NMX).

### **Proposed Project**

The current uses within the Project site as described above are inconsistent with the existing zoning of NMX. The proposed Project consists of rezoning 11 parcels located in the SWFSP Plan Area from NMX to the prior designation of Industrial - Light (IL). The IL zoning district is intended to provide 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 zoning districts and other land uses and otherwise are generally located in areas with good transportation access, such as along railroads and freeways. The proposed zoning would be consistent with the existing uses within the Project site.

In addition to the proposed zoning change, the proposed project would also include land use amendments to the SWFSP and General Plan in order for the land use designations to be consistent with the proposed zoning and exemption amendment from the following policies of the SWFSP:

*LU-8.1 Plan and zone employment areas in Southwest Fresno for nonindustrial businesses. All previously designated Light Industrial, Heavy Industrial, Business Park, and Regional Business Park land uses should be planned and zoned Office, except for the area bounded by Vine Avenue on the north, State Route 41 on the east, Elm Avenue on the west, and Annadale East Chester/Samson Avenue alignment on the south, in order to allow the continuation of legally established uses and non-polluting uses established and operating as of February 18, 2021.*

~~LU-8.2 Prioritize the “Reverse Triangle,” bounded by Jensen Avenue, Central Avenue, Highway 41, and Highway 99, as the City’s targeted area for new industrial development.~~

~~LU-8.3 When 85 percent of the “Reverse Triangle,” bounded by Jensen Avenue, Central Avenue, Highway 41, and Highway 99, is developed with Heavy Industrial uses designate parcels along the east side of Elm Avenue south of North Avenue for future Light Industrial uses, mixed with the Plan’s planned Office uses.~~

The proposed Project does not include any physical changes to the Project site, including construction or change in the current land uses.

### ***Senate Bill 330***

Senate Bill (SB) 330 prohibits a local jurisdiction from approving a land use change that would result in a loss of housing capacity. The Attached Memo demonstrates that the proposed land use changes under the Central Southeast Specific Plan are sufficient to provide the replacement housing units that would be lost if the Elm Avenue Properties' Rezone were approved.

### ***Draft Conditions of Zoning***

In order to address concerns raised by the community about the rezone request, the property owners have agreed to adding conditions on the zoning that will restrict future uses. Any further development on the properties would be conditioned upon the following conditions of zoning:

- A. Notwithstanding any contrary provisions in the City Code, the following uses shall be subject to a Conditional Use Permit regardless of any future changes in the City Code:
  - 1. Research and development, chemical
  - 2. Chemical and Mineral Storage, other than incidental storage that comprises less than 5% of the premises, subject to demonstration to the City that the use fully complies with the California Accidental Release Prevention (CalARP) program.
  - 3. Any new industrial use in the IL zone district that is permitted or permitted conditionally, and that would (i) result in the construction of a new structure of more than 1,000 square feet; (ii) result in the expansion of any existing structure by more than 5% compared to the gross floor area existing as of the date upon which the underlying property was rezoned to the Base District; or (iii) require permitting under Title V of the Clean Air Act.
- B. Notwithstanding any contrary provisions in the City Code, the following land uses shall not be permitted:
  - 1. Emergency Shelter
  - 2. Hospital
  - 3. Parking, Public or Private
  - 4. Adult-Oriented Business
  - 5. Kennels
  - 6. Large Vehicle and Equipment Sales, Services and Rental
  - 7. Motorcycle/Riding Club
  - 8. Airports and Heliports
  - 9. Utilities, Major
  - 10. Crop Cultivation
  - 11. Concrete Batch Plants
  - 12. Shooting/Archery Range
  - 13. Swap Meet / Flea Market
  - 14. Towing and Impound
  - 15. Rubber products manufacturing
  - 16. Nonmetallic mineral product manufacturing
  - 17. Primary metal manufacturing
  - 18. Fabricated metal product manufacturing

19. Automotive and heavy equipment manufacturing
  20. CRV Recycling Center
  21. Recycling Processing Facility
  22. Waste Transfer Facility
- C. Pursuant to Section 15-1302 of the City Code, the following uses are currently not permitted in the IL zone district. The prohibition of any such land uses shall continue to apply even if the City adopts less restrictive citywide use limitations for the IL zoning district.
1. Animal Raising
  2. Dairy
  3. Intensive Industrial
  4. Mining and Quarrying
  5. Rendering
  6. Salvage and Wrecking
  7. Sales Lot, Feed Lot, Stockyard
  8. Slaughterhouse
- D. The interior footprint of any existing structure shall not be expanded by an area greater than ten percent (10%) of the existing exterior footprint as depicted in the most recent site plan for any structure on file with the City as of October 13, 2022.
- E. Any truck trips to or from the property shall only follow truck routes designated by the City of Fresno. All truck routes shall avoid pathways adjacent to schools or that traverse through residential neighborhoods.
- F. All properties must be landscaped in accordance with Section 15-2305(B)(4) of the City Ordinance.
- G. No new use shall generate odors that are detectable offsite.
- H. No new use shall generate noise at a level that exceeds the limitations provided in the Fresno Municipal Code.
- I. Any new industrial use must tie-in to the City's municipal water system. The use of groundwater from private wells is not permitted.
- J. All new industrial uses must acquire and maintain at all times (i) any permits required for any stationary sources, and (ii) certificates from the California Air Resources Control Board showing compliance with all applicable regulations governing trucks, including yard trucks, that enter onto the Project site, including but not limited to the Truck and Bus Regulation, the Advanced Clean Trucks Regulation, and the Advanced Clean Fleets Regulation.
- K. Any tenant improvements or other construction activities performed for any new industrial use shall comply with California Green Building Standards.
- L. All industrial uses shall fully comply with the California Accidental Release Prevention (CalARP) program. No industrial use shall allow any substance regulated under the CalARP program or other hazardous substance to migrate offsite.
- M. In the event that any contamination is discovered on the property, the landowner shall cooperate in good faith and with reasonable diligence with the investigation and remediation of the property by the governmental entity or entities overseeing such investigation and remediation. Nothing herein shall be construed as limiting the right of any landowner to seek indemnification or contribution from any person or entity.