

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

Additional Public Comment Received 10-12-2022

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 5:43
CITY OF FRESNO
CITY CLERK'S OFFICE

Todd Stermer

Subject: FW: Elm Avenue Rezone Resolution Proposal
Attachments: Opposition letter to Elm Rezone 10.10.2022 Final.docx; CLEAN cleaner greener Final Draft.docx

From: Booker Lewis [REDACTED]
Sent: Monday, October 10, 2022 8:57 PM
To: Jennifer Clark <Jennifer.Clark@fresno.gov>; Kelli Furtado <Kelli.Furtado@fresno.gov>; Matthew Grundy <Matthew.Grundy@fresno.gov>
Subject: FW: Elm Avenue Rezone Resolution Proposal

FYI: Please share as needed...

From: Booker Lewis
Sent: Monday, October 10, 2022 8:55 PM
To: Miguel Arias <Miguel.Arias@fresno.gov>; 'nelson.esparza@fresno.gov' <Nelson.Esparza@fresno.gov>; 'tyler.maxwell@fresno.gov' <tyler.maxwell@fresno.gov>; 'mike.karbassi@fresno.gov' <mike.karbassi@fresno.gov>; 'garry.bredefeld@fresno.gov' <garry.bredefeld@fresno.gov>; Esmeralda Soria <Esmeralda.Soria@fresno.gov>; Esmeralda Soria <Esmeralda.Soria@fresno.gov>
Subject: Elm Avenue Rezone Resolution Proposal

Dear Councilman Arias and Fresno City Council Members,

We appreciate the opportunity to meet with Councilman Arias on Friday, October 7, 2022 at City Hall and the notable effort he is making to resolve our concerns regarding Plan Amendment Application No. P20-01665 that would rezone 92.5 acres at the Elm Avenue facility. Mr. Arias, we are still not convinced that your proposal is the best solution for our community nor that it honors the tremendous investment made by so many people in our community to change the trajectory of development in Southwest Fresno. It is our intent to oppose your proposal and protect our community by standing by the Southwest Specific Plan as adopted in 2017.

The Southwest Specific Plan's purpose is to protect our community from environmental hazards perpetuated by the City of Fresno for almost 75 years.

We are asking that you and your fellow City Council colleagues will firmly oppose this rezone application. Please review in detail the attached opposition letter as you consider our proposal.

It is also inaccurate that the application to rezone 92.5 acres must be connected to your consideration of MUTA, the Busseto Foods Rezone, and the West Area Specific Plan. If our council will simply deny the Elm Avenue Rezone Application, there would be no housing issue to resolve regarding the property at Elm Avenue.

We therefore ask that you would **not** choose to link your consideration of Plan Amendment Application No. P20-01665 to other issues in our community.

In addition to denying the Elm Rezone Application, we ask that you and your colleagues would join us in supporting the [Overlay](#) that would provide an option to the Elm Avenue land owners, that if accepted would give them the ability to move their property status from nonconforming to a conforming use without changing

the zoning of 92.5 acres. This would allow us to keep the current zoning as defined in the Southwest Specific Plan and position us to have industry at that location in the future that is not harmful to our community.

The [Overlay](#), which we have just released and attached to this email, was written by Mrs. Mary Curry, Dr. Venise Curry, Ms. Debbie Darden, Mr. Robert Mitchell, and Pastor B.T. Lewis II, with technical assistance from City of Fresno Planning Director, Jennifer Clark.

We should also note that approval of this [Overlay](#) in no way obligates any land owner in the city to use it as an option. It therefore does not impact any other properties in the city unless the land owner chooses to use it as an option. We do not want to mislead your colleagues into believing that it impacts land use in their districts. It would only be an available option, an option that will, however, work to bring a resolution to the Elm Avenue Rezone Application dispute.

We would love to discuss this proposal with you in detail and we look forward to your favorable consideration.

Sincerely,

Mary Curry, Concerned Citizens of Southwest Fresno
Dr. Venise Curry, M.D.
Debbie Darden, Golden West Side Planning Committee
Pastor B.T. Lewis II, Rising Star Missionary Baptist Church
Robert 'Bob' Mitchell, Golden West Side Planning Committee

<sent via email>

October 10, 2022

To the Honorable City council of the City of Fresno, CA.

Council President Nelson Esparza
Councilman Miguel Arias
Council Luis Chavez
Councilwoman Esmerelda Soria

Council Vice President Tyler Maxwell
Councilman Gary Bredefeld
Councilman Mike Karbassi

Dear City Council Members,

The residents signed below, respectfully request that you deny the Plan Amendment Application No. P20-01665. This plan amendment does not comply with the intent and vision of the Southwest Fresno Specific Plan. It is also not consistent with the City of Fresno General Plan goals and policies, and the addendum to the Program Environmental Impact Report which is inadequate.

Those who have signed on to this letter either live in Southwest Fresno or work in partnership with community leaders on various issues such as affordable housing, essential services, and the right to live free from industrial pollution with infrastructure that supports healthy lifestyles.

Historically, the City of Fresno has used its city's southern region as its dumping grounds for any type of land use that is not appropriate for its segregated northern Fresno communities, where affluent Caucasian citizens are the primary demographic. This City's segregation is no accident as this country's history of redlining, as well as discriminatory investment and development practices, have created the tale of two cities we have today.

As the city tries to right its racially divided and historical wrongs of the past, the Southwest Fresno Specific Plan emerged. It created a twenty-one member steering committee and engaged hundreds of community members. Throughout the two-year process, the committee and the community specifically stated that the heavy and light industrial land uses must stop being placed next to and within their African-American, Latino, and Hmong communities.

According to the CalEnviroScreen, a statewide tool evaluating socio-economic, public health, and pollution burden, Southwest Fresno ranks in the top 1% of city census tracts of the most polluted, heavily burdened areas with poor health outcomes in the state. Yet, this city's only priority continues to focus on the economic goals by way of industrial growth at the expense of Southwest families; rather than a comprehensive approach balancing quality jobs with upward mobility and creating healthy, complete communities.

The argument of more industrial jobs regardless of the source as the only solution is not and has not been the answer for improving the Southwest Fresno community. Jobs without living wages and benefits, upwards mobility, community benefits agreements, and

without proven mitigation measures will only continue to increase the equity gaps in communities of color. The City of Fresno should plan economic growth that will uplift Southwest Fresno and not continue to propose or approve land-use decisions that sacrifice the lives of communities of color.

The proposed amendment's findings of the Fresno Municipal Code wrongfully states the changes "seem to comply with the intent of the Vision for the SWFSP." Changing the zoning to Light industrial from Neighborhood Mixed Use does not comply with the vision nor the guiding principles of the SWFSP, Chapter 2 (Vision), Subsection B (Guiding Principles) of reducing, monitoring, and mitigating negative impacts of industrial uses; nor does it comply with prohibiting new industrial development; nor relocating new industrial development away from residential neighborhoods.

This plan amendment does the exact opposite of the stated purposes within the SWFSP. Chapter 2 (Vision), Subsection B (Guiding Principles) of the SWFSP states a guiding principle of increasing transparency and communication between government agencies, residents, and stakeholders. Upon reviewing the initial Public Hearing Notice Radius map, the planning department did the bare minimum of giving public notice to those within 1,000 feet of the planned zoning change. At 1,100 feet west of the project area lies the West Fresno Elementary and Middle schools and the beginning of two residential neighborhoods. Yet, these communities were not notified that the SWFSP they engaged in is at risk of reverting to its former unwanted zoning.

After the February 3, 2021 Planning Commission hearing, the Planning Commission directed the applicant to go back to the community and conduct true community outreach to receive the input from community members. Again, the outreach was minimal and only a one time community meeting was scheduled for March 1st. Any zoning amendments to the Southwest Fresno Specific Plan must engage and outreach to the entire community, not just the 500 homes surrounding this project area within 2000 feet.

The stakeholders and community members of the SWFSP fully understand the importance of a sound and vibrant economy for the city of Fresno and southwest Fresno. However, a generalized rezone of all 92 acres of these parcels will forgo the Southwest Fresno Specific plan's ability to continue to hold industrial development accountable. These businesses must work towards creating fewer to no impacts on the citizens that call Southwest Fresno home. The businesses within this area that were initially classified as light or heavy industrial zoning before the Southwest Fresno Specific Plan update, can still operate their business as usual. The purpose of Neighborhood Mixed-use in the SWFSP not only limits the future unhealthy environmental impacts on the community 1,100 feet away, but it also allows for the planning and investment in businesses that serve this community, like a grocery store in a food desert. To change zoning back to Light and future Heavy Industrial zoning opens this area of Southwest Fresno back up to the perpetual racist 'dumping' of high polluting industry on a community that is predominantly made up of citizens of color.

Moreover, an addendum for this project is inappropriate because the changes of a rezone from Neighborhood Mixed-Use to Light Industrial are more than technical and minor and have consequential health impacts on the neighborhoods and schools near it. The addendum to the final PEIR confirms that the San Joaquin Valley Air Pollution Control District (SJVAPCD) finds

that the air quality is out of extreme nonattainment based on the Federal standards. Yet this PEIR also counter-intuitively states that no significant impact will result from rezoning an area to Light Industrial, which will by definition cause more allowable polluting factors than Neighborhood Mixed Use zoning.

For our City Council to adopt the addendum to the Final Program Environmental Impact Report for the Southwest Fresno Specific Plan would be an egregious and blatant racist decision and an insult to the work that the residents and stakeholders of this city have put into the Southwest Fresno Specific Plan. It has already been proven that if you live in south Fresno, your life expectancy is 20 years less than the citizens that live in north Fresno. By approving the addendum to the SWFSP and the rezoning application, you are continuing to be a part of why that statistic perpetuates. We urge both the you **NOT** to approve these changes that are before you.

Sincerely,

Mary Curry, Concerned Citizens of Southwest Fresno

Dr. Venise Curry, M.D.

Debbie Darden, Golden West Side Planning Committee

Pastor B.T. Lewis II, Rising Star Missionary Baptist Church

Robert 'Bob' Mitchell, Golden West Side Planning Committee

BILL NO. ORDINANCE NO. -----

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADDING SECTION 15-1615 TO CHAPTER 15 OF THE FRESNO MUNICIPAL CODE CREATING THE CLEANER AND GREENER NEIGHBORHOOD INDUSTRY OVERLAY DISTRICT
THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 15-1615 is added to the Fresno Municipal Code as follows:

[SEC. 15-1615- Cleaner and Greener Neighborhood Industry Overlay District

A. Purpose. The purpose of the Cleaner and Greener Neighborhood District is to clarify and codify certain legal nonconforming uses, to allow existing uses, committed to the protection of public health and to promote a greater range of uses including green business practices in certain mixed use districts by utilizing the best available control technology that best serves the interest of public health.

B. Applicability. This overlay shall only be applied, through the rezone process, to parcels with mixed-use (MX) designations (NMX, CMX, RMX). It shall be used exclusively in areas which are or were previously zoned for industrial uses to promote and incentivize transition from these uses to non-industrial uses permitted in these mixed-use districts, while at the same time reducing negative public health impacts to surrounding communities from existing businesses.

Key Points:

1. This overlay is only applied through the rezone process
2. This ordinance shall not be used to add industrial uses outside of former industrially zoned property, nor for properties that are zoned to a mixed use district following the adoption of this ordinance.

C. Use Regulations.

1. Permitted Uses. Those uses permitted in the Base District, subject to the limitations and conditions set forth therein; and those uses identified below:

a. Public and Semi-Public Use Classifications

- i. Colleges and Trade Schools, Public or Private

b. Commercial Use Classification

- i. Animal Care, Sales and Services: *Veterinary Services*

- ii. Automobile/Vehicle Sales and Services: *Automobile Rentals; Automobile/Vehicle Sales and Leasing; Automobile/Vehicle Service and Repair, Minor; Washing, excluding large vehicle and equipment sales, service, and washing.*

c. Industrial Use Classification - Any new industrial uses from the list below shall achieve a net-reduction in specific measureable impacts for water use, energy use, traffic counts, noise, odor generation, PM 2.5 and nanoparticles, and light spill as compared to the project site's existing legally nonconforming industrial uses, as identified through project specific environmental studies completed in accordance with the California Environmental Quality Act (CEQA) guidelines for the purpose of protecting public health.

- i. Construction and Material Yards
- ii. Custom Manufacturing
- iii. Limited Industrial
- iv. Warehousing, Storage and Distribution: *Indoor Warehousing and Storage; Outdoor Storage; Personal Storage; Wholesaling and Distribution.*

d. Transportation, Communication, and Utilities Use Classifications

- i. Communication Facilities: *Antenna and Transmission Towers; Facilities within Buildings*
- ii. Freight/Truck Terminals and Warehouses
- iii. Utilities, Minor

2. Uses Subject to a Conditional Use Permit. Those uses permitted in the Base District, subject to the limitations and conditions set forth therein; and those uses are identified below. Any new conditionally permitted uses from the list below shall achieve a net-reduction in specific measureable impacts for water use, energy use, traffic counts, noise, odor generation, PM 2.5 and nanoparticles, and light spill as compared to the project site's existing legally nonconforming industrial uses, as identified through project specific environmental studies completed in accordance with the California Environmental Quality Act (CEQA) guidelines for the purpose of protecting public health.

- a. CRV Recycling Center
- b. Recycling Processing Facility
- c. Waste Transfer Facility
- d. Research and Development, excluding pharmaceutical, chemical and biotechnology
- e. Chemical and Mineral Storage
- f. General Industrial
- g. Light Fleet Based Services

3. Uses Not Permitted. Those uses not permitted in the Base District or listed above, subject to the limitations and conditions set forth Therein, and the following:

- a. Emergency Shelter
- b. Adult-Oriented Business
- c. Towing and Impound, Salvage and Wrecking
- d. Intensive Industrial
- e. Research and Development which entails pharmaceutical, chemical or biotechnology
- f. Airports and Heliports
- g. Agricultural Processing
- h. Agricultural Support Services
- i. Animal Raising
- j. Crop Cultivation
- k. Rendering
- l. Sales Lot, Feed Lot, Stockyard
- m. Cannabis Dispensaries
- n. Cotton ginning, wineries or alcohol fuel production
- o. Utilities, Major

D. Development Standards. Development Standards shall be required as follows:

- 1. For uses identified in the base district, the development standards of the base district apply.
- 2. For uses identified in this section, the development standards that apply to industrial Light uses will apply
- 3. Research and Development which utilizes parts produced off-site if such products include pharmaceutical, chemical or biotechnology will be prohibited
- 4. Expansions will not be permitted
- 5. Any additional measures as identified in the environmental assessment.
- 6. Covenants will be required for all new users under this section
 - a. Project specific content for the recorded covenant will be approved for a specific parcel once greener and cleaner overlay has been enacted
 - b. Recorded covenant will remain on property in perpetuity or until property fully transitions to permitted mixed uses within the underlying zone district
 - c. Recorded covenant shall incorporate all restriction and requirements of this section

SECTION 2: This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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