

Analysis of Concerns

Concern #1: Ample time was not provided to respond to the Notice of Intent to Take Action.

Response: *The City complied with the development code requirements for issuance of Development Permits and Planned Development Permits in accordance with Articles 52 and 59 of the FMC. Pursuant to FMC Section 15-5205, a public notice of Director's action is not required for Development Permits. Pursuant to FMC Section 15-5903 & 15-5305, Public Notice shall be provided 10 days prior to the date of Director's action for Planned Development Permits pursuant to Section 15-5007 of the FMC.*

As mentioned in the Public Notice and Input section of the staff report, The Planning and Development Department mailed a Notice of Intent to Take Action (Exhibit L) to surrounding property owners within 1,000 feet of the subject site on June 7, 2019, in accordance with FMC Section 15-5007. The Director of the Planning and Development Department approved the subject applications on June 26, 2019.

Concern #2: The applicant's AlleyWave alley parties have resulted in an abundance of trash being left in the alley and on the applicant's property where the parties were permitted; thus resulting in a formal complaint being filed.

Response: *According to City Staff, the applicant and/or representatives operating on behalf of the applicant were notified of the lingering trash and it was removed shortly thereafter.*

Concern #3: According to the protester, the protestor is currently building out the southernmost side of their building which includes the installation of windows that will look directly upon the applicant's property located on the southeast corner of Inyo and H Streets, where the outdoor stage and entertainment seating proposed under this development would be located. The protestor further states that the proposed use was not part of the City plan, nor did the protestor anticipate such a plan.

Response: *Staff could not find any records (plans or permits) to indicate the protestor is currently installing windows on the portion of their building that overlooks the applicant's property. Furthermore, even if windows were to be installed on the protestor's building, it would not overlook onto the proposed outdoor stage and entertainment seating areas.*

There are two outdoor dining/entertainment areas proposed under this application (Phase I & Phase III). The outdoor dining/entertainment areas will be located approximately 200 feet (Phase I) and 60 feet (Phase III) south from the protestor's property. Both of which will not offer a direct line of sight from the protestor's property. Furthermore, all of the proposed use are permitted by right by the Fresno Municipal Code and support

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numerous goals and policies contained in the Fresno General Plan and Downtown Neighborhoods Community Plan.

Concern #4: The protestor claims that Phase I of the proposed project aligns with the applicant's Temporary Use Permit and Special Event Permit for the AlleyWave alley parties. The protestor further claims that the applicant has violated conditions of approval for the existing Temporary Use Permit Application.

Response: *There is insufficient evidence to determine that the conditions of approval for the applicant's Temporary Use Permit (AlleyWave) have been violated. Furthermore, the AlleyWay alley parties were granted under separate permits and shall be treated as such. Therefore, the project as proposed shall be considered based upon its individual merits and not associated with perceived related uses granted under a separate permit.*

Concern #5: The protestor is concerned that the project does not propose enough parking spaces.

Response: *Pursuant to FMC Table 15-2407 (Required On-Site Parking Spaces, Downtown Districts), residential uses require 0.5 parking spaces per unit. Furthermore, no on-site parking spaces are required for all non-residential uses including restaurants, retail, and entertainment. The Phase II of the project includes 48 units and 45 onsite parking spaces which is more than the required 24 on-site parking spaces. In addition, the project will provide approximately 29 on-street parking spaces.*

Concern #6: The protestor provided photos of perceived drug use and underage drinking that occurred at one of the AlleyWave events. Furthermore, the protestor claims that 13 City of Fresno Police officers were called to the scene in response to a gang fight.

Response: *There is insufficient evidence to determine drug use and underage drinking occurred at the event. According to the Police Department, a gang fight did not occur. Additional officers were called to the scene as a proactive, preventative measure. Police say no arrests, no crimes occurred. Furthermore, the above mentioned concerns are related to a separate unrelated permit.*

Concern #7: The protestor has concerns with the lack of time constraints for the commencement of building out the phases of development and believes that further development will not occur after Phase I.

Response: *Pursuant to FMC Section 15-5014-B & C, for projects less than five acres in area or less than 100,000 sq. ft. of building area, all phases shall be*

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commenced within six years of the original project approval. Should the subsequent phases of development not commence within the specified periods, a new permit shall be required.