



Legislation Details (With Text)

File #: ID19-11145 **Version:** 1 **Name:**
Type: Ordinance **Status:** Mayor's Office
File created: 8/12/2019 **In control:** City Council
On agenda: 8/22/2019 **Final action:** 8/22/2019

Title: Consider Plan Amendment and Rezone Application No. P18-03582, Conditional Use Permit Application No. P18-03583 and Environmental Impact Report (EIR) State Clearinghouse (SCH) No. 2018111043 as part of a City-initiated Plan Amendment and Rezone pursuant to Fresno Municipal Code (FMC) Section 15-5803: (Council District 3)
 1. ***BILL NO. B-23 - (Intro. 8/15/2019) (For adoption) - Approving the Disposition Agreement and Development Agreement between the City of Fresno and Darling Ingredients Inc., pertaining to relocation and the transfer and development of real property to the southwest of the intersection of Jensen and Cornelia Avenues (Subject to Mayor's veto)

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. Exhibit U - Disposition Agreement and Development Agreement, 2. Late Submission - Exhibit Q - REVISED Ordinance Bill for the Disposition Agreement.pdf

Date	Ver.	Action By	Action	Result
8/22/2019	1	City Council	adopted	

REPORT TO THE CITY COUNCIL

August 22, 2019

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SUBJECT

Consider Plan Amendment and Rezone Application No. P18-03582, Conditional Use Permit Application No. P18-03583 and Environmental Impact Report (EIR) State Clearinghouse (SCH) No. 2018111043 as part of a City-initiated Plan Amendment and Rezone pursuant to Fresno Municipal

Code (FMC) Section 15-5803: (Council District 3)

1. *****BILL NO. B-23** - (Intro. 8/15/2019) (For adoption) - Approving the Disposition Agreement and Development Agreement between the City of Fresno and Darling Ingredients Inc., pertaining to relocation and the transfer and development of real property to the southwest of the intersection of Jensen and Cornelia Avenues (Subject to Mayor's veto)

RECOMMENDATIONS

Staff recommends that the City Council take the following actions:

1. **CERTIFY** Final EIR SCH No. 2018111043 for the Relocation of the Darling Rendering Plant; and,
 - a. ADOPT Findings of Fact as required by Public Resources Code Section 21082(a) and CEQA Guidelines, Section 15091; and,
 - b. APPROVE a Mitigation Monitoring and Reporting Program as required by Public Resources Code Section 21081.6 and CEQA Guidelines Section 15092; and,
 - c. ADOPT the Statement of Overriding Considerations as required by Public Resources Code, Section 21081(b) and CEQA Guidelines, Section 15093.
2. ADOPT RESOLUTION - Approving Plan Amendment Application No. P18-03582 proposing to amend the Fresno General Plan from the Public Facilities planned land use designation to the Heavy Industrial planned land use designation
3. ADOPT BILL (for introduction and adoption) - Approving Rezone Application No. P18-03582 proposing to amend the Official Zone Map to reclassify the subject property from the PI/UGM (*Public and Institutional/Urban Growth Management*) zone district to the IH (*Heavy Industrial*) zone district
4. APPROVE Conditional Use Permit Application No. P18-03583 proposing the construction of a new rendering facility on a vacant 40 acre portion of land located approximately 1200 feet south and 1800 feet west of the intersection of South Cornelia and West Jensen Avenues, subject to the Conditions of Approval dated August 7, 2019
5. ADOPT BILL (for introduction) - Approving the Disposition Agreement and Development Agreement between the City of Fresno and Darling Ingredients Inc., pertaining to relocation and the transfer and development of real property to the southwest of the intersection of Jensen and Cornelia Avenues

EXECUTIVE SUMMARY

The City-initiated Plan Amendment Application and Rezone Application No. P18-03582, and Conditional Use Permit Application No. P18-03583 pertains to approximately 40 acres of property (5449 West Jensen Avenue; APNs: 327-030-41T and 327-030-38T) near the Fresno-Clovis Regional Wastewater Treatment Plant (WWTP) to accommodate relocation of the existing Darling Rendering Facility, currently located on a 5.22 acre parcel on Belgravia Road between Church and East California Avenues in the southwest area of the city. The proposed project site is located to the east

of the Fresno-Clovis Regional Wastewater Reclamation Facility (RWRF) and to the southwest of a PG&E substation, approximately 1200 feet south and 1800 feet west of the intersection of South Cornelia and West Jensen Avenues within city limits, but not within city proper. (See Exhibit A, Vicinity Map and Exhibit B, Aerial)

The following describes the requested Plan Amendment, Rezone, Conditional Use Permit and Disposition Agreement and Development Agreement.

Plan Amendment Application No. P18-03582 proposes to amend the Fresno General Plan from the Public Facilities planned land use designation to the Heavy Industrial planned land use designation. (See Exhibit C, Planned Land Use Map)

Rezone Application No. P18-03582 proposes to rezone the subject property from the PI/UGM (*Public and Institutional/Urban Growth Management*) zone district to IH (*Heavy Industrial*) zone district. (See Exhibit D, Planned Zoning Map)

Conditional Use Permit Application No. P18-03583 proposes the construction of a new rendering facility on a vacant 40 acre portion of property located to the east of the WWTP. Operational capacity is proposed to expand from its current permitted processing limits from 850,000 pounds per day to a permitted maximum of 10 million pounds per week upon relocation.

Disposition Agreement and Development Agreement (“Agreement”) proposes to transfer approximately 20 acres located at the southwest portion of unimproved property owned by the City approximately 1200 feet south and 1800 feet west of the intersection of South Cornelia and West Jensen Avenues in the City of Fresno to Darling Ingredients, Inc. for the purpose of relocating their existing rendering plant. The Agreement also sets forth terms for the cessation of operations at the existing plant and construction and operation of a new rendering plant in accordance with Government Code Section 65864. (See Exhibit I, Disposition Agreement and Development Agreement)

BACKGROUND / ANALYSIS

Project Description

On November 26, 2018, and pursuant to FMC Section 15-5803, the City initiated the processing of **Plan Amendment Application No. P18-03582** proposing to amend the Fresno General Plan from the Public Facilities planned land use designation to the Heavy Industrial planned land use designation, **Rezone Application No. P18-03582** requesting authorization to rezone the subject property from the PI/UGM (*Public and Institutional/Urban Growth Management*) zone district to IH (*Heavy Industrial*) zone district, **Conditional Use Permit Application No. P18-03583** proposing the construction of a new rendering facility on a vacant portion of land, and the Agreement to transfer certain real property owned by the City to Darling Ingredients Inc. for the development of a new rendering plant to facilitate relocation of the existing plant.

The purpose of the Plan Amendment, Rezone, Conditional Use Permit and Agreement is to allow for the relocation of the existing Darling Rendering Facility located on a 5.22 acre parcel on Belgravia Road between Church Avenue and E Street in the southwest area of the city. The existing facility was constructed and began operation in 1956 as a slaughterhouse and packaging facility, and gradually transitioned to a rendering facility. The existing site was annexed to the city in 1971. Over the last 60

years, non-industrial urban uses were developed in the area surrounding the facility such that residential neighborhoods are now within one-quarter mile of the rendering plant, with some homes within 800 feet.

The Plan Amendment, Rezone, Conditional Use Permit and Agreement would allow for the plant to be relocated away from residential uses to approximately 40 acres of property near the Fresno-Clovis Regional WWTP, to the southwest of the intersection of West Jensen and Cornelia Avenues. The Agreement would transfer approximately 20 acres of the southwestern portion of City owned property and encumber the remaining acres with an option agreement in favor of Darling. In addition, the Agreement sets forth terms related to cessation of operations at the existing plant, and infrastructure, facilities, improvements, development fees and exactions, and the design review and permitting process for the new rendering plant.

The proposed development consists of four new buildings—a conversion facility, a truck shop, a maintenance shop, and an office building—with a total floor area of approximately 40,000 square feet (sf), which is approximately 12,200 sf larger than the existing facility. Excluding equipment, typical building height would be approximately 28 feet with a maximum building height of 45 feet. The tallest equipment would include two new 60-foot protein storage silos. The conversion facility would be a concrete pre-cast building, and the other three buildings would include metal, brick, or block veneer. All proposed development will comply with the regulations and guidelines of the Fresno Municipal Code (FMC).

The industrial activities related to the project would be similar to those of the existing Darling facility and would include an increase in processing capacity. Raw materials to be converted would be collected and delivered to the facility for processing 6 to 7 days per week. Processing would typically begin on Monday and run through Saturday or as needed Sunday. Approximately 60 to 70 full-time employees would work at the facility. Conditional approval of the project permits the proposed use subject to compliance with performance standards of the FMC, including mitigation measures identified in the Mitigation Monitoring and Reporting Program to ensure potential nuisances such as odor and noise comply with FMC standards.

Land Use Plans and Policies

Fresno General Plan

The Fresno General Plan includes goals, objectives, and policies which provide an emphasis on creating job opportunities, promoting and encouraging better quality of life for neighborhoods, and incentivizing a diversity of industries, while promoting industrial land use clusters for operational efficiencies.

Goal No. 1 of the Fresno General Plan encourages increased opportunity, economic development, business and job creation.

Goal No. 7 of the Fresno General Plan encourages the City to provide for a diversity of districts, neighborhoods, housing types (including affordable housing), residential densities, job opportunities, recreation, open space, and educational venues that appeal to a broad range of people throughout the City.

Goal No. 9 of the Fresno General Plan promotes a city of healthy communities and improve quality of

life in established neighborhoods.

Objective LU-1: Establish a comprehensive citywide land use planning strategy to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment.

Objective LU-7: Plan and support industrial development to promote job growth.

Policy LU-7-a: Incentives for a Diversity of Industries, Increased Food Processing and Manufacturing, and Related Employment Opportunities in Fresno. Use the City's Capital Improvement Program to set priorities for locations and timing of water, sewer, and transportation infrastructure investments by the City and initiate implementation programs to encourage development of targeted industries as identified under Policy ED-3-c, in employment land use areas designated on Figure LU-1: Land Use Diagram.

Policy LU-7-c: Efficiency of Industrial Uses. Promote industrial land use clusters to maximize the operational efficiency of similar activities.

- Provide access to a range of transportation modes through plans and incentives, ensuring that local, regional, and national connections are available;
- Develop a strategy to promote rail-accessible sites for industries that need such capability; and
- Ensure timely access to the full range of urban services for industrial development by coordinating proposed plans with the annual and long-range City infrastructure planning.

Policy HC-3-g: Residential Compatibility. Consider developing a program with community stakeholders to address compatibility of industrial and heavy commercial uses and zoning with established neighborhoods.

Policy ED-1-d: Strategic Land Regulation. Explore increasing the amount of land properly zoned, consistent with the General Plan, and ready to be expeditiously developed, redeveloped, and/or revitalized for economic development and job creation purposes. Establish a priority infill development program for sites and districts.

The proposed project meets the intent of many or all of the goals, objectives, and policies of the Fresno General Plan referenced herein above. The proposed relocation of the Darling Rendering Facility would not only result in the ability to increase operations, which is consistent with several of the economic development objectives and policies of the General Plan, it would also create a better quality of life for the residential neighborhoods currently within proximity to the existing facility. The proposed location would result in the Darling Facility being located near the WWTP facility and PG&E substation, surrounded by County agricultural lands and where no established neighborhoods exist, which meets the policies above in creating better compatibility between uses. In conclusion, the proposed plan amendment, rezone, conditional use permit and agreement are consistent with many of the goals and policies of the Fresno General Plan.

Council District Plan Implementation Committee

The Council District 3 Project Review Committee has not yet reviewed the project.

Planning Commission Hearing

The Planning Commission held a public hearing at its regularly scheduled meeting on July 17, 2019 to consider the Plan Amendment, Rezone, Conditional Use Permit applications, and Disposition Agreement and Development Agreement along with the Final EIR SCH No. 2018111043. The actions of the Planning Commission will be forwarded to the City Council.

Notice of City Council Hearing

The Planning and Development Department mailed notices of this City Council hearing to surrounding property owners within 1,000 feet of the subject property as well as all interested parties (see attached Noticing Vicinity Map - Exhibit E), pursuant to Section 15-5007-B-2 of the FMC..

ENVIRONMENTAL FINDINGS

Environmental Impact Report Process

The City, as the lead agency under the CEQA determined that an EIR was required for the proposed project. The firm of Ascent Environmental was hired by the City of Fresno to prepare the EIR. The EIR was assigned State Clearinghouse No. 2018111043.

The review and certification of the EIR involves the following procedural steps:

Notice of Preparation (NOP): Upon the City's determination that an EIR was required for this project, a NOP was made available to the general public and responsible trustee agencies to solicit input on issues of concern that should be addressed in the EIR. The NOP was issued on November 20, 2018 and the 30-day comment period on the NOP closed on December 19, 2018. The NOP included a project description, project location, and a brief overview of the topics to be covered in the EIR. Comment letters received from public agencies and private citizens were incorporated into the Draft EIR (DEIR).

Public Scoping Meeting: On November 28, 2018, the City held a project scoping meeting to which the Responsible and Trustee agencies as well as interested members of the public were invited, and which had been duly advertised in advance. Comments were received and these comments helped frame what environmental issues were addressed in the DEIR.

Notice of Completion (NOC): Upon completion of the DEIR, the City filed a NOC with the State Clearinghouse, Office of Planning and Research, to begin the public and agency review period.

Public Notice/Public Review: Concurrent with filing the NOC, the City provided public notice of the availability of the DEIR for public review, (by posting on the website, mailing to surrounding property owners and interested parties, and filing with the County Clerk on May 14, 2019), and invited comment from the general public, agencies, organizations, and other interested parties. The length of the public review period was 45 days, (from May 14, 2019 through July 8, 2019) during which time written comments on the DEIR were submitted to the City of Fresno.

Response to Comments: After the close of the public review period, the City prepared formal responses to the written comments received. A total of three written comments were received from agencies/organizations regarding the DEIR. As required by CEQA Guidelines, 15088(b), City

responses were sent to public agencies that submitted comments 10 days prior to City Council consideration of the EIR. The responses to comments were also made available on the City website 10 days prior to City Council consideration.

Final EIR (FEIR): A FEIR was prepared that includes the comment letters and responses to comments and errata (which clarifies/corrects language contained in the DEIR). The DEIR consists of one bound volume and a compact disc of the Appendices, which are incorporated as part of the FEIR.

Certification of the EIR: The Planning Commission will hold a public hearing to consider the adequacy and completeness of the EIR under CEQA and will make a recommendation to City Council regarding certifying the EIR and adopting the necessary Findings of Fact and Statement of Overriding Considerations. The Planning Commission will make a separate resolution regarding its recommendation on the consideration of Conditional Use Permit Application No. P18-03583.

Mitigation Monitoring and Reporting Program (MMRP): The Planning Commission will also make a recommendation to the City Council regarding adopting a program to implement the EIR's recommended mitigation measures to mitigate, avoid, or substantially lessen the significant impacts of the project. These measures will be fully enforceable through the conditions of approval for Conditional Use Permit Application No. P18-03583. The City of Fresno and the applicant will be responsible for ensuring that implementation of the mitigation measures occurs as required in the MMRP (Table 2-1 of Exhibit J of this staff report).

Environmental Impact Report Analysis and Conclusions

Project Objective: The City of Fresno is considering a general plan amendment (GPA) and rezone of approximately 40 acres of land near the Regional Wastewater Reclamation Facility to accommodate relocation of the Darling facility from its current location on Belgravia Ave just southwest of downtown. Twenty acres of this 40-acre property would be developed for the rendering plant, and the rendering plant would expand its current permitted processing limits from 850,000 pounds per day to 2 million pounds per day or more but would be limited to a permitted maximum of 10 million pounds per week rather than a daily maximum. The project would require a General Plan Amendment (GPA) to change the General Plan land use designation of land from Public Facility to Heavy Industrial, and a rezone of the same property from PI to Industrial - Heavy. The proposed Darling facility would also require a conditional use permit to operate within the IH zone, and a Disposition Agreement and Development Agreement (DADA) to facilitate construction of the proposed new rendering facility consistent with the GPA and rezone.

Impacts Analyzed

The EIR analyzed impacts to the following environmental areas:

- Aesthetics
- Agricultural Resources
- Air Quality
- Archaeological, Historical, and Tribal Cultural Resources
- Biological Resources
- Greenhouse Gas Emissions and Climate Change

- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Transportation/Traffic
- Energy

Based on the analysis in the Initial Study, Forestry Resources, Geology and Soils, Mineral Resources, Population and Housing, Public Services, Recreation, Utilities and Service Systems, and Wildfire were not analyzed because it was not reasonably foreseeable that the proposed Project would cause significant impact to those areas.

The EIR found potential impacts to the following areas: Aesthetics, Agricultural Resources, Air Quality, Archaeological, Historical, and Tribal Cultural Resources, Biological Resources, Greenhouse Gas Emissions and Climate Change, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Transportation/Traffic and Energy. The EIR includes recommended mitigation measures where needed (not in each area). The recommended mitigation measures were found to reduce impacts to less than significant with the exceptions of Agricultural Resources and Cumulative Impacts to Intersection Operations.

Agricultural Resources: The project would convert Prime Farmland and Farmland of Statewide Importance to a non-agricultural use. As part of the General Plan Update process, the City of Fresno General Plan Master Environmental Impact Report (MEIR) evaluated the potential for future development associated with the General Plan to result in impacts related to conversion of Important Farmland to non-agricultural use. The General Plan identified policies to reduce potential impacts to farmland conversion outside the city limits. Although the project site is on city-owned land and is within the city limits, it is not within the city proper and is surrounded primarily by agricultural uses. Because the project site is outside the city proper in an area dominated by farmland and agricultural operations, and the project would result in a permanent conversion of Important Farmland. This impact would be significant.

Mitigation Measure 4.3-1 of the MMRP, Farmland Preservation, would require that the applicant or City provide in-kind or similar resource value protection for land similar to the project site at a ratio of 1:1. The City will identify the type of easement to be used for mitigation and will determine the implementing agent for this mitigation. While implementation of Mitigation Measure 4.3-1 could reduce the impact on Important Farmland by preserving forever a similar acreage and type of farmland, once farmland is removed through development, it is irretrievably lost to future generations. Therefore, the impact would remain significant and unavoidable.

Cumulative Impacts to Intersection Operations: The study intersections of Jensen Avenue/Cornelia Avenue and Jensen Avenue/Brawley Avenue are forecast to operate at unacceptable levels (LOS E or F) during the p.m. peak hour under Cumulative and Cumulative Plus Project conditions. Furthermore, the addition of project generated trips would result in an increase in average delay of more than 5 seconds for individual movements at these unsignalized study intersections currently operating at an unacceptable level. Thus, the project would result in a cumulatively considerable contribution to a significant impact.

While Mitigation Measures 5-1a and 5-1b would result in fair share payment toward improvements that would reduce the impact at these intersections to a less than-significant level, because these intersections have not been identified for any planned or programmed future improvements and these intersections are outside of the City of Fresno's jurisdictional control, it cannot be guaranteed that these improvements would be implemented. Therefore, the project would have a potentially substantial contribution to a significant cumulative impact.

Project Alternatives

Pursuant to CEQA, the EIR considered a reasonable range of potentially feasible alternatives to the Project that could attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project and evaluated the comparative merits of those alternatives.

The specific alternatives analyzed were the following:

- 1. No Project Alternative** assumes no demolition of the existing structure nor construction of a new building. The project site would remain in its current condition.
- 2. Off-site Alternative** would involve relocating the rendering plant to an industrial parcel located near W. Nielsen Avenue and N. Hughes Avenue
- 3. No Expansion Alternative** would involve relocating the rendering plant to the proposed project site, but would not include expansion of facility operations.

Based on the project alternative analysis contained in the DEIR, the No Project Alternative would be the environmentally superior alternative because it would avoid all significant impacts. However, the No Project Alternative would not fulfill any of the stated project objectives discussed above.

When the environmentally superior alternative is the No Project Alternative, the State CEQA Guidelines (Section 15126[d][2]) require selection of an environmentally superior alternative from among the other action alternatives evaluated. Alternative 2: Off-Site Alternative would be the environmentally superior action alternative because it would avoid the significant and unavoidable impact on Important Farmland and reduce potentially significant impacts associated with biological resources associated with the project. However, this alternative would result in greater impacts on aesthetics, air quality, GHG emissions, noise, and traffic. In addition, Alternative 2 would not achieve the primary objective of the project to move the rendering plant farther from sensitive receptors.

LOCAL PREFERENCE

Local preference was not considered because this ordinance does not include a bid or award of a construction or service contract.

FISCAL IMPACT

Affirmative action by the Council will result in the City processing the application in compliance with the Disposition Agreement and Development Agreement.

Attachment:

Exhibit: City Council Ordinance Bill for the Disposition Agreement