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**On agenda:** 2/8/2018    **Final action:** 2/8/2018

**Title:** HEARING to Consider Plan Amendment Application No. A-16-017, Rezone Application No. R-16-18, Conditional Use Permit No. C-17-059, and related Environmental Assessment No. A-16-017/R-16-018/C-17-059, filed by Giorgio Russo, on behalf of Ginder Development. These applications pertain to approximately 2.41 acres of a 7.1-acre property located on the northwest corner of North Blythe and West Herndon Avenues. (Council District 2)

a. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059 dated December 1, 2017; including, the attached Addendum prepared in accordance with Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines dated December 15, 2017.

b. RESOLUTION - Approving Plan Amendment Application No. A-16-017 proposing to amend the Fresno General Plan and Bullard Community Plan from the Community Commercial planned land use designation to the General Commercial land use designation.

c. BILL - (For introduction and adoption) - Approving Rezone Application No. R-16-018 to rezone the subject property from the CC (Commercial - Community) to CG (Commercial - General) zone district.

d. APPROVE Conditional Use Permit Application No. C-17-059 requesting authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41-acre portion of the subject property that is proposed to be redesignated and rezoned.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A Vicinity Map, 2. Exhibit B Current Aerial Photograph of Site, 3. Exhibit C Public Hearing Notice Mailing List Vicinity Map, 4. Exhibit D Master Application, 5. Exhibit E Operational Statement, 6. Exhibit F Letter Modifying Application, 7. Exhibit G Proposed Land Use Map, 8. Exhibit H Proposed Rezone Map, 9. Exhibit I Plan Amendment, Rezone, CUP Findings, 10. Exhibit J EA No A-16-017 R-16-018 C-17-059, 11. Exhibit K Planning Commission Resolution Nos 13512 13513 and 13514, 12. Exhibit L City Council Resolution for Plan Amendment Application No. A-16-017, 13. Exhibit M City Council Ordinance Bill for Rezone Application No. R-16-018, 14. Exhibit N - Conditions of Approval dated December 20 2017

Date	Ver.	Action By	Action	Result
2/8/2018	1	City Council	adopted	Pass

**REPORT TO THE CITY COUNCIL**

**February 8, 2018**

**FROM:** JENNIFER K. CLARK, Director  
Development and Resource Management Department

**THROUGH:** MIKE SANCHEZ, Assistant Director  
Development Services Division

WILL TACKETT, Supervising Planner  
Development Services Division

**BY:** MARGO LERWILL, Planner III  
Development Services Division

## **SUBJECT**

HEARING to Consider Plan Amendment Application No. A-16-017, Rezone Application No. R-16-18, Conditional Use Permit No. C-17-059, and related Environmental Assessment No. A-16-017/R-16-018/C-17-059, filed by Giorgio Russo, on behalf of Ginder Development. These applications pertain to approximately 2.41 acres of a 7.1-acre property located on the northwest corner of North Blythe and West Herndon Avenues. (Council District 2)

- a. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059 dated December 1, 2017; including, the attached Addendum prepared in accordance with Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines dated December 15, 2017.
- b. RESOLUTION - Approving Plan Amendment Application No. A-16-017 proposing to amend the Fresno General Plan and Bullard Community Plan from the Community Commercial planned land use designation to the General Commercial land use designation.
- c. BILL - (For introduction and adoption) - Approving Rezone Application No. R-16-018 to rezone the subject property from the CC (*Commercial - Community*) to CG (*Commercial - General*) zone district.
- d. APPROVE Conditional Use Permit Application No. C-17-059 requesting authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41-acre portion of the subject property that is proposed to be redesignated and rezoned.

## **RECOMMENDATION**

Staff recommends that the City Council take the following actions:

1. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059 dated December 1, 2017; including, the attached Addendum prepared in accordance with Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines dated December 15, 2017.
2. ADOPT RESOLUTION approving Plan Amendment Application No. A-16-017 proposing to amend the Fresno General Plan and Bullard Community Plan from the Community Commercial planned land use designation to the General Commercial land use designation.
3. ADOPT BILL approving Rezone Application No. R-16-018 to rezone 2.41 acres of the subject property from the CC (Commercial - Community) to CG (Commercial - General) zone district.
4. APPROVE Conditional Use Permit Application No. C-17-059 requesting authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41-acre portion of the subject property that is proposed to be redesignated and rezoned.

## EXECUTIVE SUMMARY

Giorgio Russo of Ginder Development has filed Plan Amendment Application No. A-16-017, Rezone Application No. R-16-018, and Conditional Use Permit Application No. C-17-059 pertaining to approximately 2.41 acres of a 7.1-acre property located on the northwest corner of North Blythe and West Herndon Avenues. Plan Amendment Application No. A-16-017 proposes to change the planned land use designation for the 2.41-acre portion of the subject property from Community Commercial to the General Commercial planned land use designation.

Rezone Application No. R-16-018 requests authorization to rezone the same 2.41-acre portion of the subject property from the CC (Commercial-Community) zone district to the CG (Commercial General) zone district.

Conditional Use Permit Application No. C-17-059 requests authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41-acre portion of the subject property proposed to be redesignated and rezoned.

## BACKGROUND

Giorgio Russo of Ginder Development has filed Plan Amendment Application No. A-16-017, Rezone Application No. R-16-018, and Conditional Use Permit Application No. C-17-059 pertaining to approximately 2.41 acres of a 7.1-acre property located on the northwest corner of North Blythe and West Herndon Avenues. East of the subject property, across North Blythe Avenue, is a vacant parcel with a planned land use designation of Community Commercial and which has been approved for development of approximately 55,000 sq. ft. of commercial retail space, including a gas station. South of the subject property, across West Herndon Avenue, a Derrel's Mini Storage has been developed on a property designated for the Light Industrial land use, and multi-family residential housing has been developed on property designated as Residential Multi-Family, Medium High Density. West of the subject site, land designated as Commercial Office has been developed with a bank. North of the subject site, across North Blythe and West Spaatz Avenue, a number of parcels planned for the Commercial Community use remain vacant, though two have been developed with small office buildings. Northeast of the subject site, not directly adjacent, are the Sierra Sky Park Airport and the associated single family housing developed as part of the 130-acre Sierra Sky Park complex originally established in 1946.

Plan Amendment Application No. A-16-017 proposes to amend the planned land use designation for the 2.41-acre portion of the subject property from Community Commercial to the General Commercial planned land use designation. Rezone Application No. R-16-018 proposes to rezone the same 2.41-acre portion of the subject property from the CC (Commercial-Community) zone district to the CG (Commercial General) zone district in accordance with Plan Amendment Application No. A-16-017. Conditional Use Permit Application No. C-17-059 requests authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41 acre portion of the subject property proposed to be redesignated and rezoned. The remaining acreage would remain unchanged in regard to planned land use and zoning and would not be developed under this conditional use permit application.

### Land Use Plans and Policies

The proposed project aligns with objectives and policies found in the Fresno General Plan and the

Bullard Community Plan and is compatible with the Sierra Sky Park Land Use Policy Plan.

### *Fresno General Plan*

The Fresno General Plan designates the subject site for Community Commercial. Plan Amendment Application No. A-16-017 proposes to amend the planned land use designation for the 2.41-acre portion of the subject property from Community Commercial to the General Commercial planned land use designation. The proposed project is compatible with goals, objectives, and policies included in the Fresno General Plan, including:

Goal 3: Emphasize conservation, successful adaptation to climate and changing resource conditions, and performance effectiveness in the use of energy, water, land, buildings, natural resources, and fiscal resources required for the long-term sustainability of Fresno.

Goal 7: 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 8: Develop Complete Neighborhoods and districts with an efficient and diverse mix of residential densities, building types, and affordability which are designed to be healthy, attractive, and centered by schools, parks, and public and commercial services to provide a sense of place and that provide as many services as possible within walking distance.

Intentionally plan for Complete Neighborhoods as an outcome and not a collection of subdivisions which do not result in Complete Neighborhoods.

Goal 10: Emphasize increased land use intensity and mixed-use development at densities supportive of greater use of transit in Fresno.

Greater densities can be achieved through encouragement, infrastructure and incentives for infill and revitalization along major corridors and in Activity Centers.

Goal 11: Emphasize and plan for all modes of travel on local and Major Streets in Fresno.

Facilitate travel by walking, biking, transit, and motor vehicle with interconnected and linked neighborhoods, districts, major campuses and public facilities, shopping centers and other service centers, and regional transportation such as air, rail, bus and highways.

Objective UF-1: Emphasize the opportunity for a diversity of districts, neighborhoods, and housing types.

Policy UF-1-A: Diverse Neighborhoods. Support development projects that provide Fresno with a diversity of urban and suburban neighborhood opportunities.

Policy UF-1-F: Complete Neighborhoods, Densities, and Development Standards. Use Complete Neighborhood design concepts and development standards to achieve the development of Complete Neighborhoods and the residential density targets of the General Plan.

The proposed project is located within the City of Fresno Sphere of Influence and within Fresno city

limits in immediate proximity to existing infrastructure, is already served by Fresno Area Express Route 45 transit service, provides additional pedestrian connectivity, and would present residents with new commercial services and employment opportunities within walking distance. The project is consistent with Fresno General Plan goals emphasizing conservation of natural, built, and financial resources; diversity of districts; increased land use densities; complete neighborhoods; and improved opportunities for use of intermodal travel.

### *Bullard Community Plan*

Upon reviewing the policies contained in the Plan, staff has determined that there are no policies that are applicable or are more restrictive than those contained in the FMC.

### *Sierra Sky Park Land Use Policy Plan*

Pursuant to the Sierra Sky Park Land Use Policy Plan Map, the project site is located within the Primary Review Area and the Horizontal Surface, but is located outside of the identified Runway and Clear Zones as well as the Inner and Outer Approach Zones. Given that the project site is located outside of the runway, clear and approach zones, neither the proposed project nor uses thereon are subject to the airport/land use acceptability and safety compatibility criteria contained in Table II of the Sierra Sky Park Plan.

The subject property is located entirely outside all three airport/aircraft noise exposure contours (i.e. 60-65, 65-70 & 70-75 CNEL) identified within the Sierra Sky Park Land Use Policy Plan.

On June 5, 2017, the Airport Land Use Commission reviewed the proposed project and determined it was compatible with the Sierra Sky Park Land Use Policy Plan.

### Public Resources

The site is currently served by all City services. The site is currently vacant land substantially surrounded by developed urban uses. The proposed amendment and rezone will increase the allowable commercial uses to be developed on site. The Department of Public Utilities (DPU) has determined that adequate sanitary sewer and water services are available to serve the project site subject to implementation of the Fresno General Plan policies and the mitigation measures of the related Master Environmental Impact Report and the construction and installation of public facilities and infrastructure in accordance with Department of Public Works standards, specifications and policies.

Review for compliance with fire and life safety requirements for the interior of proposed buildings and the intended use are reviewed by both the Fire Department and the Building and Safety Services Section of the Development and Resource Management Department when a submittal for building plan review is made as required by the California Building Code.

The Fresno Metropolitan Flood Control District (FMFCD) has indicated that the subject site is not located within a flood prone or hazard area and the existing drainage system was designed with capacity to serve the proposed project. The developer will be required to provide improvements which will convey surface drainage to Master Plan inlets and which will provide a path for major storm conveyance.

### Circulation Element Plan Policies and Major Street System Traffic Capacity

The subject site is located on the northwest corner of North Blythe and West Herndon Avenues. In the Fresno General Plan Circulation Element, West Herndon Avenue is designated as an Expressway, which is classified by the Fresno General Plan as four- to six-lane divided (median island separation) roadways primarily serving through and crosstown vehicle traffic, with at-grade major street intersections located at approximately one-half mile intervals and no driveways for direct motor vehicle access to abutting property. North Blythe Avenue is designated as a collector street, which are generally two- to four-lane undivided (opposing travel lanes generally not separated by a median island) roadways with the primary function of connecting local streets and arterials and neighborhood traffic generators and providing access to abutting properties, with a projected volume capacity of approximately 13,000 ADT. The project will be required to construct all necessary street frontage improvements to City Standards.

The Public Works Department/Traffic Engineering Division has determined that, based upon the proposed traffic yield from and the expected traffic generation of the proposed project for the subject property, the proposed project will not adversely impact the existing and projected circulation system based upon implementation of the mitigation measures included within the MEIR and based upon compliance with the project specific mitigation measures referenced in the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059 dated December 1, 2017.

The project will be required to comply with the standard requirements, policies, and procedures of the Public Works Department, which generally include: (1) Adjacent public street improvements, and right-of-way dedications (including, but not limited to, construction and/or modification of curbs, sidewalks, trails, ramps and driveway approaches along adjacent public street frontages and on interior local streets); (2) Installation of underground street lighting systems; and, (3) Payment of applicable impact fees (including, but not limited to, the Traffic Signal Mitigation Impact (TSMI) Fee, Fresno Major Street Impact (FMSI) Fee, and the Regional Transportation Mitigation Fee (RTMF) Fee.

#### Council District Plan Implementation Committee

The District 2 Plan Implementation Committee unanimously recommended approval of the proposed applications at its regularly scheduled meeting held on November 13, 2017.

#### Public Input

The applicant held a neighborhood meeting at the hangar facilities at Sierra Sky Park Airport on Thursday, August 31, 2017 at 6:00 p.m., pursuant to Section 15-5805 and 15-5006 of the FMC. The meeting was noticed to 500 feet of the subject property. Approximately 55-60 members of the public were in attendance. At the time of the meeting, the proposed project included the entire subject property with a proposal to also amend the land use designation for and rezone the westernmost 4.66 acres for Residential Multi-Family Medium High Density use and to develop an 80-unit apartment complex. The residential portion of the project has since been removed from consideration. At the neighborhood meeting, topics discussed included concerns about increased traffic on North Blythe Avenue, the type of housing to be built and the target market for the development's residents, the type of commercial businesses that would likely locate within the commercial area of the proposed development, and local residents' concerns regarding added crime and light pollution.

DARM staff mailed notices of the November 15, 2017 Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property (Exhibit G) on Friday, November 3, 2017,

pursuant to Section 15-5007-B-2 of the FMC. Staff received two letters specifically opposing the residential component of what was then the proposed project, and numerous residents of the Sierra Sky Park area and citizens concerned with the preservation of the airport spoke in opposition to the project. The item was continued to December 20, 2017 to allow additional time for the applicant to work with neighbors on a project concept that would gain community support.

DARM staff mailed notices of the December 20, 2017 Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property (Exhibit G) on Wednesday, December 6, 2017. Staff received letters of protest from four additional Sierra Sky Park residents and the Experimental Aircraft Association and received two telephone calls from Sierra Sky Park residents conveying concerns about endangering the uniquely historical use of Sierra Sky Park by introducing new multi-family residents who would see the airport development as a nuisance.

Per a letter received by the Development and Resource Management Department on December 14, 2017, the applicant decided to modify the original application to include only the commercial portion of the proposed project on 2.41 acres. This effort was intended to alleviate opposition to the proposed project after additional meetings between the applicant and the members of the Sierra Sky Park Property Owners Association (SSPPOA) and their legal counsel. At the December 20, 2017 Planning Commission hearing, no one spoke in opposition of the revised project applications, and legal counsel for the SSPPOA spoke in support of the applications as they are presented at this hearing.

This hearing was noticed by mail to all property owners with 1,000 feet.

#### Fresno City Planning Commission Action

Plan Amendment Application No. A-16-017, Rezone Application No. R-16-018, Conditional Use Permit Application C-17-059, and Environmental Assessment (EA) No. A-16-017/R-16-018/C-17-059 dated December 1, 2017; including, the attached Addendum prepared in accordance with Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines dated December 15, 2017, were considered by the Planning Commission on December 20, 2017.

No members of the public spoke in opposition to the revised project. Legal counsel for the SSPPOA spoke in support of the applications as they are presented at this hearing. After a complete hearing, the Commission voted and recommended the City Council approve the proposed plan amendment, rezone, and conditional use permit applications by a unanimous vote.

Staff is recommending the City Council approve the proposed plan amendment and rezoning of the subject property as well as the conditional use permit and proposed development thereon in accordance with the recommendations included within this report herein above.

#### Plan Amendment and Rezone Findings

Based upon analysis of the application and subject to the applicant's compliance with all of the conditions of approval noted, staff concludes that the following required findings of Section 15-5812 of the FMC can be made. These findings are attached as Exhibit I.

### **ENVIRONMENTAL FINDINGS**

An environmental assessment was prepared for this project in accordance with the requirements of

the California Environmental Quality Act (CEQA) Guidelines. Based upon the attached environmental assessment and with the project specific mitigation imposed, staff has determined that there is no substantial evidence in the record that the project may have a significant direct, indirect, or cumulative effect on the environment and has prepared a mitigated negative declaration for this project. A public notice of the attached mitigated negative declaration finding for Environmental Assessment No. A-16-017/R-16-018/C-17-059 was originally published on November 10, 2017 pursuant to Section 15072 of the CEQA Guidelines.

However, because a holiday prevented the Notice of Intent to Adopt a Mitigated Negative Declaration from being filed with the Fresno County Clerk until November 13, 2017, staff noticed and filed the environmental assessment again on December 1, 2017, extending the public comment period through December 26, 2017 to avoid confusion over the initial date conflict and to ensure the full comment period was afforded for public feedback.

Section 15073.5 of the CEQA Guidelines provides that a lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption.

Due to the modifications to the project which have been proposed by the applicant, the City of Fresno has prepared an Addendum dated December 15, 2017 pursuant to Section 15073.5 of the CEQA Guidelines.

The Mitigated Negative Declaration dated December 01, 2017, which was prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059, was tiered from the Fresno General Plan Master Environmental Impact Report (MEIR SCH#2012111015) and identified potential impacts associated with the proposed project as evaluated within the associated initial study. The initial study provided an evaluation with respect to each item on the attached environmental checklist to determine whether this project may cause any additional significant effect on the environment which was not previously examined in the MEIR.

The proposed project was determined to be a subsequent project that is not fully within the scope of the MEIR SCH No. 2012111015 as provided by the CEQA, as codified in the Public Resources Code (PRC) Section 21157.1(d) and the CEQA Guidelines Section 15177(c).

All applicable mitigation measures of SCH No. 2012111015 have been applied to the project, together with project specific mitigation measures, as necessary to assure that the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by SCH No. 2012111015 as provided by CEQA Section 15178(a). In addition, pursuant to Public Resources Code, Section 21157.6(b)(1), staff has determined that no substantial changes have occurred with respect to the circumstances under which the MEIR was certified and that no new information, which was not known and could not have been known at the time that the MEIR was certified as complete, has become available.

Furthermore, no new information, which was not known and could not have been known at the time that the Mitigated Negative Declaration was prepared has become available providing substantial evidence that the project will result in significant effects not discussed in the initial study; or, that any significant effects previously examined may be substantially more severe.

For purposes of the Addendum, the City of Fresno has determined that there are no aspects of the

modifications to the proposed project that will result in a new, avoidable significant effect for which mitigation measures or project revisions must be added in order to reduce the effect to insignificance. Furthermore, the City of Fresno, as lead agency, has determined that the previously proposed mitigation measures (included with the Mitigated Negative Declaration dated December 01, 2017, which was prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059) will reduce potential effects to less than significance and that no new mitigation measures or project revisions must be required.

Therefore, based upon the evidence in the record, the project will not have a significant impact on the environment and that the filing of a Mitigated Negative Declaration is appropriate in accordance with the provisions of CEQA Section 21157.5(a)(2) and CEQA Guidelines Section 15178(b)(1) and (2). Therefore, the Development and Resource Management Department proposes to adopt the Mitigated Negative Declaration and attached Addendum, including its findings, for the proposed project.

## **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 timely deliverance of the review and processing of the applications as is reasonably expected by the applicant. Prudent financial management is demonstrated by the expeditious completion of this land use application inasmuch as the applicant has paid to the city a fee for the processing of this application and that fee is, in turn, funding the respective operations of the Development and Resource Management Department.

### **Attachments:**

- Exhibit A: Vicinity Map
- Exhibit B: Current Aerial Photograph
- Exhibit C: Public Hearing Notice Mailing List Vicinity Map
- Exhibit D: Master Application
- Exhibit E: Operational Statement
- Exhibit F: Letter Modifying Application
- Exhibit G: Proposed Planned Land Use Map pursuant to Plan Amendment Application No. A-16-017
- Exhibit H: Proposed Rezone exhibit pursuant to Rezone Application No. R-16-018
- Exhibit I: Plan Amendment, Rezone, and Conditional Use Permit Findings
- Exhibit J: Environmental Assessment No. A-16-017/R-16-018/C-17-059, finding of a Mitigated Negative Declaration dated December 1, 2017, amended December 15, 2017.
- Exhibit K: Planning Commission Resolution Nos. 13512, 13513, and 13514
- Exhibit L: City Council Resolution for Plan Amendment Application No. A-16-017
- Exhibit M: City Council Ordinance Bill for Rezone Application No. R-16-018
- Exhibit N: Conditions of Approval dated December 20, 2017