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**Title:** Consider Development Permit Application No. P18-03316, Variance Application No. P18-03317, and Tree Removal Permit Application No. P18-03371 filed by the City of Fresno Public Works Department pertaining to approximately ±1.5-acres of area for construction of an access roadway, a surface parking lot for approximately 40 vehicle spaces, public restrooms, picnic areas and landscape as part of the greater Lewis S. Eaton Trail network located at 8090 North Palm Avenue. (Council District 2 - Brandau)

1. APPROVE Findings of Fact and adopt a Mitigation Monitoring and Reporting Program in accordance with the California Environmental Quality Act as a responsible agency to a previously certified Environmental Impact Report (State Clearinghouse No. 2014061017).
2. APPROVE Development Permit Application No. P18-03316 requesting authorization for the construction of an access roadway, a surface parking lot for approximately 40 vehicle spaces, public restrooms, picnic areas and landscape as part of the greater Lewis S. Eaton Trail network, subject to compliance with the Conditions of Approval dated December 5, 2018. This project would provide public access to the San Joaquin River at North Palm Avenue through the existing Spano Park located at 8090 North Palm Avenue. Due to the steep terrain, the access roadway would span several parcels and require grading at the San Joaquin River bluff in order to safely provide access to the proposed surface parking lot below the bluff.
3. APPROVE Variance Application No. P18-03317 requesting authorization to allow construction and grading on the San Joaquin River bluff.
4. APPROVE Tree Removal Permit Application No. P18-03371 requesting authorization for the removal of up to twelve (12) trees during construction of the proposed project. Trees will be replaced at a ratio of five trees of similar species for every one tree removed.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Location Map and Aerial Photo, 2. Exhibit B - Conceptual Project Plans, 3. Exhibit C - Conditions of Approval, 4. Exhibit D - Project Information, 5. Exhibit E - Bordering Property Information, 6. Exhibit F - Draft EIR, 7. Exhibit G - Recirculated EIR, 8. Exhibit H - Planning Commission Resolution, 9. Exhibit I - Supplemental Traffic Study, 10. Exhibit J - District 2 Project Review Committee Voting Record, 11. Exhibit K - Planning Commission Hearing Notice, 12. Exhibit L - FMC Findings

Date	Ver.	Action By	Action	Result
12/5/2018	1	Planning Commission		

**REPORT TO THE PLANNING COMMISSION**

**December 5, 2018**

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

**BY:** RICKY CAPERTON, Supervising Planner  
Development Services Division

**SUBJECT**

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**EXECUTIVE SUMMARY**

The City of Fresno Public Works Department has filed Development Permit Application No. P18-03316, Variance Application No. P18-03317, and Tree Removal Permit Application No. P18-03371 pertaining to approximately ±1.5-acres of area for construction of an access roadway, a surface parking lot for approximately 40 vehicle spaces, public restrooms, picnic areas and landscape as part of the greater Lewis S. Eaton Trail network (Eaton Trail). This project would provide public access to the San Joaquin River at North Palm Avenue through the existing Spano Park located at 8090 North Palm Avenue (see Exhibit A and Exhibit B). Due to the steep terrain, the access roadway would span several parcels and require grading at the San Joaquin River bluff in order to safely provide access to the proposed surface parking lot below the bluff. Variance Application No. P18-03317 is required in order to allow construction and grading on the San Joaquin River bluff. Tree Removal Permit Application No. P18-03371 is required because bluff modifications will require the removal of five trees to accommodate the project.

Staff supports approval of these applications subject to conditions of approval dated December 5, 2018 (see Exhibit C).

## **Project Information**

Project information such as applicant, project location, site size, land use and zoning information, and other general project information can be found in Exhibit D.

## **Bordering Property Information**

Bordering property information such as the existing and planned land use designations, as well as the existing zoning districts surrounding the subject property can be found in Exhibit E. In general, with the exception of the office complex located directly adjacent to Spano Park, the project area is surrounded by vacant undeveloped parcels consisting of low-lying shrubs and sparsely planted trees.

## **ENVIRONMENTAL FINDINGS**

A Draft Environmental Impact Report (EIR) (State Clearinghouse No. 2014061017) was prepared by the State of California San Joaquin River Conservancy (Conservancy) in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines (Exhibit F).

This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations. The 45-day public review period for the Draft EIR occurred February 15, 2017 to April 15, 2017. Following public comments, the Conservancy revised and recirculated portions of the Draft EIR (Exhibit G) (i.e. Section 3.11, Land Use and Planning; Section 3.17, Transportation; Section 4.2, Environmental Justice - Disadvantaged Communities; and Chapter 5, Alternatives, including the addition of Section 5.11, Alternative 5B) to include alternatives, including Alternative 5B-North Palm Access, which is the subject of the proposed project. The recirculated EIR was released for public review and comment from August 17, 2017 to October 2, 2017. On November 15, 2017 under Resolutions 17-01 and 17-02, the Conservancy certified the EIR and approved the River West Eaton Trail Expansion Project. Relevant documents may be found at the San Joaquin River Conservancy website at <http://sjrc.ca.gov/Eaton-Trail-Extension-EIR/>.

The revised and recirculated EIR which evaluated Alternative 5B, the subject of the proposed project, identified mitigation measures to mitigate potential environmental impacts related to the proposed project. These mitigation measures are provided in the Mitigation Monitoring and Reporting Program (MMRP), dated November 15, 2017. On December 13, 2017 under Resolution 17-02a, the Conservancy approved Alternative 5B which calls for a parking lot and access to the San Joaquin River at the location proposed by the project, including compliance with mitigation measures included in the related MMRP.

The City of Fresno is a "Responsible Agency" under CEQA, and therefore may rely on the previously prepared EIR and supporting materials subject to the requirements of CEQA Guidelines Section 15096. The City has considered the environmental effects of the project as shown in the previously certified EIR and adopts the MMRP and findings of fact as part of the Planning Commission Resolution contained in Exhibit H.

Based upon the environmental assessment prepared and certified by the Conservancy on November 17, 2017, including the recirculated portions of the EIR, staff has determined, in its own independent

judgement, that the project is consistent with the previously prepared and certified EIR and that there is no substantial evidence in the record that the project may have potential environmental impacts beyond what was previously analyzed in the EIR. Therefore, no further or additional analysis is necessary subject to approval of the findings of fact and MMRP provided in Exhibit H.

## BACKGROUND

### Project History

The proposed project, which is described in more detail below, is part of the greater River West Eaton Trail Extension Project by the Conservancy. The proposed project is intended to extend the existing Lewis S. Eaton Trail by constructing a multi-use trail extension to provide increased opportunity for recreation along the San Joaquin River, consistent with the *San Joaquin River Parkway Master Plan*.

As part of the Eaton Trail Extension Project, an EIR was prepared by the Conservancy, as described above. As part of the EIR process, CEQA requires consideration of alternatives and one of the alternatives considered providing public access to the San Joaquin River through Spano Park (Alternative 5B) in order to provide residents of nearby disadvantaged communities and other communities greater access to the river for recreational activities. As such, Development Permit Application No. P18-03316, Variance Application No. P18-03317, and Tree Removal Permit Application No. P18-03371 would facilitate implementation of this alternative.

### Project Description

**Development Permit Application No. P18-03316** proposes construction of a public access roadway, surface parking lot, picnic areas, public restrooms, and landscape through Spano Park, providing access to the San Joaquin River bottom. **Variance Application No. P18-03317** is required to allow grading and modification to the existing landscape within the Bluff Preservation Overlay district. The variance is required to implement the proposed project by allowing modification to the river bluff in order to facilitate construction of a roadway at a grade safe for public access to the surface parking lot at the river bottom as a result of the steep terrain and topography. **Tree Removal Permit Application No. P18-00371** is required to allow the removal of up to twelve (12) trees to accommodate the proposed access road. Trees will be replaced at a ratio of five trees planted in place of every one tree removed.

## ANALYSIS

### Citywide Development Code

#### Development Permit

Because the proposed project includes access, picnic facilities, and other facilities related to providing access to the San Joaquin River as part of the Lewis S. Eaton Trail network, the proposed project is considered a Public Park and Recreation Facility use which is a permitted within the OS (*Open Space*) and PR (*Parks and Recreation*) zone districts. The Public Park and Recreation Facilities use is defined under the Fresno Municipal Code (FMC) as parks, playgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, all of which are noncommercial. This classification also includes noncommercial playing fields, courts, gymnasiums, swimming pools,

picnic facilities, tennis courts, golf courses, and botanical gardens, as well as related food concessions or community centers within the facilities. As part of the Development Permit, findings under FMC Section 15-5206 shall be made. Staff has determined that the findings of this section can be made, as shown in Exhibit H.

### **Variance**

Article 55 of the FMC outlines the process for a variance within the City. A variance is being requested as part of the proposed project because the project location is within the Bluff Preservation (BL) Overlay district (formerly the BP overlay district). Requirements for development within the BL Overlay district are included in Article 16, Section 15-1603. Specifically, Section 15-1603-G states that no alteration or modification of the existing landscape, including grading or alteration of existing topography, or construction of any structures shall be permitted on the bluff face or air space above it.

However, a variance would allow for a deviation from this requirement subject to the findings of Section 15-5506. Staff has determined that the findings of this section of the FMC can be made, as shown in Exhibit H.

### **Tree Removal Permit**

As mentioned above, the project proposes the removal of up to twelve (12) trees to accommodate the access roadway. In order to remove the trees, a tree removal permit is required per the FMC.

Article 23, Landscape, Section 15-2308-D, Tree Removal/Permit Application Requirements, of the FMC outlines the regulations and process related to the removal of trees within the City. In general, this section of the FMC requires that a tree removal permit application shall contain a written explanation of why the trees should be removed; a tree survey; photographs of the trees; arborist report; and other information. However, Section 15-2308-D-1.b allows for the Director to modify or waive the requirements of this section if deemed appropriate. As such, given that the proposed project would provide a public benefit by allowing access to the River bottom, and because the tree removal was previously addressed in the EIR prepared and certified by the Conservancy and included that trees will be replaced at a ratio of 5:1, the Director has waived these requirements. Further, the FMC requires a replacement of trees ranging from two to four replacement trees based on the size of every one tree removed. Thus, the replacement ratio of 5:1 exceeds the FMC standards for providing replacement trees.

### **Traffic**

The Draft and Recirculated EIR analyzed traffic conditions based on a Supplemental Traffic Study Memorandum dated August 14, 2017, and studied among other things, the intersections of Palm Avenue/Nees Avenue and Del Mar Avenue/Audubon Drive in regards to implementation of Alternative 5B (the proposed project). The recirculated EIR determined that although traffic delays could increase at the Del Mar Avenue/Audubon Drive intersection under 2025 traffic conditions, the delay in traffic is acceptable per City of Fresno cumulative impact standards which allows for up to an additional five second delay before being considered a significant impact. The additional traffic delay from the proposed project would be a nominal increase of 0.5 seconds in the AM peak hour and 0.9 seconds in the PM peak hour, thus would not be a significant traffic impact. The Supplemental Traffic Study is included as Exhibit I.

## Land Use Plans and Policies

The proposed project aligns with objectives and policies found in the Fresno General Plan, Bullard Community Plan, and the San Joaquin River Parkway Master Plan.

### *Fresno General Plan*

The proposed project is compatible with the following goals, objectives, and policies included in the Fresno General Plan supporting additional opportunities for access to recreational activities.

**Policy POSS-6-a: San Joaquin River Parkway Master Plan.** Support the San Joaquin River Conservancy in its efforts to update the San Joaquin River Parkway Master Plan by working with the other jurisdictions and the River Conservancy to create a comprehensive and feasible plan for preservation, conservation, and Parkway development.

**Objective POSS-7:** Support the San Joaquin River Conservancy in its collaborative, multiagency efforts to develop the San Joaquin River Parkway.

**Policy POSS-7-g: San Joaquin River Parkway - River West Fresno Project Area.** Support the extension of the Lewis Eaton Trail into the River West Fresno Project Area consistent with the San River Parkway Master Plan and the following criteria:

- Public access into the River View Drive Area/Neighborhoods should be limited to cyclists and pedestrians with the exception of public safety, circulation, and/or other governmental/support service provider vehicles.
- Proposed public parking facilities should be designed in order to accommodate as many vehicles as possible.
- Additional public parking should be located under and/or adjacent to the old San Joaquin Bridge and State Route 41 corridor.
- The feasibility of additional public parking and equestrian trailer parking near Spano Park should be considered and fully evaluated.
- The location of public parking should not conflict with other recommendations in this policy.
- The trail alignment should, at the greatest extent possible, be located along and/or near the river for maximum public enjoyment, view and access to the river by all users, and to allow for the best possible fire and public safety buffer for adjacent property owners while also taking into consideration environmental impacts, design and maintenance costs, historical and required water flows and flooding, and/or other events that result in increases to water levels.
- Full development or public access should be avoided until adequate and sustainable funding needed to support annual operations and maintenance has been identified.
- The San Joaquin River Bluff and Protection Ordinance should be implemented prior to the completion of the project.

**Policy POSS-7-h: Interlink City and San Joaquin River Parkway Trail Networks.** Strive to connect the parkway trail network to other trails in the vicinity, in order to create a community and regional trail system that offers a variety of different route combinations and enhances public access to the parkway.

**Policy POSS-7-i: Public Access to San Joaquin River Parkway Trail Networks.** Strive to provide public access to the parkway from public streets, roads, and rights-of-way immediately adjacent to

parkway properties, facilities, and trails such as those proposed in Figure POSS-2: San Joaquin River

Parkway Path and Trail Access Points, Figure MT-2: Paths and Trails, as well as several public right-of-way alignments identified in Figure MT-1: Major Street Circulation Diagram, which could serve as public access points for vehicles, bicycles, equestrians and/or pedestrians.

**Policy MT-6-b: Multi-Agency Planning for Paths and Trail System.** Continue to participate in multi-agency planning and implementation partnerships for the coordinated development of the Fresno-Clovis Metropolitan Area planned path and trail system and with Madera County for the San Joaquin River Parkway trail system.

**Policy MT-6-c: Link Paths and Trails and Recreational Facilities.** Strive to provide path or trail connections to recreational facilities, including parks and community centers where appropriate, and give priority to pathway improvements within neighborhoods characterized by lower vehicle ownership rates and lower per capita rates of parks and public open space.

**Policy MT-6-h: Preference for Public Ownership.** Avoid path and trail alignments that involve private ownership of sections of public path or trail right-of way. Use the Director Determination process, if necessary, to adjust planned path or trail rights-of-way to avoid these situations by realigning along more visible, publicly owned routes.

**Policy MT-6-i: Path and Trail Design Standards.** Designate and design paths and trails in accordance with design standards established by the City that give consideration to all path and trail users (consistent with design, terrain and habitat limitations) and provide for appropriate widths, surfacing, drainage, design speed, barriers, fences, signage, visibility, intersections, bridges, and street cleaning.

As described above, there are several objectives and policies encouraging and requiring greater public access to the San Joaquin River through increased trails, pathways, and linkages. The proposed project provides a new point of access to the River bottom which is consistent with the objectives and policies of the Fresno General Plan which specifically identifies the project site (Figures POSS-2 and MT-2 of the Fresno General Plan) as a planned path/trail. Further, many of the General Plan policies require and encourage multiagency coordination in order to provide greater access to the River, and the project is a coordinated effort between the City, Fresno Metropolitan Flood Control District, and the San Joaquin River Conservancy.

### *Bullard Community Plan*

The Bullard Community Plan was adopted in 1988. The Bullard Plan area consists primarily of single-family residential development, with areas of retail commercial development in the form of shopping centers, as well as some office development along West Shaw Avenue, Palm Avenue, and Herndon Avenue. In addition, the Bullard Community Plan Area contains a significant portion of the San Joaquin River and bluffs. Thus, this Plan Area provides an opportunity for public access and enjoyment of the River bottom.

Upon reviewing the policies contained in the Bullard Community Plan related to the San Joaquin River and bluffs, staff has determined that the proposed project is compatible with goals and policies included in the Bullard Community Plan, including:

### 5.1.2 Goals.

It shall be the goal of the City of Fresno to:

1. Minimize the loss of life and property in the riverbottom and bluffs due to flooding and geologic hazards.
2. Provide for substantial public access to the riverbottom and bluff area while minimizing intrusion on existing residences and other activities on private property.
3. Provide for substantial public recreational opportunities in the riverbottom.
4. Preserve the river bluffs as a unique geological feature in the San Joaquin Valley.
5. Allow for the continuance of open space uses in the riverbottom such as mineral extraction, agriculture and golf course.
6. Preserve the remaining riparian lands in the riverbottom as a unique environmental feature in California.

### 5.1.3 Policies/Implementation Measures.

It shall be the policy of the City of Fresno to:

1. Maintain the multi-use/recreational open space plan designations in the riverbottom.
3. Support the concept of a river parkway system for the riverbottom, in coordination with Fresno County, Madera County, public interest groups, property owners and the State of California.
5. Work towards the establishment of a precise alignment for the San Joaquin Bluffs/River Trail as part of the river parkway concept.

Given that the proposed project would provide for public access and recreational opportunities at the riverbottom, and preserves the overall open space nature of the area, the project is consistent with the goals and policies of the Bullard Community Plan.

### *San Joaquin River Parkway Master Plan*

The San Joaquin River Parkway is a planned 22-mile regional natural and recreation area along the San Joaquin River extending generally from Friant Dam to Highway 99. The San Joaquin River Parkway Master Plan (Master Plan) is the Parkways plan for outlining goals and policies for a multi-use trail encouraging opportunities for low-impact recreation. The San Joaquin River Conservancy (SJRC) is an agency of California and is the lead agency responsible for the Master Plan and its implementation. The Master Plan was originally adopted in 1997 and updated recently in 2017.

The City of Fresno is a partner part of the governing board of the SJRC. Upon reviewing goals and policies of the updated Master Plan, staff has determined that the project is consistent with the goals and policies of the Master Plan.

The Public Access and Recreation section of the Master Plan outlines several goals encouraging efforts to provide river access and high quality recreation areas and facilities, and ensuring access to all segments of the population and to all residents of the region. This goal is further supported by the following policies included in the Master Plan.

**Policy ACCESS.1:** Acquire, through purchase, easements, or other mutually satisfactory transactions, land for recreation areas and the expansion of existing parks and recreation areas.

**Policy ACCESS.5:** Coordinate with local land use agencies to provide public access points where public roads and the Parkway meet.

**Policy ACCESS.19:** Provide sufficient on-site parking at each public recreational facility for the desired usage level during peak periods and to meet the parking recommendations of the affected local jurisdiction. [Include landscaping to limit parking areas' visual impacts on the adjacent natural areas and residences, while ensuring safety and security for users.

**Policy ACCESS.39:** Install and properly maintain restrooms, including vault toilet restrooms in areas where septic systems and community wastewater connections are infeasible, in easily accessible locations, such as parking areas, trailheads, and public use areas.

## **PUBLIC INPUT AND NOTICING**

### **District 2 Plan Implementation Committee**

The District 2 Project Review Committee reviewed the proposed project on November 13, 2018 and voted to recommend approval of the project (Exhibit J).

### **Notice of Planning Commission Hearing**

DARM staff mailed notices of this Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property (Exhibit K) on Friday, November 9, 2018, pursuant to Section 15-5007-B-2 of the FMC. In addition, the notice was emailed to a list of recipients who have previously expressed interest in this project. The list of email recipients of the Planning Commission hearing notice is also included Exhibit L. Following the mailing of the notice on November 9, 2018 for the November 21, 2018 Planning Commission hearing, the item was moved to the December 5, 2018 and a revised notice was mailed to the same recipients on November 16, 2018 indicating the new date of Planning Commission hearing. The revised notice is also included in Exhibit L.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings of Section 15-5206 for the Development and Permit, and Section 15-5506 for the Variance of the FMC can be made. These findings are attached as Exhibit L.

## **CONCLUSION**

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan and the Woodward Park Community Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Development Permit Application No. P18-03316, Variance Application No. P18-03317, and Tree Removal Permit Application No. P18-03371 are appropriate for the subject property. Action by the Planning Commission will be a recommendation for approval of Development Permit Application No. P18-03316, Variance Application No. P18-03317, Tree Removal Permit Application No. P18-03371, and approval of findings of fact and adopting the MMRP as a responsible agency to a previously prepared EIR.

Attachments:

- Exhibit A - Location Map and Aerial Photo
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