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**Title:** HEARING to Consider Rezone Application No. P19-04890, Development Permit Application No. P19-02898; and related Environmental Assessment No. P19-02898/P19-04890 pertaining to 0.44 acres of property located on the east side of North Arthur Avenue, south of its intersection with West Shaw Avenue (Council District 1) - Planning and Development Department.

1. ADOPT Environmental Assessment No. P19-02898/P19-04890, dated February 7, 2020, a Negative Declaration for the proposed project pursuant to the California Environmental Quality Act (CEQA).
2. ADOPT findings pursuant to Government Code Section 65863(b)(2) that there is substantial evidence in the record that remaining sites identified in the Housing Element can accommodate the City of Fresno's share of the Regional Housing Needs Assessment (RHNA).
3. BILL - (For introduction and adoption) - Approving Rezone Application No. P19-04890 requesting authorization to remove conditions of zoning on 0.44 acres located on the east side of North Arthur Avenue, south of West Shaw Avenue.
4. APPROVE - Development Permit Application No. P19-02898 requesting authorization to construct a seven-unit multi-family development in a RM-1 (Residential Multi-Family - Medium High Density) zone district, subject to compliance with Conditions of Approval dated March 4, 2020.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Site Plan, Floor Plan and Elevations, 2. Exhibit B - Application Information (Operational Statement - Exhibit O), 3. Exhibit C - Aerial Map, 4. Exhibit D - Vicinity Map, 5. Exhibit E - General Plan Land Use & Zoning Map, 6. Exhibit F - Fresno Municipal Code Findings, 7. Exhibit G - Public Hearing Notice Radius Map, 8. Exhibit H - Conditions of Approval dated March 4, 2020, 9. Exhibit I - Comments and Requirements from Responsible Agencies, 10. Exhibit J - Environmental Assessment No. P19-02898/P19-04890, 11. Exhibit K - Planning Commission Resolution No. 13639 (Rezone Application No. P19-04890), 12. Exhibit L - Planning Commission Resolution No. 13640 (Development Permit Application No. P19-02898), 13. Exhibit M - City Council Ordinance Bill for Rezone Application No. P19-04890, 14. Late Submission Packet for item 1015 AM.pdf

Date	Ver.	Action By	Action	Result
4/9/2020	1	City Council	adopted	Pass

**REPORT TO THE CITY COUNCIL**

**April 9, 2020**

**FROM:** JENNIFER K. CLARK, Director

Planning and Development Department

**THROUGH:** DAN ZACK, Assistant Director  
Development Services Division

WILL TACKETT, Planning Manager  
Development Services Division

**BY:** ROB HOLT, Planner III  
Development Services Division

## **SUBJECT**

HEARING to Consider Rezone Application No. P19-04890, Development Permit Application No. P19-02898; and related Environmental Assessment No. P19-02898/P19-04890 pertaining to 0.44 acres of property located on the east side of North Arthur Avenue, south of its intersection with West Shaw Avenue (Council District 1) - Planning and Development Department.

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2. ADOPT findings pursuant to Government Code Section 65863(b)(2) that there is substantial evidence in the record that remaining sites identified in the Housing Element can accommodate the City of Fresno's share of the Regional Housing Needs Assessment (RHNA).
3. BILL - (For introduction and adoption) - Approving Rezone Application No. P19-04890 requesting authorization to remove conditions of zoning on 0.44 acres located on the east side of North Arthur Avenue, south of West Shaw Avenue.
4. APPROVE - Development Permit Application No. P19-02898 requesting authorization to construct a seven-unit multi-family development in a RM-1 (Residential Multi-Family - Medium High Density) zone district, subject to compliance with Conditions of Approval dated March 4, 2020.

## **RECOMMENDATIONS**

Staff recommends that the City Council take the following actions:

1. ADOPT Environmental Assessment No. P19-02898/P19-04890, dated February 7, 2020, a Negative Declaration for the proposed project pursuant to the California Environmental Quality Act (CEQA).
2. ADOPT findings pursuant to Government Code Section 65863(b)(2) that there is substantial evidence in the record that remaining sites identified in the Housing Element can accommodate the City of Fresno's share of the Regional Housing Needs Assessment (RHNA).
3. INTRODUCE AND ADOPT BILL approving Rezone Application No. P19-04890 requesting authorization to remove conditions of zoning on 0.44 acres located on the east side of North Arthur Avenue, south of West Shaw Avenue.

4. APPROVE Development Permit Application No. P19-02898 requesting authorization to construct a seven-unit multi-family development in a RM-1 (Residential Multi-Family - Medium High Density) zone district, subject to compliance with Conditions of Approval dated March 4, 2020.

## EXECUTIVE SUMMARY

Rezone Application No. P19-04890 and Development Permit Application No. P19-02898 were filed by Esteban Pauli of Pauli Engineering, Inc.

The proposed Rezone Application No. P19-04890 pertains to approximately 0.44 acres of property located on the east side of North Arthur Avenue south of West Shaw Avenue. The purpose of the rezone is to remove the conditions of zoning previously established in 1980, which limit the development to no more than three (3) units, while the current zoning, RM-1 (12-16 dwelling units/acre), requires a density of five to seven (5-7) units supported by the General Plan designation of Residential - Medium High Density.

The proposed Development Permit No. P19-02898 pertains to the development of a seven (7) unit multi-family residential development, consisting of two (2), 2-story buildings. The front building will consist of four (4) multi-family units that are each 975 s.f. with 2 bedroom/2 bath, and the rear building will consist of three (3) townhouses that are each 1,270-square-feet with 2 bedrooms/2 ½ bathrooms, and private patios.

### City of Fresno Planning Commission

On March 4, 2020, the Planning Commission considered the item as presented by staff, followed by a presentation by the applicant. During the hearing, two members of the public spoke on the project. No letters and/or e-mails were received in opposition or support of the project. One member of the public spoke in opposition of the project expressed concern of increased on-street parking along North Arthur Avenue, and another individual spoke in support of the project and also had questions on parking. After a complete hearing, the Planning Commission voted and recommended the City Council approve the rezone and development permit applications 4 votes to 0, with two Commissioners absent. The Planning Commission resolutions (**Exhibit K** and **Exhibit L**) are attached for more information.

## BACKGROUND/ANALYSIS

### Site Development History

The subject property is currently an undeveloped vacant infill site. The site was previously developed with a single family residence, which was abandoned and demolished approximately five (5) years ago. In recent years, the property has been cited by Code Enforcement numerous times for an abandoned building in disrepair, tall weeds, and dumping of rubbish and debris. The neighbors have also indicated that there has been an issue with transients frequenting the site.

### Conditions of Zoning

Statement of Covenants Affecting Land Development was recorded on the subject property, as

pursuant to the requirements of Rezone Application No. R-6163 approved by the Fresno City Council on September 16, 1980, under Ordinance No. 80-137.

The Ordinance specified one (1) condition of zoning:

1. Not more than three (3) dwelling units shall be constructed upon the subject property.

Rezone Application No. R-6163 approved a rezone of the subject property from R-1 (*Single-Family Residential District*) to R-2-A/cz (*Low Density Multiple-Family Residential District, One Story*). It is noted, however, that the subject property was designated for medium-low density residential uses, within the 1984 Fresno General Plan, which is consistent with single-family residential development and not multi-family residential development. As such, the City of Fresno desired to obtain conditions of zoning on the subject property to insure that the subject property was not developed, used, or maintained in such a way as to adversely affect adjoining properties which is why there was a maximum of 3 dwelling units allowed.

As noted in this staff report, the existing conditions of zoning are not consistent with the existing RM-1 Zone District and Residential - Medium High Density designation of the General Plan. For the proposed project to proceed, the subject property would need to be rezoned (conditions of zoning removed) and the aforementioned covenant can then be released by the Planning and Development Department.

### **Project Setting/Details**

Development Permit Application No. P19-02898 was filed by Esteban Pauli of Pauli Engineering, Inc. and subsequently conditions of zoning were discovered on the property, which required Rezone Application No. P19-04890 to be filed to remove said conditions to be consistent with the existing RM-1 Zone District and Residential - Medium High Density designation of the General Plan.

The property is 0.44 acres and is 63' wide x 303' deep with a 10' PG&E easement running diagonally through the property, which has made it challenging to develop the site while meeting the City's standards.

The property has a local street frontage, and it is adjacent to commercial, multi-family, and single-family residential uses. The property owner is proposing a multi-family development that will be similar to other existing sites throughout the neighborhood and at a scale that will be consistent with the surrounding area.

The proposed development includes four (4) 2-story, 2 bedroom/2 bath 975 s.f. multi-family units and three (3) 2-story, 2 bedroom/2 ½ bath 1,270 s.f. multi-family units with private patios.

The operational statement can be found in **Exhibit B**. Pursuant to Section 15-1002 of the Fresno Municipal Code (FMC), multi-family residential uses are permitted in RM-1 zone district by-right. Furthermore, the applicant has met the required Site Design Development Standards and Residential Transition Standards for the proposed project. Despite the many challenges of designing the number of required units on the subject property, no deviations or variances for the proposed development have been applied. Given the existing land uses and zoning in the area, the subject property being surrounded on three (3) sides with commercial mixed use and multi-family zoning, the proposed development is determined to be appropriate at this location.

## ***Building Height***

Height requirements for new structures in the RM-1 zone district that are within 40 feet of an RS zone district are limited to a maximum of 30 feet. Although currently there are no RS zone districts abutting the subject property, there are properties within Fresno County's jurisdiction abutting the subject property with a planned land use designation of Residential - Medium Low Density. This planned land use designation is consistent with the RS-4 zone district. Taking that into consideration, the maximum height for new structures on the subject property should be 30 feet. As proposed, the tallest proposed structure on the subject property is 28'-7.25", complying with the 30 foot maximum height requirement.

## ***Setbacks***

The setbacks required for the project are as follows:

- Front (min./max.): 10'/20'
- Interior side (min.): 10' total, min. 4'/side
- Rear (min.): 20'
- Parking: 30'

The proposed site plan indicates the setbacks as follows:

- Front: 10'
- Interior side: 10' total, 5'/5'
- Rear: 20'
- Parking: 138'

## ***Landscaping***

In the front yard, two existing mature trees are to remain and a landscaped area with shade trees and shrubbery is proposed to screen the trash enclosure at the front of the property.

The requirement for landscaping of the project is a Type 1 landscape buffer at the rear of the property, which is described as a minimum width of 10 feet with two large trees, two small to medium trees, six large shrubs and eight small to medium shrubs for each 100 linear feet of buffer yard. This will be reflected in the conditions of approval for a required landscaping and irrigation plan to be submitted and approved by the Planning and Development Department.

The minimum on-site open space requirement for the proposed development is 20% of lot area. The site plan proposes a common open space area to be used for leisure activities, such as lounging, and private landscaped rear yards with patios for the three dwelling units at the rear that cumulatively exceed the minimum open space requirement, providing consistency with Article 23, Chapter 15 (Landscaping) of the FMC.

## ***Parking***

The required number of stalls per Section 15-2409 (Required Parking, Other Districts) of the FMC for

the proposed development is 11 parking stalls, of which 7 are required to be covered. However, per Section 15-2413.B (Parking Reductions) of the FMC, a 30 percent parking reduction is allowed for any multi-family land uses if any portion of the lot is located within ¼ mile of a transit stop with a 15 minute or more frequent service during the hours of 7 a.m. to 9 a.m. and 5 p.m. and 7 p.m. With the reduction, a minimum number of 7 parking stalls are required for the site. The site plan proposes 10 parking stalls, of which eight will be covered, meeting the parking standards (Article 24, Chapter 15) of the FMC.

## Land Use Plans and Policies

### Fresno General Plan

The Fresno General Plan puts a strong emphasis on infill development, complete neighborhoods and mobility and multimodal connectivity.

Goals of the Fresno General Plan include providing for a diversity of districts, neighborhoods, housing types, and residential densities through the development of 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.

The supporting Objectives and Policies of the Fresno General Plan include emphasizing compatible infill development opportunities which provide for a diversity of districts, neighborhoods, and housing types in order to afford a range of housing stock within the City of Fresno that will support balanced urban growth and make efficient use of resources and public facilities.

Encouraging infill development on vacant lands within predominantly urbanized areas is necessary in order to meet the Fresno General Plan's objective to locate roughly one-half of future residential development in infill areas-defined as being within the City on December 31, 2012-including the Downtown core area and surrounding neighborhoods, mixed-use centers and transit-oriented development along major BRT corridors, other non-corridor infill areas, and vacant land.

The subject property is approximately 0.44 acres of vacant land, which is substantially surrounded by urban development. The proposed project makes the most efficient use of land and existing public improvements, infrastructure and services by taking advantage of the opportunity to develop in an area that is already developed and accommodated by City services.

The Fresno General Plan provides goals, objectives, and policies to guide development. The proposed project aligns with many objectives and policies found in the Fresno General Plan. The following are applicable goals, objectives and policies:

***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.***

**Goal 11:** *Emphasize increased land use intensity and mixed use development at densities supportive of greater use of transit in Fresno.*

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

- **Policy UF-1-f** *promotes diversity and variations of building types, densities, and scales of development to reinforce the identity of individual neighborhoods, and further affordable housing opportunities.*

**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.*

- **Policy LU-1-a:** *Promote new development, infill, and rehabilitation of existing building stock in the Downtown Planning Area, along BRT corridors, in established neighborhoods generally south of Herndon Avenue, and on other infill sites and vacant land within the City.*

**Objective LU-2:** *Plan for infill development that includes a range of housing types, building forms, and land uses to meet the needs of both current and future residents.*

- **Policy LU-2-a:** *Promote development of vacant, underdeveloped, and re-developable land within the City Limits where urban services are available by considering the establishment and implementation of supportive regulations and programs.*

**Objective LU-5:** *Plan for a diverse housing stock that will support balanced urban growth, and make efficient use of resources and public facilities.*

- **Policy LU-5-d:** *Promotes the development of medium-high density residential uses to optimize use of available or planned public facilities and services. Provide housing opportunities with access to employment, shopping services, and transportation.*
- **Policy LU-5-g:** *Supports development adjacent to established neighborhoods that is compatible in scale and character with the surrounding area.*
- **Policy LU-5-h:** *Supports housing that offers residents a variety of amenities including public and private open space, landscaping, with direct access to public transit and community gathering spaces.*

#### Bullard Community Plan

Upon reviewing the policies contained in the Bullard Community Plan, staff has determined that there are no policies that are applicable or which control based upon the priority of plans specified in Section 15-104-B-4 of the FMC.

#### Fresno County Airport Land Use Compatibility Plan (ALUCP)

The proposed project is located within the Airport Influence Area. The Airport Land Use Commission reviewed the project as submitted at their August 12, 2019, regular meeting and approved a Finding of Consistency with the ALUCP. No conditions were attached to the finding.

### **Housing Element Site**

The subject property is designated as a Housing Element (HE) site, and it is a site listed in the 2013-2023 RHNA Housing Sites Inventory. The Housing Sites Inventory establishes the minimum capacity

of this site to be five (5) units with an affordability categorization of Moderate. The proposed project includes seven (7) units of market rate (Above Moderate) housing.

State law requires that when a jurisdiction permits development on a Housing Element Site at less than the established minimum residential capacity and/or at a higher than established rate of affordability, the following findings (supported by substantial written evidence) must be made at the time of approval: the reduction is consistent with the adopted General Plan, including the Housing Element, and that the remaining sites identified in the Housing Element are adequate to accommodate the City of Fresno's share of the RHNA. The project does not propose a reduction in the minimum residential capacity, but does propose a higher than established rate of affordability.

As of the date of this analysis, the remaining sites identified in the Housing Element are adequate to meet the requirements of Section 65583.2 of the California Government Code and to accommodate the City's share of the regional housing need pursuant to Section 65584. Approval of this project will decrease the 2013-2023 RHNA capacity for Moderate units by 5 units which will reduce the excess capacity from 1,001 to 996 and increase the 2013-2023 RHNA capacity for Above Moderate by 7 units, which will increase the excess capacity from 4,530 to 4,537. The 2013-2023 RHNA obligation for Moderate is 3,228, and the total capacity remaining after the proposed decrease is 4,224. The 2013-2023 RHNA obligation for Above Moderate is 10,116, and the total capacity remaining after the proposed increase is 14,653.

## **Public Resources**

The subject site can be served by existing City services. The site is currently vacant land but is substantially surrounded by developed urban uses. The proposed project will increase the availability of housing in the area.

The Public Works Department/Engineering has conditioned the applicant to preserve two (2) older street trees.

The Department of Public Utilities (DPU) has determined that adequate sanitary sewer and water services are available to serve the project site.

Review for compliance with fire and life safety requirements for the interior of proposed buildings and the intended use is conducted by both the Fire Department and the Building and Safety Services Section of the Planning and Development 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 a drainage plan is in place.

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 circulation system, and a Traffic Impact Study is not required.

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 (including, but not limited to, construction and/or modification of curbs, sidewalks, ramps and

driveway approaches on the interior local street) and (2) Payment of applicable impact fees (including, but not limited to, the water and sewer connection fees, Citywide Park Facility Impact Fee New Growth Area Major Street Charge, Citywide Traffic Signal Charge, etc.).

## Neighborhood Meeting

A neighborhood meeting was held on November 14, 2019 at 6:00 p.m. at 2547 West Shaw Avenue, Suite 113, pursuant to FMC Section 15-5006 and 15-5805. The meeting was attended by 11 people from the community. Comments received from the community conveyed concerns regarding:

- Affordability level of the proposed units; there was an overall concern that the units would be substantiated/low income and therefore property values in the neighborhood would decrease;
- Proximity and height of the buildings in relation to the surrounding property uses;
- Additional traffic in an area perceived as being overburdened by traffic from nearby schools;
- Additional demand for on-site street parking, which is perceived as limited due to North Arthur Avenue only having street parking on one-side of the street and North Arthur Avenue narrows south of the subject property (outside of the city limits).

Staff believes that the noted issues have been adequately addressed, including through the conditions of approval for the project. As noted above, the tallest proposed structure is 28'-7.25", complying with the 30 foot maximum height requirement. Also noted above, a minimum of 7 parking stalls are required for the project. The site plan proposes 10 parking stalls.

## Council District Project Review Committee

The Council District 1 Project Review Committee reviewed the proposed project at their regular meeting on November 5, 2019, and voted unanimously to recommend approval of the project, 5 votes to 0. The Committee did not have any recommendations for the proposed project.

## Notice of City Council Hearing

The Planning and Development Department mailed notices of the April 9, 2020, City Council hearing to surrounding property owners within 1,000 feet of the subject property on March 27, 2020 (**Exhibit G**), pursuant to Section 15-5007-B-2 of the FMC.

## ENVIRONMENTAL FINDINGS

An Initial Study (See **Exhibit J** "Environmental Assessment") was prepared to evaluate the project in accordance with the land use and environmental policies and provisions of the City of Fresno's General Plan adopted by the Fresno City Council on December 18, 2014 and the related Master Environmental Impact Report (MEIR) SCH No. 2012111015. The project is determined not to have a significant effect on the environment and is prepared in accordance with Sections 15070 to 15075 of the CEQA Guidelines. The project is partially within the scope of MEIR SCH No. 2012111015.

Pursuant to Section 21157.1 of the California Public Resources Code (CEQA Provisions), it may be determined that a subsequent project falls within the scope of the MEIR, provided that the project

does not cause additional significant impacts on the environment that were not previously examined by the MEIR. Based on this Initial Study, the following findings are made: (1) The proposed project implements water conservation goals set forth in the Fresno General Plan; (2) The proposed project is partially within the scope of the MEIR because it will not generate additional significant effects on the environment not previously examined and analyzed by the MEIR for the reasons set forth in the Initial Study; and, (3) there are no additional mitigation measures or alternatives required.

The Planning and Development Department, as lead agency, finds 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 MEIR was certified as complete, has become available. Moreover, as lead agency for this project, the Planning and Development Department, in accordance with Sections 15070 to 15075 of the CEQA Guidelines has determined that all feasible mitigation measures from the MEIR shall be applied to the project as set forth in the attached MEIR Mitigation Measure Monitoring Checklist. A public notice of the attached negative declaration for Environmental Assessment No. P19-02898/P19-04890 was published in *The Fresno Bee* on February 7, 2020, as required for public review and comment.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings of Sections 15-5206 (Development Permit Findings) and 15-5812 (Rezone Findings) of the Fresno Municipal Code can be made. These findings are attached as **Exhibit F**.

## **LOCAL PREFERENCE**

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

## **FISCAL IMPACT**

Affirmative action by the City 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 in as much 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 Planning and Development Department.

## **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 Bullard 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 Rezone Application No. P19-04890 and Development Permit Application No. P19-02898 is appropriate for the subject property.

## **Attachments:**

Exhibit A - Site Plan, Floor Plan and Elevations

- Exhibit B - Application Information (Operational Statement - Stamped Exhibit O)
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