



## Legislation Details (With Text)

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**File #:** ID 23-1691    **Version:** 1    **Name:**  
**Type:** Action Item    **Status:** Agenda Ready  
**File created:** 11/14/2023    **In control:** City Council  
**On agenda:** 12/14/2023    **Final action:**  
**Title:** HEARING to consider Development Permit Application No. P21-02699, Vesting Tentative Parcel Map No. 2021-09, and related Final Environmental Impact Report (FEIR), State Clearinghouse (SCH) No. 2022050265, regarding an Office/Warehouse Project located on approximately ± 48.03 acres of property at the northeast intersection of North Marks and West Nielsen Avenues (Council District 3)

1. CERTIFY Final Environmental Impact Report (SCH No. 2022050265), apply the Council's independent judgment and analysis to the review, and then adopt the resolution certifying the FEIR as having been completed in compliance with the California Environmental Quality Act (CEQA) on the proposed Final EIR and comments thereon; and;
  - a. ADOPT the Water Supply Assessment (WSA) attached to the FEIR as Appendix K in compliance with Section 10910 of the California Water Code and Section 15155 of the CEQA Guidelines, and adopt the WSA as a technical addendum to the Environmental Impact Report; and,
  - b. ADOPT Findings of Fact pursuant to CEQA Guidelines Section 15091; and,
  - c. ADOPT a Mitigation Monitoring and Reporting Program (MMRP) pursuant to CEQA Guidelines section 15097; and,
2. DENY the appeal and UPHOLD the action of the Planning Commission in the approval of Development Permit Application No. P21-02699 which requests authorization to construct four office/warehouse buildings with a total gross floor area of approximately ± 901,438 square feet, subject to compliance with the Conditions of Approval dated October 4, 2023; and,
3. DENY the appeal and UPHOLD the action of the Planning Commission in the approval of Vesting Tentative Parcel Map No. 2021-09 which requests authorization to subdivide the subject property into four parcels: Parcel A ± 11.68 acres, Parcel B ± 5.38 acres, Parcel C ± 5.14 acres, Parcel D ± 26.15 acres, subject to compliance with the Conditions of Approval dated October 4, 2023.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A – Vicinity Map & Aerial Photo, 2. Exhibit B – Zoning Map & Planned Land Use Map, 3. Exhibit C – Project Information Tables, 4. Exhibit D – Project Site Plan Rendering, 5. Exhibit E – Project Elevations Renderings, 6. Exhibit F-1 – Draft Environmental Impact Report, 7. Exhibit F-2 – Draft Environmental Impact Report Appendices Volume 1 (A-I), 8. Exhibit F-3 – Draft Environmental Impact Report Appendices Volume 2 (J-M), 9. Exhibit G – Draft Environmental Impact Report Response to Comments, 10. Exhibit H – Draft Environmental Impact Report Mitigation Monitoring & Reporting Program, 11. Exhibit I – Draft Environmental Impact Report Findings of Fact, 12. Exhibit J – SB 610 Water Supply Assessment, 13. Exhibit K – Errata to the Final EIR, 14. Exhibit L-1 – Notice of Public Hearing (Planning Commission), 15. Exhibit L-2 – Comments Received After 10/4/2023 Planning Commission Agenda Publication, 16. Exhibit M – Fresno Municipal Code Findings, 17. Exhibit N – Conditions of Approval for Development Permit P21-02699, 18. Exhibit O – Conditions of Approval for Vesting Tentative Parcel Map 2021-09, 19. Exhibit P-1 – Planning Commission EIR Certification Resolution with Final EIR, 20. Exhibit P-2 – Planning Commission Development Permit Resolution, 21. Exhibit P-3 – Planning Commission Tentative Parcel Map Resolution, 22. Exhibit Q-1 – Appeal Letter from Golden State Environmental Justice Alliance, 23. Exhibit Q-2 – Appeal Letter from Councilmember Miguel Arias, 24. Exhibit Q-3 – Appeal Letter from Adams Broadwell Joseph & Cardozo, 25. Exhibit R – EIR Summary Memorandum [10-23-2023], 26. Exhibit S – Notice of Public Hearing (City Council), 27. Exhibit T – City Council EIR Certification Resolution with Final EIR, 28. Public Comment Packet - 10-00AM ID 23-1691\_Redacted, 29. Public Comment Packet - 10-00AM ID

23-1691- Additional public comment REDACTED

Date	Ver.	Action By	Action	Result
12/14/2023	1	City Council	TABLED	

## REPORT TO THE CITY COUNCIL

**FROM:** JENNIFER CLARK, Planning Director  
Planning and Development Department

**THROUGH:** ISRAEL TREJO, Planning Manager  
Planning and Development Department

**BY:** STEVEN MARTINEZ, Planner  
Planning and Development Department

### SUBJECT

HEARING to consider Development Permit Application No. P21-02699, Vesting Tentative Parcel Map No. 2021-09, and related Final Environmental Impact Report (FEIR), State Clearinghouse (SCH) No. 2022050265, regarding an Office/Warehouse Project located on approximately ± 48.03 acres of property at the northeast intersection of North Marks and West Nielsen Avenues (Council District 3)

1. **CERTIFY** Final Environmental Impact Report (SCH No. 2022050265), apply the Council's independent judgment and analysis to the review, and then adopt the resolution certifying the FEIR as having been completed in compliance with the California Environmental Quality Act (CEQA) on the proposed Final EIR and comments thereon; and;
  - a. ADOPT the Water Supply Assessment (WSA) attached to the FEIR as Appendix K in compliance with Section 10910 of the California Water Code and Section 15155 of the CEQA Guidelines, and adopt the WSA as a technical addendum to the Environmental Impact Report; and,
  - b. ADOPT Findings of Fact pursuant to CEQA Guidelines Section 15091; and,
  - c. ADOPT a Mitigation Monitoring and Reporting Program (MMRP) pursuant to CEQA Guidelines section 15097; and,
2. **DENY** the appeal and **UPHOLD** the action of the Planning Commission in the approval of Development Permit Application No. P21-02699 which requests authorization to construct four office/warehouse buildings with a total gross floor area of approximately ± 901,438 square feet, subject to compliance with the Conditions of Approval dated October 4, 2023; and,
3. **DENY** the appeal and **UPHOLD** the action of the Planning Commission in the approval of Vesting Tentative Parcel Map No. 2021-09 which requests authorization to subdivide the subject property into four parcels: Parcel A ± 11.68 acres, Parcel B ± 5.38 acres, Parcel C ± 5.14 acres, Parcel D ± 26.15 acres, subject to compliance with the Conditions of Approval dated October 4, 2023.

### RECOMMENDATION

Staff Recommends that the City Council take the following actions:

1. **CERTIFY** Final Environmental Impact Report (SCH No. 2022050265), apply the Council's independent judgment and analysis to the review, and then adopt the resolution certifying the FEIR as having been completed in compliance with the California Environmental Quality Act (CEQA) on the proposed Final EIR and comments thereon; and;

- a. ADOPT the Water Supply Assessment (WSA) attached to the FEIR as Appendix K in compliance with Section 10910 of the California Water Code and Section 15155 of the CEQA Guidelines, and adopt the WSA as a technical addendum to the Environmental Impact Report; and,
  - b. ADOPT Findings of Fact pursuant to CEQA Guidelines Section 15091; and,
  - c. ADOPT a Mitigation Monitoring and Reporting Program (MMRP) pursuant to CEQA Guidelines section 15097; and,
2. **DENY** the appeal and **UPHOLD** the action of the Planning Commission in the approval of Development Permit Application No. P21-02699 which requests authorization to construct four office/warehouse buildings with a total gross floor area of approximately  $\pm$  901,438 square feet, subject to compliance with the Conditions of Approval dated October 4, 2023; and,
3. **DENY** the appeal and **UPHOLD** the action of the Planning Commission in the approval of Vesting Tentative Parcel Map No. 2021-09 which requests authorization to subdivide the subject property into four parcels: Parcel A  $\pm$  11.68 acres, Parcel B  $\pm$  5.38 acres, Parcel C  $\pm$  5.14 acres, Parcel D  $\pm$  26.15 acres, subject to compliance with the Conditions of Approval dated October 4, 2023.

## EXECUTIVE SUMMARY

Paul Starn, on behalf of Scannell Properties, has filed for Development Permit Application No. P21-02699 and Vesting Tentative Parcel Map No. 2021-09 and pertains to the  $\pm$  48.03 acres of property located at the northeast intersection of North Marks and West Nielsen Avenues.

Development Permit Application No. P21-02699 proposes construction of four office/warehouse buildings that would be configured for heavy industrial uses by tenants that have not been identified. The proposed buildings would result in a total gross floor area of approximately 901,438 square feet. The buildings' exterior would be up to 44 feet high with an interior height of up to 36 feet and designed with a total of 201 loading dock doors on the north and south sides of the buildings. The four buildings would be comprised of the following: Building 1 would be  $\pm$  468,812 square feet and would provide 122 loading dock doors; Building 2 would be  $\pm$  248,786 square feet and would provide 46 loading dock doors; Building 3 would be  $\pm$  93,074 square feet and would provide 18 loading dock doors; and Building 4 would be  $\pm$  90,766 square feet and would provide 15 loading dock doors.

A total of 594 on-site parking spaces would be provided for vehicles and trucks. Of the 594 parking spaces, 385 spaces would be dedicated for standard vehicles, 11 spaces would be dedicated for accessible standard vehicles, and 10 spaces would be dedicated for accessible vans. The remaining 188 spaces would be dedicated for trailers and would be located along the eastern and western edges of the project site and would be located behind two 8-foot-tall gates, which would be installed to separate the general parking area from the truck storage and dock loading area.

Vesting Tentative Parcel Map Application No. 2021-09 pertains to  $\pm$  48.03 acres of property and is a proposal to subdivide the two existing parcels into four parcels: Parcel A  $\pm$  11.68 acres, Parcel B  $\pm$  5.38 acres, Parcel C  $\pm$  5.14 acres, Parcel D  $\pm$  26.15 acres.

### Planning Commission

Pursuant to Fresno Municipal Code Sections 15-3308 and 15-5203, the Planning Director may refer items directly to the Planning Commission when in their opinion the public interest would be better served by having the Planning Commission conduct the review. Pursuant to the requirements of

Fresno Municipal Section 15-5007, a Public Hearing Notice was mailed on September 22, 2023; see **Exhibit L-1**. A courtesy email was also sent on September 22, 2023, notifying various interested parties and stakeholders of the Planning Commission hearing.

The Planning Commission hearing was held on October 4, 2023. Various members of the public and interested parties spoke on the project during the hearing. After the close of the hearing, the Planning Commission voted to certify Final Environmental Impact Report (SCH No. 2022050265), for the proposed Office/Warehouse Project and its related attachments; approve Development Permit Application No. P21-02699 subject to compliance with the Conditions of Approval dated October 4, 2023; and, approved Vesting Tentative Parcel Map No. 2021-09 to compliance with the Conditions of Approval dated October 4, 2023. The vote was five votes in favor to zero votes against, one member absent and one member abstaining. See **Exhibits P-1, P-2, and P-3**; Planning Commission Resolutions.

On October 17, 2023, one appeal of the Planning Commission's action was received from the Golden State Environmental Justice Alliance; see **Exhibit Q-1**. On October 18, 2023, two additional appeals were received from Councilmember Miguel Arias and the law office of Adams Broadwell Joseph & Cardozo; see **Exhibits Q-2 and Q-3**. Therefore, the City Council is considering this project pursuant to Fresno Municipal Code Sections 15-5017 and 15-5005, which require a City Council Hearing and Action to consider the appeal of Development Permit Application No. P21-02699, Vesting Tentative Parcel Map No. 2021-09, and related Final Environmental Impact Report (FEIR), State Clearinghouse (SCH) No. 2022050265.

Staff recommends that the City Council deny the appeal and uphold the Planning Commission's decision to approve Development Permit Application No. P21-02699 subject to compliance with the Conditions of Approval dated October 4, 2023; and approve Vesting Tentative Parcel Map No. 2021-09 to compliance with the Conditions of Approval dated October 4, 2023. The recommendation is based on evidence detailed in this staff report and that specific findings made by the Planning Commission pursuant to Fresno Municipal Code Section 15-5306 remain valid. Staff also recommends the City Council deny the appeal of the environmental determination and adopt the Resolution certifying the EIR, which includes adoption of its related attachments.

## **BACKGROUND**

Paul Starn, on behalf of Scannell Properties, has filed for Development Permit Application No. P21-02699 and Vesting Tentative Parcel Map Application No. 2021-09. The project site was formerly a California Compress Facility. The original structures onsite were constructed between 1957 to 1962 with expansion continuing through 1973. All structures onsite were demolished between 2012 and 2016.

The Fresno General Plan designates the subject site for Heavy Industrial planned land uses and the site is zoned accordingly as Heavy Industrial. This designation and zone district allows for the broadest range of industrial uses including manufacturing, assembly, wholesaling, distribution, and storage activities that are essential to the development of a balanced economic base. Small-scale commercial services and ancillary office uses are also permitted.

An Initial Study / Mitigated Negative Declaration (IS/MND) was originally prepared for the project. Upon completion of the draft IS/MND, a Notice of Intent to Adopt was prepared and published on May

13, 2022. This initiated a 30-day public review period of the draft IS/MND from May 13, 2022 through June 13, 2022. Four comment letters were received during the review period. Although a Response to Comments was prepared and did not identify any new potential significant impacts, the project applicant determined they wanted to proceed with an Environmental Impact Report.

## **Public Services**

### Public Utilities

The Department of Public Utilities (DPU) has identified 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 Environmental Impact Report; and, the construction and installation of public facilities and infrastructure in accordance with Department of Public Works Standards, specifications, and policies.

For water service, the total project area considered for water supply requirements consists of a Project area of ± 48.03 acres. The Developer shall pay the Water Capacity Fee, as specified in the City's Master Fee Schedule, for all new connections to the City's water system. Furthermore, the developer shall pay for all new sewer connections as specified in the City's Master Fee Schedule.

### Fire Department

The City of Fresno Fire Department reviewed the proposed project, which is located within the boundaries of Fire Station 19, which is located at 3187 West Belmont Avenue, approximately one half mile north of the Project site, and has determined that adequate Fire service will be available subject to future requirements for development. These requirements will include the provision of adequate fire flows per Public Works Standards, with multiple sources of water; and the provision of two means of emergency access during all phases of construction and operation.

### Fresno Metropolitan Flood Control District

According to the Fresno Metropolitan Flood Control District (FMFCD), the subject site does not appear to be located within a flood prone or hazard area. Existing Master Plan facilities were constructed to accommodate runoff generated from various land uses. Permanent drainage service is currently not available for the northwestern portion of the project. As such, the FMFCD recommends temporary facilities until permanent service is available. The cost of the Master Plan facilities is to be paid through the collection of drainage fees calculated from these land uses.

## **Streets and Access Points**

The project site is generally bounded to the south by West Nielsen Avenue, to the east by North Hughes Avenue and to the west by North Marks Avenue. West Nielsen Avenue is an existing east-west two-lane collector. North Hughes Avenue is an existing north-south two-lane collector. North Marks Avenue is an existing north-south four-lane arterial.

The project will require dedications and/or acquisitions for public street rights-of-way and utility easements as well as incorporation of existing easements for construction and/or retention of public facilities and infrastructure in accordance with all applicable standards, specifications and policies of the City of Fresno and responsible agencies in order to facilitate the future proposed development of the subject property.

The proposed project is located within Traffic Impact Zone II pursuant to Figure MT-4 of the Fresno

General Plan, which generally represents areas of the City currently built up and wanting to encourage infill development.

A Traffic Impact Study (TIS) was prepared to assess the impacts of the new development on the existing streets. The TIS evaluated the impacts of the project by analyzing the following 7 study intersections in the vicinity of the project during the AM and PM peak hours for the following five scenarios: Existing Conditions; Existing plus Project Conditions; Existing plus Project and Near term Approved and Pending Projects Conditions; Cumulative Year (2035) No Project Conditions; and Cumulative Year (2035) Plus Project Conditions.

Study Intersections:

- ❖ Marks Avenue/Belmont Avenue (City of Fresno, County of Fresno);
- ❖ Avenue/Nielsen Avenue (City of Fresno);
- ❖ Marks Avenue/Ray Johnson Drive (City of Fresno);
- ❖ Marks Avenue/SR 180 Westbound Ramps (Caltrans);
- ❖ Marks Avenue/SR 180 Eastbound Ramps (Caltrans);
- ❖ Hughes Avenue/Belmont Avenue (City of Fresno, County of Fresno); and
- ❖ Hughes Avenue/Nielsen Avenue (City of Fresno).

Vehicle trips projected to be generated by the proposed project were calculated using the Western Riverside Council of Governments (WRCOG) Study for High Cube Fulfillment Center Warehouses. Trip generation rates using the WRCOG study are higher than trip generation rates from the Institute of Traffic Engineers (ITE) Manual for the High Cube Fulfillment Center Warehouse land use.

As such, trip generation rates from the WRCOG Study are conservative and are appropriate for use. Based upon the calculations, the proposed project is anticipated to generate 2,458 Average Daily Trips (ADT).

A detailed VMT analysis discussion is included in Chapter 13 of the TIS. As recommended in the City of Fresno CEQA Guidelines for Vehicle Miles Traveled Thresholds, when projects do not meet the criteria to be screened out from a quantitative VMT assessment, then VMT analysis should be conducted using the Fresno COG Activity Based Model (ABM). The proposed project is non-residential in nature, but cannot be classified as an office or retail project. Additionally, the project does not require a General Plan Amendment. Therefore, the project's VMT per employee was compared to the existing regional average VMT per employee. The existing regional average is 25.6 VMT per employee. Based on the Fresno COG ABM model output, the project's VMT was calculated to be 19.8 VMT per employee. As such, the project's VMT per employee rate is 22.66 percent lower than the existing regional average VMT per employee, or the City's threshold. As such, the project's reduction of VMT below the existing VMT exceeds the percentage of reduction established as a threshold of significance. Therefore, project would result in a less than significant VMT impact concerning consistency with CEQA Guidelines Section 15064.3(b). In addition, consistent with the City's General Plan policies, the project would be implementing multi-modal improvements along the project frontage, including the addition of sidewalks all along the project frontage.

The City of Fresno General Plan includes multiple policies related to transportation funding and regional level coordination. These policies are crafted so that new development pays the proportional share of the developments impacts. These policies identify continued support for the implementation of metropolitan-wide and region-wide transportation impact fees to cover the proportional share of the developments impacts and need for a comprehensive multi-modal transportation system that are not

funded by other sources.

The project conditions of approval and mitigation measures also require payment of the Fresno Major Street Impact (FMSI) Fee, the Traffic Signal Mitigation Impact (TSMI) Fee, and the Regional Transportation Mitigation Fee (RTMF).

The Public Works Department, Traffic Engineering Division has reviewed the potential traffic related impacts for the proposed project and has determined that the streets adjacent to and near the subject site, as conditioned, will be able to accommodate the quantity and kind of traffic which may be potentially generated subject to the requirements outlined within the memoranda from the Traffic Engineering Division dated June 9 & 13, 2022. These requirements generally include: (1) The provision of a minimum two points of vehicular access to major streets for any phase of the development; (2) Major and local street dedications; (3) Dedications of bicycle, pedestrian and landscape easements for trail purposes; (4) Street improvements, (including, but not limited to, construction of concrete curbs, gutters, pavement, underground street lighting systems; and, (5) Payment of applicable impact fees (including, but not limited to, the Traffic Signal Mitigation Impact (TSMI) Fee, and the Fresno Major Street Impact (FMSI) Fee).

The key components of the requested actions are described below, followed by a summary of environmental impacts.

## **Key Components of Requested Action**

Environmental Impact Report. An Environmental Impact Report, or “EIR,” is a document prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts associated with a project. It is intended to serve as an informational document for the public agency decision makers and the public regarding the potential environmental impacts associated with the construction of a proposed project. In addition to identifying potential environmental impacts, an EIR also identifies potential mitigation measures and alternatives to reduce potential significant environmental impacts. The term “EIR” may refer to either a draft or a final EIR depending on the context. The Final EIR consists of the Draft EIR plus the Response to Comments section in which the City must address all comments and propose changes to the Draft EIR if necessary. These documents are provided in **Exhibits F and G**.

Response to Comments. The Response to Comments, or “RTC,” provides responses to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, resulting from those comments or to clarify material in the Draft EIR. This document, together with the Draft EIR, constitutes the Final EIR for the proposed project. Eight comment letters were received; the letters and respective responses are contained within the RTC. This document is provided in **Exhibit G**.

Mitigation Monitoring and Reporting Program. The Mitigation Monitoring and Reporting Program, or “MMRP,” lists mitigation measures recommended in the EIR for the proposed project and identifies mitigation monitoring requirements including, the responsible party or parties for implementing the measure, and the timing of implementation. The Final MMRP must be adopted when the City makes a final decision on the project. This document is provided in **Exhibit H**.

Findings of Fact and Statement of Overriding Considerations. Pursuant to Section 15091 of the CEQA Guidelines, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written Findings of Fact for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

Pursuant to Section 15093 of the CEQA Guidelines, when the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The Statement of Overriding Considerations shall be supported by substantial evidence in the record.

Section 15126.2(b) of the CEQA Guidelines requires that an EIR describe any significant impacts that cannot be avoided, even with the implementation of feasible mitigation measures. As determined in the EIR, implementation of the proposed project would **not** result in significant and unavoidable adverse impacts. Findings of Fact were prepared and attached as **Exhibit I**. A Statement of Overriding Considerations is not necessary nor included in this report.

Certification of the EIR. On October 4, 2023, the Planning Commission held a public hearing to consider the adequacy of the EIR in accordance with the CEQA Guidelines. Furthermore, the Planning Commission made a separate resolution regarding its decision on the consideration of the proposed project.

## **EIR Process / Public Input and Noticing**

The City of Fresno, as the Lead Agency, contracted with LSA Associates Inc. to prepare the EIR. The preparation of the EIR followed the process prescribed by CEQA Guidelines as described below:

**Notice of Preparation (NOP) and Scoping Meeting:** Upon the City's determination that an EIR was required for this project, a NOP was made available to the general public, responsible trustee agencies, and interested parties to solicit input on areas of concern that should be addressed in the EIR. The NOP was published and circulated on September 9, 2022 which commenced a thirty (30) day comment period and announced the date and time of the Scoping Meeting: September 22, 2022. Seven comment letters were received from public agencies and interested parties and incorporated into the Draft EIR. No members of the public or interested parties attended the Scoping Meeting. Outreach was as follows:

- ❖ NOP was circulated to relevant agencies, stakeholders, and other interested parties.
- ❖ NOP was submitted to the Office of Planning and Research State Clearinghouse.
- ❖ NOP notice was published in the Fresno Bee.
- ❖ NOP was posted by the Fresno County Clerk for 30 days.
- ❖ NOP was posted by the Fresno City Clerk for 30 days.

**Draft Environmental Impact Report:** Upon completion of the Draft EIR, the City issued a Notice of Availability (NOA) announcing the release of the document for a forty-five (45) day public comment period from February 24, 2023 to April 10, 2023. The draft EIR was available to review via the following methods:

- ❖ Via physical copy at the City of Fresno Planning and Development Department public counter.
- ❖ Via physical copy at the County of Fresno Clerk's Office public counter.

- ❖ Via physical copy at the Fresno County Public Library located at 2420 Mariposa St, Fresno, CA 93721.
- ❖ Via physical copy at the Fresno County Public Library located at 188 E California Ave, Fresno, CA 93706.
- ❖ Via electronic copy by contacting the designated Staff Planner.
- ❖ Via electronic copy on the City of Fresno Planning and Development Department webpage.
- ❖ Via electronic copy on the State of California CEQAnet Web Portal.

During the forty-five (45) day public comment, it was discovered Chapter 6.0, CEQA-Required Assessment Conclusions, and Chapter 7.0, Report Preparation were missing from the DEIR. In compliance with the California Public Resources Code (PRC) Section 21092.1 and State CEQA Guidelines Section 15088.5, the City prepared a new NOA and recirculated the DEIR (RDEIR) to include Chapters 6.0 and 7.0 that were previously omitted. This commenced a new public comment period from April 4, 2023 to May 19, 2023. The RDEIR was available to review via the same methods of the DEIR.

Pursuant to Section 15088.5(f) of the State CEQA Guidelines, recirculating an EIR can result in the lead agency receiving more than one set of comments from reviewers. The lead agency may identify the set of comments to which it will respond by: (1) requiring reviewers to submit new comments when an EIR is substantially revised and the entire document is recirculated; or (2) requesting that reviewers limit their comments to only the revised chapter or portions of the Recirculated EIR. In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues. In this case, the City accepted and responded to all comments on all chapters of the DEIR received between February 24, 2023 through May 19, 2023. The responses are contained within the Response to Comments: **Exhibit G**.

**Final EIR / Response to Comments:** The Final EIR consists of the RDEIR and the Response to Comments document. Eight (8) response letters were received on the RDEIR. None of the responses contained new information which revealed new or more significant environmental impacts, and revisions to the RDEIR did not contain significant new information. Therefore, pursuant to CEQA Guidelines Section 15088.5, recirculation of the RDEIR was not necessary, and the Final EIR was prepared.

CEQA Guidelines, Section 15088(b), requires the City's responses to comments to be provided to commenting public agencies 10 days prior to final certification of the FEIR. On September 22, 2023, twelve days prior to the certification hearing, the Response to Comments was sent via email to the public agencies which provided comments on the EIR. This included the Fresno Metropolitan Flood Control District, Fresno County Airport Land Use Commission, Fresno Irrigation District, San Joaquin Valley Air Pollution Control District, and City of Fresno Department of Public Utilities. Delivery and read receipts were requested and received for all agencies.

## Summary of Environmental Impacts

### Impacts Analyzed

In determining that an EIR was the appropriate environmental document, based on the preliminary analysis conducted within the Initial Study, the City also determined that the following environmental resource topics would be potentially significant and would be analyzed in detail for the proposed project; see Chapter 4 of the EIR for the full analysis:

- ❖ Aesthetics
- ❖ Air Quality
- ❖ Biological Resources
- ❖ Cultural and Tribal Cultural Resources
- ❖ Energy
- ❖ Greenhouse Gas Emissions
- ❖ Hazards and Hazardous Materials
- ❖ Hydrology and Water Quality
- ❖ Noise
- ❖ Transportation
- ❖ Utilities and Service Systems

Other environmental resource topics not included in Chapter 4.0 of the EIR are analyzed in the Initial Study; see **Exhibit F-2, Appendix B**. The environmental resource topics discussed in the Initial Study include: Agriculture and Forestry Resources, Geology and Soils, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, and Wildfire.

Pursuant to CEQA Guidelines, environmental impacts can be classified as either Less than Significant, Less Than Significant with Incorporated Mitigation, Significant and Unavoidable. The environmental areas above were determined to have the following impacts:

Less than Significant

- ❖ Energy
- ❖ Greenhouse Gas Emissions
- ❖ Hydrology and Water Quality
- ❖ Transportation
- ❖ Utilities

Less Than Significant with Incorporated Mitigation

- ❖ Aesthetics
- ❖ Air Quality
- ❖ Biological Resources
- ❖ Cultural and Tribal Cultural Resources
- ❖ Hazards and Hazardous Materials
- ❖ Noise

Significant and Unavoidable

The project would not result in any significant and unavoidable impacts.

**Tribal Consultation**

Pursuant to Section 21080.3.1 of the CEQA Guidelines, the Lead Agency is required to consult with tribe(s) that are traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation.

The Table Mountain Rancheria Tribe and the Dumna Wo Wah Tribe were invited to consult; a certified letter was mailed to these tribes on December 17, 2021. The 30-day request for consultation period ended on January 17, 2022 and neither tribe requested consultation.

**Council District 3 Committee**

On March 22, 2022, the Council District 3 Plan Implementation Committee recommended approval of Development Permit Application No. P21-02699 and Vesting Tentative Parcel Map No. 2021-09, 3 votes to 1.

## ENVIRONMENTAL FINDINGS

The CEQA Statutes (California Public Resources Code [PRC] Sections 21000, et seq.) and Guidelines (California Code of Regulations [CCR] Sections 15000, et seq.) state that if it has been determined that a project may or will have significant impacts on the environment, then an EIR must be prepared.

Pursuant to Section 15090 of the CEQA Guidelines, the EIR must be certified prior to the approval of the project. Pursuant to Section 15091 of the CEQA Guidelines, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The findings required shall be supported by substantial evidence in the record. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Pursuant to Section 15092 of the CEQA Guidelines, after considering the final EIR and in conjunction with making findings under Section 15091, the Lead Agency may decide whether or how to approve or carry out the project. A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either: (1) the project as approved will not have a significant effect on the environment, or (2) The agency has: (A) eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and (B) determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

The project, as approved, will not have a significant effect on the environment. Findings of Fact were prepared and attached as **Exhibit I**. A Statement of Overriding Considerations is not necessary nor included in this report.

### Water Supply Assessment

Senate Bill 610 (Chapter 643, Statutes of 2001) amended State law, effective January 1, 2002, to improve the link between information on water supply availability and land use decisions made by cities and counties. The statute requires detailed information regarding water availability to be provided to City and County decision-makers prior to approval of specified large development projects which are subject to CEQA approval. The statute also requires this detailed information to be included in the administrative record that serves as the evidentiary basis for an entitlement action by the City or County on such projects. The statute-required Water Supply Assessment (WSA) must examine the availability and sufficiency of an identified water supply under normal year, single dry

year, and multiple dry year conditions over a 20-year projection, accounting for the projected water demand of the Project in addition to other existing and planned future uses of the identified water supply. The WSA prepared for the project determined the City of Fresno's current and projected water supply is adequate to supply the project's demand. The WSA is attached as **Exhibit J**.

## FRESNO MUNICIPAL CODE FINDINGS

Based upon analysis of the proposed project, staff concludes that the required findings for a Development Permit and Tentative Parcel Map contained within Sections 15-5206 and 15-3309 of the Fresno Municipal Code can be made. These findings are provided in **Exhibit M**.

## FRESNO GENERAL PLAN POLICIES

As proposed, the project would be consistent with the Fresno General Plan goals and objectives related to industrial land use. Following is a brief listing of consistent objectives the project would support:

- ❖ **ED-1:** Support economic development by maintaining a strong working relationship with the business community and improving the business climate for current and future businesses.
- ❖ **LU-7:** Plan and support industrial development to promote job growth.

## Grounds For Denial of Tentative or Parcel Map

The Subdivision Map Act (California Government Code §§ 66474, *et seq.*) provides that approval of a proposed subdivision map shall be denied if any of the following findings are made.

1. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451 of the SMA.
2. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate

easements, for access of or use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Staff has reviewed the proposed vesting tentative parcel map and has determined that none of the findings above apply to the project and, therefore, has recommended approval of Vesting Tentative Parcel Map No. 2021-09 subject to the conditions of approval; see **Exhibit O**.

## Planning Commission

The Planning Commission hearing was held on October 4, 2023. Various members of the public and interested parties spoke on the project during the hearing. After the close of the hearing, the Planning Commission voted to certify Final Environmental Impact Report (SCH No. 2022050265), for the proposed Office/Warehouse Project and its related attachments; approve Development Permit Application No. P21-02699 subject to compliance with the Conditions of Approval dated October 4, 2023; and, approved Vesting Tentative Parcel Map No. 2021-09 to compliance with the Conditions of Approval dated October 4, 2023. The vote was five votes in favor to zero votes against, one member absent and one member abstaining. See **Exhibits P-1, P-2, and P-3**; Planning Commission Resolutions.

### Appeal of Planning Commission Action

On October 17, 2023, one appeal of the Planning Commission's action was received from the Golden State Environmental Justice Alliance; see **Exhibit Q-1**. On October 18, 2023, two additional appeals were received from Councilmember Miguel Arias and the law office of Adams Broadwell Joseph & Cardozo; see **Exhibits Q-2 and Q-3**.

## Notice Of City Council Hearing

Pursuant to the requirements of Fresno Municipal Section 15-5007, a Public Hearing Notice was mailed on December 1, 2023; see **Exhibit S**. A courtesy email was also sent on December 1, 2023, notifying various interested parties and stakeholders of the City Council hearing.

## Analysis of the Appeal Letters

Three appeal letters were received in response to the Planning Commission actions. Following is a summary of the concerns contained in the appeal letters.

### Letter 1 - Golden State Environmental Justice Alliance (**Exhibit Q-1**)

**Issue:** The letter asserts the decision of the Planning Commission issued on October 4, 2023, would result in further impacts on an already pollution-burdened and traffic congested citizenry. This assertion is founded in the claim that the **Project Description** and **Response to Comments** (RTC) prepared for the EIR are inadequate. Specifically, sections **B1-3, B1-8, and B1-11** of the RTC are claimed to be inadequate. The letter further claims the RTC does not provide meaningful evidence to support the conclusions made and documents related to the project were not available for review.

### **Response:**

- ❖ **Project Description and Availability of Documents:** Please refer to Chapter 3.0, Project Description, of the Recirculated Draft EIR. The chapter is consistent with Section 15124 of the CEQA Guidelines. Furthermore, as noted in the Notice of Availability for the Draft EIR and Notice of Availability for the Recirculated Draft EIR, all documents related to the project were available for public review at the lead agency.
- ❖ **B1-3:** The project site was previously developed as a California Compress Facility. The original structures onsite were constructed between 1957 to 1962 with expansion continuing through 1973. The proposed project would include demolition of the existing leveled asphalt which served as the foundations of the former buildings on the project site. As identified on page 3-18 of the Recirculated Draft EIR and Response B1-3 of the RTC, the proposed project would not require any soil import or export.
- ❖ **B1-8:** Please refer to Responses A2-3, A2-6, and B1-8 of the RTC for a full response to this comment.
- ❖ **B1-11:** Please refer to pages 4.10-14 and 4.10-15 of the Recirculated Draft EIR and Response B1-11 of the RTC for a full response to this comment.

Letter 2 - Councilmember Miguel Arias (Exhibit Q-2)

**Issue:** This letter asserts there are concerns about unmitigated environmental impacts. These include concerns regarding health risks, air quality, transportation, noise pollution, and greenhouse gas emissions.

**Response:**

Please refer to the EIR Summary Memorandum by LSA dated October 23, 2023 (Exhibit R), the EIR and related appendices (**Exhibits F-1 through F-3**), and the EIR Response to Comments (**Exhibit G**).

Letter 3 - Adams Broadwell Joseph & Cardozo (Exhibit Q-3)

**Issue:** This letter asserts there are deficiencies in the EIR and related appendices, and the RTC. Specifically, there are concerns about **(A)** Exposure to Valley Fever, **(B)** transportation impacts, **(C)** noise impacts, and **(D)** the City not being able to make the findings for project approval.

**Response:**

- (A)** Please refer to pages 4.2-5 and 4.2-6 of the EIR and Responses B3-10, B3-18, B3-19, B3-39, B3-40 of the RTC.
- (B)** Please refer to Appendix M of the EIR and Responses B3-6, B3-12, B3-13, B3-14, and B3-15 of the RTC.
- (C)** Please refer to Responses B3-6, B3-23, B3-24, B3-25, B3-31, B3-33, B3-34, B3-51, B3-53, B3-54, B3-55, B3-56, B3-57, B3-58, and B3-59 of the RTC.
- (D)** Please refer to **Exhibit M**, Fresno Municipal Code Findings, and Responses B3-33 and B3-34 of the RTC.

## 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 delivery 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 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; 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 EIR. Upon consideration of this evaluation, it can be concluded that Development Permit Application No. P21-02699 and Vesting Tentative Parcel Map Application No. 2021-09, certification of the EIR, and all of the related actions, are in the best interest of the City of Fresno.

If the City Council decides to uphold the appeal and deny the request to develop the proposed use, the City Council must find that there is insufficient evidence in the administrative record that the findings required by FMC Section 15-5306 can be made and amend the required findings accordingly.

## **ATTACHMENTS:**

- Exhibit A - Vicinity Map & Aerial Photo
- Exhibit B - Zoning Map & Planned Land Use Map
- Exhibit C - Project Information Tables
- Exhibit D - Project Site Plan Rendering
- Exhibit E - Project Elevations Renderings
- Exhibit F-1 - Draft Environmental Impact Report
- Exhibit F-2 - Draft Environmental Impact Report Appendices Volume 1 (A-I)
- Exhibit F-3 -Draft Environmental Impact Report Appendices Volume 2 (J-M)
- Exhibit G - Draft Environmental Impact Report Response to Comments
- Exhibit H - Draft Environmental Impact Report Mitigation Monitoring & Reporting Program
- Exhibit I - Draft Environmental Impact Report Findings of Fact
- Exhibit J - SB 610 Water Supply Assessment
- Exhibit K - Errata to the Final EIR
- Exhibit L-1 - Notice of Public Hearing (Planning Commission)
- Exhibit L-2 - Comments Received After 10/4/2023 Planning Commission Agenda Publication
- Exhibit M - Fresno Municipal Code Findings
- Exhibit N - Conditions of Approval for Development Permit P21-02699
- Exhibit O - Conditions of Approval for Vesting Tentative Parcel Map 2021-09
- Exhibit P-1 - Planning Commission EIR Certification Resolution with Final EIR

Exhibit P-2 - Planning Commission Development Permit Resolution  
Exhibit P-3 - Planning Commission Tentative Parcel Map Resolution  
Exhibit Q-1 - Appeal Letter from Golden State Environmental Justice Alliance  
Exhibit Q-2 - Appeal Letter from Councilmember Miguel Arias  
Exhibit Q-3 - Appeal Letter from Adams Broadwell Joseph & Cardozo  
Exhibit R - EIR Summary Memorandum [10-23-2023]  
Exhibit S - Notice of Public Hearing (City Council)  
Exhibit T - City Council EIR Certification Resolution with Final EIR