



## Legislation Details (With Text)

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<b>Type:</b>	Action Item	<b>Status:</b>		Agenda Ready	
<b>File created:</b>	12/1/2017	<b>In control:</b>		Planning Commission	
<b>On agenda:</b>	12/20/2017	<b>Final action:</b>			
<b>Title:</b>	<p>Consider Environmental Assessment No. A-16-017/R-16-018/C-17-059, Plan Amendment Application No. A-16-017, Rezone Application No. R-16-018, and Conditional Use Permit Application No. C-17-059 filed by Giorgio Russo of Ginder Development, for approximately 2.41 acres of property located on the northwest corner of North Blythe and West Herndon Avenues. (Council District 2 - Brandau)</p> <ol style="list-style-type: none"><li>1. RECOMMEND APPROVAL (to the City Council) of the adoption of the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059 dated December 1, 2017; including, the attached Addendum prepared in accordance with Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines dated December 15, 2017.</li><li>2. RECOMMEND APPROVAL (to the City Council) of Plan Amendment Application No. A-16-017 proposing to amend the Fresno General Plan and the Bullard Community Plan to change the planned land use designation for a 2.41 acre portion of the 7.1 acre subject property from Community Commercial to the General Commercial planned land use designation.</li><li>3. RECOMMEND APPROVAL (to the City Council) of Rezone Application No. R-16-018 requesting authorization to rezone the 2.41 acre portion of the subject property from the CC (Commercial-Community) zone district to the CG (Commercial General) zone district.</li><li>4. RECOMMEND APPROVAL (to the City Council) of Conditional Use Permit Application No. C-17-059 requesting authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41 acre portion of the subject property that is proposed to be redesignated and rezoned.</li></ol>				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Exhibit A - Staff Report dated November 15, 2017, 2. Exhibit B - Letters of Protest, 3. Exhibit C - Applicant Letter Requesting Application Modification, 4. Exhibit D - Updated Site Plan, 5. Exhibit E - Revised Conditions of Approval, 6. Exhibit F - Revised Municipal Code Findings, 7. Exhibit G - Addendum to Mitigated Negative Declaration				

Date	Ver.	Action By	Action	Result
12/20/2017	1	Planning Commission		

## REPORT TO THE PLANNING COMMISSION

**December 20, 2017**

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

**THROUGH:** BONIQUE EMERSON, Planning Manager  
Development Services Division

WILL TACKETT, Supervising Planner  
Development Services Division

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

## **SUBJECT**

Consider Environmental Assessment No. A-16-017/R-16-018/C-17-059, Plan Amendment Application No. A-16-017, Rezone Application No. R-16-018, and Conditional Use Permit Application No. C-17-059 filed by Giorgio Russo of Ginder Development, for approximately 2.41 acres of property located on the northwest corner of North Blythe and West Herndon Avenues. (Council District 2 - Brandau)

- 1. RECOMMEND APPROVAL** (to the City Council) of the adoption of the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059 dated December 1, 2017; including, the attached Addendum prepared in accordance with Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines dated December 15, 2017.
- 2. RECOMMEND APPROVAL** (to the City Council) of Plan Amendment Application No. A-16-017 proposing to amend the Fresno General Plan and the Bullard Community Plan to change the planned land use designation for a 2.41 acre portion of the 7.1 acre subject property from Community Commercial to the General Commercial planned land use designation.
- 3. RECOMMEND APPROVAL** (to the City Council) of Rezone Application No. R-16-018 requesting authorization to rezone the 2.41 acre portion of the subject property from the CC (Commercial-Community) zone district to the CG (Commercial General) zone district.
- 4. RECOMMEND APPROVAL** (to the City Council) of Conditional Use Permit Application No. C-17-059 requesting authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41 acre portion of the subject property that is proposed to be redesignated and rezoned.

## **EXECUTIVE SUMMARY**

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

Rezone Application No. R-16-018 requests authorization to rezone the same 2.41 acre portion of the subject property from the CC (Commercial-Community) zone district to the CG (Commercial General) zone district in accordance with Plan Amendment Application No. A-16-017.

Conditional Use Permit Application No. C-17-059 requests authorization to construct three detached commercial pads (one of which includes a drive-through) on the 2.41 acre portion of the subject property proposed to be redesignated and rezoned. The remaining 4.66 acres would remain unchanged in regard to planned land use and zoning and would not be developed under this conditional use permit application.

## **CONTINUED HEARING FROM NOVEMBER 15, 2017**

This item was originally presented before the Planning Commission on November 15, 2017. At that time, the plan amendment application also proposed to redesignate 4.66 acres of the property from the Community Commercial to the Residential Multi-Family, Medium High Density land use. The rezone application included a proposal to rezone that 4.66 acres from a Community Commercial zone district to an RM-1 (Residential Multi-Family Medium High Density) zone district. The conditional use permit application included a proposal to construct a gated multi-unit residential complex with 80 residential units, a community building, and associated outdoor recreation facilities on the 4.66 acre portion of the subject property.

After a full and complete hearing and following staff's presentation, the Planning Commission voted to continue the item in order to allow additional time for the project developers to work out concerns with local residents., the Planning Commission voted to continue the item in order to allow additional time for the project developers to work out concerns with local residents and for the completion of an independent Traffic Impact Study commissioned by the Sierra Sky Park Property Owners Association (SSPPOA) to be completed for consideration by the Planning Commission in regard to the environmental assessment of the proposed project.

Per a letter received by the Development and Resource Management Department on December 14, 2017, the applicant has decided to modify the original application to include only the commercial portion of the proposed project on 2.41 acres. This effort is intended to alleviate opposition to the proposed project after additional meetings between the applicant and the members of the Sierra Sky Park Property Owners Association and their legal counsel.

## **ENVIRONMENTAL FINDINGS**

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

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

Section 15073.5 of the CEQA Guidelines provides that a lead agency is required to recirculate a

negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption.

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

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

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

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

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

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

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

## **PUBLIC INPUT**

Just prior to the November 15, 2017 hearing, staff received letters of protest from legal counsel representing the SSPPOA and legal counsel representing the owners of a home in the area of the proposed project. Those letters were provided at the hearing and have been attached to this report with protest letters from four more residents of Sierra Sky Park and from the Experimental Aircraft Association. Additionally, telephone calls were received from two Sierra Sky Park residents conveying concerns about endangering the uniquely historical use of Sierra Sky Park by introducing new multi-family residents who would see the airport development as a nuisance.

## **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 Plan Amendment Application No. A-16-017, Rezone Application No. R-16-018, and Conditional Use Permit Application No. C-17-059 are appropriate for the subject properties. Action by the Planning Commission will be a recommendation to the City Council.

### **Attachments:**

- Exhibit A - Staff Report Dated November 15, 2017
- Exhibit B - Letters of Protest
- Exhibit C - Applicant Letter Requesting Application Modification
- Exhibit D - Updated Site Plan
- Exhibit E - Revised Conditions of Approval
- Exhibit F - Revised Municipal Code Findings
- Exhibit G - Addendum to the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-017/R-16-018/C-17-059 dated December 1, 2017