



## Legislation Details (With Text)

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**Title:** CONTINUED HEARING to consider Development Permit Application No. D-16-109, located on the north side of East Central Avenue between South Orange and South Cedar Avenues (Council District 3) - Development and Resource Management Department.

1. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. D-16-109, dated September 18, 2017;

2. DENY the appeal and UPHOLD the Director's approval of Development Permit Application No. D-16-109 authorizing the development of an industrial business park for industrial uses with up to seven reinforced concrete buildings ranging in size from 124,200 square feet to 1,000,000 square feet, with a total building square footage not to exceed  $\pm 2,145,420$ .

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Vicinity Map, 2. Exhibit B - Aerial Photo, 3. Exhibit C - Planned Land Use Map, 4. Exhibit D - Zoning Map, 5. Exhibit E - Noticing Map, 6. Exhibit F - Project Information Tables, 7. Exhibit G - Operational Statement, 8. Exhibit H - Site Plan, 9. Exhibit I - Conditions of Approval, 10. Exhibit J - Appeal of Development Permit EA No D-16-109., 11. Exhibit K - Environmental Assessment, 12. Exhibit L- Fresno Municipal Code Findings, 13. Exhibit M - PC Resolution No. 13516, 14. Exhibit N - City Council PowerPoint Presentation, 15. Supplement 012518.pdf, 16. Supplement - Leadership Council.pdf, 17. Supplement - Letter and Attachments from Leadership Council.pdf, 18. Supplement - City Attorney Response to Ashley Werner.pdf, 19. Supplement 01-25-2018 for item 18-0129.pdf

Date	Ver.	Action By	Action	Result
1/25/2018	1	City Council	approved	Pass

## REPORT TO THE CITY COUNCIL

**January 25, 2018**

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

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

MCKENCIE CONTRERAS, Supervising Planner  
Development Services Division

**BY:** PHILLIP SIEGRIST, Planner II  
Development Services Division

## **SUBJECT**

CONTINUED HEARING to consider Development Permit Application No. D-16-109, located on the north side of East Central Avenue between South Orange and South Cedar Avenues (Council District 3) - Development and Resource Management Department.

1. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. D-16-109, dated September 18, 2017;
2. DENY the appeal and UPHOLD the Director's approval of Development Permit Application No. D-16-109 authorizing the development of an industrial business park for industrial uses with up to seven reinforced concrete buildings ranging in size from 124,200 square feet to 1,000,000 square feet, with a total building square footage not to exceed  $\pm 2,145,420$ .

## **RECOMMENDATIONS**

Staff recommends that the City Council take the following actions:

1. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. D-16-109, dated September 18, 2017;
2. DENY the appeal and UPHOLD the Director's approval of Development Permit Application No. D-16-109 authorizing the development of an industrial business park for industrial uses with up to seven reinforced concrete buildings ranging in size from 124,200 square feet to 1,000,000 square feet, with a total building square footage not to exceed  $\pm 2,145,420$ .

## **EXECUTIVE SUMMARY**

Ken Vang of Precision Civil Engineering, Inc., on behalf of Richard Caglia of Caglia Environmental, has filed Development Permit Application No. D-16-109 pertaining to approximately  $\pm 110.81$  acres of property located on the north side of East Central Avenue between South Orange and South Cedar Avenues.

Development Permit Application No. D-16-109 proposes to develop an industrial business park with up to seven reinforced concrete buildings for industrial uses. The buildings will range in size from 124,200 square feet to 1,000,000 square feet, with a total building square footage not to exceed  $\pm 2,145,420$ . In addition, full off-site improvements, on-site parking, and landscaping will be provided.

The subject application is being considered by the City Council due to an appeal of the environmental assessment and Director's decision.

## **BACKGROUND**

Development Permit Application No. D-16-109 proposes to develop an industrial business park with up to seven reinforced concrete buildings. The buildings are proposed for industrial uses and will range in size from 124,200 square feet to 1,000,000 square feet, with a total building square footage not to exceed  $\pm 2,145,420$ .

The subject property has historically been planned for heavy industrial planned land uses since the adoption of the 1984 Fresno General Plan and remains designated for Heavy Industrial planned land uses under the current General Plan. The Heavy Industrial planned land use designation is intended to accommodate the broadest range of industrial uses on sites identified in the Fresno General Plan. It includes manufacturing, assembly, wholesaling, distribution, and storage activities that are essential to the development of a balanced economic base. The subject property is located in the IH/UGM (*Heavy Industrial/Urban Growth Management*) zone district which is consistent with the Heavy Industrial planned land use. Therefore, the proposed industrial business park is consistent with the Heavy Industrial planned land use designation.

As mentioned above, pursuant to Table 15-1302 (Land Use Regulations - Employment Districts) of the Fresno Municipal Code (FMC), there are a broad range of uses listed as permissible within the IH zone district under the Industrial Use Classifications. General Industrial, Indoor Warehousing and Storage, and Wholesaling and Distribution uses are permitted “by-right” in the IH zone district with an approved Development Permit and are not subject to additional regulations for special uses pursuant to FMC Chapter 15, Article 27.

No specific uses or tenants have yet been identified for the proposed industrial park. In accordance with FMC Section 15-502, a zone clearance shall be required for future uses that are permitted “by-right” and not subject to a conditional use permit, additional regulations, or other entitlements, prior to securing a business tax certificate or commencing operation. By-right uses applying for a zone clearance will still need to verify that they are in compliance with any existing entitlements, including this development permit, which requires compliance with the mitigation measures contained in the mitigated negative declaration. However, future proposed uses not permitted by right and/or subject to additional regulations for special uses may be subject to an approved conditional use permit and/or other entitlements prior to commencing operation.

The Development and Resource Management Department Director approved Development Permit Application No. D-16-109 on October 24, 2017. In accordance with FMC Section 15-5009-B, a Notice of Action was sent to one individual whom requested notification of the Director’s Decision. One letter requesting to appeal the Director’s decision and environmental assessment was received in response to the Notice of Action. The Development and Resource Management Department Director referred this application to the Planning Commission for recommendation, in accordance with FMC Sections 15-5017-A-1, 15-5017-A-3, and 15-5005-I-3, with a recommendation to adopt the environmental assessment and deny the appeal and uphold the Director’s approval of Development Permit Application No. D-16-109, subject to the Conditions of Approval, dated October 24, 2017.

## **Citywide Development Code**

Development Permit Application No. D-16-109 meets all the provisions of the FMC and complies with all applicable design guidelines of the IH/UGM (*Heavy Industrial/Urban Growth Management*) zone district as demonstrated in the Property Development Standards Checklist in the attached Conditions of Approval dated October 24, 2017 (Exhibit I).

## **LAND USE PLANS AND POLICIES**

### **Fresno General Plan**

The Fresno General Plan designates the subject property for the Heavy Industrial planned land uses

and provides objectives to guide in the development of this project. The heavy industrial planned land use designation is intended to accommodate the broadest range of industrial uses on sites identified in the General Plan. It includes manufacturing, assembly, wholesaling, distribution, and storage activities that are essential to the development of a balanced economic base. Small-scale retail and ancillary office uses are also permitted. The Fresno General Plan provides goals, objectives, and policies to guide development. The following are applicable objectives and policies from the Fresno General Plan.

- Objective 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.
  - Policy ED-1-e: **Ready-to-Go Sites.** Establish a list of “ready-to-go” or “shovel-ready” sites in consultation with property owners, and provide the list to interested developers and businesses seeking sites in the city.
- 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 Development within the Existing City Limits as of December 31, 2012.** 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: **Infill Development and Redevelopment.** 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-7: Plan and support industrial development to promote job growth.
  - Policy LU-7-b: **Business and Industrial Parks.** Promote business and industrial park sites that are of sufficient size, unified in design, and diversified in activity to attract a full range of business types needed for economic growth.

The proposed project is consistent with the objectives and policies of the Fresno General Plan, as it would improve economic vitality in the City of Fresno and allow development of existing properties within the City of Fresno. The project promotes industrial development and reinvestment within the City and preserves and protects resources within the City by expanding opportunities for development on within city limits. Infill development conserves resources and takes advantage of existing infrastructure. Furthermore, the proposed industrial park will strengthen Fresno’s economic base, promote job growth, and enhance the existing industrial area by fostering “ready-to-go” sites of sufficient size that can attract a range of businesses needed for economic growth.

## **Roosevelt Community Plan**

The subject property is designated for Heavy Industrial planned lands uses by the Roosevelt Community Plan. Upon reviewing the policies contained in the Roosevelt Community Plan, staff has determined that there are no policies that are applicable or are more restrictive than those contained in the FMC or the Fresno General Plan.

## **Southwest Fresno Specific Plan**

Although the subject property is not located within the boundaries of the Southwest Fresno Specific Plan, the proposed project is consistent with Policy LU-8.2 which prioritizes the “Reverse Triangle,” bounded by Jensen Avenue, Central Avenue, Highway 41, and Highway 99, as the City’s targeted area for new industrial development.

## **Public Notice and Input**

### *Council District Plan Implementation Committee*

There is no active District 3 Plan Implementation Committee to make a recommendation of the project, thus no comments or recommendations were received.

### *Notice of Action*

The Director of the Development and Resource Management Department approved Development Permit Application No. D-16-109 on October 24, 2017. In accordance with FMC Section 15-5009-B, staff sent a Notice of Action to the applicant and to the individual requesting notification. In response to the mailed Notice of Action, one formal appeal letter, dated November 8, 2017, was received. The appeal letter, attached as Exhibit J, listed several reasons for the appeal primarily related to the environmental assessment prepared for the project. Pursuant to FMC Section 15-5017-A-1, the Director has referred this application to the Planning Commission for action.

### *Fresno City Planning Commission Action*

Development Permit Application No. D-16-109 was considered by the Fresno City Planning Commission at its meeting on December 20, 2017. After a complete hearing, the Commission voted unanimously to recommend approval (to the City Council) of the Mitigated Negative Declaration prepared for Environmental Assessment No. D-16-109, dated September 18, 2017; and recommend approval (to the City Council) of the Director’s decision to approve Development Permit Application No. D-16-109 subject to compliance with the Conditions of Approval dated October 24, 2017.

### *Notice of City Council Hearing*

In accordance with Section 15-5007 of the FMC, a notice of public hearing was mailed to surrounding property owners within 1,000 feet of the subject site on January 12, 2018 (see attached Exhibit E: Public Hearing Notice Mailing List Vicinity Map). The notice was also sent to the appellant.

## **Analysis of Comments & Concerns**

The formal appeal letter that was received appealed the Director’s decision to approve both Development Permit Application No. D-16-109 and Environmental Assessment No. D-16-109. As

previously mentioned, concerns were primarily related to the environmental assessment prepared for the project.

The following is an analysis of the issues raised in the appeal letter:

**Reason #1:** The mitigated negative declaration fails to satisfy the requirements of the California Environmental Quality Act, because it fails to adequately analyze and mitigate the projects' potentially significant impacts; therefore, the city must prepare an environmental impact report for the project.

*Response: Staff has prepared an initial study and has determined that a mitigated negative declaration is appropriate for the proposed project. The initial study has determined that there are air quality, hazards and hazardous material, hydrology and water quality, public services, utilities and service systems, noise, and transportation and traffic related impacts that would be reduced to less than significant with project specific mitigation measures incorporated. These mitigation measures include compliance with the Fresno Metropolitan Flood Control District's requirements and construction of Master Plan Facilities, coordination with Caltrans regarding appropriate interim improvements to be located at the intersection at the SR 99 southbound off-ramp/Parkway at North Avenue until reconstruction of the interchange occurs, acoustical analyses for future entitlements which may result in noise levels that exceed noise level exposure criteria established by Tables 9-2 and 9-3 of the Fresno General Plan, payment of development impact fees, required submittal of business plans for businesses handling hazardous materials, compliance with San Joaquin Valley Air Pollution Control District requirements for Indirect Source Review, and the Departments of Public Works and Public Utilities' requirements related to street, sewer and water infrastructure.*

**Reason #2:** The mitigated negative declaration fails to analyze potentially significant impacts of future projects as well as the projects cumulative significant impacts.

*Response: The mitigated negative declaration is tiered off of the Fresno General Plan Master Environmental Impact Report (MEIR) which analyzed "project specific" impacts associated with future development within the Planning Area (Sphere of Influence) as well as the cumulative impacts factored from future development in areas outside of the Planning Area.*

**Reason #3:** The mitigated negative declaration does not adequately analyze and mitigate the project's potentially significant effects on aesthetics, agricultural resources, hydrology and water quality, and air quality and greenhouse gas emissions.

*Response: These potential impacts are adequately addressed in the mitigated negative declaration prepared for the project. In addition the mitigated negative declaration is tiered off of the Fresno General Plan MEIR which analyzed and mitigated these areas of concern through General Plan policies and the mitigation monitoring and reporting program prepared for the MEIR. The project has been conditioned to comply with all General Plan policies, development code requirements, and the mitigation monitoring and reporting program for the Fresno MEIR.*

**Reason #4:** The city must comply with development code requirements for the issuance of the

development permit and should provide for the greatest public process available.

*Response: The City complied with the development code requirements for issuance of Development Permits in accordance with Article 52 of the FMC. Pursuant to FMC Section 15-5205, a public notice of Director's action is not required. A public notice of the attached mitigated negative declaration finding for Environmental Assessment No. D-16-109 (Exhibit K) was published in the Fresno Bee and posted at the Fresno County Clerk's Office on September 18, 2017.*

**Reason #5:** The District 3 Implementation Committee Must Consider and Provide Recommendations On The Project Before the City Makes a Determination on the Development Permit.

*Response: As mentioned in the Public Notice and Input section above, there is no active District 3 Plan Implementation Committee to recommend approval of the project, thus no comments or recommendations were received.*

## ENVIRONMENTAL FINDINGS

An environmental assessment initial study was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations.

Preparation of the environmental assessment necessitated a thorough review of the proposed project and relevant environmental issues and considered previously prepared environmental and technical studies pertinent to the Roosevelt Community Plan area, including the Fresno General Plan MEIR SCH No. 2012111015. These environmental and technical studies have examined projected sewage generation rates of planned urban uses, the capacity of existing sanitary sewer collection and treatment facilities, and optimum alternatives for increasing capacities; groundwater aquifer resource conditions; water supply production and distribution system capacities; traffic carrying capacity of the planned major street system; and, student generation projections and school facility site location identification.

The proposed industrial park has been determined to not be fully within the scope of the recently updated 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). It has been further determined that all applicable mitigation measures of SCH No. 2012111015 have been applied to the project, together with project specific mitigation measures 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 PRC, 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. Therefore, it has been determined based upon the evidence in the record that 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).

A mitigated negative declaration finding for the attached Environmental Assessment No. D-16-109

(Exhibit K) was published on September 18, 2017 with one comment letter received, dated October 18, 2017.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings of Section 15-5206 of the FMC can be made. These findings are attached as Exhibit L to this staff report.

## **LOCAL PREFERENCE**

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

## **FISCAL IMPACT**

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

## **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 Roosevelt Community Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Development Permit Application No. D-16-109 is appropriate for the subject properties. Action by the City Council is final.

Attachment: Exhibit A - Vicinity Map  
Exhibit B - Aerial Photograph  
Exhibit C - Planned Land Use Map  
Exhibit D - Zoning Map  
Exhibit E - Noticing Map  
Exhibit F - Project Information Tables  
Exhibit G - Operational Statement  
Exhibit H - Site Plan  
Exhibit I - Conditions of Approval dated October 24, 2017; including memoranda from responsible commenting agencies  
Exhibit J - Appeal Letter  
Exhibit K - Environmental Assessment  
Exhibit L - Fresno Municipal Code Findings  
Exhibit M - Planning Commission Resolution No. 13516  
Exhibit N - City Council PowerPoint Presentation