



## Legislation Details (With Text)

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**Title:** HEARING to Consider Plan Amendment Application No. A-17-011, Rezone Application No. R-17-016, Development Permit Application No. D-17-128, and related Environmental Assessment No. A-17-011/R-17-016/D-17-128, filed by Terra Mortensen of Galloway & Company, Inc. These applications pertain to approximately 1.38 acres of property located on the northeast corner of North Glenn and West Nees Avenues. (Council District 2 - Brandau)

a. Adopt the Mitigated Negative Declaration prepared for Environmental Assessment No. A-17-011/R-17-016/D-17-128 dated December 1, 2017.

b. RESOLUTION - Approving Plan Amendment Application No. A-17-011 proposing to amend the planned land use designation of the Fresno General Plan and Bullard Community Plan from Community Commercial to the Business Park land use designation.

c. BILL - (For introduction and adoption) - Approving Rezone Application No. R-17-016 to reclassify the subject property from the CC/UGM/cz (Community Commercial/Urban Growth Management/conditions of zoning) to BP/UGM (Business Park/Urban Growth Management) zone district.

d. Approve Development Permit Application No. D-17-128 requesting authorization to construct an 11,878-square-foot tire center under the use classification Automobile/Vehicle Repairs, Major on the subject property.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A Vicinity Map, 2. Exhibit B 2017 Aerial Photograph of Site, 3. Exhibit C Public Hearing Notice Mailing List Map, 4. Exhibit D Master Application, 5. Exhibit E Operational Statement, 6. Exhibit F Proposed Plan Amendment Map, 7. Exhibit G Proposed Rezone Map, 8. Exhibit H Site Plans, 9. Exhibit I Plan Amendment, Rezone and Development Permit Findings, 10. Exhibit J Environmental Assessment No. A-17-011 R-17-016 D-17-128, 11. Exhibit K Planning Commission Resolutions 13505, 13506 and 13507, 12. Exhibit L City Council Resolution for Plan Amendment A-17-011, 13. Exhibit M City Council Ordinance for Rezone Application R-17-016, 14. Exhibit N Conditions of Approval dated December 6, 2017

Date	Ver.	Action By	Action	Result
2/15/2018	1	City Council	adopted	Pass

## REPORT TO THE CITY COUNCIL

**February 15, 2018**

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

**THROUGH:** MIKE SANCHEZ, Assistant Director

Development Services Division

WILL TACKETT, Supervising Planner  
Development Services Division

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

## **SUBJECT**

HEARING to Consider Plan Amendment Application No. A-17-011, Rezone Application No. R-17-016, Development Permit Application No. D-17-128, and related Environmental Assessment No. A-17-011/R-17-016/D-17-128, filed by Terra Mortensen of Galloway & Company, Inc. These applications pertain to approximately 1.38 acres of property located on the northeast corner of North Glenn and West Nees Avenues. (Council District 2 - Brandau)

- a. Adopt the Mitigated Negative Declaration prepared for Environmental Assessment No. A-17-011/R-17-016/D-17-128 dated December 1, 2017.
- b. RESOLUTION - Approving Plan Amendment Application No. A-17-011 proposing to amend the planned land use designation of the Fresno General Plan and Bullard Community Plan from Community Commercial to the Business Park land use designation.
- c. BILL - (For introduction and adoption) - Approving Rezone Application No. R-17-016 to reclassify the subject property from the CC/UGM/cz (*Community Commercial/Urban Growth Management/conditions of zoning*) to BP/UGM (*Business Park/Urban Growth Management*) zone district.
- d. Approve Development Permit Application No. D-17-128 requesting authorization to construct an 11,878-square-foot tire center under the use classification Automobile/Vehicle Repairs, Major on the subject property.

## **RECOMMENDATION**

Staff recommends that the City Council take the following actions:

1. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. A-17-011/R-17-016/D-17-128 dated December 1, 2017.
2. ADOPT RESOLUTION approving Plan Amendment Application No. A-17-011 proposing to amend the planned land use designation of the Fresno General Plan and Bullard Community Plan from Community Commercial to the Business Park land use designation.
3. ADOPT BILL approving Rezone Application No. R-17-016 to reclassify the subject property from the CC/UGM/cz (Community Commercial/Urban Growth Management/conditions of zoning) to BP/UGM (Business Park/Urban Growth Management) zone district.
4. APPROVE Development Permit Application No. D-17-128 requesting authorization to construct an 11,878-square-foot tire center under the use classification Automobile/Vehicle Repairs, Major on the subject property.

## **EXECUTIVE SUMMARY**

Terra Mortensen of Galloway & Company, Inc. has filed Plan Amendment Application No. A-17-011, Rezone Application No. R-17-016, and Development Permit Application No. D-17-128 pertaining to approximately 1.38 acres of property located on the northeast corner of North Glenn and West Nees Avenues. Abutting the subject property, to the east, is a shopping center developed on property planned for Community Commercial land use. A covenant for cross-easement between this property and the subject property is in effect, and a driveway exists to allow circulation between the properties without requiring vehicles to use West Nees Avenue. South of the subject property, across West Nees Avenue, is the Villagio Shopping Center, which has been developed on property designated with the Regional Commercial planned land use. West of the subject site, across North Glenn Avenue, and abutting the subject property to the north, land designated as Residential, Medium High Density has been developed with multi-family housing. Northeast of the subject property, though not directly adjacent, runs State Route 41.

Plan Amendment Application No. A-17-011 proposing to amend the planned land use designation of the Fresno General Plan and Bullard Community Plan from Community Commercial to the Business Park land use designation. Rezone Application No. R-17-016 proposes to to reclassify the subject property from the CC/UGM/cz (Community Commercial/Urban Growth Management/conditions of zoning) to BP/UGM (Business Park/Urban Growth Management) zone district. Development Permit Application No. D-17-128 requests authorization to construct an 11,878-square-foot tire center under the use classification Automobile/Vehicle Repairs, Major on the subject property.

## **BACKGROUND**

Plan Amendment Application No. A-17-011 proposes to amend the Fresno General Plan and Bullard Community Plan planned land use from Community Commercial to Business Park. Rezone Application No. R-17-016 proposes to amend the Official Zone Map to reclassify the property from CC/UGM/cz (Community Commercial/Urban Growth Management/conditions of zoning) to BP/UGM (Business Park/Urban Growth Management) zoning. Under the current planned and use and zone district of Commercial - Community, the proposed use of the subject property as a Les Schwab Tire Center would be prohibited. Under the Business Park planned land use and zone district, the use as a tire center would be a by-right use. The approval of the applications would remove the existing conditions of zoning on the property as these refer to a previous rezoning that would be superseded by the current applications.

### *Cross Access*

Currently a driveway exists between the subject property (APN 402-440-07) and the developed commercial property (APN 402-440-06) immediately east of the location.

### *Noise*

Potential noise sources at the project site would occur primarily from the roadway noise from West Nees Avenue along the respective frontage of the subject site and Freeway 41 to the east, and from stationary noise sources which could potentially emanate from future uses developed on the site, in this case, a tire center.

The subject property is located on West Nees Avenue west of North Blackstone Avenue and Freeway 41, an area which is noted in the Fresno General Plan (Figure NS-2) as having an existing noise contour of 65 to 70 dB abutting West Nees Avenue, with a noise level of 60 to 65 dB extending

beyond the immediate roadway area to include the residential developments north and west of the proposed location.

It is anticipated that the operation of the proposed tire center would generally not produce sounds above 55 dB more than 100 feet away. Intermittently (<1 second per sound), the proposed use would be expected to produce noise at a maximum of 62dB 100 feet away and directly east of the service bays. The distance from the service bays, situated to face east, to the north and the nearest multi-family residential building is approximately 94 feet with a block wall and carports located on the residential property line abutting the proposed project.

The proposed project Operational Statement (Exhibit L) specifies the business Hours of Operation to be Monday through Friday from 8:00AM until 6:00PM and Saturday from 8:00AM until 5:00PM. These hours were intended by the project owners as a way to limit noise nuisances to nearby residents to hours when resident would most likely be working and least likely to be sleeping.

Based upon the above described conditions, the noise levels for the proposed project constitute a negligible to less than significant increase to the City's applicable exterior noise level standard for commercial uses. Although not required to submit an acoustical study, the project will be required to comply with all noise policies and mitigation measures identified within the Fresno General Plan and MEIR as well as the noise ordinance of the Fresno Municipal Code. Additional mitigation is not required.

#### Land Use Plans and Policies

The proposed project aligns with objectives and policies found in the Fresno General Plan and the Bullard Community Plan.

#### *Fresno General Plan*

The Fresno General Plan designates the subject site for Community Commercial. Plan Amendment Application No. A-17-011 proposes to amend the Fresno General Plan and Bullard Community Plan planned land use from Community Commercial to Business Park. The proposed project is compatible with goals, objectives, and policies included in the Fresno General Plan, including:

Goal No. 1 of the Fresno General Plan encourages the use of urban form, land use, and Development Code policies to streamline permit approval, promote local educational excellence and workforce relevance, significantly increase business development and expansion, retain and attract talented people, create jobs and sustained economic growth, strategically locate employment lands and facilities, and avoid over-saturation of a single type of housing, retail or employment.

Goal No. 8 of the Fresno General Plan encourages 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. Healthy communities demonstrate efficient development patterns providing for: A mix of land uses and a built environment that supports walking and biking; Multimodal, affordable transportation choices; and, Safe public spaces for social interaction.

This Goal contributes to the establishment of a comprehensive city-wide land use planning strategy

to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment in accordance with Objective LU-1 of the Fresno General Plan.

Goal No. 12 of the Fresno General Plan encourages the resolution of existing public infrastructure and service deficiencies, full use of existing infrastructure, and investment in improvements to increase competitiveness and promote economic growth.

Objective UF-14 of the Fresno General Plan promotes urban form that facilitates multi-modal connectivity.

Implementing Policies LU-1-a and LU-2-a of the Fresno General Plan promote development of vacant, underdeveloped, and re-developable land within the Existing City Limits as of December 31, 2012 where urban services are available.

Objective LU-6 of the Fresno General Plan promotes the retention and enhancement of existing commercial areas to strengthen Fresno's economic base and development of new office, retail, and lodging use districts on sites which will serve neighborhoods and regional visitors.

Fresno General Plan Policy LU-6-a fosters high quality design, diversity, and a mix of amenities in new development with uses through the consideration of guidelines, regulations and design review procedures.

The subject property has remained vacant since the demolition of the landscape nursery that previously operated at the location. The property is an appropriate infill site as it has existing infrastructure and is adjacent to built-out urban uses, including a commercial shopping center immediately to the east and regional shopping centers immediately south across West Nees Avenue and on the southeast corner of West Nees Avenue and North Blackstone Avenue. The proximity of the project site to the Blackstone Avenue bus rapid transit corridor makes it convenient for residents to leave their vehicles for service and access transit for commuting and shopping. The proposed project's pedestrian connectivity promotes access to the regional commercial areas within easy walking distance.

### *Bullard Community Plan*

Upon reviewing the policies contained in the Plan, staff has determined that there are no policies that are more restrictive than those contained in the FMC. The proposed project is compatible with goals and policies included in the Bullard Community Plan, including:

Goal 4.2.3-6 promotes mixed use development within the office land use designation, in order to minimize vehicular trips, promote innovative design and to allow for the flexibility to meet changing market needs.

The proposed project, with cross access to the commercial development abutting it to the east, enhances the mix of uses concentrated at North Blackstone and West Nees Avenues. The project location, along a bus rapid transit route, also facilitates the ability of residents to leave their vehicles for service at the location and access transit for commute travel or walk to the wide range of commercial locations and services in the immediate vicinity.

### Public Resources

The site is currently served by all City services. The site is currently vacant land, but was developed with commercial uses at one time and is substantially surrounded by developed urban uses. The proposed amendment and rezone will increase the allowable service and employment uses to be developed on site. The Department of Public Utilities (DPU) has determined 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 Master Environmental Impact Report and the construction and installation of public facilities and infrastructure in accordance with Department of Public Works standards, specifications and policies.

Review for compliance with fire and life safety requirements for the interior of proposed buildings and the intended use are reviewed by both the Fire Department and the Building and Safety Services Section of the Development and Resource Management 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 that permanent drainage service is available provided the developer can verify to the satisfaction of the City that runoff can be safely conveyed to the Master Plan inlet(s).

### Circulation Element Plan Policies and Major Street System Traffic Capacity

The subject site is located on the northeast corner of North Glenn and West Nees Avenues. In the Fresno General Plan Circulation Element, West Nees Avenue is designated as an arterial, which is classified by the Fresno General Plan as two- to four-lane divided (median island separation) roadways with somewhat limited motor vehicle access to abutting properties and with the primary purpose of moving traffic within and between neighborhoods and to and from freeways and expressways. North Glenn Avenue is designated as a local street, which are generally two- to three-lane roadways designed to provide direct access to properties, while discouraging excessive speeds and volumes of motor vehicles incompatible with neighborhoods being served through the implementation of multiple, well-connected routes and traffic calming measures.

Upon evaluation of a Trip Generation Analysis performed by Peters Engineering Group, the City of Fresno Public Works Department, Traffic and Engineering Services Division determined that this did not represent a significant change in traffic beyond the existing level generated by this previously developed use of the site. Therefore, a traffic impact study is not required at this time.

Further, 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 and projected circulation system based upon implementation of the mitigation measures included within the MEIR and based upon compliance with the project specific mitigation measures referenced in the Mitigated Negative Declaration prepared for Environmental Assessment No. A-17-011/R-17-016/D-17-128 dated December 1, 2017.

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, and right-of-way dedications (including, but not limited to, construction and/or modification of curbs, sidewalks, trails, ramps and driveway approaches along adjacent public street frontages and on interior local streets); (2) Installation of underground street lighting systems where not existing; and, (3) Payment

of applicable impact fees (including, but not limited to, the Traffic Signal Mitigation Impact (TSMI) Fee, Fresno Major Street Impact (FMSI) Fee, and the Regional Transportation Mitigation Fee (RTMF) Fee.

#### Council District Plan Implementation Committee

The District 2 Plan Implementation Committee unanimously recommended approval of the proposed applications at its regularly scheduled meeting held on November 13, 2017.

#### Public Input

A neighborhood meeting was held at Mountain View Elementary School on Monday, August 7, 2017 at 6:00 p.m., pursuant to Section 15-5805 and 15-5006 of the FMC. The meeting was noticed to 500 feet of the subject property. After the notice was distributed, one letter of protest was emailed by an area homeowner to the office of Councilmember Brandau expressing concerns that the proposed use would create a noise nuisance, lower property values in the area, and increase traffic and crime. However, no members of the public attended the neighborhood meeting.

DARM staff mailed notices of the December 6, 2017 Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property on Tuesday, November 21, 2017, pursuant to Section 15-5007-B-2 of the FMC. Staff received one email expressing opposition from a property owner to the north of the subject property who preferred boutique retail or high end apartments at the location instead.

This hearing was noticed by mail to all property owners with 1,000 feet.

#### Fresno City Planning Commission Action

Plan Amendment Application No. A-17-011, Rezone Application No. R-17-016, Development Permit Application No. D-17-128, and Environmental Assessment No. A-17-011/R-17-016/D-17-128, were considered by the Planning Commission on December 6, 2017.

No members of the public spoke in opposition to the project. After a complete hearing, the Commission voted and recommended the City Council approve the proposed plan amendment, rezone, and development permit applications by a unanimous vote.

Staff is recommending the City Council approve the proposed plan amendment and rezoning of the subject property as well as the development permit in accordance with the recommendations included within this report herein above.

#### Plan Amendment and Rezone Findings

Based upon analysis of the application and subject to the applicant's compliance with all of the conditions of approval noted, staff concludes that the following required findings of Section 15-5812 of the FMC can be made. These findings are attached as Exhibit I.

### **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-17-011/R-17-016/D-17-128 was published on December 1, 2017 pursuant to Section 15072 of the CEQA Guidelines.

The Mitigated Negative Declaration dated December 01, 2017, which was prepared for Environmental Assessment No. A-17-011/R-17-016/D-17-128, 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.

Therefore, based upon the evidence in the record, the City of Fresno has determined 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.

## **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 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.

Attachments:



Exhibit A: Vicinity Map  
Exhibit B: 2017 Aerial Photograph of Site  
Exhibit C: Public Hearing Notice Mailing List Map  
Exhibit D: Master Application  
Exhibit E: Operational Statement  
Exhibit F: Proposed Planned Land Use Map pursuant to Plan Amendment Application No. A-17-011  
Exhibit G: Proposed Rezone exhibit pursuant to Rezone Application No. R-17-016  
Exhibit H: Site Plans  
Exhibit I: Plan Amendment, Rezone, and Development Permit Findings  
Exhibit J: Environmental Assessment No. A-17-011/R-17-016/D-17-128, finding of a Mitigated Negative Declaration dated December 1, 2017  
Exhibit K: Planning Commission Resolution Nos. 13505, 13506, and 13507  
Exhibit L: City Council Resolution for Plan Amendment Application No. A-17-011  
Exhibit M: City Council Ordinance Bill for Rezone Application No. R-17-016  
Exhibit N: Conditions of Approval dated December 6, 2017