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On agenda:	6/14/2018			**Final action:**	6/14/2018

Title: Consideration of an extension of time of a Development Agreement for the Marketplace at El Paseo filed by Gryphon Capital pertaining to the property generally located on the southwest corner of West Herndon Avenue and North Riverside Drive covering 74.4 acres of property and Conditional Use Permit Application No. C-17-057 filed by Rich Development pertaining to the development of the Marketplace at El Paseo on 18.4 acres of the subject property. (Council District 2),
1. APPROVE the Addendum to EIR No. 10144 (SCH NO. 2008011003) for purposes of the proposed project.
2. BILL - (For introduction) - Approving an extension of time of 10 years to February 2028, for the development of the Marketplace at El Paseo.
3. APPROVE Conditional Use Permit Application No. C-17-057 requesting authorization to construct ±162,000 square feet of retail, restaurant, and entertainment facilities, including a ±49,965-square-foot newly constructed movie theatre at the Marketplace at El Paseo Project.

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. Exhibit A - Vicinity Map, 2. Exhibit B - Aerial Photograph, 3. Exhibit C - Public Hearing Notice Vicinity Map, 4. Exhibit D - Addendum to EIR No. 10144, 5. Exhibit E - Fifth Amendment to Development Agreement for El Paseo Marketplace Project, 6. Exhibit F - Master Application for C-17-057, 7. Exhibit G - Vicinity Map for C-17-057, 8. Exhibit H - Site Plan Exhibits for C-17-057, 9. Exhibit I - Elevations for C-17-057, 10. Exhibit J - Fresno Municipal Code Findings for CUP, 11. Exhibit K - Draft Conditions of Approval and Memoranda, 12. Exhibit L - Powerpoint Presentation, 13. Exhibit N - Ordinance Bill

Date	Ver.	Action By	Action	Result
6/14/2018	1	City Council	approved	Pass

REPORT TO THE CITY COUNCIL

June 14, 2018

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

BY: MIKE SANCHEZ, Assistant Director
Development and Resource Management Department

SUBJECT

Consideration of an extension of time of a Development Agreement for the Marketplace at El Paseo filed by Gryphon Capital pertaining to the property generally located on the southwest corner of West

Herndon Avenue and North Riverside Drive covering 74.4 acres of property and Conditional Use Permit Application No. C-17-057 filed by Rich Development pertaining to the development of the Marketplace at El Paseo on 18.4 acres of the subject property. (Council District 2),

1. APPROVE the Addendum to EIR No. 10144 (SCH NO. 2008011003) for purposes of the proposed project.
2. BILL - (For introduction) - Approving an extension of time of 10 years to February 2028, for the development of the Marketplace at El Paseo.
3. APPROVE Conditional Use Permit Application No. C-17-057 requesting authorization to construct ±162,000 square feet of retail, restaurant, and entertainment facilities, including a ±49,965-square-foot newly constructed movie theatre at the Marketplace at El Paseo Project.

RECOMMENDATION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan, Bullard Community Plan, Government Sections 65864 through 65869.5, its compatibility with surrounding uses, and its avoidance of 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 the Fifth Amendment of the Development Agreement of the El Paseo Project and Conditional Use Permit Application No. C-17-057 are appropriate for the project site

EXECUTIVE SUMMARY

Gryphon Capital, on behalf of the John Allen Company is requesting an extension of time of 10 years for the Development Agreement, “Marketplace at El Paseo.” This Fifth Amendment to the original Development Agreement approved on December 16, 2010 pertains to 74.4 acres of property located on the southwest corner of West Herndon Avenue and North Riverside Drive. The present agreement expired on February 14, 2018; however, both City staff and the Project Applicant have been working towards an extension of the agreement and have mutually agreed on all points of concern. Since its construction commencement, the project applicant has worked diligently with various City Departments to coordinate all off-site construction, wet and dry utility installation, and the monitoring of compliance with the Development Agreement and environmental documents.

In a related application, Brandt Leitze of Rich Development has filed Conditional Use Permit Application No. C-17-057 pertaining to approximately 18.4 acres of property in the Marketplace at El paseo project. Conditional Use Permit Application No. C-17-057 requests authorization to construct ±162,000 square feet of retail, restaurant and entertainment facilities including a ±49,965-square-foot newly constructed movie theatre. The project is located on property zoned CR (Commercial - Regional).

BACKGROUND

On December 16, 2010, the City Council though Ordinance Bill No. 2010-60, approved a Development Agreement between the City of Fresno and the John Allen Company pertaining to the development of up to 906,877 square feet of commercial retail space covering 74.4 acres. The subject site, known as “Marketplace at El Paseo”, is to developed in six phases, 1A through 1F, and has completed phases 1A through 1C totaling nearly 400,000 square feet of commercial retail. The project applicant has been working with City staff on the balance of the remaining phases of development. The present agreement expired on February 14, 2018.

The extension of time is necessary in order to complete construction of the remaining phases as well as secure the construction of remaining off- sire improvements. Since its construction commencement, the project applicant has worked diligently with various City Departments to coordinate all off-site construction, wet and dry utility installation, and the monitoring of compliance with the Development Agreement and environmental documents. City staff is in agreement with an extension of 10 years that will expire February 14, 2028.

Aside from the extension of time, the Fifth Amendment also includes the following:

1. An overall square footage limitation of 850,000 square feet.
2. Payment of Water Capacity Fees once square footage exceeds 680,250 square feet.
3. Locations of three of the four approved drive throughs may be located along the Herndon Avenue frontage.
4. At the commencement of year six on February 14, 2023, the project applicant shall pay the fees in effect at this particular time.

Conditional Use Permit Application No. C-17-057 requests authorization to construct ±162,000 square feet of retail, restaurant and entertainment facilities, including a ±49,965 square foot newly constructed movie theatre on 18.4 acres comprising a portion of the phased development of the Marketplace at El Paseo shopping center project. C-17-057 includes amendments to the original Marketplace CUP (C-08-172), the CUP Conditions of Approval, and the Second Modified CUP Site Plan necessary to ensure consistency between the proposed Fifth Amendment and the Marketplace CUP.

The proposed project as a whole is a compatible use for the CR (Commercial - Regional) land use and zoning district; and, conforms to the terms included with the Development Agreement as well as the amendments proposed to be made thereto. CR zoning districts are intended to meet local and regional retail demand, such as large-scale retail, office, civic and entertainment uses, and shopping malls with large-format or “big-box” retail.

Development of the subject property is required to comply with the adopted Marketplace at El Paseo Design Guidelines, specifically in regard to consistent façade design standards. This is the primary aspect of special analysis related to this project.

Conditions of Approval for Conditional Use Permit C-08-172, addressing earlier development phases of the larger Marketplace at El Paseo project, also apply to the proposed project.

The proposed project will be required by Conditions of Approval to increase landscaping around any solid waste enclosures visible from North Riverside Drive, add long-term bicycle parking, and to utilize lighting designed in accordance with the adopted Design Guidelines and the mitigation measures included in EIR No. 10141 to minimize the project’s impact upon adjacent residential uses.

Also, pursuant to the Design Guidelines, the proposed project provides pedestrian access and connectivity to the larger Marketplace at El Paseo retail development and to surrounding land uses.

LAND USE PLANS AND POLICIES

The project proposed by Conditional Use Permit Application No. C-17-057 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 Commercial - Regional planned land uses and provides objectives to guide in the development of these projects. Conditional Use Permit Application No. C-17-057 meets all policies and objectives of the Fresno General Plan. The following are excerpts of such objectives.

Objective ED-3 states: Attract and recruit businesses and offer incentives for economic development.

Implementing Policy ED-3-a states (in part): Create, adopt, and implement programs to expand existing businesses and attract new businesses.

Objective UF-14 states: Create an urban form that facilitates multi-modal connectivity.

Implementing Policy UF-14-a states (in part): Develop and use design guidelines and standards for a walkable and pedestrian-scaled environment with a network of streets and connections for pedestrians and bicyclists, as well as transit and autos.

Objective LU-1 states: 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.

Implementing Policy LU-1-a states: 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-6 states: Retain and enhance existing commercial areas to strengthen Fresno's economic base and site new office, retail, and lodging use districts to serve neighborhoods and regional visitors.

Implementing Policy LU-6-a states: Foster high quality design, diversity, and a mix of amenities in new development with uses through the consideration of guidelines, regulations and design review procedures.

Implementing Policy LU-6-e states (in part): Promote economic growth with regional commercial centers.

Bullard Community Plan

Upon reviewing the policies contained in the Plan, staff has determined that there are no policies that are applicable or are more restrictive than those contained in the FMC.

PUBLIC INPUT AND NOTICING

District 2 Plan Implementation Committee

The District 2 Plan Implementation Committee reviewed Conditional Use Permit Application No. C-17

-057 on June 12, 2017 at their regular meeting. Though the committee noted that awnings would help protect shoppers from sun in the summer and rain in winter and that the project needs to become more aesthetically pleasing, the committee voted to recommend approval of the project.

The Development and Resource Management Department mailed dual notices of the Planning Commission and City Council hearings to surrounding property owners within 1000 feet of the subject property.

Planning Commission Action
This matter was considered by the Planning Commission on June 6, 2018. The Commission's recommendations will be forwarded to the City Council.

ENVIRONMENTAL FINDINGS

On December 16, 2010, through Resolution No. 2010-306, the City Council certified EIR No. 10144, which covered 906,877 square feet of commercial retail space and the Development Agreement between the City of Fresno and the John Allen Company. Pursuant to Section 15164 of the CEQA Guidelines, the attached Addendum includes necessary findings to demonstrate that none of the conditions described in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent EIR have occurred. These findings provide that no substantial changes are proposed in the project (inclusive of both the Fifth Amendment to the El Paseo Development Agreement and CUP Application No. C-17-057) or with respect to the circumstances, under which the project is undertaken, and which will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, will occur. Furthermore, these findings provide that no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified shows any of the following: (1) The project will have one or more significant effects not discussed in the previous EIR; (2) Significant effects previously examined will be substantially more severe than shown in the previous EIR; (3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; and/or, (4) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Furthermore, the project components are considered to only be minor technical changes, clarifications, and additions. As such, the City of Fresno has determined that an addendum to EIR No. 10144 (SCH NO. 2008011003) is appropriate given that none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent EIR have occurred; and, new information added is only for the purposes of providing minor changes or additions, in accordance with Section 15164 of the CEQA Guidelines.
The application is consistent with the general and community plan planned land use designation of Commercial - Regional planned land use and conforms to all applicable policies and terms of the Development Agreement.

FRESNO MUNICIPAL CODE FINDINGS

Based upon analysis of the applications, staff concludes that the required findings of Section 15-5306

of the Fresno Municipal Code can be made. These findings are attached as Exhibit J.

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 application as is reasonably expected by the applicant. Prudent financial management is demonstrated by the expeditious completion of this land use application in as much as the applicant has paid to the City a fee for the processing of this application and that fee is, in turn, funding the respective operations of the Development and Resource Management Department.

Attachments:

Exhibit A - Vicinity Map
Exhibit B - Aerial Photograph
Exhibit C - Public Hearing Notice Vicinity Map
Exhibit D - Addendum to EIR No. 10144
Exhibit E - Fifth Amendment to the Development Agreement for the El Paseo Marketplace Project
Exhibit F - Master Application for C-17-057
Exhibit G - Vicinity Map for C-17-057
Exhibit H - Site Plan Exhibits for C-17-057
Exhibit I - Elevations for C-17-057
Exhibit J - Fresno Municipal Code Findings for C-17-057
Exhibit K - Draft Conditions of Approval for C-17-057 including attached memoranda from partnering responsible Departments and Agencies
Exhibit L - PowerPoint Presentation
Exhibit M - Ordinance Bill for Fifth Amendment to Development Agreement

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