



Legislation Details (With Text)

**File #:** ID19-1940    **Version:** 1    **Name:**  
**Type:** Action Item    **Status:** Passed  
**File created:** 6/20/2019    **In control:** City Council  
**On agenda:** 7/25/2019    **Final action:** 7/25/2019

**Title:** HEARING to Consider Plan Amendment Application No. P18-03569, Rezone Application No. P18-03569, Modification of Zoning Conditions Application No. P18-03569 and related Environmental Assessment No. P18-03659 filed by Jeff Roberts of Assemi Group, Inc. These applications pertain to approximately 6.9 acres of property located on the corner of North Colonial and West San Jose Avenues. (Council District 2)

1. ADOPT CEQA Environmental Assessment No, P18-03569, a Mitigated Negative Declaration dated May 22, 2019.
2. RESOLUTION - Approving Plan Amendment Application No. P18-03569 proposing to amend the Fresno General Plan and the Bullard Community Plan planned land use for ±1.0 acre of property at the northeast corner of North Colonial and West San Jose Avenues from Residential Medium Density to Regional Mixed-Use.
3. BILL (For introduction and adoption) - Approving Rezone Application No. P18-03569 requesting authorization to rezone ±1.0 acre of property at the northeast corner of North Colonial and West San Jose Avenues from RS-5/EQ (Residential Single Family/Equine Overlay) to RMX (Regional Mixed-Use) zoning, to modify conditions of zoning on ±3.8 acres at the northwest corner of North Colonial and West San Jose Avenues, and to modify conditions of zoning on ±2.1 acres south of West San Jose Avenue at North Colonial Avenue.

**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 Noticing Map, 4. Exhibit D Project Information Tables, 5. Exhibit E Operational Statement, 6. Exhibit F Proposed Planned Land Use Map pursuant to Plan Amendment Application No P18-03659, 7. Exhibit G Proposed Rezone Exhibit pursuant to Rezone Application No P18-03659, 8. Exhibit H Site Plan (Conceptual Only), 9. Exhibit I Trip Generation Analysis, 10. Exhibit J Plan Amendment and Rezone Findings, 11. Exhibit K Environmental Assessment No P18-03659, Finding of a Mitigated Negative Declaration dated May 22, 2019, 12. Exhibit L Planning Commission Resolutions, 13. Exhibit M City Council Resolution for Plan Amendment Application No. P18-03659, 14. Exhibit N City Council Ordinance Bill for Rezone Application and Modification of Conditions of Zoning Application No. P18-03659, 15. Exhibit O Modification to Conditions of Zoning, 16. Exhibit P Public Comment Letter, 17. Exhibit Q Response to Comment Letter, 18. Late Submission Letters of Support and Opposition for 2PM item.pdf

Date	Ver.	Action By	Action	Result
7/25/2019	1	City Council	adopted	Pass

**REPORT TO THE CITY COUNCIL**

**July 25, 2019**

**FROM:** JENNIFER K. CLARK, Director

Planning and Development Department

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

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

**SUBJECT**

HEARING to Consider Plan Amendment Application No. P18-03569, Rezone Application No. P18-03569, Modification of Zoning Conditions Application No. P18-03569 and related Environmental Assessment No. P18-03659 filed by Jeff Roberts of Assemi Group, Inc. These applications pertain to approximately 6.9 acres of property located on the corner of North Colonial and West San Jose Avenues. (Council District 2)

1. **ADOPT** CEQA Environmental Assessment No. P18-03569, a Mitigated Negative Declaration dated May 22, 2019.
2. **RESOLUTION** - Approving Plan Amendment Application No. P18-03569 proposing to amend the Fresno General Plan and the Bullard Community Plan planned land use for ±1.0 acre of property at the northeast corner of North Colonial and West San Jose Avenues from Residential Medium Density to Regional Mixed-Use.
3. **BILL** (For introduction and adoption) - Approving Rezone Application No. P18-03569 requesting authorization to rezone ±1.0 acre of property at the northeast corner of North Colonial and West San Jose Avenues from RS-5/EQ (Residential Single Family/Equine Overlay) to RMX (Regional Mixed-Use) zoning, to modify conditions of zoning on ±3.8 acres at the northwest corner of North Colonial and West San Jose Avenues, and to modify conditions of zoning on ±2.1 acres south of West San Jose Avenue at North Colonial Avenue.

**RECOMMENDATION**

Staff recommends that the City Council take the following actions:

1. **ADOPT** the Mitigated Negative Declaration prepared for Environmental Assessment No. P18-03569 dated May 22, 2019.
2. **ADOPT RESOLUTION** approving Plan Amendment Application No. P18-03569 proposing to amend the Fresno General Plan and the Bullard Community Plan planned land use for ±1.0 acre of property at the northeast corner of North Colonial and West San Jose Avenues from Residential Medium Density to Regional Mixed-Use.
3. **ADOPT BILL** approving Rezone Application No. P18-03569 requesting authorization to rezone ±1.0 acre of property at the northeast corner of North Colonial and West San Jose Avenues from RS-5/EQ (Residential Single Family/Equine Overlay) to RMX (Regional Mixed-Use) zoning, Modification of Zoning Conditions Application No. P18-03659 proposing to modify conditions of zoning on ±3.8 acres at the northwest corner of North Colonial and West San Jose Avenues, and Modifications of Zoning Conditions Application No. P18-03659 proposing to modify conditions of zoning on ±2.1 acres south of West San Jose Avenue at North Colonial Avenue.

**EXECUTIVE SUMMARY**

Jeff Roberts of The Assemi Group has filed Plan Amendment/Rezone Application No. P18-03659, which pertains to ±6.9 acres of property located at the corners of North Colonial and West San Jose Avenues.

The application proposes to amend the Fresno General Plan and the Bullard Community Plan for ±1 acre of vacant land at the northeast corner of West San Jose and North Colonial Avenues from Residential Medium Density to Regional Mixed Use. The application also proposes to amend the Official Zone Map to reclassify the property from RS-5/EQ (Residential Single-Family/Equine Overlay) to RMX (Regional Mixed-Use).

Lastly, the application proposes the modification of conditions of zoning for ±3.8 acre of developed property on the northwest corner of West San Jose and North Colonial Avenues and the modification of conditions of zoning for ±2.1 acres of developed property south of West San Jose Avenue at North Colonial Avenue to modify previously established conditions of zoning.

## **BACKGROUND**

Plan Amendment/Rezone Application No. P18-03659 proposes to amend the Fresno General Plan and the Bullard Community Plan for ±1 acre of vacant land at the northeast corner of West San Jose and North Colonial Avenues from Residential Medium Density to Regional Mixed Use. The application also proposes to amend the Official Zone Map to reclassify the property from RS-5/EQ (Residential Single-Family/Equine Overlay) to RMX (Regional Mixed-Use).

Intended to facilitate the expansion of the existing Fig Garden Financial Center office complex, the Plan Amendment and Rezone would be necessary for the applicant to develop a future 90,000-square-foot, 4-story office building currently in the design concept stage and not included as part of this application. Adjacent to the subject property to the north, east, and west are a mix of medium density and medium low density residential uses. Abutting the property to the south is Fig Garden Village Shopping Center and a Corridor Mixed-Use area. Under the current residential planned land use and zone district, the future office development would be prohibited. Under the proposed Regional Mixed-Use planned land use and zone district, the development of an additional office building would be a by-right use. The Regional Mixed-Use planned land use and zone district would bring this property in line with the other parcels comprising the Fig Garden Financial Center.

The approval of the application would also modify existing conditions of zoning on two Fig Garden Financial Center parcels abutting the future building. The modification of conditions of zoning would be necessary to allow greater pedestrian access and to remove the requirement for landscape setbacks and concrete block walls along property lines that would become internal to the complex rather than serving as project borders. Conditions of zoning requiring traffic improvements that have already been completed would also be removed. Conditions prohibiting certain points of vehicular access and prohibiting drive-through facilities within 100 feet of West San Ramon and West San Jose Avenues shall remain as conditions of zoning.

### *Street Abandonment*

A related but separate application with the City of Fresno Public Works Department seeks to have parts of North Colonial and West San Jose Avenues abandoned, as the future office building would potentially be located at the existing intersection of these streets. See Exhibit H. In response to

concerned residents living in the unincorporated Village Garden condominium neighborhood north of the Fig Garden Financial Center, the applicant is considering providing gates to prevent cut-through traffic while also allowing the residents continued access to both North Palm and North Maroa Avenues.

A feasibility study for the abandonment was submitted to the Public Works Department for review, and comments have been provided to the applicant. Once those requirements are satisfied, the proposed abandonment will be prepared for public hearing. The final decision on the abandonment will rest with the City Council.

### *Traffic Analysis*

A Trip Generation Analysis performed by Vang Inc. Consulting Engineers (Exhibit I) indicated that the future office development would generate 140 vehicle trips during the morning peak hour travel period (7 to 9 a.m.), 34 vehicle trips during the evening peak hour travel period (4 to 6 p.m.) on a weekday, and 993 average weekday trips.

The "Mobility and Transportation" element of the City of Fresno General Plan divides the City of Fresno into four Traffic Impact Zones (TIZ's) on General Plan Figure MT-4. The project lies within TIZ -II, which represents areas of the City that are mostly developed and built out. The trigger for requiring a Traffic Impact Study (TIS) for all development within the TIZ-II is a project anticipated to generate 200 or more new peak hour trips.

Upon evaluation of the Trip Generation Analysis, 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 the current office uses in the Fig Garden Financial Center. Therefore, a traffic impact study is not required at this time.

Again, the development permit for the construction of the office building is not included in Plan Amendment/Rezone Application No. P18-3659 and will be addressed instead in a future application.

At the Planning Commission hearing on June 19, 2019, local resident Joyce Kauder provided the commissioners with information on traffic counts she has been taking herself on West San Jose Avenue east of North Colonial Avenue. On Monday, June 17, 2019, facing east on West San Jose Avenue looking toward North Maroa Avenue, she counted thirty vehicles on the roadway between 11:00am and 12:00pm and eight-one on the roadway between 5:00pm and 6:00pm. On Tuesday, June 18, 2019, again facing east on West San Jose Avenue looking toward North Maroa Avenue, she counted twenty-one vehicles, including three PG&E trucks and a school bus, on the roadway between 7:00am and 8:00am. On Wednesday, June 19, 2019, facing west on West San Jose Avenue looking toward North Palm Avenue, she counted forty-five vehicles on the roadway between 4:06pm and 5:06pm.

Ms Kauder's concern is that vacating the roadway is an inconvenience for this traffic. However, it should be noted that the roadway vacation is not part of this application and will be considered at a separate hearing for the City Council at a date to be determined. Should the current application, the related roadway vacation, and the future development permit all be approved, the expanded Fig Garden Financial Center will be prevented from becoming a shortcut between North Palm and North Maroa Avenues by limiting access to the center from North Colonial and West San Jose Avenues to emergency vehicle access only. No traffic from the financial center will have direct access to West

San Ramon Avenue, North Colonial Avenue, or West San Jose Avenue.

At the hearing several residents who spoke in favor of the proposed project had the opposite opinion of prohibiting through traffic between North Palm and North Maroa Avenues and felt it was a benefit to calm the high-speed shortcut traffic that makes it dangerous for them to walk in their community.

### **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 as planned land use Residential Medium Density. Plan Amendment/Rezone Application No. P18-3659 proposes to amend the Fresno General Plan and Bullard Community Plan planned land use from Residential Medium Density to Regional Mixed Use. 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. 7 of the Fresno General Plan encourages the provision for a diversity of districts, neighborhoods, housing types (including affordable housing), residential densities, job opportunities, recreation, open space, and educational venues that appeal to a broad range of people throughout the city.

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.

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.

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 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.

Plan Amendment/Rezone Application No. P18-3659, as the initial step in the future development of an approximately 90,000-square-foot, 4-story expansion of office uses at The Fig Garden Financial Center, would aid in the accommodation of sustained economic growth and the expansion of employment in an area with surrounding residential and retail uses, avoiding over-saturation of a single type of housing, retail or employment in the area.

The applicant has also been working with local residents on the concept of a park within the Fig Garden Financial Center and enhanced pedestrian access to the complex's green space, providing local residents and employees with additional access to open space.

As an expansion of an existing use in a developed urban area, the future project would make use of existing public infrastructure and services. The proposed development would be evaluated at the time of the development permit application submittal to determine possible impacts to public infrastructure and services. At that time, the proposed development may be required to construct or contribute to infrastructure and/or service improvements.

#### *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 4.2.3-5 promotes office land use designations of a size, configuration, location and visibility that would be attractive to prospective office users.

Policy 4.2.4-4 indicates that commercial areas shall be designed such that commercial traffic will not route through local residential streets.

Policy 4.2.4-7-d indicates that no commercial or office building shall be constructed within fifty-feet of the property line of abutting properties zoned or planned for residential uses.

The proposed project prepares the subject properties for an expansion of the existing office use at Fig Garden Financial Center with a concept that inhibits commercial traffic passing through local residential streets. The future location of the new office building, while not yet part of an official application, conceptually places the building at a greater distance from existing residential uses than attempting to place an office building on the northeast corner of North Colonial and West San Jose Avenues directly abutting single-family residences. See Exhibit H for the conceptual site plan.

#### *Fresno County Airport Land Use Compatibility Plan*

On December 3, 2018, the Airport Land Use Commission (ALUC) adopted the Fresno County Airport Land Use Compatibility Plan. The proposed project is within the Airport Influence Area of Fresno Yosemite International Airport and must be reviewed by the ALUC. The subject site is located in the Precision Approach Zone, where the Safety Criteria Matrix for the Plan indicates no limit on project density but does require Federal Aviation Administration (FAA) 7460 review to determine that development will not exceed the airport's airspace protection surface. As the project does not include

a development permit application with building elevations at this time, the FAA review will not be required for the ALUC to review the proposed plan amendment/rezone application. It should be noted that Fig Garden Financial Center already has existing buildings of the same mass and height as the future office building concept.

The ALUC reviewed Plan Amendment/Rezone Application No. P18-03659 on February 4, 2019, and approved a Finding of Consistency with the Plan.

## **PUBLIC INPUT AND NOTICING**

### **District 2 Plan Implementation Committee**

The District 2 Plan Implementation Committee reviewed the proposed project at their regular meeting on January 14, 2019 and voted 5-0 to recommend approval of the project. The Committee recommended the applicant include two small parks within the proposed project, which was discussed with neighbors the following evening at a public meeting held by the applicant. Early concepts for the park space include the possibility of providing one or two small dog parks within the Fig Garden Financial Center. The applicant's consultation with the community on amenities is ongoing.

### **Neighborhood Meeting**

A neighborhood meeting at the Fig Garden Financial Center (5250 N Palm Avenue) was held on September 27, 2018 at 6:00 p.m., pursuant to Section 15-5805 and 15-5006 of the FMC. The meeting was attended by 44 people from the community. Some of the attendees actually had questions regarding a nearby apartment project rather than the financial center expansion. Comments received from the community conveyed concerns regarding additional traffic in an area perceived as being overburdened by traffic from Bullard High School on North Palm Avenue north of the proposed project. The intersection of North Palm and West San Ramon Avenues with the Palm Avenue frontage road was also a concern. Community members wanted pedestrian access, amenities for walking their dogs, and nice landscaping to be included in the development.

The applicant has been meeting one-on-one and in groups with community members to discuss the proposed project periodically throughout the application process. Comments from the public have included concerns about pass-through traffic in the neighborhood north of the subject property. The applicant is currently in the process of meeting with the neighbors about potentially installing gates at the entrances to the condominium complex north of the project to prevent pass-through traffic.

### **Public Input**

Comments received from the community during meetings conveyed concerns regarding additional traffic in an area perceived as being overburdened by traffic from Bullard High School on North Palm Avenue north of the proposed project. The intersection of North Palm and West San Ramon Avenues with the Palm Avenue frontage road was also a concern. Community members wanted pedestrian access, amenities for walking their dogs, and nice landscaping to be included in the development.

Planning and Development staff mailed notices of a June 5, 2019 Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property (Exhibit C) on Friday, May 24, 2019, pursuant to Section 15-5007-B-2 of the FMC. Letters of support for the project were received

from sixty-four local residents and land owners. Letters of opposition were received from five local residents and land owners. Concerns regarding the project included increased traffic and accompanying air pollution, safe pedestrian access, and inhibited emergency services access from the proposed vacation of North Colonial and West San Jose Avenues.

This hearing was noticed by mail to all property owners within 1,000 feet on Friday, July 5, 2019.

### **Fresno City Planning Commission Action**

Plan Amendment Application No. P18-03569, Rezone Application No. P18-03569, Modification of Zoning Conditions Application No. P18-03569, and related Environmental Assessment No. P18-03659 were scheduled to be considered by the Planning Commission on June 5, 2019. At the hearing, Planning and Development staff asked the Planning Commission to refer the item back to staff for analysis of a comment letter received after business hours the day prior to the hearing. The Planning Commission continued the item to June 19, 2019.

The applications were considered by the Planning Commission on June 19, 2019. Five members of the public spoke in support of the project, including one resident who indicated she was representing the sixty-two (of sixty-nine) residents of Village Gardens condominiums who had contributed support letters, and five members of the public spoke in opposition. After a complete hearing, the Commission voted and recommended the City Council approve the proposed plan amendment, rezone, and modification of conditions of zoning applications by a unanimous vote.

Staff is recommending the City Council approve the proposed plan amendment, rezone, and modification of conditions of zoning in accordance with the recommendations included within this report herein above.

### **Notice of City Council Hearing**

Planning and Development staff mailed notices of this City Council hearing to surrounding property owners within 1,000 feet of the subject property (Exhibit C) on Friday, July 5, 2019, pursuant to Section 15-5007-B-2 of the FMC.

### **ENVIRONMENTAL FINDINGS**

An environmental assessment 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 area, including the Fresno General Plan Master Environmental Impact Report SCH No. 2012111015 (MEIR).

An initial study of the above-described project had been conducted, and it has been determined to be a subsequent project that is not fully within the scope of the MEIR prepared for the Fresno General Plan as provided by CEQA, as codified in the Public Resources Code (PRC) Section 21157.1(d) and the CEQA Guidelines Section 15177(c). Therefore, DARM proposes to adopt a Mitigated Negative Declaration for this project.



It has been further determined that all applicable mitigation measures identified within the Fresno General Plan MEIR have been applied to the project, together with 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 the MEIR 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).

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. P18-03659 was published on May 22, 2019.

On June 4, 2019, Planning and Development staff received a letter from a member of the public expressing a number of concerns about the proposed project. The comment letter has been included as Exhibit P. The letter outlined concerns dealing with why an EIR had not been prepared for the project, emergency vehicle access, safe pedestrian connectivity, removal of traffic improvement conditions of zoning, and inadequate time to review the applications. The response to the comment letter has been included as Exhibit Q. Based on the additional analysis of the comment letter, as detailed in the response letter, staff continues to recommend adoption of a Mitigated Negative Declaration for this 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 application 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. The proposed project and the action of the Council will have no impact on the General Fund.

Attachments:

- Exhibit A: Vicinity Map
- Exhibit B: 2017 Aerial Photograph of Site
- Exhibit C: Public Hearing Notice Mailing Map
- Exhibit D: Project Information Tables

- Exhibit E: Operational Statement
- Exhibit F: Proposed Planned Land Use Map/Plan Amendment Applic. No. P18-03659
- Exhibit G: Proposed Rezone Exhibit pursuant to Rezone Application No. P18-03659
- Exhibit H: Site Plan (Conceptual Only)
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- Exhibit P: Public Comment Letter
- Exhibit Q: Response to Comment Letter