



## Legislation Details (With Text)

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**Title:** HEARING to Consider Rezone Application No. P20-00596, Development Permit Application No. P20-00595, and related Environmental Assessment No. P20-00595/P20-00596 pertaining to ±1.07 acres of property located on the northeast corner of North Fresno Street and East Browning Avenue (Council District 4) - Planning & Development Department.

1. ADOPT Environmental Assessment No. P20-00595/P20-00596, dated September 16, 2020, a determination that the proposed project qualifies for the streamlined analysis set forth in the California Environmental Quality Act (CEQA) Guidelines Section 15183 (Projects Consistent w/ a Community Plan, General Plan, or Zoning) ; and,
2. BILL - (For introduction and adoption) - Approving Rezone Application No. P20-00596 requesting authorization to remove conditions of zoning on ±1.07 acres located on the northeast corner of North Fresno Street and East Browning Avenue; and,
3. APPROVE - Development Permit Application No. P20-00595 requesting authorization to construct a professional office complex on the subject property, subject to compliance with Conditions of Approval dated September 16, 2020.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Vicinity Map, 2. Exhibit B - Aerial Photograph, 3. Exhibit C - Planned Land Use, 4. Exhibit D - Zoning Map, 5. Exhibit E - Project Information Tables, 6. Exhibit F - Noticing Map, 7. Exhibit G - Master Application & Owner's Letter Authorization, 8. Exhibit H - Operational Statement, 9. Exhibit I - Exhibits (Site Plan, Elevation, Floor Plans and Landscape Plans), 10. Exhibit J - Statement of Covenants Affecting Land Development, 11. Exhibit K - Conditions of Approval dated September 16, 2020, 12. Exhibit L - Planning Commission Public Hearing Notice & Noticing Map, 13. Exhibit M - Planning Commission Resolution No. 13686 (Rezone Application No. P20-00596), 14. Exhibit N - Planning Commission Resolution No. 13687 (Development Permit Application), 15. Exhibit O - City Council Public Hearing Notice & Noticing Map, 16. Exhibit P - Fresno Municipal Code Findings, 17. Exhibit Q - Environmental Assessment, 18. Exhibit R - CC Ordinance Bill for Rezone No. P20-00596, 19. Exhibit S - PowerPoint\_Presentation.pdf

Date	Ver.	Action By	Action	Result
10/15/2020	1	City Council	adopted	Pass

## REPORT TO THE CITY COUNCIL

**October 15, 2020**

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

**THROUGH:** DAN ZACK, Assistant Director

Development Services Division

WILL TACKETT, Planning Manager  
Development Services Division

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

## **SUBJECT**

HEARING to Consider Rezone Application No. P20-00596, Development Permit Application No. P20-00595, and related Environmental Assessment No. P20-00595/P20-00596 pertaining to ±1.07 acres of property located on the northeast corner of North Fresno Street and East Browning Avenue (Council District 4) - Planning & Development Department.

1. ADOPT Environmental Assessment No. P20-00595/P20-00596, dated September 16, 2020, a determination that the proposed project qualifies for the streamlined analysis set forth in the California Environmental Quality Act (CEQA) Guidelines Section 15183 (Projects Consistent w/ a Community Plan, General Plan, or Zoning) ; and,
2. BILL - (For introduction and adoption) - Approving Rezone Application No. P20-00596 requesting authorization to remove conditions of zoning on ±1.07 acres located on the northeast corner of North Fresno Street and East Browning Avenue; and,
3. APPROVE - Development Permit Application No. P20-00595 requesting authorization to construct a professional office complex on the subject property, subject to compliance with Conditions of Approval dated September 16, 2020.

## **RECOMMENDATIONS**

Staff recommends that the City Council take the following actions:

1. ADOPT Environmental Assessment No. P20-00595/P20-00596, dated September 16, 2020, determination that the proposed project is exempt from the California Environmental Quality Act (CEQA) through a Section 15183 (Projects Consistent w/ a Community Plan, General Plan, or Zoning) Statutory Exemption; and,
2. INTRODUCE AND ADOPT BILL approving Rezone Application No. P20-00596 requesting authorization to remove conditions of zoning on ±1.07 acres located on the northeast corner of North Fresno Street and East Browning Avenue; and,
3. APPROVE Development Permit Application No. P20-00595 requesting authorization to construct a professional office complex on the subject property, subject to compliance with Conditions of Approval dated September 16, 2020.

## **EXECUTIVE SUMMARY**

Rezone Application No. P20-00596 and Development Permit Application No. P20-00595 were filed by Bret Giannetta, of Giannetta Engineering, on behalf of Samuel Lucido, and pertain to approximately ±1.07 acres located at 5612 North Fresno Street. The subject property is planned for Employment - Office uses and is currently zoned O/cz (*Office/conditions of zoning*).

The property is subject to existing conditions of zoning established in 1988; one of which prohibits access to East Browning Avenue from the site. Rezone Application No. P20-00596 requests to

rezone the subject  $\pm 1.07$  acre property from O/cz to O in order to remove conditions of zoning and allow access to East Browning Avenue.

Development Permit Application No. P20-00595 proposes development of a professional office complex consisting of approximately 13,680 square feet of office space. In addition to on and off-site improvements, two (2) new drive approaches are proposed; one onto North Fresno Street and the other onto East Browning Avenue. The proposed drive approach onto East Browning Avenue is contingent upon approval of the related rezone application.

On September 16, 2020, the Planning Commission considered the item as presented by staff in accordance with Fresno Municipal Code (FMC) Section 15-5808. No members of the public spoke on the project during the hearing. After a complete hearing, the Planning Commission voted and recommended the City Council approve the rezone and development permit applications 4 votes to 0, with 2 Commissioners absent.

The City Council is considering this project pursuant to FMC Section 15-5810, which requires a City Council Hearing and Action for rezone applications.

## **BACKGROUND/ANALYSIS**

The subject property is located within the boundaries of the Fresno General Plan, Hoover Community Plan, Fresno Yosemite International Specific Plan, and the Fresno County Airport Land Use Compatibility Plan. These plans designate the subject  $\pm 1.07$  acre property for Employment - Office planned land uses. The underlying O zone district is consistent with Employment - Office planned land use designation.

Pursuant to Table 15-1302 (Land Use Regulations - Employment Districts) of the Fresno Municipal Code (FMC), Offices are permitted "by right" in the O zone district and not subject to specific limitations or additional regulations for special uses pursuant to Article 27 of the FMC. The maximum Floor Area Ratio (FAR) of 2.0

The subject property is currently an undeveloped vacant infill site surrounded by urban uses. The site was previously developed with a single family ranchette, which was abandoned and demolished approximately two (2) years ago. The adjoining properties to the north and east are developed with a professional office complex and single family residences. The property to the south, across East Browning Avenue, is developed with a church and neighborhood park. The property to the west, across North Fresno Street, is developed with a single family ranchette.

The applicant proposes to develop a professional office complex consisting of approximately 13,680 square feet of office space with a FAR of 0.29. The office complex will comprise of two (2) 4,800 square-foot office buildings and two (2) 2,040 square foot office buildings. Additional on and off-site improvements to be provided include parking, landscaping, curbs and gutters, and sidewalks. A 20-foot building setback and 15-foot landscape buffer will be provided along the east property line.

Vehicular access is proposed to be provided via two (2) new drive approaches; one onto North Fresno Street and the other onto East Browning Avenue. In addition, the project will require dedications, vacations, and/or acquisitions for public street rights-of-way as well as the construction of public facilities and infrastructure in accordance with the standards, specifications and policies of the City of Fresno in order to facilitate the proposed development of the subject property.

Applying the factors outlined in the Institute of Traffic Engineers (ITE) Trip Generation Manual, 10<sup>th</sup> Edition, the proposed project would generate 21 vehicle trips during the morning peak hour travel period (7 to 9 a.m.), 20 vehicle trips during the evening peak hour travel period (4 to 6 p.m.) and 151 average daily trips (ADT). In accordance with Policy MT-2-i of the Fresno General Plan, a Transportation Impact Study is not required for this project. Furthermore, per page 9 of the recently adopted VMT Thresholds Guidelines, the project screens out.

Based upon existing conditions of zoning tied to the property, access is prohibited to East Browning from the subject site. Therefore, the subject rezone application was filed to remove the condition of zoning and allow access to East Browning Avenue as proposed.

## **Previous Entitlements/Conditions of Zoning**

### **Rezone Application No. R-88-35**

Rezone Application No. R-88-35 approved the rezone of 4.22 acres of property located on the northeast corner of North Fresno Street and East Browning Avenue from R-A (*Single-Family Residential Agriculture*) zone district to the R-P/cz (*Residential and Professional Office*) zone district for purposes of facilitating commercial office development.

For informational purposes, the area of land currently being considered under the proposed entitlements (P20-00595 & P20-00596) represents a  $\pm 1.07$  acre portion of the above mentioned  $\pm 4.22$  acre site.

It is noted that the subject property was originally designated for medium density residential uses since the adoption of the 1958 Fresno General Plan and within the 1984 Fresno General Plan. Furthermore, at the time of consideration, the area to the east had been subdivided and developed with single family residential homes and stub streets to the 4.22 acre parcel in anticipation of continuing single family residential development on the property. The existing school and neighborhood park to the south of the site were located, sized, and constructed based upon the original planned residential development in the area.

Although office uses were considered to be compatible with the surrounding residential development, it was identified that care needed to be taken in design standards to ensure the project would not result in an adverse impact on the neighborhood. In addition, it was identified that the proposed office commercial development on 4.22 acres would generate approximately 1,300 average daily trips (ADT); an increase of three times the traffic generated over the previous residential land use designation. As such, the City of Fresno desired to obtain conditions of zoning on the subject property to ensure that the subject property was not developed, used, or maintained in such a way as to adversely affect surrounding properties.

### **Conditions of Zoning**

Statement of Covenants Affecting Land Development was recorded on the subject property, pursuant to the requirements of Rezone Application No. R-88-35 as approved by the Fresno City Council on October 4, 1988, under Ordinance No. 88-127 (**Exhibit J**). The Ordinance specified four (4) conditions of zoning:

- 1) Access shall be prohibited to East Browning Avenue from the site.
- 2) A ten-foot landscape setback shall be provided along the east property line.
- 3) The dedication of an avigation easement and agreement as called for in the Fresno Air Terminal land use Policy Plan shall be required for residential uses.
- 4) An acoustical study shall be prepared and appropriate noise attenuation measures shall be incorporated into the design of structures.

## Rezone Application No. P20-00596

The subject rezone application requests to remove all four conditions of zoning.

- 1) *Access shall be prohibited to East Browning Avenue from the site.*

The primary purpose of the first condition of zoning, which prohibits access to East Browning Avenue, was to ensure that traffic related impacts from office commercial development on the subject site would not adversely affect the surrounding properties. Based upon the estimated traffic calculations outlined in the Previous Entitlements section above, the subject 1.07 acre subject property would have generated an estimated 325 ADT (1988 calculations).

However, as demonstrated in the Background section above and based upon ITE Trip Generation Manual, 10<sup>th</sup> Edition, the proposed project is estimated to generate approximately 151 ADT which is more than 50 percent less than what was previously estimated under R-88-35. Therefore, the perceived traffic related impacts attributed to the proposed project are significantly less than previously anticipated and the condition of zoning, which prohibits access to East Browning, is no longer necessary. Removal of the condition would not result in significant traffic related impacts to the surrounding neighborhood.

- 2) *A ten-foot landscape setback shall be provided along the east property line.*

As depicted on Exhibits A and L dated February 25, 2020 (**Exhibit I**), the project proposes a 15-foot landscape setback along the east property line which is greater than required per the condition of zoning. Furthermore, the project will be required to provide a Type 2 landscape buffer which requires two (2) large trees, three (3) small to medium trees, eight (8) large shrubs, and ten (10) small to medium shrubs for each 100 linear feet of buffer yard.

- 3) *The dedication of an avigation easement and agreement as called for in the Fresno Air Terminal land use Policy Plan shall be required for residential uses.*

The requirement above was made a condition of zoning by the Airport Land Use Commission on August 8, 1988.

An avigation easement and agreement pertaining to the subject property was executed and recorded (Document 90-08741) as reflected in the preliminary title report. Furthermore, on June 1, 2020, the Airport Land Use Commission reviewed the project and approved a Finding of Consistency with the Fresno County Airport Land Use Compatibility Plan. Lastly, the project proposes office uses (not residential). Therefore this condition has been satisfied and is no longer necessary.

- 4) *An acoustical study shall be prepared and appropriate noise attenuation measures shall be*

*incorporated into the design of structures.*

The requirement above was made a condition of zoning by the Airport Land Use Commission on August 8, 1988.

The proposed project is located within the Airport Influence Area under the Fresno County Airport Land Use Compatibility Plan (ALUCP). The project site is located within the Fresno Yosemite International Airport's (FYIA) Safety Zone 7 - Precision Approach Zone and Noise Contour 60-64 Community Noise Equivalent Level (CNEL).

Per the ALUCP, Office uses are considered compatible, which means the activities associated with the project may be carried out on-site with essentially no interference from aircraft noise. Furthermore, contemporary construction methodologies complying with current building code requirements will reduce exterior noise levels by at least 20-25 db if windows and doors remain closed (this building will have A/C & mechanical ventilation). Therefore, the proposed project would not expose people working in the project area to excessive noise levels from public or private airports, resulting in a less-than-significant impact.

In summary, there are no provisions of the FMC or the Fresno General Plan that would prohibit the project from being developed as proposed or restrict access to Browning. Furthermore, the remaining conditions of zoning have either already been satisfied, will be satisfied as part of this development, or are not required by the FMC, General Plan, or any applicable Operative Plans.

Given the project as proposed is not consistent with the existing conditions of zoning (specifically condition No. 1 which prohibits access to East Browning Avenue) the subject property would need to be rezoned (conditions of zoning removed). Following removal of the conditions of approval, the aforementioned covenant can be released by the Planning and Development Department in order for the project to proceed as proposed.

## **Fresno Municipal Code**

Given the conditions of approval dated September 16, 2020 (**Exhibit K**), Rezone Application No. P20-00596 and Development Permit Application No. P20-00595 meet all of the provisions of the FMC, including but not limited to setbacks, transition standards, parking, and landscaping, and complies with all applicable design guidelines and development standards for Office uses in the O (*Office*) zone district.

## **Other Agencies**

All comments received from the applicable agencies have been incorporated into the conditions of approval for Rezone Application No. P20-00596 and Development Permit Application No. P20-00595. The project will comply with all zoning requirements including setbacks, landscaping and parking requirements, as incorporated into the conditions of approval dated September 16, 2020.

## **Public Notice and Input**

Fresno County Airport Land Use Commission

The proposed project is located within the area of influence under the Fresno County Airport Land Use Compatibility Plan (ALUCP). The project site is located within the Fresno Yosemite International Airport's (FYIA) Safety Zone 7 - Precision Approach Zone and Noise Contour 60-64 CNEL. The Airport Land Use Commission reviewed the project as submitted at their June 1, 2020, regular meeting and approved a Finding of Consistency with the ALUCP with the following requirements:

- 1) A Part 77, Form 7460 shall be filed with the Federal Aviation Administration (FAA).

Staff has filed a Part 77, Form 7460 with the FAA and this condition has been satisfied.

#### Council District Project Committee Review

On June 22, 2020, the Council District 4 Project Review Committee reviewed this project and voted (3-0-1) to recommend approval of the project with no additional comments and/or recommendations.

#### Notice of Planning Commission Hearing

On September 4, 2020, the Planning and Development Department mailed notices of the Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property in accordance with Section 15-5007 of the FMC (**Exhibit L**). Two inquiries were received, neither of which expressed support or opposition.

#### Fresno City Planning Commission Action

On September 16, 2020, the Planning Commission considered the item as presented by staff, followed by a brief presentation by the applicant and property owner. No members of the public spoke on the project during the hearing. Only two general inquiries were received. No letters and/or e-mails were received in opposition or support of the project. After a complete hearing, the Planning Commission voted and recommended the City Council approve the rezone and development permit applications 4 votes to 0, with 2 Commissioners absent. The Planning Commission resolutions (**Exhibit M** and **Exhibit N**) are attached for more information.

#### Notice of City Council Hearing

On October 2, 2020, the Planning and Development Department mailed notices of the City Council Hearing to surrounding property owners within 1,000 feet of the subject site in accordance with Section 15-5007 of the FMC. See **Exhibit O** for Notice of City Council Hearing.

## LAND USE PLANS AND POLICIES

### Fresno General Plan

The Fresno General Plan designates the subject property for Employment - Office planned land use and provides objectives to guide in the development of this project. The Office planned land use designation is intended for administrative, financial, business, professional, medical, and public offices. This designation is mainly intended to apply to existing office uses on smaller lots, generally located on arterial roadways. This designation is also considered compatible with existing residential neighborhoods given the smaller level of noise and traffic generated compared to commercial uses. Retail uses would be limited to business services, food services, and convenience goods for those

who work in the area.

The Fresno General Plan provides goals, objectives, and policies to guide development. As proposed, the project will be consistent with the following Fresno General Plan goals:

- Increase opportunity, economic development, business, and job creation.
- Make full use of existing infrastructure, and investment in improvements to increase competitiveness and promote economic growth.
- Promote orderly land use development in pace with public facilities and services needed to serve development.
- Provide 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.

The following are applicable objectives and policies from the Urban Form, Land Use & Design, and Economic Development elements of the Fresno General Plan:

- 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-6: 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.
  - Policy LU-6-c: **Appropriate Office Development.** Promote the establishment of development standards for new offices, addressing location, size, and intensity necessary to meet the City's needs. Integrate and support employment in adjacent and proximate neighborhoods
- 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.

### **Hoover Community Plan**

The subject property is designated for Employment - Office planned land uses by the Hoover Community Plan which provides for ample commercial office development along major streets. Upon reviewing the policies contained in the Plan staff has determined that there are no policies that are applicable or are no more restrictive than those contained in the Fresno General Plan or the FMC. However, should there be a conflict the FMC shall control pursuant to Section 15-104-D-4 of the FMC.

### **Fresno Yosemite International Specific Plan**

The subject property is designated for Employment - Office planned uses by the Fresno Yosemite International Airport Land Use Compatibility Plan. Upon reviewing the policies contained in the Fresno Yosemite International Airport Land Use Compatibility Plan, staff has determined that there are no policies that are more restrictive than those contained in the FMC or the Fresno General Plan.

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

The proposed project is located within the Airport Influence Area under the Fresno Yosemite International Specific Plan and the Fresno County Airport Land Use Compatibility Plan. The project site is located within the Fresno Yosemite International Airport's (FYIA) Safety Zone 7 - Precision Approach Zone and Noise Contour 60-64 Community Noise Equivalent Level (CNEL). Listed uses that include hazards to flight are prohibited in Traffic Pattern Zone 6. Therefore, the proposed project is compatible and in compliance with the Airport Land Use Compatibility Plan.

As mentioned in the Public Notice and Input section above, the Airport Land Use Commission reviewed the project as submitted at their June 1, 2020, regular meeting and approved a Finding of Consistency with the ALUCP with the condition that a Part 77, Form 7460 shall be filed with the Federal Aviation Administration (FAA).

### **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings of Sections 15-5206 (Development Permit Findings) and 15-5812 (Rezone Findings) of the Fresno Municipal Code can be made. These findings are attached as **Exhibit P**.

### **ENVIRONMENTAL FINDINGS**

The California Environmental Quality Act (Public Resource Code Section 21000 et seq.) permits a public agency to determine whether a particular project is exempt from CEQA. Guidelines Section 15183 allows a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan or general plan policies for which an Environmental Impact Report (EIR) was certified. A determination of a Statutory Exemption from Section 15183 was made and Environmental Assessment No. P20-00595/P20-00596, dated September 16, 2020 (**Exhibit Q**), was prepared for this project.

Projects may be eligible for this process if the following findings can be made:

1. The project is consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified.
2. There's no project-specific effects which are peculiar to the project or its site.
3. There's no project-specific impacts which the City of Fresno Master EIR (SCH# 2012111015) failed to analyze as significant effects.
4. There's no potentially significant off-site and/or cumulative impacts which the Master EIR failed to evaluate.
5. There's no substantial new information resulting in more severe impacts than anticipated by the Master EIR.

As described above, the proposed professional office complex is consistent with the Employment - Office planned land use designations and development intensities assigned to the project site by the City of Fresno General Plan, Hoover Community Plan, Fresno Yosemite International Airport Land Use Compatibility Plan, and the Fresno County Airport Land Use Compatibility Plan and applicable design guidelines and development standards of the O (*Office*) zone district. The project will not result in effects that are peculiar to the project or the site. There are no project specific impacts which were not analyzed in the Master EIR. Furthermore, cumulative impacts associated with development and buildout of the project site, as proposed, were fully addressed in the Master EIR and there is no substantial new information resulting in more severe impacts than anticipated by the Master EIR. Since the proposed project is consistent with the land use designation and development intensity for the site identified in the General Plan and analyzed in the Master EIR, implementation of the proposed project would not result in any new or altered cumulative impacts beyond those addressed in the Master EIR.

## **LOCAL PREFERENCE**

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

## **FISCAL IMPACT**

Affirmative action by the City 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 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 Planning and Development 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, Hoover Community Plan, Fresno Yosemite International Specific Plan, and the Fresno County Airport Land Use Compatibility 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 Rezone Application No. P20-00596 and Development Permit Application No. P20-00595 are appropriate for the subject property.

**Attachments:**

- Exhibit A - Vicinity Map
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