



## Legislation Details (With Text)

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<b>File created:</b>	3/24/2021	<b>In control:</b>		Planning Commission	
<b>On agenda:</b>	4/7/2021	<b>Final action:</b>			
<b>Title:</b>	<p>Consideration of Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665 and the related Environmental Assessment No. P20-01665 pertaining to ±92.53 acres of property bounded by East Vine Avenue to the north, State Route 41 to the east, South Elm Avenue to the west and East Chester/East Samson Avenue (alignment) to the south (Council District 3).</p> <p>Based upon the evaluation contained in this report and based upon the public testimony and appeals received, Planning Commission may consider the following options for action:</p> <ol style="list-style-type: none"><li>1. RECOMMEND ADOPTION (to the City Council) of the Addendum to Final Program EIR (SCH No. 2017031012) for the Southwest Fresno Specific Plan, dated January 12, 2021 for the proposed project pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164.</li><li>2. RECOMMEND APPROVAL OR DENIAL (to the City Council) of Plan Amendment Application No. P20-01665 proposing to amend the Fresno General Plan and the Southwest Fresno Specific Plan to change the planned land use designation for the subject properties from Neighborhood Mixed Use to Light Industrial Employment and to amend Southwest Fresno Specific Plan Policy LU-8.1.</li><li>3. RECOMMEND APPROVAL, APPROVAL WITH CONDITIONS OF ZONING, OR DENIAL (to the City Council) of Rezone Application No. P20-01665 proposing to rezone the subject properties from the NMX (Neighborhood Mixed-Use) zone district to the IL (Light Industrial) zone district.</li></ol>				
<b>Sponsors:</b>	Planning and Development Department				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Exhibit A - Aerial Map, 2. Exhibit B - Vicinity Map, 3. Exhibit C - Fresno General Plan Land Use & Zoning Map, 4. Exhibit D - Proposed Planned Land Use Map, 5. Exhibit E - Proposed Rezone Exhibit, 6. Exhibit F - Fresno Municipal Code Findings, 7. Exhibit G - Public Hearing Notice Radius Map, 8. Exhibit H - Addendum to Final PEIR (SCH No. 2017031012) of the Southwest Fresno Specific Plan dated January 15, 2021, 9. Exhibit I - E-mail dated February 23, 2021, 10. Exhibit J - E-mail dated February 3, 2021, 11. Exhibit K - E-mail dated February 3, 2021, 12. Exhibit L - Letter dated February 2, 2021, 13. Exhibit M - Letter dated February 3, 2021, 14. Exhibit N - Letter dated March 9, 2021, 15. Supplemental Material 1, 16. Supplemental Material 2, 17. Supplemental Material 3, 18. Supplemental Material 4				

Date	Ver.	Action By	Action	Result
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## REPORT TO THE PLANNING COMMISSION

**April 7, 2021**

**FROM:** MIKE SANCHEZ, Assistant Director

Development Services Division

**THROUGH:** ISRAEL TREJO, Supervising Planner  
Development Services Division

**BY:** ROB HOLT, Planner III  
Development Services Division

**SUBJECT**

Consideration of Plan Amendment Application No. P20-01665, Rezone Application No. P20-01665 and the related Environmental Assessment No. P20-01665 pertaining to ±92.53 acres of property bounded by East Vine Avenue to the north, State Route 41 to the east, South Elm Avenue to the west and East Chester/East Samson Avenue (alignment) to the south (Council District 3).

Based upon the evaluation contained in this report and based upon the public testimony and appeals received, Planning Commission may consider the following options for action:

1. **RECOMMEND ADOPTION** (to the City Council) of the Addendum to Final Program EIR (SCH No. 2017031012) for the Southwest Fresno Specific Plan, dated January 12, 2021 for the proposed project pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164.
2. **RECOMMEND APPROVAL OR DENIAL** (to the City Council) of Plan Amendment Application No. P20-01665 proposing to amend the Fresno General Plan and the Southwest Fresno Specific Plan to change the planned land use designation for the subject properties from Neighborhood Mixed Use to Light Industrial Employment and to amend Southwest Fresno Specific Plan Policy LU-8.1.
3. **RECOMMEND APPROVAL, APPROVAL WITH CONDITIONS OF ZONING, OR DENIAL** (to the City Council) of Rezone Application No. P20-01665 proposing to rezone the subject properties from the NMX (*Neighborhood Mixed-Use*) zone district to the IL (*Light Industrial*) zone district.

**CONTINUED HEARING FROM FEBRUARY 3, 2021 AND MARCH 17, 2021**

**EXECUTIVE SUMMARY**

Steven Brock of SDG Fresno 570 LLC has filed Plan Amendment Application No. P20-01665 and Rezone Application No. P20-01665 pertaining to ±92.53 acres of property bounded by East Vine Avenue to the north, State Route 41 to the east, South Elm Avenue to the west and East Chester/East Samson Avenue (alignment) to the south.

Plan Amendment Application No. P20-01665 proposes to amend the Fresno General Plan and the Southwest Fresno Specific Plan to change the planned land use designation for the subject properties from Neighborhood Mixed Use to Light Industrial Employment and to amend Southwest Fresno Specific Plan Policy LU-8.1.

Rezone Application No. P20-01665 proposes to rezone the subject properties from the NMX (Neighborhood Mixed-Use) zone district to the IL (Light Industrial) zone district.

The subject properties are located within the boundaries of the Fresno General Plan and Southwest Fresno Specific Plan.

## **BACKGROUND/PROJECT ANALYSIS**

The subject properties are located within an area that has been significantly developed with industrial uses. Some of the uses within the subject area include a pharmaceutical business, distribution and manufacturing businesses, plastic fabrication business, garbage disposal and collection business, and other industrially-related businesses.

The subject area was originally within the IL (*Light Industrial*) zone district prior to the adoption of the Southwest Fresno Specific Plan (SWFSP) in 2017. The subject area was rezoned and the planned land use designation was changed to Neighborhood Mixed Use in response to the community's desire to remove all industrial zoning in the SWFSP. This was addressed with Goal LU-8 which aims to address and mitigate West Fresno's top ranking as most burdened by multiple sources of pollution by protecting the health and wellness of Southwest Fresno residents through regulating and reducing the negative impacts of industrial businesses and other sources of pollution. Furthermore, Policy LU-8.1 stated that all Light Industrial, Heavy Industrial, Business Park, and Regional Business Park land uses should be planned and zoned Office.

The applicant is requesting that this area be changed back to its previous zone district and planned land use designation of Light Industrial due to the subject area being developed with a majority of the existing uses within the industrial use classification. The proposed amendment to the SWFSP would make an exception to allow for industrial uses within the subject area of the SWFSP. The following SWFSP policy is proposed to be revised:

*Current Policy LU-8.1:* Plan and zone employment areas in Southwest Fresno for non-industrial businesses. All previously designated Light Industrial, Heavy Industrial, Business Park, and Regional Business Park land uses should be planned and zoned for Office.

*Proposed Policy LU-8.1 Amendment:* Except for the 92-acre area bounded by Vine Avenue on the north, State Route 41 on the east, Elm Avenue on the west, and East Chester/East Samson Avenue (alignment) on the south, in order to allow the continuation of legally established and non-polluting uses established and operating as of February 18, 2021.

## **Existing Development & Land Use**

The subject area is currently developed with (primarily) industrial uses and buildings. There is only one small portion of property ( $\pm 0.63$  acres) located at APN 328-240-32 that is undeveloped. If developed, new construction of a building(s) will be located behind two existing buildings, resulting in a visibility screening of said building(s) from the public right-of-way along South Elm Avenue.

Directly east of the subject area and Highway 41 are lands planned and designated for Heavy Industrial use. Neighborhood Mixed Use and Community Commercial planned land uses are designated for properties to the west of the subject area and along the Elm Avenue corridor frontage. These uses are intended to provide a diversity of opportunities to facilitate an active mixed use corridor; as well as a development interface, and transition between a thriving corridor and the residential and public facility (school) planned land use areas further to the west.

The IL (*Light Industrial*) zone district is intended to provide areas, as identified by the General Plan, for a diverse range of light industrial uses, including limited manufacturing and processing, research and development, fabrication, utility equipment and service yards, wholesaling, warehousing, and distribution activities. Small-scale retail and ancillary office uses are also permitted. Light Industrial areas may serve as buffers between Heavy Industrial Districts and other land uses and otherwise are generally located in areas with good transportation access, such as along railroads and freeways.

## **Housing Crisis Act of 2019**

On October 9, 2019, Governor Newsom signed Senate Bill (“SB”) 330 enacting the “Housing Crisis Act of 2019.” This housing bill was effective starting January 1, 2020 and will remain in effect through January 1, 2025. One of the applicable provisions of this legislation, as it relates to Plan Amendments and Rezoning, includes limitations wherein an affected City (which includes the City of Fresno) cannot change the general plan land use designation, specific plan designation, or zoning to a less intensive use, or reduce the intensity of an existing land use designation or zone district, below the density/intensity that was in effect on January 1, 2018; unless, the City concurrently increases density within its plans elsewhere within the City (i.e. corresponding upzone) to ensure the total number of available residential units remain the same, resulting in no net loss of residential development capacity.

In this case, the subject area of ±92.53 acres is proposing a land use change from Neighborhood Mixed-Use to Light Industrial. The maximum density allowed in the Neighborhood Mixed-Use planned land use designation is 16 dwelling units per acre. Therefore, the proposed plan amendment and rezone application would result in a reduction of residential development capacity of 1,489 dwelling units; unless, a separate Plan Amendment/Rezone application that will increase the total number of residential units elsewhere in the City is concurrently approved by the City Council on the same day as the subject application (resulting no net loss in residential capacity).

## **Council District 3 Project Review Committee**

On August 25, 2020, the Council District 3 Project Review Committee recommended approval of the proposed project, 4 votes to 1.

## **Planning Commission**

This project was originally presented before the Planning Commission on February 3, 2021. After the staff presentation and public comment period, the Planning Commission voted to continue the item in order to allow staff to review the comments received on the project as well as to allow the applicant to provide further community outreach by hosting a neighborhood meeting. On March 1, 2021, a neighborhood meeting was hosted and facilitated by a representative/agent of the applicant group. City staff attended the neighborhood meeting to listen and observe; the details of said meeting are discussed below in this report.

On March 17, 2021, this item was continued to April 7, 2021, in order to allow City staff additional time to consider all testimony received and to review additional information and/or documentation regarding this project; the details of which are discussed below in this report along with potential options that the Planning Commission may consider for action.

## Notice of Planning Commission Hearing

This project was originally presented before the Planning Commission on February 3, 2021. After the meeting, the Planning Commission voted to continue the hearing to a date certain, March 17, 2021. This matter was again continued to a date certain (the regular meeting of the City of Fresno Planning Commission scheduled for April 7, 2021) on the March 17, 2021 Planning Commission Agenda.

Relative to the February 3, 2021, Planning Commission meeting, the Planning and Development Department mailed notices of this Planning Commission hearing to all surrounding property owners within 1000 feet of the subject property, pursuant to Section 15-5007 of the FMC (**Exhibit G**). Additionally, on January 24, 2021, the applicant posted public notices of this Planning Commission hearing on the subject property, pursuant to the requirements within Section 15-5007.C of the Fresno Municipal Code.

## **Neighborhood Meeting**

The applicant held a Neighborhood Meeting on March 1, 2021, that included noticing to property owners within 2,000 feet of the subject area, the members of the Southwest Fresno Specific Plan Steering Committee, and the Washington Unified School District, and was conducted via Zoom.

There were 50 participants during the meeting and 16 spoke in opposition of the project. The concerns of the neighborhood included minimal vegetation of the subject area, existing odor from the recycling center, and the potential for future air quality, traffic, and pollution issues which may result as a result of the rezone. The neighborhood was also unified in the efforts put forth by the Southwest Fresno community in collaborating on creating policies within the Southwest Fresno Specific Plan that would eliminate industrial zoning in order to mitigate the existing health and safety issues of the Southwest Fresno area.

The purpose for the proposed rezoning was considered by the neighborhood to be unjustified, not credible or substantiated. Given the existing allowance for the continuation of legal non-conforming uses provided by the Fresno Municipal Code and SWFSP, members of the public were not convinced the rezoning of the subject property is necessary for financing/investment purposes and were concerned that no evidence has been provided to substantiate this claim. The public also called for the applicant group to provide a list of all owners and the respective acreages each interest owns within the boundaries of the subject property.

## **ANALYSIS OF THE CORRESPONDENCE RECEIVED**

Staff received one e-mail in support of the project. Staff also received three letters and two e-mails in opposition to the project (**Exhibits I, J, K, L, M, and N**), in response to the Notice of Public Hearing issued for the project. Staff has reviewed the letters and e-mails in opposition to the project and provide a responsive analysis of each letter.

- (1) The e-mail dated February 23, 2021 (**Exhibit I**) included a resident's statement of support and no further information.
- (2) The e-mail dated February 3, 2021 (**Exhibit J**) included a resident's statement of opposition and no further information.

(3) Below is an analysis of the issue raised in the e-mail dated February 3, 2021 (**Exhibit K**).

**Issue #1:** Concerns of the negative impact the proposed rezone would have on the health, economic growth, and overall well-being of the community. Also included was the issue of noise and unhealthy fumes that currently exist along Elm Avenue, and that Elm Avenue should resemble thriving businesses similar to Blackstone Avenue.

**Staff Response:**

An addendum to the Southwest Fresno Specific Plan Program Environmental Impact Report ("SWFSP PEIR") was completed by an environmental consultant for the proposed project that included an Initial Study consistent with California Environmental Quality Act (CEQA) guidelines and requirements. Based on this environmental analysis, there would be no further negative environmental impacts beyond what has already been mitigated from the approval of all existing development within the subject area because there is no proposed new construction that would result from the subject project applications. All existing uses must comply with the noise requirements of the Fresno Municipal Code. Additionally, uses that may emit fumes must comply with the requirements of the San Joaquin Valley Air Pollution Control District. Any proposed new uses within the subject area would be required to be a continuation of legally established and non-polluting uses established and operating as of February 18, 2021.

(4) Below is an analysis of the issues raised in the letter dated February 2, 2021 (**Exhibit L**).

**Issue #1:** The project has minimal mitigation and omits over one dozen measures required by the City's Final Environmental Impact Report for the City's General Plan (General Plan FEIR).

**Staff Response:**

A component of the subject Plan Amendment application proposes to amend Policy LU-8.1 in the Southwest Fresno Specific Plan to provide a geographically described exception in order to facilitate the requested change in the land use and zoning designation for the subject property back to Light Industrial. As proposed, the language for this amended policy is intended to limit allowances for future industrial uses and business operations to only those legally established and non-polluting uses established and operating as of February 18, 2021; and, only within the finitely described subject area.

Mitigation has been incorporated through previous approvals of the existing development and uses. The existing development and uses were evaluated within the SWFSP PEIR. Despite a proposed change in land use and zoning which has been represented by the applicant as being requested for purposes of removing encumbrances to financial investment resultant from the existing zoning of the subject property, and assuming a limitation of future use of the subject property to a manner consistent with existing uses (as analyzed by the SWFSP PEIR), the proposed project does not have potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the existing environment.

The SWFSP PEIR includes mitigation measures and was tiered from the General Plan MEIR; thereby, incorporating all General Plan MEIR required mitigation measures.

**Issue #2:** The Southwest Fresno Specific Plan analysis of air quality and noise impacts have

yet to be mitigated, and the City of Fresno is urged to adopt all feasible air quality and greenhouse gas emission mitigation, including all applicable measures required by the General Plan FEIR, and correct its CEQA analysis of air quality and noise impacts.

**Staff Response:**

Based on the initial study provided within the addendum to the SWFSP PEIR, and as described relative to Issue #1 herein above, no further negative environmental impacts would occur as a result of the continuation and approval of future uses which are as or less intensive as those uses that presently exist and operate in the subject area. All air quality and greenhouse gas emission mitigations, and all applicable measures required by the General Plan MEIR, have already been adopted by the City Council. The SWFSP PEIR was tiered from the General Plan MEIR and incorporates the required mitigation measures.

(5) Below is an analysis of the issues raised in the letter dated February 3, 2021 (Exhibit M).

**Issue #1:** The proposed project's findings of the Fresno Municipal Code wrongfully states the changes "seems to comply with the intent of the Vision for the SWFSP," in that it does not comply with the vision nor the guiding principles of the SWFSP of reducing, monitoring, and mitigating negative impacts of industrial uses, nor does it comply with prohibiting new industrial development or relocation of new industrial development away from residential neighborhoods.

**Staff Response:**

The findings for the project include the statement, "Although currently the Southwest Fresno Specific Plan (SWFSP) has specific policies that prohibit industrial uses, the proposed amendment to the SWFSP to allow for existing industrial uses to continue operating and for prospective industrial businesses to locate in this area may comply with the intent of the Vision for the SWFSP." The Vision and Subsequent Guiding Principles of the SWFSP state a prohibition of new industrial development, locating new industrial development away from residential neighborhoods, and increasing transparency and communication between government staff, government and elected officials, residents, and stakeholders regarding proposed industrial uses and/or improvements. The subject area, for which a change to the Light Industrial planned land use designation and zone district has been requested, comprises existing industrial development that has already been approved through the proper entitlements and mitigated through CEQA guidelines and requirements. Because the associated amendment to Policy LU-8.1 of the SWFSP has been proposed in a manner which would allow for the continuation of existing uses and any continuation of legally established and non-polluting uses established and operating as of February 18, 2021, the Plan Amendment and Rezone seem to comply with and protect the Vision and Guiding Principles of the SWFSP by not allowing for any future "new" industrial uses or intensification of existing industrial operations.

**Issue #2:** The Planning Department performed the bare minimum of giving public notice within 1,000 feet of the subject area.

**Staff Response:**

Section 15-5007.B.2 of the FMC states that, "The Director shall provide notice by First Class mail delivery to all property owners of record within a minimum 1,000-foot radius of the subject property as shown on the latest available assessment role." This was completed and sent to

all property owners within a 1,000-foot radius by Planning Department staff. No further direction was provided to staff to increase this 1,000-foot radius notice. It should be noted however, that a 2,000-foot notice was provided for the follow-up Neighborhood Meeting that occurred on March 1, 2021.

**Issue #3:** Allowance for Neighborhood Mixed Use uses, such as a grocery store, would be limited by the uses allowed in the Light Industrial use schedule.

**Staff Response:**

Table 15-1302 (Land Use Regulations - Employment Districts) of the FMC depicts the uses that are allowed within the Light Industrial zone district. Various commercial uses are allowed by-right, such as a grocery store. It should be noted that there are various commercial uses allowed for in the Light Industrial zone district.

**Issue #4:** The proposed project was not noticed to or reviewed by the Council District 3 Project Review Committee as required by Fresno Municipal Code (FMC) Section 15-5807.

**Staff Response:**

The proposed project was reviewed by the Council District 3 Project Review Committee on August 25, 2020, and the Committee recommended approval, 4 votes to 1. The agenda was noticed to the Committee and posted on the City Clerk's web page on August 19, 2020.

**Issue #5:** An addendum is inappropriate because a rezone is more than technical with consequential health impacts on the neighborhoods and nearby schools, and the result of rezoning from Neighborhood Mixed Use to Light Industrial would cause further allowable polluting factors than keeping the subject area in the Neighborhood Mixed Use planned land use designation.

**Staff Response:**

The SWFSP PEIR included and analyzed the existing uses of the subject area as a component of the overall environmental impacts. Since its adoption in 2017, no new construction has occurred in the subject area. The project does not propose any new construction. As described in response to Issue #1 herein above, considering none of the uses that were present within the subject area since the adoption of the SWFSP have intensified and the project would limit future uses to those use considered to be non-polluting and legally established and operating as of February 18, 2021, an addendum to the SWFSP PEIR is appropriate pursuant to CEQA Guidelines Sections 15162 and 15164.

**Issue #6:** Approval of the project does not comply with CEQA guidelines and requirements because the addendum does not adequately analyze or attempt to mitigate the proposed project's significant impacts on the environment and health of the surrounding community, including sensitive receptors such as the West Fresno Elementary and Middle Schools, and residential homes across the street from the subject area, nor was the addendum circulated for public review.

**Staff Response:**

An addendum to the SWFSP PEIR was completed by an environmental consultant for the proposed project that included an Initial Study, consistent with California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15164. Based on this environmental



analysis, there would be no further negative environmental impacts beyond what has been previously analyzed and mitigated from the previous approvals of all entitlements for the existing development within the subject area and within the SWFSP PEIR because there is no proposal for new development, construction, or intensification of existing uses. Any proposed new uses within the subject area would be required to be a continuation of legally established and non-polluting uses established and operating as of February 18, 2021. Despite a proposed change in land use and zoning which has been represented by the applicant as being requested for purposes of removing encumbrances to financial investment resultant from the existing zoning of the subject property, and assuming a limitation of future use of the subject property to a manner consistent with existing established uses and operations (as analyzed by the SWFSP PEIR), the proposed project does not have potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the existing environment beyond those previously analyzed, and will not result in a substantial change requiring preparation of further subsequent environmental analyses.

- (6) Below is an analysis of the issues raised in the letter dated March 9, 2021 (**Exhibit N**) not already addressed in the above-mentioned staff responses.

**Issue #1:** The applicant's direction provided by the Planning Commission to provide community outreach was minimal as only one community meeting was scheduled to all property owners within 2,000 feet. Any applications for a Plan Amendment-Rezone within the SWFSP must engage and outreach to the entire community, not just within 2,000 feet.

**Staff Response:**

The Planning Commission directed the applicant and Council District 3 Office to provide community outreach for further community input. The applicant conducted a neighborhood meeting that was noticed to all property owners within 2,000 feet of the subject area, which is double the minimum requirement of the FMC and just above 6 times the minimum State requirement. There is no policy within the SWSFP that requires any applications for a Plan Amendment-Rezone be noticed to all property owners within the SWFSP boundaries.

## **Land Use Plans and Policies**

The project is consistent with the following Fresno General Plan goals and objectives related to land use and the urban form:

- Increase opportunity, economic development, business and job creation.
- 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.

These goals contribute 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.

Objective ED-1 supports economic development by maintaining a strong working relationship with the business community and improving the business climate for current and future businesses.

Objective LU-1 promotes the establishment of 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.

Objective LU-7 plans and supports industrial development to promote job growth.

Policy LU-7-b promotes business and industrial park sites that are of sufficient size, unified in design, and diversified in activity to attract a full range of business types needed for economic growth.

Policy LU-7-c promotes industrial land use clusters to maximize the operational efficiency of similar activities.

The proposed plan amendment meets the intent of the goals, objectives, and policies of the Fresno General Plan referenced herein above. The proposed plan amendment would allow for industrial uses in the subject area would result in the continuous operation of existing industrial businesses and allowance of prospective industrial businesses, which are generally job-generating businesses, which complies with the above-mentioned goals, objectives and policies of the General Plan. Furthermore, the planned land uses that surround the subject area are commercial, mixed use and heavy industrial. There are existing residential homes north of the subject area on Vine Avenue, but these are planned for commercial use. It should be noted that although not directly adjacent to the subject area, there are planned residential uses further west of the subject area along Annadale and Chester Avenues, as well as West Fresno Elementary School.

With appropriate limitations to future industrial use intensification and prohibition of future expanded polluting operations, the proposed project can be found to protect the intent of the Guiding Principles of the SWFSP to: (1) Monitor and mitigate negative impacts of industrial uses from becoming a nuisance and hazard to residents (the proposed policy amendment will allow for the monitoring of future business operations, as well as providing specific limitations on new uses and prohibitions against future polluting uses in a specifically defined geographic area of the plan); (2) Restrict proximity of industrial development and truck routes near residential area (the proposed policy amendment specifically limits future uses and operations on the subject property); (3) Locate new industrial development away from Southwest Fresno residential neighborhoods (the proposed policy amendment and restriction to existing and established uses and operations prevents further intensification or development of new industrial uses on the subject property); and, (4) Increase transparency and communication between government staff, government and elected officials, residents, and stakeholders regarding proposed industrial uses and/or improvements (the proposed policy amendment and result of the project process has drawn attention and facilitated important discussion relative to the existing uses and operations occurring on the subject property by all interested parties and stakeholders. A resultant policy amendment specifically identifying the subject area and specific limitations to future operations can serve a purpose for future transparency.

## ENVIRONMENTAL FINDINGS

The City of Fresno has determined that an addendum to Final Program EIR (SCH No. 2017031012) prepared for the Southwest Fresno Specific Plan 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.

In accordance with Section 15162 of the CEQA Guidelines, no substantial changes are proposed in the project which will require major revisions; no substantial changes occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous adopted PEIR SCH No. 2017031012 due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and there is 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 PEIR SCH No. 2017031012 was adopted.

The existing uses in the subject area were identified and analyzed as a component of the SWFSP PEIR, and since its adoption, those uses have not intensified. The proposed project would not result in new significant impacts beyond those identified in the SWFSP PEIR, would not substantially increase the severity of impacts identified in the SWFSP PEIR, and would not require major revisions to the SWFSP PEIR.

The proposed Addendum to the SWFSP PEIR and associated initial study adequately evaluated the potential air quality, traffic, and pollution impacts of the proposed project, and resulted in a finding that no new impacts would result from the proposed project, which are beyond the scope of the analyses previously conducted within the SWFSP PEIR.

Based upon these findings, it has been determined an addendum to PEIR SCH No. 2017031012 is appropriate and a subsequent EIR is not required.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings contained within Section 15-5812 et seq. of the Fresno Municipal Code can be made. These findings are attached as **Exhibit F**.

## **CONCLUSION AND OPTIONS FOR CONSIDERATION**

The appropriateness of the proposed project has been examined with respect to its consistency with goals, objectives and policies of the Fresno General Plan and the Southwest Fresno Specific Plan; compliance with the provisions of the FMC; 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 and exhibits. Staff concludes that the required findings contained within Section 15-5812 et seq. of the FMC may be made.

The project includes a proposed plan amendment to amend Policy LU-8.1 of the Southwest Fresno Specific Plan and a request to change the land use and zoning of the subject property. Pursuant to the provisions of the Fresno Municipal Code, the powers and duties of the Planning Commission include, but are not limited to, conducting hearings and making recommendations to the City Council on proposed amendments to operative plans, the General Plan, and Zoning Map. Following a public hearing, and upon consideration of a staff evaluation and any public testimony received, the Planning Commission shall make a recommendation on the proposed application to the City Council. Such recommendation shall include the reasons for the recommendation, findings supporting the recommendation, and the relationship of the proposed change to the General Plan, Code, and

applicable operative plans.

The performance of these duties and the Planning Commission's resolution may include a recommendation to the City Council for project approval, approval with conditions, or denial. In its deliberation the Planning Commission may choose to consider the following options for purposes of its recommendation to the City Council for approval or denial:

- The Commission may resolve to recommend approval of the project, as proposed, to the City Council.
- The Commission may consider a recommendation of approval to the City Council which includes further proposed revisions or refinement to the SWFSP Policy LU-8.1 language proposed to be amended (e.g., to further clarify limitations in further detail in order to provide greater certainty and surety respective to potential future uses and operations on the subject property or for purposes of determining consistency with operative plans).
- Alternatively (or in addition to), the Planning Commission may also consider a recommendation for approval to the City Council that conditions of zoning be adopted through ordinance for the same purpose of clarifying limitations and/or performance expectations for potential future uses and operations or determining consistency with operative plans. Examples of conditions of zoning can include but not be limited to: (1) Allowances, limitations, restrictions or prohibitions relative to specific use classifications or operations; (2) Requirements that consideration of future proposed uses or development activities be subject to specific procedural requirements or Review Authorities; (3) Performance expectations such as periodic review (e.g., if a condition specifies that activities or uses allowed are subject to periodic reporting, monitoring, or assessments, it shall be the responsibility of the permit holder and the property owner, or successor property owners, to comply with such reporting, monitoring and assessment requirements as stipulated as part of the granting). Conditions of zoning also require the record owner of the land involved to execute a covenant running with the land outlining responsibilities. All covenants and/or agreements shall be approved as to form by the City Attorney and shall be recorded at the Fresno County Recorder's Office. Recordation of such covenants is identifiable through property title search and can therefore serve as notice to prospective buyers or ownership interests.
- The Planning Commission may resolve to recommend denial of the proposed project to the City Council.

#### Attachments:

Exhibit A:	Aerial Map
Exhibit B:	Vicinity Map
Exhibit C:	Fresno General Plan Land Use & Zoning Map
Exhibit D:	Proposed Planned Land Use Map
Exhibit E:	Proposed Rezone Exhibit
Exhibit F:	Fresno Municipal Code Findings
Exhibit G:	Public Hearing Notice Radius Map
Exhibit H:	Addendum to Final PEIR (SCH No. 2017031012) of the Southwest

Fresno Specific Plan dated January 15, 2021

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