



Board Agenda Item 11

DATE: October 22, 2019

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Unclassified Conditional Use Permit No. 3629 (Applicant/Appellant: County of Fresno Department of Public Works and Planning)

RECOMMENDED ACTION(S):

1. **Consider and take action on appeal of the Planning Commission's denial of Unclassified Conditional Use Permit (UCUP) Application No. 3629, proposing to allow a County of Fresno Regional Environmental Compliance Center (Regional ECC) for collection of household hazardous waste, with sanitary facilities, warehouse, collection structure, and hazardous materials storage containers, as well as office and classroom, on 2.67 acres of County-owned property in the City of Fresno's IL (Light Industrial) Zone District; and**
2. **If your Board grants the appeal and overturns the Planning Commission's denial of UCUP Application No. 3629:**
 - a. **Make the required findings specified in County Zoning Ordinance Section 873(F) for approval of the UCUP No. 3629;**
 - b. **Adopt Resolution approving UCUP Application No. 3629, for a County of Fresno Regional ECC, with staff's recommended Conditions of Approval; and**
 - c. **Adopt Mitigated Negative Declaration prepared for Initial Study Application No. 7561, and approve the proposal subject to project Mitigation Measures and Conditions of Approval.**

The subject site (Site) is located on the southwest corner of Dan Ronquillo Drive and S. West Avenue, within the city limits of the City of Fresno (310 S. West Avenue, Fresno) (APN 458-060-72).

The Applicant is the County's Department of Public Works and Planning (Applicant/Appellant). This item comes before your Board on appeal of the Planning Commission's denial (7 to 2) of the subject application at its August 29, 2019 hearing. Because the County owns the Site, the Zoning Ordinance of the County of Fresno (County Zoning Ordinance) governs the Site; Section 873(H) of the County Zoning Ordinance requires your Board to determine, independent from the decision of the Planning Commission, whether the application should be approved, approved with stated conditions, or disapproved. A copy of the Planning Commission's action is included as Attachment A. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

If your Board is unable to make the required Findings for granting Unclassified Conditional Use Permit (UCUP) No. 3629, a motion to deny the appeal and uphold the Planning Commission's decision, stating which Findings cannot be made, and the reasoning for the inability to make those Findings, would be appropriate. Alternatively, your Board could approve the UCUP with different (or additional) conditions of approval than those recommended by staff, in your Board's discretion.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Applicant/Appellant has paid \$15,266 in land use processing fees to the County for the UCUP Application request. The Applicant/Appellant also paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

Appeal Procedure

Section 873(H) of the County Zoning Ordinance outlines the procedure for an appeal of the decision of the Planning Commission. Appeal hearings are "*de novo*," which means the application is examined anew. Pursuant to County Zoning Ordinance Section 873(F), in order for your Board to approve UCUP No. 3629, the following findings must be made:

1. That the Site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.
2. That the Site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will have no adverse impact on abutting property and surrounding neighborhood or permitted use thereof.
4. That the proposed development is consistent with the General Plan.
5. That the conditions stated in the resolution are deemed necessary to protect the public health, safety, and general welfare.

The Planning Commission Staff Report dated August 29, 2019, attached as Attachment B, provides additional Regional Environmental Compliance Center (Regional ECC) project information, including Department staff's analysis of the adequacy and appropriateness of the Site, and further evidence for your Board's proposed findings. The mitigation measures, conditions of approval, and mandatory project notes listed in the Planning Commission Staff Report are also included with Agenda Item as Attachment E.

Background

The County needs a permanent site for the construction and operation of a household hazardous waste facility. The County acts as the lead agency in a committee made up of 16 jurisdictions created through a Memorandum of Understanding (MOU) approved by your Board on November 6, 2018 (Agreement No. 18-640). The purpose of this committee is to ensure the region's compliance with Assembly Bill (AB) 939 and other State solid waste-related legislative actions.

The current household hazardous waste facility is located at the American Avenue Disposal site. However, the distance from County residents, approximately 25 miles west of the Fresno County population center, has been prohibitive to resident participation. Furthermore, that facility will soon no longer be available for use for household hazardous waste disposal (the landfill needs the site for solid waste disposal).

Your Board approved the purchase of the proposed Site on December 4, 2018. The County identified the Site as a potential preferred site for the new Regional ECC, conditioned on compliance with the California Environmental Quality Act (CEQA). Following the acquisition, the County commenced the CEQA review process, which resulted in the attached draft Mitigated Negative Declaration (MND) prepared for Initial Study Application No. 7561 (Attachment F).

In May of 2019, Department staff conducted outreach in the surrounding residential and commercial areas, which included a door-to-door information drop-off, and a community meeting. The participants of the community meeting included one resident, one area commercial representative, and one commercial solid waste hauler. The attendees did not express any concerns or opposition regarding the proposed Regional ECC.

Proposed Environmental Compliance Center

The Department's UCUP request involves the siting, construction, and operation of a 2.67-acre permanent Regional ECC, which will provide a safe and convenient means for County residents and small quantity business generators to dispose of household hazardous waste (HHW) items not allowed for regular disposal at a sanitary landfill. Since 2006, HHW and universal waste has been banned from the waste stream, because it cannot be safely disposed of in landfills.

HHW to be collected at the Regional ECC must be in original, unpunctured, and appropriately sealed containers. This HHW includes cleaners and polishes, automotive products, paints and related materials, thinners and solvents, adhesives, aerosol products, pesticides and fertilizers, hobby supplies, medical sharps, pharmaceuticals, treated wood, aerosol cans, waste oil and oil filters, and small tanks. Other wastes include household batteries, fluorescent tubes and lamps, electronic items (computers, cell phones, televisions, etc.), communication items, and appliances. Regional ECC staff will remove the materials from each customer's vehicle, which also limits the chance of spillage. After collection, sorting, and packaging into large spill-proof drums, recyclable solid wastes will be sent off-site to an appropriate recycling facility, and non-recyclable solid wastes will be shipped off-site for disposal at an approved disposal facility.

The Regional ECC will have an education center, be LEED (Leadership in Energy and Environmental Design) certified, environmentally-friendly, and will be a zero-energy facility. The Regional ECC will be a modern metal building with landscaping. The Regional ECC will be fenced, alarmed, have video surveillance, and be lit at night. The Regional ECC will serve the entire County, including the incorporated cities, and is funded by participating agencies and tipping fees at the American Avenue Disposal Site. The proposed Regional ECC is centrally located, with major highway access, and would be a convenient, and as a result, more frequently utilized location by County residents than the current location.

The Site is located in the Dan Ronquillo Industrial Park at the southwest corner of Dan Ronquillo Drive and S. West Avenues, within the city limits of the City of Fresno. Surrounding land uses include light industrial development, vacant land, and a City of Fresno well site. The Regional ECC will only initially accept drop-offs of hazardous materials by residents on Saturday, and from small businesses by appointment during the week, with an estimated 170 vehicles per week.

As the Site is located within the city limits of the City of Fresno, but under ownership of the County, land use permit processing has occurred per Section 865 of the County Zoning Ordinance (Compliance) which states in part:

The provisions of this Division shall apply to all buildings, improvements, lots and premises owned, leased, operated or controlled by the County or any department thereof, or by any other government agency excepting the Federal or State Governments.

Therefore, the County has processed the Regional ECC project through a UCUP Application. Zoning Code Section 853 B(7) provides permits for Government Buildings through a UCUP process, while Section 853

B(14) permits public utilities, public services, structures, uses and buildings through a UCUP. The Site is located in the City of Fresno's IL (Light Industrial) Zone District, which is similar to the County of Fresno's M-1 (Light Manufacturing) Zone District, and therefore the County of Fresno M-1 zoning standards are being applied to this project.

The Planning Commission Hearing

During the August 29, 2019 Planning Commission hearing, an Applicant/Appellant representative and a speaker from the City of Fresno presented testimony in favor of the proposal.

The Planning Commission also considered a letter of opposition, included as Attachment C, and testimony from two speakers in opposition to the Regional ECC. Those in opposition commented that the Regional ECC was not the proper location for a HHW collection facility due to the nature of the use, that the Regional ECC does not meet the industrial park's design standards, and that there was concern about odors and fumes, health and safety issues for neighboring uses, crime generation, and potential impacts to property values.

After expressing concerns regarding potential adverse impacts the Regional ECC might have on surrounding properties and on the Fresno Unified School District Pershing Continuation School, located approximately a quarter-mile from the Site, the Planning Commission approved a motion to deny the Regional ECC and its associated draft MND. The Applicant/Appellant filed an appeal on September 12, 2019, see Attachment D.

REFERENCE MATERIAL:

BAI #9, December 4, 2019
BAI #51, November 6, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - F
Resolution

CAO ANALYST:

Sonia M. De La Rosa