



Board Agenda Item 7

DATE: August 6, 2019

TO: Board of Supervisors

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

SUBJECT: Site Plan Review Application No. 8077 (Appellant: Wanger Jones Helsley PC on behalf of Forgotten Fresno, Gonzalo Arias Jr., Roger Day and Elisa Bilios *et al.*)

RECOMMENDED ACTION(S):

1. **Consider and take action on appeal filed by Wagner Jones Helsley PC on behalf of Forgotten Fresno, Gonzalo Arias, Jr., Roger Day and Elisa Bilios, *et al.* of the Planning Commission's technical denial (tie vote) of the appeal of the Department's approval of Site Plan Review Application No. 8077 allowing an animal hospital/shelter and associated uses on two parcels totaling 4.15 acres in the M-1(c) (Light Manufacturing, Conditional) Zone District; and**
2. **Determine whether the required Findings specified in the Fresno County Zoning Ordinance, Section 874-A.2 could be made for approval, approval with stated conditions, or denial of the Site Plan Review Application No. 8077.**

The subject parcels are located on the east side of N. Grantland Avenue, between N. Parkway Drive and W. Tenaya Avenue, and approximately 180 feet southwest of the nearest city limits of the City of Fresno (APN 504-081-02S and 03S).

This item comes before your Board on appeal of the Planning Commission's technical denial (tie vote) of the subject application. Per Section 874-A.4 of the Fresno County Zoning Ordinance, the Commission's decision may be appealed to the Board of Supervisors. Department of Public Works and Planning staff notes that the Fresno County Zoning Ordinance requires that your Board determine, independent from the decision of the Planning Commission, whether the Site Plan Review (SPR) Application should be approved, approved with stated conditions, or denied. A copy of the Planning Commission's Resolution 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 SPR Application No. 8077, a motion to uphold the appeal and deny the Planning Commission's technical denial would be appropriate. In doing so, it would be appropriate for your Board to state which of the four findings cannot be made and articulate the reasons for not making those findings.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Appellant has paid an appeal fee of \$508 to appeal the Planning Commission's action.

DISCUSSION:

On October 23, 2018, the Board approved General Plan Amendment Application No. 552 (GPA No. 552) and Amendment Application (Rezoning) No. 3825 (AA No. 3825). Through that approval, the Board determined that the rezoning of the property to the M-1(c) (Light Manufacturing, Conditional) Zone District (limited to an animal hospital/shelter and associated uses) was consistent with the General Plan re-designation of the property to Limited Industrial. GPA No. 552 and AA No. 3825 were evaluated for potential environmental impacts as required by CEQA (the California Environmental Quality Act) through preparation of Initial Study No. 7359, which resulted in a Mitigated Negative Declaration (MND). This MND was adopted by your Board as part of its October 23, 2018 approval action for the GPA and rezoning. Staff should note that this CEQA determination is currently subject to litigation.

Section 843.6 of the M-1 (Light Manufacturing) Zone District, states, "*Before any building or structure is erected on any lot in said district, a site plan shall have been submitted to and approved by the Director, pursuant to the provisions of Section 874.*" The Department evaluated the parking and circulation plan of the proposed animal hospital/shelter and determined it to be consistent with Section 874 of the Fresno County Zoning Ordinance.

There are four findings that must be made in order to approve an SPR.

Those findings are:

1. *All provisions of this Division (Fresno County Zoning Ordinance) are complied with.*
2. *The following are so arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected, and there will be no adverse effect on surrounding property:*
 - 1) *Facilities and improvements.*
 - 2) *Vehicular ingress, egress, and internal circulation.*
 - 3) *Setbacks.*
 - 4) *Height of buildings*
 - 5) *Location of service.*
 - 6) *Walls.*
 - 7) *Landscaping.*
 - 8) *Compatibility with surrounding development when required as a condition of a use permit or zoning.*
3. *Proposed lighting is so arranged as to reflect light away from adjoining properties.*
4. *Proposed signs will not by size, location, color or lighting, interfere with traffic or limit visibility.*

On March 8, 2019, the Department approved SPR No. 8077. The proposed site design, layout, and landscaping, etc., meet the requirements of the M-1(c) district as further conditioned by the Mitigation Measures and Conditions of Approval associated with AA No. 3825. Per Section 872.A of the Fresno County Zoning Ordinance, the Applicant or any aggrieved person may appeal in writing the approval of an SPR to the Fresno County Planning Commission. The appeal process to the Planning Commission is described in Zoning Ordinance Section 872.A.3. Further, the Commission's decision may be appealed to the Board of Supervisors as outlined in Section 872.4 of the Zoning Ordinance.

An appeal of the approved SPR application was filed on March 22, 2019. The appeal documents stated that the proposed animal hospital/shelter (Project) as designed would have an impact on traffic congestion and the welfare of the neighboring properties.

At the appeal hearing on April 25, 2019, the Planning Commission considered Department staff's presentation and testimony from the Appellant, two individuals in support of the appeal and four individuals in opposition to the appeal. There were no letters presented to the Planning Commission in support of or in opposition to the appeal.

A representative of the Appellant testified at the hearing that Finding No. 2 of SPR No. 8077 relating to traffic congestion and adverse effects on surrounding property could not be made due to cumulative traffic impacts and existing area traffic congestion.

The representative of the Applicant testified that they hired a designer that specializes in animal shelters and the new facility would not cause problems with noise and odor. .

After receiving Department staff's presentation and considering public testimony from the Appellant's representative, Project supporters and representatives of the Appellant, the Planning Commission made a motion to deny the appeal and uphold the Department's approval of SPR No. 8077. This motion resulted in a technical denial of the appeal based on a vote of three to three with two Commissioners absent and one Commissioner recused. A copy of the Planning Commission's action is included in Attachment A and a copy of the Planning Commission Staff Report dated April 25, 2019 is included as Attachment B.

An appeal of the technical denial was filed on May 10, 2019. The appeal document stated that the Project as designed would have an impact on traffic congestion and the welfare of neighboring properties. In addition, the appeal stated that right-in and right-out Project access will cause traffic congestion.

If your Board were able to make the required findings for granting approval of SPR No. 8077, a motion to uphold the Department's decision to approve the SPR would be appropriate, stating in your motion to approve the manner in which the four required SPR Findings can be made. Department staff recommends any approval action be made subject to the conditions listed in the Staff Report or any additional conditions deemed necessary by your Board to support the approval of the site plan. Staff notes that any additional conditions imposed should be narrowly tailored to the SPR process and based on the four SPR Findings described above. For reference a copy of the conditions of approval are included as Attachment C.

If your Board were unable to make the required SPR Findings for granting SPR No. 8077, a motion to uphold the appeal and deny the SPR would be appropriate, stating in your Board's denial action which of the four findings cannot be made and articulating the reasons for being unable to make those findings.

REFERENCE MATERIAL:

BAI #11, October 23, 2018
BAI #10, September 11, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - C

CAO ANALYST:

Sonia M. De La Rosa