



Board Agenda Item 25.1

DATE: December 11, 2018

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Indemnification for General Plan Amendment Application No. 552 and
Amendment Application No. 3852

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute an Indemnification and Defense Agreement with Fresno Humane Animal Services, as required by a condition of approval for General Plan Amendment Application No. 552 and Amendment Application 3852.

ALTERNATIVE ACTION(S):

There are no viable alternative actions. This action is necessary to satisfy a condition of approval imposed by the Board of Supervisors and is necessary in order for the applicant to exercise the subject land use approvals.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. The agreement requires the Applicant to pay for costs of defense of legal challenge.

DISCUSSION:

General Plan Amendment Applicant (GPA) No. 552 and rezoning Amendment Application No. 3852 amends the Fresno County General plan by re-designating two-adjacent parcels totaling 4.15 acres from Rural Residential to Limited Industrial and rezoning the subject 4.15 acre site from R-R(nb) (Rural Residential, Neighborhood Beautification Overlay) Zoned District to M-1(c) (Light Manufacturing, conditionally limited to animal shelter) Zoned District.

The GPA and rezone Amendment Application allows the construction and operation of an animal shelter. The subject property is located on the east side of North Grantland Avenue between North Parkway Drive and West Tenaya Avenue, and approximately 180 feet southwest of the City of Fresno (Sup. Dist. 1) (APN 504-081-02S/03S).

At its October 23, 2018, regular meeting, continued from September 11, 2018, the Board of Supervisors considered and adopted the Mitigated Negative Declaration (MND) prepared for Initial Study Application No. 7359, and approved GPA No. 552 and Amendment Application No. 3852, subject to Conditions of Approval and mandatory Project Notes listed in the Planning Commission Staff Report along with additional conditions of approval imposed by the Board.

In approving the MND, GPA No. 552 and Amendment Application No. 3852, the Board of Supervisors

imposed a condition of approval requiring that the Applicant (Fresno Humane Animal Services) defend and indemnify the County against any legal challenge filed against the County related to the Project. The Indemnification and Defense Agreement recommended for approval by this item will satisfy this indemnification and defense condition of approval.

On November 21, 2018, a legal challenge was filed against and served on the County related to the Project in the action titled Forgotten Fresno, et al. v. County of Fresno, Fresno Humane Animal Services (Real Party in Interest); Fresno Superior Court Case No. 18CECG04248. Applicant's obligation to indemnity and defend the County is now necessary.

REFERENCE MATERIAL:

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

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Indemnification and Defense Agreement

CAO ANALYST:

Yussel Zalapa