



County of Fresno

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Fresno, California
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Legislation Text

File #: 19-1275, **Version:** 1

DATE: December 10, 2019

TO: Board of Supervisors

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

SUBJECT: Initial Study Application No. 7517, General Plan Amendment Application No. 556, Amendment Application No. 3833 (Applicant: Higton Investment Group)

RECOMMENDED ACTION(S):

1. **Consider and adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 7517, including the Mitigation Monitoring and Reporting Program prepared for General Plan Amendment Application No. 556 and Amendment Application No. 3833;**
2. **Adopt Resolution approving General Plan Amendment Application No. 556 amending the County-adopted Roosevelt Community Plan by re-designating a 0.34-acre parcel from Low-Density Residential to Medium-High Density Residential as the Second General Plan Amendment of the Agriculture and Land Use Element of the Fresno County General Plan for 2019;**
3. **Approve Ordinance pertaining to Amendment Application No. 3833 thereby rezoning the subject 0.34-acre parcel from the R-1-B(nb) (Single-Family Residential, 12,500 square-foot minimum parcel size, Neighborhood Beautification Overlay) Zone District to R-2(nb)(c) (Low-Density Multiple-Family Residential, 6,600 square-foot minimum parcel size, Neighborhood Beautification Overlay, Conditional) Zone District conditionally limited to the uses permitted in the R-1 Zone District (Section 827.1-A.) and one-family or multiple-family dwellings (Section 827.1-D) limited to a maximum of three units; and,**
4. **Designate County Counsel to prepare a fair and adequate summary of the proposed ordinance and direct the Clerk of the Board to post and publish the required summary in accordance with Government Code, Section 25124(b)(1).**

The subject parcel is located on the northeast corner of N. Fine and E. Washington Avenues in a County island in the City of Fresno (4955 E. Washington Avenue) (APN 462-132-10).

This item comes before your Board with a unanimous recommendation for approval from the Planning Commission (7 to 0, two commissioners absent) and requires final action from your Board per the Fresno County Zoning Ordinance and State planning law. A summary of the Planning Commission's action is included in Attachment A. This item pertains to a location in District 3.

ALTERNATIVE ACTION(S):

If your Board determines that the proposed General Plan Amendment (GPA) to re-designate a 0.34-acre parcel from Low-Density Residential to Medium-High Density Residential is not consistent with the Roosevelt Community Plan, a motion to deny GPA Application No. 556 and concurrent Amendment Application (AA) No.

3833 would be appropriate.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Pursuant to the County's Master Schedule of Fees, the Applicant/Property Owner has paid \$18,109 in land use processing fees to the County for Initial Study (IS) Application No. 7517, GPA Application No. 556, and AA No. 3833.

DISCUSSION:

Background of Property:

The original house was built on the property in around 1942. In 1969, the County issued a permit to build a new single-family house on the property, conditional upon the old house either being destroyed or converted into a non-dwelling storage unit. The new house was built, and the old house was converted to storage by the disconnection of utilities. At some point, the then-owners of the property reconnected the utilities to the old residence and converted that residence into two rental units by framing the existing space between the garage and the old residence. These modifications were all done without permits, so the date of their completion is unknown. The Applicant, Higon Investment Group, acquired the property in 2017, in its current configuration with the intent to rent the three separate units. A neighbor filed a complaint with the County, leading to Code Enforcement action.

Analysis:

GPA and rezoning (AA) are legislative actions requiring final approval and action by your Board for the adoption of the Mitigated Negative Declaration (MND) prepared for the IS filed concurrently with the GPA and rezoning. If approved, the GPA and rezoning would become effective 30 days after adoption.

The subject property is located in a County island in the City of Fresno (City) on the northwest corner of N. Fine and E. Washington Avenues. The proposal consists of amending the County-adopted Roosevelt Community Plan and rezoning a 0.34-acre parcel to allow those uses permitted in the R-1 Zone District (Section 827.1-A.) and one-family or multiple-family dwellings (Section 827.1-D). The Planning Commission Staff Report, included as Attachment B, provides additional project information.

Pursuant to General Plan Policy LU-G.14 and the Memorandum of Understanding between the County and City of Fresno, the project was referred to the City of Fresno for possible annexation since it is in the City's sphere of influence. The City declined to annex the property and expressed opposition to the project. The property owner sought to rectify the code enforcement violations by filing an application for this rezone.

The City General Plan designates the subject site as Medium Low Density Residential. This designation permits a maximum density of six units per acre. On August 13, 2018, the City released the proposal with opposition to the project after being referred for annexation per the City-County Memorandum of Understanding (MOU). In its release, the City requested conditions on the application requiring that the property connect to City utilities and installation of curbs and gutters per the City's Development standards. Per the City's request, the proposal has been conditioned to connect to the City's sewer and water services and install offsite improvements according to the City's standards.

At the September 12, 2019, the Planning Commission considered the subject applications. After receiving Department of Public Works and Planning staff's presentation and considering public testimony from the Applicant/Property Owner and members of the community both in support and opposition, the Commission voted 7 to 0 (two commissioners absent) in favor of forwarding to your Board a recommendation. The recommendation included two additional conditions limiting the number of units permitted on the property to three units and requiring that all building and zoning code violations be remedied.

At the Planning Commission hearing, the Applicant/Property Owner and one individual spoke in favor of the application, and three individuals spoke in opposition. Those in favor cited that due to the property existing in its current state for over 50 years, the current use should be allowed to continue. Furthermore, the Applicant/Property Owner stated willingness to correct the building code violations and obtain permits. Speakers in opposition were concerned that the proposed zone change to allow multiple-family residential units in their single-family residential neighborhood is undesirable and would encourage the rezoning of undeveloped parcels in the area to multi-family residential uses. No letters were presented to the Planning Commission in support of or in opposition to the application. One letter of opposition was received after Planning Commission hearing and is included as Attachment C.

If your Board determines that proposed GPA No. 556 and AA No. 3833 are consistent with the with the General Plan and County-adopted Roosevelt Community Plan, a motion to approve, upholding the Planning Commission's recommendation, would be appropriate stating in the motion that your Board is:

- Adopting the MND prepared for IS No. 7517;
- Adopting a Resolution approving GPA No. 556 to re-designate a 0.34-acre parcel from Low-Density Residential to Medium-High Density Residential as the second General Plan Cycle of 2019; and
- Approving the Ordinance pertaining to AA No. 3833, rezoning the subject 0.34-acre site from the R-1-B (nb) to the R-2(nb)(c) Zone District to allow those uses permitted in the R-1 Zone District (Section 827.1-A.) and one- or multiple-family dwellings (Section 827.1-D), subject to attached conditions.

The proposed MND prepared for IS No. 7517 is included as Attachment D.

In addition, Department staff recommends inclusion of an additional Condition of Approval requiring the following:

- The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of IS No. 7517 and AA No. 3833 and provide security in the amount of \$100,000 for any such legal costs incurred. The agreement and payment of security shall be due unless the litigation period has expired, in which case the requirements for the indemnification agreement and security shall be considered null and void. Staff will return to your board for execution of the agreement.

If your Board determines that the rezoning is not consistent with the General Plan and Roosevelt Community Plan, denial of the applications would then be appropriate citing the reasons for denial and the proposal's inconsistency with the General Plan and Roosevelt Community Plan.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D
Ordinance
On file with Clerk - Resolution
On file with Clerk - Ordinance Summary

CAO ANALYST:

Sonia M. De La Rosa