



County of Fresno

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2281 Tulare Street
Fresno, California
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Legislation Text

File #: 20-0099, **Version:** 1

DATE: March 24, 2020

TO: Board of Supervisors

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

SUBJECT: Initial Study Application No. 7359, General Plan Amendment Application No. 552 and Amendment Application No. 3825 (Applicant: Fresno Humane Animal Services)

RECOMMENDED ACTION(S):

- 1. Adopt Ordinance repealing Ordinance No. R-483-3825, which pertained to Amendment Application No. 3825, which rezoned the 4.15-acre site referenced below from R-R(nb) (Rural Residential, Neighborhood Beautification Overlay) to M-1(c) (Light Manufacturing, Conditional) limited to Animal Hospital and Shelter, and which was adopted by the Board of Supervisors on October 23, 2018;**
- 2. Rescind the October 23, 2018, adoption of Mitigated Negative Declaration prepared for Initial Study Application No. 7359, including the Mitigation Monitoring and Reporting Program prepared for General Plan Amendment Application No. 552 and Amendment Application No. 3825;**
- 3. Adopt Resolution rescinding Resolution No. 18-381, dated October 23, 2018, which approved General Plan Amendment Application No. 552, and which amended the Agriculture and Land Use Element of the Fresno County General Plan by re-designating two adjacent parcels totaling 4.15 acres from Rural Residential to Limited Industrial;**
- 4. Determine that Recommended Actions 1 to 3 are exempt from the California Environmental Quality Act and direct the Department of Public Works and Planning to file a Notice of Exemption with the Fresno County Clerk's Office; and**
- 5. 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 east side of North Grantland Avenue, between North Parkway Drive and West Tenaya Avenue, and approximately 180 feet southwest of the City of Fresno (APN 504-081-02S and -03S).

Your Board's approval of the recommended actions would repeal and rescind prior granted by your Board on October 23, 2018, pursuant to the Stipulation for Settlement and Order (Stipulation and Order) filed with and approved by the Fresno County Superior Court on November 15, 2019. The Stipulation and Order requires the County to repeal and rescind all Project Approvals, as defined below.

Ultimately, the Applicant, Fresno Humane Animal Services, decided to not proceed or develop the Animal Hospital and Shelter Project at the site. All parties decided to resolve the litigation via the Stipulation and

Order in which the entitlements granted by the County would be repealed and rescinded and the complaint filed by Forgotten Fresno, a group of nearby residents, would be dismissed.

This item pertains to properties located in District 1.

ALTERNATIVE ACTION(S):

There are no viable alternative actions. The Stipulation and Order entered by the Court requires approval of the recommended actions. Should your Board not approve the recommended actions, the County would be out of compliance with the Order.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions.

DISCUSSION:

On October 23, 2018, your Board conducted a public hearing, considered public testimony, and voted to adopt the Mitigated Negative Declaration prepared for the requests, and approved the proposed General Plan Amendment and rezoning, subject to Mitigation Measures, Conditions of Approval, and mandatory Project Notes (collectively, "Project Approvals").

Under the Project Approvals, the County re-designated the subject properties from Rural Residential to Limited Industrial in the General Plan and rezoned the subject properties from the Rural Residential Zoning District to the M-1(c) Zoning District limiting uses to the Project.

Following the County's approval, Forgotten Fresno challenged the Project Approvals. They filed a Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief with the Fresno County Superior Court. Ultimately, the Applicant, Fresno Humane Animal Services, decided not to proceed with the Project. All parties decided to resolve the litigation via the Stipulation and Order in which the entitlements granted by the County would be repealed and rescinded and the complaint filed by Forgotten Fresno would be dismissed.

In closed session, your Board approved the Stipulation and Order on November 5, 2019 and authorized the Director of the Department of Public Works and Planning to execute the document. The Director executed the Stipulation and Order on November 12, 2019. On November 15, 2019, the Fresno County Superior Court Judge approved the Stipulation and Order, which the Court executed and filed that same day. A copy of the Stipulation and Order is on file with the Clerk.

The Stipulation and Order requires the County to rescind the Project Approvals. With your Board's approval of the recommended actions, the County will have complied with the terms of the settlement and the Stipulation and Order.

California Environmental Quality Act ("CEQA")

Approval of the recommended actions are exempt from CEQA based on the following:

1. The recommended actions do not constitute a "project" under CEQA, because compliance with the Stipulation and Order is not discretionary.
2. The recommended actions are exempt from CEQA under 14 CCR 15061(b)(3) as they lack the potential for causing a significant effect on the environment, because the recommended actions only serve to retain the preexisting physical and legal characteristics of the subject properties prior to the

challenged Project Approvals.

The Department will file a notice of exemption as provided by 14 CCR 15062.

REFERENCE MATERIAL:

BAI#11, October 23, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Stipulation and Order
Ordinance

On file with Clerk - Resolution

On file with Clerk - Ordinance Summary

CAO ANALYST:

Sonia M. De La Rosa