



Legislation Details (With Text)

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Type: Public Hearing **Status:** Passed
File created: 9/9/2021 **In control:** City Council Meeting
On agenda: 9/28/2021 **Final action:** 9/28/2021
Title: Appeal No. 21-003: A request to overturn the Planning Commission's decision on July 6, 2021, approving Master Case No. 21-034 for Design Review No. 21-003 pursuant to a CEQA Guidelines Section 15332 Categorical Exemption for the development of an approximately 4.07 acre site with a proposed warehouse building totaling approximately 92,433 square feet located on the northwest corner of Valley Boulevard and Catawba Avenue at 15894 Valley Boulevard (APN: 0235-141-04)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1 Appeal Letter, 2. Attachment 2 - Vicinity Map, 3. Attachment 3 - Site Plan, 4. Attachment 4 - Elevations and Rendering, 5. Attachment 5 PC Report July 6, 2021, 6. Attachment 6 - PC Meeting Minutes, 7. Attachment 7 Response to Appeal 9 8 21[1], 8. Attachment 8 Additional Conditions of Approval[1], 9. Attachment 9 Public Notice, 10. Attachment No. 10 Categorical Exemption Report

Date	Ver.	Action By	Action	Result
9/28/2021	1	City Council Meeting		

FROM:
Planning

SUBJECT:

Appeal No. 21-003: A request to overturn the Planning Commission's decision on July 6, 2021, approving Master Case No. 21-034 for Design Review No. 21-003 pursuant to a CEQA Guidelines Section 15332 Categorical Exemption for the development of an approximately 4.07 acre site with a proposed warehouse building totaling approximately 92,433 square feet located on the northwest corner of Valley Boulevard and Catawba Avenue at 15894 Valley Boulevard (APN: 0235-141-04)

RECOMMENDATION:

COUNCIL GOALS:

- To create a team by working together to provide stability and consistent policy direction.
- To create a team by communicating Goals and Objectives to all sectors of the community.

DISCUSSION:

On July 20, 2021, Janet Meza, filed an appeal (Appeal No. 21-003) of the Planning Commission's approval of Master Case No. 21-034 on July 6, 2021. (Attachment No.1).

On July 6, 2021, the Planning Commission held a public hearing and after hearing public comments and consideration of the evidence presented, they approved Master Case No. 21-034 for Design

Review No. 21-003 along with the adoption of a Categorical Exemption, pursuant to Section 15332, Class 32, (In-Fill Development) of the California Environmental Quality Act (CEQA) all for the development of an approximately 4.07 acre site with a proposed warehouse building totaling approximately 92,433 square feet on the northwest corner of Valley Boulevard and Catawba Avenue at 15894 Valley Boulevard (APN: 0235-141-04).

Appeal:

On July 20, 2021, the applicant, Janet Meza and family, submitted an appeal application and letter (Attachment No 1) asserting that the development proposed in Master Case No. 21-034 does not qualify for a Categorical Exemption from CEQA pursuant to CEQA Guidelines Section 15332 because it would not meet the required thresholds. Additionally, the appeal letter asserts that there will be negative air quality impacts due to truck traffic to and from the development proposed in Master Case No. 21-034 and existing distribution and logistics warehouse in the adjacent area, such that further analyses should be prepared. The appeal letter also mentions that the requirements of MM-GHG-1 in Table 2-2 of the Mitigation Monitoring Report ("MMRP") of the Environmental Impact Report for the City of Fontana General Plan ("General Plan EIR"), recommends as a best management practice that the City consider requiring projects to reduce GHG emissions by of 28.5 percent below baseline conditions, were not determined to be met.

In a letter prepared by the project applicants' legal council consultant (Attachment No.75) Amanda Monchamp of Monchamp Meldrum LLP (the Applicant's legal counsel) it documented that the Planning Commission determined that the use of the Categorical Exemption for in-fill development in CEQA Guidelines Section 15332 was appropriate based on substantial evidence in the Categorical Exemption Report prepared for the Project, dated April 2021 (Attachment No. 10). The Categorical Exemption Report includes the CEQA Technical Memorandum for the Project, and supporting technical studies, which include a Trip Generation Assessment, a Noise Impact Analysis, a Vehicle Miles Traveled (VMT) Screening Analysis, and an Air Quality, Greenhouse Gas, and Health Risk Assessment (Air Quality Report).

Mrs. Monchamp's letter also states, "Contrary to Appellant's characterization of a Categorical Exemption as a "CEQA due process workaround," Categorical Exemptions apply as a matter of law to certain classes of projects that have been determined to not have a significant effect on the environment by California's Natural Resources Secretary."

As outlined in Guidelines Section 15332, the Class 32 Categorical Exemption for in-fill development exempts from CEQA review projects that meet the following requirements:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value, as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

Here, as noted in Mrs. Monchamp's letter, the development proposed in Master Case No. 21-034

meets all of the above-listed requirements provided per CEQA. Further, the additional technical studies completed by the applicant's team are studies not typically required for a CEQA Guidelines Section 15332 Categorical Exemption but provide additional evidence that this proposed development would not have impacts on the environment and meets the requirements for the Categorical Exemption.

Further, Ms. Monchamp's letter addresses the appellant's assertion that the City should have a GHG emissions reduction of 28.5%, stating that it is "at odds" with the California Supreme Court's decision in *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 62 Cal.4th 204. The validity of General Plan EIR MMRP Table 2-2, MM-GHG-1, is not at issue here because the time to challenge the General Plan EIR has long since passed, and regardless of the General Plan EIR, the Project is categorically exempt from CEQA review.

Finally, Ms. Monchamp's letter address the appellant's contention that approval of the proposed development should be delayed "until a full health and safety accounting" of the Project can be made public, stating that, as indicated in the Air Quality Report, the proposed development is below the screening threshold triggering the requirement for a Health Risk Assessment.

Moreover, the Applicant has agreed to proactively agree to additional specific conditions of approval (Attachment No. 8) to further reduce the proposed development's already less than significant air quality impacts, as provided.

FISCAL IMPACT:

None.

MOTION:

Approve staff recommendation