



Planning and Building Agency  
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Item # 41

**City of Santa Ana**  
**20 Civic Center Plaza, Santa Ana, CA 92701**  
**Staff Report**  
**December 20, 2022**

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**TOPIC:** Amendment Application No. 2022-01 and Appeal Nos. 2022-01 and 2022-02 appealing Planning Commission Approval of Conditional Use Permit No. 2022-14 for the Property Located at 1700-1740 E. Garry Avenue.

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**AGENDA TITLE:**

Amendment Application No. 2022-01 to Change the Zoning District From Professional to Light Industrial and Appeal Nos. 2022-01 and 2022-02 Appealing Planning Commission Approval of Conditional Use Permit No. 2022-14 to Permit the Establishment of Distribution Uses within an Industrial Building to be Constructed at 1700-1740 E. Garry Avenue.

**RECOMMENDED ACTION**

1. Adopt a resolution denying Appeal Application Nos. 2022-01 and 2022-02 and upholding the determination of the Planning Commission to approve Conditional Use Permit No. 2022-14 as conditioned, and
2. Adopt an ordinance approving Amendment Application No. 2022-01

**EXECUTIVE SUMMARY**

Rob Mitchell (Applicant), representing Greenlaw Partners (Property Owner), is requesting approval of two entitlements for the Garry Avenue Business Park, a 91,500-square foot industrial structure proposed at 1700, 1720, and 1740 East Garry Avenue. Specifically, the applicant is requesting approval an Amendment Application (AA) to change the property's zoning district from Professional (P) to Light Industrial (M1), and a conditional use permit (CUP) to allow distribution uses. The request is being recommend for approval because the project has been designed to minimize impacts onto surrounding properties, will satisfy a growing need for warehousing and distribution services in the region, and will provide investment in an existing industrial/office area of the City.

*Prior Planning Commission Action*

At its regular meeting on August 22, 2022, the Planning Commission received a report and staff presentation, and public comments, on the subject application. During the public hearing, representatives of the adjacent property at 1800 and 1820 East Garry Avenue spoke in opposition to the project, raising concerns about the potential impacts of truck traffic between the two properties. To provide the applicant sufficient time to propose solutions limiting truck traffic between the two properties, the Planning Commission continued the item to the regular meeting on October 10, 2022, from the meetings of August 22<sup>nd</sup> and September 26<sup>th</sup> of 2022. After receiving a staff presentation and public comments regarding the changes to the project, the Commission voted unanimously to 1) adopt a resolution approving Conditional Use Permit No. 2022-14 and 2) to forward Amendment Application No. 2022-01 to the City Council with a recommendation that the City Council adopt an ordinance approving the zone change.

*Appeal Applications*

On October 18, 2022 and on October 19, 2022, appellants Molly Greene with Lozeau Drury LLP, on behalf of Supporters Alliance for Environmental Responsibility (SAFER) and Melinda Luthin with Melinda Luthin Law, on behalf of Garry Plaza Office Park Association, filed respective appeal applications, Appeal Nos. 2022-01 and 2022-02, respectively, pertaining to the Planning Commission’s approval of Conditional Use Permit No. 2022-14. Pursuant to SAMC Section 41-645, the City Council is authorized to review appeals of Planning Commission decisions and may, after holding a public hearing, affirm, reverse, change, or modify the original decision and may make any additional determination it shall consider appropriate within the limitations imposed by Chapter 41 of the Santa Ana Municipal Code (SAMC).

**DISCUSSION**

**Table 1: Project and Location Information**

<b>Item</b>	<b>Information</b>	
Project Address and Council Ward	1700-1740 East Garry Avenue – Ward 4	
Nearest Intersection	Garry Avenue and Pullman Street	
General Plan Designation	<b>Existing</b>	<b>Proposed</b>
	Industrial/Flex (FLEX) - 3	Industrial/Flex (FLEX) – 3 (no change)
Zoning Designation	Professional (P) (inconsistent with General Plan)	Light Industrial (M1) (consistent zoning with General Plan)
Surrounding Land Uses	North	Professional Offices
	East	Professional Offices

Item	Information	
	South	Vacant (Alton Avenue right-of-way) and Industrial
	West	Costa Mesa (SR-55) Freeway
Site Size	5.13 acres	
Existing Site Development	Developed with three professional office buildings containing a total of 105,558 square feet, constructed between 1972 and 1974	
Use Permissions	Allowed with approval of a zone change and CUP	
Zoning Code Sections Affected	Development Standards	Section 41-471 et seq.
	Uses	Section 41-472.5 (i)

**Project Description**

The applicant is requesting to demolish three office buildings with a total of 105,558 square feet to construct a 91,500-square foot, 43.5-tall industrial building for warehousing and distribution purposes. Of the total square footage, 81,500 square feet will be used for warehousing and distribution activities, and 10,000 square feet will be used for supportive/ancillary office areas. A total of 10 loading docks will be provided at the rear (south) portion of the building. The building has been designed to allow the construction of future demising wall to create two tenant spaces.

In addition to the new structure, the site will be improved with new landscaping, paving, onsite parking, and improvements to the public right-of-way. The improvements include onsite landscaping and a landscape edge along the SR-55 Freeway that takes into account the freeway’s future widening, scheduled to begin in 2022. In addition, the project site will provide 145 onsite parking spaces, an onsite employee amenity area, enhanced paving at driveway entrances, new curb and gutter, street lights, and paving along the project frontage on Garry Avenue. Although not required, the project will provide an onsite walkway for pedestrians along the project frontage.

The design of the structure is contemporary, with exterior finishes that would enhance the building’s presence along the SR-55 Freeway. The building will contain a mixture of materials, including performance vision glass, metal awnings, and concrete panels painted in white, various shades of tan and brown, and soft green hues. The building’s elevations have been designed to allow for placement of future wall signage to ensure compliance with applicable SAMC requirements. The project is intended to be constructed in a single phase.

**Project Analysis**

**Table 2: Conformance to Light Industrial (M1) Development Standards**

<b>Standards</b>	<b>Required by SAMC</b>	<b>Provided</b>
Building Height	Unlimited if in Height District II	Complies; 43.5 Feet
Minimum Lot Size and Street Frontage	12,000 square feet size and 100 feet of street frontage	Complies; 223,463 square feet and 330 feet
Setbacks	10 feet if along a non-arterial roadway	Complies; 26 feet provided
	None alongside/rear property lines	Complies; 10-foot landscape buffer provided at east, south, and west property lines
Parking	1 space per 1,000 square feet for warehouses with distribution services	Complies; 92 parking spaces required and 145 parking spaces provided. Of these, the developer will construct 8 spaces for use by the adjacent property, to be accessible via a recorded easement, to ensure ongoing compliance with SAMC parking requirements
Landscaping	Minimum 5-foot landscape strip along non-arterial roadways, and Minimum 10-foot landscape strip where abutting non-industrial properties	Complies; 26 feet provided along Garry Avenue and 10 feet provided along east, south, and west property lines
Screening	Minimum 8-foot high wall required where loading activities occur	Complies; 10-foot high wall proposed at south property line to screen loading docks from Alton Avenue right-of-way
Floor Area Ratio (FAR)	Maximum 3.0	Complies; 0.43 Proposed

As shown in Table 2 above, the proposed project meets the development standards of the proposed M1 zoning district designation for which a change in land use classification from Professional to Manufacturing is being sought. Additionally, the project and site plan have been designed to minimize impacts onto surrounding properties by placing the building's loading docks to face south toward the vacant Alton Avenue right-of-way to minimize noise and aesthetic impacts onto adjacent developed properties. The site plan, as designed, would continue to meet development standard of the M-1 zone if Caltrans builds the Alton Avenue bridge over the SR-55 Freeway by providing a solid screen wall with 10-foot wide landscape buffer along the freeway, which will allow for mature trees,

shrubs, and groundcover to be maintained long-term along the westerly (freeway-adjacent) property line.

Lastly, the project site is in an area identified by the General Plan for industrial uses, pursuant to the Industrial/FLEX land use designation. Vehicles and trucks entering and departing from the project site will not travel through any neighborhoods containing sensitive land uses, such as residences, schools, or parks. The new General Plan also designates surrounding properties Industrial/FLEX, and Garry Avenue and Pullman Street provide direct access to the SR-55 Freeway by way of the Dyer Road interchange, a driving distance of half a mile (0.50 miles).

### Amendment Application

The subject site is zoned Professional (P). The development standards pertaining to the Professional zoning district would render the project unfeasible, as warehousing and distribution uses are prohibited by the P zoning district. Approval of an amendment application to change the zoning district to Light Industrial (M1) is required for the project. The General Plan identifies on Table LU-A-1 that the Interim Development Standard for the FLEX-3 area is M1. The project has been designed to conform to all applicable standards of the M1 zoning district.

Although warehousing uses are permitted by-right in the M1 zoning district, distribution uses require approval of a conditional use permit (CUP) by the Planning Commission. The zoning district designation of M1 enables the applicant to request the required CUP application to permit or conditionally permit the proposed distribution use.

Moreover, the proposed M1 zoning district designation is consistent with the new Industrial/FLEX General Plan Land Use Element designation for the site. This land use designation by the General Plan encourages developments that provide context appropriate development in areas with existing industrial uses. The building has been designed to feature taller height and contemporary finishes to ensure it remains aesthetically compatible with the surrounding area, even as adjacent properties may redevelop with new industrial or mixed-use office, industrial, and/or research and development uses.

### Conditional Use Permit

CUP requests are governed by Section 41-638 of the SAMC. CUPs may be granted when it can be shown that the proposed project will not adversely impact the community. If these findings can be made, then it is appropriate to grant the CUP. Conversely, the inability to make these findings would result in a denial.

To operate a warehouse and distribution facility, the project requires approval of a CUP pursuant to Section 41-472 (i) of the SAMC. Approval of the CUP would be consistent with the General Plan and would not be injurious or detrimental to surrounding properties. As analyzed in previous sections of this report, the development has been designed to minimize impacts onto surrounding properties and comply with all applicable development standards for the M1 zoning district. In addition, the project site is located within an area that is not near sensitive land uses such as residential neighborhoods, schools, or parks. Moreover, access to the SR-55 Freeway is provided at the Dyer Road interchange, by way of Garry Avenue and Pullman Street, a distance of less than 0.50 driving miles. Lastly, the loading docks have been positioned at the south of the building in order to minimize noise and aesthetic impacts onto surrounding properties.

Approval of the CUP and amendment application would also be consistent with various goals and policies of the General Plan as follow:

- Goal LU-2: Land Use Needs – Provide a balance of land uses that meet Santa Ana’s diverse needs.
  - Policy LU- 2.1 Employment Opportunities – Provide a broad spectrum of land uses and development that offer employment opportunities for current and future Santa Ana residents.
  - Policy LU-2.6 Encourage Investment – Promote rehabilitation of properties and encourage increased levels of capital investment to create a safe and attractive environment.
  - Policy LU-2.7 Business Incubator. Support land use decisions that encourage the creation, development, and retention of businesses in Santa Ana.
- Goal LU-3: Compatibility of Uses – Preserve and improve the character and integrity of existing neighborhoods and districts.
  - Policy LU-3.4 Compatible Development – Ensure that the scale and massing of new development is compatible and harmonious with the surrounding built environment.
  - Policy LU-3.7 Attractive Environment – Promote a clean, safe, and creative environment for Santa Ana’s residents, workers, and visitors.
  - Policy LU-3.8 Sensitive Receptors – Avoid the development of industry and sensitive receptors in close proximity to each other that could pose a hazard to human health and safety due to the quantity, concentration, or physical or chemical characteristics of the hazardous materials utilized, or the hazardous waste an operation may generate or emit.
- Lastly, the amendment application is consistent with the General Plan Appendix A, Table LU-A-2. Interim Industrial Flex Uses for the M-1 that allows warehousing.

Conditions of approval address construction-related and ongoing operational impacts that could result from the project, including the requirement to install the height-restriction bars

limiting truck traffic described in the Executive Summary portion of this report. Those conditions are attached as Exhibit A to the CUP resolution.

### Appeal Applications

Pursuant to Section 41-645 an appeal from a decision of the Planning Commission can be made by an interested party, individual or group. Two appeal applications were received appealing the Planning Commission's decision to approve Conditional Use Permit No. 2022-14.

#### *Appeal No. 2022-01: Molly Greene on Behalf of Supporters Alliance for Environmental Responsibility (SAFER)*

The SAFER appellant is requesting that the City Council overturn the Planning Commission's decision based on lack of compliance with the California Environmental Quality Act (CEQA) by failing to prepare a supplemental or tiered EIR for the project. SAFER's appeal states that the preparation of an exemption pursuant to Section 15183 of the California Environmental Quality Act (CEQA) Guidelines fails to provide evidence to support the Exemption Checklist's findings that the project will not involve environmental effects that: (1) Are peculiar to the project or the parcel on which the project would be located, (2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or (4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR. Specifically, SAFER's appeal states that the project could have significant air quality impacts, health impacts, and greenhouse gas emissions impacts, therefore requiring additional CEQA analysis under Section 15183.

The City has evaluated the project in full compliance with the provisions of CEQA. After a thorough evaluation and preparation of an initial study checklist, the City prepared an exemption pursuant to CEQA Guidelines Section 15183. Pursuant to California Public Resources Code (PRC) Section 21083.3 and State CEQA Guidelines Section 15183, projects that are "consistent with the development density established by the existing zoning, community plan or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." As detailed in the Environmental Impact section of this report, the project was fully evaluated to determine if there are any project-specific significant effects which are peculiar to the project or its site, and none were subsequently determined. Therefore, the Section 15183 exemption prepared for the project is the appropriate form of

environmental review. A complete response to SAFER's appeal is provided as Exhibit 13 to this report.

*Appeal No. 2022-02: Melinda Luthin on Behalf of Garry Plaza Office Park Association*

The Garry Plaza Office Park Association appellant is requesting that the City Council overturn the Planning Commission's decision based on 21 factors that center largely on the issues of the Planning Commission public hearing and action to approve the CUP, existing easements on site, General Plan and zoning consistency, and California Environmental Quality Act (CEQA) conformance. During its regular meeting on October 10, 2022, the Planning Commission held a duly-noticed public hearing on the item in accordance with all SAMC and state requirements, after which it approved the CUP and recommended City Council approval of the Amendment Application. The Planning Commission packet prepared for the project contained all necessary information for the Planning Commission to evaluate the applicant's request. The issue of the onsite easements, also raised by the appeal, has been thoroughly evaluated and is analyzed in detail in Exhibit 15 attached to this report. The only cross-property easement between the subject property and the adjacent property to the east is a general, private easement for unspecified reciprocal ingress and egress and is therefore a civil matter between the two parties to resolve; to support this, a condition of approval on the CUP resolution requires that any reciprocal easements be modified or quitclaimed as needed prior to building permit issuance.

Moreover, the project has been fully evaluated using the existing FLEX land use designation in the General Plan and using the proposed M1 zoning district designation. The proposed M1 zoning district designation will bring the site into consistency with the FLEX land use designation, and the project will conform to development standards prescribed by the M1 zoning district. Lastly, as described in the Environmental Impact section of this report and elaborated on in Exhibit 13, the project was fully evaluated for CEQA conformance, and the exemption prepared pursuant to Section 15183 of the CEQA Guidelines is the required form of analysis for the proposed project.

A full response to the 21 claims made in Appeal No. 2022-02 is provided as Exhibit 15, attached to this report.

**Public Notification and Community Outreach**

Public notifications were posted, published, and mailed in accordance with City and State regulations. There are no established Neighborhood Associations in the vicinity as the property is surrounded by industrial and office uses within the 1,000-foot radius.

In addition to the standard notification requirements, the project is subject to community engagement requirements of the Sunshine Ordinance (SAMC Sec. 2-153). At the time the application was submitted, the Sunshine Ordinance required only one community

meeting; however, the applicant held two communities in order to provide ample public input opportunities to surrounding property owners. Both meetings were conducted virtually due to the ongoing impacts of the Covid-19 pandemic at the time.

The first community meeting was held July 8, 2021. Ten members of the community attended and posted questions relating to construction impacts and the site plan design. Because of this meeting, the original site plan was rotated 90 degrees clockwise to orient the loading docks from facing east to facing south, to minimize impacts onto properties to the north and east of the site. The second community meeting was held October 5, 2021, during which 11 members of the community attended and expressed satisfaction with the revised site plan and posed questions about traffic control, site screening, and construction impacts. Materials from both community meetings are included with this report as Exhibit 11, and all materials were published to the project's webpage on the City's website at [santa-ana.org/garry-avenue-business-park](http://santa-ana.org/garry-avenue-business-park).

### **ENVIRONMENTAL IMPACT**

Pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is exempt from further review pursuant to 15183 of the CEQA Guidelines. This type of exemption analysis evaluates whether the potential environmental impacts of the proposed demolition of three office buildings, which total 105,558 square feet, and construction of a new 91,500 square foot light industrial warehousing building that would accommodate two tenants are addressed in the *City of Santa Ana General Plan Update Final Recirculated Program Environmental Impact Report* (GPU EIR).

As set forth in California Public Resources Code (PRC) Section 21083.3 and State CEQA Guidelines Section 15183, projects that are “consistent with the development density established by the existing zoning, community plan or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site” (State CEQA Guidelines Section 15183(a) and PRC Section 21083.3(b)). The State CEQA Guidelines further state that “[i]f an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards [...] then an additional EIR need not be prepared for the project solely on the basis of that impact” (State CEQA Guidelines Section 15183(c)).”

The GPU was adopted, and the GPU EIR certified, in April 2022 (State Clearinghouse Number 2020029087); the GPU went into effect on May 26, 2022. Any decision by the City affecting land use and development must be consistent with the GPU. The GPU EIR evaluates the potential environmental effects associated with implementation of the GPU and addresses appropriate and feasible mitigation measures that would minimize or eliminate these impacts. A project is consistent with the GPU if the development density does not exceed what was contemplated and analyzed for the parcel(s) in the certified

GPU EIR and complies with the associated standards applicable to that development density (State CEQA Guidelines Section 15183(i)(2)). Development density standards can include the number of dwelling units per acre, the number of people in a given area, floor area ratio (FAR), and other measures of building intensity, building height, size limitations, and use restrictions.

The GPU identifies that the Interim Development Standard for the FLEX-3 area is M1. The M1 zone provides for a variety of light industrial uses, including warehousing, manufacture, assembly, machine shops, wholesale businesses. The Project would result in a FAR of 0.42, which is within the projections of the GPU EIR, which evaluated a density of 3.0 FAR on the site. The GPU EIR adequately anticipated and analyzed the impacts of this Project, identified applicable mitigation measures necessary to reduce impacts of the Project, and the Project implements the applicable mitigation measures. The Project, therefore, qualifies for an exemption from additional environmental review as set forth in State CEQA Guidelines Section 15183. The full exemption analysis is provided as Exhibit 10 of this report. Based on this analysis, a Notice of Exemption, Environmental Review No. 2021-54 will be filed for this project.

#### **FISCAL IMPACT**

There is no fiscal impact associated with this action.

#### **EXHIBIT(S)**

1. Amendment Application Ordinance
2. Appeal of Conditional Use Permit Resolution
3. Vicinity Zoning and Aerial View
4. Site Photo
5. Site Plan
6. Floor Plan
7. Landscape Plans
8. Building Elevations
9. Renderings
10. Environmental Analysis and Exemption
11. Sunshine Ordinance Meeting Materials
12. Molly Greene (SAFER) Appeal No. 2022-01
13. City Response to Molly Greene (SAFER) Appeal No. 2022-01
14. Melinda Luthin Appeal No. 2022-02
15. City Response to Melinda Luthin Appeal No. 2022-02

Submitted By: Minh Thai, Executive Director of Planning and Building Agency

Approved By: Kristine Ridge, City Manager