

City Council Hearing

August 23, 2022



*Planning, Building and
Code Enforcement*

Item

PD21-016- Administrative Appeal of the Environmental Determination on Real Property Located at 4553 and 4653 North First Street.

Presenter: Christopher Burton, Director, PBCE

Proposed Project and Background

- Planned Development Permit (File No. PD21-016) (also referred to as Second Harvest Foodbank Project) would allow the construction of an approximately 249,230-square foot warehouse/distribution office building and maintaining an existing previously approved Planned Development Permit (File No. PD13-012) on an approximately 10.47-gross acre site located at 4553 and 4653 North First Street.
- PD21-016 and the environmental determination, a Determination of Consistency (DOC) with the Cisco Systems Inc., Site 6 Final Environmental Impact Report, were approved at the May 25, 2022 Director's Hearing
- On May 31, 2022, a timely appeal of the environmental determination was filed by Mark Espinoza on behalf of Marcos Espinoza

Project Location



Environmental Appeal

Issues Raised by Appellant

- The Initial Study and Determination of Consistency were not appropriately circulated for public comments
- Health Risk Assessment concerns
 - 888 daily vehicle trips, including 100 heavy diesel truck trips and 45 trucks with diesel-burning top-mounted refrigeration units (TRUs) would result in significant new emissions of diesel exhaust and impact surrounding sensitive receptors.
 - This new analysis would warrant preparation of a new EIR or Negative Declaration.

Environmental Appeal Response

- The Project is within the scope of the 2000 Cisco Systems Site 6 FEIR and subsequent Addenda.
- Pursuant to CEQA Guidelines and Statute, Section 15164, no public circulation is required.
- The Health Risk Analysis concluded the project would not result in impacts above the BAAQMD's threshold of significances for health risks for sensitive receptors (infants) due to construction or operation of the project
- No new or exacerbated significant environmental impact were identified beyond those in the 2000 Cisco Systems Site 6 FEIR and subsequent Addenda.

Staff Recommendation

- Conduct an Administrative Hearing to consider the environmental appeal of the DOC with the 2000 Cisco Systems Site 6 FEIR in accordance with CEQA for PD21-016, on an approximately 10.47-gross acre site located at 4553 and 4653 N. First Street.
- Adopt a resolution denying the environmental appeal and upholding the Planning Director's DOC with the Cisco Systems Site 6 FEIR in accordance with the CEQA, as amended and approval of the PD Permit, and finding that:
 - The City Council has independently reviewed and analyzed the DOC with the 2000 Cisco Systems Site 6 FEIR, the FEIR, related MMRP for the Project, other information in the record and has considered the information contained therein, prior to acting upon or denying the appeal and upholding the Planning Director's DOC; and
 - The DOC with the Cisco Systems Site 6 FEIR prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA; and
 - The DOC with the Cisco Systems Site 6 FEIR represents the independent judgment and analysis of the City of San José, as lead agency for the Project; and
 - Preparation of a new environmental document is not required because DOC with the Cisco Systems Site 6 FEIR thoroughly and adequately analyzes the project and the environmental appeal does not raise any new significant impacts that have not already been analyzed or addressed in the DOC and the Cisco Systems Site 6 FEIR in accordance with Public Resources Code Section 21083 or CEQA Guidelines Sections 15162 and 15185.