



Agenda Report

24-1380

Agenda Date: 1/31/2024

REPORT TO PLANNING COMMISSION

SUBJECT

Public Hearing. Action on Environmental Impact Report, General Plan Amendment, and Use Permit to allow the construction of a new four-story, 244,068 square foot data center with a substation at 2805 Bowers Avenue

Project: Walsh/Bowers Data Center and Bowers Backup Generator Facility (22-SPPE-01)

File No(s): PLN21-15069

Applicant: Gerry De Young, HMM Engineers

Property Owner: GI Partners

General Plan: High Intensity Office / Research and Development

Zoning: Light Industrial (ML)

Site Area: 5.12 acres (APN: 216-28-063)

Existing Site Conditions: The project site is developed with a 104,000-square-foot, two-story office building, surface parking lot, and perimeter landscaping.

Surrounding Land Uses:

- North: One-Story Office Building
- East: Light Industrial Uses
- South: Silicon Valley Power (SVP) Uranium Substation, Vantage Data Center
- West: Bowers Avenue; Office and Light Industrial Uses

Issues: Consistency with the General Plan and Zoning Ordinance.

Staff Recommendation: Adopt a resolution accepting the Environmental Impact Report (EIR) (SCH # 2023020228) and adopting the Mitigation Monitoring and Reporting Program (MMRP) prepared by the California Energy Commission (CEC); adopt a resolution recommending the City Council approve the General Plan Amendment from High Intensity Office / Research and Development (R&D) to Light Industrial; and adopt a resolution approving the Use Permit for the demolition of the existing building and construction of a new four-story, 244,068 square foot data center with a substation and site improvements at 2805 Bowers Avenue, subject to findings and conditions of approval.

BACKGROUND

On August 4, 2021, HMM Engineers submitted an application, on behalf of GI Partners (Property Owner), for a General Plan Amendment, Use Permit, and Architectural Review to allow for the demolition of the existing 104,000 square-foot, two-story office building and construct a new four-story, 244,068 square foot data center with rooftop mechanical equipment, a substation, landscaping and site improvements.

All thermal Power Plants and related facilities generating 50 megawatts (MW) or greater require

review by the CEC. Per the CEQA guidelines, an EIR was prepared by the CEC as the lead agency, as discussed later in detail in this report. The applicant has also filed a separate application (File No. PLN22-00479) for a lot line adjustment with the adjacent parcel at 2710 Walsh Avenue (APN: 216-28-105) to add approximately 3,675 square feet area in the northeast corner of the site. Pursuant to SCCC Section 17.05.040(d), the lot line adjustment will be approved administratively by the City Engineer.

In accordance with the City's Zoning Code, the consideration of the various requests by the applicant require a recommendation or determination by the Planning Commission or determination by the City Council. General Plan Amendments require a recommendation from the Planning Commission to the City Council for their final consideration. Use Permits are decided by the Planning Commission. Architectural Reviews are typically decided at a Development Review Hearing but may be referred by the Director of Community Development to the City Council for consideration. For this project, the Architectural Review is being referred to the City Council and the Planning Commission can provide comments on site and building design that can be shared with the City Council.

DISCUSSION

The subject property is zoned Light Industrial. Under the zoning code as it was in effect on the date the application was deemed complete, a data center was not listed as a permitted use within this zoning district, but could be approved with the approval of a Use Permit. In addition, the installation of the associated backup generators required a Use Permit.

Much of the City's industrial lands have historically been zoned as Light Industrial. With the 2010 comprehensive update of the City's General Plan, these light industrial areas were divided into multiple designations, including the High-Intensity Office / Research and Development designation currently applied to the subject property. This designation does not support development of a data center as a primary use, so the applicant has filed an application for a General Plan Amendment to change the General Plan land use designation to Light Industrial, which would bring the General Plan and Zoning into conformance and support the proposed data center development.

The City has discretion in the review of a proposed General Plan Amendment. General Plan amendments are reviewed to determine if they would help to achieve the overall goals of the General Plan and for consistency with specific General Plan policies. In this particular case no rezoning action is necessary for the proposed development and the requested General Plan Amendment would bring the General Plan into consistency with the current Zoning.

The proposed Use Permit is reviewed for consistency with the standards set forth in the City's Zoning Code.

Neighborhood Context

Adjacent properties are developed with office and industrial uses. This property also abuts other properties with Light Industrial General Plan designations, and thus light industrial uses allowed in the proposed Light Industrial General Plan designation are consistent with the character of the current and future potential build-out of the area. The nearest residential use is located more than 500 feet away, on the southwest corner of Bowers Avenue on the opposite side of the Caltrain railroad right of way.

Consistency with the General Plan

The project site has a General Plan land use designation of High-Intensity Office/R&D. This designation is intended for high rise or campus like developments for corporate headquarters, R&D, and supporting uses, with landscaped areas for employee activities. Data centers under this designation are limited to those that serve the primary use on site. The proposed standalone data center will require a General Plan Amendment of the land use designation to Light Industrial. This classification is intended to accommodate a range of light industrial uses, including general service, warehousing, storage, distribution, and manufacturing. It includes flexible space, such as buildings that allow combinations of single and multiple users, warehouses, mini storage, wholesale, bulk retail, gas stations, data centers, indoor auto related uses and other uses that require large, warehouse style buildings.

A proposed stand-alone data center with a Floor Area Ratio (FAR) of 1.03, will exceed the FAR of 0.6 allowed under the Light Industrial designation. However, the FAR policies were intended to predict and limit the intensity of land use and their resulting environmental impacts such as a significant increase in vehicle miles traveled. Data centers have low employment/occupation density, so an increase in FAR would not be expected to increase the number of employees and vehicle miles traveled beyond that anticipated by the City's General Plan.

This proposed General Plan Amendment aligns with General Plan Strategy 4.6, Maintain the City's Fiscal Health and Quality Services. This Strategy encourages a mix of uses to ensure that sufficient revenues are garnered to cover the cost of service needs. Data centers contribute property tax revenue that includes the valuation of not just the building but also the improvements which include servers and other high cost equipment.

The project is also consistent with the following General Plan Policies:

- 5.3.1-P8: Work with property owners to improve or redevelop underutilized and vacant properties.
- 5.3.1 P9 Require that new development provide adequate public services and facilities, infrastructure, and amenities to serve the new employment or residential growth.
- 5.3.1-P12 Encourage convenient pedestrian connections within new and existing developments.
- 5.3.5 P1 Work with existing Santa Clara businesses to retain and expand employment opportunities and strengthen the existing tax base.
- 5..3.5-P12 Promote development, such as manufacturing, auto services, and data centers, in Heavy Industrial and Light Industrial classifications to complement employment areas and retail uses.

The proposal is consistent with the above policies, in that the project utilizes and improves an underutilized property for use as a data center and strengthens the existing tax base. The project invests in public services and infrastructure with on- and off-site improvements like repairing the existing curb and gutter, and providing five-foot sidewalks along Bowers Avenue. It also provides landscape and traffic improvements to support and complement adjacent land uses. The new detached sidewalks with the landscape strip enhance pedestrian connections. On balance, the project as proposed is consistent with the city's General Plan.

Site Layout and Project Design

Two driveways serve the site with access from Bowers Avenue, providing on-site circulation for

parking, service, and delivery vehicles. The project includes the undergrounding of utilities and improvements to the project frontage, including a five-foot separated sidewalk and a four-foot landscape strip in the public right-of-way.

A total of 48 trees will be removed for the construction of the data center. Pursuant to SCCC Chapter Section 12.35 and General Plan Policy 5.3.1-P10, the trees removed should be replaced at a minimum ratio of 2:1 with 24-inch box trees on-site, requiring 96, 24-inch box replacement trees to be planted onsite. While the project does include a landscape and tree planting plan, the new development of the site with a data center imposes constraints for tree planting due to the location of underground utilities and overlying utility and emergency vehicle access easements necessary to serve the site and operate the substation and data center. Section 12.35.090(c)(8) allows the applicant to provide an alternative means of replacement subject to the approval of the Director of Community Development. To have the onsite benefit of landscaping the tree removal will be considered mitigated by upsizing the replacement trees and planting a total of 91, 36-inch or 48-inch box trees on the project site. An additional 5 trees will be planted offsite to achieve the necessary 2:1 ratio.

The data center building would be in the center of the property with the generator yard and the loading docks located behind the building, not visible from Bowers Avenue. Parking for the facility is located between Bowers Avenue and the building. The data center building would include administrative offices and 12 data halls.

As part of the project, a 72 megavolt-ampere (MVA) electrical substation would be located on the southeastern corner of the project site and would be looped into to the existing Silicon Valley Power (SVP) Substation 60 kilovolt (KV) transmission feeder, located adjacent to the site on Uranium Street. The project includes 32 Tier 4 compliant renewable diesel-fired emergency backup generators with a maximum peak generating capacity for each generator of three megawatts (MW). Under normal operation, the maximum load on each generator is designed to be 75% of the peak capacity, for a maximum aggregate generation capacity of 72 MW. The backup generator facility would be in the generation yard east of the data center building and would only be operated for maintenance, testing, and emergencies during utility power outages. The generator yard is enclosed within approximately 43 feet high perforated metal screen walls with a sound attenuation blanket to keep the noise within the maximum noise level allowance in the Light Industrial zoning district. Similarly, 42 air-cooled rooftop chillers will be behind a 15-foot-high mechanical screen wall and also include a sound attenuation blanket.

Zoning Conformance

On December 19, 2023, the City Council recently adopted the comprehensive Zoning Code Update, which is anticipated to go into effect on February 8, 2024, and this Project will be considered by the City Council after that date. However, the Updated Zoning Code provides that projects with complete applications prior to the Effective Date shall be processed in compliance with the requirements in effect when the application was deemed complete (§ 18.02.070.A).- Here, the Project Clearance Committee determined that the application was complete on October 11, 2022, and so the standards of older zoning code (the "Classic Code") will apply to this project.

The project site has a zoning designation of Light Industrial (ML) under the Classic Code, which is the version of the Zoning Code that has been effected and does not reflect the Zoning Code Update provisions adopted by the City Council on December 19, 2023. This zoning district is intended to

provide an optimum general industrial environment to accommodate industries operating substantially with an enclosed building that would not be objectionable or detrimental to adjacent properties or the industrial area. A data center is not listed as an allowed use in the ML zoning district. Subject to Section 18.48.040(e) of the Classic Code, other uses that are not normally permitted, but are appropriate for the Industrial district may be allowed by first securing a Conditional Use Permit. In addition, Section 18.60.050 of the Classic Code requires a Conditional Use Permit to allow installation of electric power plants, including back-up generators. (Under the Updated Zoning Code, data centers are permitted in the new light industrial LI zone subject to a conditional use permit, while backup generators will require a *minor* use permit.)

The proposed building will have a front setback of 108 feet, exceeding the 15-foot front requirement in the ML zoning district. The project proposes a lot coverage of approximately 26%, which is below the 75% maximum lot coverage standard for the ML district. The proposed height of the data center building is 87'-6" (excluding the sound attenuating mechanical screen), whereas the maximum allowed height in the ML zoning district is 70 feet. Pursuant to Section 18.90.020(a) of the Classic Code, a 25% increase can be allowed with a Zoning Administrator modification, bringing the maximum height allowance to 87'-6". The project provides 62 surface parking spaces, meeting the zoning code requirement of one parking space per 4,000 square feet of gross floor area.

Architectural Review

Pursuant to City Code Section 18.76.020(j), the architectural review of the application is being referred to the City Council for consideration. The Planning Commission can provide any design comments which will be relayed to the City Council.

Conclusion

The project would be compatible with adjacent land uses and maintains the industrial character of the area. The project improves an underutilized property and provides economic opportunity to capture added property tax resulting from on- and off-site improvements. The project is therefore determined to be consistent with the proposed General Plan land use designation and the existing zoning designation of the properties comprising the project.

ENVIRONMENTAL REVIEW

An Environmental Impact Report (EIR) and Mitigation Monitoring Reporting Program (MMRP) were prepared in accordance with the California Environmental Quality Act (CEQA) by the California Energy Commission (CEC), as the Lead Agency for the Project. Pursuant to Public Resources Code § 25519(c), the CEC is the lead agency for any development projects involving a power plant with capacity to generate 50 MW or more of electricity. Depending on the size and details of an individual project, the CEC may either provide formal certification to the power plant or issue a "Small Power Plant Exemption" (SPPE). Because the data center will utilize backup generators with a generating capacity of 72 MW, CEC review was required for this project and the CEC prepared the EIR as the lead agency.

The EIR examined potential environmental impacts associated with project development and identified air quality, biological, cultural resources, geology and soils, greenhouse gases, hazards and hazardous materials, and noise impacts. With implementation of mitigation measures those identified impacts would be reduced to less than significant. A detailed discussion of the potential impacts and mitigation measures to be applied to the project are specified in the EIR and MMRP and shall be implemented through project conditions of approval for the project. The links to the EIR and MMRP

included in Attachment 2 for access and review.

At a publicly noticed Business Meeting on November 8, 2023, the CEC granted the SPPE, certified the EIR, and adopted the MMRP. Because the City also has discretionary authority over the Project, the City is a "Responsible Agency" under CEQA, and must accept the EIR and adopt the MMRP prepared by the CEC, or must either challenge the EIR in court or adopt its own Supplemental or Subsequent EIR for the Project. Staff believes that the CEC EIR is complete and fully analyzes the potential environmental impacts and includes appropriate mitigation measures. As such, staff recommends that the Planning Commission accept the EIR and adopt the MMRP.

FISCAL IMPACT

There is no fiscal impact to the City for processing the requested application other than administrative staff time and expense typically covered by processing fees paid by the applicant.

COORDINATION

This report was coordinated with the City Attorney's Office.

PUBLIC CONTACT

On January 17, 2024, a notice of public hearing was published in *The Weekly*, a newspaper of general circulation, and a notice of this item was posted in three conspicuous locations within 300 feet of the project site and mailed to property owners within 500 feet of the project site. At the time of this staff report, Planning staff has not received public comments in support or opposition to the proposed project.

Public contact was also made by posting the Commission agenda on the City's official notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

1. Adopt a Resolution accepting the Environmental Impact Report prepared by the California Energy Commission (CEC) and adopting the Mitigation Monitoring and Reporting Program;
2. Adopt a Resolution recommending the City Council approve the General Plan Amendment from High Intensity Office / Research and Development to Light Industrial, subject to findings; and
3. Adopt a Resolution approving the Use Permit for the demolition of the existing building and construction of a new four-story 244,068 square foot data center with a substation and site improvements in the Light Industrial (ML) zoned property at 2805 Bowers Avenue, subject to findings and conditions of approval.

Prepared by: Nimisha Agrawal, Senior Planner

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Lesley Xavier, Planning Manager

ATTACHMENTS

1. Review of CEC Final EIR Memo
2. Links to Environmental Impact Report and Mitigation Monitoring and Reporting Program
3. Resolution Accepting the Environmental Impact Report and Adopting the Mitigation Monitoring and Reporting Program
4. Resolution Recommending Council to Approve the General Plan Amendment
5. Resolution Approving the Use Permit
6. Project Data Table
7. Conditions of Approval
8. Applicant's Statement of Justification
9. Development Plans