



## Agenda Report

24-172

Agenda Date: 3/6/2024

### 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 (Continued from Planning Commission Hearing on January 31, 2024)

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

Issues: Consistency with the General Plan and Zoning Ordinance.

Staff Recommendation: (1) 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); (2) 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 (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 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.

The Planning Commission at a publicly noticed meeting on January 31, 2024, reviewed the project and after deliberation continued the item to the Planning Commission meeting on March 6, 2024, for further review and discussion.

### **DISCUSSION**

The subject property is zoned Light Industrial, and the General Plan designation is High-Intensity Office / Research and Development (R&D). Pursuant to 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 allowed with the approval of a Use Permit. In addition, the installation of the associated backup generators required a Use Permit.

The High-Intensity Office / R&D designation for the project site does not support the development of a data center as a primary use, so the applicant 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 Planning Commission staff report from January 31, 2024, with a detailed analysis is attached for reference.

At the Planning Commission Hearing on January 31, 2024, the Commissioners deliberated on the impact of the proposed use on the residential neighborhood to the south of the project site and directed staff to do more outreach and notify all properties within a 2,000 foot radius of the project site and including any schools/daycare in the vicinity.

On February 22, 2024, the applicant conducted a virtual community meeting to address any public concerns on the proposed project. The community meeting was attended by 15 members of the public. There were questions pertaining to the security of the premises, the number of employees, water usage, noise concerns, and the revenue the data centers generate for the City.

The applicant explained that they would be engaging a full-time security agency and would employ about 10 people. The applicant clarified that the project would not be generating its own power except for when the emergency backup generators are in use. They further explained that the term 'power plant' used in the environmental analysis by the California Energy Commission refers to the emergency backup generators that will be used only during an outage and for testing once a month for 15 minutes. The water usage for the data center would be very low, about the same as the previous use on the property, and the project would use primarily recycled water for all uses including landscaping. The project uses air-cool chillers that do not use water.

To address the noise concerns, the applicant shared a map from the noise study noting the ambient noise levels at various locations in the vicinity including the southwest of the property, close to the residential uses, and the project's impact at these locations. The noise levels measured at these locations were well below the maximum permissible levels of 50-55 decibels for residential area. Primarily the noise sources are the generators and rooftop air chillers that are enclosed within a fence with noise a attenuation blanket to address the noise impacts. The applicant further explained that the wind does not enhance or flow the noise and for measuring accurate ambient noise levels the measurements are done during nighttime when it is most quiet.

Silicon Valley Power has published rates for Industrial users and for every megawatt usage, approximately \$50,000 is contributed to the general fund. Further, they provide large tax

contributions.

The recording of the meeting is available on the project page on the City of Santa Clara's website.

### **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 megawatts (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 4 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 February 21, 2024, a notice of public hearing was published in *The Weekly*, a newspaper of general circulation, and on February 22, 2024, a notice of this item was mailed to property owners within 2,000 feet of the project site and to the schools located within the vicinity, including Bracher Elementary School, Wilcox High School, Eliana's Daycare, Little Starfish Bilingual Daycare. Public comments received at the time of this staff report are available as Attachment 2 of this report.

On February 22, 2024, the applicant conducted a virtual community meeting to address any public concerns on the proposed project. The community meeting was attended by 15 members of the public. The recording of the meeting is available on the project page on the City of Santa Clara's

website.

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) <<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. Planning Commission Staff report of January 31, 2024
2. Public Comments received
3. Review of CEC Final EIR Memo
4. Links to Environmental Impact Report and Mitigation Monitoring and Reporting Program
5. Resolution Accepting the Environmental Impact Report and Adopting the Mitigation Monitoring and Reporting Program
6. Resolution Recommending Council to Approve the General Plan Amendment
7. Resolution Approving the Use Permit
8. Project Data Table
9. Conditions of Approval
10. Applicant's Statement of Justification
11. Development Plans