



## Legislation Text

File #: 23-0104, Version: 1

Recommendation to receive supporting documentation into the record and conclude the public hearing and consider two third-party appeals by Laurie Angel and Kirk Davis (APL 22-006); and

Deny the appeals and approve a Site Plan Review (SPR 22-078) for the development of a 303,972 square foot concrete tilt-up building including 9,000 square feet of office space approximately 51 feet in height on a 14.16-acre lot at 5910 Cherry Avenue in the General Industrial Zoning District. (District 9)

On October 6, 2022, the Planning Commission held a public hearing, considered public testimony, and approved a Site Plan Review (SPR) for a 303,971 square-foot industrial warehouse at 5910 Cherry Avenue (Attachment A). This project lies within the normal jurisdiction of the Planning Commission and is now before the City Council on appeal. The development and use are allowed under the underlying zoning.

The Project site is 14.16 acres in size and is currently developed with a 32,815-square-foot office building, several outbuildings, and outdoor storage (Attachment B). All existing structures and landscaping on the site will be removed. At the time this staff report was prepared, review of plans submitted for building plan check are under review by the City of Long Beach (City) at the applicant's risk. The surrounding area is developed with a range of uses detailed in Table 1.

Direction	Address	Zoning District	Land Use
North	APN: 7119-018-002	General Industrial (IG)	Tank Farm
East	APN: 7119-018-034	General Industrial (IG)	Railroad access for the property to the north.
South	5828-5898 Cherry Avenue and 2001-2323 South Street	Regional Highway (CHW)	LA County Animal Control, McDonald's, vacant former Grocery Store, Cube Smart Self Storage
West	5901-5949 Cherry Avenue	Community Automobile Oriented (CCA)	Residential, beauty salon, barber and restaurants.

## Site Plan Review

The applicant requested approval of a SPR to demolish all existing structures on site and construct a single 303,972-square-foot concrete, tilt-up industrial building that is approximately 51 feet in height. Surrounding the building are surface parking areas including 338 at-grade parking stalls and 79 truck parking stalls. The building incorporates 44 truck, high-dock doors along the south elevation facing the abutting commercial site. The building includes 9,000 square feet of office space in the southwest corner of the building along Cherry Avenue and is proposed to be located on the first floor and mezzanine levels (Attachment C). At this time, according to the Developer, the building is being constructed on speculation in accordance with the development standards in the Zoning Code, but there is no tenant in consideration at this time. However, to accommodate future uses that require a higher parking rate per the City's General Plan, the applicant has submitted plans which show how the parking rate (three spaces per each 1,000 square feet of floor area) required by the City's General Plan for the future Code requirements, based on the Neo-Industrial (NI) PlaceType, can be accommodated. Furthermore, conditions of approval have been incorporated to ensure that the development is constructed and operates in a manner that is compatible with the surrounding industrial area and the residential neighborhood across Cherry Avenue (Attachment D).

The SPR for the proposed project was heard on October 6, 2022, and the Planning Commission held a public hearing and considered testimony from the applicant and the public in addition to considering the application materials, including technical reports and City staff's report.

Public testimony during the Planning Commission proceedings included written correspondence from the following individuals (Attachment E):

*Table 2 - Written Correspondence*

<b>Date/Time Received</b>	<b>Public Commenter</b>	<b>Summary of Comments</b>
10/6/22 2:08PM	Megan Lorraine	Air impacts from traffic
10/6/22 2:43PM	Megan Shilling	Already overburdened with truck traffic, concentration of noise, air and heat pollution
10/6/22 1:20PM	Laurie Angel	Truck traffic, increased noise, visual pollution, air quality, hydrology
10/6/22 12:52PM	Kirk Davis	Community health
10/6/22 2:47PM	Andy Lee representing Teamsters Local 396	May house 1 or more E-commerce facilities and believes project is not subject to McCorkle Decision

City staff recommended approval of the SPR based on the ability to make the required findings, particularly the first required finding that the proposed use be consistent with and carry out the General Plan; as well as the second required finding that the proposed use would not be a detriment to the surrounding community including public health, safety, general welfare, environmental quality or quality of life (Attachment F). After the public hearing, the Planning Commission approved the SPR (6-0, with one Commissioner recusing himself).

## **Appeal**

Within the ten-day appeal period, two separate third-party appeals were filed by Kirk Davis and Laurie Angel (Attachment G). Appellant Davis asserts that the Planning Commission did not look at the project through an equity lens and identified several General Plan policies and implementation measures the project is allegedly not consistent with. Appellant Angel asserts that impacts are underestimated and that known impacts are inadequately evaluated. Additionally, Appellant Angel states that the use is not appropriate for the area, zoning or public.

The Planning Commission found that this North Long Beach area is in transition with a current General Industrial (IG) Zoning designation and an updated General Plan type, NI, to accommodate future uses such as cleaner industrial uses, office space and manufacturing uses.

In regards to analysis of environmental impacts, the proposed development of the property with warehouse and accessory office use (Standard Industrial Code 42) as shown in Table 33 -2, Section 6 of the Long Beach Municipal Code (LBMC) is permitted as a matter of right within the IG Zoning District. Since the project contains greater than 50,000 square feet of floor area, the Planning Commission is the approving body for SPR. However, because the entitlement (SPR) is design review related only, review of environmental impacts subject to the California Environmental Quality Act (CEQA) is not required.

The Planning Commission, within its discretionary authority, found the design of the proposed industrial building and its design at the location desirable due to what they found to be alternatives that could, in the future accommodate a use(s) with a higher parking rate as required by the City's General Plan.

In line with appellant Davis' assertions regarding consistency with the General Plan, members of the public raised concerns at the Planning Commission hearing that the proposed project is an environmental justice concern in conflict with ongoing planning efforts including the Uptown Planning Land Use and Neighborhood Strategy (UPLAN) to implement the City's General Plan through an equity lens. Senate Bill 1000 (SB 1000) also requires all California cities to include goals, policies, and objectives pertaining to environmental justice in their general plans. The purpose of the bill is to identify disadvantaged communities and to put forward strategies to reduce unique or compounded health risks to these communities,

identify objectives and policies to promote civil engagement in the public decision-making process, and identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.

The subject site is identified in the City's General Plan Land Use Element as a "disadvantaged community," and the plan contains environmental justice policies for which new zoning regulations are being designed through the UPLAN process. The intention is to reduce compounded health risks by facilitating new development that is less polluting than existing uses or conditions, to help transition existing industrially zoned areas of North Long Beach uses to less polluting alternatives in the future, while maintaining local jobs. Through the UPLAN process, community members shared their insights on how the zones should be developed to best meet community needs. The project site has an existing, older industrial use, which supports the adjacent petroleum tank farm and petroleum distribution uses, including outdoor storage, vehicular garages/carports, and wash racks. Although zoning regulations to implement the Neo-Industrial PlaceType are not yet codified, the proposed redevelopment of this site will support the policy intent of the Neo-Industrial PlaceType by cleaning up and remediating the property that, according to the Phase 1 environmental document, has ground water contamination and possible other contaminants stemming from the prior use of the property as support for the adjacent petroleum tank farm.

The proposed project would be consistent with the policy direction of reducing environmental burdens through development of a fully enclosed new industrial project that would be less polluting or environmentally harmful than the previous use for the Site.

Environmental Justice and Neo-Industrial uses are terms that can sometimes be misunderstood or misinterpreted. Environmental Justice is defined in California law as the fair treatment of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. (Government Code 65040.12(e)). SB 1000 and other laws direct the City to improve its analysis and due consideration of existing conditions when siting new potentially polluting facilities. The law does not require, direct, or even allow the City to deny a single low-emitting use (such as the proposal on appeal here) because all of the wider legacy pollution issues in a given area have not yet been resolved. Environmental Justice informs better decision-making at both the plan level and project level through thoughtful analysis. In this case, both have been successful in that the proposed warehouse will be fully contained within an energy-efficient building and replace outdoor and petroleum-serving legacy uses that had a significant environmental impact. This is reinforced through the ongoing zoning update work referenced by the Planning Commission and the appeal.

Neo-Industrial areas are described in the City's Land Use Element as light-industrial uses ranging from manufacturing, office, research, and complimentary uses. The fulfillment of products and e-commerce fits within this ecosystem. Importantly, while Neo-Industrial uses are less impactful and have lower-emissions profiles than heavy-industrial uses such as petroleum refining, they are not restricted by the General Plan or any regulations to being

zero-emissions. Furthermore, inherent in the discussion of manufacturing, researching, and moving product is the use of truck type vehicles to move those goods. The inference in the appeals that neo-industrial uses would not include trucks or truck bays is not reflected by the City's current Land Use Element; nor the existing limited industrial zones upon which the concept is built.

Although not required, the City requested technical reports analyzing potential impacts to Traffic (Trip Generation and Vehicle Miles Traveled) Air Quality, Greenhouse Gas, Noise, and Mobile Health Risk Assessment for review. The submitted technical reports did not conclude that the project would have any type of environmental impact on the area from the proposed use of the property (Attachments H, I and J).

As described above, the subject property is zoned IG, a zoning designation that has not yet been updated to implement the updated General Plan PlaceType designation for the site which is designated with the NI PlaceType. The NI PlaceType encourages the location, evolution and retention of restricted light industrial activities. The proposed project is consistent with the NI PlaceType which is designed to continue allowing for jobs-generating, industrial type uses that are less polluting than previous uses.

The prior use of the main building on-site was 32,800 square feet of office use constructed in 1953 which supported the adjacent petroleum storage facility. Also on-site are several outbuildings which contained repair facilities for equipment, as well as significant outdoor storage of equipment related to the adjacent petroleum storage use. The Phase 1 environmental document which was prepared for the buyer of the property did note that there is ground water contamination at the site, which will be remediated as part of the project. The former industrial support operations at the site included hydraulic lifts in the garage, a wash rack, and the storage and use of petroleum products and potentially solvents and other chemicals. The Phase 1 environmental document cannot rule out that there may have been inadvertent spills of these products; it is possible that during project construction there will be areas where impacted soil is encountered that will require characterization, excavation, and special handling and disposal at licensed facilities. Without the redevelopment of the site and the proposed future use, these conditions would continue to fester and endure.

The City Council in its adjudicatory capacity is tasked with reviewing this appeal "de novo" and can take action to deny the project, approve, or conditionally approve the project in accordance with the LBMC SPR findings. The City Council should consider whether there are merits of the appeal and the policy tradeoffs inherent in this application, as there are a variety of policies and considerations that are appropriate to consider from the General Plan in this case. Upholding the Planning Commission's approval would result in new jobs for the area, including temporary construction related jobs, as well as permanent jobs of various types once the project is completed and becomes operational.

The project has been reviewed uniformly in accordance with the City's Zoning Code and will clean up, redevelop, and revitalize an under-utilized property that since 1953 has been used

primarily as an office to support the adjacent petroleum storage facility, but also included substantial outdoor storage, a laboratory, pump house, change building, storehouse, hydraulic lifts and wash racks.

Public hearing notices were distributed on January 3, 2023, in accordance with the requirements of Chapter 21.21 of the LBMC. Any comments received prior to the City Council hearing will be provided to the City Council for its review and consideration.

This matter was reviewed by Deputy City Attorney Erin Weesner-McKinley on December 30, 2022 and by Revenue Management Officer Geraldine Alejo on December 16, 2022.

City Council action is requested on February 7, 2023. Pursuant to LBMC, in the case of appeals to the City Council, hearings are typically held within a 90-day period.

This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with City Council priorities. There is no fiscal or local job impact associated with this recommendation.

Approve recommendation.

CHRISTOPHER KOONTZ, AICP  
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA  
CITY MANAGER