



County of Sacramento

March 20, 2023

Leon Corcos

Via email: leon@corcosinc.com

Subject: Fair Oaks Water District Corporation Yard (PLNP2020-00201)

Dear Mr. Corcos:

This letter acknowledges receipt of your Public Records Act request #23-970 on March 15, 2023. Staff are gathering the documents that are responsive to your request. Once the documents are collected, staff will upload them electronically to the NextRequest system and will notify you so you can download them. The remainder of this letter responds to your February 27, 2023 letter and subsequent emails regarding the Fair Oaks Water District (FOWD) Corporation Yard Renovation Project (FOWD Corporation Yard project). Your letter and emails allege errors and omissions in County staff's analysis of the FOWD Corporation Yard project when the project was presented to the Fair Oaks Community Planning Advisory Council (CPAC) in July and October 2021.

Project Background

The FOWD Corporation Yard project was approved by the Sacramento County Planning Commission on March 14, 2022, following the Fair Oaks CPAC's recommendation for approval on October 6, 2021. The project included a Development Plan Review and Special Development Permit to allow the renovation of the existing FOWD corporation yard, including tree removal on 1.59 acres in the commercial district subarea of the Fair Oaks Village Special Planning Area (SPA).

The FOWD purchased and relocated to the site in 1979. Within the Fair Oaks Village SPA, the subject parcels are identified as being located within the Commercial District, as depicted in Section 502-12.2. The existing and proposed use as a "Public Utility Facility, Public or Private Owned" is a permitted use in the Commercial District identified in Section 502-12.7 of the Fair Oaks Village SPA. Therefore, no Use Permit was required for the construction of the FOWD corporation yard in 1979 because public utility uses are permitted in the commercial district of the Fair Oaks Village Special Planning Area (SPA). Pursuant to Section 502-17 of the SPA, any proposal to alter the external appearance of a principal building shall be subject to a Development Plan Review.

Allegations in February 27, 2023 letter

1. The properties are zoned commercial and residential, and the Planning Department has allowed an industrial project improperly zoned for several decades.

Response: The properties are zoned Special Planning Area, and are located in the Commercial District of the Fair Oaks Village SPA. As stated above, the FOWD Corporation Yard fits within the definition of a "Public Utility Facility, Public or Private Owned" and is a permitted use in the Commercial District identified in Section 502-12.7 of the Fair Oaks

Village SPA. The current Zoning Code further defines public utility and public service facilities as either major or minor:

Public Utility, Public Service Facility, Major

Generating plants, electrical substations, above ground electrical transmission lines, refuse collection or disposal facilities, water reservoirs, water or wastewater treatment plants, and similar facilities of public agencies or public utilities.

Public Utility, Public Service Facility, Minor

A utility facility that is necessary to support a legally established use and involves only minor structures (e.g., electrical distribution lines).

The 1979 Zoning Code (Table II) identifies public utility and public service facilities as permitted uses in commercial zones, but does not include a definition of these facilities. It is reasonable to conclude that the FOWD Corporation Yard falls within the public utility/public service facility definition in that it is owned and operated by the FOWD and is used to maintain and support their water transmission facilities.

2. Staff should have presented these zoning problems to the Fair Oaks CPAC to properly inform CPAC members and the public.

Response: The staff presentations to the Fair Oaks CPAC did not identify zoning problems because none existed. The staff presentation correctly identified the existing and proposed use as permitted in the Commercial District of the Fair Oaks Village SPA.

3. Building plans show the new main building across existing property lines, which is an "automatic fail/rejection of plans". A parcel merger could remedy this issue, but would require a rezone because the parcels are zoned differently.

Response: The site plans included in the application and presented to the Fair Oaks CPAC are preliminary for the purpose of the requested entitlements, and do not constitute construction drawings submitted for a building permit application. Prior to construction, a lot line adjustment or a parcel merger may be pursued. A parcel merger in this situation would not require a rezone because both parcels are zoned SPA and are located within the same Commercial District.

4. Staff failed to mention the gas storage and hazardous waste storage.

Response: The project materials for the July 7, 2021 Fair Oaks CPAC note the existing and proposed hazardous storage shed and fuel facilities. Refer to the project summary (page 2), staff presentation (slide 9) and the project plans (sheets 5-6). Likewise, the project materials for the October 6, 2021 Fair Oaks CPAC identify the existing and proposed facilities. Finally, the staff report for the County Planning Commission included these facilities under the Project Description heading (page 5) and in Attachment 5 – Site Plan. Based on staff's review of historical aerial photos and permit records, the existing fuel tank and hazardous materials storage shed have been in place on the site since at least January 1993. The County's Environmental Management Department (EMD) regulates the hazardous materials storage and fuel tank at the FOWD Corporation Yard under the Hazardous Materials Business Plan (HMP) and Hazardous Waste Programs. The FOWD has a valid permit through EMD, and submits an annual HMP to EMD for review and approval. The most recent HMP was submitted in July 2022, and the next HMP is due no later than September 2023.

In your subsequent emails, you allege that the current Zoning Code Table 3.1 does not allow hazardous waste storage facilities in a commercial area. Table 3.1 lists permitted *primary* uses in various zoning districts. The existing and proposed hazardous materials storage shed is an incidental use. The FOWD Corporation Yard approval includes Conditions #58-59 related to ongoing compliance with applicable hazardous materials storage regulations with enforcement by EMD.

5. The proposed electrical facilities include a SMUD transformer on one property serving both properties.

Response: As stated in Response 3 above, the site plans included in the application and presented to the Fair Oaks CPAC are preliminary for the purpose of the requested entitlements, and do not constitute construction drawings submitted for a building permit application. In addition, the approval of the project is subject to the findings and conditions in Attachment 2 of the Planning Commission staff report. Attachment 2 includes Conditions 47-55 specific to SMUD's requirements, and Condition 1 notes that this action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations, and procedures.

6. Truck storage, repair, and servicing is prohibited in commercial zones unless a Use Permit is obtained and FOWD is storing trucks at the site.

Response: The reference to the current Zoning Code Table 3.1 is correct. However, as stated above, Table 3.1 lists permitted *primary* uses in various zoning districts. The primary use on the subject property is the FOWD Corporation Yard, which is permitted as a public utility/public service facility. Incidental storage, repair, and servicing of FOWD trucks is an acceptable use.

Public Noticing and Appeal Provisions

Notices of the public hearings conducted by the Fair Oaks CPAC and the County Planning Commission were provided to property owners within a 500-foot radius of the project site, consistent with California Government Code Section 65091. Sacramento County also includes tenants within the same 500-foot radius in the mailing list for the project. Staff has reviewed the mailing list for the project and notes that your property at 7960 Winding Way is included. Mailed notices were sent to the tenant at this address as well as to Corcos Village LLC at 4780 Lakeside Way.

The Sacramento County Zoning Code Section 6.1.3 includes appeal provisions for decisions by the Planning Commission, Subdivision Review Committee, Zoning Administrator, Chief Building Inspector, Design Review Administrator, Planning Director, or the Secretary of the Planning Commission. These appeal provisions generally state that appeals may be taken by filing written notice including the filing fee with the Secretary of the Planning Commission not later than 10 calendar days after the day on which the act or determination appealed from was made. Following two presentations before the Fair Oaks CPAC wherein approval was recommended, the Planning Commission approved the FOWD Corp Yard project on March 14, 2022; no appeal was filed.

Conclusion

Your February 27, 2023 letter suggests that due the alleged staff errors, the Planning Director has the authority to reject the project and require the applicant to redo the project plans and correct any and all problems. As documented above, there are no staff errors that warrant the suggested action. Furthermore, the Planning Director does not have the authority to rescind an action taken by a public hearing body pursuant to the Zoning Code, regardless of public sentiment about the project.

Sincerely,



Todd Smith
Planning Director

cc: June Powells-Mays, Supervising Deputy County Counsel