

NOTICE OF EXEMPTION

F202310000343

FROM: City of Fresno
Planning and Development Department
2600 Fresno Street, 3rd Floor
Fresno, California 93721-3604

TO: X Fresno County Clerk
2220 Tulare Street
Fresno, California 93721

Office of Planning & Research SCH NO.: N/A
P.O. Box 3044, Room 212
Sacramento, California 95812-3044

FILED
DEC 20 2023 TIME 3:42pm
By _____ FRESNO COUNTY CLERK
DEPUTY

Project Title: Conditional Use Permit Application No. P22-04756

Project Location: 1225 East Nees Avenue; Located south of East Nees Avenue, between North Millbrook and North Cedar Avenues. (APN: 404-021-50)

Project Location – City: City of Fresno **Project Location - County:** County of Fresno

Description of Nature, Purpose and Beneficiaries of Project: Conditional Use Permit Application No. P22-04756 proposes a congregate living health facility with 18 beds, in a new ±16,197 square-foot residential building. The single-family residence currently on-site will be demolished. In addition, on and off-site improvements are proposed including but not limited to: two new drive approaches, 15 parking stalls, sidewalk modifications a trash enclosure, and landscaping. The property is zoned RS-4/UGM (Residential Single Family - Medium Low Density/Urban Growth Management Area).

Name of Public Agency Approving Project: City of Fresno
Planning and Development Department

Name of Person or Agency Carrying Out Project: Harutyun Boyajyan
CR Consulting Group Inc.
2776 East Silaxo Road
Clovis, CA 93619

Exempt Status: (check one)

- Ministerial - PRC § 21080(b)(1); CEQA Guidelines §15268
- Declared Emergency - PRC § 21080(b)(3); CEQA Guidelines §15269(a)
- Emergency Project - PRC § 21080(b)(4); CEQA Guidelines §15269(b) and (c)
- Categorical Exemptions - CEQA Guidelines 15332/Class 32**
- Statutory Exemption – PRC § _____

Reasons why project is exempt: The proposed project is characterized as in-fill development and is consistent with the conditions of Section 15332/Class 32 exemption, as demonstrated in the attached Categorical Exemption Determination for Conditional Use Permit No. P22-04756.

Lead Agency Contact Person: Jose Valenzuela, Supervising Planner
City of Fresno Planning and Development Department

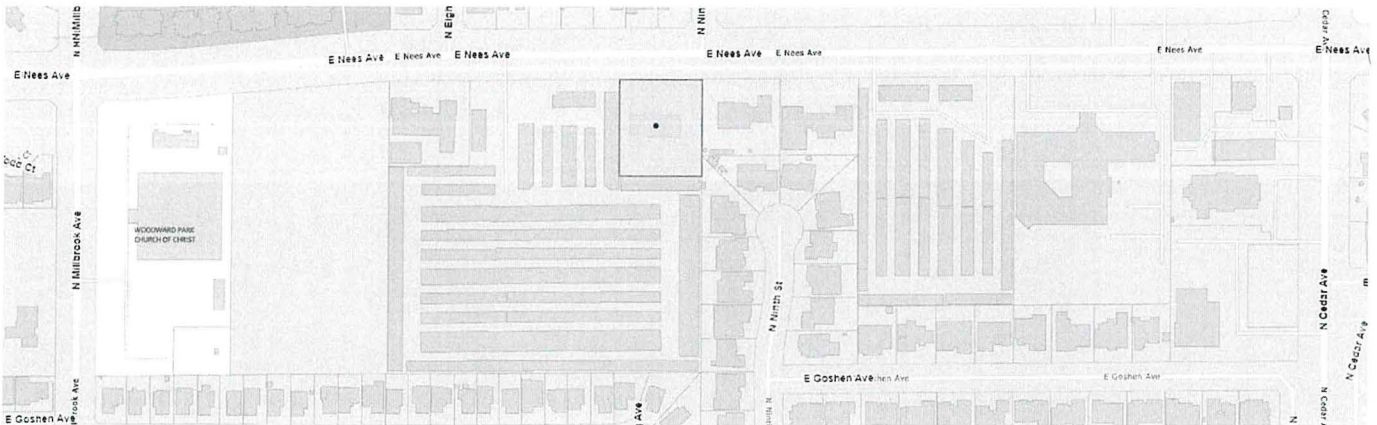
Telephone No.: (559) 621-8070

If filed/signed by applicant:

Attach certified document of exemption finding (check if attached)
Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Vicinity Map

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LEGEND

Subject Property



Project Area to be developed
(±0.88 acres)



PLANNING AND DEVELOPMENT DEPARTMENT

CONDITIONAL USE PERMIT APPLICATION
NO. P22-04756 & RELATED
ENVIRONMENTAL ASSESSMENT

PROPERTY ADDRESS

1225 East Nees Avenue

Zone	District:	RS-4/UGM
<i>(Residential Single Family, Medium Low Density/Urban Growth Management Area)</i>		
By: T. Veatch		
December 20, 2023		

E2023/0000343

**CITY OF FRESNO CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT FOR
DEVELOPMENT PERMIT
APPLICATION NO. P22-04756**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Harutyun Boyajyan
CR Consulting Group Inc.
2776 East Silaxo Road
Clovis, CA 93619

PROJECT LOCATION: 1225 East Nees Avenue; Located south of East Nees Avenue, between North Millbrook and North Cedar Avenues. (APN: 404-021-50).

PROJECT DESCRIPTION: Conditional Use Permit Application No. P22-04756 proposes a congregate living health facility with 18 beds, in a new ±16,197 square-foot residential building. The single-family residence currently on-site will be demolished. In addition, on and off-site improvements are proposed including but not limited to: two new drive approaches, 15 parking stalls, sidewalk modifications a trash enclosure, and landscaping. The property is zoned RS-4/UGM (Residential Single Family - Medium Low Density/Urban Growth Management Area).

This project is exempt under Section 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines.

Section 15332/Class 32 (Class 32/In-Fill Development Projects) of the CEQA Guidelines exempts from the provisions of CEQA, projects characterized as in-fill development, which meet the following conditions:

- a) *The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.*

The existing RS-4/UGM (Residential Single Family - Medium Low Density/Urban Growth Management Area). zone district is consistent with the Medium Low Density Residential planned land use designation approved for this site by the Fresno General Plan, Woodward Park Community Plan, and the Fresno County Airport Land Use Compatibility Plan.

The proposed Congregate Living Health Facility (CLHF), as defined by Cal. Health and Safety §1250(i), is consistent with the Use Classification of a Residential Care Facility, as defined by Fresno Municipal Code (FMC) §15-6702. Per §15-6702, a Residential Care Facility is defined as “facilities that are licensed by the State of California to provide permanent living accommodations and 24-hour primarily non-medical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug addictions.”

E2023/0000343

While the Residential Care Facility classification may state that services provided are “primarily non-medical care,” by definition, a CLHF can provide a range of other services such as “supportive care, pharmacy, dietary, social or recreational” needs; “services for persons who are mentally alert; persons with physical disabilities, who may be ventilator dependent;” “services for persons who have a diagnosis of terminal illness;” or “services for persons who are catastrophically and severely disabled.” (FMC §15-6702; Cal. Health & Safety Code §1250(i)(1), (i)(2)(A) & (B) & (C).) Additionally, pursuant to Cal. Health & Safety Code §1250(i)(5) a CLHF is explicitly required to be located in “a non-institutional, homelike environment.” While not applicable to the proposed project, if the facility served “six or fewer persons,” it would be considered a “residential use of the property.” (Cal. Health & Safety Code §1267.16(a).)

As demonstrated by FMC §15-902, Residential Single Family (RS) zone districts permit a range of uses beyond the exclusive use of single family homes. These uses include but are not limited to: small adult day cares, small domestic violence shelters, small family day cares, small group residential, community and religious assembly facilities less than 2,000 square feet, and parks and recreation facilities, schools and limited residential care facilities, which are permitted by right. (FMC §15-902.) Large adult family day cares, large family day cares, community and religious assembly larger than 2,000 square feet, public safety facilities, and general residential care facilities, are permitted subject to conditional use permit approval. Further, per FMC §15-6701, the use classifications of Article 67 are not an exhaustive list of every use that may or may not be within a classification. The Planning and Development Director shall determine whether a specific use shall be deemed to be within one or more use classifications. Therefore, based on the analysis above, the proposed use is classified as a Residential Care Facility (General), and is thus permitted subject to approval of a conditional use permit.

The proposed development was reviewed for intensity, building form, massing, and location standards. No inconsistencies were found with the proposed setbacks, landscape standards, intensity, height, or lot coverage. Building design, window design, materials, and finishes all conform to the standards of the RS-4 zone district.

Given the Conditions of Approval issued for the project dated June 20, 2023, the proposed project will meet all the provisions of the FMC and all applicable design guidelines and development standards for Residential Single Family Districts, including, but not limited to, FMC Secs. 15-903 (Density and Massing), 15-904 (Site Design Development Standards), and 15-905 (Façade Design). Additional applicable regulations include, but are not limited to: §15-2006 (Fences, Walls, and Hedges), §15-2007 (Walls for noise attenuation), §15-2008 (Screening between differing land uses), §15-2015 (Outdoor Lighting and Illumination), §15-2409 (Required Parking), and Ch. 15, Art. 25 (Performance Standards).

Therefore, it can be concluded that the development is consistent with the objectives and policies of the base zone district and with the purpose of the regulations. Further, per FMC Section 15-104(A)(1), the development code applies “to the extent permitted by State and Federal law, to all private property” within the City. Cal. Health and Safety Code §1267.16(c) states that a “facility of more than six beds for persons who are terminally ill and any congregate living health facility of more than six beds for persons who are catastrophically and severely disabled shall be subject to the conditional use permit requirements of the city or county in which it is located.” As discussed above, the proposed project has been evaluated to be consistent with FMC Ch. 15, Art. 53 (Conditional Use Permits) of the FMC.

- b) *The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.*

E2023/0000343

The proposed project is located within the city limits, occurs on a vacant project site of approximately ±0.88 acres, which is less than the five-acre maximum, and is surrounded by residential and public institutional zoned uses. Existing single-family homes are located to the north and east, and an elementary school is located to the south and west.

c) *The project has no value as habitat for endangered, rare or threatened species.*

The project site contains previously disturbed land and is currently vacant. The Fresno Program Environmental Impact Report (PEIR) did not identify this site as habitat for rare or threatened species. Surrounding developments consists of existing commercial and residential development. Therefore, it has no value as habitat for endangered, rare, or threatened species.

d) *Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.*

The proposed project was routed to the San Joaquin Air Pollution Control District, the city of Fresno Public Utilities Department-Water Division, City of Fresno Department of Public Works, and Fresno Metropolitan Flood Control District, and no significant effects were identified relating to traffic, noise, air quality, or water quality.

Traffic

Senate Bill (SB) 743 requires that relevant CEQA analysis of transportation impacts be conducted using a metric known as vehicle miles traveled (VMT) instead of Level of Service (LOS). VMT measures how much actual auto travel (additional miles driven) a proposed project would create on California roads. If the project adds excessive car travel onto our roads, the project may cause a significant transportation impact.

The State CEQA Guidelines were amended to implement SB 743, by adding Section 15064.3. Among its provisions, Section 15064.3 confirms that, except with respect to transportation projects, a project's effect on automobile delay shall not constitute a significant environmental impact. Therefore, LOS measures of impacts on traffic facilities is no longer a relevant CEQA criteria for transportation impacts.

CEQA Guidelines Section 15064.3(b)(4) states that "[a] lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project's vehicle miles traveled and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate used to estimate vehicle miles traveled and any revision to model outputs should be documented and explained in the environmental document prepared for the project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section."

On June 25, 2020, the City of Fresno adopted CEQA Guidelines for Vehicle Miles Traveled Thresholds, dated June 25, 2020, pursuant to Senate Bill 743 to be effective of July 1, 2020. The thresholds described therein are referred to herein as the City of Fresno VMT Thresholds. The City of Fresno VMT Thresholds document was prepared and adopted consistent with the requirements of CEQA Guidelines Sections 15064.3 and 15064.7. The December 2018 Technical Advisory on Evaluating Transportation Impacts in CEQA (Technical Advisory) published by the Governor's Office of Planning and Research (OPR), was utilized as a reference and guidance document in the preparation of the Fresno VMT Thresholds.

E202310000343

The City of Fresno VMT Thresholds adopted a screening standard and criteria that can be used to screen out qualified projects that meet the adopted criteria from needing to prepare a detailed VMT analysis.

The City of Fresno VMT Thresholds Section 3.0 regarding Project Screening discusses a variety of projects that may be screened out of a VMT analysis including specific development and transportation projects. For development projects, conditions may exist that would presume that a development project has a less than significant impact. These may be size, location, proximity to transit, or trip-making potential. For transportation projects, the primary attribute to consider with transportation projects is the potential to increase vehicle travel, sometimes referred to as "induced travel."

The projected Trip Generation Analysis for a congregate care facility based on operational data for the proposed project consists of 2 total daily passenger car trips, 0 AM peak hour trips and 0 PM peak hour trip. The ITE Trip Generation Manual calculates congregate care facility trips based on the number of dwelling units, which was based on the one building counted as an individual dwelling unit. The proposed project includes 18 beds, which are divided between shared rooms and not individual units. A more conservative estimate was provided by calculating trips for an assisted living facility which is calculated based on the number of beds the facility provides, which is 18 beds per building. This calculation estimated 48 total daily passenger car trips, 3 AM peak hour trips and 4 PM peak hour trips. Therefore, a Traffic Impact Study was not required by the City as no peak hour trips exceeded 100, and the project does not include a General Plan Amendment or Rezone.

The proposed project is eligible to screen out because the project meets the criteria described in the adopted guidelines of generating less than 500 Average Daily Trips (ADT). A trip generation as stated above, the project will include only 48 ADT. Therefore, as per the City's VMT Guidelines, the project will not have a significant VMT impact.

For informational purposes, per ITE Trip generation estimates, a congregate care facility would need to exceed 247 dwelling units, or an assisted living facility include more than 187 beds, to exceed 500 Average Daily Trips per VMT.

In conclusion, the Project will result in a less than significant VMT impact and is consistent with CEQA Guidelines Section 15064.3(b).

Noise

The project is a residential care facility. The project will occur on a ±0.88- acre project site. Existing single-family homes are located to the south and east of the project site. The property west of the project is west and south is personal storage. The Fresno General Plan, Fresno Program Environmental Impact Report (PEIR) and Municipal Code were reviewed to determine if proposed projects could produce a significant increase in ambient noise levels. Section 15-2506 (Noise) of the FMC establishes a 65 dB Ldn criterion within outdoor activity areas of residential or medical care facility uses. Existing noise levels in the project vicinity are dominated by traffic noise along adjacent major street roadways. East Nees Avenue is designated as a four-lane arterial. The Future (year 2035) Vehicle Noise Contours for East Nees Avenue are represented in Figure NS-3 of the Fresno General Plan, and identify the expected noise levels in CNEL (Community Noise Equivalent Level - a weighted average of noise level over time.) at specific distances away from specific roadways. Per Appendix I of the PEIR, a 4 Lane arterial is assumed to generate traffic noise at 70 CNEL at 64.2 feet, 65 CNEL at 130.6 feet, 60 CNEL at 277.5 feet, and 55 CNEL at 596

feet from the centerline of the road. The edge of the proposed building is 110.5 feet from the centerline of the road. Generally, the outdoor areas of the project that fall within the 65-70 db CNEL area is limited to parking areas, which is reasonable to expect noise from transportation noise sources. The proposed project will not increase the volume or types of vehicle trips projected for East Nees beyond that which was analyzed in the General Plan and MEIR for future vehicle noise based upon General Plan buildout.

Therefore, given that the proposed project will not introduce traffic or vehicle trips not previously anticipated, staff has determined that the proposed project will not result in any significant mobile or transportation-related noise impacts. The proposed project will not involve activities which would be anticipated to result in major noise-generating stationary uses which would impinge on existing noise-sensitive uses within the project area in excess of ambient plus 5 dB.

Finally, there are no known state or federal standards that specifically address construction noise or vibration. As set forth by FMC Sec. 10-109 – Exceptions, the provisions of Article 1 (Noise Regulations) of the FMC “shall not apply to: (a) construction, repair, or remodeling work accomplished pursuant to a building, electrical, plumbing, mechanical, or other construction permit issued by the city or other governmental agency, or to site preparation and grading, provided such work takes place between the hours of 7:00 a.m. and 10:00 p.m. on any day except Sunday.” Thus, although development activities associated with buildout of the subject area could potentially result in a temporary or periodic increase in ambient noise levels in the project vicinity, construction activity would be exempt from the City of Fresno noise regulations, as long as such activity is conducted pursuant to an applicable construction permit and occurs between 7:00 a.m. and 10:00 p.m., excluding Sunday. Therefore, the short-term construction impacts associated with the exposure of persons to the generation of noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies would not result in any significant effects.

Air Quality

The project is conditioned to comply with any applicable regulations and conditions from the San Joaquin Valley Air Pollution Control District and the project is subject to review by the agency in regards to air quality during construction and operation. The SJVAPCD provided formal comments stating the project is not expected to exceed any significance thresholds identified in the Districts Guidance for Assessing and Mitigating Air Quality Impacts guidelines. The project is required to comply with any applicable Air District regulation or policy in regard to construction and operation of the project. The project will be required to submit an Authority To Construct application with the air district, and may be required to submit a construction notification from and/or dust control plan prior to commencing any earthmoving activities. Therefore, analysis of this project shows it will not have a significant effect on air quality.

Water Quality

Fresno Metropolitan Flood Control District (FMFCD) provided comments on July 12, 2023, which stated that drainage should be directed to Nees Avenue, construction of storm drainage or flood control master plan facilities are not required, permanent drainage service is available, and the project is not located in a flood prone area. On-site grading will be reviewed by the City of Fresno Building Division and FMCD for compliance with storm water conveyance and pollution prevention.

The applicant will be required to comply with all requirements of the City of Fresno Department of Public Utilities. When Development Permits are issued the subject site will be required to pay drainage fees pursuant to the Drainage Fee Ordinance. established by FMC Chapter 12, Article

E2023/0000343

19.

Therefore, compliance with conditions of approval dated December 20, 2023 will ensure that the proposed project will not result in any significant effects related to traffic, noise, air, quality, and water quality.

e) *The site can be adequately served by all required utilities and public services.*

The project has been reviewed and conditioned by the Fresno Irrigation District, Fresno Metropolitan Flood Control District, City of Fresno Public Works, City of Fresno Public Utilities, and the City of Fresno Fire Departments, which were included in the Conditions of Approval for the project dated December 20, 2023. In addition, given the surrounding properties and neighborhoods have been substantially developed and utilities and public services already exist in the area, the site can be adequately served by all required utilities, including sewer, water, and solid waste, as well as public services.

None of the Exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to the project. The proposed project is occupied by an existing residential structure and is not located on a hazardous waste site, the existing home is not a historical resource, and the project site is not adjacent to a scenic highway. Therefore, the proposed project is not expected to have a significant effect on the environment. A categorical exemption, as noted above, has been prepared for the project and the area is not environmentally sensitive.

Date: December 20, 2023

Prepared By: Thomas Veatch Planner

Submitted by:



Jose Valenzuela
Supervising Planner
City of Fresno
Planning & Development Department
(559) 621-8060



State of California - Department of Fish and Wildlife
2023 ENVIRONMENTAL DOCUMENT FILING FEE
CASH RECEIPT
 DFW 753.5a (REV. 01/01/23) Previously DFG 753.5a

RECEIPT NUMBER: E202310000343
STATE CLEARINGHOUSE NUMBER (if applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY CITY OF FRESNO	LEAD AGENCY EMAIL	DATE 12/20/2023
COUNTY/STATE AGENCY OF FILING FRESNO COUNTY	DOCUMENT NUMBER E202310000343	

PROJECT TITLE
CONDITIONAL USE PERMIT APP. NO. P22-04756

PROJECT APPLICANT NAME CITY OF FRESNO	PROJECT APPLICANT EMAIL	PHONE NUMBER (559) 621-8070
PROJECT APPLICANT ADDRESS 2600 FRESNO STREET, 3RD FLOOR	CITY FRESNO	STATE CA
		ZIP CODE 93721

PROJECT APPLICANT (Check appropriate box)


Local Public Agency School District Other Special District State Agency Private Entity

CHECK APPLICABLE FEES:

<input type="checkbox"/> Environmental Impact Report (EIR)	\$3,839.25	\$	<u>0.00</u>
<input type="checkbox"/> Mitigated/Negative Declaration (MND)(ND)	\$2,764.00	\$	<u>0.00</u>
<input type="checkbox"/> Certified Regulatory Program (CRP) document - payment due directly to CDFW	\$1,305.25	\$	<u>0.00</u>
<input type="checkbox"/> Exempt from fee			
<input type="checkbox"/> Notice of Exemption (attach)			
<input type="checkbox"/> CDFW No Effect Determination (attach)			
<input type="checkbox"/> Fee previously paid (attach previously issued cash receipt copy)			
<hr/>			
<input type="checkbox"/> Water Right Application or Petition Fee (State Water Resources Control Board only)	\$850.00	\$	<u>0.00</u>
<input checked="" type="checkbox"/> County documentary handling fee	\$50.00	\$	<u>50.00</u>
<input checked="" type="checkbox"/> Other CATEGORICAL EXEMPTION		\$	<u>0.00</u>

PAYMENT METHOD: Cash Credit Check Other

TOTAL RECEIVED \$ 50.00

SIGNATURE X 	AGENCY OF FILING PRINTED NAME AND TITLE Cierra Loera Deputy Clerk
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