



Board Agenda Item 7

DATE: December 17, 2024

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Amendment to Text of the Zoning Ordinance No. 389 (Applicant: County of Fresno)

RECOMMENDED ACTION(S):

- 1. Approve Amendment to Text Application No. 389 and adopt Ordinance modifying the text of the Fresno County Zoning Ordinance to expand the definition of “public utility facility” uses, to clarify that it includes power storage and transmission equipment related to generation facilities owned by local public entities;**
- 2. Determine that Recommended Action 1 is exempt from the California Environmental Quality Act (CEQA) and direct staff to file a Notice of Exemption with the Fresno County Clerk’s Office; and**
- 3. Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance and direct the Clerk of the Board to post and publish the required summary in accordance with California Government Code, Section 25124(b).**

The proposed Amendment to Text Application comes before your Board with a unanimous recommendation for approval from the Planning Commission (6 to 0 with three Commissioners absent). The proposed amendments to the County’s Zoning Ordinance require final approval by your Board per the Fresno County Zoning Ordinance and State planning law. A summary of the Planning Commission’s action is included as Attachment A. The November 14, 2024 Planning Commission Staff Report is included as Attachment B. This item is countywide.

ALTERNATIVE ACTION(S):

If your Board elects not to pass the proposed amendments to the County Zoning Ordinance as recommended by the Planning Commission, your Board may continue the actions with direction to the Department of Public Works and Planning staff as to the necessary revisions to the proposed amendments. As an additional alternative, your Board may also outright reject Amendment to Text Application No. 389.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. Cost for the preparation of the amendments and this agenda item is a Net County Cost accounted for within the Department of Public Works and Planning Org 4360 FY 2024-25 Adopted Budget.

DISCUSSION:

Amendment to the Ordinance is a legislative action requiring final approval by your Board. If approved, the amendments would become effective 30 days after the adoption date.

On February 20, 2024, your Board adopted amendments to the Fresno County Zoning Ordinance resulting in a comprehensive update to that document. The Comprehensive Zoning Ordinance Update (Update) amended the County's Zoning Ordinance by modifying, deleting, or adding text and formatting text of the document to both modernize and bring it into compliance with the law. This Update also expanded the Definitions Section of the Ordinance and modified the language of some of the uses permitted by Unclassified Conditional Use Permit. This request represents the first text amendment and general correction item to the zoning ordinance document since its adoption. Department staff anticipates bringing before your Board another text amendment to accommodate additional corrections to the Ordinance in the near future.

This text amendment will modify the text of Article 5, Chapter 842.5 for conditional use permits, related to power production and generation facilities, and modify Article 7 - Definitions for Public Utility Facilities to expand and provide additional clarity by including power storage and transmission, and by providing reference to the relevant provisions of the California Government Code.

As stated in Attachment B, the Planning Commission Staff Report, recently the State of California adopted legislation to streamline the construction of large-scale clean energy facilities to meet the State's goals to achieve more energy generated from renewable sources. Alternatively, the County's must insure it retains as much input as legally permissible on certain public-owned large-scale projects and their potential impacts to County resources. Department staff with assistance from County Counsel's office have sought to provide additional clarity in the Ordinance's definitions of public utilities and in the oversight over certain facilities subject to approval through the Unclassified Conditional Use Permit process.

Staff further recommends that your Board find the proposed Amendment to Text is exempt from review under the California Environmental Quality Act (CEQA) because it can "seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (CEQA Guidelines, § 15051, subd. (b)(3)). If anything, the inclusion of more facility types in the definition of a term which subjects those facilities to a conditional use permit ensures that projects fall under a discretionary permitting mechanism, and therefore are subject to CEQA. Staff will file a notice of exemption at your Board's direction.

REFERENCE MATERIAL:

BAI #6, February 20, 2024

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - B
Ordinance
On file with Clerk - Summary of Ordinance

CAO ANALYST:

Salvador Espino