



Board Agenda Item 12

DATE: May 17, 2022

TO: Board of Supervisors

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

SUBJECT: Amendment to Text Application No. 381; and Environmental Review No. 8041
(Applicant: County of Fresno)

RECOMMENDED ACTION(S):

- 1. Approve Amendment to Text Application No. 381 and adopt Ordinance amending various sections of the Fresno County Zoning Ordinance modifying the text to address programs identified in the 5th Cycle Housing Element (Program 10), recent litigation, and state mandated modifications related to Health and Safety Code Sections 17008, 17021.5, 17021.6 and 17021.8 related to employee housing;**
- 2. Find that the restrictions on Farmworker Housing Complexes set forth in Section 855-O(3)(f) protect the health, and welfare of residents of Farmworker Housing Complexes and other residents and visitors of the zoning district for the reasons stated in the March 24, 2022 Planning Commission staff report;**
- 3. Determine that Recommended Action 1 is exempt from the California Environmental Quality Act and direct staff to file a Notice of Exemption with the Fresno County Clerk's Office; and**
- 4. 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)(1).**

This item comes before your Board pursuant to Housing Element Programs, State regulations and a court order, and is a quasi-legislative matter which requires final action by your Board. This item received a recommendation for approval from the Planning Commission (6 to 0, two Commissioners absent and one Commission vacancy) and requires final action by your Board per the Fresno County Zoning Ordinance and State planning law. A summary of the Planning Commission's action is included in Attachment A. The March 24, 2022, Planning Commission Staff Report is included as Attachment B. This item is countywide.

ALTERNATIVE ACTION(S):

If your Board determines that the County's proposed amendments to the Zoning Ordinance text are not adequate, your Board may continue the actions with direction to Department of Public Works and Planning staff regarding the necessary document improvements to be made. As an additional alternative, your Board may also reject Amendment to Text Application (AT 381).

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 2021-22 Adopted Budget.

DISCUSSION:

This County-initiated text amendment proposes to amend the Zoning Ordinance to expand districts which permit farmworker housing and adjust requirements for this housing type. Proposed text changes were originally presented to the Fresno County Planning Commission on July 15, 2021, and the Commission recommended that the Board of Supervisors approve staff's recommended changes as presented at that time. AT 381 was scheduled to be heard by the Board of Supervisors on September 7, 2021 but based on feedback received from a local advocacy organization, Leadership Counsel for Justice and Accountability (LCJA), the item was pulled by County staff so that the language could be further revised. The revised language included in this agenda item represents language reviewed and redrafted in conjunction with assistance from County Counsel's office. Due to the changes proposed, the matter was brought back to the Commission for recommendation.

Background

The Fifth-Cycle Housing Element (HE) of the County's General Plan was adopted by the Board on March 15, 2016, and contains certain programs imposed by the California Department of Housing and Community Development (HCD). While the County is required to implement these programs to be compliant with State law, recent litigation by Comunidades Unidas Por Un Cambio v. County of Fresno, et al., and the resulting Fresno Superior Court Case No. 18CECG04586 obligated the County to comply. On March 17, 2020, the County was ordered to implement certain programs of the HE within 270 days of service of the order. Related to this Order, a prior text amendment (AT No. 380) and General Plan Amendment was approved by your Board in November of 2020 which addressed requirements for density bonus, minimum density requirements in specified zone districts, and other needed changes. The current proposal corrects zoning ordinance deficiencies as identified in the Writ of Mandate. The Department is proposing this amendment to text to accommodate certain required provisions and to bring the Zoning Ordinance into compliance with the State law, specifically with respect to Health and Safety Code Sections 17008, 17021.5, 17021.6 and 17021.8.

Proposed General Plan Modifications and Changes to the Zoning Ordinance

AT 381 proposed changes to the text of the Zoning Ordinance amends Section 803.6 - "Specific Definitions Group F" of the Zoning Ordinance to reword or delete definitions for Employee Housing, Temporary Farmworker Housing, Farmworker Dwelling Units, and Farmworker Housing Complexes. Changes are also proposed for Section 816 - "AE"- Exclusive Agricultural District to delete reference to Farmworker Housing Complexes in this zone district due to the broadening of allowable districts for Farmworker Housing Complexes. The Limited Agricultural District is also being amended to delete reference to Farmworker Dwelling Units and to delete reference to Farmworker Housing Complexes.

Additional amendments to Section 855 - Property Development Standards include:

- Modify the type of allowable units for Temporary Farmworker Housing to remove tents but continue to permit travel trailers and recreational vehicles while establishing a minimum density. Time limits would continue to be for 90 days and continue to restrict the allowable zone districts to AE and AL only. As the Employee Housing Act does not address nor require temporary farmworker housing, for this particular use the Zoning Ordinance exceeds the minimum requirements of the Act.
- Link the density of Farmworker Housing Complexes to the Local Area Management Plan (LAMP) for properties not served by community sewer and water, which generally limits development on

individual well and septic systems to one unit per two acres for sites served by private, individual well and septic systems. Provisions for variance to the LAMP requirements are also included and incorporates the districts and densities into a table.

- Link the density of Farmworker Housing Complexes served by community sewer and water to one unit or space for every 2,175 square feet (a low-density multifamily residential density) up to 12 units or spaces maximum. For group quarters, six beds are allotted per parcel for the first 2,175 square feet plus an additional bed for every 1,000 square feet of lot area up to a maximum of 36 beds, and incorporates the districts and densities into a table. This density equates to 20 units per acre, which is the density afforded in the R-2 and R-2-A (Low Density Multiple Family Residential) districts and reflects recent density increases adopted by the County in late 2020
- Link the development standards of Farmworker Housing Complexes to the development standards (building setback, building height, and setbacks between structures) to the underlying zone district in which the complex will be located.
- Delete requirements for removal of Farmworker Housing Complexes based on cessation of on-site agricultural activity.

California Environmental Quality Act (CEQA) Determination

Staff prepared an Environmental Review (ER No. 8041) for AT 381, and determined the approval of the recommended actions are exempt from CEQA based on the following:

1. Section 15162(a) of the CEQA Guidelines provides that when a Negative or Mitigated Negative Declaration is adopted for a project, no subsequent Negative or Mitigated Negative Declaration shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more key circumstances have occurred. In March of 2016 Negative Declaration prepared for Initial Study No. 7042 (State Clearing House No. 2015121069) was adopted by the Board of Supervisors in accordance with CEQA as part of approval of GPA No. 543, the County of Fresno's Fifth Cycle Housing Element Update (2015 - 2023).

The current proposal implements critical parts of the Fifth Cycle Housing Element, specifically Program 10, addresses recent litigation, and modifies language for Emergency Shelters and Reasonable Accommodations to be more compliant with state law. For these reasons staff has determined that the previous Negative Declaration prepared for Initial Study No. 7042 and the Fifth Cycle Housing Element (GPA 543) is applicable to the current actions and that no additional environmental analysis is necessary.

2. The recommended actions are exempt from CEQA under 14 CCR 15061(b)(3) as they lack the potential for causing a significant effect on the environment, because the recommended actions are to bring consistency between the Housing Element and the Land Use Element of the General Plan and to bring the Zoning Ordinance in compliance with the General Plan and the state law, and to address recent litigation as cited above.

The Department will file a notice of exemption as provided by 14 CCR 15062.

Planning Commission Proceedings

On March 24, 2022, Department staff provided revisions to the text changes based on discussions with representatives of Leadership Counsel for Justice and Accountability (LCJA). Staff had previously discussed the proposed changes in meetings held on February 4, 2022, and February 25, 2022, between staff and LCJA representatives. After receiving Department staff's presentation including the additional changes for

AT 381, the Commission voted in favor (6 to 0, two Commissioners absent and one Commission vacancy) to forward to your Board a recommendation to approve AT 381 as presented to the Commission. The text is included as Attachment C to this agenda item.

Conclusion

Approval of the proposed amendments to the Zoning Ordinance will address certain programs of the HE of the General Plan bringing it into compliance with State law. Department staff recommends that your Board determine that AT 381, with text as recommended for approval by the Planning Commission, is consistent with the County General Plan, the requirements the County's Fifth Cycle HE and State law. As such, staff further recommends the approval of AT 381 consistent with the recommended actions.

REFERENCE MATERIAL:

BAI #13, November 24, 2020
BAI #21, March 15, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

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

CAO ANALYST:

Ron Alexander