



Board Agenda Item 14

DATE: November 24, 2020

TO: Board of Supervisors

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

SUBJECT: General Plan Amendment Application No. 563; Amendment to Text Application No. 380; and Environmental Review No. 7923 (Applicant: County of Fresno)

RECOMMENDED ACTION(S):

1. **Approve General Plan Amendment No. 563 amending the Agriculture and Land Use Element of the General Plan to increase the residential density for various land use designations that accommodate housing development, consistent with Program 10 of the County's adopted Fifth Cycle Housing Element and to address recent litigation;**
2. **Adopt Resolution approving General Plan Amendment Application No. 563 as the Second General Plan Amendment of the Agriculture and Land Use Element of the Fresno County General Plan for 2020.**
3. **Approve Amendment to Text Application No. 380 and adopt Ordinance amending various sections of the Fresno County Zoning Ordinance modifying the text to address programs identified in the Fifth Cycle Housing Element (Program 10), recent litigation, and state mandated modifications, in particular Government Code, section 65583 (Housing Element) and Government Code, section 65915 (Density Bonus);**
4. **Determine that Recommended Actions 1 to 3 are exempt from the California Environmental Quality Act and direct staff to file a Notice of Exemption with the Fresno County Clerk's Office; and**
5. **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. This item received a unanimous recommendation for approval from the Planning Commission (8 to 0, with one Commissioner absent) and requires final action from 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 October 22, 2020 Planning Commission Staff Report is included as Attachment B. This item is countywide.

ALTERNATIVE ACTION(S):

If your Board determines that the proposed General Plan Amendment (GPA) or 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 GPA No. 563 and Amendment to Text Application (AT 380).

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 2020-21 Adopted Budget.

DISCUSSION:

A GPA and an AT are legislative actions requiring final approval by your Board. If approved, the both would become effective 30 days after adoption.

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). The County is required to implement these programs to be compliant with State law, the County's HE and recent litigation in *Comunidades Unidas Por Un Cambio v. County of Fresno, et al.*, Fresno Superior Court Case No. 18CECG04586. On March 17, 2020, the County was ordered to implement certain programs of the HE within 270 days of service of the order, which includes the amendments to the Zoning Ordinance.

The Department is proposing an amendment to the Agriculture and Land Use Element of the General Plan to increase densities for specified residential and commercial land use designations to permit residential development at a maximum of 20 units per acre. The Department also proposes an amendment to the text of the Zoning Ordinance to accommodate certain required provisions and bring that document into compliance with the General Plan and State law, specifically with respect to Single Room Occupancy, Density Bonus, allowing a density of 20 units per acre in specified residential and commercial districts, and minor language modifications to previously-adopted Zoning Ordinance for Emergency Shelters and Reasonable Accommodations.

Proposed General Plan Modifications and Changes to the Zoning Ordinance

Amendments to Table LU-1 of the Agriculture and Land Use Element of the General Plan involve density increases to specified land use designations. Table LU-1 is attached to the Planning Commission Staff Report (Attachment B) as Exhibit A. The proposed changes include increasing the maximum densities in the Medium High-Density Residential, Neighborhood Commercial, Community Commercial and Central Business Commercial designations to 20 dwelling units per acre.

AT 380 proposed changes to the text of the Zoning Ordinance adds definitions for Density Bonus and Single Room Occupancy (SRO), provides standards for SROs in Section 855-O of the Ordinance, and adds new Section 855-P to the Ordinance for Density Bonus.

Additional amendments to the Zoning Ordinance include:

- Section 826.5 of the "R-1"- Single Family Residential District to include provisions for Density Bonus

Ordinance.

- Section 827 of the “R-2” and “R-2-A” - Low Density Multiple Family Residential Districts to increase density to a maximum of 20 dwelling units per acre and add provisions for Density Bonus.
- Section 828 of the “R-3” and “R-3-A” - Medium Density Multiple Family Residential Districts - Section 828.5 (Property Development Standards) to increase density to a maximum of 20 dwelling units per acre and add provisions for Density Bonus and SROs.
- Section 829.5 of the “R-4” - High Density Multiple Family Residential Districts - Section 829.5 (Property Development Standards) to increase density to a maximum of 20 dwelling units per acre and add provisions for Density Bonus and SROs.
- Section 831 of the “R-P” - Residential and Professional Office District to increase the maximum residential density to 20 units per acre.
- Section 836 of the “C-4” - Central Trading District to allow Multiple-Family dwellings on the same lot with permitted commercial uses and add provisions for SROs and allow a density increase to 20 units per acre.
- Subsection 855-O.1.- Emergency Shelters to revise language to be more compliant with state law and address management plans for such facilities.
- Subsection 855-O.4 - Reasonable Accommodations to modify language to ensure medical privacy and remove special fee requirements.

California Environmental Quality Act (CEQA) Determination

Staff prepared an Environmental Review (ER No. 7923) for GPA 563 and AT 380, 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 October 22, 2020, Department staff provided additional revisions to the text changes based on concerns expressed by the Leadership Counsel for Justice and Accountability (LCJA). Staff also emphasized to the Commission that said modifications would permit the text to be more compliant with State law. Staff had

previously discussed the proposed changes in an October 21, 2020 meeting between staff and LCJA representatives.

After receiving Department staff's presentation including the additional changes for AT 380, the Commission voted unanimously in favor of forwarding to your Board a recommendation to approve GPA 563 and AT 380, with modified Zoning Ordinance text as presented to the Commission. The modified text is included as Attachment C and late correspondence received on October 22, 2020 from LCJA is included as Attachment D. Staff notes that although the LCJA correspondence expressed their appreciation to the Department's staff for considering LCJA's suggestions, and urged staff to continue an open line of communication with their organization, and they also requested that your Board consider allowing SRO developments that comply with density regulations in the R-3 or R-4 zones to be permitted without requiring a conditional use permit.

Conclusion

Approval of the proposed amendments to the Land Use Element of the General Plan and 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 GPA No. 563 and AT 380, with modified text as recommended for approval by the Planning Commission, are 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 GPA No. 563 and AT 380 consistent with the recommended actions.

REFERENCE MATERIAL:

BAI #21, March 15, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D
Ordinance
On file with Clerk - Resolution
On file with Clerk - Summary of Ordinance

CAO ANALYST:

Samantha Buck