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Agenda Item: ID#14-682 (5:00 P.M.)

Date: 12/11/14

CITY CLERK, FRESNO

FRESNO CITY COUNCIL



Supplemental Information Packet

Agenda Related Items – ID#14-682 (5:00 P.M.)

Contents of Supplement: Letter from Leadership Counsel

Item(s)

HEARING to consider approvals related to the Proposed General Plan Update
(Citywide)

1. Consideration of General Plan Update and certification of the related Environmental Impact Report (EIR) SCH No. 2012111015 filed by Jennifer K. Clark, Development and Resource Management Director, on behalf of the City of Fresno, citywide application

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

Yvonne Spence

From: Ashley Werner <awerner@leadershipcounsel.org>
Sent: Wednesday, December 17, 2014 4:58 PM
To: Douglas Sloan; Arnaldo Rodriguez; Jennifer Clark; Oliver Baines; Gregory Barfield; Danielle Bergstrom; Yvonne Spence; Talia Kolluri; Steve Brandau
Subject: Correspondence on General Plan Motions
Attachments: 2014-12-17 LC Letter to Fresno City Council - GP Motions.pdf

Hello,

Please see the attached correspondence and include in the record and provide to Council.

Thank you,

Ashley Werner
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December 17, 2014

Fresno City Council
2600 Fresno St., Room 2133
Fresno, CA 93721

SENT VIA EMAIL

Re: City Councilmembers' Proposed Land Use and Policy Amendments to 2035 General Plan Update

Dear Councilmembers:

At the conclusion of the December 11, 2014 public hearing on the City of Fresno 2035 General Plan Update (GPU), several City Councilmembers made motions proposing sweeping amendments to the General Plan Update Land Use Map (Land Use Map) and GPU policies. Specifically, Motions 2, 12a-i, and 17 propose the re-designation of hundreds of acres designated for residential land use on the Land Use Map and the significant amendment of key General Plan policies.

The City released materials providing written information about these eleventh hour motions only today around noon – after the close of public hearing and comment and one day prior to council deliberation and potential vote on the General Plan scheduled for December 18, 2014. The City's course of action gives the public literally no time to review, understand, and weigh in on the enormous, complex, and often ambiguous changes proposed by these motions after a multiple year GPU process. We doubt that the Council itself has had the time to fully understand the nature and implications of the proposed changes.

Approval of these motions at the General Plan hearing scheduled for December 18, 2014 would conflict with State Housing Element Law, the California Environmental Protection Act, and State Planning Law and further undermine the public process associated with this General Plan Update. Gov. Code § 65580, et seq.; Pub. Res. Code § 2100, et seq.; Cal. Code Reg. § 1500. The Council reject Motions 2, 12a-i and 17 or postpone its deliberation and vote on the General Plan and any associated motions in compliance with applicable law.



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Supplemental Staff Report Description of Council Motions is Ambiguous

Even if the materials released today by the City attempting to describe the expansive motions proposed by the Councilmembers were written in clear and explicit terms, the public and the Council would not have adequate time to review and understand the materials before tomorrow's vote. Unfortunately, the descriptions of several of the proposed motions provided in the Supplemental Staff Report (SSR) are incomplete and vague and ambiguous, rendering a clear understanding of their meaning or significance impossible and magnifying the impact of lack of time for public review.

For instance, Page 9 of the SSR, "12-11-2014 General Plan Hearing Councilmember Motions", indicates that Motion 12 includes parts a through i. However, the SSR does omit Motion 12b or 12c among the motions that staff respectively recommends for Council approval, for referral back to staff, or for denial and unlike other motions, does not describe or otherwise reference Motions 12b or 12c in the body of the SSR.

In addition, the SSR describes Motion 12d as follows: "Incorporate commentary into Objectives UF-12 and UF-13". The spreadsheet provided on the City's website entitled "MOTIONS 12-11-2014 General Plan Update Hearing" indicates that Motion 12, made by Councilmember Caprioglio, was a "Motion to incorporate all the amendments for the Granville Properties as presented by Jeff Roberts of Granville including the Policy modifications...". The materials posted today on the City Council's website also include a letter purportedly submitted by Jeff Roberts of Granville Homes to the City Council at the December 11th hearing which includes requests to modify the text of Objectives No. UF-12 and UF-13 and the commentary of those objectives through additions and deletions. SSR's description of Motion 12d, "[i]ncorporate commentary", does not appear to include the additions to the text of the objectives of the policies themselves and deletion of text from the commentary components of the objectives.

Objectives UF-12 and UF-13 are the principle objectives in the General Plan establishing the City's policy with respect to the location of future residential development. Accordingly, these objectives – however watered down – serve as the backbone for the entire Plan, which mints itself as uniquely dedicated to infill and responsible growth management. The Council cannot vote to approve a motion potentially substantially modifying these objectives without even a clear description of the precise nature and implications of the modifications.

According to the SSR, Motion 12c would modify Policy ED-5-b to eliminate a reference to "public safety" costs while maintain a reference to "public service" costs. Based on the comments submitted by Jeff Roberts on this policy, it is unclear whether the intent of the change is to eliminate the requirement that development full fund public safety costs



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or rather to eliminate redundancy by maintaining the requirement to fund “public service” costs, including public safety.

With more time, we could further elaborate for the Council on the additional significant ambiguities of these and other motions now before you.

Incorporation of Proposed Amendments Constitute Significant Changes Requiring Recirculation of EIR

Code of Regulations Section 15088.5(a) requires a lead agency to recirculate an Environmental Impact Report (EIR) when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification. The term “**information**” includes changes in the project or environmental setting as well as data or other information. New information added to an EIR would deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s **proponents have declined** to implement. New information requiring recirculation includes but is not limited to a disclosure showing that a new significant environmental impact would result from a project or a substantial increase in the severity of an environmental impact would result from a project unless mitigation measures are adopted that reduce the impact to a level of insignificance.

Council Motions 2, 12a-i and 17 individually and cumulatively constitute “new information” that would result in significant new environmental impacts or substantially increase the severity of one or more environmental impacts from this project without proper mitigation. C.C.R. § 15088.5.

As mentioned above, Council Motions 2, 12a-i, and 17 propose re-designation of hundreds of acres of land designated for residential use on the Land Use Map to other residential designations with different residential densities and non-residential land uses. Motion 12e alone would “Re-designate approximately 150 acres within Copper River Ranch (a residential development) to new land use classifications”. Motion 12h would re-designate an additional “approximately 58 acres” of residentially designated land “in the Northwest quadrant of Fresno”. Motion 7 would re-designate an “area at the Northeast corner of Fowler Avenue and Fancher Creek Drive” from the Medium Low Density Residential to commercial land use.

Such significant alterations of residential land uses – include the reduction in residential density of numerous parcels and the re-designation of residential land uses to non-residential uses – will have yet unexamined impacts on traffic, roadways, air quality, housing, farmland, water usage, wastewater, and other natural resources and public



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services. For instance, lower residential densities on numerous parcels can be expected (as confirmed by information provided in the General Plan Draft Master Environmental Impact Report (DMEIR)) to increase reliance on personal automobiles and increase vehicle miles travelled with corresponding adverse impacts to air quality and local roadways. Likewise, lower density housing has been shown to result in higher electricity and water consumption as compared to higher density housing. Density reductions will also impact the development of housing affordable to lower-income populations and thus potentially result in socio-economic displacement and associated environmental effects.

In addition, modification of Policy RC-9-c, Agricultural Preservation Program, including weakening or adding ambiguity to the language of the policy, could result in the General Plan and Master Environmental Impact Report's failure to adequately mitigate – or mitigate *at all* – the loss of over 15,000 acres of farmland anticipated by the Plan. As described at length in Leadership Counsel's comments on the General Plan DMEIR, which were prepared before the incorporation of RC-9-c into the revised General Plan released December 2014 -- neither the General Plan nor the DMEIR proposes any adequate mitigation for this loss of farmland.

Proposed Residential Land Uses Amendments Would Further Undermine Fresno's Compliance with Housing Element Law

Leadership Counsel has notified the City in written correspondence – including in its comment letters to the City on the GPU and the DMEIR –and verbal communication of the City's failure to comply with City of Fresno Housing Element Program 2.1.6A. Pursuant to Program 2.1.6A, the City was required to rezone approximately 700 acres of land to higher residential densities by 2010. The City has to date failed to implement this program.

In addition to undermining the City's compliance with CEQA, re-designation of hundreds of acres of residential land – including the reduction in density and elimination of residential designated land -- as proposed by the Council's motions would only exacerbate the City's lack of compliance with housing element law. Gov. Code § 65580, et seq. *We urge the Council not to approve the sweeping changes to residential land use designations contained in Motions 2, 12a-i, and 17.*

The Planning Commission Must Consider the Proposed Amendments Prior to Council Deliberation and Vote

Pursuant to Government Code Section 65356, the Planning Commission must review and consider the proposed motions – which it has not previously considered – prior to the Council vote on the motions.



The City Must Provide More Time for Public Review of the Final General Plan and Council Motions

We have informed the City in previous correspondence of the need to allow more time for the public to review and understand the voluminous materials released in the last few weeks relating to the General Plan Update and Master Environmental Impact Report. The Council's last minute motions containing significant proposed amendments that would alter the nature of the Plan compound this need for additional time. Furthermore, given the short time frame provided for the review of materials related to the GPU, MEIR, and Council motions, it is impossible for the public to raise various issues relating to these materials with the City. Therefore, exhaustion of administrative remedies prior to a council vote on these matters is impossible.

Sincerely,

/s/

Attorney
Leadership Counsel for Justice and Accountability