

RECEIVED

2014 DEC 17 AM 11 33

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

Date: 12/18/14

CITY CLERK, FRESNO, CA

FRESNO CITY COUNCIL



Supplemental Information Packet

Agenda Related Items – ID#14-653 (5:00 P.M.)

Contents of Supplement: Updated resolution

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.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, CERTIFYING ENVIRONMENTAL IMPACT REPORT SCH No. 2012111015 AS RELATED TO THE FRESNO GENERAL PLAN AND DEVELOPMENT CODE UPDATE; ADOPTING FINDINGS OF FACT AS REQUIRED BY PUBLIC RESOURCES CODE SECTION 21081(a) AND CEQA GUIDELINES, SECTION 15091, APPROVING A MITIGATION MONITORING PROGRAM AS REQUIRED BY PUBLIC RESOURCES CODE SECTION 21081.6 AND CEQA GUIDELINES SECTION 15097, ADOPTING THE STATEMENT OF OVERRIDING CONSIDERATIONS AS REQUIRED BY PUBLIC RESOURCES CODE SEC. 21081(b) AND CEQA GUIDELINES SECTION 15093, AS RELATED TO THE FRESNO GENERAL PLAN AND DEVELOPMENT CODE UPDATE

WHEREAS, on August 2, 2012, the Council of the City of Fresno (Council) adopted Resolution NO. 2012-150, initiating the adoption of the 2035 General Plan, also known as the Fresno General Plan (hereinafter, "Fresno General Plan"); and

WHEREAS, the Director of Planning and Development determined that an environmental impact report (MEIR) shall be prepared for the Fresno General Plan, and the City contracted with a professional environmental consultant to conduct the requisite studies and analyses of the potential environmental impact and proposed mitigation measures, as applicable, for the Fresno General Plan; and

WHEREAS, on November 6, 2012, the Development and Resource Management Department duly issued and circulated a Notice of Preparation, pursuant to CEQA Guidelines Section 15082 and Public Resources Code Section 21080.4; and

WHEREAS, on November 27, 2012, the Development and Resource Management Department held a scoping meeting pursuant to CEQA Guidelines Section

Date Adopted:
Date Approved:
Effective Date:
City Attorney Approval: 

Resolution No.

15082(c) and Public Resources Code Section 21080.4 attended by members of the public and at which written and verbal comments were submitted; and

WHEREAS, on May 24, 2002, the Development and Resource Management Department staff exercising their independent judgment, completed the draft master environmental impact report (hereinafter Draft MEIR), and the city provided due public Notice of Availability of the Draft MEIR for public comments pursuant to Public Resources Code Section 21092 and CEQA Guidelines Section 15087; and

WHEREAS, on July 23, 2014, the city issued a Notice of Completion pursuant to Public Resources Code Section 21161 and CEQA Guidelines Section 15085; and,

WHEREAS, on August 24, 2014, public Notice of Availability of the Draft MEIR was posted in the office of the Fresno County Clerk pursuant to Section 15087(d) of the CEQA Guidelines; and

WHEREAS, for at least 45 days following the date of publication of the Notice of Availability, the public was given opportunity to comment, in writing, on the adequacy of the Draft MEIR as an informational document; and

WHEREAS, the City caused the preparation of a Final MEIR, dated December 5, 2014 ("Final MEIR" or "FMEIR") pursuant to CEQA Guidelines Sections 15088, 15089 and 15132, which included the Draft MEIR, responses to public comments on the Draft MEIR, and minor corrections; and

WHEREAS, December 8, 2014, the Planning Commission held a duly noticed public hearing at which the Commission considered and discussed the adequacy of proposed Final MEIR (which included the Draft MEIR and a draft version of the Responses to Comments and Errata), as an informational document and voted to recommend to the City Council certification of the Final MEIR; and

WHEREAS, pursuant to CEQA Guidelines Section 15132 the Final MEIR is required to be completed in compliance with CEQA; and

WHEREAS, pursuant to Section 21092.5 of CEQA, the City mailed written responses to comments to all public agencies as well as private parties that commented on the Draft MEIR; and

WHEREAS, on December 11, 2014, the City Council conducted a public hearing and considered the record of proceedings for the MEIR, which includes, but is not limited to the following:

- (1) The Notice of Preparation for the Project (the "NOP"), and all other public notices issued by the City in connection with the Project;
- (2) The Final MEIR dated December 5, 2014;
- (3) The Draft MEIR dated July 22, 2014;
- (4) All written comments submitted by agencies or members of the public during any public review comment period on the Draft MEIR;
- (5) All written and verbal public testimony presented during a noticed public hearing for the Project (consistent with City Council policy) at which such testimony was taken, including without limitation, the Report to Council, including all attachments, any all presentations by City staff, the City's consultants, the applicant and the applicant's consultants, the public, and any other interested party; and
- (6) The Mitigation Monitoring and Reporting Program for the Project (the "MMRP");
- (7) The reports, studies and technical memoranda included and/or referenced in the DMEIR and the FMEIR and or their appendices;
- (8) All documents, studies, EIRs, or other materials incorporated by reference in the DMEIR and the FMEIR;
- (9) All Ordinances and Resolutions presented to and/or adopted by the City in connection with the Project; and all documents incorporated by reference therein, specifically including, but not limited to, this resolution and all of its exhibits, the plan amendment resolution, and the rezone ordinance bill;
- (10) Matters of common knowledge to the City, including but not limited, to federal, state, and local laws and regulations, adopted City plans, policies, and the professional qualifications of its staff members;
- (11) Any documents expressly cited in this Resolution and its exhibits, the Report to Council, the Final MEIR or the Draft MEIR; and

- (12) Any other relevant materials required to be in the record of proceedings under Section 21167 .6(e) of the Public Resources Code; and

WHEREAS, the City Council concluded the public comment portion of the hearing on December 11, 2014, and continued the matter to December 18, 2014, for deliberation and action; and

WHEREAS, on December 18, 2014, the City Council considered and discussed the adequacy of the proposed Final MEIR as an informational document and applied its own independent judgment and analysis to the review and hereby desires to take action to certify the Final MEIR, as having been completed in compliance with CEQA, based on the findings found herein; and

WHEREAS, notice of the December 11, 2014, Council hearing was properly noticed at least 10 days before the hearing, by publication in the Fresno Bee; and

WHEREAS, CEQA guidelines require the following for certification of a final environmental impact report:

Section 15090. Certification of the Final EIR

- (a) Prior to approving a project the lead agency shall certify that:
 - (1) The final EIR has been completed in compliance with CEQA;
 - (2) The final EIR was presented to the decision making body of the lead agency and that the decision making body reviewed and considered the information contained in the final EIR prior to approving the project; and
 - (3) The final EIR reflects the lead agency's independent judgment and analysis.

Section 15091. Findings.

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding .

The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.

(f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

Section 15092. Approval

(a) After considering the final EIR and in conjunction with making findings under Section 15091, the lead agency may decide whether or how to approve or carry out the project.

(b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:

- (1) The project as approved will not have a significant effect on the environment, or
- (2) The agency has:
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
 - (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091

are acceptable due to overriding concerns as described in Section 15093.

(c) With respect to a project which includes housing development, the public agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

Section 15093. Statement of Overriding Considerations

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.
2. Findings. Council finds based upon the substantial evidence in the record of proceedings, and its independent judgment and analysis that:
 - (a) Compliance with CEQA. The Final MEIR in Exhibit 1 to this Resolution, which is attached hereto and incorporated herein by this reference, includes the Draft MEIR SCH No. 2012111015 dated July 22, 2014 and all related appendices, the Response to Comments, the Planned Land Use Requests Environmental Evaluation, the Errata and all related appendices and attachments to the Final MEIR. The Final MEIR was prepared, in both substance and procedures, in compliance with the requirements of the California Environmental Quality Act (CEQA).
 - (b) Ratification of Findings and Analysis in the FMEIR. In making the findings in this Resolution, the City ratifies, adopts, and incorporates the analysis and explanation in the Final MEIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions in the Final MEIR relating to environmental impacts and mitigation measures.
 - (c) Findings Regarding Significant Effects that Can be Mitigated to Less Than Significant. Council adopts the statements and findings in Exhibit 2 (Section 3) to this resolution, which is attached hereto and incorporated herein by this reference. The Project has significant effects that can be mitigated to a less than significant level through the imposition of mitigation measures. These avoidable significant effects are identified in Exhibit 2 (Section 3). These avoidable significant effects will be reduced to a less than significant effect with the changes that have been required in, or incorporated into, the project through the imposition of mitigation measures as described in Exhibit 2 (Section 3). These mitigation measures identified in Exhibit 2 will be imposed pursuant to the MMRP attached at Exhibit 3. All mitigation measures in the MMRP are feasible.

To the extent that any of the mitigation measures are within the responsibility and jurisdiction of another public agency and not the City, those mitigation measures can and will be adopted and imposed by the other agency based on state

and/or federal law, communications by those agencies, and/or existing policies and/or intergovernmental relationships with those agencies.

- (d) Findings Regarding Unavoidable Significant Impacts. Council adopts the statements and findings in Exhibit 2 (Section 2) to this resolution, which is attached hereto and incorporated herein by this reference. The Project has significant effects that cannot be mitigated to a less than significant level through the imposition of mitigation measures. These significant effects are identified in Exhibit 2 (Section 2).

Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the FEIR for the significant impacts identified in Exhibit 2 (Section 2), including based upon the findings in Exhibit 2 (Section 5) to this resolution, and the findings in Exhibit 2 (Section 2) regarding the proposed alternatives. Therefore, those impacts are found to be significant and unavoidable.

- (e) Finding Regarding Insignificant Impacts. Any and all potential significant impacts discussed in the Final MEIR that are not subject to paragraph 2(c) or 2(d), above, as either an avoidable significant impact, or as an unavoidable significant impact, are insignificant impacts to the environment.
- (f) Alternatives. The City Council adopts the Statement of Findings on Rejection of Project Alternatives in Exhibit 2 (Section 5) to this resolution, which is attached hereto and incorporated herein by this reference.

3. FMEIR Reviewed and Considered. The Council certifies that the Final MEIR:

- (a) has been completed in compliance with CEQA;
- (b) was presented to the Council and that the Council has reviewed and considered the information contained in the Final MEIR prior to approval of the Project, and all of the information contained therein has substantially influenced all aspects of the decision by the Council; and
- (c) reflects Council's independent judgment and analysis.

4. Statement of Overriding Considerations. The Council adopts the Statement of Overriding Considerations in Exhibit 3 to this resolution, which is attached hereto and incorporated herein by this reference. Council finds that each of the Significant and

Unavoidable Impacts identified in Exhibit 2 (Section 2) may be considered acceptable.

5. Mitigation Monitoring. Pursuant to Public Resources Code Section 21081.6, the mitigation monitoring and reporting program ("MMRP") set forth in Exhibit 3 to this resolution, which is attached hereto and incorporated herein by this reference, is hereby adopted to ensure that all mitigation measures adopted for the Fresno General Plan and Development Code Update are fully implemented.
6. Location and Custodian of Documents. The record of project approval shall be kept in the office of the City Clerk, City of Fresno, City Hall, 2600 Fresno Street, Fresno, California 93721 which shall be held by the City Clerk as the custodian of the documents; all other record of proceedings shall be kept with the Development and Resources Management Department and the Director of the Development and Resources Management Department shall be the custodian of the documents.
7. Certification. Based on the above facts and findings, the Council of the City of Fresno certifies the Final MEIR in Exhibit 1 for the Fresno General Plan and Development Code Update as accurate and adequate. The City Council further certifies that the FMEIR was completed in compliance with CEQA and the CEQA Guidelines. The Director of Development and Resource Management Department is directed to file a Notice of Determination as required by the Public Resources Code and CEQA Guidelines.

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Talía Kolluri-Barbick Date
Senior Deputy

- Exhibits:
- 1 - Final EIR
 - 2 - CEQA Findings of Fact which include:
Significant Unavoidable Impacts
Impacts Mitigated to a Level of Insignificance
Feasibility of Project Alternatives
 - 3 - Statement of Overriding Considerations
 - 4 - Mitigation Monitoring and Reporting Program

TKB:elb [66428elb/tkb] 121014