

Regular Council Meeting
September 29, 2022

FRESNO CITY COUNCIL



eComment & Public Comment received

ITEM(S)

1-W (ID 22-1367)

Actions pertaining to the use of Parking Garage 7:

1. Adopt a finding of Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act Guidelines.
2. Approve the Second Amendment to the License Agreement between the City of Fresno, and T-Mobile West, LLC., to license use of certain real property, together with access and utility rights located at the Fresno City Parking Garage 7 (801 Van Ness Avenue, Fresno, CA 93721) for four (4) five-year terms and total contract revenue of \$436,920 (District 3)

Total Comments Received: (2)

Item(s)

Supplemental Information:

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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.



September 27, 2022

Fresno City Council
2600 Fresno Street, Room 2133
Fresno, CA 93721

Dear Fresno City Council Members,

My name is Manuel Cunha, Jr., President of the Nisei Farmers Organization. As you know, the City of Fresno has committed to providing connectivity and access to broadband to all its citizens.

Our community depends on robust connectivity to work and live in Fresno. That is why we are pushing for approval for site locations that support 5G technology. We believe this technology will power our city into the future by providing improved access for traditionally underserved communities. T-Mobile has invested in our small rural communities as well as our cities. T-Mobile is not leaving the city, nor the county, nor the State of California. They are invested here and are providing much needed jobs.

We need to work together to support existing sites and deployment of the infrastructure that will enable advanced services, because of expanded high-speed 5G wireless networks that will deliver reliable and robust mobile broadband.

We are asking the Fresno City Council to approve the lease extension at 803 Van Ness Avenue and help find ways to expedite the planned upgrades to deployment of 5G infrastructure. Broad, citywide distribution of 5G infrastructure is the only way to deliver on the promise of internet access for all.

The plans for these infrastructure projects should be a priority so students can study, parents can stay in touch, and we can stay connected. Improving wireless coverage in residential communities is particularly important for those who depend on mobile devices for internet access because of the high monthly cost of wireline service. This is frequently the case in underserved communities and with working families who are often particularly reliant on mobile connections. For instance, the new facility in the City of Kingsburg is providing 1,000 good paying jobs.

T-Mobile is working to build out this needed infrastructure to provide connectivity to our neighborhoods. I urge the City Council to approve the lease extension at 803 Van Ness Avenue and support critical wireless upgrades that will benefit our community.

Sincerely,

Manuel Cunha, Jr.
President

Manuel Cunha, Jr.
President

Board of Directors

League Area 1

Maurice DiBuduo, Paul
LanFranco

League Area 2

Bobby Sano

League Area 3

James Oliver

League Area 4

Bill Boos, Leland Herman,
Mitch Bagdasarian

League Area 5

Blake Carlson

League Area 6

Doug Benik, Scott Peters

Executive Board

Maurice DiBuduo 1st Vice
President

Doug Benik-2nd Vice President

Scott Peters, Secretary

Paul LanFranco-Treasurer

September 27, 2022

Fresno City Council
2600 Fresno Street, Room 2133
Fresno, CA 93721



Dear Members of the Fresno City Council,

Our organization is made up of small, rural farmers throughout California, most of them within the City of Fresno. We are committed to supporting infrastructure that will enable advanced services, such as high-speed 5G wireless networks to exist throughout Fresno and the rural communities that surround it.

We believe this technology will help power our city into the future by improving access for underserved communities.

We know T-Mobile has invested in our area and our future by expanding high-speed 5G wireless networks in this area.

We urge your approval and respectfully request your support for the lease extension at 803 Van Ness Avenue in Fresno for T-Mobile.

Sincerely,

Will Scott, Jr. President
African American Farmers of Ca

Regular Council Meeting
September 29, 2022

FRESNO CITY COUNCIL



eComment & Public Comment received

ITEM(S)

1-RR (ID 22-1423)

***RESOLUTION - Establishing a policy for City cooling and warming centers (Subject to Mayor's Veto)

Total Comments Received: (2)

Item(s)

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From: Brandi Nuse-Villegas
Sent: Wednesday, September 28, 2022 9:10 AM
To: Clerk
Subject: Public comment 1- RR-edited

Follow Up Flag: Follow up
Flag Status: Completed

External Email: Use caution with links and attachments

I had an area to edit, please send this one instead of the previous one:

It is imperative, and long advocated for by the community, that the minimum temperature for the cooling centers is lowered to at least 100 for the safety of our community. I ask that you change the minimum temperature for the warming center, as was in the previous draft of the resolution, up to at least 40F, as people are vulnerable to hypothermia at even 50. When it rains or there is humidity, the minimum temperature for hypothermia is even higher. It is crucial that we provide protection for those who do not have other forms of shelters.

I also ask that the resolution would set dates forecasted a month in advance into blocks in which the warming centers (and cooling centers) are open, rather than determined on a day to day basis. With advance notice, people would know exactly what days they can expect the centers to be open, especially as they would have to travel at night. Many or most unhoused people don't have a phone or the data to check the weather.

Other items I request for this resolution:

-I support the provision for beds and blankets, please ensure a sufficient stock of heavy duty blankets. The city needs to be prepared if the number of people who use the warming center exceeds the expected number, as the centers cannot reuse the blankets. I ask that you add to the resolution that the city provide extra blankets given when people leave the warming center in case they can't return.

- Please add the provision of food and water. People have asked for food when going to the center and there is an opportunity to better protect our vulnerable, which, last year, included a very young adult I helped, who left home and was hungry

-Please add funding and hiring of medical staff. We desperately need to fund a medical person to provide assistance for those who need help going to the bathroom. Currently, they cannot accept anyone at the warming center who cannot get up and go to the bathroom themselves, leaving those who are particularly vulnerable from being able to access a warming center.

- Please add a requirement for these centers to be in every district. Last winter there was only one warming center and this summer, the cooling centers weren't available in all districts. We need them to be close to people with limited mobility.

-The resolution needs to include extensive community outreach for both warming and cooling centers, including non-social media forms, banners at the locations that are highly visible from the streets, and outreach. All of these efforts will not result in people utilizing this resource if they don't know about it. While the warming center was open this past winter, I went out almost every night to offer rides and tell people about the warming center with a few other people, and also spent many days putting up fliers I printed up at bus stops. Most of the people at the warming center were there because of this, mainly based on the in person outreach. Also, outreach for these centers is more feasible if there were blocks of dates rather than just temperatures.

-I ask as well that the opening time of the warming center earlier, as the bus stopped running long before the warming center at Ted C Wills.

Thank you

This resource is crucial,

From: noreply@granicusideas.com
Sent: Tuesday, September 27, 2022 4:39 PM
To: Clerk; Briana Parra
Subject: New eComment for City Council on 2022-09-29 9:00 AM - Regular Meeting

External Email: Use caution with links and attachments



New eComment for City Council on 2022-09-29 9:00 AM - Regular Meeting

Karen Polnitz submitted a new eComment.

Meeting: City Council on 2022-09-29 9:00 AM - Regular Meeting

Item: 1.-RR. ID 22-1423 ***RESOLUTION - Establishing a policy for City cooling and warming centers (Subject to Mayor's Veto)

eComment: Please provide necessary equipment, space, materials, and access to keep our community members safe and healthy. Folks who are directly providing service to our unhoused neighbors say we need to open cooling centers at 40 degrees, we need sufficient blankets, cooling and warming centers need to be able to provide food and water to visitors, we need assistance for those with limited mobility, attendees need access to indoor bathrooms, and we need more centers in all districts.

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Regular Council Meeting
September 29, 2022

FRESNO CITY COUNCIL



eComment & Public Comment received

ITEM(S)

1-TT (ID 22-1502)

Actions pertaining to public education services for Measure M and Measure C

1a. Uphold the City Manager's finding that Local Government Strategic Consulting (LGSC) is uniquely qualified to provide public education services related to Measure M (Veterans' Services and Facilities)

1b. Approve a consultant services agreement with Local Government Strategic Consulting in an amount not to exceed \$500,000

2a. Uphold the City Manager's finding that Jeffrey Scott Agency (JSA) is uniquely qualified to provide public education services related to Measure C (Transportation)

2b. Approve a consultant services agreement with Jeffrey Scott Agency (JSA) to provide public education services regarding Measure C in an amount not to exceed \$250,000

Total Comments Received: (1)

Item(s)

Supplemental Information:

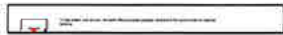
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From: noreply@granicusideas.com
Sent: Wednesday, September 28, 2022 8:57 AM
To: Clerk; Briana Parra
Subject: New eComment for City Council on 2022-09-29 9:00 AM - Regular Meeting

External Email: Use caution with links and attachments



New eComment for City Council on 2022-09-29 9:00 AM - Regular Meeting

Brandi Nuse-Villegas submitted a new eComment.

Meeting: City Council on 2022-09-29 9:00 AM - Regular Meeting

Item: 1.-TT. ID 22-1502 Actions pertaining to public education services for Measure M and Measure C 1a. Uphold the City Manager's finding that Local Government Strategic Consulting (LGSC) is uniquely qualified to provide public education services related to Measure M (Veterans' Services and Facilities) 1b. Approve a consultant services agreement with Local Government Strategic Consulting in an amount not to exceed \$500,000 2a. Uphold the City Manager's finding that Jeffrey Scott Agency (JSA) is uniquely qualified to provide public education services related to Measure C (Transportation) 2b. Approve a consultant services agreement with Jeffrey Scott Agency (JSA) to provide public education services regarding Measure C in an amount not to exceed \$250,000

eComment: Dear council, You have heard from many community members who are opposed to the Measure C ballot item being placed on the 2022 ballot, rather than placed on the 2024 ballot with better and more community input, as well as concerns and opposition to the plan made so closely to the vote. I am sure many community members do not support the the use of city funds to promote this ballot measure that we don't support. I oppose the use of funds for this item if used for the upcoming ballot initiative.

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CITY CLERK'S OFFICE

Regular Council Meeting
September 29, 2022

FRESNO CITY COUNCIL



eComment & Public Comment received

ITEM(S)

10:00 A.M. #1 (ID 22-1407)

Consideration of Development Code Text Amendment Application No. P22-02413 and related Environmental Finding for Environmental Assessment No. P22-02413, amending Tables 15-1102, 15-1103, 15-1202, 15-1203, 15-4907 and Section 15-1104 of the Fresno Municipal Code and adding Sections 15-1106 and 15-5102-E to the Fresno Municipal Code, and corresponding General Plan Text Amendment relating to mixed-use development:

Total Comments Received: (3)

Item(s)

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September 27, 2022

City Council
City of Fresno
2600 Fresno Street
Fresno, CA 93721
Via Electronic Mail
clerk@fresno.gov

Re: Significant Concerns re Development Code Text Amendment Application No. P22-02413, related Environmental Finding for Environmental Assessment No. P22-02413, and corresponding General Plan Text Amendment relating to mixed-use development ([File # ID No 22-1407](#))

To Hon. Mayor & City Councilmembers:

I am writing on behalf of the Central Valley Urban Institute to express significant concerns with the proposed Development Code Text Amendment Application No. P22-02413, related Environmental Finding for Environmental Assessment No. P22-02413, and corresponding General Plan Text Amendment relating to mixed-use development.

The proposed Mixed-Use Text Amendment (MUTA) would (1) remove the maximum density for residential development on parcels zoned for mixed-use; (2) modify the restrictions that prohibit ground floor residential uses in mixed-use districts; and (3) allow ministerial approval of residential uses in districts that allow mixed-use within the City's "Priority Areas for Development." The bill to amend the Fresno Municipal Code relating to mixed-use development as recommended by the Planning Commission on July 20, 2022, is scheduled to be introduced in Council on September 29, 2022, alongside a proposal to adopt findings set forth in a Mitigated Negative Declaration.

This proposal is connected to attempts by industrial businesses operating in Southwest Fresno to expand, undermining the Southwest Fresno Specific Plan, the culmination of a community-led environmental justice planning effort adopted by the Fresno City Council on October 26, 2017. The Specific Plan is threatened with a death by a thousand cuts via applications to revert zoning to be as it was before the plan. Central Valley Urban Institute has voiced its opposition to a proposal for a 92-acre industrial "overlay district" ([File ID # 22-872](#)) and another proposal for an 18.9-acre rezone in the Southwest Fresno Specific Plan area ([File ID # 22-806](#)), as they undermine the vision for a healthier Southwest Fresno.¹

¹ The matters detailed in our previous correspondence on behalf of Central Valley Urban Institute are incorporated by reference, including Letter from Madeline Howard to City of Fresno Planning Commission dated May 31, 2022, and Letter from Nisha N. Vyas to City of Fresno City Council dated August 6, 2022.



This letter expresses significant concerns about the proposed MUTA as an attempt to justify the entrenching and expansion of industrial uses in the Southwest Fresno Specific Plan area. This proposal, taken together with the pending proposals to undermine the Southwest Fresno Specific Plan, violate the mandate to affirmatively further fair housing. Further, the Mitigated Negative Declaration makes projections that mixed use sites can accommodate more units than what current zoning allows but provides no analysis as to the affordability levels that such zoning will accommodate. The City should also analyze the interaction between removing the maximum density for residential development on parcels zoned for mixed-use as proposed and Fresno's existing density bonus ordinances.

This “upzone” proposal is connected to the proposals that would significantly “downzone” in the Southwest Fresno Specific Plan Area.

As acknowledged by the Planning and Development Staff Report, the proposed MUTA is an attempt to comply with the provisions of the Housing Crisis Act of 2019. There are two Planning Commission proposals pending City Council consideration that, if adopted, would convert existing residential zoning to nonresidential industrial uses in the Southwest Fresno Specific Plan Area ([File ID # 22-872](#) and [File ID # 22-806](#)). Government Code section 66300 requires that, in such instances where a jurisdiction converts residential zoning to nonresidential uses, the jurisdiction must take concurrent action to change “the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure no net loss in residential capacity.” Gov. Code § 66300(i)(1).

The proposed MUTA is an attempt avoid running afoul of the Housing Crisis Act to entertain the reduction in residential zoning in the Southwest Fresno Specific Plan area in favor of industrial uses. Downzoning to allow such operations directly conflicts with the community-led Specific Plan. These applications undermine community goals, harm public health, and allow industry to continue polluting an already impacted community.

Increasing density in mixed-use zones does not cure the fair housing violations that will result if the City proceeds with downzoning in the Southwest Fresno Specific Plan area.

Making housing opportunities in Southwest Fresno unavailable not only undermines the Specific Plan goals, it also violates the City's fair housing obligations. In making zoning decisions, Fresno is bound by multiple layers of anti-discrimination laws, including the federal and state requirements to “affirmatively further fair housing.” 42 U.S.C. § 3608(e)(5); Gov. Code §§ 65583, 8899.50. Discriminatory siting of industrial zoning also constitutes both intentional discrimination and disparate impact discrimination under the Fair Employment and Housing Act (Gov. Code § 12900 *et seq*) and the federal Fair Housing Act. 42 U.S.C. § 3601 *et seq*.

The scheme to downzone in Southwest Fresno represents a violation of the City's duty to affirmatively further fair housing under state and federal law, because the toxic impacts of further industrial development will harm its majority non-white residents. Specifically, the Fair



Housing Act requires local governments that receive federal funds to certify that they will take affirmative actions to address discrimination and segregation. 42 U.S.C. § 3608(e)(5). The failure to affirmatively further fair housing may result in HUD suspending or withdrawing federal funding. *US ex rel Anti-Discrimination Center of Metro New York, Inc., v. Westchester County*, 668 F.Supp.3d 548, 569 (2009).

“Affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s² activities and programs relating to housing and community development.” Gov. Code § 8899.50(a)(1)). Facilitating more industrial development and freight terminals immediately adjacent to a community of color which is already subjected to extremely high levels of pollution would harm the existing community, further segregate the area, and reduce opportunities for development of high-quality housing and retail.

California law specifically acknowledges the discriminatory aspects of land use decisions. Zoning decisions have fundamental impacts on surrounding communities and allowing increased industrial activity in an area adjacent to a neighborhood populated by low-income people of color could be determined to constitute both intentional and disparate impact discrimination. Specifically, state law prohibits the City from making any kind of land use decision, including zoning decision, in a manner that intentionally discriminates against a protected class or has a discriminatory effect on members of a protected class. Gov. Code, § 12955.8; 2 C.C.R. §12161(a). Because Southwest Fresno is occupied primarily by people of color, approving the requested rezone and allowing additional industrial development and pollution would subject this community of color to environmental hazards, thereby having a disparate impact on protected class based on race, regardless of the City’s intent.

Where the Specific Plan acknowledges the history of redlining and discrimination, and public comment from community members has highlighted the discriminatory nature of the industrial siting, approval of this proposal could also constitute intentional discrimination on the basis of race. *Avenue 6E Investments, LLC v. City of Yuma, Ariz.*, 818 F.3d 493, 504-5-5 (9th Cir. 2016).

In addition, the plan to downzone in the Specific Plan area would violate the Fair Employment and Housing Act, which defines land use discrimination to include conduct which “[r]esults in the location of toxic, polluting, and/or hazardous land uses in a manner that denies, restricts, conditions, adversely impacts, or renders infeasible the enjoyment of residence, land ownership, tenancy, or any other land use benefit related to residential use, or in connection with housing opportunities or existing or proposed dwellings.” Gov. Code, § 12955.8; 2 C.C.R. §

² “Public Agencies” include “a city, including a charter city.” Gov. Code § 8899.5(a)(2).



12161(b)(10). In this case, Southwest Fresno is already subjected to extremely high levels of pollution, and the Southwest Specific Plan is a carefully thought out plan that represents years of community effort to move towards lower levels of industry and bring in more opportunity for housing and small businesses. The Neighborhood Mixed Use designation for this land was intentional and the result of a carefully planned strategy to move the community in that direction. The proposals open the door for industrial development that would directly contradict the clear stated goals of the Specific Plan. By inviting more industrial development in this community of color, the City of Fresno would be engaging in land use discrimination under the Fair Housing Act and FEHA.

Increasing density in the mixed-use zone does not address immediate need for housing affordability and further analysis is necessary, including the proposed MUTA's interaction with Fresno's Density Bonus Ordinances, and consistency with the City's Housing Element.

As reported in the Fresno Bee last month, a recent study shows that about 29% of renters and 10% of homeowners in Fresno are severely cost burdened, meaning they are spending more than 50% of their household income on housing costs.³ In its Sixth Cycle Housing Element, the City of Fresno is projected to plan for 9,440 units affordable to very low-income households and 5,884 units affordable to low-income households, not accounting for any carry-over from previous Housing Element cycles.⁴

A significant element of the proposed MUTA is the removal of maximum density limits for residential development on parcels zoned for mixed-use. Although the Mitigated Negative Declaration (Exhibit H) includes some analysis of the maximum number of dwelling units that could be accommodated in each of the five types of mixed-use zones, it does not address the interaction between removal of maximum density limits with the City's existing Affordable Housing Density Bonus and TOD Height and Density Bonus ordinance, specifically to what extent removing the density limits disincentivizes developers from seeking additional density bonus that would trigger requirements to provide housing affordable to lower income households.

A third-party prepared the Buildable Lands Inventory attached as Appendix A to the Mitigated Negative Declaration (Exhibit H) that shares the results of an analysis of the maximum possible density in each mixed-use zone given other limitations and summarizes the total acreage that it defines as "underutilized," as a proxy for suitability and availability for development. This summary analysis does not, however, substitute for the type of land inventory and analysis of zoning and public facilities that is required so show availability and suitability of sites under

³ Cassandra Garibay, *Fresno ranked among top 20 most severely cost burdened cities. Here's where the city falls.* FRESNO BEE (Aug. 3, 2022, 5:00 AM), <https://www.fresnobee.com/fresnoland/article264112556.html#storylink=cpy>.

⁴ Fresno Council of Governments, Draft 6th Cycle Regional Housing Needs Plan (Sept. 2022), https://2ave3l244ex63mgdyc1u2mfp-wpengine.netdna-ssl.com/wp-content/uploads/2022/09/FCOG_RHNP_Draft_September-2022.pdf



Housing Element law (Gov. Code §§ 65583(a)(3) & 65583.2), or the required analysis of the capacity of the inventory to accommodate the RHNA for each income level (Gov. Code § 65583.2(c)-(g)). Although the proposed MUTA has not been prepared for the purposes of the Housing Element, this comprehensive analysis is necessary to show that the proposed upzoning is more than a “paper exercise,” and to demonstrate what segments of the community it intended to benefit.

Conclusion

For all the reasons explained above, Central Valley Urban Institute lodges its serious concerns with the proposed Mixed-Use Text Amendment, particularly in its application to undermine the Southwest Fresno Specific Plan. I can be reached at _____ regarding any questions about the issues raised in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nisha N. Vyas', with a long horizontal flourish extending to the right.

Nisha N. Vyas
Western Center on Law & Poverty

From: Duane Quenzer
Sent: Monday, September 26, 2022 10:56 AM
To: PublicCommentsPlanning
Cc: Sophia Pagoulatos
Subject: Mixed use amendment opposition

Follow Up Flag: Follow up
Flag Status: Flagged

External Email: Use caution with links and attachments

This density amendment is an extreme change. I live in an area with single family homes on one acre lots. If this passes, across a little side street, could be 75 units per acre with multiple people per unit. Crime is higher with too many people close together. There are no other apartments on the south side of Kings Canyon/ Minnewawa for many blocks in both directions. It would be better to have these high density apartments around large parks, like Central Park in New York City. This keeps people's stress level lower for all of us. thank you
Duane Quenzer
Kings Canyon/Minnewawa

From: Gregg Palmer
Sent: Tuesday, September 27, 2022 4:33 PM
To: PublicCommentsPlanning
Cc: Sophia Pagoulatos
Subject: Mixed Use Text Amendment P-22-02413

Follow Up Flag: Follow up
Flag Status: Flagged

External Email: Use caution with links and attachments

Hello:

I am writing to you to voice my opposition to the proposed density changes as well as the change in policy that would allow development without notifying a neighborhood.

My family has been in the real estate business since the 1960s and I have been involved in real estate for almost 40 years. I have worked extensively in the San Joaquin Valley as well as in the San Francisco Bay Area as well as the Los Angeles basin. I remember both areas well from the 1970s. I have personally witnessed the negative impact of high density development and the strain that it puts on the community. It is necessary in some areas like San Francisco or other communities wherein a lack of land exists. However, this is not the case in Fresno.

While high density development may be a popular idea, it ultimately leads to slums and blight. The Fresno/Clovis area were wonderful places in the 1960s, 1970s and 1980s. However, with the leapfrog development in the 1990s as well as the gradual increase in density, I believe that the quality of life in our community has suffered substantially. In fact, it reminds me of black and white science videos of rat colonies that I watched in Jr. High school. Simply too many people crammed into a small area.

In addition to the increase in density, I am ADAMANTLY opposed to removing or lessening the requirement that a developer or builder notify a neighborhood prior to commencing a new development. A neighborhood should be allowed to review any proposed development and have adequate time to discuss, analyze and, if necessary oppose a development if the neighborhood feels in any way that such development might negatively impact the area.

I am a life long resident of Fresno but as things in the community and state have changed for the worse, we like many others are considering relocating to another state that is more friendly to its residents. Please oppose both of these changes.

I appreciate your time.

Gregg

PLEASE NOTE NEW ADDRESS

Gregg Palmer, MAI - President
James G. Palmer Appraisals Inc.

Regular Council Meeting
September 29, 2022

FRESNO CITY COUNCIL



eComment & Public Comment received

ITEM(S)

3-A (ID 22-1467)

Actions related to One Fresno Housing Strategy:

1. ***RESOLUTION - Create a Voucher Incentive Program (Subject to Mayor's Veto)
2. ***RESOLUTION - Create a Rent Stabilization Program (Subject to Mayor's Veto)
3. ***RESOLUTION - Fund the Central California Land Trust (Subject to Mayor's Veto)
4. ***RESOLUTION - Fund the Fresno Mixed-Income Neighborhood Trust (Subject to Mayor's Veto)
5. ***RESOLUTION - Allocate American Rescue Plan Funding to the City of Fresno Local Housing Trust Fund (Subject to Mayor's Veto)
6. ***RESOLUTION - Fund the Fresno City College Tiny Home Construction Partnership (Subject to Mayor's Veto)
7. ***RESOLUTION - Acknowledge the Continuance of the Eviction Protection Program (Subject to Mayor's Veto)

Total Comments Received: (1)

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Americans with Disabilities Act (ADA):



August 12th, 2022

Letter RE: Fresno Community Priorities for the \$40 Million Allocation to Address the Housing Crisis in the FY22-23 Budget

Leadership Counsel for Justice and Accountability is a community-based organization that works alongside low income communities of color in the City of Fresno to elevate and advance their priorities for safe, affordable housing options and fair housing choice. We thank you for taking the time to read the following memo and welcome the opportunity to discuss our letter in further detail. The priorities and projects identified below were developed alongside resident partners through ongoing collaboration as well as a series of community meetings. Further, these policies and programs were among the top ranked in the Here to Stay Report. The Here to Stay Report has been developed alongside community residents to identify priorities, programs, and policies to solve our housing crisis together.

The City of Fresno has adopted its largest budget and it is time for the City to take bold action towards solving our housing crisis. According to data from the U.S. Census Bureau, nearly 60% of Fresno renters are cost burdened and the median rent has risen almost 30% in the last two years. If the City of Fresno Councilmembers, Mayor, and staff are serious about alleviating the housing crisis here in Fresno, we must leverage policies and programs that will assist families in Fresno in both the short and long term.

The policies listed below have been identified as priority among community residents. We urge the City to include these priorities when allocating the \$40 million in ARPA. These policies and programs described below are included among the policies recommended by the Here To Stay report, ONE FRESNO Housing Strategy, or both.

\$40 Million to Address Housing Crisis: Policies and Programs for an Equitable Recovery from the COVID-19 Pandemic using American Rescue Plan Funding

The City Council and Mayor have allocated \$40 million dollars from the American Rescue Plan Allocation (ARPA) funding to alleviate the housing crisis. While a good first step, we must ensure that programs and policies funded are helping those most impacted by the COVID-19 pandemic as ARPA guidelines have outlined. Moreover, the Treasury Department urges governments to engage their constituents and communities in developing plans to use these

payments.¹ As the fifth largest city in California, Fresno can lead by leveraging ARPA funds to reduce racial health, housing, and accessibility gaps.

Affordable Housing

I. \$2 million to Fund a Comprehensive Homeownership Opportunities Program

We urge the City of Fresno to continue and improve upon the Comprehensive Homeownership Opportunities Program as it has helped thousands of households achieve homeownership and financial literacy. This program is recommended in both the Here to Stay Report and One Fresno Housing Strategy. Staff should work with community leaders and advocates to ensure the program grows even more effective and efficient, and reaches more households. The current home buyer assistance programs are difficult to find as they are often only available online. Additionally, the program excludes residents without a social security number and those who have poor credit or no credit.

The program should include robust engagement and outreach to residents in all languages and to those with technological barriers. Community residents recommend that the City work with community based organizations (CBOs), schools, television and radio stations to widely promote the program. A comprehensive homeownership opportunity program will assist first time home buyers with down payment assistance, grants for first time home buyers, financial workshops, and closing costs. We also recommend the outline of the program in the Here to Stay report be adopted. It consists of a homeownership assistance program with an added incentive that should be provided to residents seeking to purchase a home within their current zip code. The loan would be forgiven after seven years of occupancy in the purchased or improved home.

Community residents recommend that any and all homeowner opportunities be made available to all lower-income households regardless of immigration status and to those residents who are building their credit-worthiness. The City must partner with financial institutions to support affordable and accessible loans to potential low-income homeowners with poor or no credit and to those who possess an Individual Taxpayer Identification Number (ITIN). Lowell CDC has a model which has worked for the community of Lowell since the CDC was established a year ago. It has provided homeownership opportunities to both documented and undocumented residents. They have partnered with Self Help Credit Union to provide loans and financial plans to ensure that residents are set up for success as first time home buyers. In total they have helped consult and inform 28 families in the community of Lowell and 2 families will be homeowners in a couple weeks.

¹ U.S. Treasury Department. (2022). *Coronavirus State and Local Fiscal Recovery Funds Final Rule 2022*. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf>

The City should adapt existing programs to increase access to homeownership for residents throughout the City. For example, the City provides police officers with a forgivable loan for down payment assistance; We urge the City to replicate this program and tailor it specifically towards low-income residents who are the most impacted and have the most barriers to accessing financial assistance. This will guarantee families stay in Fresno and can continue to work, attend school, and invest in their communities.

Finally, Bank of America launched a down payment assistance program in 2019 that offers up to 3% or \$10,000 in down payment assistance and up to \$7,500 in closing-cost assistance to eligible Fresno County homebuyers. Since then it has helped an estimated 100 Fresno County homebuyers.² The City can continue to work alongside the Bank of America providing residents with down payment and closing costs assistance by identifying resident who did not qualify for the Bank of America program and can receive City funds instead.

The City can create a comprehensive homeownership plan geared toward lower income households that includes facets of the programs mentioned above. It is critical that the plan has robust community engagement initiatives attached to it. Making the information available, publicly accessible and easy to navigate will ensure residents understand programs' process.

The City has a legal obligation under Gov Code 65587(d) to fulfill the programs set during the 5th Cycle Housing Element. In creating and implementing a comprehensive homeownership plan, the City would be one step closer to Housing Element compliance by fulfilling Program 8, "administer[ing] a first-time homebuyer program...to an eligible homebuyer. [It will] help low income households purchase their first home in qualified census tracts in Fresno;"³ which the City of Fresno has failed to accomplish since the adoption of the Housing Element. Homeownership provides our communities and families with the stability to remain and invest in their neighborhood, meanwhile breaking the cycle of generational poverty as it builds families' wealth.

II. \$2 Million for a Rental Assistance Program

Establishing a rental assistance program is a short term solution that would chart a new course for the City of Fresno by strengthening the social safety net and increasing economic stability in vulnerable communities. Nearly 60% of Fresno renters are cost burdened, meaning they pay more than 30% of their income in rent. Many cost burdened renters are one paycheck away from losing their home.⁴ The rental assistance program is accessible to all lower-income households

²<https://thebusinessjournal.com/fresno-promotes-bank-of-america-down-payment-program/#:~:text=The%20program%20by%20Bank%20of,The%20program%20launched%20in%202019.>

³<https://www.fresno.gov/darm/wp-content/uploads/sites/10/2018/01/FresnoHEAdoptedApril2017smallfile.pdf>

⁴ Garibay, C. 2022, August 3. Fresno ranked Among Top 20 Most Severely Cost Burdened Cities. Here's Where the City Falls. *The Fresno Bee*. Retrieved from <https://www.fresnobee.com/fresnoland/article264112556.html>

regardless of immigration status. As costs in housing and basic necessities increase while the State's Emergency Rental Assistance Program comes to an end, the City of Fresno must establish a rental assistance fund to prevent homelessness⁵ and displacement and ensure tenants stay housed. While tenant assistance does not provide a long-term solution to displacement burden, it gives residents and landlords more time to assess options and interventions; and allows families and children to stay housed. Additionally, research shows that large shares of tenants continue to report employment loss and difficulty paying rent, highlighting the need for continued rental assistance.⁶

The Federal Government is taking action to stabilize households by introducing a bill that would establish an Emergency Assistance Fund (EAF) – funded at \$3 billion annually - to help stabilize households with extremely low incomes experiencing an economic shock before it leads to eviction, housing instability, and homelessness. Local cities, like Fresno, would be eligible to apply if a program is established and continue the fund beyond ARPA allocations.

By establishing a rental assistance program, the City of Fresno will be in compliance with Program 9 of the Housing Element which states that the City of Fresno works in collaboration with service agencies dedicated to providing shelter, housing, and case management services to those in need. The City has used HOME funds and is contracted with the Fresno Housing Authority to implement a \$1 million tenant-based rental assistance program for persons that are homeless, or threatened with homelessness. The City can contract with other CBOs and the Fresno Housing Authority once again to distribute rental assistance funds.

III. \$3 million for Housing Improvement and Rehabilitation Projects

A \$3 million dollar initial fund for the rehabilitation of older, blighted, and / or abandoned homes will help the City of Fresno address its housing and climate crisis while also increasing neighborhood health and stability.

Heat-related deaths have increased in California in the last decade. The Luskin Center of Innovation's [Adapting to Extreme Heat in California](#) and [California's Fourth Climate Change Assessment](#) conclusively determined that extreme heat will disproportionately affect the State's most vulnerable citizens and communities, such as children, the elderly, people with preexisting conditions, and low-income communities of color. Therefore, we urge the City Council and

⁵<https://www.fresno.gov/darm/wp-content/uploads/sites/10/2018/01/FresnoHEAdoptedApril2017smallfile.pdf>

⁶ Airgood-Obycki, Whitney. *The Short-Term Benefits of Emergency Rental Assistance*. Joint Center for Housing Studies Harvard University, https://jchs.harvard.edu/sites/default/files/research/files/harvard_jchs_short_term_era_benefits_airgood-obrycki_2022.pdf.

Mayor Dyer to appropriate funding to support lower income households in weatherizing their homes and making other improvements to address both energy efficiency and liveability.

Fresno EOC Energy Services Program has provided funding for housing improvements that increase a home's energy efficiency through various state, federal, and private funding sources. Income eligible homeowners or renters can make minor repairs while obtaining solar panels and weatherization improvement at no cost. The City can partner with Fresno EOC or create a similar program to expand the reach and sustainability of the effort to pair housing stability with habitability.

Additionally, the city must provide funding to rehabilitate blighted and abandoned homes, as well as empty lots owned by the city. Abandoned homes not owned by the city should be purchased by the City and sold to lower-income households to provide affordable homeownership opportunities. This could operate as a revolving fund whereby the city sells upgraded homes at-cost and then reinvests the sale proceeds into additional property acquisitions and upgrades. The City should also invest this revolving fund in similar programs designed to increase housing access and neighborhood stability that were included in the Here to Stay Report such as the Land Bank Program, Community Land Trusts. This program must include robust community engagement and collaboration with community based organizations to ensure successful and equitable implementation.

This program would also bring the City closer to Housing Element Compliance and fulfill Program 22 which provides paint and minor repair to seniors, distressed property grants, and home rehabilitation funds for lower-income households.

Affordable Housing Preservation

I. Rent Stabilization and "Affordable in Perpetuity" Designations

The City of Fresno's rental rates rank high within national and state rankings and they will continue to increase. With an increase of 28% over the last year, the median price for a two-bedroom rental is approximately \$1,500 according to Rent.com. A family of four would have to make \$60,000 in order to afford this rent, however, US census data shows that Fresno's median household income is \$53,000. And while Fresno rents continue to increase, wages remain stagnant. Fresno is deemed to have one of the "hottest" rental markets in the state. Our longtime neighbors and friends are being displaced and losing their homes as these trends continue. Renters are faced with the choice to stay and pay exorbitant rents or leave their homes. Stabilizing rents is critical to the well-being of households and neighborhoods alike.

Residents of all walks of life have been urging this City Council and Administration to adopt a comprehensive Rent Stabilization Ordinance that would allow landlords to gain reasonable profits while keeping families housed. We urge the Council to adopt one rent stabilization policy with a suite of interrelated components to ensure that in the immediate and long-term, we keep people housed. A rent stabilization policy must include a 3-5% cap on rent increases and allow just one increase per year; a rent stabilization board that allows landlords and tenants to request and assess rental increases; and include single-family homes excluded by State rent stabilization rules.

Along with rent stabilization, “affordable in perpetuity” designations should be assigned to extend the affordability of units that are built with affordability terms that expire in the future. The Here to Stay report recommends development of an independent third-party tracking system that would notify City officials when affordability restrictions near expiration. Additionally, the City should explore supporting the establishment of Community Opportunity to Purchase Act programs (COPA) that would require advance notice and a right of first offer on the sale of multifamily residential properties to nonprofits, tenant organizations & public agencies to help keep properties affordable in perpetuity.

These policies can help the City Affirmatively Further Fair Housing⁷ which is required under AB 686. The obligation to affirmatively further fair housing requires public agencies to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities. By implementing rent stabilization and affordable in perpetuity designations, the City can achieve this and protect residents from displacement.

Tenant Protections

I. Allocate an Additional \$4 Million to Expand the Eviction Protection Program

We appreciate Councilmember Maxwell’s leadership and the Council’s action for allocating \$2 million dollars this past budget cycle to continuing the Eviction Protection Program. We recommend the investment of an additional \$4 million from the \$40 million allocation to housing policies. This program has ensured that residents can stay in their homes, avoid the immediate and long-term impacts of evictions on their records, and access free legal services that would otherwise create yet another cost burden. Further, we recommend that the Eviction Protection Program expand into a more comprehensive program. All over Fresno, tenants continue to face illegal eviction proceedings, verbal and physical harassment, and retaliation tactics from property managers and landlords. Tenants facing unlawful detainers, many of whom speak and read languages other than English and are juggling multiple jobs and responsibilities,

⁷ <https://www.hud.gov/AFFH>

must navigate a complicated legal system with little to no assistance, which is difficult for any person even with formal higher education and English fluency.

A fully established Eviction Protection Program in the City of Fresno includes:

- A. A city-wide, multi-language public awareness and targeted outreach campaign,
- B. Public education workshops and mobile clinics, in multiple languages, on tenant and landlord rights and responsibilities,
- C. A hotline to support tenants that receive notices from the landlords (e.g. 3-day notice, notice of rent increase) and to address other housing-related questions and assistance,
- D. Legal representation for tenants facing unlawful detainers, and
- E. Real-time/same-day legal advice and representation at the Fresno County courthouse on eviction court days

An investment in a comprehensive eviction protection program now will lead to reduced expenditures in public benefits resulting from job loss, costs associated with homelessness, the cost of social services and the lasting impacts of evictions such as marked credit scores making it difficult finding new housing. The City can also expand funding and increase sustainability of the program through other sources including through grants from the State's \$30 million⁸ allocation for qualified legal services projects and support centers to provide eviction defense, other tenant defense assistance in landlord-tenant rental disputes, including pre-eviction and eviction legal services, counseling, advice, and consultation, mediation, training, renter education, and representation, and legal services to improve habitability, increasing affordable housing, ensuring receipt of eligible income or benefits to improve housing stability, legal help for persons displaced because of domestic violence, and homelessness prevention.

II. Local Tenant Protections

The City of Fresno can lead in the San Joaquin Valley by adopting an ordinance that creates robust tenant protections, including protecting tenants from unfair evictions and practices designed to push tenants out of their apartments. Local tenant protection laws can provide tenants with greater protection than California's tenant protection standards including those implemented through AB 1482, the Tenant Protection Act of 2019. While AB 1482 protects some tenants, it does not protect tenants who:

1. Have lived in their current unit less than a year
2. Single family owner occupied units

⁸ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB154

3. Housing accommodations in which the owner lives at the property as their principal residence

Therefore, local tenant protections would ensure that all residents are protected from illegal and unfair evictions, landlord harassment, and discriminatory practices. A local tenant protection ordinance would cover all rental units and would include:

1. A requirement that landlords provide a reasons for an eviction (and would limit the reasons upon which a landlord could evict a tenant)
2. Rules for how an eviction notice is given to ensure proper notice
3. A requirement that both the tenant and the City of Fresno receive eviction notices
4. Protections from retaliatory evictions and other other retaliatory actions
5. Protections from harassment

We urge the City of Fresno to adopt and implement local tenant protections. Tenant protections can fall under the purview of the Eviction Protection Program. The City of Fresno can continue to further fair housing by passing local tenant protections to ensure residents are not further displaced

Conclusion

The policies and programs listed above ensure an equitable recovery for all Fresnoans, particularly those who have been disproportionately impacted by COVID-19 and historically disinvested in. ARPA funds must be used to address the disparate impacts low-income people of color have experienced. Additionally, these policies and programs will help the City of Fresno comply with the 5th Cycle Housing Element. The City of Fresno Council Members and Mayor must take bold action to combat our housing crisis. Bold policies and programs are necessary and must be adopted immediately. For a year now, advocates and community residents have raised these concerns and they must be addressed.

As Fresno's rental and housing market continue to rise, residents will continue to be at risk for displacement and homelessness. We urge the City to act fast and implement meaningful policies and programs. Residents do not have the luxury of waiting for elected officials to address our housing crisis.

Sincerely,

Karla Martinez & Grecia Elenes
Leadership Counsel for Justice and Accountability