

RECEIVED

2016 AUG 31 PM 2 15

Agenda Item: ID16-1002 (5:00 P.M.)

Date: 9/1/16

CITY CLERK, FRESNO

FRESNO CITY COUNCIL

City of



Supplemental Information Packet

Agenda Related Item(s) – ID16-1002

Contents of Supplement: Letter from Ashley Werner of Leadership Counsel for Justice and Accountability

Agenda Item Title

CONTINUED HEARING to consider Plan Amendment Application No. A-16-006, Rezone Application No. R-16-007, Development Code Text Amendment Application No. TA-16-001 and related environmental finding filed by the Development and Resource Management Department Director pertaining to 316.09 acres of property

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.



August 31, 2016

Fresno City Council
2600 Fresno Street, Room 2097
Fresno, CA 93721

Sent via Email

RE: Plan Amendment App. No. A-16-006, Rezone App. No. R-16-007, Development Code Text Amendment App. No. TA-16-001, and Related Environmental Finding

Dear City Councilmembers,

We are writing to advise you that Agenda Item ID16-1002 for the September 1, 2016 City Council meeting includes proposed re-zones that conflict with the requirements of Government Code section 65863. The City may not adopt the proposed rezones unless and until it satisfies the requirements of state law.

The City adopted its 2015-2023 Housing Element on April 28, 2016. Included in the Housing Element is an inventory of sites identified by the City to meet its Regional Housing Needs Allocation (RHNA) for all income levels as required by law. Various rezones proposed by Item VIII-C would decrease the residential density or allow non-residential uses on sites included in the Housing Element's Sites Inventory. Before the City can decrease the density of any site that the City relies on in the Housing Element to meet the needs of lower income households, the City must make specific findings supported by substantial evidence detailed in state law.

Government Code section 65863(b) requires that the City make findings that the reduction in density of sites included in its Housing Element's Sites Inventory is consistent with the City's adopted General Plan, including the Housing Element and that the remaining sites identified in the Housing Element are adequate to accommodate the City's RHNA. Govt. Code § 65863(b)(1) and (2). As the Department of Housing and Community Development (HCD) has recently found the City's inventory out of compliance with state law (see attached letter), it is not currently possible to make the above-described findings; there is no substantial evidence that the remaining sites identified in the inventory are adequate to meet the RHNA as the City's current inventory of adequate sites has not been determined to sufficient to meet the City's 2013-2023 RHNA or the carry-over RHNA from the last planning period.

If the City cannot make the required findings, then it must identify additional adequate and available sites with equal or greater density for inclusion in the Housing Element Sites Inventory if the density is reduced on the sites proposed for re-zoning. Govt. Code section 65863(c).

Clearly, the City is not able to comply with state law if the decrease in density on the sites identified in proposed rezones numbers 10 (APNs 45204105, 45228216, 45228217, 45228219-25), 23 (APN 44303209), and 25 (APN 51203031, 51203033, 51203037, 51203038, 51203052, 51203082), included in the City's Housing Element inventory is approved. In addition, the City continues to create obstacles that inhibit public participation on this important issue of housing element compliance. Although notice of the proposed rezones, plan amendment, and text amendment was published in Fresno Bee of August 5th, the detailed information about the potential action was not available at City Hall as indicated in the notice. This failure is in addition to many missteps the City has taken regarding state law's requirement for public participation in the housing element process as identified by HCD in its findings letters to the City on the City's draft and adopted housing elements.

Finally, we note for the record that we provided planning department staff, including DARM Director Jennifer Clark and Planning Manager Mike Sanchez, and the members of the Planning Commission a version of this letter prior to the Planning Commission's hearing on this item on August 16, 2016 via email. In our email correspondence, we requested that staff provide hard copies to the commissioners with their materials on the item. We understand that staff did not provide copies to the commissioners as requested nor did staff mention this letter until a Commissioner asked staff to provide a response before the Commission's vote, which staff declined to do. We ask going forward that the City ensure that written correspondence be timely provided to Planning Commissioners and other appointed and elected officials for their consideration before a vote, particularly when the vote pertains to matters concerning sensitive matters such as compliance with state housing element law.

Sincerely,



Ashley Werner
Attorney
Leadership Counsel for Justice and Accountability

Fresno City Council

Page 2

August 31, 2016

cc: Mayor Ashley Swearengin
Douglas Sloan, City Attorney
Paul McDougall, California Department of Housing & Community Development