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Agenda Item: ID16-485 (5:00 P.M.)

Date: 4/28/16

2016 APR 27 PM 5 02

CITY CLERK, FRESNO CA

FRESNO CITY COUNCIL



Supplemental Information Packet

Agenda Related Item(s) – ID16-485 (5:00 P.M.)

Contents of Supplement: Leadership Counsel for Justice and Creditability

Item(s)

CONTINUED HEARING to Consider Plan Amendment Application No. A-16-001, filed by the Development and Resources Management Department Director, to amend the text of Chapter 11 of the Fresno General Plan, the Housing Element Consistency Chapter, with an updated Housing Element that would be valid until 2023. The Housing Element is the City's policy document for meeting its housing needs, including housing affordable to low- and moderate-income households and special needs groups. Plan Amendment A-16-001 also includes amendments to the text of Fresno General Plan Chapter 3, Urban Form, Land Use, and Design, to incorporate an analysis of Disadvantaged Unincorporated Communities within or adjacent to the Sphere of Influence, and minor amendments to Chapter 9, the Noise and Safety Element, to comply with Government Code requirements related to the Housing Element.

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.



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CITY CLERK, FRESNO CA

April 27, 2016

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

SENT VIA EMAIL

RE: 2015-2023 Draft Housing Element, Additional Proposed Revisions to Chapter 6

Dear Councilmembers:

We are writing on behalf of our clients, Familias Addams por un Mejor Futuro (“Familias Addams”), to provide comments on the “Additional Proposed Revisions to Chapter 6 of the Housing Element”, dated April 21, 2016 and contained in the Supplemental Information Packet provided on the webpage with the materials for the continued hearing on the Draft 2015-2023 Housing Element (“Draft Housing Element” or “Draft”). These comments supplement and incorporate by reference the previous written and oral comments that we have provided to the City on this matter on behalf of Familias Addams and residents of the Jane Addams neighborhood, including written comments dated February 5th, 26th, 29th, and March 30th.

1. The City’s Failure to Notify the Public of the Additional Proposed Revisions Replicates the City’s Pattern and Practice of Inadequate Public Process in Violation of Government Code Section 65583

The City provided the public with no notice of its release of additional proposed revisions to Draft Housing Element, Chapter 6, the “Housing Plan,” other than by posting the “Supplemental Information Pack”, with that title, to the webpage for the Draft Housing Element hearing agenda item and through a link on the City’s Housing Element webpage titled, “Supplement -- Additional Material”. Neither of these titles provide any indication of the nature of the material contained therein. The City did nothing to reach out to residents directly or to other stakeholders who have engaged in the Housing Element process to inform them of the proposed revisions to the Housing Plan -- the most critical component of the housing element which contains the City’s goals, objectives, and program commitments to address identified housing needs.

The City's failure to make efforts to inform the public of the proposed changes comes after the City's receipt of two letters from HCD notifying the City of its deficient public process with respect to the 2015-2023 Housing Element Update and advising the City to make further efforts to engage all economic sectors of the population prior to adoption in accordance with Government Code Section 65583. Leadership Counsel, on behalf of Familias Addams and other Fresno residents, has repeatedly notified the City of its statutory duty to make diligent efforts to engage all economic segments of the population during the housing element update and the City of Fresno's failure to do so and has provided specific recommendations to the City with regards to how to improve its performance. To our knowledge, the City has failed to modify or enhance its efforts to engage the public during this process, but rather continues to replicate the its pattern and practice of poor public outreach and engagement during the housing element update and other housing and land use planning and decision-making processes. This pattern and practice excludes residents from participating in a process that, according to state housing element law, demands resident engagement and input.

2. The Proposed Revisions Fail to Address Inadequate Support for Carry-Over Calculations and Sites Inventory

Our comment letters dated February 5th, 26th, and March 30th as well as HCD's letter to the City dated March 7, 2016 detail the inadequacies of the information and analysis relied upon by the City of Fresno in both the January and March Draft Housing Element to support its RHNA 4th Cycle carry-over calculations and 5th Cycle sites inventory. The proposed additional revisions do nothing to address these deficiencies. The proposed revisions would make certain modifications to the Draft's carry-over calculations by amending the credits the City claims to have achieved towards the 5th Cycle RHNA, but provides no explanation or support for these modifications. The City of Fresno has yet to address all of the deficiencies identified in our previously submitted comment letters and HCD's March 7th letter in its justification of its sites inventory and in its carry-over analysis. Thus the Draft Housing Element with the Proposed Additional Revisions continues to violate state housing element law.

3. The Proposed Revisions Fail to Make Sites Available in High Opportunity Areas

Our February 5th and 26th and March 30th comment letters notified the City that its January and March Draft Housing Elements failed to make adequate high density sites available to meet its lower-income RHNA outside of Racially and Ethnically Concentrated Areas of Poverty (R/ECAP) and Economically Distressed Neighborhoods, as identified by the City itself and in high opportunity areas of the City, specifically, North of Herndon Avenue, which lack opportunities for affordable housing for low-income residents. Our letters notified the City that the concentration of lower-income RHNA sites in R/ECAP and economically distressed

neighborhoods violates state housing element law and state and federal fair housing and civil rights statutes. We advised the City that it must identify additional suitable high density sites in high opportunity North Fresno neighborhoods in its Sites Inventory or include a program to rezone sites to make such sites available.

The Proposed Additional Revisions do not modify the draft Sites Inventory and do not contain a program to rezone sites to high residential densities in high opportunity neighborhoods. The Proposed Additional Revisions therefore do nothing to address the Draft Housing Element's failure to make sites available for the development of housing affordable to low-income residents outside of R/ECAP and economically distressed neighborhoods and in high opportunity neighborhoods in violation of state and federal housing and civil rights laws.

4. The Proposed Revisions Fail to Analyze & Address Needs of Households with Special Housing Needs

As explained in our previous written and oral comments, the January and March Draft Housing Elements fail to adequately analyze and address the housing needs of special needs populations pursuant to Government Code Section 65583(a)(7). In particular, the drafts fail to adequately identify and respond to the needs of large households, single-parent households, non-English and Limited English Proficient speakers, immigrants, undocumented residents, among others. These groups comprise significant portions of the City of Fresno's population and their special housing needs must be analyzed and mitigated through the housing element and its programs and policies. The Proposed Additional Revisions contain no additional information or analysis relating to the housing needs of these populations nor, with the exception of residents of mobile homes, do they contain any new or revised programs aimed at addressing those housing needs. The Final Draft Housing Element must contain information, analysis, and program actions to address the housing needs of special needs populations as explained in detail in our previous comment letters.

5. Further Programmatic Revisions & Additions Are Necessary to Satisfy the Housing Element Statute

As explained in our previous comment letters, the City must adopt a housing element which contains:

“A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation,...such that there will be beneficial impacts of the programs within the planning period...” (underline added) Gov. Code § 65583(c)

The Proposed Additional Revisions take steps to address legal deficiencies in certain programs contained in the Draft, yet several programs fail to contain sufficient specificity or identify the particular actions that the City will take to show that the programs will in fact achieve “beneficial impacts” within the planning period. These programs must be revised such that they will achieve beneficial impacts within the planning period through “specific action steps” that the City will take within a “specific time frame” of implementation. Gov. Code § 65583(c); HCD’s Building Blocks for Effective Housing Elements.

The programs that require further revision to demonstrate that they will achieve “beneficial impacts” include but are not limited to the following:

- **Program 3-Annual Reporting:** The proposed revisions state that the City will facilitate community input on housing and fair-housing related program and policies as those opportunities arise. As we have noted, the City’s current practices to date have done little to facilitate community input in housing and fair housing policy development and implementation. A substantive change in City practice, as described in our previous written and oral comments, is required in order to actually achieve ongoing community input and engagement on these topics and therefore to achieve “beneficial impacts” from this program. We have recommended that the City create a resident and stakeholder advisory committee dedicated to development and monitoring implementation of housing and community development policies and practices. This committee should be predominately comprised of low-income residents and residents with special housing needs as identified by the housing element statute along with affordable housing developers and service providers, affordable housing advocates, and other stakeholders. The committee will also examine existing barriers to public process and provide recommendations regarding actions the City can take to overcome those barriers and strengthen its public engagement and its relationships with residents.
- **Program 10A-Mobile Home Parks.** This proposed additional program takes a first step in committing the City to identifying financial resources available to address the significant housing-related needs of the residents of the City’s 4,000 mobile home units, yet it does not commit the City to take steps to pursue those resources in order to address those needs. Implementation of the program as drafted will not result in beneficial impacts to residents during the planning period. The Program must be revised to specify that the City will pursue the available financial resources identified by the City, including by the preparation of a minimum specified number of applications to programs, such as MPRROP, in collaboration with affordable housing developers including the Housing Authorities by a date certain.

- **Program 15: Large and Small Lots.** The Proposed Additional Revisions' inclusion of actions in Program 15 to monitor development trends on small and large lots do not justify the reliance of the Sites Inventory on hundreds of small and large sites without demonstrating the current suitability for development of those sites. The Final Housing Element Sites Inventory must reduce its reliance on such sites by including additional sites that are neither too small or too large.
- **Program 26: Equitable Communities.** We appreciate the objectives identified in this program to prioritize investment in infrastructure and services in high need areas and expand affordable housing opportunities to prevent concentration of affordable housing. However, the program and its associated objectives fail to identify specific actions that the City will take that will in fact "expand affordable housing opportunities". The City must act through this housing element to create opportunities for affordable housing outside of high poverty areas by ensuring that adequate high density residential zoning exists on suitable sites in high opportunity areas to allow for affordable housing development. It must do so through identifying such high density sites in its Sites Inventory and/or adopting a program to rezone sites to make them available within a reasonable time frame.

Our previous comment letters have identified various other specific actions the City may take in order to expand affordable housing opportunities outside of R/ECAP areas and economically distressed neighborhoods (e.g., developing a protocol to ensure a portion of its federal entitlement spending on housing is used for housing development in high opportunity neighborhoods; adopting a commercial linkage fee and/or inclusionary housing ordinance; among others). This program must be revised to show that it will achieve "beneficial outcomes" during the planning period through specific actions the City will take that will expand affordable housing opportunities in high opportunity areas that currently lack such opportunities.

6. The Proposed Revisions Do Not Remedy the Draft Element's Failure to Identify and Address Barriers to Affordable Housing

The proposed revisions do nothing to remedy the Draft Housing Element's failure to identify and address other barriers to affordable housing described in our previous comment letters. These barriers include but are not limited to:

- Inadequate funding to address the need for development and maintenance of owner-occupied and rental housing affordable to low-income residents;
- Barriers to affordable housing and fair housing associated with the 2015 Development Code;

- Habitability violations, including unsafe conditions in unpermitted second units

Our comment letters identify program options available to the City to mitigate and eliminate these barriers. The City should consider these options and incorporate them as appropriate into the Final Draft Housing Element if the City.

* * * * *

Thank you for your consideration of our comments. Please contact me with any questions or to find a time to discuss them in person.

Sincerely,

/s/

Ashley E. Werner
Leadership Counsel for Justice and Accountability

Cc: Mayor Ashley Swearingin
Jennifer Clark, Director, DARM
Sophia Pagoulatos, Planning Manager, DARM
Douglas Sloan, City Attorney
Paul McDougal, HCD
Tom Brinkhuis, HCD