



## Legislation Details (With Text)

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**Title:** HEARING to consider the adoption of Plan Amendment Application No. P19-04226 and related Final Program Environmental Impact Report (FPEIR), State Clearinghouse (SCH) # 2019050005. The following applications have been filed by the Planning and Development Department Director and pertain to the Planning Area of the City of Fresno:

1. REVIEW AND CONSIDER Final Program Environmental Impact Report (Draft PEIR SCH No. 2019050005 and Response to Comments Document), apply the Council's independent judgment and analyses to the review, and then adopt the resolution certifying the FPEIR including the GHG Reduction Plan set forth in Appendix G of the FPEIR, as having been completed in compliance with the California Environmental Quality Act (CEQA), based on the Planning Commission's recommendations on the proposed Final Program EIR and comments thereon.
  - a. ADOPT an appropriate Mitigation Monitoring and Reporting Program (MMRP) as required by Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097;
  - b. FIND that based upon testimony presented by staff, there are significant, unavoidable, environmental impacts which have not been mitigated to a level below significant. Therefore, the City Council should adopt the findings of fact and adopt an appropriate statement of overriding considerations pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15093; and
  - c. ADOPT the Greenhouse Gas Reduction Plan Update set forth in Appendix G, pursuant to CEQA Guidelines Section 15183.5(b).
2. APPROVE Plan Amendment Application No P19-04226 which requests authorization to amend the text of the Fresno General Plan Mobility and Transportation Element to add a Vehicle Miles Traveled policy consistent with California Senate Bill (SB) 743 and to revise policies and text relating to Level of Service (LOS) metrics to update applicability.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Draft Program Environmental Impact Report (Draft PEIR), 2. B - Response to Comments, 3. C - Mitigation Monitoring and Reporting Program, 4. D - Findings of Fact and Statement of Overriding Considerations, 5. E - Greenhouse Gas Reduction Plan Update, 6. F - Plan Amendment No. ID P19-04226, 7. G - Plan Amendment Findings, 8. H - Planning Commission Resolution, 9. I - EIR Certification Resolution, 10. J - Plan Amendment Resolution, 11. K - Power Point, 12. Additional Information - Email from Lisa Flores.pdf, 13. Additional Information - Public Comment from SMWlaw.pdf

Date	Ver.	Action By	Action	Result
8/20/2020	1	City Council		continued

### REPORT TO THE CITY COUNCIL

**August 20, 2020**

**FROM:** JENNIFER CLARK, Director  
Planning and Development Department

**THROUGH:** MIKE SANCHEZ, Assistant Director  
Long Range Planning Division

**BY:** SOPHIA PAGOULATOS, Planning Manager  
Long Range Planning Division

## **SUBJECT**

HEARING to consider the adoption of Plan Amendment Application No. P19-04226 and related Final Program Environmental Impact Report (FPEIR), State Clearinghouse (SCH) # 2019050005. The following applications have been filed by the Planning and Development Department Director and pertain to the Planning Area of the City of Fresno:

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  - a. ADOPT** an appropriate Mitigation Monitoring and Reporting Program (MMRP) as required by Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097;
  - b. FIND** that based upon testimony presented by staff, there are significant, unavoidable, environmental impacts which have not been mitigated to a level below significant. Therefore, the City Council should adopt the findings of fact and adopt an appropriate statement of overriding considerations pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15093; and
  - c. ADOPT** the Greenhouse Gas Reduction Plan Update set forth in Appendix G, pursuant to CEQA Guidelines Section 15183.5(b).
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## **EXECUTIVE SUMMARY**

In 2014 the City of Fresno adopted the Fresno General Plan and certified the accompanying Master Environmental Impact report (MEIR). In order to be in conformance with State law and consistent with recent legislative changes, the City has updated the MEIR and converted it to a Program EIR (PEIR). The update, consistent with Section 15168 of the CEQA Guidelines, is intended to streamline implementation of the General Plan's programs and projects by supporting them with updated environmental analysis, regulatory framework, and mitigation measures, pursuant to CEQA. Two major goals of updating the PEIR include complying with new legislation and updating the technical analyses to reflect the current baseline conditions of 2019. The PEIR also analyzes a text amendment to the Fresno General Plan Mobility and Transportation Element to add a Vehicle Miles Traveled (VMT) policy consistent with California Senate Bill (SB 743) and to revise policies and text

relating to Level of Service (LOS) metrics. No changes to land use or zoning are included in this project. This report will include background, EIR process, and findings.

## BACKGROUND

The key components of the requested actions are described below, followed by a summary of environmental impacts.

### Key Components of Requested Action

Environmental Impact Report. An “EIR” or “Environmental Impact Report” is a detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects. The term “EIR” may mean either a draft or a final EIR depending on the context. There are different types of EIRs which are used to analyze different types of projects, for example a Project EIR would analyze a single project, such as a large subdivision, whereas a Program EIR or a Master EIR could be used to analyze larger and more complex undertakings, such as a Specific Plan or a General Plan. The project under discussion involves updating the General Plan MEIR and converting it to a PEIR. The main reason for this is that the CEQA Guidelines Section 15179 stipulates that a Master EIR may be considered obsolete after 5 years if conditions have significantly changed, whereas a Program EIR has no such time limitation. Since the Master EIR for the General Plan was adopted at the end of 2014, the City seeks to ensure that the environmental analysis of the General Plan is current, and also prolong the life of the analysis by converting it to a PEIR. The Final PEIR consists of the Draft PEIR plus the Response to Comments document in which the City responds to all comments and proposes changes to the Draft PEIR as needed. Both of these documents are provided in Attachments A and B, respectively.

Project: In brief, the project being analyzed in the PEIR has two parts (for a fuller description, see Chapter 3 of the PEIR):

1. Update the EIR to conform with new state legislation adopted since 2014, and update the baseline for the continued implementation of the approved General Plan. Key local or state laws that have taken effect since 2014 include the Sustainable Groundwater Management Act (SGMA), Greenhouse Gas Emissions regulations, Vehicle Miles Traveled legislation, and Tribal Consultation rules. The City’s Greenhouse Gas Reduction Plan was updated as part of this current effort. The baseline for analyses was updated from 2014 to 2019.
2. Update text in the Mobility and Transportation Element of the General Plan to reflect changes in applicable regulations related to VMT. California Senate Bill SB 743 requires that VMT replace delay as the transportation metric under CEQA. In order to align General Plan policy with this new law, an additional policy is proposed in the Mobility and Transportation Element that affirms and clarifies that VMT is the new transportation metric starting in July of 2020.

Response to Comments (RTC) This document provides responses to comments on the Draft PEIR and makes revisions to the Draft PEIR, as necessary, in response to those comments or to make clarifications in the Draft PEIR. This document, together with the Draft PEIR, constitutes the Final EIR for the proposed project. Nine comment letters were received, and the letters and responses are contained in the RTC, which is provided in Attachment B.

Mitigation Monitoring and Reporting Program (MMRP) This document contains a table with the required mitigation measures contained in the PEIR, the responsible party or parties for implementing the measures, and the timing of implementation. The MMRP is contained in Attachment C.

Findings of Fact and Statement of Overriding Considerations When an EIR has been certified that identifies one or more significant environmental impacts, the approving agency must make one or more findings, accompanied by a brief explanation of the rationale, pursuant to CEQA Guidelines Section 15091, for each identified significant impact. These Findings are included in Attachment D.

Greenhouse Gas Reduction Plan Update As part of the General Plan update process that concluded in 2014, the City prepared a Greenhouse Gas Reduction Plan that was included as an appendix to the MEIR to inventory existing and projected greenhouse gases and establish targets to demonstrate consistency with AB 32 (California Global Warming Solutions Act of 2006). Strategies were proposed for existing development and future development in accordance with the General Plan to meet Greenhouse gas reduction targets established by AB 32. As part of the current update to the General Plan EIR and in response to new State legislation (SB 32), an update to the Greenhouse Gas Reduction Plan is included in Appendix G to the Draft PEIR, and for convenience, is also included as Attachment E to this staff report.

Plan Amendment Application No P19-04226 requests authorization to amend the text of the Fresno General Plan Mobility and Transportation Element to add a Vehicle Miles Traveled policy consistent with California Senate Bill (SB) 743 and to revise policies and text relating to Level of Service (LOS) metrics to update applicability. The new law also required adoption of VMT thresholds by July 1, 2020, which has already been completed. The Plan Amendment is provided in Attachment F.

## **Summary of Environmental Impacts**

Under CEQA, environmental impacts can be classified as either less than significant (LTS), less than significant with mitigation (LSM), or significant and unavoidable (SU). The environmental areas analyzed in the PEIR were found to have impacts as noted below:

### Less Than Significant

Energy  
Land Use  
Mineral Resources  
Population and Housing  
Wildfire

### Less Than Significant with Mitigation

Biological Resources  
Cultural Resources and Tribal Cultural Resources  
Geology and Soils  
Greenhouse Gas Emissions  
Hazards and Hazardous Materials

Hydrology and Water Quality  
Public Services and Recreation

Significant and Unavoidable *The conclusion of Significant and Unavoidable does not exempt the topic area from mitigation: to the contrary, mitigation is required in order to lessen the impact as much as possible. However the analysis included in the Draft PEIR indicates that, even with all feasible mitigation, some potential environmental impacts under the following topic areas would still be significant and unavoidable.*

Aesthetics  
Agriculture and Forestry  
Air Quality  
Noise  
Transportation  
Utilities and Service Systems

Comparison to MEIR While the PEIR has similar conclusions to the MEIR, there were some differences in mitigation measures, as described below:

- Agricultural Resources: PEIR added farmland preservation mitigation measure;
- Biological Resources: PEIR added refinements related to endangered species and habitat;
- Greenhouse Gas Emissions: PEIR added mitigation measure of compliance with updated GHG Reduction Plan;
- Noise: PEIR added a mitigation measure for vibration
- Utilities and Service Systems: PEIR added refinements related to water conveyance, water supply and endangered species and habitat.

## **PUBLIC INPUT AND NOTICING**

The City, as the lead agency under the CEQA, hired LSA Associates, Inc. to prepare the PEIR in November of 2018. The preparation of the PEIR followed the process prescribed by CEQA as described below:

**Notice of Preparation (NOP) and Scoping Meeting:** Upon the City's determination that a PEIR was required for this project, a NOP was made available to the general public, responsible, and trustee agencies to solicit input on issues of concern that should be addressed in the EIR. The NOP was issued on May 16, 2019 announcing a 30-day comment period and a scoping meeting to be held on May 21, 2019. Comment letters were received from several public agencies and private citizens and were incorporated into the Draft PEIR. Approximately 6 members of the public attended the scoping meeting. Outreach was as follows:

- NOP was provided in English and Spanish
- NOP mailed to 80 local, state and federal agencies, local organizations and stakeholders;
- NOP was mailed to the Office of Planning and Research State Clearinghouse;
- NOP notice was published in the Fresno Bee in English and Vida en el Valle in Spanish
- NOP was posted by the Fresno County Clerk for 30 days
- NOP was posted by the Fresno City Clerk for 30 days, including the public counter, website,

and City Hall bulletin boards.

**Draft Program Environmental Impact Report.** Upon completion of the Draft PEIR, the City issued a Notice of Availability (NOA) announcing the release of the document for a 45-day public comment period beginning March 6, 2020. Due to the COVID-related shelter-in-place order, the comment period was extended 15 days for a total of 61 days (March 6 - May 5, 2020). Nine comment letters were received. None of these comments contained new information that revealed any potentially new or more significant environmental impacts that could have required recirculation of the Draft PEIR pursuant to CEQA Guidelines Section 15088.5. Outreach for the Draft PEIR was the same as for the NOP, noted above.

**Final PEIR/Response to Comments:** The Final PEIR consists of the Draft PEIR plus the Response to Comments document in which the City must address all comments and possibly propose changes to the Draft PEIR if needed. After the close of the public review period for the Draft PEIR described above, the City prepared formal responses to the written comments received. CEQA Guidelines, Section 15088(b), requires the City's responses to comments to be provided to commenting public agencies 10 days prior to final certification of the FPEIR (by the City Council). Outreach for the Final PEIR/Response to Comments is described below:

- Response to Comments document was emailed to all commenters 30 days prior to Council action (not just public agencies required by CEQA);
- Availability of the FPEIR, including the Response to Comments document, was noticed in the Fresno Bee on July 10, 2020

The comments were mainly related to the following topic areas: Project Description, Biological Resources, Transportation, Hydrology and Water Quality, Water Supply, Air Quality, Energy, Population and Housing, and Land Use. In response to these comments, text changes or clarifications were made to the following sections of the PEIR: Project Description, Biological Resources, Hydrology and Water Quality, Transportation, and Utilities and Service Systems.

## **Tribal Consultation**

Per Government Code 65352.3, the City is required to notify local tribes of the opportunity to conduct consultation when amending the General Plan. Using a list provided by the Native American Heritage Commission on September 19, 2019, notification letters were sent to local tribes by certified mail on September 20, 2019. The City received no letters in response.

## **Planning Commission**

The Planning Commission considered the project on July 22, 2020 and unanimously recommended approval of staff recommendation. One member of the public, Shayda Azamian from Leadership Counsel for Justice and Accountability, spoke in opposition to the project, and no one spoke in favor. Concerns expressed were those described in the comment letter from the same organization. Staff responses are included in the Response to Comments document (Attachment B)

## Council District and Specific Plan Committees

Council District and Specific Plan Committees considered the project, with the recommendations described below:

Council District 1: Meeting scheduled for August 6, 2020

Council District 2: Meeting scheduled for August 10, 2020

Council District 3: Recommended approval at meeting held on July 28, 2020

Council District 4: Recommended approval at meeting held on July 27, 2020

Council District 5: Recommended approval at meeting held on July 27, 2020

Council District 6: Recommended approval of text amendment and expressed a concern about water quality at meeting held on August, 2020

Tower District DRC: Recommended approval at meeting held on July 28, 2020

Lowell Design Review Committee: recommended approval at meeting held on August 3, 2020

## ENVIRONMENTAL FINDINGS

The CEQA Statutes (California Public Resources Code [PRC] Sections 21000, et seq.) and Guidelines (California Code of Regulations [CCR] Sections 15000, et seq.) state that if it has been determined that a project may or will have significant impacts on the environment, then an EIR must be prepared. The EIR determined that the following significant and unavoidable impacts would occur as a result of continued implementation of the approved General Plan:

- Degradation of the existing visual character or quality of public views (also identified in MEIR)
- Increase in the amount of light and glare (also identified in MEIR)
- Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) (also identified in MEIR)
- Conflict with existing zoning for agricultural use or a Williamson Act contract (also identified in MEIR)
- Increase of criteria pollutants for which the project region is non-attainment under an applicable federal or State ambient air quality standards (also identified in MEIR)
- Expose sensitive receptors to substantial pollutant concentrations (also identified in MEIR)
- Generate a substantial ambient noise levels (also identified in MEIR)
- Conflict with Level of Service standards established by the approved General Plan.
- Require or result in the relocation or construction of new or expanded facilities for:
  - Water conveyance facilities (also identified in MEIR);
  - Water treatment facilities (also identified in MEIR);
  - Wastewater treatment facilities (also identified in MEIR);
  - Wastewater collection system facilities (also identified in MEIR); and
  - Expanded electric, natural gas, or telecommunications facilities.

Prior to approval of the project, the EIR must be certified pursuant to CEQA Guidelines Section 15090. When an EIR has been certified identifies one or more significant environmental impacts, the approving agency must make one or more of the following findings, accompanied by a brief explanation of the rationale, pursuant to CEQA Guidelines Section 15091, for each identified significant impact:

- a. Changes or alterations have been required in, or incorporated into, such project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- b. 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.
- c. 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.

CEQA Guidelines Section 15092 states that after consideration of an EIR, and in conjunction with making the Section 15091 findings identified above, the lead agency may decide whether or how to approve or carry out the project. A project that would result in a significant environmental impact cannot be approved if feasible mitigation measures or feasible alternatives can avoid or substantially lessen the impact.

However, in the absence of feasible mitigation, an agency may approve a project with significant and unavoidable impacts, if there are specific economic, legal, social, technological, or other considerations that outweigh the unavoidable adverse environmental effects. CEQA Guidelines Section 15093 requires the lead agency to document and substantiate any such determination in a “statement of overriding considerations” as a part of the record.

The requirements of CEQA Guidelines Sections 15091, 15092, and 15093 (as summarized above) are all addressed in the Findings of Fact and Statement of Overriding Considerations document provided in Attachment D.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the proposed project, staff concludes that the required findings of Section 15-5812 of the Fresno Municipal Code can be made. These findings are provided in Attachment G.

## **LOCAL PREFERENCE**

Local preference was not considered because this project does not include the award of a bid or a contract.

## **FISCAL IMPACT**

No impact to City finances would occur as a result of adopting the staff recommendation.

Attachments:

- A - Draft Program Environmental Impact Report (Draft PEIR)
- B - Response to Comments
- C - Mitigation Monitoring and Reporting Program
- D - Findings of Fact and Statement of Overriding Considerations
- E - Greenhouse Gas Reduction Plan Update
- F - Plan Amendment No. ID-19-04226
- G - Plan Amendment Findings
- H - Planning Commission Resolution
- I - EIR Certification Resolution
- J - Plan Amendment Resolution
- K - Power point