



Legislation Details (With Text)

**File #:** ID 22-1176    **Version:** 1    **Name:**

**Type:** Action Item    **Status:** Agenda Ready

**File created:** 7/14/2022    **In control:** Planning Commission

**On agenda:** 7/20/2022    **Final action:** 7/20/2022

**Title:** 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 15-510-E to the Fresno Municipal Code, and corresponding General Plan Text Amendment relating to mixed use development:

1. RECOMMEND ADOPTION (to the City Council), of a finding set forth in Environmental Assessment No. P22-02413 dated July 6, 2022, of a Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15168(d)
2. RECOMMEND APPROVAL (to the City Council) of Development Code Text Amendment Application 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 15-510-E to the Fresno Municipal Code, relating to mixed-use development
3. RECOMMEND APPROVAL (to the City Council) of General Plan Text Amendment Application No. P22-02413 amending Chapter 3, the Urban Form, Land Use, and Design Element, Table 3-1, and pages 3-41 and 3-42 consistent with the Development Code Text Amendment described above

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A: Project Location Map, 2. Exhibit B: Development Code Text Amendment No. P22-02413, 3. Exhibit C: General Plan Figure IM-1, Priority Areas for Development Incentives, 4. Exhibit D: General Plan Text Amendment No. P22-02413, 5. Exhibit E: Environmental Assessment No. P22-02413 [07-06-2022]

Date	Ver.	Action By	Action	Result
7/20/2022	1	Planning Commission	APPROVED	Pass

**REPORT TO THE PLANNING COMMISSION**

**July 20, 2022**

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

**BY:** SOPHIA PAGOULATOS, Planning Manager  
Planning and Development Department

**SUBJECT**

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 15-510-E to the Fresno Municipal Code, and corresponding General Plan Text Amendment relating to mixed use development:

- 1. RECOMMEND ADOPTION** (to the City Council), of a finding set forth in Environmental Assessment No. P22-02413 dated July 6, 2022, of a Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15168(d)
- 2. RECOMMEND APPROVAL** (to the City Council) of Development Code Text Amendment Application 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 15-510-E to the Fresno Municipal Code, relating to mixed-use development
- 3. RECOMMEND APPROVAL** (to the City Council) of General Plan Text Amendment Application No. P22-02413 amending Chapter 3, the Urban Form, Land Use, and Design Element, Table 3 -1, and pages 3-41 and 3-42 consistent with the Development Code Text Amendment described above

## EXECUTIVE SUMMARY

During the Budget Hearings in the fall of 2020, Councilmember Esparza made a motion for the hopper, seconded by Councilmember Soria and approved unanimously, “to allocate \$150K for [a] focused EIR to assess increasing the density in all mixed use districts: CMS, CR, CMX, NMX, and RMX”. As a part of the budget reconciliation and approved FY2021 budget, \$150,000 was appropriated for this purpose. The included districts are: Neighborhood Mixed-use (NMX), Corridor/Center Mixed-use (CMX), Regional Mixed-use (RMX), Commercial-Regional (CR), and Commercial-Main Street (CMS)-see Project Location Map, **Exhibit A**. The purpose of this motion was to enhance flexibility, increase housing construction, and allow for more investment in particular along the City’s high capacity transit corridors.

Subsequent to the budget motion, Precision Engineering was selected as the result of an RFQ process to prepare the environmental assessment for the text amendment, which was prepared by staff.

The proposed text amendment (see **Exhibit B**), known as the Mixed-use Text Amendment (MUTA) would (1) remove the maximum density for zone districts that allow mixed-use; (2) modify the restriction that prohibits ground floor residential uses in mixed-use districts so that only corner properties along arterials with Bus Rapid Transit (BRT) stops will have mandated commercial uses; and (3) allow ministerial approval of multi-family residential uses in mixed-use districts within the City’s Priority Areas for Development (areas identified on Figure IM-1 in the Fresno General Plan, **Exhibit C**). MUTA would not revise other property development standards contained in the FMC. All height, parking, landscaping, fencing and setback requirements would remain unchanged. To maintain General Plan consistency, the project would remove the maximum residential densities of the corresponding land uses in the General Plan Urban Form, Land Use and Design Element, **Exhibit D**.

## BACKGROUND / ANALYSIS

The Fresno General Plan sets out a vision for urban form that calls for roughly half of all new development to be infill development. It also calls for a mix of housing types and affordability levels, complete neighborhoods, and complete streets. To support these goals, transit corridors were designated that include mixed-use land use and zoning along their frontages. However, since the adoption of the General Plan in 2014, only one mixed-use project has been completed along a transit corridor: The Link, at the southwest corner of Blackstone and McKinley Avenues. In contrast, several mixed-use projects have been completed Downtown. One of the reasons for this contrast in development production is that downtown zoning does not include density limits and it provides for ministerial approval of compliant projects.

MUTA would provide those same advantages to the city's mixed-use corridors and sites, so that high quality investment in housing can be made citywide, in support of the General Plan goals described above.

Another factor that supports the need for MUTA is the Housing Crisis Act of 2019. Senate Bill ("SB") 330 is a housing-related bill that went into effect on January 1, 2020, and will remain in effect through January 1, 2025. One of the provisions of this legislation includes limitations wherein an affected City (which includes the City of Fresno) cannot change land use or zoning designations, nor alter the intensity of existing land use designations or zone districts, in a manner that reduces housing capacity below the capacity that was available on January 1, 2018; unless, there is a concurrent increase of capacity elsewhere within the city (i.e. corresponding up-zone) that ensures there is no net loss of housing capacity.

MUTA would provide an additional capacity of 21,762 housing units needed to offset housing capacity reductions proposed in several projects in Fresno. The overall effect of this offset would be transferring housing capacity from the periphery of the city to its mixed-use corridors and sites, upholding the General Plan goals noted earlier in the report of infill, complete communities, and housing choice and affordability.

### Summary of MUTA

Development Code Text Amendment Application No. P22-02413 proposes to:

1. Remove the maximum density limits of 16, 30 and 45 dwelling units per acre, respectively in the Neighborhood Mixed-Use, Corridor/Center Mixed Use and Regional Mixed-Use districts respectively, in Table 15-1103 and remove the maximum density limit of 16 dwelling units per acre in the Commercial-Regional and Commercial-Main Street districts in Tables 15-1202 and 15-1203.
2. Modify the restriction in Table 15-1102 that prohibits ground floor residential uses along street frontages in mixed-use districts so that:
  - a. Only properties within 200 feet of an intersection of two or more major streets must have ground floor retail, however main building entrances and active community spaces of a residential use are excepted, and Director is given discretion to require only one retail frontage if a property has two such frontages.

- b. The required frontage of Active Uses Adjacent to Sidewalks in Section 15-1104-A (1) is reduced from the current 200 feet in each direction to 100 feet in each direction of an existing or planned Bus Rapid Transit station.
3. Allow ministerial approval of multi-family residential uses in mixed-use and select commercial districts through the following additions and revisions to the code:
    - a. Section 15-1106 is added, which defines the “applicable environmental assessments” that mixed-use projects must comply with, from the programmatic level (such as the General Plan Program EIR) to project-level. This section also includes a prohibition on the overburdening of existing or planned infrastructure capacities and defines the infrastructure thresholds that must be met.
    - b. Table 15-4907, Planning Permits and Actions is amended to include housing in Mixed-Use and Commercial Districts (that comply with all provisions of the Code) to the Zone Clearance / Ministerial Approval category.
    - c. Subsection E is added to Section 15-5102, related to the Applicability of Zone Clearances, to require all of the following for ministerial approval of housing in Commercial or Mixed-Use Districts:
      - i. Site must be located with a NMX, CMX, RMX, CMS, or CR district.
      - ii. Site must be located within the City’s Priority Areas for Development (areas identified on Figure IM-1 in the Fresno General Plan).
      - iii. No historic resources or potential historic resources are located on the site; and
      - iv. Project must provide adequate City services to serve the site in accordance with all relevant standards required pursuant to Section 15-1106 and applicable environmental assessments prepared pursuant to CEQA.

General Plan Text Amendment No. P22-02413 proposes to:

1. Amend Chapter 3, the Urban Form, Land Use, and Design Element, in the following ways:
  - a. Amend Table 3-1, Citywide Standards for Density and Development Intensity, to remove the density limits in the NMX, CMX, and RMX land use designations
  - b. Amend text on pages 3-41 and 3-42 to make corresponding changes in the text that describes those land use designations

### Airport Land Use Commission

The Fresno County Airport Land Use Commission (ALUC) will consider the proposed text amendment on August 1, 2022.

### Council District Project Review Committees

#### Council District 1

On July 5, 2022, the Council District 1 Project Review Committee voted to recommend approval of the first two components of MUTA: 1) removal of density limits in mixed-use zones and 2) reduction of retail requirements, however the committee did not support the third provision of allowing ministerial approval.

Council District 2

On July 11, 2022, the Council District 2 Project Review Committee voted to recommend approval of MUTA by a 3-0 vote.

Council District 3

On July 12, 2022, the Council District 3 Project Review Committee voted to recommend approval with the condition that Item 1 (removal of density limits in mixed-use zones) is approved subject to increasing the minimum residential density limitations by 10 percent; approve Item 2 (reduction of retail requirements) and remove Item 3 (ministerial approval).

Council District 4

The Council District 4 Project Review Committee is currently inactive.

Council District 5

On July 11, 2022, the Council District 5 Project Review Committee voted to recommend approval of the first two components of MUTA: 1) removal of density limits in mixed-use zones and 2) reduction of retail requirements, however the committee did not support the third provision of allowing ministerial approval.

Council District 6

The Council District 6 Project Review Committee is scheduled to consider the item at its July 18, 2022 meeting. A report will be provided by staff at the Planning Commission meeting.

Council District 7

The Council District 7 Project Review Committee is currently inactive.

Lowell

On July 11, 2022, the Lowell District Advisory Committee voted 3-1 to recommend approval of the proposed text amendment.

Tower District

On July 12, 2022, the Tower District Advisory Committee was scheduled to meet but did not have a quorum.

## ENVIRONMENTAL FINDINGS

The environmental analysis contained in the Initial Study and Mitigated Negative Declaration No. P22-02413 (**Exhibit E**) is tiered from Program Environmental Impact Report (EIR) SCH No. 2019050005 prepared for the Fresno General Plan and Development Code Update (PEIR). The Project has been determined to be a subsequent project that is not fully within the scope of PEIR SCH No. 2019050005 prepared for the Fresno General Plan.

Pursuant to Public Resources Code Section 21094 and California Environmental Quality Act (CEQA)

Guidelines Section 15168(d), this Project has been evaluated with respect to each item on the attached environmental checklist to determine whether this project may cause any additional significant effect on the environment which was not previously examined in the PEIR.

This completed environmental impact checklist form and its associated narrative reflect applicable comments of responsible and trustee agencies and research and analysis conducted to examine the interrelationship between the proposed project and the physical environment. The information contained in the Project application and its related environmental assessment application, responses to requests for comment, checklist, initial study narrative, and any attachments thereto, combine to form a record indicating that an initial study has been completed in compliance with the State CEQA Guidelines and the CEQA.

All new development activity and many non-physical projects contribute directly or indirectly toward cumulative impacts on the physical environment. It has been determined that the incremental effect contributed by this Project toward cumulative impacts is not considered substantial or significant, and/or that cumulative impacts accruing from this project may be mitigated to less than significant with application of feasible mitigation measures.

Based upon the evaluation guided by the environmental checklist form, it was determined that there are no foreseeable substantial impacts from the Project that are additional to those identified in the Fresno General Plan PEIR, after the incorporation of project-specific mitigation measures in the Mitigation Monitoring and Reporting Program. The completed environmental checklist form indicates whether an impact is potentially significant, less than significant with mitigation, less than significant, or no impact.

For some categories of potential impacts, the checklist may indicate that a specific adverse environmental effect has been identified which is of sufficient magnitude to be of concern. Such an effect may be inherent in the nature and magnitude of the Project or may be related to the design and characteristics of the individual project. Effects so rated are not sufficient in themselves to require the preparation of an EIR and have been mitigated to the extent feasible. With the Project-specific mitigation imposed, there is no substantial evidence in the record that this Project may have additional significant, direct, indirect, or cumulative effects on the environment that are significant and that were not identified and analyzed in the Fresno General Plan PEIR. Both the PEIR Mitigation Monitoring and Reporting Program and the Project-specific Mitigation Monitoring and Reporting Program will be imposed on this Project.

The Initial Study has concluded that the Project will not result in any adverse effects which fall within the "Mandatory Findings of Significance" contained in Section 15065 of the CEQA Guidelines. The finding is, therefore, made that the Project will not have a significant adverse effect on the environment.

## **FRESNO MUNICIPAL CODE FINDINGS**

The Planning Commission shall not recommend, and the City Council shall not approve an application unless the proposed amendment meets the following criteria, as set forth in Fresno Municipal Code section 15-5811:

1. The Code text amendment is consistent with the General Plan, the Fresno County Airport Land Use Compatibility Plan, and any applicable operative plans; and

*Response:* Each project applying for ministerial approval under the proposed text amendment will be individually reviewed and assessed for consistency with the General Plan, the Fresno County Airport Land Use Compatibility Plan, the underlying base zone district, and any applicable specific or community plans. Text Amendment Application No. P22-02413 has been examined with respect to its consistency with the Fresno General Plan, including the Housing Element and applicable operative plans and it was concluded that Text Amendment Application No. P22-02413 is consistent with said plans.

2. The amendment is consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general welfare.

*Response:* The purpose of the proposed text amendment is to remove barriers to the development of mixed-use projects in existing zone districts that allow mixed use, thereby upholding the Development Code. Encouraging mixed-use development in zone districts that allow mixed use is sustainable, because most of these sites have access to high quality transit, which will reduce vehicle miles traveled and greenhouse gas emissions. This, in turn, supports public health, safety, peace comfort and general welfare. The proposed text amendment was routed to responsible agencies, including the Fresno Police Department, Fresno Fire Department, and all school districts within City limits, for comment regarding its impacts to public health, safety, peace, comfort, and general welfare. No such impacts were identified thus it can be concluded that Text Amendment Application No. P22-02413 is consistent with the purpose of the Development Code.

## **PUBLIC NOTICE**

### Notice of Planning Commission Hearing

Pursuant to the requirements of Fresno Municipal Code section 15-5806 (and 15-5007.D), notice of this public hearing was published in the *Fresno Bee* on July 8, 2022, which is at least 10 days prior to the public hearing. Section 15-5007-D allows the posting of a public hearing notice, in at least one newspaper of general circulation, as an alternative noticing method for large mailings.

### Additional Outreach

June 23, 2022: The text amendment was discussed at a Kings Canyon Transit Oriented Development Workshop. The workshop was attended by approximately 16 residents and business owners along the Kings Canyon Corridor.

July 6, 2022: A Notice of Intent to adopt a Mitigated Negative Declaration for MUTA was published in the *Fresno Bee*, posted at the City and County Clerk offices and on-line, and emailed to over 500 stakeholders. This noticed announced a 30-day comment period on the Mitigated Negative Declaration.

July 18, 2022: A webinar on MUTA is scheduled. Input received will be summarized at the Planning Commission meeting. The invitation was emailed to over 500 stakeholders.

## **CONCLUSION**

The appropriateness of the proposed development code and general plan text amendments have been examined with respect to consistency with stated goals of the Fresno General Plan and consistency with the purpose of the Development Code. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon completion of this evaluation, it can be concluded that Text Amendment Application No. P22-02413 is appropriate.

### **Attachments:**

- Exhibit A: Project Location Map
- Exhibit B: Development Code Text Amendment No. P22-02413
- Exhibit C: General Plan Figure IM-1, Priority Areas for Development Incentives
- Exhibit D: General Plan Text Amendment No. P22-02413
- Exhibit E: Environmental Assessment No. P22-02413 [07-06-2022]