



## Legislation Details (With Text)

**File #:** ID17-1061    **Version:** 1    **Name:**

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

**File created:** 7/24/2017    **In control:** Planning Commission

**On agenda:** 8/2/2017    **Final action:**

**Title:** Consideration of Text Amendment Application No. TA-17-002 and related Environmental Finding for Environmental Assessment No. TA-17-002, to modify zoning and use regulations for California Redemption Value (CRV) Recycling Centers within the City of Fresno

1. RECOMMEND APPROVAL (to the City Council) of the Finding of No Possibility of Significant Adverse Effect as prepared for Environmental Assessment No. TA-17-002 dated July 26, 2017.

2. RECOMMEND APPROVAL (to the City Council) of Text Amendment Application No. TA-17-002, to modify zoning and use regulations for California Redemption Value (CRV) Recycling Centers within the City of Fresno.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A, 2. Exhibit B, 3. Exhibit C, 4. Exhibit D, 5. Exhibit E, 6. Exhibit F, 7. Exhibit G

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
|------|------|-----------|--------|--------|

## REPORT TO THE PLANNING COMMISSION

**August 2, 2017**

**FROM:** MIKE SANCHEZ, Assistant Director  
Development and Resource Management Department

**THROUGH:** BONIQUE EMERSON, Planning Manager  
Development Services Division

**BY:** ISRAEL TREJO, Planner  
Development Services Division

### SUBJECT

Consideration of Text Amendment Application No. TA-17-002 and related Environmental Finding for Environmental Assessment No. TA-17-002, to modify zoning and use regulations for California Redemption Value (CRV) Recycling Centers within the City of Fresno

**1. RECOMMEND APPROVAL** (to the City Council) of the Finding of No Possibility of

Significant Adverse Effect as prepared for Environmental Assessment No. TA-17-002 dated July 26, 2017.

2. **RECOMMEND APPROVAL** (to the City Council) of Text Amendment Application No. TA-17-002, to modify zoning and use regulations for California Redemption Value (CRV) Recycling Centers within the City of Fresno.

## EXECUTIVE SUMMARY

Text Amendment Application No. TA-17-002 was initiated pursuant to Fresno City Council Resolution No. 2016-263 (Exhibit A) and proposes to amend subsection (B) of Section 15-2750 of the Fresno Municipal Code (FMC), relating to CRV Recycling Centers. The text amendment to the Citywide Development Code proposes to modify zoning and use regulations for California Redemption Value (CRV) Recycling Centers within the City of Fresno (Exhibit B). As noted in Resolution No. 2016-263, Council District Offices have received complaints about CRV Recycling Centers interfering with the quiet enjoyment of nearby residents, transients “hanging out” as they become intoxicated and leave litter behind. Businesses located in the City have also called to express concern about the negative impact CRV Recycling Centers have on them. In addition to this, the Fresno Police Department has received over 260 calls for service at CRV Recycling Centers between June 1, 2016 and December 15, 2016. As such, the City Council desires to formally address CRV Recycling Centers within the Development Code. The proposed text amendment changes include, but are not limited to the following: limit CRV Recycling Centers to certain areas within industrial zoned property and within the permitted footprint of a business subject to California Public Resources Code section 14571.6; require minimum distances between certain uses, including other CRV Recycling Centers; and require that existing CRV Recycling Centers comply with the proposed text amendment either 6 months or 1 year from the effective date of the ordinance, depending on if the facility is located within a temporary or permanent structure, after which the operator must file a new entitlement application (Conditional Use Permit) to lawfully operate after the grace period.

## ENVIRONMENTAL FINDING

An environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of the project proposal for comment from other responsible or affected agencies.

The State Guidelines for the implementation of the California Environmental Quality Act provide for the exemption of projects which will have no potential for causing a significant effect on the environment. More specifically, Section 15061 (b) (3) of the CEQA Guidelines states: “...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The City of Fresno has determined that a Finding of No Possibility that the project will have impacts on the environment pursuant to Section 15061(b) (3) of the CEQA Guidelines is appropriate for the proposed text amendment. Given that the proposed text amendment will only modify application processing, locational restrictions and operational requirements of existing establishments, and further refine the already limited locations where new CRV Recycling Centers may locate, the revisions will not result in a significant change to the physical environment. Individual establishments that require a new Conditional Use Permit are subject to CEQA review at the time of application submittal.

## **BACKGROUND / ANALYSIS**

Text Amendment Application No. TA-17-002 was initiated pursuant to Fresno City Council Resolution No. 2016-263 (Exhibit A) and proposes to amend subsection (B) of Section 15-2750 of the Fresno Municipal Code (FMC), relating to CRV Recycling Centers. The proposed text amendment changes include, but are not limited to the following: limit CRV Recycling Centers to certain areas within industrial zoned property and within the permitted footprint of a business subject to California Public Resources Code section 14571.6; require minimum distances between certain uses, including other CRV Recycling Centers; and require that existing CRV Recycling Centers comply with the proposed text amendment either 6 months or 1 year from the effective date of the ordinance, depending on if the facility is located within a temporary or permanent structure, after which the operator must file a new entitlement application (Conditional Use Permit) to lawfully operate after the grace period.

### **Issues related to CRV Recycling Centers**

The issues associated with CRV Recycling Centers have been ongoing for over 10 years. Issues related to the siting and operation of these facilities has been raised by advisory committees, Councilmembers, the police department, and the community at large. These issues include crime at the CRV Recycling Centers that often spreads into adjacent neighborhoods, theft of recyclable beverage containers from recycling and trash bins, visual blight, and overconcentration of these facilities. The City regularly receives complaints from the public about CRV Recycling Centers interfering with the quiet enjoyment of nearby residents, and transients “hanging out” as they become intoxicated and leaving their litter behind. In addition, the Fresno Police Department has received over 260 calls for service at CRV Recycling Center locations within the City between June 1, 2016 and December 15, 2016, further demonstrating the need to tighten the standards and regulations related to CRV Recycling Centers.

### **Summary of Text Amendment**

Text Amendment Application No. TA-17-002 proposes a revision to the existing section of the Citywide Development Code that places special conditions on CRV Recycling Centers. As proposed, the proposed text amendment includes:

1. Restrict the use to industrial zone districts and within the permitted footprint of a business subject to California Public Resources Code section 14571.6.
2. Increase the separation requirement between CRV Recycling Centers and residential uses, parks, schools, other CRV Recycling Centers and existing Recycling Processing Facilities that accepts CRV material.
3. Remove all references to temporary structures given that as proposed the use may now only be established within a permanent building.
4. Require compliance for existing CRV Recycling Centers. If located in a permanent structure, the operator will have a one year grace period from the effective date of the ordinance to comply with the proposed text amendment. If located in a temporary structure, the operator will have a six month grace period from the effective date of the ordinance to comply with the proposed text amendment. The operator must file a new entitlement application (Conditional Use Permit) to lawfully operate after the grace period.

## **State of California - Department of Resources Recycling and Recovery**

The State of California, Department of Resources Recycling and Recovery (CalRecycle), provided a letter dated March 21, 2017, to DARM in response to the request for comment sent on the proposed project (Exhibit C). In their letter, CalRecycle explains that state law prohibits payments to cities that pass or enforce ordinances prohibiting the siting of recycling centers at supermarket sites. Furthermore, the letter explains that at proposed text amendment would prohibit at least one supermarket recycling center from operating. In 2016, the City of Fresno received over \$330,000 in payments through the Beverage Container Recycling Program that the City may no longer be eligible for in the future if the proposed ordinance is adopted.

Secondly, the letter explains that if recycling centers close in Fresno, it may reduce opportunities for Fresno residents to redeem their recyclables.

Lastly, the letter explains that if convenience zones in Fresno are not served by recycling centers, beverage retailers (i.e. supermarkets with over \$2 million in annual gross sales) in the newly unserved zones will be required to redeem CRV in-store or pay a \$100 fee per day to CalRecycle.

### **Stakeholder Meeting**

A meeting to discuss the proposed text amendment with stakeholders and other interested parties was held on March 30, 2017. The purpose of the meeting was to inform interested parties of the proposed text amendment and to receive comments. In response to this meeting, three letters were received, including on April 3, April 13 and June 4, 2017, and are attached as Exhibits D, E and F, respectively.

### **Airport Land Use Commission**

The Fresno County Airport Land Use Commission (ALUC) reviewed the proposed text amendment on April 3, 2017. The ALUC voted unanimously to recommend approval of the proposed text amendment.

### **Council District Advisory Committees**

The recommendations of the Council District Plan Implementation Committees are as noted below.

#### **Council District 1**

On April 4, 2017, the Council District 1 Plan Implementation Committee voted 1-0 to recommend denial of the proposed text amendment. It is noted that there was no quorum at this meeting; however, it has been difficult for this committee to achieve a quorum due to low attendance. The reasons given for recommending denial were that the operation and location restrictions should be more reasonable and consistent with State of California rules and regulations related to CRV Recycling Centers.

#### **Council District 2**

On July 17, 2017, the Council District 2 Plan Implementation Committee voted 4-0 to recommend approval of the proposed text amendment.

### Council District 3

There is no Council District 3 Plan Implementation Committee at this time.

### Council District 4

On March 27, 2017, the Council District 4 Plan Implementation Committee voted 5-0 to recommend approval of the proposed text amendment.

### Council District 5

On March 27, 2017, the Council District 5 Plan Implementation Committee voted 1-0 to recommend approval of the proposed text amendment. It is noted that there was no quorum at this meeting; however, it has been difficult for this committee to achieve a quorum due to low attendance.

### Council District 6

There is no Council District 6 Plan Implementation Committee at this time.

### Council District 7

There is no Council District 7 Plan Implementation Committee at this time.

### Fulton-Lowell

On July 17, 2017, the Fulton-Lowell Advisory Committee decided to not make a recommendation on the text amendment but instead to express concern that it might run afoul of State of California recycling mandates.

### Tower District

On April 4, 2017, the Tower District Advisory Committee voted 3-0 to recommend approval of the proposed text amendment with the recommendation that the following separation requirements not be included, including, one mile from residential uses, two miles from parks and two miles from schools.

## **Development Code Text Amendment Findings**

The Planning Commission shall not recommend and the City Council shall not approve an application unless the proposed amendment meets the following criteria:

1. The Code text amendment is consistent with the General Plan and any applicable operative plans; and

*Response:* Text Amendment Application No. TA-17-002 has been examined with respect to its consistency with the Fresno General Plan and applicable operative plans and it was concluded that Text Amendment Application No. TA-17-002 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:* As noted in Fresno City Council Resolution No. 2016-263, Council District Offices have received complaints about CRV Recycling Centers interfering with the quiet enjoyment of nearby residents, transients “hanging out” as they become intoxicated and leave litter behind, business located in the City have called to express concern about the negative impact CRV Recycling Centers have on them and the Fresno Police Department has received over 260 calls for service at CRV Recycling Centers between June 1, 2016 and December 15, 2016. As such, the amendment is consistent with the purpose of the Development Code.

## **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 21, 2017, 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.

A courtesy email was sent on July 24, 2017, notifying various interested parties and stakeholders of the Planning Commission hearing.

## **CONCLUSION**

The appropriateness of the proposed text amendment has been examined with respect to its consistency with stated goals of the Fresno General Plan; compatibility with surrounding existing and proposed uses; and avoidance or mitigation of potentially significant adverse environmental impacts. 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. TA-17-002, is appropriate.

### **Attachments:**

- Exhibit A: Fresno City Council Resolution No. 2016-263
- Exhibit B: Text Amendment No. TA-17-002 amending Subsection (B) of Section 15-2750 of the FMC
- Exhibit C: State of California, Department of Resources Recycling and Recovery (CalRecycle), letter dated March 21, 2017
- Exhibit D: Stakeholder letter dated April 3, 2017
- Exhibit E: Stakeholder letter dated April 13, 2017
- Exhibit F: Stakeholder letter dated June 4, 2017
- Exhibit G: Finding of No Possibility of Significant Adverse Effect as prepared for Environmental Assessment No. TA-17-002 dated July 26, 2017