



## Legislation Details (With Text)

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**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 15-5102-E to the Fresno Municipal Code, and corresponding General Plan Text Amendment relating to mixed-use development:

1. ADOPT 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. APPROVE 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 15-5102-E to the Fresno Municipal Code, relating to mixed-use development, with staff corrections as recommended by Planning Commission on July 20, 2022
3. APPROVE General Plan Text Amendment Application No. P22-02413 amending Chapter 3, the Urban Form, Land Use, and Design Element of the Fresno General Plan, 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:**

| Date      | Ver. | Action By    | Action | Result |
|-----------|------|--------------|--------|--------|
| 8/11/2022 | 1    | City Council | TABLED |        |

## REPORT TO THE CITY COUNCIL

**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 15-5102-E to the Fresno Municipal Code, and corresponding General Plan Text Amendment relating to mixed-use development:

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## RECOMMENDATION

Planning Commission recommends that the City Council adopt Environmental Assessment P22-02413 and approve General Plan and Development Code Text Amendment No. P22-02413 with staff corrections.

## EXECUTIVE SUMMARY

On October 14, 2020, the Fresno City Council unanimously adopted a budget motion proposed by Council Member Esparza to allocate \$150,000 for an environmental assessment to analyze increasing the density in all zone districts that allow mixed-use: 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 facilitate economically feasible and high-quality development called for in the Fresno General Plan along transit corridors, and to address the need for housing.

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 at the intersection of two or more major streets and properties near Bus Rapid Transit (BRT) stops will have mandated active uses; and (3) allow ministerial approval of residential uses in districts that allow mixed-use within the City's Priority Areas for Development (areas identified on Figure IM-1 in the Fresno General Plan, **Exhibit C**). The proposed Development Code Text Amendment would not revise other property development standards contained in the FMC. All height, parking, landscaping, fencing and setback requirements would remain unchanged. In addition, the project would remove the maximum residential densities of the corresponding land uses in the General Plan Urban Form, Land Use and Design Element to maintain consistency (see **Exhibit D**).

## BACKGROUND

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, very little mixed-use development has occurred along the city's mixed-use corridors. A notable exception is The Link, a recent 88-unit mixed-use project 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 is that downtown zoning does not include density limits, and it provides for ministerial approval of residential projects.

The Mixed-Use Text Amendment 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 prohibits cities from changing land use or zoning designations, 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 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, housing choice and affordability, and multi-modal transportation.

## 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, 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 commercial uses, however main building entrances and active community spaces of a residential use are excepted, and Director is given discretion to require only one commercial 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 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.
- d. Project must comply with all applicable requirements of the Fresno County Airport Land Use Compatibility Plan (staff correction approved by Planning Commission).

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) considered the proposed text amendment on August 1, 2022. The Commission found the application to be consistent with the requirements of the Airport Land Use Compatibility Plan by a 6-0-1 vote.

## **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 the proposed text amendment: 1) removal of density limits in mixed-use zones and 2) reduction of ground floor commercial requirements, and denial of the third provision of allowing ministerial approval by a 5-0-2 vote.

### Council District 2

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

### Council District 3

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

### 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 the proposed text amendment: Item 1) removal of density limits in mixed-use zones, approval of Item 2) reduction of ground floor commercial requirements, and denial of Item 3 (ministerial approval) by a 2-0-1 vote.

### Council District 6

The Council District 6 Project Review Committee voted to recommend approval of the proposed text amendment by a 6-0 vote.

### 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 19, 2022, the Tower District Design Review Committee voted to recommend approval of the proposed text amendment by a 6-0 vote.

## **Planning Commission**

The Planning Commission considered the applications at its regular meeting of July 20, 2022, and unanimously recommended approval with staff corrections noted below:

1. Section 5102-E-6-d amended as follows to ensure both CEQA and infrastructure standards are required:
  - d. Can provide adequate City services to serve the site in accordance with all relevant standards required pursuant to applicable environmental assessments prepared pursuant to CEQA ~~or~~ **and** standards listed below (from Section 15-1106 of this Code).
2. Section 5102-E-6 amended as follows to add subsection “e” to ensure compliance with

the Fresno County Airport Land Use Compatibility Plan:

**e. Project must comply with all applicable requirements of the Fresno County Airport Land Use Compatibility Plan.**

At the hearing, one member of the public spoke in support of the application, and one spoke in opposition.

## **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

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 **Exhibit F**.

## PUBLIC NOTICE

### Notice of Planning Commission and City Council Hearings

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, for the Planning Commission hearing and on July 29, 2022, for the City Council hearing, which is at least 10 days prior to the public hearings. 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. The notices were also posted on the City's website and emailed to stakeholders pursuant to the City's requirements.

### 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. The participants were supportive of the text amendments.

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 was held with 25 members of the public in attendance. The webinar invitation was emailed to over 500 stakeholders. Input received included:

- Requests for more affordable housing
- Questions about how design review would occur with a ministerial approval process.
- Questions about potential disproportionate burden of mixed-use projects in southwest and southeast Fresno.
- Concerns about insufficient infrastructure
- Suggestion to reduce parking requirements in mixed use zones as another incentive to

invest in these zones

### Written Comments

The following written comment letters have been received and are included in **Exhibit G:**

### Text Amendment

July 20, 2022: Letter from Keith Bergthold, Fresno Metro Ministry; Jessica Berzac, Upholdings expressing general agreement with the purpose of the text amendment to incentivize development within the City's mixed-use corridors, but also significant concern that infrastructure requirements would still be required of individual development projects rather than be the responsibility of the city through capital improvements projects. The letter was provided to the Planning Commission for its consideration.

*Staff Response:* Nothing in the text amendment would preclude the City Council from taking actions requested in the letter related to infrastructure financing.

### Environmental Assessment

July 12, 2022: Email from William Secrest, Jr. on behalf of the Fresno County Historic Landmarks Commission stating concurrence with the analysis and mitigation measures of the Cultural Resources section of the environmental assessment.

*Staff Response:* Comment Noted

July 26, 2022: Letter from Gavin McCreary, M.S. Department of Toxic Substances Control recommending that additional actions be taken to address potential hazardous materials.

*Staff Response:* Staff is currently analyzing the letter for consistency with current requirements.

## **LOCAL PREFERENCE**

N/A because proposed action does not involve procurement.

## **FISCAL IMPACT**

No impact to General Fund.

## **Attachments:**

- Exhibit A: Project Location Map
- Exhibit B: Development Code Text Amendment Application (P22-02413)
- Exhibit C: Priority Areas for Development Incentives
- Exhibit D: General Plan Text Amendment (P22-02413)
- Exhibit E: Environmental Assessment No. P22-02413 [07-06-2022]
- Exhibit F: Fresno Municipal Code Findings
- Exhibit G: Comment Letters
- Exhibit H: Planning Commission Resolution
- Exhibit I: City Council Resolution
- Exhibit J: Presentation



