



Legislation Details (With Text)

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Title: ***BILL B-4 (Intro'd March 7, 2024)(For Adoption) - Amending Section 4304 of Chapter 15 of the Fresno Municipal Code relating to the language of the required findings for approval of tentative map amendments from "and" to "or." (Subject to Mayor's Veto)
Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. Exhibit A - Director Initiation Letter [12-12-2023], 2. Exhibit B - Text Amendment Application No. P23-03987 amending Section 15-4304 of the FMC, 3. Exhibit C - Environmental Assessment No. P23-03987 [12-27-2023], 4. Exhibit D - Planning Commission Resolution No. 13828

Date	Ver.	Action By	Action	Result
3/21/2024	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

FROM: JENNIFER CLARK, Director
Planning & Development Department

BY: ROB HOLT, Supervising Planner
Planning & Development Department

SUBJECT

***BILL B-4 (Intro'd March 7, 2024)(For Adoption) - Amending Section 4304 of Chapter 15 of the Fresno Municipal Code relating to the language of the required findings for approval of tentative map amendments from "and" to "or." (Subject to Mayor's Veto)

RECOMMENDATION

1. ADOPT a finding set forth in Environmental Assessment No. P23-03987 dated December 27, 2023, that Text Amendment Application No P23-03987 is exempt from the California Environmental Quality Act (CEQA) pursuant to the commonsense exemption that it can be seen with certainty that there is no possibility of significant adverse effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3).
2. APPROVE Bill (for introduction) - Text Amendment Application No. P23-03987 amending Section 4304 of Chapter 15 of the Fresno Municipal Code relating to the language of the required findings for approval of tentative map amendments from "and" to "or."

EXECUTIVE SUMMARY

Text Amendment Application No. P23-03987 was initiated by the Planning and Development Director through the Director Initiation Letter dated December 12, 2023 (**Exhibit A**).

Fresno Municipal Code (FMC) Section 15-4304 describes the findings for tentative parcel and tentative tract map revisions. Currently, FMC Section 15-4304 requires that the Review Authority not amend the approved Tentative Map or Tentative Parcel Map or conditions of approval unless it finds that: 1) There was a material mistake of fact in the deliberations leading to the original approval; and 2) There has been a change of circumstances related to the original approval. The City of Fresno is requesting authorization to amend FMC Section 15-4304 changing the word “and” to the word “or.”

Fresno City Planning Commission Action

On February 21, 2024, the Planning Commission considered the item as presented by staff. No members of the public spoke in opposition or support of the project. After a complete hearing, the Planning Commission voted and recommended the City Council approve the text amendment and related environmental finding. The Planning Commission Resolution (**Exhibit D**) is attached for more information.

BACKGROUND

Fresno Municipal Code (FMC) Section 15-4304 describes the findings for tentative parcel and tentative tract map revisions. Currently, FMC Section 15-4304 requires that the Review Authority not amend the approved Tentative Map or Tentative Parcel Map or conditions of approval revisions of tentative parcel and tract maps ensure unless it finds that: 1) There was a material mistake of fact in the deliberations leading to the original approval; and 2) There has been a change of circumstances related to the original approval. The City of Fresno is requesting authorization to FMC Section 15-4304 changing the word “and” to the word “or.”

City staff recommends amending Section 15-4304 (**Exhibit B**) as follows:

- A. The Review Authority shall not amend the approved Tentative Map or Tentative Parcel Map or conditions of approval unless it first finds that:
 - 1. There was a material mistake of fact in the deliberations leading to the original approval; and or;
 - 2. There has been a change of circumstances related to the original approval.

This text amendment is proposed because it would be difficult to approve a revision to any subdivision map based on the finding of “There was a material mistake of fact in the deliberations leading to the original approval.” The only way to make this finding is if the Review Authority made a mistake of fact during the original approval of the project.

The change from “and” to “or” allows for further flexibility in the findings to allow for revisions to occur, such as relocating street stub alignments to what was originally approved. Although conditions of approval can also be requested to be revised, Fresno Municipal Code (FMC) Section 15-4302.B requires that a revision to conditions of approval be consistent with the intent of the original Tentative Map or Tentative Parcel Map approval and there are no resulting violations of the Municipal Code. Any proposed revisions would be reviewed by the applicable departments, such as Public Works, to determine if the proposed revision is consistent with the intent of the original map approval and that

the revision does not result in the violation of the Municipal Code.

Council District Project Review Committees

The recommendations of the Council District Project Review Committees are as noted below.

Council District 1

On January 11, 2024, the Council District 1 Project Review Committee recommended that the word “circumstances” within Sec. 15-4304.A.2 be defined, that public disclosure and dialogue about major revisions for subdivisions are included, and that further criteria is defined for revisions that would require a new subdivision application instead of an application for a minor or major revision.

Staff Response: As described above, FMC Section 15-4302.B requires that a revision to conditions of approval be consistent with the intent of the original Tentative Map or Tentative Parcel Map approval and there are no resulting violations of the Municipal Code. Any proposed revisions would be reviewed by the applicable departments, such as Public Works, to determine if the proposed revision is consistent with the intent of the original map approval and that the revision does not result in the violation of the Municipal Code. As described below, the text amendment was noticed pursuant to the FMC and is being heard by the Planning Commission and City Council, thus public disclosure and dialogue is provided.

Council District 2

On January 8, 2024, the Council District 2 Project Review Committee voted 4-0 to recommend approval of the proposed text amendment.

Council District 3

On January 23, 2024, the Council District 3 Project Review Committee voted 3-0 to recommended approval of the proposed text amendment.

Council District 4

On January 4, 2024, the Council District 4 Project Review Committee voted 4-0 to recommended approval of the proposed text amendment.

Council District 5

On January 24, 2024, the Council District 5 Project Review Committee voted 3-0 to recommend approval of the proposed text amendment.

Council District 6

On February 12, 2024, the Council District 6 Project Review Committee did not provide any recommendations to the proposed text amendment.

Council District 7

There is no Council District 7 Project Review Committee at this time.

Airport Land Use Commission

Text Amendment Application No. P23-03987 was heard by the Fresno County Airport Land Use Commission (ALUC) on February 5, 2024. The ALUC voted to recommend approval of the project, 5 votes in favor to 0 votes in opposition.

Development Code Text Amendment Findings

Pursuant to Section 15-5811 of the Fresno Municipal Code, 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,
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 public health, safety, peace, comfort, and general welfare.

The proposed text amendment is consistent with the General Plan because the amendment results in further flexibility of revisions to subdivisions. The proposed text amendment is consistent with the Development Code to promote the growth of the city in an orderly and sustainable manner, and promote and protect public health, safety, peace, comfort, and general welfare because the amendment results in further flexibility of revisions to subdivisions.

ENVIRONMENTAL FINDINGS

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 (**Exhibit C**) 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 change the word "and" to the word "or".

Notice of City Council Hearing

Pursuant to the requirements of Fresno Municipal Code Section 15-5806 and 15-5007.D, notice of this public hearing was noticed to all school districts within the City of Fresno limits and published in the *Fresno Bee* on February 9, 2024.

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. P23-03987 is appropriate.

LOCAL PREFERENCE

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

FISCAL IMPACT

Affirmative action by the Council will result in a timely deliverance of the review and processing of the application as is reasonably expected by the applicant. Prudent financial management is demonstrated by the expeditious completion of this land use application inasmuch as the applicant has paid to the City a fee for the processing of this application and that fee is, in turn, funding the respective operations of the Planning and Development Department.

Attachments:

- Exhibit A - Director Initiation Letter [12-12-2023]
- Exhibit B - Text Amendment Application No. P23-03987 amending Section 15-4304 of the FMC
- Exhibit C - Environmental Assessment No. P23-03987 [12-27-2023]
- Exhibit D - Planning Commission Resolution No. 13828
- Exhibit E - Ordinance Bill (Text Amendment Application No. P23-03987)