



Inter Office Memo

ATTENTION: FOR FINAL ACTION OR MODIFICATION TO OR ADDITION OF CONDITIONS, SEE FINAL BOARD OF SUPERVISORS' ACTION SUMMARY MINUTES.

DATE: March 24, 2022

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12929 - AMENDMENT TO TEXT NO. 381 AND ENVIRONMENTAL REVIEW NO. 8041

APPLICANT: County of Fresno

STAFF CONTACT: Chris Motta, Principal Planner

REQUEST: Amendment to Text No. 381 modifying the text of the Fresno County Zoning Ordinance to address programs identified in the Fifth Cycle Housing Element (Program 10), recent litigation, and state mandated modifications related to Health and Safety Code Sections 17008, 17021.5, 17021.6 and 17021.8 for employee housing.

PLANNING COMMISSION ACTION:

At its hearing of July 15, 2021, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Woolf and seconded by Commissioner Chatha to recommend that the Board of Supervisors approve Amendment to Text (AT) No. 381 as presented by staff modifying the text of the Fresno County Zoning Ordinance to address programs identified in Program 10 of the Fifth Cycle Housing Element, addressing recent litigation, and addressing state mandated modifications related to Health and Safety Code Sections 17008, 17021.5, 17021.6 and 17021.8 for employee and farmworker housing finding that the restrictions on Farmworker Housing Complexes set forth in Section 855-O(3)(f) protect the health, and welfare of residents of Farmworker Housing Complexes and other residents and visitors of the zoning district; and recommend the Board of Supervisors determine that the recommended actions are exempt from the California Environmental Quality Act.

This motion passed on the following vote:

VOTING: Yes: Commissioners Woolf, Chatha, Abrahamian, Arabian, Hill, Zante
 No: None
 Absent: Commissioners Carver and Ewell
 Abstain: None

STEVEN E. WHITE, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: 
William M. Kettler, Manager
Development Services and Capital Projects Division

EXHIBIT A

AMENDMENT TO TEXT NO. 381
ENVIRONMENTAL REVIEW NO. 8041

Commission: The Fresno County Planning Commission considered the Staff Report dated March 24, 2022 and heard a summary presentation by staff.

Staff: A County staff member made a presentation before the Planning Commission describing the need for adoption of AT 381 and offered the following information to clarify the County's effort:

- The proposed changes will assist in implementing Program 10 of the Fifth Cycle Housing Element.
- Changes proposed are associated with employee housing which would address certain programs imposed by the California Department of Housing and Community Development and recent litigation.
- Amendments to the Zoning Ordinance consist of modifications or deletion of definitions associated with employee housing; deletion of reference to Farmworker Housing Complexes in the Exclusive Agriculture and Limited Agriculture Zone districts; and deletion of reference to Farmworker Dwelling Units in the Limited Agriculture District.
- The proposed text amendment would also amend Zoning Ordinance Section 855 (Property Development Standards) to provide a listing of where Farmworker Housing Complexes may occur and revise the density and development standards for complexes to permit compliance with State Law and recent litigation.
- Staff is also proposing a limited number of additional modifications based on recent discussions with a community advocacy organization.

Others: A member from County Counsel's Office representing the County in ongoing litigation related to this text amendment provided the following additional information:

- This proposal arises out of existing litigation requiring the County to implement certain Housing Element programs, specifically Program 10, which obligates the County to make changes to the County of Fresno Zoning Ordinance as required by State law, including changes to address employee housing.

- The underlying litigation was filed in late 2018 and the court issued its writ of mandate on March 17, 2020; the writ is an order from the court to compel a jurisdiction to take a certain action; based on this there is little discretion to not adopt the proposed changes.
- The court itself took some of petitioner's arguments in their briefing and the underlying litigation in crafting the writ of mandate to compel the County to take the action before you today.
- The County has had ongoing discussions with the advocacy group involved with the litigation and this is how we arrived at the current ordinance language.
- The underlying statute is complex and difficult to define; compliance is challenging as the statute requires this type of unique housing anywhere where agriculture is used, and it states that jurisdictions must treat this specialized statutory housing like in agricultural use.
- We are post judgment, so the issuance of the writ is a matter of public record, and the litigation is essentially final; the petitioner is no longer disputing the underlying claims.
- Changing the term from farmworker to employee is a product of state law; the specific statutory code section 17021.6 references employee housing and 17008 defines employee housing, which is any employee regardless of industry, so to comply with State law there are these two competing theories between employee and agricultural employee.
- Regarding restrictions to grant funding, it's conceivable that a project proponent could amend their grant to utilize employee housing for farmworkers.
- Under the Employee Housing Act, any operator or individual that wants to construct employee housing needs to get a permit to operate from HCD; they are the enforcing agency and would be issuing permits to operate; the County would still retain some enforcement authority given the housing is in our jurisdiction, but you would have that oversight with HCD present.

No other individuals presented information in support of or in opposition to the requested applications.

Correspondence: No correspondence was received regarding this item.