



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 11:00 a.m.
COUNCIL MEETING: 12-2-10

December 2, 2010

APPROVED BY

John M. Dugan
DEPARTMENT DIRECTOR

CITY MANAGER

[Signature]

FROM: JOHN M. DUGAN, AICP, Director
Development and Resource Management
Department

PATRICK N. WIEMILLER, Director
Public Works Department

[Signature]

THROUGH: KEVIN FABINO, Planning Manager
Development Services Division

[Signature]

SCOTT L. MOZIER, PE, City Engineer / Assistant Director
Public Works Department

[Signature]

BY: SOPHIA PAGOULATOS, Supervising Planner
Development and Resource Management Department

[Signature]

SUBJECT: CONSIDERATION OF TEXT AMENDMENT APPLICATION NO. TA-10-003
AND RELATED ENVIRONMENTAL FINDING FOR ENVIRONMENTAL
ASSESSMENT NO. EA-10-003

RECOMMENDATION

The appropriateness of the proposed text amendment has been examined pursuant to Section 12-402, and the Director has determined that the proposed text amendment is consistent with the goals and policies in the 2025 Fresno General Plan.

Upon consideration of staff evaluation, it can be concluded that proposed Text Amendment Application No. TA-10-003 is appropriate for the project area. Therefore, staff recommends the City Council take the following actions:

1. APPROVE the environmental finding of exemption from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) of the CEQA Guidelines which exempts projects that clearly will have no significant effect on the environment.
2. APPROVE Text Amendment Application No. TA-10-003.

EXECUTIVE SUMMARY

The proposed text amendment increases the efficiency of the administration of the Urban Growth Management (UGM) program for the purpose of eventual consolidation of the 44 existing UGM oversized sewer service area funds into a single UGM oversized sewer fund. The Fresno Municipal Code (Section 12-4.502-C (3) currently requires that any changes in UGM area boundaries be noticed pursuant to FMC Sections 12-401-C, which in turn calls for mailing public notices to all

property owners within the affected territory. The proposed text amendment would modify the code to exempt from this noticing requirement any UGM boundary changes that would have no fiscal impact on property owners and where developers' future reimbursements would not be impacted. Public notice would still be required at least once in a newspaper of general circulation. The text amendment would result in cost savings of approximately \$50,000 to the City of Fresno and would facilitate more timely payment of reimbursements to developers.

ENVIRONMENTAL FINDING

This project is exempt from environmental review under Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines as a project for which there is no possibility of causing a significant effect on the environment. The proposed text amendment would change City of Fresno administrative procedures for UGM boundary changes, and would likely result in use of less paper and other resource savings. Therefore the project has been determined to have no possibility of causing a significant impact on the environment.

BACKGROUND / ANALYSIS

On July 14, 1960, the Council adopted an ordinance to require payment of an oversize sewer charge, meaning a fee for the right to connect to existing sewer facilities, with said fee to be used to pay the additional cost of constructing or reconstructing public sewers larger than eight inches in diameter but less than thirty inches in diameter. The purpose of the oversize sewer charge is to provide a funding mechanism for sewer mains of 10 to 27 inches in diameter.

While the developer has the obligation to pay for the eight inch main along their own street frontage, a developer is often required to construct a sewer main that is larger than eight inches to provide the necessary capacity for other developments upstream or in the vicinity. The developer is able to then obtain reimbursement for the oversize in accordance with the Master Fee Schedule.

When the Urban Growth Management (UGM) program began in the 1970's, it was determined that the oversize sewer charges for the UGM area would be segregated from the non-UGM areas.

In the mid-1980's, the Public Works Department further refined the administration of the oversize sewer program by setting up 44 oversize sewer service areas, each with its own fund. Oversize sewer charges in each of the 44 service areas were deposited into their separate service area funds and a UGM reimbursement list was also created for each of the service areas. However, the oversize sewer charge remained a single fee.

Staff has evaluated the current system and will recommend in a subsequent action that the Council consolidate the 44 oversize sewer service areas into a single oversize sewer fund for the UGM area. It is important to emphasize that the UGM sewer charge has always been a single fee not tied to these 44 service areas and that no changes in the Master Fee Schedule or nexus analysis are required.

Currently, there are UGM service areas in which facilities have been constructed and the developer has been placed on the eligible reimbursement list for that service area, but there is no

oversize sewer revenue within that specific service area fund in which to reimburse the eligible developer. Conversely, there are a number of oversize sewer service areas in which there is a fund balance with no developer waiting for reimbursement. The sum total of all eligible developer reimbursements for oversize sewer is \$380,454.48 whereas the combined fund balance for the 44 areas is \$2,031,000.

Text Amendment TA-10-003 will help to resolve these types of inefficiencies in the UGM program by streamlining the public noticing requirements for UGM boundary changes with no fiscal impact to property owners.

LAND USE PLANS AND POLICIES

The most relevant objectives and policies of the various plans that pertain to the project are discussed below:

2025 Fresno General Plan

Sewer Objective E-18: *Ensure provision for adequate trunk sewer and collector main capacities to serve existing and planned urban development and economic diversification, including existing developed uses not presently connected to the public sewer system consistent with the Wastewater Master Plan.*

The proposed text amendment would make administration of the UGM program more efficient by eliminating public notice mailing requirements when there is no fiscal impact to property owners. This in turn facilitates more timely reimbursement of UGM funds to developers, which supports the overall goal of provision of adequate sewer facilities.

PUBLIC NOTICE

In accordance with Fresno Municipal Code Section 12-402-B, a notice of hearing was published in the Fresno Bee on November 12, 2010, exceeding the requirement for noticing 10 days prior to the city council hearing date. No comments have been received to date.

FRESNO PLANNING COMMISSION

The Fresno Planning Commission held a duly noticed public hearing on October 27, 2010. At that hearing the Commission received a written and oral report by staff and received public testimony. One letter of opposition was submitted from HEAT (attached). Using their independent judgment the Planning Commission voted unanimously to recommend approval to the City Council the Text Amendment Application No. TA-10-003 and Environmental Assessment No. EA-10-003, dated September 14, 2010.

AIRPORT LAND USE COMMISSION

The Airport Land Use Commission considered the text amendment application at their regularly meeting on October 4, 2010. The Commission voted unanimously to approve the application.

FISCAL IMPACT OF RECOMMENDATION

The Public Works Department has estimated that the text amendment would result in savings to the City of Fresno of approximately \$50,000 in mailing costs for the future proposed consolidation of the Oversize Sewer UGM service areas.

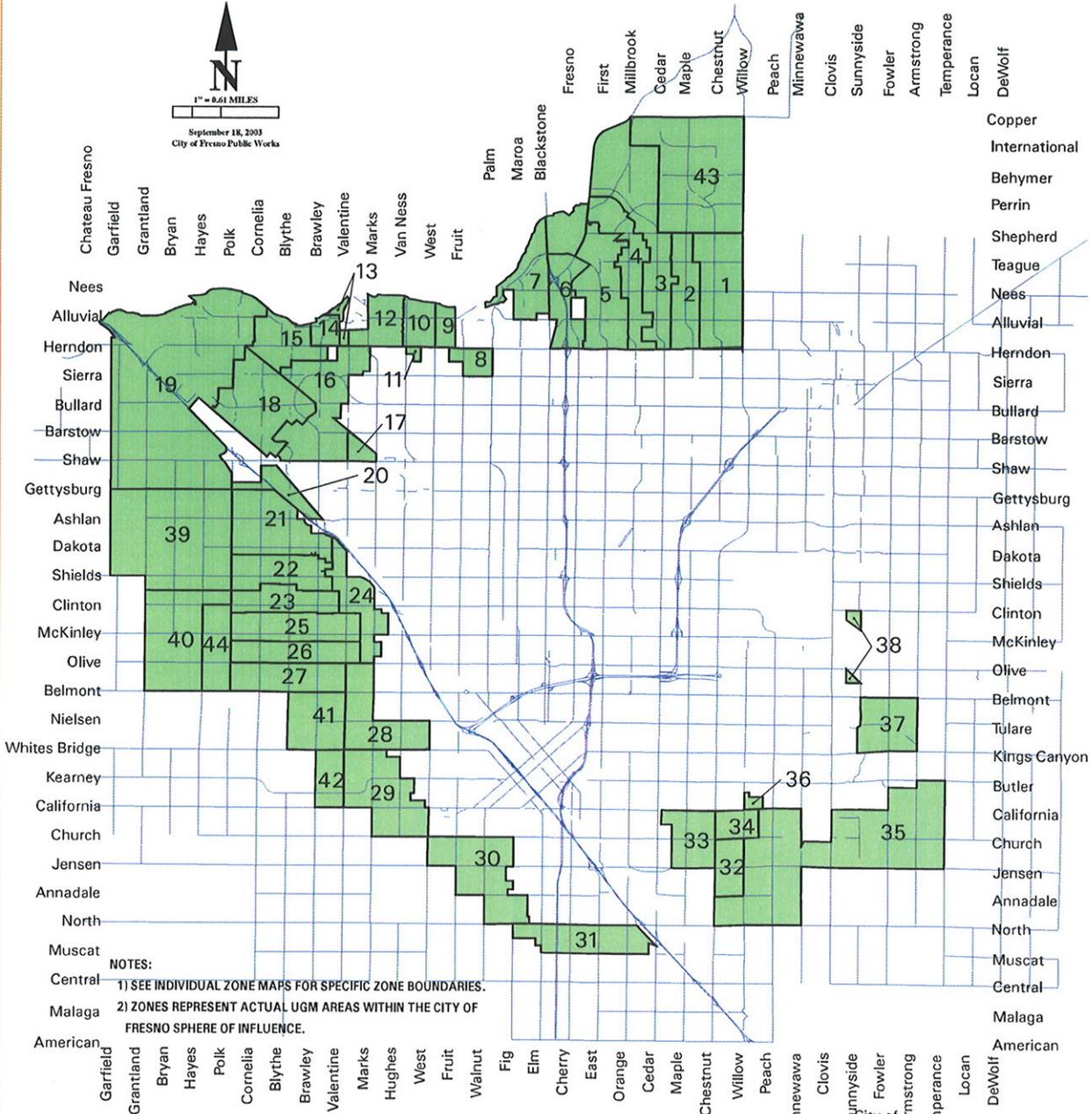
CONCLUSION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the 2025 Fresno General Plan and the Fresno Municipal Code. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Text Amendment Application No. TA-10-003 appropriately amends the Fresno Municipal Code in order to streamline the public notice requirements for UGM service area boundary changes when there are no fiscal impacts to property owners or developers.

Attachments:

- Exhibit A: UGM Service Area Map
- Exhibit B: Planning Commission Resolution No. 13041
- Exhibit C: Letter of opposition from HEAT dated October 20, 2010
- Exhibit D: An Ordinance Amending Subsection 3 of Section 12-4.502-C of the Fresno Municipal Code ...
- Exhibit E: Environmental Assessment No. EA-10-003, dated September 14, 2010

OVERSIZE SEWER SERVICE AREAS URBAN GROWTH MANAGEMENT



NOTES:
1) SEE INDIVIDUAL ZONE MAPS FOR SPECIFIC ZONE BOUNDARIES.
2) ZONES REPRESENT ACTUAL UGM AREAS WITHIN THE CITY OF FRESNO SPHERE OF INFLUENCE.

PUBLIC WORKS DEPARTMENT / Technical Services



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Exhibit A

**FRESNO CITY PLANNING COMMISSION
RESOLUTION NO. 13041**

The purpose of this Resolution is to memorialize the decision of the Fresno City Planning Commission, at its regular meeting on October 27, 2010, whereby the Planning Commission considered Text Amendment Application No. TA-10-003 and Environmental Assessment EA-10-003.

WHEREAS, on September 14, 2010, the Development and Resource Management Director initiated proceedings to consider amending the text of the Zoning Ordinance, pursuant to the provisions of Section 12-402-A of the Fresno Municipal Code (FMC); and,

WHEREAS, Text Amendment Application No. TA-10-003 proposes to amend Section 12-4.502-C (3) of the Fresno Municipal Code related to the Urban Growth Management (UGM) Program in order to streamline the public notice requirements for changes in UGM boundaries when such changes have no fiscal impact on property owners within the boundary area; and

WHEREAS, on October 27, 2010, the Fresno Planning Commission conducted a public hearing to consider the Text Amendment Application No. TA-10-003; and,

WHEREAS, at that hearing the Commission received a staff report and a presentation from staff, and no testimony in support and one letter from H.E.A.T. in opposition to the proposed amendment; and,

WHEREAS, the Planning Commission reviewed Environmental Assessment No. EA-10-003, prepared for this text amendment, dated September 14, 2010, and is satisfied that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b) (3) of the CEQA Guidelines which exempts projects for which it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and,

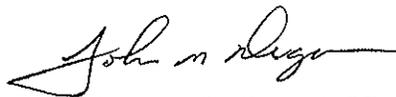
NOW, THEREFORE, BE IT RESOLVED that the Fresno City Planning Commission finds that there is no substantial evidence in the record to indicate that the proposed text amendment may have a significant effect on the environment and recommends the City Council approve the Finding of Categorical Exemption under Section 15061 (b) (3) of the CEQA Guidelines dated September 14, 2010.

BE IT FURTHER RESOLVED that the Fresno City Planning Commission hereby recommends to the City Council that the proposed Text Amendment Application No. TA-10-003, amending Section 12-4.502-C (3) of the Fresno Municipal Code related to the Urban Growth Management (UGM) Program, be approved.

The foregoing Resolution was adopted by the Fresno City Planning Commission upon a motion by Commissioner Medina, second by Commissioner Dawar; motion carried (M/S/C, 6-0-1).

VOTING: Ayes - Medina, Dawar, Caprioglio, Hansen-Smith, Vasquez, Holt
 Noes - None
 Not Voting - None
 Absent - Torrosian

DATED: October 27, 2010



JOHN M. DUGAN, AICP, Secretary
Fresno City Planning Commission

Resolution No. 13041
Text Amendment Application No. TA-10-003
Filed by Development and Resource Management Department
Action: Recommend Approval

The H.E.A.T for SouthWest Fresno Community

(Hope Effort Appropriately Thriving)

P O Box 12571

Fresno, CA 93778

e-mail: HEATSWFC@aol.com

October 20, 2010

City of Fresno
Development and Resource Management Dept.
Fresno City Hall
2600 Fresno St.
Fresno, CA 93721

Attn: Sophia Pagoulatos

Re: Text Amendment No. TA-10-003

The public notice regarding the Text Amendment No. TA-10-003 was published in the Fresno Bee on October 15, 2010.

HEAT for SW Fresno Community objects to the amending of Subsection 3 of Section 12-4.405-C reducing the public notice requirements for UGM boundary changes, regardless of whether or not a new UGM fee would be imposed or affect the reimbursement of fees pursuant to Section 12-4.504-C. This will not allow those affected by the boundary changes an opportunity to voice their concerns. This is a real concern because of the possible use of CDBG funds that require community input.

Sincerely,

Members of HEAT for the SW Fresno Community

RECEIVED
OCT 20 2010
Planning Division
Development and Resource Management Dept.
CITY OF FRESNO

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SUBSECTION 3 OF SECTION 12-4.502-C
RELATING TO ACTION ON RECOMMENDATIONS FOR
URBAN GROWTH MANAGEMENT AREAS

SECTION 1. Subsection 3 of Section 12-4.502-C of the Fresno Municipal Code is amended to read:

3. Action on Recommendation. The Director's recommendation against any proposed change initiated pursuant to subsection 4 of Section 12-401-A shall be final unless the applicant appeals such recommendation to the Council pursuant to the provisions of Section 12-401-H. All other recommendations by the Director shall be set, noticed, and heard by the Council pursuant to the provisions of Sections 12-401-B, 12-401-C, 12-401-D, and 12-401-E. [The provisions of Section 12-401-C-2 and C-3 regarding the mailing and posting of the notice shall not apply when the proposed change will not impose a new or increase in UGM fees or affect the reimbursement of such fees pursuant to Section 12-4.504-C] At the conclusion of the hearing, Council shall approve, modify or disapprove the Director's recommendation by resolution. The Council's action shall be final.

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SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2010.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2010
Mayor Approval/No Return: _____, 2010
Mayor Veto: _____, 2010
Council Override Vote: _____, 2010

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: 
Tei Yukimoto
Sr. Deputy

TY:pn[51884pn/ORD]-rev. 12/18/09

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. TA-10-03**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 5 OF THE STATE CEQA GUIDELINES.

APPLICANT: City of Fresno
2600 Fresno Street
Fresno, CA 93721

PROJECT LOCATION: City of Fresno

PROJECT DESCRIPTION: A text amendment amending subsection 3 of section 12-4.502-C of the Fresno Municipal Code, creating an exception to the legal requirement of mailing notices to all affected owners of property when changes to the zoning ordinance will not increase or impose a new urban growth management fee or affect reimbursement of fees.

This project is exempt under Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) Guidelines which exempts projects which will clearly have no significant effect on the environment.

EXPLANATION: Section 15061 (b) (3) of the CEQA Guidelines states that "...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 proposed text amendment would reduce the city's requirements for the mailing of public notices under certain circumstances in which an adjustment to a UGM area boundary would have no effect on the amount of UGM fee paid. The text amendment would cause an administrative change; there is no physical construction component of the project. Therefore, it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment.

Date: September 14, 2010

Prepared By: Sophia Pagoulatos, Supervising Planner

Submitted By:



City of Fresno
Development and Resource Management Department
(559) 621-8062