City of FRESNO

REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 2A
COUNCIL MEETING 02-14-13
APPROVED BY
MS *DEPARTMENT DIRECTOR*
Mark Scott *CITY MANAGER*

February 14, 2013

FROM: MIKE SANCHEZ, Planning Manager
Planning Division

SUBJECT: CONSIDERATION OF TEXT AMENDMENT APPLICATION NO. TA-13-001 AND RELATED ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. TA-13-001 RELATING TO TERMINATION OF RIGHTS FOR SPECIAL PERMITS

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-13-001 is appropriate for the project area. Therefore, staff recommends the Planning Commission take the following actions:

1. RECOMMEND APPROVAL to the City Council of 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. RECOMMEND APPROVAL to the City Council of Text Amendment Application No. TA-13-001.

EXECUTIVE SUMMARY

Text Amendment No. TA-13-001 proposes to amend Section 12-405-B-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permits that are discontinued from one to three years within specified areas.

Currently, when a particular use has been granted through a special permit (Site Plan Review or conditional use permit) and has become discontinued for a period of one year, all rights therein have been ceased. A proprietor wishing to have the same use would then be subject to a filing a new application and payment of all appropriate fees. Under the proposed text amendment, the termination of rights as a result of a vacant operation will be extended from one year to three years.

BORDERING PROPERTY INFORMATION

City-wide application.

ENVIRONMENTAL FINDING

The State Guidelines for the implementation of the California Environmental Quality Act provide for the exemption of projects which will clearly have no significant effects on the environment. More specifically, Section 15061(b) (3) of the State 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."

It has been determined that there is no possibility of significant adverse effects as a result of this proposal.

PUBLIC NOTICE

In accordance with Fresno Municipal Code Section 12-402-B, a notice of hearing was published in the Fresno Bee on January 25, 2013, 10 days prior to the planning commission hearing date. No comments have been received by staff.

BACKGROUND/ANALYSIS

Text Amendment No. TA-13-001 proposes to amend Section 12-405-B-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permits that are discontinued from one to three years within specified areas. This proposal will limited to those areas located outside planning boundaries set forth by the Airport Land Use Commission (ALUC). The attached maps show the planning boundaries for the established airports within the City of Fresno.

Currently, when a particular use has been granted through a special permit (site plan review or conditional use permit) and has become discontinued for a period of one year, all rights therein have been ceased. A proprietor wishing to have the same use would then be subject to a filing a new application and payment of all appropriate fees. Under the proposed text amendment, the termination of rights as a result of a vacant operation will be extended from one year to three years for those areas outside the established planning boundaries of local airports.

The most common occurrence of expired special permits involve restaurants with alcohol related CUP's or used car lots. Staff has been aware of several instances where a vacant facility was fast approaching its one year deadline only to have prospective tenants be turned away due to financial constraints and timing. The extension from one to three years is viewed as an opportunity for potential investors to explore options plan accordingly and not be constrained to finite period.

PLANNING COMMISSION ACTION

On February 6, 2012, the Fresno City Planning Commission considered this matter and after a full and complete hearing resolved to recommend approval of Text Amendment Application No. TA-13-001 by a vote of 7 to 0.

Conclusion

Staff believes that the proposed text amendment is in the best interest of the City of Fresno. Staff supports Text amendment No. TA-11-001 as proposed in the attached Draft Ordinance.

Attachments:	Exhibit A:	Environmental Assessment No. EA-13-01, dated January 25, 2013
	Exhibit B:	Proposed Text Amendment
	Exhibit C:	Ordinance Bill

CITY OF FRESNO
ENVIRONMENTAL FINDING OF NO POSSIBILITY OF SIGNIFICANT EFFECT
ENVIRONMENTAL ASSESSMENT NO. EA-13-01

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO HAVE NO SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 5 OF THE STATE OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES

APPLICANT: Mark Scott
Development and Resource Management
2600 Fresno Street, 3rd Floor
Fresno, CA 93721

PROJECT LOCATION: City limits of Fresno excepting therefrom the established planning boundary areas of Fresno-Yosemite International, Fresno-Chandler Executive, and Sierra Skypark airports areas as adopted by the Fresno County Airport land Use Commission.

PROJECT DESCRIPTION: Environmental Assessment No. EA-13-01 pertains to Text Amendment No. TA-13-001 which proposes to amend Section 12-405-B-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permits that are discontinued from one to three years within specified areas. This proposal will limited to those areas located outside planning boundaries set forth by the Airport Land Use Commission (ALUC).

This project is exempt under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: 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.

Text Amendment No. TA-13-001 proposes to amend Section 12-405-B-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permits that are discontinued from one to three years within specified areas. This proposal will limited to those areas located outside planning boundaries set forth by the Airport Land Use Commission (ALUC). Applicants that comply with the proposed text amendment would have already conducted the necessary environmental review. Therefore, staff has determined that a no possibility of significant effect is appropriate for the proposed project.

Date: January 25, 2013

Prepared By: Mike Sanchez
Planner Manager

Submitted By: _____
Mike Sanchez
Planning Manager
City of Fresno
Development and Resource Management Department
(559) 621-8277

Exhibit A

SECTION 12-405-D TERMINATION OF RIGHTS. A special permit, and all rights granted therein, shall be considered terminated when either of the following occur:

1. Failure to commence the exercise of rights as required by Section 12-405-C.
2. Whenever the rights granted by a conditional use permit are discontinued for a continuous period of one year. [However, for conditional use permits granted outside the planning boundary established by the Airport Land Use Commission pursuant to California Public Utilities Code Section 21675, as may be amended, the conditional use permit shall be considered terminated whenever the rights granted by that permit are discontinued for a period of three years.]

City of Fresno

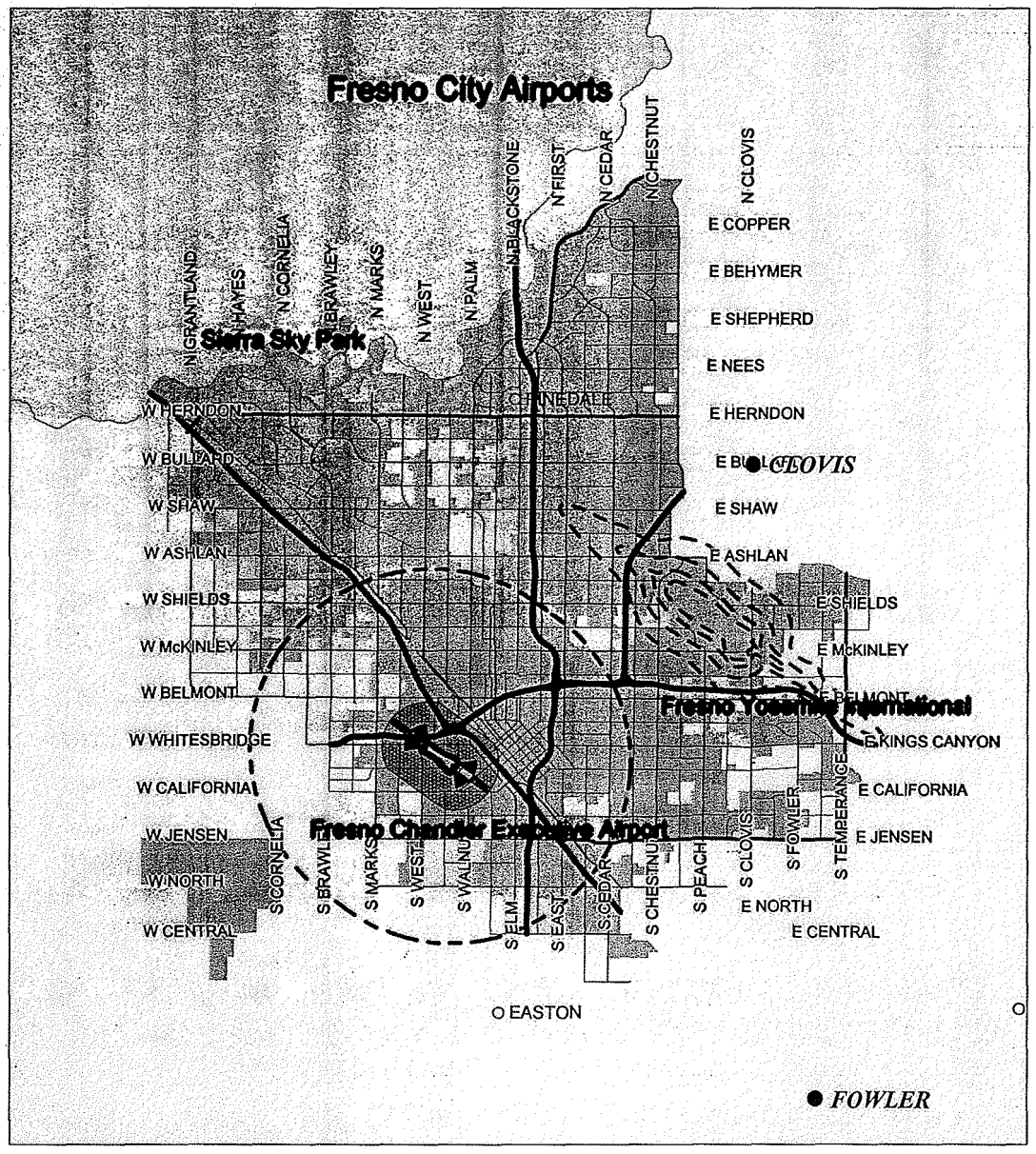
User Drawn Redlines

Fresno

- Incorporated Cities
- Unincorporated Cities

Airports

- City Limits
- Fresno County



SCALE 1 : 245,698

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MILES

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City of Fresno

User Drawn Redlines

Fresno

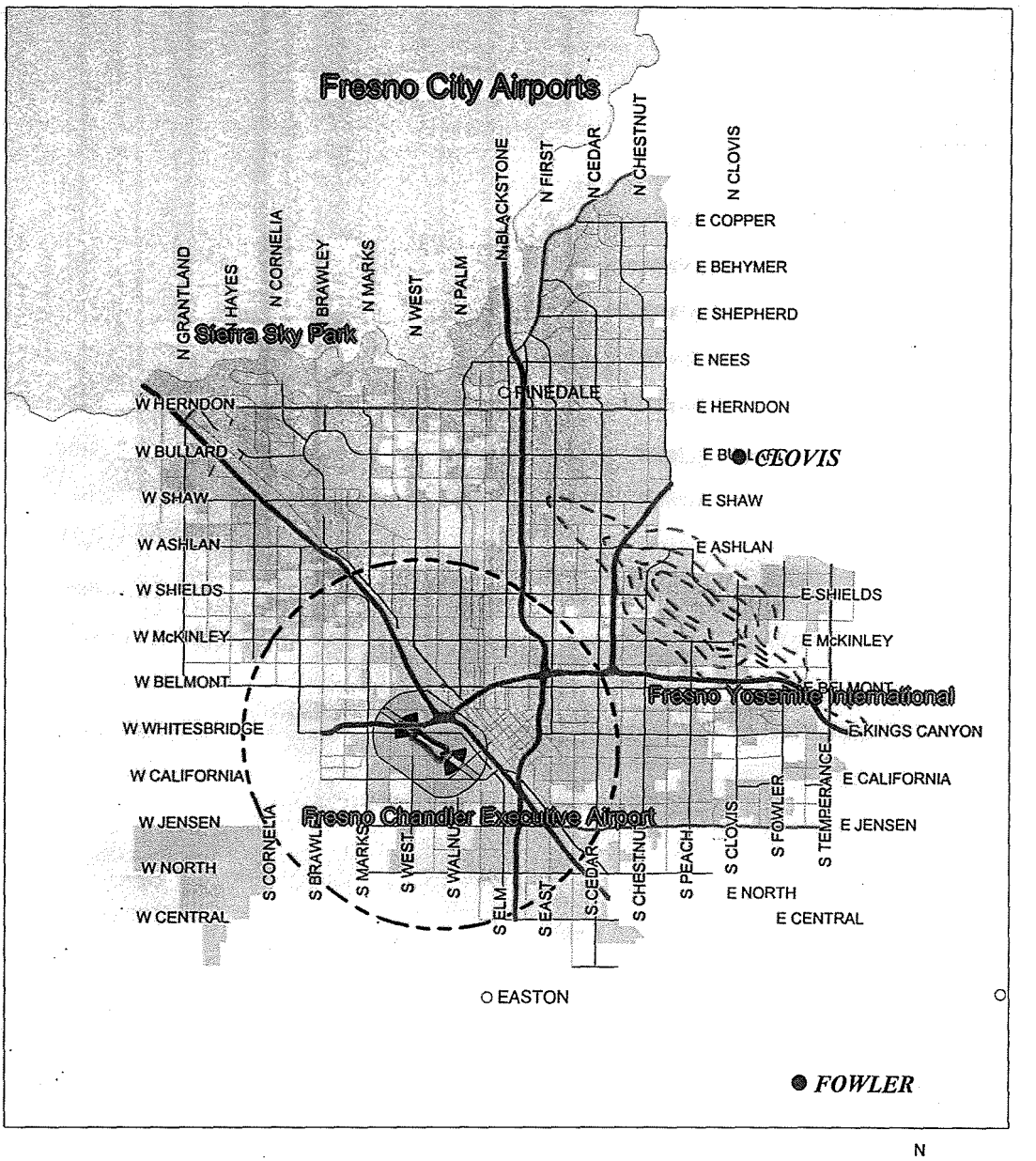
Incorporated Cities

Unincorporated Cities

Airports

City Limits

Fresno County



SCALE 1 : 245,698

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City of Fresno

User Drawn Redlines

Fresno

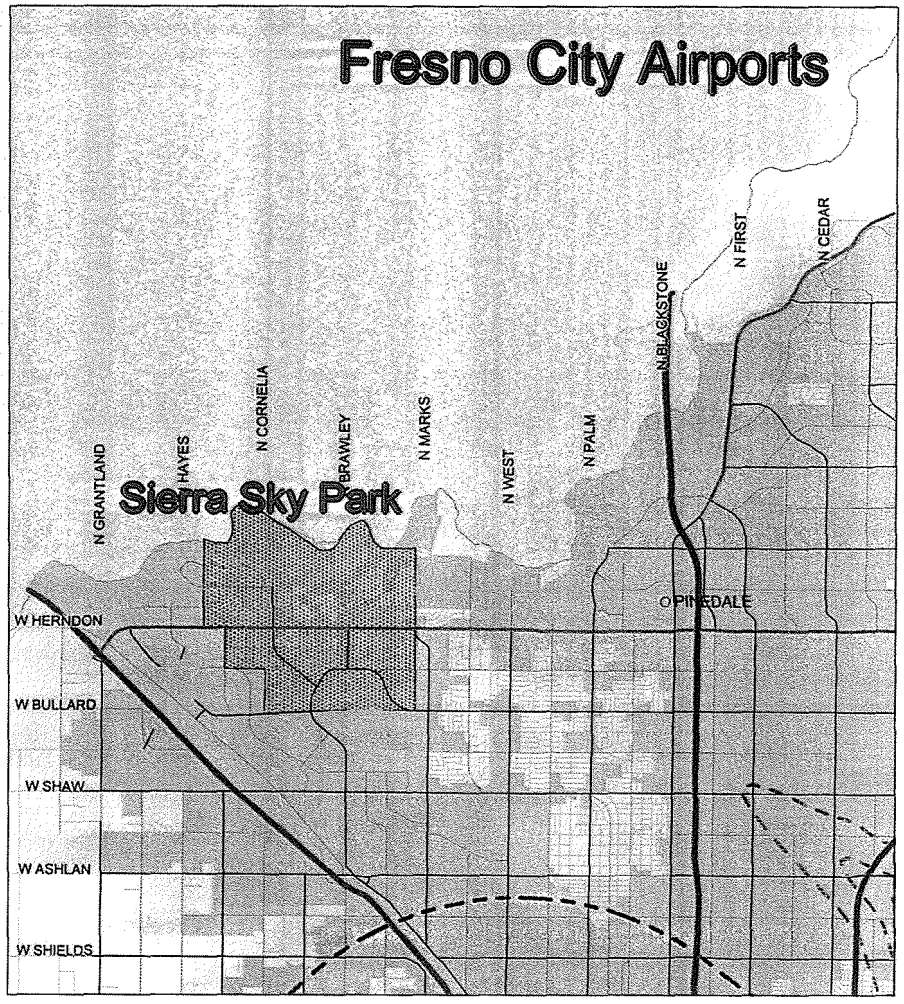
- Incorporated Cities
- Unincorporated Cities

Airports

- FYI Noise Contours
- FCEA Noise Contours
  - 60 db
  - 65 db
- FCEA Sideline Safety Zone
- FCEA Inner Safety Zone
- FCEA Outer Safety Zone
- FCEA Runway Protection Zone
- FCEA Inner Turning Zone
- FCEA Traffic Pattern Zone
- SSP Primary Review Area
- FCEA Height Restriction Zone

City Limits

Fresno County



SCALE 1 : 148,061

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MILES

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BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, AMENDING SECTION 12-405-D-2 OF THE FRESNO MUNICIPAL CODE RELATING TO TERMINATION OF RIGHTS FOR SPECIAL PERMITS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 12-205-D of the Fresno Municipal Code is amended to read:

SECTION 12-405-D TERMINATION OF RIGHTS. A special permit, and all rights granted therein, shall be considered terminated when either of the following occur:

1. Failure to commence the exercise of rights as required by Section 12-405-C.

2. Whenever the rights granted by a conditional use permit are discontinued for a continuous period of one year. [<u>However, for conditional use permits granted outside the planning boundary established by the Airport Land Use Commission pursuant to California Public Utilities Code Section 21675, as may be amended, the conditional use permit shall be considered terminated whenever the rights granted by that permit are discontinued for a continuous period of three years.</u>]

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.

* * * * * * * * * * * * * *

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

I, YVONNE SPENCE, 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 _____, 2013.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2013
Mayor Approval/No Return: _____, 2013
Mayor Veto: _____, 2013
Council Override Vote: _____, 2013

YVONNE SPENCE, CMC
City Clerk

BY:_____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY:_____
Talia Kolluri-Barbick
Deputy City Attorney

TKB:cg]60967cg/ORD]2/6/13