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ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO  
PROPOSED AND INITIATED BY \_\_\_\_\_  
MOVED BY Caprioglio SECONDED BY Brand

BILL NO. B-1

ORDINANCE NO. 2009-1

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING  
THE OFFICIAL ZONE MAP OF THE CITY OF FRESNO HERETOFORE  
ADOPTED BY ARTICLES 1 TO 4.5 INCLUSIVE, CHAPTER 12, OF THE  
FRESNO MUNICIPAL CODE, BEING THE ZONING ORDINANCE OF THE  
CITY OF FRESNO

WHEREAS, Rezone Application No. R-08-27 has been filed with the City of Fresno by Dan Jelladian, on behalf of the Sunara Corporation, property owner, to rezone property as described hereinbelow; and,

WHEREAS, pursuant to the requirements of Public Utilities Code Section 21676, the Airport Land Use Commission (ALUC) of the County of Fresno held a public hearing on the 1st day of December 2008 to consider Rezone Application No. R-08-27 and the related Mitigated Negative Declaration for Environmental Assessment No. A-08-17/R-08-27; and,

WHEREAS, the Airport Land Use Commission of the County of Fresno determined Rezone Application No. R-08-27 to be consistent with the ALUC's adopted Fresno Air Terminal Land Use Policy Plan (ALUPP) and adopted a Finding of Consistency with the Fresno Air Terminal Land Use Policy Plan for the rezone application subject to conditions of zoning to ensure compliance with the plan standards; and,

Adopted 1/13/09  
Approved 1/13/09  
Effective See Sec. 5

2009-1



WHEREAS, on December 9, 2008, the Council District 4 Plan Implementation Committee reviewed Rezone Application No. R-08-27 and related Environmental Assessment No. A-08-17/ R-08-27 and recommended approval of the reclassification of the property from the AE-20 (*Exclusive Twenty Acre Agricultural*) zone district to the M-1/cz (*Light Manufacturing/conditions of zoning*) zone district; and,

WHEREAS, pursuant to the provisions of Article 4, Chapter 12, of the Fresno Municipal Code, the Planning Commission of the City of Fresno held a public hearing on the 17th day of December 2008 to consider Rezone Application No. R-08-27 and related Environmental Assessment No. A-08-17/R-08-27, during which the Commission considered the environmental assessment, the rezone application, and related plan amendment application, and recommended to the Council of the City of Fresno approval of the rezone application that proposes to amend the City's Zoning Ordinance on real property described hereinbelow from the AE-20 (*Exclusive Twenty Acre Agricultural*) zone district to the M-1/cz (*Light Manufacturing/conditions of zoning*) zone district; and,

WHEREAS, the Council of the City of Fresno, on the 13th day of January 2009 received the recommendation of the Fresno City Planning Commission.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Based upon the testimony and information presented at the hearing and upon review and consideration of the environmental documentation provided, the adoption of the proposed rezoning is in the best interest of the City of Fresno. The Council finds in accordance with its own independent judgment that, with the project specific mitigation measures imposed, there is no substantial evidence in the record that Rezone Application No. R-08-27 may have additional significant effects on the environment that were not identified in the 2025 Fresno General Plan Master Environmental Impact Report No. 10130 ("MEIR") and that no new or additional mitigation measures or alternatives may be required. In addition, pursuant to Public Resources Code, Section 21157.6(b)(1), Council finds that no substantial changes have occurred with respect to the circumstances under which the MEIR was certified



and that no new information, which was not known and could not have been known at the time that the MEIR was certified as complete, has become available. Accordingly, the Council approves the Mitigated Negative Declaration for Environmental Assessment No. A-08-17/R-08-27 dated November 25, 2008.

SECTION 2. The Council finds the requested M-1/cz (*Light Manufacturing/conditions of zoning*) zone district to be consistent with the proposed light industrial land use designation of the 2025 Fresno General Plan, the McLane Community Plan, the Fresno Yosemite International Airport and Environs Plan, and the Airport Area Revitalization Redevelopment Project Area Plan.

SECTION 3. The Council finds that the zone district of the real property described hereinbelow, located in the City of Fresno and shown on the Official Zone Map of the City of Fresno, is reclassified from the AE-20 (*Exclusive Twenty Acre Agricultural*) zone district to the M-1/cz (*Light Manufacturing/condition of zoning*) zone district.

From AE-20 to M-1/cz:

The land referred to herein is situated in the State of California, County of Fresno and is described as follows:

PARCEL 1: Lot 153 of Tract No. 1314, Scandinavian Terrace No. 2, according to the map thereof recorded May 26, 1953, in Book 16, Page 39 of Plats, Fresno County Records.

PARCEL 2: The North 208.7 feet of the East 208.7 feet of Lot 17 of Scandinavian Colony, according to the map thereof recorded November 21, 1978, in Book 2, Page 3 of Maps, Fresno County Records.

**APNs: 494-081-13, 14**

SECTION 4. The development of the property described in Section 3 shall be conditioned upon the following conditions of zoning, which are recorded and on file in the Fresno County Recorder's Office, to ensure compliance with the adopted Fresno Air Terminal Land Use Policy Plan and ensure development that is sensitive in the design and operation of the project as related to the adjacent residential uses.



1. An aviation easement be dedicated to the City of Fresno for those areas of the project located within any FAR Part 77 Zone, Safety Zone, or Noise Contour of the Airport Land Use Commission's adopted Fresno Air Terminal Land Use Policy Plan. This aviation easement should conform to standards contained in the Caltrans Division of Aeronautics *California Airport Land Use Planning Handbook*.
2. The standards imposed in the Airport Land Use Commission's adopted Fresno Air Terminal Land Use Policy Plan (ALUPP) shall apply when considering and issuing any land use or building permit within any FAR Part 77 Zone, Safety Zone, or Noise Contour of the Fresno Yosemite International Airport.
3. The density of the development shall not exceed the standards of the Airport Land Use Commission's adopted Fresno Air Terminal Land Use Policy Plan or those published in the Caltrans Division of Aeronautics *California Airport Land Use Planning Handbook*.
4. Any proposed construction or development shall be undertaken only after acoustical studies are performed, a detailed analysis of noise reduction requirements is made, and noise insulation features added to sensitive occupancy areas and included in the building design. Any proposed buildings shall be required to implement noise mitigating building construction measures, and show proof of such, in compliance with Title 24 energy standards. A condition for approval of a proposed land use which is shown on Table 1 of the ALUPP to be "marginal" or "normally unacceptable" for a given noise environment shall be that the building intended for habitation or occupation will provide a satisfactory degree of noise attenuation. Also Table 2 of the ALUPP sets forth the minimum noise level attenuation required. If the structure can reduce the noise exposure by the indicated amount, the use may be acceptable.
5. Structures and uses shall not create dust, smoke, steam, distracting sources of light, electrical interference, or attract birds.
6. Conditions related to adopted airspace protection criteria as stated in the Fresno Air Terminal Land Use Policy Plan shall be enforced.
  - a. All structures shall be limited to a maximum height requirement of 30 feet.
  - b. All structures and trees shall be limited to comply with the FAR Part 77 regulations for any exceptions to the 30-foot height limitation considered by the Airport Land Use Commission.
  - c. Ongoing ingress and egress for the purpose of removing, marking, or lighting objects, including trees, which may penetrate any surface as described under FAR Part 77 shall be allowed.
7. There shall be no direct vehicular access to East Simpson Avenue.



8. Any proposed site plan review or conditional use permit application for the subject site shall be reviewed by the Fresno City Planning Commission in order to ensure development that is sensitive in the design and operation of the project as related to adjacent single family residential land uses to the south.

SECTION 5. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage and upon recording of the covenant noted in Section 4 above.

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CLERK'S CERTIFICATION

STATE OF CALIFORNIA     )  
COUNTY OF FRESNO     )  
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, California, at a regular meeting held on the 13th day of January, 2009, by the following vote:

Ayes:       Borgeas, Brand, Caprioglio, Xiong  
Noes:       Dages, Perea, Sterling  
Absent:     None  
Abstain:    None

REBECCA E. KLISCH CMC  
City Clerk

By Rebecca E. Klisch

APPROVED AS TO FORM

JAMES C. SANCHEZ  
City Attorney

By John W. Fox  
John W. Fox, Deputy City Attorney

Date 1/7/2009

Rezone Application No. R-08-27  
Filed by Dan Jelladian on behalf of Sunara Corporation  
Assessor's Parcel Nos. 494-081-13 and 14