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BILL NO. B-38

ORDINANCE NO. 2009-36

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-09-004 has been filed by Sol Development Associates, LLC, on behalf of WG Enterprises, to rezone property as described hereinbelow; 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 5th day of August 2009, to consider Rezone Application No. R-09-004 and related Environmental Assessment No. R-09-004/C-09-112, during which the Commission recommended to the Council of the City of Fresno approval of the subject environmental assessment and rezone application amending the City's Zoning Ordinance on real property described hereinbelow from the M-1/EA/BA-15/UGM (*Light Manufacturing/Expressway Area Overlay/Boulevard Area Overlay, 15-foot setback/Urban Growth Management*) zone district to the C-M/BA-15/UGM (*Commercial and Light Manufacturing/Boulevard Area Overlay, 15-foot setback/Urban Growth Management*) zone district; and,

WHEREAS, the Council of the City of Fresno, on the 15th day of October 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

Adopted 10/15/09
Approved 10/15/09
Effective 11/15/09

2009-36



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 there is no substantial evidence in the record that Rezone Application No. R-09-004 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 Mitigated Negative Declaration No. A-09-02/SCH No. 2009051016 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 Mitigated Negative Declaration No. A-09-02/SCH No. 2009051016 was adopted 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 and Mitigated Negative Declaration No. A-09-02/SCH No. 2009051016 was adopted, has become available. Accordingly, the Council approves the Finding of Conformity to the 2025 Fresno General Plan Master Environmental Impact Report (MEIR No. 10130) dated June 12, 2009, prepared for Environmental Assessment No. R-09-004/C-09-112.

SECTION 2. The Council finds the requested C-M/BA-15/UGM/cz (*Commercial and Light Manufacturing/Boulevard Area Overlay, 15-foot setback/Urban Growth Management/conditions of zoning*) zone district is consistent with the existing light industrial planned land use designation of the Bullard Community Plan and the 2025 Fresno General Plan, as specified in Section 12-403-B of the Fresno Municipal Code.

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 M-1/EA/BA-15/UGM (*Light Manufacturing/Expressway Area Overlay/ Boulevard Area Overlay, 15-foot setback/Urban Growth Management*) zone district to the C-M/BA-15/UGM/cz (*Commercial and Light Manufacturing/Boulevard Area Overlay, 15-foot setback/Urban Growth Management/conditions of zoning*) zone district.



From M-1/EA/BA-15/UGM to C-M/BA-15/UGM/cz:

Parcels J, K, L, M and N of Parcel Map No. 2006-32, in the City of Fresno, County of Fresno, State of California, as per plat recorded in Book 68, Page 61 thru 65 of Parcel Maps, records of said county.

APNs: 507-020-88s, 90s, 94s, 95s and 96s

SECTION 4. The development of the property described in Section 3 shall be conditioned upon the following condition of zoning:

1. A General Nuisance/Avigation Easement and Agreement must be recorded prior to occupancy of any of the buildings on the subject site. This agreement must include the following:
 - (a) Enforce conditions related to the adopted airspace protection criteria stated in the adopted Sierra Sky Park Land Use Policy Plan as follows:
 1. Limit all structures to the 75-foot maximum height requirement of the proposed zone district.
 2. Limit all structures and trees to comply with the FAR Part 77 regulations for any exceptions to the 75-foot height limitation considered by the City Planning Commission.
 3. Allow 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.
 - (b) That structures and uses shall not create dust, smoke, steam, distracting sources of light, electrical interface or attract birds.

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.

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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 15th day of October, 2009, by the following vote:

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

REBECCA E. KLISCH
City Clerk

By Rebecca E. Klisch

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

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

Date 10/6/2009

Rezone Application No. R-09-004
Filed by Sol Development Associates, LLC,
on behalf of WG Enterprises
Assessor Parcel Nos. 507-020-88s, 90s, 94s,
95s and 96s