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ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY Caprioqlio SECONDED BY Brand

BILL NO. B-6

ORDINANCE NO. 2009-6

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-05-107 has been filed by Richard and Donna Stoeckel, property owners, with the City of Fresno to rezone property as described herein below; 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 10th day of December, 2008, to consider Rezone Application No. R-05-107 and related Environmental Assessment No. R-05-107/TPM-2008-06, during which the Commission considered the environmental assessment and recommended to the Council of the City of Fresno approval, as evidenced in Planning Commission Resolution No. 12911, of the rezone application to amend the City's Zoning Ordinance on real property described herein below from the R-A (*Single Family Residential-Agricultural*) zone district to the R-1-B/cz (*Single Family Residential/with conditions of zoning*) zone district; and,

WHEREAS, the Council of the City of Fresno, on the 10th day of February, 2009, received the recommendation of the Planning Commission.

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

Adopted 2/10/09
Approved 2/10/09
Effective 3/13/09

2009-6



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 there is no substantial evidence in the record that Rezone Application No. R-05-107 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 adopts the Finding of Conformity for Environmental Assessment No. R-05-107/TPM-2008-06 dated September 02, 2008.

SECTION 2. The Council finds the recommended R-1-B/cz (*Single Family Residential/with conditions of zoning*) zone district is consistent with the proposed low density residential planned land use designations of the 2025 Fresno General Plan and the Hoover Community 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 R-A (*Single Family Residential-Agricultural*) zone district to the R-1-B/cz (*Single Family Residential/with conditions of zoning*) zone district:

From R-A to R-1-B/cz:

The South 2 ½ acres of the North 7 ½ acres of the West 10 acres of the Southeast quarter of the Southeast quarter of Section 13, Township 13 South, Range 20 East, Mount Diablo base and Meridian, according to the Official Plat thereof.

SECTION 4. The development and rezoning of the property described in Section 3 shall be conditioned upon the following conditions of zoning which are on file in the Planning and Development



Department.

1. The assignment of the R-1-B (*Single Family Residential*) zone district to the subject property, which is planned for Low Density Residential uses, is contingent upon the subdivision and development of the subject property occurring in accordance with the "development plan" (Vesting Tentative Parcel Map No. 2008-06).
2. All mitigation measures identified within the acoustical analysis prepared by Environtech Consultants on June 15, 2005 shall be utilized in the construction of any new single family residence on the subject property in order to achieve appropriate interior noise levels (new residential structures shall incorporate noise insulation such that interior noise levels are reduced to no more than 45 db CNEL).
3. An Avigation Easement shall be dedicated to the City of Fresno prior to the recordation of a subdivision map for the subject property; or, prior to any new development on the subject property. The Avigation Easement shall contain the following property rights:
 - a) Right-of-flight at any altitude above acquired easement surfaces;
 - b) Right to generate noise, vibrations, fumes, dust and fuel particle emissions;
 - c) Right-of-entry to remove, mark, or light any structures or growths above easement surfaces;
 - d) Right to prohibit creation of electrical interference, unusual light sources, and other hazards to aircraft flight; and,
 - e) Right to prevent erection or growth of all objects above acquired easement surfaces.
4. The record property owner shall execute an agreement in favor of the City of Fresno, in a form approved by the City Attorney, whereby the property owner shall indemnify, hold harmless and defend the City and every officer and employee thereof from any and all loss, liability, damages, costs, suits or claims arising out of the location of the proposed development within the 65 CNEL contour of the Fresno Yosemite International Airport and Environs Plan and the Zone 3 – Inner Turning Zone of the California Airport Land Use Planning Handbook. The Agreement shall provide for the following:
 - a) That it is understood by the owners and owners' successors in interest that the real property in question lies close to the Fresno Yosemite International Airport and that the operation of the Airport and the landing and take-off of aircraft may generate high noise levels which will affect the habitability and quiet enjoyment of the property;
 - b) That the owners covenant to accept and acknowledge the operation of the Fresno Yosemite International Airport; and,
 - c) The above easement, covenants, conditions and restrictions shall run with the land and shall be binding upon the present and subsequent owners of the property.

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 10th day of February, 2009, by the following vote:

Ayes: Borgeas, Brand, Dages, Perea, Xiong, Caprioglio
Noes: None
Absent: Sterling
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
Deputy City Attorney

Date 2/4/2009

Rezone Application No. R-05-107
Filed by Richard and Donna Stoeckel
APN No(s). 430-210-01