



DEPARTMENT DIRECTOR

CITY MANAGER

February 2, 2012

FROM: PATRICK N. WIEMILLER, Director
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director
Public Works Department, Traffic and Engineering Services Division 

SUBJECT:

1. ADOPT A FINDING OF CATEGORICAL EXEMPTION PER STAFF DETERMINATION, PURSUANT TO SECTIONS 15301/CLASS 1 AND 15303/CLASS 3 OF THE CEQA GUIDELINES, ENVIRONMENTAL ASSESSMENT NO. C-11-117
2. ADOPT A RESOLUTION ORDERING THE SUMMARY VACATION OF A PORTION OF A BIKEWAY EASEMENT ON THE NORTH SIDE OF WEST HERNDON AVENUE WEST OF NORTH MARKS AVENUE (LOCATED IN COUNCIL DISTRICT NO. 2)

RECOMMENDATIONS

Staff recommends that the City Council:

1. Adopt a finding of Categorical Exemption per staff determination, pursuant to Sections 15301/Class 1 and 15303/Class 3 of the CEQA Guidelines, Environmental Assessment No. C-11-117.
2. Adopt the attached resolution ordering the summary vacation of a portion of a bikeway easement on the north side of West Herndon Avenue west of North Marks Avenue.

EXECUTIVE SUMMARY

CaliChi Design Group on behalf of Chase Bank is requesting the vacation of a portion of a bikeway easement on the north side of West Herndon Avenue west of North Marks Avenue as shown on Exhibit "A" of the attached resolution. The purpose of the proposed vacation is to accommodate the development of a one lane drive-up Automatic Teller Machine (ATM) within the parking lot of an existing shopping center as proposed by Conditional Use Permit No. C-11-117 by eliminating the encroachment of existing and proposed private improvements into the portion of bikeway easement proposed to be vacated. The Traffic and Engineering Services Division and other City departments have reviewed this proposal and determined that there are no public bikeway facilities located within said portion and that said portion is unnecessary for present or prospective public pedestrian purposes.

BACKGROUND

CaliChi Design Group on behalf of Chase Bank is requesting the vacation of a portion of a bikeway easement on the north side of West Herndon Avenue west of North Marks Avenue as shown on Exhibit "A" of the attached resolution. The purpose of the proposed vacation is to accommodate the development of a one lane drive-up Automatic Teller Machine (ATM) within the parking lot of an

REPORT TO THE CITY COUNCIL

Summary Vacation of a Portion of Bikeway at Herndon and Marks

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existing shopping center as proposed by Conditional Use Permit (CUP) No. C-11-117 by eliminating the encroachment of existing and proposed private improvements into the bikeway easement.

The bikeway easement was dedicated and accepted via Parcel Map No. 82-06 recorded July 2, 1982 in Book 38 of Parcel Maps at Page 95, Fresno County Records.

The Traffic and Engineering Services Division reviewed the development as proposed by CUP No. C-11-117 and discovered that previous development of the shopping center parking lot encroached into the bikeway easement. Because there are private facilities in the portion of the bikeway easement proposed for vacation, said portion is not being used for public bikeway purposes, and said portion is unnecessary for present or prospective public bikeway purposes, the Traffic and Engineering Services Division made the vacation of said portion of the bikeway easement a requirement of CUP No. C-11-117 and has approved the proposed vacation with no conditions.

The provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public service easement (which would include a public bikeway easement) when the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required.

The applicant's proposed plans for development would require modification if the vacation is denied.

The vacation, if approved by the Council, will become effective when the vacating resolution is recorded in the office of the Fresno County Recorder.

The City Attorney's Office has reviewed and approved the attached resolution as to form.

ENVIRONMENTAL FINDING

Conditional Use Permit Application No. C-11-117 is a request to allow for the development of a one lane drive-up Automatic Teller Machine (ATM) within the parking lot of an existing shopping center. The ATM machine will serve as an incidental use to the Chase Bank located within the shopping center. The applicant will be required to vacate a portion of the existing 25' and 30' wide bikeway easement along West Herndon Avenue in order to construct the improvements.

Staff has performed a preliminary environmental assessment of this project and has determined that this project is exempt under Sections 15301/Class 1 and 15303/Class 3 of the CEQA Guidelines. The vacation of a portion of the bikeway easement meets the criteria for a categorical exemption.

Section 15301(e)/Class 1 consists of the permitting and minor alteration of existing private structures, including: additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive. The building which the Chase Bank is located contains 6,400 square feet. Though the proposed ATM is not an addition to said building, the project is substantially smaller than a 10,000 square foot addition. The subject property is located in an area that has public services and facilities available; the area surrounding the subject property is mostly built-out and is not environmentally sensitive.

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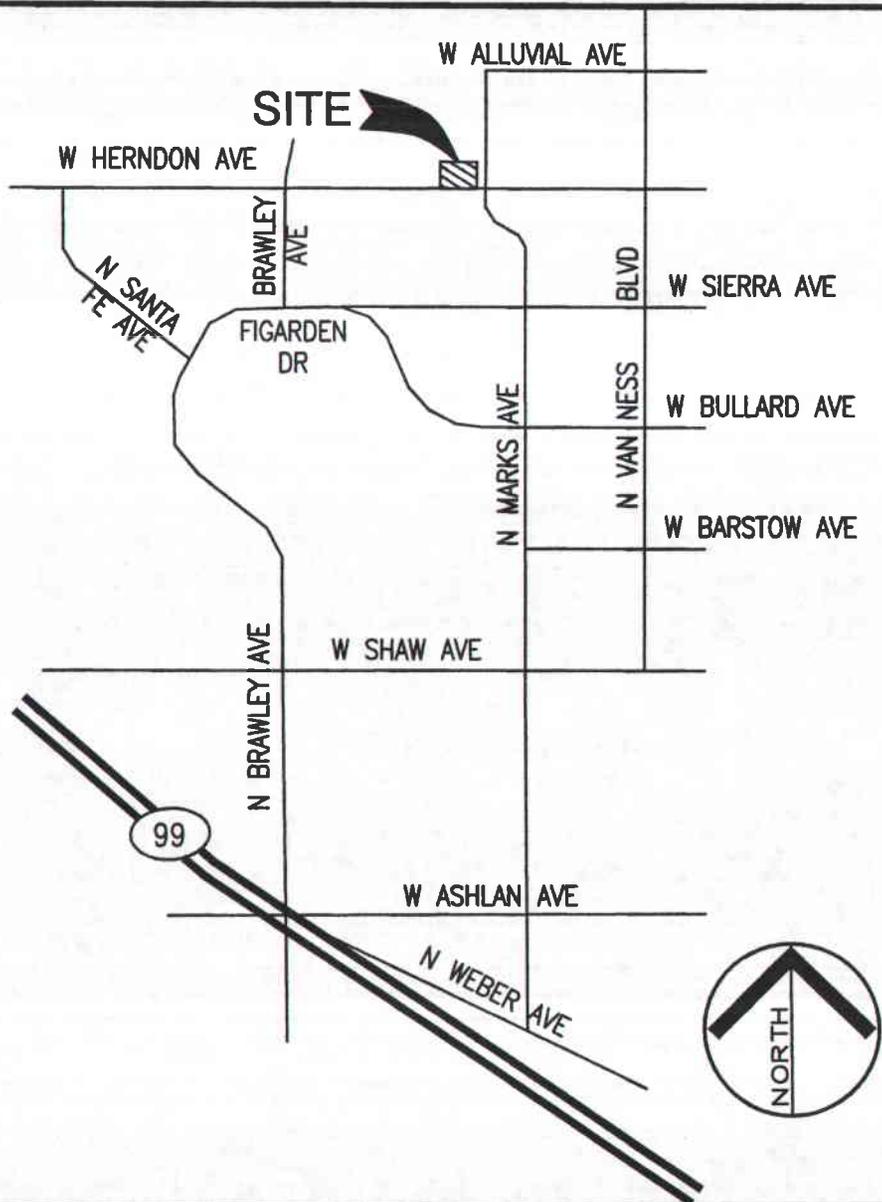
Section 15303(c)/Class 3 consists of the construction of new small facilities or structures. Examples include, but are not limited to: (c) a store, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. The proposed project consists of a one lane drive-up ATM; the project does not involve the use of significant amounts of hazardous substances and does not exceed 2500 square feet in floor area.

No adverse environmental impacts will occur as a result of the proposed project and none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

FISCAL IMPACT

There will be no impact to the City's General Fund.

- Attachments:
1. Vicinity Map
 2. Environmental Assessment No. C-11-117
 3. Resolution



PREPARED BY:
CALICHI DESIGN GROUP

CORPORATE OFFICE:
 505 LANCASTER STREET, SUITE 5
 OAKLAND, CA 94601
 (415) 390-2452



CHASE BANK REMOTE ATM
 HERNDON AND MARKS, FRESNO
 7045 NORTH MARKS AVENUE
 PARTIAL BIKEWAY EASEMENT VACATION

PROJECT#:	2011-01-004
DRAWN BY:	MW
CHECKED BY:	RP
DATE:	12/14/2011

SHEET TITLE:
ATTACHMENT
 1

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-11-117**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: CalChi Design Group
c/o Monica Wuebker
505 Lancaster Street, Suite #5
Oakland, CA 92831

PROJECT LOCATION: Northwest corner of North Marks and West Herndon
Avenues
(APN: 500-200-07 & -14)

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-11-117 is a request to allow for the development of a one lane drive-up Automatic Teller Machine (ATM) within the parking lot of an existing shopping center. The ATM machine will serve as an incidental use to the Chase Bank located within the shopping center. The applicant will be required to vacate a portion of the existing 25' and 30' wide bikeway easement along West Herndon Avenue in order to construct the improvements

This project is exempt under Section 15301/Class 1 and Section 15303/ Class 3 of the State of California CEQA Guidelines. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

EXPLANATION: Under the Section 15301(c)/Class 1 exemption, the minor alteration of existing public facilities, such as streets, sidewalks and pedestrian trails, are exempt from CEQA requirements.

The vacation of a portion of the bikeway easement meets the criteria for a categorical exemption.

Section 15301(e)/Class 1 consists of the permitting and minor alteration of existing private structures, including: additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

The building which the Chase Bank is located contains 6,400 square feet. Though the proposed ATM is not an addition to said building, the project is substantially smaller than a 10,000 square foot addition. The subject property is located in an area that has public services and facilities available; the area surrounding the subject property is mostly built-out and is not environmentally sensitive.

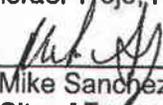
Section 15303(c)/Class 3 consists of the construction of new small facilities or structures. Examples include, but are not limited to: (c) a store, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area.

The proposed project consists of an a one lane drive-up ATM; the project does not involve the use of significant amounts of hazardous substances and does not exceed 2500 square feet in floor area.

Date: November 10, 2011

Prepared By: Israel Trejo, Planner

Submitted By:



Mike Sanchez, Planning Manager
City of Fresno
Development and Resource Mgmt. Department
(559) 621-8277

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

When Recorded, Mail To:
City Clerk
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3623

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RESOLUTION NO. _____

ADOPT A RESOLUTION APPROVING THE SUMMARY VACATION OF A PORTION OF A
BIKEWAY EASEMENT ON THE NORTH SIDE OF WEST HERNDON AVENUE WEST OF
NORTH MARKS AVENUE

WHEREAS, the Council has elected to proceed under the provisions of the Public Streets, Highways, and Service Easements Vacation Law (Division 9, Part 3 of the California Streets and Highways Code), and specifically Chapter 4 (commencing with Section 8330) thereof, to summarily vacate a portion of a bikeway easement on the north side of West Herndon Avenue west of North Marks Avenue; and

WHEREAS, the portion of the public bikeway easement proposed to be vacated is shown on Exhibit "A", which is attached and incorporated in this Resolution; and

WHEREAS, the purpose of the proposed vacation is to accommodate the development of a one lane drive-up Automatic Teller Machine (ATM) within the parking lot of an existing shopping center as proposed by Conditional Use Permit No. (CUP) C-11-117 by eliminating the encroachment of existing and proposed private improvements into the portion of bikeway easement proposed to be vacated; and

WHEREAS, the bikeway easement was dedicated and accepted via Parcel Map No. 82-06 recorded July 2, 1982 in Book 38 of Parcel Maps at Page 95, Fresno County Records; and

WHEREAS, the Traffic and Engineering Services Division reviewed the development as proposed by CUP No. C-11-117 and discovered that previous development of the shopping center parking lot encroached into the bikeway easement; and

WHEREAS, there are private facilities in the portion of the bikeway easement proposed for vacation, said portion is not being used for public bikeway purposes, and said portion is unnecessary for present or prospective public bikeway purposes, the Traffic and Engineering Services Division made the vacation of said portion of the bikeway easement a requirement of CUP No. C-11-117 and has approved the proposed vacation with no conditions; and

WHEREAS, the provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public service easement (which would include a public bikeway easement) when the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required; and

WHEREAS, staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemptions set forth in CEQA Guidelines Sections 15301/Class 1 and 15303/Class 3; and

WHEREAS, the Council desires to summarily vacate a portion of a bikeway easement on the north side of West Herndon Avenue west of North Marks Avenue as shown on Exhibit "A".

NOW, THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY AS

FOLLOWS:

1. Based upon the review and consideration of the environmental documentation provided, the adoption of the proposed vacation is in the best interest of the City of Fresno. The Council finds that this project is exempt under Sections 15301/Class 1 and 15303/Class 3 of the State of California CEQA Guidelines. Section 15301(e)/Class 1 consists of the permitting and minor alteration of existing private structures, including: additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive. The building which the Chase Bank is located contains 6,400 square feet. Though the proposed ATM is not an addition to said building, the project is substantially smaller than a 10,000 square foot addition. The subject property is located in an area that has public services and facilities available; the area surrounding the subject property is mostly built-out and is not environmentally sensitive.

Section 15303(c)/Class 3 consists of the construction of new small facilities or structures. Examples include, but are not limited to: (c) a store, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. The proposed project consists of a one lane drive-up ATM; the project does not involve the use of significant amounts of hazardous substances and does not exceed 2500 square feet in floor area.

No adverse environmental impacts will occur as a result of the proposed project and none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

2. The portion of a bikeway easement on the north side of West Herndon Avenue west of North Marks Avenue as shown on Exhibit "A" is hereby vacated.

3. The City Clerk of the City of Fresno shall certify to the passage of this Resolution and shall cause a certified copy, attested by the Clerk under the seal of the City of Fresno, to be recorded in the Office of the County Recorder of the County of Fresno, State of California.

4. This vacation shall become effective on the date this resolution is recorded.

5. From and after the date this resolution is recorded, the portion of a bikeway easement on the north side of West Herndon Avenue west of North Marks Avenue as shown on Exhibit "A" shall no longer constitute a public bikeway easement.

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CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the _____ day of _____, 2012.

AYES:
NOES:
ABSTAIN:
ABSENT:

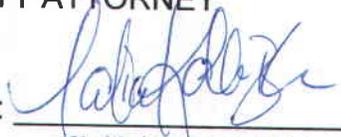
Mayor Approval: _____, 2012
Mayor Approval/No Return: _____, 2012
Mayor Veto: _____, 2012
Council Override Vote: _____, 2012

YVONNE SPENCE, CMC
City Clerk

BY: _____, Deputy

APPROVED AS TO FORM:

JAMES C. SANCHEZ
CITY ATTORNEY

By:  1/12/12
TARLA KALURJI-BARBICA, Deputy

PW File No. 11616

Summary Vac. of a portion of bikeway at Herndon and Marks.

