



REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII-C
COMMISSION MEETING 10-27-10
APPROVED BY
<i>John M. Deegan</i>
DEPARTMENT DIRECTOR

October 27, 2010

FROM: JERRY D. BISHOP, Assistant Director
 Development and Resource Management
 Department

KEITH BERGTHOLD, Assistant Director
 Development and Resource Management
 Department

THROUGH: KEVIN FABINO, Planning Manager
 Planning Division

BY: SOPHIA PAGOULATOS, Planner
 Planning Division

SUBJECT: CONSIDERATION OF TEXT AMENDMENT APPLICATION NO. TA-10-003 AND
 RELATED ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO.
 EA-10-003

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-10-003 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-10-003.

EXECUTIVE SUMMARY

The proposed text amendment increases the efficiency of the administration of the Urban Growth Management (UGM) program. The Departments of Public Works and Public Utilities are recommending consolidation of the 44 existing UGM oversize sewer service area funds into a single UGM oversize sewer fund for reasons noted below. The Fresno Municipal Code (Section 12-4.502-C (3) currently requires that any changes in UGM area boundaries be noticed pursuant to FMC Sections 12-401-C, which requires mailing to all property owners within the affected territory. The proposed text amendment would modify the code to exempt from this noticing requirement any UGM boundary changes that would have no fiscal impact on property owners and where developers' future reimbursements would not be impacted. Noticing would still be required at least once in a newspaper of general circulation. The text amendment would result in cost savings of approximately \$50,000 to the City of Fresno and would facilitate more timely payment of reimbursements to developers.

BACKGROUND

On July 14, 1960, the Council adopted an ordinance to require payment of an oversize sewer charge, meaning a fee for the right to connect to existing sewer facilities, with said fee to be used to pay the additional cost of constructing or reconstructing public sewers larger than eight inches in diameter but less than thirty inches in diameter. The purpose of the oversize sewer charge is to provide a funding mechanism for sewer mains of 10 to 27 inches in diameter.

While the developer has the obligation to pay for the eight inch main along their own street frontage, a developer is often required to construct a sewer main that is larger than eight inches to provide the necessary capacity for other developments upstream or in the vicinity. The developer is able to then obtain reimbursement for the oversize in accordance with the Master Fee Schedule.

When the Urban Growth Management (UGM) program began in the 1970's, it was determined that the oversize sewer charges for the UGM area would be segregated from the non-UGM areas.

In the mid-1980's, the Public Works Department further refined the administration of the oversize sewer program by setting up 44 oversize sewer service areas, each with its own fund. Oversize sewer charges in each of the 44 service areas were deposited into their separate service area funds and a UGM reimbursement list was also created for each of the service areas. However, the oversize sewer charge remained a single fee.

Staff has evaluated the current system and based on this evaluation recommends that the Council consolidate the 44 oversize sewer service areas into a single oversize sewer fund for the UGM area. It is important to emphasize that it has always been a single fee not tied to these 44 service areas and that no changes in the Master Fee Schedule or nexus analysis are required.

The current situation is that there are service areas where facilities have been constructed and the developer has been placed on the eligible reimbursement list for that service area, but there is no oversize sewer revenue within that specific service area fund in which to reimburse the eligible developer. Conversely, there are a number of oversize sewer service areas where there is a fund balance with no developer waiting for reimbursement. The sum total of all eligible developer reimbursements for oversize sewer is \$380,454.48 whereas the combined fund balance for the 44 areas is \$2,031,000.

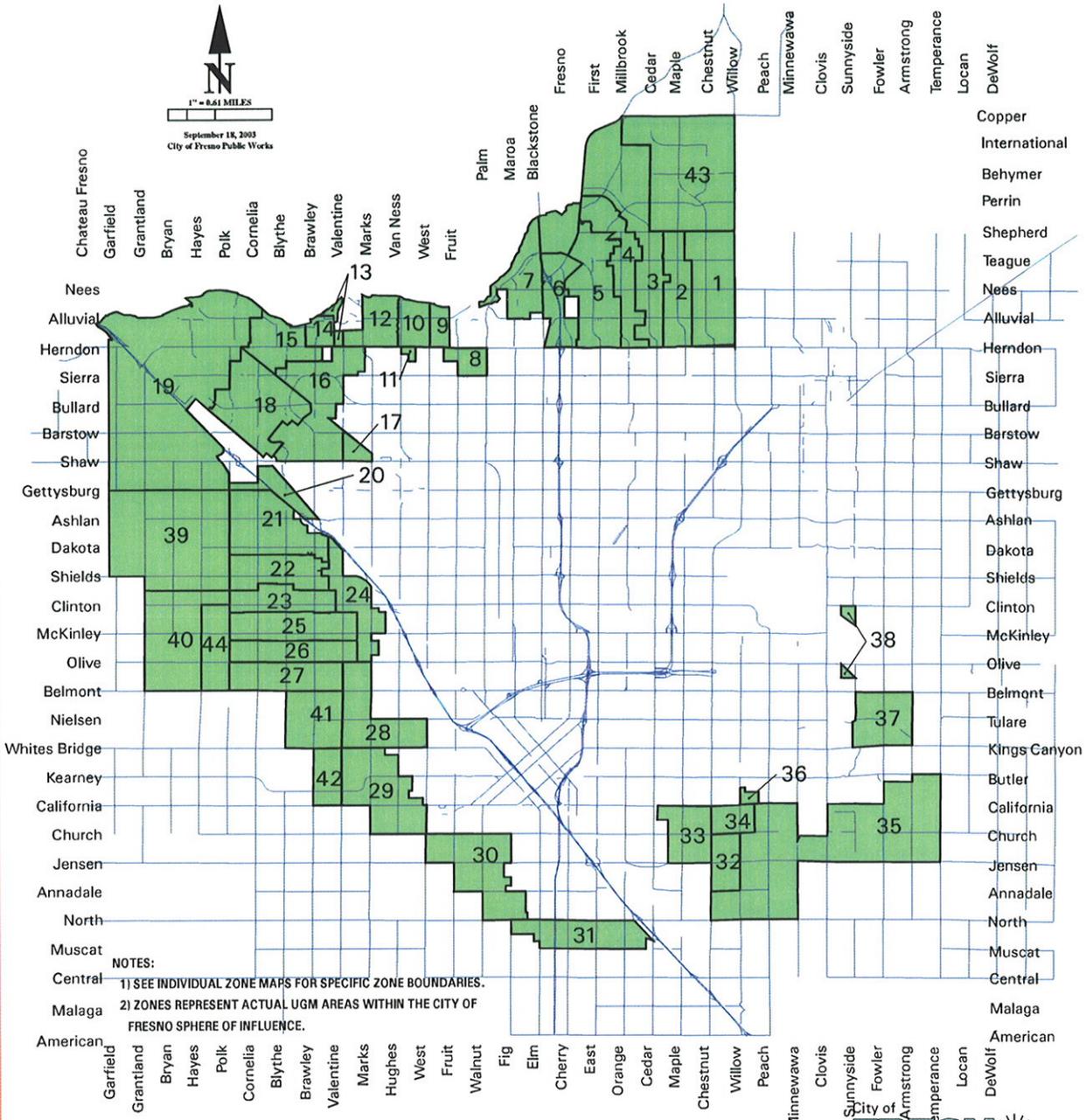
ENVIRONMENTAL FINDING

This project is exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines as a project for which there is no possibility of causing a significant effect on the environment. The proposed text amendment would change City of Fresno administrative procedures for UGM boundary changes, and would likely result in use of less paper and other resource savings. Therefore the project has been determined to have no possibility of causing a significant impact on the environment.

PUBLIC NOTICE

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

OVERSIZE SEWER SERVICE AREAS URBAN GROWTH MANAGEMENT



NOTES:
 1) SEE INDIVIDUAL ZONE MAPS FOR SPECIFIC ZONE BOUNDARIES.
 2) ZONES REPRESENT ACTUAL UGM AREAS WITHIN THE CITY OF FRESNO SPHERE OF INFLUENCE.

PUBLIC WORKS DEPARTMENT / Technical Services



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Exhibit A

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SUBSECTION 3 OF SECTION 12-4.502-C
RELATING TO ACTION ON RECOMMENDATIONS FOR
URBAN GROWTH MANAGEMENT AREAS

SECTION 1. Subsection 3 of Section 12-4.502-C of the Fresno Municipal Code is amended to read:

3. Action on Recommendation. The Director's recommendation against any proposed change initiated pursuant to subsection 4 of Section 12-401-A shall be final unless the applicant appeals such recommendation to the Council pursuant to the provisions of Section 12-401-H. All other recommendations by the Director shall be set, noticed, and heard by the Council pursuant to the provisions of Sections 12-401-B, 12-401-C, 12-401-D, and 12-401-E. [The provisions of Section 12-401-C-2 and C-3 regarding the mailing and posting of the notice shall not apply when the proposed change will not impose a new or increase in UGM fees or affect the reimbursement of such fees pursuant to Section 12-4.504-C] At the conclusion of the hearing, Council shall approve, modify or disapprove the Director's recommendation by resolution. The Council's action shall be final.

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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.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
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, at a regular meeting held on the _____ day of _____, 2009.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2009
Mayor Approval/No Return: _____, 2009
Mayor Veto: _____, 2009
Council Override Vote: _____, 2009

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Tei Yukimoto
Sr. Deputy

TY:pn[51884pn/ORD]-rev. 12/18/09

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. TA-10-03**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 5 OF THE STATE CEQA GUIDELINES.

APPLICANT: City of Fresno
2600 Fresno Street
Fresno, CA 93721

PROJECT LOCATION: City of Fresno

PROJECT DESCRIPTION: A text amendment amending subsection 3 of section 12-4.502-C of the Fresno Municipal Code, creating an exception to the legal requirement of mailing notices to all affected owners of property when changes to the zoning ordinance will not increase or impose a new urban growth management fee or affect reimbursement of fees.

This project is exempt under Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) Guidelines which exempts projects which will clearly have no significant effect on the environment.

EXPLANATION: Section 15061 (b) (3) of the CEQA Guidelines states that "...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." The proposed text amendment would reduce the city's requirements for the mailing of public notices under certain circumstances in which an adjustment to a UGM area boundary would have no effect on the amount of UGM fee paid. The text amendment would cause an administrative change; there is no physical construction component of the project. Therefore, it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment.

Date: September 14, 2010

Prepared By: Sophia Pagoulatos, Supervising Planner

Submitted By:



City of Fresno
Development and Resource Management Department
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