

BILL NO. _____

ORDINANCE NO. _____

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-14-006 has been filed by Dirk Poeschel of Dirk Poeschel Land Development Services, on behalf of property owner Property Multipliers LLC (successor in interest to applicant and previous owner Wells Fargo, N.A.) , requesting to amend conditions of zoning applicable to approximately 4.24 acres of real property ("the subject property"), described in the attached Exhibit "A," 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 2nd day of July, 2014, to consider Rezone Application No. R-14-006 and related Environmental Assessment (EA) No. R-14-006, during which the Commission solicited testimony, considered the environmental assessment; and

WHEREAS, as evidenced by Resolution No. 13296, the Planning Commission recommended to the Council of the City of Fresno approval of the finding of Mitigated Negative Declaration for EA No. R-14-006 and recommended approval of the rezone application to amend conditions of zoning previously applied by City of Fresno Ordinance Bill No. 2001-91 to the subject property described in Exhibit "A," when

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: WLD

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Ordinance No.

Rezone Application No R-01-037 was approved to assign the M-1/BA-20/UGM./cz (*Light Manufacturing District/Boulevard Area 20 Feet, Urban Growth Management Area/conditions of zoning*) zone district to the real property described in the attached Exhibit "A"; and,

WHEREAS the Council of the City of Fresno, on the 23rd day of October 2014, held a public hearing and received the recommendation of the Planning Commission.

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 imposed, there is no substantial evidence in the record that Rezone Application No. R-14-006 may have additional significant effects on the environment that were not identified in the 2025 Fresno General Plan Master Environmental Impact Report ("MEIR") No. 10130 (State Clearinghouse/SCH No. 2001071097) and Mitigated Negative Declaration ("MND") No. A-09-02 (SCH No. 2009051016) prepared for Plan Amendment No. A-09-02, the Air Quality Update to the 2025 Fresno General Plan; and, that all applicable mitigation measures of MEIR No. 10130 and MND No. A-09-02 have been applied to the project, together with project specific mitigation measures as necessary to assure that the project will not cause significant adverse cumulative impacts, or irreversible significant effects beyond those identified by MEIR No. 10130 or MND No. A-09-02 as provided by CEQA Section 15178(a). 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 MND No. A-09-02 was adopted; and, that no new information has become available, which was not known and could not have been known at the time that the MEIR was certified as complete, and MND No. A-09-02 was adopted, has become available. Accordingly, the Council approves the adoption of Mitigated Negative Declaration for EA No. R-14-006, dated May 30, 2014.

SECTION 2. As specified in Section 12-403-B-2 of the Fresno Municipal Code, the Council finds that the M-1/BA-20/UGM/cz (*Light Industrial/Boulevard Area – 20 Feet/Urban Growth Management Area/conditions of zoning*) zone district is consistent with the existing Light Industrial planned land use designation of the 2025 Fresno General Plan and the Bullard Community Plan, respectively.

SECTION 3. The Council finds that the subject property described in the attached Exhibit “A,” shall be reclassified from the M-1/BA-20/UGM/cz (*Light Industrial/Boulevard Area – 20 Feet/Urban Growth Management Area/conditions of zoning*) zone district to the M-1/BA-20/UGM/cz (*Light Industrial/Boulevard Area – 20 Feet/Urban Growth Management Area/conditions of zoning*) zone district.

SECTION 4. In addition, for the two parcels comprising the subject property as shown in Exhibit “A,” Rezone Application No. R-14-006 shall amend the conditions of zoning previously applied through Rezone No. R-01-037 (Ordinance Bill No. 2001-91) by applying the conditions of zoning as listed below, which shall be recorded and put on file with the Fresno County Recorder’s Office by the record owners of the subject property executing and causing to be recorded a covenant running with the land guaranteeing compliance with these conditions:

1. Pursuant to the Deed of Avigation and Hazard Easement recorded previously for the subject property (Fresno County Recorder Document No. 2007-126629), the following, in addition to other requirements memorialized in that document, shall apply:

- No structure, tree or other object shall be permitted to exceed the height limits established in accordance with Part 77, subpart C of the Federal Aviation Regulations (FAR).
- The maximum building height on the subject property shall not exceed fifty (50) feet.

2. The development of hospitals, nursing homes or similar uses shall be prohibited.

3. Development of the subject property shall be in accordance with the M-1-P zone district standards.

4. Development of the subject property shall be in substantial conformance, as determined by the Director of the Development and Resource Management Department, with the site, circulation and landscape design exhibits approved for Conditional Use Permit No. 01-144 as well as the site plan, elevation, parking area, and landscape exhibits approved for Conditional Use Permit No. C-06-090, including the corrected site plan dated December 3, 2007.

5. The sale of pornographic material shall be prohibited on the subject property.

6. Car washes, mortuaries, and services stations shall be prohibited on the subject property.

7. Drive-through uses and drive-up windows shall be prohibited on the subject property.

8. Subsequent uses and modifications of the subject property shall comply with the project-specific mitigation measures adopted for Environmental Assessment No. R-14-006 (attached hereto as Exhibit "B").

9. The following commercial uses shall be permitted by right on the subject property, pursuant to a determination that they are incidental to directly related to and serving the permitted industrial uses on the property and adjacent light industrial land, and pursuant to compliance with project-specific mitigation measures adopted as part of the Mitigated Negative Declaration for Environmental Assessment No. R-14-006:

- a. Retail appliance sales
- b. Retail stereo and sound system store
- c. Retail sale of tools and lawn & garden equipment
- d. Retail sale of bathroom, kitchen, bedding, and related products
- e. Retail sale of paint, lighting, and home décor items
- f. Retail sale of carpet
- g. Retail bakery
- h. Retail meat market
- i. Retail sale of health foods
- j. Retail ice cream store (with no drive-through or drive-up window)
- k. Retail bicycle sales and servicing

- l. Retail clothing store, limited to uniforms/protective clothing, and sporting apparel
- m. Day spa and salon
- n. Retail laundry and dry cleaning
- o. Retail stationery sales, photocopying, binding, blueprinting, mailing, and related business services
- p. Retail telephone/communication equipment and business machine sales and service
- q. Retail florist
- r. Retail jewelry sales and repair
- s. Yoga and martial arts training
- t. Music and dance instruction
- u. Beauty college and vocational school.

SECTION 5. This ordinance shall become effective, and shall have full force and effect, upon recordation of the fully executed covenants required in Section 4 above, with all required subordinations, to memorialize and provide affirmative notice of these amended conditions of zoning for the subject property described in the attached Exhibit "A." These covenants shall be recorded no sooner than at 12:01 a.m. on the thirty-first day after final passage of this Ordinance.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, 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 October, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

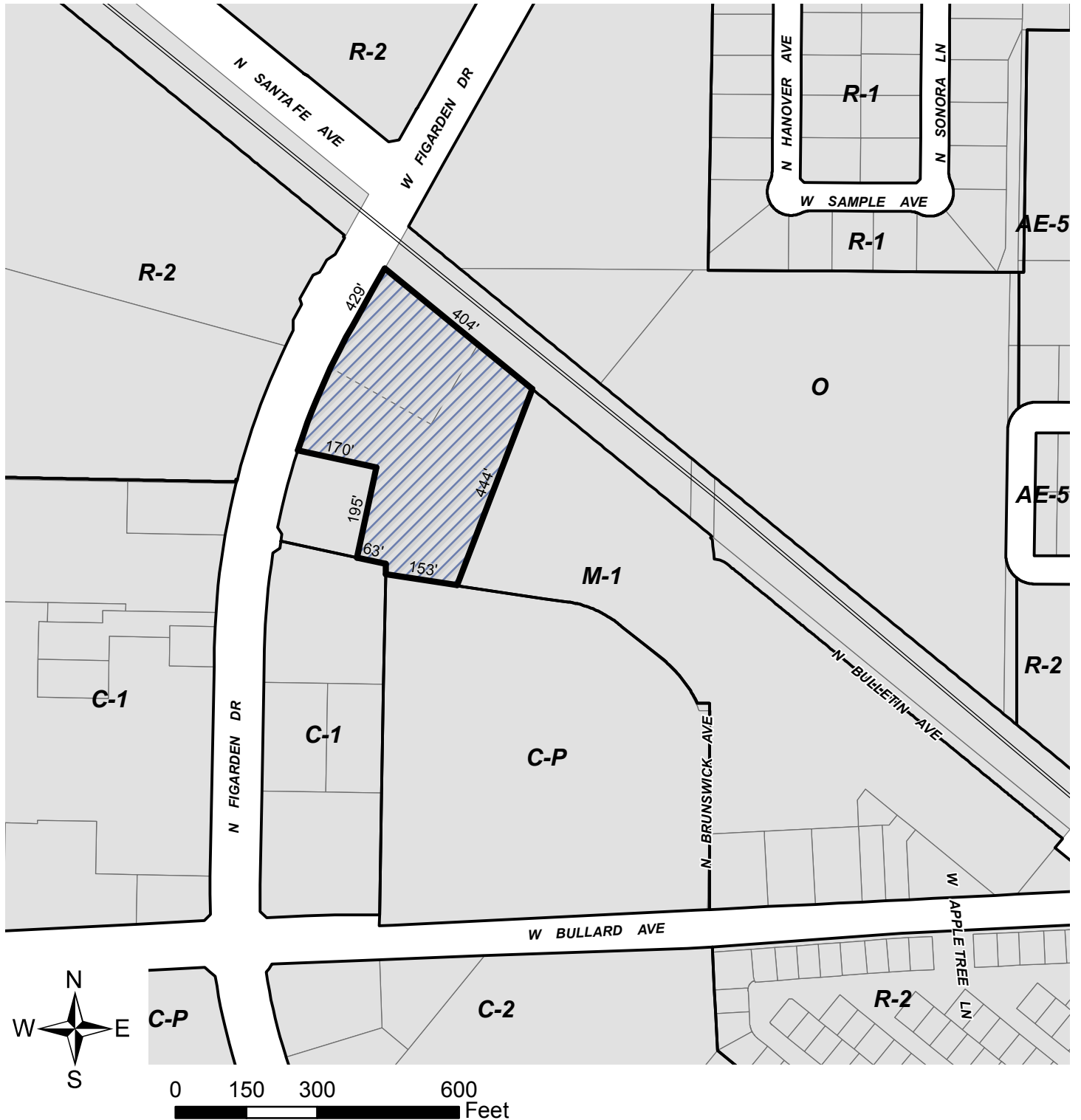
BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Mary Raterman-Doidge Date
Deputy

Attachment: Exhibit A
Exhibit B

EXHIBIT A



R-14-006

APN: 506-320-59 and 60

6350, 6360, 6370, and 6380 North Figarden Drive



M-1/BA-20/UGM/cz, 4.24 Acres

EXHIBIT B for Ordinance No. 2014-

**CITY OF FRESNO
PROJECT-SPECIFIC MITIGATION MONITORING CHECKLIST
ENVIRONMENTAL ASSESSMENT (EA) No. R-14-006**

**Mitigated Negative Declaration Adopted by the Fresno City Council on
, 2014**

This monitoring checklist for the above noted environmental assessment is being prepared in accordance with the requirements of the California Environmental Quality Act (CEQA), as required under Assembly Bill 3180. It is intended to establish a project-specific reporting/monitoring program for Plan Amendment Application No. A-11-05 and Rezone No. R-11-006. Prior to development and use of the subject property, verification of implementation of these mitigation measures is required, in addition to verification of implementation of the applicable measures specified for this project per the Master Environmental Impact Report (MEIR) Mitigation Monitoring Checklist for this project (pursuant to MEIR No. 10130 certified for the 2025 Fresno General Plan and the Mitigated Negative Declaration approved for EA No. A-09-02, for the Air Quality Update to the 2025 General Plan).

AIR QUALITY AND TRAFFIC IMPACTS: The San Joaquin Valley Air Basin is in Extreme Non-Attainment for ozone/oxidants and has not attained National Ambient Air Quality Standards for other criterion pollutants such as PM10 and PM2.5. Exercise of rights under the subject rezone could have an incremental effect on air pollution which may be addressed through preventing and addressing traffic congestion.

MITIGATION MEASURE	IMPLEMENTED BY	WHEN IMPLEMENTED	VERIFIED BY
The proposed project (the revised conditions of zoning for the subject property) shall incorporate mitigation measures relating to prohibition of drive-through uses	City of Fresno	Through the adoption of the ordinance bill for Rezone No. R-14-006	City of Fresno Development and Resource Management Department (DARM)

AIR QUALITY AND TRAFFIC IMPACTS: (continued)

MITIGATION MEASURE	IMPLEMENTED BY	WHEN IMPLEMENTED	VERIFIED BY
<p>When tenant improvement plans or special permits are submitted for review for commercial uses requested pursuant to Rezone No. R-14-006, the Public Works Department Traffic Engineering staff shall determine whether the requested use could generate vehicle trips beyond the level which was that assessed for the light industrial development of the property. The Public Works Department and Council of Fresno County Governments can use this information to assess applicable traffic impact fees as applicable under their respective regulations.</p>	<p>City of Fresno Department of Public Works Traffic Engineering Section and Council of Fresno County Governments Regional Traffic Mitigation Fee Program</p>	<p>At the time any special permit applications or tenant improvement (construction) plans are submitted to utilize the subject property for a commercial use authorized by Rezone No. R-14-006</p>	<p>DARM City of Fresno Public Works Traffic Engineering</p>

SAFETY: Seismic , fire protection, and public health standards differ for light industrial properties and for properties used for educational occupancies and for the production and sale of foods. The existing buildings at the subject property may require modifications or upgrades to meet occupancy, fire protection, and health and safety standards for some of the uses that would be authorized by Rezone No. R-14-006

MITIGATION MEASURE	IMPLEMENTED BY	WHEN IMPLEMENTED	VERIFIED BY
A change of occupancy inspection shall be obtained for any yoga, martial arts, music or dance training facilities, beauty college, or vocational schools. The building owner shall comply with any requirements noted pursuant to that inspection, in order to have the building certified for its new occupancy classification.	Applicant DARM	Prior to using the subject property for any yoga, martial arts, music or dance training facilities, beauty college, or vocational schools	DARM Fresno Fire Department
Plans shall be submitted to the Fresno County Department of Public Health Environmental Health Services for any proposed food preparation or retail food facility and a permit for the food facility shall be obtained from the appropriate health agency.	Applicant DARM	Prior to making any building alterations for food preparation or retail food uses at the subject property	DARM Fresno County Department of Public Health

WATER QUALITY: Some of the uses which could be established at the subject property pursuant to Rezone No. R-14-006 would generate food waste, oils and grease residues that could impair the function of wastewater collection n and treatment facilities.

MITIGATION MEASURE	IMPLEMENTED BY	WHEN IMPLEMENTED	VERIFIED BY
A grease interceptor shall be installed (with appropriate permits) to reduce and prevent discharge of oil and grease residues into the wastewater collection system.	Applicant	Prior to making any building alterations for food preparation or retail food uses at the subject property	DARM City of Fresno Department of Public Utilities Wastewater Management Division
As determined necessary by the Department of Public Utilities, solid waste enclosures shall be augmented to provide capacity for food waste recycling and waste oil/grease storage.	Applicant	Prior to making any building alterations for food preparation or retail food uses at the subject property	DARM City of Fresno Department of Public Utilities

NOISE: Some of the uses which could be established at the subject property under Rezone No. R-14-006 may be noise-sensitive educational uses which would require protection from noise generated by the railroad, roadways, and light industrial uses in adjacent tenant spaces. Some of the uses which could be established at the subject property under this rezone could also generate excessive noise which could adversely affect adjacent tenants and properties.

MITIGATION MEASURE	IMPLEMENTED BY	WHEN IMPLEMENTED	VERIFIED BY
When the change of occupancy inspection is conducted for any proposed music, dance, yoga, or martial arts training facility, beauty college, or vocational school, the noise sensitivity of the proposed use shall be assessed by the City, and an acoustical analysis and mitigation shall be done to ensure indoor noise levels of 45dB or lower for schools which are deemed by the City to be noise-sensitive	Applicant	During the change of occupancy evaluation process	DARM
An acoustical analysis shall ensure that noise generated by tool and lawn equipment businesses and by vocational, beauty, yoga, martial arts, music, and dance instruction, does not exceed 70dB at the property line or building/demising wall, to protect other tenants in the light industrial business park.	Applicant	During the change of occupancy evaluation process required for instructional facilities or during the review of tenant improvement (construction) plans for any tool and lawn equipment business	DARM