

① R-88-355

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| RECORDED IN OFFICIAL RECORDS OF<br>FRESNO COUNTY, CALIFORNIA, |                   |
| AT <u>10</u> MIN. PAST <u>8A</u> M                            |                   |
| NOV 21 1988   |                   |
| GALEN LARSON,<br>County Recorder                              | FEE<br><u>\$0</u> |

**Recording requested by  
City Clerk, Fresno, California  
No Fee-Govt. Code 6103  
Return to City Clerk, Fresno**

-----SPACE ABOVE FOR RECORDER'S USE-----

STATEMENT OF COVENANTS  
AFFECTING LAND DEVELOPMENT  
(Rezoning Application No. R-88-35)

RECITALS

A. Joe Storelli, hereinafter referred to as "the Covenantor," is the owner of that certain real property in the City of Fresno, County of Fresno, State of California, hereinafter referred to as "the Subject Property" and more particularly described as follows.

Lot 142, excepting therefrom the East 990.40 feet, of Perrin Colony No. 2, according to the amended map recorded in Book 4, Page 68 of Plats, Records of Fresno County.

B. The Covenantor has applied to the City of Fresno for a district amendment changing the R-A Zone District classification to the R-P Zone District classification for the Subject Property.

C. The City of Fresno desires to obtain covenants from the Covenantor to insure that the Subject Property is not developed, used, or maintained in such a way as to adversely affect adjoining properties.

COVENANTS, CONDITIONS, AND RESTRICTIONS

For favorable action on, and approval of, the Covenantor's application for an amendment to the Zone District classification of the Subject Property as referred to hereinabove, the Covenantor hereby covenants that the Subject Property shall be held, conveyed, encumbered, used, occupied, developed, maintained, and improved subject to the following covenants, conditions, and restrictions, which are for the purpose of enhancing attractiveness, usefulness, value, and desirability of the Subject Property, the surrounding property, and the public at large and to minimize possible adverse effects on the public health, safety, peace, and general welfare. Each of the covenants, conditions, and restrictions contained in this Statement will run with the Subject Property and shall be binding on each successive owner of the Subject Property and his heirs, administrators, successors, and assigns.

1. Covenantor hereby covenants as follows:
  - a. Access shall be prohibited to East Browning Avenue from the site.
  - b. A ten-foot landscaped setback shall be provided along the east property line.
  - c. The dedication of an avigation easement and agreement as called for in the Fresno Air Terminal Land Use Policy Plan shall be required for residential uses.
  - d. An acoustical study shall be prepared and appropriate noise attenuation measures shall be incorporated into the design of the structures.

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2. The conditions of this Statement are intended to benefit the public and public properties. Accordingly, the City of Fresno shall have the right to enforce this Statement by any legal or equitable means against the Covenantor and such person or persons in actual possession of Subject Property who directly or who through any agent violate the terms hereof. All obligations of the Covenantor under this Statement shall inure solely to the benefit of the City of Fresno. There are no third party beneficiaries of such obligations nor shall the right of the City of Fresno be transferable in any manner to any person other than to a successor municipal corporation whose geographic boundaries include the Subject Property.

3. Covenantor covenants that, in the event of failure to comply with the conditions set forth in this Statement, Covenantor will not object to the redistricting of the Subject Property to a land use zoning district which the Council of the City of Fresno determines is proper without compliance with such conditions. In such event, Covenantor waives any right to have any uses or improvements installed subsequently to the change of land use zoning district herein requested considered, or treated as non-conforming uses or improvements after such redistricting.

4. The foregoing conditions shall remain in full force and effect until such time as the City of Fresno, pursuant to the district amendment procedure of the Fresno Municipal Code, finds the enforcement of such condition is no longer equitable.

5. The provisions of this Statement shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof. Whenever the context so requires, any gender includes the other genders, the singular includes the plural, and the plural includes the singular.

DATED: Oct. 26, 1988

Accepted By:

CITY OF FRESNO,  
a Municipal Corporation

COVENANTOR

Joe Storelli  
Joe Storelli

By George A. Kerber  
George A. Kerber, Director  
Development Department

ATTEST:

JACQUELINE L. RYLE  
City Clerk

By Robin Alcala  
Deputy

APPROVED AS TO FORM:

HARVEY WALLACE  
City Attorney

By [Signature]  
mb  
7715d/431

(Attach Notary Acknowledgment)

BILL NO. B-142

INTRODUCED BY COUNCILMEMBER Anaforian

ORDINANCE NO. 88-127

AN ORDINANCE 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, 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 7th day of September, 1988, and approved and recommended to the Council of the City of Fresno an amendment to the Zoning Ordinance which changes the real property described hereinbelow from one zone to another; and

WHEREAS, the Fresno County Airport Land Use Commission (ALUC) determined that the proposed rezoning application is consistent, subject to conditions, with their adopted Fresno Air Terminal Land Use Policy Plan; and

WHEREAS, the Council of the City of Fresno received the recommendation of the Planning Commission and concurs therein; and

WHEREAS, the purpose of the Local Planning and Procedures Ordinance, that zoning be consistent with the land use designated on applicable plans, will be frustrated if zoning on property is allowed to revert to inconsistency with the land uses designated on applicable plans because of failure to comply with certain provisions of Section 12-404-K of the Fresno Municipal Code, and it is therefore in the best interests of the City that compliance with those provisions of Section 12-404-K be waived as a condition of this rezoning.

PASSED 10/4/88  
EFFECTIVE see Sec. 6

88-127

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 and consideration of the environmental documentation provided, the adoption of the proposed rezoning is in the best interests of the City of Fresno, the Council finds that there is no substantial evidence in the record that the rezoning may have a significant effect on the environment, and the Negative Declaration prepared for this project is hereby approved.

SECTION 2. 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 Zone District to the R-P/cz Zone District:

Lot 142, excepting therefrom the East 990.40 feet of Perrin Colony No. 2, according to the amended map recorded in Book 4, Page 68 of Plats, Records of Fresno County.

SECTION 3. This ordinance shall be conditioned upon the record owner of the real property subject to this reclassification dedicating and providing, or agreeing to provide, improvements to streets adjacent to the subject property as follows:

NORTH FRESNO STREET

1. Installation of concrete curb, gutter and eighteen (18) feet of asphalt concrete pavement along the entire frontage plus transition paving as required by the City Engineer.

## GENERAL

1. Dedication of a triangular parcel at the northeast corner of the intersection of Fresno and Browning and installation of a wheelchair ramp conforming to City Drawing No. P-28 plus transition pavement will be required when the site develops, together with full improvements and a nine (9) foot dedication for street improvements in Browning Avenue.
2. Applicant must provide the City with the legal description on a standard deed form together with City standard drawings for any required dedication. Review and approval of documents must occur prior to sixty (60) days following Council approval of the application.

SECTION 4. This ordinance shall be conditioned upon the record owner of the property described in Section 2 executing and causing to be recorded a covenant running with the land that will affect land development to guarantee that:

1. Access shall be prohibited to East Browning Avenue from the site.
2. A ten-foot landscaped setback shall be provided along the east property line.
3. The dedication of an avigation easement and agreement as called for in the Fresno Air Terminal Land Use Policy Plan shall be required for residential uses.
4. An acoustical study shall be prepared and appropriate noise attenuation measures shall be incorporated into the design of the structures.

SECTION 5. Compliance with Section 12-404-K of the Fresno Municipal Code is expressly waived except that the expiration provisions of Subsection 5 of said section related to the submittal of required offers of dedication, a required agreement and security for street improvements, or a required covenant agreement for other conditions of zoning shall remain in effect.

SECTION 6. This ordinance shall become effective and in full force and effect at 12:01 a.m., on the thirty-first day after its passage, and upon recordation of the Covenant required in Section 4 above.

CLERK'S CERTIFICATE

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

I, JACQUELINE L. RYLE, 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 4th day of October, 1988.

JACQUELINE L. RYLE  
City Clerk

By \_\_\_\_\_  
Deputy

Appl. No. R-88-35

Filed by: Joe Storelli

Parcel No. 418-021-06

MB:mv  
7292d/421

APPROVED AS TO FORM  
CITY ATTORNEY'S OFFICE

BY: \_\_\_\_\_  
DEPUTY