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Title: Consideration of Text Amendment Application No. P23-01018 and related Environmental Finding for Environmental Assessment No. P23-01018, amending Section 15-2009 of the Fresno Municipal Code, relating to locations where razor wire fencing is permitted.

1. RECOMMEND ADOPTION (to the City Council), of a finding set forth in Environmental Assessment No. P23-01018, that Text Amendment Application No. P23-01018 is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303/Class 3.

2. RECOMMEND ADOPTION (to the City Council), of Text Amendment Application No. P23-01018, to amend Section 15-2009 of the Fresno Municipal Code, relating to the Zone Districts where razor wire fencing is permitted.

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. Exhibit A - Resolution No. 2019-248, 2. Exhibit B - Ordinance, 3. Exhibit C - Public Notice, 4. Exhibit D - Fresno Municipal Code Findings, 5. Exhibit E - Environmental Assessment, 6. Exhibit F - Map of Potential Razor Wire Locations

Date	Ver.	Action By	Action	Result
4/17/2024	1	Planning Commission	APPROVED AS AMENDED	Pass

REPORT TO THE PLANNING COMMISSION

APRIL 17, 2024

FROM: JENNIFER CLARK, Director
Planning & Development Department

THROUGH: SOPHIA PAGOULATOS, Planning Manager
Planning & Development Department

BY: ADRIENNE ASADOORIAN-GILBERT, Planner
Planning & Development Department

SUBJECT

Consideration of Text Amendment Application No. P23-01018 and related Environmental Finding for Environmental Assessment No. P23-01018, amending Section 15-2009 of the Fresno Municipal

Code, relating to locations where razor wire fencing is permitted.

1. **RECOMMEND ADOPTION** (to the City Council), of a finding set forth in Environmental Assessment No. P23-01018, that Text Amendment Application No. P23-01018 is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303/Class 3.
2. **RECOMMEND ADOPTION** (to the City Council), of Text Amendment Application No. P23-01018, to amend Section 15-2009 of the Fresno Municipal Code, relating to the Zone Districts where razor wire fencing is permitted.

EXECUTIVE SUMMARY

As a mechanism to provide additional security measures to businesses within areas where security fencing is permitted throughout the City of Fresno, the City of Fresno (Applicant) is proposing Text Amendment P23-01018 which would amend Section 15-2009, Security Fencing, of the Fresno Municipal Code to permit razor wire in the following situations: (1) where such fencing is required by any law or regulation of the City, the State of California, the federal government, or other public agency; (2) where used to contain livestock; (3) in Commercial Districts where not visible from any street, highway, public open space, recreation area, or Residential District; (4) in Industrial Districts unless it abuts a Residential District; and (5) Construction Sites as a temporary measure. Razor wire is further subject to the following location restrictions: razor wire shall be prohibited within 1,000 feet of any sensitive use such as Residential Districts, public or private schools, daycares, churches, and public parks, except where permitted for the keeping of livestock or as temporary fencing around construction sites in compliance with the Building Code and other applicable provisions of the Fresno Municipal Code. Prior to installation, property owners are required to apply for a permit with the City and execute an agreement to defend, hold harmless, and indemnify the City against all claims related to the fencing.

BACKGROUND

On December 5, 2019, the City Council approved Resolution No. 2019-248, initiating a Text Amendment to the Development Code of the City of Fresno to amend Section 15-2009 of the Fresno Municipal Code relating to security fencing. This amendment specifically addresses the inclusion of razor wire fencing, due to discrepancies in Section 15-2009 of the Fresno Municipal Code which identify locations where barbed wire security fencing is permitted, but do not address the provision of razor wire fencing. Text Amendment No. P23-01018 proposes to update Section 15-2009 of the Municipal Code to allow razor wire fencing subject to the location requirements as stipulated previously in this document.

ENVIRONMENTAL FINDINGS

An environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines (See Exhibit E).

CEQA Guidelines Section 15303/Class 3 applies to projects pertaining to new construction or conversion of small structures consisting of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications

are made in the exterior of the structure. Examples of this exemption include, but are not limited to accessory structures including garages, carports, patios, swimming pools, and fences.

Staff has reviewed the project and has determined that it is exempt from CEQA pursuant to CEQA Guidelines Section 15303 under the Class 3 exemption.

This Text Amendment proposes changes to the Development Code and does not commit the City to any specific project or development on any particular site. However, it would allow for an applicant to install razor wire, a specific type of security fencing, as an accessory structure, pursuant to a permit issued by the City. The permit application process already exists within the Fresno Municipal Code per Section 15-2009 for Security Fencing. All individual projects under the proposed Text Amendment will be subject to ministerial review, as stipulated in CEQA Guidelines Section 15268.A.

Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines, Section 15300.2 apply to this project.

FRESNO MUNICIPAL CODE FINDINGS

Development Code Text Amendment. Section 15-5811 of the Fresno Municipal Code provides that the Planning Commission shall not recommend, and the City Council shall not approve an application unless the proposed Text Amendment meets Criteria A (1 and 2) of Section 15-5811. Please see Exhibit D for the Fresno Municipal Code Findings.

Public Notice and Comment

A Legal Notice was published in the Fresno Bee on April 5, 2024, pursuant to Fresno Municipal Code Section 15-5007(D) (See Exhibit C). In addition, the notice was posted on the City Clerk's website and provided to the City's distribution list for such notices.

Review by Committees and Commissions

The active Council District Plan Implementation Committees and Tower District Design Review Committee all reviewed the proposed text amendment, which applies Citywide. Their recommendations are listed below:

District 1: On September 14, 2023, the Committee recommended denial of the proposed application. A summary of the Committee's comments are as follows: expand the allowable distance between where razor wire is permitted and parks and open space and Residential Districts, the creation of an impact study on where razor wire would be permitted in communities living in poverty and communities of color, and proposal of a study which would analyze alternative solutions to razor wire fencing.

Staff Response to D1 Comments: Of the recommendations which fall under the scope of review of the City of Fresno Planning and Development Department, City staff has provided the following responses:

- The Text Amendment includes a revision to the sensitive use buffer and location restrictions which now prohibits razor wire within 1,000 feet of any sensitive use such as Residential Districts, public or private schools, daycares, churches, and public parks, except where permitted for the keeping of livestock or as temporary fencing around construction sites in compliance with the Building Code and other applicable provisions of the Fresno Municipal*

Code.

District 2: On April 10, 2023, the Committee recommended approval of the proposed application.

District 3: On April 11, 2023, the Committee recommended approval of the proposed application with the following conditions: the creation of a task force run by Code Enforcement to focus on identifying properties which have permitted barbed wire, abatement of illegal barbed wire which would include a warning, education on why it is illegal and application of a permit within a time limit, and potential fine if not within compliance.

Staff Response to D3 Comments: The establishment and review of a task force run by Code Enforcement which would monitor illegal barbed wire would fall under the purview of the City Attorney's Office.

District 4: On April 4, 2024, the Committee recommended approval of the proposed application.

District 5: On September 11, 2023, the Committee recommended approval of the proposed application.

District 6: On April 17, 2023, the Committee recommended approval of the proposed application.

Tower District Design Review Committee: On May 2, 2023, the Committee recommended approval of the proposed application.

Airport Land Use Commission: City staff consulted with ALUC staff and determined that formal ALUC review was not necessary, due to the limited scope of the Text Amendment.

CONCLUSION

The appropriateness of the proposed Text Amendment has been examined with respect to its consistency with goals and policies of the Fresno General Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying findings, environmental assessment, and exhibits. Upon consideration of this evaluation, it can be concluded that the proposed Text Amendment is appropriate. Action by the Planning Commission to approve Staff's recommendation will be a recommendation to the City Council to approve the Text Amendment to the Development Code.

ATTACHMENTS:

- Exhibit A - Resolution No. 2019-248
- Exhibit B - Draft Ordinance
- Exhibit C - Public Notice
- Exhibit D - Fresno Municipal Code Findings
- Exhibit E - Environmental Assessment
- Exhibit F - Map of Potential Razor Wire Locations