

Exhibit E

Recording Requested by:
City Clerk, Fresno, California
No Fee-Govt. Code 6103

Return to City Clerk, Fresno

Space above this line reserved for Fresno County Recorder's Office

ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY Perea SECONDED BY Duncan

BILL NO. B-101

ORDINANCE NO. 2004-94

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-04-39 has been filed with the City of Fresno to rezone property as described hereinbelow; 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 1st day of September, 2004, to consider Rezone Application No. R-04-39 and related Environmental Assessment No. A-04-14/R-04-39/C-04-112/TPM 2004-12, during which the Commission recommended to the Council of the City of Fresno approval of the subject environmental assessment and rezone application amending the City's Zoning Ordinance on real property described hereinbelow from the R-A (*Single Family Residential - Agricultural*) zone district to the R-4/cz (*High Density Multiple Family Residential/conditional zoning*); and,

WHEREAS, on September 1, 2004, the Fresno City Planning Commission through Resolution

Adopted 9/28/04
Approved 9/28/04
Effective 10/29/04

2004-94

No. 12066 recommended approval of Rezone Application No. R-04-39 as described above; and,

WHEREAS, on September 13, 2004, the Fresno County Airport Land Use Commission (ALUC) considered the plan amendment and rezone application to determine the projects consistencies with the ALUC adopted plans and policies and resolved to recommend conditional approval of the project; and,

WHEREAS, the Council of the City of Fresno, on the 28th day of September, 2004, received the recommendation of the Planning Commission and concurs therewith.

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 interest of the City of Fresno. The Council finds in accordance with its own independent judgment that with the recommended mitigation measures for Environmental Assessment No. A-04-14/R-04-39/C-04-112/TPM 2004-12 dated August 11, 2004, there is no substantial evidence in the record that the rezoning may have a significant effect on the environment and the mitigated negative declaration prepared for this project is hereby approved.

SECTION 2. The Council finds the requested R-4/cz zone district is consistent with the proposed high density residential planned land use designation of the 2025 Fresno General Plan, Hoover Community Plan, and the Fresno Yosemite International Airport and Environs Plan as specified in Section 12-403-B of the Fresno Municipal Code.

SECTION 3. The Council finds that 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 (*Single Family Residential - Agricultural*) zone district to the R-4/cz (*High Density Multiple Family Residential/conditional zoning*) zone district:

From R-A to R-4/cz:

Parcel A of Parcel Map No. 77-82, according to the map thereof recorded in Book 28, Page 6 of Parcel Maps, Fresno County Records.

Excepting therefrom that portion of said parcel as conveyed to the State of California acting by and through the Department of Transportation in that Final Order of Condemnation recorded April 6, 1983, as Document No. 83-29203, Official Records.

SECTION 4. The development of the property described in Section 3 shall be conditioned upon the following conditions of zoning which is recorded and on file in the Fresno County

Recorder's Office:

1. Development of the subject property shall be limited to no more than 152 multiple family dwelling units (27 units per acre) as proposed under Conditional Use Permit Application No. C-04-112 and be limited to student housing only.
2. Dedication of an avigation easement to the City of Fresno.
3. Recordation of a covenant stating that it is understood by the owner's and owners' successors in interest that the real property in question lies close to Fresno Yosemite International Airport and that the operation of the Airport and the landing and take-off of aircraft may generate high noise levels which will effect the habitability and quiet enjoyment of the property.

The owners shall also covenant to accept and acknowledge the operation of the Fresno Yosemite International Airport.

The above easement, covenants, conditions, and restrictions shall run with the land and shall be binding upon the present and subsequent owners of the property. The subject site shall be limited to the use of student housing.

SECTION 5. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

///

///

///

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
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, California, at a regular meeting held on the 28th day of September, 2004, by the following vote:

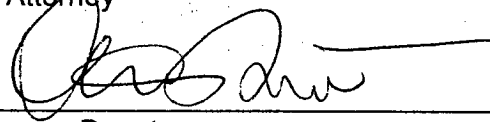
AYES: Calhoun, Dages, Duncan, Perea, Sterling, Castillo
NOES: Boyajian
ABSENT: None
ABSTAIN: None

REBECCA E. KLISCH
City Clerk

By 

APPROVED AS TO FORM:

HILDA CANTÚ MONTOY
City Attorney

By 
Deputy

Rezone Application No. R-04-39
Filed by JPI Development
Assessors Parcel Nos. 418-060-30