



**COUNCIL RESOLUTION NO. 2008-358**

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, AMENDING THE WOODWARD PARK COMMUNITY PLAN AND THE 2025 FRESNO GENERAL PLAN (PLAN AMENDMENT APPLICATION NO. A-08-10)

WHEREAS, Plan Amendment No. A-08-10 has been filed with the City of Fresno by property owner Dewayne Zinkin to amend the 2025 Fresno General Plan and Woodward Park Community Plan as described below; and

WHEREAS, in April 1990 the Fresno City Council approved Rezone Application No. R-88-13 which, by request of Valley Children's Hospital, changed the zone district of the Fresno 40 project site located between North Friant Road, North Fresno Street, East Cole Avenue, and East Audubon Drive from the AE-20/UGM (*Exclusive Twenty Acre Agricultural/Urban Growth Management*) zone district to the C-P/UGM/cz (*Administrative and Professional Office/Urban Growth Management/conditions of zoning*) zone district subject to several specified conditions of approval as related to the proposed hospital and office project and which conditions still apply to the office commercial planned subject property; and,

WHEREAS, DeWayne Zinkin originally filed Plan Amendment Application No. A-00-23 and Rezone Application No. R-00-52 relating to the southerly 20 acres of the 40-acre Fresno 40 property located between North Friant Road, North Fresno Street, East Cole Avenue, and East Audubon Drive in December 2000; and,

WHEREAS, said land use entitlements were filed with the City of Fresno to amend the Fresno General Plan and the Woodward Park Community Plan from the office commercial planned land use designation to the community commercial and high density residential land use designations and amending the text of the Woodward Park Community Plan to add the 40-acre parcel to the plan activity center and rezoning the 20-acre portion of the site to the appropriate community commercial and residential zone districts; and,

Adopted \_\_\_\_\_  
Approved 12/16/08  
Effective \_\_\_\_\_

2008-358



WHEREAS, the office commercial land use shown for the Fresno 40 Project on the initiated 2025 Fresno General Plan is the same as originally approved by the Fresno City Council on the adopted 1989 Woodward Park Community Plan; and,

WHEREAS, on November 19, 2002, by Resolution No. 2002-379, the City Council adopted the 2025 Fresno General Plan which correspondingly updated the 1989 Woodward Park Community Plan and by Resolution No. 2002-378 certified Master Environmental Impact Report No. 10130 which evaluated the potentially significant adverse environmental impacts of urban development within the City of Fresno's designated urban boundary line and extended sphere of influence; and,

WHEREAS, in September 2003, DeWayne Zinkin purchased the northern half of the 40-acre site thereby bringing the entire Fresno 40 Project under one ownership and also amended the previously submitted Plan Amendment Application No. A-00-23 and Rezone Application No. R-00-52 now proposing to amend 15.94 acres of the subject property from the office commercial to the community commercial land use designation and rezoning this same portion of the property from the C-P/UGM/cz (*Administrative and Professional Office/Urban Growth Management/conditions of zoning*) and the R-P/UGM/cz (*Residential and Professional Office/Urban Growth Management/conditions of zoning*) zone districts to the C-2/UGM/cz (*Community Shopping Center/Urban Growth Management/conditions of zoning*) zone district as shown on attached Exhibit A; and,

WHEREAS, On December 7, 2004 the City Council approved Plan Amendment No. A-00-23 and Rezone Application No. R-00-52 and certified Environmental Impact Report No. 10129 ; and,

WHEREAS, on December 7, 2004 legal action was filed against the City of Fresno in regard to the Council's approval of Plan Amendment Application No. A-00-23, Rezone Application No. R-00-52 and Environmental Impact Report No. 10129; and



WHEREAS, in December 2005 Dewayne Zinkin filed Rezone Application No. R-05-81 and Conditional Use Permit Application No. C-05-216 on the subject property to allow for the development of the property with 209,650 square feet of office uses, 278,200 square feet of commercial uses and 24 residential uses and to change a condition of zoning to allow for a second point of vehicular access from the property to Friant Road; and

WHEREAS, on August 22, 2006 the City Council approved Rezone Application No. R-05-81 and Conditional Use Permit Application No. C-05-216; and

WHEREAS, on April 13, 2007 the Fifth District Court of Appeals rendered a decision on the legal action previously filed against the City of Fresno, determining that the City's certification of EIR No. 10129 was in violation of CEQA and ordered the City of Fresno to reverse its decision certifying Environmental Impact Report (EIR) No. 10129 and approving Plan Amendment No. A-00-23 and Rezone Application No. R-00-52; and

WHEREAS, the above court action also effectively rescinded the Council's action to approve Rezone Application No. R-05-81 and Conditional Use Permit Application No. C-05-216 as their approvals were conditioned on the previous approval's of Plan Amendment No. A-00-23, Rezone Application No. R-00-52 and the certification of EIR No. 10129 (although such rescission was never perfected by formal Council action); and

WHEREAS, in June, 2008 Dewayne Zinkin filed EIR No. 10142, Plan Amendment No. A-08-10, Rezone Application No. R-08-14 and Conditional Use Permit Application No. C-08-157 on the subject property (Fresno 40 Project); and

WHEREAS, the project as now proposed for the entire Fresno 40 site proposes to amend approximately 15.94 acres of the subject property from the office commercial to the community commercial plan designation and to rezone the same 15.94 acres from the C-P/UGM/cz (*Administrative and Professional Office/Urban Growth Management/conditions of zoning*) and the R-P/UGM/cz (*Residential and Professional Office/Urban Growth*



*Management/conditions of zoning*) zone districts to the C-2/UGM/cz (*Community Shopping Center/Urban Growth Management/conditions of zoning*) zone district to allow for the development of the property with 278,200 square feet of office uses, 209,650 square feet of retail commercial uses and 24 residential dwelling units and to allow for a second point of vehicular access from the subject property to Friant Road; and,

WHEREAS, the District 6 Plan and Implementation Committee, on December 1, 2008, reviewed the requested plan amendment and unanimously recommended approval to the Planning Commission and City Council; and,

WHEREAS, on December 3, 2008, the Fresno City Planning Commission held a duly noticed public meeting at which the Commission considered and discussed the adequacy of the proposed Final EIR No. 10142 as an informational document, including Draft EIR No. 10142 dated September 19, 2008 and Responses to Written Comments dated November 20, 2008 and technical analyses attached thereto; and,

WHEREAS, on December 3, 2008, the Fresno City Planning Commission considered the staff report and related information and received public testimony with respect to the proposed plan amendment and considered the proposed project in accordance with the policies of the Woodward Park Community Plan and the 2025 Fresno General Plan and recommended to the City Council that the land use designation of the Woodward Park Community Plan and the 2025 Fresno General Plan be approved for the subject site in accordance with staff's recommendation as noted on Exhibit A, attached; and,

WHEREAS, on December 16, 2008, the Fresno City Council held a public hearing to consider Plan Amendment Application No. A-08-10 and received both oral testimony and written information regarding the proposed plan amendment application.



NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Fresno, based upon the testimony and information presented at the hearing and upon review and consideration of the environmental documentation provided as follows:

1. The Council hereby rescinds its previous action of January 7, 2004 approving Plan Amendment No. A-00-23 (Resolution No. 2004-461).
2. The Council in a prior action certified the Final Environmental Impact Report No. 10142, and made all necessary findings under CEQA, to approve the Fresno 40 Project.
3. The Council finds the adoption of the proposed plan amendment as recommended by the Fresno City Planning Commission is in the best interest of the City of Fresno.
4. The Council hereby adopts Plan Amendment Application No. A-08-10 amending the land use designation of the Woodward Park Community Plan and the 2025 Fresno General Plan for the subject site from the office commercial to the community commercial plan designation as noted on Exhibit A, attached.

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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 Resolution was adopted by the City Council of the City of Fresno at a regular meeting held on the 16th day of December, 2008, by the following vote:

AYES: Caprioglio, Dages, Duncan, Sterling, Xiong  
NOES: None  
ABSENT: Perea  
ABSTAIN: None  
RECUSED: Calhoun

REBECCA E. KLISCH  
City Clerk

By Rebecca E. Klisch

APPROVED AS TO FORM:

JAMES C. SANCHEZ  
CITY ATTORNEY

By [Signature]  
Kathryn Phelan, Deputy  
12/12/08

Plan Amendment Application No. A-08-10  
Filed by DeWayne Zinkin  
Assessor's Parcel Nos. 402-220-37, 60, 61

