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BILL NO. B-8

ORDINANCE NO. 2010-9

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING THE OFFICIAL PLAN OF STREETS AND HIGHWAYS OF THE CITY OF FRESNO HERETOFORE ADOPTED BY CHAPTER 12, ARTICLE 7 OF THE FRESNO MUNICIPAL CODE, BEING THE OFFICIAL PLAN LINES, STREETS AND HIGHWAYS ORDINANCE OF THE CITY OF FRESNO

WHEREAS, a Development Agreement ("Entitlement") by and between the City of Fresno and Fancher Creek Properties, LLC, a California Limited Liability Company, requires that the Tulare Street Official Plan Line between Clovis Avenue, easterly, within the Fancher Creek Town Center, as described herein below, be repealed; and,

WHEREAS, pursuant to the provisions of Chapter 12, Article 7 of the Fresno Municipal Code, "Official Plan Lines" means the future right-of-way line or plan lines of any street or highway as shown on the Official Plan of Streets and Highways for street use; and

WHEREAS, pursuant to the provisions of Chapter 12, Article 7 of the Fresno Municipal Code the Official Plan of Streets and Highways as heretofore adopted and amended is hereby affirmed and continued in force as a specific plan and part of the General Plan of the city; and

WHEREAS, pursuant to the provisions of Chapter 12, Article 6 of the Fresno Municipal Code, the Planning Commission of the City of Fresno held a public hearing on the 19th day of August, 2009, to consider the entitlement application to repeal of the Tulare Street Official Plan Line within the Fancher Creek Town Center, as evidenced in Planning Commission Resolution No. 12973; and,

Adopted 03-25-10
Approved 03-25-10
Effective 04-25-10

WHEREAS, the Council of the City of Fresno, on the 25th day of March 2010, received the recommendation of the Planning Commission.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Council finds that CEQA Guidelines Section 15162 requires the following:

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

SECTION 2. Council finds in its independent judgment, based upon its review of EIR No. 10133 and the Addendum prepared for EIR No. 10133 dated June 29, 2009, and the entire administrative

record, including but not limited to the Staff reports, the oral and documentary evidence submitted to Council and the Planning Commission, that the Proposed amendment to the Official Plan of Streets and Highways to repeal the Tulare Street Official Plan Line from Clovis Avenue, easterly, within the Fancher Creek Town Center is a minor change to the project assessed under EIR No. 10133 and that none of the circumstances that would require a new environmental document, pursuant to CEQA Guidelines section 15162, is required to approve the amendment to the Official Plan of Streets and Highways. Accordingly, Council hereby adopts the Addendum prepared for EIR No. 10133 dated June 29, 2009.

SECTION 3. The Council finds the amendment to the Official Plan of Streets and Highways will have no negative impact on the General Plan Circulation Element and is therefore consistent with the 2025 Fresno General Plan.

SECTION 4. The Council finds that the Official Plan of Streets and Highways is hereby amended to repeal the Tulare Street Official Plan Line within the Fancher Creek Town Center as described in Exhibit A.

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.

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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 ordinance was adopted by the Council of the City of Fresno, California, at a regular meeting held on the 25th day of March, 2010, by the following vote:

Ayes: Borgeas, Brand, Dages, Perea, Sterling, Xiong, Westerlund
Noes: None
Absent: None
Abstain: None

REBECCA E. KLISCH
City Clerk

By Rebecca E. Klisch

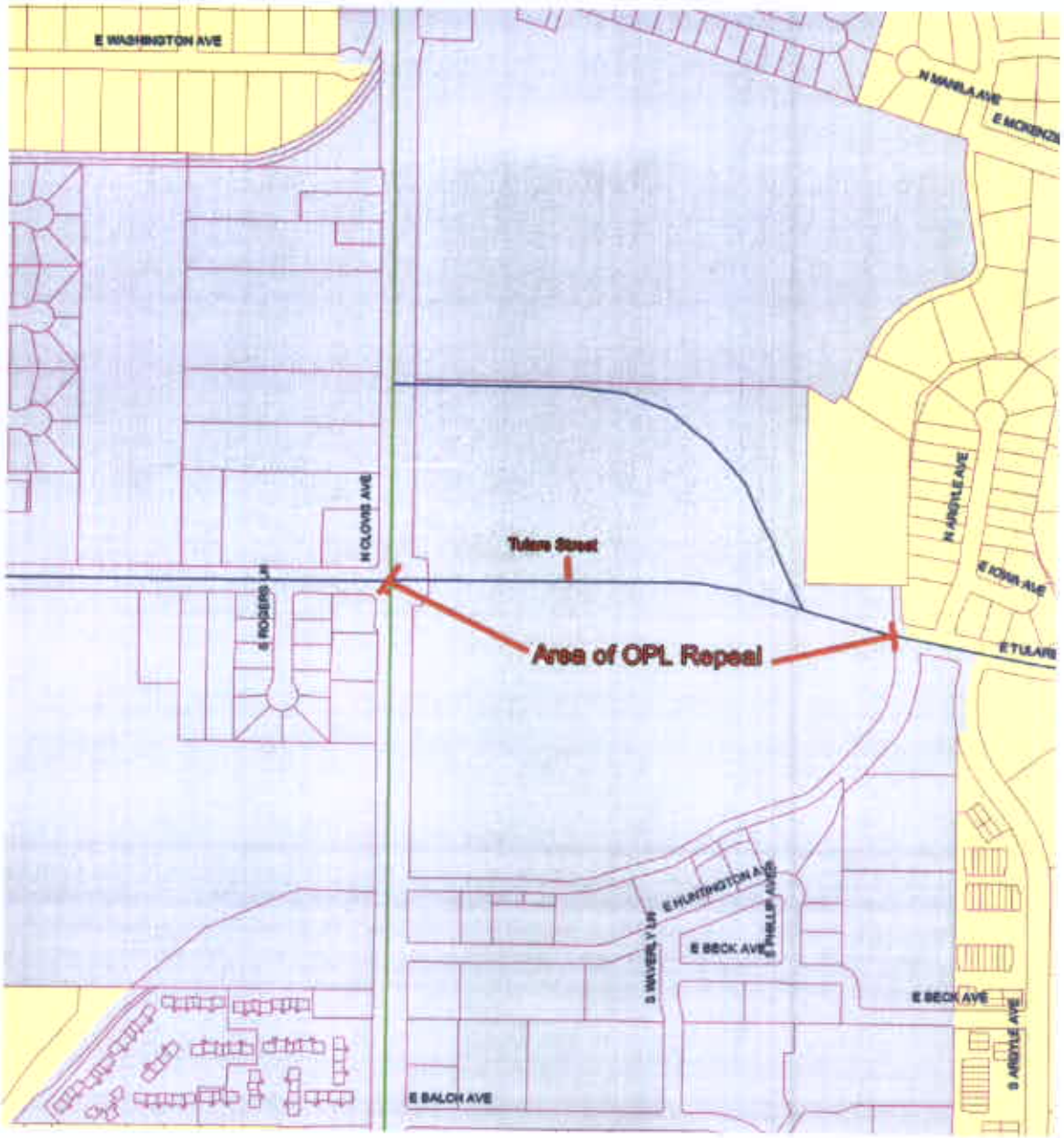
APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By John W. Fox
John W. Fox
Senior Deputy City Attorney

Date 3/19/2010

Fancher Creek Development Agreement
Filed by Fancher Creek Properties, LLC.

Exhibit A

Tulare Street Official Plan Line Repeal