



City Council Report

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Sacramento, CA 95814

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File ID: 2019-01683

December 3, 2019

Consent Item 03

Title: Repeal Ordinance 2011-021, Relating to Certain Land Use Entitlements and Building Permits for Properties in Natomas Basin while the Area was Designated Zone AE on Flood Insurance Rate Maps (Passed for Publication 11/19/2019; Published 11/22/2019)

Location: Natomas Basin, Districts 1, 3 and 4

Recommendation: Adopt an Ordinance repealing Ordinance No. 2011-021, relating to certain land use entitlements and building permits on properties within the Natomas Basin in the City of Sacramento while the area was designated Zone AE on Flood Insurance Rate Maps.

Contact: Cheryle Hodge, New Growth Manager, (916) 808-5971, Community Development Department

Presenter: None

Attachments:

1-Description/Analysis

2-Ordinance Repeal

Description/Analysis

Issue Detail: On April 12, 2011, the City Council adopted Ordinance No. 2011-021 extending the life of certain land use entitlements and building permits for properties within the Natomas Basin while the area was designated Zone AE on federal Flood Insurance Rate Maps (FIRMs). Ordinance No. 2011-021 was designed as an interim measure to preserve entitlements within the Natomas Basin until the area was re-designated under the FIRMs and the related restrictive development regulations lifted. On June 16, 2015, the Federal Emergency Management Agency (FEMA) re-designated the Natomas Basin to Zone A99, thereby lifting the federal regulations that previously constrained development and therefore, interim Ordinance No. 2011-021 is no longer needed. Accordingly, the proposed ordinance repeals Ordinance No. 2011-021.

Policy Considerations: The 2035 General Plan includes the following applicable goals and policies related to flood protection:

GOAL Environmental Constraints (EC) 2.1

Protect life and property from flooding.

EC 2.1.4 200 Year Flood Protection. The City shall work with local, regional, state, and federal agencies to achieve at least 200-year flood protection for all areas of the City by 2025.

EC 2.1.4 Funding for 200-year Flood Protection. The City shall continue to cooperate with local, regional, State, and Federal agencies in securing funding to obtain the maximum level of flood protection that is practical, with a minimum goal of achieving at least 200-year flood protection as quickly as possible.

Consistent with the goals and policies related to flood protection, considerable progress has been made to improve the levee system that protects the Natomas Basin. The proposed ordinance provides for consistent timelines of land use entitlements and building permits among all development recognizing that development has resumed in Natomas Basin after the building moratorium was lifted.

Economic Impacts: None.

Environmental Considerations: The proposed ordinance does not constitute a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA Guidelines Section 15378, and is not subject to CEQA pursuant to CEQA Guidelines section 15060(c)(3). Further, the proposed ordinance is exempt from review under CEQA pursuant to

CEQA Guidelines section 15061(b)(3), commonly referred to as the “common sense exemption.” Consistent with that section, it can be seen with certainty that there is no possibility that the proposed ordinance will have a significant effect on the environment. The proposed ordinance will result in the same or less development than currently exists. The proposed ordinance simply restarts the clock on the expiration of entitlements that are covered by the original ordinance (Ordinance No. 2011-021). Without the proposed ordinance, these projects could still move forward. The proposed ordinance will simply reinstate the timelines for vesting these entitlements, consistent with the city code.

Sustainability: Not applicable.

Commission/Committee Action: This report was reviewed by the Law and Legislation Committee on November 5, 2019, and City Council passed for publication on November 19, 2019.

Rationale for Recommendation: Ordinance No. 2011-021 was previously adopted in response to the FEMA related restrictions on development in the Natomas Basin. The 2011 Ordinance provided protection to preserve land use entitlements and building permits by granting additional time to the term of these entitlements and permits while the building moratorium was in place. Ordinance No. 2011-021 was an interim ordinance intended to be repealed following the Natomas Basin being re-designated to Zone A99 on the Federal Flood Insurance Rate Maps (FIRMs). As such, Ordinance No. 2011-021 is proposed to be repealed as originally intended by the City Council.

Financial Considerations: There are no fiscal implications with the repeal of Ordinance No. 2011-021.

Local Business Enterprise (LBE): Not applicable.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE REPEALING ORDINANCE NO. 2011-021, RELATING TO THE EXTENSION OF CERTAIN LAND USE ENTITLEMENTS AND BUILDING PERMITS ON PROPERTIES WITHIN THE NATOMAS BASIN IN THE CITY OF SACRAMENTO WHILE THE AREA WAS DESIGNATED AS ZONE AE ON FLOOD INSURANCE RATE MAPS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Background.

- A. On April 12, 2011, the City Council adopted Ordinance No. 2011-021, extending the life of certain land use entitlements and building permits for properties within the Natomas Basin (shown in Exhibit A) while the area was designated Zone AE on federal Flood Insurance Rate Maps (FIRMs) for the City of Sacramento. The AE designation and accompanying regulations had the practical effect of rendering new construction in the area economically infeasible. Ordinance No. 2011-021 was designed as an interim measure to preserve entitlements within the Natomas Basin until the area was re-designated under the FIRMs and the related restrictive development regulations were lifted.
- B. On June 16, 2015, the Federal Emergency Management Agency re-designated the Natomas Basin to Zone A99, thereby lifting the federal regulations that previously constrained development. Accordingly, Ordinance No. 2011-021 (attached as Exhibit B) is no longer needed.

SECTION 2

Ordinance No. 2011-021 is repealed.

SECTION 3.

Notwithstanding title 17 of the Sacramento City Code, the time to obtain a building permit and commence construction or establish a use for the entitlements referred to in section 3 of Ordinance 2011-021 does not include the period when Ordinance No. 2011-021 was in effect.

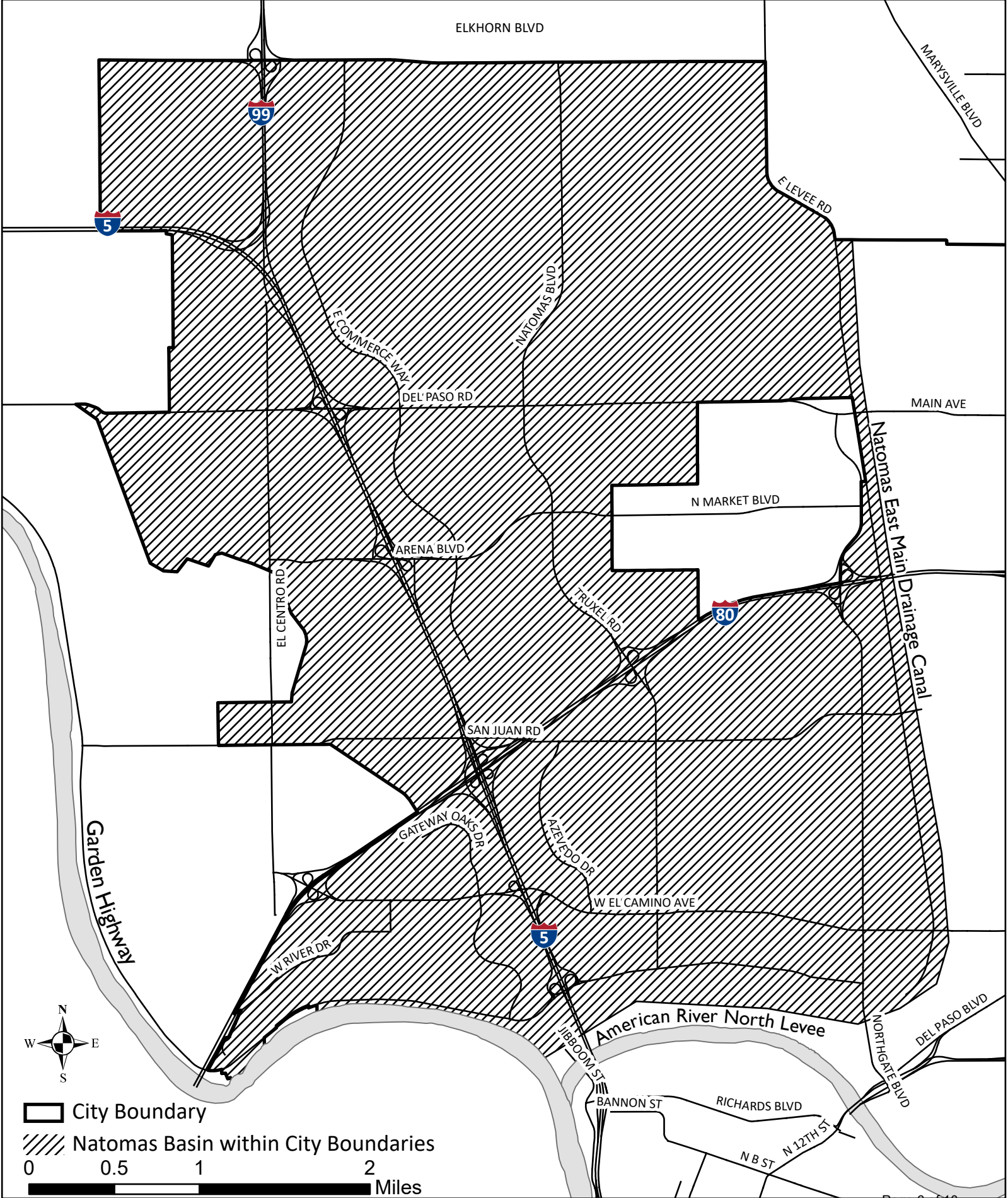
SECTION 4.

Notwithstanding title 17 of the Sacramento City Code, when determining whether a conditional use permit (previously referred to as a special permit) referred to in section 4 of Ordinance No. 2011-021 has expired for discontinuance of use, the length of time for which the use has been discontinued, whether voluntarily or involuntarily, does not include the period when Ordinance No. 2011-021 was in effect.

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- **Exhibit A: Map of the Natomas Basin**
- **Exhibit B: Ordinance No. 2011-021**—An Ordinance Relating to the Extension of Certain Land Use Entitlements and Building Permits on Properties within the Natomas Basin the City of Sacramento while Area is Designated Zone AE on Flood Insurance Rate Maps and Repealing Ordinance No. 2009-007 (M11-005)

EXHIBIT A: - Natomas Basin within City of Sacramento



ORDINANCE NO. 2011- 021

Adopted by the Sacramento City Council

April 12, 2011

AN ORDINANCE RELATING TO THE EXTENSION OF CERTAIN LAND USE ENTITLEMENTS AND BUILDING PERMITS ON PROPERTIES WITHIN THE NATOMAS BASIN IN THE CITY OF SACRAMENTO WHILE AREA IS DESIGNATED ZONE AE ON FLOOD INSURANCE RATE MAPS AND REPEALING ORDINANCE NO. 2009-007(M11-005)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. The City Council of the City of Sacramento finds and declares as follows:

- A. On January 27, 2009, the City Council adopted Ordinance No. 2009-007 in response to the re-designation of land within the Natomas Basin to Zone AE on the Flood Insurance Rate Maps for the City of Sacramento. The re-designation requires new and substantially improved residential buildings to be elevated to or above the base flood elevation of 33 feet, and non-residential buildings to be elevated or flood-proofed to that elevation, making construction economically infeasible until these restrictions are lifted. In the meantime, previously approved land use entitlements and building permits for projects within the Natomas Basin are at risk of expiring. Because the processing, approval, and issuance of land use entitlements and building permits represent a substantial investment of money, time, and effort toward the successful completion these projects, expiration of these entitlements and permits represents a significant loss for the owners and the City. The City Council adopted Ordinance No. 2009-007 to protect against this potential loss and preserve "shovel-ready" development opportunities by granting additional time to the term of these entitlements and permits.
- B. Ordinance No. 2009-007 does not apply to special permits that are at risk of revocation due to the voluntary or involuntary interruption of the use for a period of two years under Section 17.212.100(G) of the Sacramento City Code. Construction activity on projects with special permits has been interrupted due to the downturn in the economy, and construction cannot now resume due to the flood-related restrictions. The City Council adopts this Ordinance to refine and expand the scope of Ordinance No. 2009-007 to address this issue.

Section 2. This Ordinance shall apply only in the geographic areas within the City of Sacramento shown on the attached Exhibit A and referred to herein as the Natomas Basin.

Section 3. Notwithstanding the provisions of Title 17 of the Sacramento City Code (the Zoning Code) to the contrary, for properties located within the Natomas Basin, the period of time within which to obtain a building permit and commence

construction, or to establish a use, under sections 17.132.320 (design review), 17.134.340 (preservation certificate of appropriateness), 17.212.100 (special permit), 17.216.050 (variance), and 17.220.060 (plan review) of the Zoning Code, including any extensions thereof, shall not include the period of time that this Ordinance is in effect. This section shall apply to design review approvals, certificates of appropriateness, special permits, variances, and plan reviews that were valid and not expired as of February 26, 2009, and to those approved after February 26, 2009, and during the period of time this Ordinance is in effect.

- Section 4. Notwithstanding the provisions of Title 17 of the Sacramento City Code (the Zoning Code) to the contrary, for properties located within the Natomas Basin, the determination of the period of time that a special permit is voluntarily or involuntarily interrupted for purposes of applying Section 17.212.100(G) shall not include the period of time that this Ordinance is in effect. This section shall apply only if the special permit was valid and not expired as of February 26, 2009.
- Section 5. Notwithstanding the provisions of Title 15 of the Sacramento City Code to the contrary, for sites located within the Natomas Basin, any building permit that was valid and not expired as of February 26, 2009, and under which the actual start of permanent construction, within the meaning of 44 Code of Federal Regulations section 59.1, did not occur within 180 days of the date of issuance of the building permit, may be re-activated at any time up to 180 days following the repeal of this Ordinance. This Section 5 shall not apply to demolition permits, permits for fire equipment, minor permits, swimming pool permits, sign permits, and permits related to a City code enforcement action.
- Section 6. Notwithstanding the provisions of Title 15 of the Sacramento City Code to the contrary, for sites located within the Natomas Basin, any building permit application that was valid and not expired as of February 26, 2009, may be reactivated at any time up to 180 days following the repeal of this Ordinance. This Section 6 shall not apply to demolition permits, permits for fire equipment, minor permits, swimming pool permits, sign permits, and permits related to a City code enforcement action.
- Section 7. A fee in an amount established by resolution of the City Council shall be charged to any person who submits a request to the City to reactivate a building permit under Section 5 of this Ordinance or a building permit application under Section 6 of this Ordinance. A building permit issued under a building permit application that is re-activated under Section 6 of this Ordinance shall be subject to all City fees and charges that are payable upon issuance of building permit in the amount in effect upon issuance of the building permit.
- Section 8. This Ordinance is enacted by the City Council as an interim ordinance, without notice and hearing before the Planning Commission and City Council as otherwise required by Section 17.208.010 of the City's Zoning Code. It is anticipated that the Natomas Basin will be re-designated on the Flood Insurance Rate Maps for the City of Sacramento and the related flood-related

restrictions on construction in the Natomas Basin will be lifted within a period of one to three years from the date of adoption of this Ordinance, and that this interim Ordinance will be repealed at that time.

Section 9. Ordinance No. 2009-007 shall be repealed on the effective date of this Ordinance.

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Exhibit A – Map of Natomas Basin

Adopted by the City of Sacramento City Council on April 12, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

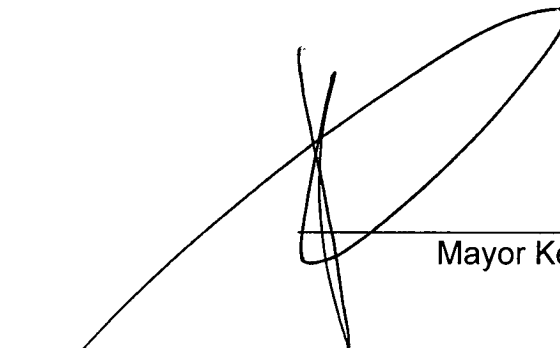
Noes: None.

Abstain: None.

Absent: None.

Attest:


Shirley Concolino, City Clerk



Mayor Kevin Johnson

Passed for Publication: April 5, 2011

Published: April 8, 2011

Effective: May 11, 2011

EXHIBIT A - Natomas Basin within City of Sacramento



December 1, 2008