



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
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Meeting Date: 4/5/2011

Report Type: Consent

Title: (Pass for Publication) Ordinance Amendment: Natomas Basin Shovel Ready Investment Protection Ordinance (M11 005)

Report ID: 2011-00320

Location: Natomas, District 1

Recommendation: 1) Review an Ordinance pertaining to the extension of certain land use entitlements and building permits in the Natomas Basin and repealing Ordinance No. 2009-007; and 2) pass for Publication the Ordinance title as required by Sacramento City Charter 32c to be adopted on April 12, 2011.

Contact: Greg Bitter, Principal Planner, AICP, (916)808-7816; David Kwong, Planning Director, AICP, (916) 808-2691; Ron O'Connor, Operations Manager, (916) 808-8183, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Planning

Dept ID: 21001221

Attachments:

- 01-Description/Analysis
- 02 - Ordinance Natomas Basin SHRIP
- 03 - M11-005 Original Ordinance

City Attorney Review

Approved as to Form
Sabina D. Gilbert
3/31/2011 12:03:27 PM

City Treasurer Review

Prior Council Financial Policy Approval or
Outside City Treasurer Scope
Russell Fehr
3/25/2011 5:02:16 PM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 3/29/2011 11:19:47 AM

Assistant City Manager: Cassandra Jennings - 3/31/2011 10:16:43 AM



Description/Analysis

Issue: On January 27, 2009, the City Council adopted interim Ordinance 2009-007, known as the Natomas Basin Shovel Ready Investment Protection Ordinance (the “Natomas Basin SHRIP Ordinance”). This ordinance was adopted in response to the Federal Emergency Management Agency (FEMA) related restrictions on development in the Natomas Basin, coupled with the economic downturn and the constriction of the credit market that delayed the start and completion of construction of land development projects. Because the processing, approval, and issuance of land use entitlements and building permits represents a substantial investment of money, time, and effort toward the successful completion of these projects, expiration of these entitlements and permits represents a significant loss for property owners and the City. The Natomas Basin SHRIP Ordinance essentially “froze” the term of development entitlements, building permits and applications for building permits from the effective date of the ordinance (February 26, 2009), until the ordinance is repealed. The Natomas Basin SHRIP also applied to all entitlements approved after the effective date until the repeal date.

The Natomas Basin SHRIP Ordinance, however, 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. Because 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 FEMA flood-related restrictions, there are many special permits at risk of revocation due to the discontinuance of use. Staff has prepared a new ordinance to replace Ordinance 2009-007 to essentially prevent the revocation of a special permit that was valid and not expired as of February 26, 2009, due to the discontinuance of use, until this ordinance is repealed.

All other substantive provisions of the Natomas Basin SHRIP Ordinance remain unchanged.

Policy Considerations: This ordinance is consistent with the City Council focus areas of Economic Development and Sustainability and Livability.

Committee/Commission Action: On February 8, 2011, the City Council consented to the proposed ordinance bypassing the Law and Legislation Committee to be brought directly to the City Council for consideration.

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed ordinance is exempt from the provisions of the CEQA under Section 15061(b) (3).

Sustainability Considerations: This proposed ordinance will prevent the revocation of valid un-expired special permits due to a discontinuance of use until this ordinance is repealed. There are no effects or changes to sustainability impacts.

Rationale for Recommendation: Preventing the revocation of special permits in the Natomas Basin, that was valid and not expired as of February 26, 2009 is an economic incentive. The adoption of this ordinance preserves development costs already expended by applicants such as design and engineering work, construction, and fees until a more favorable economy allows completion of a project.

Financial Considerations: No additional City funding is required. Expiration of the specified entitlements and permits represented and continues to represent a significant loss for the owners and the City. Additional revenue generated from building permit reactivation fees will cover the required staff time to carry out the actions.

Emerging Small Business Development (ESBD): No goods or services are requested for this service.



ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

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

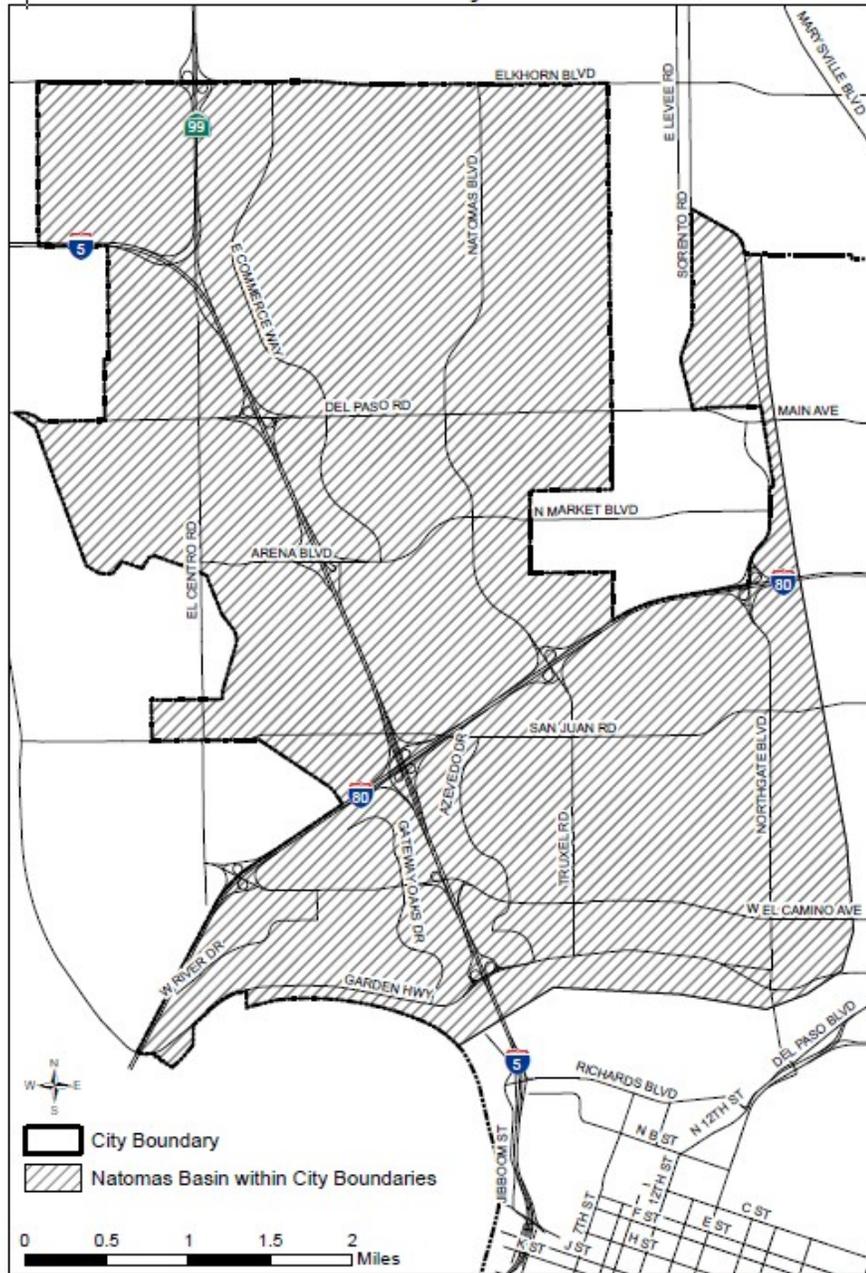
Natomas Basin will be lifted within a period of one to three years from the date of adoption of this Ordinance, and that this interim Ordinance will be repealed at that time.

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

EXHIBIT A - Natomas Basin within City of Sacramento



December 1, 2008

ORDINANCE NO. 2009-007

Adopted by the Sacramento City Council

January 27, 2009

PERTAINING 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 (M08-048)

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. The recent re-designation of land within the Natomas Basin to Zone AE on the Flood Insurance Rate Maps for the City of Sacramento 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. These restrictions, effective December 8, 2008, make construction economically infeasible.
- B. Certain development projects within the Natomas Basin have received approval of land use entitlements and/or building permits but, because of the new flood-related restrictions, cannot proceed with construction, and the land use entitlements and building permits for these projects 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 of these projects, expiration of these entitlements and permits represents a significant loss for the owners and the City. The City Council desires to protect against this potential loss and preserve "shovel-ready" development opportunities by granting additional time to the term of these entitlements and permits.

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 are valid and not expired as of the effective date of this Ordinance and to those that are approved during the period of time this Ordinance is in effect.

- Section 4. 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 the effective date of this Ordinance and under which the actual start of permanent construction, within the meaning of 44 Code of Federal Regulations section 59.1, does 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 4 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 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 application that was valid and not expired as of the effective date of this Ordinance may be reactivated 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. 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 4 of this Ordinance or a building permit application under Section 5 of this Ordinance. A building permit issued under a building permit application that is re-activated under Section 5 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 7. 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 three to five years from the date of adoption of this Ordinance, and that this interim Ordinance will be repealed at that time.

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Exhibit A – Map of Natomas Basin

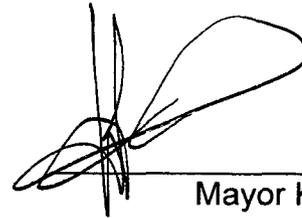
Adopted by the City of Sacramento City Council on January 27, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:

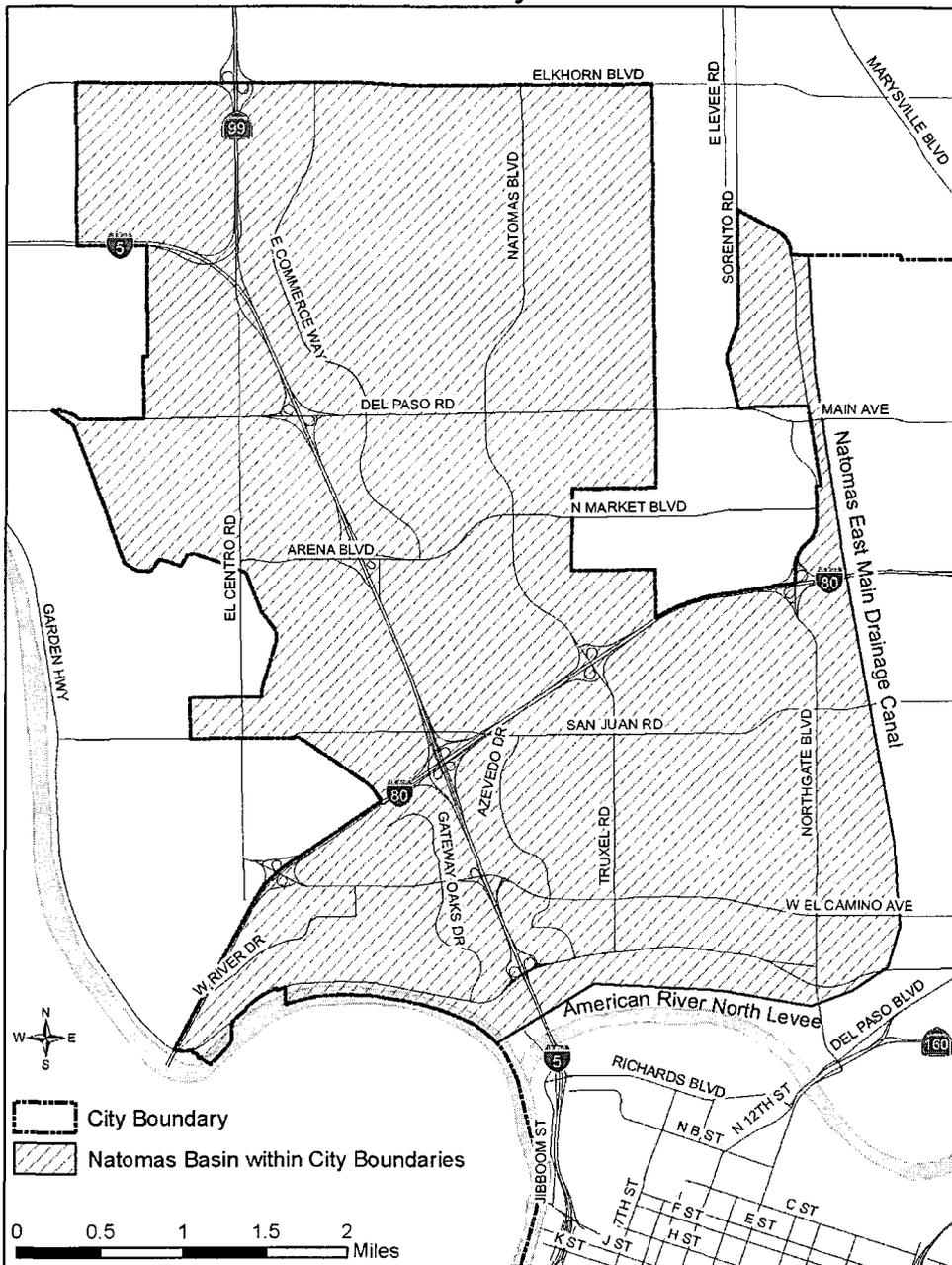

Shirley Concolino, City Clerk

Passed for Publication: January 13, 2009

Published: January 16, 2009

Effective: February 26, 2009

EXHIBIT A - Natomas Basin within City of Sacramento



As used herein, the "Natomas Basin" means the area within the Sacramento City limits bounded on the south by the north levee of the American River, on the west by the east levee of the Sacramento River, on the north by the south levee of the Natomas Cross Canal and on the east by the west levee of Steelhead Creek (Natomas East Main Drainage Canal).

December 12, 2008