



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
January 6, 2009

Honorable Members of the
Law and Legislation Committee

Title: Shovel Ready Investment Protection (M08-048)

Location/Council District: Citywide/All

Recommendation: Staff recommends that the Law and Legislation Committee review and recommend approval of the proposed ordinances and forward their recommendation to the City Council.

Contact: Sandra Yope, Senior Planner (916) 808-7158; David Kwong, Planning Manager (916) 808-2691; Bob Chase, Chief Building Official (916) 808-8024

Presenters: David Kwong, Planning Manager (916) 808-2691; Bob Chase, Chief Building Official (916) 808-8024

Department: Development Services

Division: Current Planning and Building

Organization No: 21001010

Description/Analysis

Issue: Due to the current economic conditions, in addition to the Federal Emergency Management Agency (FEMA) related restrictions on development in the Natomas Basin, there are many projects that will face expiration of their entitlement approvals and building permits in the near future. In order to preserve "shovel ready" development and place Sacramento at the cutting edge of economic recovery, an extension program is being created. This program will encourage development planning, save staff resources and reduce future impacts to the General Fund.

Staff has prepared two ordinances that propose extending the time for all current development entitlements and building permits. The first ordinance is specific to the Natomas Basin area. Although the entire region is affected by current economic conditions, the Natomas Basin is further impacted by FEMA remapping of the Natomas area into the AE flood zone after reinspection of the levees. The

FEMA remapping now requires the lowest floor of any structure constructed to be at or above the one hundred year flood elevation, and requires all structures with a federally guaranteed mortgage to have flood insurance. This makes building in the area infeasible. This designation will remain until the levees are brought back to 100 year protection which is anticipated to take three to five years. The proposed ordinance essentially “freezes” all development entitlements, building permits, and applications for building permits in effect on the adoption of the ordinance until the ordinance is repealed. This will also apply to any future approved entitlements until the ordinance repeal date. Development entitlements’ clock will resume from the repeal of the ordinance, and applicants will have 180 days to reestablish building permits.

The second ordinance applies citywide (including the Natomas Basin). The ordinance grants a three year extension from the date of adoption of the ordinance to all active building permits, active applications for building permits, and development entitlements except subdivision and parcel maps. Any building permit or application for building permit that would have expired during the term of the ordinance may be reactivated at any time up to 180 days following the expiration of this ordinance.

A fee will be charged for reactivation of building permits under both ordinances and staff will return at a later date with a resolution related to the required fees.

Policy Considerations: These ordinances are consistent with the City Council focus areas of Economic Development and Sustainability and Livability.

Committee/Commission Action: The ordinances will be presented to the Development Oversight Commission (DOC) on January 5, 2009.

Environmental Considerations:

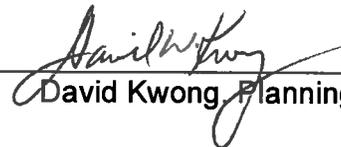
California Environmental Quality Act (CEQA): The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15061(b) (3).

Sustainability Considerations: These ordinances will extend the life of existing development entitlements, building permits, and building permit applications. There are no effects or changes to sustainability impacts.

Rationale for Recommendation: Approving an extension of all development entitlements, building permits, and applications for building permits for three years citywide and extending the same in the Natomas Basin due to the FEMA remapping will be a citywide economic incentive. The adoption of the ordinances 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. Additionally, the extension will allow a shorter time to resume work once conditions change as previous entitlements will not need to either be extended or reapplied for and building permits may be reactivated versus complete new submittals.

Financial Considerations: No additional City funding is required. 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.

Respectfully Submitted by: 
David Kwong, Planning Manager


Bob Chase, Chief Building Official

Approved by:  FOR
William Thomas
Director of Development Services

Recommendation Approved:


RAY KERRIDGE
City Manager

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Background on FEMA Remapping

In 1998 the US Army Corps of Engineers (Corps) certified the levees surrounding the Natomas area as protecting the Natomas area from flooding from a one hundred year event. The levees protecting the Natomas area include (see map at Exhibit A in the ordinance) the Sacramento River East Levee from the American River confluence north to the Natomas Cross Canal, the Natomas Cross Canal South Levee from the Sacramento River to the Pleasant Grove Creek Canal, the Pleasant Grove Creek Canal Levee from the Natomas Cross Canal to the East Main Drain, the East Main Drain west levee from the Pleasant Grove Creek to the American River, and the American River North Levee from the East Main Drain to the Sacramento River confluence. This action led to the removal of the Natomas area from the 100 year flood plain and allowed development to proceed without the regulatory requirements of developing in a floodplain or the requirement for flood insurance on structures in the floodplain.

In 2006, based on the Sacramento Area Flood Control Agency's (SAFCA) investigation of the integrity of the Natomas levees, the Corps withdrew its certification of the Natomas levees. As a result, the Federal Emergency Management Agency (FEMA) began the process of remapping the Natomas area into the AE flood zone, which requires the lowest floor of any structure constructed to be at or above the one hundred year flood elevation, and requires all structures with a federally guaranteed mortgage to have flood insurance.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

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-protected 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.

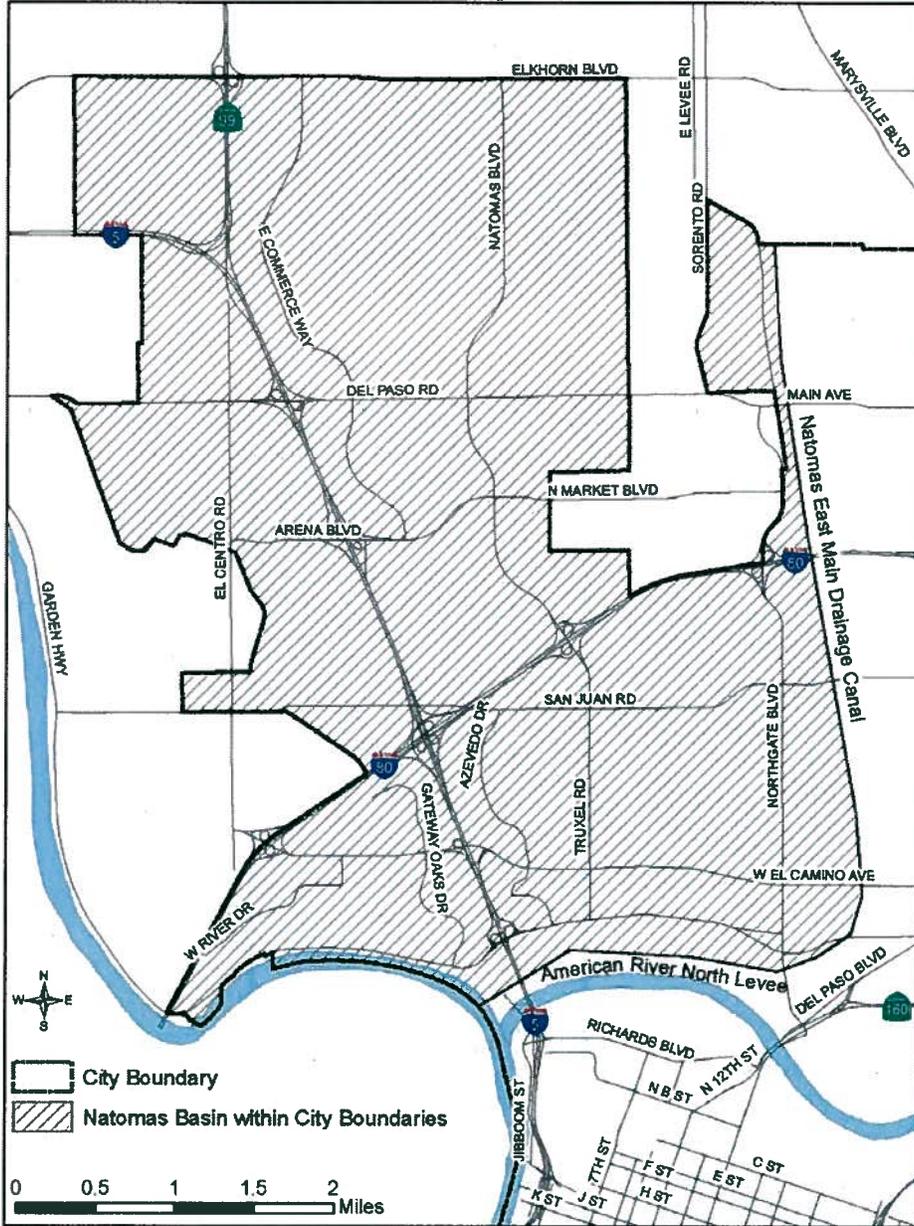
SECTION 7. This Ordinance is enacted by the City Council as an interim ordinance, without notice and hearing before the Planning Commission and City Council as otherwise required by Section 17.208.010 of the City's Zoning Code. It is anticipated that the Natomas Basin will be re-designated on the Flood 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

Exhibit A

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

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**PERTAINING TO THREE YEAR EXTENSION OF CERTAIN LAND USE
ENTITLEMENTS AND BUILDING PERMITS (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 that the current economic downturn and the constriction of the credit market are delaying the start and completion of construction of land development projects, and the land use entitlement approvals 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 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. Notwithstanding the provisions of Title 17 of the Sacramento City Code (the Zoning Code) to the contrary, 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 only 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

SECTION 3. Notwithstanding the provisions of Title 15 of the Sacramento City Code to the contrary, any building permit that is valid and not expired as of the effective date of this Ordinance but which expires during the term of this Ordinance may be reactivated at any time until 180 days following the expiration of this Ordinance. This Section 3 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 4. Notwithstanding the provisions of Title 15 of the Sacramento City Code to the contrary any building permit application that is valid and not expired as of the effective date of this Ordinance but which expires during the term of this Ordinance may be reactivated at any time up to 180 days following the expiration 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. 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 3 of this Ordinance or a building permit application under Section 4 of this Ordinance. A building permit issued under a building permit application that is re-activated under Section 4 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 6. 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 economic conditions that are impacting land development will improve within a three year period. Therefore, this Ordinance shall remain in effect for three years from its effective date after which time it shall expire and shall be of no further force or effect.