



Inter Office Memo

**ATTENTION: FOR FINAL ACTION OR
MODIFICATION TO OR ADDITION OF
CONDITIONS, SEE FINAL BOARD OF
SUPERVISORS' ACTION SUMMARY
MINUTES.**

DATE: June 30, 2016

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12580 – AMENDMENT TO TEXT APPLICATION
NO. 373

APPLICANT: County of Fresno

REQUEST: Amend various sections of the Fresno County Zoning Ordinance to add Temporary Mill/Chipping Facilities as a matter of right in the RC (Resource Conservation), TPZ (Timberland Preserve), and AE (Exclusive Agricultural) Zone Districts, subject to certain standards and limited in duration to the declared local state of emergency due to tree mortality and degraded forest conditions, plus an additional 180 consecutive days thereafter.

PLANNING COMMISSION ACTION:

At its hearing of June 30, 2016, the Commission considered the Staff Report and testimony (summarized on Exhibit "A").

A motion was made by Commissioner Egan and seconded by Commissioner Lawson to recommend approval of Amendment to Text (AT) No. 373 with modification to add a standard to limit hours of operation to between sunrise and sunset to address potential noise issues. The recommended modification is included in the proposed Ordinance language attached as Exhibits B-1 and B-2.

RESOLUTION # 12580

This motion passed on the following vote:

VOTING: Yes: Commissioners Egan, Lawson, Abrahamian, Chatha,
 Eubanks, Mendes, and Pagel

 No: None

 Absent: Commissioners Borba and Woolf

 Abstain: None

STEVEN E. WHITE, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: 

William M. Kettler, Manager
Development Services Division

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Attachments

EXHIBIT "A"

Amendment to Text Application No. 373

Staff: The Fresno County Planning Commission considered the Staff Report dated June 30, 2016, and heard a summary presentation by staff.

Staff presented background information pertaining to the proposed Amendment to Text Application and information regarding the proposed standards.

Staff also clarified information based on a commissioners inquiry related to time limits that could be included in the proposed ordinance provisions.

Others: A representative from the Department of Public Health presented information at the request of the Planning Commission pertaining to the current tree mortality status and the County's efforts to date.

Representatives of the Fresno County Fire Protection District/California Department of Forestry & Fire Protection and the Fresno County Sheriff's Office presented information in support of the proposed Amendment to Text Application, including additional information pertaining to the current tree mortality status, information on the Bark Beetle and its impact on the trees, public safety priority areas for tree clearing, and the Sheriff's priority for evacuation if the event of a wildfire.

No other speakers presented information for or against the proposed Amendment to Text.

Correspondence: No letters were received or presented to the Planning Commission in support of or in opposition to the application.

EXHIBIT B-1

AMENDMENT TO TEXT APPLICATION NO. 373

The subject application proposes to add Temporary Mill/Chipping Facilities as a matter of right in the RC (Resource Conservation), TPZ (Timberland Preserve), and AE (Exclusive Agricultural) Zone Districts, subject to certain standards and limited in duration to the declared tree mortality State of Emergency.

Sections 813.1-K., 814.1-I., 816.1-U. will be added as follows:

813.1

K. Temporary Mill/Chipping Facilities subject to the provisions of Section 855-N.34

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I. Temporary Mill/Chipping Facilities subject to the provisions of Section 855-N.34

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U. Temporary Mill/Chipping Facilities subject to the provisions of Section 855-N.34

EXHIBIT B-2

SECTION 855

PROPERTY DEVELOPMENT STANDARDS

SECTION 855-N. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS OF PRACTICE AND REGULATIONS

34. Temporary, portable Saw Mills and Planing Mills, Chipping and Grinding Operations (hereafter collectively referred to as “Temporary Mill/Chipping Facilities”)

Temporary Mill/Chipping Facilities shall be allowed as a matter of right in those Zone Districts specified in Sections 813.1, 814.1, and 816.1, provided that they comply with the requirements of this Section 855-N.34.

1. Operational Life

- a. Temporary Mill/Chipping Facilities shall be allowed during any period of time when a resolution proclaiming a local state of emergency due to tree mortality and degraded forest conditions (“Proclamation”) approved by the Board of Supervisors is effective, plus an additional 180 days after the Proclamation expires, to allow for final processing, removal and site clearing.
- b. Prior to commencement of operation of a Temporary Mill/Chipping Facility, the applicant and owner shall execute a written acknowledgement, in a form acceptable to the Director of the Department of Public Works and Planning, or designee, which specifies the limitation on the operational life of the Temporary Mill/Chipping Facility, as set forth in Section 855-N.34.1.a, and notifies the applicant and owner that all equipment and material associated with the Temporary Mill/Chipping Facility shall be removed by the applicant and owner within 180 days of the termination of the Proclamation.

2. Removal of Temporary Mill/Chipping Facility

Within not more than 180 days after the termination of a Proclamation, the applicant and owner shall remove all equipment and material associated with the Temporary Mill/Chipping Facility.

3. Parcel Size

The minimum parcel size for these uses shall be 20 acres so as to provide for the following related activities: adequate setbacks, staging area for equipment and raw/finished materials, truck parking and circulation, and employee parking.

4. Wastewater

Evidence submitted during the Site Plan Review process governed by Section 874 (hereafter referred to as “Site Plan Review”), shall establish that the proposed Temporary Mill/Chipping Facility would

- a. Discharge no industrial or process wastewater, or
- b. Have a will-serve commitment from a community sewer system (e.g., County Service Area, Water Works District, etc.), and will lawfully discharge wastewater to that community sewer system, or
- c. Lawfully discharge wastewater into a treatment and disposal facility that meets all applicable wastewater discharge requirements, or
- d. Discharge process wastewater, but obtain or possess a waiver of report of wastewater discharge or wastewater discharge requirements pursuant to California Water Code Section 13269, or
- e. Have wastewater removed from the site pursuant to a contract with a licensed/certified wastewater transport service for disposal at a licensed facility.

5. Air Pollution

Evidence shall be submitted during the Site Plan Review, which establishes that:

- a. An air pollution "Authority to Construct" permit is not required from the San Joaquin Valley Air Pollution Control District (SJVAPCD), or
- b. Facility possesses an air pollution "Authority to Construct" permit.
- c. All Applicable SJVAPCD permits are obtained prior to operation via the required Site Plan Review.

6. Traffic

Evidence shall be submitted during the Site Plan Review, which establishes that:

The facility does not generate more than 100 total trips per day, or that, with acceptable ride sharing plan, trips will be reduced to no more than 100 trips per day.

7. Fire Protection

Evidence shall be submitted during the Site Plan Review, which establishes that the applicant has or will satisfy all applicable fire protection measures of the Fire District with jurisdiction over the parcel on which the Temporary Mill/Chipping Facility will be established.

8. Noise

Operating hours shall be limited between sunrise and sunset.

Evidence shall be submitted during the Site Plan Review, which establishes that the Temporary Mill/Chipping Facility will not be located less than one-quarter mile from residential uses/structures unless it can be demonstrated to the satisfaction of the Director of the Department of Public Works and Planning, or designee, that measures will be implemented by the applicant that will address any potential noise concerns.

9. Site Plan Review Application Required/On-site and Off-site Improvements

Prior to commencement of any operations of a Temporary Mill/Chipping Facility, a Site Plan Review Application shall have been submitted by the applicant and owner and approved by the Director of the Department of Public Works and Planning, pursuant to the provisions of Section 874.

(Subsection 34 added by Ord. No. _____, Adopted _____)



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

Planning Commission Staff Report Agenda Item No. 3 June 30, 2016

SUBJECT: Amendment to Text Application No. 373

Amend various sections of the Fresno County Zoning Ordinance to add Temporary Mill/Chipping Facilities as a matter of right in the RC (Resource Conservation), TPZ (Timberland Preserve), and AE (Exclusive Agricultural) Districts, subject to certain standards and limited in duration to the declared local state of emergency due to tree mortality and degraded forest conditions, plus an additional 180 consecutive days thereafter.

APPLICANT: County of Fresno

STAFF CONTACT: William Kettler, Division Manager
(559) 600-4497

RECOMMENDATION:

- Consider and recommend approval of Amendment to Text Application No. 373; and
- Direct the Secretary to prepare a Resolution forwarding the Commission's recommendation for approval to the Board of Supervisors.

EXHIBITS:

1. Proposed Amendment to Zoning Ordinance Section 813.1 (RC District - Uses Permitted), Section 814.1 (TPZ District - Uses Permitted), and Section 816.1 (AE District - Use Permitted)
2. Proposed Amendment to Zoning Ordinance Section 855-N.34 (Property Development Standards – Special Standards of Practice and Regulations)
3. Zone Map of the Eastern Foothill/Mountain Areas of Fresno County
4. Ordinance with Exhibit 1

ENVIRONMENTAL ANALYSIS:

It has been determined, pursuant to various sections of the State of California Environmental

Quality Act Guidelines (CEQA) that this proposal is exempt from CEQA, as it will not have a significant effect on the environment. Specifically, Statutory Exemption Section 15269(c) Emergency Projects (specific actions necessary to prevent or mitigate an emergency), Categorical Exemption - Section 15301(h) Existing Facilities (Maintenance of existing landscaping, native growth, etc.) and Section 15308 Actions by Regulatory Agencies for Protection of the Environment (maintenance/protection of the environment)

This proposal is limited in scope to siting of temporary sawmills/planning mills/chipping and grinding uses/operations (hereafter collectively referred to as "Temporary Mill/Chipping Facilities") that are portable and can be relocated where and as needed to address the processing of trees/lumber resulting from the tree mortality. In addition, included in this proposal are standards for siting and operation of these facilities which have been developed to reduce potential impacts of these temporary operations.

PUBLIC NOTICE:

Notices were sent out to all 15 incorporated cities located within Fresno County, the Fire Protection Districts of the eastern foothill/mountain areas of the County, several County Departments, and other potentially-concerned agencies.

PROCEDURAL CONSIDERATIONS:

Adoption of a Zoning Ordinance Amendment is a legislative act requiring action by the Board of Supervisors. The Planning Commission's action is advisory to the Board. If adopted by the Board, the Amendment will become effective 30 days later.

BACKGROUND INFORMATION:

On February 4, 2014, the Board approved a resolution requesting a State of Emergency be declared in and around the County's forest communities due to degraded forest conditions and imminent threat from catastrophic fires and extreme drought. On September 22, 2015, the Board adopted a resolution proclaiming the existence of a local emergency throughout Fresno County due to tree mortality and degraded forest conditions, which posed an imminent threat of catastrophic fires and extreme drought (the "Proclamation of Local Emergency").

On October 30, 2015, Governor Brown signed a Proclamation of a State of Emergency regarding the tree mortality occurring in the State due to drought conditions and the infestations of native bark beetles. It is estimated that 22 million trees have died and that millions more will die. Because of the dead and dying trees, there is a need to cut and remove trees to reduce fire hazards and hazards associated with falling trees harming persons and property.

On April 12, 2016, the Board of Supervisors renewed its Proclamation of Local Emergency and directed staff to initiate research, consider options, and propose necessary amendments to the County Zoning Ordinance to streamline the County process to respond to the tree mortality conditions. This Amendment to Text Application would streamline the County's existing permitting process by establishing new by-right options for Temporary Mill/Chipping Facilities, provided the uses do not exceed certain operational thresholds identified in the proposed standards. Of note, the Board renewed its Proclamation of Local Emergency most recently on June 21, 2016.

ANALYSIS/DISCUSSION:

Sawmills are typically classified as an industrial use due to the nature of their operation (noise, traffic, dust, etc.). Currently, in Fresno County, a sawmill requires approval of a Director Review and Approval (DRA) application in the M-3 (Heavy Industrial) District. Additionally, the Zoning Ordinance also provides for "Temporary portable saw mills and temporary portable planing mills" in the RC and TPZ Zoning District, subject to approval of a DRA, and in the O (Open Space) Zoning District, temporary sawmills and planing mills are permitted with approval of a Conditional Use Permit (CUP).

The purpose of this Amendment to Text is to provide an option in the Ordinance to allow a by-right use for Temporary Mill/Chipping Facilities to assist with the prompt removal of the dead trees resulting from the tree mortality. If this Amendment is approved, the by-right uses would be limited to the operational criteria requirements outlined in Exhibit 2. In addition, the proposed Amendment to allow additional by-right-uses is limited to existing zoning districts that allow similar uses as proposed and that are also located most common to the eastern foothill/mountain regions which have been most impacted by tree mortality. The "O" District is not included in the districts proposed for this amendment given the limited amount of parcels zoned "O" in the eastern foothill/mountain region and sensitive nature/intent of the "O" Zoning District. For illustrative purposes, Exhibit 3 is included to depict the zoning in the eastern foothill/mountain region of the County, which is the area of greatest impact related to tree mortality.

Exhibit 2 outlines the operational criteria mentioned above. These criteria are intended to address possible issues and impacts of Temporary Mill/Chipping Facilities as part of the review and operational process. Criteria related to traffic, wastewater, air pollution, noise, fire protection, biological resources and limitation of the life of these facilities are outlined in the proposed Ordinance standards. These criteria will be implemented during the required Site Plan Review Application process. Site Plan Reviews can typically be processed expeditiously (within 30 days or less) so as to allow permitting and establishment of these facilities rapidly to accommodate the clearing of trees as needed to respond to the expanding tree mortality situation. It is staff's intent to prioritize these Site Plan Review Applications for rapid processing upon submittal.

Exhibit 4 is draft of the Ordinance document that would be forwarded to the Board of Supervisors.

OTHER REVIEWING AGENCIES:

This proposal has been routed to several agencies for comment, including: State and U.S. Fish and Wildlife, U.S. Forrest Service, California Regional Water Quality Control Board, Caltrans, San Joaquin Air Pollution Control Board, Fresno County Fire Protection District/California Department of Forestry & Fire Protection, as all well as all of the Fire Protection Districts and agencies in the eastern foothill/mountain region. In addition, several County Departments, including the Department of Public Health, were routed the proposal. Staff did not receive any comments of concern or objection during the routing process. Additionally, as previously indicated, these numerous agencies that received the routing have been notified of the date and time of the Planning Commission hearing.

CONCLUSION:

Staff recommends approval of the proposed Amendment to Text Application No. 373.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to recommend approval of Amendment to Text (AT) No. 373 as proposed in Exhibits 1 and 2 and as documented in the draft Ordinance (Exhibit 4); and
- Direct the Secretary to prepare a Resolution forwarding the Commission's recommendation for approval to the Board of Supervisors.

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EXHIBIT 1

AMENDMENT TO TEXT APPLICATION NO. 373

The subject application proposes to add Temporary Mill/Chipping Facilities as a matter of right in the RC (Resource Conservation) District, TPZ (Timberland Preserve) District and the AE (Exclusive Agricultural) District, subject to certain standards and limited in duration to the declared tree mortality State of Emergency.

Sections 813.1-K., 814.1-I., 816.1-U. will be added as follows:

813.1

K. Temporary Mill/Chipping Facilities subject to the provisions of Section 855-N.34

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U. Temporary Mill/Chipping Facilities subject to the provisions of Section 855-N.34

EXHIBIT 2

SECTION 855

PROPERTY DEVELOPMENT STANDARDS

SECTION 855-N. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS OF PRACTICE AND REGULATIONS

34. Temporary, portable Saw Mills and Planing Mills, Chipping and Grinding Operations (hereafter collectively referred to as “Temporary Mill/Chipping Facilities”)

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1. Operational Life

- a. Temporary Mill/Chipping Facilities shall be allowed during any period of time when a resolution proclaiming a local state of emergency due to tree mortality and degraded forest conditions (“Proclamation”) approved by the Board of Supervisors is effective, plus an additional 180 days after the Proclamation expires, to allow for final processing, removal and site clearing.
- b. Prior to commencement of operation of a Temporary Mill/Chipping Facility, the applicant and owner shall execute a written acknowledgement, in a form acceptable to the Director of the Department of Public Works and Planning, or designee, which specifies the limitation on the operational life of the Temporary Mill/Chipping Facility, as set forth in Section 855-N.34.1.a, and notifies the applicant and owner that all equipment and material associated with the Temporary Mill/Chipping Facility shall be removed by the applicant and owner within 180 days of the termination of the Proclamation.

2. Removal of Temporary Mill/Chipping Facility

Within not more than 180 days after the termination of a Proclamation, the applicant and owner shall remove all equipment and material associated with the Temporary Mill/Chipping Facility.

3. Parcel Size

The minimum parcel size for these uses shall be 20 acres so as to provide for the following related activities: adequate setbacks, staging area for equipment and raw/finished materials, truck parking and circulation, and employee parking.

4. Wastewater

Evidence submitted during the Site Plan Review process governed by Section 874 (hereafter referred to as “Site Plan Review”), shall establish that the proposed Temporary Mill/Chipping Facility would

- a. Discharge no industrial or process wastewater, or
- b. Have a will-serve commitment from a community sewer system (e.g., County Service Area, Water Works District, etc.), and will lawfully discharge wastewater to that community sewer system, or
- c. Lawfully discharge wastewater into a treatment and disposal facility that meets all applicable wastewater discharge requirements, or
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- e. Have wastewater removed from the site pursuant to a contract with a licensed/certified wastewater transport service for disposal at a licensed facility.

5. Air Pollution

Evidence shall be submitted during the Site Plan Review, which establishes that:

- a. An air pollution "Authority to Construct" permit is not required from the San Joaquin Valley Air Pollution Control District (SJVAPCD), or
- b. Facility possesses an air pollution "Authority to Construct" permit.
- c. All Applicable SJVAPCD permits are obtained prior to operation via the required Site Plan Review.

6. Traffic

Evidence shall be submitted during the Site Plan Review, which establishes that:

The facility does not generate more than 100 total trips per day, or that, with acceptable ride sharing plan, trips will be reduced to no more than 100 trips per day.

7. Fire Protection

Evidence shall be submitted during the Site Plan Review, which establishes that the applicant has or will satisfy all applicable fire protection measures of the Fire District with jurisdiction over the parcel on which the Temporary Mill/Chipping Facility will be established.

8. Noise

Evidence shall be submitted during the Site Plan Review, which establishes that the Temporary Mill/Chipping Facility will not be located less than one-quarter mile from residential uses/structures unless it can be demonstrated to the satisfaction of the Director of the Department of Public Works and Planning, or designee, that measures will be implemented by the applicant that will address any potential noise concerns.

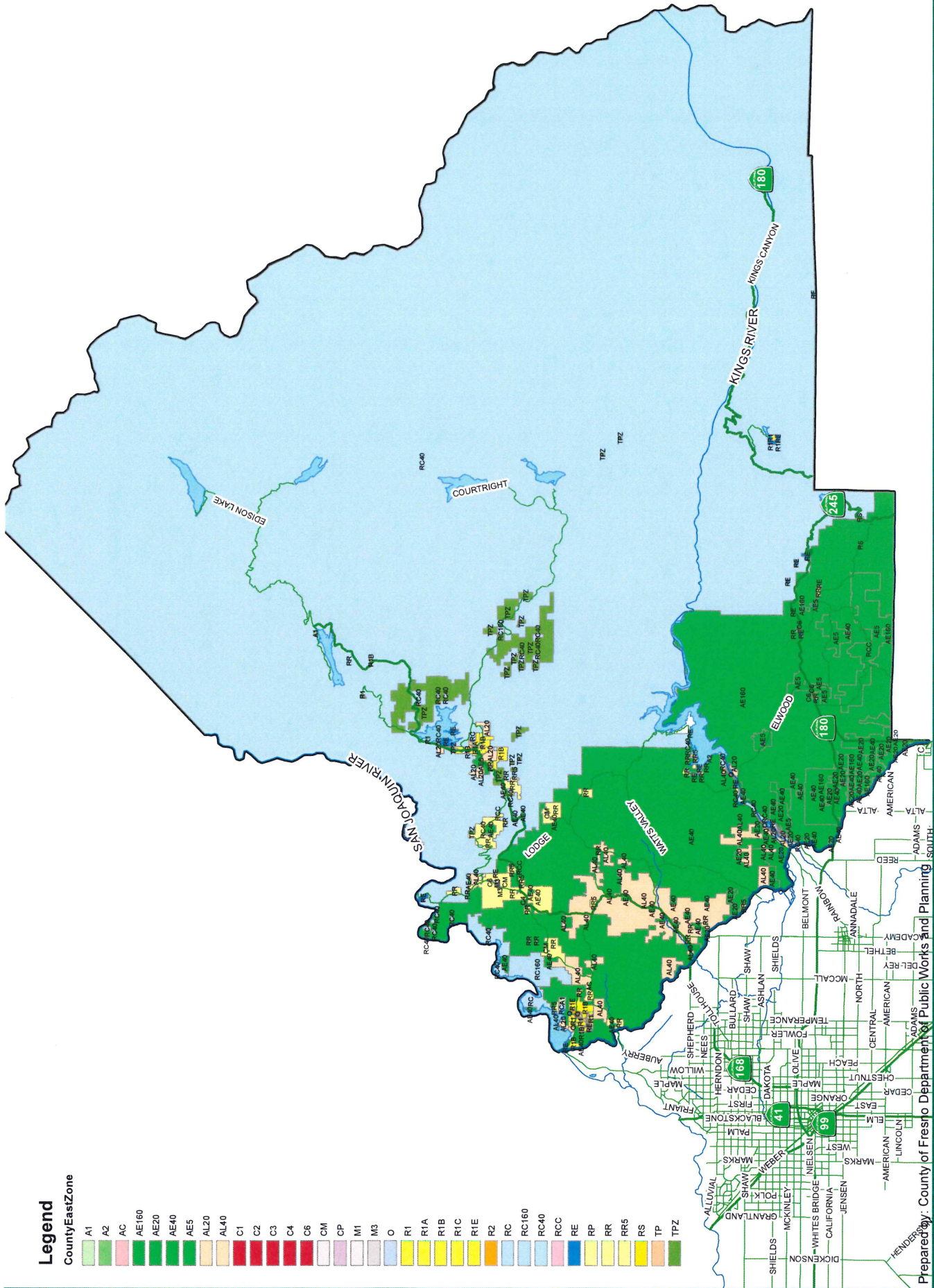
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Prior to commencement of any operations of a Temporary Mill/Chipping

Facility, a Site Plan Review Application shall have been submitted by the applicant and owner and approved by the Director of the Department of Public Works and Planning, pursuant to the provisions of Section 874.

(Subsection 34 added by Ord. No. _____, Adopted _____)

EXHIBIT 3



Prepared by: County of Fresno Department of Public Works and Planning



East County Zoning

Department of Public Works and Planning
Development Services Division

0 2 4 8 12 16 Miles

Map Prepared by: JHernandez
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EXHIBIT 4
BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING PROVISIONS OF THE
ORDINANCE CODE OF THE COUNTY OF FRESNO FRESNO COUNTY RELATED TO
TEMPORARY MILL/CHIPPING FACILITIES BY AMENDING THE TEXT OF
SECTIONS 813.1, 814.1, 816.1, and 855-N.

The Board of Supervisors of the County of Fresno ordains as follows:

SECTION 1. This Ordinance is adopted pursuant to California Constitution, Article XI, Section 7, Government Code Sections 65800, 65850, 65854-65857, and Section 878 of the Ordinance Code of Fresno County.

SECTION 2. The Ordinance Code of the County of Fresno Fresno County is hereby amended by adding Subsection "K." after Subsection "J." in Section 813.1, such that Subsection "K." reads in its entirety as follows:

"K. Temporary Mill/Chipping Facilities subject to the provisions of
Section 855-N.34."

SECTION 3. The Ordinance Code of Fresno County the County of Fresno is hereby amended by adding Subsection "I." after Subsection "H." in Section 814.1, such that Subsection "I." reads in its entirety as follows:

"I. Temporary Mill/Chipping Facilities subject to the provisions of
Section 855-N.34."

SECTION 4. The Ordinance Code of Fresno County the County of Fresno is hereby amended by adding Subsection "U." after Subsection "T." in Section 816.1, such that Subsection "U." reads in its entirety as follows:

"U. Temporary Mill/Chipping Facilities subject to the provisions of
Section 855-N.34."

1 **SECTION 5.** The Ordinance Code of Fresno County ~~the County of Fresno~~ is
2 hereby amended by adding Subsection "34." after Subsection "33." in Section 855-N,
3 such that Subsection "34." reads in its entirety as set forth in Exhibit "1" which is
4 attached hereto and incorporated herein by reference.

5 **SECTION 6.** Pursuant to Government Code Sections 25123, 25131, and 65854-
6 65857, this Ordinance shall take effect thirty days after its passage.

7 **SECTION 7.** Prior to the expiration of fifteen (15) days from the adoption of this
8 Ordinance, it shall be published at least one time in the Business Journal, a newspaper
9 of general circulation in Fresno County, in accordance with the requirements of
10 Government Code Section 25124.

11 **SECTION 8.** The Board of Supervisors determines that this Ordinance is exempt
12 from environmental review pursuant to Title 14 of the California Code of Regulations,
13 Sections 15269, Subdivision (c) - Emergency Projects (specific actions necessary to
14 prevent or mitigate an emergency), Section 15301(h) - Existing Facilities (Maintenance
15 of existing landscaping, native growth, etc.), and Section 15308 - Actions by Regulatory
16 Agencies for Protection of the Environment.

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1 THE FOREGOING WAS PASSED AND ADOPTED BY THE FOLLOWING VOTE
2 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO THIS ____
3 DAY OF _____ 2016, TO-WIT:

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5 AYES:

6 NOES:

7 ABSENT:

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10 _____
ERNEST BUDDY MENDES, CHAIRMAN
BOARD OF SUPERVISORS

11 ATTEST:

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BERNICE SEIDEL, CLERK
BOARD OF SUPERVISORS
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EXHIBIT 1

SECTION 855

PROPERTY DEVELOPMENT STANDARDS

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Facility, a Site Plan Review Application shall have been submitted by the applicant and owner and approved by the Director of the Department of Public Works and Planning, pursuant to the provisions of Section 874.

(Subsection 34 added by Ord. No. _____, Adopted _____)