

City of Sacramento

Legislation Text

File #: 2020-01232, **Version:** 1

Title:
(Pass for Publication) Folsom Boulevard Special Planning Districts (M20-002)

File ID: 2020-01232

Location: Folsom Boulevard between 63rd and 69th Street and between Howe and Watt Avenue, Districts 3 and 6

Recommendation:

1) Review a resolution determining the proposed ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15060(c)(2)&(3) and 15061(b)(3); 2) review an ordinance adding Chapters 17.408 and 17.409 to the Sacramento City Code, which establishes the Folsom Boulevard West and Folsom Boulevard East Special Planning Districts and prohibits check-cashing centers, somatic practitioners' establishments, cannabis dispensaries, and certain tobacco retailing within the areas to promote a greater mix of land uses and attract new private investment; 3) review an ordinance rezoning various parcels of real property contained within the proposed SPD boundaries to include the suffix 'SPD' after the current zone; and 4) pass for publication the ordinance titles as required by Sacramento City Charter 32c to be adopted November 17, 2020.

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Presenter: None.

Attachments:

01-Description/Analysis
02-Background
03-Resolution: Environmental Determination
04-Ordinance adding Chapters 17.408 and 17.409 (redline)
05-Ordinance adding Chapters 17.408 and 17.409 (clean)
06-Exhibit A: Map of Folsom Boulevard West SPD Boundaries
07-Exhibit B: Map of Folsom Boulevard East SPD Boundaries
08-Ordinance Rezoning Properties
09-Exhibit A: Existing Zoning Map of Folsom Boulevard West SPD
10-Exhibit B: Existing Zoning Map of Folsom Boulevard East SPD

- 11-Exhibit C: Rezone Map of Folsom Boulevard West SPD
- 12-Exhibit D: Rezone Map of Folsom Boulevard East SPD
- 13-Exhibit E: List of Rezoned Properties
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Description/Analysis

Issue Detail: At the December 3, 2019 Law and Legislation Committee (L&L) meeting, it was requested of staff to log an item for discussion about creating a new Special Planning District (SPD) along portions of Folsom Boulevard that would prohibit certain land uses such as somatic practitioners (massage parlors), check cashing centers, tobacco retailers, and similar businesses.

Staff presented this item to L&L on January 21, 2020, and the committee passed a motion directing staff to proceed with an ordinance to create the Folsom Boulevard SPD that prohibits the mentioned uses above and to also include cannabis retail dispensaries on the list of prohibited uses.

The proposed SPD ordinance for adoption contains two individual Special Planning Districts (SPD) titled Folsom Boulevard West (Chapter 17.408) and Folsom Boulevard East (Chapter 17.409). The West SPD includes the commercially zoned parcels that generally bound Folsom Boulevard between 63rd and 69th Streets. Included parcels in the West SPD expand south to the Union Pacific/RT rail line and Elvas Avenue to the north. The East SPD generally includes the commercially zoned parcels that front along Folsom Boulevard between Howe Avenue/Power Inn Road to Watt Avenue. Maps of both SPD boundaries can be found in Attachments 6 and 7. A proposed ordinance to rezone all of the parcels within the SPD, by adding the suffix “SPD” after the current zone, is also attached. It is important to note that all land uses/businesses currently allowed in the underlying base zone (i.e. C-2, C-1, RMX, etc.) will continue to be allowed with the exception of the four prohibited uses in the new SPD.

Both East and West SPDs are identical in land use regulations and prohibit the following four land uses:

1. Tobacco retailing unless done in a store that has greater than 15,000 square feet of gross floor area and the total shelving allocated to tobacco products and tobacco paraphernalia does not exceed 250 square feet. See complete definition for tobacco retailing in Sacramento City Code Section [5.138.030 <http://www.qcode.us/codes/sacramento/view.php?cite=section_5.138.030&confidence=6>](http://www.qcode.us/codes/sacramento/view.php?cite=section_5.138.030&confidence=6).
2. Check-cashing center.
 - a. A check-cashing center engages in the business of cashing checks, warrants, drafts,

money orders, or other commercial paper serving a similar purpose, and includes an establishment primarily engaged in cashing payroll or personal checks for a fee or advancing funds on future checks.

- b. A check-cashing center does not include a state or federally chartered bank, savings association, credit union, or similar financial institution, or retail stores or other establishments selling consumer goods, including consumables, that incidentally charge a fee not exceeding two dollars to cash checks or money orders as a service to customers.

See complete definition for Check-cashing center in City Code Section [17.108.040](http://www.qcode.us/codes/sacramento/view.php?topic=17-i-17_108-17.108.040) <[http://www.qcode.us/codes/sacramento/view.php?topic=17-i-17_108-](http://www.qcode.us/codes/sacramento/view.php?topic=17-i-17_108-17.108.040)

3. Somatic practitioners' establishment, such as massage parlors, and as defined in City Code Section [5.124.020](http://www.qcode.us/codes/sacramento/view.php?topic=5-5_124-5_124_020&frames=on) <http://www.qcode.us/codes/sacramento/view.php?topic=5-5_124-5_124_020&frames=on>.
4. Cannabis dispensary, which includes both storefront cannabis dispensary and delivery-only cannabis dispensary. See complete definition in City Code Section [17.108.040](http://www.qcode.us/codes/sacramento/view.php?topic=17-i-17_108-17.108.040) <[http://www.qcode.us/codes/sacramento/view.php?topic=17-i-17_108-](http://www.qcode.us/codes/sacramento/view.php?topic=17-i-17_108-17.108.040)

Creation of a new Special Planning District must be adopted by an ordinance with new text into the Planning and Development Code (Title 17) and rezones of affected parcels to the official Sacramento Zoning Map to note the SPD designation.

Public/Neighborhood Outreach and Comments: Shortly after the January 21 Law and Legislation Committee meeting, staff mailed all property owners and tenants/occupants within the two boundaries a letter and boundary map describing the purpose, intent, and proposed land use regulations within the SPD. Staff received a couple phone calls from property owners asking how the ordinance will affect their business moving forward. Staff explained that the City's nonconforming clause will allow the pre-existing businesses to continue operating, so long they do not discontinue operations for a continuous period exceeding one year. The City's nonconforming requirements can be found in City Code section [17.232](http://www.qcode.us/codes/sacramento/view.php?topic=17-ii-17_232&frames=on) <http://www.qcode.us/codes/sacramento/view.php?topic=17-ii-17_232&frames=on>.

Staff also presented this item at a regular Power Inn Alliance board meeting. The board did not express any concerns about the new SPD. A portion of the properties within the Folsom Boulevard East SPD boundary are within the Power Inn Alliance PBID. Prior to the September 10, 2020 Planning and Design Commission, the Power Inn Alliance submitted a comment expressing support of both ordinances.

Staff also had conversations with the College-Glenn Neighborhood Association, which is the residential neighborhood directly north of the East SPD boundary. The association has expressed overall support of the SPD stating that economic revitalization of the corridor is something they have

been championing. The association has recently provided comment letters after receiving notification of the Planning and Design Commission public hearing. The letter voices support for the first ordinance that creates the contents and restrictions within the proposed SPD. They stated opposition to the second ordinance based on concerns that decision-makers may over exercise their land use authority by creating future amendments that provide worse restrictions. However, both ordinances are necessary to implement the new Special Planning District (SPD). Community comments are included under Attachment 14.

The first ordinance establishes the rules of the new SPD and the second ordinance rezones each parcel within the proposed boundary area. This is similar to how other parcels are zoned within SPDs. For example, all properties within any SPD have the same SPD suffix at the end, i.e. C-2-SPD. It should be noted that any amendments to an SPD requires a public hearing and final approval by the City Council to which notification will be sent to all property owners and tenants within the SPD. Notification is also sent to surrounding neighborhood groups, which would include the College-Glen Neighborhood Association.

Lastly, the Planning Division has one pending Conditional Use Permit (CUP) application to establish a cannabis dispensary within the East SPD boundary area. A hearing date has not been scheduled at this time and if this ordinance goes into effect prior to acting on the application, the project would be prohibited. A member of the public submitted comments and spoke at the Law and Legislation and Planning and Design Commission meetings requesting that all pending applications submitted to the City for cannabis dispensaries that are located within the proposed boundary should be granted an exception from the new SPD.

Policy Considerations: The 2035 General Plan contains the following policies related to focused area planning efforts:

- **ED 3.1.3 Key Infill and Opportunity Areas.** The City shall facilitate and promote economic development projects in key infill and opportunity areas.
- **LU 2.1.2 Protect Established Neighborhoods.** The City shall preserve, protect, and enhance established neighborhoods by providing sensitive transitions between these neighborhoods and adjoining areas, and by requiring new development, both private and public, to respect and respond to those existing physical characteristics buildings, streetscapes, open spaces, and urban form that contribute to the overall character and livability of the neighborhood.
- **LU 2.1.8 Neighborhood Enhancement.** The City shall promote infill development, reuse, rehabilitation, and reuse efforts that contribute positively (e.g., architectural design) to existing neighborhoods and surrounding areas.

- **LU 2.6.3 Revitalization Strategies.** The City shall employ a range of strategies to promote revitalization of distressed, under-utilized, and/or transitioning areas, including:
 - Targeted public investments.
 - Development incentives.
 - Public-private partnerships.
 - Revised development regulations and entitlement procedures.
 - Implementation of City-sponsored studies and master plans.
- **LU 2.7.4 Public Safety and Community Design.** The City shall promote design of neighborhoods, centers, streets, and public spaces that enhances public safety and discourages crime by providing street-fronting uses (“eyes on the street”), adequate lighting and sight lines, and features that cultivate a sense of community ownership.
- **LU 2.6.1: Sustainable Development Patterns.** The City shall promote compact development patterns, mixed use, and higher-development intensities that use land efficiently; reduce pollution and automobile dependence and the expenditure of energy and other resources; and facilitate walking, bicycling, and transit use.

The Folsom Boulevard Special Planning District (SPD) will encourage a better balance of land uses along the corridor. Specific land uses such as somatic practitioners (massage parlors) and check cashing centers are proposed to be prohibited because these establishments are overconcentrated within the proposed SPD area. There are at least six somatic practitioners within the proposed boundaries in which there have been multiple code enforcement issues for the City because of unlawful operations, such as operating without a permit. Similarly, there are two check cashing centers within one shopping center along the corridor. Other land uses such as tobacco retailers and cannabis dispensaries are proposed to be prohibited in the area because of the large number of students in the vicinity because of the proximity to multiple schools, a college campus, and light rail stations.

Incompatible and overconcentrated land uses near residential areas and schools can increase the number of nuisance complaints by nearby residents and business operators. These uses contribute to the creation of physical blight which leads to a lack of new investment and economic stagnation if not corrected. The SPD would encourage new private investment that helps to diversify future businesses, ultimately leading to a reversal of economic stagnation. This is increasingly important because there are three light-rail stations within or directly next to the SPDs boundaries. The SPD facilitates the opportunity for a more balanced mixture of uses in neighborhoods to help increase public transit ridership and stimulate the local economy.

Economic Impacts: None.

Environmental Considerations: The Community Development Department, Environmental Planning Services Division has reviewed the proposed ordinances and finds that they are not a project requiring review under the California Environmental Quality Act (CEQA). CEQA defines a “project” as including an activity directly undertaken by a public agency that “may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Pub. Res. Code section 21065.) The proposed ordinances do neither.

Neither the proposed SPD ordinance nor the rezoning of parcels ordinance would cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The proposed SPD ordinance, if anything, would restrict-not cause-development. The proposed ordinance would establish two new special planning districts, each of which would prohibit the establishment or operation of a massage parlor (somatic practitioner), check-cashing center, tobacco retailer in businesses less than 15,000 square feet, and cannabis dispensaries within the special planning district. The ordinance would not affect or change existing land use regulations in the special planning districts (which would continue in effect). Further, no substantial change in operations or demand for services would result. Accordingly, by limiting development, the proposed SPD ordinance would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

Similarly, the proposed zoning changes, which simply rezone the parcels within the SPD to add the “SPD” designation, would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The underlying zoning regulations remain the same and the rezone would not result in a change in operations or demand for services. Accordingly, the proposed rezone is not a project under CEQA.

Further, whether any of these uses will begin operating in other areas of the City is purely speculative, rendering meaningful environmental review of those future uses (if any) not possible. (14 Cal. Code Regs. 15004(b); *Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653-659 [holding that a district’s proposed sale of land to an Indian tribe interested in developing it was not a project because no concrete development plans had been proposed, and “CEQA review in the absence of a plan involving an identifiable impact would not be meaningful”].) In addition, each of these uses, except for somatic practitioners, requires a conditional use permit to operate-i.e. a discretionary entitlement that is not guaranteed to be granted-which injects even more uncertainty into a potential environmental analysis of these future uses.

Even if the proposed ordinances were considered a “project” under CEQA, they would be exempt from environmental review under CEQA as it “can be seen with certainty that there is no possibility that [they] may have a significant effect on the environment.” (CEQA Guidelines section 15061(b)(3).) As explained above, the proposed SPD ordinance, if anything, would restrict development and as such would have no significant effect on the environment. And the proposed rezone would simply add the “SPD” designation to the zoning designation, with no other regulatory impact. Neither of the two

ordinances would change the underlying land use regulations (aside from prohibiting the four uses) and there is no suggestion that the action would change operations or demand for the prohibited uses. Accordingly, the ordinances would be exempt from CEQA review under the common-sense exemption (CEQA Guidelines section 15061(b)(3).)

For the reasons set forth above, the proposed ordinance is also exempt from CEQA review under 15060(c)(2) and 15060(c)(3).

Sustainability: The proposed ordinance has the potential to support a better balance of businesses along the Folsom Boulevard corridor. The proposed Special Planning District boundary is also adjacent to three light rail stations, and the SPD can facilitate businesses that better support the needs of daily transit commuters. Over time, these land use principles lend to a reduction in vehicle miles traveled, a less sedentary lifestyle, and equitable access to the commercial services of the surrounding neighborhoods.

Commission/Committee Action: On September 10, 2020, the Planning and Design Commission held a public hearing and unanimously passed a motion to forward a recommendation of approval of the new Special Planning Districts to the City Council.

On October 13, 2020, the Law and Legislation Committee unanimously passed a motion recommending approval of the new Special Planning Districts. At the hearing, the Committee heard from a representative of the cannabis industry requesting that pending cannabis dispensary applications within the SPD boundary be exempt from the new ordinances and be treated as a nonconforming use; akin to how the existing operators of massage parlors, check cashing centers, and tobacco retailers would be defined after adoption of the ordinance.

A pending application to relocate a cannabis dispensary within the eastern SPD boundary at 8551 Folsom Boulevard was also discussed at the Law and Legislation Committee meeting. The Committee asked where the applicant's original dispensary would be relocated from. According to the application, the dispensary named "Kolas" would relocate from 6435 Florin Perkins Road, which is in District 6. This application was submitted to the City on May 20, 2020. The prohibition of cannabis dispensaries within the SPD boundaries has been discussed since the first Law and Legislation meeting that occurred on January 21, 2020, and the applicant was informed of the pending ordinance prior to submitting its application.

Rationale for Recommendation: Staff is recommending the City Council review the attached ordinances and resolution and pass a motion approving the new Special Planning Districts. Creating a new Special Planning District is one approach to help reverse economic inactivity or physical blight by prohibiting incompatible land uses. The City has several SPDs located throughout the City that prohibit specific land uses and establish guidelines for redevelopment. Two notable examples are the Del Paso Boulevard/Arden Way SPD and the Broadway-Stockton SPD. The accompanying rezone

ordinance simply adds “SPD” to the zoning designations of each parcel to note the parcel’s inclusion within the district.

Financial Considerations: One of the primary goals of the new Special Planning District is to improve the overall economic conditions along the Folsom Boulevard corridor by supporting a better balance of land uses and businesses. Further a mixture of uses that supports the surrounding community will help bring new residents and investment into the area.

Local Business Enterprise (LBE): No goods or services are being purchased under this report.