
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM No. 10

DATE: August 11, 2010

TO: Fresno Local Agency Formation Commission

FROM: Jeff Witte, Executive Officer

SUBJECT: **Consider Approval: Request for Reconsideration of the “City of Parlier, Reorganization No. 06-02”.** A request by the developer to reconsider prior action denying a proposed reorganization to annex 28.36 acres to the City of Parlier and detach from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located on the north side of E. Parlier Avenue and west of the Avila Avenue alignment (**LAFCo File No. RO-08-5**).

Recommendation: Deny Request

Background

At its June 9, 2010 LAFCo meeting, the Commission denied a proposed reorganization due to pending legal issues associated with environmental documents pertaining to water issues.

On July 1, 2010, staff received a formal request for reconsideration of the Commission's action from Alexis Gevorgian, the proponent for the reorganization. A copy of the letter requesting reconsideration is attached as Exhibit “A”.

Mr. Gevorgian's letter states that he disagrees with the pending legal issues associated with the environmental documents and is requesting reconsideration pursuant to Government Code Section 56895 which must be supported by “new or different facts that could not have been previously presented”.

On August 3, 2010, staff received official notification from the City of Parlier that on May 5, 2010, their City Council adopted Resolution 2010-29, officially rescinding all project approvals for the AMG project in Parlier (Exhibit “B”).

The Reconsideration Process

State law requires that when a Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration of the resolutions. A request for reconsideration must state the specific modification to the resolution being requested; and what new or different facts that could not have been presented previously that are claimed to warrant the reconsideration [Government Code Section 56895(a)].

At the conclusion of the reconsideration hearing, the Commission may approve or disapprove the request, with or without amendment, wholly, partially, or conditionally. If the Commission approves the request, the Commission is required to adopt a resolution making determinations superseding the resolution previously issued. If the Commission disapproves the request, it is not required to adopt a new resolution making determinations. The determinations of the Commission are final and conclusive. No person or agency is allowed to make any further request for the same change or a substantially similar change, as determined by the Commission.

Summary of Previous Actions

The proposal originally was to annex 81.97 acres to accommodate the development of a 129-lot single-family residential subdivision on 48.87 acres of land and a 24; four-bedroom apartment unit, 60 three-bedroom apartment units, and a manager's unit on 5.07 acres (see Figure 1).

Disagreement between the City of Parlier and the Consolidated Irrigation District (CID) related to appropriate mitigation measures for the project as per the California Environmental Quality Act (CEQA) and several other concerns raised by the County of Fresno and the County Health Department, caused the item to be continued several times and finally withdrawn.

A revised proposal was then submitted to annex 28.63 acres to the City of Parlier and detach from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District, for territory located within the City of Parlier's Sphere of Influence and is bounded by the City on the south and west sides.

The City of Parlier adopted a Revised Initial Study and Revised Mitigated Negative Declaration for the proposal based upon the new project boundaries and inclusion of the church project.

The City pre-zoned the affected territory to the R-2 (Multiple-Family Residential), R-1 (Single-Family Residential), and M-1 (Light Industrial) Districts consistent with City of Parlier General Plan designations.

On June 9, 2010, the Commission denied the reorganization due to pending legal issues associated with environmental documents pertaining to water issues.

Analysis and Discussion

The applicant sites his request for reconsideration is due to the legal action against the City of Parlier by the Consolidated Irrigation District. The Fresno Superior Court has yet to rule on the case as well, as other cases related to water issues. On June 9th LAFCo denied this reorganization due to pending legal issues associated with environmental documents pertaining to water issues.

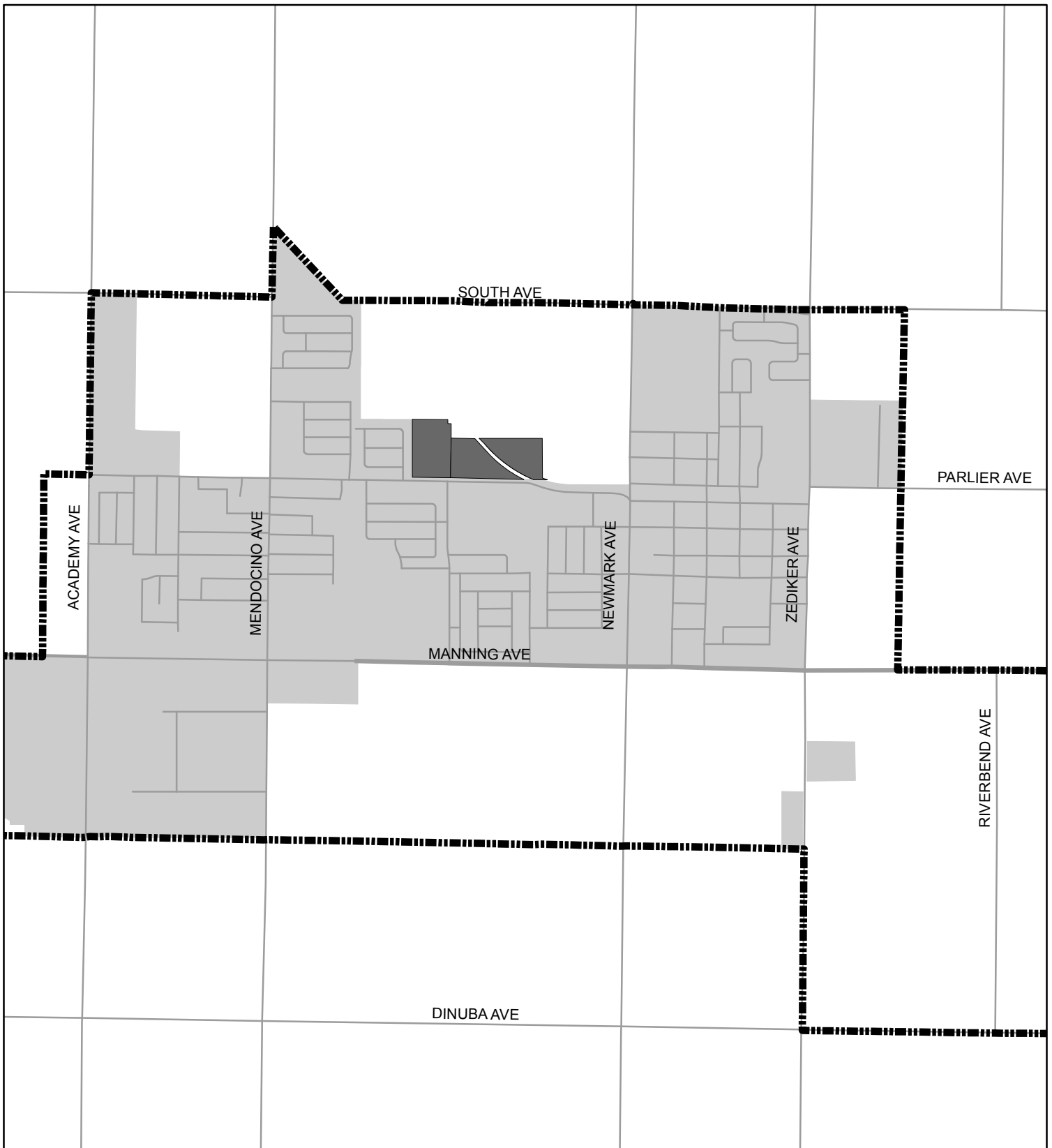
Because the court had not yet ruled on groundwater impacts associated with development in the area and the CID/City of Parlier litigation, it is staff's opinion that there is justification for a reconsideration based on reconsideration guidelines that allow for new or different facts that could not have been presented previously.

However, the City of Parlier's action to rescind approval for the AMG project results in the annexation request's lack of approval by the City, which is required by LAFCo.




Individuals and Agencies Receiving this Report:

- LAFCo Commissioners and Alternates
- Ruben Castillo, LAFCo Special Counsel
- Lou Martinez, City Manager, City of Parlier
- Shun Patlan, Community Development Director, City of Parlier
- Bruce O'Neal, Contract Planner, City of Parlier
- Bernard Jimenez, Manager, Fresno County Development Services Division
- Keith Larkin, Chief, Fresno County Fire Protection District
- David Orth, Kings River Conservation District
- Phil Desatoff, General Manager, Consolidated Irrigation District
- AMG Associates, LLC., Attn: Alexis Gevorgian

FIGURE 1 - GENERAL SITE LOCATION



Legend

-  Sphere of Influence
-  City Limits
-  Affected Territory

City of Parlier "Reorganization No. 06-02"
LAFCo File No. RO-08-5

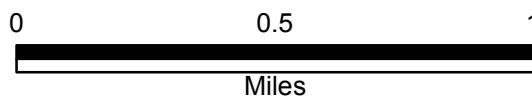


EXHIBIT "A"

AMG & Associates, LLC
16633 Ventura Blvd, Suite 1014
Encino, CA 91436
(818) 317-4168

July 28, 2010

Mr. Jeff Witte
Executive Director
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93 721

Re: Resolution No. RO-08-5D

Dear Mr. Witte:

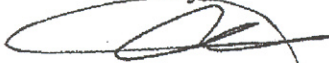
Pursuant to Section 56895 of the Government Code, I hereby request reconsideration of the above mentioned resolution.

We are working closely with the CID and City of Parlier to address any legal issues, if any, in order to proceed with the annexation. In the past week or so, there have been new cases that have been ruled on by the Fresno Superior Court that will have an impact on the findings that are required to address ground water recharge.

We respectfully ask you to calendar the reconsideration to the furthest calendar date permissible by the Government Code.

Should you have any questions or comments please do not hesitate to contact me.

Sincerely,



Alexis Gevorgian
AMG & Associates, LLC

EXHIBIT "B"



A Federally Designated
Rural Renewal Community.
•Incorporated November 14, 1921•



August 2, 2009

Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

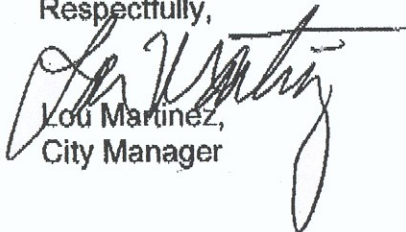
Mr. Witte

Please be advised that on May 5th, 2010, the Parlier City Council adopted Resolution 2010-29, which officially rescinded all project approvals for the AMG project in Parlier, including the annexation application.

As a result, the AMG project is not an approved project. Please consider the City's annexation application as withdrawn.

This was done in settlement of pending litigation with Consolidated Irrigation District. Thank you and please contact me for any questions or further information needed.

Respectfully,


Lou Martinez,
City Manager