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

AGENDA ITEM NO. 10

DATE: March 11, 2009

TO: Fresno Local Agency Formation Commission

FROM: Rick Ballantyne, LAFCo Executive Officer
Darrel Schmidt, LAFCo Deputy Executive Officer

SUBJECT: **Consider Approval:** City of Fresno “Sphere of Influence Revision”. A request by the City of Fresno to revise its Sphere of Influence to add approximately 89 acres of territory located north of W. Herndon Avenue, southwest of State Route 99, and east of the San Joaquin River. This proposal has been submitted by resolution of the Fresno City Council (**LAFCo File No. RSOI-152**).

Applicant: City of Fresno (Keith Bergthold, Interim Planning Director)

Land Owners/Parties of Real Interest: Aquarius Aquarium Institute, JFJ Farms Inc., Valeria Gamez, Victor and Rose Gonsalves, Robert Gonzales, Roy and Elizabeth Jura, Dennis and Laura Daughtry

Background:

On November 17, 2005, the Fresno County Planning Commission approved Unclassified Conditional Use Permit (CUP) No. 3073 to allow a public aquarium and related facilities (Aquarius Aquarium) on approximately 10 acres of the 89-acre affected territory. The County has subsequently granted extensions of the permit. Approval of the Unclassified Conditional Use Permit was subject to numerous conditions, including the following:

All water and sewer services for this proposal shall be provided by the City of Fresno. Evidence of LAFCo approval to allow City services to the subject site shall be provided prior to the issuance of any permits.

During the processing of the Unclassified CUP, the City of Fresno Public Utilities Department confirmed that it was able and willing to provide water and sewer services to the aquarium site.

During processing of the Unclassified CUP, LAFCo provided its comments to the County. It was pointed out that the aquarium site was located outside the City of Fresno's Sphere of Influence and that State law and LAFCo adopted policies provided for the following:

The Commission may authorize a City to provide new or extended services outside its jurisdictional boundaries and outside its Sphere of Influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory.

At its August 22, 2007 hearing, the Commission heard a request by Aquarius Aquarium Institute to extend water and sewer services outside the City of Fresno's SOI to the 10-acre aquarium site. The Commission was unable to make the necessary findings with respect to an “existing or impending threat” to the public health or safety of the residents of the affected territory that necessitated the extensions and denied the proposal.

During LAFCo's August 22, 2007 hearing it, was noted that the Commission was required to find that there was an existing or impending threat to the public health or safety of the residents only when services were proposed to be extended *outside* a City's SOI. However, if the territory proposed to receive services was *within* the City's SOI, the Commission was not required to make applicable public health and safety findings.

On January 27, 2009, the Fresno City Council via Resolution No. 2009-30 amended the City's General Plan to designate the 10-acre aquarium site as Public/Quasi Public Facility and the remaining 79 acres of the affected territory as Agricultural/Open Space. The City Council also initiated this SOI Revision proposal.

This proposal has been submitted by the City of Fresno in order that the Commission may again consider the Aquarius Aquarium Institute's extension of services request—but without having to make a determination related to public health and safety findings.

Summary of Proposal

- The City of Fresno is requesting a minor Sphere of Influence (SOI) revision to expand its SOI by 89 acres (see location map). Revision of the City's SOI is necessary in order to extend water and sewer services from the City to the aquarium site and the affected territory. Consideration of the SOI revision is necessary before the Commission can consider the extension of services request.
- The City does not propose to annex the affected territory at this time and has not identified any development proposals (with the exception of the Aquarius Aquarium) intended to be located within the affected territory.
- Aquarius Aquarium Institute has filed a concurrent application which appears as Agenda Item No. 11 on today's agenda, requesting approval to extend water and sewer services to the aquarium site. Agenda Item No. 11 also proposes to extend limited fire protection service, in the form of fire hydrants only, along the extent of the new water lines both within the affected territory and along those portions of Parkway Drive, Menlo Avenue, and Garfield Avenue already within the City's SOI. It should be noted that if the Commission approves a change of SOI boundary that would include only the aquarium site and its access road, then the Commission could not approve the extension of fire protection services into the remaining 79 acres of the affected territory unless new circumstances have arisen for the Commission to conclude that there is an existing or impending threat to the public health or safety of residents necessitating an extension of services outside the City's SOI.
- The affected territory is located north of W. Herndon Avenue, southwest of State Route 99, and south and east of the San Joaquin River (see location maps).
- The affected territory contains vacant/open space land and five residences. Surrounding land use consists of the San Joaquin River to the west, State Route 99 to the north and east, and residences and agricultural land to the south.

Environmental Determination:

The City of Fresno prepared an Initial Study to evaluate the potential environmental effects of the City's General Plan Amendment and the proposed SOI revision. The City of Fresno made a finding that, although the proposed SOI revision could have significant effects upon the environment, such effects could be mitigated.

This Initial Study also incorporated, by reference, the Initial Study prepared for Fresno County's Unclassified CUP No. 3073, which similarly determined that the aquarium project would have no significant impacts on the environment with incorporation of mitigation measures. The City filed a Notice of Intent to adopt a mitigated negative declaration with the County Clerk on November 21, 2008 (See Environmental Documents).

As a Responsible Agency, the Commission is required to review and consider the City's Initial Study and Mitigated Negative Declaration prior to taking its action. If the Commission determines that these documents are adequate, pursuant to CEQA, a finding needs to be made that the Commission independently reviewed and considered the information in the Initial Study and the Mitigated Negative Declaration and that these environmental documents are sufficient on which to make a determination on the proposed SOI revision. It is recommended that Finding "A" contained within the recommended actions below be adopted.

Consistency with LAFCo Policies, Standards, and Procedures

- The proposal is consistent with the City of Fresno General Plan that designates the 10-acre aquarium site and access road as Public/Quasi Public Facility and the remaining 79 acres of the affected territory as Agricultural/Open Space. These designations are consistent with the proposed aquarium and existing open space and rural residential uses.
- Pursuant to Government Code Section 56425 and the Commission's Policies and Procedures, Section 330, prior to submitting this proposal to LAFCo, the City of Fresno and the County met to discuss this SOI revision proposal, but were **unable** to come to agreement as to the most appropriate boundaries for the revised SOI.

The City is requesting that the revised SOI include 89 acres which includes all land north of E. Herndon Avenue, west of the N. Garfield Avenue alignment, southwest of State Route 99, and south and east of the San Joaquin River. The City's stated reasons for including this area within its SOI, as identified in correspondence to the County dated February 11, 2008, include:

1. The aquarium is intended to be a regional use, which would draw visitors from outside the area, creating need/demand for additional support services such as hotels, restaurants, and shops. Including this area within the City's SOI would allow for more comprehensive planning.
2. Revising the SOI to include the 89 acres at this time would make the City better able to properly plan and size infrastructure (water, sewer, gas, etc.) to serve not just the aquarium, but also the related development that could follow.
3. Revising the SOI to include the 89 acres at this time will reduce the need for future SOI revisions.
4. Of the 89 acres proposed to be included within the City's SOI, only approximately 63 acres (including the aquarium site) is developable property because the remainder is either part of the river bottom, the river bluff, Herndon Avenue, or is already urbanized.
5. The proposed SOI revision would result in a more logical SOI boundary than including only the 10-acre aquarium site and access road within the City's SOI.

The County has agreed that a SOI revision is appropriate so that services can be extended from the City to the aquarium, but has stated that the revision should only include the 10-acre aquarium site and access road (Parkway Drive). The County does not support the request to

include all 89 acres within the City's SOI. In a February 19, 2009 response to LAFCo's request for comments on this proposal, the County stated:

The County has had numerous discussions and has raised significant concerns to the City regarding its proposed 89-acre SOI expansion. Specifically, the County is concerned that the City would propose an SOI expansion without having completed any land use or environmental planning for the area, and that intensification of this quadrant would further aggravate existing traffic and circulation congestion difficulties currently being experienced in the vicinity. In addition, County staff notes that the 10-acre aquarium site is adjacent to the existing City limit boundary and that annexation and extension of municipal services could occur without the need for the larger area.

Since the City and County have been unable to come to an agreement with respect to an appropriate, revised SOI boundary, the City has elected to move forward and submit this proposal for consideration by LAFCo.

Pursuant to Government Code Section 56425(d), in the absence of an agreement between the City and County, the Commission "shall consider a Sphere of Influence for the City consistent with the policies adopted by the Commission pursuant to this Section." Commission policies state that the Sphere of Influence should promote logical and orderly development of areas within the Sphere and that the Commission shall prepare written determinations with respect to four specific items. These determinations are included as Exhibit "A" to this report.

- Staff believes the City's 89-acre SOI Revision to the City of Fresno's Sphere of Influence is appropriate for the following reasons:
 1. Since the City and/project developer project that the aquarium will attract a significant number of visitors (the Aquarius Aquarium Institute estimates up to 500,000 annually according to the County's Unclassified CUP report), there may be a natural demand for support facilities such as restaurants and hotels/motels in the immediate vicinity. Revising the City's SOI to include the entire 89 acres will allow the City to more comprehensively plan for these uses at such time as the aquarium is built. Therefore, staff believes that inclusion of the 89 acres within the City's SOI would promote more logical and orderly development than simply the 10-acre aquarium site and access road.
 2. It would appear more logical to expand the City's SOI to the point that it reaches "natural" boundaries. In this case, the San Joaquin River and Herndon Avenue would appear to be more natural boundaries than would the boundaries of the aquarium parcel and its access along Parkway Drive.
 3. If the aquarium creates additional demand for support services in the immediate vicinity in the future, it would seem appropriate to revise the SOI to include the 89 acres as requested by the City—so that public infrastructure needs can be more accurately planned and infrastructure can be appropriately sized.
 4. With respect to the County's concern regarding lack of land use planning and environmental review for the area, the City has amended its General Plan accordingly and has performed an environmental review pursuant to CEQA.
 5. In order for the remainder of the affected territory to be developed with more intensified uses, the territory would have to be designated for such uses in the City's General Plan and

appropriately pre-zoned prior to annexation into the City. These actions would require CEQA review to determine any impacts of such development, including traffic related impacts, and conditions/mitigation measures would have to be applied accordingly.

6. As discussed in greater detail in the extension of services request staff report, which appears as Agenda Item No. 11 on today's agenda, the City requires the installation of a "looped" water system rather than a "dead-end" water line, which would extend only to the aquarium site. One leg of this looped system extends westward along Herndon Avenue well beyond what the County has indicated it believes is an appropriate SOI revision area.
 7. As discussed in the extension of services report, the City has requested that fire hydrants be installed along the length of the looped water system. Technically speaking, installation of these fire hydrants extends limited fire protection services into a larger portion of the proposed SOI area than just the aquarium site. If the revised SOI were to be limited to only the 10-acre aquarium site and the access road, then the hydrants could only be used in the 10-acre approved SOI because to do otherwise would exceed the extension of services authority granted by the Commission. If the Commission desires to permit the hydrants to be used outside of the SOI, then the Commission must make a finding that there is an existing or impending threat to the public health or safety of residents necessitating the extension of hydrant services outside the City's SOI. At this point, staff believes that, because the factual circumstances have not changed since the Commission considered an extension of services outside the City's SOI in August, 2007, the Commission would be unable to make the necessary findings.
- It should be noted that since this SOI revision proposal does not include annexation of the affected territory, it is not necessary to find that the proposal is consistent with the Memorandum of Understanding (Master Tax Sharing Agreement) Standards for Annexation between the City of Fresno and the County of Fresno. At such time as the affected territory is proposed for annexation, a finding of consistency with the Memorandum of Understanding (MOU) will be necessary, which may result in the need to amend the MOU to include this territory.
 - Staff also notes that the *2002 Fresno County Important Farmland Map* identifies the affected territory as vacant or disturbed land, nonagricultural, natural vegetation, rural-residential and commercial land. In a letter from Ray Jura, who owns land within the affected territory, Mr. Jura has stated that he previously attempted to farm his property, but that it was very difficult and not profitable due to sandy soils. He has indicated that the affected territory has not been farmed in more than 30 years. None of the affected territory is under Williamson Act Contract.
 - Staff believes that the subject proposal does not conflict with the goals and policies of LAFCo. The proposal is timely and represents an appropriate action. Staff believes that it would result in orderly land use planning and efficient development patterns and service areas.
 - Further, the proposal would carry out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

Accordingly, the proposed reorganization, with the recommended conditions, is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code 56000 et seq.), and LAFCo Policies, Standards, and Procedures, including, but not limited to, Sections 100 and 300.

Alternative Action:

- While staff has recommended that the SOI revision include the entire 89 acre area, staff does recognize that the County has raised objection to this proposal and that the County has indicated it would be agreeable to a revision of the SOI that includes only the 10-acre aquarium site and the access road (Parkway Drive). If the Commission determines that it is more appropriate to include just the aquarium site and access road within the City's SOI, the Commission does have the authority to amend the SOI proposal to include just that area pursuant to Government Code Section 56428(e) which states: *The Commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request.*

Recommendation –Approve by Taking the Following Actions:

- A. Acting as Responsible Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to approving the proposed reorganization the environmental effects of the project as shown in the CEQA documents prepared, adopted, and submitted by the Lead Agency were reviewed and considered, and determine these documents to be adequate pursuant to CEQA Guidelines Section 15096.
- B. Adopt the required written determinations for the Sphere of Influence revision and determine that these determinations have been prepared pursuant to California's Government Code, Section 56425(e) (see Exhibit "A").
- C. Find that the proposed City of Fresno "Sphere of Influence Revision" is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and Fresno LAFCo adopted Policies, Standards, and Procedures, and that this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.
- D. Find that approval of the requested revision to the City's Sphere of Influence is based on sufficient information as provided to the Commission in the Initial Study and Negative Declaration for the current project, the Executive Officer's report to the Commission, and all other testimony, evidence and information provided by persons and interested agencies, and is in compliance with State law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
- E. Approve the proposed Sphere of Influence Revision (RSOI-152) consisting of 89 acres of territory for the City of Fresno as shown within Exhibit "B" attached.
- F. The Sphere of Influence revision is ordered subject to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the 30-day reconsideration period.

APPLICATION INFORMATION

1. **Affected Territory**

Acreage:	89.45 acres
Current Land Use:	Vacant/Open Space, Rural Residential
Landowners:	Landowners: 10
County Zoning:	AE-20
Ag. Preserves/Contracts:	None
Assessor's Parcel Numbers:	504-050-14s, 15s, 24s, 26; 504-130-01, 02, 03, 07, 14, 31, 32

2. **Proposed Development:** The County approved Unclassified Conditional Use Permit No. 3073 allowing a public aquarium to be constructed on approximately 10 acres of the affected territory. Approval of the proposed SOI Revision would allow the Commission to consider a concurrent extension of services request.

3. **Surrounding Territory:** Surrounding land use consists of State Route 99 to the east, the San Joaquin River to the north and west, and agriculture and rural residential uses to the south.

4. **Consistency with Adopted Sphere of Influence (SOI):** This proposal is to allow a revision to the City of Fresno's SOI to include the affected territory.

5. **Consistency with City and County General and Specific Plans:** The proposed SOI Revision is consistent with the City of Fresno's General Plan. The County, via Unclassified Conditional Use Permit No. 3073, determined that the proposed aquarium is consistent with the County's General Plan. It is not necessary for the Commission to determine that inclusion of the 89-acre affected territory is consistent with the County's General Plan as the proposal does not include a change of organization or reorganization.

6. **Existing Service Agencies and Proposed Service Changes:**

Service	Existing Service	Change
Water	Private	City of Fresno
Sewer	Private	City of Fresno
Fire Protection	North Central Fire Protection District	None
Distance to Station	1.2 Miles	None

Please Note: A service plan for this Proposal is attached to this report.

7. **Cities and Districts Included Wholly or Partially within the Affected Territory.**

County of Fresno	Fresno County Library District
North Central Fire Protection District	Fresno Mosquito Abatement District
Kings River Conservation District	Central Unified School District
West Fresno County Red Scale District	State Center Community College District
Fresno Irrigation District	

8. **Costs and Other Changes Affecting Residents or Landowners**

None

9. **Agencies and Individuals Submitting Comments (see Correspondence and Comments)**

- Alan Weaver, Director, Fresno County Department of Public Works and Planning
- Joanne Striebeck, California Department of Transportation
- Rene Ramirez, Director, Fresno Department of Utilities
- Dave King, Fresno County Assessor's Office
- William Stretch, Chief Engineer, Fresno Irrigation District
- Glen Allen, County Environmental Health Services
- Karen Bosch Cobb, County Library
- Sharon Weaver, Deputy Director, San Joaquin River Conservancy
- Kerri L. Donis, Deputy Chief, North Central Fire Protection District

10. **Territory Boundaries**

The boundaries of the proposed annexation **are** definite and certain, and there **are no** conflicts with lines of assessment ownership. The map is sufficient per Dave King, Fresno County Assessor's Office. No legal description is required as Spheres of Influence are not filed with the State Board of Equalization.

11. **Compliance with the Requirements of CEQA**

Lead Agency: City of Fresno - **Level of Analysis:** Initial Study

Finding: Mitigated Negative Declaration

Proponent: City of Fresno, Keith Bergthold, Interim Planning Director

12. **Public Notice of Hearing** - Written public notice was issued by the Executive Officer pursuant to the requirements of State law.

13. **Individuals and Agencies Receiving this Report**

- LAFCo Commissioners and Alternates
- Ken Price, LAFCo Counsel
- Andrew Souza, City Manager, City of Fresno
- Keith Bergthold, Interim Planning Director, City of Fresno
- Alan Weaver, Director, Fresno County Department of Public Works and Planning
- Bernard Jimenez, Manager, Fresno County Development Services Division
- Fire Chief Randy Bruegman, North Central Fire Protection District
- Tom Lang, Executive Director, Aquarius Aquarium Institute

EXHIBIT A

DETERMINATIONS PURSUANT TO GOVERNMENT CODE SECTION 56425

For the City of Fresno Sphere of Influence Revision (File No. RSOI-152)

The following Determinations have been prepared pursuant to Government Code Section 56425 et seq. with respect to four specific issues required to approve a change to a Sphere of Influence:

1. Present and Planned Land Uses in the Area Including Agricultural and Open-Space Lands.

The requested Sphere of Influence (SOI) Revision is consistent with the City of Fresno General Plan land use policies. The territory is currently developed with five residences and contains vacant/open space lands and rural residential uses. Unclassified Conditional Use Permit No. 3073 allowing a public aquarium and appurtenant facilities has been approved by the County for construction on 10.0 acres of the affected territory. The remainder of the territory has been designated for agricultural/open spaces uses in the City's General Plan, consistent with current uses. No other uses are planned for the affected territory at this time.

The affected territory is designated for agriculture in the Fresno County General Plan. The affected territory is not in agricultural production. Staff is informed by the landowner that the property may not be profitably farmed due to very sandy soils and consequently has not been farmed in 30 years.

Surrounding land use consists of State Route 99 to the east and northeast, the San Joaquin River to the west and northwest, and agricultural and rural residential uses to the south. No construction activities taking place within the aquarium site will be allowed within 400 feet of the San Joaquin River.

2. The Present and Probable Need for Public Facilities and Services in the Area.

Fresno County Unclassified Conditional Use Permit No. 3073 included, as a condition of its approval that the proposed aquarium obtain water and sewer services from the City of Fresno. The Service Plan submitted with this proposal indicates these services are available and that the City will provide such services. The City has requested the water system be looped rather than be a "dead end" line so that water service will remain available in the event of a line breakage along one leg of the loop. Additionally, the City has proposed installation of fire hydrants along the extent of the water lines (although staff believes hydrant service should only be provided within the approved SOI). No other services have been requested or will be provided at this time. Should the City annex the affected territory in the future, the service plan indicates that all City services will be provided to the area.

The SOI revision is timely; it represents an appropriate action by LAFCo, and results in orderly land use planning. The SOI revision encourages and provides planned, well-ordered, and efficient urban development patterns.

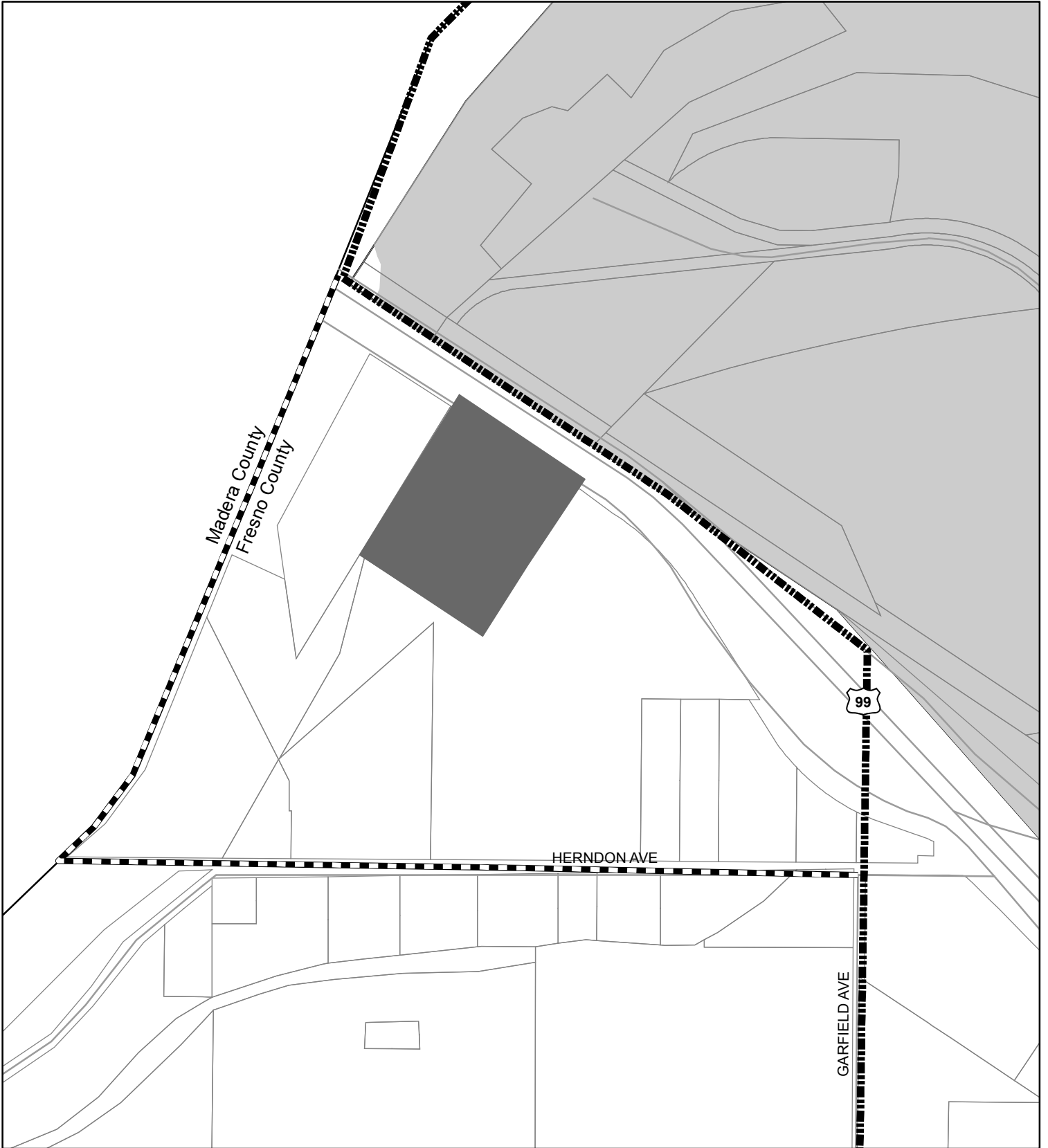
3. The Present Capacity of Public Facilities and Adequacy of Public Services that the Agency is authorized to Provide.

The SOI Revision is in line with LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities. The Service Plan submitted for the SOI Revision indicates that water and sewer services are available to serve the proposed aquarium site. Water and sewer service are not intended to be made available to the remainder of the affected territory at this time. Fire hydrants will also be installed along the extent of the water line within the approved SOI.





4. The Existence of Any Social or Economic Communities of Interest in the Area if the Commission Determines that they are Relevant to the Agency.

The City of Fresno and the County of Fresno may be considered communities of interest in the area. The City of Fresno supports the SOI revision and states it will provide all City services to the affected territory upon annexation in the future. There is no specific timeline for annexation.

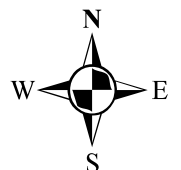
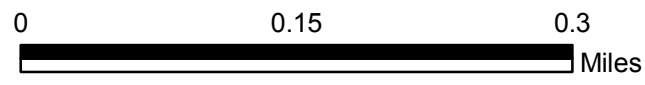
EXHIBIT "B"



Legend

-  Existing SOI
-  City Limits
-  Proposed SOI
-  Proposed Aquarium

City of Fresno "Sphere of Influence Revision"
and Aquarius Aquarium "Extension of
Municipal Services"
LAFCo File No.'s RSOI-152 and OS-09-1



CORRESPONDENCE



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR

February 19, 2009

Rick Ballantyne, Executive Officer
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721



Subject: Extension of Municipal Services (Aquarius Aquarium Institute), OS-09-01
Sphere of Influence Revision (City of Fresno), RSOI-152

Dear Rick:

The County of Fresno appreciates the opportunity to review and comment on the above applications filed by the City of Fresno.

The County has had numerous discussions and has raised significant concerns to the City regarding its proposed 89-acre SOI expansion. Specifically, the County is concerned that the City would propose an SOI expansion without having completing any land use or environmental planning for the area, and that intensification of this quadrant would further aggravate existing traffic and circulation congestion difficulties currently being experienced in the vicinity. In addition, County staff notes that the 10-acre aquarium site is adjacent to the existing city limit boundary and that annexation and extension of municipal services could occur without the need for the larger area.

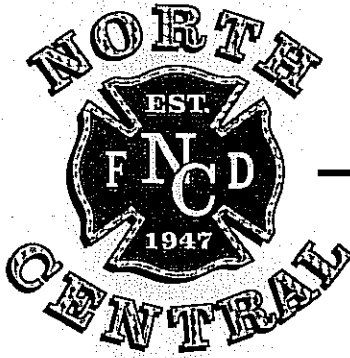
While the County remains supportive of inclusion of the 10-acre Aquarius Aquarium Institute site in the City's SOI and extension of municipal services, the County does not support the larger SOI expansion area and therefore recommends that LAFCo only approve the City's request limited to the aquarium site. In addition, the County requests that a public hearing be held on this matter. It should also be noted that a valid Master Tax Sharing Agreement does not exist for the proposed 89-acre SOI expansion area.

If you have any questions, please call me at (559) 262-4078.

Sincerely,

Alan Weaver, Director

c: Fresno County Board of Supervisors
John Navarrette, County Administrative Officer
Bernard Jimenez, Development Services Manager



NORTH CENTRAL FIRE PROTECTION DISTRICT

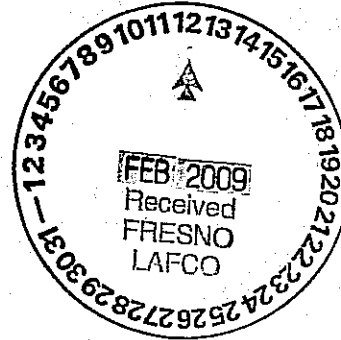
Board of Directors: Ken Abrahamian • Cheryl Belluomini

Rusty Nonini • Rusty Souza • Dennis Yates

Fire Chief: Randy R. Bruegman

February 11, 2009

MR RICK BALLANTYNE
EXECUTIVE OFFICER
FRESNO LOCAL AGENCY FORMATION COMMISSION
2115 KERN STREET SUITE 310
FRESNO CA 93721



15850 W. Kearney Boulevard
Kerman, California 93630-9335
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Dear Mr. Ballantyne:

This department has been contacted by Tom Lang, of the Aquarius Aquarium Institute, with a request for a letter of support in regard to a LAFCO sphere of influence boundary change which would allow the City of Fresno the ability to provide public water and sewer service to the aquarium site located outside the present city sphere of influence boundary.

The Fresno Fire Department is contracted with the North Central Fire Protection District to provide the full range of fire service to this unincorporated area situated west of Highway 99. This department strongly endorses the use of a looped public water main system to supply fire service to this property. The details on the exact routing of the public water mains must be discussed with the City of Fresno Water Division to ensure water mains will serve the public interest and provide a reliable water supply for the aquarium's domestic and fire service use.

Without a second point of connection, a public water main extending in Parkway north from the present location of the public main to the proposed entrance aquarium at W. Herndon would be over 2,500 feet in length as a dead-end. From that point, it is another 2,000 feet to the actual aquarium site. From the fire department's perspective, long dead ends are discouraged due to the increased risk of a line breakage from construction activity, farming operations, or other unforeseen circumstances. Should an incident occur during the down time, on-site fire protection would be completely lost for an extended period of time placing high value property at risk of a large fire loss and placing fire fighters at extreme risk. Providing a looped public water main infrastructure would ensure a possible line breakage could be isolated by shutting the necessary street valves and maintaining the fire protection water supply through the other leg of the loop. An additional benefit to property owners and the North Central Fire Protection District would be the ability to provide fire hydrant protection to numerous large estate-like houses along W. Menlo Avenue which currently lack fire fighting water supply.

If you have any questions, please feel free to contact me.

Sincerely,

Kerri L. Donis, Deputy Chief

KLD:BB:amg

"To protect and put service above all else."

City of



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Planning and Development Department

Nick P. Yovino
Director

Exhibit E

February 11, 2008

Bart Bohn
County Administrative Officer
Hall of Records, Room 300
2281 Tulare Street
Fresno, California 93721

Dear Mr. Bohn:

SUBJECT: RESPONSE TO FRESNO COUNTY RELATED TO A PROPOSED EXPANSION TO THE SPHERE OF INFLUENCE (SOI) OF THE CITY OF FRESNO FOR PROPERTY LOCATED ON THE NORTH SIDE OF HERNDON AVENUE, WEST OF FREEWAY 99 (AQUARIUS AQUARIUM PROJECT)

This letter is in response to the attached correspondence from your office dated January 17, 2008, regarding the City of Fresno's request for expansion of the Sphere of Influence (SOI) of the City of Fresno for the proposed Aquarius Aquarium Project. In your letter you indicated that the County only agrees to include the 10-acre aquarium site and the road that leads to it with this SOI expansion and not the 89+ acre SOI expansion requested by the City. However, the County indicated it was willing to consider the City's original SOI expansion if the City can provide additional justification.

The City strongly believes that the proposed SOI expansion of the entire 89 acres provides for a more logical jurisdictional boundary. When the Cortese-Knox-Hertzberg Local Government Reorganization Act was amended in 2000, the State legislature made the following finding:

The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which is essential to the social, fiscal and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development.

The SOI boundaries proposed by the County would essentially isolate the proposed site of the aquarium as the only property on the west side of Freeway 99, north of Herndon Avenue, that would be within the City's SOI. For the following reasons, City staff believes the boundaries originally proposed by the City are preferable:

- The proposed aquarium is intended to be a regional use that would draw patrons from a significant distance from the Fresno area. It is very likely that the development of the aquarium will cause the need/demand for various aquarium related uses (i.e. hotels, restaurants, shops etc). By only including the site of the aquarium within the City's SOI, it does not provide any additional property adjacent to the aquarium for these aquarium related uses. If the additional area, as proposed by the City, were to be included within the City's SOI, the City could plan this area in a manner that would complement the aquarium. In addition, the City's infrastructure (water lines, sewer lines, etc and public utilities such as gas, electricity, telephone, and cable television) could be properly planned and sized to serve not just the aquarium, but the related development that is likely to follow.
- Most of the territory to be included in the City's SOI proposal is under a single ownership which would enhance the prospects for developing this property in an attractive unified manner that would be both a benefit to the aquarium and at the same time preserve the integrity of the San Joaquin River Bluffs. This development of the aquarium and related uses could help make a very positive statement for both the City and County of Fresno at the entry point into the City and County of Fresno.
- If the City's proposal is accepted, the 89 acre territory would be within the City's SOI and would be ready for development. This would reduce the potential of having to deal with requests that would likely occur for development around the aquarium which would cause the need for future SOI boundary amendments.
- Of the 89.57 acres proposed to be included in the City of Fresno's SOI, approximately 26 acres of the territory is unusable because the land is either part of the river bottom, the river bluff, Herndon Avenue, or is already urbanized. Of this remaining 63 acres of developable territory, 10+ acres will be developed as the Aquarium site/road, leaving 53 acres for future development. So while the total SOI expansion totals 89.57 acres, only approximately 63 acres (including the aquarium site) is developable property.

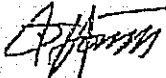
Bart Bohn, County Administrative Officer
SOI – Aquarius Aquarium
February 11, 2008
Page 3

Also, be advised that in accordance with the City's Bluff Preservation Ordinance and Policy, and depending on soil conditions along the bluff, development can be restricted by as much as 300 feet from the toe of the bluff, thereby further reducing the amount of developable property within the proposed SOI expansion.

For the reasons stated above, the City hereby requests that County reconsider this matter and that the County concur with the expansion of the City's Sphere of Influence as originally requested.

If you have any questions regarding this matter, please call Bruce Barnes, Project Manager, at 621-8047 or David Braun, Planner III at 621-8038 in the Planning and Development Department.

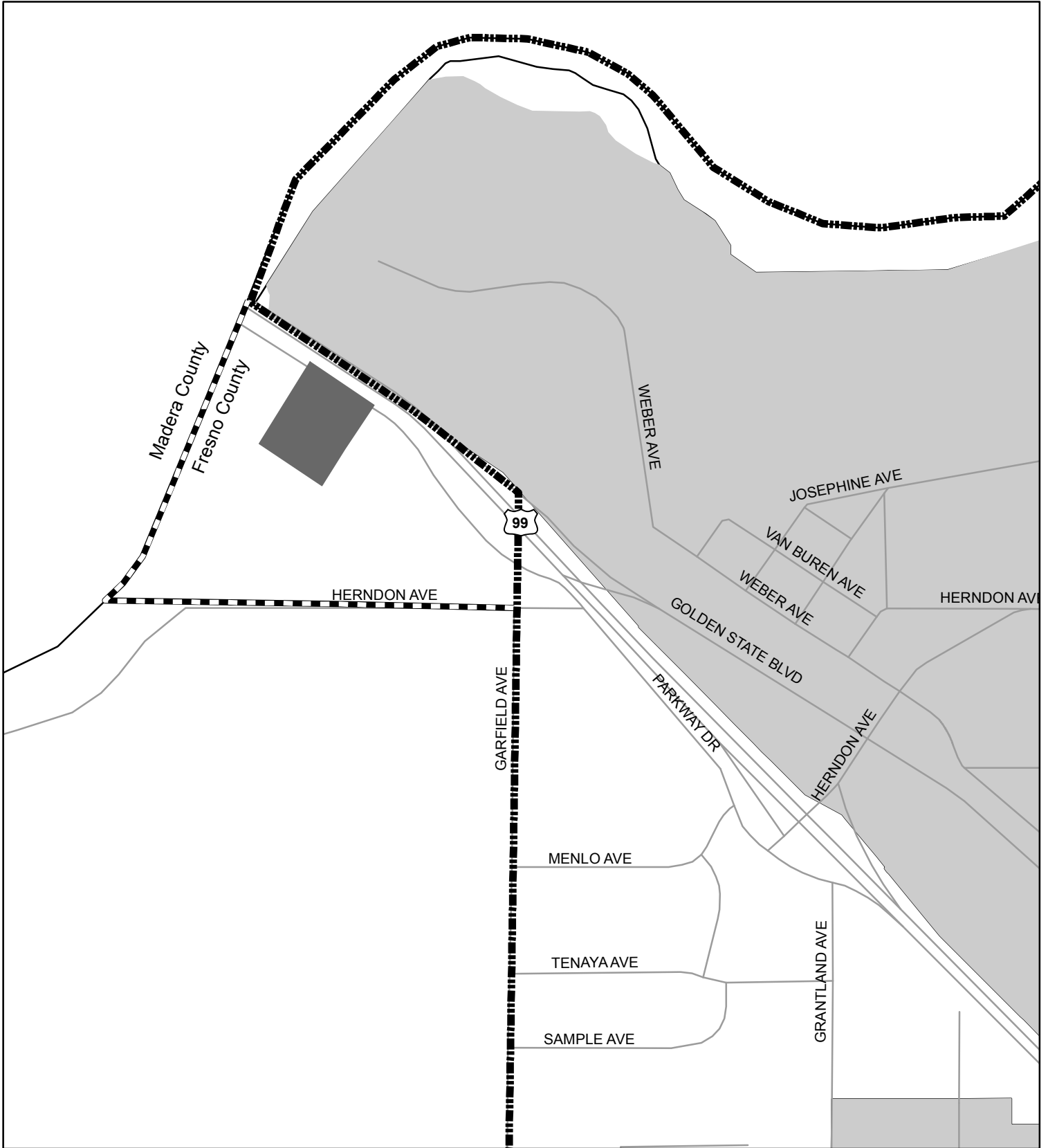
Sincerely,







NICK P. YOVINO
Director

c: Councilmembers
Andrew T. Souza, City Manager
Bernard Jimenez, Fresno County
Richard Ballatyne, LAFCo
Jose Leon-Barraza, Economic Development Coordinator

FIGURE 1 - GENERAL LOCATION MAP



Legend

-  Existing SOI
-  City Limits
-  Proposed SOI
-  Proposed Aquarium

City of Fresno "Sphere of Influence Revision"
 and Aquarius Aquarium "Extension of
 Municipal Services"
 LAFCo File No.'s RSOI-152 and OS-09-1

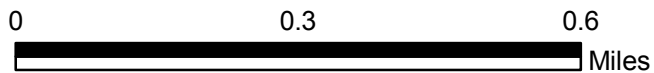
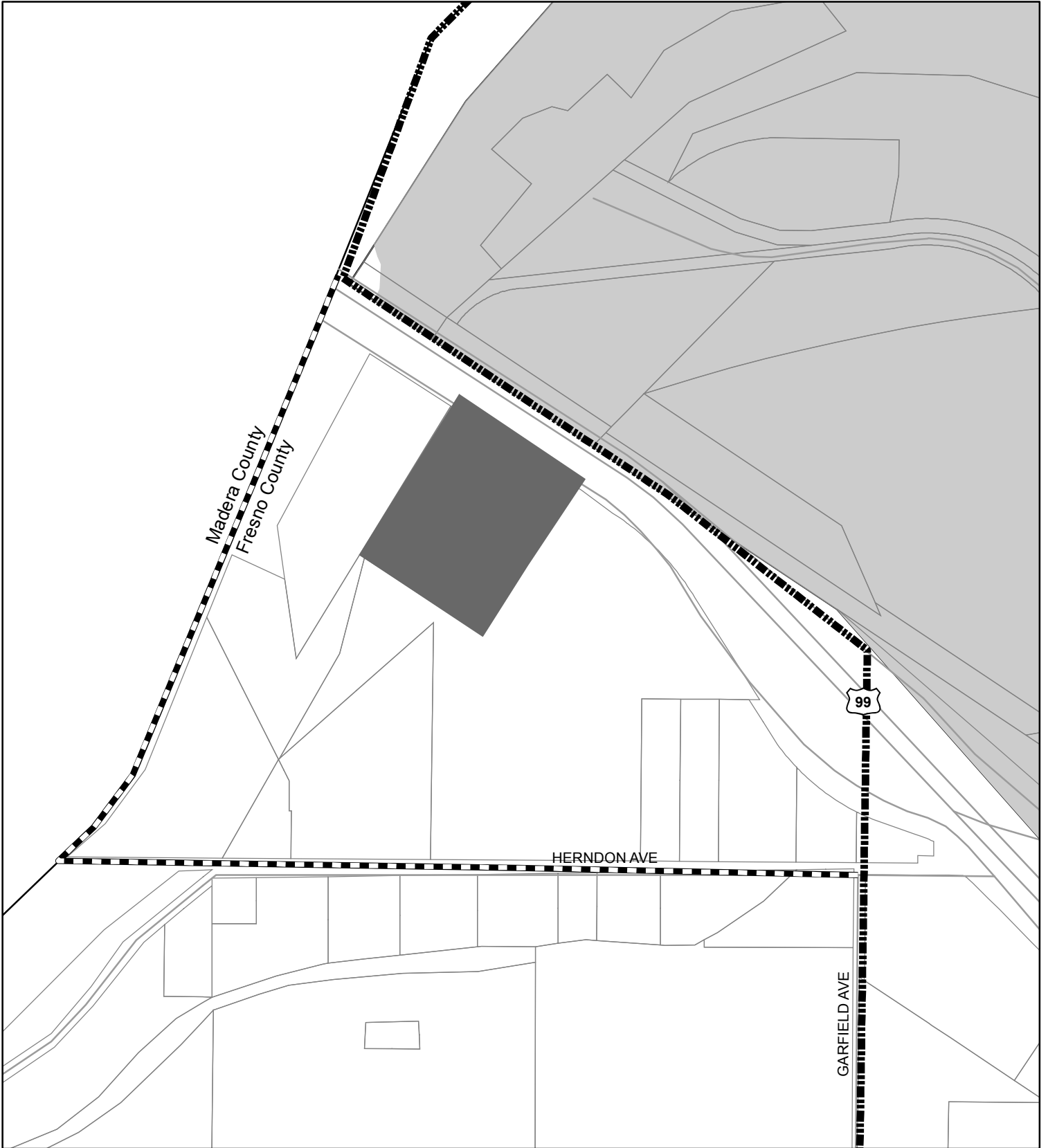






FIGURE 2 - LOCATION MAP



Legend

-  Existing SOI
-  City Limits
-  Proposed SOI
-  Proposed Aquarium

City of Fresno "Sphere of Influence Revision"
and Aquarius Aquarium "Extension of
Municipal Services"
LAFCo File No.'s RSOI-152 and OS-09-1

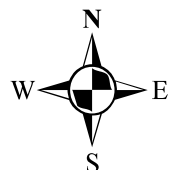
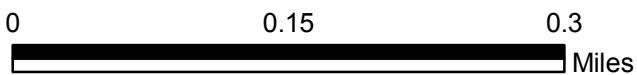
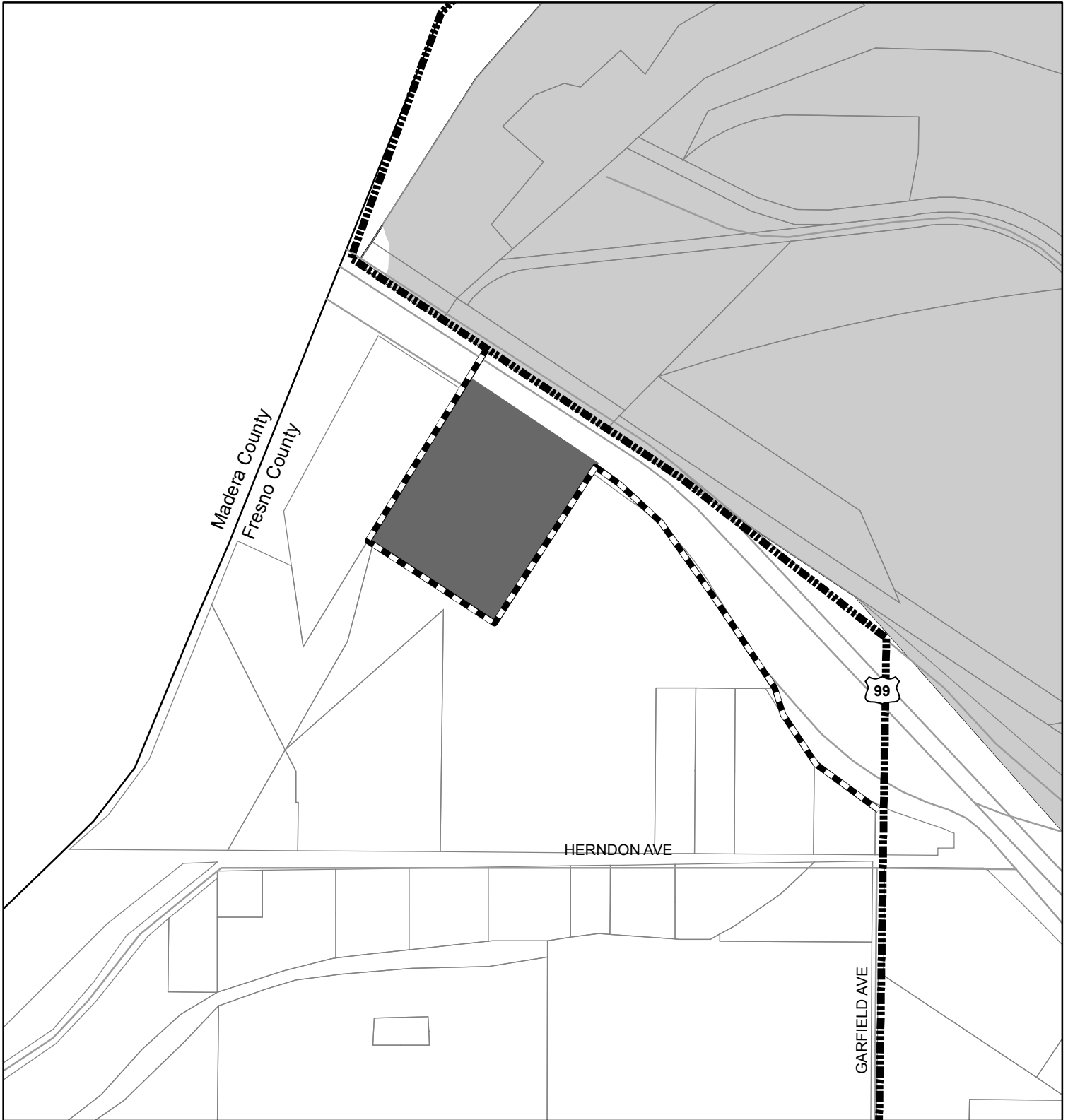






FIGURE 3 - ALTERNATE SPHERE REVISION

(Aquarium Site and Access Road Only)



Legend

-  Existing SOI
-  City Limits
-  Proposed SOI
-  Proposed Aquarium

City of Fresno "Sphere of Influence Revision"
and Aquarius Aquarium "Extension of
Municipal Services"

LAFCo File No.'s RSOI-152 and OS-09-1

