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

AGENDA ITEM No. 10

DATE: April 18, 2007

TO: Fresno Local Agency Formation Commission

FROM: Rick Ballantyne, Executive Officer

SUBJECT: **Consider Conditional Approval - City of Fresno "Dakota-Temperance No. 1 Reorganization"**. A proposed reorganization consisting of the annexation of 51.9 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District for territory located north of the E. Dakota Avenue alignment and both east and west of N. Temperance Avenue (**LAFCo File No. RO-07-8**).

Background:

- This Proposal has been scheduled for public hearing because the territory is inhabited and not all property owners have consented to the reorganization.
- The City of Fresno initiated this Proposal on January 23, 2007, with the adoption of Resolution No. 2007-15 and a Certificate of Filing has been issued.
- The City on June 28, 2005 pre-zoned the easterly portion of the affected territory from County AE-20 (Exclusive Agricultural, 20-Acre Minimum) District to City S-L/UGM (Storage-Limited Mini Storage Facility/Urban Growth Management Area) District and approved a Conditional Use Permit and Site Plan to develop a Derrel's Mini Storage Facility. This site plan covers approximately 34 acres of the affected territory.
- Nine rural residential parcels located on the west side of N Temperance Avenue have been included within the Proposal at the request of the County in order to avoid creation of a County island (See letter from Mr. Bart Bohn, Fresno County CAO, June 16, 2006 - Correspondence and Comments).

Proposal / Land Use:

- The Proposal consists of the annexation of approximately 51.9 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District.
- The affected territory is located north of the E. Dakota Avenue alignment and both east and west of N. Temperance Avenue. The territory is located within the City of Fresno's Sphere of Influence Area and is bounded by Fresno's City Limits on the north, south, and west sides (see attached Maps).
- The territory is predominately undeveloped and rural residential land use. Surrounding land uses consist of residential to the north, south, and west and agriculture to the east.

Environmental Determination:

The City of Fresno (“Lead Agency”) determined pursuant to Section 21157.1 of the California Public Resources Code (California Environmental Quality Act “CEQA”) that the proposed reorganization (“the project”) is within the scope of the “Master Environmental Impact Report (MEIR) No. 10130” prepared and certified for the 2025 Fresno General Plan (see Attachment “A”).

Previously the Commission was provided with copies of the Final MEIR for the 2025 Fresno General Plan. As a Responsible Agency under CEQA Guidelines, prior to approving the present Proposal, the Commission is required to consider the information in the MEIR, the Initial Study, and adopted mitigation measures for the present Proposal on which the Lead Agency based its “Finding of Conformity with the MEIR” pursuant to Section 21157.1 of the California Public Resources Code.

Following such review, the Commission may determine the subsequent project (Proposal) to be within the scope of the (overall) project covered by the MEIR, and that the proposed project will have no additional significant effect on the environment, as defined by subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the MEIR and that no new or additional mitigation measures or alternatives are required in order to avoid or mitigate a significant environmental effect (CEQA Section 15177). Accordingly, it is recommended that the Commission adopt the finding in Recommended Action “A”.

Consistency with LAFCo Policies, Standards and Procedures

- The Proposal is consistent with the 2025 Fresno General Plan and the McLane Community Plan that designate the territory for Office Commercial and Low-Density Residential uses.
- The Proposal is consistent with the Memorandum of Understanding (Master Tax Sharing Agreement) Standards for Annexation between the City of Fresno and County of Fresno (See letter from Mr. Bart Bohn, Fresno County CAO, June 16, 2006 - Correspondence and Comments).
- In accordance with LAFCo Policy 102-041, a Transition Agreement between the City of Fresno and the Fresno County Fire Protection District has been entered into that covers the affected territory.
- The Proposal furthers the County’s General Plan policies of directing growth to existing cities where infrastructure and a full range of municipal services are available to serve urban development.
- Substantial development is planned for the affected territory. The Service Plan submitted for this Proposal indicates that all necessary urban services (water, sewer, police, fire, etc.) are available to serve the affected territory (see Service Plan). The City of Fresno reports that an adequate water supply pursuant to California Government Code Section 65352.5 is available to serve the affected territory.

- The Fresno LAFCo's adopted Policy Section 210-13 (Standards for Annexation to Cities and Urban Service District—Pre-Zoning Requirements) sets forth pre-zoning requirements for affected territories. Sections 210-13-01, 02, and 03 state:

As a condition to annexation a City is required to pre-zone the territory to be annexed. Prior to submitting an application to the Commission for a proposed annexation the City or petitioners must have pre-zoned the affected territory consistent with that City's General Plan, unless the City meets one of the exceptions, presented in this sub-section below (210-13-01).

If any territory included in a proposed annexation to a City is not pre-zoned, to qualify for an exemption from required pre-zoning, the City proponent or petitioners are required to present evidence satisfactory to the Commission that the existing development entitlements on such territory included in the annexation are vested or already at build-out, and are consistent with the City's General Plan (210-13-02).

On a case by case basis the Executive Officer shall examine the evidence presented to the Commission by the City proponent or petitioners that territory included in an annexation is exempt from required pre-zoning to determine if such evidence is acceptable. The results of this analysis shall be included in the Executive Officer's report to the Commission (210-13-03)

The City of Fresno has petitioned the Commission to waive the pre-zoning requirement prior to its action for the nine existing rural residential developed parcels located west of N. Temperance Avenue. The City has submitted a letter in support of the request (See letter from Keith Bergthold, Acting Director, Fresno Planning and Development Department, March 2, 2007 - Correspondence and Comments). The City comments that these nine properties have been fully developed as homesites. The City states that such development is consistent with the Low-Density Residential designation of the General Plan.

Staff would concur with the City's request. However, staff would recommend that as a condition of approval, that the entire effected territory be pre-zoned prior to recordation. Such requirement is in accordance with State law requirements. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 sets forth such standard. State law does not provide for exceptions to such standards.

- The Proposal, with the recommended conditions, does not conflict with the goals and policies of LAFCo. The proposal is timely, it represents an appropriate action, and would result in orderly land use planning, efficient development patterns and service areas, and does not encourage urban sprawl.
- The Proposal, with the recommended conditions, 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 200.

Conducting Authority

The affected territory is inhabited. Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, should this Proposal be approved, it will be necessary to set a protest hearing. The protest hearing cannot be held prior to the expiration of the reconsideration period (30 days), and the date of the hearing shall not take place less than 21 days after notice is given.

Recommendation –Approve With Conditions by Taking the Following Actions:

- A. Acting as a Responsible Agency under CEQA Guidelines, state that this Commission considered the information in the Initial Study and the Finding of Conformity with the 2025 Fresno General Plan Master Environmental Impact Report (MEIR No. 10130) prepared for this project by the City of Fresno prior to making its determination, and finds the subsequent project (Proposal) to be within the scope of the (overall) project covered by the MEIR prepared and certified for the 2025 Fresno General Plan, and that the proposed project will have no additional significant effect, as defined by subdivision (d) of Section 21158 of the Public Resources Code, on the environment that was not identified in the MEIR and requires no new or additional mitigation measures or alternatives in order to avoid or mitigate a significant environmental effect (CEQA Section 15177), and that the Lead Agency’s Initial Study and “Finding of Conformity with the MEIR” were prepared in accordance with the requirements of CEQA Guidelines and are consistent with State law, and that the City’s environmental documents and findings prepared for this Proposal are determined to be legally adequate pursuant to CEQA Guidelines Section 15096.
- B. Find that the proposed reorganization is consistent with LAFCo Policies, Standards and Procedures Section 210 - Standards for Annexation to Cities and Urban Service Districts (01-10), and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
- C. Assign the distinctive short form designation " Dakota-Temperance No. 1 Reorganization" and approve the reorganization (annexation and detachments) subject to the following conditions of approval:
 - 1. The entire affected territory shall be pre-zoned prior to completion (recordation) of this reorganization.

Note: The pre-zoning shall remain for a time pursuant to State law (Government Code Section 56000)
 - 2. Ownership of land permitting, the annexation shall include the full existing right-of-way width of adjacent streets.
- D. Find and determine pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:
 - 1. The territory is inhabited.
 - 2. Not all landowners and affected agencies have consented to the proposed reorganization.

E. Direct staff to set a protest hearing pursuant to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 57000 et seq.).

APPLICATION INFORMATION

1. **Affected Territory**

Acreage:	51.9 acres
Current Land Use:	Rural Residential and fallow
Number of Residences/ Population:	Residences: 9/ Population: 27
Landowners/ Registered Voters:	Landowners: 10 / Voters: 18
Previous County Zoning:	AE-20
City Zoning Upon Annexation:	S-L/UGM
Ag. Preserves/Contracts:	None
Assessors Parcel Number:	310-201-31, 32, 33, 34, 35, 36, 37, 42, and 43, and 310-280-53

2. **Proposed Development:** A mini-storage facility.

3. **Surrounding Territory:** Surrounding land uses consist of residential to the north, south, and west and agriculture to the east.

4. **Consistency with Adopted Sphere of Influence (SOI):** The affected territory is within the City of Fresno adopted Sphere of Influence.

5. **Consistency with City and County General and Specific Plans:** The Proposal is consistent with the City of Fresno adopted long-range goals and policies. The Proposal furthers the County’s General Plan policies of directing growth to existing cities where infrastructure and a full range of municipal services are available to serve urban development.

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

Service	Existing Service	Change
Water	Private	City of Fresno
Sewer	Private	City of Fresno
Fire Protection	Fresno County Fire Protect. Dist.	City of Fresno
Distance to Station	4.5 miles	2.5 miles

Please Note: A service plan for this Proposal is attached to the Executive Officer’s report.

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

County of Fresno	Fresno County Library District
Clovis Cemetery District	Clovis Memorial District
Kings River Conservation District	Fresno County Fire Protection District
State Center Community College District	Clovis Unified School District
Fresno Irrigation District	West Fresno Red Scale Protective District
Fresno Metropolitan Flood Control District	Consolidated Mosquito Abatement District

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

The cost of any extension of service required due to the proposed development will be borne by the applicant.

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

- Bart Bohn, CAO, County of Fresno
- Keith Bergthold, Acting Planning Director, City of Fresno
- Bernard Jimenez, Development Services Manager, Fresno County
- Betty Vaughn, Elections Division, County of Fresno
- Bruce Champion, Natural Resources Conservation Service
- Karen Bosch Cobb, County Librarian
- Bret Johnson, Fresno Irrigation District

- Glenn Allen, REHS, Fresno County Health
- Doug McCauley, Fresno Metropolitan Flood Control District
- Bill McGuire, Clovis Unified School 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 and description are not sufficient per David King (Fresno County Assessor, Assessment Services Supervisor) for recordation or filing with the State Board of Equalization. **A revised map and legal description title are required per the County Assessor’s specifications.**

11. Registered Voter Data

The County of Fresno Elections Office reported that on February 14, 2007, there were **eighteen** (18)-registered voters in the affected territory.

12. Compliance with the Requirements of CEQA

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

Finding: Finding of Conformity to the 2025 Fresno General Plan Master Environmental Impact Report (MEIR No. 10130). Notice of Determination filed with the Fresno County Clerk on July 1, 2005. The Initial Study and Finding of Conformity are attached to the Executive Officer’s Report (see Environmental Documents).

13. Names of Landowners or Parties of Real Interest

Charles & Madeline Briggs	Lennar Fresno, Inc.	NORCLO LP
Xengxue & Pang Yang	George & Faith Ordway	Leroy & Mildred Mello
Arthur & Bernice Cabezut	Joyce Wynn	Dolores Hartsell
Youa Chang		

Proponent: Andy Souza, City Manager, City of Fresno

14. Public Notice of Hearing – Public notice concerning this Proposal was issued by the Executive Officer pursuant to State law.

15. Individuals and Agencies Receiving this Report

- LAFCo Commissioners and Alternates
- Ken Price, LAFCo Counsel, Baker, Manock, and Jensen
- Andrew Souza, City Manager, City of Fresno
- Keith Bergthold, Acting Planning Director, City of Fresno
- Gil Haro, Planning Manager, City of Fresno
- Bernard Jimenez, Planning Manager, Fresno County Development Services Department
- Margie McHenry, Fresno County Public Works and Planning
- Captain Keith Larkin, Fresno County Fire Protection District
- David Orth, Kings River Conservation District
- Fire Warden, County of Fresno