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

AGENDA ITEM No. 6

DATE: August 12, 2015

TO: Local Agency Formation Commission

FROM: David E. Fey, Executive Officer

SUBJECT: Consider Approval – Request for an Extension of Time to Complete Proceedings for the City of Fresno “Whitesbridge-Valentine Southwest Reorganization.” A reorganization submitted by Landowner Petition to annex approximately 115.32 acres to the City of Fresno and detach from the North Central Fire Protection District and the Kings River Conservation District for territory generally located east of S. Brawley Avenue between W. Whitesbridge Road and W. Madison Avenue (LAFCo File No. RO-06-20, Ninth Request).

Applicant: Brad Samuelson, General Manager, Fagundes Bros. Dairy

RECOMMENDATION: Deny Request

Summary

The applicant's request for an extension to 2023 indicates that this project is not imminent, as required by LAFCo policy. This extension is not supported by the City of Fresno.

State law requires that all reorganization proceedings shall be completed within one year of approval unless the Commission grants an extension of time prior to the expiration date. Failure to grant an extension will terminate the proceedings.

LAFCo Policies, Standards, and Procedures Section 315 allows one extension of time to be authorized by the Commission when the imminent need for the proposal exists, the project is, and progress is being made toward completion.

If the extension is denied, the applicant may reapply to LAFCo at a later date.

Background

The City of Fresno's “Whitesbridge-Valentine Southwest Reorganization” was approved by the Commission on August 16, 2006. After seven one-year extensions, the original proponent sold the property to the Fagundes Bros Dairy. This is the ninth request for a one-year extension for this proposal. Pursuant to Commission policy, this request has been placed on the Commission's agenda as a “public hearing” item.

Parties of Interest

Brad Samuelson	Geryoung & Mai J. Yang
Eleazar & Yolanda Garcia	Kun Ho & Fenging Su Hsueh
Dirk Poeschel, Representative	Darryll & Gretchen Freedman
Fresno Unified School District	Martin Inchauspe

Project Description

The project consists of an annexation of 115.32 acres to the City of Fresno and detachment from the North Central Fire Protection District and the Kings River Conservation District for territory generally located east of S. Brawley Avenue between W. Whitesbridge Road and W. Madison Avenue. The City of Fresno has approved two single-family residential subdivisions (Tentative Tract Map Nos. 5463 and 5574) containing 396 lots within the affected territory.

Applicant's Reasons for Request

The Fagundes Dairy has stated that it has "expended a great deal of effort and money to complete acquisition of other properties in the area to further hold the entitlement together. However, due to the circumstances beyond the control of the new property owner, the entitlement process has not been completed." John Peterson, representing the applicant, states that his client is committed to the timely completion of the entitlement process to allow recordation of the final map (see attached letter from Mr. Peterson). Tentative Tract Map 5463 has been extended to April 15, 2017. The 19.3 acres covered by TTM 5574 (APN 326-100-39) has been returned to the owners (Kun Ho & Fenging Su Hsueh); of the remaining 96 acres, 58.37 acres is proposed to be developed as TTM 5463 (for 305 single-family residences), 18.65 acres are zoned for agricultural uses and will not be developed, and 19 acres are already developed with the Madison Elementary School.

Staff Analysis

In reviewing the request for an extension of time to complete the proposal, staff has considered LAFCo policy 103 (Encouraging orderly urban development and preservation of open space patterns) and subpolicies:

03 Annexation proposals to cities or districts providing urban services to undeveloped or agricultural parcels shall show that urban development is imminent for all or a substantial portion of the proposal area...; and

04 Orderly growth of cities is supported by applications for change of organization and reorganization that demonstrate development of the subject projects is imminent. The slowed economy has negatively affected the ability of proponents to complete projects timely which is also the case with his proposal. The Commission's policies do allow for economic hardships to be considered as a justification for time extension requests.

The requirement that development is "imminent," meaning that it is pending and forthcoming, is a cornerstone of the Commission's policy framework. It is intended to preclude speculative annexations, which not only preserves agricultural lands but ensures that growth of cities is orderly and logical.

The housing market was substantially impacted by the great recession which resulted in the delay of dozens of development proposals. The Commission amended its extension of time policy in 2008, 2009, and 2010, to account for this widespread phenomenon.

With the recovery of the housing market, the Commission amended its policies in February, 2015, to discourage extensions of time and require applicants to demonstrate that the proposals were still feasible. Fresno LAFCo policy 315 states that "extensions of time are generally disfavored by the Commission" but allows, "(n)o more than one extension of time may be authorized by the Commission."

Consistency with policy 315-02(c), requires "(a)n explanation of the project's feasibility and what progress will be made to complete conditions of approval and all necessary prerequisite actions by any party." This feasibility is directly linked to the imminent nature of the project, which is the applicant's responsibility to provide evidence thereof.

Mr. Peterson has requested an extension of time to 2023 which he believes will be the maximum life of the tentative map if further extension is granted by the legislature. Mr. Peterson observed that his client is "looking in (to) the possibility of doing a Development Agreement with the City of Fresno." Staff has spoken with Mike Sanchez, Assistant Director of the City of Fresno's Development and Resource Management Department who stated a development agreement is currently not complete. The City Manager has also expressed his lack of support for the extension.

Given the lack of material progress on this proposal, the extended time requested for completion of the proposal, staff does not support the request.

The Following Have Received Copies of This Report

Ken Price, LAFCo Counsel, Baker, Manock & Jensen

Brad Samuelson, Fagundes Bros. Dairies

John Peterson, JRPeterson & Associates

Bruce Rudd, City Manager, City of Fresno

Bernard Jimenez, Deputy Director of Planning, Fresno County Public Works and Planning Department

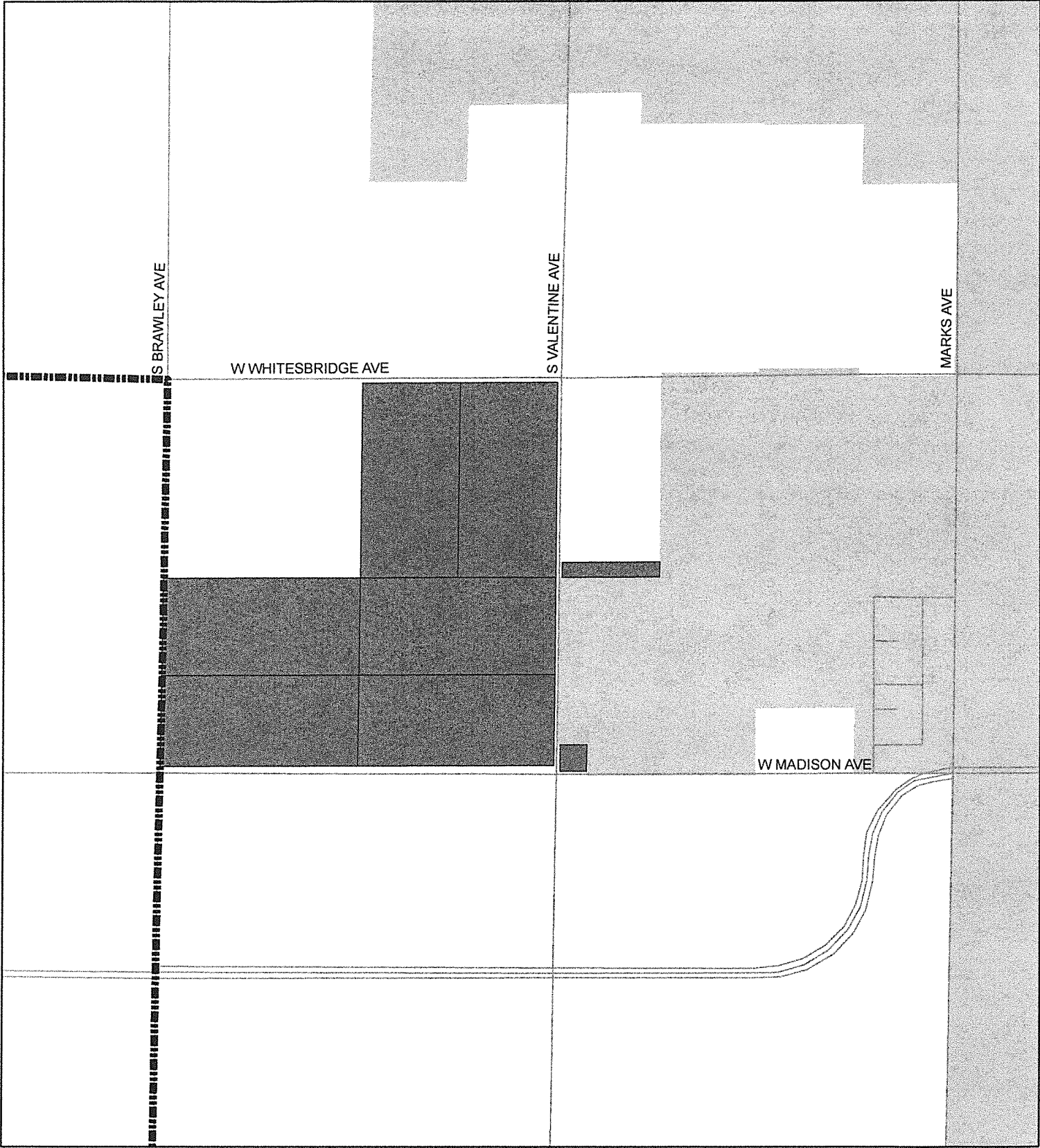
Will Kettler, Division Manager, Development Services Division, Fresno County Public Works and Planning Department

David Orth, Manager, Kings River Conservation District




North Central Fire Protection District

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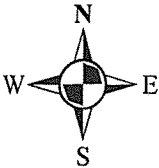
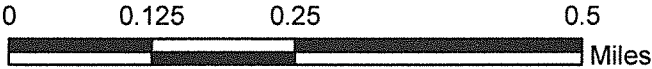
EXHIBIT "A"



Legend

-  Sphere of Influence
-  City Limits
-  Affected Territory

City of Fresno "Whitesbridge-Valentine
Southwest Reorganization"
LAFCo File No. RO-06-20



August 3, 2015

Mr. David E Fey, Executive Officer
Fresno County Local Agency Formation Commission
2607 Fresno St., Suite B
Fresno, CA 93721

Subject: Whitesbridge-Valentine Southwest Reorganization (R-06-20)

Dear Mr. Fey:

As you know, the above annexation is scheduled to expire on August 13, 2015. On behalf of my client the current owner, Fagundes Dairy a General Partnership, I am requesting an extension to the above annexation application to April 25, 2023 the maximum life of the tentative with extensions per the Map Act. Per your direction Fagundes Dairy has provided the enclosed check in the amount of \$750.00 for the extension request.

As you are aware the real estate market has been severely impacted by the current global economic crisis. The failure of the running Horse project to the east contributes to the economic depression of the immediate area. Fagundes Dairy has expended a great deal of effort and money to complete acquisition of other properties in the area to further hold the entitlements together. However, due to circumstances beyond the control of my client, the entitlement process has not been completed. My client is committed to the timely completion of the entitlement process to allow recordation of the final map. We are optimistic that the residential real estate market is improving. Nonetheless, market conditions particularly in the area of the subject map have produced economic hardships which have prohibited Fagundes Dairy from recording the final map. Currently we are looking in the possibility of doing a Development Agreement with the City of Fresno for all of our contiguous property in the area, which could provide benefits for both the City and Fagundes and provide for the continued orderly development to continue in the area as the real estate market improves. With extensions from the City of Fresno and the state legislature the Map has been currently extended to April 15, 2017. Per the Map Act the tentative map can be extended by the governing body for a maximum of ten years of which four of the ten have already be granted. Therefor currently the maximum life of the Tentative Map is April 25, 2023.

We appreciate your consideration of this request and look forward to discussing it with you and the members of LAFCo. If you have any questions, please feel free to email or call me.

Sincerely,



John R. Peterson, PE, PLS
Development Manager, Fagundes Dairies

cc: Brad Samuelson, Fagundes Dairies, P.O. Box 2717, Merced, CA 95344