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

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AGENDA ITEM NO. 6

**DATE:** April 13, 2022

**TO:** Fresno Local Agency Formation Commission

**FROM:** David E. Fey, Executive Officer 

**By:** Amanda Castro, LAFCo Analyst I

**SUBJECT:** **Consider Approval: City of Sanger “North Academy Corridor Annexation.”** A proposed reorganization consisting of the annexation of approximately 283.3 acres to the City of Sanger and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Fresno Irrigation District for territory located along Academy Avenue, north of East California Avenue, extending to the intersection of State Route 180 and Academy Avenue.  
(LAFCo File No. RO-18-6, Continued from the March 9, 2022, hearing)

**Applicant:** Tim Chapa, City Manager, City of Sanger

**Landowners/Parties of Real Interest:** City of Sanger and as otherwise noted in Attachment C.

**RECOMMENDATION: Approve by Taking the Following Actions:**

**Action 1:**

- A. Acting as Responsible Agency pursuant to California Environmental Quality Act (“CEQA”) Guidelines, find that prior to approving the proposed annexation, the environmental effects of the proposal 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.

**Action 2:**

- B. Find that the proposed reorganization is consistent with LAFCo Policies, Standards, and Procedures and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”).
- C. Find pursuant to CKH and information in the record that:
  - a. The territory is inhabited; and

- b. Not all landowners and affected agencies have consented to the reorganization.
- D. Assign the distinctive short form designation “North Academy Corridor Annexation” and approve the annexation and detachments subject to the following conditions of approval:
- a. Ownership of land permitting, the annexation shall include the full-width right-of-way along Academy Avenue and State Route 180 along the northern annexation boundary.
  - b. Submittal of corrected legal description and map.
  - c. Find that the notice mailed on February 16, 2022, was given to all landowners and registered voters within the affected territory, as well as within 300 feet of the affected territory, disclosed that the Commission intends to waive protest proceedings pursuant to section 56663(a)(b)(c) unless written opposition is received before the conclusion of the Commission proceedings.
  - d. Find that written opposition to the proposal was received prior to the conclusion of the hearing, approve the proposal subject to the requirements of the CKH, the 30-day reconsideration period, and compliance with all of the above conditions, and direct staff to set a protest hearing pursuant to the requirements of the CKH (Government Code section 57000 et seq.).
  - e. Pursuant to Fresno LAFCo policy 103-05, the Executive Officer shall record the approved application if all conditions have been satisfied and once, he has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but is not limited to, whether or not the proposed project is materially similar to the project described in any application before the Commission.

### **Executive Summary**

On July 15<sup>th</sup> 2021, the City of Sanger initiated this reorganization with its adoption of resolution no. 2021-44 requesting that the Commission begin proceedings for the “North Academy Corridor Annexation” to annex 283.3 acres to the City of Sanger and detach from the Fresno County Fire Protection District, the Kings River Conservation District, and the Fresno Irrigation District for territory located along Academy Avenue, north of East California Avenue, extending to the intersection of State Route 180 and Academy Avenue.

At the March 9, 2022, LAFCo was presented with two letters from affected property owners opposing the annexation (Attachment B). After considering public testimony, the Commission continued the hearing to provide additional time for the parties to address their points of disagreement.

Staff will summarize any progress made at the hearing. Staff expects both city staff and the project opponents to be present at the hearing.

Written protest has been received from property owners/registered voters in the affected territory. Staff continues to recommend approval of the proposal subject to the outcome of the protest hearing pursuant to the requirements of the CKH.

### **Proposal/Land Use**

- The Proposal consists of the annexation of 283.3 acres to the City of Sanger and detachment from the Fresno County Fire Protection, the Kings River Conservation District, and the Fresno Irrigation District.
- Information related to the affected territory, land use, proposed development, special districts, surrounding areas and existing/proposed services can be found on **Attachment A**.
- The affected territory is within the Sanger sphere of influence, northeast of the city limits (**Attachment D & E**).
- The affected territory is located along both sides of Academy Avenue between State Route 180 to the north and California Avenue to the south.
- The affected territory was rezoned by the City of Sanger to the C-4 (General Commercial), C-5 (Highway Commercial), RMU (Retail Mixed-Use) and RSC (Public Facilities) zone district by Ordinance No. 2021-06.
- The affected territory is inhabited and not all affected property owners have consented to the reorganization.
- The Fresno County Administrative Officer determined that the proposal is consistent with the Standards of Annexation contained within the City/County Memorandum of Understanding.

### **Relationship to the City of Sanger General Plan and the North Academy Corridor Master Plan**

The subject territory is located within the City of Sanger's sphere of influence and is contiguous to the City's incorporated boundary along California Avenue.

The subject territory is currently planned for Agricultural (AE-20), and General Commercial (C-6) land uses by the County. Rezone Ordinance No. 2021-06 and annexation initiation resolution no. 2021-44 was adopted by the City of Sanger for the subject 283.3 acres.

The affected territory is consistent with the goals, objectives, and policies of the Sanger General Plan, including the North Academy Corridor Master Plan.

## **Environmental Determination**

The City of Sanger as “lead agency” adopted a finding of conformity to the Sanger 2035 General Plan Master Environmental Impact Report (SCH No. 2018031047) and adopted a Mitigation Monitoring and Reporting Plan for the project. (See initial study at [www.fresnolafco.org](http://www.fresnolafco.org).)

As Responsible Agency, the Commission is required to review and consider the City’s environmental documents prior to taking its action. If the Commission determines that these documents are adequate, pursuant to CEQA, it may make the required findings provided under “Recommendations” above.

## **Individuals and Agencies Receiving this Report**

- Ken Price, LAFCo Counsel
- Collins & Schoettler, Planning Consultants
- Bernard Jimenez, Planning and Resource Officer, Fresno County
- David Merritt, District Manager, Kings River Conservation District
- Tim Chapa, Sanger City Manager
- Bill Stretch, Fresno Irrigation District
- John Mulligan, Public Works Director, City of Sanger
- Dustin Hail, Fresno County Fire Protection District
- Mid-Valley Disposal

# Attachment A

## APPLICATION INFORMATION

1. **Affected Territory**

<b>Acreage:</b>	283.3
<b>Current Land Use:</b>	Agriculture (AE-20) and General Commercial (C-6)
<b>Number of Residences/ Population:</b>	Residents: 28 / Population: 36
<b>Registered Voters:</b>	Voters: 36
<b>Assessor Parcel Number(s):</b>	314-063-25, -26, -27, -39s, -40s, -43s, -44s, -51s, -54s, -55s, 314-070-33, -34, -35t, -37, -38, -40, -49, -57, 314-090-04, -05, -39, -38, -48, -51, -52, -53, -58, -59

2. **Proposed Development** - The territory proposed for annexation will be developed as Highway Commercial, Public Facilities, and Retail mixed use.

3. **Surrounding Territory** – Highway 180 and agriculture to the north, agriculture to the east, City of Sanger south, and agriculture to the west.

4. **Consistency with Adopted Sphere of Influence (SOI)** - The affected territory is within the Sanger sphere of influence.

5. **Consistency with City and County General Plans** - The proposal is consistent with the City of Sanger’s 2035 General Plan once annexed. The proposal is also consistent with the County’s Business and Economic Development Strategy and the Memorandum of Understanding between the City of Sanger and Fresno County.

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

<b>Service</b>	<b>Existing Service</b>	<b>Change</b>
Water	Private well	City of Sanger Water Division
Sewer	Private Septic	City of Sanger
Fire Protection	Fresno County Fire Protection District	City of Sanger Fire Dept.

(See Service Plan on our website at [www.fresnolafco.org](http://www.fresnolafco.org))

**7. Cities and Districts Included Wholly or Partially Within the Subject Territory**

Kings River Conservation District	Fresno County Fire Protection District
West Fresno Red Scale Protection Dist.	Fresno Irrigation District
State Center Community College District	County Service Area No. 35
Consolidated Mosquito Abatement Dist.	Fresno County Library
City of Sanger	Sanger-Del Rey Cemetery District
Sanger Unified School District	

**8. Costs and Other Changes Affecting Residents or Landowners - None reported by the City of Sanger staff.**

**9. Consistency with LAFCo Policies, Standards and Procedures**

- All properties within the Proposal have been pre-zoned to the Master Plan designations as follows:
  - i. Approximately 98 acres to General Commercial (C-4)
  - ii. Approximately 43 acres to highway Commercial (C-5)
  - iii. Approximately 90 acres to Retail Mixed Use (RMU) and
  - iv. Approximately 29 acres to Public Facilities.
- The County has determined that the Proposal is consistent with the Memorandum of Understanding (Master Tax Sharing Agreement) and the Standards for Annexation between the City of Sanger and County of Fresno (see letter from Mr. Paul Nerland)
- The affected territory is subject to an adopted master plan. Staff recommends that the master plan be found in conformance with LAFCo policy 103.03 (Annexation to cities supported by imminent development) and 103.04 (Orderly growth of cities).
- The City of Sanger has an automatic aid agreement with Fresno County Fire, Cal Fire, the Selma Fire Department and the Kingsburg Fire Department.
- The Proposal is consistent with the CKH and LAFCo policies including, but not limited to, Sections 100 and 200.
- The City of Sanger has a transition agreement established with the County Sheriff and the Fresno County Fire Department pursuant to LAFCo Policy 102.04

**10. Agencies and Individuals Submitting Comments**

- County Administrative Officer
- Edgar Hernandez, District 6, Caltrans
- Kevin Tsuda, Environmental Health Specialist, Fresno Co. Dept. of Public Health
- Chufeng Vang, IT Analyst, Fresno County Elections Department
- Ryan Kilby, Chief Operations Officer, Sanger Unified School District
- John Mulligan, Public Works Director, City of Sanger
- Laurence Kimura, P.E., Chief Engineer, Fresno Irrigation District

11. **Territory Boundaries** - The boundaries of the proposed annexation **are** definite and certain, and the County Assessor has determined that the map and legal description **are not adequate** to file with the State Board of Equalization.
12. **Registered Voter Data** - The County of Fresno Elections Office reported that there were **36** registered voters in the subject territory.
13. **Compliance with the Requirements of CEQA**

**Lead Agency:** City of Sanger

**Level of Analysis:** Environmental Impact Report (SCH # 2018031047)

**Finding:** Mitigated Negative Declaration (see Environmental Documents at [www.fresnolafco.org](http://www.fresnolafco.org) under the Hearing and Workshops tab in the March 9, 2022, file).

14. **Public Notice of Hearing** - Public notice concerning this Proposal was issued on February 16, 2022, to all landowners and registered voters within the affected territory, as well as within 300 feet of the affected territory by mail pursuant to section 56661(h)(i). Disclosed was the intention of the Commission to waive protest proceedings pursuant to section 56663(a)(b)(c) unless written opposition is received before the conclusion of the Commission proceedings.

## ATTACHMENT B

### FIKE & BORANIAN ATTORNEYS AT LAW

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David A. Fike  
A Professional Corporation  
[dfike@fikeboranianlaw.com](mailto:dfike@fikeboranianlaw.com)

401 Clovis Avenue, Ste. 202  
Clovis, California 93612  
Telephone (559) 229-2200  
Facsimile (559) 225-5504

Meggin Boranian  
[mboranian@fikeboranianlaw.com](mailto:mboranian@fikeboranianlaw.com)

March 9, 2022

Mr. Steve Brandau, Chairman and Board Members  
Fresno County LAFCo  
Via hand delivery

SUBJECT: City of Sanger Annexation North Academy Corridor Annexation

Dear Chairman Brandau and Board Members:

My client, Chris and Theresa Smith, own the 7.16-acre parcel at the northeast corner of S. Academy Ave and E. Butler Avenues in the County of Fresno. My client objects to the subject annexation for a variety of reasons set forth below.

As background, please note that my client has owned and operated Academy Feed for the past 28 years at the southeast corner of S. Academy and E. Butler Avenues. Approximately 3 years ago, my client began planning the development of his 17.93-acre property immediately north of his existing feed store and began conversations with the City of Sanger about that project.

Mr. Smith had secured Lyons trucking, a subsidiary of Wawona Fruit, as a potential purchaser of the northern 7.16 acres of his property. Conversations with the City of Sanger regarding development standards development process and the acquisition of water soon became entangled in the City's opposition to the Lyons truck and office facility.

The City attempted to convince Lyons to not develop the site owned by my client. The alternative locations presented to Lyons and my client were unacceptable for variety of reasons, such as the Smith site was immediately adjacent to Academy Ave., which has direct access to State Route 180 and proximate to growers that Lyons served. Nonetheless, the City of Sanger continued to oppose the Lyons trucking office facility.

My client proceeded by submitting to Fresno County Directors Review and Approval No. 4587 to allow the Lyons trucking and office facility and Conditional Use Permit No. 3654 to allow my client to relocate Academy Feed immediately north of its present location. Site plans and elevations of both uses were presented to County staff for review.



Mr. Steve Brandau, Chairman and Board Members  
March 9, 2022  
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A request was then made to the City of Sanger to provide potable water for Directors Review and Approval No. 4587 and Conditional Use Permit No. 3654, at his expense. Said service would have been in the public interest as a water main line exists adjacent to his property in Academy Ave. By letter to my client dated September 24, 2020, the City declined providing water as they commented, among other issues, *water for this location is not available at this time.* (See attached and related correspondence).

On December 15, 2020, the City of Sanger representatives, including its attorney, appeared before the Fresno County Board of Supervisors and appealed the County Planning Commission's approval of Classified Conditional Use Permit Application No. 3654, Director Review and Approval Application No. 4587, and Variance Application No. 4072; and adoption of the associated Mitigated Negative Declaration and the creation of two, 7.16-acre parcels and an approximately 3.61-acre parcel from an 17.93-acre parcel. The appeal was acrimonious and was denied.

Subsequently, my client pursued recordation of a parcel map in the County legally dividing the 17.93-acre parcel and obtained tentative approval of Site Plan Review No. 8234 for the proposed Lyons trucking office facility. Due to a variety of factors principally associated with Covid and related County staffing issues, Site Plan Review No. 8234 for Lyons, while submitted to the County of Fresno, has not been formally approved. Site Plan Review No. 8256 has been submitted to the County to allow my client's relocated Academy Feed store and is currently under review.

My client's focus has been to assist in the recordation of the parcel map and obtaining approval of the Lyons trucking office facility site plan review. As mentioned previously, Covid pandemic adversely affected County staff's ability to respond in their typical time frames, the extreme price increases in building materials created an environment where building proposal costs could not be refined due to the lack of material and wildly fluctuating costs. For those reasons, my client has not pursued obtaining a Site Plan Review for the 7.16-acre portion that he intends to develop to a feed store.

Unfortunately, Sanger staff has been unnecessarily uncooperative. Mr. Smith's planning consultant attended on April 21, 2021, *zoom* workshop and expressed concerns about the conflict with projects approved or being processed in Fresno County and how the City of Sanger would address such projects. The consultant specifically requested an opportunity to discuss if there was *mitigation* acceptable to the City so that the Smith property could develop. The City of Sanger never tried to discuss the issues raised by my client.

For these reasons, my client respectfully requests that the 7.16-acre parcel owned by he and his wife, be allowed to submit and process building permits with Fresno County for his feed store and that such permitting be under the jurisdiction of Fresno County. This proposal allows the City of Sanger to annex the Academy corridor in accordance with its vision and Mr. Smith to

Mr. Steve Brandau, Chairman and Board Members

March 9, 2022

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complete the development process he began three years ago to develop his property. Review of the environmental impact report prepared for the proposed corridor annexation indicates that approximately \$35 million of infrastructure will be necessary to make typical sewer, water storm, drain and street improvements within the annexation area. Please see the attached photos of the lack of infrastructure around the Smith property, for your information and review.

It is common knowledge that the City of Sanger does not have the funds available to make these planned improvements so there is no time-sensitive requirement that the Academy corridor and particularly not Mr. Smith's property be annexed at this time. Therefore, we respectfully request the proposed annexation be postponed for 90 days to allow one last opportunity to resolve this issue in good faith between my client and the City of Sanger. Most importantly, this delay will provide the City of Sanger the opportunity to assure availability of potable water and timely delivery of said water to the Smith and Lyons properties at a reasonable cost, otherwise there is no benefit to Mr. Smith in annexation.

Thank you for your consideration of this reasonable and justified request.

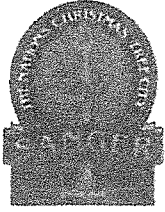
Sincerely,

A handwritten signature in cursive script that reads "Meggin Boranian".

Meggin Boranian, Esq.

Attachments

cc. Mr. Chris Smith



## **CITY OF SANGER**

1700 7<sup>TH</sup> STREET  
SANGER, CALIFORNIA 93657-2804  
TELEPHONE: (559) 876-6300, Ext. 1520  
FAX: (559) 876-6335

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TOM NAVARRO, DIRECTOR**

September 24, 2020

Thomas Kobayashi, Planner  
Development Services and  
Capital Projects Division,  
Fresno County  
Department of Public Works and Planning  
2220 Tulare Street, Sixth Floor  
Fresno, CA 93721

**RE: Comments on Classified Conditional Use Permit Application No. 3654, Variance Application No. 4072, and Director Review and Approval Application No. 4587**

Dear Mr. Kobayashi:

The City of Sanger has reviewed the proposed project located at APN 314-070-34, 354 S. Academy Avenue, Sanger, CA 93657. The project includes Classified Conditional Use Permit Application No. 3654, Variance Application No. 4072, and Director Review and Approval Application No. 4587 to allow a truck and trailer storage and maintenance facility for the transportation of agricultural products, supplies, and equipment, and a feed and farm supply store. The City of Sanger has the additional following comments:

1. The proposed project site is located within the North Academy Corridor Master Plan area and within the sphere of influence of the City of Sanger 2035 General Plan. The North Academy Corridor Master Plan and City of Sanger 2035 General Plan were adopted by the City of Sanger City Council in June 2020. The project site is scheduled for annexation in 2020.
2. The City of Sanger General Plan designation of the proposed project site is General Commercial.
3. The City of Sanger General Commercial designation accommodates the City of Sanger C-4, General Commercial zone designation of the proposed project site is.
4. Upon annexation to the City of Sanger, the proposed project site will be assigned the City of Sanger C-4, General Commercial zone designation.
5. The proposed Feed and Farm Supply Store use is permitted in the City of Sanger C-4, General Commercial zone district. The proposed use is required to be conducted in an enclosed building or screened by block wall.

6. The proposed Truck and Trailer Storage and proposed Truck and Trailer Maintenance Facility are not permitted in the City of Sanger C-4, General Commercial zone district. The City is recommending denial of this use. A rezoning application would be necessary to allow the proposed Truck and Trailer Storage and proposed Truck and Trailer Maintenance Facility. A rezoning application requires review and recommendation by the City of Sanger Planning Commission and approval by the City of Sanger City Council. As the General Plan Designation was just recently adopted with the North Academy Corridor Master Plan, staff cannot support a proposed rezoning application.
7. Water for this location is not available at this time. The City is currently committed to providing water to projects that are approved, under construction or have applied for entitlements within the current City limits. Despite the addition of several recent water projects, availability is limited. Any and all projects utilizing City infrastructure will be required to pay the appropriate impact fees for those services.
8. The City of Sanger Building Department cannot inspect projects as approved by other jurisdictions unless those standards and approvals are coordinated with the City to assure future compliance of the project.
9. The result of the proposed project would likely be a County approved project within the new City jurisdiction. The Truck and trailer storage and maintenance facility would not be an allowable use under the City's C-4 General Commercial Zone District. Due to the difference in County and City development standards, change in zone districts and the expected annexation, the City cannot recommend approval of the project. All development with the North Academy Area will be expected to comply with the City's development standards and with the North Academy Master Plan.

If you have any questions regarding this matter, please contact David Brletic, Senior Planner at 559-876-6300, ext. 1540, or [dbrletic@ci.sanger.ca.us](mailto:dbrletic@ci.sanger.ca.us).

Sincerely,

**Tom Navarro**  
**Community Development Director**

CC: Tim Chapa, City Manager  
John Mulligan, Public Works Director  
Josh Rogers, City Engineer

**DIRK POESCHEL**

*Land Development Services, Inc.*

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

September 28, 2020

Thomas Kobayashi, Planner  
Department of Public Works and Planning  
Development Services and Capital Projects Division  
2220 Tulare St. 6th Floor  
Fresno, CA 93721

SUBJECT: Conditional Use Permit 3654/DRA 4587 & Variance 4072

Dear Mr. Kobayashi:

Over the past few months, my client and I have attempted to negotiate project conditions and or mitigation measures relative to the subject land use entitlements that would ameliorate concerns of the City of Sanger. There have been two phone conferences with the Sanger city planner and city manager and various other conversations prior to those calls.

The City of Sanger objects to the proposed trucking facility and believes there are no mitigation measures or conditions that would ameliorate their concerns. My client and I are disappointed in this outcome as we made a sincere attempt to resolve this matter. If you have any questions, please feel free to contact me.

Sincerely,



Dirk Poeschel, AICP  
CalBRE Broker  
License No. 01882606

cc. Mr. Chris Smith  
Mr. Mark Petersen  
Meggin Boranian, Esq.

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DIRK POESCHEL

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

Land Development Services, Inc.

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

June 17, 2021

Honorable City of Sanger Mayor and Honorable Council members  
City of Sanger  
1700 7<sup>th</sup> Street  
Sanger, CA 93657  
Via mail and e mail

SUBJECT: City of Sanger Academy Avenue Corridor Annexation Zoning Amendment  
No. 2021-02 Annexation

Dear Honorable Mayor and Council Members:

Reference is made to the subject pre-zoning of properties generally along the N. Academy Ave., corridor inclusive of my client Chris Smith's property located at the northeast corner of E. Butler and N. Academy Avenues. As you are aware, Fresno County recently approved a project on the Smith property allowing a trucking facility and a feedstore. Mr. Smith is proceeding with development of that project in accordance with county approvals.

Mr. Smith remains concerned that the City of Sanger's plan for the subject area annexation does not provide narrative and related policies as to how to deal with existing and/or pre-approved projects for lands currently in Fresno County. Specifically, the implementation of the contemplated city development standards for this area should reasonably accommodate existing development. My client has other concerns about the City's ability to fund the planned Academy Ave. infrastructure. Nonetheless, my client desires to be a good neighbor and to cooperate with the City to the extent practical.

I participated in the first outreach *Zoom* meeting and was told the City would respond to my concerns. To date, no one has communicated with me regarding these concerns. Nonetheless, I remain optimistic that we can have a positive relationship with the City and have our concerns addressed.

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



Dirk Poeschel, AICP

cc. Mr. Chris Smith  
Meggin Boranian, Esq.  
Mr. Tom Navarro via e mail  
Ms. Rebeca P. Ramirez via e mail



**CITY OF SANGER**  
1700 7<sup>th</sup> STREET  
SANGER, CALIFORNIA 93657  
(559) 876-6300 x1540 / Fax (559) 876-6323

July 14, 2021

By USPS and EMAIL to [dirk@dplds.com](mailto:dirk@dplds.com)

Mr. Dirk Poeschel  
Land Development Services, Inc.  
923 Van Ness Avenue, Suite 200  
Fresno, CA 93721

**RE: Response to June 17, 2021 Letter – Existing Use and Fresno County Entitlement, Northeast Corner of Butler Avenue and N. Academy Avenue, Sanger, CA 93657.**

Dear Mr. Poeschel:

Thank you for your inquiry. This letter responds to your June 17, 2021 correspondence regarding the existing feed store and certain approved Fresno County entitlement(s) for development of a trucking facility on property located at the northeast corner of Butler Avenue and N. Academy Avenue, Sanger, CA 93657. As always, please feel free to contact me at the number, below, if you have any additional questions after reviewing this response.

**1. Existing Development – Feed Store**

Based on all information provided to date, the existing feed store appears to be a legally existing, conforming land use located within the County of Fresno. As such, the use could continue to operate when annexation into the City occurs.

Upon annexation, any existing buildings, structures, and uses will become subject to the City of Sanger's General Plan and the Sanger Code, including the zoning ordinance (collectively "City Regulations"). Any existing buildings, structures, and uses that are not legally conforming could be "grandfathered" upon annexation to the City. However, in order to do so certain conditions must be met.

If the use is one which was lawfully established and maintained prior to annexation, but does not conform with the use regulations of the district in which it is located, then it will be a "legally non-conforming use" subject to Sanger Code section 90-921 et seq. As a practical matter, legally non-conforming uses are essentially "grandfathered" uses. Under current City Regulations a legal non-conforming use may continue operating subject to certain limitations such as those limiting the expansion of the use. The legally non-conforming use may currently also be changed to another nonconforming use provided that the change of use is approved by the Planning Commission in accordance with Sanger Code section 90-925. As with any property within the City, it is also an option to change the use so that it is legally conforming with the district in which it is located.

Additionally, the property may have buildings or structures currently associated with the existing use. The City has not been provided information as to whether such buildings or structures have been lawfully erected consistent with County of Fresno regulations and requirements. Assuming that they have been lawfully erected, even if such buildings and structures do not meet current City standards they would be considered "legally non-conforming" building(s) and structures(s) upon annexation. A lawfully nonconforming building or structure is one which was lawfully erected in the County prior to annexation, but which would not conform with the conditions of lot coverage, yard spaces, building height, space between buildings, or other standards prescribed in the City's Regulations for the district in which the structure is located. Like legally non-conforming uses, legally non-conforming buildings or structures may continue to be used upon annexation to the City, even if inconsistent with the City's existing standards for buildings and structures. Upon annexation there would be some restrictions, such as limits on alternations or expansion, of any legally non-conforming buildings and structures. See Sanger Code section 90-921 et seq. for additional details.

Note that to the extent that any existing use, building, or structure on the property was unlawful when the property was within the County of Fresno, then upon annexation it would remain unlawful and not be entitled to be "grandfathered" if inconsistent with City Regulations. As a result, just as any unlawful uses, buildings, or structures could be subject to code enforcement action when located within the County of Fresno, the same could remain subject to code enforcement action when annexed to be within the City. However, the City is currently unaware of any unlawful use, building, or structure on the property in question.

## 2. Approved Entitlements

The County of Fresno approved Variance Application No. 4072, Director Review and Approval Application No. 4587, and Classified Conditional Use Permit Application No. 3654 ("Entitlements") at a meeting of the Board of Supervisors on December 15, 2020.

Upon annexation of the property, any active Entitlements will be continued to be recognized by the City subject to the terms and conditions of approval of the Entitlements. For example, the Entitlements are subject to i) mitigation measures; ii) conditions of approval (including the necessity of site plan approval); and iii) other County of Fresno regulations (such as expiration of the Entitlements). If the project has not been completed upon annexation, the City will assume jurisdiction. Among others, this could result in the following:

- CEQA Mitigation Measures: The City's Planning and Public Works Departments will assume "monitoring responsibility" as noted for the two approved mitigation measures.
- A Site Plan Review (SPR) Application is required per the conditions of approval for the Entitlements. If a SPR has not been approved by the County of Fresno prior to annexation, the SPR shall be submitted for approval in accordance with Sanger City Code section 90-1009. City Regulations shall then apply except to the extent expressly authorized by any unexpired Entitlements.
- Building permits, etc.: Building permits, inspections, and certificate(s) of occupancy consistent with the approved Entitlements will need to be sought from the City if not already approved by the County of Fresno prior to annexation.



Mr. Dirk Poeschel  
July 14, 2021  
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### 3. Infrastructure

Your letter expresses potential concerns about the City's ability to fund the planned Academy Avenue infrastructure. It appears this concern is being raised in context of infrastructure for services related to the property and the expanded use proposed by the Entitlements.

As a preliminary matter, it appears the County currently has no immediate plans to install such infrastructure. Practically speaking, annexation promotes consistent and urbanized development that results in the necessary density and intensity of development to support and maintain infrastructure that is currently not available at the property. In other words, the City believes that services and infrastructure will become more readily available to the annexation area as compared to the status quo.

Next, the annexation process contains safeguards including the assessment of the ability to provide all services to the proposed annexation area. This process is subject to Fresno LAFCo oversight, which ensures neutral confirmation of plans or ability to provide infrastructure and municipal services to a proposed annexation area.

Additionally, as is common throughout the Valley, installation of municipal services infrastructure is typically provided or financed through new development. New development is required to pay its fair share for development impacts. To the extent that additional improvements above this amount are required for a development, a developer may be entitled to reimbursement. Reimbursement is typically repaid by subsequent development.

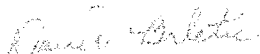
Further, in an effort to streamline infrastructure improvements, the City has applied for an Economic Development Administration grant to install infrastructure necessary to serve the proposed annexation area. If awarded, the grant will likely enable infrastructure improvements to be installed more quickly than as compared to development-funded improvements.

We will work with the County during the annexation process on your inquiry and similar inquiries.

As a final note, the City is not aware of any other entitlements associated with the property other than the existing feed store and the Entitlements approved by the County on December 15, 2020. As such, this letter is limited to those items. If you believe there are other entitlements associated with the property and would like an assessment of the same, please provide them to the City for confirmation.

If you have any questions regarding this matter, please contact me at (559) 876-6300, ext. 1540, or [dbrletic@sanjser.ca.us](mailto:dbrletic@sanjser.ca.us)

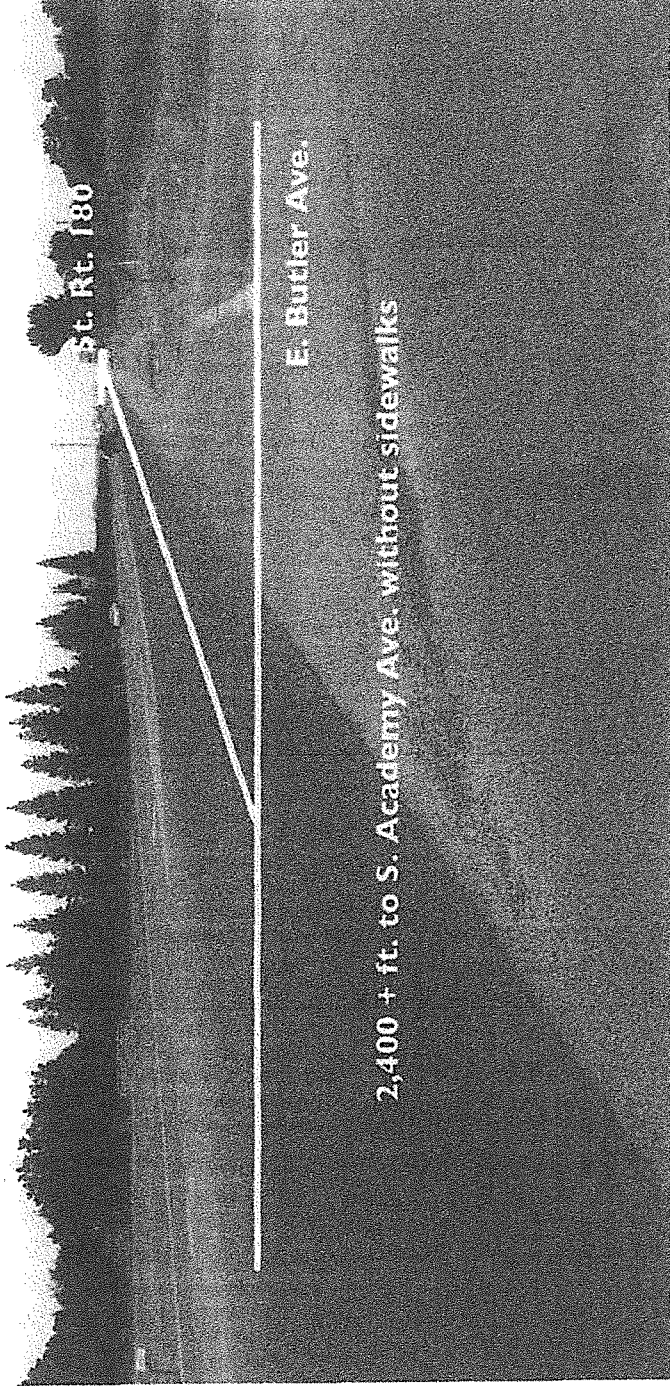
Sincerely,



David Brletic, Senior Planner  
Community Development Department

CC: Tim Chapa, City Manager  
Tom Navarro, Community Development Director  
Hilda Montoy, City Attorney

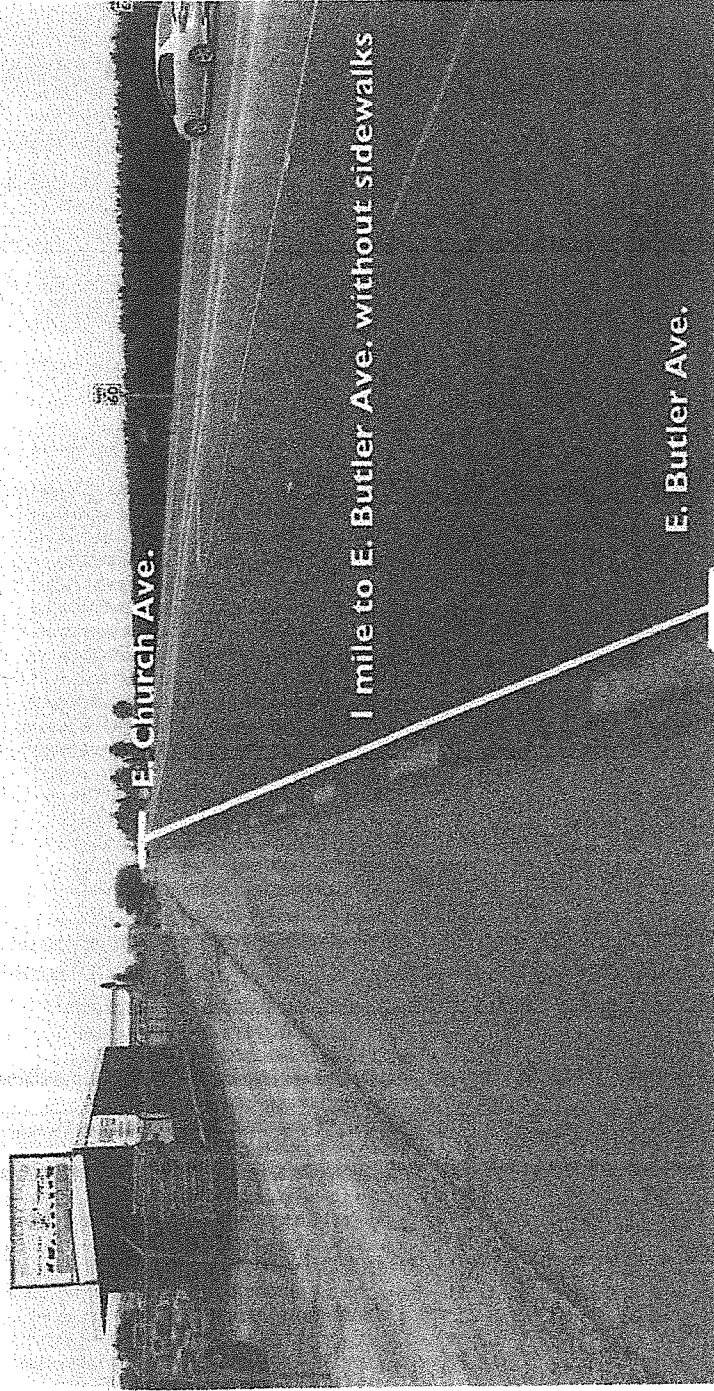
**Looking north on S. Academy Ave.**



**Looking south on S. Academy Ave.**

**to**

**E. Church Ave.**



## Memorandum

**To:** Austin Ewell and Mark Petersen

**From:** Brady K. McGuinness, Esq.

**Date:** March 8, 2022

**Re:** City of Sanger Annexation Application with LAFCO - Vested Property Rights and Entitlements in County of Fresno and Estoppel Considerations

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The City of Sanger's annexation request is premature and presents undue burdens on agricultural properties located at the outer largely undeveloped boundary of the annexation area.

As one of the landowners in the annexation area, Minnewawa Land Group, LLC's property will be detrimentally impacted by an unconditional approval; and our Company hereby reaffirms its protest to the City of Sanger North Academy Corridor Annexation request.

By way of background, our Property, which is located near the southeast corner of Academy Avenue and East Kings Canyon Road, is located in a rural area and surrounded primarily by farmland. The Property, which is currently zoned for exclusive agriculture use, has gone through extensive entitlements and site planning with the County for value-added agricultural uses and facilities. The uses are permitted in agricultural-exclusive zoning and the Project is now in last stage site planning. This Project, which is planned for a truck and trailer storage and maintenance facility servicing agricultural commodities, is necessary for our ongoing business and is well situated, being located in an area that largely consists of agricultural use and in close proximity to the State Highway 180.

Over the past few years, we have in good faith planned and processed entitlements and development permits for the Project. The Properties have been extensively studied with the following entitlements and permits approved and perfected with the County:

- Final Parcel Map;
- Conditional Use Permit;
- Director's Review and Approval;
- Variance;
- Grading Plans; and
- Development plans (including onsite water and septic services).

The County Project is now in its final site planning with vested entitlements. As this Project was processed by the County in an area within the Sphere of Influence, we justifiably relied upon the County to grant such entitlements with the understanding and belief that such approvals included findings of consistency and compatibility with the City's General Plan and available services.

We are now concerned that the City will not recognize or honor these entitlements and development permits as they may have different urban planning objectives. We do not believe that it is equitable or just for us to merely rely upon nonconforming use rights to protect a vested property interest that is compatible with neighboring properties.

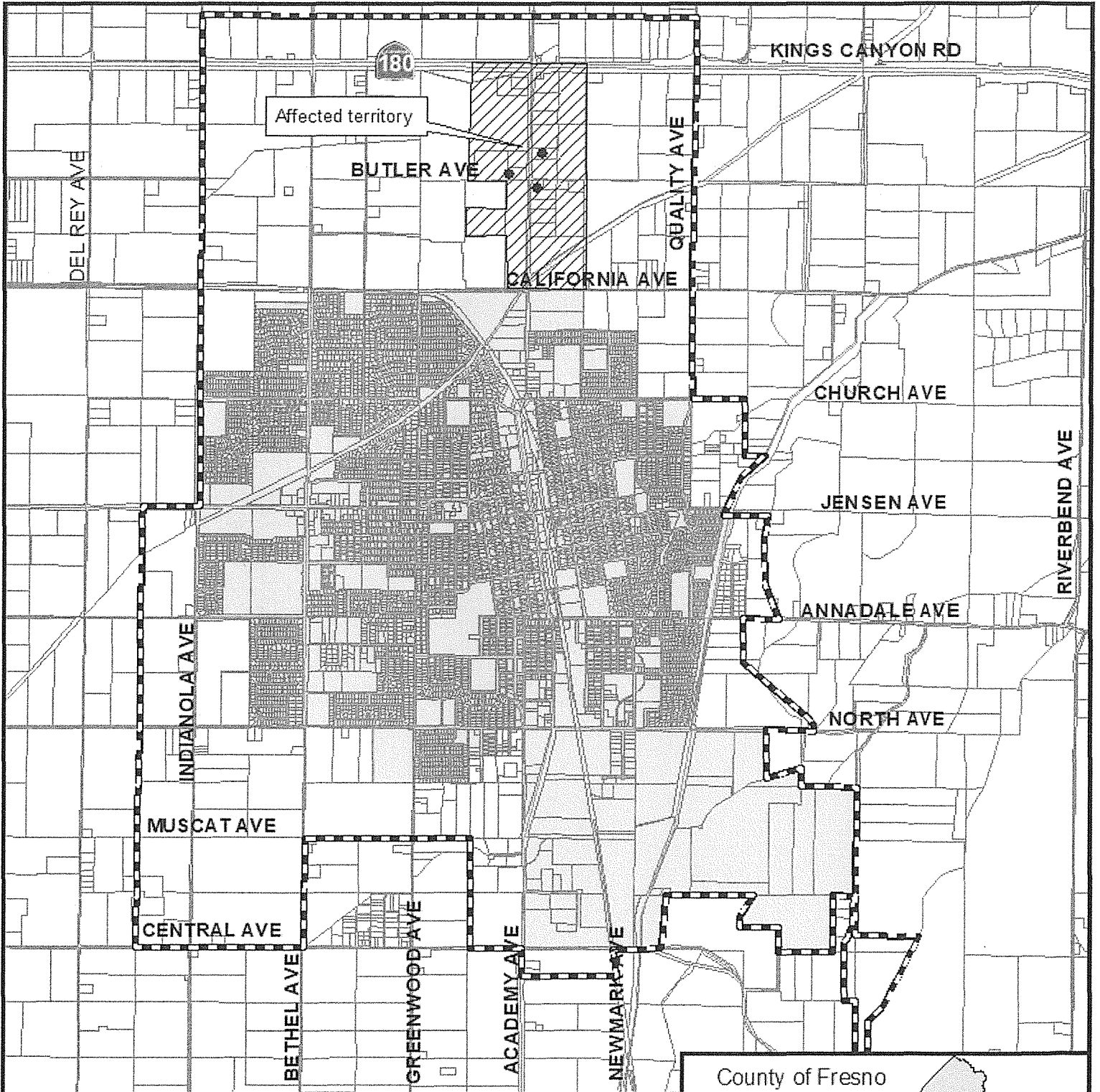
We would submit that there are variety of factors for consideration in evaluating this area for annexation, including, but not limited to, the existing rural land use in this area, the potential loss of the physical and economic integrity of agricultural land, the distance of these boundary parcels from populated areas of Sanger, and the inability to efficiently offer City services to these locations at this time.

If LAFCO finds that annexation is an appropriate measure, we would request that the approval be conditioned upon the recognition and acceptance by the City of the recent County entitlements and permits for our Property.



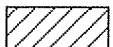

## ATTACHMENT C

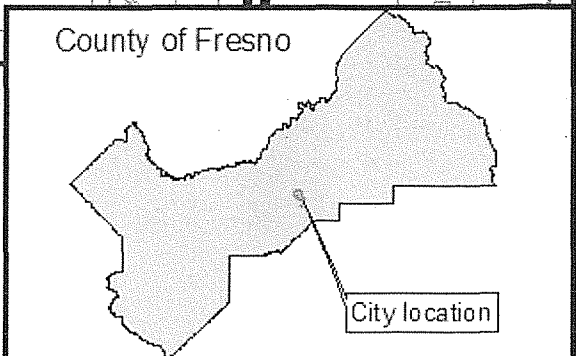
APN	Name
314-063-26	ORTIZ JORGE & SONIA
314-063-27	BUBENIK RICHARD A TRUSTEE
314-070-33	GILBERT JEREHIAH & KRISTAN
314-070-37	SINGH DALBIR
314-070-38	SINGH DALBIR
314-070-40	GRAGNANI DONALD JERRY TRUSTEE
314-070-49	MONTUHRAH COMPANY
314-070-57	TIPPS RONALD RAY & JULIE R TRUSTEE
314-070-90	SMITH CHRISTOPHER A & THERESA M
314-070-91	MINNEWAWA LAND GROUP LLC
314-070-92	MINNEWAWA LAND GROUP LLC
314-090-04	GRICE MARK
314-090-05	MILLER JULIE SAROYAN TRUSTEE
314-090-38	MOLINA ELI E
314-090-39	TRUJILLO IRMA & ELEAZAR E PONG
314-090-048	ST CLAIR VAN
314-090-51	LIZARRAGA MARIA G
314-090-52	FOX PHILIP L & MARSHA L TRUSTEES
314-090-53	FOX PHILIP & MARSHA L
314-090-58	ROCHA JOHN G & DAWNETTE L
314-090-59	MENDOZA JUAN MANUEL & NORMA
314-063-39S	G4 PROPERTIES
314-063-40S	G4 PROPERTIES
314-063-43ST	
314-063-44S	PEREZ EMETERIO P & ALMA TERESA
314-063-54S	SINGH HARJIT & SUKHWINDER KAUR
314-063-55S	SINGH HARJIT & SUKHWINDER KAUR
314-070-35T	
314-070-47P	
314-070-48P	

# Attachment D

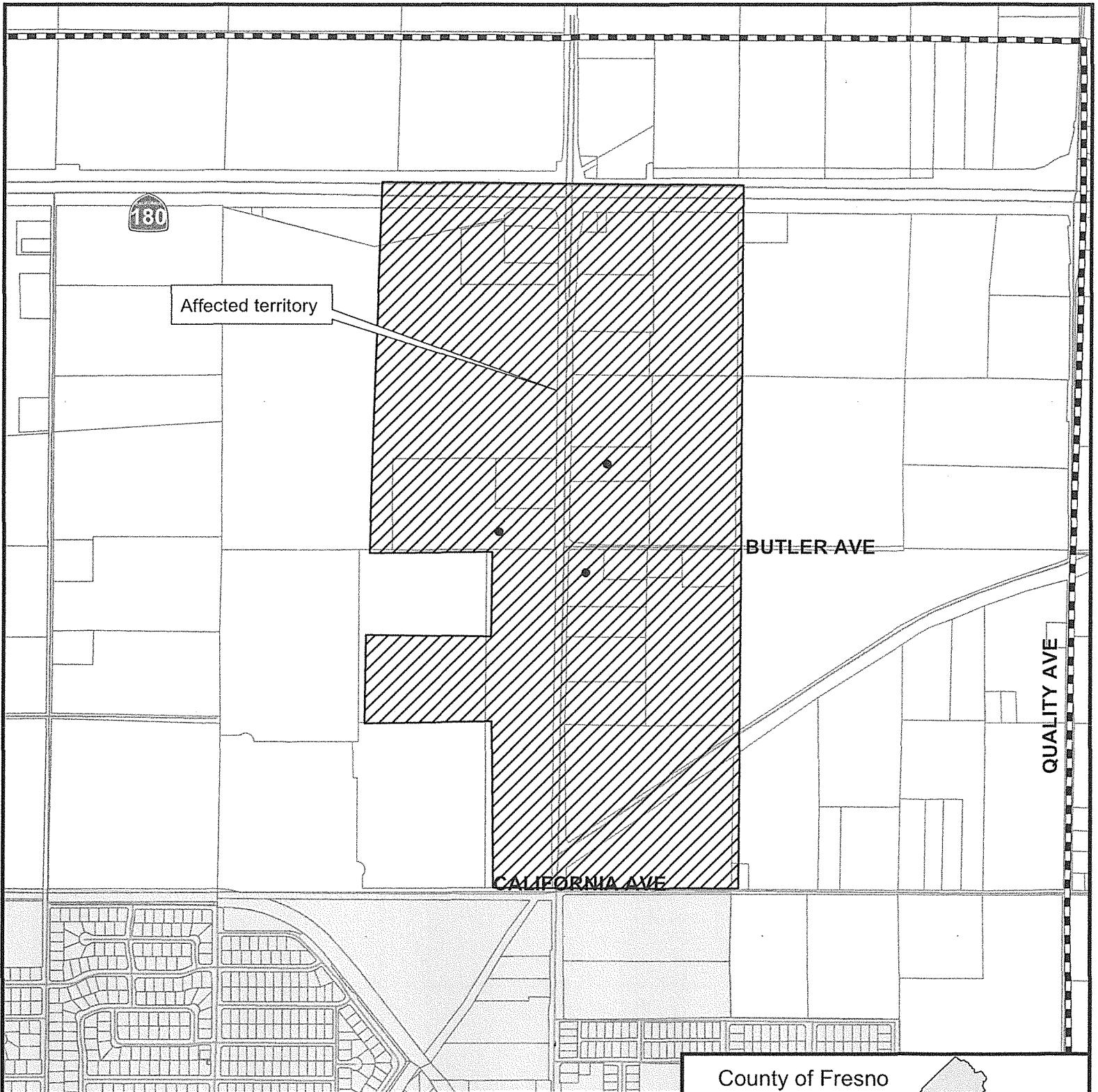


## Fresno Local Agency Formation Commission



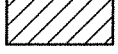

-  Sphere of influence
-  City limits
-  Affected territory
-  Protest submitted  
(Protest from outside affected territory not shown)

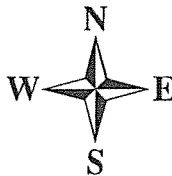


# Attachment E

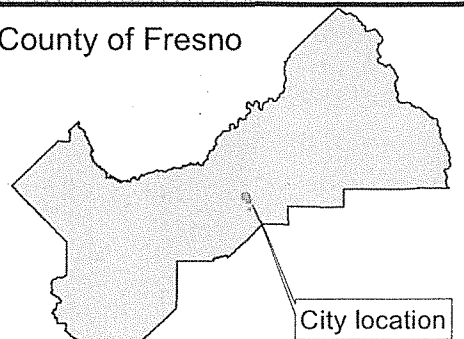


## Fresno Local Agency Formation Commission

-  Sphere of influence
-  City limits
-  Affected territory
-  Protest submitted



County of Fresno



City location