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

CONSENT AGENDA ITEM No. 5B

DATE: May 14, 2014

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer

SUBJECT: "Shields-Grantland No. 1 (Westlake) Reorganization," a property owner petition to annex 447.78 acres to the City of Fresno and detach from the North Central Fire Protection District and the Kings River Conservation District for territory located south of Gettysburg Avenue, north of Shields Avenue, east of Garfield Avenue and west of Grantland Avenue (**LAFCo File No. RO-13-1**).

Applicant: Jeffrey T. Roberts, Granville Homes, Inc.

Land Owners/Parties of Real Interest: Grantland Holdings LLC, GVM Investments LLC, ACAP Holdings, Granville Homes, Inc. (Darius, Farid, Farshid, and Sonia Rosemary Assemi and Derek Hayashi), Fresno Metropolitan Flood Control District, and the City of Fresno.

RECOMMENDATION: Continue the hearing on this project to a date and time uncertain

If the Commission determines that the proposal does not conform with LAFCo policy because there is disagreement between the City of Fresno and Fresno County over MOU consistency, then it should continue the public hearing on this project to a date and time uncertain until such time as the City of Fresno has provided staff with an orderly, phased annexation program (each annexation must still be separately considered by LAFCo) and the City and County have resolved their MOU differences.

OPTIONAL COMMISSION ACTION: 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 legally adequate pursuant to CEQA Guidelines Section 15096.
- B. Find that the proposed reorganization is sufficiently consistent with LAFCo Policies, Standards and Procedures Sections and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

- C. Assign the distinctive short form designation “Shields-Grantland No. 1 (Westlake) Reorganization” and approve the reorganization (annexation and detachments) subject to the following conditions of approval:
1. The City of Fresno shall submit to the Executive Officer verification that a Right-to-Farm Covenant is required and made a part of the City’s development agreement and that this legal covenant will be recorded with the final tract map approved by the City for the affected territory.
 2. Ownership of land permitting, the annexation shall include the full existing right-of-way width of adjacent roadways.
 3. Allocation of property tax revenue shall conform to the terms and conditions of the 2003 Amended and Restated Memorandum of Understanding between the County of Fresno and the City of Fresno.
- D. Find pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”) that:
1. The territory is uninhabited.
 2. All landowners have consented to the annexation.
- E. Waive further Conducting Authority Proceedings and approve the annexation and detachments subject to the requirements of the "CKH," the 30-day reconsideration period, and compliance with all of the above conditions.

Procedural Note

Per CKH Section 56662, this proposed reorganization (“Proposal”) can be placed on the consent agenda because: the territory is uninhabited; all property owners have consented in writing to the annexation (100% consent); and affected local agencies have not submitted a written demand for notice and hearing during the 10-day period as described in CKH.

Notwithstanding, the Proposal can be removed from the Consent Calendar by any member of the Commission or any person requesting removal, and opportunity given for testimony relative to the proposal.

Background

Granville Homes, Inc. initiated these proceedings on January 11, 2013, by landowner petition. The application was deemed incomplete pending completion of the development approvals and certification of the related environmental impact report (EIR), both by the City of Fresno. The City has since pre-zoned the territory from County AE-20 (Exclusive Agriculture 20-Acre Minimum) District to City R-1 (Single-Family Residential), R-2 (Low-Density Multiple-Family Residential), C-1 (Neighborhood Shopping Center), C-2 (Community Shopping Center) and O (Open Conservation) Districts and approved Tentative Tract Map No. 5915/UGM for a 29-lot subdivision with one outlot for phase one of the Westlake Development Project. The City also certified the subject EIR.

Upon receipt of approval and CEQA documentation, the application was deemed complete by the Executive Officer and a Certificate of Filing was issued on February 25, 2014.

The Westlake project consists of 2,053 single family units, 547 multiple family units, 295,000 square feet of commercial uses, a 55-acre lake feature, 17 acres of public roadway, and 20 acres of open space. The affected territory is within the City of Fresno sphere of influence and is adjacent to the existing City limits.

Policy Discussion: County of Fresno MOU Determination and the Proposal's Consistency with Commission Policies

County of Fresno MOU Determination

Though LAFCo is not a party to the City/County Memoranda of Understanding (MOU) the MOU contains the tax-sharing agreement required by Revenue and Tax Code section 99 to allocate property tax revenue when territory is annexed to a city. The Code allows both project-specific and comprehensive agreements, the MOU representing the latter.

On May 1, 2014, County of Fresno CAO John Navarette wrote the Executive Officer that County staff had "determined that the proposed annexation boundary is not consistent with the MOU Annexation Standards (extends a peninsula and creates an irregular boundary) and that a Stand-Alone tax sharing agreement between the County and City of Fresno is required to make a finding of consistency [with LAFCo Policy]." Mr. Navarette offered to support a Stand-Alone tax sharing agreement provided the City agrees to certain conditions including traffic enforcement and road maintenance within the rights-of-way of the County roads in the intervening unincorporated area, pickup of illicitly dumped debris along these roads, and to become "responsible in perpetuity for all repairs within County rights-of-way due to failure of construction and or operation of said city improvements." (Exhibit A)

On May 6, 2014, City staff wrote the Executive Officer that it supports the Westlake annexation but is not in agreement with the proposed conditions of approval outlined in Mr. Navarrette's letter. This lack of agreement between the City and County on conformance with annexation standards places the required tax-sharing conditions at risk. The Commission could set its own tax-sharing conditions under its authority to approve projects with conditions, or it could direct the City and County to develop a stand-alone agreement for the Proposal. (Exhibit B)

Revenue & Taxation Code Section 99(e)(1) provides for a process for when a city and county are unable to agree on such a stand-alone property tax sharing agreement. It provides that the city and county will select and pay for a third-party consultant to prepare a comprehensive, independent fiscal analysis that specifies estimates for all tax revenues that will be derived from the annexed territory and the costs for services to that territory. Then, the city and county would conduct an "advisory arbitration" to try to resolve their issues. At the close of the arbitration, the city and county would each present their "last and best offer" with respect to the exchange of property tax revenue. The arbitrator shall select one of the offers and recommend it to the city council and county board of supervisors. If either rejects the offer, it must do so in a public hearing and make written findings as to why the offer was not accepted.

Staff is hopeful that the City and County will agree upon an MOU.

Proposal's Consistency with Commission Policies 102-01, 210-05 and 210-08

(Please refer to Exhibit C "LAFCo Policies Consistency Analysis Westlake Reorganization (RO-13-01)" for the full text of policy evaluation.)

Commission Policy 102-01 (Encouraging Consistency with Spheres of Influence and Recommended Reorganization of Agencies) which advises the commission that "within the sphere of influence each agency should implement an *orderly, phased annexation program*. A proposal should not be approved solely because the area falls within the sphere of influence of an agency. The sphere of influence is *one factor among several considered* in reviewing proposals." (emphases added)

Further, Policy 210-08 states,

Proposal would not create islands. Boundaries minimize creation of peninsulas and corridors, or other distortion of boundaries, and should include any developed islands or substantially surrounded area with the proposed developing area.

The Proposal will create a peninsula and substantially surround a 1,100-acre largely rural-residential area. There is, at this time and in staff's opinion, no "orderly, phased annexation program" by which the City of Fresno demonstrates its capacity to annex the intervening lands.

Given the challenges posed by rural residential land uses to the urbanization of territory within cities' spheres of influence, this unincorporated area may remain unincorporated and complicate the City's and County's service delivery into the foreseeable future.

The question then is whether this configuration is consistent with the intent of CKH, commission policy, and represents orderly, logical, or efficient boundaries. At this time, staff concludes that the project is not consistent with Commission Policies 102-01, 210-05 and 210-08.

In its May 6 correspondence, City staff writes, 'within the next 90 days, the city of Fresno is committed to open a dialogue with Fresno County regarding orderly annexation policies and procedures.' Staff is of the opinion that continuing the hearing on the Proposal will afford an opportunity to resolve both the MOU issue and policy conformance issue with an annexation program that demonstrates an orderly, phased annexation program.

Proposal / Land Use

- The Proposal consists of the annexation of 447.78 acres to the City of Fresno and detachment from the North Central Fire Protection and the Kings River Conservation Districts.
- The affected territory is located south of Gettysburg Avenue, north of Shields Avenue, east of Garfield Avenue and west of Grantland Avenue. The territory is located inside the City of Fresno's Sphere of Influence and adjacent to the city limits at the northeast portion (see Maps and Figures).
- The affected territory is vacant land. The surrounding land uses consist of rural residential to the north, the Deran Koligian Education Center and rural residential to the east, and agriculture to the south and west.

Environmental Impacts and Compliance with CEQA

(Lead Agency CEQA documents can be found on LAFCo's website at www.fresnolafco.org under the Hearings and Workshops tab in the May 14, 2014 Hearing Folder.)

The Fresno City Council certified a programmatic EIR on December 19, 2013. Program EIRs are typically more conceptual and may contain a more general discussion of impacts, alternatives, and mitigation measures than a project-level EIR. As provided in Section 15168 of the State CEQA Guidelines, a Program EIR may be prepared on a series of actions that can be characterized as one large project. Use of a Program EIR provides the City of Fresno (as lead agency) the opportunity to consider broad policy alternatives and program-wide mitigation measures and provides the City with greater flexibility to address project-specific and cumulative environmental impacts on a comprehensive basis.

As part of the City's certification of the Program EIR, the City made findings that potential significant impacts to the environment would occur with implementation of the project and adopted mitigation measures to reduce these impacts to the extent feasible. A Notice of Determination was filed with the County Clerk on December 20, 2013 (see Environmental Documents at www.fresnolafco.org on the Hearings and Workshops tab in the May 14, 2014 file under the CEQA link next to the staff report).

As a "Responsible Agency" under CEQA, the Commission is required to review and consider the City's EIR 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, and supported by the analysis found in Exhibit D.

Project Analysis

Project Description

Granville at Westlake, Inc. (the project Applicant) is proposing to develop a master-planned 460-acre project with residential and commercial uses developed around a man-made private lake. The project will consist of approximately 2,600 residential units and up to 295,000 square feet of community and neighborhood commercial buildings.

At full build out, the project would accommodate between 7,956 to 8,034 residents (based on a 3.06 person per household ratio). This is the maximum population figure utilized for environmental analysis in this EIR; it is based on the latest available census data.

The project will consist of the following land uses:

- 111 acres of Medium Low Density Residential,
- 196 acres of Medium Density Residential (approximately 12 acres of which is planned for an elementary school at the northwest corner of Grantland and Dakota Avenue),
- 34 acres of Medium High Density Residential,
- 27 acres of Neighborhood/Community Commercial, and
- 92 acres open space consisting of the 55-acre lake feature, 17 acres of roadway and 20 acres of open space.

Generally, the project will be built out in a north to south pattern with excavation and construction of the lake occurring during initial development (see the description of the lake later in this Chapter). Commercial development will occur as build-out of the residential portions of the project occurs. Smaller commercial entities that would serve a smaller population may be built out earlier than larger commercial entities that require a larger population base.

Agricultural Resources

The Commission's interest in prime agricultural land is directed by CKH section 56301: Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.

The project site sits on 460 acres of unimproved land. The site is currently fallow farmland. Previously, this land had been in agricultural production for decades with a mixture of orchard and row crops. There are no parcels within the project site that are under Williamson Act contract. For these reasons, the project site does not meet the definition of "Agricultural lands" meaning land that is currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program (CGC section 56016).

However, the project conforms with the CKH and LAFCo definitions of "Prime Agricultural Land," in that it contains "land that qualifies for rating as class I or class II in the USDA natural Resources Conservation service land use capacity classification" and "land that qualifies for rating 80 through 100 Storie Index Rating." The EIR noted approximately 87% of the Proposal is composed of a "class IIs" soil.

The potential impact of the loss of agricultural resources was evaluated in the subject EIR. Public Resource Code Section 21060.1 (CEQA Statute) defines agricultural land for the purposes of assessing environmental impacts. The subject EIR found that the project would result in a significant and unavoidable impact to agricultural resources.

The Proposal's location in the Fresno Sphere of Influence acknowledges that the Commission has previously considered the potential loss of agricultural lands and found this area appropriate for urban uses. Commission Policies support development of land within a city's sphere of influence:

- 104-04 Loss of agricultural lands should not be a primary issue for annexation where City or County general plans indicate urban development is appropriate and there is consistency with the agency's sphere of influence.

Consistency with Fresno General Plan

The designation of urban land uses for areas including the project site indicates the City has planned for the conversion of agricultural land within the City's planning boundary. Fresno General Plan Land Use Policy G-6-C identifies the use of buffers at the interface of urban development and farmland, such as roadways, to minimize conflict between urban and agricultural uses; this is consistent with the City of Fresno General Plan MEIR Mitigation Measure E-4. In this case, Garfield Avenue, Shields Avenue, and Grantland Avenue serve as

buffers between the project site and these agricultural uses. Although the General Plan contemplates the long-term conversion of the lands to the east of the project site to non-agricultural uses, the use of a buffer is a widely recognized planning technique intended to prevent the premature conversion of agricultural land to non-agricultural use. The lands to the south and west of the project site would remain under the authority of Fresno County. Garfield Avenue and Shields Avenue would both serve as a buffer between the project site and the unincorporated lands south and west of the project site. Additionally, these lands are outside the City's Sphere of Influence and therefore, are not contemplated for development by the City. Should an applicant seek to develop one or more of these properties, it would require an adjustment of the Sphere of Influence – a significant discretionary approval that is not assured. At the time of the Draft EIR release, there were no applications pending before the City of Fresno that contemplate converting any of these properties to non-agricultural use.

Service Delivery Analysis

The proposed project will be supported by the City of Fresno's municipal water supply system and its wastewater collection system (including the Grantland trunk sewer) and wastewater/treatment disposal facilities. It is bordered by an existing public elementary school, and is proposed to contain a grammar school site. The major serving public utility, Pacific Gas and Electric, has provided a "will serve" letter to the project developer. Chapter Three, Sections 3.13 and 3.16, provides requisite details regarding such supportive public facilities.

Fire Protection. Currently, the site is within the North Central Fire Protection District. The nearest fire station in the NCFPD is Station 22 located 4 miles south of the project site. The City of Fresno Temporary Fire Station 18, located at 5398 N. LaVentana Avenue is the closest station to the project site and is approximately 1.6 miles northeast of the northern boundary of the project site. Station 16, located at 2510 North Polk is the closest permanent fire station to the proposed project site and is approximately two miles from the site's southeastern boundary.

Emergency Services. American Ambulance provides emergency medical services and transport on a contractual basis for the City of Fresno. American Ambulance paramedics and emergency medical technicians responds to over 135,000 calls originating from 4,000 square miles in Fresno and Kings Counties annually. American Ambulance employs 550 personnel and maintains more than 100 ambulances.

Law Enforcement. The project site falls within the City of Fresno Northwest Policing District. The closest police station (3781 N. Hughes) is located approximately 5.5 miles from the project boundary.

Public Schools. Educational services for the proposed project will be provided by the Central Unified School District (CUSD). CUSD has 19 schools (including one alternative school and one continuation school) and more than 13,500 students. Students (in grades 7-8) from the proposed project would attend the District's Deran Koligian Educational Complex at the northwest corner of Ashlan and Bryan Avenues. A high school is proposed at the same Education Complex; however, until that location is open, students (in grades 9-12) from the project would attend Central High School – East Campus located 2 miles from the project site boundary, just west of State Route 99 on Gettysburg. The District will need to construct a new elementary school within the vicinity of the proposed project to accommodate the new students generated at the K-6 grade levels. A 12-acre parcel within the project boundaries is presently planned for an elementary school site.

Public Utilities

Summary of Water Supply Assessment

A Water Supply Assessment (WSA) was prepared to evaluate the project's potential water demands and identify water sources to serve the project. The WSA was adopted by the City in October 2011 and incorporated into the EIR analysis. The WSA estimated that the project's average annual water demand at 1,506 acre-feet (af) and concluded that this can be met by the City of Fresno and the Fresno Irrigation District. In comparison, the water demand estimated for the 2025 General Plan's land uses for the project area (prior to the plan amendment for the project) is 1,520 af per year based on the city's 2008 Urban Water Management Plan (UWMP) water use factors.

The WSA concluded that the City of Fresno water system has sufficient capacity to supply the project and other projected demands within the City's service area through the year 2030.

Groundwater

The City of Fresno Department of Public Utilities, Water Division, would provide water service to the project site. The City of Fresno obtains the majority of its delivered water supply from groundwater. The City lies within the Kings Subbasin of the San Joaquin Valley Groundwater Basin of the Tulare Lake Hydrologic Region. Although groundwater levels in the Subbasin have been in decline, the Kings Subbasin is not adjudicated, so there is no legislated limit on groundwater pumping. In general, groundwater levels in the Fresno area have declined about 1.5 feet per year since 1990, though there has been some localized rebounding in Northeast Fresno as a result of the reduction in groundwater extractions and the incorporation of the North East Surface Water Treatment Facility. The City's current Urban Water Management Plan, adopted in August, 2008, has identified projects that, if constructed and implemented, will bring the water supply into balance by 2025. The project developer/applicant will be required to extend a line to the project site from the existing water distribution system and to fund/construct needed onsite wells.

Wastewater

The City of Fresno Department of Public Utilities, Wastewater Management Division provides wastewater collection and treatment to the City of Fresno. A major trunk line adjacent to the project site, the Grantland Trunk Sewer, will convey wastewater to the City's Water Reclamation Facility.

Storm Drainage

The project site lies within the jurisdictional boundaries of the Fresno Metropolitan Flood Control District (FMFCD). The FMFCD is responsible for planning, constructing, and maintaining urban storm drainage collection and disposal facilities necessary to meet the needs of urban development, as well as to control runoff from areas outside the metropolitan area.

Solid Waste

The City of Fresno Department of Public Utilities, Solid Waste Division contracts with private companies to provide solid waste, recycling, and green waste collection services to residential and commercial customers within the city limits.

Energy

Pacific Gas and Electric Company (PG&E) would provide electricity and natural gas service to the project site.

Artificial Lake. The focus of the project will be a 55 acre manmade ("artificial") lined lake, 3 to 12 feet in depth, oriented in a north-south direction and over one mile in length. In addition to being a recreational amenity (for non-contact activities such as non-motorized boating), the lake will also detain storm water and incidental drainage flows. The Westlake Homeowners Association (HOA) will own and operate the lake facility.

Vector Control of Lake. The design of the lake feature will be in accordance with the guidelines established by the City of Fresno in its "Guidelines for Ponding Basin/Pond Construction and Management to Control Mosquito Breeding", as applicable.

Fresno Metropolitan Flood Control District Facility. The FMFC owns 20 acres of the intended project site at the southeast corner of the Garfield and Dakota alignments that is planned for a ponding/recharge basin. The property is included within the acreage of the project. The ponding/recharge basin site will be reconfigured to be integrated within the design of the project and its function and capacity will be replicated by a 25-acre replacement basin located just south of Shields Avenue outside the project site.

The replacement basin will be owned and operated by FMFCD. The basin is a permitted use in the existing agricultural land use designation. It is anticipated that, recharge from the area will be the same as at present because of the diversion of storm drainage and ten-year maintenance drawdown water from the lined lake to the FMFCD recharge basin, effectively replacing the current runoff/percolation recharge. Although the replacement basin may be outside the project site, anticipated impacts caused by the development of the replacement basin at the new location are assessed in this EIR as required by CEQA.

APPLICATION INFORMATION

1. Affected Territory

Acreage:	447.78 acres
Current Land Use:	Vacant except for the northeastern most parcel
Number of Residences/ Population:	Residences: 1/ Population: 0
Landowners/ Registered Voters:	Landowners: 2 / Voters: 0
Previous County Zoning:	AE-20
City Zoning Upon Annexation:	R-1, R-2, C-1, C-2, and O
Ag. Preserves/Contracts:	None
Assessor's Parcel Numbers:	

2. Proposed Development – Granville at Westlake, Inc. proposes to develop Tentative Tract Map No. 5915 for 29-lot subdivision for the purpose of facilitating the Westlake project that consists of 2,053 single-family units, 547 multiple-family units, 295,000 square feet of commercial, and 92 acres open space consisting of the 55-acre lake feature, 17 acres of roadway and 20 acres of open space.

3. **Surrounding Territory** - The surrounding land uses consist of rural residential to the north, the Deran Koligian Education Center and rural residential to the east, and agriculture to the south and west.
4. **Consistency with Adopted Sphere of Influence (SOI)** - The affected territory is within the City of Fresno's adopted Sphere of Influence.
5. **Consistency with City and County General and Specific Plans** - The Proposal is consistent with the City of Fresno's General Plan as amended and the West Area Community Plan. 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	None	City of Fresno
Sewer	None	City of Fresno
Fire Protection	North Central Fire Protect. District	City of Fresno
Distance to Station	.5 miles	0.5 miles

Please Note: A service plan for this Proposal is available at www.fresnolafco.org under the Hearings and Workshops tab in the May 14, 2014 file attached to the staff report.

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

County of Fresno	Fresno County Library District
Kings River Conservation District	North Central Fire Protection District
State Center Community College District	Central Unified School District
Fresno Metropolitan Flood Control District	County Service Area No. 35
Fresno Irrigation District	West Fresno Red Scale Protective District
Fresno Mosquito Abatement District	

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

No costs are anticipated that will affect residents or landowners.

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

- John Navarrette, Fresno County Administrative Officer
- Will Kettler, Development Services Manager, County of Fresno
- Kevin Tsuda, Environmental Health Specialist II, Fresno County Department of Public Health
- Rick Lyons, Engineering Technician III, Fresno Metropolitan Flood Control 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 legal are sufficient per Dave King (Fresno County Assessor's Office) for recordation or filing with the State Board of Equalization.

11. **Registered Voter Data**

The County of Fresno Elections Office reported that there were **zero** (0) registered voters in the affected territory.

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

Lead Agency: City of Fresno - **Level of Analysis:** Environmental Impact Report

Finding: A finding of overriding consideration has been adopted and a notice of determination was filed with the County Clerk (see Environmental Documents – www.fresnolafco.org under the Hearings and Workshops tab in the May 14, 2014 file).

13. Names of Landowners or Parties of Real Interest

Grantland Holdings LLC, GVM Investments LLC, ACAP Holdings, Granville Homes, Inc. (Darius, Farid, Farshid, and Sonia Rosemary Assemi and Derek Hayashi), Fresno Metropolitan Flood Control District, and the City of Fresno

Proponent: Jeffrey T. Roberts, Granville Homes, Inc.

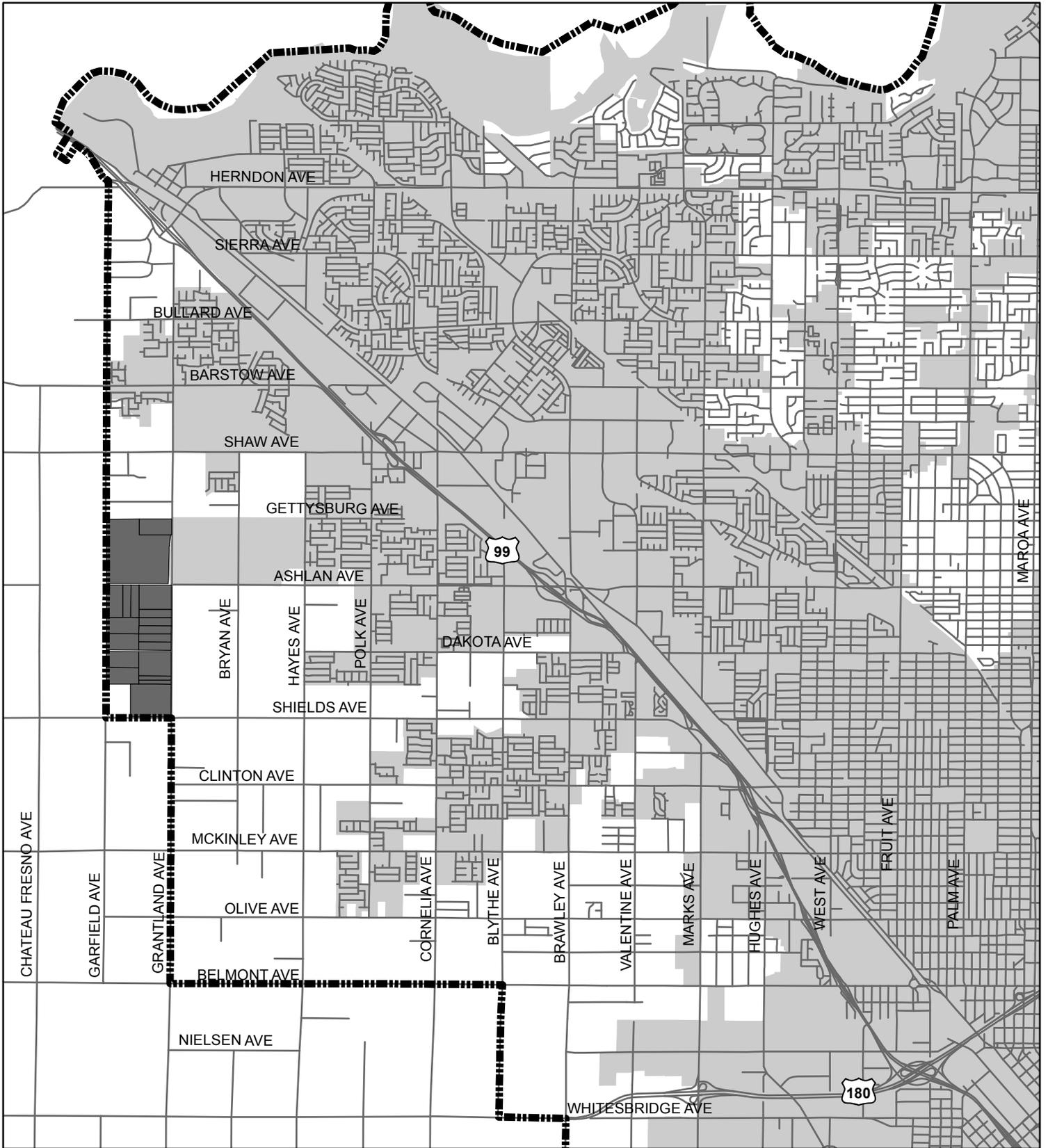
14. Public Notice of Hearing

Public notice concerning this Proposal was issued by the Executive Officer pursuant to State law.

15. Individuals and Agencies Receiving this Report

- Commissioners and Alternates
- Ken Price, LAFCo Counsel
- Will Kettler, Division Manager, Development Services Division, Fresno County Public Works and Planning Department
- Bernard Jimenez, Deputy Director of Public Works and Planning
- Craig Agabashian, Administrative Manager, City of Fresno
- Bruce Rudd, City Manager, City of Fresno
- Jennifer Clark, DARM, City of Fresno
- David Orth, Kings River Conservation District
- North Central Fire Protection District
- Jeffrey T. Roberts, Granville Homes, Inc.

FIGURE 1 - GENERAL SITE LOCATION



City of Fresno "Shields-Grantland
No. 1 (Westlake) Reorganization"
LAFCo File No. RO13-1

Legend

-  Sphere of Influence
-  City Limits
-  Affected Territory



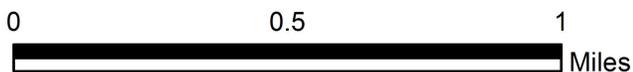
FIGURE 2 - ANNEXATION MAP



Legend

-  Sphere of Influence
-  City Limits
-  Affected Territory

City of Fresno "Shields-Grantland
No. 1 (Westlake) Reorganization"
LAFCo File No. RO13-1





County of Fresno

COUNTY ADMINISTRATIVE OFFICE

JOHN NAVARRETTE

COUNTY ADMINISTRATIVE OFFICER

May 1, 2014

David E. Fey, AICP, Executive Officer
Fresno Local Agency Formation Commission
2607 Fresno Street, Suite B
Fresno, CA 93721

SUBJECT: Shields-Grantland No. 1 (Westlake) Reorganization

Dear Mr. Fey:

Fresno County has evaluated the above-referenced reorganization in accordance with the City of Fresno/County of Fresno Amended and Restated Memorandum of Understanding (MOU) and has determined that the proposed annexation boundary is not consistent with the MOU Annexation Standards (extends a peninsula and creates an irregular boundary) and that a Stand-Alone tax sharing agreement between the County and City of Fresno is required to make a finding of consistency.

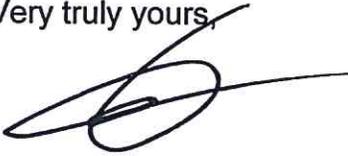
Fresno County staff can support a Stand-Alone tax sharing agreement for the above-referenced annexation provided the City of Fresno agrees to the following:

- Accept responsibility for any code enforcement issues for annexed properties.
- Provide fire emergency response for police and fire emergency calls.
- Provide specific traffic enforcement and road maintenance and improvement activities requested by the County of Fresno with the right-of-way of Shields, Hayes, Dakota, Cornelia, Blythe, Polk, Bryan and Ashlan Avenues.
- Provide pickup of illicitly dumped debris within the right-of-way of Shields, Hayes, Dakota, Cornelia, Blythe, Polk, Bryan and Ashlan Avenues.
- Obtain encroachment permit(s) for all water, sewer or dry utility improvements installed within the County right-of-way and enter into an agreement with the County whereby the City shall be responsible in perpetuity for all repairs with County right-of-way due to failure of construction and/or operation of said City improvements.

Mr. David E. Fey
LAFCo
May 1, 2014
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Recordation of the proposed annexation shall not occur until the proposed annexation is determined to be consistent with the current Amended and Restated MOU or the County and City enter into a Stand-Alone tax sharing agreement. If you have any questions, you may contact me at (559) 600-1710 or Bernard Jimenez, Deputy Director of Planning at (559) 600-4234.

Very truly yours,



John Navarrette
County Administrative Officer

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c: Alan Weaver, Director, Department of Public Works and Planning
Bernard Jimenez, Deputy Director of Planning
Will Kettler, Division Manager, Development Services Division
Mohammad Khorsand, Senior Planner, Policy Planning Unit
Bruce Rudd, City Manager, City of Fresno
Jeff Roberts, Granville Homes



Development and Resource Management Department

2600 Fresno Street, Third Floor
Fresno, California 93721-3604
(559) 621-8003, FAX (559) 498-1026

Jennifer K. Clark
Director

Please Reply To:

Mike Sanchez
(559) 621-8041
mike.sanchez@fresno.gov

May 6, 2014

David Fey, Executive Director
2607 Fresno Street Suite B
Fresno, CA 93721

David:

SUBJECT: Proposed Westlake Annexation

During the processing of the Westlake Project, numerous communications between city staff and the applicant's representative took place regarding future annexation to the City of Fresno. It was clearly understood that the only properties that were to be annexed were those controlled by the project applicant. No other properties were included in the Environmental Impact Report that was certified by the City Council on December 13, 2013. In addition, the proposed annexation was to be developer initiated with the project applicant bearing all costs and fees associated with said annexation.

The City is supportive of the Westlake annexation in its initially proposed format. However, the City is not in agreement with the proposed conditions of approval that are outlined in a letter dated May 1, 2014, to Mr. David Fey, from the Fresno County Administrative Office (see attached).

Within the next 90 days, the City of Fresno is committed to open a dialogue with Fresno County regarding orderly annexation policies and procedures.

If you have any further questions, please contact me at number listed above.

Sincerely


Mike Sanchez
Planning Manager

Enclosure: Letter dated May 1, 2014

Exhibit C

LAFCo Policies Consistency Analysis Westlake Reorganization (RO-13-01)

The Executive Officer has evaluated the proposed reorganization for conformity with Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH,” Government Code 56000 et seq.), and LAFCo Policies, Standards, and Procedures statute and local policies and has determined that proposed reorganization is not consistent with the policy 210-05 and 08.

Relevant Fresno LAFCo policies are listed in sequential order, italicized and intended. Conformity analyses are presented after each policy.

102-01 All proposals reviewed by the Commission, including changes of organization or reorganization, shall be consistent with the agency adopted spheres of influence and Commission policies. Within the sphere of influence each agency should implement an orderly, phased annexation program. A proposal should not be approved solely because the area falls within the sphere of influence of an agency. The sphere of influence is one factor among several considered in reviewing proposals.

Finding: Not consistent with policy. Please refer to analysis of policy 210-08.

210-01 Proposal is consistent with the adopted spheres of influence and does not conflict with the goals and policies of the Commission.

Finding: Consistent with policy. The Proposal is located within the City of Fresno’s Sphere of Influence (SOI) and contiguous to the existing Fresno city limit.

210-02 Proposal is consistent with the City or County general and specific plans, including adopted goals and policies.

Finding: Consistent with policy. The Proposal is consistent with the City of Fresno’s General Plan and implements 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.

210-03 Proposal shows that there is insufficient available land within the community plan area, consistent with the community plan, to accommodate the proposed development.

Finding: Consistent with policy. A review of available sites within the City of Fresno or its urban development boundary was conducted in the Proposal’s EIR. This review concluded that there were no feasible alternative locations in the community plan area. Staff has reviewed this analysis and agrees with the EIR’s conclusion that, “(t)he essential site attributes considered in this determination included site size and shape to accommodate lake development, availability of infrastructure, location within the City’s Sphere of Influence, and availability of surface water transport to the site. The project proponent has no ownership of or access to any alternative

site. There was no evidence that even were such a site found its usage would avoid or significantly lessen any of the significant impacts of the project.”

210-04 Proposal mitigates any significant adverse affect on continuing agricultural operations on adjacent properties.

Finding: Consistent with policy. The Proposal’s EIR evaluated its potential impact “involving other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use” and concluded that because the project would be consistent with the General Plan’s policies to avoid premature conversions of farmlands through the incorporation of buffers and because implementation of Mitigation Measure #3.2.3 would provide remedies to address the urban and agricultural interface conflicts, the mitigation measure would lessen the impacts to a less than significant level.

210-05 Proposal would result in planned, well ordered, efficient development patterns and service areas, and does not encourage urban sprawl.

Finding: Not consistent with policy. Please refer to analysis of policy 210-08.

210-06 Proposal shows that there is existing substantial development or gives indication of future development, thereby requiring urban services. If no existing substantial development, a condition assuring that substantial development will occur upon annexation shall be made a part of the proposal.

Finding: Consistent with policy. Substantial development is planned for the affected territory. The Service Plan submitted for the Proposal indicates that all necessary urban services (water, sewer, police, fire, etc.) are available to serve the affected territory (attached to the staff report on our website at www.fresnolafco.org under the Hearings and Workshops tab in the April 9, 2014 Hearing Folder.)

210-07 Proposal shows that development can be provided all urban services and improvement or facilities necessary, as shown by the service plan and application.

Finding: Consistent with policy. A service plan was submitted to staff and deemed to comply with Commission Policy 400, as required by the Act sec. 56375(h).

210-08 Proposal would not create islands. Boundaries minimize creation of peninsulas and corridors, or other distortion of boundaries, and should include any developed islands or substantially surrounded area with the proposed developing area.

Finding: Not consistent with policy. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH), contains various legislative findings, which mandate "logical formation and modification of the boundaries of local agencies..." (Gov. Code section 56001).

GC 56300. (a) The Legislature intended that each commission, establish written policies and procedures and exercise its powers pursuant to the CKH in a manner consistent with those policies and procedures and that “encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns.”

The sufficiency of a project’s boundaries is therefore left to Fresno LAFCo to determine if they are logical and orderly pursuant to CKH. LAFCo policy 210-08 is used to evaluate the order and logic of a proposal’s boundary, and evaluate its service delivery efficiency. The conclusion of this will also bear on consistency with policy 210-05 which relates to “well-ordered, efficient development patterns.”

Policy 210-08’s goal is to “minimize creation of peninsulas.” This issue was the subject of recent Commission action on this question. In 2012-13, the Commission considered amendments to its peninsula policies based on comments by the Building Industry Association (hereafter referred to as the “2012-13 policy discussion”). The product of these workshops and hearings were the current peninsula policy guidelines. The approved policy guidelines were to be employed in the overall assessment of a proposal and not as prescriptive standards.

The 2012-13 policy discussion included the cities of Fresno, Clovis and Sanger and appears to have been driven by the building industry’s concern that strict peninsula standards would result additional parcels being added to ‘square off’ boundaries. The additional parcels would likely be existing rural residential uses resulting in probable successful protest by registered voters in inhabited annexations. The policy guidelines would be used to justify uninhabited reorganizations with peninsular boundaries. Approval of these projects would therefore be consistent—or at least not in conflict—with local LAFCo policies.

Staff does not dispute the BIA’s legitimate concerns about unyielding peninsula standards, but notes that an important factor missing from the 2012-13 policy discussion was Commission policy 102-01 which includes the following language, “...Within the sphere of influence each agency should implement an *orderly, phased annexation program...*” (emphasis added) In order to conform to this policy, a city should have (by practice or policy) a program of activities that support the annexation of territory within its sphere of influence ultimately leading to the implementation of its general plan.

This program is described in part in GC Section 56425(b) where, prior to a city “submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to *reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere.* (emphasis added) Thus, a program could be cooperative agreements between a city and the county serve to

facilitate annexations and eventual fulfillment of a city's general plan. Other aspects of a program could be funding of annexation staff, outreach to county residents, agreements with special districts that facilitate annexations of developed properties, and so forth.

The program serves to describe the method and timing of annexations by a city; it is the means by which 'order' of annexations is described and provides the 'logic' for the project, its boundaries, and how it fits into the city's overall development plans.

A proposal's potential peninsula can therefore be evaluated in the context of a city's program for growth within its sphere of influence. This program, to reiterate CG Section 56425(b), is intended by the statute *to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere.*

Staff brought its concerns about an orderly, phased program to the attention of the Fresno City Manager and Planning Director on March 23, 2014, and again to senior DARM staff on April 23, 2014. Staff provided these parties with examples of activities that could constitute an annexation program. Also, the project applicant presented staff with several city of Fresno brochures¹ that supported an annexation program and informed the public about the benefits of annexation and answered frequently asked questions.

Prior to 2000 and the substantive update of annexation statute (Government Code section 56000 et seq.) there was little regulation to prevent this competition. However, legislature's approval of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, directed that the counties shall give greater deference to cities' plans and development policies for territory with their LAFCo-approved spheres of influence.

The City of Fresno DARM staff has provided a commitment to "open a dialog with Fresno County regarding orderly annexation policies and procedures;" this does not in itself demonstrate an orderly, phased annexation program, but is a suitable assurance of intent to work cooperatively for the next 90 days on such a program.

Creation of a program would permit LAFCo staff to evaluate the Proposal's boundaries in light of a program of activities that promotes the orderly development of the city of Fresno.

Given the extent of unincorporated territory (in excess of 1,100 acres) that would be substantially surrounded by the Proposal and the existing city limit, and that the City of Fresno has no orderly, phased annexation program to annex the unincorporated area north of Shields Avenue, it is probable that this area will remain unincorporated, that the Proposal will endure

¹ "Guide to the Annexation Process," "What are the Benefits of living in the City of Fresno Should I be Annexed," and "Frequently Asked questions Regarding annexation," as well as a powerpoint presentation describing the city's Proactive Island Annexation Program.

as an city peninsula long into the future, and that service delivery issues for both city and unincorporated area would result.

The question then is whether this configuration is consistent with the intent of CKH, commission policy, represents orderly, logical, and efficient boundaries. At this time, staff concludes that the project is not consistent with policy 210-08.

210-09 The proposal includes mitigation of any adverse affects to subject or affected agencies through a transition agreement or other means. (Amended 5/21/03)

Finding: Consistent with policy. The City of Fresno has a fire transition agreement in place with the North Central Fire Protection District.

210-10 The newly formed or receiving entity has the ability to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Finding: Consistent with policy. The city of Fresno will be the primary urban service provider, assisted by the Fresno Metropolitan Flood Control District, Fresno Irrigation District. Each of these agencies has participated in the environmental and service review of the Proposal and has the ability to serve the Proposal.

210-11 There is a timely availability of water supplies adequate for projected needs as specified in Code section 65352.5.

Finding: Consistent with policy. In accordance with the requirements of Senate Bill 610 (SB 610) and Senate Bill 221 (SB 221), effective January 1, 2002, A Water Supply Assessment (WSA) was prepared to evaluate the Proposal's potential water demands and identify water sources to serve the Proposal. The WSA was adopted by the City in October 2011 and incorporated into the EIR analysis. The WSA estimated that the Proposal's average annual water demand of 1,506 acre-feet (af) can be supplied by the City of Fresno and the Fresno Irrigation District. In contrast to the Proposal, the water demand estimated for the land uses previously depicted by the 2025 General Plan (prior to the plan amendment for the Proposal) was 1,520 af per year based on the city's 2008 Urban Water Management Plan (UWMP) water use factors. An Urban Water Management Plan (UWMP) is the foundation document for compliance with both SB 610 and SB 221 and typically the primary source document for a Water Supply Assessment. The City of Fresno's UWMP was adopted by the City on August 19, 2008.

Water use for the lake feature was not directly discussed in the UWMP, but is fully evaluated in the WSA. The Proposal's 55-acre lake will require 224 af per year of non-potable surface water from the Fresno Irrigation District and assumes approval of such use by the City and the District. This surface water is included in the Proposal's annual 1,506 af water budget evaluated by the

WSA. The balance of the Proposal's water demand must be supplied from the City of Fresno's municipal system.

The EIR concluded:

- that the City of Fresno water system has sufficient capacity to supply the Proposal and other projected demands within the City's service area through the year 2030 without substantially depleting groundwater supplies or interfering substantially with groundwater recharge, with projected timely completion of the City's surface water treatment facilities in accord with the UWMP. Should such facilities not be completed as proposed, groundwater levels may continue to decline;
- No significant impact would result from the implementation of this Proposal whether or not the City successfully implements its facilities implementation program; and
- the Proposal will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. Therefore, potential adverse impact on groundwater due to the proposed Proposals will be less than significant.

210-12 The proposal reasonably assists the receiving entity in achieving its fair share of the regional housing needs as determined by the local council of governments.

Finding: Consistent with policy. The Proposal would result in development of 2,600 dwelling units toward the City's Regional Housing Needs Allocation.

210-13 The proposal will include the annexation of a disadvantaged unincorporated community to a city of any territory greater than 10 acres that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community has already been filed with the executive officer.

There are no contiguous disadvantaged unincorporated communities.

210-13-01 Rezoning Requirement: As a condition to annexation a city is required to prezone the territory to be annexed.

Finding: Consistent with policy. The Proposal was rezoned by the City of Fresno to correspond to the General Plan land uses.

EXHIBIT D

FRESNO LAFCO'S CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR APPLICATION RO-13-1 (Westlake Annexation)

REQUIRED CEQA FINDINGS

FINDINGS OF FACT

1. CONSIDERATION OF THE EIR

The Commission has reviewed and considered the information in the Project's Environmental Impact Report (EIR SCH #2007121033) which consists of the Draft EIR and the Final EIR, among other documents. The Commission has reached its own conclusions on whether and how to approve the proposal. These findings and determinations constitute the independent findings and determinations by the Commission in all respects and are fully and completely supported by substantial evidence, both oral and written, in the entire record relating to the Project before the Commission.

2. RECORD OF PROCEEDINGS

The documents and other materials (including documents maintained in electronic format) that constitute the record of proceedings upon which this determination is based are in the custody of the Commission's Executive Officer, at 2607 Fresno Street, Suite B, Fresno, CA 93721.

The record of proceedings for Commission decisions on the proposal includes, but is not limited to, the following documents:

1. Public notices issued by the Commission in conjunction with the proposal.

The proposal is uninhabited and has the consent of all of the landowners. LAFCo prepared and distributed a notice to the affected agencies on May 2, 2014.

2. List all resolutions and ordinances provided by the City of Fresno associated with the proposal's land use development approvals, service delivery and environmental e

On November 6, 2013 the Fresno City Planning Commission adopted Resolution No. 13235 approving Vesting tentative Tract Map No. 5915/UGM.

On December 19, 2013 the Fresno City Council adopted:

- Ordinance No. 2013-39 to approve the rezoning of 430 acres of the Westlake project;

- Resolution No. 2013-212 certifying the EIR, adopting findings of facts, approving a mitigation monitoring program, adopting the statement of overriding considerations and affirming its approval of a water supply assessment; and
- Resolution No. 2013-213 amending the West Area Community Plan and the 2025 Fresno General Plan.

Although the findings below identify specific pages within the record in support of various conclusions, the Commission incorporates by reference and adopts as its own, the reasoning set forth in the EIR and related documents, and thus relies on that reasoning, even where not specifically mentioned or cited below, in reaching the conclusions herein. The Commission further intends that if these findings fail to cross-reference or incorporate by reference any other part of these findings, any finding required or permitted to be made by the Commission with respect to any particular subject matter of the proposal must be deemed made if it appears in any portion of these findings or findings elsewhere in the record.

3. SIGNIFICANT IMPACTS IDENTIFIED IN THE EIR (SECTION 15091)

The Fresno City Council certified the EIR for the subject project, comprising a general plan amendment, and related approvals (Project) that will become effective upon annexation. The proposal before the Commission is a component of the implementation of the Fresno General Plan that anticipates and guides growth of the city and extension of services to the lands within the sphere of influence. The EIR identified certain significant environmental effects for the broader Project. Other than approving the Project analyzed in the EIR, changes and alterations to avoid or substantially lessen the significant environmental effects as identified in the EIR are within the responsibility and jurisdiction of the City of Fresno and not the Commission. Such changes have been adopted by the City or can and should be adopted by the City.

The Commission's jurisdiction to impose conditions on the Project is limited under Cortese-Knox-Hertzberg and CEQA Guidelines sections 15050 and 15096. As a responsible agency, the Commission has responsibility for mitigating or avoiding *only* the direct or indirect environmental effects of *those parts of the project that it decides to carry out, finance, or approve*. (CEQA Guidelines, § 15096(g)(1).)

With only a few exceptions, the proposed mitigation measures and alternatives identified in the EIR that might reduce or eliminate the significant adverse indirect environmental impacts of the proposal are not within the jurisdiction of the Commission.

The Commission hereby makes the following findings regarding the significant effects of the project, pursuant to Public Resources Code section 21081 and section 15091 of the State CEQA Guidelines. The discussion below does not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, the discussion provides a summary description of each potentially significant impact, describes the applicable mitigation measures identified in the Draft EIR or Final EIR and adopted by the City, and states the Commission's findings on the significance of each impact after imposition of the adopted mitigation

measures. A full explanation of these environmental findings and conclusions can be found in the DEIR and FEIR, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the FEIR's determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the Commission ratifies, adopts, and incorporates into these findings the analysis and explanation in the DEIR and FEIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the DEIR and FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

Aesthetic Impacts

Impact 3.1.2: Substantially degrade the existing visual character or quality of the site and its surroundings which are open to public view. The Project will alter the visual character of the project site and will result in significant, unavoidable and irreversible impacts. However, development of farmland is not unknown or unexpected in this area that is adjacent to the City of Fresno, planned for urban development by the Fresno 2025 General Plan, and within the LAFCo-approved sphere of influence. The project would permanently alter the existing visual character of the site and area compared to existing conditions, this is considered a significant, unavoidable and irreversible impact. (DEIR 3.1-15 and 3.1-16)¹

Finding: Impact 3.1.2 is within the responsibility and jurisdiction of City of Fresno and not the Commission. It is not a direct impact of the proposal. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Facts in Support of Finding:

The developer will be required to comply with the substantial design review and design limitations required by the 2025 Fresno General Plan, the West Area Community Plan, and the City's adopted design guidelines and zoning regulations identified above, which require setbacks, landscaping and designs to limit impact to neighboring properties. (DEIR 3.1-16)

¹ Notation indicates page number cited in the Draft and Final environmental impact reports; DEIR and FEIR, respectively.

Impact 3.1.3: Introduction of New Sources of Light and Glare and Increased Lighting on the Night Sky as a Result of the Project. Development of the Project would introduce new light and glare sources. This is considered a potentially significant impact. (DEIR 3.1-16 – 3.1-17.)

Finding: Impact 3.1.3 is within the responsibility and jurisdiction of City of Fresno and not the Commission. It is not a direct impact of the proposal. No other feasible changes or alterations to the proposal, within the Commission’s authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The City adopted mitigation measures 3.1.3a through 3.1.3e to mitigate the impact to a less than significant level. (FEIR 2-27 to 2-28.)
2. The Commission cannot monitor and enforce the aesthetic impacts potentially resulting from development pursuant to the City’s land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Agricultural Resources Impacts

Impact 3.2.1: Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses. The Project has the potential to result in conflict between urban and agricultural uses. The EIR considered this impact significant, unavoidable, and irreversible because continued agricultural use in the area is not feasible in the long-term (urban development on the project site and in the project area is planned and contemplated by the City’s General Plan) and because mitigation methods such as on-site preservation would reduce development and therefore not

fully meet the objectives of the project, there is no on-site mitigation required or available. (DEIR 3.2-18 to 3.2-21.)

Finding: Impact 3.2.1 is within the responsibility and jurisdiction of the Commission. This impact will be significant. However, the Commission finds that there are no feasible mitigation measures or alternatives that could be adopted that would reduce the environmental impact at the time of environmental review to a less-than-significant level.

Facts in Support of Finding:

1. The Project lies in the LAFCo-approved City of Fresno sphere of influence, which is designated as a plan for the probably physical boundaries and service area of the city.
2. Continued agricultural use in the area is not feasible in the long-term and there are no project-specific feasible mitigation measures available to reduce this impact to a less than significant level. (DEIR 3.2-20 and 3.2-21.)

Impact 3.2.3: Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. The Project may create new development pressures or result in changes to the environment that would result in the conversion of farmland to non-agricultural use. (DEIR 3.2-22 and 3.2-23.)

Finding: Impact 3.2.3 is within the responsibility of the Commission for review. This impact will be potentially significant without the mitigation measures. However, the project is consistent with the General Plan's policies to avoid premature conversions of farmlands through the incorporation of buffers and because implementation of Mitigation measure No. 3.2.3.

Facts in Support of Finding:

Mitigation Measure #3.2.3 would provide remedies to address the urban and agricultural interface conflicts, the mitigation measure would lessen the impacts to a less than significant level. (FEIR 2-28.)

Air Quality Impacts

Impact 3.3.1: Violate any air quality standard or contribute substantially to an existing or projected air quality violation. The project would exceed the San Joaquin Valley Air Pollution Control District's regional thresholds during construction and operation for reactive organic gases (ROG), oxides of nitrogen (NOx) and particulate matter with particulates 10 microns or less in diameter (PM10) for various years. If Feasible Implementation Plan (FIP) reductions are not considered, such violations would be more frequent and quantitatively significant. Therefore, these would be considered potentially significant impacts. (DEIR 3.3-29 to 3.3-43)

Impact 3.3.3: Conflict with or obstruct implementation of any applicable air quality plan. In the Master EIR (MEIR) No. 10130 for the 2025 Fresno General Plan, the City of Fresno adopted mitigation measures that would be applied on both a city-wide and project-level basis through the implementation of the General Plan. Because of the region's non-attainment status it is possible the project would exceed the SJVAPCD's significance thresholds, then the project would be considered to conflict with the attainment plans and would be considered potentially significant impacts. (DEIR 3.3-52 to 3.3-54.)

Impact 3.3.4: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable national or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors). Because impacts 3.3.1 and 3.3.3 are potentially significant impacts the cumulative effect would be considered a potentially significant impact. (DEIR 3.3-54 and 3.3-55.)

Finding: Impacts 3.3.1, 3.3.3 and 3.3.4 are within the responsibility and jurisdiction of the City of Fresno and not the Commission. They are not a direct impact of the proposal. The EIR concludes that these significant adverse impacts will not be reduced to less than significant through the City's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal. (FEIR 2-28 to 2-36)

Facts in Support of Finding:

The City adopted mitigation measures 3.3.1a through 3.1.3q to mitigate the impacts described above. However, the project would still violate air quality standards and the impact would be significant and unavoidable. EIR 2-28 to 2-36.)

Biological Resources Impacts

Impact 3.4.1: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. (DEIR, 3.4-16 to 3.4-23.)

Finding: Impact 3.4.1 is within the responsibility and jurisdiction of City Fresno and not the Commission. It is not a direct impact of the proposal. Impacts to the burrowing owl, Swainson's hawk, California horned lark, northern harrier, San Joaquin kit fox and American Badger are potentially significant.

Facts in Support of Finding:

1. The City adopted mitigation measures 3.4.1a to 3.4.1c to reduce to a less-than-significant level the impacts to the burrowing owl, Swainson's hawk, California

horned lark, northern harrier, San Joaquin kit fox and American Badger. (FEIR 2-36 to 2-46)

2. The Commission cannot monitor and enforce the biological impacts potentially resulting from construction pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.4.2: Aquatic Invasive Species (man-made lake). The focus of the project will be a 55-acre man-made lined lake. In addition to being a recreational amenity, the lake will also detain storm water and incidental drainage flows. There is the potential that non-native species may infest the proposed lake by indirect methods such as through the project storm drainage system and direct methods such as watercraft attachment and illegal dumping of material into the lake. This impact is considered potentially significant. (DIER 3.4-23 and 3.4-24.)

Finding: Impact 3.4.2 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal. The California Department of Fish & Wildlife prepared the California Aquatic Invasive Species Management Plan (2008), which identified potential aquatic invasive species as well as management control.

Facts in Support of Finding:

1. The City adopted mitigation measures 3.4.2a and 3.4.2b to reduce to a less-than-significant level the Project impacts, if any, from aquatic invasive species. (FEIR 2-46 and 2-47.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Cultural Resources Impacts

Impact 3.5.1: Cause a substantial adverse change in the significance of a historical or archaeological resource as defined in Section 15064.5 of the CEQA Guidelines. The Cultural Resources Records search and technical report conducted for the Project found no evidence of historical or archaeological resources within the Project site. Due to the fact that a typical archaeological resource would be buried, there is a possibility that undocumented resources may be encountered. (DEIR 3.5-9.)

Impact 3.5.2: Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature of paleontological or cultural value. Impacts on paleontological resources or geologic features can result either directly or indirectly from pre-construction activities and construction of a Project. Although there is no record evidence of paleontological resources or geologic features on the project site, there is the potential during project-related excavation and construction for the discovery of potential resources. (DEIR 3.5-9.)

Impact 3.5.3: Disturb any human remains, including those interred outside of formal cemeteries. Section 7050.5 of the California Health and Safety Code, if human remains are discovered during the construction phase of a development, all work must stop in the immediate vicinity of the find, and the County Coroner must be notified. Although there is no record evidence of human burials on the project site there is the potential during project-related excavation and construction for the discovery of such. (DEIR 3.5-10.)

Finding: Impacts 3.5.1, 3.5.2 and 3.5.3 are considered potentially significant impacts. However, they are within the responsibility and jurisdiction of City of Fresno and not the Commission. They are not a direct impact of the proposal.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effects as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Facts in Support of Finding:

1. The City adopted mitigation measure 3.5.1 to reduce to a less-than-significant level the Project impacts on significant cultural resources, paleontological resources and geological features and human remains. (FEIR 2-47 and 2-48.)
2. The Commission cannot monitor and enforce the indirect cultural resource impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Geology and Soils

Impact 3.6.1: Exposure of people and structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, ground failure, or landslides. The project site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone. There are no known major or active faults crossing the site or in close proximity to the site. The City of Fresno is located in an area of low seismic activity, the faults and fault systems that lie along the eastern and western boundaries of Fresno County, as well as other regional faults, have the potential to produce high-magnitude earthquakes throughout the County. The project site has a low susceptibility to liquefaction and liquefaction-related phenomena. There are no substantial slopes on or near the project site. Therefore, the opportunity for slope failure in response to the long-term geologic cycle is unlikely. However, the project does propose to construct a 55-acre lake that would have a depth of 10 feet; this would alter the geomorphology of the project site and create a potential landslide hazard. (DEIR 3.6-13 to 3.6-15.)

Impact 3.6.3: Result in potential hazards due to construction on unstable soils. The Project will require the removal of unsuitable soils, the placement of engineered fill, and compaction to ensure that the proposed structures are adequately supported. These practices would ensure

that the Project is located on stable soils and geologic units and would not be susceptible to settlement or ground failure. (DEIR 3.6-16.)

Finding: Impacts 3.6.1 and 3.6.3 are considered potentially significant. However, they are within the responsibility and jurisdiction of the City of Fresno and not the Commission. They are not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City adopted mitigation measure 3.6.1 to reduce to a less-than-significant level the Project impacts on people and structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, ground failure, or landslides. (FEIR 2-48.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Hazards and Hazardous Materials Impacts

Impact 3.7.2: Create a significant health hazard to the public or the environment through the introduction of a man-made lake. The Project would introduce a 55-acre man-made lake and if not properly maintained it could serve as a source of mosquito activity. Because of the serious health risks associated with mosquito-borne diseases, this is a potentially significant impact. (DEIR 3.7-18 to 3.7-19.)

Finding: Impact 3.7.2 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. With the implementation of mitigation measures 3.7.2a and 3.7.2b, the potential for health hazard risks associated with mosquito-borne diseases would be less than significant. (FEIR 2-48 and 2-49.)
2. The Commission cannot monitor and enforce the indirect hazards and hazardous materials impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.7.4: Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment. The project site was formerly used for agricultural production. Therefore, the project applicant shall test the soil of the project site to determine whether residual concentrations of agricultural chemicals and /or diesel fuel are

present and, if so, whether these concentrations are within acceptable limits for residential and commercial developments. Because of the risk of hazardous materials, this is a potentially significant impact. (DEIR 3.7-19 to 3.7-24.)

Finding: Impact 3.7.4 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. With the implementation of mitigation measures 3.7.4a to 3.7.4c, the potential for health hazard risks associated with mosquito-borne diseases would be less than significant. (FEIR 2-49 and 2-50.)
2. The Commission cannot monitor and enforce the indirect hazards and hazardous materials impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Hydrology and Water Quality Impacts

Impact 3.8.1: Violation of Water Quality Standards or Waste Discharge Requirements. Constituents found in urban runoff may degrade both surface water quality and eventually groundwater quality. Development of urban uses on the Project site would result in alteration in the existing site conditions and the introduction of urban pollutant sources. Urban runoff typically contains oils, grease, fuel, antifreeze, byproducts of combustion (such as lead, cadmium, nickel, and other metals) and other household pollutants. (DEIR 3.8-16 to 3.8-18.)

Finding: Impact 3.8.1 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. With the implementation of mitigation measure 3.8.1, the potential short term and long term water quality impacts would be less than significant. (FEIR 2-50 to 2-53.)
2. The Commission cannot monitor and enforce the indirect hydrology and water quality impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Noise Impacts

Impact 3.10.1: Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Construction noise will occur at various locations within and outside of the Project site throughout the build-out period. During construction of the project, noise from

construction activities would potentially impact noise-sensitive land uses in the immediate area. Noise-sensitive land uses (residences, schools, etc.) planned for development would exceed the City of Fresno's noise standards; this would be a potentially significant impact. The greatest potential for on-site noise exposure that could exceed the city's standards would be loading operations and mechanical equipment associated with future commercial activities within the project site. Noise levels from the Lamanuzzi & Pantaleo plant and the stadium at the Deran Koligian Education Center could be potentially significant. (DEIR 3.10-34 to 3.10-35.)

Finding: Impact 3.10.1 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level with the exception of the offsite noise which is significant and unavoidable.

Facts in Support of Finding:

1. With the implementation of mitigation measures 3.10.1a to 3.10.1e, the potential residual impacts exposing persons to or generating noise levels defined in the 2025 General Plan or City Noise Ordinance impacts would be less than significant with the exception of the offsite noise from the Lamanuzzi & Pantaleo plant and the stadium at the Deran Koligian Education Center that are significant and unavoidable. (FEIR 2-53 to 2-55.)
2. The Commission cannot monitor and enforce the noise impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.10.3: Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. The Project would result in an offsite traffic-related violation of noise standards and a substantial permanent increase in offsite traffic-related ambient noise levels in the project vicinity above levels existing without the project. This would be a potentially significant impact. (DEIR 3.10-24 to 3.10-34.)

Finding: Impact 3.10.3 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and cannot be mitigated to a less than significant level.

Facts in Support of Finding:

1. No mitigation measures are feasible. Offsite transportation noise impacts would remain significant and unavoidable.
2. The Commission cannot monitor and enforce the noise impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.10.4: Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. Construction noise will occur at various locations within and outside of the Project site throughout the build-out period.

During construction of the project, noise from construction activities would potentially impact noise-sensitive land uses in the immediate area. Noise-sensitive land uses (residences, schools, etc.) planned for development would exceed the City of Fresno's noise standards; this would be a potentially significant impact. The greatest potential for on-site noise exposure that could exceed the city's standards would be loading operations and mechanical equipment associated with future commercial activities within the project site. (DEIR 3.10-36 to 3.10-37.)

Finding: Impact 3.10.4 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. With the implementation of mitigation measures 3.10.1a to 3.10.1c, the potential residual impacts exposing persons to or generating noise levels defined in the 2025 General Plan or City Noise Ordinance impacts would be less than significant with the exception of the offsite noise from the Lamanuzzi & Pantaleo plant and the stadium at the Deran Koligian Education Center that are significant and unavoidable. (FEIR 2-55.)
2. The Commission cannot monitor and enforce the noise impacts potentially resulting from development pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Public Services and Recreation Impacts

Impact 3.12.1: Increased Demand for Fire Protection Services and Personnel. Development of the Project will increase the demand for fire protection services in northwest Fresno. This could require the City to hire more personnel and purchase additional equipment. The City has Fire Facilities Fees. In order to implement the goals and objectives of the City's general plan, and to mitigate the impacts caused by future development in the city, fire department facilities must be constructed. The City Council has determined that a Fire Facilities Fee is needed in order to finance these facilities and to pay for each development's fair share of the facilities' construction and acquisition costs. (DEIR 3.12-16 to 3.12-18.)

Finding: Impact 3.12.1 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City of Fresno adopted mitigation measure 3.12.1 to reduce the adverse fire protection effects of the Project to less than significant. (FEIR 2-56 and 2-57.)
2. The Commission cannot monitor and enforce the indirect fire protection services and personnel impacts potentially resulting from construction pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.12.2: Increased Demand for Law Enforcement Services. The City also collects Police Facilities Fees. The purpose of the fees is to implement the goals and objectives of the City's general plan, and to mitigate the impacts caused by future development in the city certain police facilities must be constructed. The City Council has determined that a Police Facilities Fee is needed in order to finance such facilities and to pay for each development's fair share of the facilities' construction and acquisition costs. (DEIR 3.12-18.)

Finding: Impact 3.12.2 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City of Fresno adopted mitigation measure 3.12.2 to ensure adherence to City of Fresno General Plan policies and the payment of Police Facilities Fees and Fresno City impact fees will ensure that adequate law enforcement protection and public protection facilities are provided to serve residents in the project area. (FEIR 2-57.)
2. The Commission cannot monitor and enforce the indirect impacts related to law enforcement services potentially resulting from construction pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.12.4: Increased Demand on Parks and Recreation. The City has a policy to pursue implementation of an open space standard of 3.0 acres of public park land for every 1,000 persons residing in the City's Planning Area. The Project could have a total population of 8,034 persons at build-out. This would equate to a need for almost 24 acres of parkland based on the City's standard. Based on the City's existing lack of accessible parks and public recreational space, project-related park and recreation facilities demand is a potentially significant impact. (DEIR 3.12-19 to 3.12-21.)

Finding: Impact 3.12.4 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City of Fresno adopted mitigation measure 3.13.1 (under recreation) to ensure that the project complies with the adopted City of Fresno open space policy and shall create "onsite" (or participate in the creation "offsite") an equivalent of 3 acres of park space/1000 persons; approximately 24 acres in total. (FEIR 2-57 and 2-58.)
2. The Commission cannot monitor and enforce the indirect impacts related to recreation services potentially resulting from construction pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Recreation

Impact 3.13.1: Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. The City has a policy to pursue implementation of an open space standard of 3.0 acres of public park land for every 1,000 persons residing in the City's Planning Area. The Project could have a total population of 8,034 persons at build-out. This would equate to a need for almost 24 acres of parkland based on the City's standard. Based on the City's existing lack of accessible parks and public recreational space, project-related park and recreation facilities demand is a potentially significant impact. (DEIR 3.13-6 and 3.13-7.)

Finding: Impact 3.12.1 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City of Fresno adopted mitigation measure 3.12.1 to reduce the adverse fire protection effects of the Project to less than significant. (FEIR 2-58 and 2-59.)
2. The Commission cannot monitor and enforce recreation impacts potentially resulting from construction pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Traffic Impacts

The Project required an amendment to the 2025 Fresno General Plan Circulation Element to delete the planned major street segments of West Ashlan and West Dakota Avenues west of Grantland Avenue to accommodate the Project circulation system. The circulation system within the Project will consist of dedicated public streets and will incorporate roundabouts rather than stop-signed controlled intersections or internal traffic signals. A series of trails and bike lanes are planned that will link the various neighborhoods to each other and to future site school facilities.

Impact 3.14.1: Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

The Project is expected to create significant impacts or contribute to significantly impacted traffic conditions as various stages of development occur. The proposed elimination of Dakota Avenue as a planned collector street between Grantland and Garfield Avenues and the elimination of Ashlan Avenue as a planned arterial street between Grantland and Garfield

Avenues can be accommodated with acceptable traffic operations provided that the mitigations required of the Project are implemented. (DEIR 3.14-34 to 3.14-72.)

Finding: Impact 3.14.1 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and cannot be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City adopted mitigation measures 3.14.1-1 to 3.14.1-117 and 3.14.2. The mitigation measures that have been identified would improve most of the unacceptable operations to acceptable levels (except those that are identified as constrained and accepted by the City as LOS F, as identified in mitigation measures: #3.14.1-59, #3.14.1-60, #3.14.1-67, #3.14.1-109, and #3.14.1-116). For these constrained road segments, the impact would be significant and unavoidable. (FEIR, 2-59 to 2-62)
2. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.14.3: Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The proposed roadways within the project site and roadways connecting to the regional transportation system may increase hazards due to design features or incompatible land uses. This is considered a potentially significant impact. (DEIR 3.14-72.)

Finding: Impact 3.14.3 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City adopted mitigation measure 3.14.3 to ensure City of Fresno improvement standards are developed to minimize hazards due to design features or incompatible uses and implementation of the above mitigation measure would reduce the impact to less than significant. (FEIR 2-62.)
2. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the City's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impacts 3.13.4: Result in inadequate emergency access. Implementation of the Project has the potential to result in inadequate emergency access. This is considered a potentially significant impact. (DEIR 3.14-75.)

Finding: Impact 3.14.4 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City adopted mitigation measure 3.14.4 to ensure the Project site plans will be reviewed by the City fire and police departments to ensure adequate emergency access and implementation of the above mitigation measure would reduce the impact to less than significant. (FEIR 2-62.)
2. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the City’s land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Greenhouse Gas Impacts

Impact 3.16.1: Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. Operational emissions would be reduced by 23.2 percent compared to Business as Usual emissions with regulations alone, this would not be consistent with the SJVAPCD quantitative threshold of a 29 percent reduction in Business as Usual emissions. Impacts would be potentially significant. (DEIR 3.16-32 to 3.16-37.)

Finding: Impact 3.16.1 is within the responsibility and jurisdiction of the City of Fresno and not the Commission. It is not a direct impact of the proposal and can be mitigated to a less than significant level.

Facts in Support of Finding:

1. The City adopted mitigation measure 3.3.1e to 3.3.1l (see Section 3.3 Air Quality of the DEIR) to ensure the 2020 emissions with regulation and mitigation measures results in an overall 36.5 reduction in greenhouse gas emission from “Business as Usual.” The percent reduction achieves the recommended threshold established by the San Joaquin Valley Air Pollution Control District to find greenhouse gas emissions less than cumulatively significant. (FEIR 2-63.)
2. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the City’s land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

4. FINDINGS REGARDING ALTERNATIVES ANALYZED IN THE EIR

The EIR analyzed four alternatives to the Project. These are the No Project/No Build; No Plan Amendment; Reduced Intensity; and Increased Intensity.

CEQA Guidelines Section 15126.6(e) requires every EIR to include a “No Project Alternative” to compare the impacts of approving the Project with the impacts of not approving the Project. This alternative will look at the Project site if it were to remain agricultural land. In comparison

to the Project, the No Project Alternative would reduce impacts re aesthetics, biological resources, cultural resources, geology and soils, public services, and utilities and services systems. Impacts to hydrology/water supply/water quality and to hazards and hazardous materials would differ but are estimated to be less than those of the Project. Significant project impacts to agricultural resources, air quality, transportation/traffic, noise and global climate change would be eliminated. Impacts to land use planning would be greater. This alternative substantially reduces the environmental impacts in comparison to the Project, and eliminates all significant and unavoidable impacts but would not achieve any of the objectives of the Project.

Subsequent to annexation, the Project site could be developed with Medium Low, Medium and Medium High Density Residential, Neighborhood Commercial, Community Commercial, Public Facility (elementary school), Open Space, and Neighborhood Park land uses in accordance with the current City of Fresno General Plan. Thus, the site, would foreseeably be developed with approximately the same residential population and 50% less commercial land usage than the Project. In comparison to the Project, this No Plan Amendment Alternative could provide minimal reductions to impacts to hazards and hazardous materials, land use and utilities, and transportation/traffic. It would potentially increase aesthetic and recreation impacts. All other impacts would be unchanged. It does not eliminate any project-related significant and unavoidable impacts. However, it does not meet the project objective “to provide a quality on-site open space and recreational opportunity in the form of a man-made lake.”

A feasible project alternative would be the development of the project site with reduced residential intensities and a correspondingly reduced commercial area and community center. It is assumed for purposes of analysis that, with a 50% reduction, the build out population would be 4,017, the build out commercial area would be 13 1/2 acres; the drainage basin site area would remain the same in order to serve potential future development in the basin's drainage-contributing area. The lake acreage, and the open space would remain the same, as would the project site. The project objectives would be partially achieved. However, it might not be feasible to provide a variety of housing opportunities with a complete range of densities, styles, sizes, and values.

As an example of the comparative environmental effects of a project alternative designed at increased intensity it has been assumed that the project would be constructed on the northerly 307 acres (the northerly 2/3) of the project site leaving the southerly 153 acres in periodic agricultural production. This alternative would have a 37 acre lake, 27 acres of open space/community center, 18 acres of commercial a 12 acre school site and 213 acres of residential. This may reduce impacts to agricultural resources, biological resources, cultural resources, geology and soils, hydrology/water supply/water quality, and population and housing. Impacts to air quality, hazards and hazardous materials, public services, utilities, and greenhouse gases will be the same. Increases will occur to aesthetics/visual resources, noise, recreation, land use and transportation and traffic impacts. The alternative does not eliminate any significant and unavoidable impacts of the project. However, it might not be feasible to

provide a variety of housing opportunities with a complete range of densities, styles, sizes, and values.

STATEMENT OF OVERRIDING CONSIDERATIONS (CEQA Guidelines §§ 15093, 15096(h))

The City of Fresno, acting as the Lead Agency, adopted a Statement of Overriding Considerations. Because the Project will result in the occurrence of significant effects which are identified in the FEIR that are not avoided or substantially lessened, and others that are only lessened by the actions of other agencies outside of the Commission's control, the Commission provides the following, specific reasons to support the proposal.

The Commission has made a reasonable and good faith effort to evaluate any alternatives or mitigation measures that would eliminate or substantially mitigate the environmental impacts resulting from the Project. The Commission has reviewed the actions by the City of Fresno to eliminate or substantially mitigate the environmental impacts, particularly the City's various mitigation measures, goals and policies identified in the EIR, General Plan and the adopted West Area Community Plan (hereafter "Project").

For the reasons set forth below, the Commission determines that any significant environmental impacts caused by the Project has been minimized to the extent feasible, and where not feasible, has been outweighed and counterbalanced by the significant economic, fiscal, social, and land-use benefits to be generated to the City. This Statement of Overriding Considerations justifies finding the unavoidable adverse environmental impacts from the Project acceptable.

The Commission finds that any one of the benefits set forth below is sufficient by itself to warrant approval of the Project, and justify the unavoidable adverse environmental impacts from the Project. This determination is based on the findings herein and the evidence in the record. Having balanced the unavoidable adverse environmental impacts against each of the benefits, the Commission hereby adopts this Statement of Overriding Considerations, for the following reasons.

1. Economic and Employment Considerations

Implementation of the project would result in substantial economic benefit to the City of Fresno through job creation and the generation of both sales and property tax revenues. The type of jobs created would include construction, retail, office, service industry and potentially other job types.

The Fresno Metropolitan Area and Fresno County have historically experienced considerably higher rates of unemployment than most areas of California. These areas have historically been highly dependent upon agriculture and related services as a major component of economic activity. It is apparent that substantial expansion and diversification of the area's economic base is appropriate to provide adequate resources to sustain the area's present and projected future population.

2. Infrastructure Improvements

The Project would contribute to substantial infrastructure improvements, particularly with respect to the area's transportation system. As determined by the City of Fresno, the Project will contribute into the City of Fresno Traffic Signal Mitigation Impact (TSMI), Fresno Major Street Impact (FMSI), and Regional Transportation Impact Fee (RTMF) fee programs. Payment of these City fees would contribute towards construction of the planned improvements to intersections and roadways on the programs' nexus studies. The Project will also construct various road improvements as part of the Project.

The Project will construct water, wastewater, and storm water facilities to service the project. In an effort to reduce water demands and achieve water demand offset, the project will provide for the ultimate irrigation of all public green spaces with non-potable water and install "purple pipe" within those areas. This system could, at a future date, accommodate Title 22 treated effluent for the purposes of irrigation of public green spaces. The project will also construct the 55-acre lake feature to accept Title 22 treated effluent, even though a source for such water is not yet available.

The Project will assist the Fresno Metropolitan Flood Control District in implementing their Master Plan. Improvements funded by the Project's payment of drainage fees would include major storm drains and an expanded storage basin south of the Project site that would benefit the Project and the surrounding area. The Project is also replacing the existing (planned) 20 acre drainage basin with a larger 25 acre drainage basin to serve the area.

3. Consistent with City of Fresno's Vision and General Plan Policies

The Project would help maintain consistency with and carry out the goals, policies and objectives of the City's General Plan and the West Area Community Plan. The Project site is within the adopted Sphere of Influence (SOI) of the City of Fresno and is planned for a variety of urban uses. Currently, the 430-acre project site is designated for urban uses by the 2025 Fresno General Plan. The City's General Plan currently designates the project site as Medium Low, Medium and Medium High Density Residential, Neighborhood Commercial, Commercial Office, Public Facility (elementary school), Open Space, and Neighborhood Park. The project site has approved pre-zoning for approximately 370 of the 430 acres. The Project will be consistent with the overall intent of the City's General Plan and West Area Community Plan's objectives and policies encouraging a range of services and facilities for residents in adherence to specific standards for various land uses, and minimization of land use conflicts between agricultural and urban uses.

The Project also provides an opportunity to have a "master planned" concept on the entire 430 acres, rather than a "piece-mealed" smaller development that could occur under the current General Plan designations on the site. By developing the site as a single project, the City can better control the timing and assurance of installation of appropriate infrastructure

(road improvements, water, wastewater, storm drainage, alternative transportation, recreational facilities, etc.).

4. Provisions for Affordable Housing

For the Fresno Metropolitan Area to effectively compete for economic development and investment, it is necessary to provide a full range of housing opportunities. The project will designate land for various densities that will allow developers to offer single family and multiple family housing options. The provision of new housing options will help to ensure that the City has adequate housing availability, thus encouraging housing affordability.

5. Social Impacts

The Fresno Metropolitan Area and surrounding region has historically relied upon agriculture and related activities as the principal economic base to sustain the community. While agriculture activities will remain a major component of the local economy, it is apparent that a more diverse economy must be established in order to improve educational, social, economic, employment and health conditions within the community. Improved economic conditions necessitates additional land of appropriate size and location to accommodate expanded business and commercial opportunities. The Project will provide such opportunities in west Fresno.