



## Legislation Details (With Text)

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<b>Type:</b>	Action Item	<b>Status:</b>		Passed	
<b>File created:</b>	11/20/2023	<b>In control:</b>		City Council	
<b>On agenda:</b>	12/14/2023	<b>Final action:</b>		12/14/2023	
<b>Title:</b>	<p>Actions pertaining to consideration of Annexation Application No. P23-03757; Pre-zone Application No. P23-03758; and related Environmental Assessment No. P23-03757/P23-03758 for approximately 141 acres of property generally located along the north and south sides of West Ashlan Avenue between North Bryan and North Polk Avenues (Council District 1).</p> <p>1. ADOPT Mitigated Negative Declaration prepared for Environmental Assessment No. P23-03757/P23-03758 dated November 10, 2023, for the proposed project pursuant to California Environmental Quality Act (CEQA) Guidelines.</p> <p>2. RESOLUTION - Approving Annexation Application No. P23-03757 (for the Ashlan-Hayes Nos. 2, 3, and 4 Reorganization) proposing detachment from the Kings River Conservation District and North Central Fire Protection District and annexation to the City of Fresno.</p> <p>3. BILL - (for introduction and adoption) - Approving Pre-zone Application No. P23-03758 proposing to pre-zone: approximately 97.55 acres of property from the Fresno County RR/NB (Rural Residential/Neighborhood Beautification) zone district to the City of Fresno RS-5/ANX (Single-Family Residential, Medium Density/Annexed Rural Residential Transitional Overlay) zone district; approximately 18.65 acres of property from the Fresno County RR/NB (Rural Residential/Neighborhood Beautification) zone district to the City of Fresno RS-1/ANX (Single-Family Residential, Low Density/Annexed Rural Residential Transitional Overlay) zone district; approximately 14.13 acres of property from the Fresno County RR/NB (Rural Residential/Neighborhood Beautification) zone district to the City of Fresno RM-2/ANX (Multi-Family Residential, Urban Neighborhood/Annexed Rural Residential Transitional Overlay) zone district; and approximately 1.76 acres of property from the Fresno County RR/NB (Rural Residential/Neighborhood Beautification) to the OS/ANX (Open Space/Annexed Rural Residential Transitional Overlay) zone district.</p>				
<b>Sponsors:</b>	Planning and Development Department				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<p>1. Exhibit A - Aerial Map, 2. Exhibit B - Vicinity Map, 3. Exhibit C - Fresno General Plan Land Use Map, 4. Exhibit D - Proposed Annexation Exhibit, 5. Exhibit E - Proposed Pre-zone Exhibit, 6. Exhibit F - Fresno Municipal Code Findings, 7. Exhibit G - Public Hearing Notice Radius Map, 8. Exhibit H - Environmental Assessment No. P23-03757/P23-03758 [11-10-2023], 9. Exhibit I - Tax Sharing Agreement, 10. Exhibit J - Planning Commission Resolution No. 13824 [Annexation Application No. P23-03757], 11. Exhibit K - Planning Commission Resolution No. 13825 [Pre-zone Application No. P23-03758], 12. Exhibit L - City Council Resolution for Annexation Application No. P23-03757, 13. Exhibit M - City Council Ordinance Bill for Pre-zone Application No. P23-03758, 14. Supplement Packet - 10-15AM ID 23-1712</p>				

Date	Ver.	Action By	Action	Result
12/14/2023	1	City Council	ADOPTED	Pass

## REPORT TO THE CITY COUNCIL

**FROM:** JENNIFER CLARK, Director  
Planning & Development Department

**BY:** ROB HOLT, Supervising Planner  
Planning & Development Department

## SUBJECT

Actions pertaining to consideration of Annexation Application No. P23-03757; Pre-zone Application No. P23-03758; and related Environmental Assessment No. P23-03757/P23-03758 for approximately 141 acres of property generally located along the north and south sides of West Ashlan Avenue between North Bryan and North Polk Avenues (Council District 1).

1. **ADOPT** Mitigated Negative Declaration prepared for Environmental Assessment No. P23-03757/P23-03758 dated November 10, 2023, for the proposed project pursuant to California Environmental Quality Act (CEQA) Guidelines.
2. **RESOLUTION** - Approving Annexation Application No. P23-03757 (for the Ashlan-Hayes Nos. 2, 3, and 4 Reorganization) proposing detachment from the Kings River Conservation District and North Central Fire Protection District and annexation to the City of Fresno.
3. **BILL** - (for introduction and adoption) - Approving Pre-zone Application No. P23-03758 proposing to pre-zone: approximately 97.55 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) zone district to the City of Fresno RS-5/ANX (*Single-Family Residential, Medium Density/Annexed Rural Residential Transitional Overlay*) zone district; approximately 18.65 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) zone district to the City of Fresno RS-1/ANX (*Single-Family Residential, Low Density/Annexed Rural Residential Transitional Overlay*) zone district; approximately 14.13 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) zone district to the City of Fresno RM-2/ANX (*Multi-Family Residential, Urban Neighborhood/Annexed Rural Residential Transitional Overlay*) zone district; and approximately 1.76 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) to the OS/ANX (*Open Space/Annexed Rural Residential Transitional Overlay*) zone district.

## RECOMMENDATIONS

1. **ADOPT** the finding of a Mitigated Negative Declaration prepared for Environmental Assessment No. P23-03757/P23-03758 dated November 10, 2023, for the proposed project pursuant to California Environmental Quality Act (CEQA) Guidelines.
2. **ADOPT RESOLUTION** approving Annexation Application No. P23-03757 (for the Ashlan-Hayes Nos. 2, 3, and 4 Reorganization) proposing detachment from the Kings River Conservation District and North Central Fire Protection District and annexation to the City of Fresno.
3. **INTRODUCE AND ADOPT BILL** Approving Pre-zone Application No. P23-03758 proposing to pre-zone: approximately 97.55 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) zone district to the City of Fresno RS-5/ANX (*Single-Family Residential, Medium Density/Annexed Rural Residential Transitional Overlay*) zone district; approximately 18.65 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) zone district to the City of Fresno RS-1/ANX (*Single-Family Residential, Low Density/Annexed Rural Residential Transitional Overlay*) zone district; approximately 14.13 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) zone district to the City of Fresno RM-2/ANX (*Multi-Family Residential, Urban Neighborhood/Annexed Rural Residential Transitional Overlay*) zone district.

) zone district; and approximately 1.76 acres of property from the Fresno County RR/NB (*Rural Residential/Neighborhood Beautification*) to the OS/ANX (*Open Space/Annexed Rural Residential Transitional Overlay*) zone district.

## EXECUTIVE SUMMARY

The City of Fresno Planning and Development Department has filed Annexation Application No. P23-03757 and Pre-zone Application No. P23-03758 pertaining to approximately 141 acres of property generally located along the north and south sides of West Ashlan Avenue between North Bryan and North Polk Avenues.

The subject property is located within the boundaries of the Fresno General Plan and West Area Community Plan, and both plans designate the subject property for Low Density Residential (1 to 3.5 du/ac), Medium Density Residential (5 to 12 du/ac), and Urban Neighborhood Density (16 to 30 du/ac). Based upon the submitted pre-zone application for the annexation area, the proposed pre-zone can be found consistent with the Low Density Residential, Medium Density Residential, and Urban Neighborhood Density planned land uses for the subject properties.

### Fresno City Planning Commission Action

On December 6, 2023, the Planning Commission considered the item as presented by staff. Five members spoke in opposition of the project that included the concern of not wanting to pay for connections to City of Fresno public utilities including sewer and water. After a complete hearing, the Planning Commission voted and recommended the City Council approve initiation of the annexation and approval of the pre-zone. The Planning Commission Resolutions (**Exhibits J and K**) are attached for more information.

## BACKGROUND

The subject area consists of primarily rural residential and vacant properties. The general vicinity surrounding the subject area include single-family residential neighborhoods to the north, rural residential and single-family residential neighborhoods to the east, rural residential and vacant properties planned for multi-family residential uses and an elementary school to the south, and rural residential and vacant properties currently located in Fresno County to the west.

### Previous Annexation/Tentative Tract Map

The subject annexation is a component of a previous project which involved Vesting Tentative Tract Map No. 6234 ("T-6234"). T-6234 is located generally south of the subject annexation area and consisted of approximately 88.1 acres for purposes of creating 486 single-family residential lots. T-6234 was located in the County and required an annexation application to be approved concurrently. The annexation, plan amendment, pre-zone, and tract map were approved, and a subsequent tax sharing agreement was also required to be approved as the City and County did not and still do not have a Memorandum of Understanding (MOU) for a tax sharing agreement.

The tax sharing agreement for the previous annexation area included requirements for annexation of bypassed territory (**Exhibit I**). Following the issuance by the Fresno County Local Area Formation Commission (LAFCO) of a certificate of completion with respect to the previous annexation, the City agreed to submit a complete application to LAFCO for annexation of the bypassed territory. The

bypassed territory identified in the tax sharing agreement is the proposed subject annexation area for Annexation Application No. P23-03757. The purpose for the City bringing forth Annexation Application No. P23-03757 and Pre-zone Application No. P23-03758 is because of the tax sharing agreement from the previous annexation application related to T-6234.

### ANX Overlay District

The City of Fresno ANX (*Annexed Rural Residential Transitional Overlay*) zone district will be applied to properties which will be annexed to the City of Fresno as part of the proposed reorganization. Pursuant to Fresno Municipal Code (FMC) Section 15-1606, the ANX zone district overlay allows rural residential use of properties upon annexation to the city so long as the use had been lawfully allowed by the County at the time immediately preceding the annexation, subject to provisions of FMC Chapter 15, Article 4 (Non-Conforming Uses, Structures, Site Features, and Lots).

## **Public Services**

### Public Utilities - Water

There is an existing water main located in the entirety of West Ashlan Avenue in the annexation area.

Pursuant to Fresno Municipal Code §6-402, the Department of Public Utilities will not require connection to the City of Fresno municipal water system for properties without existing water service available to them upon annexation. Upon annexation, existing water wells can be retained for domestic and agricultural purposes. A new well or repair of the existing well would be allowed so long as there is no water main directly in front of the property.

If water service (i.e. water main located in street in front of a property) is available to a property upon annexation, then that property would be able to use the existing well for domestic and agricultural purposes until the well ran dry or needed to be replaced.

### Public Utilities - Sewer

There is an existing sewer main located along West Ashlan Avenue between North Bryan and North Hayes Avenues.

Pursuant to Fresno Municipal Code §6-303, the Department of Public Utilities will not require connection to the City of Fresno municipal sewer system for properties without existing sewer service available to them upon annexation. All existing septic tank(s) on those aforementioned properties may be allowed to continue the use of their septic tank(s) until said property develops or until a sewer main is constructed in front of said property.

If sewer service is available to a property upon annexation, then that property would need to connect to the City's sewer service within three years of when service is available.

### Solid Waste

Regarding City of Fresno garbage pick-up, property owners in accordance with State Law are allowed to continue service with their existing contractor/private hauler for a period of five years following annexation. Following the five-year transition period, property owners are required to sign-

up for City of Fresno solid waste service for residential uses. Property owners with commercial uses can continue to use their contracted solid waste hauler indefinitely pursuant to exceptions allowed under FMC Section 6-206.

### Fire Department

The Fire Department offers a full range of services including fire prevention, suppression, emergency medical care, hazardous materials, urban search and rescue response, as well as emergency preparedness planning and public education coordination within the Fresno City limit, in addition to having mutual aid agreements with the Fresno County Fire Protection District and the City of Clovis Fire Departments.

The Fire Department understands that, as future development occurs, the water main in North Hayes Avenue, south of West Ashlan Avenue will be completed as a condition of said development.

### Police Department

The Fresno Police Department has examined the proposed annexation area and based on the relatively small amount of law enforcement-related calls for service experienced by the Fresno County Sheriff's Department over the previous two years, the Fresno Police Department can adequately service this area.

## **Streets and Access Points**

### Vehicle Miles Traveled (VMT)

Senate Bill (SB) 743 requires that relevant CEQA analysis of transportation impacts be conducted using a metric known as vehicle miles traveled (VMT) instead of Level of Service (LOS). VMT measures how much actual auto travel (additional miles driven) a proposed project would create on California roads. If the project adds excessive car travel onto our roads, the project may cause a significant transportation impact.

The State CEQA Guidelines were amended to implement SB 743, by adding Section 15064.3. Among its provisions, Section 15064.3 confirms that, except with respect to transportation projects, a project's effect on automobile delay shall not constitute a significant environmental impact. Therefore, LOS measures of impacts on traffic facilities is no longer a relevant CEQA criteria for transportation impacts.

CEQA Guidelines Section 15064.3(b)(4) states that "[a] lead agency has discretion to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project's vehicle miles traveled and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate used to estimate vehicle miles traveled and any revision to model outputs should be documented and explained in the environmental document prepared for the project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section."

On June 25, 2020, the City of Fresno adopted CEQA Guidelines for Vehicle Miles Traveled Thresholds, pursuant to Senate Bill 743 to be effective as of July 1, 2020. The thresholds described

therein are referred to herein as the City of Fresno VMT Thresholds. The City of Fresno VMT Thresholds document was prepared and adopted consistent with the requirements of CEQA Guidelines Sections 15064.3 and 15064.7. The December 2018 Technical Advisory on Evaluating Transportation Impacts in CEQA (Technical Advisory) published by the Governor's Office of Planning and Research (OPR), was utilized as a reference and guidance document in the preparation of the Fresno VMT Thresholds.

The City of Fresno VMT Thresholds Section 3.0 regarding Project Screening discusses a variety of projects that may be screened out of a VMT analysis including specific development and transportation projects. For development projects, conditions may exist that would presume that a development project has a less than significant impact. These may be size, location, proximity to transit, or trip-making potential. For transportation projects, the primary attribute to consider with transportation projects is the potential to increase vehicle travel, sometimes referred to as "induced travel."

The City of Fresno VMT Thresholds Section 3.1 regarding Development Projects states that if a project constitutes a General Plan Amendment or a Rezone, none of the screening criteria may apply, and that the City must evaluate such projects on a case-by-case basis. The proposed project includes an Annexation and Pre-zone with no proposed development or construction.

The proposed project is eligible to screen out because there is no development project proposed and all existing traffic impacts would not change.

### **Land Use Plans and Policies**

The project is consistent with the following Fresno General Plan goals and objectives related to land use and the urban form:

- Emphasize the City as a role model for good growth management planning, efficient processing and permit streamlining, effective urban development policies, environmental quality, and a strong economy. Work collaboratively with other jurisdictions and institutions to further these values throughout the region.

This goal contributes to the establishment of a comprehensive city-wide land use planning strategy to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment in accordance with Objective LU-1 of the Fresno General Plan.

Policy LU-1-e calls for adopting implementing policies and requirements that achieve annexations to the City that conform to the General Plan Land Use Designations and open space and park system, and are revenue neutral and cover all costs for public infrastructure, public facilities, and public services on an ongoing basis consistent with the requirements of ED-5-b.

Policy PU-3-h calls for developing annexation strategies to include the appropriate rights-of-way and easements necessary to provide cost effective emergency services.

The proposed annexation will conform to the current planned land use designations of the Fresno General Plan and West Area Community Plan, and all appropriate rights-of-way will be incorporated to provide cost effective emergency services.

Therefore, it is staff's opinion that the proposed project is consistent with respective general and community plan objectives and policies and will not conflict with any applicable land use plan, policy or regulation of the City of Fresno.

## Neighborhood Meetings

Two neighborhood meetings were held to discuss the proposed annexation on November 28, 2023, and December 4, 2023 between 6:00 and 7:30 p.m. at the Justin Garza High School Campus Mall.

The neighborhood meeting held on November 28, 2023, had approximately 15 adults and 3 children in attendance. The neighborhood meeting on December 4, 2023 had approximately 20 adults in attendance. Concerns that were heard from the residents and property owners of the annexation area included the following with City and LAFCO staff responses:

1. What is the approximate length of time for the area to be annexed by the Fresno Local Area Formation Commission (LAFCO) and is there an opportunity for protesting the annexation?

*Staff Response: The approximate length of time for an area to be annexed after an application for annexation has been submitted and accepted by LAFCO is between three (3) and four (4) months. The opportunity for protesting occurs after approval by the LAFCO Commission, although public testimony during the City's Planning Commission and City Council hearings, as well as public testimony during LAFCO's Commission hearing can be included in final decisions by each. Protests shall be consistent with LAFCO requirements as it relates to registered voters and/or property owners.*

2. What is the process for the City to purchase property in the annexation area?

*Staff Response: If the City were to purchase right-of-way, it would be based on the appraised value of the land.*

3. Are there any property frontage improvements the City is required to complete if the annexation is approved?

*Staff Response: Frontage improvements, including but not limited to curb, gutter, sidewalk and landscaping, are not required upon annexation. Improvements would be required at such time as a new development proposal of property is proposed.*

4. What happens when connections to water and/or sewer are required, and the property owner does not have the money to pay for those connections at that time?

*Staff Response: If the property owner does not have money to pay for connections to City utilities at the time they are required, the Department of Public Utilities has a 15-year loan assistance program.*

5. What happens with the animals that property owners currently have after annexation occurs?

*Staff Response: Animals are allowed to be kept on the property after annexation occurs pursuant to Section 15-1606 (ANX Overlay District) of the Fresno Municipal Code. As long as*

*the number and type of animals were legal in the County at the time of annexation, then that property can continue to keep the same number of animals on their property upon annexation.*

6. Do septic tanks have to be removed after annexation?

Staff Response: *No, although once sewer connections are available to properties in the annexation area, after three (3) years of availability septic tanks will be required to be abandoned and back-filled.*

## Notice of City Council Hearing

The Planning and Development Department mailed notices of this City Council hearing to all surrounding property owners within 1,000 feet of the subject annexation/pre-zone area, and additionally all tenants and property owners within the subject annexation/pre-zone area, pursuant to Section 15-5007 of the FMC (**Exhibit G**).

## ENVIRONMENTAL FINDINGS

An environmental assessment initial study was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations.

Preparation of the environmental assessment necessitated a thorough review of the proposed project and relevant environmental issues and considered previously prepared environmental and technical studies pertinent to the West Area Community Plan area, including the Fresno General Plan Program Environmental Impact Report SCH No. 2019050005 ("PEIR"). These environmental and technical studies have examined projected sewage generation rates of planned urban uses, the capacity of existing sanitary sewer collection and treatment facilities, and optimum alternatives for increasing capacities; groundwater aquifer resource conditions; water supply production and distribution system capacities; traffic carrying capacity of the planned major street system.

The Planning and Development Department proposes to adopt a Mitigated Negative Declaration for the proposed project. It has been determined that all applicable mitigation measures of the Project Specific Mitigation Monitoring Checklist have been applied to the project as necessary to assure that the project will not cause significant adverse cumulative impacts, growth impacts and irreversible significant effects. It has been determined based upon the evidence in the record that the project will not have a significant impact on the environment and that the filing of a mitigated negative declaration is appropriate in accordance with the provisions of CEQA Guidelines Section 15168(d).

Based upon the attached environmental assessment and applicable mitigation measures, staff has determined that there is no evidence in the record that the project may have a significant effect on the environment and has prepared a Mitigated Negative Declaration for this project. A public notice of the attached Mitigated Negative Declaration for Environmental Assessment Application No. P23-03757/P23-03758 (**Exhibit H**) was published in the Fresno Bee on November 10, 2023, with no comments received to date.

## FRESNO MUNICIPAL CODE FINDINGS



Based upon analysis of the applications, staff concludes that the required findings contained within Section 15-6104 et seq. of the Fresno Municipal Code. These findings are attached as **Exhibit F**.

## **CONCLUSION**

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan and the West Area Community Plan; compliance with the provisions of the FMC; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment and exhibits. Staff concludes that the required findings contained within Section 15-6104 of the FMC can be made. Upon consideration of this evaluation, it can be concluded that the proposed applications are appropriate for the project site.

## **LOCAL PREFERENCE**

Local preference was not considered because this project does not include a bid or award of a construction or service contract.

## **FISCAL IMPACT**

Affirmative action by the Council will result in timely delivery of the review and processing of the applications as is reasonably expected by the applicant. Prudent financial management is demonstrated by the expeditious completion of these land use applications.

### **Attachments:**

- Exhibit A - Aerial Map
- Exhibit B - Vicinity Map
- Exhibit C - Fresno General Plan Land Use Map
- Exhibit D - Proposed Annexation Exhibit
- Exhibit E - Proposed Pre-zone Exhibit
- Exhibit F - Fresno Municipal Code Findings
- Exhibit G - Public Hearing Notice Radius Map
- Exhibit H - Environmental Assessment No. P23-03757/P23-03758 [11-10-2023]
- Exhibit I - Tax Sharing Agreement
- Exhibit J - Planning Commission Resolution No. 13824 [Annexation Application No. P23-03757]
- Exhibit K - Planning Commission Resolution No. 13825 [Pre-zone Application No. P23-03758]
- Exhibit L - City Council Resolution for Annexation Application No. P23-03757
- Exhibit M - City Council Ordinance Bill for Pre-zone Application No. P23-03758