

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

April 9, 2008 (Agenda)

LAFCO 08-04: Annexation 313 (Nove) to West County Wastewater District (WCWD)

PROPONENT: WCWD by resolution adopted June 19, 2007

ACREAGE &
LOCATION Approximately 29.54 acres located at the southeast corner of Pittsburg Avenue and Richmond Parkway in unincorporated North Richmond (APNs 408-170-072 and 408-180-010)

SYNOPSIS

The District has filed an application with LAFCO to annex the property to WCWD. The purpose of the annexation is to extend sanitary sewer service to the site. The improvement plans and Final Tract Map are currently being processed through Contra Costa County for a 370-unit residential development on the property.

DISCUSSION

The CKH Act sets forth factors that the Commission is required to consider in evaluating any proposed change of organization or reorganization as discussed below (Government Code §56668). In your Commission's review and evaluation, no single factor is determinative. In reaching your decision, each is to be evaluated within the context of the overall proposal.

1. Consistency with the Sphere of Influence of Any Local Agency:

LAFCO is charged with both regulatory and planning functions. Annexations are basically a regulatory act, while establishing spheres of influence (SOIs) is a planning function. The SOI is an important benchmark as it defines the primary area within which urban development is to be encouraged. In order for the Commission to approve an annexation, it must be consistent with the jurisdiction's adopted SOI.

The site is within the District's SOI and within the County Urban Limit Line.

2. Land Use, Planning and Zoning - Present and Future:

The annexation area is currently vacant. Historically, the property has been used for a flower growing operation (Color Spot). In 2006, the County approved a General Plan Amendment redesignating the site to Multiple Family Residential – Medium Density; and approving a Preliminary and Final Development Plan to construct 370 residential units.

The area proposed for annexation is zoned Planned Unit Development (P-1).

Surrounding land uses include industrial to the east, industrial and public/semi-public to the north, public/semi-public to the west, and watershed (Wildcat Creek) to the south.

The proposed uses are consistent with the County's land use and zoning designations.

3. The Effect on Maintaining the Physical and Economic Integrity of Agricultural Lands:

The site is located in an area designated for urban uses. The previous agricultural uses on the site were discontinued and relocated to a more economically favorable location prior to the County's adoption of the current P-1 zoning and approval of the tentative map. Agricultural activities on the site are no longer considered economically viable even though soils and climate in the area have historically been conducive to such uses. Hence, there is no impact to agricultural lands. There are no current Williamson Act Land Conservation Agreements within the site.

4. Topography, Natural Features and Drainage Basins:

The topography is generally flat with a gentle slope from east to west. Existing site drainage is overland and drains to an existing ditch along the westerly boundary, which discharges to the existing storm drains on Pittsburg Avenue.

Wildcat Creek is adjacent to the site, and is used for flood control purposes. No other significant natural features are located on the site.

5. Population:

The site is currently vacant. The proposed development will provide 370 new residential units and result in an estimated population of approximately 1,000 persons.

6. Fair Share of Regional Housing:

Pursuant to §56668 of the CKH Act, LAFCO must consider in the review of a proposal the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. Regional housing needs are determined by the State Department of Housing and Community Development; the councils of government throughout the State allocate to each jurisdiction a "fair share" of the regional housing needs (Government Code §65584).

In Contra Costa County, the Association of Bay Area Governments (ABAG) determines each city's fair share of regional housing needs. Each jurisdiction is required in turn to incorporate its fair share of the regional housing needs into the housing element of its General Plan. ABAG is currently working with local government on the fourth revision of its Regional Housing Needs Allocations (RHNA) for the period 2006-14, which are expected to be finalized by June 30, 2008.

This proposed development of 370 residential units will include 120 2-story townhomes, 110 2-story cluster homes, and 140 condominiums (both 1 and 2 story). According to the County, of these units, 57 will be affordable units.

7. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

In accordance with Government Code §56653, whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall also submit a plan for providing services within the affected territory. The plan shall include all of the following information and any additional information required by the Commission or the Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.
- (2) The level and range of those services.
- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

The "Plan for Providing Services Within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The property is currently served by Contra Costa County Fire Protection District (fire service) and East Bay Municipal Utility District (EBMUD) provides water service. The County provides most other municipal services to the site.

The proposal before the Commission is to annex the property to WCWD for the provision of sanitary sewer service, including collection, treatment and disposal.

WCWD's wastewater collection system consists of 242.3 miles of gravity pipeline with 18 pump stations. The District's Water Pollution Control Plant has a design capacity of 12.5 million gallons per day (mgd) and average dry weather flow of 7.9 mgd.

The District estimates that the 370-unit project will generate an average of 270 gallons per day (gpd) per household, or 100,000 gpd for 370 homes (an average of 70 gallons per minute per day). The estimated peak flow is approximately four times this amount, or 280 gallons per minute.

The District has indicated that it is able and willing to serve the proposed development. It is estimated that service will be needed in Spring of 2008.

With regard to infrastructure and improvements, the District has a 30-inch sanitary sewer main line on the north side of the property (Pittsburg Avenue). There is a trunk line on Garden Tract Road, which conveys sewage to the wastewater treatment plant.

Service to the site will be connected to the existing main on Pittsburg Avenue. New sewer mains will be installed on the site and will consist of approximately 4,875 linear feet of 8-inch pipes and 3,940 linear feet of 12-inch pipes. The condominiums will have 20 4-inch sanitary

sewer laterals and 40 6-inch sanitary sewer laterals; the townhomes will have 120 4-inch laterals; and the cluster homes will have 110 4-inch laterals.

The proposed development will require the widening of Pittsburg along the project frontage. New streets and utility infrastructure will be constructed on-site to service the new development. With regard to funding, revenue will be generated through a combination of sources including one-time sewer connection fees and the District's annual sewer use charge and developer fees.

8. Timely Availability of Water and Related Issues:

EBMUD provides water service to the site. It is estimated that the project will generate approximately 300 gallons per day per unit, or a total of 111,000 gallons per day. Water service will be provided in accordance with the District's Regulations Governing Water Service to Customers of EBMUD. The property is located in the EBMUD Central Pressure Zone which serves an elevation of 0 to 100 feet. The project site will be served from the existing Central Pressure Zone with a capacity of approximately 79 million gallons. There is sufficient water supply available for this property, and it is included in the District's long range planning for the area. Costs associated with providing water service to the site will be funded by the applicant, and an agreement has been executed to provide the needed pipelines and infrastructure.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 85084. The assessed value is \$4,796,960 (2007-08 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

In 2006, the County, as Lead Agency, prepared a Mitigated Negative Declaration for the project.

The environmental document identifies potential impacts to most environmental topic areas, including aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality from the site development. Mitigation measures were adopted that will reduce potentially significant impacts to a level of less than significant. A copy of this document is available for review in the LAFCO office.

11. Landowner Consent and Consent by Annexing Agency:

The landowners and District consent to the boundary change and waiver of conducting authority proceedings. The territory is uninhabited with fewer than 12 registered voters.

12. Boundaries and Lines of Assessment:

The annexation is contiguous to existing District boundaries. A map and legal description to implement this change have been received and are being reviewed by the County Surveyor.

13. Environmental Justice:

Beginning January 1, 2008, Government Code §56668(o) requires that LAFCO consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following options:

Option 1

Approve the annexation as submitted.

- A. Determine that the County as lead agency has prepared and certified a Mitigated Negative Declaration for the project.
- B. Adopt this report and approve the proposal, to be known as the Annexation 313 (Nove) to the West County Wastewater District, subject to the following terms and conditions:
 - 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
 - 2. Prior to recordation, the District shall deliver an executed indemnification agreement providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find: 1) the subject territory is uninhabited, 2) all affected landowners have consented to the annexation and 3) the annexing agency has consented to the waiver of conducting authority proceedings.
- D. Waive the conducting authority proceedings and direct the staff to complete the proceeding.

Option 2

- A. Determine that the County as lead agency has prepared and certified a Mitigated Negative Declaration for the project.
- B. Adopt this report and DENY the proposal.

Option 3 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:

Approve Option 1.

LOU ANN TEXEIRA
EXECUTIVE OFFICER
LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 08-04

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
ANNEXATION 313 (NOVE) TO THE WEST COUNTY WASTEWATER DISTRICT**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, information satisfactory to the Commission has been presented that all the owners of land within the affected territory have given their written consent to the proposal; and

WHEREAS, the annexing agency has consented to waiving the conducting authority proceedings; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interests of the affected area and the total organization of local governmental agencies within Contra Costa County;

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. Determine that the County as lead agency has prepared and adopted a Mitigated Negative Declaration for the project.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

ANNEXATION 313 (NOVE) TO THE WEST COUNTY WASTEWATER DISTRICT

4. Said territory is found to be uninhabited.
5. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
6. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.

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7. Prior to recordation, the District shall deliver an executed indemnification agreement between the District and Contra Costa LAFCO providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
8. Satisfactory proof having been given that all landowners have given their written consent to the proposal and the annexing agency has given written consent to the waiver of conducting authority proceedings, said conducting authority proceedings are hereby waived.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

* * * * *

PASSED AND ADOPTED THIS 9th day of April 2008, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROB SCHRODER, CHAIR, CONTRA COSTA LAFCO

I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.

Dated: April 9, 2008

Lou Ann Texeira, Executive Officer