

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

April 9, 2008 (Agenda)

LAFCO 08-02: Walton Annexation to the City of Concord

PROPONENTS: Bruce and Jo Ann Walton – landowners/petitions

ACREAGE & LOCATION Approximately 0.45 acres located at 5137 Laurel Drive in unincorporated Concord (APN 117-040-008)

PURPOSE: Provide municipal services to the property

SYNOPSIS

The property owners have petitioned LAFCO to annex their property to the City of Concord.

In October 2007, the City requested, and received approval from, LAFCO to extend sewer service to the Walton property through an out of agency service agreement. As part of the out of agency service request, the Waltons signed a pre-annexation agreement.

The Cortese Knox Hertzberg Act (CKH Act) restricts out of agency service to matters involving an immediate or impending health and safety threat, and in anticipation of a future annexation. Thus, the Commission conditioned approval of out of agency service upon the Walton property being annexed to the City within a specified period of time.

The Walton property is located in the Ayres Ranch area, which is an unincorporated island, completely surrounded by the City of Concord. LAFCO encourages the City of Concord to annex this island to provide for a logical boundary, enhance service efficiency, and for other reasons as set forth in the CKH Act. The island issue was also discussed in LAFCO's recently completed *Central County Water/Wastewater Municipal Services Review*.

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 City of Concord's SOI and within the County Urban Limit Line.

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

The annexation area currently contains a single family residence. No development is proposed.

The area proposed for annexation is rezoned for rural residential use. City and County General Plans designate the site for Single Family Residential. No change in land use is proposed.

Surrounding land uses include rural residential to the east and west, public/quasi-public to the north, and low density residential to the south.

The current and proposed uses are consistent with the City's land use and rezoning designations.

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

The site is located in an area designated for residential and public/quasi-public uses. 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 site and surrounding areas are generally flat with no significant natural features.

5. Population:

Pursuant to the CKH Act, the proposal territory is uninhabited as it contains fewer than 12 registered voters. Due to the nature of the proposal, no increase in population will result.

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.

The proposal does not include plans for changing or developing any land in the annexation area.

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 City's "Plan for Providing Services Within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The City has indicated that it is able and willing to serve the property. The level and range of services, including road maintenance and police services, will be similar to those provided by the City and to similar properties currently within the City's boundaries. Costs associated with serving the site will be borne by the City.

8. Timely Availability of Water and Related Issues:

The Walton property currently receives water from the Contra Costa Water District. No change in water service is proposed.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 79036. The assessed value is \$129,308 (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:

The City, as Lead Agency, finds the proposal categorically exempt from the California Environmental Quality Act (CEQA) pursuant to §15303(d).

The LAFCO Environmental Coordinator reviewed the proposal and has determined that there are no proposed changes in land use or other environmental impacts related to this approval. Therefore, the proposal is exempt from CEQA pursuant to Government Code §15061(b)(3).

11. Landowner Consent and Consent by Annexing Agency:

The landowners and City consent to the boundary changes and waiver of conducting authority proceedings. The territory is uninhabited; namely, there are fewer than 12 registered voters.

12. Boundaries and Lines of Assessment:

The annexation is contiguous to existing City 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.

14. Request for Waiver of LAFCO Processing Fee

The Waltons and Supervisor Bonilla have submitted letters requesting that the Commission waive the LAFCO fee associated with processing the annexation application (attached) due to financial hardship. The LAFCO annexation processing fee is \$2,765.

The property owner previously paid the out of agency service fee to LAFCO (\$3,400).

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. Find the proposal to be exempt from CEQA pursuant to Government Code §15061(b)(3).
- B. Adopt this report and approve the proposal, to be known as the Walton Annexation to the City of Concord, 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 applicant shall deliver an executed indemnification agreement providing for the applicant 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. Find the proposal to be exempt from CEQA pursuant to Government Code §15061(b)(3).
- B. Adopt this report and DENY the proposal.

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

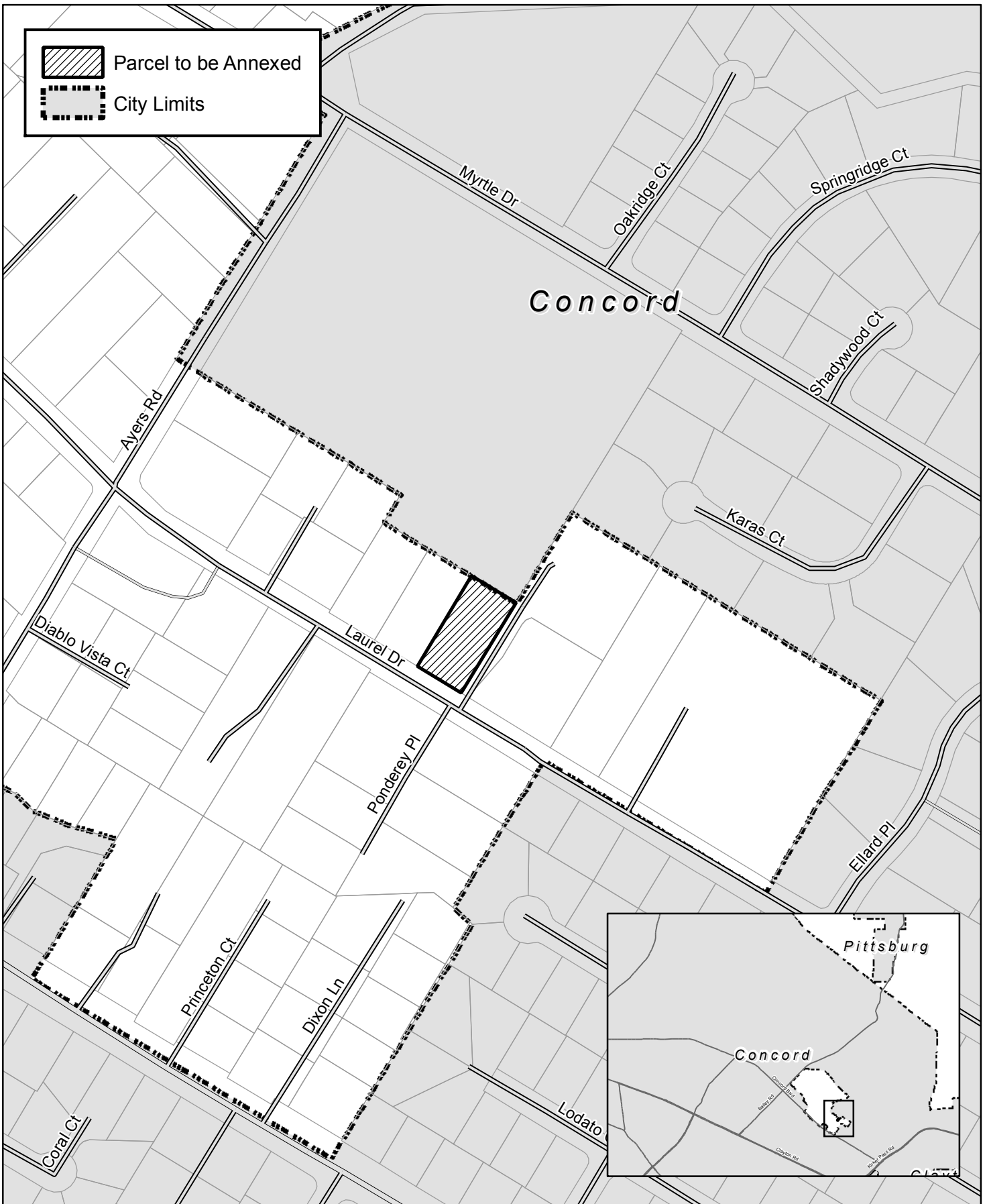
RECOMMENDED ACTION:

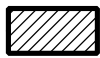

Consider the Waltons' request to waive the LAFCO application processing fee and provide direction to staff.

Approve Option 1.

LOU ANN TEXEIRA
EXECUTIVE OFFICER
LOCAL AGENCY FORMATION COMMISSION

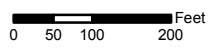
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 Parcel to be Annexed
 City Limits

Map created 2/11/2008
by Contra Costa County Community Development, GIS Group
651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095
37-59-48.455N 122-06-35.384W

This map was created by the Contra Costa County Community Development Department with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.



RESOLUTION NO. 08-02

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING THE WALTON ANNEXATION TO THE CITY OF CONCORD

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 times 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 agencies have consented to waiving the conducting authority proceedings; and

WHEREAS, the Local Agency Formation Commission finds 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. The Commission determines that the project is exempt from CEQA pursuant to Government Code §15061(b)(3).
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

WALTON ANNEXATION TO THE CITY OF CONCORD
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 existing bonded indebtedness of the annexing agencies, if applicable.
7. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.

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- 8. Prior to recordation, the applicant shall deliver an executed indemnification agreement between the applicant and Contra Costa LAFCO providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the reorganization.
- 9. Satisfactory proof having been given that all landowners have given their written consent to the proposal and the annexing agencies have given written consent to the waiver of conducting authority proceedings, said conducting authority proceedings are hereby waived.
- 10. 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