

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

July 9, 2008 (Agenda)

LAFCO 08-22 City of Concord - Out of Agency Service Agreement (5107 Laurel Drive)

RECOMMENDATION Authorize the City to extend sewer service outside of its boundaries and within its sphere of influence (SOI) to a 0.75± acre parcel located at 5107 Laurel Drive in the unincorporated Concord area (APN 117-040-037).

ANALYSIS

1. LAFCO Approval is Required
State law requires LAFCO review and approval of boundary changes and extensions of service without boundary changes.

Specifically, Government Code §56133 states that “A city or district may provide new or extended services by contract or agreement outside of its jurisdictional boundaries only if it first requests and receives written approval from the Commission.”

Further, the law provides that the Commission may authorize a city or district to provide new or extended services: a) outside its jurisdictional boundaries but within its SOI in anticipation of a later change of organization; or b) outside its jurisdictional boundaries and outside its SOI to respond to an existing or impending threat to the public health or safety.

The City’s application meets the above criteria as it is located outside the City’s boundary, and within the SOI, and in response to an existing or impending threat to the health and safety of the public, as discussed below.

2. Request by City of Concord
The City requests authorization to provide sewer services outside of its boundaries and within its SOI to property located at 5107 Laurel Drive in the unincorporated Concord area.

The service is proposed in order to serve an existing single-family residential dwelling unit.

Historically, the City has provided sewer service to unincorporated areas outside the City boundaries and to the City of Clayton based on a 1964 City Council Resolution No. 2423, which established an “ultimate sewerage service boundary.” The City resolution indicates that said boundary shall subsequently be approved by the Board of Supervisors and LAFCO; however, neither the County nor LAFCO have a record of such action.

Further, LAFCO law relating to out of agency service has changed significantly since 1964. In 1994, a provision was added to the Government Code requiring local agencies to receive approval from LAFCO to extend municipal services outside their jurisdictional boundary (Government Code §56133).

3. Existing Commission Policy Regarding Out of Agency Services

The Commission's current policy regarding out of agency service is consistent with State law in that annexations to cities and special districts are generally preferred for providing public services. However, there may be situations where health and safety, emergency service, or other concerns, warrant out of agency service.

Out of agency service agreements are a temporary measure, typically considered in response to an existing or impending public health and safety threat (e.g., failing septic system); or when annexation is not immediately feasible, and in anticipation of a future annexation.

The City indicates that the property owner's septic tank has failed and is spilling out into surrounding areas. Further, the property owner indicates that the adjacent school and neighbors have complained to him regarding the overflow and odor.

On June 26, 2008 County Environmental Health staff provided communication to LAFCO indicating that a "drain field problem" was observed. County staff indicates that property has experienced ongoing septic system problems, and they have complaints dating back 7-8 years. County staff has advised the property owner to connect to municipal sewer and apply for a septic tank abandonment permit. Connection to an existing public sewer line is less than 100 feet from the subject property.

The area proposed for service (Laurel Place) is located in a 189-acre island, which is completely surrounded by the City of Concord. The elimination of islands results in more logical and orderly boundaries, eliminates service confusion and inequities, and enhances the level of municipal services to the area. LAFCO urges the City to annex this island. LAFCO staff is currently working with City and County staff regarding the possible annexation of this area.

4. Agreement Consenting to Annex

Whenever affected property may ultimately be annexed to an agency providing services by an out of agency service agreement, a standard condition is to require the landowner to record an agreement consenting to annex the territory. The property owner has submitted a notarized agreement consenting to the future annexation of the parcel.

5. Impact on Planning and Land Use

The project site is located in a pocket of unincorporated land surrounded by the City of Concord. The property is surrounded by residential development, beyond which is the Concord Naval Weapons Station to the east.

Current land use on the site consists of a single-family residence.

The utility services to be provided by the City will not facilitate a change of land use. The City indicates that approximately 70 linear feet of 4-inch sewer lateral will be connected to the City's sewer main on Ayres Road. The sewer system is a gravity flow system.

6. Environmental Impact of the Proposal

The City of Concord, as Lead Agency, indicates that the proposed sewer extension is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to §15303(d) – "New construction or conversion of small structures."

The LAFCO Environmental Coordinator reviewed the proposal to provide sewer service to the site. There are no proposed changes in land use or other environmental impacts related to this approval. Therefore, the proposed project is exempt from CEQA pursuant to Government Code §15061(b)(3).

ALTERNATIVES FOR COMMISSION ACTION:

- Option 1** Approve the request for out of agency service.
- A. Find the proposal to be exempt from CEQA pursuant to Government Code §15061(b)(3).
 - B. Authorize the City of Concord to extend sewer service outside the City's boundary to the existing single family residential dwelling unit located at 5107 Laurel Drive in the unincorporated Concord area.
- Option 2** Deny the request, thereby prohibiting the City from providing sewer service to the site prior to annexation.
- Option 3** Continue this matter to a future meeting in order to obtain more information.

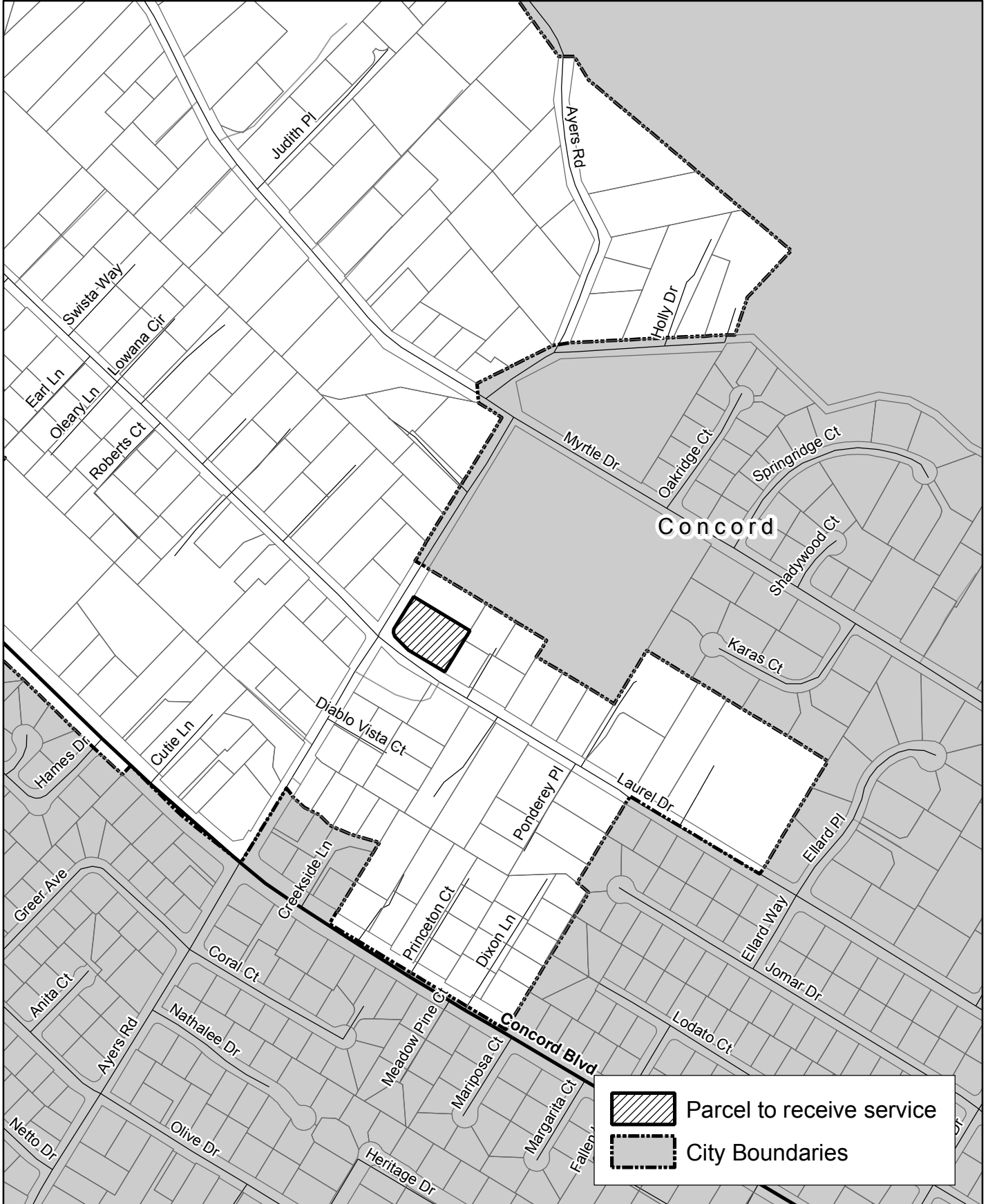
RECOMMENDED ACTION:

Approve Option 1.

LOU ANN TEXEIRA
EXECUTIVE OFFICER
LOCAL AGENCY FORMATION COMMISSION

c: Distribution

LACFO No. 08-22: City of Concord Out of Area Service Agreement (5107 Laurel Drive)



RESOLUTION NO. 08-22

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING THE CITY OF CONCORD TO
PROVIDE OUT-OF-AGENCY SERVICES to 5107 LAUREL DRIVE

WHEREAS, the above-referenced request 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 this request, and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this request including, but not limited to, the Executive Officer's report and recommendation, and

WHEREAS, the project approval is needed to comply with a sewage disposal deficiency, and

WHEREAS, the property owner has signed a pre-annexation agreement consenting to a future annexation of the property to the City of Concord, and

WHEREAS, there is no potential for significant adverse environmental impacts.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Contra Costa Local Agency Formation Commission as follows:

- (1) The proposal is exempt from CEQA pursuant to Government Code §15061(b)(3).
- (2) The City of Concord is hereby authorized to extend City wastewater services outside of the City to the existing single family residential unit located at 5107 Laurel Drive in the unincorporated Concord area (APN 117-040-037).
- (3) Approval to extend City wastewater services beyond those specifically noted herein is withheld and is subject to future LAFCO review.

* * * * *

PASSED AND ADOPTED THIS 9th day of July 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 above

Dated: July 9, 2008

Lou Ann Texeira, Executive Officer