

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

June 12, 2019 (Agenda)

July 10, 2019
Agenda Item 8

LAFCO 18-03 Sphere of Influence (SOI) Amendments – City of El Cerrito (Expansion) and City of Richmond (Reduction)

APPLICANT Kevin Wang - Landowner

PURPOSE The City of El Cerrito has approved a mixed-use development project that encompasses two parcels which are separated by the jurisdictional boundary lines of the cities of El Cerrito and Richmond. The project is a five-story building with ground floor commercial, off-street parking and 50 residential units. The two cities have a process to address development projects that straddle city boundaries. The City of El Cerrito is the lead agency on this project.

The landowner has applied to LAFCO to bring the Richmond parcel into the City of El Cerrito's SOI and service area to ensure a more logical and orderly boundary.

ACREAGE & LOCATION The proposal would expand the City of El Cerrito's SOI by 0.07± acres and reduce the City of Richmond's SOI by the same acreage. The subject area involves one parcel (APN 509-110-017) and is located on Jefferson Avenue in the City of Richmond. The subject area is within the Contra Costa County Urban Limit Line (ULL) - see attached map (Exhibit A). The landowner also submitted a corresponding proposal to annex the same parcel to the City of El Cerrito and detach the parcel from the City of Richmond.

BACKGROUND In 2014, the City of El Cerrito adopted the San Pablo Avenue Specific Plan (SPASP) which provides guidance for the future development along a stretch of San Pablo Avenue. The SPASP provides the basis for future development of 1,706 residential units, and 243,112 square feet of commercial space. In adopting the SPASP, the City of El Cerrito certified an EIR that addressed the environmental effects anticipated to result from implementation of the SPASP. In accordance with the SPASP, the City of El Cerrito is the jurisdiction with the regulatory control, and has been coordinating with the City of Richmond regarding this proposal.

DISCUSSION The Cortese-Knox-Hertzberg Act (CKH Act) empowers LAFCO with the responsibility for developing and determining the SOI of each local agency within the County, and for enacting policies designed to promote the logical and orderly development of areas within the spheres.

An SOI is defined as *a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO*. The intent of an SOI is to identify the most appropriate area for an agency's extension of services in the foreseeable future (e.g., 10-20-year horizon). Accordingly, territory included in an agency's SOI is an indication that the probable need for service has been established, and that the subject agency has been determined by LAFCO to be the most logical service provider for the area.

Pursuant to Government Code section 56425, when amending an SOI for a local agency, LAFCO is required to consider and prepare a written statement of determinations with respect to the following:

1. ***The present and planned uses in the area, including agricultural and open space lands*** – The existing land use includes a one-story retail building and surface parking. The current zoning designations include TOM-IMU (Transit Oriented Mid-Intensity Mixed Use) - City of El Cerrito, and RM-1 (Medium Density Multi-Family Residential) - City of Richmond; and the General Plan designations include TOM-IMU - City of El Cerrito, and Medium Density Residential - City of Richmond. The proposed SOI amendments and pending boundary changes are consistent with the land use designations and will have no impact on agricultural and open space lands.
2. ***The present and probable need for public facilities and services in the area*** – The proposed development includes commercial use, parking, 50 residential units, and related amenities. The project site currently receives a full range of municipal services including water, sewer, fire, streets/roads, drainage, and other urban services. Should the subject property be detached from the City of Richmond and annexed to the City of El Cerrito, the City of El Cerrito will assume the provision of municipal services to the combined project site. The applicant has provided a Plan for Providing Services as part of the boundary change proposal.
3. ***The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide*** – Following the SOI amendment and annexation of the subject parcel to the City of El Cerrito, the City will be required to provide services to the property, including police, fire, streets/roads, and other city services. The recently completed LAFCO *City Services* Municipal Services Review (MSR) notes that “the City of El Cerrito has financial challenges due to unfunded mandates and regulatory requirements, tax limitation measures, and unfunded pension liability. These challenges may impact the City’s ability to maintain existing service levels and meet infrastructure needs. Further, the MSR indicates that the City’s ability to accommodate infrastructure expansion, improvements, or replacement over the next five years may be compromised absent the identification of additional funding opportunities.” *The MSR recommends that future annexation applications require that the City demonstrate its financial ability to provide services to the subject area.* The City has provided a letter indicating it is able and willing to serve the subject area (Attachment 1).
4. ***The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency*** – The subject area is adjacent to the City of El Cerrito and is part of the City’s future planning area.
5. ***For an update of a SOI a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing SOI*** – The City of El Cerrito provides fire service within the City’s existing boundary, and will provide fire service to the subject property following annexation. The subject area is not a disadvantaged community. However, there is an area along State Highway 123 and Potrero Avenue within the City’s boundary that is considered a disadvantaged community. This area receives fire service from the City of El Cerrito and receives municipal water and sewer services from other public agencies.

Environmental Impact of the Proposal – In 2014, the City of El Cerrito, as Lead Agency, prepared an Environmental Impact Report (EIR) in conjunction with the SPASP. Also, in 2018, the City prepared a consistency analysis confirming that the subject area and proposed development project are within the planning area of the SPASP, and would have no new significant environmental effects nor substantially increase the

severity of previously identified significant effects. Further, that no new mitigation measures are required beyond those identified in the SPASP EIR.

In conjunction with the SOI and boundary change proposals, the City of El Cerrito has determined that the inclusion of APN 509-110-017 within El Cerrito's SOI and the removal of the subject parcel from the City of Richmond and the corresponding proposed boundary changes (i.e., annexation, detachment) are actions that are exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15319 of the CEQA Guidelines and the general rule contained in Section 15061(b)(3).

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 actions:

Option 1 Adopt the resolution (Attachment 2) approving the proposed SOI changes including expanding the City of El Cerrito's SOI and reducing City of Richmond's SOI by $0.07 \pm$ acres (APN 509-110-017) as depicted on the attached map (Exhibit A).

- A. Determine that the proposed SOI amendments and subsequent boundary changes are exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15319 of the CEQA Guidelines and the general rule contained in Section 15061(b)(3), consistent with the determinations made by the City of El Cerrito.
- B. Adopt this report and amend the SOIs of the cities of El Cerrito and Richmond as described and shown on the attached map.

Option 2 Adopt this report and DENY the proposal.

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

RECOMMENDATION

Option 1 – Approve SOI changes

LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Exhibit A - Map – Proposed SOI Amendments

Attachment 1 – Will Serve Letter from City of El Cerrito

Attachment 2 - Draft LAFCO Resolution – City of El Cerrito SOI Expansion and City of Richmond SOI Reduction

c: Kevin Wang - Landowner
Sean Moss, Planning Manager, City of El Cerrito
Lina Velasco, Director of Planning and Building Services, City of Richmond
Kathy Truong, Wang Bros. Investments
Patrick Tami, R.E.Y. Engineers, Inc.
Chris Martin, R.E.Y. Engineers, Inc.

LAFCO 18-03 – SOI Amendments, El Cerrito & Richmond (Wang)





July 1, 2019

Lou Ann Texeira, Executive Officer
 Contra Costa County Local Agency Formation Commission
 651 Pine Street, 6th Floor
 Martinez, CA 94553

Dear Ms. Texeira:

As you are aware, the parcel located at 10963 San Pablo Avenue (APNs 509-110-015 and 509-110-017) straddles the city limits of the cities of El Cerrito and Richmond. The portion of the site currently in Richmond is approximately 3,092 square feet and the portion in El Cerrito is approximately 15,167 square feet. The site consists of one parcel that has been assigned two APNs by the Contra Costa County Assessor and is within the City of El Cerrito's San Pablo Avenue Specific Plan area. The San Pablo Avenue Specific Plan states that "parcels in both jurisdictions [El Cerrito and Richmond] shall be subject to the entitlement process of the jurisdiction in which it has the majority of its lot acreage." Accordingly, on May 2, 2018, the City of El Cerrito Design Review Board approved a project at the site consisting of a new 5-story building containing 50 residential units, 34 automobile parking spaces and approximately 3,000 square feet of commercial space. Upon acting to approve the project, the Design Review Board determined that the project was consistent with the Program Environmental Impact Report certified for the San Pablo Avenue Specific Plan, pursuant to CEQA Guidelines *Sections 15168(c) and 15182* and no further environmental analysis was required for the project.

Subsequent to the approval of the project, the property owner, Kevin Wang, submitted an application to the Contra Costa County Local Agency Formation Commission (LAFCO) to amend the spheres of influence of the cities of El Cerrito and Richmond and to detach APN 509-110-017 from the City of Richmond and to annex it to the City of El Cerrito.

The City of El Cerrito is willing and able to provide municipal services to the portion of the site which is currently within the City of Richmond (APN 509-110-017).

Further, the City of El Cerrito determines that the inclusion of APN 509-110-017 within El Cerrito's Sphere of Influence and the further detachment of APN 509-110-017 from the City of Richmond and annexation to the City of El Cerrito is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15319 of the CEQA Guidelines and the general rule contained in Section 15061(b)(3).

We appreciate LAFCO's recommendation of a Condition of Approval to the annexation action, that the applicant be required to fund a study to inform any revenue sharing agreement that the cities might enter into, as we previously discussed.

Please contact me with any questions or concerns.

Sincerely,



Sean Moss, AICP
Planning Manager

c: Karen Pinkos, City Manager, City of El Cerrito
Melanie Mintz, Community Development Director, City of El Cerrito

SPHERE OF INFLUENCE RESOLUTION NO. 18-03

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND EXPANDING THE SPHERE OF INFLUENCE (SOI) OF THE CITY OF EL CERRITO AND REDUCING THE SOI OF THE CITY OF RICHMOND

WHEREAS, a proposal to expand the SOI of the City of El Cerrito and reduce the SOI of the City of Richmond was filed with the Contra Costa Local Agency Formation Commission (LAFCO) pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56425); 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, SOIs and applicable General and Specific Plans and all testimony, correspondence and exhibits received during the public hearing, all of which are included herein by reference;

NOW, THEREFORE, the Contra Costa LAFCO DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. The matter before the Commission is the proposed expansion of the SOI of the City of El Cerrito and corresponding detachment from the City of Richmond's SOI of 0.07± acres (Assessor Parcel Number 509-110-017) located on Jefferson Avenue in the City of Richmond.
2. The Commission is a Responsible Agency under the California Environmental Quality Act (CEQA); and in accordance with CEQA, finds the project is exempt pursuant to CEQA Guidelines, Section 15319 and 15061(b)(3), consistent with the determination of the City of El Cerrito acting as Lead Agency.
3. The SOI of the City of El Cerrito is hereby expanded and the SOI of the City of Richmond is hereby reduced as depicted on the attached maps (Exhibit A and B).
4. The Commission has considered the criteria set forth in Government Code §56425 and determines as follows:

The present and planned uses in the area, including agricultural and open space lands

– The existing land use includes a one-story retail building and surface parking. The current zoning designations include TOM-IMU (Transit Oriented Mid-Intensity Mixed Use) - City of El Cerrito, and RM-1(Medium Density Multi-Family Residential) - City of Richmond); and the General Plan designations include TOM-IMU - City of El Cerrito and Medium Density Residential - City of Richmond. The proposed SOI amendments and subsequent boundary changes are consistent with the land use designations and will have no impact on agricultural and open space lands.

The present and probable need for public facilities and services in the area – The proposed development includes commercial use, parking, 50 residential units, and related amenities. The project site currently receives a full range of municipal services including water, sewer, fire, streets/roads, drainage, and other urban services. Should the subject property be detached from the City of Richmond and annexed to the City of El Cerrito, the City of El Cerrito will assume the provision of municipal services to the combined project site. The applicant has provided a Plan for Providing Services as part of the boundary change proposal.

The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide – Following the SOI amendment and

annexation of the subject parcel to the City of El Cerrito, the City will be required to provide services to the property, including police, fire, streets/roads, and other city services. The recently completed LAFCO *City Services Municipal Services Review (MSR)* notes that “the City of El Cerrito has financial challenges due to unfunded mandates and regulatory requirements, tax limitation measures, and unfunded pension liability. These challenges may impact the City’s ability to maintain existing service levels and meet infrastructure needs. Further, the MSR indicates that the City’s ability to accommodate infrastructure expansion, improvements, or replacement over the next five years may be compromised absent the identification of additional funding opportunities.” *The MSR recommends that future annexation applications require that the City demonstrate its financial ability to provide services to the subject area.* The City has provided a letter indicating it is able and willing to serve the subject area.

The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency – The subject area is adjacent to the City of El Cerrito and is part of the City’s future planning area.

For an update of a SOL a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing SOL – The City of El Cerrito provides fire service within the City’s existing boundary, and will provide fire service to the subject property following annexation. The subject area is not a disadvantaged community. However, there is an area along State Highway 123 and Potrero Avenue within the City’s boundary that is considered a disadvantaged community. This area receives fire service from the City of El Cerrito and also receives municipal water and sewer services from other public agencies.

* * * * *

PASSED AND ADOPTED THIS 10th day of July 2019, by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

TOM BUTT, 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 10, 2019

Lou Ann Texeira, Executive Officer