

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

January 13, 2021 (Agenda)

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Agenda Item 9

LAFCO 10-10 Annexation to Town of Discovery Bay Community Services District (TDBCSD) – Newport Pointe

APPLICANT Brenna Daugherty, Newport Pointe LLC, Landowner Representative

SYNOPSIS This is an application to annex two parcels (APNs 011-220-013/-014) to TDBCSD. The parcels total 21.64± acres and are located in the Town of Discovery Bay, an unincorporated community in east Contra Costa County- see Exhibit A.

The purpose of the proposal is to allow for the extension of municipal services, including water and wastewater, to the properties. Currently, the parcels are vacant. The applicant intends to build 67 single-family residential homes on the subject property along with dedicated open space/habitat conservation areas in accordance with the project as approved by Contra Costa County.

In 2010, the landowners applied to Contra Costa LAFCO to annex the subject properties to TDBCSD. The project was delayed and amended. In May 2020, the landowner filed updated sphere of influence (SOI) amendment and annexation applications with LAFCO. TDBCSD staff does not oppose the proposed annexation.

DISCUSSION

Government Code (GC) §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

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

The area proposed for annexation is within the SOI of TDBCSD as amended by the Commission on December 9, 2020.

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

The County General Plan designations for the site include Open Space, Parks & Recreation, Single Family Residential – Medium, and Single Family Residential – High. The County zoning designation for the subject parcels is Planned Unit (P-1). The project site was previously zoned for agricultural uses. In 2013, the County approved General Plan and zoning designations for the project site. The subject area is located within the voter approved Urban Limit Line.

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

The project site is currently vacant and zoned for residential development. The project site was previously zoned for agricultural uses. Surrounding land uses include medium density residential to the east, residential units on large agricultural parcels to the west, high density residential development to the north, and open field to the south. The subject parcels are not under a Williamson Act Land contract, and do not meet the LAFCO criteria for either "agricultural lands" (GC §56016) or "prime agricultural land" (GC §56064).

4. Topography, Natural Features and Drainage Basins:

The subject area is flat with no special features except for irrigation ditches and power lines.

5. Population:

The average household size in Discovery Bay is 2.95, with an average family size of 3.2. With 67 single family homes, the population estimate range is approximately 200 people. (Data source: US Census Bureau American Community Survey, 5-year estimates 2015-2019)

6. Fair Share of Regional Housing:

In its review of a proposal, LAFCO must consider 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. All 67 homes will be market rate and will add to the County's housing stock.

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

If a proposal for a change of organization or reorganization is submitted, the applicant shall also submit a plan for providing services within the affected territory (Gov. Code §56653). The plan for services is included with the application. The plan shall include all 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 annexation area is currently served by various local agencies including, but not limited to, Contra Costa County and East Contra Costa Fire Protection District.

TDBCSD provides water supply, sewage collection, treatment, and disposal; parks and recreation, lighting, landscaping, maintenance, and levee maintenance services to approximately 15,000 residents.

Regarding **wastewater**, the District's wastewater collection system consists of 50 miles of sewer mains, 15 lift stations, and two wastewater treatment plants; both plants are operational with one plant as a back-up. Maximum flow of both plants combined is 2.35 million gallons per day (mgd). Current demand is 1.4 mgd. The primary disposal method is secondary treatment, UV disinfection, and discharge into Old River.

The sewer connections are gravity flow to a single pump station. The new development will include a new pump station to flow into the existing system, thus increasing the system to 16 pump stations.

Based on the proposed development of 67 single-family residential units, the estimated demand for sewer service is approximately 230 gallons of wastewater per day (gpd) per house totaling 15,410 gpd. TDBCSD has infrastructure in the area and serves surrounding properties.

8. Timely Availability of Water and Related Issues:

Pursuant to the CKH, LAFCO must consider the timely and available supply of water in conjunction with a boundary change proposal. Contra Costa LAFCO policies state that any proposal for a change of organization that includes the provision of water service shall include information relating to water supply, storage, treatment, distribution, and waste recovery; as well as adequacy of services, facilities, and improvements to be provided and financed by the agency responsible for the provision of such services, facilities, and improvements.

Regarding **water service**, TDBCSD provides potable water services within its service area. Water infrastructure includes two water treatment plants (WTPs) that feed into one distribution system, four

water storage tanks, booster pumps, and 46 miles of mainland pipe. Storage capacity at the Willow Lake WTP is 1.5 MG and storage capacity at the Newport WTP is 1.0 MG. The primary source of water is through six groundwater supply wells, with mobile generators for backup power as needed. Discovery Bay groundwater is in the newly designated East Contra Costa Sub-basin (formerly called the Tracy Sub-basin).

Based on the proposed development of 67 single-family residential units, the estimated demand for service is approximately 1,196 gpd per house totaling 80,132 gpd. This water demand was accounted for in TDBCSD's 2015 Urban Water Management Plan (UWMP). The District anticipates completion of its 2020 UWMP by June 2021.

The project will include a water system of networks consisting of water mains, service laterals, and fire hydrants that will be constructed to the District's standards and sized to meet the domestic and fire safety demands of the Newport Pointe development project.

TDBCSD staff indicates they have the capacity to provide wastewater, water, and other municipal services to the project. Costs associated with wastewater and water infrastructure, including capital improvements, operation, and ongoing maintenance will be funded by the developer, homeowner's association, and TDBCSD.

9. Assessed Value, Tax Rates, and Indebtedness:

The annexation area is within tax rate area 60013. The assessed value for the annexation area is \$933,238 (2019-20 roll). The territory being annexed shall be liable for all authorized or existing taxes and bonded debt comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

In 2013, Contra Costa County, as Lead Agency, prepared and approved an Initial Study/Mitigated Negative Declaration (IS/MND) in conjunction with the Newport Pointe project. The environmental factors potentially affected by this project include Air Quality, Aesthetics, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Noise, and Utilities/ Services Systems. The County's MND notes that although the project could have a significant effect on the environment, there will be no significant effects because revisions in the project have been made or agreed to by the project proponent.

11. Landowner Consent and Consent by Annexing Agency:

All landowners and registered voters within the proposal area and within 300 feet of the exterior boundaries of the area(s) were sent notice of the LAFCO hearing.

According to County Elections, there are zero registered voters in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited. The affected property owners consent to the proposed annexation. Therefore, if the Commission approves the annexation, the Commission shall waive the protest hearing (Gov. Code §56662) as no affected landowners have filed a protest.

12. Boundaries and Lines of Assessment:

The annexation area is within TDBCSD's SOI. A map and legal description to implement the proposed annexation have been received and are subject to final approval by the County Surveyor.

13. Environmental Justice:

LAFCO is required to 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. Disadvantaged Communities:

In accordance with State legislation, local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County Department of Conservation and Development, the annexation area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties:

LAFCO received emails from two surrounding property owners who oppose the annexation. Both are property owners at Worthing Court. Both noted that when purchasing their properties, they understood that the open space behind their homes would always be there. Both noted that if the proposal goes forward, their property value will be greatly impacted, and this is unacceptable. Further, that this area is a beautiful open space and should be preserved.

These comments are noted for the record. However, given these property owners do not own land within the annexation area, the protest hearing shall be waived.

16. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Gov. Code §65080 [Gov. Code §56668(g)]. Further, the Commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or sub regional basis (Gov. Code §56668.5). Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), in July 2013, adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area through 2040. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan's key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region's projected population over the next 25 years.

In July 2017, ABAG and MTC adopted Plan Bay Area 2040, which updates the 2013 Plan Bay Area and reaffirms the goals/targets identified in the earlier version. Plan Bay Area establishes "Priority Conservation Areas" (PCAs) and "Priority Development Areas" (PDAs) and focuses growth and development in nearly 200 PDAs. These existing neighborhoods are served by public transit and have been identified as appropriate for additional, compact development. The area proposed for annexation is not within a PCA or a PDA; however, the proposed annexation does not appear to conflict with the regional transportation or growth plans.

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:

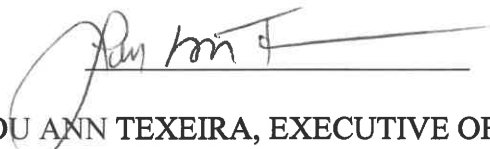
Option 1 Approve the annexation as proposed.

- A. Find that, as a Responsible Agency under the California Environmental Quality Act (CEQA), LAFCO has reviewed and considered information contained in Contra Costa County's Initial Study/Mitigated Negative Declaration in conjunction with the *Newport Pointe Residential Development Project*, and finds that there are no direct or indirect environmental effects that would result from LAFCO's approval of the annexation; and therefore, no additional mitigation measures are required beyond those already included in the CEQA documents prepared by Contra Costa County.
- B. Adopt this report, approve LAFCO Resolution No. 10-10 (Attachment 1), and approve the proposal, to be known as *Annexation to Town of Discovery Bay Community Services District – Newport Pointe* 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. The applicant/landowner has delivered an executed indemnification agreement providing for the applicant/landowner to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
 3. Find that the subject territory is uninhabited, the subject landowner consents to the annexation; thus, the conducting authority (protest) proceedings are hereby waived.

Option 2 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
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Exhibit

Annexation Map – Exhibit A

Attachment

1 – Draft LAFCO Resolution 10-10

c: Brenna Daugherty, Landowner Representative, Newport Pointe, LLC
Mike Serpa, Concentric Development Group
Michael Davies, General Manager, TDBCSD

RESOLUTION NO. 10-10

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
ANNEXATION TO TOWN OF DISCOVERY BAY
COMMUNITY SERVICES DISTRICT – NEWPORT POINTE**

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, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; 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 Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; and

WHEREAS, at a public hearing held on January 13, 2021, 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, applicable General and Specific Plans, consistency with the sphere of influence, contiguity with the District's boundary, and related factors and information including those contained in Gov. Code §56668; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the annexation area object to the proposal; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interest of the affected area and the 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. As a Responsible Agency under CEQA, the Commission has considered the information contained in the Newport Pointe Residential Project Mitigated Negative Declaration/Initial Study as certified by Contra Costa County on February 28, 2013.
2. The landowner/applicant has delivered to LAFCO an executed indemnification agreement providing for the landowner/applicant to indemnify LAFCO against any expenses arising from any legal actions to challenging the annexation, and
3. The annexation is hereby approved.

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4. The subject proposal is assigned the distinctive short-form designation:
ANNEXATION TO TOWN OF DISCOVERY BAY COMMUNITY SERVICES DISTRICT – NEWPORT POINTE
5. The boundaries of the affected territory, including one parcel, 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.
7. The territory proposed for annexation is uninhabited.
8. The proposal has 100% landowner consent, and the conducting authority (protest) 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 13th day of January 2021, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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: January 13, 2021

Lou Ann Teixeira, Executive Officer

