

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 13, 2023 (Agenda)

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Agenda Item 5

LAFCO 23-08 Annexation to Delta Diablo (DD) – Loreto Bay Estates

APPLICANT Jose and Monica Luis and Discovery Builders, Landowners

SYNOPSIS This is an application to annex one parcel (APN 096-050-016) totaling 2.88± acres to DD. The parcel is located at the northeast corner of Pullman Avenue and Fairview Avenue in unincorporated Bay Point as shown on the attached map (Exhibit A). The subject parcel is currently vacant land.

The purpose of the proposal is to extend wastewater service to the subject parcel. Proposed development on the parcel includes 15 residential units, common areas for bioretention basins, and a park. The subject area is within DD's sphere of influence (SOI). On May 10, 2023, the Commission approved the expansion of DD's SOI to include the subject area.

This item was continued from the July 12, 2023, LAFCO meeting.

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 DD's SOI.

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

The subject parcel is located within the voter approved Urban Limit Line. The project area is surrounded to the east and north by vacant/railroad land, a mixture of industrial and residential to the west, and single-family residential lots to the south. The County's General Plan designation is Single Family Residential High-Density. On February 3, 2023, the County approved a rezone of the property from Heavy Industrial Zoning District (H-I), Railroad Corridor Combining District (-X) to Planned Unit Development (P-1) to allow development of 15 residential units.

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

The subject area contains no prime farmland or land covered under the Williamson Act Land Conservation agreements.

4. Topography, Natural Features and Drainage Basins:

The subject parcel and surrounding areas are generally sloping at approximately 1.5% in the northeasterly and easterly directions.

5. Population and Fair Share of Regional Housing:

Proposed use of the subject property is construction of 15 single-family homes. The projected growth is 43 persons based on the average median household size of 2.85 persons in Contra Costa County.

6. 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 (GC §56653). A 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, Ambrose Recreation & Park District, Contra Costa Water District, and Contra Costa County Fire Protection District.

The subject parcel is located adjacent to DD's service area. DD provides wastewater conveyance and treatment services serving over 215,000 residents in Antioch, Pittsburg, and Bay Point within 54± square miles. DD treats 13 million gallons of wastewater daily focusing on exemplary regulatory compliance, innovative, and sustainable approaches.

DD owns, operates, and maintains five pump stations, one diversion facility, 76± miles of force mains, gravity interceptors, and sewer mains that convey wastewater flows from Antioch, Pittsburg, and Bay Point to DD's wastewater treatment plant. DD also owns, operates, and maintains a recycled water facility along with the associated 16 miles of pipeline, which provide recycled water service to customers in Antioch and Pittsburg.

Annexation to DD is needed to allow the project site to connect to the existing sewer lines. DD provided a letter indicating that they will provide sanitary sewer services to the annexation area subject to specified conditions. DD staff reports an estimate average flow of 200 gallons per day for each single-family residential dwelling unit. Also, there is sufficient capacity in the gravity mains downstream of the subject area, which drain to Delta Diablo's Broadway Pump Station where there is sufficient capacity to handle the added flows anticipated in conjunction with this annexation.

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.

The subject property is with the Contra Costa Water District (CCWD) service boundary. CCWD's boundary encompasses 220± square miles in central and eastern Contra Costa County. CCWD's untreated water service area includes Antioch, Bay Point, Oakley, Pittsburg, and portions of Brentwood and Martinez. The District's treated water service area includes Clayton, Clyde, Concord, Pacheco, Port Costa, and parts of Martinez, Pleasant Hill, and Walnut Creek. CCWD also treats and delivers water to the City of Brentwood, Golden State Water Company (Bay Point), Diablo Water District (Oakley), and the City of Antioch. CCWD provides treated water service to approximately 250,000 residents and untreated water service that supports approximately 250,000 residents for a total population of approximately 500,000 (61,858 treated and 346 untreated water connections). The primary sources of water are the United States Bureau of Reclamation (USBR) Central Valley Project (CVP) and Delta diversions.

9. Assessed Value, Tax Rates, and Indebtedness:

The annexation area is within tax rate area 79005. The assessed value for the annexation area is \$640,000 (2022-23 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 2022, Contra Costa County, as Lead Agency, prepared and approved an Initial Study/Mitigated Negative Declaration (MND) in conjunction with the Loreto Bay Estates project. The environmental factors potentially affected by this project include Aesthetics, Air Quality, Cultural Resources, Geology/Soils, and Noise. The County found that *“the MND adequately analyzes the project’s environmental impacts and found there is no substantial effect on the environment”*.

11. Landowner Consent and Consent by Annexing Agency:

The landowner and applicant consent to the proposed annexation.

12. Boundaries and Lines of Assessment:

The annexation area is within DD’s SOI as approved by the Commission on June 14, 2023. A map and legal description to implement the proposed annexation were 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 is within a DUC.

15. Comments from Affected Agencies/Other Interested Parties:

Pursuant to LAFCO law, all registered voters and landowners within the proposal area and within 300 feet of the exterior boundaries of the area(s) were sent written notice of the LAFCO hearing. County Elections confirmed there are zero registered voters in the subject area; therefore, the subject area is considered uninhabited. The affected landowners consent to the annexation.

To date, LAFCO has received no objections to the proposed annexation; therefore, the protest hearing is hereby waived pursuant to GC §56663.

16. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to GC §65080 [GC §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 (GC §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 plan sufficient housing for the region's projected population over the next 25 years.

In October 2021, ABAG and MTC adopted *Plan Bay Area 2050*, which serves as the Bay Area's official long-range plan for housing, economic development, transportation, and environmental resilience for the next four years. While prior iterations of *Plan Bay Area* focused on transportation and housing, the 2050 plan expands the scope introducing strategies for long-term economic development and environmental resilience, while meeting federal and state requirements.

ALTERNATIVES FOR COMMISSION ACTION

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

Option 1 Adopt this report and approve LAFCO Resolution No. 23-08 (Attachment 1), making CEQA findings and approving the proposal, to be known as *Annexation to Delta Diablo – Loreto Bay Estates*.

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

A. Map - 23-08 - Annexation to Delta Diablo – Loreto Bay Estates

Attachment

1. Draft LAFCO Resolution 23-08

c: Monte Davis, Applicant

Louis Parsons, Applicant

Vince De Lange, General Manager, Delta Diablo

Brian Thomas, Engineering Services Director/District Engineer, Delta Diablo

Thanh Vo, Senior Engineer, Delta Diablo

RESOLUTION NO. 23-08

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
ANNEXATION TO DELTA DIABLO – LORETO BAY ESTATES**

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

WHEREAS, the Executive Officer 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 gave notice of the Commission's consideration of the proposal; and

WHEREAS, the Executive Officer reviewed available information and prepared a report including her recommendations therein, and the report and related information were presented to and considered by the Commission; and

WHEREAS, at a public hearing held on September 13, 2023, 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 recommendations, the environmental documents and determinations, applicable General and Specific Plans, consistency with the spheres of influence, 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 subject area object to the proposal; and

WHEREAS, the applicant has delivered to LAFCO an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions to challenge the annexation; 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. The Commission is a Responsible Agency under the California Environmental Quality Act (CEQA), and in accordance with CEQA, considered the environmental effects of the project as shown in Contra Costa County's Initial Study/Mitigated Negative Declaration. The Commission finds that all changes or alterations in the project that avoid or substantially lessen its significant environmental effects are within the responsibility and jurisdiction of the County and not LAFCO, and that changes have been, or can and should be, adopted by the County as the lead agency.
2. Annexation to Delta Diablo of 2.88± acres (APN 096-050-016) is hereby approved.

3. The subject proposal is assigned the following distinctive short-form designation:
LORETO BAY ESTATES - ANNEXATION TO DELTA DIABLO
4. The boundary of the subject area is found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. The subject area shall be liable for any authorized or existing taxes, charges, and assessments currently being levied on comparable properties within the annexing agencies.
6. The subject area is uninhabited.
7. No affected landowners or registered voters within the subject area object to the proposal, and the conducting authority (protest) proceedings are hereby waived.
8. 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 September 2023, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

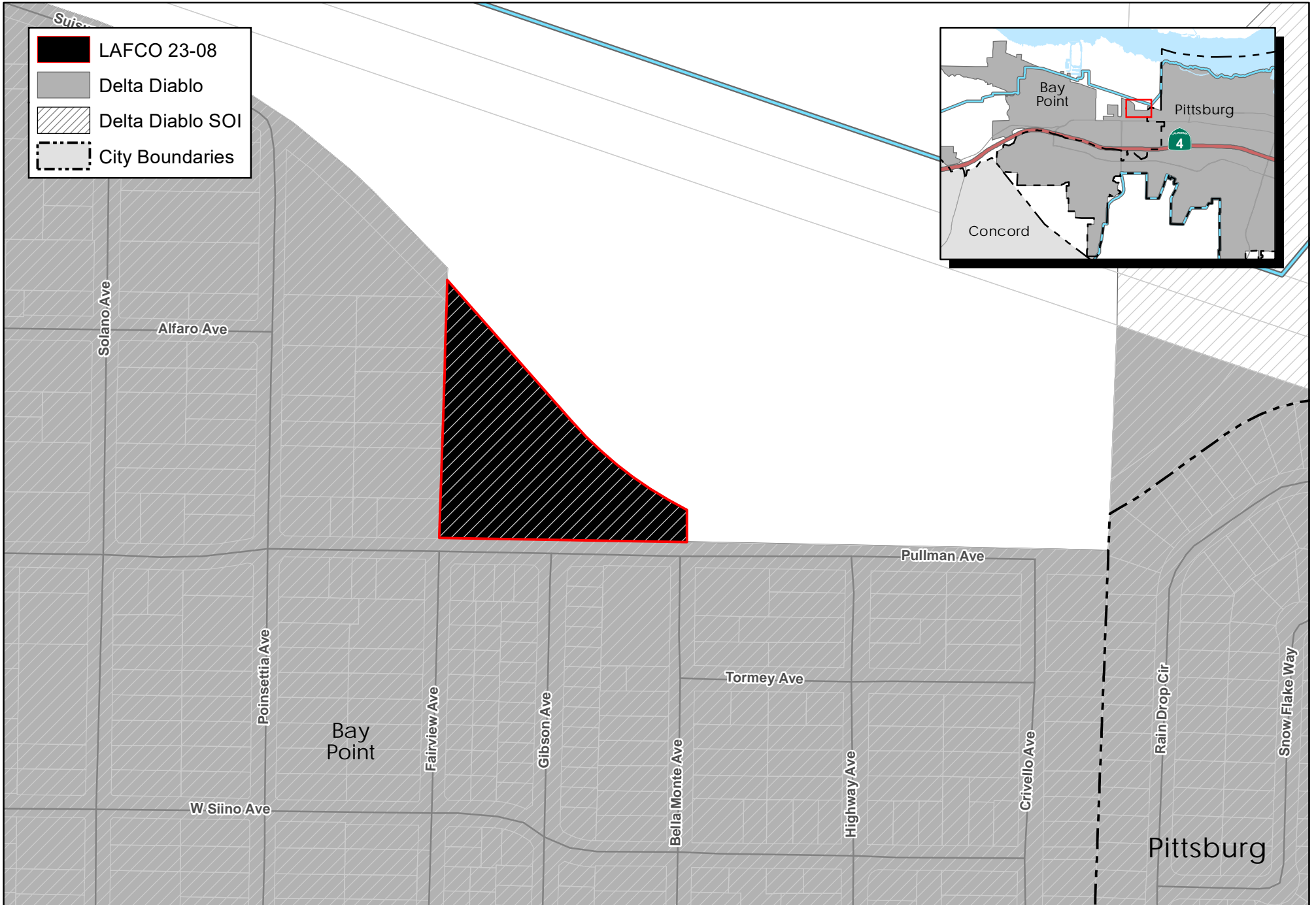
FEDERAL GLOVER, CHAIR, CONTRA COSTA LAFCO

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

Dated: September 13, 2023

Lou Ann Texeira, Executive Officer

LAFCO 23-08 Annexation to Delta Diablo – Loreto Bay Estates



Map created 06/15/2023

by Contra Costa County Department of Conservation and Development, GIS Group
30 Muir Road, Martinez, CA 94553
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This map or dataset was created by the Contra Costa County Department of Conservation and Development 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.

