

SONOMA LOCAL AGENCY FORMATION COMMISSION

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Item 4.1

Staff Report

- Meeting Date:** February 7, 2018
- Agenda No.** 4.1
- Agenda Item:** 2017-10: Petaluma Reorganization No. 2017-15 (Lomas)
- Proposal:** Reorganization request for 19 parcels, totaling approximately 18 acres, involving annexation to the City of Petaluma and detachment from County Service Area No. 40 (Fire Services) and County Service Area No. 41 (Multi-Services)
- Applicant:** City of Petaluma
- Location:** Generally located on the north and south sides of Petaluma Blvd. South, west of U.S. Highway 101, east of McNear Avenue and south of the Petaluma River
- General Plan:** County – General Industrial, Urban Residential, and Rural Residential
City – Mixed Use and Medium Density Residential
- Consent of Property Owners:** The application has been submitted by resolution of the Petaluma City Council, under Section 56375.3 of the California Government Code, a specific provision of state law for “island” annexations.
- Protest Hearing:** Pursuant to Government Code Section 56375.3, protest proceedings shall be waived.
- Environmental Determination:** Negative Declaration prepared by the City of Petaluma
- Staff Contact:** Carole Cooper

ANALYSIS

Background

In 2006, the Commission approved a reorganization involving annexation to the City of Petaluma of three parcels that were proposed for residential development south of Petaluma Blvd. South. In that an island of unincorporated territory would be created as a result of the three-parcel annexation, the Commission required, as a condition of its approval, subsequent initiation of proceedings for annexation of parcels on the north and south sides of Petaluma Blvd. South. No one anticipated it would take more than 11 years to achieve that end.

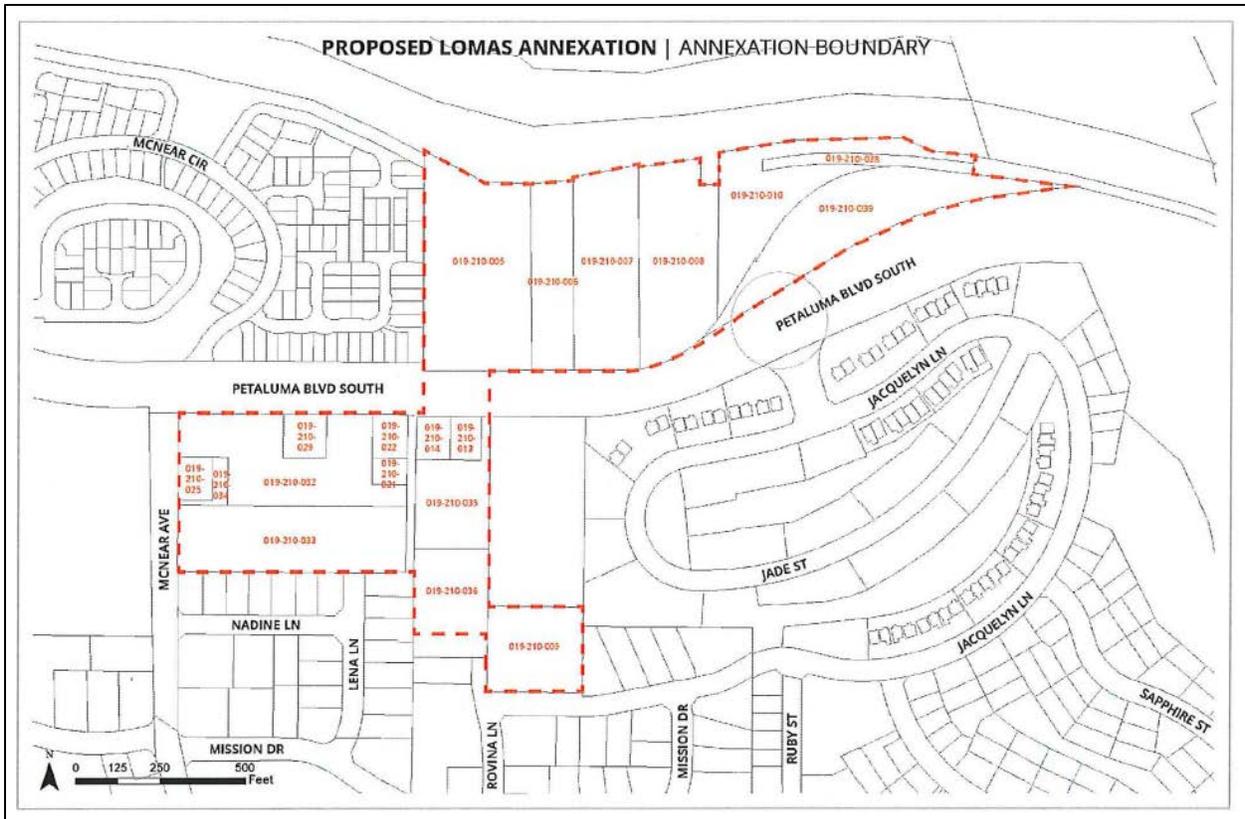
The island territory – 19 parcels, including three owned by South Petaluma Partners LLC (“SPP;” also known as the “Lomas properties”) – was not included in the original proposal for a variety of reasons:

- SPP wished to move forward pursuing development of the southern properties as soon as it could, and the City agreed that such development would benefit the City;
- The City determined that it needed to conduct an analysis of the larger potential annexation area, including a survey of owners and an environmental assessment, to establish an action plan and timeline for annexation; and
- Most importantly, before the City would support and agree to annexation, it required reclamation of the Lomas properties north of Petaluma Blvd. South and their removal from the California Surface Mining and Reclamation Act (SMARA) list. The SPP territory had been placed on that list because it had been the site of a quarry for many years, and reclamation of the soil from contaminants was needed if other uses were desired.

The State of California finally removed the Lomas properties from the SMARA list in January 2016, after 10 years of on-and-off activity, some of which is detailed below. As a result of that action, the City initiated proceedings for annexation of the 19 “remainder” parcels - the second phase of the two-phase process envisioned in 2006 when the Commission approved annexation of the southern properties.

Current Proposal

The City of Petaluma submitted an application, by resolution of the City Council, for a reorganization involving annexation to the City of an unincorporated island consisting of the 19 parcels referred to above. Upon annexation, the territory would be detached from County Service Area No. 40 (Fire Services) and County Service Area No. 41 (Multi-Services). The subject territory is within the City’s Sphere of Influence, Urban Growth Boundary and the “urban service area” boundary of the County General Plan.



The properties are generally located on the north and south sides of Petaluma Blvd. South, west of U.S. Highway 101, east of McNear Avenue, and south of the Petaluma River. The area between the River and Petaluma Blvd. South is generally flat and improved with outdoor storage areas and industrial uses while the area south of Petaluma Blvd. South is primarily residential, with some open grassy areas, and is gently sloping. Adjacent territory consists of residential uses (south), residential, park, and semi-public uses (west); the Petaluma River (north); and beyond U.S. 101, public/semi-public and residential uses (east).

History Associated with Proposal

As indicated, the subject proposal represents the second stage of a two-part process, begun with the City around 2004, to annex six parcels owned by SPP in the Petaluma Blvd. South general area; three parcels were south of Petaluma Blvd. South, and three were north. The goal was development of all parcels for residential use.

In 2005 and 2006, the City Council took a number of actions:

- June 2005 – Amended its General Plan, designating the land use for all six Lomas properties as Urban Diversified; pre-zoned the territory to Planned Unit Development (PUD);

- June 2005 - Approved a Vesting Tentative Map creating 135 single-family residential lots, 47 view lots, 92 town-home lots, 10 open space parcels, and one remainder parcel on the Lomas properties;
- June 2005 – Supported an application to LAFCO by SPP for annexation to the City of all Lomas properties north and south of Petaluma Blvd. South;
- June 2006 – Authorized the city manager to execute a memorandum of understanding with the County and SPP regarding jurisdiction over compliance with the reclamation of SPP properties and a pre-annexation agreement with SPP regarding a two-part annexation application.

It should be noted that the city manager, to whom the City Council granted the discretion to allow annexation prior to completion of the entire annexation process, determined to permit annexation of the southern parcels to move forward.

Mining

The Lomas properties had been the location of the Dutra, or Petaluma, quarry where surface mining operations ensued at least as far back as 1925. Quarry operations ceased in 1993. For mined lands to be in usable condition so they can be adapted for alternate land uses with no danger to public health and safety, they must be reclaimed to minimize adverse effects related to water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, etc.

Because of previous operations, SPP properties had been placed on the SMARA list as requiring reclamation. The City-County memorandum of understanding gave reclamation oversight authority to the County. In addition, a requirement in the Public Resources Code that at least a portion of property on the SMARA list remain as unincorporated until closure of a reclamation plan supported the decision to postpone proposed annexation of the three northern SPP parcels.

Remainder Parcels

Under the pre-annexation agreement that the city manager and SPP signed in July 2006, the property owner agreed to deposit with the City sufficient funds to cover the cost of the second annexation stage and to notify the City upon the completion and closure of the reclamation plan. The agreement further required the developer to initiate annexation of not only its three north-of-Petaluma-Blvd.-South properties but also “any one or more additional contiguous properties determined by City to be appropriate for inclusion in the second phase of this annexation as City may designate.”

The language in this agreement was significant to LAFCO in that, in June 2005, when the Commission had considered an unrelated proposal to annex territory just to the west of the southern Lomas properties, Commissioners and staff expressed concerns to the City about the potential creation of an island. The City responded by surveying owners and voters in the area, and, after concluding that insufficient opposition to annexation existed,

determined to undertake an environmental assessment and pre-zoning process for the remaining area.

As a result of LAFCO's concerns, ultimately, in October 2006, when the Commission approved the annexation of the three SPP parcels south of Petaluma Blvd. South, the Commission's resolution conditioned approval on the City's or the developer's initiating proceedings for annexation of the three SPP parcels north of Petaluma Blvd. South as well as 16 other parcels that constituted the unincorporated island. The condition stated that such action was to occur "no later than 30 days after the City receives notice from the County of Sonoma of the completion of reclamation" of the developer's three parcels.

2006- Present

It has taken more than 11 years to fulfill the Commission's condition. Various factors, some of which are indicated below, contributed to the lengthy, and unexpected, delay:

- Under a County permit, a temporary batch plant owned by the Dutra Group was allowed to be located and operate on one of the SPP parcels north of Petaluma Blvd. South until mid-2008.
- Soil testing in 2009 found that an underground storage tank on an adjacent property owned by CalTrans had leaked and had contaminated soils on the SPP property.

This discovery led to years of on-again/off-again, and largely unsuccessful, efforts by SPP to: engage CalTrans in remediating the soil on SPP property at CalTrans' expense; petition the San Francisco Regional Water Quality Control Board to open/re-open a case against CalTrans to require that agency to take responsibility for clean-up on the SPP site; and urge the City to allow annexation in that the company was not responsible for contamination. (The CalTrans site was ultimately remediated under the "Leaky Underground Storage Tank "(LUST) program.)

- SPP's hiring, over the years, private companies to investigate the contamination, and/or conduct analytical testing, and/or develop work plans for soil excavation and disposal.
- Involvement of the San Francisco Regional Water Quality Control Board at SPP's initiative and later in determining the appropriate level of clean-up needed ("residential environmental screening" instead of a lower screening level that SPP advocated).

Finally, in January 2016, the California Office of Mine Reclamation deemed the quarry site fully reclaimed, and the site was removed from the SMARA list. The City then initiated proceedings for annexation, with staff analysis, Planning Commission consideration, City Council action, and ultimately, in Fall 2017, an application to LAFCO.

Island Provision of State Law

The City’s resolution of application for annexation of the 19 parcels was submitted using the “island provision” section of the Government Code (section 56375.3). This section mandates LAFCO approval of a reorganization that meets the criteria stated in the Government Code. Staff believes that all requirements of the applicable section are met in the subject proposal.

The table below indicates the statutory requirements and the compliance measures.

| Section 56375.3 Requirement | Subject Proposal |
|---|---|
| LAFCO must notice and conduct a public hearing | Notice of Public Hearing for February 7, 2018, was published in the <i>Press-Democrat</i> on January 17, 2018, and mailed to owners and voters within the annexation boundary and within 300 feet of the outside boundary |
| Reorganization is initiated on or after January 1, 2000. | Petaluma City Council approved Resolution No. 2017-015 initiating proceedings with LAFCO on January 9, 2017. |
| Reorganization is proposed by resolution adopted by the affected city. | Petaluma City Council adopted Resolution No. 2017-05 on January 9, 2017. |
| The affected territory does not exceed 150 acres and that area constitutes the entire island. | Approximately 18 acres constitute the entire territory of the subject unincorporated island. |
| The territory constitutes an entire unincorporated island located within the limits of a city. | The unincorporated island is surrounded by territory within the City of Petaluma. |
| The affected territory is surrounded or substantially surrounded by the city to which annexation is proposed. | The affected territory is surrounded by territory within the City of Petaluma. |
| The affected territory is substantially developed or developing | The affected territory north of Petaluma Blvd. South is developed with storage and industrial uses and the area south is developed with residential uses. |
| The affected territory is not prime agricultural land. | The affected territory is not prime agricultural land. |

| Section 56375.3 Requirement | Subject Proposal |
|--|---|
| The affected territory will benefit from the reorganization or is receiving benefits from the annexing city. | Annexation will allow for the provision of governmental services more efficiently and effectively in that the services will be provided by a single jurisdiction as are services in the adjacent areas. Parcel owners will have access to City services and may be able to develop further under City policies. |

City Pre-Zoning

In January 2017, the City Council pre-zoned the 19 parcels as follows:

- *Parcels north of Petaluma Blvd. South* – Mixed Use 1A, consistent with the Mixed Use Land-Use Designation of the City’s General Plan
- *Parcels south of Petaluma Blvd. South* – Residential 4, consistent with the Medium Density Residential Land-Use Designation of the City’s General Plan

It should be noted that, when the City conducted a comprehensive update of its General Plan in 2008, land-use designations were changed citywide; thus the original “Urban Diversified” designation and PUD zoning for the Lomas properties were superseded.

The pre-zoning designations carry out the direction for the area in the General Plan. The Mixed Use classification allows a mix of uses along the Petaluma Blvd. corridor, and the Medium Density Residential allows a variety of dwelling types with opportunities to blend live-work or limited commercial/office uses within a residential development next to an arterial.

Development and Services

At this time, no new development is anticipated. As indicated above, outdoor storage areas and industrial uses are located north of Petaluma Blvd. South, while residential uses and some open grassy areas are found south of the roadway. The parcels range in size from 0.09 acres to 2.59 acres, with about 28 people residing within the affected territory.

According to the City, existing development is of a lower density/intensity than contemplated by the City’s General Plan Housing Element. About 170 housing units and additional commercial space could be constructed under the allowances of the General Plan. Six parcels located north of Petaluma Blvd. South and designated as Mixed Use represent the greatest potential for development of affordable housing.

Annexation of the affected territory would support the City's potentially meeting its housing needs, in accordance with its Housing Element. The City states that this would not conflict with or impact the County's meeting its housing needs in that the County's Housing Element does not identify any of the subject properties available for housing production in the unincorporated area.

Upon annexation, properties within the affected territory would be eligible to access City services. The area has a sewer line and associated pump station north of Petaluma Blvd. South. Main sewer lines are located within major roads surrounding the project area and could serve the territory. While no property would be required to connect to the City's sewer system upon annexation, pursuant to City Council Resolution No. 8955, dated September 15, 1980, all annexed properties are required to connect to the City's sewer system within 10 years of annexation. Property owners would bear the cost of connecting necessary sewer laterals to the City's existing sewer infrastructure.

Unlike the City's policy on connection to the sewer system, it does not appear that the City requires connection to the municipal water system after annexation, although property owners have that opportunity, if they choose. The City purchases its water from the Sonoma County Water Agency whose primary source is the Russian River. Water mains are located within City streets near the affected territory. Should development of any property be proposed, the developer would bear responsibility for the cost of any upsizing required. The City indicates that 10 properties within the annexation boundary, along both sides of Petaluma Blvd. South, are already receiving City water.

As a result of the annexation of the affected territory, there would be no change to the level of service at intersections nor would substantial delays or detours result, in that, at this time, no development is planned. If and when development is proposed, facility and infrastructure upgrades would likely be required and would be included in the conditions of approval of the proposed project.

Environmental Determination

In April 2008, the City Council certified the Final Environmental Impact Report (EIR) for the City's General Plan. The General Plan EIR reviewed all potentially significant environmental impacts and developed measures and policies to mitigate impacts. Some significant and unavoidable impacts were identified, and the City adopted a statement of overriding considerations regarding these impacts which included: increased motor traffic, traffic-related noise, air quality reduction at built-out, and possible incremental increase in greenhouse gas emissions.

The General Plan EIR analyzed all impacts anticipated, including potential annexation of unincorporated territory. Because CEQA discourages discussions of the same issues, the environmental document for the subject proposal tiers off the General Plan EIR and focuses on site-specific impacts of the project, specifically the boundary and zoning changes proposed.

The City prepared an Initial Study to assess the impacts of the proposed annexation. The Study determined that the project would not result in a significant effect on the environment. In January 2017, the City Council adopted a Negative Declaration for the subject proposal. No physical changes to the environment are anticipated as a result of annexation. At this time there are no reasonably foreseeable indirect physical changes that can be identified. When and if future direct physical changes are proposed, e.g., development, the City would prepare a separate environmental analysis and document of the potential environmental effects.

The Commission is a responsible agency for this project in accordance with CEQA and the State CEQA Guidelines. In approving the proposal, the Commission generally follows the environmental determination of the lead agency but must make its own findings and determinations.

Individual Factors for Consideration

California Government Code Section 56668 describes 16 factors to be considered in the Commission's review of a proposal for a change of organization or reorganization. The factors and staff's responses are outlined and addressed in Attachment 1.

No Protest Hearing

As was noted earlier in this report, the City submitted the subject application pursuant to Government Code Section 56375.3. Sub-section (a) states:

In addition to those powers enumerated in Section 56375, a commission shall approve, after notice and hearing, the change of organization or reorganization of a city, and waive protest proceedings.... [italics added]

LAFCO does not have discretion regarding whether to approve or deny a proposal that meets the criteria established under this section of the Cortese-Knox-Hertzberg Act or whether to conduct a protest proceeding.

Staff believes that all criteria have been met, including publication, posting, and notification to owners and registered voters of the public hearing on the proposal.

RECOMMENDATION

1. Approve the reorganization as proposed, pursuant to the following findings:
 - a. The proposal was submitted pursuant to Section 56375.3 of the California Government Code and meets all required criteria.
 - b. The purpose of the reorganization is to comply with Condition 3(a) in Sonoma LAFCO Resolution No. 2518, dated October 4, 2006, which required initiation of reorganization proceedings for 19 parcels constituting

- an unincorporated island surrounded by the City, within 30 days after notification to the City of reclamation of parcels on the SMARA list.
- c. The affected territory is contiguous to the boundaries of the City of Petaluma, within the City's sphere of influence, Urban Growth Boundary, and the "urban service area" boundary for the City as designated in the Sonoma County General Plan.
 - d. Annexation to the City would allow development at densities consistent with the City's General Plan and access to City services.
 - e. The City of Petaluma has determined that the proposal is consistent with the land-use designations of its General Plan.
 - f. The City of Petaluma indicates that it can provide services to the affected territory.
2. Regarding the Commission's responsibilities pursuant to the California Environmental Quality Act,
 - a. Certify review and consideration of information contained in the Initial Study and Negative Declaration prepared by the City of Petaluma.
 - b. Make findings required of a responsible agency the provisions of CEQA and the State CEQA Guidelines.
 - c. Direct staff to file a notice of determination in accordance with CEQA and the State CEQA Guidelines.
 3. Waive protest proceedings pursuant to the requirements of Section 56375.3 of the California Government Code.

ALTERNATIVE RECOMMENDATIONS

None. In accordance with the provisions of Section 56375.3 of the Government Code, the Commission is mandated to approve the subject proposal.

ATTACHMENTS

1. Factors for Consideration
2. Draft Resolution
3. City of Petaluma Official Actions: Ordinances, Resolutions
4. Sonoma LAFCO Resolution No. 2518, dated October 4, 2006
5. Preliminary Map and Boundary Description
6. Initial Study and Negative Declaration