

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

October 12, 2011 (Agenda)

LAFCO 11-08: Dougherty Valley (DV) Annexation #13 and #14 to the City of San Ramon – Gale Ranch Phase 3 (Portion)

PROPONENT: City Council of City of San Ramon, by resolution adopted June 14, 2011

ACREAGE & LOCATION Annexation area #13 includes two areas totaling 86± acres (355 single-family homes and Quail Run Elementary School). These areas are adjacent to the current City of San Ramon boundaries. Annexation area #14 includes one parcel (2.72± acres) that includes the Dougherty Valley Service Center. This area is not adjacent to the current San Ramon City limits. This property is owned by the City and meets special provisions of Government Code §56742, which allows the annexation of non-contiguous area to a City.

PURPOSE: Provide municipal services for an approved residential subdivision of 355 single-family homes, Quail Run Elementary School, and the Service Center.

SYNOPSIS

These are the thirteenth and fourteenth in a series of planned annexations for the area known as “Dougherty Valley.” The DV project is being developed in phases through Contra Costa County.

Annexation of the project area to the City of San Ramon is required pursuant to the Dougherty Valley Settlement Agreement (DVSA), which in 1994 was endorsed by the County, cities of Danville and San Ramon, Windemere Ranch Partners and Shapell Industries; said annexations are to occur following recordation of final subdivision maps.

DISCUSSION

The Cortese Knox Hertzberg Act (CKH Act) sets forth factors that the Commission is required to consider in evaluating any proposed change of organization or reorganization as discussed below (Government Code §56668). In your Commission's review and evaluation of these factors, there is no single factor that is determinative. In reaching your decision, each is to be evaluated within the context of the overall proposal.

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

LAFCO is charged with both regulatory and planning functions. Annexations are basically a regulatory act, while establishing spheres of influence (SOIs) is a planning function. The SOI is an important benchmark as it defines the primary area within which urban development is to be encouraged. In order for the Commission to approve an annexation, it must be consistent with the jurisdiction's adopted SOI.

The annexation areas are within the City of San Ramon's SOI and within both the City's Urban Growth Boundary and the countywide Urban Limit Line.

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

The City of San Ramon's General Plan designates the area for Single Family Medium Density Residential and Public and Semi-Public uses. The City has rezoned the area for Planned Development and Public and Semi-Public.

Per the Contra Costa County General Plan and Dougherty Valley Specific Plan (DVSP), the current and future land uses for the areas include Multiple Family Low Density Residential and Public and Semi-Public.

Surrounding land uses include residential and public/semi-public land to the east, west and north, and vacant land (under construction) to the south.

The current and proposed uses are consistent with the City's plan and rezoning designations. No changes in land uses are proposed.

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

The DV project, as previously approved by the County, converts approximately 6,000 acres of farmland to urban uses and open space. Of the 6,000 acres that comprise the DVSP area, 2,000 acres have been mapped as "farmland of local importance" and the remaining 4,000 acres are mapped as grazing land.

Through the 1992 DVSP and General Plan amendment, these lands were changed from "Agricultural Preserve" to "Agricultural Lands" and designated as P-1 (Planned Unit Development) to allow a mix of housing, school and community facilities, parks and open space areas.

Contra Costa County found that there were overriding considerations in support of adoption of the Specific Plan, despite the unavoidable impact to agricultural resources. With adoption of the DVSP in 1992, none of the project site was zoned for agricultural use, and there are no current Williamson Act Land Conservation Agreements within the project site.

The project would not convert farmland to non-agricultural uses as farmland does not currently exist in the DV area. Approval of the urban land uses designations for the area occurred in 1992, 1996 and 2002. According to the City, the project can be viewed as implementation of the already established specific plan and land use designations.

4. Topography, Natural Features and Drainage Basins:

The site consists of a complex series of major and minor ridges, rolling hills and a relatively flat valley, which drains to the south. There are no other significant natural boundaries affecting the proposal.

5. Population:

Currently, dwelling units are under construction and some are occupied. Entitlements have been approved for the entire Phase 3 of Gale Ranch. The construction of the 355 single-family units will result in an estimated population increase of approximately 994 persons.

6. Fair Share of Regional Housing:

Pursuant to §56668 of the CKH Act, LAFCO must consider in the review of a proposal 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. Regional housing needs are determined by the State Department of Housing and Community Development; the councils of government throughout the State allocate to each jurisdiction a "fair share" of the regional housing needs (Government Code §65584).

In Contra Costa County, the Association of Bay Area Governments (ABAG) determines each city's fair share of regional housing needs. Each jurisdiction is required in turn to incorporate its fair share of the regional housing needs into the housing element of its General Plan. In June 2008, ABAG released the Proposed Final Regional Housing Needs Allocation (RHNA) Plan for the period 2007-14. The City reports that its total RHNA for 2007-2014 is calculated at 3,463 units. Of that, 834 are market rate, and 2,629 are affordable (i.e., 740 moderate, 715 low and 1,174 very low).

It is a requirement of the Dougherty Valley Affordable Housing Program that 25% (2,748) of the 11,000 units in DV are affordable. DV Annexation #13 and #14 includes a total of 355 residential units, none of which are considered affordable. However, to date, the DV annexations have resulted in 2,416 affordable units. The Windemere phase, which is now complete, produced 1,290 units, and the Gale Ranch phase, which is not yet complete, has produced 1,126 affordable units.

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

In accordance with Government Code §56653, whenever a local agency submits an annexation application, the local agency must also submit a plan for providing services to the annexation area. The plan shall include all of the following information and any additional information required by LAFCO:

- (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 City's "Plan for Providing Services Within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The level and range of services will be comparable to those currently provided within the City. The DVSA provides "Performance Standards" for services in the DV.

The areas proposed for annexation will be developed with 355 residential housing units, an elementary school, and a service center. The City will provide a range of municipal services, including police, library, recreational, flood control, public facilities maintenance, etc. Fire services will continue to be provided by the San Ramon Valley Fire Protection District, water services will be provided by the Dublin San Ramon Services District, and sewer services will be provided by the Contra Costa County Sanitary District.

The development has already been approved with appropriate conditions for improving public facilities. There are no additional requirements for the upgrading of infrastructure (e.g., roads, sewer, water).

Capital improvements for this project are being funded through the developers as a condition of development. The ongoing maintenance and operations costs associated with police services, road maintenance, parks and landscape maintenance, open space and trail maintenance, flood control, and community facilities maintenance will be financed through County Service Area (CSA) M-29. CSA M-29 was established in 1997 and includes a combination of revenue sources as follows:

- General Ad-Valorem Property Taxes
- Real Property Transfer Tax
- Special Assessments
- Sales Tax
- Fines and Forfeitures
- License, Permits, Franchise Fees
- Motor Vehicle In-Lieu Fees

Pursuant to the DVSA, the City requests that LAFCO waive the application of Government Code §25210.90 and maintain the existing CSA M-29 in order to continue the assessment of the special taxes/fees to fund services as described above.

In addition, the DVSA requires the establishment of other funding mechanisms to adequately fund services to the area.

8. Timely Availability of Water and Related Issues:

The Dublin San Ramon Services District (DSRSD) is designated as the direct provider of potable water to the project site. DSRSD purchases treated water from Zone 7.

This is a change from the 1992 DVSP, which identified the East Bay Municipal Utility District (EBMUD) as the preferred provider of potable water. Following certification of the EIR in 1992, a lawsuit was filed regarding water service. Subsequently, the parties entered into a settlement agreement which, among other things, designated DSRSD as the preferred water provider and EBMUD as the alternate water provider. DSRSD has the capacity to provide services consistent with its adopted water service plans.

A number of studies were completed to address the timely and adequate provision of water service to the DV. This information is presented in the various environmental documents, which were previously provided to the Commission and are available in the LAFCO office.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 66405. The assessed value is \$67,901,371 (2011-12 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies, if applicable; and shall remain within CSA M-29 following annexation.

10. Environmental Impact of the Proposal:

Contra Costa County was the lead agency and prepared and certified the following environmental documents in conjunction with this project: Addendum to the Dougherty Valley Draft Environmental Impact Report (DEIR) entitled "Gale Ranch Phase 3 Final Development Plan & Vesting Tentative Subdivision Maps Dougherty Valley Specific Plan" – October 2003; Final Subsequent EIR – 1996; and the Final EIR for the Dougherty Valley General Plan Amendment and Specific Plan - 1992.

In addition, the County adopted a Mitigation Monitoring and Reporting Program in 1992, and Findings, Recommendations and a Statement of Overriding Conditions in 1996.

Copies of these documents were previously provided to the members of Commission and are available for review in the LAFCO office.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are more than 12 registered voters in the areas proposed for annexation; thus, the area is considered inhabited.

Less than 100% of the affected landowners/voters have provided written consent to the annexation. Thus, the Commission's action is subject to notice, hearing, as well as conducting authority (protest) proceedings. All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the October 12 hearing.

As of this writing, LAFCO has received no objection from any affected landowner or registered voter. If no objection is received from an affected party prior to the conclusion of the hearing on October 12, the Commission may waive the protest proceedings. However, if any objection is received at any time prior to or during the hearing, then a protest hearing is required (Gov. Code Section 56663).

12. Boundaries and Lines of Assessment:

Annexation area #13 is contiguous to existing City boundaries. Annexation area #14, which includes the Dougherty Valley Service Center, is not adjacent to the current San Ramon City limits. This property is owned by the City and meets special provisions of Government Code §56742, which allows the annexation of non-contiguous area to a City if certain conditions are met (i.e., the property is located in the same county as the city, is owned by the city, and is used for municipal purposes at the time the Commission proceedings are initiated). A map and legal description to implement the proposed boundary change have been received and are being reviewed by the County Surveyor.

13. Beginning January 1, 2008, Government Code §56668(o) requires that LAFCO 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.

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 options:

Option 1 Approve the annexation as submitted.

- A. Certify LAFCO has reviewed and considered the information contained in the EIR and related Mitigation Monitoring and Reporting Program; and adopt the Findings and a Statement of Overriding Conditions as prepared and certified by the County.
- B. Adopt this report and approve the proposal, to be known as Dougherty Valley Annexation #13 and #14 – Gale Ranch Phase 3 to the City of San Ramon 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. Waiver of the application of Section 25210.90 allowing the overlap of the City and County Service Area M-29.
 3. That the City has delivered an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that Annexation area #14, which includes the Dougherty Valley Service Center, is not adjacent to the current San Ramon City limits. However, this property can be annexed as it meets special provisions contained in Government Code §56742. Annexation of area #14 is subject to the provisions of Government Code §56742.
- D. Find that the subject territory is inhabited and that the annexing agency has consented to waiving the conducting authority proceedings. However, less than 100% of the affected landowners/registered voters have consented to the annexation. Should LAFCO receive any objection to the annexation from an affected party prior to or during the public hearing, then a subsequent protest hearing is required. Should no protest be received, then the Commission may waive the protest hearing and direct LAFCO staff to complete the proceedings.

Option 2

- A. Certify it has reviewed and considered the information contained in the EIR and related environmental documents as prepared and certified by the County.
- B. 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
LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 11-08

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING DOUGHERTY VALLEY
ANNEXATION #13 AND #14 TO THE CITY OF SAN RAMON
GALE RANCH PHASE 3 (Portion)

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, at the times 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, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, information satisfactory to the Commission has been presented that all the owners of land within the affected territory have given their written consent to the proposal; and

WHEREAS, the annexing agencies have consented to waiving the conducting authority proceedings; and

WHEREAS, the Local Agency Formation Commission finds the proposal to be in the best interests of the affected area and the total 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 certifies it reviewed and considered the information contained in the Environmental Impact Reports and related environmental documentation as prepared and certified by the County of Contra Costa (lead agency) as identified in the LAFCO staff report, and adopted Findings of Fact and a Statement of Overriding Considerations.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

DOUGHERTY VALLEY ANNEXATION #13 AND #14 TO THE CITY OF SAN RAMON
GALE RANCH PHASE 3 (Portion)
4. Said territory is found to be inhabited.
5. Annexation area #14, which includes the Dougherty Valley Service Center, is not adjacent to the current San Ramon City limits. However, this property can be annexed as it meets special provisions contained in Government Code §56742. Annexation of area #14 is subject to the provisions of Government Code §56742.

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6. The proposal has less than 100% landowner/registered voter consent; however, no affected landowners/registered voters opposed the annexation, and the annexing agency has given written consent to the waiver of conducting authority proceedings. Said conducting authority proceedings are hereby waived.
7. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
8. The subject territory shall be liable for any existing bonded indebtedness of the annexing agencies, if applicable.
9. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.
10. The application of Government Code Section 25210.90 is waived allowing the overlap of the City of San Ramon and County Service Area M-29.
11. That the City delivered an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the reorganization.
12. 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 12TH day of October 2011, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

MICHAEL R. MCGILL, CHAIR, CONTRA COSTA LAFCO

ATTEST:

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

Dated: October 12, 2011

Lou Ann Texeira, Executive Officer

LAFCO No. 11-08: Dougherty Valley Annexations #13 & #14 to the City of San Ramon

