

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

May 11, 2016 (Agenda)

May 11, 2016
Agenda Item 7

LAFCO 16-04 City of Martinez - Out of Agency Service Request (Plaza Drive)

SYNOPSIS

This is a request by the City of Martinez to provide water service outside its jurisdictional boundary to one parcel located at 1161 Plaza Drive in the unincorporated Mt. View area. The parcel (APN 375-253-002) is 0.13± acre (see Attachment 1). The lot is currently vacant and is part of a major subdivision – “Martinez Center Tract No. 1” - recorded in 1915. In December 2015, the County approved the owner’s request to construct a single family home on the lot. The property owner is in the process of obtaining a building permit to construct the home.

The property is zoned R-6 (single family, 6,000 sf minimum lot size) and the County’s General Plan designation is SH (single family residential – high). The City’s pre-zoning designation is comparable. The subject parcel is located within the City of Martinez sphere of influence (SOI) and within the Urban Limit Line. Surrounding uses include single family residential to the north, south, east and west.

The City of Martinez is currently providing water service to all of the surrounding developed properties. The area is within the Mt. View Sanitary District (MVSD) service boundary.

DISCUSSION

Statutory Framework – Out of Agency Service - The Government Code and local LAFCO policies regulate the extension of out of agency service. Government Code §56133 states that “A city or district may provide new or extended services by contract or agreement outside of its jurisdictional boundary only if it first requests and receives written approval from the Commission.” Further, the law provides that LAFCO may authorize a city or district to provide new or extended services under specific circumstances: a) outside the agency’s jurisdictional boundary but within its SOI in anticipation of a future annexation; or b) outside its jurisdictional boundary and outside its SOI in response to an existing or impending threat to the public health or safety.

The Commission’s current policies regarding out of agency service are consistent with State law in that annexations to cities and special districts are generally preferred for providing municipal services. However, there may be situations where health and safety, emergency service, or other concerns warrant out of agency service. Historically, out of agency service is considered a temporary measure, typically in response to an existing or impending public health and safety threat (e.g., failing septic system, contaminated well); or in anticipation of a future annexation.

Out of Agency Service Request by City of Martinez and Background – As noted in both the 2014 and 2008 *Water/Wastewater* and the 2009 *Central County Sub-regional LAFCO Municipal Service Reviews* (MSRs), the City is providing water services beyond its corporate limits to 1,500± water connections. These 1,500 water connections represent residents who do not have representation concerning policy or governance of their water supply. The MSRs recommend that the City of Martinez annex areas receiving city services, as appropriate.

In the past five years, the City of Martinez had annexation activity. In 2011, the City submitted an application to annex 393± acres (139 parcels) in the Alhambra Valley. In response to community input and the City’s request, LAFCO approved a slightly reduced boundary comprised of 316± acres (104

parcels). Also, in 2011, the City submitted a proposal to annex the North Pacheco area. LAFCO approved the annexation; however, the voters rejected it.

Recently, the City embarked on a fiscal analysis to study potential annexation areas including the North Pacheco, Mt. View and Vine Hill areas. Further, the City Council adopted two resolutions reaffirming its commitment to annex the Alhambra Valley.

The law permits LAFCO to authorize the City to extend services outside its jurisdictional boundary in specific situations as described above. The request by the City to provide water service to the Plaza Drive property is in anticipation of a future annexation.

Other actions the City has taken in furtherance of future annexation efforts include the following:

- The City's General Plan includes policies and land use designations supporting annexation of various unincorporated areas.
- The City has rezoned all areas that are outside the City limits but within the City's SOI and within the boundaries of City of Martinez water service area, including the Mt. View community.
- The City recently initiated a study to review the fiscal impacts of annexing the North Pacheco, Mt. View and Vine Hill areas.
- The City requires property owners to execute a deferred annexation agreement in order to receive City water service.

Water Supply to the Project Area – The Mt. View area is mostly developed and characterized by primarily residential with some commercial, industrial and public uses. Most of the developed properties in the Mt. View area receive water service through the City of Martinez.

The City indicates that it has adequate water to serve the property on Plaza Drive. According to the City, water service will be provided to the parcel from the City's existing 6-inch water main on Plaza Drive. Infrastructure includes 20 linear feet of 1-inch diameter pipe, a water meter and a backflow prevention device. The service line will be used for domestic and fire supply.

The property owner is responsible for all site development, improvement and start-up costs including those associated with the domestic water system; operational and maintenance costs will be funded through water service and water usage fees collected by the City of Martinez.

Environmental Review – Both Contra Costa County and the City of Martinez found the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15303, and have filed Notices of Exemption. The LAFCO Environmental Coordinator has reviewed these documents and finds them adequate for LAFCO purposes.

ALTERNATIVES FOR COMMISSION ACTION

LAFCOs were formed for the primary purpose of promoting orderly development through the logical formation and determination of local agency boundaries, and facilitating the efficient provision of public services. The CKH provides that LAFCO can approve with or without amendments, wholly, partially, or conditionally, or deny a proposal. The statute also provides LAFCO with broad discretion in terms of imposing terms and conditions. The following options and recommended terms and conditions are presented for the Commission's consideration.

Option 1 **Approve** the out of agency service request with the following terms and conditions.

- A. Find that the project is exempt pursuant to section 15303 of the CEQA Guidelines, consistent with the determinations of Contra Costa County and the City of Martinez.
- B. Authorize the City of Martinez to extend water service outside its jurisdictional boundary to the APN 375-253-002) located at 1161 Plaza Drive in unincorporated Contra Costa County subject to the following terms and conditions:
 - 1. Water infrastructure and service is limited to one proposed single family dwelling unit, and
 - 2. The City of Martinez has delivered to LAFCO executed and recorded deferred annexation agreements, and
 - 3. The City of Martinez has delivered to LAFCO an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service.

Option 2 **Deny** the request, thereby prohibiting the City of Martinez from providing water service to the project site.

Option 3 **Continue** this matter to a future meeting in order to obtain more information.

RECOMMENDATION

Option 1 – Approve out of agency service request

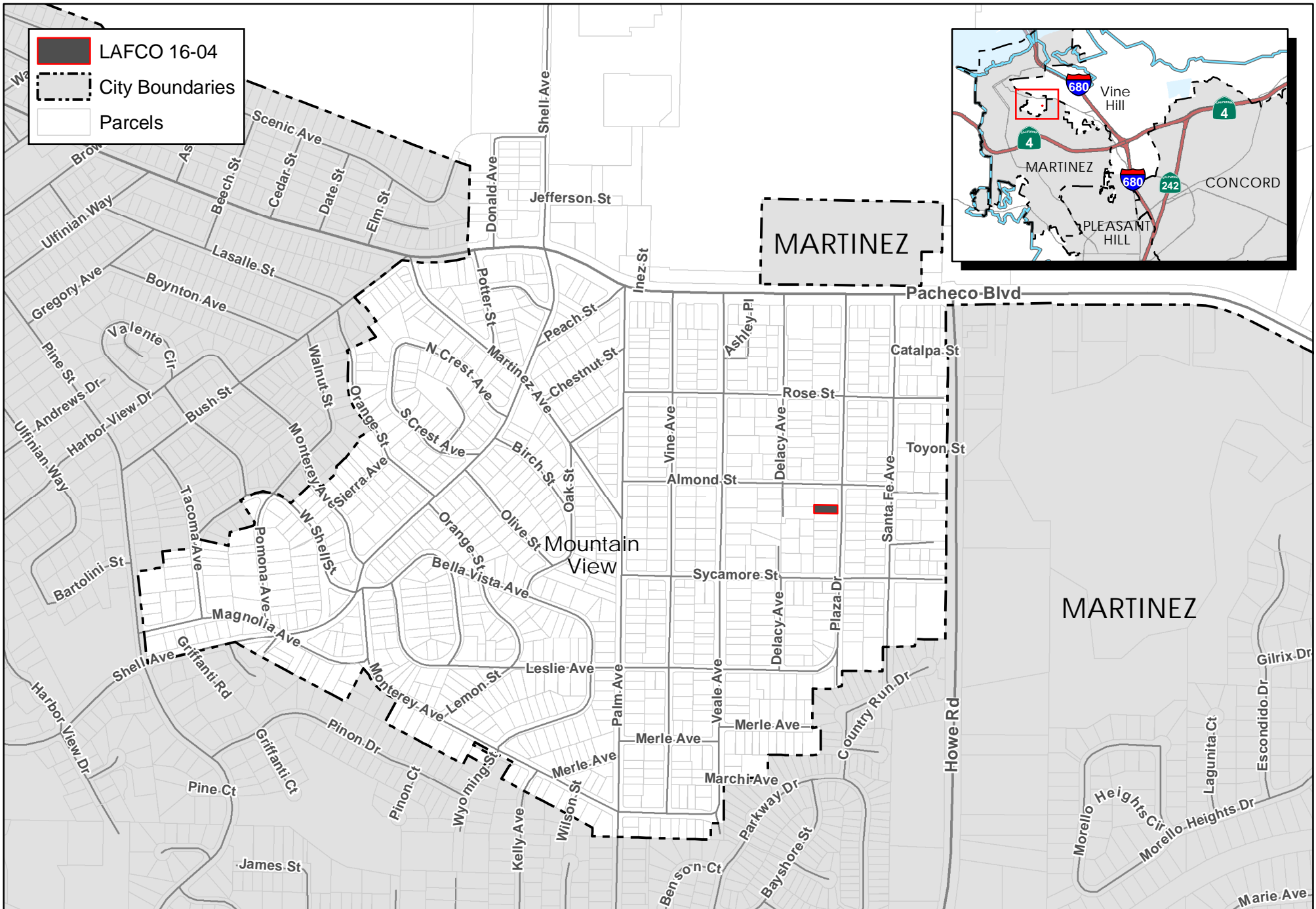
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LAFCO

Attachments

- 1. Map of Project Site
- 2. LAFCO Resolution 16-04

c: Tim Tucker, City of Martinez
 Antonio Orozco & Veronica Fernandez, Property Owners

LAFCO No.16-04 City of Martinez Out of Agency Service (1161 Plaza Dr)



- LAFCO 16-04
- City Boundaries
- Parcels

Map created 03/24/2016
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
 37:59:41.791N 122:07:03.756W

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.

Attachment 1

Feet

0 500 1,000 2,000



RESOLUTION NO. 16-04**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING THE CITY OF MARTINEZ TO PROVIDE OUT-OF-AGENCY WATER SERVICE
TO 1161 PLAZA DRIVE (APN 375-253-002)**

WHEREAS, the above-referenced request 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 time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of this request; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this request including, but not limited to, the Executive Officer's report and recommendation; and

WHEREAS, out of agency service approval is needed in order to provide water services to the properties in anticipation of a future annexation; and

WHEREAS, the City of Martinez and the property owners have entered into Deferred Annexation Agreements in support of the future annexation of the property to the City of Martinez.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Contra Costa Local Agency Formation Commission as follows:

- A. Find that the project is exempt pursuant to section 15303 of the CEQA Guidelines, consistent with the determination of the City of Martinez.
- B. Authorize the City of Martinez to extend water service outside its jurisdictional boundary to one property located at 1161 Plaza Drive (APN 375-253-002) in unincorporated Contra Costa County subject to the following terms and conditions:
 - 1. Water infrastructure and service is limited to one single family dwelling unit on the parcel,
 - 2. The City of Martinez has delivered to LAFCO executed indemnification agreements providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service, and
 - 3. The City of Martinez and the property owner(s) have signed the deferred annexation agreement (DAA), and the DAA was recorded as prescribed by law and runs with the land so that future landowners have constructive notice that their property is encumbered by the DAA.
- C. Approval to extend City of Martinez services beyond those specifically noted herein is withheld and is subject to future LAFCO review.

* * * * *

PASSED AND ADOPTED AS REVISED THIS 11th day of May 2016, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

MARY N. PIEPHO, 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: May 11, 2016

Lou Ann Texeira, Executive Officer