

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

November 9, 2016 (Agenda)

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Agenda Item 7

LAFCO 16-05

Montreux Residential Subdivision Boundary Reorganization: Annexations to the City of Pittsburg ("City"), Contra Costa Water District (CCWD) and Delta Diablo Zone 2 (DD) and Detachment from County Service Area (CSA) P-6

PROPONENT

City of Pittsburg by Resolution No. 15-13128 adopted November 2, 2015

SYNOPSIS

The applicant proposes to annex 161± acres including four parcels (APNs 089-020-009/011/014/015) located on the east and west sides of Kirker Pass Road, south of the Pittsburg city limits (Attachment 1). Annexation will bring the properties within City of Pittsburg city limits and within the service boundaries of CCWD and DD. A corresponding detachment of the same area from CSA P-6 is also proposed.

This item was continued from the September 14, 2016 LAFCO meeting to allow for further work with the developer, City of Pittsburg, Contra Costa County Fire Protection District (CCCFPD) and other parties on the LAFCO conditions as presented at the end of this report under *Alternatives for Commission Action*. LAFCO staff believes that the conditions, as proposed, are acceptable to the parties.

DISCUSSION

The reorganization proposal encompasses a 161± acre site, including a 148.3± acre main project site, a 5.45± acre portion of Kirker Pass Road, and a 7.19± acre parcel located east of Kirker Pass Road. (outside the City limits). In addition, the project includes a 16.8± acre off-site area which is already within the boundaries of the City, CCWD and DD.

The site is currently vacant and utilized as grazing land. There are no buildings on the site, only high-tension overhead power lines and associated towers. The proposed changes in land use include development of 351 single-family homes on 77± acres with lots averaging 7,668 sq. ft.; the remaining 71± acres and the 7.19± acre parcel on the east side of Kirker Pass Road will be set aside for open space. The proposed project would also include a partially buried water tank at the top of the hill (northern boundary), along with a greenwall (southern boundary), two storm water retention basins (eastern boundary), and a small open space area (northeastern corner). In addition, an offsite storm water retention basin will be constructed to serve the project (northwest of the project site). This area is already within the City.

Government Code §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 SOIs of the City of Pittsburg, CCWD and DD, as approved by LAFCO in 2009. The subject area is within the City of Pittsburg's 2005 voter approved Urban Limit Line (ULL) - Measure P, and inside the County's ULL.

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

Contra Costa County's General Plan and zoning designations for the main project site are AL (Agricultural Land), and A-4 (Agricultural Preserve), respectively. The City of Pittsburg's General Plan designations for the area include Low Density Residential and Open Space. The Land Use element of the City's General Plan includes the proposal site in the Woodlands Subarea. In November 2015, the Pittsburg City Council amended the rezoning of the main site from HPD (Hillside Planned Development) to RS-6 (Single Family Residential, 6,000 sq. ft. minimum lot size). The 71± acres and the 7.19± acre parcel are zoned OS (Open Space). Measure P rezoned the main project site for HPD and OS. Measure P provided that the rezoning could be changed by either a subsequent vote of the voters or by a majority vote of the Pittsburg City Council. The proposed uses conform to existing City of Pittsburg land use designations, as amended.

No subsequent change may be made to the general plan or zoning for the annexed territory that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the Commission [Government Code §56375(e)];

The City's application includes a consistency analysis relating to ridgelines, wetlands, creek channels, valley oaks, rock outcrop, view shed, storm water detention basins, and street grades. Consistent with the Woodland Subarea policies, the project includes 43.4± acres along the southern portion of the site that will remain undeveloped and provide the required greenbelt. This feature also eliminates the potential for development on any designated "Minor" or "Major" ridgelines and preserves a seasonal wetland swale in this portion of the main project site. The City's analysis concludes that the project is consistent with the City's General Plan Goals and Policies.

The project site is within the bounds of the City's ULL; and the proposed southern greenwall is also within the bounds of the City's ULL and includes open space as a buffer between the proposed residential development and the undeveloped open space lands to the south of the ULL, further ensuring that no service would be extended beyond the ULL.

The project site is bounded on the west by undeveloped hillside grazing that includes a PG&E transmission line and natural gas pipeline corridor; bounded on the east by Kirker Pass Road, with undeveloped hillside grazing land; bounded on the south by hillside grazing land; and to the north is a grassy ridgeline with older residential subdivisions beyond.

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

The project site is currently used for grazing. A Land Conservation Agreement (Williamson Act Contract) previously existed on the site, and expired in January 2016.

The City concludes in its Final EIR that due to the grazing activity, the project site meets the definition of "Prime Agricultural Land" as defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) - Government Code §56064. Consequently, the project will result in the conversion of prime agricultural land to an urban use. *There are no*

measures contained in the City's Mitigation Monitoring and Reporting Program (MMRP) to address the impacts to Prime Agricultural Land.

Regarding open space, there were numerous comments and concerns submitted by agencies (i.e., Contra Costa Water District, San Francisco Bay Regional Water Quality Control Board, East Bay Regional Park District), organizations (Save Mount Diablo) and individuals in response to the City's EIR. Many of these concerns focus on impacts to wetlands, hillsides, view shed, wildlife, and open space. Additional concerns were raised relating to hydrology, traffic, bike and pedestrian access, cumulative impacts, and consistency with the City's General Plan.

In response to some of these comment and concerns, the City recirculated its Draft EIR to respond to new information relating to biological resources on the project site. The EIR found that there were significant and unavoidable impacts relating to aesthetics, air quality, and public services (fire), as well as significant and unavoidable cumulative impacts relating to air quality. Ultimately, the City adopted a Statement of Overriding Considerations, and an MMRP for the project.

Included in the MMRP are measures to address scenic views, visual character, biological resources, wildlife, historic resources, cultural resources, and other impacts.

In conjunction with adoption of a new ULL for the City of Pittsburg (November 2005), the City and Altec Homes, Inc., Albert D. Seeno III and Albert D. Seeno Jr. entered into an MOU that includes the following provisions:

- The parties desired a permanent new City ULL, beyond which no development can occur in the future and to provide maximum public benefit for the residents of the City of Pittsburg for its housing, transportation, open space and park needs.
- Following passage of the City's ULL in 2005, the City will commence a General Plan study which, among other things, will 1) prevent the ability of urban utilities and services to extend beyond the ULL, and 2) establish guidelines for the development of permanent green belt areas between new development and areas outside the ULL, including a green belt area generally encompassing the southerly 1/5 (approximately) of the Montreux area.
- Developer and Albert D. Seeno III agree to a mitigation plan of their own providing at no cost to the parties hereto three acres of mitigation land replacement for one acre of land of development that is affected by resource agency required mitigations – such mitigations can be provided on the development site if possible, and if not, off site.
- Developer and Albert D. Seeno III agree to pay \$2,000 per dwelling unit to the East Bay Regional Park District (EBRPD) for additional public open space acquisition or for the maintenance of public open space. Payment of these fees will in no way affect any legal obligation to fund park improvement or to pay park-related fees to the City.
- The City shall study and enact, if supportable, a fee ordinance for EBRPD to acquire and maintain public open space in conjunction with the \$2,000 fee described above. The City will require that EBRPD, in spending the fees, give priority to spending such fees

in and around the City of Pittsburg open space south of the City and within the City's planning area.

- Albert Dr. Seeno Jr. agrees to protect the 800± acre property commonly known as Southport in accordance with specified terms and conditions.
- Developer, Albert D. Seeno Jr., and Albert D. Seeno III shall dedicate a green wall within their properties being brought inside the City's new ULL on the same properties as the development, including the Montreux property. Green wall is defined as a buffer or greenbelt through which no urban services (water, sewer) may penetrate.

Regarding the project, the City has zoned 71± acres and the 7.19± acre parcel on the east side of Kirker Pass Road as Open Space, and will require that these areas be set aside for open space. In accordance with the City's project EIR and MMRP, and pursuant to the 2006 MOU, the City will require the developer to permanently preserve 43.4± acres in the southern portion of the site, as a greenbelt buffer through a recordation of deed restriction or some other appropriate mechanism, prior to acceptance of the Final Map. Although the City has designated 71± acres plus the 7.19± acre parcel as "open space," City staff indicates that the permanent preservation of the 43.4± acres is consistent with the City's General Plan and with a Memorandum of Understanding (MOU) between the City and the developer. In addition to land dedication, the project applicant will pay a development fee and wetland fee in accordance with the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCCHCP/NCCP). The City's conditional approval of the Vesting Tentative Map and MMRP provide for the following:

- In order to receive coverage under the ECCCHCP/NCCP, the project applicant shall pay a Development Fee and a Wetland Mitigation Fee, as described below:
- Development Fee: This fee will cover the development of 123± acres of upland habitat that primarily includes annual grassland. Included within this area are 2.8± acres of exposed rock area, approximately 0.5± acre stand of valley oaks, and 1.3± acres of coastal scrub.
- Wetland Mitigation Fee: This fee shall be paid for the filling of the Waters of the US and any Waters of the State. This fee will cover the filling of 0.003± acres of the Waters of the US, as delineated on the Approved Jurisdictional Determination. If any waters on the project site are determined by the RWQCB to be Waters of the State (currently estimated at approximately 0.119± acres), then the project applicant shall also pay this fee as may be required by the HCP/NCCP, for the filling of the Waters of the State.
- Payment of the Development Fee would address the loss of potential habitat of special-status plant species (e.g., big tarplant, round-leaved filaree) associated with grasslands, while payment of the Wetland Mitigation Fee would specifically address the loss of up to 0.016± acres of potentially suitable seasonal wetland habitat for adobe navarettia. The fees would be used in part to protect these affected special status plant species by bringing existing populations of the species under protection.
- Alternately, the project applicant may, in accordance with the terms of PMC Chapter 15.108, offer to dedicate land or create and restore wetlands in lieu of some or all of the mitigation fees.
- All applicable mitigation fees shall be paid, or an "in-lieu-of fee" agreement executed, prior to the issuance of a grading permit for the project.

Given the proposed project impacts prime agricultural land and open space lands, the LAFCO staff recommendation includes a condition to address the impacts of the proposed development on these resources. LAFCO staff has worked with the City and developer on this condition.

4. Topography, Natural Features and Drainage Basins:

Both the main project site and the offsite parcel are characterized as undeveloped hilly terrain. The main project site includes several natural hills and ridges that frame a broad Y-shaped valley in the center that is open to the eastern project frontage along Kirker Pass Road. The lowest existing valley elevation is 250± feet above mean sea level (MSL). The existing ridgeline on the southern portion of the site reaches an elevation of 780+ feet above MSL, and the ridgeline along the northern boundary reaches an elevation of 655 feet above MSL.

The proposed project will involve extensive grading and excavation and reconfiguration of the northern ridgeline, which is not designated as a Major or Minor ridgeline. The City indicates that although the northern ridgeline will be excavated and reduced in its elevation by 75± feet to accommodate the water tank, the grading will mimic the existing character of the ridge and will maintain the natural appearance of the hillside. Even with the proposed grading, there will be significant and unavoidable impacts to the view shed.

The project proposes a greenbelt along the southern ridgeline; however, the project also calls for grading the eastern portion of this ridgeline, which is designated a Major Ridgeline.

Surrounding the site, there is undeveloped hillside grazing land (which includes a PG&E transmission line and natural gas corridor) to the west, and the Keller Canyon open space beyond; Kirker Pass Road with undeveloped hillside grazing land beyond to the east; and undeveloped hillside grazing land along with protected open space areas to the south. North of the site, there is undeveloped grassy ridgeland with older residential development beyond.

5. Population:

Development of 351 single family homes is planned for the annexation area. The estimated population increase for the annexation area is approximately 1,225 based on the 2014 American Community Survey data which estimates an average of 3.49 persons per household for the City of Pittsburg.

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. 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 (Gov. 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 July 2013, ABAG adopted the 2014-2022 Regional Housing Needs Allocation (RHNA) Plan for the San Francisco Bay Area. The RHNA Plan includes the following allocations for the City of Pittsburg: total RHNA is calculated at 2,025 units, including 1,063 above moderate, 316

moderate, 254 low and 392 very low income units. The proposed annexation includes a total of 351 residential units which would help the City meet its current regional housing obligation for moderate or above moderate units.

To satisfy the City's Inclusionary Housing requirements, the developer will construct secondary dwelling units on 35 residential lots in the project, and will require purchasers to enter into regulatory agreements restricting rental charges for the secondary dwelling units to ensure affordability. The City reports that the income restricted accessory dwelling units will allow extended families to live near each other, increase the City's affordable housing stock, and provide opportunities for homeowners to generate additional income.

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

Whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall also submit a plan for providing services within the affected territory (Gov. Code §56653). The plan shall include all of 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 proposal before the Commission is to annex the property to the City of Pittsburg, CCWD and DD for the provision of municipal services, including water and sanitary sewer services. The level and range of services will be comparable to those services currently provided within the City. Municipal services are needed to support future development in the area. As part of the reorganization proposal, the City and County will rely on the master tax sharing agreement. The annexation area is currently served by various local agencies including, but not limited to, Contra Costa County and CCCFPD.

Following annexation, the City will provide a range of municipal services to subject territory, including drainage, streets and roads, police, parks & recreation, street lighting, sanitary sewer, water and other services. Fire services will continue to be provided by the CCCFPD.

Following annexation, the City will provide sewer collection, and DD will provide sewer treatment and disposal. The City will provide retail water, and Contra Costa Water District (CCWD) will provide wholesale water as summarized below.

Drainage Services – The City will provide drainage services to the subject area. Three storm drains are included in the preliminary grading plan for the project, with two large basins located on the east side of the main project site along Kirker Pass Road, and a third small basin located on the off-site parcel to the northwest of the main project site. The two large basins will serve 90 percent of the main project site, and the small basin will serve the western 10 percent of the project site. The cost associated with the drainage infrastructure will be borne by the developer; ongoing maintenance will be funded by the City, homeowners through a Community Facilities District (CFD) or other funding mechanism, and through local taxes.

Streets and Roads – The existing roadway network includes State Route 4, Kirker Pass Road, Railroad Avenue, Buchanan Road, Harbor Street, Loveridge Road, East Leland Road, Somersville Road, and James Donlon Boulevard. The most significant roadway improvements associated with the proposal include the proposed James Donlon Boulevard Extension, along with construction of interior roads and streets to serve the project and provide access to the local road network. The proposed project would add approximately 2.5 miles of public streets to the City's existing road inventory following annexation.

Police Services – Law enforcement services are currently provided to subject area by the Contra Costa County Sheriff's Department. Upon annexation, police services will be provided by the City, and the area will be detached from the County's police services district (CSA P-6).

The Pittsburg Police Department (PPD) operates from its headquarters located at 65 Civic Avenue, approximately 2.5 miles north of the project site. The PPD has an authorized staffing level of 81 sworn officers and 19 non-sworn employees. The City's General Plan policy establishes a goal of 1.8 sworn officers per 1,000 residents. Based on the City's current population, the current service ratio is 1.18 sworn officers per 1,000 residents. The City is divided into six beats. The beat system is designed to assure rapid response to emergency calls within each beat. The City's goal is to maintain an 8-10 minute response time for Priority 1 calls, and under 30 minutes for priority non-emergency calls. Police response times are dependent on the agency's staffing level and size of the jurisdiction served. The PPD reports that the average response times in 2015 were 12 minutes (Priority 1 calls) and 25 minutes (non-emergency calls). The estimated population increase for the annexation area is approximately 1,225. The City's CEQA document indicates that while no new police facilities will be required to serve the annexation area, additional sworn police officers will be needed to serve the subject area. The City's standard conditions of approval require that the developer annex into the City's CFD for Public Safety Services. The CFD collected fees are intended to provide funding for police services in the annexation area.

Parks & Recreation – Pittsburg has 24 City parks ranging from half-acre mini-parks to the 190-acre Stoneman Park. In addition, Pittsburg residents have access to trails and regional parks near the project site, including the Black Diamond Mines Regional Preserve. The City's General Plan Performance Standards provide a ratio of five acres of community and neighborhood parkland per 1,000 residents, and ensure that residential developers dedicate parkland in accordance with this standard.

The City operates a comprehensive recreation and leisure time program including aquatics, sports, leisure time activities, community events, Small World Park, Senior Center, youth activities, and excursions. The City also sponsors cultural events, festivals, concerts and art shows centered in Old Town.

The proposed development does not involve construction or expansion of neighborhood parks. The development agreement provides for partial fee credit for certain trails and trail improvements constructed by the developer, along with City park in lieu fees; payment to the EBRPD for the purpose of acquiring additional public open space and/or the maintenance of open space areas; and annexation into the City Park Maintenance CFD for ongoing landscape and related maintenance.

Street Lighting – The developer will use decorative street lighting within the subdivision, which will be designed to City standards. Ongoing maintenance will be the responsibility of the City and funded by homeowners through collection of local taxes and a Lighting and landscape District.

Other Services – The City provides a multitude of other services, including code enforcement, landscape maintenance, library, refuse collection and special services which will be extended to subject area following annexation.

Fire Protection – Fire and emergency medical services are, and will continue to be, provided by CCCFPD following annexation. Within the Pittsburg area, there are four fire stations: Station 84 located at 1903 Railroad Avenue and approximately 2.2 miles from the project site; Station 85 located at 2331 Loveridge Road and approximately 1.75 miles from the project site; and Station 86 located at 3000 Willow Pass Road and approximately 3.7 miles from the project site. Station 87 located at 800 West Leland Road, serving western Pittsburg and parts of Bay Point, is currently closed and scheduled to reopen in early 2017.

The City's EIR finds that the proposed project would be located outside the 1.5-mile response radius of an existing or planned fire station, and would not meet the National Fire Protection Association response time guideline of 5 to 6 minutes 90 percent of the time. The City's EIR includes a number of mitigation measures to address the concerns regarding fire service to the project site, including the following:

- required fire facility impact fee of \$591 per single-family unit (We understand that the CCCFPD receives nearly the full \$591, less a small City administrative fee; and that this is one-time – and not ongoing – funding)
- submittal of a fire protection plan that includes details for a fuel modification zone around the subdivision
- required use of fire resistant exterior building materials
- required fire-rated roof assembly of not less than a Class "A"
- minimum fire flow of 1,500 gallons per minute
- restrictions regarding flammable or combustible liquid storage tanks
- deed disclosures notifying all property owners/buyers of proximity of the subdivision to the closest fire station

Nonetheless, the EIR concludes that even with implementation of these mitigation measures, inadequate fire protection service is identified as a significant and unavoidable impact. The City adopted a Statement of Overriding Considerations, in which it concludes that specific economic, legal, social, technological, and other anticipated benefits of the project outweigh the unavoidable adverse impacts, and therefore justify the approval of the Montreux Residential Subdivision. Further, the City finds that the project will result in substantial benefits, which justify approval of the project, as summarized below:

1. The project would further Pittsburg General Plan goals and policies relating to Low Density Residential and new high-end single family residential neighborhoods in the southern hills;
2. The project would further Pittsburg Housing Element goals and policies;

3. The project would assist in meeting the City's current regional fair share housing obligations for the development of moderate and above moderate-income residents, including 35 income restricted accessory dwelling units;
4. The project would further orderly growth, in that the project site is adjacent to the existing City limits, within the City's SOI and ULL, and will result in a logical extension of urban development consistent with good zoning practice, while also limiting future development beyond the project's southern boundary; and
5. The project would provide short term and long term economic benefits. Short-term benefits include providing construction and other related interim jobs and services during the anticipated four-year construction period. Long-term economic benefits include providing executive level housing that may attract new employers to Pittsburg. The project will also generate new revenues for the city in the form of fees, exactions and other fiscal benefits.

Fire service to the project site remains a concern for LAFCO. In August 2016, Contra Costa LAFCO completed its 2nd round Municipal Service Review (MSR) covering Fire and Emergency Medical Services. The MSR report noted that fire service providers continue to face challenges, including the following:

- Many fire service providers are unable to meet “best practices” for response times and staffing.
- In 2009, when LAFCO completed its 1st round MSR, and still today, fire agencies are unable to meet national and state guidelines for fire response times 90% of the time.
- Nearly half of the fire stations in the County are over 40 years old and a significant number are in poor condition, needing repair or replacement.
- Continued population growth, job creation, and changes in health care services affect the volume and location of service calls, creating the need for new facilities and staff resources in order to sustain services. While recovery in real estate and development has benefits, it also has costs in terms of increases in service demands.

Regarding financing, the 2016 MSR notes the following:

- Fire service providers rely primarily on property tax to fund services
- Fire districts face limited sources of revenue, including inability to charge for most services, low property tax shares as many agencies evolved from volunteer agencies, high insurance costs due to the risky nature of the profession, and significant pension liabilities from past underfunding
- The lack of requirements for special taxes from new development increases the burden on fire agencies to obtain a two-thirds special tax voter approval once an area is populated

Included in the Development Agreement (DA) between the City of Pittsburg and Altec Homes, Inc. (Montreux Property), there is a provision (Section 5.08) which provides that “In the event the City forms a CFD to provide for fire services in the City for the CCCFPD and acquisition or replacement of equipment primarily situated in the fire stations located in the City, Developer agrees to take all necessary steps necessary to include the Project Site into the district.” The DA specifies that the levy to be assessed on each legal residential lot in the project area shall be no greater than \$75, and increased annually by the CPI for the San Francisco-Oakland area.

CCCFPD indicates that the District, the developer and the Pittsburg City Manager have reached agreement on supplemental funding for fire service in conjunction with this annexation.

In support of these efforts, the LAFCO staff recommendation includes a condition to address the impact of the proposed development on the CCCFPD. LAFCO staff has worked with the City and developer on this condition, and has consulted with CCCFPD.

Sewer Services – The City provides wastewater collection services, while DD provides conveyance, treatment and disposal services to the City. DD serves the cities of Antioch and Pittsburg and the unincorporated Bay Point community. DD serves 190,567 residents in a service area of 49± square miles. DD has over 49 miles of sewer main and five pump stations.

The DD treatment plant has an average dry weather flow capacity of 19.5 million gallons per day (mgd). During the reporting period (2010), the average dry weather flow was 13.4 mgd. In 2012, 2013, and 2014, the average dry weather flows at the plant were 13.2, 13.1 and 12.5 mgd, respectively.

The subject area is located in Zone 2 of DD's service area. DD estimates that the proposed 351-unit residential subdivision will generate approximately 77,000 gpd of wastewater discharge. The City's Plan for Service includes details regarding the City's wastewater system, the infrastructure needed to serve the proposed project, and the method to finance wastewater service to the subject area. DD has provided a "will serve" letter agreeing to serve the project area.

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 City of Pittsburg is a retail water purveyor that obtains the majority of its potable water supply under a wholesale contract with CCWD. This water is diverted as raw water from CCWD's Contra Costa Canal. The remainder of the potable water supply is obtained from the City's two groundwater wells. In 2015, 87% of the City's potable supply was provided by CCWD and 13% was from local groundwater wells.

Raw water from the canal and the groundwater wells is treated at the Pittsburg Water Treatment Plant before distribution throughout the City's service area. The service area is bounded by the City limits, which is currently 15.49± square miles.

Service area population has shown steady growth over the last 20 years, but its future growth rate will be limited by available open and developable land. The City's 2015 population was estimated at 67,628 (DOF, 2015) and is projected to grow to 91,600 by 2040 (Pittsburg, City of Pittsburg 2015-2023 Housing Element, 2015).

According to the City's 2015 Urban Water Management Plan (UWMP), the City's potable water use for 2015 was 8,772 acre-feet per year (AFY), more than 7% lower than the projected water use from the 2010 UWMP. It is anticipated that the City's initiatives in decreasing water

use to meet urban water use targets, as well as the State-mandated drought restrictions, have been the biggest factors leading to this lower than previously anticipated water use.

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 serves approximately 500,000 (61,085 water connections). The primary sources of water are the U.S. Bureau of Reclamation (USBR) Central Valley Water Project and delta diversions. One of CCWD's prerequisites for service, including annexation, is inclusion in the Central Valley Project (CVP) Service Area. The CVP inclusion review is a separate process, and requires specific environmental documents. The City, the developer and CCWD will work together to complete the CVP process.

The City's Plan for Services provides details regarding the City's water system, the water supply infrastructure needed to serve the proposed project, the water sources, and the method to finance water service to the subject area. CCWD estimates that the Montreux development, once fully developed, will utilize up to 175 AFY of treated water. CCWD indicates that based on the District's most recent Future Water Supply Study and UWMP, CCWD has sufficient supplies to serve the proposed project.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 86010. The assessed value for the annexation area is \$946,217 (2015-16 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.

The City and the County have agreed to use the Master Property Tax Transfer Agreement for the proposed reorganization.

10. Environmental Impact of the Proposal:

In November 2013, the City of Pittsburg, as Lead Agency, released the Draft Environmental Impact Report (EIR) for the Montreux Residential Subdivision. In December 2014, the City released Recirculated sections of the 2013 Draft EIR (i.e., relating to impacts on biological resources that the City determined were deficient in the original Draft EIR). On August 17, 2015, the City of Pittsburg, as Lead Agency, certified the EIR for the project; and on November 2, 2015, the City approved CEQA Findings, adopted a Statement of Overriding Considerations, and adopted a MMRP for the project. The EIR found that there were significant and unavoidable impacts relating to Aesthetics, Air Quality and Public Services (fire). Further, the EIR found that while there is no impact to agricultural land based on the Farmland Mapping and Monitoring Program, there is an impact to Prime Agricultural Land as defined in the CKH. Copies of the City's environmental documents were previously provided to the Commissioners and are available for review in the LAFCO office.

LAFCO staff provided comment letters to the City in response to the various CEQA documents. In our letters, we provided questions and comments covering various issues, including impacts

to agricultural land (based on LAFCO's definition) and to fire service, noting that the provision of fire service to the proposed development remains a concern to LAFCO. The recommended option to approve the proposed reorganization includes LAFCO terms and conditions to address these issues.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 12 registered voters in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited. The City indicates that 100% of the affected landowners have provided written consent to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). 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 LAFCO hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within the SOIs of the City of Pittsburg, CCWD and DD and is contiguous to the city and district service boundaries. A corresponding detachment from CSA P-6 of the same area is also proposed. A map and legal description to implement the proposed boundary changes 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 recent legislation (SB 244), 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's Department of Conservation and Development, the annexation area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties:

On September 7, 2016, Contra Costa LAFCO received a letter from Save Mount Diablo (SMD) (Attachment 2) stating their opposition to the Montreux Residential Subdivision Project, and asking that LAFCO deny the proposal for reasons numerous outlined in their comment letters (available on the LAFCO website), including that the project violates California planning and zoning law and the Subdivision Map Act, and that the project EIR is inadequate under CEQA. Further, SMD notes an inconsistency in the project EIR as it concludes that there is an impact to prime agricultural land based on LAFCO's definition; however, the Final EIR contains no section on Agriculture and no agriculture impact analysis.

SMD also indicates that if LAFCO is inclined to approve the proposal, it should defer recording the annexation until there is assurance that the full 78.2± acres of open space are permanently protected.

16. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Section 65080 [Gov. Code section 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 subregional basis (Gov. Code section 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, in July 2013, ABAG and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area. 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.

The Plan Bay Area directs future development to infill areas within the existing urban footprint and focuses the majority of growth in self-identified Priority Development Areas (PDAs). PDAs include infill areas that are served by transit and are located close to other amenities, allowing for improved transit, bicycle and pedestrian access thereby reducing the amount of transportation related GHG generated. Plan Bay Area supports infill development in established communities and protects agricultural and open space lands. The Plan assumes that all urban growth boundaries are held fixed through the year 2040 and no sprawl-style development is expected to occur on the regions' open space or agricultural lands.

Plan Bay Area includes projections for the region's population, housing and job growth and indicates that the region has the capacity to accommodate expected growth over the next 25 years without sprawling further into undeveloped land on the urban fringe.

ABAG and MTC are in the process of updating the Plan Bay Area. The new plan - "Plan Bay Area 2040" - is currently underway. Following public meetings to consider various "Alternative Scenarios" which show different options for how the Bay Area can grow based on local land use development patterns and transportation investment strategies, a draft preferred scenario was released, which represents a hybrid of strategies previously considered. The draft preferred scenario is being reviewed and refined. Ultimately, ABAG and MTC will be asked to adopt the final preferred scenario at a joint meeting. All of this work, in turn, will form the foundation for Plan Bay Area 2040, to be adopted in summer 2017.

The 2013 Plan Bay Area "aims to protect open space and agricultural land by directing 100 percent of the region's growth inside the year 2010 urban footprint, which means that all growth occurs as infill development or within established urban growth boundaries or urban limit lines. As the plan assumes that all urban growth boundaries/urban limit lines are held

fixed through the year 2040, no sprawl-style development is expected to occur on the region's scenic or agricultural lands."

As noted above, a Land Conservation Agreement (Williamson Act Contract) previously existed on the site, and expired in January 2016. The project site is currently used for grazing, and qualifies as "Prime Agricultural Land" as defined in the CKH. Consequently, the project will result in the conversion of prime agricultural land to an urban use, with no specific mitigations measures to address the impacts to Prime Agricultural Land.

The proposed Montreux residential subdivision is within the City's ULL, and is not designated as a "Priority Conservation Area" or a "PDA." This proposal does not focus growth within the urbanized area of the City. To the contrary, it extends the urban footprint into an undeveloped area, predominately used for grazing. Further, the project area has minimal access to the local or regional transit network. As such, this proposal would not appear to minimize GHG emissions. The goals and strategies contained in Plan Bay Area encourage compact development in existing downtowns, main streets and neighborhoods with transit access, and discourage urban edge development in open space and/or agricultural lands. *It is debatable whether the Montreux project is consistent with Plan Bay Area.*

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 reorganization as proposed.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Montreux Residential Subdivision EIR as certified by the City of Pittsburg on August 17, 2015 (Resolution No. 15-13097), and in the City's CEQA Findings, Statement of Overriding Considerations, and MMRP for the Montreux Residential Subdivision as certified by the City of Pittsburg on November 2, 2015 (Resolution No. 15-13123).
- B. Adopt this report, approve LAFCO Resolution No. 16-05 (Attachment 3), and approve the proposal, to be known as the Montreux Residential Subdivision Boundary Reorganization: Annexations to the City of Pittsburg, Contra Costa Water District and Delta Diablo Zone 2 and Detachment from County Service Area P-6 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 agencies.
 2. The City of Pittsburg has delivered an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
 3. Water service is conditional upon CCWD receiving acceptance for inclusion of the annexed area from the USBR, pursuant to the requirements in CCWD's contract with USBR for supplemental water supply from the CVP.

4. Prior to LAFCO issuing a Certificate of Completion, the City of Pittsburg shall enter into a joint community facilities agreement with CCCFPD with the purpose of the City forming a CFD to fund supplemental fire protection and emergency medical services in various areas within the City including the area proposed for annexation.
 5. The recordation of LAFCO's Certificate of Completion is conditioned on the City providing LAFCO with a certified copy of a recorded grant deed of development rights, from the developer to the City, that restricts development on the 43.4± acres designated as Open Space, and remains in effect until the 43.4± acres are permanently preserved as a greenbelt buffer, in accordance with the City of Pittsburg's General Plan Policy 2-P-73 and Mitigation Measure LUP-1, through the recordation of an easement, a deed restriction, or other instrument or mechanism approved by the City.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Option 2 Accept 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.

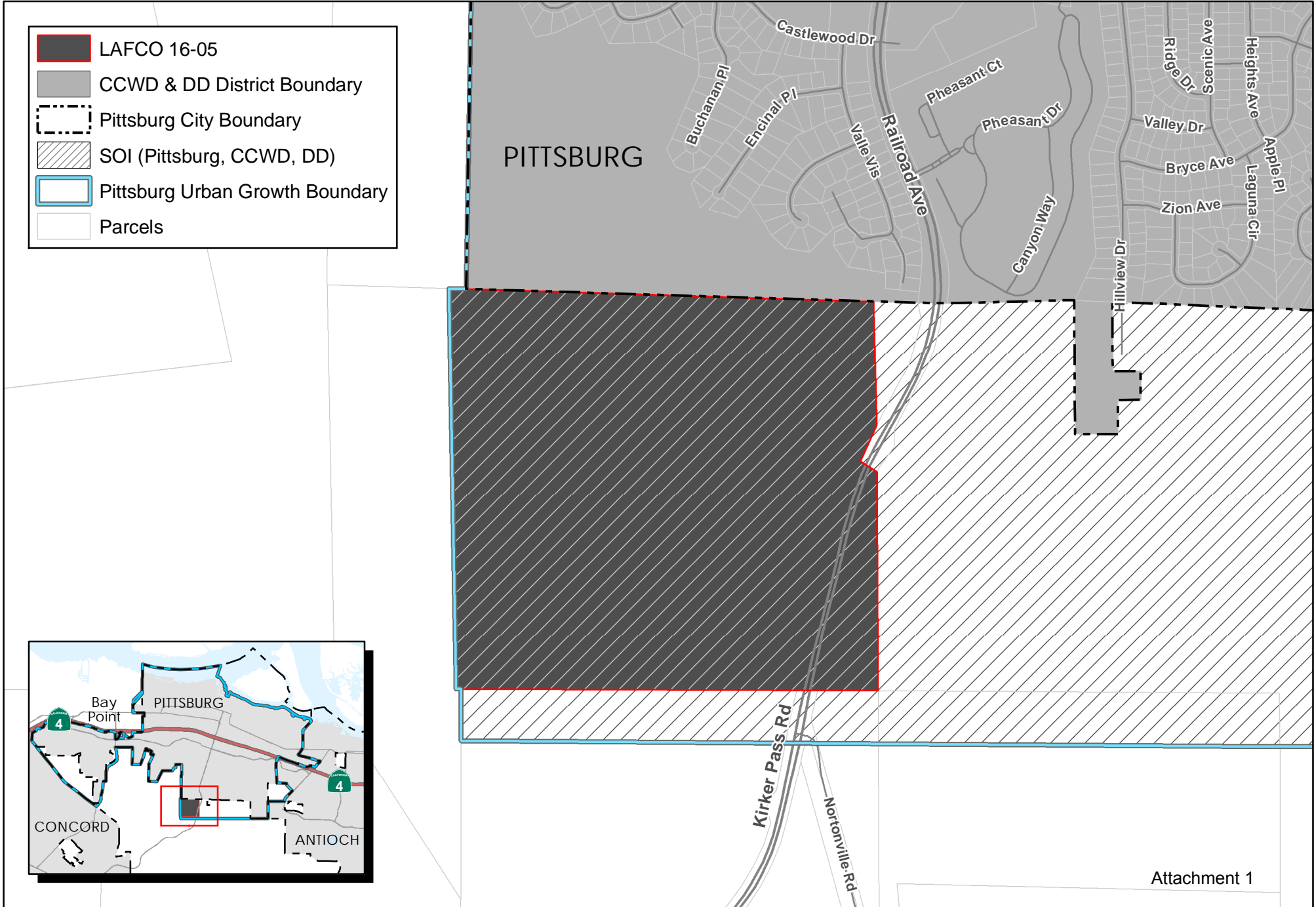
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

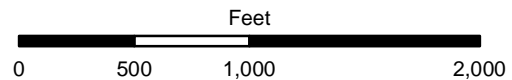
- 1 – Montreux Residential Subdivision Boundary Reorganization Map
- 2 – Letter dated September 7, 2016 from Save Mount Diablo
- 3 - Draft LAFCO Resolution 16-05

c: Distribution

LAFCO No.16-05 - Montreux Reorganization: Annexations to City of Pittsburg, Contra Costa Water District (CCWD) and Delta Diablo (DD) Zone 2; Detachment from CSA P-6



Attachment 1





September 7th, 2016

Attachment 2

Board of Directors

Scott Hein
President
Amara Morrison
Secretary
Burt Bassler
Treasurer
Heath Bartosh
Joe Canciamilla
John Gallagher
Liz Harvey
Claudia Hein
Bob Marx
Sue Ohanian
Malcolm Sproul
Jeff Stone
Directors

Supervisory Mary Piepho
LAFCO Chair
651 Pine St., 6th Floor
Martinez, CA

RE: Comments on the Contra Costa Local Agency Formation Commission (LAFCO) Annexation Request for the Proposed Montreux Residential Subdivision

Dear Supervisor Piepho,

Save Mount Diablo (SMD) is a non-profit conservation organization founded in 1971 which acquires land for addition to parks on and around Mount Diablo and monitors land use planning which might affect protected lands. We build trails, restore habitat, and are involved in environmental education. In 1971 there was just one park on Mount Diablo totaling 6,778 acres; today there are almost 50 parks and preserves around Mount Diablo totaling 110,000 acres. We include more than 8,000 donors and supporters.

Staff Directors

Edward Sortwell Clement Jr.
Executive Director
Seth Adams
Land Conservation Director
Meredith Hendricks
Land Programs Director

We are writing this letter to state our opposition to the Montreux Residential Subdivision (Project) annexation request. We believe that LAFCO should deny this application request due to the numerous reasons that we and our legal representation have cited in previous comment letters (attached here as appendices). These letters show in great detail that the Project violates California planning and zoning law as well as the Subdivision Map Act, and that the Project Environmental Impact Report (EIR) is inadequate under the California Environmental Quality Act.

Monica E. Oei
Finance & Administration Director

However, if LAFCO does decide to approve the Project annexation, it should, at the least, withhold recordation of the annexation until after mitigation for Project impacts has been secured in the form of a binding easement that will permanently protect the 78.2 acres of open space detailed in the annexation application. The applicant currently proposes the permanent protection via deed restriction of only the 42 acre so-called “greenwall” portion of the Project site. Given that 77 acres of agricultural land used to graze cattle will be lost to development if this annexation request is approved, a larger mitigation requirement is appropriate.

Deborah Toll White
Development Director

Founders

Arthur Bonwell
Mary L. Bowerman

There is an important inconsistency with regard to agricultural impacts between the Project EIR documents and the annexation application materials. The Project’s final EIR states in the last sentence of the first paragraph on page 2.0-4 that, “As the project site is currently used for grazing, it does meet the definition of prime agricultural land under this definition.” [Gov. Code section 56064]. However, there is no agricultural impact section in the EIR and the Project annexation application materials repeatedly state that there are no impacts to agricultural land.

Proud Member of

Land Trust Alliance
California Council of Land Trusts
Bay Area Open Space Council



Since both the EIR and annexation application materials recognize that the area proposed for annexation is currently grazed by cattle, and until very recently was protected under Williamson Act contract, we submit that this area qualifies as agricultural land and is worthy of mitigation from Project impacts.

The annexation application for the Project states that 351 single-family houses will be constructed on approximately 77 acres and that an additional 78.2 acres will be set aside for open space. However, no easement is proposed to protect these 78.2 acres. The only proposed protection is a recordation of a deed restriction over 42 acres of proposed open space on the southern side of the property, the proposed “greenwall.” If 77 acres will be developed, the proposed protection of 42 acres on the south side of the main Project site is both weak and inadequate.

The Project proponent has proposed to protect areas as open space several times in the past, only to come back some time in the future and seek to develop these same areas. A clear example of this is the Pointe project in Antioch, since renamed Black Diamond Ranch Unit 4.

Given the proponent’s record of developing areas formerly identified as protected or as “open space”, the significant disparity between the acreage of the Project to be developed and the area currently proposed for protection, and the stated intention that 78.2 acres of the Project site serve as open space, it is appropriate and fully within LAFCO’s power to require a binding conservation easement be placed over the entire 78.2 acres that would not be developed as part of the Project before recordation of the annexation, in order to ensure the permanent protection of this land.

We encourage LAFCO to deny this annexation request, but if LAFCO decides to approve, we strongly encourage it to withhold recordation of the annexation until after binding mitigation for Project impacts has been secured in the form of a permanent conservation easement over the 78.2 acres of the Project area that would not be developed.

Appendices:

Appendix A – SMD Comments on Montreux final EIR; August 14th 2015

Appendix B – Shute, Mihaly and Weinberger Comments on Montreux recirculated draft EIR; February 6th 2015

Appendix C – Shute, Mihaly and Weinberger Comments on Montreux draft EIR; January 10th 2014

Appendix D – SMD Comments on Montreux draft EIR; January 9th 2015

Appendix E – SMD Comments on Montreux Notice of Preparation; April 29th 2013

Sincerely,

Juan Pablo Galván
Save Mount Diablo

CC:

Meredith Hendricks, Save Mount Diablo

Seth Adams, Save Mount Diablo

Ted Clement, Save Mount Diablo

Joel Devalcourt, Greenbelt Alliance

Brian Holt, East Bay Regional Park District

RESOLUTION NO. 16-05

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
MONTREUX RESIDENTIAL SUBDIVISION REORGANIZATION: ANNEXATIONS TO THE
CITY OF PITTSBURG, CONTRA COSTA WATER DISTRICT AND DELTA DIABLO ZONE 2,
AND DETACHMENT FROM COUNTY SERVICE AREA P-6**

WHEREAS, the Montreux Residential Subdivision Boundary Reorganization 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 (Government Code §56000 et seq.); 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 Montreux Residential Subdivision Boundary Reorganization proposal; and

WHEREAS, the Commission held a public hearing on September 14, 2016, which was continued to November 9, 2016, on the Montreux Residential Subdivision Boundary Reorganization proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental documents and determinations, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, no subsequent change may be made to the general plan or zoning for the annexed territory that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the Commission [Government Code §56375(e)];

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Montreux Residential Subdivision EIR as certified by the City of Pittsburg on August 17, 2015 (Resolution No. 15-13097), and in the City's CEQA Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Montreux Residential Subdivision as certified by the City of Pittsburg on November 2, 2015 (Resolution No. 15-13123).
2. Said reorganization is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:
MONTREUX RESIDENTIAL SUBDIVISION BOUNDARY REORGANIZATION:
ANNEXATIONS TO THE CITY OF PITTSBURG, CONTRA COSTA WATER DISTRICT AND
DELTA DIABLO ZONE 2, AND DETACHMENT FROM COUNTY SERVICE AREA P-6
4. 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.
5. Approval of the Montreux Residential Subdivision Boundary Reorganization - Annexations to the City of Pittsburg, Contra Costa Water District and Delta Diablo Zone 2, and detachment from County Service Area P-6 is subject to the following:

Contra Costa LAFCO
Resolution No. 16-05

- a. 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.
 - b. The City of Pittsburg has delivered an executed indemnification agreement between the City and Contra Costa LAFCO providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the Montreux Residential Subdivision Reorganization.
 - c. Water service is conditional upon CCWD receiving acceptance for inclusion of the annexed area from the USBR, pursuant to the requirements in CCWD's contract with USBR for supplemental water supply from the CVP.
 - d. Prior to LAFCO issuing a Certificate of Completion, the City of Pittsburg shall enter into a joint community facilities agreement with the Contra Costa County Fire Protection District with the purpose of the City forming a Community Facilities District to fund supplemental fire protection and emergency medical services in various areas within the City including the area proposed for annexation.
 - e. The recordation of LAFCO's Certificate of Completion is conditioned on the City providing LAFCO with a certified copy of a recorded grant deed of development rights, from the developer to the City, that restricts development on the 43.4± acres designated as Open Space, and remains in effect until the 43.4± acres are permanently preserved as a greenbelt buffer, in accordance with the City of Pittsburg's General Plan Policy 2-P-73 and Mitigation Measure LUP-1, through the recordation of an easement, a deed restriction, or other instrument or mechanism approved by the City.
6. The territory proposed for reorganization is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
7. All subsequent proceedings in connection with the Montreux Residential Subdivision Boundary Reorganization 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 9th day of November 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.

Dated: November 9, 2016

Lou Ann Texeira, Executive Officer