

SONOMA LOCAL AGENCY FORMATION COMMISSION

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Staff Report

Meeting Date: December 5, 2018

Agenda No: Item No. 4.1

Agenda Item Title: Northeast Santa Rosa Reorganization No. 17-003 (7 Eleven Inc.)

LAFCO File No: 2018-13

Applicant(s): 7 Eleven Inc.

Proposal: Request for a reorganization consisting of annexation of nine parcels, constituting an unincorporated island and totaling +/- 7.9 acres, to the City of Santa Rosa and detachment from Rincon Valley Fire Protection District and County Service Area No. 41 (Multi-Services)

Location: Generally located at the northwest corner of the intersection of Middle Rincon Road and State Highway 12, in northeast Santa Rosa

General Plan: County – General Commercial and Rural Residential
City – Retail and Business Services and Low-Density Residential

Environmental Determination City of Santa Rosa General Plan 2035 Environmental Impact Report

Staff Contact: Carole Cooper

ANALYSIS

Background

The 7 Eleven Corporation has submitted an application for a reorganization consisting of annexation to the City of Santa Rosa (“City”) of nine parcels, which comprise an unincorporated island of territory surrounded by the City. The affected territory, which is generally located along the northwest corner of the intersection of Middle Rincon Road and State Highway 12, encompasses almost eight acres and would, upon annexation, be detached from the Rincon Valley Fire Protection District and County Service Area No. 41 (Multi-Services).

The properties are located within the LAFCO-determined Sphere of Influence for the City and within both the voter-approved Urban Growth Boundary and the Sonoma County General Plan “urban service area” boundary. The unincorporated island is one of more than 40 that are completely surrounded by territory within the City.

Seven of the nine parcels are developed: two with residences; one containing residential and commercial uses; three in commercial use; and one owned by the Rincon Valley Fire Protection District as the location of a secondary fire station. Two properties are vacant. 7 Eleven Inc. owns seven of the nine parcels.

Surrounding territory – all within the City – varies between residential and commercial. Territory north and west is primarily residential with parcels of varying sizes; a multi-tenant commercial property is located immediately adjacent to the west. Well beyond the northern annexation boundary, Austin Creek runs southwest to northeast.

Five of the parcels front Highway 12. Commercial development uses can be found south across the busy four-lane highway, and east of the annexation boundary, across Middle Rincon Road, commercial uses are found, including a gas station/mini-mart and other retail entities and offices; a church is a little farther down the street.

According to City records, two of the parcels along Middle Rincon Road are connected to City sewer and water, one for almost 50 years and the other for more than 15 years. Wells and septic systems serve the other developed properties. Sidewalk areas are in place along the Middle Rincon Road frontage and continuing around onto a small length of Highway 12 frontage. Sewer lines are available in Middle Rincon Road and within the residential developments to the west and north of the affected territory while water lines are located in Middle Rincon Road and Highway 12. Connection to City utility services would be required upon new development.

Reason for Proposal

Almost three years ago, the then-owners of most of the properties within the island approached staff about the possibility of annexing the nine properties. Over the last year

or so, subsequent to the 7 Eleven Corporation's purchase of most of the parcels surrounding the property that it owned at the corner of Highway 12 and Middle Rincon Road, the company followed through on this interest. 7 Eleven wishes to access public sewer and water for those properties that do not have City utility connections at this time. In the future, the company could develop the territory itself or sell various parcels for development purposes. Currently no further development is planned.

As indicated above, annexation of the nine parcels would eliminate one of the 40+ unincorporated islands in Santa Rosa. This change would promote the efficient and effective provision of public services to these properties. The City determined that annexation of the subject properties is consistent with the goals of the Santa Rosa General Plan which supports annexation of unincorporated land adjacent to the City and within the Urban Growth Boundary when public services are available and annexation is a logical expansion of the City. Staff supports this; believes that similar action could be taken with regard to the many other unincorporated islands surrounded by territory within the City boundary; and would encourage continued efforts to eliminate unincorporated islands through annexation.

Currently, under the Sonoma County General Plan, the properties' land-use designations are Rural Residential for the fire station parcel and General Commercial for the remaining territory; the zoning is Rural Residential and Retail and Business Service District, respectively, with legal, non-conforming uses in place.

City Action: Pre-Zoning

In May 2018, the Santa Rosa City Council pre-zoned the parcel at the corner of Middle Rincon Road and Highway 12 and the two parcels just to the west (together, APNs 182-540-024, -025, and -026) to the General Commercial zoning district, consistent with the Retail and Business Services land-use designation of its General Plan. According to the City, that land-use designation envisions retail and service enterprises, offices, and restaurants, with the City's policy calling for uses that meet the needs of those who live and work in the City as well as attracting a regional clientele.

The Council pre-zoned the remaining six parcels (APNs 182-540-020 - -023 and 182-540-027 and -028) to the Single Family Residential zoning district under the Low Density Residential land-use designation. This zoning district allows two to eight dwelling units per acre, projected as residential neighborhoods where detached and attached single-family dwellings would be located as well as possible multi-family projects. The proposed zoning would allow up to 34 additional residential units. The City's ordinance is attached (Attachment 3).

City Action: Environmental Determination

As part of its pre-zoning ordinance for the affected territory, the Santa Rosa City Council determined that the Environmental Impact Report for the Santa Rosa General Plan 2035 ("EIR"), which was adopted in November 2009, reviewed and analyzed proposed

land-use designations, among them, the Retail and Business Services and Low Density Residential designations which apply to the affected parcels. As indicated above, the City determined that the CG (General Commercial) district is consistent with the Retail and Business Services designation, and the Single-Family Residential district is consistent with the Low Density Residential designation.

As such, the City determined that pre-zoning the properties to zoning districts consistent with the land-use designations and annexation actions were encompassed – considered and analyzed - within the scope of the EIR. The City found that the subject proposal does not present significant environmental effects that were not previously considered and further found no project-specific impacts which are peculiar to the project or its site exist. In Ordinance 2018-009, stating its findings, the City referenced section 15183 of the California Environmental Quality Act (“CEQA”) Guidelines, which states, in relevant part:

...projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.

Based on its analysis and section 15183, the City found that no additional environmental review is required for the subject proposal. Sonoma LAFCO is a responsible agency for the proposal, following the determination of the lead agency, the City of Santa Rosa. Sonoma LAFCO staff agrees with the City’s findings for the Proposal.

Due to the size of the digital files, digital versions of the Draft EIR and Final EIR were sent the commissioners separately through an online document transfer program. The documents can also be reviewed on the City’s website at <https://srcity.org/392/General-Plan>.

Consent of Owners

As indicated above, 7 Eleven owns seven of the nine parcels within the annexation boundary. Rincon Valley Fire Protection District owns one parcel, and a private trust owns the final parcel. After annexation was initially discussed with LAFCO staff near the beginning of 2016, the chief petitioners contacted owners of all properties within the annexation boundary and obtained their written consent for annexation. However, over the course of two-plus years, ownership changed, and one owner did not respond more recently to the request to provide updated consent to the application. (State law requires submittal of an application to LAFCO within 60 days of last signature on a petition.) As a result, the Commission must conduct a noticed public hearing for consideration of the proposal’s merits.

Notice of the hearing was sent to owners and registered voters both within the annexation boundary and within 300 feet of the outside boundary, posted on the Commission's website and at the County, and published in the *Press-Democrat*. The notice stated that, unless the Commission receives written opposition by the conclusion of the hearing on the merits of the proposal, should the proposal be approved, the Commission may waive protest proceedings. To date, staff has received no written opposition.

Request by Kenwood Fire Protection District for Change in Board Membership

The Kenwood Fire Protection District ("District"), formed in 1946, currently has a board of directors composed of three members. The District board has stated that, over time, the responsibilities of board members have increased, and a broader and increased representation of community interests and views is desired. For those reasons, the District board of directors approved a resolution regarding its desire for an increase in the number of board members.

The California Health and Safety Code ("Code"), under which fire protection districts operate, allows a district's board of directors to have three, five, seven, nine, or eleven members. The District wishes to increase its board to five elected members. One way of accomplishing this is via a general or special election, with the District board adopting a resolution to put the question on the ballot. An alternative allowed in section 13845(f) of the Code is for LAFCO to change the number of members on a board of directors as a term and condition of approval by the Commission of any change of organization or reorganization. Pursuant to the Code, the Commission-ordered change is not subject to voter approval.

The board of the fire protection district has submitted a resolution requesting such action by the Commission (Attachment 5) and has presented substantive reasons as stated below:

...for practical and sensible governance by the governing body, including maintenance of a decision making quorum at all times; the ability to form ad-hoc committees to study and report on complex issues without violation of Brown Act rules, and the anticipated future complex negotiations leading to operational consolidation with adjacent fire agencies.

Staff recommends that the Commission approve the requested change as part of its resolution associated with the subject proposal, as allowed by state law.

Individual Factors for Consideration

California Government Code §56668 describes 16 factors to be considered in the Commission's review of an annexation proposal. The review must include, but is not limited to, consideration of these factors that are outlined and addressed in Attachment 1.

RECOMMENDATION

1. Approve the reorganization, pursuant to the following findings and determinations:
 - a. The affected territory is an unincorporated island completely surrounded by territory within the City of Santa Rosa. Elimination of the unincorporated island will promote greater efficiency and effectiveness in the provision of public services and reduce confusion among public and private individuals and entities.
 - b. The affected territory is within the City's sphere of influence, voter-approved Urban Growth Boundary, and the "urban service area" boundary of the Sonoma County General Plan.
 - c. The reason for the reorganization is to allow access to City utility services and eventual development at densities consistent with the City's General Plan land-use designations. No development is proposed at this time.
 - d. The City has stated that it can provide services to the affected territory upon annexation.
2. Regarding the Commission's responsibilities for the proposal, pursuant to the California Environmental Quality Act,
 - a. Find that further review is not required, pursuant to State CEQA Guidelines section 15183.
 - b. Direct staff to file a notice of determination in accordance with CEQA and the State CEQA Guidelines.
3. Regarding the request of the Kenwood Fire Protection District, pursuant to section 13845(f) of the California Health and Safety Code, increase the number of members of the District board of directors from three to five, to support practical and sensible governance by the board and more broadly represent community interests and views. This change shall be implemented pursuant to district policies and elections procedures subsequent to the effective date of this reorganization.
4. Waive protest proceedings, pursuant to section 56663(c) of the California Government Code, in that no opposition to the proposal was received by the conclusion of the Commission proceedings.

Staff has prepared a draft resolution for the Commission's review and consideration (Attachment 2).

ALTERNATIVE TO RECOMMENDATION

Regarding the proposed reorganization, no alternative is offered unless written opposition is received prior to the conclusion of the Commission proceedings. In such case, the Commission would be required by state law to conduct a protest proceeding.

The affected territory of nine parcels comprises one of more than 40 unincorporated islands surrounded by territory within the City of Santa Rosa. Continued retention of such islands precludes the efficient and effective provision of public services and creates confusion with the public, owners of properties in the islands, and governmental agencies. The City is encouraged to eliminate the existing unincorporated islands surrounded by territory within the City boundary.

Regarding the request of the Kenwood Fire Protection District to increase the number of board members, the Commission could reject such a change. Staff does not recommend that option, for several reasons: state law allows a fire protection district board to be composed of five members instead of the current three members, the District board has requested the change in a formal resolution and has stated valid reasons for its request; and the Commission has the authority, pursuant to state law, to direct the change.

ATTACHMENTS

1. Factors for Consideration
2. Draft Resolution
3. City Ordinance No. 2018-009, dated May 8, 2018
4. Kenwood Fire Protection District Resolution No. 18-19-01, dated July 25, 2018
5. Preliminary Map and Boundary Description

Documents sent separately: City of Santa Rosa General Plan 2035 Draft Environmental Impact Report; City of Santa Rosa General Plan 2035 Final Environmental Impact Report