

Item 3.2 Attachment 3

Draft Resolution

111 Santa Rosa Avenue, Suite 240
Santa Rosa, CA 95404

October 6, 2021

Resolution of the Local Agency Formation Commission of the County of Sonoma, State of California, Making Findings Pursuant to the California Environmental Quality Act as a Responsible Agency, Adopting a Statement of Overriding Considerations, Approving a Reorganization Designated as 2021-10: Windsor Reorganization No. 2021-01 (Benson) Annexation to the Town of Windsor and the Windsor Water District and Detachment from County Service Area No 41 (Multi Services), and Waiving Protest Proceedings for the Proposal (File No. 2021-10)

Resolved, that the Local Agency Formation Commission of the County of Sonoma (the Commission) hereby finds as follows:

1. Proposal and Procedural History

1.1 Oliver and Kimberly Benson (the Applicants) submitted an application (the Application) to the Executive Officer of the Commission (the Executive Officer) pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code §56000 et seq.) (CKH) proposing a reorganization consisting of annexation to the Town of Windsor (Town) and the Windsor Water District (District) and detachment from County Service Area No. 41 (Multi-Services) (the Proposal).

1.2 The Proposal consists of one parcel totaling approximately two acres, generally located along southeastern corner of Pleasant Ave and Emmerson Street in unincorporated Sonoma County (APN 163-012-001) (the Affected Territory).

1.3 The Applicants submitted a plan for services within the Affected Territory (the Plan for Services). The Application and the Plan for Services were submitted to the Executive Officer pursuant to the Cortese-Knox-Hertzberg Act. The Executive Officer accepted the Application for filing and set the Proposal for consideration by the Commission and provided notice thereof as provided in the Cortese-Knox-Hertzberg Act.

1.5 The Executive Officer reviewed the Proposal, prepared a report analyzing the Proposal (the Executive Officer's Report), and recommended approval of the Proposal. Upon completion, the Executive Officer furnished copies of the Executive Officer's Report to all persons entitled to copies under the Cortese-Knox-Hertzberg Act.

1.6 At its meeting of October 6, 2021, the Commission considered the reorganization involving annexation of the Affected Territory to the Town and District and detachment from County Service Area No. 41 (Multi-Services).

1.7 The Commission received all relevant oral and written testimony and evidence presented or filed regarding the Proposal and considered the Executive Officer's Report and the environmental effects of the Proposal as shown in the Windsor 2040 General Plan Environmental Impact Report (the EIR) and an associated analysis and environmental checklist prepared by the Town of Windsor for the Proposal (the Environmental Checklist). All interested persons were given the opportunity to hear and be heard. The Commission determined to make the findings herein, to adopt a statement of overriding considerations, and to approve the Proposal as set forth herein.

1.8 The Commission has had an opportunity to review this resolution and hereby finds that it accurately sets forth the intentions of the Commission regarding the Proposal.

2. CEQA Compliance

2.1 The Commission has reviewed and considered the EIR and the Environmental Checklist for the Proposal, as prepared by the Town, prior to reaching its decision herein. The Commission has reached its own independent conclusions on whether and under what conditions to approve the Proposal. The Commission has reviewed and considered the sphere of influence of the Windsor Water District, the sphere of influence for the Town established by the Commission (the Town's Sphere of Influence), the urban service area boundary for the Town in the Sonoma County General Plan (the County's Urban Service Area Boundary for the Town), the 2040 General Plan for the Town (the Windsor 2040 General Plan or the Town's General Plan), and the urban growth boundary for the Town enacted by the voters of the Town (the Town's UGB or the UGB). Prior to reaching its decision herein, the Commission has also reviewed and considered the following resolutions and ordinances of the Town, which are incorporated herein by reference:

(a) Resolution No. 3447-18 of the Town Council of the Town of Windsor Certifying an Environmental Impact Report and Adopting Findings Concerning Certain Mitigation Measures, Findings Concerning Alternatives, A Statement of Overriding Considerations and A Mitigation Monitoring and Reporting Program for the Town of Windsor 2040 General Plan, dated April 4, 2018;

(b) Resolution No. 3448-18 of the Town Council of the Town of Windsor Adopting the Windsor 2040 General Plan with Certain Revisions, dated April 4, 2018;

(c) Ordinance No. 2019-334, An Ordinance of the Town of Windsor Town Council Determining that Prezoning Three Properties Located at 1246 through 1346 Shiloh Road (APNs 164-150-009, -010, and -054), Seven Properties Located at 104 through 180 Shiloh Road and 210 East Shiloh Road (APNs 059-310-038, -039, -044, -051, -052, -056, and -057) and One Property Located at 6666 Emmerson Street (APN 163-012-001) to Zoning Designations Consistent with the 2040 General Plan

Land Use Designations of the Parcels is Within the Scope of the Town of Windsor 2040 General Plan and 2040 General Plan EIR and Approving Rezoning (File No. 18-21).

2.2 The Commission finds that the Town is the lead agency and that the Commission is a responsible agency for the Proposal under the California Environmental Quality Act (CEQA). The Commission further finds that, pursuant to State CEQA Guidelines sections 15096 and 15162, none of the requirements for the Commission to take lead agency status and conduct further environmental review is met.

2.3 As lead agency, the Town prepared and certified a programmatic EIR for the Windsor 2040 General Plan. The EIR identified significant and unavoidable impacts related to Agricultural Resources (conversion of active agricultural land to non-agricultural use) and Transportation and Traffic (queuing at four locations that could result in traffic hazards). The Town adopted a statement of overriding considerations for the significant and unavoidable impacts. The Commission has reviewed the Town's Resolution No. 3447-18, which is incorporated herein by reference. The Commission concurs with and adopts the findings of Resolution No. 3447-18 with respect to each of the significant impacts identified in the EIR for the reasons stated in the EIR and Resolution No. 3447-18.

2.4 Pursuant to State CEQA Guidelines section 15168(c): Program EIR Use with Later Activities, activities that occur subsequent to the program for which the EIR was prepared, must be examined in the light of the EIR to determine whether an additional environmental document must be prepared. The Town prepared the Environmental Checklist, pursuant to section 15168(c), and determined that the Proposal was within the scope of the EIR. The Town found that no new effects could occur as a result of the Proposal and no new mitigation measures are required and further found that no new environmental document was required. The Commission concurs with and also adopts these findings with respect to the Proposal for the reasons stated in the Environmental Checklist. At this time, the Commission makes no findings with respect to the components of the Environmental Checklist that analyze issues that are not currently before the Commission.

2.5 The Commission, as a responsible agency, has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of a project that it decides to carry out, finance, or approve. The Commission finds that, with respect to its decision herein, the Commission has jurisdiction over only the proposed reorganization of the Affected Territory. This decision to reorganize places the Affected Territory under the jurisdiction of the Town, which as the lead agency and as agency with police power to regulate land use, has the power to implement most of the feasible alternatives or mitigation measures to mitigate or avoid the potentially significant environmental effects of implementation of the Town's General Plan. The Commission further finds that there are no feasible mitigation measures or alternatives within the Commission's power that would substantially lessen or avoid any of the Windsor 2040 General Plan's significant environmental effects.

2.6 The Commission has considered alternatives and mitigation measures to reduce or avoid the significant environmental effects of the Town's General Plan. The Commission concurs with and relies upon the Town's findings in Windsor Town Council Resolution No. 3447-18 regarding the potentially significant environmental effects of the Town's General Plan. The Commission finds that those conclusions do not require modification, pursuant to State CEQA Guidelines section 15162. The Commission finds that, as identified in Resolution No. 3447-18, certain changes or alterations that would avoid or substantially lessen the significant environmental effects identified in the EIR are within the police power and responsibility of the Town and that the Town can and should adopt such measures. The Commission finds that the Town, through adoption of its Mitigation Monitoring and Reporting Program and through adoption of various conditions of approval, provisions of the resolutions and ordinances listed above as well as other resolutions and ordinances of the Town, has taken responsibility for and is implementing all feasible mitigation measures within its jurisdiction and control. The Commission concurs with the Town's conclusions regarding the jurisdiction and control of other agencies to implement the remaining mitigation measures.

2.7 The Commission finds that the interests and policy goals of the Commission outweigh the significant and unavoidable impacts identified in the EIR. With respect to the significant and unavoidable impacts to agricultural resources and traffic hazards, the Commission adopts the statement of overriding considerations in Resolution No. 3447-18 for the reasons stated in that resolution, and further finds that the Proposal will help implement the Windsor 2040 General Plan and have the following benefits:

(a) The Windsor 2040 General Plan will result in short-and long-term economic benefits by increasing revenues from property taxes, sales tax, transient occupancy tax and other sources. Implementation of the Windsor 2040 General Plan will indirectly support the creation of jobs relating to construction and operation and maintenance of new residential and commercial uses.

(b) Implementation of the Windsor 2040 General Plan will provide high-quality new housing; non-residential development will complement existing housing stock and will help the Town achieve its regional housing goals.

(c) The Windsor 2040 General Plan will encourage improvement of the general aesthetic character of the community through well-designed mixed-use development.

(d) The Windsor 2040 General Plan will enhance and encourage bicycle, pedestrian, and transit-related travel throughout the Town as a result of circulation improvements.

(e) The Windsor 2040 General Plan anticipates annexation to the Town of unincorporated areas that are contiguous to existing urban development to create logical and orderly urban boundaries for planned development requiring necessary public services and utilities.

(f) The Windsor 2040 General Plan will provide a transition between residential land uses within the Town limits and existing agricultural uses on adjacent unincorporated territory. This will encourage the overall preservation of agricultural resources by prioritizing urban development within the Town's UGB and alleviating development pressures in unincorporated Sonoma County.

2.8 The Commission finds that reorganization of the Affected Territory is consistent with and furthers implementation of the goals and policies of the Commission and further finds that the benefits of the Proposal outweigh the significant and unavoidable impacts for the reasons stated herein.

3. Cortese-Knox-Hertzberg Act Compliance

3.1 The Commission has reviewed and considered the information contained in the ordinances and resolutions of the Town and other agencies prior to reaching its decision on the Proposal and makes the following findings and determinations with respect to the Proposal:

a. Through this action, the Affected Territory is within the Town's and District's Spheres of Influence and the County's Urban Service Area Boundary for the Town. The Commission therefore finds that the Proposal is consistent with the Town's and District's Spheres of Influence and the Sonoma County General Plan.

b. The Affected Territory is within the Town's Urban Growth Boundary and is contiguous to the Town's current jurisdictional boundary. The Affected Territory has been pre-zoned by the Town to be consistent with the land-use designations of its General Plan. The Town has determined, through the adoption of the 2040 General Plan Environmental Impact Report and environmental checklist analysis, that upon annexation, it can provide services to the parcel that is the subject of the proposal.

c. The purpose of the Proposal is to permit access to public services provided by the Town.

d. The Proposal will implement the goals in the Town's General Plan for planned, orderly, and efficient patterns of urban development within the Affected Territory.

e. The Affected Territory is "uninhabited," in that fewer than 12 registered voters reside within. Since the owners of the Affected Territory have provided their written consent to the Proposal, the Commission may waive protest proceedings.

3.2 The Affected Territory includes only one parcel in what Town Ordinance No. 2019-334 (the Ordinance) refers to as “the Benson area.” While the Ordinance incorporates pre-zoning designations all territory covered therein, the Commission’s findings and determinations with regard to the Proposal relate solely to the parcel that comprises the Affected Territory. The Commission expressly makes no findings with respect to parcels that are not within the Affected Territory.

3.3 Based on the foregoing findings, the Commission finds that the Proposal is consistent with the intent of the Cortese-Knox-Hertzberg Act and the purposes of the Commission, as expressed in Government Code sections 56001 and 56301, and that approval of the Proposal is appropriate.

4. Evidence in the Record

4.1 The findings set forth in Sections 1 through 3 of this resolution are based upon the entire record before the Commission. References to specific reports or documents in a finding are not intended to identify those sources as the exclusive bases for the finding. Headings are inserted for convenience only, and the location of a finding under a specific heading is not intended to limit the role of that finding to that particular heading.

Now, therefore, based on the foregoing findings and the record of these proceedings, the Commission hereby declares and orders as follows:

1. The foregoing findings are true and correct, are supported by substantial evidence in the record, and are adopted as hereinabove set forth.
2. The Proposal is approved.
4. The boundary of the Affected Territory shall be as shown and described in Exhibit “A” to this resolution, attached hereto and incorporated herein by this reference.
5. The Proposal is assigned the following short-form designation: Windsor Reorganization No. 2021-01 (Benson).
6. The regular County assessment roll shall be utilized for the Proposal.
7. The Affected Territory shall not be taxed for existing bonded indebtedness and contractual obligations.
8. The property tax transfer to the Town shall be in accordance with the Property Tax Exchange Agreement between the County of Sonoma and the Town of Windsor, as adopted in Sonoma County Board of Supervisors Resolution No. 96-1364, dated October 8, 1996.
9. The Commission shall waive protest proceedings for the Proposal in

compliance with this resolution and Section 56663(c) of the California Government Code.

10. The effective date of the reorganization shall be the date of the recordation of the certificate of completion.

11. The Executive Officer is authorized and directed to file a notice of determination in accordance with the provisions of CEQA and the State CEQA Guidelines. The Executive Officer is further authorized and directed to mail copies of this resolution in the manner provided by law.

12. The Executive Officer is directed to file a certificate of completion for the Proposal after receipt of all final materials, as required. If a certificate of completion for the Proposal has not been filed within one year after the adoption of this resolution, the Proposal shall be deemed abandoned unless, prior to expiration of the one-year time period, the Commission authorizes an extension of time for completion of the Proposal.

13. The Clerk of the Commission is designated as the custodian of the documents and other materials that constitute the record of the proceedings upon which the Commission's decision herein is based. These documents may be found at the office of the Clerk of the Commission, 111 Santa Rosa Avenue, Suite 240, Santa Rosa, CA, 95404.

The foregoing resolution was introduced at a regular meeting of the Commission on the 6th day of October 2021 and ordered adopted by the following vote:

Commissioners:

Ayes:

Noes:

Absent or not voting:

Whereupon, the Chair declared the foregoing resolution adopted and so ordered.

Attest:

Mark Bramfitt, Executive Officer

The within instrument is a true and correct copy of the original on file in this office.
ATTEST:

BY:

Clerk