

SONOMA LOCAL AGENCY FORMATION COMMISSION

111 SANTA ROSA AVENUE, SUITE 240, SANTA ROSA, CA 95404
(707) 565-2577

Staff Report

Meeting Date:	March 6, 2024
Agenda No.	Item 5.1
Agenda Item Title:	Disadvantaged Unincorporated Community Identification and Mapping and Policy Development
Staff Contacts:	Mark Bramfitt

Background

In 2023 the Commission authorized staff to conduct a Disadvantaged Unincorporated Community identification and mapping study and supported hiring PlanWest Partners to complete the work. PlanWest has prepared a mapping tool that identifies the communities using Census Bureau “block” areas data for average household incomes.

Staff is requesting that the Commission consider a number of issues related to revamping the Commission’s adopted policy regarding Disadvantaged Unincorporated Communities. Staff is recommending that the Commission assign further policy development to the Policy Committee, who would then return a draft policy to the Commission for consideration and adoption.

Alternately, the Commission could direct staff to draft a policy and present it to the Commission for consideration and adoption.

This staff report provides background on the Cortese Know Hertzberg Act provisions related to Disadvantaged Unincorporated Communities and identifies several areas for policy consideration. Staff will use the mapping tool prepared by PlanWest Partners to illustrate these policy areas.

Disadvantaged Unincorporated Communities

In 2011, the State Legislature enacted Senate Bill 244 (SB 244), revising the Cortes-Knox-Herzberg Act (“CKH”) to address the lack of services in disadvantaged unincorporated communities. The Legislature observed that many disadvantaged unincorporated communities lack public services and public facilities like domestic water, sanitary sewers, paved streets, storm drains, and streetlights.

The Legislature also observed that some cities and special districts are reluctant to annex these areas. As summarized below, the Legislature adopted a definition for

these communities and remedial requirements for LAFCOs that, in a nutshell, encourage and/or require the annexation of these areas in some circumstances.

Definition

DUCs are defined in CKH as: “inhabited territory, as defined [by CKH], or as determined by commission policy, that constitutes all or a portion of a ‘disadvantaged community’ as defined by Section 79505.5 of the Water Code.” (Gov’t Code section 56033.5)

An “inhabited territory” under CKH is territory within which there reside twelve or more registered voters.

The Water Code definition of a disadvantaged community is one where the annual median household income is less than 80 percent of the statewide annual median household income. In other words, areas that meet the definition will evolve over time, both as populations change, and as the statewide annual median household income changes.

Importance to LAFCO – Municipal Service Reviews

CKH directs LAFCOs to identify DUCs in the preparation of Municipal Service Reviews (MSRs) for cities, and additionally directs LAFCOs to do the same when conducting Sphere of Influence studies. LAFCO makes findings with respect to DUCs in these contexts.

Importance to LAFCO – Annexations

The more critical DUC provision in CKH relates to city annexation proposals where an identified DUC is contiguous with a proposed annexation area of ten or more acres. In these cases, LAFCO must include the DUC territory when approving the annexation. This requirement is subject to the following two exceptions:

- (i) A prior application for annexation of the same disadvantaged unincorporated community has been made in the preceding five years.
- (ii) The commission finds, based upon written evidence, that a majority of the registered voters within the affected territory are opposed to annexation. (Gov’t Code section 56375(a)(8))

LAFCO has yet to receive an annexation proposal that meets the ten-acre threshold with a contiguous DUC, but, by way of example, Staff anticipates receiving a proposal for an annexation in southern Santa Rosa that will meet the criteria in 2024 or 2025.

Current LAFCO DUC Policy

As noted, CHK allows the Commission to adopt a policy on DUC designation. The Commission adopted a policy (Attachment 1) in 2012, shortly after the enactment of Senate Bill 244 that designated seven areas in the county as DUCs. That policy found as follows:

The Commission determines that a “disadvantaged unincorporated community” in Sonoma County is a community identified in the 2010 United States Census as a “Census Designated Place,” with an annual median household income that is less than 80 percent of the statewide annual median household income pursuant to Section 79505.5(a) of the Water Code. The disadvantaged unincorporated communities in Sonoma County are: Boyes Hot Springs, Cazadero, Glen Ellen, Guerneville, Monte Rio, Temelec and Valley Ford.

This policy should now be revisited. First, the Census Data from 2010 on which the policy relied is no longer current. Second, the policy relies exclusively on Census Designated Places. Subsequent to the adoption of the Sonoma LAFCO policy, the Governor’s Office of Planning and Research made the following observations about the Census Designated Place methodology in a Technical Advisory:

While the 2000 Census identified 3.6 million people in 598 CDPs, in that same year, nearly 2.8 million people lived in unincorporated areas that were not defined as CDPs but that arguably should be defined as disadvantaged unincorporated communities. Therefore, while CDP data is one useful source of data, OPR suggests that local governments treat it as only one of a combination of data sources to identify and characterize disadvantaged unincorporated communities in a given area. (Office of Planning and Research Technical Advisory, February 15, 2013.)

In the Sonoma County context, none of the seven communities are contiguous or surrounded by a city, so the effect of the policy is that the 10-acre annexation inclusion clause would never be triggered.

Data Sources

LAFCOs typically use Census Bureau data to designate DUC territories. While LAFCOs can consider other data, the decennial census provides detailed household income data that is generally reliable. The Census Bureau also conducts annual surveys that collect income information, but the data is based on sampling rather than a fully inclusive survey, so the data has much wider “confidence bands.”

The Commission’s existing policy of using Census Designated Places avoids reviewing more refined Census geographies, such as tracts and blocks. Census “tracts” are relatively permanent statistical subdivisions of a county, with a population between 1,200 and 8,000 people. Geographically, they can be quite large. The Census Bureau also reports data on census “blocks”, which are subdivisions of a census tract, and

typically have between 250 and 550 housing units. Blocks are often bounded by physical features such as roadways, and also by city boundaries.

In brief, multiple sources of data are relevant to DUC designations. The status quo of utilizing Census Designated Places effectively removes DUCs from consideration in Sonoma County, until such time, if ever, that the designated places are near cities. Using Census blocks instead would allow for the most refined analysis. Using tracts may, arguably, lead to over-inclusion in annexations.

DUC Identification and Mapping Study

PlanWest Partners has used a Geographical Interface Mapping (GIS) of the County, overlaid with census block areas to identify DUCs. The interface allows for using 2021 and 2022 data sets on average household income.

Reviewing the maps for each of the data sets reveals that DUC areas are relatively static but does raise a variety of issues regarding data validity that should be addressed by a Commission-adopted policy.

Issues – Development of LAFCO Policy

Section 56033.5 of CHK allows the Commission to adopt policies with respect to the designation of DUCs. Staff observe that adopting a new policy could allow the Commission to implement the intent of SB 244 without unintended consequences, including over-annexation (or, alternatively, non-annexation) due to the procedural restrictions that come with DUC designations that are over-broad. Staff believes a useful policy would address the following issues:

Setting Minimum Population Density

Many LAFCOs have set minimum population densities, typically of one or two registered voters per acre, to exclude areas which are very lightly populated from consideration for DUC designation. If a minimum density is not set, huge areas of Sonoma County would be designated as disadvantaged with no meaningful import to annexation proposals or Municipal Service Reviews and City spheres of influence.

Data Quality – Confidence Levels

As noted, the decennial census provides the highest quality household income data but does of course become out of date quite quickly. The annual survey data is more current but lacks precision because it based on a sampling of households.

The Census Bureau reports annual average household income along with a “confidence” interval – a “plus or minus” figure that indicates a band of certainty for the data. Sometimes the annual income level is higher than the 80 percent statewide threshold, but the confidence band drops well below that level. In some cases, the confidence band is so great that it makes the reported income level essentially useless.

Data Quality – Unavailable Data

The annual survey process often results in no data reported, likely due to a poor survey response rate. This precludes using timely data in designating a DUC.

Refining the Definition of Communities – Geographical Boundaries

CKH grants LAFCOs the authority to define inhabited territories with as few as twelve or more registered voters. This categorization is typically used to determine the protest provisions for reorganizations such as annexations. (For annexations involving territory with fewer than twelve voters, landowners are granted protest rights; if over twelve voters are in the territory, it is deemed inhabited, and voters have protest rights.)

However, LAFCO is granted the authority to define, through adopted policy, what criteria to use when defining disadvantaged communities. As noted above, the current policy of using Census Designated Places is outdated and effectively removes DUC considerations from city annexations.

The Commission may adopt other geographic criteria, and for example, the Commission can adopt census blocks instead of census tracts as criteria or add other criteria such as major roadways or other geographical features. In doing so, Staff recommends keeping in mind the remedial purpose of SB 244.

Certainty Regarding DUC Identification for Potential Applicants

DUC designations should ideally provide certainty to applicants.

Applicants need to determine the geographical boundaries of their proposed annexation before preparing environmental analysis, mapping, and other application materials to submit both to the City in question and to LAFCO. Depending on complexity (especially related to environmental review) it can take well over a year to prepare an application and to secure pre-zoning from the City.

If LAFCO changes the designation of a territory during that application preparation process (because of newer data, or application of other criteria), the applicant may be forced to revise or completely redo the application package, and even then, uncertainties for applicants will remain.

Thus, the LAFCO policy could dictate when and how DUC designations will be revisited.

Recommendation

Staff believes that the current policy is inadequate, and that a new policy should be adopted that seeks to further the remedial goals of SB 244 without causing unintentional consequences. Staff is seeking commission guidance regarding the policy issues noted above so that a new draft policy can be developed.

At the Commission's discretion, staff could work with the Policy Committee to develop a draft to present to the Commission for consideration and adoption, or staff could develop the draft for consideration by the Commission without Policy Committee review.

Attachments

1. Policy, Disadvantaged Unincorporated Communities, Adopted October 10, 2012, Revised June 2013
2. Correspondence from interested parties.