



Local Agency Formation Commission
LAFCO of Napa County

1700 Second Street, Suite 268
Napa, California 94559
Telephone: (707) 259-8645
Facsimile: (707) 251-1053
<http://napa.lafco.ca.gov>

December 7, 2009
Agenda Item No. 8a

November 30, 2009

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Brendon Freeman, Analyst

SUBJECT: Trancas Crossing Park Annexation to the City of Napa

The Commission will consider a proposal from the City of Napa to annex approximately 33 acres of unincorporated land located northeast of the intersection of Old Soscol Avenue and Old Trancas Street. The proposal is intended to facilitate the planned development of a public park. Modifications to the proposal are recommended to exclude a 0.2 acre portion of the affected territory along with requiring concurrent detachment from County Service Area No. 4.

Local Agency Formation Commissions (LAFCOs) are responsible under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to regulate the formation and development of local governmental agencies and their municipal services. This includes approving, modifying, or disapproving proposed changes of organization or reorganization. LAFCOs are also authorized to establish conditions in approving changes of organization or reorganization as long as they do not directly regulate land uses.

A. Proposal Summary

LAFCO of Napa County (“Commission”) has received a proposal from the City of Napa (“Napa”) requesting the annexation of 33.3 acres of unincorporated land located northeast of the intersection of Old Soscol Avenue and Old Trancas Street. The affected territory comprises one undeveloped parcel identified by the County of Napa Assessor’s Office as 038-190-020. The parcel is immediately adjacent to Napa and includes a small number of improvements, including a well and pump, bridge, and gravel road. Napa purchased the parcel from the Napa County Land Trust in 2005 for \$0.21 million with 100% funding from two separate grant awards from the State. Napa is in the process of developing the site into a public park known as “Trancas Crossing” consistent with an adopted master plan. The budgeted design and construction cost of the park is \$3.69 million with nearly three-fourths of the funding expected to be drawn from two additional grant awards from the State.

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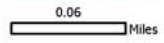
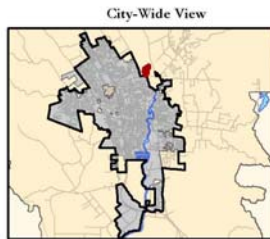
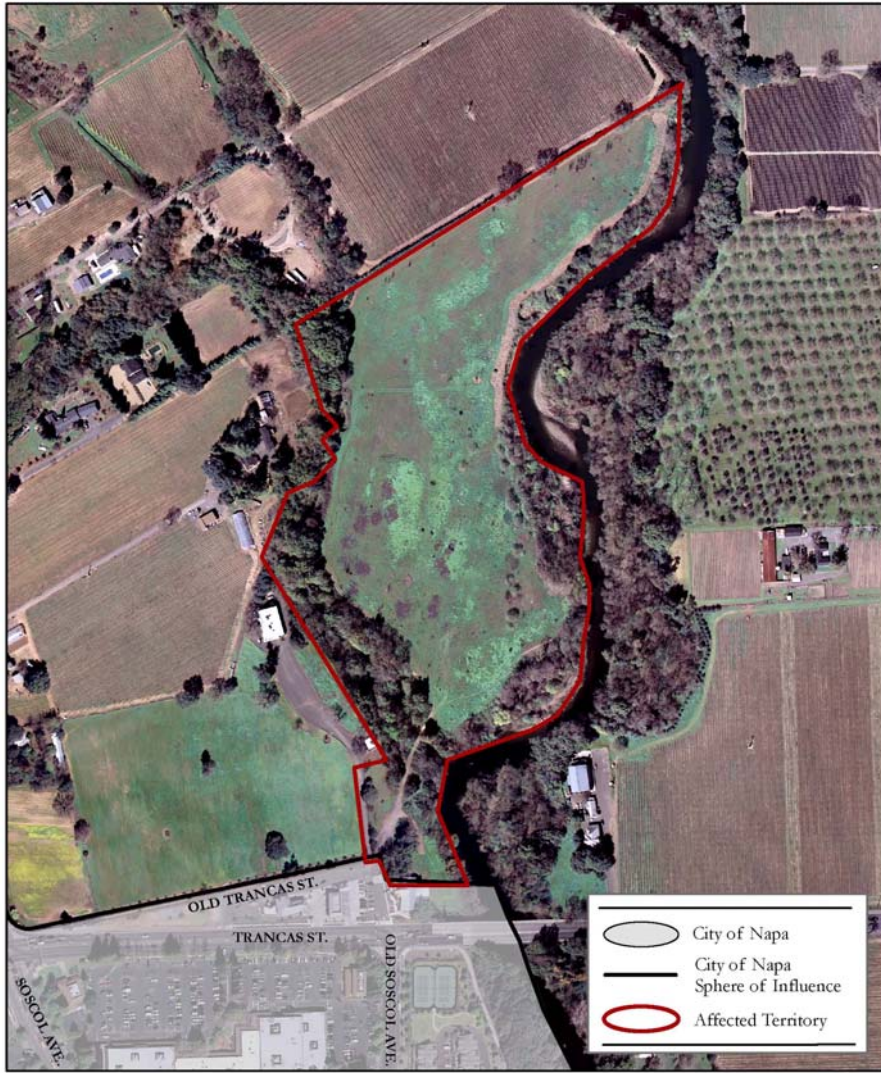
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County of Napa Supervisor, 2nd District

Brian J. Kelly, Chair
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

Affected Territory



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1700 Second Street, Suite 268
Napa, California 94559
<http://napa.lafco.ca.gov>

B. Discussion

Agency Profile

Napa was incorporated in 1914 as a charter-law city. Napa provides a full range of municipal services directly or through contracts with other public or private entities with the notable exception of sewer, which is provided by the Napa Sanitation District (NSD). Napa has experienced a moderate annual growth rate of 1.0% over the last 10 years with a current estimated population of 77,831, making it the largest city in Napa County.¹

Proposal Purpose

Napa is proposing the annexation as part of the planned development of the affected territory into a public park. Napa recently adopted a master plan to guide the park's development to emphasize low density recreational and educational uses. Specific amenities identified in the master plan include walking paths, picnic areas, and nature learning stations. The planned development also includes creating a walking path to connect to the nearby Napa River Trail. Annexation will allow Napa to coordinate public safety services within the affected territory. Annexation will also provide Napa with cost-savings by no longer having to pay property taxes. The current annual property tax charge is \$6,165; an amount that represents a reduction in assessed value given the existence of a conservation easement.²

Potential Proposal Modifications

In reviewing the application materials, and based on established practices, staff has identified two potential proposal modifications for consideration by the Commission. These potential modifications are summarized below.

Excluding Portion of Proposed Annexation Area

The affected territory is located outside Napa's sphere of influence. State law generally requires consistency between changes of organization and the subject agencies' spheres of influence. A key exception is codified under Government Code (G.C.) Section 56742. This statute allows cities to bypass the referenced consistency requirement and annex non-contiguous lands lying outside their spheres of influence if certain preconditions exist. This includes land that is less than 300 acres in total size and owned and used by the city at the time of proposal initiation for municipal purposes. All these preconditions apply to the affected territory. This includes recognizing the site is currently used for municipal purposes given Napa has already initiated a comprehensive planning process to develop the site into a public park.³ Additionally, the statute includes a provision requiring automatic detachment if the land is sold by the city.

¹ Population trends and estimates based on data collected by the California Department of Finance.

² Property tax proceeds for the affected territory are currently apportioned as follows: County of Napa \$1,823 (29.6%); Napa Valley Community College \$499 (8.1%); Napa Valley Unified School District \$3,172 (51.4%); County Fire Non-Structure \$64 (1.0%); County Fire Structure \$207 (3.4%); Superintendent of Schools \$178 (2.9%); County Library \$175 (2.8%), Napa County Mosquito Abatement District \$24 (0.3%); Bay Area Air Quality Control District \$16 (0.3%); and Napa County Conservation District \$5 (0.1%).

³ It is the practice of the Commission to designate community planning as a municipal service.

Based on the foregoing factors, it appears a modification to the proposal to exclude a 0.2 acre portion of the affected territory to make it non-contiguous to Napa and therefore eligible for annexation under the referenced statute is appropriate.⁴ This modification would ensure consistency with the basic policy of the Commission to use a city's sphere of influence to designate and direct urban development. This modification would also be consistent with the previous action of the Commission in approving the annexation of the Alston Park site to Napa in 1989. No objections have been raised by Napa concerning this potential modification.

Concurrent Detachment from County Service Area No. 4

County Service Area (CSA) No. 4 was formed in 2002 and includes all unincorporated territory along with certain incorporated territory located within the Cities of Calistoga, Napa, St. Helena, and Yountville. The intent and function of CSA No. 4 is to sponsor a voter-approved assessment on all parcels within its jurisdiction containing one acre or more of planted vineyards for the purpose of funding farmworker housing services. CSA law has historically included a provision requiring land be automatically detached from a CSA upon its annexation to a municipality unless waived by LAFCO based on specific findings. This automatic detachment provision was deleted effective January 1, 2009 as part of a comprehensive rewrite of CSA law. The legislative intent in deleting the provision is to broaden LAFCO's discretion in determining whether it believes land should be detached from a CSA upon annexation to a municipality. With regards to this proposal, the affected territory is not part of the CSA No. 4 assessment and its planned land use is for a public park. Furthermore, the conservation easement on the affected territory held by the Napa County Land Trust specifically prohibits the development of any commercial or non-commercial vineyards or wineries.⁵ These factors support the Commission exercising its discretion to modify the proposal to include the concurrent detachment of the affected territory from CSA No. 4.⁶ No objections have been raised by CSA No. 4 concerning this potential modification.

C. Analysis

G.C. Section 56375 delegates LAFCOs the responsibility to approve or disapprove with or without amendment proposals for changes of organization consistent with its adopted written policies, procedures, and guidelines. LAFCOs are also authorized to establish conditions in approving proposals as long as they do not directly regulate land uses. Underlying LAFCOs' determination in approving or disapproving proposed changes of

⁴ The portion of the affected territory recommended for exclusion from the annexation encompasses a 20 foot corridor along the southern perimeter of the property lying immediately adjacent to Napa.

⁵ Uses allowed under the conservation easement include passive recreational activities. The easement defines passive recreational uses to include nature study, environmental education, running, walking, canoeing, kayaking, bicycling, picnicking, a golf driving range, wildlife observation, meditation, kite-flying, and photography.

⁶ The Commission's concurrent annexation policy involving NSD does not apply to this proposal because the affected territory is located outside the District's sphere of influence. In addition, NSD reports it does not have available capacity within its nearby transmission line to accommodate sewer demands generated from the affected territory. Consequently, Napa intends to construct two underground septic tanks as part of a planned public restroom facility, which will be pumped out monthly by a private vendor.

organization is to consider the logical and timely development of the affected agencies in context with statutory objectives and local circumstances.

Required Factors for Review

G.C. Section 56668 requires the Commission to consider 15 factors anytime it reviews proposed changes of organization involving cities. No single factor is determinative. The purpose in considering these factors is to help inform the Commission in its decision-making process. An evaluation of these factors as it relates to the proposal follows.

- 1) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent areas, during the next 10 years.**

The affected territory is undeveloped with the exception of a limited number of physical improvements, including a well and pump station, bridge, and gravel road. Transients are known to encamp in the area. The affected territory comprises two distinct areas that are separated by Salvador Creek and connected by Salvador Bridge. Lands north of Salvador Creek comprise the majority of the affected territory and generally consist of riparian vegetation and habitat with a peak elevation of six feet above sea level. These lands lie entirely within the floodplain of the Napa River and appear to have been previously utilized for agricultural purposes given the existence of a well and non-native grassland. Lands south of Salvador Creek include a gravel road connecting the affected territory to Old Trancas Street and have a peak elevation of 44 feet above sea level. The Napa River borders the entire eastern side of the affected territory. The current assessed value is \$616,553.

No new significant growth is expected within the surrounding areas over the next 10 years. Surrounding lands east, west, and north are unincorporated and consist of vineyards or low density residential uses. The County General Plan designates these surrounding lands as *Agricultural Resource*. This designation requires a minimum parcel size of 40 acres and effectively eliminates future divisions in the area given the existing lot sizes. Surrounding lands to the south are incorporated and designated under the Napa General Plan as *Community Commercial*. These incorporated lands are currently developed and include a financial institution and gasoline station with an adjoining convenience store.

- 2) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**

The proposal is expected to facilitate the development of the affected territory into a public park with planned recreational amenities ranging from walking paths to canoe launches. Elevated levels of governmental services are needed to accommodate and support these intensified uses. This includes providing an appropriate level of (a) fire protection and emergency medical, (b) law enforcement, (c) potable water, and (d) park maintenance and improvement services. An analysis of the availability and adequacy of these governmental services in the affected territory follows.

Fire Protection and Emergency Medical Services

The County currently provides a basic level of fire protection and emergency medical services to the affected territory. Napa would assume these service responsibilities upon annexation with its closest station located 1.7 miles away on Park Avenue. The Commission's *Comprehensive Study of Fire Protection Services* (2006) noted Napa's average response time for all calls relating to fire protection and emergency medical services was less than five minutes from dispatch to arrival. This average response time satisfies the five minute performance standard for all high-priority public safety calls established under the Napa General Plan. No deficiencies were identified with respect to responding to service calls within the surrounding area.

Law Enforcement Service

The County currently provides a basic level of law enforcement services to the affected territory. Napa would assume these service responsibilities upon annexation with its police station located 2.2 miles away on First Street. The Commission's *Comprehensive Study of the City of Napa* (2005) noted Napa's average response time for all high-priority law enforcement calls was less than four minutes from dispatch to arrival. This average response time satisfies Napa's five minute performance standard for all high-priority public safety calls established under the General Plan. No deficiencies were identified in the report with respect to responding to service calls within the surrounding area.

Water Service

An existing on-site well is currently used to irrigate recently planted riparian vegetation. Napa's application materials note the City will extend public water service to provide potable supplies for the planned restroom facility and drinking fountains. Napa estimates the annual potable water demand for the underlying project will be minimal and total no more than 3,000 gallons or 0.01 acre-feet.⁷ Information collected and analyzed in the Commission's *Comprehensive Water Service Study* (2004) confirms Napa has adequate supplies and facilities to extend water service to the affected territory without adversely affecting existing customers. Additional analysis concerning Napa's available water supplies is provided on page 10 of this report.

⁷ This amount has been estimated based on a similar park with comparable usage.

Park Maintenance and Improvement Services

Ongoing maintenance and improvement services will be required to facilitate and support the planned development of the affected territory into a public park. This includes opening and closing the park, trash cleanup and removal, and facility repairs. Napa estimates the annual maintenance and improvement of the park will require a total of 1,265 hours, which is equivalent to a 0.6 full-time employee. Napa states the added workload will be initially absorbed with the goal of funding an additional position within the Parks and Recreation Services Department in 2011-2012. Napa estimates the total annual operating costs for the park at \$37,700.

3) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

The proposal would expand existing economic ties as well as establish new social interests between Napa and the affected territory. Existing economic ties were created in 2005 when Napa purchased the affected territory from the Napa County Land Trust and began planning the site's development as a public park. The proposed annexation would expand these economic ties by memorializing Napa's commitment in making facility and infrastructure improvements while providing property tax savings to the City, which will help offset maintenance and improvement expenses. Social interests would be established by helping to provide new park and recreational services within the community consistent with the goals and standards outlined in the Napa General Plan. Specifically, the proposal will assist Napa in achieving its adopted policy objective of making available 12 acres of parkland for every 1,000 residents.⁸

4) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in G.C. Section 56377.

Commission Policy Determination V(C)(1) permits annexation of publicly owned land designated agricultural or open-space to a city if it will be used for a municipal purpose and no suitable alternative site exists within its sphere. However, municipal purpose is defined under the policy to mean:

“a public service facility which is urban in nature, such as water and sewage treatment, but shall not include land that is vacant or used for wastewater reclamation irrigation, a reservoir, or agricultural, watershed, and open-space.”

⁸ Napa's current parkland ratio for every 1,000 residents is 9.9 acres. The underlying development project associated with annexation will increase Napa's parkland ratio for every 1,000 residents to 10.3 acres. The adopted General Plan Policy PR-1.1 standard is 12 acres of parkland per 1,000 residents.

This definition ostensibly makes the proposal inconsistent with Commission policy given the affected territory is substantially vacant with the exception of a well, bridge, and gravel road. Nonetheless, the Commission has approved a similar proposal involving the annexation of the Alston Park site to Napa in 1989. The proposal will not induce, facilitate, or lead to the conversion of open-space lands for urban purposes, and therefore G.C. Section 56377 does not apply.

5) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.

The proposal and its underlying service plan (development of a public park) may indirectly effect the economic and physical integrity of adjacent agricultural lands to the north located at 2100 Big Ranch Road.⁹ This statement is based on correspondence received from the landowners, who assert Napa's service plan does not include sufficient fencing to protect against park visitors from trespassing. Markedly, it is currently proposed Napa will construct an eight-foot chain-link fence as close as reasonable to the shared property line. This planned improvement is the result of an earlier agreement between the two parties and will parallel an existing chain-linked fence on the landowner's property. The landowners, however, state the earlier agreement was reached under duress and does not provide adequate protection from park visitors from walking around the fence ends and onto their property. The landowners state they have experienced a measurable increase in trespassers since the affected territory was purchased by Napa, and believe intrusions will be exacerbated with the opening of the park without secure fencing. Staff believes the landowners have a valid concern that could be addressed with the construction of an extended fence to provide added protection against trespassers potentially cause harm to the vineyard.

6) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

The affected territory is parcel-specific and identified by the County Assessor's Office as 038-190-020. A map and geographic description have been prepared by the applicant identifying the boundaries of the affected territory in accordance with the requirements of the State Board of Equalization. These documents provide sufficient certainty with regards to the exact boundaries of the affected territory as proposed.

Any modifications to the affected territory made by the Commission will require revisions to both the map and geographic description prior to recordation. Potential modifications identified by staff include the exclusion of a 20 x 435 foot unincorporated corridor to make the affected territory non-contiguous to Napa.

⁹ These adjacent lands qualify as "agricultural" under G.C. Section 56016 given they currently comprise a commercial vineyard.

7) Consistency with the city and county general plan and specific plans.

The County General Plan designates the affected territory as *Agricultural Resource*. This designation applies to the majority of the valley floor and intended to preserve and encourage agricultural uses. Additional contemplated land uses include processing of agriculture products and single-family residences. In comparison, the Napa General Plan designates the affected territory as *Greenbelt*. This designation is defined by Napa to mean “lands outside the RUL that bear a relationship to the City’s planning policies” with the intent they remain “in agricultural or very low density rural residential, public, or institutional use.” The proposed annexation and underlying service plan associated with the proposal is consistent with this designation given its intended public use.

In a related note, a ruling from the California Court of Appeal - Third District recognizes cities and counties are immune from one another’s land use regulations (*Phyllis Lawler v. City of Redding* (1992)). This includes providing immunity to cities and counties with respect to complying with other agencies’ general plans. Based on this ruling, Napa is not subject to existing County policies given it is the landowner for the affected territory.

8) The sphere of influence of any local agency applicable to the proposal.

The affected territory is located outside Napa’s sphere of influence, which was comprehensively updated by the Commission in June 2005. State law generally requires proposed boundary changes be consistent with the spheres of influence of the affected agencies. Accordingly, in order to approve the proposal as submitted, a concurrent sphere of influence amendment is necessary.

As discussed on page three of this report, the Commission may wish to consider modifying the proposed annexation to exclude an approximate 0.2 acre portion of the affected territory to make it non-contiguous to Napa. This modification would allow for the annexation of the affected territory without requiring a concurrent sphere of influence amendment under G.C. Section 56742.

9) The comments of any affected local agency or other public agency.

On February 5, 2009, staff circulated copies of the application materials for review and comment to local governmental agencies. One substantive comment was received from County Public Works. Public Works notes the affected territory is located within a “floodplain” as determined by the Federal Emergency Management Agency. Towards this end, Public Works states the affected territory should not be subdivided and used for any commercial or residential uses and that all federal and local floodplain requirements should be enforced. Public Works also requests Napa provide notification if any changes occur within the affected territory that may impact surrounding unincorporated lands.

10) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Based on information collected and analyzed in the Commission's recent series of municipal service reviews, Napa has established sufficient financial resources to help ensure an appropriate level of service is provided to the affected territory consistent with its planned uses without adversely impacting existing constituents. As discussed on page seven of this report, Napa estimates the annual operating costs associated with the underlying park development is \$37,700. This cost will be partially offset by the approximate \$6,000 in savings in property taxes and represents less than 0.05% of Napa's operating budget.¹⁰

11) Timely availability of water supplies adequate for projected needs as specified in G.C. Section 65352.5.

The affected territory will require water services upon its annexation and subsequent planned development into a public park, which will include restroom facilities. Napa's current annual water demand is approximately 14,500 acre-feet. This amount represents 49% of Napa's current available water supplies under normal conditions.¹¹ The probable annual water demand for the underlying development project is estimated at 3,000 gallons or 0.01 acre-feet.¹² This amount represents less than 0.0001% of the current annual water demand and can be adequately accommodated by Napa given existing supplies without impacting service levels of current ratepayers.

12) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 of Chapter 3 of Division 1 of Title 7.

The proposal will not have an impact on the ability of Napa or the County in achieving their respective regional housing needs assignment given both agencies' have zoned or pre-zoned the site for non-residential uses.

13) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

Napa is the landowner of the affected territory and is proposing the annexation. There are no registered voters or legal residents within the affected territory. Written comments have been received from the landowners immediately north of the affected territory at 2100 Big Ranch Road, Steve and Tina Brown. The Browns

¹⁰ Napa's current adopted operating budget is \$65.74 million. In addition to operating and maintenance costs, Napa has budgeted \$3.67 million to complete the design, review, engineering, and construction expenses of the park. Of this amount, \$2.86 million will be funded by two separate grant awards from the State. The remaining \$0.81 million will be funded from Napa's Park Capital Improvement Fund.

¹¹ Current water supply figure assumes an approximate 20% reduction in contracted State Water Project supplies.

¹² This amount has been estimated based on a similar park with comparable usage.

oppose the annexation on the basis the underlying service plan will adversely impact their commercial vineyard unless two specific mitigation measures are incorporated as conditions of approval. These requested approval conditions would require Napa to (a) build a perimeter fence and (b) place the walking path 300 feet away from the shared property line. As noted on page eight of this report, staff believes the construction of an extended fence would help maintain the economic and physical integrity of the vineyard by providing enhanced protection against trespassers.¹³ The feasibility of constructing an extended fence, however, has not been adequately addressed by either Napa or the Browns in correspondence submitted to the Commission. With regard to moving the walking path, the Browns believe a 300 foot buffer is necessary to ensure the planned placement of apiaries on their property conforms to the clearance required under County Code Section 6.12.020.¹⁴ Staff does not believe the placement of apiaries has a positive or negative effect on maintaining the integrity of the vineyard and therefore is not pertinent to the Commission's review.

14) Any information relating to existing land use designations.

As discussed, Napa designates the affected territory as *Greenbelt*.

15) The extent to which the proposal will promote environmental justice.

There is no documentation or evidence suggesting the proposal will have a measurable effect with respect to promoting environmental justice.

Terms and Conditions

The Commission's standard terms and conditions would apply to the proposal if approved. This includes requiring a final map and geographic description be prepared identifying the approved boundary changes and a signed indemnification agreement.¹⁵ Additionally, given the preceding analysis, the Commission may consider including a special condition to address the potential effect in maintaining the economic and physical integrity of the agricultural uses at 2100 Big Ranch Road. With this preface in mind, staff has drafted the following four alternative special conditions for Commission consideration.

Alternative A: Encourage Napa Meet to Negotiate an Agreement with Landowners

This alternative would include a statement in the resolution encouraging Napa to meet and negotiate an agreement with the landowners regarding the construction of an extended fence to maintain the integrity of agricultural uses at 2100 Big Ranch Road. No additional action would be required. The Executive Officer would record approval once all standard conditions are satisfied.

¹³ The Browns also state a perimeter fence is needed for public safety purposes given their family and friends routinely discharge firearms on the property for recreational sport.

¹⁴ This code section requires apiaries be placed at a minimum distance of 300 feet from any public road.

¹⁵ State law requires all terms and conditions be satisfied within one calendar year of approval unless a time extension is requested and approved by the Commission. There is no time limit on the length of the extension.

Alternative B: Require Napa Negotiate an Agreement with Landowners

This alternative would include a condition in the resolution requiring Napa to meet and negotiate an agreement with the landowners regarding the construction of an extended fence to maintain the integrity of agricultural uses at 2100 Big Ranch Road. The Executive Officer would not record approval until confirmation is received that the parties have met along with the satisfaction of all standard conditions.

Alternative C: Require Napa Reach an Agreement with Landowners with Waiver Provision

This alternative would include a condition in the resolution requiring Napa meet, negotiate, and reach an agreement with the landowners regarding the construction of an extended fence to maintain the integrity of the agricultural uses at 2100 Big Ranch Road. The Executive Officer would not record approval until confirmation of an agreement between the parties is received unless waived by the Commission along with the satisfaction of all standard conditions. The Commission may waive the condition if Napa demonstrates in writing it has made a good-faith effort to negotiate with the landowners, but is unable to reach an agreement.

Alternative D: Require Napa Reach an Agreement with Landowners

This alternative would include a condition in the resolution requiring Napa meet, negotiate, and reach an agreement with the landowners regarding the construction of an extended fence to maintain the integrity of the agricultural uses at 2100 Big Ranch Road. The Executive Officer would not record approval until confirmation of an agreement between the parties along with the satisfaction of all standard conditions.

All four listed special condition alternatives represent different approaches for the Commission to proactively engage the parties in addressing the natural interface tension arising between adjacent recreational and agricultural uses. None of the alternatives directly regulate land uses, but rather deal with making an improvement to the affected territory as authorized under G.C. 56886(h). All alternatives are justified given they help fulfill the Commission's statutory mandate to protect agricultural resources while accommodating orderly growth and development.

Staff believes Alternative C is the preferred selection. This alternative provides the strongest incentive for Napa to reach an agreement with the neighboring landowners on the construction of an extended fence to protect agricultural uses while allowing the City to request a waiver if good-faith efforts fail to generate a satisfactory arrangement.

Prezoning Assignment

G.C. Section 56375(3) requires cities prezone territory as a condition to annexation. Napa has prezoned the affected territory as *Parks and Open Space*. This pre zoning assignment is consistent with the Napa General Plan's designation of *Greenbelt* for the affected territory and is intended to accommodate citywide, community, and neighborhood parks, as well as trails, open space, greenways, parkways, and nature preserves. Conditional uses associated with this pre zoning assignment include agricultural or very low density rural residential, public, or institutional. Napa may not change the zoning for the affected territory in a manner that does not conform to the pre zoning at the time of annexation for a period of two years with limited exceptions.

Property Tax Agreement

California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement by the affected local agencies before LAFCO can consider a change of organization. This statute applies to this proposal even though there would be no property taxes generated for the affected territory if annexed to Napa given the City is the landowner. Accordingly, Napa and the County have agreed by resolution of their respective boards to a property tax exchange agreement applicable to the proposed action. The agreement specifies Napa shall receive 55% of the County's existing portion of property tax revenues generated from the affected territory. However, as referenced, the apportionment of property tax proceeds would only become effective if the affected territory is subsequently sold by Napa.

Environmental Review

Discretionary actions by public agencies are subject to the California Environmental Quality Act (CEQA) any time an underlying activity will result in a direct or indirect physical change to the environment. A lead agency has the principal responsibility for carrying out or approving a project consistent with the provisions of CEQA. This includes determining whether the underlying activity qualifies as a project under CEQA. If the activity is determined to be a project, the lead agency must determine if an exemption applies or if additional environmental review is needed, such as preparing an initial study. A responsible agency is accountable for approving an associated aspect of the underlying activity and must rely on the lead agency's determination in making its own CEQA finding.

Napa serves as lead agency for the proposal given it has principal authority in approving the underlying activity: the development of the affected territory into a public park. Napa has determined the development is a project under CEQA and no existing categorical or statutory exemptions apply. Accordingly, Napa prepared an initial study in conjunction with a master plan assessing the environmental impacts associated with the development, including annexation. Based on the initial study, Napa adopted a mitigated negative declaration memorializing its findings that the development will not result in significant impacts on the environment given the incorporation of certain mitigations.

The Commission serves as responsible agency for the proposal. Staff has reviewed the aforementioned initial study and believes Napa has made an adequate determination the annexation tied to the underlying service plan will not introduce any significant environmental impacts given the incorporation of mitigated measures. A copy of the initial study is included in Attachment One.

D. Options for Commission Action

Staff has identified four broad options for Commission consideration with respect to the proposal. These options are summarized below.

- Option One:** Approve the proposal as submitted with standard conditions. This option would require a concurrent sphere of influence amendment. Accordingly, if this option is preferred, the Commission should direct staff to return with draft resolutions at its next meeting to approve the proposal as submitted along with amending Napa's sphere of influence as part of a noticed public hearing.
- Option Two:** Approve the proposal as modified to (a) exclude an approximate 0.2 acre portion of the affected territory to ensure the site is non-contiguous to Napa and (b) detach the land from CSA No. 4. Special conditions may also apply as determined by the Commission.
- Option Three:** Continue consideration of the item to a future meeting if more information is required.
- Option Four:** Disapprove the proposal. Disapproval would statutorily prohibit the initiation of a similar proposal for one year.

E. Recommendation

Staff recommends approving the proposal as modified under Option Two in the preceding section. Staff also recommends the Commission include a special condition requiring Napa reach an agreement with the landowners at 2100 Big Ranch Road concerning the construction of an extended fence to protect agricultural uses on the property. Recordation would not occur until an agreement between the two parties is reached unless Napa requests and the Commission approves a waiver. This special condition is outlined as Alternative C on page 12 of this report. A draft resolution codifying these recommendations is provided as Attachment Four.

Respectfully submitted,

Keene Simonds
Executive Officer

Brendon Freeman
Analyst

Attachments:

- ~~1) Application Materials~~
- ~~2) Correspondence from Steve and Tina Brown~~
- ~~3) Correspondence from the City of Napa~~
- ~~4) Recommended Draft Resolution of Approval~~