

DATE: August 2, 2004

TO: Members, Local Agency Formation Commission

FROM: Peter Banning, Executive Officer

SUBJECT: Executive Officer's Report and Recommendation:  
**Proposed Reorganization of the Lands of Daniels Including Annexations to the City of Novato and Novato Sanitary District (File #1255)**

### Summary

This application requests the annexations to the City of Novato and the Novato for the House of Daniels Inc. at 12 Harbor Drive in the Black Point area. The City's boundary divides the proposal area. The proposal requests annexation of the unincorporated portion to the City and the annexation of the entire area to the Novato Sanitary District. The City of Novato amended its Urban Growth Boundary in 2002 and approved rezoning, master plan and a negative declaration of environmental impact to for the project earlier this year. The area is within the sphere of influence of the Novato Sanitary District, but requires minor amendment to the sphere of influence of the City of Novato. Staff recommends approval.

### General Information

<b>Proposal Description:</b>	Reorganization including annexation to the City of Novato and annexation to Novato Sanitary District.
<b>Proposal Location:</b>	East side of Harbor Drive near the intersection of Highway 37 and Atherton Avenue.
<b>No. of Parcels:</b>	2.
<b>Acres:</b>	3.36 acres.
<b>Development Potential:</b>	None under currently adopted master plan. An additional 21,240 square feet of light industrial under floor area limits set by city zoning ordinance could be permitted under revised master plan, if approved.

**Applicants:** Peter Daniels, House of Daniels, 12 Harbor Drive,  
Novato, 94945.

**Consent of Property Owner(s):** 100%.

**Public Hearing Required:** No.

**Number of Registered Voters:** None.

**City or County:** City of Novato.

**Assessed Value:** \$1,617,950.

**Property Tax Exchange:** \$1,512.63.

**Current and Proposed Provision of Services (APN 157-091-47)**

(please note that APN 157-160-15 is already within the boundary of the City of Novato)

	<b><u>Current:</u></b>	<b><u>If Approved:</u></b>
<b>Police:</b>	County of Marin	City of Novato
<b>Fire:</b>	Novato Fire Protection District	No Change
<b>Water:</b>	North Marin Water District	No Change
<b>Sewer:</b>	None	Novato Sanitary District
<b>Streets:</b>	County of Marin	City of Novato
<b>Planning:</b>	County of Marin	City of Novato

**Comments of Affected Agencies**

Novato Sanitary District

The District has consented in writing to the boundary change and a waiver of conducting authority proceedings.

### City of Novato

The City has consented in writing to the boundary change and a waiver of conducting authority proceedings.

Novato Planning Department staff notes that land uses in the area affected by the proposed reorganization would be restricted to those uses described in the Master Plan Ordinance 1481 approved on February 24, 2004.

### Novato Fire Protection District

The District has returned the Request for Comment form indicating "No Comment".

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The District has returned the Request for Comment form indicating "No Comment".

### County Environmental Health Services (EHS)

EHS staff reports records of failing septic systems in the area. EHS had received numerous complaints regarding the failing septic system at the proposal site because of the shallow depth of soils and high ground water levels.

### **Discussion & Analysis**

The House of Daniels, a liquor distributor, occupies two contiguous parcels located in the Black Point area. One parcel is in the City of Novato, most of the other parcel is in the unincorporated Black Point area. The applicant has requested a reorganization of the property including annexation of the unincorporated portion of APN 157-091-47 to the City of Novato and annexation of both parcels to the Novato Sanitary District (NSD). The annexations are sought in order to replace on-site wastewater facilities with sewer service from NSD and to unify land use jurisdiction over the site under the City's control.

The City of Novato has acted to amend its Urban Growth Boundary and zoning ordinance to include the affected territory. The City's action included approval of a master plan for the current light industrial site use. Both parcels are zoned (or pre-zoned) Planned District, which accommodates the existing uses and requires adoption of a revised master plan for further development. The pre-zoning of the site and the requested annexations will therefore not induce further development without new environmental review.

NSD can provide requested sewer service through facilities constructed for the Stone Tree Golf Course and sewer stub facilities built specifically to connect the House of Daniels to those facilities. The capacity of the sewer force-main extended to Stone Tree was limited to the demand for service generated by the Stone Tree project in order to avoid growth inducing impacts. The City's environmental review of the proposed reorganization

examined the implications of adding the House of Daniels to facilities built for Stone Tree (page 7, City of Novato Initial Study Negative Declaration, attached):

Approval of the proposed project (UGB amendment and rezoning) would not create growth inducing impacts (i.e., increased residential development in the area) because UGB policies limit the extension of public services to parcels where there is a threat to public health and safety, there is no substantial development potential, and the site is substantially developed. Consistent with these requirements, the applicant's engineer has provided documentation of an inadequately functioning septic system, which poses a threat to public health and safety. Further, the applicant's engineer stated the existing septic system cannot be fixed or replaced due to ground water occurring at the base of the septic mound. Although the subject parcel has some remaining potential for additional development, the remaining development potential is considered negligible given the City development standards that would be applicable to the project site if annexed. The site is considered to be substantially developed.

The City of Novato received a letter from the Novato Sanitary District stating that a sewer lateral was installed at the southwest corner of the House of Daniels property with the intent to provide future sewer access through the Stone Tree Golf Club. The letter also states that sewer flows from the House of Daniels were not considered when the Stone Tree Golf Club pump system was designed. Additional sewer flows from the House of Daniels may require up-sizing the pump and/or increasing electrical power to the facility. Any required modifications to the pump facility to serve the project site are considered minor in nature and are intended for the purpose of rectifying a threat to public health and safety. Pump facility modifications, if required, would not have a growth inducing impact since the site is substantially developed. As indicated above, these conditions are consistent with the UGB exceptions policies.

In 2002, the Commission adopted a sphere of influence for the City of Novato that excluded the Black Point area from the City's sphere. Approval of the proposed reorganization would require minor amendment of the City's sphere of influence to include APN 157-091-47 in the Novato sphere of influence. Approval of the sphere amendment and the proposal would be consistent with the Commission's adopted Policies, Procedures and Guidelines and Government Code 56668 which encourage boundary decisions that conform to lines of assessment and ownership.

### **Environmental Review**

The City of Novato, acting as lead agency, adopted a Negative Declaration of Environmental Impact to cover the project on April 11, 2002. (See Resolution 75-02 and project initial study, attached.) The City's Negative Declaration Project Description

encompassed annexation actions to be undertaken by the applicant and LAFCO in the course of processing this application. Mitigation measures were not made a condition of the approval of the project.

### **Recommendation**

The proposed reorganization would address a health and safety issue at the site. Approval of the proposal would require minor amendment of the sphere of influence of the City of Novato, but is otherwise consistent with adopted LAFCO plans and policies. Staff recommends approval.

### **Recommended Commission Action, by Resolution:**

1. Certify that the Commission has reviewed and considered the Initial Study and Negative Declaration of Environmental Impact prepared for this project by the City of Novato.
2. Find that changes or alterations to the project and mitigation measures to lessen environmental effects to less than significant levels are within the responsibility of the Novato Sanitary District and the City of Novato, not LAFCO.
3. Amend the sphere of influence of the City of Novato to include APN 157-091-47 based on amendments to the City's general plan and zoning ordinance.
4. Adopt a resolution making determinations approving the proposed Reorganization of the Lands of Daniels including annexations to the City of Novato and the Novato Sanitary District (File #1255) as shown on Exhibits A and B.
5. Authorize staff to complete subsequent proceedings pursuant to Government Code §57000 without notice and hearing.

Respectfully submitted,

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Peter V. Banning  
Executive Officer