

DATE: December 7, 2007

TO: Members, Local Agency Formation Commission

FROM: Peter Banning, Executive Officer

SUBJECT: **Continued Public Hearing - Reorganization of the Lands of Von der Werth et al Including Annexation to the City of Mill Valley and Detachments from Homestead Valley and Almonte Sanitary and Southern Marin Fire Protection Districts (File #1287)**

Recap

The public hearing on this proposal was opened at the Commission's October 11, 2007 meeting and continued to December 13, 2007.

This proposal has been submitted by petition of two of a total of nine property owners within a 5.03 acre unincorporated area fronting on Miller Avenue at Reed Street. The proposal includes annexation to the City of Mill Valley and detachment of the entire area from Southern Marin Fire Protection District and detachment of portions of the area from Homestead Valley and Almonte Sanitary Districts. The entire area has been pre-zoned by the City of Mill Valley and preliminary development approvals granted for two project sites owned by the co-applicants. City-approved pre-zoning provides for a "mixed-use project" including 22 modular studio, one and two-bedroom residential units, a restaurant and four commercial spaces and a "residential project" including seven single family and four duplex residential units. The proposal area also includes existing commercial uses on Miller Avenue between the two developing sites.

At the Commission's October meeting, staff recommended approval subject to two conditions:

- A. The applicant shall secure an easement from the owner of Assessor's Parcel Number 048-134-27 sufficient to protect the sewer main within that parcel from damage from construction or other activity within the easement and to ensure maintenance access to the sewer main for the employees, consultants and contractors of the Homestead Sanitary District and the City of Mill Valley, with the right of continued future access for the purpose of inspection, maintenance and/or possible replacement of the sewer.

The applicants for reorganization do not control the Davis parcel, which is included in the reorganization proposal only to avoid an irregular and discontinuous city boundary. Staff has concluded that any problem with maintenance access to the District's sewer main is not related to the proposed reorganization and is not the responsibility of the applicants. Staff therefore withdraws its recommendation for attaching condition A above.

Splitting Parcels

It is the practice of Marin LAFCO to require local government boundaries affected by changes of organization to conform to lines of assessment and ownership i.e. parcel boundaries under Chapter III, Section 3.D.6 of the Commission's Policies, Procedures and Guidelines. In this case, the applicants have proposed a boundary that bisects the Davis parcel in order to avoid creating a narrow peninsula of incorporated territory between unincorporated parcels fronting on Homestead Boulevard and LaVerne Avenue. Only the lower half of the Davis parcel is included in the proposal area, which is inconsistent with the Commission's policy.

It is unlikely that ownership of this parcel will return to a public agency for the purpose of providing pedestrian access. As reported in testimony at the October meeting, one homeowner in the unincorporated area above has constructed a parking area and carport entirely across the Davis parcel as shown in the attached photo. Inclusion of the entire parcel in the reorganization according to LAFCO policy may add confusion of planning jurisdiction to an already undesirable situation. The City of Mill Valley has not requested that the entire parcel be included in the reorganization for pedestrian access or other purpose.

Recommendation

The proposed annexation is consistent with the adopted sphere of influence of the City of Mill Valley and other LAFCO policies as described in the staff report of October 5, 2007. The City is able to extend the needed services to the subject area. Staff recommends approval of the proposal as submitted, subject to terms and conditions listed below.

Recommended Commission Action (revised), by Resolution:

1. Certify that the Commission has reviewed and considered the Environmental Impact Report prepared for this project by the City of Mill Valley.
2. Find that changes or alterations to the project and mitigation measures to lessen environmental effects to less than significant levels as identified in the *Final Environmental Impact Report* are within the responsibility of the City of Mill Valley and not LAFCO. The City of Mill Valley, acting as lead agency, has adopted a mitigation

monitoring and reporting plan in which the City staff is responsible for compliance and is empowered to sanction non-compliance.

3. Adopt a resolution making determinations approving the proposed Reorganization of the Lands of Von der Werth et al including annexation to the City of Mill Valley, detachment of the entire area from Southern Marin Fire Protection District and detachment of portions of the area from Homestead Valley and Almonte Sanitary Districts and County Service Area #14 as shown on Exhibits A and B subject to the following condition:
 - A. The applicant shall provide additional maps and legal descriptions of separate areas within the reorganization area to be detached from the Homestead Valley Sanitary and Almonte Sanitary Districts meeting the technical requirements of the State Board of Equalization.
4. Direct staff to conduct protest proceedings pursuant to Government Code §57000 and in accordance with policies and procedures adopted by the Commission.

Respectfully submitted,

Peter V. Banning
Executive Officer



Davis Parcel, looking downhill from LaVerne & Homestead intersection



Davis Parcel, looking uphill. Encroaching driveway