



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT
December 9, 2021
Item No. 4 (Public Hearing)

TO: Local Agency Formation Commission
FROM: Jason Fried, Executive Officer
SUBJECT: Supplement to Item 4

Background

On the morning of December 9, 2021, after the initial release of the agenda packet, Marin LAFCo received a comment letter from the Town of Tiburon regarding Item 4. Staff wanted to give the Commission the opportunity to read this letter prior to the meeting. For the communication to be shared with the Commission, it must be included as a supplemental to the agenda and made available online. Both requirements have been met.

The received letter is attached to this memo.

Attachment:

- 1) Letter from Greg Chanis, Town of Tiburon Town Manager

Administrative Office

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December 6, 2021

Marin Local Agency Formation Commission
Planning and Regulatory Agency
1401 Los Gamos, Suite 220
San Rafael, CA 94903



Subject: **Public Hearing Item No 4**

Dear Commissioners:

Item No. 4 on your Agenda for December 9, 2021 is an item to approve a reorganization of the property located at 4916 Ranch Road to the Town of Tiburon ("Town"). As an alternative to the proposed action, the Commission is being asked to consider as part of the annexation potentially including a small portion of Paradise Drive. It is the Town's understanding that this alternative is being proposed because the County of Marin ("County"), has recently expressed concerns about the annexation and requested that the Marin Local Agency Formation Commission ("LAFCo") discuss and consider this proposed inclusion as part of the annexation. Town staff strenuously objects to any inclusion of Paradise Drive as part of the approval for this annexation as the inclusion of Paradise Drive was not considered by the citizens of the Town as part of the application for the annexation nor was it considered by the Town's Planning Commission or the Town Council. The County had ample opportunity in the last six months to begin discussion with the Town at each stage of review for the pre-zoning application and failed to do so. Thus, Town staff encourages this Commission to not consider the inclusion of Paradise Drive at this late date and approve Resolution #21-20 without Paradise Drive.

As background, the Town of Tiburon received an application for pre-zoning of 4916 Ranch Road on June 10, 2021. The application filed by the Jacqueline Bos and Eric McCrath Revocable Living Trust, to pre-zone four unincorporated parcels of land totaling approximately 10.45 acres located at and in vicinity of 4916 Ranch Road within the Tiburon Planning Area and Town of Tiburon Sphere of Influence to RO-2 (Residential Open) zoning district, in anticipation of the annexation of the properties by the Marin Local Agency Formation Commission (LAFCo) into the Town of Tiburon. The project site consists of Marin County Assessor Parcel No. 038-053-17, 038-061-14, 038-061-30 and 038-061-27, was reviewed and approved for pre-zoning. The Town of Tiburon accepted the application and on June 10, 2021, began the required 30-day review period. Town Staff sent out notices for comments and received responses from the following entities:

- LAFCo (received June 17, 2021); and
- Marin Water (received June 23, 2021); and
- Tiburon Fire Protection (received June 28, 2021); and
- Town of Tiburon Public Works Department (received June 29, 2021); and
- Sanitary District #2 (received July 7, 2021)
- San Francisco Bay Area Conservation and Development Commission, dated July 9, 2021; and
- County of Marin (No Comments were received)

The Town received comments from all of the foregoing agencies-except the County. The Town proceeded to analyze the impacts of the proposed annexation in light of the comments received by the other agencies. As a result of this analysis and consideration of the comments received, the proposed project was deemed complete and subsequent public hearings were scheduled. The Town of Tiburon held a Public Hearing before the Planning Commission on September 8, 2021, and recommended approval to the Town Council that the pre-zoning of the unincorporated territory location at and in the vicinity of 4916 Ranch Road. On November 3, 2021, the Town Council held a public hearing and found the pre-zoning consistent with the General Plan and other applicable plans and approved the pre-zoning. The possibility of annexation of Paradise



Drive was not discussed at either of these public meetings.

During the almost six-month process, the Town of Tiburon supported the pre-zoning. The pre-zoning application did not include any portion of Paradise Drive and thus the environmental review conducted by the Town also did not consider the inclusion of Paradise Drive. Further, the properties being considered as part of the rezoning and annexation do not gain access from Paradise Drive. When considering the application, Town Staff did not account for the potential impacts to Paradise Drive that would occur as a result of annexation. Indeed, at no point during this process (initial review, circulation of comments, or public hearings) did the applicant, LAFCo or the County communicate any interest in including Paradise Drive to the proposed pre-zoning application.

On Wednesday December 1, 2021, LAFCo Director Fried contacted the Town of Tiburon's Director of Community Development by phone to alert the Town that the County had contacted LAFCo staff after the comment period had expired to express concern about the Annexation and requested that LAFCo discuss and consider inclusion of Paradise Drive as part of the annexation. The Town of Tiburon adhered to all required procedures of the pre-zoning and worked in good faith with the applicant and LAFCo to process the application. The County did not communicate or request additional information regarding this pre-zoning and annexation, as it relates to Paradise Drive and in Staff's opinion, has still not formally provided an objection that the Town can respond to fully.

It has therefore come as a surprise that the LAFCo commission has been given two resolutions as part of their consideration at the December 9, 2021, public hearing. The original application to annex the property has been analyzed as required by LAFCo, and the original resolution (without Paradise drive) is what both LAFCo and the Town have analyzed and approved.

There has been no communication and/or analysis to our knowledge that the second option to include Paradise Drive as part of the current application is warranted. Indeed, any inclusion of Paradise Drive would require significant analysis and vetting. The Town would need to first consider whether such an inclusion is consistent with its General Plan, make the necessary findings to pre-zone pursuant to Tiburon Municipal Code section 16-68.050 and conduct the associated environmental review. Furthermore, the long-term maintenance of the roadway by the Town will require an in-depth analysis of the current condition of the portion of Paradise Drive to be annexed as well as the costs of maintenance that the Town would need to take on as a result of the annexation. The Town would likely need to consider the sufficiency of the tax sharing agreement to fund the maintenance and a revision to the existing agreement, if necessary. The County has had ample opportunity in the last six months to begin discussions with the Town regarding inclusion of Paradise Drive at each stage of review for the pre-zoning application. By raising this issue at this late date, the County seeks to make changes which were simply not contemplated either in the application or through the review process by the Town. The Town finds that including Paradise Drive without going through the required process both by the Town and LAFCo puts the Town and its citizens at a disadvantage and may lead to impacts to both the Town and property owners which have not been identified and analyzed.

In conclusion, the application for annexation has been considered without Paradise Drive. To include Paradise Drive at this time would be premature and inappropriate.

As such, Town staff strongly urges this Commission to not consider the inclusion of Paradise Drive at this late date and approve Resolution #21-20 without Paradise Drive.

Sincerely,

DocuSigned by:


Greg Chanis

Greg Chanis 834473...

Town of Tiburon, Town Manager

CC: LAFCO Commissioners
Olivia Gingold, Clerk