



CITY COUNCIL STAFF REPORT



April 26, 2022

ITEM TITLE

Community Facilities District Annexation: Election Regarding Annexation of Otay Ranch Village 3 Neighborhood R-20 into Community Facilities District 97-2

Report Number: 22-0064

Location: Located generally near the intersection of Main Street and Heritage Road, as shown more particularly on the annexation map.

Department: Development Services

Environmental Notice: The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act (“CEQA”) State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Conduct the public hearing and adopt resolutions: A) Making certain determinations and authorizing submittal of the levy of special taxes to the qualified electors within proposed Annexation No. 12 to Community Facilities District (“CFD 97-2”), Improvement Area “C,” and B) Declaring the results of the special election relating to the levy of special taxes within Annexation No. 12 to CFD 97-2, Improvement Area “C.”

SUMMARY

In June 2021, the City Council approved amendments to the Otay Ranch Village 3 Sectional Planning Area (“SPA”) Plan. One of the amendments was to expand the Village 3 SPA boundaries to add an adjacent property (Neighborhood R-20) owned by the Flat Rock Land Company, LLC (“Developer”) an affiliate of HomeFed Corporation. A Tentative Map (“TM”) condition of approval required Neighborhood R-20 to be annexed into two existing maintenance Community Facility Districts (“CFDs”) for long-term maintenance of landscaping, open space and lands within the Otay Ranch Preserve. The Developer has requested that the City conduct proceedings to consider annexing Neighborhood R-20 into Improvement Area “C” of CFD 97-2 (“Preserve Maintenance District”).

On March 15, 2022, the City took the first step in the annexation process by declaring its intention to annex the territory and calling a public hearing relating thereto. Tonight’s actions are the next steps in the formal proceedings to annex the territory within Otay Ranch Village 3 (referred to as “Annexation No. 12”) into CFD

97-2 and Improvement Area “C” thereof: (a) conducting a public hearing pertaining to the proposed annexation, and (b) immediately following such public hearing, conducting an election of the qualified electors of Annexation No. 12 regarding the authorization to levy special taxes within Annexation No. 12 and, following the canvass of the ballots received, declaring the results of such election.

Special taxes levied within Improvement Area “C” fund the costs of the Resource Monitoring Program as well as Preserve Operations and Maintenance consistent with the requirements of the Otay Ranch Resource Management Plan Phases I and II, plus a pro-rata share of Administrative Expenses of CFD 97-2. The City has retained the services of Willdan Financial Services as special tax consultant and Best, Best and Krieger LLP as legal counsel to provide assistance during the proceedings. Tonight’s action will complete the formal proceedings to annex Annexation No. 12 to CFD 97-2 and Improvement Area “C” thereof.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with CEQA and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

The City Council formed CFD 97-2 in July of 1998 to establish a long-term financing mechanism to monitor and maintain open space within the Otay Ranch Preserve. CFD 97-2 initially was divided into two Improvement Areas – Improvement Area “A” and Improvement Area “B.” Improvement Area “A” and Improvement Area “B” both fund the costs of the Resource Monitoring Program. Improvement Area “B” also funds costs associated with Preserve Operations and Maintenance. Improvement Area “C” pays for both the Resource Monitoring Program and Preserve Operations and Maintenance and was formed to include lands not originally contemplated to be included within the territory of CFD 97-2.

Property to be Annexed

Neighborhood R-20 in Otay Ranch Village 3 (Tentative Map CVT-20-0005) is owned by the Developer and is proposed to be annexed into CFD 97-2 and developed with 116 multi-family units. Staff has reviewed the proposed annexation boundary map and has found it acceptable and ready for approval by City Council. The annexation map is included as Attachment 1.

Proposed Special Tax

The rate and method of apportionment of the special taxes authorized to be levied within the existing boundaries of CFD 97-2 has four categories of taxation, as follows:

- All developed Single-Family and Multi-Family Residences for which a building permit has been issued are taxed based on the square footage of the structure. Developed Industrial and Commercial parcels are taxed on the acreage of the Parcel.

- All final-mapped residential, industrial and commercial parcels for which a building permit has not been issued are taxed based on the acreage of the parcel.
- Property not categorized as Developed or Final Mapped Property is taxed based on the acreage of the parcel.
- Exempt property includes all publicly owned parcels and Homeowner’s Association parcels. These are not subject to the special tax.

The proposed maximum special tax rates in the rate and method of apportionment were determined at the time of formation of CFD 97-2 in 1998.

Maximum Special Taxes

The approved maximum special tax rates for Fiscal Year 2021-2022 for Improvement Area “C” of CFD 97-2 are as follows:

Table 1 – Maximum Special Tax for Monitoring

Special Tax Category	Maximum Special Tax (Monitoring)
Category I – Residential (per square foot)	\$0.0085
Category I – Non-Residential (per acre)	\$138.72
Category II – Final Mapped Property (per acre)	\$138.72
Category III – Undeveloped Property (per acre)	\$89.54

Table 2 – Maximum Special Tax for Operations & Maintenance

Special Tax Category	Maximum Special Tax (Operations & Maintenance)
Category I – Residential (per square foot)	\$0.0136
Category I – Non-Residential (per acre)	\$220.23
Category II – Final Mapped Property (per acre)	\$220.23
Category III – Undeveloped Property (per acre)	\$142.14

Annually, the City determines the amount that must be generated from the special taxes to meet budgeted costs plus operating reserves for Improvement Area “C.” The special taxes will first be levied against developed parcels to satisfy this amount. If insufficient special tax revenue is generated, the special taxes will then be levied against vacant land within Improvement Area “C,” starting with the Final Mapped Property. If the City determines that the amount that must be generated from special taxes in any fiscal year is less than the maximum special tax authorized to be levied on the developed parcels, the actual rate of the special taxes to be levied in that specific year will be reduced accordingly.

The maximum rates for special taxes shown in the above tables are proposed to be increased each fiscal year, beginning Fiscal Year 2022-23, by a factor equal to the annual percentage change in the San Diego Metropolitan Area Consumer Price Index for All Urban Consumers (CPI-U, All Items) or zero percent (0%), whichever is greater. The special taxes are proposed to be collected in the same manner and at the same time

as ordinary ad valorem property taxes; provided, however, that the administrator of CFD 97-2 may directly bill the special tax and may collect special taxes at a different time or in a different manner if necessary.

Description of Tonight's Proceedings

Tonight's hearing is being held in accordance with Section 53339.5 et seq. of the California Government Code. The first step in tonight's proceeding is the public hearing. If the owners of one-half or more of the area of land in the territory included in the existing CFD 97-2 or Annexation No. 12 submit written protests against the annexation, the City will be prohibited from continuing proceedings for at least one year. Otherwise, the City may submit the question to the qualified electors in Annexation No. 12, which would be the property owner. The property owner has waived time limitations and requirements to comply with the Elections Code, as authorized in the CFD Law. Tonight's action completes Annexation No. 12.

There are two resolutions for this action item, which if approved would do the following:

- A) A Resolution making certain determinations and authorizing submittal of the levy of special taxes to the qualified electors is the formal action making determinations relating to the annexation, setting forth specific information about the annexation, and calling an election relating to the levy of special taxes within Annexation No. 12.
- B) A Resolution declaring results of the special election provides for the approval of the certificate of the City Clerk, acting as election official, relating to the canvass of votes on the annexation and, if the qualified electors approve the annexation, the Resolution would formally approve and authorize the annexation and the levy of special taxes within Annexation No. 12.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, et seq.). Staff is not independently aware, and has not been informed by any City Councilmember, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There are no current year fiscal impacts to the General Fund or Development Services Fund as a result of this action. All costs of this annexation to the district are being borne by the developer and the on-going administration will be funded entirely by the district.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact to the General Fund or Development Services Fund as a result of this action. All costs of this annexation to the district are being borne by the developer and the on-going administration will be funded entirely by the district.

ATTACHMENTS

1. Boundary Map for CFD 97-2, Improvement Area C, Annexation No. 12
2. Rate of Method of Apportionment ("RMA") for CFD 97-2, Improvement Area C, Annexation No. 12

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