

**REPORT TO MAYOR AND CITY COUNCIL****TO THE HONORABLE MAYOR AND CITY COUNCIL:**

DATE: September 8, 2015

**SUBJECT: CONSIDERATION OF A RESOLUTION ESTABLISHING A NON-BINDING STRATEGY TO ANNEX THE “AYERS RANCH” AREA WITHIN THE SPHERE OF INFLUENCE BY THE YEAR 2030****Report in Brief**

Ayers Ranch is a ±190 acre unincorporated (County) island located within the incorporated Concord City limits. Most of the residential properties in the Ayers Ranch area were originally constructed with septic systems, and some of these systems have been failing, creating the need for these property owners to either repair their septic systems or seek to receive sanitary sewer service from the City of Concord. In order to provide future sewer services to the Ayers Ranch area, the City Council is requested to consider a strategy for future annexation. The proposed resolution adopting such a strategy is non-binding and does not obligate the annexation of the Ayers Ranch area, which can only be done by LAFCO with majority support from residents and property owners through established procedures.

**Background**

The City of Concord has historically provided sewer service to certain unincorporated areas outside of the City and to the City of Clayton. The Government Code was amended in 1994 to require a local agency to receive prior approval from the Local Agency Formation Commission (LAFCO) before extending municipal services outside of its jurisdictional boundary (Government Code §56133). The statute allows the LAFCO to approve “out of agency” service under only two situations:

- 1) Existing or impending threat to the health and safety of the public, or
- 2) In anticipation of a future annexation, if the subject property is within the City's Sphere of Influence (SOI).

Concord's sewer service extensions must currently meet one of these two conditions even though the properties are within the City's sewer service area and Sphere of Influence (SOI). State statutes do not define the meaning of “Extension of Service.” Contra Costa County LAFCO has taken a conservative interpretation of these statutes, determining that the act of installing a sewer connection to a single family home constitutes an “Extension of Service.” This LAFCO interpretation remains the same regardless of whether or not surrounding properties are already provided with City sewer service or if a sewer line is located within the adjacent public right-of-way.

Ayers Ranch is a ±190 acre unincorporated island surrounded by the City of Concord and is within the City's SOI. Ayers Ranch contains approximately 306 residential parcels, most of which are developed with single family homes.

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The City has given the area a General Plan land use designation of Low Density Residential and Rural Residential with three different corresponding pre-zoning designations (RR20, RS12 and RS10 – see Attachment 1). There is development potential for new single family homes on several of the sites.

Based on policies set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCO has encouraged the City to annex the Ayers Ranch area to provide for a logical boundary and to enhance service efficiency. In order for the City to continue be able to extend municipal services outside of its jurisdictional boundary, LAFCO has suggested the City implement a long-term strategy for the annexation of the entire Ayers Ranch area. The adoption of a long-term annexation strategy would also serve as the necessary assurance that future requests for out of agency service are provided in accordance with State law.

This process began back in 2007 when the City requested approval from LAFCO to extend sewer service to properties on Laurel Drive within this annexed area through an out of agency service agreement. LAFCO approved the out of agency service agreement conditioned upon the properties, along with the intervening parcels on Pleasant View Lane, being annexed to the City. However, this annexation could not be completed until the City and County were in agreement on property tax sharing formula. With Council adoption of this annexation strategy, a property tax sharing agreement as described in the Discussion section below can be used.

On August 12, 2015, the Contra Costa County LAFCO approved a request by Lenox Homes for the annexation of a ±5.86 acre portion of unincorporated Ayers Ranch into the City of Concord. All of the landowners provided written consent to the annexation and no protests were filed during or prior to the public hearing. The annexation will add about 18 single family residential properties to the City. Now that the annexation has been finalized, the formal transfer must be recorded within one year. Lennox Homes stated to LAFCO at the hearing that the formal transfer will take place as soon as their residential construction permits with the County are completed.

### **Discussion**

In order for the City of Concord to be granted out of area service agreements from LAFCO and be allowed to provide new sewer service to properties within the unincorporated Ayers Ranch area, the City Council needs to adopt a strategy for the future annexation of all properties within area. This annexation strategy will include outreach, promotion, and informal polling to gauge public opinion conducted by City staff, leading up to the goal of annexation by the year 2030. The resolution adopting such a strategy is non-binding and does not obligate the annexation of the Ayers Ranch area, which can only be done by LAFCO with majority support from residents and property owners through established procedures. The proposed resolution (Attachment 1) identifies that the City will actively promote the benefits of City services to the unincorporated Ayers Ranch area, consistent with prior public outreach efforts. Contra Costa’s LAFCO has allowed out of area utility services for other communities, such as the City of Martinez, who have adopted similar resolutions in accordance with Government Code Section §56133.

The City of Concord has been in discussion with Contra Costa County for some time regarding the appropriate property tax sharing formula to be used when properties are annexed from the County’s jurisdiction into the City.

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The County’s current Master property tax sharing formula does not allow sufficient property tax funds to be returned to the City in exchange for the expense of services that the City would provide to the newly annexed lands. The use of the Master tax sharing formula would allow newly annexed parcels to remit less of their Proposition 13-established base and increment property tax to the City of Concord than existing City parcels contribute to the City of Concord. The City has not been willing to burden its existing residents with the cost of providing services to a new annexation unless the tax sharing formula is equitable. Property taxes are an important revenue source for the City, but they do not cover the full cost of City services. There are no commercial land uses within the Ayers Ranch area that would generate sales taxes to potentially offset any deficiencies.

Staff from the City and Contra Costa County recently came to an agreement regarding a property tax sharing formula for annexations from the Ayers Ranch area into the City of Concord. This agreement would provide the City of Concord with a more favorable property tax allocation of 70% of the local share of a parcels base and increment property tax to the City and 30% to the County once the City completes the annexation of the entire ±190 acre the Ayers Ranch area. If portions of Ayers Ranch were annexed into the City on a piecemeal basis, such as the recently LAFCO approved Lenox Homes annexation, the property tax allocation will be based on the County’s current Master property tax sharing formula of approximately 50% to the City and 50% to the County until the whole area incorporates; at which point all annexation’s recorded after the City passes this resolution would be subject to the 70/30 split negotiated between the City and the County.

At this time it is uncertain if the City of Concord could successfully process an application with LAFCO to annex the entire Ayers Ranch area due to potential opposition from Ayers Ranch residents. With the Council’s formal endorsement of the proposed non-binding resolution, staff will continue to promote the benefits of City services to the residents of the Ayers Ranch area, inform them of the facts about sewer services and property taxes, and periodically monitor public opinion to see if a majority of the Ayers Ranch residents and property owners wish to be annexed into the City of Concord.

**Fiscal Impact**

There are only minimal fiscal impacts associated with adoption of this non-binding resolution. All costs for “Out of Agency Sewer Service Agreements” applications are reimbursed by the resident or developer requesting sewer service. However, there will be minimal costs associated with educational outreach and occasional polling on the topic of annexation.

Additionally, there are costs associated with annexing property. Only a portion of the City’s cost of services are offset with property tax revenues in residential areas, so there would be additional City costs if property does annex.

**Public Contact**

Residents and property owners in the Ayers Ranch area and all Concord residents and property owners within 500’ feet of the city limits adjacent to the Ayers Ranch area were notified by mail of this public hearing. Notice for this meeting has also been posted at the Civic Center.

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**Recommendation for Action**

Motion to adopt Resolution No. 15-59 establishing a non-binding strategy to annex the unincorporated Ayers Ranch portion of the City’s Sphere of Influence by the year 2030.

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Attachments:

Attachment 1: Resolution No. 15-59

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Establishing a Non-Binding Strategy  
to Annex the “Ayers Ranch” Sphere of Influence  
by the Year 2030 in a Single Phase Approach**

**Resolution No. 15-59**

**WHEREAS**, orderly growth and development is essential to the social, fiscal, and economic well-being of the City of Concord; and

**WHEREAS**, in the past the City Council of the City of Concord (Council) has pursued annexations within a portion of the City of Concord’s Sphere of Influence (SOI) commonly known as Ayers Ranch; and

**WHEREAS**, the City Council recognizes that properties within the Ayers Ranch Sphere of Influence (hereafter the “Ayers Ranch area” and identified in attached Exhibit “A”) have a need for City services; and

**WHEREAS**, the City of Concord’s General Plan and Zoning Map identifies land use and pre-zoning for the Ayers Ranch area; and

**WHEREAS**, the City of Concord plans to submit application(s) to the Contra Costa Local Agency Formation Commission (“LAFCO”) in the foreseeable future for annexation of territory known to the parties as the Ayers Ranch area, which would be an annexation of substantially all of the territory described in Exhibit “A”; and

**WHEREAS**, the City Council believes that a unified non-binding single phase process as depicted on Exhibit “A” attached, is the most orderly process for annexing Ayers Ranch within the City’s Sphere of Influence; and

**WHEREAS**, the City Council has set the goal and timeline for completing the annexation of Ayers Ranch by the year 2030, subject to conformity with all applicable legal requirements; and

**WHEREAS**, the City Council hereby directs staff to continue to conduct public outreach to the residents of the Ayers Ranch area on a regular basis, to inform them of the benefits and services that the City of Concord provides; and

**WHEREAS**, the City Council hereby directs staff to continue to inform the residents of the

1 Ayers Ranch SOI of the cost and environmental consequences of failing septic systems in relation to  
2 the affordable long-term benefit of receiving City sewer services; and

3 **WHEREAS**, the City Council hereby directs staff to continue to inform and promote to the  
4 residents of the Ayers Ranch SOI the fact that their annexation to the City of Concord will not result  
5 in an increase to their property taxes; and

6 **WHEREAS**, the City Council hereby directs staff to report back to the Council on an annual  
7 basis regarding their public outreach efforts and the status of any potential annexation of the Ayers  
8 Ranch area.

9 **NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Concord,  
10 establishing a non-binding strategy to annex the Ayers Ranch Sphere of Influence by the year 2030 in  
11 a single phase approach.

12 **PASSED AND ADOPTED** by the City Council of the City of Concord on September 8, 2015,  
13 by the following vote:

14 **AYES:** Councilmembers -

15 **NOES:** Councilmembers -

16 **ABSTAIN:** Councilmembers -

17 **ABSENT:** Councilmembers -

18 **I HEREBY CERTIFY** that the foregoing Resolution No. 15-59 was duly and regularly  
19 adopted at a regular meeting of the City Council of the City of Concord on September 8, 2015.

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Joelle Fockler, CMC  
City Clerk

23 **APPROVED AS TO FORM:**

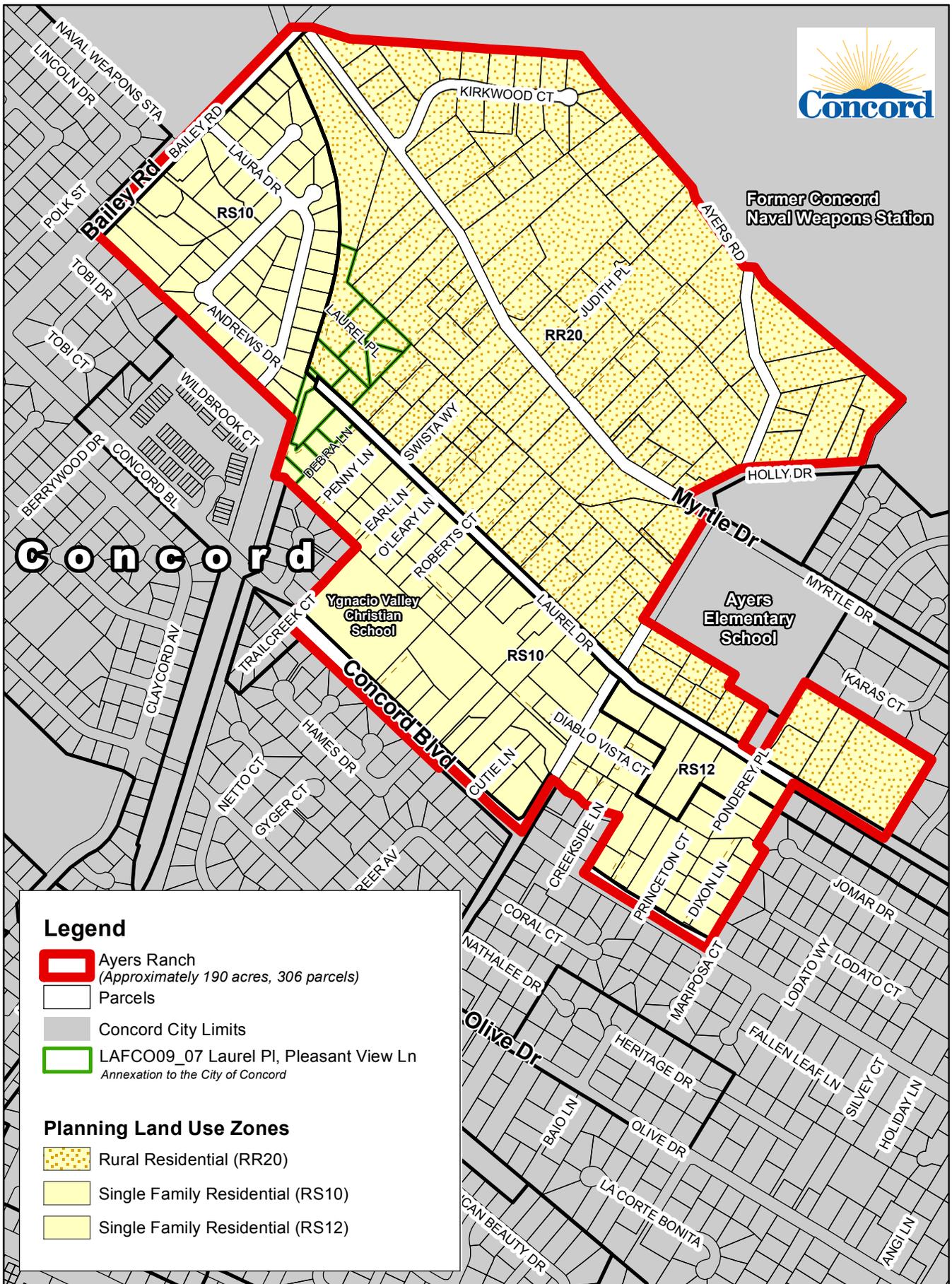
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Mark S. Coon  
26 City Attorney

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28 Exhibit A - Ayers Ranch Sphere of Influence Area

# Exhibit "A"



Former Concord Naval Weapons Station

**Concord**

## Legend

-  Ayers Ranch  
(Approximately 190 acres, 306 parcels)
-  Parcels
-  Concord City Limits
-  LAFCO09\_07 Laurel Pl, Pleasant View Ln  
Annexation to the City of Concord

## Planning Land Use Zones

-  Rural Residential (RR20)
-  Single Family Residential (RS10)
-  Single Family Residential (RS12)

