

June 8, 2022

6b | Consent
Calendar

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Executive Officer

Scott Smith

General Counsel

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Policy Analyst

SUBJECT: Proposed "Pomeroy Property Detachment from the City of
Tustin (CD 20-13)"

BACKGROUND

The Local Agency Formation Commission of Orange County (OC LAFCO) will consider a change of organization application and petition filed by a private landowner to detach approximately .18 acre from the City of Tustin. The purpose is to align the boundaries of the subject territory through placement of the entire property within a single jurisdiction to support the efficient delivery of municipal services. As OC LAFCO has received the consent of all landowners within the subject territory, the proposal has been agendaized as a consent calendar item for Commission consideration.

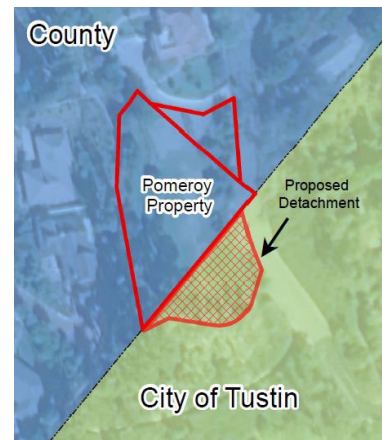
Staff recommends approval of the detachment from Tustin's jurisdictional boundary and no change to the City's current sphere of influence (SOI). The following sections of this staff report provide additional background on the application and staff's analysis of the proposal.

PROJECT APPLICATION

A private landowner has filed an application and petition with OC LAFCO initiating the detachment of approximately .18 acre of a larger property from the City of Tustin. The larger portion of the property currently includes a vacant lot proposed for the development of a single-family home. If approved, the landowner will continue efforts to complete the planning process requirements with the County of Orange and begin construction of the residence. If the subject territory is detached from the City of Tustin, the new jurisdictional boundary will support the effective and efficient delivery of municipal services to the property.

Location and Land Use

Located in the northeast portion of the City of Tustin’s jurisdictional boundary, the subject territory is situated on Foothill Boulevard and north of Padias Lane. The subject area is currently designated as “Suburban Residential” in the City of Tustin’s General Plan. The County of Orange has adopted a similar general plan land use designation of “Suburban Residential” and has prezoned the area as “Small Estates.”



DISCUSSION

The primary purpose of the proposed detachment is to facilitate the placement of the landowner’s entire property (Pomeroy Property) under a single jurisdictional boundary. As shown on the map above, currently, the geographic location of the Pomeroy Property is split between the City of Tustin and the County of Orange, and the landowner must seek land use approvals and improvements from two jurisdictions. As the landowner intends to construct a single-family home, he is requesting realignment of the boundary in order to process land use and other approvals and receive municipal service provision to the property from the County of Orange. Placement of the entire property under the County’s jurisdiction will facilitate the delivery of municipal services in a more effective and efficient manner.

ANALYSIS

Over the past two years, representatives of the County, City, OC LAFCO, and landowner have engaged in discussions on the proposed detachment. Through those discussions, it was determined that the .18 acre of the Pomeroy property currently situated in the City of Tustin should be detached as the majority of the property is located in the North Tustin unincorporated area. Due to its topography and location, the Pomeroy Property has no right-of-way access to the property through the City of Tustin. The property is substantially surrounded by the County’s jurisdictional boundary, and the portion of the property’s boundary that is adjacent to the City of Tustin includes a hill slope with no access.

The current jurisdictional boundary creates inefficiencies for the land use planning process and potentially for emergency services to the property once developed. Under the current location, construction of a single-family home requires approvals from the City and County. However, if the smaller portion of the property is detached from Tustin, the entire property would be located within the County, allowing the landowner to work solely with the County Planning Department on the necessary approvals required to begin the construction of the proposed home. Additionally, the detachment would facilitate removing the potential for the duplication of municipal services to the future home and provide clarity for the delivery of key municipal services to the area. To ensure effective service delivery for local wastewater, one of the many key services, upon detachment, staff met with the East Orange County Water District’s staff to

discuss the provision of service to the future home. Subsequently, the District provided a will-serve letter for the Pomeroy property to clarify that EOCWD will serve the future residence.

Table 1 depicts the existing and future municipal service providers if the detachment is approved by the Commission.

Table 1- Current and Proposed Service Provision for the Pomeroy Property		
Service	Provider (current)	Provider (upon annexation)
Animal Control	County of Orange	County of Orange
Fire Protection	Orange County Fire Authority	Orange County Fire Authority
Library Service	County of Orange	County of Orange
Parks & Recreation	City of Tustin	County of Orange
Planning	City of Tustin	County of Orange
Police Service	City of Tustin	Orange County Sheriff
Retail Water	Golden State Water Company	Golden State Water Company
Local Wastewater	East Orange County Water District	East Orange County Water District
<u>Regional Providers (No Change)</u> Municipal Water District of Orange County Orange County Cemetery District Orange County Mosquito and Vector Control Orange County Sanitation District Orange County Water District		

As well, State Law requires the Commission to review and consider several factors for the application. The details of those factors are presented in **Attachment 1**.

Other Statutory Requirements

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99 (Tax Code) requires the City and County to adopt property tax resolutions for proposed changes of organization and reorganization. On June 7, 2022, the City of Tustin and the County of Orange will consider property tax exchange resolutions for the proposed detachment. The City and County agree that the property taxes involving the detachment area are minimal, and the amount to be directed to the County is zero. The property tax agreements approved by the City and County must be received by OC LAFCO prior to the recordation of the OC LAFCO Certificate of Completion for the proposed detachment.

Environmental Review

On February 15, 2022, the County of Orange, as the lead agency under the California Environment Quality Act (CEQA) for the proposal, filed a Notice of Exemption with the Orange County Clerk-Recorder. As a responsible agency, OC LAFCO will review the environmental documentation prepared by the County in its consideration of the proposed detachment. A Notice of Exemption is included within this report for the Commission’s review.

Protest Proceedings

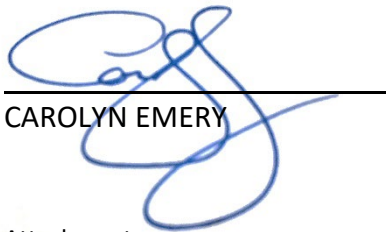
In accordance with Government Code Section 56662, the Commission may waive the protest proceedings for the proposed detachment. The waiver of protest proceedings appropriately applies under this statute as the subject territory is uninhabited, the subject agencies have not filed objections to the waiver of proceedings, and all landowners have consented to the proposed detachment.

RECOMMENDED ACTIONS

As the proposed detachment would facilitate a more logical boundary and the effective and efficient delivery of municipal services to the future single-family home, staff recommends the Commission take the following actions:

1. Confirm that OC LAFCO has reviewed the information contained within the Notice of Exemption prepared by the County of Orange and filed with the Orange County Clerk-Recorder.
2. As a responsible agency, direct the Executive Officer to file the Notice of Exemption for the “Pomeroy Property Detachment from the City of Tustin (CD 20-13)” with the Orange County Clerk-Recorder. (Exhibit A)
3. Adopt OC LAFCO Resolution No. CD 20-13 approving the “Pomeroy Property Detachment from the City of Tustin.” (Attachment 2)
4. Waive protest proceedings for the “Pomeroy Property Detachment from the City of Tustin (CD 20-13)” in accordance with Government Code Section 56662.

Respectfully submitted,



CAROLYN EMERY



GAVIN CENTENO

Attachments:

1. 56668 Factors Considered by the Commission
2. OC LAFCO Resolution No. CD 20-13

**Factors Considered in Review of the
"Pomeroy Property Detachment from the City of Tustin (CD 20-13)"**

- I. Population and population density, land area and land use, and assessed valuation.**
- The subject territory is currently uninhabited.
 - The land use designation for the proposed .18 acre detachment is currently identified as R4-Suburban Residential in the City of Tustin's General Plan.
 - The County of Orange has designated the subject territory as 1B Suburban Residential in the County's General Plan and rezoned the subject territory as E4-1 (SR)(E) Small Estates.
 - The subject territory is within Tax Rate Area 13-077. Upon detachment, the territory will be consolidated within Tax Rate Area 89-095, which is the existing tax rate area of the larger property.
 - The City and the County will consider approval of property tax exchange agreements for the proposed detachment on June 7, 2022. During the agencies' preliminary discussions, it was determined that the amount of property taxes to be directed to the County is zero.
- II. Organized community services, present cost and adequacy, and future needs of governmental services, and probable effect of the proposed detachment.**
- The subject territory is currently located within the City of Tustin, and the City provides key municipal services to the territory.
 - The County of Orange provides municipal services to a larger portion of the parcel which is adjacent to the subject territory.
 - If the Commission approves the proposed detachment, the entire property will be placed under the County of Orange's jurisdiction and the County is capable of providing adequate municipal services to the parcel. The table below depicts the current and future service providers to the subject territory.

Table 1- Current and Proposed Service Providers		
Service	Current Provider	Proposed Provider
Animal Control	County of Orange	County of Orange
Fire Protection	Orange County Fire Authority	Orange County Fire Authority
Library Service	County of Orange	County of Orange
Parks & Recreation	City of Tustin	County of Orange
Planning	City of Tustin	County of Orange
Police Service	City of Tustin	Orange County Sheriff
Retail Water	Golden State Water Company	Golden State Water Company
Local Wastewater	East Orange County Water District	East Orange County Water District
Regional Providers (No Change)		
Municipal Water District of Orange County (<i>wholesale water</i>)		
Orange County Cemetery District (<i>countywide public cemetery</i>)		
Orange County Sanitation District (<i>regional wastewater</i>)		
Orange County Mosquito and Vector Control District (<i>countywide vector control</i>)		
Orange County Water District (<i>regional groundwater</i>)		

- III. Effect on adjacent areas, mutual social and economic interests, local government structure.**

 - Approval of the proposed detachment will not have an effect on adjacent areas, mutual social and economic interests, and local government structure. The proposed detachment will result in a more logical boundary and efficient delivery of municipal services.

- IV. The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Government Code Section 56377.**

 - The area has been designated by the County of Orange as 1B Suburban Residential and E4-1 (SR) (E) Small Estates, which is consistent with the existing land use within the subject territory.
 - The proposed detachment was processed in accordance with Commission policies and procedures and is consistent with the priorities set forth in Government Code Section 56377.

- V. Effect on maintaining the physical and economic integrity of agricultural lands.**

 - No agricultural lands are contained within or adjacent to the subject territory.

- VI. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.**

 - The proposed boundary has been reviewed by staff and does not create any islands or corridors of unincorporated territory.

- VII. Regional Transportation Plan (RTP) adopted and Consistency with city or county general and specific plans.**

 - The proposed detachment of territory is consistent with the County's General Plan and will not impact the Regional Transportation Plan and Sustainable Communities Strategy that were adopted for the region by the Southern California Association of Governments.

- VIII. The proposal's consistency with city or county general and specific plans.**

 - The subject territory is consistent with the County of Orange's General Plan.

- IX. Comments from affected agencies and/or other public agency.**

 - In accordance with Government Code Section 56658(b), on January 10, 2022, all affected agencies were notified of the proposal. The period for affected agencies to submit comments ended on January 31, 2022, and no comments on the proposed detachment were received.

- X. Ability of newly formed or receiving entity to provide services to proposal area and sufficiency of revenues for those services.**

 - The County of Orange has sufficient revenues and can provide adequate municipal services to the proposed territory.

- XI. Timely availability of water supplies adequate for projected needs as specified in Government Code Section 65352.5.**
- The detachment of the subject territory from the City of Tustin will not interrupt or alter the current service provision and the availability of water supplies as specified in Government Code Section 65352.5. Upon detachment, Golden State Water Company will continue to provide retail water to the property and can adequately provide the service to the proposed single-family home within the affected territory. Wholesale water will continue to be provided by the Municipal Water District of Orange County.
- XII. Extent to which the proposal will affect a City(ies) and the county in achieving their respective fair shares of the regional housing needs.**
- There were no comments received from the City of Tustin or the County of Orange regarding the extent to which the proposal will affect their respective allocation of the regional housing needs.
- XIII. Information or comments from landowners, voters, or residents within affected territory.**
- OC LAFCO staff has received consent for the proposed detachment from all landowners within the affected territory.
- XIV. Information relating to existing land use designations.**
- The land use designation for the subject territory is currently designated in the City's General Plan as R4-Suburban Residential.
 - The County of Orange has designated the subject territory as 1B Suburban Residential within the County's General Plan and rezoned the subject territory as E4-1 (SR) (E) Small Estates, consistent with the County's General Plan.
- XV. The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.**
- Upon detachment of the subject territory from the City of Tustin, the residents of the area will receive the same municipal services currently provided to all County residents.
- XVI. Information contained in a local hazard mitigation plan, information contained in safety element of a general plan, and any maps that identify land as very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to 4102 of the Public Resources Code.**
- Government Code Section 51178 requires the California Department of Forestry and Fire Protection (CAL FIRE) to identify "very high fire hazard severity zones" using consistent statewide criteria. The Orange County Board of Supervisors has adopted the very high fire hazard Severity Zones Map for unincorporated Orange County and does not identify the subject territory to be within a very high fire hazard severity zone.

CD 20-13

**RESOLUTION OF THE LOCAL AGENCY
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA
MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND APPROVING THE “POMEROY
PROPERTY DETACHMENT FROM THE CITY OF TUSTIN (CD 20-13)”**

JUNE 8, 2022

On motion of Commissioner _____, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed change of organization, designated as “Pomeroy Property Detachment from the City of Tustin (CD 20-13),” was hereto filed with and accepted for filing on June 1, 2022, by the Executive Officer of the Local Agency Formation Commission of Orange County (“LAFCO”) pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set June 8, 2022, as the hearing date of this proposal; and

WHEREAS, as the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendation therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposed detachment, consists of the detachment of approximately .18 acre of uninhabited territory from the City of Tustin; and

WHEREAS, the County of Orange served as the lead agency for the environmental review, analysis, and approval of the Pomeroy Residence Single Family Residential Construction (“Project”) pursuant to the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) (“CEQA”); and

WHEREAS, pursuant to CEQA, on February 15, 2022, the County of Orange adopted a Notice of Exemption (“NOE”) for the Project; and

WHEREAS, the LAFCO has been asked to approve the proposed “Pomeroy Property Detachment from the City of Tustin (CD 20-13)”; and

WHEREAS, LAFCO is thus a “responsible agency” for the Project under CEQA because it has limited approval and implementing authority over the Project; and

WHEREAS, LAFCO, at its agendized public meeting on June 8, 2022, independently reviewed and considered the NOE and other related documents in the record before it; and

WHEREAS, as contained herein, LAFCO has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, this Commission called for and held a public meeting on the proposal on June 8, 2022, and at the meeting, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, all of the findings and conclusions made by LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the LAFCO does hereby resolve as follows:

Section 1. LAFCO Findings.

The subject territory is found to be uninhabited, is currently within the City of Tustin’s jurisdictional boundary and sphere of influence and is assigned the following distinctive short-form designation, “Pomeroy Property Detachment from the City of Tustin (CD 20-13).” The proposal consists of the detachment of

approximately .18 acre generally located on Foothill Boulevard and north of Padias Lane from the City of Tustin. (Exhibit B)

Section 2. Compliance with the Environmental Quality Act.

As the decision-making body for LAFCO, and in LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the information contained in the NOE, and all supporting documentation, copies of which are on file at LAFCO's office and are incorporated by reference as though set forth fully herein. Based on this review, the Commission concurs with the County of Orange's conclusion that the Project is exempt from CEQA, as set forth in greater detail in the County's NOE, which was filed with the Orange County Clerk-Recorder on February 15, 2022. Specifically, the Commission finds that the Project is categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303 concerning new construction or conversion of small structures. The Commission additionally finds that the Project is exempt from CEQA under the common sense exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3) as it can be seen with certainty that there is no possibility that the Project may have a significant effect on the environment. Rather, the Project is comprised of administrative action (i.e., government reorganization and administrative boundary changes) that would not result in either a direct, or reasonably foreseeable indirect, physical change in the environment.

Section 3. The proposal is approved subject to the following terms and conditions.

- a) Payment by the applicant of County Clerk-Recorder and State Board of Equalization fees.
- b) The applicant (landowners of the Pomeroy property) agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers, and employees from any claim, action or proceeding against LAFCO and/or its agents,

ATTACHMENT 2

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 8th day of June 2022.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of June 2022.

DOUGLASS DAVERT
Chair of the Local Agency Formation
of Orange County

By: _____
DOUGLASS DAVERT

NOTICE OF EXEMPTION

<p>TO:</p> <p><input type="checkbox"/> Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044</p>	<p>FROM: Local Agency Formation Commission of Orange County (Responsible Agency) (Public Agency)</p>
<p><input checked="" type="checkbox"/> Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 211 W. Santa Ana Blvd. Santa Ana, CA 92701</p>	<p>Address 2677 North Main Street Suite 1050 Santa Ana, CA 92705</p>

1. Project Title:	“Pomeroy Property Detachment from the City of Tustin (CD 20-13)”
2. Project Applicant:	Mr. and Mrs. Pomeroy (landowners)
3. Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15’ or 7 1/2’ topographical map identified by quadrangle name):	The project is generally located on Foothill Boulevard and north of Padias Lane within the City of Tustin. (Vicinity map attached.)
4. (a) Project Location – District	
(b) Project Location – County	Orange
5. Description of nature, purpose, and beneficiaries of Project:	The project involves the detachment of approximately .18 acre of uninhabited territory from the City of Tustin. The purpose of the proposal is to facilitate the effective and efficient delivery of municipal services to the subject territory.
6. Name of Public Agency approving project:	Orange County Local Agency Formation Commission
7. Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	County of Orange
8. Exempt status: (check one)	
(a) <input type="checkbox"/> Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)

EXHIBIT A

(b)	<input type="checkbox"/>	Not a project.	
(c)	<input type="checkbox"/>	Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b),(c))
(d)	<input checked="" type="checkbox"/>	Categorical Exemption. State type and section number:	One single-family residence, or second dwelling unit in residential zone. Class 3 § 15303(a)
(e)	<input type="checkbox"/>	Declared Emergency.	(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	<input checked="" type="checkbox"/>	Statutory Exemption. State Code section number:	(Common Sense) CEQA Guidelines §15061(b)(3)
(g)	<input type="checkbox"/>	Other. Explanation:	
9.	Reason why project was exempt:		The change in the organization of a local governmental agency does not change the geographical area.
10.	Lead Agency Contact Person:		Cindy Salazar, Senior Planner
	Telephone:		(714) 667-8870
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.		
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, the date of the public hearing was: February 15, 2022		

Signature: _____ Date: _____ Title: Executive Officer

Name:

Signed by Responsible Agency Signed by Applicant

Date Received for Filing: _____

(Clerk Stamp Here)

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.