



Board Agenda Item 39

DATE: August 20, 2019

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Resolution to Initiate the Formation of County Service Area No. 34 Zone F

RECOMMENDED ACTION(S):

Adopt Resolution initiating formation proceedings for County Service Area No. 34 Zone F, which will be known as “The Vistas,” to include Tentative Tract Map No. 4934, APN 300-542-13S, and set a public hearing on October 8, 2019, at 9:00 a.m., or as soon as practicable, to consider the proposed formation.

The subject property is located on the south side of Millerton Road, west of Marina Drive within CSA 34.

Approval of the recommended action will initiate the formation of Zone F of County Service Area No. 34 (CSA 34F), which will be known as “The Vistas,” benefitting 10 lots to be created by Tentative Tract Map No. 4934 (TTM 4934). This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

There is no viable alternative action. The County is obligated under an April 9, 2019 Subdivider Reimbursement Agreement No. S340009, see Attachment A, to undertake the proceeding, but makes no guarantee regarding the result of those proceedings. Formation of CSA 34F is a condition of approval for TTM 4934.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. Wathen Castanos Homes (WCH), as the subdivider, will pay all costs related to the proposed formation of CSA 34F per Subdivider Reimbursement Agreement No. S340009 entered into on April 9, 2019, in the amount of \$10,000 or the actual costs of the formation proceedings.

The proposed method of payment by property owners for the water and sewer services, to be authorized by the proposed formation of CSA 34 F, is through bi-monthly utility service fees. The proposed method of payment by property owners for water contract administration and ready-to-serve Lake Pump Maintenance, road maintenance, storm drainage maintenance, street lighting, and public right-of-way landscape maintenance services, to be authorized by the proposed formation of Zone F, is through the levying of benefit assessments to all parcels within the zone. Those fees and benefit assessments must be approved in a separate proceeding, which occurs in parallel with this one. If there is a majority protest to those fees or assessments, then the formation cannot be finalized. The property owners within the subdivision will pay all costs for the maintenance and operation of the approved facilities.

The County Auditor-Controller/Treasurer-Tax Collector's Office will be required to account for CSA 34F funds.

DISCUSSION:

Wathen Castanos Homes (WCH), is the subdivider and sole owner of the property within TTM 4934, (APN 300-542-13S), as shown on Exhibit A and A-1. WCH has requested that the Board approve the formation of CSA 34F so that WCH may finalize TTM 4934 and begin development of "The Vistas" Subdivision.

The services that WCH is proposing the County to provide are water contract administration and ready-to-serve Lake Pump Maintenance, water and sewer services, storm drainage and road maintenance, street lighting, and public right-of-way landscape maintenance. The territory in TTM 4934 consists of approximately 5 acres and is planned to be developed into 10 single-family residences under TTM 4934 for the development of "The Vistas" Subdivision.

Maintenance of community facilities through a CSA or a CSA zone is a condition of development for new projects in the County.

CSA zone formations are governed by CSA Law (Government Code, Section 25210, et. seq.). Under the CSA Law, Local Agency Formation Commission (LAFCo) action is not required for the formation of a zone within an already established CSA, under Government Code, section 25217.4. LAFCo has previously authorized services to be provided by CSA 34 that include municipal services such water contract administration, water services, sewer services, road maintenance, storm drainage maintenance, public right-of-way landscape maintenance and street lighting.

Formation Proceedings

The procedure to form a zone follows Government Code sections 25217 and 25217.1. To form a zone within an existing CSA requires two separate Board actions. The first action initiates the process of formation, including the giving of required notices. The second action, a public protest hearing at a later date, concludes the process with a public hearing and, if there is no majority protest to the proposed formation, and no majority protest to the proposed fees and benefit assessments, may result in the formation of the zone.

Approval of the recommended action will adopt a resolution initiating the proceeding to form CSA 34F. Then, on October 8, 2019, a public protest hearing would be conducted to hear and consider testimony from all interested persons regarding the formation, to receive written objections, if any, and to determine if there is a majority protest.

To initiate the proceeding to form CSA 34F, your Board must adopt a resolution that:

1. States that the proposal is made pursuant to Title 3, Division 2, Part 2, Chapter 2.5, Article 8 of the California Government Code in the CSA Law;
2. Describes the boundaries of the territory to be included in the zone and affected by the proposed formation;
3. States the reasons for the proposed formation;
4. States the different authorized services, levels of service, authorized facilities, and revenue that the zone is proposed to provide;
5. Describes the methods by which authorized services will be financed;

6. Identifies the proposed zone by name or number, and establishes a designation for the formation proceeding, which here would be "County Service Area No. 34, Zone F";
7. Fixes the date, time, and location of a public hearing to hear and consider testimony regarding the proposed formation, receive written objections, if any, and determine if there is a majority protest;
8. States that, at the public hearing, the testimony of all interested persons will be heard;
9. Includes a summary of the procedures applicable to the completion, return, and tabulation of written objections to the proposed formation; and,
10. Directs the Clerk of the Board to prepare, post, and publish a notice of public hearing to consider the proposed formation.

By approving the recommended action, your Board will adopt a resolution satisfying the aforementioned requirements to initiate the proceeding to form CSA 34F. The resolution sets a public hearing on October 8, 2019 at 9:00 A.M. or as soon after as practicable, but in any case before any public protest hearing on the proposed benefit assessment in the meeting chambers of the County's Board of Supervisors, at the Hall of Records, 2281 Tulare Street, Third Floor, Fresno, California. The public hearing may be continued from time to time by the Board without further notice. At that hearing the Board will hear and consider the testimony of persons interested in the proposed formation, receive written objections, if any, and determine if there is a majority protest according to the applicable statutory standard. If the Board determines that there is a majority protest, the formation proceeding must be abandoned and the benefit assessment proceeding must be abandoned.

No later than 20 days before the date and time of the public hearing stated in the preceding paragraph and set in the resolution initiating the proceeding to form CSA 34F, the Clerk of the Board shall publish notices of that public hearing. Notices shall be:

1. Mailed to all owners of property within the zone with boundaries changed as proposed; and
2. Published one time in a newspaper of general circulation published within the County; and
3. Posted in at least three public places located within the territory of the zone with boundaries changed as proposed; and
4. Mailed to each city and special district that contains (or whose sphere of influence contains) any portion of the zone with boundaries changed as proposed.

Each property owner/registered voter residing in the zone may file a written objection with the Clerk of the Board at or before the close of the public hearing. In order for a written protest to be considered, it must be properly executed and must be delivered as follows:

1. By U.S. Mail so that it is received by the Clerk of the Board no later than 9:00 A.M. on October 8, 2019; or
2. Delivered to the Clerk of the Board no later than 9:00 A.M. on October 8, 2019; or
3. Delivered to the Clerk of the Board during the Public Hearing on October 8, 2019, prior to the close of public testimony.

To determine if there is a majority protest, the Board must first determine whether the territory within the zone proposed is inhabited or uninhabited as defined by Government Code section 25224.2, subdivision (e).

If 12 or more registered voters live within the territory under consideration, the territory is inhabited. The territory is uninhabited if there are less than 12 registered voters residing within the territory. There are currently no residential dwelling units in the territory. For that reason, Department staff expects the County Clerk/Registrar of Voters to certify that there are less than 12 registered voters residing in the proposed CSA 34F at the time of the hearing. Assuming that is the case, then there will be a majority protest if more than 50% of the property owners, who own more than 50% of the assessed value of all taxable properties within the proposed zone have filed written objections to the formation.

Testimony from all interested persons will be heard, but only written objections from property owners within the proposed zone filed with the Clerk before the close of the public hearing will be counted to determine whether there is a majority protest. If there is a majority protest, as defined above, the Board must determine that there is a majority protest and terminate the proceedings.

If there is a majority protest, both the formation and the interdependent water and sewer fees and benefit assessment proceedings must be abandoned. If there is no majority protest to the proposed formation, the Board may proceed with the majority protest hearing on the proposed water and sewer fees and benefit assessments. Only if there is also not a majority protest to the proposed water and sewer fees and benefits assessments (as defined above) may the Board proceed to form CSA 34F.

Formation of CSA 34F requires the establishment of a property owner's Citizens Advisory Committee (CAC); however, this is a new development and does not yet have individual property owners. When the lots within the tract are improved and occupied, Department staff will assist the new property owners with the establishment of a CSA 34F CAC.

On October 8, 2019 at 9:00 A.M., a public hearing is scheduled for the Board to consider the formation, water and sewer fees and benefit assessments for Zone F. The protest hearing and adoption of the fees and benefit assessments will take place simultaneously with the formation hearing scheduled that date. The noticed public hearing on the adoption of the fees and benefit assessments will be subject to the requirements of applicable enabling legislation and the limitations of Proposition 218, California Constitution, Article XIII D, sections 4 and 6, for the imposition of the new water and sewer fees.

It should be noted that another developer/landowner has also proposed the formation of Zone G in CSA 34, for development of the subdivision to be called "Granville," and that proposal has been presented to this Board concurrently with the proposal to form Zone F

REFERENCE MATERIAL:

BAI #9, December 5, 2017
BAI #19, March 15, 2016
BAI #13, March 1, 2016
BAI #37, January 26, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A and A-1
Attachment A
On file with Clerk - Resolution

CAO ANALYST:

Sonia M. De La Rosa