



County of Fresno

Hall of Records, Rm. 301
2281 Tulare Street
Fresno, California
93721-2198

Legislation Text

File #: 17-0237, **Version:** 1

DATE: October 17, 2017

TO: Board of Supervisors

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

SUBJECT: Adopt Resolution to Initiate the Formation of County Service Area 34
Zone D

RECOMMENDED ACTION(S):

Adopt a Resolution initiating the proceedings to form Zone D within County Service Area 34, to include portions of Tentative Tract Map 4968 (APNs 300-340-11S and 300-340-41S) and set a time and place for a public hearing to consider the proposed formation.

The recommended action initiates the formation of Zone D of County Service Area (CSA) 34, benefitting 106 lots to be created by Tentative Tract Map No. 4968, (TTM 4968) located on the south side of Millerton Road, west of Marina Drive within CSA 34.

ALTERNATIVE ACTION(S):

There is no viable alternative action. The County is obligated under a March 13, 2017 Subdivider Reimbursement Agreement to undertake the proceeding, but makes no guarantee regarding the result of those proceedings. Formation of the zone is a condition of approval for TTM 4968.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The Subdivider will pay all costs related to the proposed formation of CSA 34 Zone D (CSA 34D) per a Subdivider Reimbursement Agreement entered into on March 13, 2017, in the amount of \$5,000 or the actual costs of the formation proceedings.

DISCUSSION:

J.P.J., Inc. is the Subdivider and sole owner of the property within TTM 4968, (APNs 300-340-11S and 300-340-41S), as shown on Exhibit A and A-1. J.P.J., Inc. has requested that the Board approve the formation of Zone D so that J.P.J., Inc. may finalize TTM 4968 and begin development of the "Renaissance at Bella Vista" Subdivision.

The services that the subdivider is proposing to be provided to the zone of benefit are; water contract administration and lake pump ready to serve maintenance, water and sewer services, storm drainage and road maintenance, open space maintenance, street lighting, and public right-of-way landscape maintenance. The territory in TTM 4968 consists of approximately 59.42 acres and is planned to be developed into 106 single-family residents under TTM 4968 for the development of the "Renaissance at Bella Vista" Subdivision.

Maintenance of community facilities by a zone of benefit or CSA is a condition of development for new projects

in the County. The property owners within the subdivision will pay all costs for the maintenance and operation of the approved facilities. The proposed method of payment by property owners for the water and sewer services, authorized by the formation of Zone D, is through bi-monthly utility service fees. The proposed method of payment by property owners for water contract administration and lake pump ready to serve maintenance, road maintenance, open space maintenance, storm drainage maintenance, street lighting, and public right-of-way landscape maintenance services, authorized by the formation of Zone D, is through the levying of benefit assessments to all parcels within the zone of benefit. 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.

CSA zone formations are governed by County Service Area Law (Government Code Section 25210, et. seq.). Pursuant to the previously stated Government Code (GC), Local Agency Formation Commission (LAFCo) action is not required for the formation of a zone within an already established County Service Area, under GC § 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, open space maintenance, public right-of-way landscape maintenance, and street lighting.

Formation Proceedings

The procedure to form a zone follows GC § 25217. To form a zone within an existing County Service Area requires two separate Board hearings. The first hearing initiates the process of formation and the second hearing, a public protest hearing, concludes the process with a hearing and (if there is no majority protest, and if there is no majority protest to the proposed fees and benefit assessments) may result in the formation of the zone. Today, the Board would adopt a resolution initiating the proceeding to form CSA 34D. Then, on December 5, 2017, 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 34D, the 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; and
2. Describes the boundaries of the territory to be included in the zone and the boundaries of the territory affected by the proposed formation; and
3. States the reasons for the proposed formation; and
4. States the different authorized services, different levels of service, different authorized facilities, and revenues that the zone is proposed to provide; and
5. Describes the methods by which authorized services will be financed; and
6. Identifies CSA 34D by name or number, and establishes a designation for the formation proceeding ("County Service Area No. 34, Zone D"); and
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; and
8. States that, at the public hearing, the testimony of all interested persons will be heard; and

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 to the Board to prepare, post, and publish a notice of public hearing to consider the proposed formation.

By approving the recommended action the Board will adopt a resolution satisfying the aforementioned requirements to initiate the proceeding to form CSA 34D.

The resolution approved by the recommended action sets a public hearing on December 5, 2017 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. 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 twenty (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 34D, the Clerk to 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 to 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 to the Board no later than 9:00 A.M. on December 5, 2017; or
2. Delivered to the Clerk to the Board no later than 9:00 A.M. on December 5, 2017; or
3. Delivered to the Clerk to the Board during the Public Hearing on December 5, 2017, 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 25210.2, 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, staff expects the County Clerk / Registrar of Voters to certify that there are less than 12 registered voters residing in the proposed CSA 34D at the time of the hearing. Assuming that is the case, then there will be a majority protest if more than 50 percent of the property owners, who own more than 50 percent 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 34D.

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

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

On December 5, 2017 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 D. The protest hearing and adoption of the fees and benefit assessments will take place simultaneously with the formation hearing scheduled for December 5, 2017. 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 for the imposition of the new water and sewer fees.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A and A-1
On file with Clerk - Subdivider Reimbursement Agreement
On file with Clerk - Resolution of Initiation

CAO ANALYST:

John Hays