




Agenda Item No: 5.c
Meeting Date: September 13, 2021

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

Prepared by: Ali Giudice, Director
Leslie Mendez, Planning Manager

City Manager Approval: _____ 

TOPIC: FUTURE PROPERTY ANNEXATION TO THE CITY OF SAN RAFAEL

SUBJECT: RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY AND ANDREWS LIVING TRUST ET. AL. REGARDING FUTURE ANNEXATION OF PROPERTY LOCATED AT 345 HIGHLAND AVENUE (APN 016-011-20) IN THE UNINCORPORATED COUNTRY CLUB NEIGHBORHOOD TO THE CITY OF SAN RAFAEL

RECOMMENDATION:
Adopt resolution.

BACKGROUND:
The property at 345 Highland Avenue (APN 016-011-20) is owned by Jennifer Volpe and Robert Andrews, Trustees of the Andrews Living Trust, and Laura Andrews. The property owners have requested and received approval from the Marin Local Agency Formation Commission (LAFCO) to annex to the San Rafael Sanitation District (SRSD). The purpose of this action is to permit the property to be connected to and served by the SRSD wastewater/sewer system. The subject property is located in the Country Club neighborhood, which is an unincorporated pocket between the Montecito/Dominican and Loch Lomond/Villa Real neighborhoods. Like most properties in this unincorporated area, the subject property is large (almost one acre) and had been historically served by a private wastewater septic system. The unincorporated Country Club neighborhood is served by the County of Marin (County Sheriff services) and local utilities. However, fire and paramedic services are provided by the City of San Rafael Fire Department through a mutual agreement with the County to provide fire protection services to County Services Area (CSA) #19 (online link presented in Attachment 3).

LAFCO’s action to permit the annexation to SRSD is confirmed in LAFCO Resolution 21-05, which was adopted on June 10, 2021. A copy of this resolution is presented in attached Exhibit B of Attachment 2. The LAFCO action included a waiver of the dual annexation policy, which waived the requirement of simultaneous annexation of the property to the City of San Rafael. Nonetheless, the LAFCO action is conditioned to require that the property owners agree to not protest or oppose a future annexation to the

_____ **FOR CITY CLERK ONLY** _____

File No.: _____
Council Meeting: _____
Disposition: _____

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City of San Rafael. LAFCO Resolution 21-05 requires such agreement be executed between the property owners and the City of San Rafael. The agreement must include the following:

1. The property owners agree on behalf of themselves, their heirs, and their successors that, in the event any future proceedings for the annexation of the subject property is initiated by the City, the owners will neither directly nor indirectly oppose nor protest such annexation.
2. The property owners agree that their obligations under this agreement run with the property. This Agreement will obligate the existing property owners as well as any future property owners to annex to the City if the City initiates annexation proceedings.

ANALYSIS:

The deferral of annexation to the City of San Rafael and the proposed agreement, presented in Attachment 2, would be consistent with San Rafael General Plan 2040 Land Use Element Policy LU-1.6 (Annexation), which reads as follows:

“Policy LU-1.6: Annexation

Prior to urban development, unincorporated areas that can be reasonably served through extension of existing City services should first be annexed. Annexation of already developed unincorporated land in the San Rafael Planning Area should be dependent on neighborhood interest, the cost/revenue implications of providing services and assuming liabilities for the area, and the availability of City services.”

This policy has been interpreted to: a) discourage piecemeal, property-by-property annexations; and b) support the study of the larger unincorporated pockets for possible annexation based on area wide resident interest (in this case the resident interest of the Country Club neighborhood) and review of the area wide service cost implications to the City. For this reason, LAFCO’s action to waive the dual annexation on the condition that the property owners enter into a future annexation agreement with the City has been a common policy and practice. Over the years, similar requests have been made for properties in Country Club, Los Ranchitos, and Bayside Acres, all neighborhoods developed with large residential lots initially served by individual wastewater septic systems that have been phased out for urban sewer service. This practice to waive dual annexation at the time of annexation to SRSD has avoided piecemeal property-by-property annexations to the City of San Rafael.

FISCAL IMPACT:

This action would have no fiscal impact on the City of San Rafael at this time. When or if the subject property is annexed to the City, the fiscal impacts of City services will be analyzed. At present, all services to the site are provided by other agencies, with the exception of fire and paramedic services that are provided by the City of San Rafael through the CSA #19 service agreement between the City and the County of Marin.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Staff’s recommended action (adopt resolution)
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Direct the property owners file a request to annex the subject property to the City of San Rafael.
5. Take no action.

RECOMMENDED ACTION:

Staff recommends that City Council adopt the attached resolution authorizing the Mayor to execute an agreement between the City and Andrews Living Trust et al. regarding future annexation of property located at 345 Highland Avenue (APN 016-011-20) in the unincorporated Country Club neighborhood to the City of San Rafael.

ATTACHMENTS:

Attachment 1: Draft Resolution

Attachment 2: Proposed Agreement between the City of San Rafael and Lands of Andrews Living Trust et al. Regarding Future Annexation of Real Property at 345 Highland Avenue, APN 016-011-20, to the City of San Rafael

Exhibit A: Legal Description

Exhibit B: Marin LAFCO Resolution 21-05

Attachment 3: County Services Agreement #19 available online:

<https://www.marincounty.org/userdata/bs/agendas/060620/060620-13-AD-agree-AGR.pdf>

RESOLUTION NO.

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING
THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY AND
ANDREWS LIVING TRUST ET. AL. REGARDING FUTURE ANNEXATION OF
PROPERTY LOCATED AT 345 HIGHLAND AVENUE (APN 016-011-20)
IN THE UNINCORPORATED COUNTRY CLUB NEIGHBORHOOD TO
THE CITY OF SAN RAFAEL**

WHEREAS, Jennifer Volpe and Robert Andrews, Trustees of the Andrews Living Trust dated June 24, 2016, and Laura Andrews are the owners of real property (“Owners”) located at 345 Highland Avenue, APN 016-011-20 (the “Property”); and

WHEREAS, the Owners applied to the San Rafael Sanitation District (“SRSD”) to connect to the SRSD Sewer Line; and

WHEREAS, the Property is not within the SRSD boundary and not within the City of San Rafael city limits; and

WHEREAS, in order to connect to the SRSD sewer line, it is necessary to ANNEX to the SRSD, which proceeding is subject to approval by the Marin Local Agency Formation Committee (LAFCO); and

WHEREAS, application for annexation to the SRSD would normally require concurrent annexation to the City of San Rafael unless that condition is waived or deferred; and

WHEREAS, in the LAFCO proceedings the City of San Rafael agreed to defer annexation of the Owners’ Property to the City on the condition that the Owners enter into an agreement that they would not object to any future proceeding for annexation of the Property to the City of San Rafael; and

WHEREAS, LAFCO has approved the annexation subject to certain conditions as outlined in LAFCO Resolution No. 21-05, including the condition requested by the City of San Rafael, and the Owners have agreed to these conditions as outlined in the proposed “Agreement between the City of San Rafael and Lands of Andrews Living Trust et al. Regarding Future Annexation of Real Property at 345 Highland Avenue, APN 016-011-20, to the City of San Rafael,” included as an attachment to the staff report supporting this resolution;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of San Rafael that the Mayor is authorized to sign, on behalf of the City of San Rafael, the “Agreement

between the City of San Rafael and Lands of Andrews Living Trust et al. Regarding Future Annexation of Real Property at 345 Highland Avenue, APN 016-011-20, to the City of San Rafael,” in the form included as an attachment to the staff report supporting this resolution, subject to final approval as to form by the City Attorney.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 13th day of September 2021, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Lindsay Lara, City Clerk

**RECORD WITHOUT FEE,
PER GC 27383 AND
WHEN RECORDED, RETURN TO:**

City of San Rafael
City Clerk, Room 209
1400 Fifth Avenue
San Rafael, CA 94901
Attention: Lindsay Lara, City Clerk

**AGREEMENT BETWEEN THE CITY OF SAN RAFAEL AND
ANDREWS LIVING TRUST DATED JUNE 24 2016 AND LAURA ANDREWS REGARDING
FUTURE ANNEXATION OF REAL PROPERTY AT 345 HIGHLAND AVENUE,
APN 016-011-20, TO THE CITY OF SAN RAFAEL**

**(Lands of Andrews Living Trust and Laura Andrews being
Annexed to the San Rafael Sanitation District)**

This Agreement is made and entered into this ____ day of _____, 2021 between the City of San Rafael (hereafter referred to as “CITY”) and Robert Andrews and Jennifer Volpe, Trustees of the Andrews Living Trust dated June 24, 2016, and Laura Andrews (together referred to hereafter as “OWNERS”) and is based upon the following facts and circumstances:

1. OWNERS hold fee title to that certain real property (“Property”) as more particularly described in Exhibit “A” attached hereto.
2. As a result of the filing of a Petition seeking annexation of the subject Property to the San Rafael Sanitation District, the Marin Local Agency Formation Commission has conducted proceedings and approved the requested annexation, pursuant to its Resolution No. 21-05 adopted on June 10, 2021. Application for such annexation to the San Rafael Sanitation District would normally require concurrent annexation to the City of San Rafael unless waived or deferred.
3. The CITY has agreed to defer annexation of the OWNERS’ Property on the conditions set forth hereinafter in this Agreement, and consistent with the pertinent provisions of LAFCO Resolution No. 21-05 attached hereto as Exhibit “B”.

**NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE
PARTIES HERETO AS FOLLOWS:**

1. OWNERS agree on behalf of themselves, their heirs, and their successors, that in the event any future proceedings for annexation of OWNERS’ Property shall be initiated by the CITY, OWNERS shall neither directly nor indirectly oppose nor protest such annexation.

2. OWNERS agree that the obligations recited herein shall run with the OWNERS' Property and that the Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the provisions of this Agreement and that the obligations undertaken by OWNERS hereunder shall be binding on all parties having or acquiring any right, title or interest in the Property.

WHEREFORE, this Agreement is executed on the dates set forth below.

OWNERS:

ROBERT ANDREWS,
Trustee of the ANDREWS LIVING
TRUST dated June 24, 2016

Dated: _____

JENNIFER VOLPE,
Trustee of the ANDREWS LIVING
TRUST dated June 24, 2016

Dated: _____

LAURA ANDREWS

Dated: _____

CITY OF SAN RAFAEL:

By: _____
KATE COLIN, Mayor

Dated: _____

Attest:

Lindsay Lara, City Clerk

Approved as to Form:

Robert F. Epstein, City Attorney

ATTACH NOTARIZATIONS

EXHIBIT A

EXHIBIT "A"
Annexation
of the
Lands of Andrews Living Trust et al
(APN 016-011-20)
to the
San Rafael Sanitary District

All that real property situate in the County of Marin, State of California, being the Lands of Ronald Andrews Revocable Living Trust described in Grant Deed recorded August 24, 2017 under Document No. 2017-0033909, described as follows:

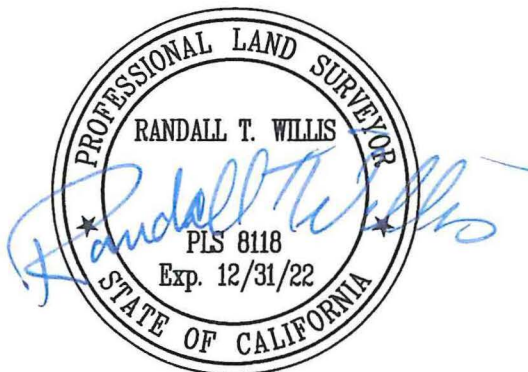
Beginning .at the most Southerly corner of that certain parcel of Land conveyed to Edrick C Noon, et ux, by Deed recorded July 12, 1945 in Book 491 of Official Records at Page 32, Marin County Records, thence along the easterly line of said parcel North 11° 21' 10" East, 205.64 feet; thence leaving said easterly line, North 87° 40' West, 245.84 feet to the most Southerly corner of that parcel of Land conveyed to Marin County Abstract Company by Deed dated January 18, 1951, recorded May 3, 1951 in Book 686 of Official Records page 376, Marin County Records; thence along the Southerly line of said parcel, North 81° 02' West, 24.38 feet to a point in the Westerly line of said Lands of Edrick C Noon, et ux; thence along said Westerly line, South 28° 21' West, 98.40 feet to a point in Northerly Right-of-Way of a 40 foot road, herein called Highland Avenue; thence along said Right-of-Way South 81° 10' East, 9.10 Feet; thence continuing along said Right-of-Way, South 3° 11' East, 15.01 Feet to a point on the Southerly line of said Lands of Edrick C Noon, thence leaving said Right-of-Way along said Southerly line South 67° 49' East, 226.50 feet and South 64° 29' East to the Point of Beginning.

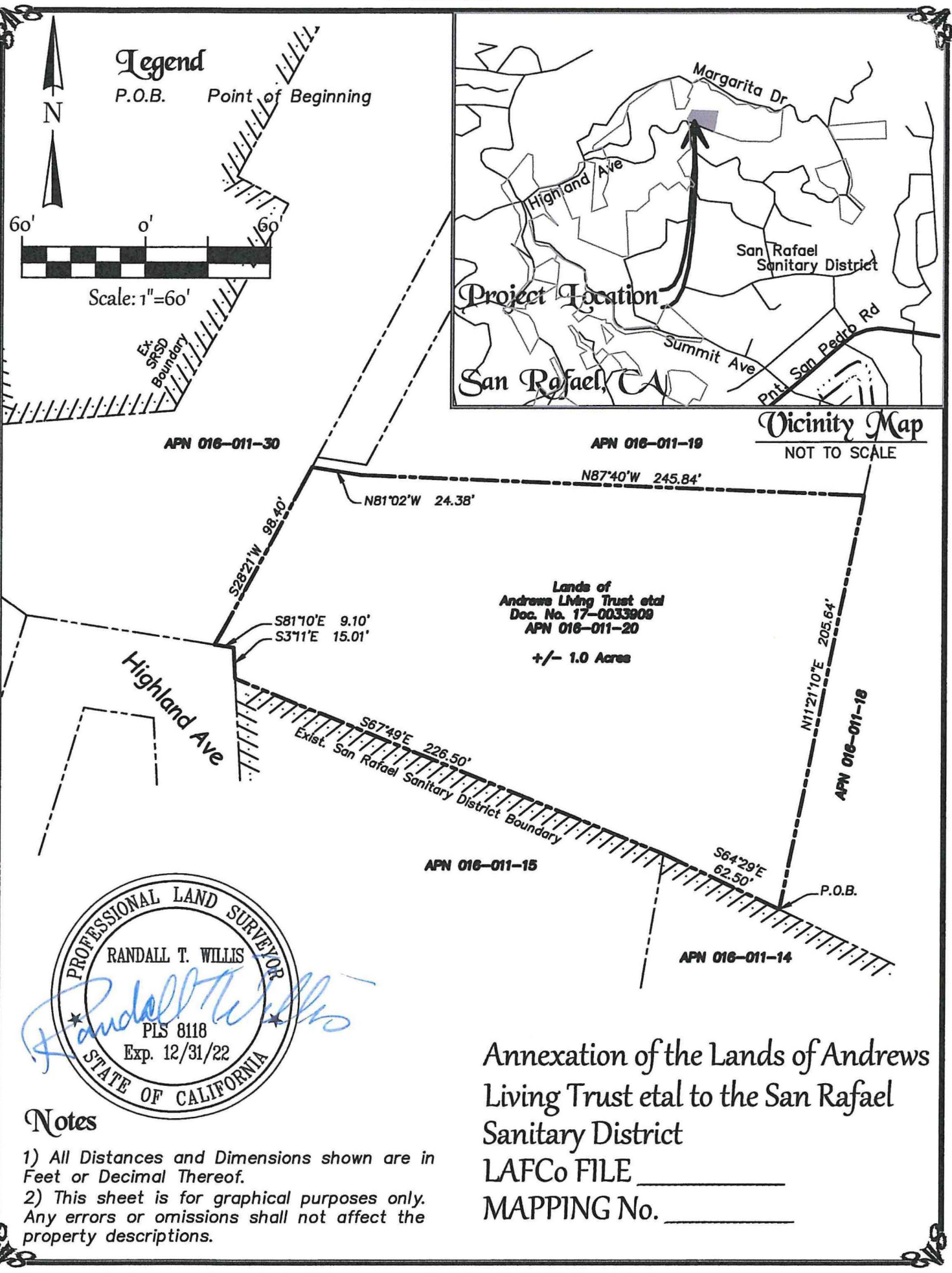
Containing 1.0 Acres, more or less.

Exhibit B Attached

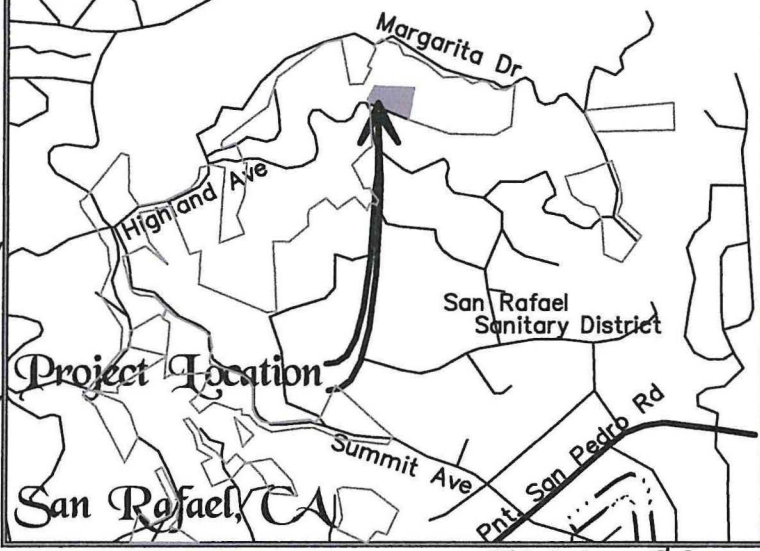
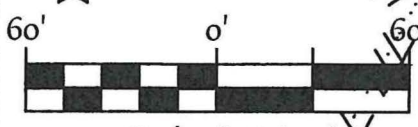
(End of Legal Description)

This real property description has been prepared by me,
or under my direction, in conformance with the
Professional Land Surveyors Act.





Legend
 P.O.B. Point of Beginning



APN 016-011-30

APN 016-011-19

Vicinity Map
 NOT TO SCALE

N87°40'W 245.84'

S28°21'W 98.40'

Lands of
 Andrews Living Trust et al
 Doc. No. 17-0033809
 APN 016-011-20
 +/- 1.0 Acres

S81°10'E 9.10'
 S3°11'E 15.01'

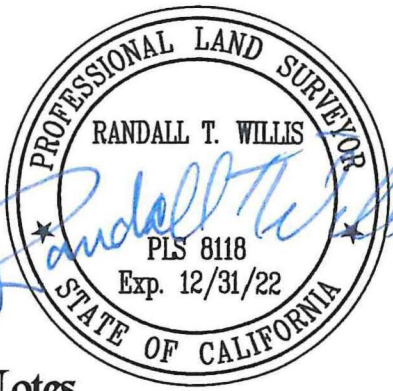
N11°21'10"E 205.64'
 APN 016-011-18

Highland Ave

S67°49'E 226.50'
 Exist. San Rafael Sanitary District Boundary

APN 016-011-15

S64°29'E 62.50'
 P.O.B.
 APN 016-011-14



Notes

- 1) All Distances and Dimensions shown are in Feet or Decimal Thereof.
- 2) This sheet is for graphical purposes only. Any errors or omissions shall not affect the property descriptions.

Annexation of the Lands of Andrews Living Trust et al to the San Rafael Sanitary District
 LAFCo FILE _____
 MAPPING No. _____

EXHIBIT B

MARIN LOCAL AGENCY FORMATION COMMISSION

RESOLUTION 21-05

RESOLUTION APPROVING AN ANNEXATION OF 345 HIGHLAND AVENUE TO SAN RAFAEL SANITARY DISTRICT WITH WAIVER OF NOTICE, HEARING AND PROTEST PROCEEDINGS

“Annexation of 345 Highland Avenue (APN 016-011-20) to San Rafael Sanitary District (LAFCo File No. 1354)”

WHEREAS Jennifer and Robert Andrews, hereinafter referred to as “Property Owners,” have filed a validated landowner petition with the Marin Local Agency Formation Commission, hereinafter referred to as “Commission,” pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS the proposal seeks Commission approval to annex approximately .940 acres of incorporated land to San Rafael Sanitary District; and

WHEREAS the affected territory represents an entire lot developed with an existing single-family residence located at 345 Highland Avenue and identified by the County of Marin Assessor’s Office as APN 016-011-20 (“Property”); and

WHEREAS the Commission’s staff has reviewed the proposal and prepared a report with recommendations; and

WHEREAS the staff’s report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

WHEREAS the Commission considered all the factors required by law under Government Code Section 56668 and 56668.3 and adopted local policies and procedures.

WHEREAS the proposal is for an annexation of territory that is uninhabited, and no affected local agency has submitted a written demand for notice and hearing as provided for in Government Code section 56662(a).

NOW THEREFORE, the Marin Local Agency Formation **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

Section 1. The boundaries, as set forth in the proposal, are hereby approved as submitted and are as described and depicted in Exhibits “A” and “B” attached hereto and by this reference incorporated herein.

1. Approve the proposed annexation of 345 Highland Avenue (APN 016-011-20) to the San Rafael Sanitary District (File #1354) as shown and described on Exhibits “A” and “B”.
2. Proceedings for the annexation shall not be completed until the Property Owners execute an agreement (Exhibit C) with the Marin Local Agency Formation Commission wherein:

a. The Property Owners agree on behalf of themselves, their heirs, successors and assigns that, in the event any future proceedings for the annexation of the property to the Town of Tiburon shall be initiated by the Town, the Property Owners shall neither directly nor indirectly oppose or protest such annexation; and

b. That the Property Owners agree that their obligations under the agreement shall run with the Property and that the Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the provisions of the agreement and that the obligations undertaken by the Property Owners shall be binding on all parties having or acquiring any right, title, or interest in the Property.

Section 2. The territory includes .940 acres, is found to be uninhabited, and is assigned the following distinctive short form designation: Annexation of 345 Highland Avenue (APN 016-011-20) to San Rafael Sanitary District (LAFCo File No. 1354)".

Section 3. The proposal is consistent with the adopted spheres of influence of San Rafael Sanitary District.

Section 4. The Executive Officer is hereby authorized to waive notice and hearing, and protest proceedings and complete reorganization proceedings.

Section 5. As Responsible Agency under CEQA for the proposed annexation of APN: 016-011-20 to San Rafael Sanitary District, LAFCo finds that the Project is categorically exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319 (a).

P SSED ND DOPTED by the Marin Local Agency Formation Commission on June 10, 2021 by the following vote:

AYES: Arnold, Coler, Connolly, Kious, McEntee, Murray, Savel

NOES:

ABSTAIN:

ABSENT:




Sashi McEntee, Chair

ATTEST:

APPROVED AS TO FORM:



Jason Fried, Executive Officer



Malathy Subramanian, LAFCo Counsel

Attachments to Resolution No. 21-05

- a Exhibit A – Legal Description
- b Exhibit B – Map