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**File No. 06-10: Rohnert Park Reorganization No. 06-1 (University District)**

**Date:** December 13, 2006

**SUMMARY**

**Applicant:** City of Rohnert Park

**Location:** Generally located east of Snyder Lane, west of Petaluma Hill Road, south of Keiser Avenue, and north of Sonoma State University (APNs 045-253-007, -009 – 012, -014, -017, -018; 045-262-001 – 004; 047-131-019, -024 – 027)

**Subject:** Reorganization

**PROPOSAL:** Reorganization request for 17 parcels totaling 354.0 +/- acres, involving annexation to the City of Rohnert Park and detachment from Rancho Adobe Fire Protection District and County Service Area No. 41 (Multi-Services)

**Environmental Determination:** Certify review and consideration of information in the Final Environmental Impact Report for the University District Specific Plan, prepared by City of Rohnert Park and the Addendum to the Final Environmental Impact Report for the University District Specific Plan, prepared by Environmental Review Division, Sonoma County Permit and Resource Management Department for LAFCO for inclusion of additional territory

**General Plan:** **City** –Mixed-Use; Low Density Residential; Medium-Density Residential; High-Density Residential; Public/Institutional Facilities; Open Space and Parks  
**County** – Diverse Agricultural; Public/Institutional; Open Space

**RECOMMENDATION:** Conduct a public hearing and take a straw vote reflecting the staff recommendation. Return in February with a final resolution.

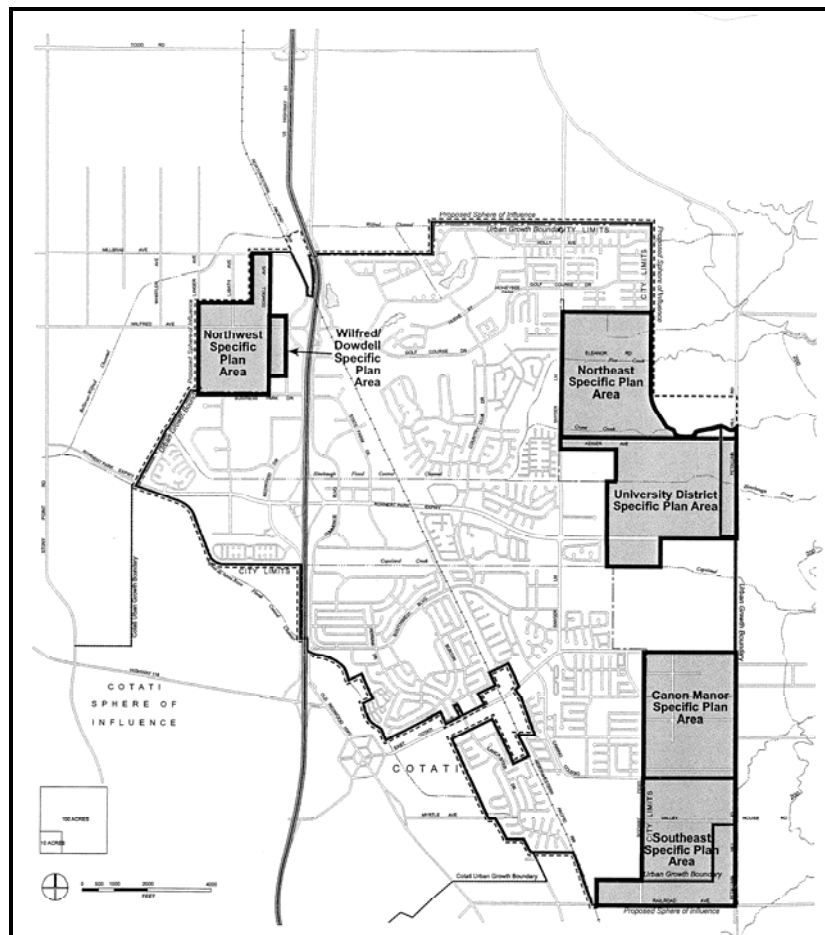
1. Approve the proposed reorganization, pursuant to the following findings:
  - a. The affected territory is within the sphere of influence of the City of Rohnert Park and within the “urban service area” boundary for the City in the Sonoma County General Plan.
  - b. The affected territory is within the Urban Growth Boundary of the City of Rohnert Park and is contiguous to the City’s boundaries.
  - c. The City of Rohnert Park has determined that the proposal is consistent with the land-use designations of its General Plan.
  - d. The purpose of the reorganization is to allow for development at densities consistent with provisions of the City’s General Plan and to provide access to City services.
  - e. The City has determined that it has the capacity within its systems to provide services to the affected territory.
  - f. Amending the annexation boundaries to include territory described as a segment of Snyder Lane, from Keiser Avenue to Moura Lane, will place, with the City, responsibility for maintenance and improvements to this roadway due to impacts from City-generated development.
  - g. Before a certificate of completion for the subject reorganization is recorded, an agreement among the City of Rohnert Park, the County of Sonoma, and the Sonoma County Transportation Authority should be formalized regarding participation in a regional transportation mitigation process, clarifying roles and responsibilities, provision of funding, and projects to receive funds.
  
2. Regarding the Commission’s responsibilities under the California Environmental Quality Act,
  - a. Certify review and consideration of the information in the Final Environmental Impact Report, prepared by the City of Rohnert Park and certified by the City Council and the Addendum to the City’s Final EIR prepared for this proceeding by the Environmental Review Division of Sonoma County PRMD for LAFCO.
  - b. Make findings required of a responsible agency under the provisions of CEQA.
  - c. Make a statement of overriding considerations for scenic resources, agricultural and open space lands, air quality, noise, traffic and circulation, and biological resources.
  - d. Direct staff to file a notice of determination in accordance with CEQA and the State CEQA Guidelines.
  
3. Waive protest proceedings, pursuant to provisions of Government code Section 57000 et seq., since the City of Rohnert Park has initiated the proposal, by resolution, and since sufficient proof has been presented to the Commission that all owners of property within the affected territory have consented to the proposal.

ANALYSIS

Background and Proposed Use

1991 was the last year in which the Commission approved annexation of territory to the City of Rohnert Park, adding just over nine acres to the City. By 1999, the City was almost entirely built out, with only about 190 acres of commercial and industrial land available and no residential sites. Looking towards the future, in 2000, the City Council approved a new General Plan with a horizon of 2020.

The City applied to LAFCO for an amendment to its sphere of influence to implement its General Plan, and, in March 2002, the amendment was approved. It allowed, potentially, the conversion to urban uses of more than 1,100 acres of unincorporated territory outside City boundaries. Areas identified were located east, southeast, and northwest of the City, as shown on the map below.



The Commission found that “(p)lanned land uses in the territory within the Sphere of Influence Amendment are consistent with the land use designations of the Rohnert Park General Plan 2000. Inclusion of these lands within the City of Rohnert Park Sphere of Influence will result in the orderly development of the area for urban uses....” The Commission directed the City to complete a specific plan for each area that was designated in its General Plan, before any annexation proposal was initiated. Specific plans were to include plans for financing and providing streets, water, wastewater, solid waste services, and parks associated with development.

At this time, the specific plan for the University District has been completed, and specific plans for the Northeast, Southeast, and Wilfred-Dowdell areas are in process.

The proposal before the Commission focuses on the territory encompassed in the University District Specific Plan (UDSP). This proposal requests reorganization of 17 parcels, totaling 354.0 +/- acres, generally located east of Snyder Lane, west of Petaluma Hill Road, south of Keiser Avenue, and north of Sonoma State University. Annexation to the City would result in detachment from Rancho Adobe Fire Protection District and County Service Area No. 41 (Multi-Services). The City of Rohnert Park would provide both police and fire services to the affected territory.

The affected territory is contiguous to City boundaries, within the City’s sphere of influence and voter-approved Urban Growth Boundary, and within the “urban service area” boundary for the City in the Sonoma County General Plan. It is largely undeveloped. In the northwest area of the territory, a school and school district vacant land, a parcel with a single-family residence, four small undeveloped parcels, and two very small parcels used as flood control channels are located. Hinebaugh Creek follows an east-west path through the affected territory, and Crane Creek and Copeland Creek are located north and south of it, respectively. Uses of adjacent territory include single family residences and open space to the north, territory that is encompassed in the Northeast Specific Plan; agricultural and open space areas to the east, and Sonoma State University to the south, all in unincorporated Sonoma County. Residential areas and medical offices are located to the west, within City boundaries.

The purpose of the proposed reorganization, in accordance with the goals of the City’s General Plan 2000 and the University District Specific Plan, is to allow development of a master-planned, mixed-use, pedestrian-oriented community, designed, according to the City, “to provide diverse residential opportunities as well as a mixed-use commercial center.” The UDSP, which the City Council approved in May 2006, envisions residential units, a commercial center of up to approximately 175,000 square feet, open space, and recreational areas. The majority of the affected territory (approximately 260 acres) is owned by two development companies (University District LLC and Vast Oak Properties), which project building of 1,454 residential units in a variety of income levels.

According to the Specific Plan, an additional 191 units could be accommodated on other properties within the Plan area. These properties include about 28 acres of vacant land owned by the Cotati-Rohnert Park Unified School District (CRPUSD), just east of the District’s Creekside Middle School, and five parcels, totaling 9.5+/- acres, just north of the School, with two different

owners. At this time, no development plans have been proposed for this territory. Two additional small parcels, owned by the Sonoma County Water Agency, are used as flood control channels.

According to the Final EIR, at least 90 percent of the territory within the UDSP is considered to be farmland of local importance, a description given to land of importance to the agricultural economy as determined by each county's board of supervisors and local advisory committee. While the County General Plan establishes a framework for protecting open space and agricultural uses, it also designates "urban service area" boundaries. The territory within the UDSP is included within the "urban service area" boundary for the City of Rohnert Park, making development of this area for urban uses consistent with the County General Plan. Further, the Cortese-Knox-Hertzberg Act requires the Commission, in reviewing proposals that could lead to the conversion of existing open-space lands to other uses, to consider development of such lands within the sphere of influence of a local agency. Sonoma LAFCO's Standards, Policies, and Guidelines for the Evaluation of Proposals promotes similar objectives. The UDSP territory is within both the sphere of influence and voter-approved Urban Growth Boundary for the City; annexation of this territory appears consistent with state and local guidelines and policies.

In May 2006, City found the University District Specific Plan consistent with its General Plan. The Council found that the UDSP:

1. Increases the City's existing housing stock and proportion of units affordable to very-low, low, and moderate-income households. Fifteen percent of residential units are planned as affordable housing; allowed second units would increase this amount.
2. Does not adversely affect the public health and safety or result in incompatible land uses. A pedestrian-oriented, mixed-use community would encourage walking and reduce use of vehicles. Open space areas would be created to buffer development from adjacent uses and Petaluma Hill Road's scenic corridor. A 500-foot open space buffer is planned along Petaluma Hill Road.
3. Provides a framework for phasing and pacing growth so that required infrastructure could be completed to meet the needs of development. In July 2006, the City approved a Development Agreement with University District LLC and Vast Oak Properties for the territory these firms own within the Specific Plan area. The Agreement details the size and timing of infrastructure and improvements necessary for development of properties and addresses financing and development standards.
4. Identifies adequate financing mechanisms for infrastructure and public facilities to support development. A Public Facilities Financing Plan outlines a comprehensive strategy for managing the costs of capital facilities, maintenance and services that are impacted by new development and addresses the City infrastructure required for each of the specific plans being developed in accordance with the principle that new development should pay a fair share of the costs it generates.
5. Is consistent with the planning and pre-zoning designations, as described in the City's General Plan.

The Council's resolution (included in the attachments) referred to amendments to the General Plan, which were requested by the developers, as "refinements" that "continue to achieve all

applicable policies and goals, but achieve a different balance in placing more emphasis on affordable housing and the pedestrian-friendly location of residential uses above retail.”

The City’s General Plan 2000 established eight land-use classifications: Residential, Commercial, Office, Industrial, Mixed-Use; Public/Institutional; Parks/Recreation; and Open Space. Approximate acreage within the UDSP, except roadways, is assigned to five of these classifications as follows:

<u>Land-Use Designation</u>	<u>Acreage</u>
Residential	154
Commercial	12.5
Parks/Recreation	15.8
Open Space	61
Public/Institutional	39

In July 2006, the City Council pre-zoned the developer-owned properties, school district vacant land, and territory owned by two families in the northwest section to the Specific Plan Zoning District; the territory that is the site of Creekside Middle School and property owned by SCWA, both of which were included in the annexation boundaries to avoid creation of an island of unincorporated territory, were pre-zoned to Public/Institutional. (Pre-zoning ordinances are included in the attachments.)

***California Environmental Quality Act***

The City certified a Final Environmental Impact Report for the University District Specific Plan in May 2006. In its resolution, the Council found that the benefits of the proposal achieve General Plan goals and policies, provide affordable housing opportunities, and exhibit smart growth principles resulting in neighborhoods and commercial centers that would be an asset to the community.

The Council determined that, for the majority of impacts, no mitigation measures would be required, or measures could be taken to mitigate the effects to less than significant. Other impacts were determined to be the responsibility and in the jurisdiction of another public agency. All feasible measures proposed to mitigate potentially significant impacts to less than significant were incorporated into conditions of approval for the project.

The Council also identified significant, unavoidable environmental effects related to this project for which no mitigation was deemed feasible: (1) substantial damage to scenic resources including trees, rock outcroppings, historic buildings along a scenic highway during construction and operation; (2) conversion of farmland to non-agricultural use; (3) operational increases in emissions beyond Bay Area Air Quality Management District threshold levels and inconsistency with 2000 Clean Air Plan caused by UDSP growth; (4) exposure of existing offsite noise-sensitive land uses to cumulative traffic noises; (5) increased congestion at (a) Adobe Road and Petaluma Hill Road in Penngrove; (b) East Cotati Avenue and Old Redwood Highway; and (c) Adobe Road and Petaluma Hill Road and Main Street and Old Redwood Highway in Penngrove;

(6) unacceptable level of service on U.S. 101; (7) cumulative loss of open space lands; (8) cumulative effect of conversion of agricultural lands; (9) cumulative effect on air quality; (10) cumulative effect on biological resources; (11) cumulative land use impacts related to loss of open space; and (12) cumulative effect on noise.

In accordance with CEQA and the state CEQA Guidelines, the Council adopted a statement of overriding considerations, finding that economic, legal, social, technological, and environmental benefits of the project outweighed the significant, adverse impacts. According to the City, in addition to supporting General Plan goals and policies, the project would promote housing for all sectors of the community, helping the City meet its fair share housing needs; provide recreational and open space opportunities; and, through proposed water conservation and recycling measures, help implement state and regional water use goals.

The Commission is a responsible agency for this project in accordance with CEQA and the State CEQA Guidelines. In approving the proposal, the Commission must certify its review of the information in the Final EIR, prepared by the City, make the findings required by the CEQA Guidelines for each significant effect of the project, and adopt a statement of overriding considerations pertaining to the impacts identified as significant, unavoidable where no mitigation measure is deemed feasible.

The Final EIR for the University District Specific Plan is subject to a legal challenge that is discussed further in this report.

### ***Public Services: Sewer***

The UDSP will be connected to the City's public sewer system via an on-site sewer collection system, the construction of which would be the responsibility of landowners. Financing would come from land secured bonds using assessment districts or community facilities districts. Beyond this, a new sewer transmission pipeline would be required since a sewer model study indicated that existing sewer collection pipelines to the east side of the City are full and/or near design capacity. Design for the Eastside Trunk Sewer, which would serve the project, has been completed. Since some of the use would be for existing development, new development would not be responsible for all costs associated with its construction. The City's PFFP, referred to above, details the type, location, and financing requirements for off-site infrastructure. This includes a 300 acre-foot recycled water reservoir that would be located on land east of Petaluma Hill Road, to help offset the impacts of new development.

The City is a contractor to the Subregional Water Reclamation System, operated by the City of Santa Rosa. This system would serve planned development in the University District. At the end of 2005, the City put into service a new interceptor pipeline to the Subregional facility, sized to provide capacity for both existing development and buildout of the General Plan. At this time, the City of Rohnert Park is allocated 3.43 million gallons per day (mgd) of the System's 21.3mgd average dry weather flow permitted capacity. In September 2006, the City used 2.79 mgd. The City of Santa Rosa adopted a master plan called the Incremental Recycled Water Program and has certified an EIR to begin implementing projects for increasing capacity. When

that occurs, the City would own a greater share. The City determined that the capacity is more than adequate to serve the projected development.

### ***Public Services: Water***

Over the last decade or so, legislation was approved at the State level to improve water planning, statewide. Two laws, which became effective in January 2002, impact water planning for the proposal before the Commission. SB 610 required the preparation of a Water Supply Assessment (WSA) in connection with development projects subject to CEQA. A “project” is defined as more than 500 residential dwelling units, among other designations. WSAs must indicate sufficient supply reliability over a 20 year period, including normal, single-dry, and multiple-dry years. The WSA becomes part of the CEQA process and must be evaluated by the jurisdiction considering development, on the basis of existing and future planned land uses. SB 610 was intended to strengthen the process by which local agencies determine the adequacy and sufficiency of current and future water supplies to meet current and future demands. SB 221 requires written verification of a sufficient water supply from the public water system which would be providing water service to proposed development; including residential sub-divisions of more than 500 units. The written verification must be for a 20 year period in normal, single-dry, and multiple-dry years and must be supported by substantial evidence, such as a Water Supply Assessment or other analytical information showing service reliability.

Following state actions, in April 2004, the Rohnert Park City Council approved a Water Policy Resolution, which outlines requirements regarding water use that must be submitted by any developer proposing a project within a Specific Plan Area designated in the City’s General Plan 2000 (outside 1999 City boundaries and within its sphere of influence), regardless of the size of the development proposal. (The resolution is included in the attachments.)

In accordance with this policy and the requirements of state law, in January 2005, the City approved a Water Supply Assessment (WSA) necessitated by anticipated applications for development in Specific Plan areas described in the City’s General Plan. The WSA studied the City’s three water sources: Sonoma County Water Agency (SCWA) water, recycled water, and groundwater. (The WSA is included in the Draft EIR, Volume II; the Executive Summary is included in the attachments.)

Approval of the City’s Water Supply Assessment is subject to a legal challenge that is discussed later in the staff report.

### **SCWA Water Supply**

SCWA currently has rights to divert 75,000 acre feet per year (afy) of water from the Russian River. In 1998, as part of long-term planning, the Agency’s board of directors approved construction of a Water Supply and Transmission System Project that would provide an increase in the water rights to 101,000 afy. Under this premise, the City of Rohnert Park would be allocated 7,500 afy. However, due to legal challenges and changes in water supply circumstances, the Agency and its contractors agreed in 2001 to a Temporary Impairment MOU, to reflect the Agency’s current, not planned, diversion rights. This change lowered allocation

amounts. In 2004, in response to SCWA's request for information from its contractors about projected water needs, including planned development, the City indicated that its Agency demand could be as low as 6,476 afy. Subsequently, the City used this number as the basis for Agency allocations in its WSA. The City purchased 5,126 afy from SCWA in 2004 and 4,967 af in 2005, both below the "demand" amount.

### Recycled Water Supply

The City's 2004 Water Policy Resolution calls for active conservation practices, including the use of recycled water that reduces the projected potable water consumption of a project. Also in that year, the City adopted a Water Waste Ordinance, which requires the use of recycled water when it is available and of appropriate quality. The City is a large urban recycled water user, providing irrigation for parks and school grounds, golf courses, and some commercial and industrial sites. Recycled water use, which averages about 1000 afy, is supported by the Subregional System, whose facilities include storage ponds, facilities to deliver recycled water, and the Geysers' steamfield and facilities to discharge recycled water. The City's WSA projected that the use of recycled water would increase to 1300 afy when planned expansion to the Subregional System occurs.

The UDSP proposes to use recycled water to irrigate parks, parkways, common areas serving commercial, recreational, and residential areas, and residential front yards. Water conserving plumbing and efficiency fixtures, such as high-efficiency washing machines and low-flow toilets and showers, would be installed within residences and commercial facilities to reduce water demand. In addition, the UDSP proposes construction of a recycled water storage reservoir, with approximately 300 af of capacity, on land east of Petaluma Hill Road; this would be connected to the City's existing recycled water system.

### Groundwater Supply

The City owns 42 wells located in the Laguna de Santa Rosa watershed of the Santa Rosa Plain Subbasin of the Santa Rosa Valley Groundwater Basin. For many years, the City used these wells as its primary source of water, but, by the mid to late 1990s, the City determined that purchasing water from SCWA was less expensive and began to rely less on its municipal wellfield. As a result of 2002 ruling in litigation against the City, the City agreed not to use groundwater pumped from any existing or new wells within the Penngrove community as a water supply source.

The City's 2004 Water Policy Resolution established a maximum average annual groundwater pumping rate of 2.3 mgd, or 2,577 afy. As indicated above, any developer proposing a project within a Specific Plan area designated in the General Plan was required, by this resolution, to provide information about projected water use, including amount of potable demand and potable water conservation practices or offsets planned. The resolution directed the City Engineer to determine whether or not the projected use would contribute to the City's exceeding the maximum amount and to advise City Council, prior to the Council's providing its first discretionary approval of the project. If the project would contribute to a greater pumping rate, it could not be approved.

The WSA found that the City has sufficient water to supply the demands of its 2000 General Plan, through the use of SCWA water, recycled water, and groundwater. Wells in and around the City were not shown to be in decline: shallow zone wells did not generally increase or decrease due to pumpage, and intermediate and deeper zones, having decreased with greater pumpage, were stabilized and rising. The WSA determined that the basin from which the City pumps groundwater is not in overdraft and almost all of what are termed “recharge” areas are outside the City’s Urban Growth Boundary and would not be subject to City-generated development. The Council concluded that water supplies would meet the City’s projected water demands.

#### Projected Water Usage by UDSP

In accordance with the City’s Water Policy Resolution, UDSP developers provided an estimate of projected water demand for the project. Called the “net consumptive use impact,” it considers water conservation and water recycling and offsets. This analysis indicated that the development would use 514 afy of water. To put this in context, the actual metered readings of potable water use in the City for 2004 was 6,646 af while, in 2005 5,813 af was used, a 14 percent decrease. Both numbers are substantially below the WSA projection of 6,696 af and the 6,476 af used by the City as its allocation from SCWA.

As a result of this information, the City determined that the University District Specific Plan development would not exceed the water demand projections of the WSA, and the City’s planned use could be met using the mix of supplies from SCWA, recycled water, and groundwater, the latter at no more than 2,577 afy.

#### ***Public Services: Traffic and Circulation***

The City found that the proposed development in the UDSP area would impact traffic and circulation, both within and beyond the City boundaries. It determined that most of these impacts could be mitigated, and measures to do so, including installation of traffic signals, adding turn lanes, and widening roadways are detailed in the mitigation monitoring plan. Certain other impacts, at intersections beyond City boundaries, were found to be significant and unavoidable, requiring regional cooperation.

This is consistent with a 2001 Agreement between the County and City, in which both parties acknowledge “...that traffic congestion on major roads and intersections in Penngrove is a regional problem that will require a regional solution.” Growth projected in Rohnert Park was acknowledged as a factor contributing to this situation, and the City agreed to share, with the County, the City of Santa Rosa, the City of Cotati, the City of Petaluma and the Sonoma County Transportation Authority (SCTA), the cost of a project to plan and implement improvements necessary to mitigate impacts of increased traffic congestion in the area. Following this Agreement, the 2002 LAFCO resolution approving amendments to the City’s sphere of influence stated, “The Sonoma County Transportation Authority is recognized as the agency with primary responsibility for the coordination of traffic mitigation.”

In response to a recent request from LAFCO staff regarding the status of traffic mitigation project efforts in the Rohnert Park area, the Executive Director of SCTA confirmed that City representatives have, over the past few years, advocated for creation of a regional traffic mitigation program to address new development's share of transportation improvements. She pointed out that a consensus has not been reached at the SCTA board or committee levels regarding whether it should create a program or how to proceed. (Letter included in attachments)

County Permit and Resource Management Department, in its comment on the UDSP Draft EIR in 2005, suggested that the City fund its fair share of needed improvements based on the County General Plan. The City responded that, while it was committed to new development's funding its fair share, no regional plan was in place to identify necessary improvements and assign fair-share funding responsibilities to developments that generate additional traffic impacts. Addressing this in a subsequent resolution in 2006, the City determined "(t)hat it is not reasonable to project that payment of any fee would result in construction of improvements needed to address regional traffic problems to which the project contributes, making mitigation of the significant and unavoidable regional traffic impacts identified in the EIR through payment of a regional fee infeasible."

The City indicated to the County its willingness to develop a "per-unit regional transportation improvement fee" that could be considered a placeholder until a formal plan is established. With regard to the University District proposal, the City is requiring the UDSP developers to pay, at the time of issuance of a building permit for each residential or commercial unit within the project, a future regional traffic improvement impact fee, representing the development's "fair share" of costs to mitigate impacts. If such a fee is not in place by that time, the developer will pay a fee of \$3500/unit, to be held in a separate account, to mitigate regional traffic impacts. The City agreed to impose such a fee on all future development as well.

In a comment letter to LAFCO, dated December 5, 2006, PRMD reiterates its position that the City and County should agree on details of a process to mitigate regional traffic impacts, including use of developer fees. The department requests assurance of the completion of the process before final approval of the annexation. (PRMD letter is included in the attachments.) Staff believes that SCTA must be involved in this process and recommends that an agreement among the City, the County, and SCTA be formalized prior to recordation of the certificate of completion for this proposal.

Request from Sonoma County Permit and Resource Management Department and Department of Transportation and Public Works

The UDSP, as currently proposed, includes Rohnert Park Expressway (west from Petaluma Hill Road to the present City limits), Keiser Avenue (west from Petaluma Hill Road to Snyder Lane), and Snyder Lane (from Keiser Avenue south to City boundaries), roadways that front territory included within the proposed annexation boundaries. In response to staff's referral of this project, the Sonoma County Permit and Resource Management Department (PRMD) and Department of Transportation and Public Works (DTPW) recommend that Snyder Lane from Keiser Avenue north to Moura Lane, approximately eight-tenths of a mile, be included in the annexation boundary. DTPW believes that this roadway was not, but should have been, included

in previous annexations where the road fronted the affected territory. Both departments indicate that, since much of the traffic impact on this portion of Snyder reflects existing or planned City-generated development west of Snyder, jurisdictional responsibility should belong to the City. Annexation of this section would also eliminate an island of unincorporated roadway. Staff supports the Department's request and recommends that the Commission amend the UDSP boundary to include the designated portion of Snyder. (DTPW and PRMD letters are included in the attachments.)

Both PRMD and DTPW support inclusion, within the UDSDP annexation boundaries, the portion of Petaluma Hill Road that fronts the affected territory, including its intersections with Rohnert Park Expressway and Keiser Avenue. The departments believe that the City should be responsible for proposed road improvements and maintenance of this section of roadway since traffic impacts would result from City-generated development. Staff does not support this proposal, at this time. Petaluma Hill Road is a major arterial corridor, and, although development within the City of Rohnert Park will certainly impact it, the responsibility for maintenance of the roadway and intersection and mitigation of traffic impacts should be worked out cooperatively by the City, the County, SCTA, and other jurisdictions, including the City of Santa Rosa, the City of Cotati, and the City of Petaluma; residents of and visitors to all of these jurisdictions use this road. The City of Rohnert Park indicates that it fully intends to mitigate impacts in this area to the extent possible and will work with the other jurisdictions to achieve greater mitigation. Annexation of this small section of Petaluma Hill Road at this time would, in effect, create an island of City roadway adjacent to County roadway, which seems contrary to LAFCO policies and goals. (December 5, 2006, letter from the City is included in the attachments.)

Should the Commission wish to amend the proposed annexation boundaries to include either or both the described sections of Snyder Lane and Petaluma Hill Road, Section 15164 of the CEQA Guidelines allows a lead or responsible agency to prepare an addendum to a previously certified EIR if some changes or additions are necessary but the changes are not substantial. The addendum need not be circulated for public review but can be included in or attached to the final EIR and must include a brief explanation supported by substantial evidence. An addendum to the City of Rohnert Park's Final EIR has been prepared for the Commission's review and is included in this packet. The addendum includes analysis of both segments of roadway, which would allow the Commission to act to include one or both roadway areas.

### ***Legal Challenges: Water Supply Assessment and Final Environmental Impact Report***

In February 2005, three Penngrove residents and the O.W.L. Foundation (Open Space and Water Resource Protection and Land Use) filed a lawsuit against the City of Rohnert Park. The lawsuit sought to invalidate the City's Water Supply Assessment, which was conducted to satisfy requirements of SB 610 and SB 221 so the City could proceed with plans to annex territory for new development. In May 2006, a Sonoma County Superior Court judge ruled that the City's WSA did not meet requirements of one sub-section of the state Water Code requiring an analysis of the sufficiency of groundwater from the basin which would supply the project.

However, the court specified that it was not ruling on the availability of water, only on the ways for finding sufficiency. Both the City and project developers filed appeals on the court's ruling. A decision is expected late in 2007.

After the City certified the Final EIR for the University District Specific Plan, the O.W.L. Foundation brought a second proceeding against the City challenging the EIR in that it contains the WSA that the Foundation considers invalid. In an effort to avoid duplicative litigation, all parties have entered a Stay Agreement on the CEQA petition until a final decision is issued in the Water Supply Assessment case. Documents relating to the litigation are on file with the Clerk of the Commission.

### ***Commission Action Under CEQA***

In accordance with section 15231 of the CEQA Guidelines, the Commission may act on the subject proposal. This section states that a final EIR prepared by a lead agency "...shall be conclusively presumed to comply with CEQA for purposes of use by responsible agencies..." unless the EIR is "finally adjudged in a legal proceeding not to comply with the requirements of CEQA...." Section 21167.3 of CEQA provides direction in situations involving lawsuits.

In the event that an action or proceeding is commenced...but no injunction or similar relief is sought and granted, responsible agencies shall assume that the environmental impact report...for the project does comply with the provisions of this division and shall approve or disapprove the project....Such approval shall constitute permission to proceed with the project at the applicant's risk pending final determination of such action or proceeding.

### ***Annexation Factors***

The proposed reorganization satisfies Commission criteria for approval. The affected territory is contiguous to the City of Rohnert Park and has been appropriately pre-zoned. The territory is within the "urban service area" boundary for the City in the Sonoma County General Plan and within the City's sphere of influence and Urban Growth Boundary. The City indicates that the proposal is consistent with its General Plan and that it has the capacity within its systems to provide necessary services. A series of measures have been identified and a monitoring plan developed to mitigate impacts identified in the environmental document. Approximately 20 percent of project units, including second dwelling units, are planned to meet the City's affordable housing goals.

Because some impacts identified in the Final EIR for this project cannot be sufficiently mitigated, the Rohnert Park City Council adopted a statement of overriding considerations. As a responsible agency under CEQA, the Commission must certify its review of the information in the Final EIR, make findings for each potentially significant effect of the project, and must adopt a statement of overriding considerations.

Staff recommends that the Commission amend the annexation boundaries for the subject proposal to include Snyder Lane from Keiser Avenue north to Moura Lane. An addendum to the

Final EIR for the University District Specific Plan has been prepared to enable the Commission to take such action.

In instances in which a proposal is submitted by a resolution of application by a city and proof is provided to the Commission that all owners of land within the affected territory have given their consent to the change of organization, the Cortese-Knox-Hertzberg Act allows the Commission, should it approve the proposal, to waive protest proceedings. The City of Rohnert Park is the applicant for the proposal. Staff has received letters from all property owners giving their consent to the reorganization and, on that basis, recommends that protest proceedings be waived.

Staff recommends that the Commission conduct a public hearing and take a straw vote on the subject proposal. Staff will work with counsel to draft a resolution reflecting the consideration and actions of the Commission for final consideration at a subsequent meeting.

#### Attachments

1. Maps
2. December 5, 2006, correspondence from City of Rohnert Park
3. Correspondence from Sonoma County, SCTA, Rancho Adobe FPD
4. Addendum to Final EIR for University District Specific Plan
5. City of Rohnert Park ordinances
6. City of Rohnert Park resolutions
7. Miscellaneous City documents
8. Comments received from the public

Note: Commissioners were given the following documents on November 1, 2006:

1. University District Specific Plan
2. Environmental Impact Report
  - a. Draft Environmental Impact Report for the University District Specific Plan Volume I of II
  - b. Draft Environmental Impact Report for the University District Specific Plan Volume II of II
  - c. Final Environmental Impact Report for the University District Specific Plan
3. 2006 Update Public Facilities Financing Plan, City of Rohnert Park