

CITY COUNCIL AGENDA: FEBRUARY 17, 2015

SCHEDULED MATTER

SUBJECT: ASSISTANCE OPTIONS RELATED TO PROVISION OF WATER WITHIN COUNTY ISLANDS

SOURCE: Community Development Department – Planning Division

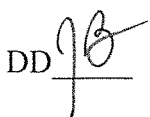
HISTORY: At a series of meetings through the fall of 2014, the City Council addressed and updated policies and procedures for annexation and municipal services. The Council identified the need to more proactively monitor extension of services outside the city limits and, with the new policy, required that annexation be attempted prior to approval of an Extraterritorial Service Agreement where such annexation is feasible.

In light of new policy and procedures, the extension of municipal services such as water into an area qualified as an island per Gov't Code Section 56375.3 can only be approved after annexation. The city of Porterville hosts the greatest number of unincorporated islands in Tulare County. At the Local Agency Formation Commission (LAFCo) meeting of February 4, 2015, the Commission approved a modification requested by the City of Porterville in concert with the recent annexation policy update. The modification to *Policy C-9: County Islands* redefined "substantially surrounded" from 65% surrounded to 51% surrounded. The city of Porterville now has six new areas that are considered islands per the provisions of Gov't Code §56375.3, for a total of 23 eligible islands, at a total of 773.4 acres. There are other substantially surrounded areas adjacent to or wholly surrounded by city limits, but those do not meet all the criteria of Gov't Code §56375.3.

In the recently approved Municipal Services Review (Tulare LAFCo, October 1, 2014), LAFCo recommended that the City continue to pursue the annexation of the remaining County islands, as administratively feasible, to establish a more definitive and organized city limit boundary. It was to assist in this goal that LAFCo approved the recent modification to Policy C-9.

COMMENT: In light of the City's and LAFCo's policies, any property within an island is required to annex prior to provision of water. Staff is noting an increased number of residents asking about how to initiate the process because they want to connect to City water before summer, and are anticipating that their wells are nearly dry. Staff has prepared cost breakdowns for individual property owners, and the most expensive component of the required process in each case is the California Environmental Quality Act (CEQA) document preparation, which is over half the total cost of annexation. Estimated at \$8,000 to \$10,000 for document preparation, this isn't considered terribly expensive as far as environmental compliance documents go, but is far more than an average property owner is able to pay.

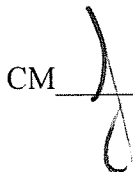
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Item No.

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Looking for ways to reduce costs, staff has determined that efficiencies could be found to address all islands together, either for preparation of a single environmental document or by grouping islands into a smaller number of total applications. One resulting question then becomes how to share the cost of the document preparation and/or applications among parties that may not submit applications at or near the same time.

APPROACH: Staff has defined some conceptual approaches for Council's consideration. All concepts assume that the Council agrees that one environmental document can be prepared to address all eligible islands. Additionally, it is very important to note that all concepts exclude the six islands identified in the East Porterville area. The reason for this is that the City continues to work with the State to find funding to provide a new water source, either a well or otherwise, with the intent to identify a permanent solution to East Porterville's water problem. In order to avoid jeopardizing the coordination with the State, East Porterville must remain unincorporated. Until such time that the State and the City are able to work out an arrangement to provide a permanent solution to the water problem in East Porterville, it is recommended that the City defer possible annexation in that area.

The potential alternatives for assisting 17 remaining eligible islands, totaling approximately 675 acres, are as follows:

1. Establish a reimbursement agreement for CEQA costs. This option would function similar to how Public Works coordinates a reimbursement agreement for infrastructure, such as sewer trunk lines. A developer is required to fully fund extension of the trunk line, and then adjacent property owners benefitting from (connecting to) the trunk line within a defined time frame pay a proportional share that goes back to the initial developer.

This method would require the first annexation applicant to come up with the money - approximately \$10,000 to \$12,000 including County and State filing fees. In turn, any future island annexation application would pay a portion back to the initial applicant. With this option, rather than look at each island area individually, it would be best to group islands in an efficient manner to limit the number of shares - increasing the chances that all shares would be reimbursed. For example, the 17 eligible islands could be grouped into five applications, so the first person would pay in full, then the next would repay 1/5<sup>th</sup> the cost, the next 1/5<sup>th</sup>, etc. The risk to the initial applicant is that the City does not require island annexations unless property owners are requesting service, so the other shares may never materialize.

2. City Funded CEQA Document - For Reimbursement. If the Council chooses to fund the CEQA document, a fee could be established that applies only to eligible islands, and those future applications for annexation would reimburse the City as applications are submitted. It should be noted that environmental documents aren't valid forever. In time, CEQA laws change, physical settings

change, and the document may only be good for one to ten years before it needs to be updated.

3. City Funded CEQA Document – Without Reimbursement. Similar to Concept #2, the Council could choose to fund the CEQA document and not establish a fee for reimbursement. Supporting this concept is the fact that effort required to establish a fee and then monitor for reimbursement has an associated administrative cost of its own, which may not be that much less than the cost to pay for the subject environmental document. The same cautions apply here as in Concept #2: environmental documents aren't valid forever, and the document may only be good for one to ten years before it needs to be updated.
4. City Funded Island Annexation Effort. Similar to the effort undertaken in 2006, the City could select to initiate the annexation of all applicable islands. One concern here is that being annexed entitles property owners to water and other municipal services such as police and fire protection. It is relevant to note that a water study to identify the City's available water resources is still a few months from completion. That said, approximately 70% of those developed properties in the subject islands are already connected to City water, due to the City's past acquisition of private water systems.

Because the City would not be subject to its own fees, an annexation effort of this magnitude could be completed within five applications for a total estimated cost of \$70,000, which includes preparation of environmental documents, maps and legal descriptions, LAFCo application fees, and Board of Equalization fees. While this cost certainly must be considered, it is in the City's ultimate best interest to annex properties that receive municipal services, as well as gain the Utility Users Tax and property tax revenue for those properties. There is, arguably, a public benefit to proceeding with the annexation of these areas.

A reimbursement fee could be charged for those areas within islands still not yet connected to city services, if so desired. While such options would not result in full cost recovery, it would offset the City's initial expenditure. Conversely, the expense of establishing and monitoring such fees may make any reimbursement negligible. If so desired, staff could identify options related to this concept for consideration at a future meeting.

While annexation of already developed and distressed areas is an understandable concern, much of the time the City is already fiscally responsible for the infrastructure and services within those areas. Staff's position is that the most effective solution to the needs of the developed unincorporated communities within and surrounding the city limits is to annex the areas and manage land uses to the standards expected of the City of Porterville.

**RECOMMENDATION:** That the City Council consider the concepts outlined and provide direction to staff.

ATTACHMENTS:

1. Resolution 74-2014 defining objectives and policies for annexations and municipal services
2. Resolution 75-2014 establishing procedures for annexations and extension of municipal services
3. Map of eligible islands
4. Government Code Section 56375.3

RESOLUTION NO. 74 -2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DEFINING OBJECTIVES AND POLICIES FOR ANNEXATIONS AND MUNICIPAL SERVICES

WHEREAS: The City of Porterville established a policy concerning annexation and provision of municipal services in 1986, noting that “the City, in order to grow for reasons of economies of scale and quality of services must expand its boundaries within reason, generally encourages the owners of properties contiguous to the city of Porterville to annex to said City of Porterville”; and

WHEREAS: Since 1990, the population of the city of Porterville has increased 53% according to the California Department of Finance, and the land area of the city proper has increased by 38% according to City annexation records; and

WHEREAS: The City of Porterville accepts its responsibility to provide municipal services to those residents, businesses, and other land uses within the limits of the city. The City of Porterville has taken the position that the costs of all physical improvements within the city have been paid by property owners, and other taxes derived in the city, and, therefore, these same people should not be required to bear the expense of additional physical improvements needed to serve newly annexed areas.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby define the following objectives related to annexations and municipal services:

1. To promote orderly development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.
2. To honor the City’s fundamental responsibility to provide efficient and sustainable public services to the inhabitants of the city, and where appropriate, to provide those services beyond the limits of the city within the Urban Development Boundary, and only in extreme cases to those properties beyond the Urban Development Boundary within the Urban Area Boundary.
3. To provide for land development and growth in a manner consistent with the General Plan, particularly as it relates to land use and circulation.
4. To consider an application upon its own merits, and identify what benefits would accrue to the City as an agency and service provider, to the residents of the city of Porterville, and to the applicant.
5. To identify the problems involved in any proposal considered for annexation or request for extra-territorial services and resolve them in the manner most beneficial to the properties within the city of Porterville.
6. To develop factual information to permit informed discussion between City representatives and property owners/residents of unincorporated territories.

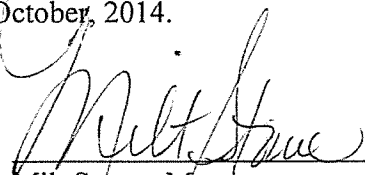
BE IT FURTHER RESOLVED, that the City Council of the City of Porterville does hereby establish the following policies for consideration of annexations and municipal services:

1. It shall be the policy of the City of Porterville to consider annexation proposals only within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County Local Area Formation Commission (LAFCo).

**ATTACHMENT  
ITEM NO. 1**

2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville, only where necessary in order to respond to an existing or impending threat to public health or safety of affected residents, to consider extra-territorial service requests within the Urban Area Boundary, as adopted by City Council and identified on the City of Porterville Zoning Map.
4. It shall be the policy of the City of Porterville to consider annexation proposals and extra-territorial service requests in a manner consistent with the policies and regulations adopted by the Tulare County LAFCo and the State of California, as applicable.
5. It shall be the policy of the City of Porterville to discourage single-family one (1) lot annexation proposals that may have an adverse fiscal impact on the City of Porterville.
6. It shall be the policy of the City Council that territory shall not be annexed to the city of Porterville, which as a result of such annexation, unincorporated territory is completely surrounded, or substantially surrounded by the city of Porterville.
7. It shall be the policy of the City of Porterville that annexation proposals shall be in conformance with the Cortese-Knox-Hertzberg Act of 2000, as amended.
8. It shall be the policy of the City Council to consider each petition/consent for annexation upon its relationship to what economic benefits will accrue to the City of Porterville, and to the area residents/property owners.
9. It shall be the policy of the City Council that the costs of all physical improvements will be borne by the property owners/resident or developer.
10. It shall be the policy of the City of Porterville to maintain the viability of agricultural productivity; i.e. protecting and conserving as much agricultural land as possible in the area surrounding the Porterville community.
11. It shall be the policy of the City of Porterville that the applicant for annexation present proposals to the Project Review Committee and explain the particulars of the area under consideration for possible annexation, including a plan for services.
12. It shall be the policy of the City of Porterville to consider any requests for annexation or extra-territorial services in a manner consistent with the procedures adopted by resolution of the City Council.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of October, 2014.

  
Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

RESOLUTION NO. 75-2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
ESTABLISHING PROCEDURES FOR ANNEXATIONS AND EXTENSION OF  
MUNICIPAL SERVICES

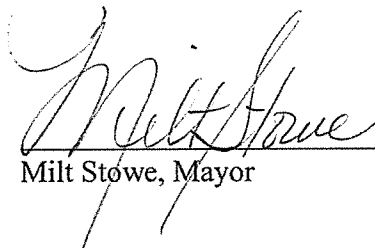
WHEREAS: The City Council of the City of Porterville, acknowledging that over time policies and procedures must be evaluated and reconsidered in light of changes to the regulatory environment and physical setting of the community, adopted a resolution defining objectives and policies for annexations and municipal services; and

WHEREAS: The evaluation of applications and service requests has long been delegated to staff, a practice that has the potential to lend itself to inconsistent implementation of succinctly defined procedures; and

WHEREAS: Local, regional, and state laws have changed since the Council's last review of policies and procedures related to annexations and extension of municipal services.

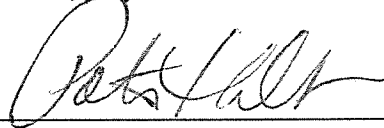
NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby define procedures to submit application for annexations and municipal services, and to have said application(s) processed as outlined in Exhibit "A," attached.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of October, 2014.

  
Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By:   
Patrice Hildreth, Chief Deputy City Clerk

**ATTACHMENT  
ITEM NO. 2**

All properties requesting annexation or extraterritorial services are subject to the procedures established below unless otherwise stated. Compliance with City of Porterville procedures does not guarantee approval by LAFCo of annexations or extra-territorial service agreements. Upon request for an annexation or extraterritorial services request, staff will evaluate whether the applicant's property is within the City's Urban Development Boundary or Urban Area Boundary and explain the process.

## **ANNEXATION APPLICATION PROCEDURE**

1. A complete annexation application packet includes: fees, an Irrevocable Agreement to Annex, application for Development Agreement (to be enacted only in the event of failed annexation attempt), Application for Annexation, and other materials as required with those applications respectively.
2. On receipt of an application as outlined above, all materials will be considered by the Project Review Committee, who will coordinate in a pre-consultation process with LAFCO staff and the County Public Works Department for review and recommendation.
3. During review by the Project Review Committee of the necessary application and data, staff will prepare a report and findings on all aspects of the proposed action(s).
4. An environmental document will be prepared pursuant to the California Environmental Quality Act (CEQA), reviewing the potential environmental effect of the proposed activities. The Zoning Administrator will make an initial determination of the level of environmental review required.
5. After proper noticing, a public hearing will be held for the City Council to hear comments related to the project at a regularly scheduled meeting. The Council will authorize staff to initiate the application with LAFCo. Documents will be filed in accordance with the Cortese-Knox-Hertzberg Act of 2000, as amended, and submitted to the Local Agency Formation Commission for its review, recommendation and action.
6. On consummation by the City Council, the City Clerk shall submit the necessary materials to the State Board of Equalization with the appropriate acreage fees, which are paid by the Applicant.
7. In the event the annexation fails, either by dissenting votes of the City Council or at hearing at LAFCo, the City Council may approve an extraterritorial service agreement within the Urban Development Boundary, subject to conditions identified in the Development Agreement.

## **ANNEXATION EXEMPTION PROCEDURE**

Where a certain property meets all of the following criteria, they may proceed with an Extraterritorial Service Agreement for water or storm-water drainage without first attempting annexation, subject to the conditions of Extraterritorial Service Agreements as defined below.

1. Previously developed single-family residences on parcels 24,999 square feet or smaller, OR a school developed by a State funded school district.
2. The parcel requesting services must be immediately adjacent to a municipal main providing the requested service, or the property owner shall provide for the extension of the main line to City standards at their expense.

## **EXHIBIT A**



## EXTRATERRITORIAL SERVICES APPLICATION PROCEDURE

Extraterritorial Service connections may be made subject to the following conditions. Note specific parameters and the required findings for connections in the Urban Development Boundary and the Urban Area Boundary.

1. Application: A complete extraterritorial services application packet includes: fees, an Irrevocable Agreement to Annex, application for Development Agreement, and other materials as required with those applications respectively.
2. General Plan Consistency:
  - a. Proposed Uses and Improvements: Service connections are to be withheld from proposed uses and improvements that would not be consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan.
  - b. Existing Uses and Improvements: Service connections to existing uses and improvements which are not consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan shall be considered at the discretion of the City Council, and may be subject to other restrictions.
3. Agreements and Covenants:
  - a. A Development Agreement must be approved by the property owner and the City Council, and recorded with the County of Tulare upon the property, at the applicant's expense.
  - b. An irrevocable agreement to annex must be signed by the property owner and recorded with the County of Tulare upon the property, at the applicant's expense.
4. Time Limitations: The City Manager or his designee, or the City Council may condition the approval of applications for service connections by establishing a time frame within which connections must be made to avoid re-application.
5. Improvement Plans: Applications for service connections which necessitate the extension of one or more municipal facilities to property in order to make such connections shall be conditioned by the City Manager or his designee, or the City Council to require that Construction Drawings of the intended public improvements be submitted to the City Engineer for plan check and approval. Costs incurred for the preparation of improvement plans, and certain off-site construction and/or installation costs related to extending facilities, shall be the responsibility of the applicant.
6. Fees: Prior to the issuance of a Connection Permit, payment must be made to the City of Porterville of all fees pertinent to the respective service connection, or connections, approved by the City Manager or his designee, or the City Council.

Within the Urban Development Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and, as such, an extraterritorial service request cannot be denied; however, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council to approve an extraterritorial service connection:

- That the subject property is a previously developed single-family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.
- That the subject property is not within an island as defined by Tulare LAFCo.
- That an attempt to annex the subject site is not realistic given current city limit boundaries. Specifically, the parcel is too far removed from the city limit, and/or the number and valuation of adjacent parcels would result in a failed annexation effort.

Within the Urban Area Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and, as such, an extraterritorial service request cannot be denied; however, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council to approve an extraterritorial service connection:

- That the subject property is a previously developed single-family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.

## **EXEMPTIONS AND EXCEPTIONS**

1. PVPUD: Connections to Porterville Regional Sewage Treatment Facilities serving uses and improvements to property within the boundaries and jurisdiction of the Porter Vista Public Utility District (PVPUD) are exempted from application to the City of Porterville. Interested parties should contact the PVPUD for information on connection requirements and fees pertaining

to sewer services. This exemption does not apply to requests for connection to Municipal Water and/or Master Storm Drain Facilities.

2. PRIOR APPROVALS: Porterville City Council approval of requests for connection to Regional Sewage Treatment, Municipal Water and/or Master Storm Drain Facilities as authorized prior to the adoption and effective date of the respective policies set forth herein shall remain valid and in force according to the terms and conditions initially specified at the time of approval, and re-application will not be required.



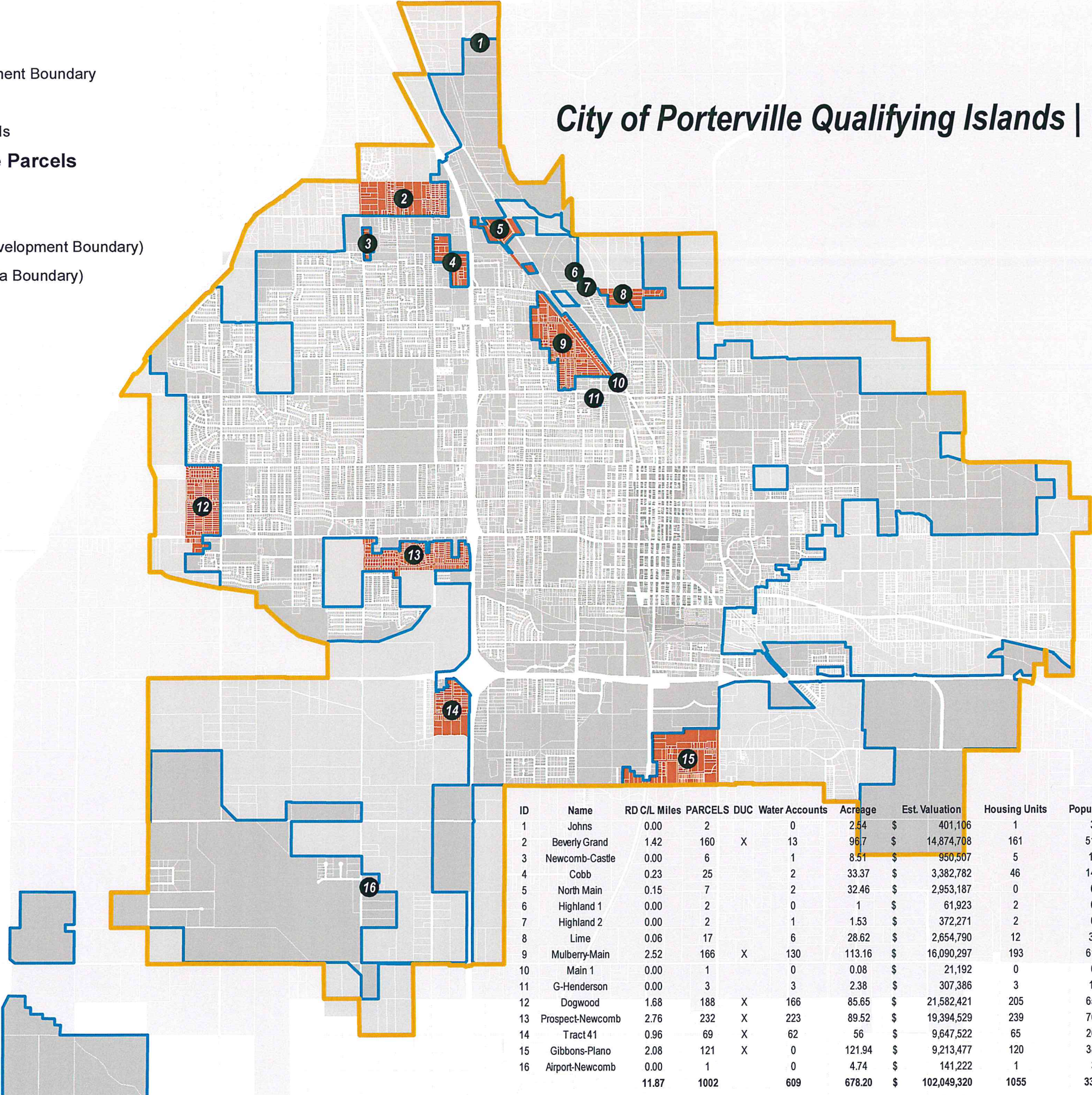
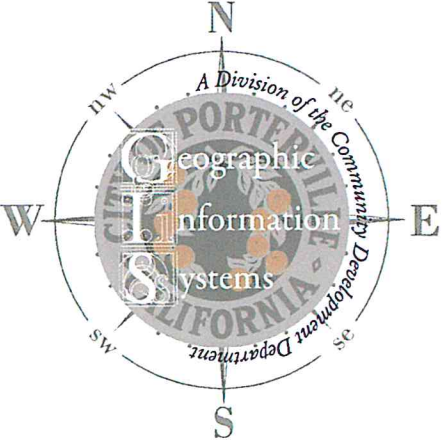
Legend

- Urban Development Boundary
- City Limits
- Qualifying Islands

City of Porterville Parcels

- DOWNTOWN
- CITY
- UDB (Urban Development Boundary)
- UAB (Urban Area Boundary)
- COUNTY

City of Porterville Qualifying Islands | 02.11.2015



ID	Name	RD C/L Miles	PARCELS	DUC	Water Accounts	Acreage	Est. Valuation	Housing Units	Population
1	Johns	0.00	2		0	2.54	\$ 401,106	1	3
2	Beverly Grand	1.42	160	X	13	96.7	\$ 14,874,708	161	515
3	Newcomb-Castle	0.00	6		1	8.51	\$ 950,507	5	16
4	Cobb	0.23	25		2	33.37	\$ 3,382,782	46	147
5	North Main	0.15	7		2	32.46	\$ 2,953,187	0	0
6	Highland 1	0.00	2		0	1	\$ 61,923	2	6
7	Highland 2	0.00	2		1	1.53	\$ 372,271	2	6
8	Lime	0.06	17		6	28.62	\$ 2,654,790	12	38
9	Mulberry-Main	2.52	166	X	130	113.16	\$ 16,090,297	193	618
10	Main 1	0.00	1		0	0.08	\$ 21,192	0	0
11	G-Henderson	0.00	3		3	2.38	\$ 307,386	3	10
12	Dogwood	1.68	188	X	166	85.65	\$ 21,582,421	205	656
13	Prospect-Newcomb	2.76	232	X	223	89.52	\$ 19,394,529	239	765
14	Tract 41	0.96	69	X	62	56	\$ 9,647,522	65	208
15	Gibbons-Plano	2.08	121	X	0	121.94	\$ 9,213,477	120	384
16	Airport-Newcomb	0.00	1		0	4.74	\$ 141,222	1	3
		11.87	1002		609	678.20	\$ 102,049,320	1055	3375





## GOVERNMENT CODE - GOV

**TITLE 5. LOCAL AGENCIES [50001 - 57550]** (*Title 5 added by Stats. 1949, Ch. 81.*)

**DIVISION 3. CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000 [56000 - 57550]** (*Heading of Division 3 amended by Stats. 2001, Ch. 388, Sec. 1.*)

**PART 2. LOCAL AGENCY FORMATION COMMISSION [56300 - 56434]** (*Part 2 added by Stats. 1985, Ch. 541, Sec. 3.*)

**CHAPTER 3. Powers [56375 - 56388]** (*Chapter 3 added by Stats. 1985, Ch. 541, Sec. 3.*)

(a) In addition to those powers enumerated in Section 56375, a commission shall approve, after 56375.3. notice and hearing, the change of organization or reorganization of a city, and waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely, if all of the following are true:

- (1) The change of organization or reorganization is initiated on or after January 1, 2000.
- (2) The change of organization or reorganization is proposed by resolution adopted by the affected city.

(3) The commission finds that the territory contained in the change of organization or reorganization proposal meets all of the requirements set forth in subdivision (b).

(b) Subdivision (a) applies to territory that meets all of the following requirements:

- (1) It does not exceed 150 acres in area, and that area constitutes the entire island.
- (2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.
- (3) It is surrounded in either of the following ways:
  - (A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.
  - (B) Surrounded by the city to which annexation is proposed and adjacent cities.
  - (C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.
  - (D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.
- (4) It is substantially developed or developing. The finding required by this paragraph shall be based upon one or more factors, including, but not limited to, any of the following factors:
  - (A) The availability of public utility services.
  - (B) The presence of public improvements.
  - (C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the change of organization or reorganization or is receiving benefits from the annexing city.

(c) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(d) The Legislature finds and declares that the powers set forth in subdivision (a) for territory that meets all the specifications in subdivision (b) are consistent with the intent of promoting orderly growth and development pursuant to Section 56001 and facilitate the annexation of disadvantaged unincorporated communities, as defined in Section 56033.5.

*(Amended by Stats. 2013, Ch. 138, Sec. 1. Effective January 1, 2014.)*