



# San Luis Obispo Local Agency Formation Commission

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IMELDA MARQUEZ-VAWTER  
Analyst

MORGAN BING  
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BRIAN A. PIERIK  
Legal Counsel

**DATE:** APRIL 15, 2024

**TO:** LAURA HOLDER | [LHOLDER@CO.SLO.CA.US](mailto:LHOLDER@CO.SLO.CA.US)

**FROM:** IMELDA MARQUEZ-VAWTER, ANALYST

**VIA:** ROB FITZROY, EXECUTIVE OFFICER

**SUBJECT:** REVIEW OF INFORMATIONAL RESPONSE FOR THE SPHERE OF INFLUENCE & ANNEXATION #1 TO COUNTY SERVICE AREA 23 (VINEYARD OAKS – TRACT 2586) APPLICATION | LAFCO FILE: 2-R-23

Dear Laura,

Thank you for your responses to our information request letter sent on July 21, 2023, we look forward to further collaboration on this annexation. We received your response in two parts, the first of which was provided via email on February 27, 2024, and the second which included a Plan for Services provided on March 5, 2024. For ease of reference, we provided the original requests from our July 21, 2023, letter, only for the items that require additional information followed by our response to the information provided for each request, those responses are further below. However, we would first like to bring your attention to our Overview of Informational Needs and Procedural Clarifications sections below.

## Overview of Informational Needs

We appreciate the information that has been provided thus far and look forward to further collaboration. Overall, the materials provided do not include sufficient detail on a number of items. For example, we do not have detailed information on:

1. Existing conditions (tract improvements to date installed prior to final tract map approval)
2. Capacity of existing systems
3. Proposed & existing water infrastructure improvements associated with the annexation
4. How the system would integrate with the existing CSA 23 system
5. Rate impact information to existing ratepayers of CSA 23 and future rate payers within the annexation area

Of particular importance are proposed water infrastructure improvements associated with the annexation and how they tie into the existing CSA 23 system. We understand that a number of tract improvements have already been installed, and, as of late, potentially a new well will be needed to support the annexation. The

reason it is important to understand these aspects of the project is because LAFCO is a Responsible Agency under CEQA and will need to rely upon an EIR that is approaching 16 years old. We need to be able to rely upon the EIR for our discretionary decision-making process. As it currently stands, we do not have sufficient information to determine how the proposed annexation and associated improvements are consistent with the original EIR, and respectfully request that the County provide information as to how this annexation is covered by the EIR.

### **Procedural Clarifications**

In the July 21, 2023, information request letter, we provided an overview of the LAFCO process intended to provide clarity moving forward for this particular proposal on the approach requested by the County and landowner. Since then, at the request of the County, we provided additional clarification regarding phase 1 and the implications of proceeding with a LAFCO Hearing with only an annexation map and legal and no recorded tract map.

Ideally, we would have both sets of phase 1 maps completed prior to LAFCO hearing, but as per our 30-day review letter, it is possible to move forward with only the annexation map and legal description for phase 1 and have the final tract map submission as a Condition of Approval. The risk with that approach is that the submitted annexation map and legal description for phase 1 cannot change after LAFCO approval because the annexation map and legal description must precisely match the boundaries of the final tract map, if the tract map does change post approval, another LAFCO hearing may be necessary.

We strongly recommend they are completed in parallel. Whether submitted together, or separate with a Condition of Approval, at some point before we can legally effectuate the annexation we would need both the annexation map and legal description and the final tract map, for phase 1, so that we can have the County Surveyor check for consistency between the two, given that it was decided by the County and landowner that the annexation boundary would be co-terminus with the lots created by the tract map.

Please keep in mind that the Commission may approve the request, with or without amendment, wholly, partially, or conditionally, or disapprove the request. The Commission has discretion in light of the whole record to make its decision.

As stated previously, for ease of reference, we provided the original requests from our July 21, 2023, letter, only for the items that require additional information followed by a response to the information provided for each request, those responses are further below.

### ***Original Request from LAFCO***

1. A final annexation map and legal description for Phase I, prepared and certified by a civil engineer or licensed land surveyor, is needed. Include all background material such as deeds or tract maps. Final annexation maps will be required to meet the LAFCO mapping standards that are provided in the LAFCO application found on the website at [slo.lafco.ca.gov](http://slo.lafco.ca.gov).

Due to the unique nature of this proposal described above, an adequate map and legal description for Phase 1 must be submitted prior to LAFCO hearing with preliminary maps and descriptions for phases 2 & 3. A final annexation map and legal for phase 2 and 3

would also be needed but to be consistent with the overall approach discussed above, can be provided to LAFCO after Commission approval; conditions of approval would be placed on the project for phases 2 & 3. If phase 2 & 3 conditions are not met, then phase 2 & 3 will not be effective unless and until the annexation map and legal is obtained and the letter from the Executive Officer is issued.

***LAFCO Response to Information Provided by Applicant for Item 1***

- This item is incomplete. It was indicated that this item is currently in process with the landowner's Surveyor. LAFCO will need this item and any other pending items before issuing a Certificate of Filing, which deems the application sufficient for processing. Once the Certificate of Filing (COF) is issued then a LAFCO hearing will occur within 90 days of the COF.

***Original Request from LAFCO***

2. Regarding the provision of Government Code Section 56653(b)(1) and (5) as they relate to the Plan for Services, these Sections require an enumeration of the current services and services to be extended to the affected territory and information as to how these services will be financed. The proposed plan for services states that a zone of benefit will be created to differentiate between existing rate payers of CSA 23 and the proposed annexation. Please provide information as to how existing rates will be impacted and any information about the rates of the annexation area. Please provide and confirm the rate structure, timing of the rates and how this will be implemented. Importantly, please provide information as to when a zone of benefit will be created. It is likely the annexation will include a condition of approval with respect to implementation of a zone of benefit for the annexation area.

***LAFCO Response to Information Provided by Applicant for Item 2***

- No information was provided on this request. Please provide detailed information as originally requested. The Commission will need to fully understand the rate structure, how existing users will be affected, what the estimated rates of the annexed area will be, and the timing of when a Zone of Benefit will be created and associated Prop 218 rate election.

***Original Request from LAFCO***

3. Regarding the provisions of Government Code Section 56653(b)(2), (3) and (4), as they relate to the Plan for Services, this Section requires a description of the level and range of services to be provided, when those services can feasibility be extended and necessary infrastructure. Please provide information on the existing water system, water availability, and the water system's capacity to accommodate the proposed annexation and related infrastructure improvements.

***LAFCO Response to Information Provided by Applicant for Item 3***

- This item requires additional information.

- Thank you for providing the list of additional facilities and infrastructure required to provide service to the Project. Please provide more detail about when these improvements will be implemented and how they will be executed. It is our understanding that the proposed infrastructure improvement plan has undergone a number of iterations. LAFCO needs to ensure that there is a plan in place in order to pursue annexation. Please provide a clear plan and visual descriptions of the proposed infrastructure improvements. LAFCO needs this information, in part, to fully address the government code section noted above, but also ensure that the proposed infrastructure plan is consistent with that studied in the EIR. As such, please provide sufficient information so that LAFCO can determine how this annexation and associated infrastructure improvements are consistent with the original EIR.
- Thank you for providing information regarding CSA 23's water capacity and demand. We are unclear on some of the data points provided and in order to ensure we have the information needed to support the District's ability to provide service, please also address the questions listed below:
  - Existing Water Capacity of CSA 23
  - Projected Water Capacity of CSA 23 at buildout without project
  - Projected Water Capacity of CSA 23 at buildout plus new project
  - Existing Water Demand of CSA 23
  - Projected Water Demand of CSA 23 at buildout without project
  - Projected Water Demand of CSA 23 at buildout plus new project
- It has been mentioned that the proposed infrastructure improvements will increase the capacity and resiliency of the existing CSA 23 system, please explain how this would occur.
- Please help us understand the status and capacity of the two additional water wells that the landowner is proposing to transfer/dedicate to CSA 23 as part of the annexation. How much water /capacity will the two water wells bring into CSA 23? It was mentioned that the two wells are located in a separate groundwater basin, what basin is that? What is the general health of that basin? What would CSA 23's water availability look like after they acquire the new water wells and how is this consistent with the EIR.

***LAFCO Response to Information Provided by Applicant for Item 4***

- This item is complete, no additional information is necessary.

***Original Request from LAFCO***

5. Please submit a GIS shapefile of the final annexation boundaries for phase 1 and preliminary boundaries for Phase 2 and 3. LAFCO will use the shapefile to create a vicinity map of the area that includes an overlay of CSA 23 boundaries.

***LAFCO Response to Information Provided by Applicant for Item 5***

- This item is incomplete. It was indicated that this would be prepared with the final annexation Map.

***LAFCO Response to Information Provided by Applicant for Items 6 through 10.***

- These items are complete, no additional information is necessary.

Please note that as stated in the LAFCO proposal application and the 30-day Review Letter, there is a fee associated with filing with the State Board of Equalization (BOE). This would require a separate check made out to the State Board of Equalization. These fees are collected after proposal approval. Due to the proposed approach, each of the 3 phases will be filed with the BOE in 3 separate phases (due to pending map & legals), if approved, that would require three separate checks to the BOE. In order to get an accurate estimate for the BOE fees and considering that only phase 1 will have a map and legal description upfront, it would be best to hold off on a BOE fee estimate until we receive a map and legal description for each phase. This is also because the BOE fee calculations are based on the acreage of each noncontiguous area.

This is not a comprehensive list of what may be necessary to process this application. Other information needs or questions may arise as our review of the application continues and as we begin our analysis.

If you have any questions or would like to arrange a meeting, please just let us know. Thank you.

#### **ATTACHMENTS**

1. 30-Day Review Letter for 2-R-23 dated July 21, 2023

CC. Brian Pierik, LAFCO Legal Counsel  
Rob Rossi, Applicant  
Doug Filipponi, Applicant  
Karl Wittstrom, Applicant  
Jamie Jones, Kirk Consulting

# **Attachment A**

30-Day Review Letter for 2-R-23 dated July 21, 2023



# San Luis Obispo Local Agency Formation Commission

**SENT VIA E-MAIL ONLY**

**DATE:** JULY 21, 2023

**TO:** LAURA HOLDER | [LHOLDER@CO.SLO.CA.US](mailto:LHOLDER@CO.SLO.CA.US)

**FROM:** IMELDA MARQUEZ-VAWTER, ANALYST

**VIA:** ROB FITZROY, EXECUTIVE OFFICER

**SUBJECT:** APPLICATION FOR A SPHERE OF INFLUENCE & ANNEXATION #1 TO COUNTY SERVICE AREA 23 (VINEYARD OAKS – TRACT 2586) | LAFCO FILE NO. 2-R-23

Dear Laura,

This letter is to confirm that the application for the Sphere of Influence (SOI) Amendment and Annexation #1 to County Service Area (CSA) 23 (Vineyard Oaks at Santa Margarita – Tract 2586) was officially received on June 22, 2023, and was referred to other agencies involved in the process.

## Process Overview

Below is an overview of the LAFCO process intended to provide clarity moving forward for this particular proposal given the nuanced circumstances as we understand them. The applicant (County) and the landowner are seeking approval of the annexation of all 3 phases of the tract map, which encompass a total of 111 lots. Each phase of the tract map would be finalized and recorded by the County at a different point in time. At the request of the applicant/landowner, one application will be processed to annex all three phases into County Service Area 23 and the annexation boundary is proposed to be co-terminus with the lots created by the tract map.

The Phase 1 annexation map and legal would need to be finalized prior to LAFCO hearing and would be included with the LAFCO resolution. For Phase 1, the final tract map would also need to be recorded prior to the effective date of the annexation. Ideally, the final tract map and annexation map and legal description would be prepared and finalized in tandem prior to the hearing. It is possible to condition the annexation such that the final tract map could be provided after approval but prior to the effective date of the annexation. The final annexation map and legal description would still be required to be submitted prior to approval. The primary reason the final tract map must be recorded is to ensure the final tract map and annexation map and legal description are exactly the same because, as noted above at the request of the applicant/landowner, the new jurisdictional boundary of CSA 23 would be co-terminus with the newly created lots. Phase I could be deemed effective shortly after approval once the Executive Officer files the annexation map and legal description with the State Board of Equalization, and any other conditions of approval, required to be met prior to filing the COC, are satisfied.

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Phases 2 and 3 – will need to have preliminary map and written descriptions that generally describe the nature of what the Commission is expected to consider approving. The Phase 2 and 3 descriptions will also be included with the resolution and conditions of approval would require the applicant to submit to LAFCO, at a later date, the final annexation map and legal descriptions for the remaining phases. The annexation map and legal descriptions as approved by the Commission must be substantially similar to what is ultimately submitted to LAFCO post-approval. Once the Executive Officer has received the annexation map and legal descriptions and confirmed they are identical to the final tract map for Phase 2 and 3, the Executive Officer will issue a letter stating service map commence to CSA 23 and subsequently file the annexation map and legal description with the State Board of Equalization. Similar to Phase I, the final tract maps would need to be recorded prior to the effective date of the annexation as well because the new jurisdictional boundary of CSA 23 would be co-terminus with the newly created lots.

In the scenario outlined above, the Commission would be asked to approve all 3 phases of the annexation at one hearing, but it would be specified that the 3 phases being approved would have different effective dates. Only phase 1 could be effective shortly after filing the Certificate of Completion. Phases 2 & 3 would not be effective until all of phase 2 & 3 conditions are met. If phase 2 & 3 conditions are not met, then phase 2 & 3 will not be effective unless and until the annexation map and legal is obtained and the letter from the Executive Officer is issued.

#### **Information Hold Items**

LAFCO staff have completed an initial 30-day review of the application of the project materials submitted to date as required by law and finds that the following items need to be submitted for LAFCO to continue processing the application. The following items are requested, in part, pursuant to government code section 56652.

1. A final annexation map and legal description for Phase I, prepared and certified by a civil engineer or licensed land surveyor, is needed. Include all background material such as deeds or tract maps. Final annexation maps will be required to meet the LAFCO mapping standards that are provided in the LAFCO application found on the website at [slo.lafco.ca.gov](http://slo.lafco.ca.gov).

Due to the unique nature of this proposal described above, an adequate map and legal description for Phase 1 must be submitted prior to LAFCO hearing with preliminary maps and descriptions for phases 2 & 3. A final annexation map and legal for phase 2 and 3 would also be needed but to be consistent with the overall approach discussed above, can be provided to LAFCO after Commission approval; conditions of approval would be placed on the project for phases 2 & 3. If phase 2 & 3 conditions are not met, then phase 2 & 3 will not be effective unless and until the annexation map and legal is obtained and the letter from the Executive Officer is issued.

2. Regarding the provision of Government code section 56653(b)(1) and (5) as they relate to the Plan for Services, these sections require an enumeration of the current services and services to be extended to the affected territory and information as to how these services will be financed. The proposed plan for services states that a zone of benefit will be created to differentiate between existing rate payers of CSA 23 and the proposed annexation. Please provide information as to how existing rates will be impacted and any information of the rates of the annexation area. Please provide and confirm the rate structure, timing of the rates and how this will be implemented. Importantly, please



provide information as to when a zone of benefit will be created. It is likely the annexation will include a condition of approval with respect to implementation of a zone of benefit for the annexation area.

3. Regarding the provisions of Government code section 56653(b)(2), (3) and (4), as they relate to the Plan for Services, this section requires a description of the level and range of services to be provided, when those services can feasibility be extended and necessary infrastructure. Please provide information on the existing water system, water availability, and the water system's capacity to accommodate the proposed annexation and related infrastructure improvements.
4. Please submit the County Notice of Final Action Letter for Tentative Tract 2586 and CUP S030115U.
5. Please submit a GIS shapefile of the final annexation boundaries for phase 1 and preliminary boundaries for Phase 2 and 3. LAFCO will use the shapefile to create a vicinity map of the area that includes an overlay of CSA 23 boundaries.
6. Please provide us with a copy of the following documents related to the Final Environmental Impact Report for Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program. We need this to file the CEQA documentation as Responsible agency:
  - a. Notice of Determination
  - b. Environmental Filing Fee Cash Receipt
  - c. Adopted CEQA Findings and Statements of Overriding Consideration
  - d. Final Conditions of Approval (if not already included in the Notice of Final Action Letter requested above)
7. A letter of consent from each affected property owner is required if the application is to waive the protest process. Please use the Landowner consent form provided in the LAFCO application, found on the website at [slo.lafco.ca.gov](http://slo.lafco.ca.gov).
8. Please submit a LAFCO Cost Accounting Agreement form (available at [slo.lafco.ca.gov](http://slo.lafco.ca.gov)) signed by the landowner.
9. LAFCO must make findings with regard to impacts to the prime agricultural land with any annexation action as defined by government code section 56064 specifically. We understand the project has been conditioned by the County to enter a substantial amount of land into agricultural conservation, we are seeking to better understand impacts to prime agricultural land within the conservation area to make necessary findings and to comply with LAFCO policies related to agricultural conservation. We understand the FEIR analyzed impacts to prime agricultural land that meets the definition of:
  - (a) *Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.*
  - (b) *Land that qualifies for rating 80 through 100 Storie Index Rating.*

- (c) *Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.*

The FEIR contains useful information; however, we would like the applicant to reaffirm the acreages of land that will be converted within the annexation area/subdivision area that meet the above definition. Please also reaffirm how many acres of prime agricultural land outside of the annexation/subdivision area that will be conserved in agricultural easement. Please also provide information as to when the agricultural easement will be effective.

In addition to the above, government code 56064 also requires information regarding impacts to land that meet the following definitions:

- (d) *Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.*
- (e) *Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.*

Please confirm if any land within the *annexation* area meets the above definition. This will help us make the necessary findings and communicate prime agricultural impact to the Commission, and determine whether land impacted and land conserved meets LAFCO policies related to agricultural conservation.

10. As required by law, a Negotiated Property Tax Agreement is required to be approved by resolution by the Board of Supervisors even if it is a neutral exchange. This is a required step and involves the County Auditor/Assessor and the State Board of Equalization. This process adjusts the Tax Rate Areas due to the boundary changes of the County Service Area. This process must be completed before the application can be considered by the Commission as required by gov code section 56810. LAFCO initiates and completes the process on your behalf. The Board of Supervisors approves the agreement. We have already submitted the information to the County Auditor/Assessor, and will be coordinating with the County Administrative Office on a date for the Board of Supervisors agenda.

Please note that as stated in the LAFCO proposal application, there is a fee associated with filing with the State Board of Equalization (BOE). This would require a separate check made out to the State Board of Equalization. These fees are collected after proposal approval. Due to the proposed approach, each of the 3 phases will be filed with the BOE in 3 separate phases (due to pending map & legals), if approved, that would require three separate checks to the BOE. In order to get an accurate estimate for the BOE fees and considering that only phase 1 will have a map and legal description upfront, it would be best to hold off on a BOE fee estimate until we receive a map and legal description for each phase. This is also because the BOE fee calculations are based on the acreage of each noncontiguous area.

This is not a comprehensive list of what may be necessary to process this application. Other information needs or questions may arise as our review of the application continues. If you have any questions or would like to arrange a meeting, please just let us know. Thank you.

CC. Brian Pierik, LAFCO Legal Counsel

Rob Rossi, Applicant

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