



# 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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Legal Counsel

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  
Doug Filippini, Applicant  
Karl Wittstrom, Applicant  
Jamie Jones, Kirk Consulting