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TO: MEMBERS OF THE COMMISSION

FROM: ROB FITZROY, EXECUTIVE OFFICER

DATE: NOVEMBER 17, 2022

**SUBJECT: NOTICE OF PETITION OF APPLICATION FOR ANNEXATION
#30 DANA RESERVE SPECIFIC PLAN TO NIPOMO
COMMUNITY SERVICES DISTRICT – LAFCO FILE NO. 4-R-22**

RECOMMENDATION

It is respectfully recommended that the Commission receive and file this report.

SUMMARY

The San Luis Obispo Local Agency Formation Commission (LAFCO) received a landowner “petition of application” for annexation into Nipomo Community Services District (NCSD) for the “Dana Reserve Specific Plan” (DRSP) project. The application was received on October 13, 2022. The DRSP is a phased development plan and vesting tentative tract map to construct 1,289 residential units and up to 203,000 square feet (SF) of commercial space on a 288-acre parcel near Willow Road and Highway 101 in the community of Nipomo. Annexation into NCSD is proposed by the landowner to obtain water and wastewater service from the NCSD.

This report provides the Commission with a formal notice of receipt of the application not filed by the affected agency, as required by government code section 56857. Typically, an annexation application is received directly by the district or city wishing to annex an area into their jurisdiction. However, State law also allows annexation requests to be submitted by a landowner. When this occurs government code section 56857 requires that we inform the Commission at the first available meeting. The application request will then be forwarded to the affected agency (NCSD) who is granted 60 days to terminate the request by resolution if they do not wish to annex the area based on substantial evidence for financial or service related concerns. If they do not request termination, the application will continue to be processed by staff and the Commission will consider the item at a public hearing. Staff understands that the landowner has already been coordinating with NCSD on the annexation and that NCSD is actively

evaluating the request in context to their established policies, infrastructure and organizational capabilities. Nonetheless, this notice is still required in order to comply with state law.

It is important to note 60 day termination period is a window of time allowed by state law wherein an agency affected by an annexation has the opportunity to terminate a request based on substantial evidence known and readily available at that time. The intent is to discontinue an annexation proposal early in the process to reduce time and expense on an annexation that could or should be denied based on information already known. Not providing a response within 60 days does not indicate support for the project. It often is the case that agencies need more than 60 days to evaluate a request. Beyond 60 days an agency will not have the ability to unilaterally terminate the request, rather the decision for approval or denial of the annexation would reside with LAFCO once it has been fully processed.

Procedurally, NCSD will evaluate the request in context to their policies for annexation. Should NCSD wish to support the annexation, that information will be conveyed to LAFCO who will then ultimately decide whether to approve the annexation. LAFCO will consider annexation at a public hearing if the project has been approved by the County Board of Supervisors, including approval of the General Plan amendment(s), Specific Plan, Conditional Use Permit, EIR, Developer Agreement, and Vesting Tentative Tract Map, and NCSD has demonstrated an ability to support the annexation. For further information on the project and annexation process, please refer to LAFCO's July 21, 2022, Study Session items available on our website.

Staff has provided the first round of notices and requests for information to affected agencies and interested individuals consistent with Government Code section 56658 and 56857. An additional notice will be sent out to those affected agencies and interested parties after County Board of Supervisor consideration. Staff will update the Commission as necessary as these applications are processed. The Commission may provide staff with any questions or comments on this item.