



COUNTY OF SAN BENITO
PLANNING & BUILDING INSPECTION SERVICES

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MEMO

To: Honorable Board of Supervisors

From: Art Henriques, Director of Planning *ah*

Date: June 30, 2009

Subject: Review of proposal by City of San Juan Bautista regarding Davidson Property Sphere of Influence and Proposed Resolution per Government Code Section 56425(b)

The City of San Juan Bautista initiated discussions with the County and then submitted a letter in September of 2008 and provided further details in May of 2009 proposing to amend their Sphere of Influence (SOI). Included in their request was a Justification of Proposal, Consent to Inclusion of the Property by the property owner and a final Initial Study. Staff began its review of the proposal and then due to the Department's workload contracted with Denise Duffy & Associates, Inc. (DD&A) to help expedite this matter. DD&A provided comments to the County of San Benito (County) on the proposal and the potential agreement pursuant to Government Code section 56425(b). The County completed its review of that report and provided a letter on February 23, 2009 to the City of San Juan Bautista. The County indicated its need to receive further information on the timing and steps of the subsequent approvals necessary for the SOI amendment and ultimate development of the property being clearly identified within the project description. That update has been submitted.

The proposed amendment to the City's Sphere of Influence (SOI) consists of 357 acres to be added to the City's SOI along its southerly border, referred to as the Davidson Property. The areas proposed to be added into the City's SOI are located within what the County understands as Assessor Parcel Numbers (APNs) 023-160-008 and 023-160-004. The property is currently located within unincorporated portions of the County of San Benito and these APNs are currently zoned Agricultural Productive and Agricultural Rangeland by the County of San Benito. The City of San Juan Bautista General Plan does not include this territory as it is not within the City's existing SOI. However, portions of the Davidson Property are currently within the City's SOI in the most northerly portion of APN 023-160-008 and a small segment of APN 023-160-004. The City's General Plan designates portions of the Davidson Property as Rangeland, Business Park/Commercial Recreation Flex, and Agriculture. As these properties are bifurcated the property owner and the City desires to correct this through an SOI amendment. Under the requirements the City and the County would attempt to come to an understanding about this proposed change. The attached resolution incorporates discussions between the two entities as contemplated by Government Code 56425(b). If approved, the Resolution authorizes the City to forward the agreement attached to the resolution to the Local Agency Formation Commission for the Commission's consideration, and the City would be able to continue its application with the San Benito County

Local Agency Formation Commission (LAFCO). If an agreement were not reached then the City could petition that LAFCO consider the proposed SOI change. If LAFCO were to approve the City's SOI amendment, the City intends to develop a Specific Plan for the area.

Recommendation

It is recommended that the Board:

1. Review the request by the City of San Juan Bautista to amend their Sphere of Influence and authorize the Chair to sign the attached Resolution on behalf of the Board of Supervisors so that the City may proceed with their application to LAFCO.

Discussion:

This follows some earlier discussions that had occurred between the City, the County and LAFCO. The City has also filed a request for the SOI adjustment with LAFCO. The City has not amended its Sphere since 1987. LAFCO approval in January of 1987 bifurcated several properties along the entire Sphere boundary line that San Juan Bautista hopes to resolve; this is the first request in that process. LAFCO is waiting for additional material from the City and also to see if the City and the County can come to agreement on the request or be unable to. Approval of the proposed SOI change by LAFCO would result in the ability of the property owner and the City to consider development of a Specific Plan for the area and at some time in the future to consider annexing the area into the City of San Juan Bautista. The County would want to participate and comment in the Specific Plan development and would have to be involved in any later possible annexation request. Any annexation would involve development of a tax share agreement per Government Code between the City and the County prior to finalization of the annexation process. Following for the Board's information is a brief review of the legal requirements for the County and for LAFCO in this area.

Local Agency Formation Commission (LAFCo)

The State Cortese-Knox Act, revised by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (AB 2838), grants the Local Agency Formation Commission (LAFCo) the power and duty to review proposals for changes of organization or reorganization, including adjustments and/or expansions to service district boundaries. Among the purposes of the LAFCo review are the organized and efficient extension of governmental services, protection of open space and prime agricultural lands, and consideration of adequate affordable housing. Moreover, as identified in Government Code Section 56375, LAFCo is required to "review and approve or disapprove, with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization." A proposed "change of organization" may include any of the following:

- A city incorporation;
- A district formation;
- An annexation to, or detachment from, a city or district;
- A disincorporation of a city;
- A district dissolution;
- A consolidation of cities or special districts;
- A merger or establishment of a subsidiary district.

As the basis for making decisions about organizational changes and annexations, LAFCo must adopt a sphere of influence for each local agency subject to LAFCo regulations. The area proposed for inclusion is currently outside of the City's existing SOI. Therefore, future development of the project site would require an amendment to the City's SOI. Subsequently, it is likely that the proposed area would be desired to be annexed into the City's boundary to allow specific development to be considered by the City. Prior to amending a City's SOI, LAFCo must consider and prepare a written determination that adequately addresses the following:

- The present and planned land uses in the area, including agricultural and open space lands;
- The present and probable need for public facilities and services in the area;
- The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide;
- The existence of any social or economic communities of interest in the area if the Commission determines they are relevant to the agency.

After a review of the application materials submitted to the County for the proposed amendment to the SOI, DD&A and County staff found a need for further clarification of the application materials, specifically the "justification of proposal" and the Final Initial Study prepared for the project to provide sufficient information in order for the County to make a well-informed determination regarding the proposed Sphere of Influence Application and Agreement. Staff then met with San Juan Bautista staff on May 6, 2009 and then with San Juan Bautista staff and representatives of the property owner on June 4, 2009 to get further clarification including the potential timing or anticipation of future uses of the property proposed to be added to the City's SOI. Without the inclusion of this analysis the potential impact(s) to surrounding properties cannot be adequately considered. Application materials for the proposed annexation indicate that a Specific Plan would be prepared after the SOI amendment is approved and the County and City General Plans have been updated to reflect the expansion of the City's SOI. However, the application materials previously did not indicate which amendments would be required, if any, within the City's or County's General Plan in order to be consistent with the proposed SOI amendment.

Clarification of the proposed SOI and potential future amendments was provided in a letter to the County from the City on May 15, 2009. The County had requested that the Project Description, potential impacts to Agricultural Resources, Land Use and Public Services be addressed in a revised Justification of Proposal and expanded environmental analysis or revised Initial Study. A summary of the City's response in its May 15 letter follows.

The City of San Juan Bautista noted in its May 15, 2009 letter that the intention of the property owner (and the City) is to concentrate commercial and/or visitor serving facilities that may be proposed on the Davidson property that is already within the existing SOI (i.e., the Ideal Cement site) and use the remaining area not currently in the City's Sphere (approximately 357 acres proposed to be added to the existing SOI) for very low density visitor serving uses that could potentially include scattered bungalows/cottages for overnight stays placed sensitively on the property so that the "visitor experience" maximized privacy, low building height and low impact. This approach would compliment the area of higher density development on the Davidson property within the existing City Sphere on the north end of the Davidson parcel (i.e., the Ideal Cement site). An outdoor performance and festival area (e.g., amphitheater) was discussed in the City's General Plan (pages 2-14). Such activities could enhance San Juan Bautista's role as regional center for arts and leisure and could provide secondary benefits to downtown businesses and the County in general. A meandering narrow road on the 357 acres could service these low-density cottage facilities and could make use of the existing dirt roads.

The City reports that a development standard for the existing Sphere area will reflect the General Plan and zoning designation – i.e., "Business Park/Commercial Recreation Flex". This General Plan land use designation allows master-planned campus employment area and uses, as well as visitor-serving commercial reaction activities. A suitable business park in the "Business Park/Commercial Recreation Flex" area could include high technology industry, research and development facilities, medial labs, bioscience, telecommunications firms, offices and similar and compatible facilities. Suitable commercial recreation uses include outdoor performing arts center, amphitheater, special event or festival site, hotel and conference facilities, golf courses, education facilities, museums, wineries and similar visitor-oriented uses. As stated in the General Plan (pages 2-22), sites with this designation should be developed with a park like character, with extensive exterior landscaping and substantial portions of the site retained as open space. A maximum Floor Area Ratio for this land use designation is 0.5.

As stated in the City's General Plan (pages 2-22), [specific] "development standards" for this area are to be determined through a Specific Plan to be adopted prior to any future development approval. The City noted that although development standards specific to the project site are not feasible at this time because a 'project' within the meaning of the law, is not proposed, the General Plan does provide adequate development standards for purposes of meeting the requirements of Government Code Section 56425(b).

It was also noted in the letter of May 15, 2009 that the City and the applicant have selected to proceed with the Sphere amendment separate from any potential future annexation application. They note that this is allowed by the Cortese-Knox Act and it is a reasonable approach because there is no application for an annexation and there will not be until a Specific Plan is prepared concurrent with a Specific Plan EIR and both are approved by the San Juan Bautista City Council. At this time there is no annexation application, Specific Plan or EIR.

Attachment: Proposed resolution authorizing a proposed agreement between the City of San Juan Bautista and the County of San Benito to be forwarded to the Local Agency Formation for consideration pursuant to Government Code 56425(b)

County of San Benito

Resolution No. 09-

RESOLUTION AUTHORIZING A PROPOSED AGREEMENT BETWEEN THE CITY OF SAN JUAN BAUTISTA AND THE COUNTY OF SAN BENITO TO BE FORWARDED TO THE LOCAL AGENCY FORMATION COMMISSION FOR CONSIDERATION PURSUANT TO GOVERNMENT CODE 56425(b)

WHEREAS, the Cortese/Knox/Hertzberg Act (“the Act”) requires the Local Agency Formation Commission (LAFCO) to consider adjustments to Spheres of Influence upon the request of local agencies; and

WHEREAS, before a local agency submits an application to the Commission, the Act encourages the City and County to reach agreement regarding the boundaries of the proposed sphere (Exhibit A of the Attached Agreement) and development principles (Exhibit B of the Attached Agreement) to ensure that development within the sphere occurs in an orderly and logical manner; and

WHEREAS, Government Code 56425(b) provides that “prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere.”

WHEREAS, staff from the City and County have reached a proposed agreement regarding the Sphere of Influence boundaries (Exhibit A of the Attached Agreement), and the development principles (Exhibit B of the Attached Agreement); and

WHEREAS, Government Code §56425(b) also indicates that if an agreement is reached between the City and the County, the City shall forward the agreement in writing to the commission, along with the application to update the sphere of influence.

WHEREAS, Government Code §56425(c) provides, in part, “if the commission’s final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing.

WHEREAS, LAFCO is required by Government Code 56425 (b) to give great weight to this agreement in making its final determination of the city’s Sphere of Influence.

NOW, THEREFORE, BE IT RESOLVED, by the San Benito County Board of Supervisors that the Board of Supervisors has considered the attached agreement and authorizes the City of San Juan Bautista to forward the attached agreement to the Local Agency Formation Commission for consideration pursuant to Government Code §56425.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO THIS 7th DAY OF JULY, 2009 BY THE FOLLOWING VOTE:

Ayes: Supervisor(s):
Noes: Supervisor(s):
Absent: Supervisor(s):
Abstain: Supervisor(s):

By: _____
Anthony Botelho, Chair

ATTEST:
Linda Churchill
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM:
San Benito County Counsel

By: _____

By: Barbara Thompson
Barbara Thompson, Acting County Counsel

Date: _____

Date: 7/1/09

**MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF SAN JUAN BAUTISTA AND
THE COUNTY OF SAN BENITO
REGARDING THE CITY'S SPHERE OF INFLUENCE**

This Agreement is entered into on this day of June, 2009, by and between the City of San Juan Bautista (hereafter "City") and the County of San Benito (hereafter "County").

WITNESSETH

WHEREAS, the Cortese/Knox/Hertzberg Act ("the Act") requires the Local Agency Formation Commission (LAFCO) to consider adjustments to Spheres of Influence upon the request of local agencies; and

WHEREAS, a Sphere of Influence is defined by Government Code 56076 as a plan for the probable physical boundaries and service area of a local agency, and pursuant to Government Code 56425 has been identified by the County of San Benito and the City of San Juan Bautista as contained in Exhibit A; and

WHEREAS, before a local agency submits an application to the Commission, the Act encourages the City and County to reach agreement regarding the boundaries (Exhibit A) and development principles (Exhibit B) to ensure that development within the sphere occurs in an orderly and logical manner; and

WHEREAS, the City's General Plan provides a clear policy base for growth and development in the Sphere of Influence areas and defines programs that the City will implement to ensure the preservation of the agricultural land, open space and the rural character of San Juan Bautista; and

WHEREAS, the City and County have reached an agreement regarding the Sphere of Influence boundaries (Exhibit A), and the development principles (Exhibit B); and

WHEREAS, LAFCO is required by Government Code 56425 (b) to give great weight to this agreement in making its final determination of the city's Sphere of Influence.

NOW, THEREFORE, the parties agree as follows:

1. The Sphere of Influence boundary contained in Exhibit A provides for the orderly and logical growth for the City of San Juan Bautista.
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2. The development principles contained in Exhibit B are intended to provide the City and the County with the basis for developing specific land use policies and standards for the areas in the City of San Juan Bautista's Sphere of Influence and do not supersede or limit the planning or environmental review process of either jurisdiction.

Mayor,
City of San Juan Bautista

Chairman, Board of Supervisors
County of San Benito

APPROVED AS TO FORM AND LEGAL EFFECT:

City Counsel

County Counsel

Dated: _____

Dated: _____

ATTEST:


City Clerk

~~County Clerk-Recorder~~ Clerk of the Board
of Supervisors

Dated: _____

Dated: _____

EXHIBIT A
SPHERE OF INFLUENCE BOUNDARY MAP

San Benito County

 Davidson Property
 San Juan Bautista City Limit
 San Juan Bautista SOI

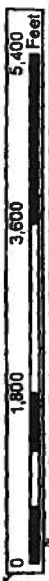
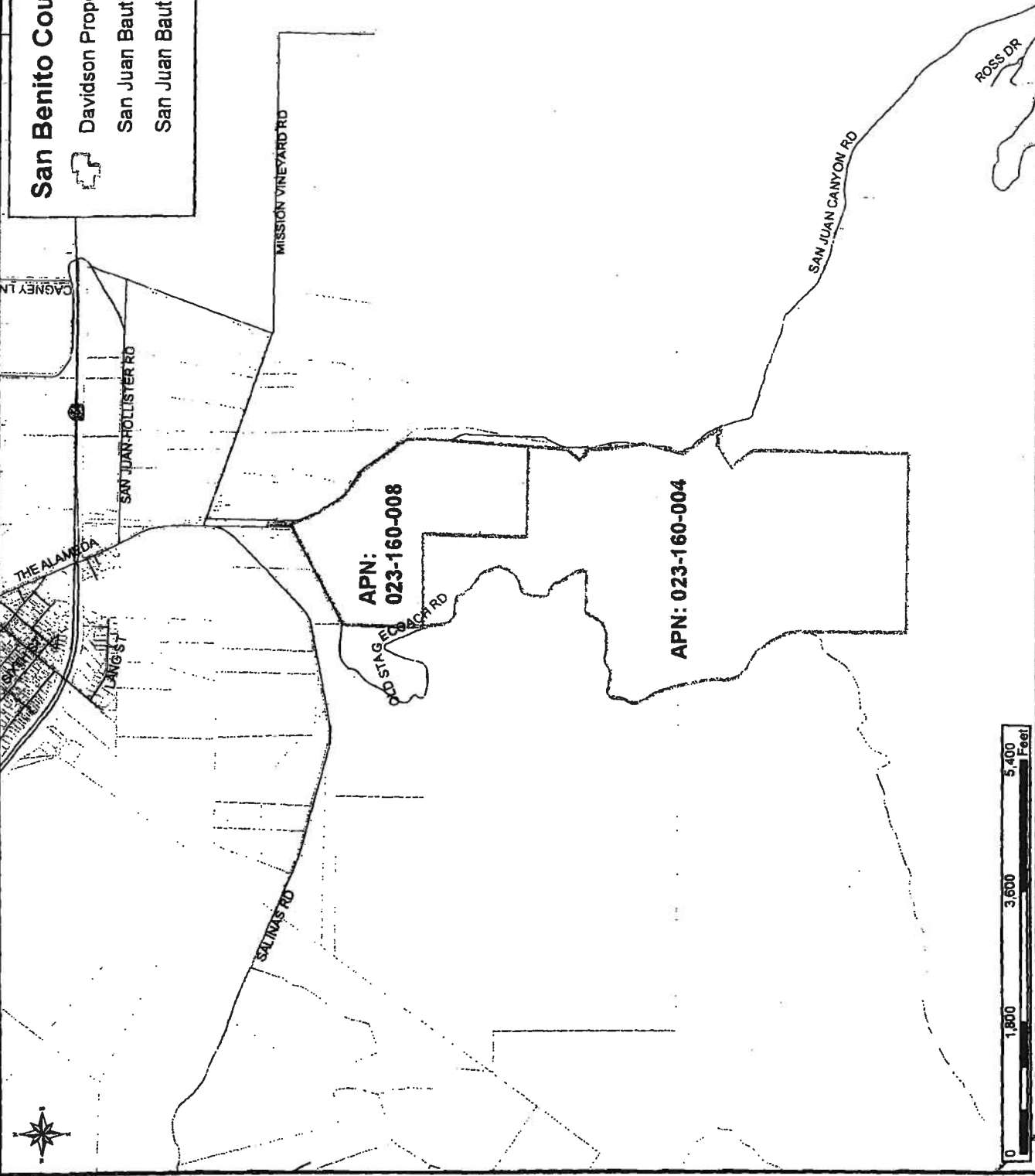


EXHIBIT B
DEVELOPMENT PRINCIPLES

The following development principles are agreed to and shall be used by the City of San Juan Bautista and the County to guide development within the proposed Sphere of Influence as described in Exhibit A and to update their General Plans.

1. **Intent.** It is the intent of the County and the City to work cooperatively towards the goal of developing the agreed upon Sphere of Influence (as shown in Exhibit A) in an orderly and logical manner consistent with the Cortese/Knox/Hertzberg Act, the City and County General Plans, the California Environmental Quality Act and any other applicable laws and regulations.
2. **Interagency Cooperation.** The City and the County shall work cooperatively on planning for land use, circulation connections, agricultural land and open space preservation by referring discretionary development projects and General Plan Amendments within each agency's jurisdiction to the other for review and comment prior to action on a development proposal. This provision shall not supersede or terminate other methods of commenting or providing feedback regarding a proposal or project.
3. **County Ordinances and General Plan.** Prior to annexation to the City, any development proposed for the affected area shall be processed in accordance with the County's General Plan and zoning ordinance.
4. **City Processing.** The City intends to complete pre-zoning, pre-annexation, and any necessary entitlement activities prior to or concurrent with an annexation proposal being processed by LAFCO.