



*San Benito County Local Agency Formation Commission  
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September 14, 2009

To: Steve Julian, City Manager  
San Juan Bautista, CA

From: Judi  Johnson, EO  
San Benito County Ca LAFCo

RE: Notice of Incomplete Application: Amendment of the City of San Juan Bautista's Sphere of Influence (Davidson Property), Application No. SOI 2008-01

I received additional information and documents regarding San Juan Bautista's application for amendment of its Sphere of Influence on August 17, 2009. As you know, I am a half-time employee, so although the additional materials indicate hand-delivery on August 12, 2009, they were apparently hand-delivered to the San Benito County Planning Department outside of my normal office hours, and therefore, they were not formally received by LAFCo until August 17<sup>th</sup>, the next time I was in the office during regular office hours. Nevertheless, I have expedited my review of this most recent submittal, as well as the original application and additional information and documents submitted after the original application and prior to August 17, 2009.

Following my review, I have determined that the application is still incomplete. Enclosed, you will find my list of the areas that still require further augmentation or clarification, in order to fulfill statutory requirements and San Benito LAFCo policies, to assist me in making a recommendation to the Commission, and/or to assist the Commission in making its decision. Please note that one area of clarification requested is whether the request is limited to amendment of the Sphere of Influence, or if it also includes a request for reorganization. Although I believe the application is limited to amendment of the Sphere of Influence, there is some ambiguity in application materials that needs to be clarified. If my assumption is incorrect and the request does include a request for reorganization, the application is incomplete in other regards and I will provide you with an amended list, adding additional areas of incompleteness to those identified in the enclosed list.

A Sphere of Influence is defined as a "plan for the probable physical boundary and service area of a local government agency, as determined by the commission." [Government Code §56076] A Sphere of Influence is primarily a planning tool that will serve as a master plan for the future organization of local government within the county by providing long-range guidelines for the efficient provision of services to the public. An application to amend a Sphere of Influence must state the nature of the proposed amendment, the reasons for the request, include a map of the proposed amendment, and contain any additional data or information as may be required by the executive officer. (Government Code §56428(a)) Prior to submitting an application to amend its Sphere of Influence, city representatives shall meet and confer with county representatives regarding the proposed new boundaries of the Sphere, and regarding 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. (Government Code §56425(b))

In determining whether to amend San Juan Bautista's Sphere of Influence, the Commission is required to consider and make a written statement of determinations with respect to each of the following:

- 1) the present and planned land uses in the area, including agricultural and open space lands;
- 2) the present and probable need for public facilities and services in the area;
- 3) the present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide; and
- 4) the existence of any social or economic communities of interest in the area if the commission determines they are relevant to the agency. [Government Code §56425(e)]

Additionally, the Commission will need to make written determinations on the following factors relating to San Juan Bautista's Municipal Services Review:

- 1) growth and population projections for the affected area;
- 2) present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies;
- 3) San Juan Bautista's financial ability to provide services;
- 4) status of and opportunities for shared facilities;
- 5) accountability of community service needs, including governmental structure and operating efficiencies; and
- 6) any other matter related to effective or efficient service delivery, as required by commission policy. (Government Code §56430). In this case, LAFCo Policy section 2.8.3, adopted in LAFCo Resolution No. 95-03, states that LAFCo will deny applications (for Sphere of Influence amendments) absent a clear, quantifiable mechanism to provide adequate services.

Please provide modifications to San Juan Bautista's application materials and/or additional information requested, so that I may prepare a report and recommendation for consideration by the Commissioners.

If there are questions, please contact me directly. I look forward to continuing work on this request.

*copies to: LAFCo Commissioners, San Juan Bautista City Planner; DCCs Chaffee and Murphy*

*NOTE: should others request copies of this letter and supporting data, those requests will be honored*

The application for amendment of the Sphere of Influence (SOI) for the City of San Juan Bautista (Application No. SOI 2008-01) has been reviewed. The following are identified concerns of that review. **These identified concerns cause the application to be deemed**

SUBJECT	DOCUMENT/PAGE #	ISSUE	LEGAL REFERENCE	MODIFICATION NEEDED
<p><u>General Application Requirement of the Nature of the Proposed Amendment</u></p>	<p>Cover letter (p. 1) and property owner's signed consent to inclusion form; San Juan Bautista City Council Resolution 2008-13, p. 3</p>	<p>Needs clarification of LAFCo action requested: There is inconsistency/need for clarification between Matthew Sundt's 5/19/08 cover letter, page 1 of the Application form, and various other portions of the application materials, and the signed consent form from Charles Davidson and City Council Resolution 2008-13, p. 3. The City's letter, application form and the bulk of the application materials refers to an amendment of the Sphere of Influence; the consent form says: ...proposed annexation/detachment/reorganization; City Council Resolution directs City staff to prepare all such documents as may be required to facilitate this reorganization...</p>	<p>CA Gov. Code §56425, 56428 &amp; 56377(b)</p>	<p>Clarify specific LAFCo action requested.</p>
<p><u>General Application Requirement of the Nature of the Proposed Amendment</u></p>	<p>Application form, p. 2, ¶3; Justification of Proposal section, pp. 1-3, ¶¶1(d), 1(h), &amp; 2(a); San Juan Bautista City Council Resolution 2008-13, p. 1; property owner's signed consent to inclusion form; numerous other references throughout the application materials.</p>	<p>Needs clarification of parcels and amounts of acreage included in the application. There is confusion/ambiguity of acreage(s) throughout document; in some locations, specific acreages are assigned to specific parcels, which then conflicts with the specific acreages identified for the same parcels in other application materials; in neither case, do those specific acreages assigned add up to anything near the 'approximate' numbers of acres reference in other portions of the application materials; it appears APN # 023-160-008 is not to be considered, yet it is identified as one of the parcels subject to the application in the consent form signed by Mr. Davidson.</p>	<p>CA Gov. Code § 56428(a)</p>	<p>Specify in each instance which parcels/# of acres currently are within the SOI, which parcels/# of acres currently are not within the SOI, and which parcels/# of acres are intended to be added into the SOI.</p>
<p><u>The Present And Planned Land Uses In The Area, Including Agricultural And Open Space Lands</u></p>	<p>Application Form, p. 1, #2a; Justification of Proposal section, pp. 3-5, ¶12</p>	<p>Acreage of each of the APNs not listed; need a statement of current and proposed uses for each APN, including agricultural and open space lands. The response indicates there are no proposed uses of the property, yet throughout the application materials, likely plans for recreational and visitor uses are described, as well as the City's planned General Plan and Zoning designations. Although detailed specific plans for the affected property may not be certain at this time, there appears to be sufficient understanding of the proposed uses to provide greater detail in this response.</p>	<p>CA Gov. Code § 56425(a) &amp; (e)(1)</p>	<p>Need for specific acreage of each parcel; need to provide more detailed description of the planned land uses for each APN</p>

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<p><b>The Present And Probable Need For Public Facilities And Services In The Area</b></p>	<p>Application Form, p. 1, #2b, Justification of Proposal section, pp. 7-13, ¶7(d)</p>	<p>Need a more detailed statement of the present and probable need for public facilities and services in the area. The response specifies a cursory statement that the probable public facilities and services following a change in the land use would include water, sewer, police, fire and solid waste, without identifying specific facilities or services likely to be needed or provided, accompanied by dated technical reports (1957 and 1994) regarding the City's water system. This analysis of probable need for public facilities and services in the area is deferred until an annexation request is filed with the LAFCo. Although detailed specific plans for the affected property may not be certain at this time, in various portions of the application materials, recreational and visitor uses are described as anticipated uses. There appears to be sufficient understanding of the proposed uses to provide some sense of the specific types and levels of the probable need for public facilities and services in greater detail than the cursory statements provided.</p>	<p>CA Gov. Code §56425(e)(2)</p>	<p>Describe the present and probable need for public facilities and services in the area in greater detail, including the plan for services (10 years*; incremental if necessary) *there is ambiguity in State law / guidelines regarding years for PFS – some instances say 10, others 20; LAFCo asks the minimum</p>
<p><b>The Present Capacity Of Public Facilities And Adequacy Of Public Services That The Agency Provides Or Is Authorized To Provide</b></p>	<p>Application Form, p. 1, #2c, Justification of Proposal section, pp. 7-13, ¶7(d)</p>	<p>Need a more detailed statement of present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide, including updated information on all services (present and future). The response specifies a cursory statement capacity of public facilities and adequacy of public facilities, accompanied by dated technical reports (1957 and 1994) regarding the City's water system. The analysis is deferred until an annexation request is filed with the LAFCo. Although detailed specific plans for the affected property may not be certain at this time, in various portions of the application materials, recreational and visitor uses are described as anticipated uses. There appears to be sufficient understanding of the proposed uses to enable the City to provide sufficiently detailed information needed for a Municipal Services Review (MSR) update, e.g., further information regarding the COP and its repayment terms,</p>	<p>CA Gov. Code §56425(e)(3); also, Gov. Code §56430(a)(2) &amp; SBC LAFCo Policy §2.8.3, adopted in LAFCo Resolution No. 95-03 (further discussed below)</p>	<p>Describe the present capacity of public facilities and adequacy of public services provided or authorized to be provided, including the plan for services (10 years*; incremental if necessary) *there is ambiguity in State law / guidelines regarding years for PFS – some instances say 10, others 20; LAFCo asks the minimum; regarding the City's three water wells, identified on p. 8 (Justification section),</p>

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		<p>compliance with Prop. 218 requirements, etc.; need to clarify and provide more detailed information regarding the City's ability to provide services, including services presently available to the affected properties &amp; a projection of services to be provided; also need to provide a clear, quantifiable mechanism to provide adequate services, per SBC LAFCo Policy (see below).</p>		<p>please submit Engineer's assurance of capability of all three wells.</p>
<p><b>Growth And Population Projections For The Affected Area</b></p>	<p><u>Application form, Justification of Proposal section, pp. 3-5, ¶¶1(i) &amp; 2(d), (g) &amp; (j)</u></p>	<p>Needs information regarding growth and population projections for the affected area for a Municipal Services Review (MSR) update. Although detailed specific plans for the affected property may not be certain at this time, in various portions of the application materials, recreational and visitor uses are described as anticipated uses. There appears to be sufficient understanding of the proposed uses to enable the City to provide sufficiently detailed information regarding growth and population projections.</p>	<p>CA Gov. Code §56430(a)(1)</p>	<p>Identify growth and population projections in the area and describe methodology for determining it.</p>
<p><b>Present And Planned Capacity Of Public Facilities And Adequacy Of Public Services, Including Infrastructure Needs Or Deficiencies</b></p>	<p><u>Application Form, p. 1, #2b&amp;c; Justification of Proposal section, pp. 7-13, ¶7</u></p>	<p>Needs information regarding present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies for the affected area for a Municipal Services Review (MSR) update. The response specifies a cursory statement that the probable public facilities and services following a change in the land use would include water, sewer, police, fire and solid waste, without analyzing present and planned capacity of public facilities or adequacy of public services, infrastructure needs or deficiencies, accompanied by dated technical reports (1957 and 1994) regarding the City's water system. The analysis of present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies is deferred until an annexation request is filed with the LAFCo. Although detailed specific plans for the affected property may not be certain at this time, in various portions of the application materials, recreational and visitor uses are described as anticipated uses. There appears to be sufficient understanding of the proposed uses to enable the City to provide sufficiently detailed information needed for</p>	<p>CA Gov. Code §56430(a)(2) also, SBC LAFCo Policy §2.8.3, adopted in LAFCo Resolution No. 95-03 (further discussed below)</p>	<p>Describe the present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, in greater detail, including the plan for services (10 years)*; incremental if necessary) *there is ambiguity in State law / guidelines regarding years for PFS – some instances say 10, others 20; LAFCo asks the minimum</p>

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<p><b>San Juan Bautista's Financial Ability To Provide Services</b></p>	<p>Application Form, <u>Justification of Proposal</u> section, pp. 7-13, ¶7</p>	<p>a Municipal Services Review (MSR) update, e.g., further information regarding the COP and its repayment terms, compliance with Prop. 218 requirements, etc.; need to clarify and provide more detailed information regarding the City's present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies; also need to provide a clear, quantifiable mechanism to provide adequate services, per SBC LAFCo Policy (see below).</p> <p>Needs information regarding the City's financial ability to provide services, for a Municipal Services Review (MSR) update, e.g., further information regarding the COP and its repayment terms, compliance with Prop. 218 requirements, etc.. The response contains cursory statements that the property owner will be required to fund infrastructure improvements, but the fiscal analysis is deferred until an annexation request is filed with the LAFCo. Although detailed specific plans for the affected property may not be certain at this time, in various portions of the application materials, recreational and visitor uses are described as anticipated uses. There appears to be sufficient understanding of the proposed uses to enable the City to anticipate public facilities, infrastructure, services, etc. likely to be required by the affected property, so that the City should be able to analyze its fiscal ability to provide the likely needed services.</p>	<p>CA Gov. Code §56430(a)(3)</p>	<p>Describe the City's financial ability to provide services, including further information regarding the COP and its repayment terms, compliance with Prop. 218 requirements, etc..</p>
<p><b>Status Of And Opportunities For Shared Facilities</b> <b>Accountability Of Community Service Needs, Including Governmental Structure And Operating Efficiencies</b></p>	<p>Application Form, <u>Justification of Proposal</u> section, pp. 7-13, ¶7 Application Form, <u>Justification of Proposal</u> section, pp. 7-13, ¶7</p>	<p>Needs information regarding the status of and opportunities for shared facilities, for a Municipal Services Review (MSR) update.</p> <p>Needs information regarding the accountability of community service needs, including governmental structure and operating efficiencies, for a Municipal Services Review (MSR) update.</p>	<p>CA Gov. Code §56430(a)(4) CA Gov. Code §56430(a)(5)</p>	<p>Describe the status of an opportunities for shared facilities. Provide information regarding the accountability of community service needs, including governmental structure and operating efficiencies.</p>

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<p><b>Any Other Matter Related To Effective Or Efficient Service Delivery, As Required By Commission Policy: Identification Of A Clear, Quantifiable Mechanism To Provide Adequate Services</b></p>	<p>Application Form, <u>Justification of Proposal</u> section, pp. 7-13, ¶7</p>	<p>Needs information regarding a clear, quantifiable mechanism to provide adequate services. The application and related materials indicates there are no proposed uses of the property, provides vague, cursory statements of likely needed facilities and services, and defers providing required information and studies to a later date, when the City intends to file a request for annexation with LAFCo. However, likely plans for recreational and visitor uses are described throughout the application materials, and the City's planned General Plan and Zoning designations are indicated. As indicated above, although detailed specific plans for the affected property may not be certain at this time, there appears to be sufficient understanding of the proposed uses to provide greater detail. Furthermore, LAFCo Policy §2.8.3 would require the LAFCo to deny the City's application to amend its sphere of influence without the identification of a clear, quantifiable mechanism to provide adequate services.</p>	<p>CA Gov. Code §56430(a)(6); LAFCo Policy §2.8.3, adopted in LAFCo Resolution No. 95-03</p>	<p>Provide a clear, quantifiable mechanism to provide adequate services.</p>
<p><b><u>CEQA Compliance</u></b></p>	<p>Resolution 2008-XX <u>Exhibit B (Negative Declaration)</u></p>			<p>Need to provide Resolution number for clarity and more expeditious follow-up; need substantiation of Fish and Wildlife study from County Planning</p>
<p><b><u>CEQA Compliance</u></b></p>	<p><u>Final Initial Study</u> p. 2</p>	<p>Data not clear or missing re: San Juan Creek flows</p>		<p>Obtain and include data from US Fish Wildlife; and CA Department of Fish and Game</p>
	<p><u>Final Initial Study</u> Geology/soils section p. 8</p>			<p>Report: (1) location of earthquake zones (2) any reportable/known earthquake action within last 5 years (3) concern: continued reference to 'future</p>

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				annexation' w/o study which will indicate ability of City to provide services for 20 years
<u>CEQA Compliance</u>	<u>Final Initial Study</u> p. 10	9 b: Unclear		Please explain
<u>CEQA Compliance</u>	<u>Final Initial Study</u> p. 11	policy 6-2		Please provide data regarding current status of Muckelemi Street development
<u>CEQA Compliance</u>	<u>Final Initial Study</u> p. 11		CA OPR: 'Environmental & Social Justice' guidelines	need information re: current number of vacant, available for development properties within the City limit. City Urban Area; City Service Area
<u>CEQA Compliance</u>	<u>Final Initial Study</u> p. 11	policy L-3	CA OPR: 'Environmental & Social Justice' guidelines	state amount of acreage proposed for Open Space
<u>CEQA Compliance</u>	<u>Final Initial Study</u> p. 12	policy L-5: need for clarity		Please provide examples
<u>CEQA Compliance</u>	<u>Final Initial Study</u> p. 13	policy L-34; information provided is not clear  policy L-35: need for clarity		Please clarify and explain  Please explain effect of proposed realignment of SR 156
<b>SOI maps</b>				need County and City Zoning and General Plan designations
Additional Conclusions/Concerns highlighted from document review and public statements of record		<ol style="list-style-type: none"> <li>1. use plan for frequently mentioned annexation</li> <li>2. lack of identified resources to meet SB 375</li> <li>3. City officials and local residents opposition to upgrades to SR 156</li> <li>4. Discourage duplication of services by two or more local government agencies; need for investigation of potential ability to provide 'shared services', e.g.:</li> </ol>		<b>In view of several references to annexation and various proposed -- but not identified land uses -- it is most appropriate for a full EIR to be prepared (by an independent planner);</b>

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<p><u>Unresolved:</u></p>		<p>5. use plan for frequently mentioned annexation</p> <p>6. lack of identified resources to meet SB 375</p> <p>7. City officials and local residents opposition to upgrades to SR 156</p> <p>8. Discourage duplication of services by two or more local government agencies: need for investigation of potential ability to provide 'shared services', e.g.:</p> <ul style="list-style-type: none"> <li>o utilization of City of Hollister's Waste Water plant</li> <li>o use of area grey water for lawn irrigation to benefit City residents</li> </ul> <p>Unauthorized outside jurisdictional provision of municipal services</p>		<p>approved by LAFCo staff &amp; paid by the property owner) with proper CEQA documentation and with emphasis on the cement plant/quarry site(s) [which have been referenced in the document as being areas for visitor-serving uses (page 2: application) to meet <u>CEQA</u> requirements; and calm concerns of City residents</p>