



October 24, 2013

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Ron Tippetts
OC Public Works/OC Planning Services
300 N. Flower Street
Santa Ana, CA 92702-4048

SUBJECT: Notice of Intent to Prepare Draft Environmental Impact Report/Notice of Scoping Meeting

Dear Mr. Tippetts:

Thank you for the opportunity to comment on the County's Notice of Preparation (NOP) for a Draft Environmental Impact Report (Draft EIR) regarding the proposed construction of 52 single-family residences in unincorporated Orange County, known as *The Preserve at San Juan* project. OC LAFCO initially submitted a response letter, dated August 27, 2008, regarding the proposed project. Based on the information contained within the Notice of Preparation and our initial concerns, Orange County LAFCO's interest in this project as it relates to CEQA is two-fold:

1. OC LAFCO is a responsible agency under CEQA for any future annexation of *The Preserve at San Juan* to any municipality or special district in Orange County.
2. The proposed development of *The Preserve at San Juan* in unincorporated Orange County without a definite plan and process in place for the long-term delivery of reliable and efficient public services to future residents raises substantive issues and should be addressed in the environmental report.

OC LAFCO AS RESPONSIBLE AGENCY

The Orange County Local Agency Formation Commission (OC LAFCO) is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("Act," Govt. Code Section 56000 *et seq.*). Under the Act, LAFCO is required to make determinations regarding a proposal for changes of organization or reorganization (Govt. Code Section 56880). In making these determinations, the Act also prescribes the factors (Govt. Code Section 56668) that LAFCO must consider in addition to any policies adopted by LAFCO.

Pursuant to Section 15086 of the California Environmental Quality Act (CEQA) Guidelines, LAFCO is responsible for reviewing and providing comments on this Notice of Preparation (NOP) and the subsequent Environmental Impact Report (EIR).

OC LAFCO has reviewed the NOP and provides the comments contained within this letter as the County begins preparation of the EIR.

OC LAFCO COMMENTS

In order for the EIR to be used by a LAFCO for future changes of organization, the EIR should include substantive discussion of the LAFCO annexation process and address the factors as identified in Government Code Section 56668. These factors include, but are not limited to, the following considerations:

- 1. As a responsible agency, LAFCO must independently review and consider the adequacy of the lead agency's environmental documents prior to approving any changes of organization to any portion of the proposed project. (State CEQA Guidelines Section 15096.)**
- 2. The "Project Description" must be clearly articulated and must include a description of the proposed annexation of the project area to the Elsinore Valley Municipal Water District and to any other potential public agency as discussed below.**
 - The Final Environmental Impact Report must be adequate for the purposes of annexation and should contain detailed description of the LAFCO annexation process.
 - The "Project Description" in the Final EIR must clearly identify the potential for the annexation of the project areas as part of the "whole of the project" which would require LAFCO review and approval. (See State CEQA Guidelines Section 15124(d)(1)(B); see also State CEQA Guidelines Section 15378(a) [defining the term "project" as including the whole of an action]; see also State CEQA Guidelines Section 15378(c) [explaining that the word "project" includes "activity [that] is being approved and which may be subject to several discretionary approvals by governmental agencies"].) The Final EIR must also discuss the timing of annexation relative to timing of the proposed development plans.
- 3. Discussion of "Discretionary Approvals" in NOP must be comprehensive and include LAFCO as an identified agency for discretionary approvals for purposes of future annexation and responsible agency for the purposes of CEQA.**

- The NOP presently contemplates the annexation of approximately 200 acres of territory to the Elsinore Valley Municipal Water District, however omits the Riverside County LAFCO on the list of approving agencies.
 - The EIR should include Riverside County LAFCO and/or Orange County LAFCO as the agency(ies) for discretionary approvals for any annexations involving cities or special districts in their respective county jurisdiction.
- 4. Section 14 (Public Services) should include discussion of all services required by the development and the timing of those services to the project area.**
- Government Code section 56653 requires that each application for a change of organization include a “plan for providing services within the affected territory.” Among other things, the plan for services must indicate, “when those services can feasibly be extended to the affected territory” (Gov’t Code 56653(b)(3)). Although the focus of Subsection 56653(b)(3) is on the timing of the initiation of services, the intent of this subsection, especially considered with the remaining requirements of Section 56653, is on continuous, reliable services to the affected area. The Final EIR’s discussion of impacts in the area of public services must be made with reference to and consistent with the plan for services submitted under the Act, in particular, Government Code Section 56668, which contain the criteria for approval of the annexation of the project area.
 - The NOP presently contemplates the provision of fire suppression and emergency response by the Orange County Fire Authority. Section 14 (Public Services) should be revised to appropriately address and reconsider the assumption that the closest OCFA station is the Trabuco Fire Station 18 on 30942 Trabuco Canyon Road in Trabuco Canyon. Currently, the 241 Toll Road does not extend beyond Oso Parkway and would limit fire and emergency responses from Station 18 to *The Preserve at San Juan*. OCFA Station #7 located at 31865 Del Obispo, San Juan Capistrano is within close proximity to Ortega Highway and may provide a better alternative.
 - The EIR should also analyze the potential for Riverside County Fire Department to provide services to the community.
 - OC LAFCO is requesting that the Draft EIR be distributed to the Riverside County Fire Department for review and comment.
 - Section 14 (Public Services) should also be revised to include the specific Orange County Sheriff’s Department substation expected to service the residents of *The Preserve at San Juan*.

5. Section 17 (Utilities & Service Systems) should include discussion of all services required by the development and the timing of those services to the project area.

- The NOP presently contemplates the use of onsite septic systems. The EIR should also analyze the alternative option of annexation to a local sewer provider.
- The scope of EIR discussion should be expanded to include the identification of individual agencies/districts in regards to the provision of related services. Special districts under LAFCO jurisdiction are not limited to specific counties and can cross over to other counties when the provision of services from that agency would be the most effective and efficient method of provided said services.

6. The Draft EIR should also include a “No Annexation/Boundary Adjustment Alternative” and adequately address the following significant impacts under that alternative:

- The creation of an isolated, developed, and inhabited unincorporated County island consisting of 52 single-family residential lots.
- Levels of services to *The Preserve at San Juan* residents for:
 - i. Police protection;
 - ii. Fire protection;
 - iii. Traffic enforcement and accident investigation;
 - iv. Roads (maintenance, street lighting, landscaping, sweeping);
 - v. Code enforcement;
 - vi. Sewer and solid waste collection services; and
 - vii. Local representation and accountability.
- The short-term and long-term fiscal impacts to the County of Orange as well as the County of Riverside for assuming responsibility of and service costs for providing the following municipal services to a 52 unit residential project in unincorporated County territory:
 - i. Police protection;
 - ii. Fire protection;
 - iii. Traffic enforcement and accident investigation;
 - iv. Roads (maintenance, street lighting, landscaping, sweeping);
 - v. Code enforcement;
 - vi. Sewer and solid waste collection services; and
 - vii. Local representation and accountability.

- The potential cumulative impacts related to increased development of the surrounding area which could occur as a result of this project.

Thank you for this opportunity to respond to the Notice of Preparation. Please send one copy of the Draft EIR to me via email or by mail at 12 Civic Center Plaza, Room 235, Santa Ana, CA 92701. If you have any questions or concerns regarding this response, please contact me either by email at cemery@oclafco.org or by phone at (714) 834-2556.

Sincerely,

Carolyn Emery
Executive Officer

