

October 14, 2020

**Via E-mail**

Brent Slama  
Community and Economic Development Director  
City of Soledad  
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Re: Proposed Miramonte Specific Plan Area Annexation

Dear Mr. Slama:

On behalf of LandWatch Monterey County, I write to request access to certain public records related to the proposed Miramonte Specific Plan Area Annexation (the “Project”) pursuant to the California Public Records Act, Government Code Section 6250 et seq. Specific document requests are in italics in the sections below.

LandWatch’s request follows our review of the March 31, 2020 email to Soledad from Darren McBain of LAFCO regarding the completion and evaluation of the annexation application. LandWatch urges the City to respond carefully and completely in completing the application because of the significant issues it raises.

Please provide access to the requested documents in electronic format where possible. If electronic versions are not available, please estimate the number of pages of responsive paper records for each response and the cost to produce copies so that LandWatch may determine whether to request copies or to review them at your site.

LandWatch reminds you that an agency is obligated to assist the public to “make a focused and effective request that reasonably describes an identifiable record or records.” (Gov. Code, § 6253.1.) Accordingly, please contact me if the requests set out below do not reasonably describe identifiable records.

For each request, please note that requests for records includes, but is not limited to, correspondence, reports, memoranda, or emails, including emails with the applicant.

**1. Annexation application.**

*Please provide the annexation application submitted to LAFCO in March 2020.*

## **2. Memorandum of Agreement.**

The Specific Plan Appendix B includes a March 15, 2016 draft of a proposed Memorandum of Agreement between the County of Monterey and the City of Soledad (“MOA”). *If the MOA has been executed, please provide a copy.*

## **3. Agricultural mitigation and buffer proposal.**

LAFCO asked that you provide a specific proposal to mitigate the loss of agricultural land (“agricultural mitigation”) and to provide a buffer between new development and agricultural operations (“buffer plan”). We note that the Specific Plan proposed several methods, including the four methods outlined in Section 6 of the Memorandum of Agreement between the County of Monterey and the City of Soledad.

*Please provide the adopted Agricultural Land Conservation Program mandated by the MOA, if such a program has been adopted. (MOA, § 6.2.) That program was to include “securing the dedication of agricultural land easements, purchase of banked mitigation credits and/or levying a mitigation fee that could be used to purchase easements on lands outside of the City’s General Plan Urban Growth Boundary.” (Id.)*

We note that both LAFCO practice and the MOA between the City and the County call for a 200-foot agricultural buffer. (MOA, § 2.1(f).)

*Please provide all records related to the specific agricultural mitigation and buffer plan for this Project.*

## **4. Plan for services.**

LAFCO asked that you provide a plan for services as required by Government Code Section 56653(b). *Please provide all records related to your response to this request.*

The Specific Plan repeatedly references funding needed improvements via a “Community Facilities District [“CFD”] or other similar source.” The Specific Plan also references a Benefit Assessment District and development impact fees. LAFCO points out that the feasibility of the project appears to rely on the establishment of a CFD and/or the success of the Project’s commercial component. LAFCO notes that it is unclear if the CFD or the cost of necessary public improvements have been quantified.

*Please provide all records related to the financing for the plan for services, including records that quantify the cost of improvements such as roads, sewer, water facilities or other conditions imposed by the City, and that identify the expected sources of funds to meet these costs.*

## **5. Phasing and absorption of new residential units.**

It is not clear that annexation in the near future could be found currently consistent with the either City or LAFCO policy regarding the timing of annexation. City General Plan Policy L-2 provides that further annexations to the City may occur when a substantial portion of the development capacity within the existing City limits has been developed. LAFCO indicates that annexation is only appropriate for land that has an expected buildout of five to seven years.

LAFCO notes that the application contemplates buildout within ten to twenty years in multiple phases, but does not provide any data or analysis to support this projection, such as annual construction and absorption of new residential units.

The 2019 Housing Element Table 33 indicates that 205 residential units were constructed in the four years between January 2014 and December 2018, and that all of these units were in the Above Moderate-Income category. This represents a market absorption rate of about 51 units annually. Table 34 of the 2019 Housing Element indicates that there is available vacant land in the existing City to support development of 916 residential units as follows:

- 456 units of high-density sites suitable for extremely low, very low, low, and moderate-income housing
- 56 units of medium density sites suitable for moderate and above moderate-income housing
- 383 units of low-density sites suitable for moderate and above moderate-income housing
- 21 units of mixed-use sites suitable for all types of housing

Thus, the existing vacant land in the City could support 18 years of existing demand for housing without annexation of the Miramonte Specific Plan area. Table 35 of the Housing Element indicates that these 916 sites would support all of the City's Regional Housing Needs Allocation with a surplus of 805 sites. In short, annexation of the Miramonte Specific Plan area is inconsistent with both City policy and LAFCO policy that requires buildout of the existing City area before annexation.

*Please provide all records that include data or analysis to support the Specific Plan projection that buildout would occur within ten to twenty years.*

## **6. Phasing and integration of affordable housing**

There appears to be substantial tension if not outright conflict between policies governing concurrent development of affordable housing, integration of affordable housing, and the Project's phasing plan.

Specific Plan Policy LU-C requires that affordable housing be constructed concurrently with market rate housing.

Program 2.1.1 of the City's 2009 Housing Element requires a 20 unit per acre minimum density for low or very low-income housing and a 12 units per acre minimum density for moderate income housing.

Specific Plan Table 2-1 indicates that affordable housing, senior housing, and agricultural worker housing will be provided in areas zoned MMSP-R-V, not in areas zoned MMSP-R-1, which are zoned for low density residential use. Design guidelines for MMSP-R-1 allow only 6 to 10 units per acre. While the zoning does permit duets, duplexes, triplexes, and fourplexes, it will not permit the 20 units per acre density that is required for low or very low-income housing or the 12 units per acre required for moderate-income housing to comply with Program 2.1.1 of the City's 2009 Housing Element.

As noted above, LAFCO and City policy restrict annexation to land needed for near-term development, which LAFCO typically interprets as a 5 to 7-year period. The Specific Plan provides for phased development, beginning with areas designated 1, 2, 4, and 10 on the Zoning Map. These are the southernmost areas, contiguous with the existing City. All of these areas are designated MMSP-R-1. Accordingly, none of them will provide an opportunity to comply with Program 2.1.1 of the City's 2009 Housing Element because the density in the initial phase of development is limited to at most 10 units per acre. Furthermore, it is not clear that development of the areas designated 1, 2, 4, and 10 could comply with Program 2.1.2 of the City's 2009 Housing Element, which requires 30 percent of the units to be available for rentals.

According to the Specific Plan's Figure 2-3, Conceptual Lotting Program, areas 1, 2, 4, and 10 will provide 600+ single family residential lots. At the City's current market absorption rate of 51 units per year, annexation of areas 1, 2, 4, and 10 would provide another 12 years of growth. Even if LAFCO were to permit annexation of the entirety of areas 1, 2, 4, and 10, which is more area than the 5 to 7 years of growth area its policy typically permits, that annexation would render it impossible to comply with Specific Plan Policy LU-C, requiring concurrent construction of affordable housing because areas 1, 2, 4, and 10 do not provide sites that are suitably zoned for affordable housing.

Furthermore, the deferral of the construction of affordable housing that is implicit in the proposed phasing plan would be inconsistent with the Specific Plans stated intention to ensure integration of affordable housing with market rate housing,

Finally, the Project does not comply with Policy 2.1 and its implementing Program 2.1.2 of the City's 2019 Housing Element. Policy 2.1 requires new development in Specific Plan areas to provide an "integrated mix" of housing types and affordability levels that closely approximates the City's 2007-2014 fair share housing allocation. It defines that "integrated mix" to include 39 percent of units affordable to

very low- and low-income households and 19 percent of units affordable to moderate income households. Program 2.1.2 of the current Housing Element requires that “an integrated mix of complementary but varied housing types be provided within the majority of blocks.” Program 2.1.2 requires that areas that are annexed must provide “a minimum of 30 percent of all units in each neighborhood that are designed to accommodate rental households, including medium and higher density housing and second dwelling units . . .” The current Housing Element states that Program 2.1.2 is in place in the proposed Miramonte Specific Plan. However, it is apparent that the proposed phasing plan, which would annex and develop over 600 units of low-density residential land use in areas 1, 2, 4, and 10 before any higher density areas are annexed and developed, would preclude compliance with Policy 2.1 and Program 2.1.2. No blocks of areas 1, 2, 4, and 10 would include the “integrated mix of complementary but varied housing types” required by Program 2.1.2.

Furthermore, the Specific Plan’s “Phasing Parameters” require that an “overall ratio of 15 percent high density (20 units per acre or greater), farmworker, senior, or deed restricted affordable housing units shall be maintained within the plan area. Developments that do not include high density, farmworker, senior, or deed restricted affordable housing shall contribute a fair share payment to a fund for development of such housing.” (Specific Plan, p. 6-7.) Payment of a fair share would not ensure concurrent development of affordable housing as required by Policy LU-C unless the annexation area actually includes areas that are zoned to permit affordable housing. None of areas 1, 2, 4, and 10 are so zoned.

The Specific Plan states that the 2009 Housing Element’s Program 1.2.1 requires development agreements to prescribe the percentage of affordable units. The 2009 Housing Element’s Program 2.1.1 provides that development agreements shall specify affordable housing provision. The Specific Plan also provides that additional phasing parameters may be specified in development agreements.

*Please provide all records related to the Project’s current phasing plan. Please provide all records related to proposed development agreements that address provision of affordable housing or Project phasing.*

## **7. Compatibility with jobs and housing policy**

LAFCO stated that the application only briefly described Project conformance to jobs and housing policy. LAFCO requested further detail and suggested that the City provide the greenhouse gas emissions reduction plan at least as outlined in preliminary form.

*Please provide all records responsive to LAFCO’s request for further detail regarding conformance with the jobs and housing policy.*

## 8. CEQA documents and Specific Plan resolution

*Please provide the following documents related to CEQA compliance for the Project:*

- Resolution 4565 referenced in Ordinance No. 718;
- Final EIR for the proposed 2010 Miravale III Specific Plan (SCN # 2006081129);
- the Resolution certifying the Final EIR for the proposed 2010 Miravale III Specific Plan (SCN # 2006081129), if it is not Resolution 4565;
- Addendum referenced in Ordinance No. 718;
- Resolution 5431 referenced in Ordinance 718;
- Resolution 5432 referenced in Ordinance 718;
- Resolution 5433 referenced in Ordinance 718;
- Staff Report for the August 28, 2018 City Council referenced in Ordinance 718; and,
- If not included in the previously listed documents, the Mitigation Monitoring and Reporting Program, the CWEQA Findings, including the Statement of Overriding Considerations, and the Project Findings referenced in Ordinance 718.

Thank you for your help with this.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



John Farrow

JHF:hs

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