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April 30, 2019

Erik Nolthenius, Planning Manager
City of Brentwood Community Development Department
150 City Park Way
Brentwood, CA 94513

SUBJECT: Notice of Preparation –Vineyards at Deer Creek Project

Dear Mr. Nolthenius:

Thank you for sending the Contra Costa Local Agency Formation Commission (LAFCO) the Notice of Preparation (NOP) for the Vineyards at Deer Creek project. We understand that the project proposes a new residential community of up to 2,400 residential units within Special Planning Area (SPA) 2 of the Brentwood General Plan. The project site is located outside and to the west of the City of Brentwood’s city limit lines, outside the City’s current Sphere of Influence (SOI), and outside the City’s and County of Contra Costa Urban Limit Line (ULL). The project will require LAFCO approval of an SOI amendment and annexation to the City of Brentwood and annexation to the East Contra Costa Irrigation District (ECCID) for non-potable water service in addition to approvals required from other agencies. As the City prepares to commence work on an Environmental Impact Report (EIR) for this project, we offer the general and specific comments and questions below.

General Comments

As a Responsible Agency pursuant to the CEQA, LAFCO will need to rely on the City’s EIR in consideration of the boundary changes required for the project.

LAFCO is an independent, regulatory agency with discretion to approve, wholly, partially or conditionally, or disapprove, changes of organization or reorganizations. In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH), LAFCO is required to consider a variety of factors when evaluating a proposal, including, but not limited to, the proposal’s potential impacts on agricultural land and open space, provision of municipal services and infrastructure to the project site, timely and available supply of water, fair share of regional housing, consistency with regional plans, and various other factors.

The factors relating to boundary and SOI changes are contained in Government Code sections 56668 and 56425, respectively. Including an assessment of these factors in the City's environmental document will facilitate LAFCO's review and the LAFCO process. Deficiencies in the environmental document as required by LAFCO may result in the need for additional CEQA compliance work. Given that LAFCO's approvals will be a fundamental part of the entitlements required for this project, the EIR should specifically 1) reference the LAFCO action(s) in the Project Description (i.e., SOI amendments, annexations), 2) list LAFCO as Other Public Agencies Whose Approval is Required, and 3) most importantly, the LAFCO action(s) and relevant factors should be adequately evaluated in the environmental document.

For example, given that the project will convert agricultural land to an urban use, the EIR should include reference to and provide a full analysis of impacts resulting from the conversion of agricultural, prime agricultural and/or open space land to urban uses, using the definitions contained in the CKH as well as those contained in CEQA.

Also, it is important to note that LAFCO primarily relies on "**project**" level environmental documents. We note that the City will prepare a programmatic level EIR for this project. Without the adequate level of project detail and adequate responses to LAFCO's specific comments, LAFCO may be unable to rely on the City's EIR for the needed SOI and boundary changes.

Specific Comments

1. **Agricultural Resources** – We note that the project site includes lands designated for, and currently in, agricultural use. The CKH contains its own definitions of *agricultural lands* (Gov. Code §56016) and *prime agricultural land* (Gov. Code §56064) – see below.

56016. "Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

Included among the factors LAFCO must consider in its review of a boundary change proposal is the effect of a proposal on agricultural land [Gov. Code §56668(e)]. In order for LAFCO to rely on the City's environmental document, the document should specifically evaluate whether the lands that will be converted to residential or other non-agricultural uses fall within the definitions cited above; and if so, the appropriate analysis and mitigation measures relating to the loss of agricultural lands and/or prime agricultural lands should be provided in the CEQA document.

As there has historically been active grazing on the property, an analysis and possibly mitigation measures are needed for LAFCO to consider related boundary change proposals in conjunction with the project.

The NOP notes that the project will permanently preserve 225± acres of the total project site as active agricultural and/or open space uses pursuant to a recorded open space easement or similar legal mechanism. LAFCO will take these actions into consideration when evaluating the future annexation proposal.

In November 2016, following a 16-month process involving extensive outreach and education, Contra Costa LAFCO adopted an Agricultural & Open Space Preservation Policy (AOSPP). The purpose of the policy is to: 1) provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and enable the applicant to explain how the applicant intends to mitigate those impacts; 2) provide a framework for LAFCO to evaluate and process, in a consistent manner, applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and 3) explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

The City's EIR should include a discussion of the LAFCO AOSPP and an evaluation of the how the project's consistency with applicable policies and provisions.

2. **Air Quality and Greenhouse Gas Emissions (GHG)** - In its review of a proposal, LAFCO is mandated to consider a regional transportation plan adopted pursuant to Section 65080 [Gov. Code §56668(g)]. Further, the commission may consider the regional growth goals and policies on a regional or subregional basis (Gov. Code §56668.5). Accordingly, in our consideration of the boundary changes required for this project we will look at the project's consistency with the regional transportation and other regional plans, such as Plan Bay Area.

Plan Bay Area directs future development to infill areas within the existing urban footprint and focuses most of the growth in Priority Development Areas (PDAs). PDAs include infill areas that are served by transit and are located close to other amenities, allowing for improved transit, bicycle and pedestrian access, thereby reducing the amount of transportation related GHG generated. Plan Bay Area supports infill development in established communities and protects agricultural and open space lands. The Plan assumes that all urban growth boundaries are held

fixed through the year 2040 and no sprawl-style development is expected to occur on the regions' open space or agricultural lands.

Priority Conservation Areas (PCAs), also a component of Plan Bay Area, are open spaces that provide agricultural, natural resource, scenic, recreational, and/or ecological values and ecosystem functions. These areas are identified through consensus by local jurisdictions and park/open space districts as lands in need of protection due to pressure from urban development or other factors.

The proposed Vineyards at Deer Creek development project is not within either a PDA or a PCA. The project does not focus growth within the urbanized area of Brentwood, and extends the urban footprint into an undeveloped area, outside the ULL, and predominately used for grazing. As such, this proposal would not appear to minimize GHG emissions. The goals and strategies contained in Plan Bay Area encourage compact development in existing downtowns, main streets and neighborhoods with transit access, and discourage urban edge development in open space and/or agricultural lands.

The EIR should include discussion regarding the relationship of the project to Plan Bay Area.

- 3. Land Use, Population and Housing** – Included among the factors LAFCO must consider in its review of a boundary change proposal are land use and likelihood of significant growth [Gov. Code §56668(a)]; impacts to adjacent areas [Gov. Code §56668(c)]; planned, orderly, efficient patterns of urban development [Gov. Code §56668(d)]; the project's consistency with the city's general plan [Gov. Code §56668(h)]; the extent to which the project will affect the city in achieving its respective share of the regional housing needs [Gov. Code §56668(m)]; and information relating to existing land use designations [Gov. Code §56668(o)]. We anticipate the EIR will fully address these issues so as to enable LAFCO to rely on the City's environmental analysis in anticipation of proposed future SOI and boundary changes associated with the project.

Also, as noted in the City's General Plan, "the area should include a significant area of protected open space, with open space protection for hillsides, sensitive natural habitat, and areas of exceptional scenic beauty."

Further, the project area is subject to an agreement between the cities of Brentwood and Antioch *for the purpose of resolving boundary questions and to implement an open space buffer between the two communities*. The MOU contains various development standards (open space buffers, ridgeline protection, grading, visual, tree protection, circulation, etc.), and other stipulations pertaining to SOI and boundary changes. We ask that the City of Brentwood keep LAFCO staff apprised of the status of the MOU.

- 4. SOI, Boundaries and Islands** – In March 2019, Contra Costa LAFCO released its second round "City Services" Municipal Services Review (MSR) covering all 19 cities and four community services districts. The MSR culminates in updating the SOIs of each local agency covered in the report. As noted in the MSR, the City of Brentwood is not requesting any changes to its existing SOI; and the MSR consultants are recommending no changes to Brentwood's existing SOI. Should the City wish to submit any amendments or comments to

the Draft MSR, LAFCO will consider comments up to and including the June 12, 2019 LAFCO public hearing.

The MSR also includes information regarding availability of vacant and underutilized land within city boundaries and SOIs and potential for infill development versus urban sprawl.

Further, the MSR includes a discussion of trends affecting cities in Contra Costa County including growth and population, jobs-housing balance, and aging infrastructure (e.g. roads). There was considerable public comment at the April 25th EIR scoping meeting regarding the project impacts to roads and streets.

Regarding Brentwood's boundaries, there are two islands within the City's SOI, both of which are located at the far northeast edge of the City. One of the islands is less than 150 acres and can be annexed through an expedited LAFCO process. Please be aware that LAFCO can condition the annexation of one area (e.g., Vineyards at Deer Creek) on annexation of another area (e.g., island area).

Discussion of these matters in the EIR is essential in consideration of any future SOI and/or boundary changes.

- 5. Public Services** - Included among the factors LAFCO must consider in its review of a boundary change proposal is the need, cost and adequacy of public services [Gov. Code §56668(b)] including fire, police, parks & recreation and other municipal services.

The project site is located within the service boundary of the East Contra Costa Fire Protection District (ECCFPD). In 2016, Contra Costa LAFCO completed its second round MSR covering fire and emergency medical services (EMS). The MSR focused on updating data from the first round MSR (2009); review of automatic and mutual aid agreements; and concentration on the two most distressed fire districts including ECCFPD.

We learned the following from the 2016 MSR: ECCFPD continues to suffer from a financial structural deficit, in that they receive the lowest share of property tax revenue as compared to the other fire service providers; East Contra Costa County is expected to grow and increase demand on fire/EMS services; ECCFPD, as with most other Contra Costa County fire services providers, is unable to meet national and state fire response times; and the District's ISO ratings impact homeowners insurance rates and impact property owners' ability to obtain homeowners insurance in some areas.

ECCFPD currently operates with three fire stations as compared to eight stations in 2010, and the number of calls and medical incidents continues to increase.

The 2016 MSR included several recommendations including the following: 1) ECCFPD should pursue new funding sources including a voter approved special tax; 2) land use agencies (i.e., County, cities) should assess/increase their development impact fees to fund fire/EMS; 3) ECCFPD should elect an independent Board of directors to enhance accountability; and 4) ECCFPD should develop long term service and funding plans.

To date, ECCFPD has pursued all of these measures. The District placed on the ballot a special tax that was defeated by the voters. In 2018, ECCFPD was successful in electing an

independent board of directors; and the District has developed long term service and funding plans.

The project includes other risk factors including the potential for wildland fire, and risks associated with the Chevron and Kinder Morgan oil pipelines and the abandoned PG&E natural gas pipeline.

If approved, the project should include mitigation measures to address funding issues as well as physical risks (e.g., wildland fire, oil and gas pipelines). As with other large development projects, LAFCO could impose conditions to address these impacts.

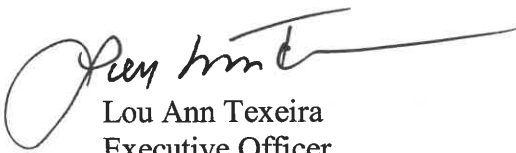
LAFCO would also encourage the City to impose conditions of approval and mitigation measures to fund the increased demand on other city services including police and parks and recreation.

6. **Utilities and Service Systems** – As noted in the NOP, the project will require SOI amendments and annexations to the City of Brentwood and the East Contra Costa Irrigation District (ECCID). The EIR should include detailed information relating to water and sewer service demand and supply/capacity, including: (1) an enumeration and description of the services to be extended to the project area; (2) level and range of services; (3) indication of when those services can feasibly be extended to the project area; (4) description of any improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the City would impose in conjunction with the project; and (5) information with respect to how services will be financed.

7. **Geologic Hazard Abatement District (GHAD)** - The NOP indicates that the project may establish a GHAD. Please note that formation of a GHAD is not subject to LAFCO approval.

Thank you for inviting our input and comments regarding the scope of the EIR for this project. Please contact the LAFCO office if you have any questions.

Sincerely,



Lou Ann Texeira
Executive Officer

c: LAFCO Planner