



# COUNTY OF SAN DIEGO

## LAND USE AGENDA ITEM

### BOARD OF SUPERVISORS

GREG COX  
First District

DIANNE JACOB  
Second District

KRISTIN GASPAR  
Third District

NATHAN FLETCHER  
Fourth District

JIM DESMOND  
Fifth District

**DATE:**           **October 16, 2019**

**01**

**TO:**             Board of Supervisors

### **SUBJECT**

**SAN MARCOS HIGHLANDS ANNEXATION AGREEMENT – ANNEXATION OF APPROXIMATELY 124.7 ACRES FROM THE UNINCORPORATED COUNTY TO THE CITY OF SAN MARCOS (DISTRICT: 5)**

### **OVERVIEW**

This is a request for the Board of Supervisors (Board) to consider approving an agreement between the County of San Diego (County), City of San Marcos (City), U.S. Fish & Wildlife Service (Service), California Department of Fish & Wildlife (Department), and Vista San Marcos, LP (Developer) for the annexation of a portion of the San Marcos Highlands project in the unincorporated area from the County into the City (Annexation Agreement).

The San Marcos Highlands project is a single-family residential development within the jurisdictions of both the City and the County. The project was approved in its entirety by the City on November 15, 2016. At the time of approval, the project was conditioned, at the County's request, to complete the proposed Annexation Agreement prior to the San Diego Local Agency Formation Commission (LAFCO) consideration of the transfer of land from the County to the City. The County requested the condition in order to address Section 6.7.3 of the North and East County Multiple Species Conservation Program (MSCP) Planning Agreement which requires the County request an annexation agreement between the County, City, Service, and Department to ensure that the proposed annexation will not jeopardize the buildout of future preserves or compromise viable habitat linkages within the proposed preserves in the Planning Areas. The Planning Agreement defines the County's, Service's, and Department's commitment to the preparation of the MSCP Plans. The Developer proposes to annex approximately 124.7 acres of unincorporated property within the County's draft North County MSCP Plan Area into the City.

On September 25, 2019, the Board considered the San Marcos Highlands Annexation Agreement and was unable to adopt a motion in favor of the Agreement, with a 2-2 vote. Therefore, in compliance with Board Policy 2(g), the item has been rescheduled for October 16, 2019.

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**RECOMMENDATION(S)**

**DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES**

Planning & Development Services recommends that the Board of Supervisors:

1. Find that the environmental impact report (EIR) on file with the City of San Marcos as Final Environmental Impact Report 15-001 (State Clearing House #1999071007) was completed in compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and that the Board of Supervisors has reviewed and considered the information contained therein before approving the San Marcos Highlands Annexation Agreement. Find that the San Marcos Highlands Annexation Agreement would not cause changes in the San Marcos Highlands project or in the circumstances under which the project is undertaken that involve significant new environmental impacts which were not considered in the previously certified EIR dated November 15, 2016, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since the EIR was certified.
2. Approve and authorize the Clerk of the Board to execute, upon receipt, five original copies of the Annexation Agreement for San Marcos Highlands (Attachment B, on file with the Clerk of the Board) by and among the City of San Marcos, the County of San Diego, the United States Fish and Wildlife Service, the California Department of Fish and Wildlife, and Vista San Marcos, LP.

**FISCAL IMPACT**

N/A

**BUSINESS IMPACT STATEMENT**

N/A

**ADVISORY BOARD STATEMENT**

N/A

**BACKGROUND**

In 2008, the County entered into a Planning Agreement with the United States Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department) for the North and East County MSCP Plans. The Planning Agreement defines the Planning Areas, identifies preliminary conservation objectives, and establishes the review process for interim development during the preparation of these MSCP Plans. Section 6.7.3 establishes the process for proposed annexations and requires that the County request the Local Agency Formation Commission (LAFCO) require any annexing jurisdiction to enter into an annexation agreement with the County, Service, and Department. The purpose of an annexation agreement is to ensure that the proposed annexation will not negatively impact the buildout of the future preserves, the coverage of species within the Planning Areas or compromise viable habitat linkages within the proposed preserve.

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The San Marcos Highlands project is a single-family residential development located within the jurisdictions of both the City of San Marcos (City) and the County of San Diego (County). The project was approved in its entirety by the City on November 15, 2016. The project encompasses 293.3 acres at the northern terminus of Las Posas Road stretching north to Buena Creek Road and includes 187 single-family residential lots, one public park and two private parks, and approximately 210.8 acres of biological open space. Approximately 141.1 acres of the site are located within the City in a Specific Plan Area, and the remaining 152.2 acres are in the unincorporated areas of the North County Metropolitan Subregional Plan. This North County Metropolitan Subregional Plan supplements the existing Elements of the San Diego County General Plan with specific emphasis on the planning needs of the North County Metropolitan Subregion.

Vista San Marcos, LP (Developer) proposes to annex into the City approximately 124.7 acres located within the County's draft North County MSCP Plan Area as part of the San Marcos Highlands project. The San Marcos Highlands project was conditioned by the City, at the County's request, to complete the proposed Annexation Agreement before San Diego Local Agency Formation Commission (LAFCO) can consider the transfer of land from the County to the City.

The areas to be annexed into the City consist of 142 single-family lots on 34.8 acres, 23.9 acres of fuel modification area, and approximately 66 acres of biological open space area, for a total of 124.7 acres. Approximately 27.5 acres of the 152.2 acres located within the unincorporated area are located outside the City's Specific Plan Area and will remain within the unincorporated area as biological open space (two parcels approximately 4.7 acres and 22.8 acres) (Attachment B, Exhibit B). The County will receive credit for the biological open space areas annexed into the City and remaining in the unincorporated areas (approximately 93.4 acres) towards draft North County MSCP Plan Area. These areas will be permanently conserved and managed within the Natural Open Space Preserve. In addition to the 210.8 acres of biological open space within the project site, the Developer has committed to preserving approximately 6.5 acres within the unincorporated area adjacent to the Natural Open Space Preserve to protect biological connectivity.

The San Marcos Highlands project (Final Environmental Impact Report 15-001 and State Clearing House #1999071007) was designed to comply with the City's regulations and was approved in its entirety by the City on November 15, 2016. The County evaluated the project and provided environmental comments in response to the City's inter-jurisdictional notices. Throughout the City's environmental analysis, the County expressed concerns that the project was not consistent with the preserve, management and other requirements of the County's draft North County MSCP. The proposed Annexation Agreement addresses the County's concerns by ensuring habitat within Pre-Approved Mitigation Area (PAMA) will be conserved and managed consistent with the North County MSCP, as described in more detail below.

**San Marcos Highlands Annexation Agreement**

Staff has reviewed the Annexation Agreement for San Marcos Highlands and the Consistency Analysis for the Board of Supervisors (Attachment C). The Consistency Analysis describes how

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the annexation meets the criteria of Section 6.7.3 of the Planning Agreement. The Annexation Agreement addresses the County's concerns regarding consistency with the County's draft North County MSCP by ensuring 93.4 acres of habitat within PAMA will be conserved and managed in perpetuity. Staff has determined that the Annexation Agreement provides assurances that the project will not negatively impact the buildout of the future preserves, the coverage of species within the Planning Areas, or compromise viable habitat linkages within the proposed preserve. Therefore, the Annexation Agreement satisfies the City of San Marcos' project condition.

The Annexation Agreement outlines the responsibilities, obligations, and actions that will be taken by parties to the agreement. As part of the terms of the Annexation Agreement, the Developer is required to comply with take authorizations and mitigation measures outlined in the Final Environmental Impact Report, Mitigation Monitoring and Reporting Program, Entitlements, the U.S. Army Corps of Engineers' Section 404 Permit, the Regional Water Quality Control Board's Section 401 Water Quality Certification, the Department's Streambed Alteration Agreement, and the Service's Biological Opinion and Amended Biological Opinion. The Annexation Agreement also requires the following actions prior to the Developer obtaining a grading permit for the project:

1. Long-Term Management Plan – The County, the City, the Service, and the Department must review and approve the Long-Term Management Plan (LTMP) which requires permanent protection measures for the Natural Open Space Preserve. Final approval shall be executed by the County's Director of Planning & Development Services after a Habitat Manager for the LTMP is selected, an Open Space Maintenance Agreement is secured, an endowment is in place, and the easements are dedicated.
2. Open Space Maintenance Agreement – The County will enter into an Open Space Maintenance Agreement with the Habitat Manager and the Developer, which will set forth their respective rights and obligations with regard to the Habitat Manager's obligations to maintain the Natural Open Space Preserve and the Developer's obligation to pay for the implementation of the LTMP. Approval of the Open Space Maintenance Agreement shall be executed by the County's Director of Planning & Development Services.
3. Endowment – The Developer will fund a permanent endowment for the Habitat Manager in an amount sufficient to fund perpetual maintenance and monitoring of the Natural Open Space Preserve.
4. Conservation Easements – The Developer will establish conservation easements over the Natural Open Space Preserve and shall identify a Department-approved third party and the County (if it is not the easement grantee) as a third-party beneficiary with the right of access to the property and a right to enforce the terms of the conservation easements.

**ENVIRONMENTAL STATEMENT**

Final Environmental Impact Report (EIR) 15-001 (State Clearing House #1999071007) was certified and the project was approved by the City of San Marcos on November 15, 2016. Approval of the San Marcos Highlands Annexation Agreement would not cause changes in the San Marcos Highlands project or in the circumstances under which the project is undertaken that involve significant new environmental impacts which were not considered in the previously certified EIR.

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There is no substantial increase in the severity of previously identified significant effects, and no new information of substantial importance has become available since the EIR was certified.

**LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN**

Today's proposed action to consider the annexation of land supports the Sustainable Environments/Thriving Strategic Initiative in the County of San Diego's 2019-2024 Strategic Plan by protecting natural resources, diverse habitats, and sensitive species.

Respectfully submitted,



SARAH E. AGHASSI  
Deputy Chief Administrative Officer

**ATTACHMENT(S)**

*Note: Due to the size of the attachments, the documents are available online through the Clerk of the Board's website at [www.sandiegocounty.gov/content/sdc/cob/bosa.html](http://www.sandiegocounty.gov/content/sdc/cob/bosa.html).*

Attachment A – Vicinity Map

Attachment B – Annexation Agreement for San Marcos Highlands

Attachment C – Consistency Analysis for the Board of Supervisors

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**AGENDA ITEM INFORMATION SHEET**

**REQUIRES FOUR VOTES:** ☐ Yes ☒ No

**WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED**

☐ Yes ☒ No

**PREVIOUS RELEVANT BOARD ACTIONS:**

N/A

**BOARD POLICIES APPLICABLE:**

N/A

**BOARD POLICY STATEMENTS:**

N/A

**MANDATORY COMPLIANCE:**

N/A

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION  
NUMBER(S):**

N/A

**ORIGINATING DEPARTMENT:** Planning & Development Services

**OTHER CONCURRENCE(S):** N/A

**CONTACT PERSON(S):**

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