



Lou Ann Teixeira
Executive Officer

July 8, 2026 (Agenda)

Contra Costa Local Agency Formation Commission
40 Muir Road, First Floor
Martinez, CA 94553

**July 8, 2026
Agenda Item 6**

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

LAFCO 25-06 – Annexation to City of Clayton – Clayton Estates

APPLICANT

Jim Moita, Julie Moita, and Vince Moita - (Landowners)

SYNOPSIS

The applicant proposes to annex 41.5± acres (two parcels) located along Marsh Creek Road for residential development. The location is east of the City of Clayton. The primary purpose of the Marsh Creek Road Specific Plan (MCRSP) was to recognize the unique rural character of its study area, to develop appropriate areas for residential development, and to guide and regulate development and to protect and enhance the area's natural amenities and features, and to afford recreational opportunities and public access.

DISCUSSION

Government Code §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

This item will be continued to the next Contra Costa LAFCO Meeting on August 12, 2026.

Lou Ann Teixeira

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Exhibits

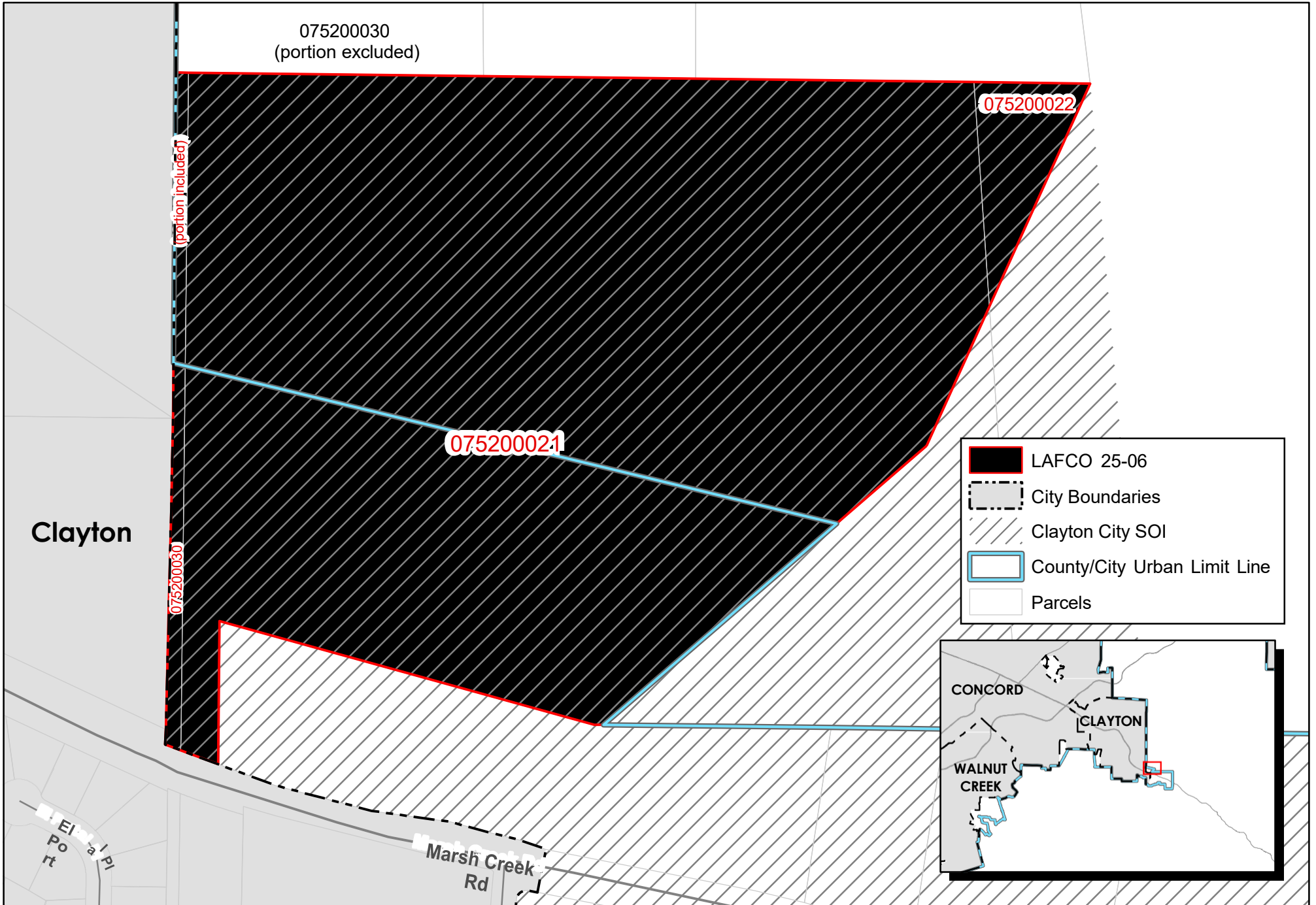
A – Annexation Map

Attachments

05/05/26 City of Clayton - City Manager Chris Lofthus

06/22/26 City of Clayton - City Manager Chris Lofthus

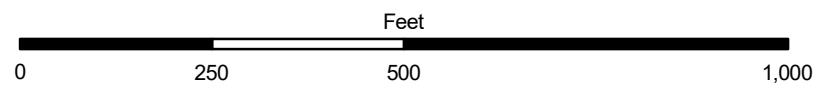
LAFCO 25-06 - Annexation to City of Clayton - Clayton Estates



	LAFCO 25-06
	City Boundaries
	Clayton City SOI
	County/City Urban Limit Line
	Parcels

Map created 4/15/2026
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
 37:59:41.791N 122:07:03.756W

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Jim Diaz, COUNCILMEMBER
Holly Tillman, COUNCILMEMBER
Kim Trupiano, COUNCILMEMBER

May 5, 2026

Via Electronic Mail [LouAnn.Texeira@lafco.cccounty.us]

Lou Ann Texeira, Executive Officer
Contra Costa LAFCO
40 Muir Road, 1st Floor
Martinez, CA 94553

Re: Application of Annexation to the City of Clayton – Clayton Estates

Dear Ms. Texeira,

I write to you as the City Manager of the City of Clayton. It has just come to my attention that Contra Costa LAFCO (LAFCO) is scheduled to hear on May 13th an annexation application to the City of Clayton filed by Jim Moita, Vince Moita, and Joe Moita. This came to my attention due to a call from Supervisor Carlson's office to get the City's thoughts on the application, as well as Save Mt. Diablo reaching out to a Council Member to discuss the application. Without Supervisor Carlson's office and Save Mt. Diablo reaching out to the City, the City would not be aware of this application.

Notice

As you are aware, Gov. Code section 56658(b)(1) requires that "immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each affected local agency." When I requested information about when LAFCO provided the City with such notice, on April 29th, you sent me the notice with the distribution list of whom you notified. While my name is listed, no mailing

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address nor an email address is listed. All other individuals listed on the distribution list have their physical mailing address and email address listed, except for the Sheriff-Coroner (whose email address is listed) and LAFCO staff. To be clear, I did not receive notice of the application either by mailed notice nor by electronic notice, nor does it appear from what you provided, that LAFCO mailed notice to me in compliance with state law.

As the local agency most affected by the annexation application, LAFCO should not have issued a certificate of filing without providing the City with mailed notice. Under Gov. Code section 56658, the Executive Officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the required mailed notice. As this notice was not given to the City of Clayton, the certificate of filing should not have been issued.

In addition, to not receiving notice of the application from LAFCO, the applicant also did not inform the City of its application to LAFCO. To be clear this application is not in collaboration with the City, therefore, the City was completely taken by surprise to hear about the LAFCO meeting. Please be aware, the applicant had reached out to Council Members and me regarding the potential of annexing their property. The City has continuously asked the applicant as part of these discussions on what their plan is to develop the property. The City has not received a response to this request and was under the assumption that this was put on hold. Therefore, it was surprising to just be notified of this Application and only by concerned parties.

Plan for Services

The Applicant was required to submit a plan for services within the affected territory, pursuant to Gov. Code section 56653. Specifically, the Plan is required to include among other requirements “an indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.” (Gov. Code 56653(b)(4)) Given that the City was not consulted or made aware of this application, the Plan of Services is inadequate. There is absolutely no reference to the City’s ability to provide sewer services to the property, nor has that been evaluated. Furthermore, there has not been a full evaluation of the roads required for this annexation. Any streets that were approved for the Oak Creek Canyon project do not extend to the properties listed in the application.

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CEQA and Housing

The application has listed the City as lead agency for CEQA purposes and relies on a 1995 Marsh Creek Road Specific Plan and EIR. This has not been reviewed to determine if there are any changed conditions which would require supplemental review.

The application incorrectly states that the City is out of compliance with its Housing Element. The City has a certified Housing Element and while the City encourages residential development, the application does not accurately reflect the development of housing within the City.

Furthermore, the application provides "The City has not expressed opposition to this annexation and previously worked to achieve it, producing the pre-zoning, MCRSP, and EIR. Nearby landowners have generally been supportive. The County directed the proponent to work with the City, leading to the MCRSP." The referenced documents were adopted in 1995, over 30 years ago. The City has been in discussions with the applicants more recently and were never made aware of this application to LAFCO even though it appears to have been submitted last year. The applicants are well aware that the City has not recently supported an annexation but has asked for more details on the applicant's plans for development. The applicant has failed to provide this information to the City and has misled LAFCO in their application.

Property Tax Sharing Agreement

The City has not annexed property to my knowledge in quite some time. Therefore, I was not aware if there was a tax sharing agreement with the County. You provided me with the Master Tax Sharing Agreement from 1980. Given the structural deficit the City is currently experiencing, which has been discussed at length at numerous Council meetings, and will likely result in a sales tax measure and request for extension of the City's landscape and lighting district parcel tax on the November 2026 ballot, annexation of additional properties without receiving all of the property tax could result in additional financial constraints to the City. Therefore, should this application proceed, the City will likely need to negotiate a new tax sharing agreement with the County. As you are aware, a certificate of filing cannot be issued without a negotiated tax sharing agreement under Gov. Code section 56658(d)(1). Furthermore, the City has not been notified of the property tax revenue that will be the subject of negotiations.

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For all of the above reasons, we respectfully request that you cancel the hearing scheduled for May 13th as the certificate of filing should not have been issued. I requested a meeting to speak with you about these issues, however, instead you asked me to put my concerns in writing to you, and you would respond via email. I still welcome the opportunity to speak with you about my concerns.

Sincerely,

Kris Lofthus
City Manager
City of Clayton

cc: Clayton City Council
LAFCO Commissioners
Supervisor Carlson
Edward Sortwell Clement, Jr., Save Mt. Diablo

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June 22, 2026

Via Electronic Mail [LouAnn.Texeira@lafco.cccounty.us]

Lou Ann Texeira, Executive Officer
Contra Costa LAFCO
40 Muir Road, 1st Floor
Martinez, CA 94553

Re: Application of Annexation to the City of Clayton – Clayton Estates

Dear Ms. Texeira,

This is a supplemental letter regarding the Contra Costa LAFCO (LAFCO) hearing on July 8th regarding the annexation application to the City of Clayton filed by Jim Moita, Vince Moita, and Joe Moita. Please include this letter into the agenda packet along with my prior letter dated May 5, 2026, which I sent you, but that was not included in the packet for the May 13th meeting.

Although I continue to object to the legally inadequate notice, as detailed in my prior correspondence, I reiterate that LAFCO should not hear the matter and, if it proceeds, must deny the application.

No Property Tax Sharing Agreement

As you are aware, a certificate of filing cannot be issued without a negotiated tax sharing agreement under Gov. Code section 56658(d)(1). The City notified the County on June 2, 2026 by the attached letter that the Master Tax Sharing Agreement is inapplicable for the proposed application. Therefore, there is no applicable tax sharing agreement and there should be no hearing on the application. LAFCO cannot impose a tax sharing agreement upon the City and County, nor can it approve the application conditioned on the City and County executing such an agreement as provided for in Revenue and Tax Code section 99(e)(2). Under the Government Code, the proper procedure is to withhold the certificate of filing absent such agreement. Therefore, if LAFCO proceeds with the hearing, it has no choice but to deny the application.

Failure to Comply with CEQA

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The application listed the City as lead agency for CEQA purposes and relies on a 1995 Marsh Creek Road Specific Plan and EIR. However, the City is not the applicant. The City should be, but isn't, the lead agency on this project. Under CEQA, "Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment." (Pub. Res. Code, § 21067) The City clearly should be at the helm of any decision to annex this project. However, the City has considered neither the merits nor the environmental effects of this iteration of this development proposal and no application to do so is pending before the City. If there is a lead agency at this stage, that agency is LAFCO. The California Supreme Court has held that "[w]hen two or more public agencies equally qualify as the lead agency for the purpose of preparing an EIR, 'the agency which is to act first on the project in question shall be the Lead Agency (following the principle that the environmental impact should be assessed as early as possible in governmental planning).'" (Citizens Task Force On Sohio v. Bd. of Harbor Comrs., (1979) 23 Cal. 3d 812, 814 citing what is now 14 CCR § 15061(c).) LAFCO has performed no environmental analysis on this project at this stage and therefore, cannot proceed.

In conclusion, we do not believe LAFCO is lawfully holding a hearing on this matter given the improper issuance of the certificate of filing, lack of tax sharing agreement, and failure to comply with CEQA. Since LAFCO has decided to proceed with the hearing, we request that you deny the application.

Sincerely,



Kris Lofthus
City Manager
City of Clayton

cc: Clayton City Council
LAFCO Commissioners
Supervisor Carlson
Edward Sortwell Clement, Jr., Save Mt. Diablo