LOCAL AGENCY FORMATION COMMISSION
SANTA CLARA COUNTY
www.santaclara.lafco.ca.gov
County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-5088 FAX (408) 298-8460

AGENDA
REGULAR MEETING
Wednesday, February 13, 2002
1:15 p.m.

CHAMBERS OF THE BOARD OF SUPERVISORS
70 West Hedding Street, First Floor, East Wing
San Jose, CA 95110

The items marked with an asterisk (*) are included in the Consent Agenda and will be taken in one motion. At the beginning of the meeting, anyone who wants to discuss a consent item should make a request to remove that item from the Consent Agenda.

If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than $250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than $250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings.

If you or your agent have made a contribution of more than $250 to any commissioner or alternate during the twelve (12) months preceding the decision, in the proceeding that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings.

1. ROLL CALL

2. PUBLIC PRESENTATIONS

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

3. APPROVE MINUTES OF DECEMBER 12, 2001 MEETING

4. PUBLIC HEARINGS

4.1 OUT-OF-AGENCY EXTENSION OF SEWER AND WATER SERVICES TO MORGAN HILL BIBLE CHURCH BY THE CITY OF MORGAN HILL

A proposal by the City of Morgan Hill to extend sewer and water service to Morgan Hill Bible Church located at 15055 Monterey Road in unincorporated area within the sphere of influence of Morgan Hill.

Possible Action: Consider the proposal for the extension of sewer and water services and approve staff recommendation.

4.2 SPHERE OF INFLUENCE (SOI) AMENDMENT AND ANNEXATION BY WEST BAY SANITARY DISTRICT ALONG LOS TRANCOS CREEK ROAD

A request by the West Bay Sanitary District for amendment of its SOI to include four (4) parcels into its sphere of influence and to seek the annexation of the above parcels along with 10 additional parcels that are within its existing SOI.

Possible Action: Consider the request for SOI amendment and annexation and approve staff recommendation. Forward recommendation to San Mateo LAFCO.

5. EXECUTIVE OFFICER'S REPORT

A. **Report on LAFCO Workshop for Special Districts**

B. **2002 CALAFCO Staff Workshop (March 14-15, 2002)**

C. **2002 CALAFCO Clerks Workshop (April 3-5, 2002)**

6. WRITTEN CORRESPONDENCE

7. ADJOURN

Adjourn to the next regular business meeting on April 10, 2002.

NOTE TO COMMISSIONERS:

Upon receipt of this agenda, please contact Emmanuel Abello, LAFCO Clerk

*at (408) 299-5088 if you are **unable** to attend the LAFCO meeting.*

In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the Clerk of the Board's Office 24 hours prior to the meeting at (408) 299-4321, TDD (408) 993-8272.

SANTA CLARA COUNTY

Local Agency Formation Commission

MINUTES

WEDNESDAY, DECEMBER 12, 2001

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 12th day of December 2001 at 1:05 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California, with the following members present: Commissioners Donald Gage, Blanca Alvarado, Linda LeZotte, Susan Vicklund Wilson and Mary Lou Zoglin.

The LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel; Ginny Millar, LAFCO Surveyor; and Dunia Noel, LAFCO Analyst.

The meeting is called to order by Chairperson Gage and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF OCTOBER 10, 2001 MEETING

Commissioner Wilson notes that the word "sewer lines" on page 3, line 5 of paragraph one should read "septic tank".

On motion of Commissioner LeZotte, seconded by Commissioner Alvarado, it is unanimously ordered that the minutes of the October 10, 2001 meeting be approved as amended.

4. COMMENT ON GILROY'S DRAFT GENERAL PLAN AND AMENDMENT OF ITS 20-YEAR BOUNDARY

Neelima Palacherla, LAFCO Executive Officer, directs attention to the map showing 664 acres of unincorporated land that the City of Gilroy wants to

include into its 20-year boundary. She advises that staff is requesting LAFCO for authority to testify at City of Gilroy public hearings on its Draft General Plan and to send a comment letter to the City stating that the proposed 20-year boundary is inconsistent with LAFCO policies.

She reports that in 1996, LAFCO, the County of Santa Clara and the City of Gilroy adopted the "Strategies to Balance Planned Growth and Agricultural Viability in the Areas South and East of Gilroy" to protect the agricultural lands in the area. She continues by stating that as an implementing measure, in 1997, LAFCO adopted policies on Gilroy Agricultural Lands Area. These policies acknowledge that lands within the 20-year boundary are unlikely to remain in agricultural use, and a stable 20-year boundary would serve as an effective measure in preventing further loss of agricultural lands and that any revision to the boundary is required to be endorsed by LAFCO before it can approve any USA expansions in the area.

She further reports that based on the information in the EIR and the Draft General Plan, staff has determined that the proposed 20-year boundary amendment is not consistent with LAFCO policies. Gilroy has enough supply of vacant industrial lands, that, even with a doubled rate of growth, there are lands available for at least 45 years. Also, the inclusion of 664 acres of prime agricultural lands into the boundary will adversely impact adjacent agricultural lands that are a part of the Santa Clara County agricultural preserve and which have been identified to have the greatest long-term potential to remain viable for agriculture. She continues by saying that the County, along with other agencies and organizations, is promoting agriculture in the area. She states that including these lands into Gilroy's boundary sends a wrong signal to landowners and developers, resulting to premature speculations and land conversions. Finally, she notes that the 664 acres is located within the 100-year flood plain area and will require the construction of extensive and expensive flood control systems, as well as major traffic improvements which will divert resources away from existing neighborhoods that require infrastructure and service upgrades. She

also states that the inclusion of this area will also take away the mitigation measure for the previously approved USA expansion of Obata Lands in 1997.

In response to an inquiry by Chairperson Gage, Ms. Palacherla clarifies that the previous letter to the City contained comments on the Environmental Impact Report (EIR) for the draft Gilroy General Plan; the letter being proposed comments on the Gilroy General Plan, specifically the proposed inclusion of 664 acres into Gilroy's 20-year boundary. On another inquiry by the Chairperson regarding LAFCO's involvement with a city's fiscal impacts and infrastructure costs and needs, Kathy Kretchmer, LAFCO Counsel, explains that the Cortese-Knox-Hertzberg Act provides that part of the premise of LAFCO's mandate to look at local agency boundaries is to consider the social, fiscal and economic well being of the State of California.

Anne Crealock, Greenbelt Alliance, speaks against including the 664 acres into the 20-year boundary because the request is premature given the industrial lands presently within Gilroy's urban service area (USA), the huge costs needed to develop the lands in flood plains, and the lack of other mitigation measures. She expresses support in authorizing staff to send a comment letter to the City and to testify when needed.

Joe Chase, former member of Gilroy's General Plan Update Committee, comments that the City must widen its view to include agricultural viability so it will not make the mistakes of the past of bulldozing and paving over agricultural lands.

Connie Rogers, former Gilroy City Council Member and former member Gilroy's General Plan Update Committee, speaks about 1,181 acres of existing undeveloped industrial lands and the agricultural lands that have already been sacrificed.

Suellen Rowlison, former Gilroy City Council Member, advises that the lands in the north at the old Highway 101 would be a better alternative to the lands now proposed to be included.

Janet Espinosa, a local resident and landowner, requests that LAFCO preserve this area in agriculture because it is the richest soil in the area and it is in the flood plains.

Tom Springer, Mayor of the City of Gilroy, introduced Mr. Jay Baksa, the City Administrator. Mr. Baksa comments that the issue is not about the 660 acres but about local control. He cites the "Strategies to Balance Planned Growth and Agricultural Viability in the Areas South and East of Gilroy" and reads strategy number one thereof. He states that Action 1A states that Gilroy create an urban growth boundary on that eastern boundary, while Action 1B allows the city to look at the eastern boundary at some point in time. He reads Action 1C and concludes that Gilroy has already done its part and adopted actions 1A and 1B. He notes that nowhere in the 1996 document it requires LAFCO to endorse the City's 20-Year boundary.

Dirk Buchser, a local farmer, advises that the lands are not prime lands. He states that agriculture is no longer competitive because of North American Free Trade Agreement (NAFTA), General Agreements on Tariffs and Trade (GATT), cheap agricultural products from other countries, increased minimum wage and banning of chemicals.

Martin Rajkovich, farmer, reads the letter of Ralph Santos, another farmer, about increased difficulty of farming in the County.

Dan Fiorcom, a local farmer, notes that the staff report is inaccurate and states that the Commission of taking a political position to intervene in local affairs of Gilroy.

Chairperson Gage states that he would support staff recommendation to send a comment letter to Gilroy stating that the proposed inclusion of 660 acres is inconsistent with LAFCO policies, emphasizing that LAFCO has not taken any decision on the issue. He also states that there is no need to authorize the staff to testify before the City at this time. Commissioner Wilson expresses agreement to Chairperson Gage, she, however, notes that the staff report does not recommend

a final action, and that the staff must be allowed to testify because there could be issues that cannot be addressed by the comment letter.

Commissioner Alvarado affirms that the staff action is very legitimate and complies with their responsibilities, and that it is likewise within the right and responsibility of LAFCO to act on the staff recommendation. Commissioner LeZotte observes that the staff report has no political agenda. It is straightforward and there is no reason not to support it as presented. Also, Commissioner Zoglin states that the comment letter is favorable to Gilroy because the more information provided to decision-makers the better decision they are going to make, especially since civic memory is rather short. Sharing the same observation, Commissioner Alvarado notes that the public in particular needs to know what is going on, because while there some people know the history of the issue (e.g., members of the Update Committee for the Gilroy General Plan), the larger community is not as well informed.

Commission Wilson moves for the approval of the staff recommendation, Commissioner Alvarado seconds the motion. On the Chairperson's order for a roll call vote, Commissioners Alvarado, LeZotte, Wilson and Zoglin vote that the staff be authorized to send a comment letter to the City of Gilroy and to testify at public hearings on the proposed 20-year boundary. Chairperson Gage votes against the motion.

Chairperson Gage requests Vice-Chairperson LeZotte to preside at the meeting. *(Chairperson Gage leaves at 1:55 PM. Vice-Chairperson LeZotte presides at the meeting.)*

Commissioner Wilson mentions that she has to leave early and expresses support to the appointment of the new Chairperson and Vice-Chairperson. *(Commissioner Wilson leaves at 1:59 PM.)*

5. 2002 SCHEDULE OF MEETINGS AND APPLICATION FILING DATES

Chairperson LeZotte directs attention to the proposed 2002 Schedule of Meetings and Application Filing Dates.

On motion of Commissioner Alvarado, seconded by Commissioner Zoglin, the staff recommendation is unanimously approved.

6. EXECUTIVE OFFICER'S REPORT

A. Update on Service Review Guidelines

Ms. Palacherla reports that the State Office of Planning and Research will issue guidelines for service reviews in January 2002. The staff will then formulate a work plan. In the meantime, the staff is compiling information on the special districts in the County and is preparing for a meeting to inform them about the new service review requirement and changes on the LAFCO procedures. Staff will also prepare profiles of the special districts in the County and develop maps that will show their boundaries and existing Spheres of Influence (SOIs).

B. Update on Payments to LAFCO

Ms. Palacherla advises that as of November 28, 2002, LAFCO has received all the payments required from the County and all the cities.

C. Report on LAFCO Workshop for Cities on City-Conducted Annexations

Ms. Palacherla advises that staff organized a well-attended workshop on city-conducted annexations on November 13, 2001. It discussed changes in the law, the new procedures and the revised forms.

On the query of Commissioner LeZotte, Ms. Palacherla states that for this particular workshop, the cities were represented by the city attorneys, city clerks and planning staff.

7. APPOINTMENT OF CHAIRPERSON & VICE-CHAIRPERSON FOR 2002

Chairperson LeZotte directs attention to the staff recommendation to appoint Commissioner Linda LeZotte as Chairperson, and Commissioner Blanca Alvarado as Co-Chairperson for 2002.

On motion of Commissioner Alvarado, seconded by Commissioner Zoglin, the staff recommendation is approved unanimously.

8. WRITTEN CORRESPONDENCE

There is no written correspondence.

9. ADJOURNMENT

On the order of the Chairperson, there being no objection, the meeting is adjourned at 2:03 p.m. to the next regular meeting to be held on Wednesday, February 13, 2002 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Donald F. Gage, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk

LOCAL AGENCY FORMATION COMMISSION
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County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-5127 FAX 295-1613
Neelima Palacherla, Executive Officer

February 4, 2002

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **Out of Agency Contract for Sewer and Water Service (Morgan Hill) Morgan Hill Bible Church**
Agenda Item # 4.1

STAFF RECOMMENDATION

Proposal

Deny request for extension of water and sewer service to the existing and proposed expansion of Morgan Hill Bible Church located at 15055 Monterey Road within the sphere of influence of the City of Morgan Hill.

CEQA Action

Deny Categorical Exemption. Approval of project requires an Initial Study to identify any potential environmental impacts of the project.

PROJECT DESCRIPTION

The City of Morgan Hill is seeking LAFCO approval for extending water and sewer service to the Morgan Hill Bible Church located at 15055 Monterey Road outside the city limits of Morgan Hill. The subject property which consists of two parcels (779-04-016 and 017) totaling 8.69 acres is located in the unincorporated area outside the City urban service area (USA) but within its sphere of influence (SOI). Since the proposed extension of services will be outside of the City's jurisdictional boundaries, LAFCO approval is required. See attached map for subject property and jurisdictional boundaries. (Attachment #1)

The proposed water and sewer extension request is for the existing 10,360 sq.ft. church facility as well as for future expansion of the church facility. The property owner would like to construct an additional 10,000 sq. ft. sanctuary and 14,000 sq. ft. of new

classrooms. This proposed expansion would require sewer and water service. The existing church facility is currently served by an on-site septic system and wells on the property provide water.

Adjacent land uses include two commercial operations to the north (general contractor business and florist), commercial and agricultural operations to the east (motel and an orchard), orchards/row crops and agricultural operations to the south, and open fields and rural-residential ranchettes to the west.

A City sewer line currently exists on Monterey Road along the property frontage. Extension of sewer service to the property would involve the installation of an on-site lateral. A city water main is located approximately 650 feet north of the property. The proposal involves the extension of the water line south along Monterey Road to the site.

ENVIRONMENTAL ASSESSMENT

LAFCO staff has determined that the project is not categorically exempt from CEQA. LAFCO review and consideration of the project does not require CEQA analysis. However, if the Commission decides to approve the project, an Initial Study is required to be prepared along with a Negative Declaration or EIR to identify any potential environmental impacts. See attached report from LAFCO Analyst. (Attachment #2)

CONSISTENCY WITH LAFCO POLICIES

Project Within Sphere of Influence (SOI)

Local LAFCO policies state that proposals for extending services outside an agency's SOI will not be considered by LAFCO. The proposal is located within the SOI of the City of Morgan Hill and within its urban growth boundary.

Annexation as Alternative to Service Extension

LAFCO policies require annexation prior to extension of services beyond an agency's boundaries. In this case, the property is located outside the USA of Morgan Hill and is not contiguous to the City's existing USA boundary. Although the properties directly east of the project (east of Monterey Rd.) are located within the City of Morgan Hill, they are all outside the USA. Annexation into the city would require that the area first be included in the City's USA.

The joint urban development policies adopted by the cities and the county allow for development and urban services only within cities or their USAs. Unincorporated areas outside the cities' USA are intended for non-urban, low density uses. Extending services to this proposed project that is outside the city's USA and which is not intended for future annexation to the city is not consistent with the urban service area concept.

Consistency with Policies and General Plans of all Affected Agencies

Santa Clara County Policies and Land Use Regulations

As stated in the previous section the proposed project involving the extension of sewer and water service outside a City's USA would not be consistent with the City and County joint urban development policies which state that urban development should take place under the cities' jurisdictions, that cities should establish urban service areas and not allow the expansion of services outside those areas and that lands within urban service areas should be annexed by the cities. The subject site is outside the city's USA boundary and extending services to development beyond the city's USA would be against these core development policies.

The project site is located in unincorporated Santa Clara County, and any new development (additional structures) on the site would be subject to County land use regulations and would require County approval.

The County General Plan designation for the area is "Agriculture-Medium Scale" and the property is zoned "A-20ac". The County Planning Office, in their letter dated 1/30/02 (Attachment # 5), states that the new development proposed by the Morgan Hill Bible Church (construction of 10,000 sq. ft. sanctuary and 15,000 sq. ft of classrooms) would not be consistent with the County General Plan or the Zoning Ordinance for that area because the current use already exceeds the maximum allowable floor area and the proposed use does not satisfy the finding that it is intended, designed and sized to primarily serve local rural unincorporated population. Approved plans for the site consist of only 5,826 sq. ft. of buildings; there are no records on file in the County Planning Office indicating expansion of use to existing 10,360 sq.ft.

Also, according to County Planning Office records, in August 2000 the Planning Office had a pre-application meeting with Morgan Hill Bible Church representatives to discuss their proposal to expand their facilities (by 22,000 sq. ft.) on the project site. Following the meeting, Planning staff sent the Morgan Hill Bible Church a letter concluding that "staff does not believe that this proposed expansion meets the letter of the zoning ordinance or the intent of the general plan." County land use regulations limit quasi-public facilities, such as the churches, to a total of 10,000 sq. ft. Specifically, Planning staff said, "as the Bible Church currently has in excess of 10,000 sq. ft. of covered space, no additional structures can be allowed."

City of Morgan Hill Plans and Policies

The City of Morgan Hill staff recommended denial of the request at the June 2001 City Council meeting citing that the request did not meet Council Policy No. 96-03 which established provisions to extend services outside the city limits. The policy states that extensions should only be approved when there is a health and safety problem, prior service agreements, or public benefits resulting from extending urban services that outweigh the further decentralization of city services.

However, the City Council, at it June 6, 2001 meeting, voted in favor of approving an extension of city water and sewer service for the Morgan Hill Bible Church citing that "(1) there are unique circumstances such that the public benefits or the religious and social support services provided by the Church outweigh the negative aspects of the continued decentralization of the City service area; (2) the improvements provided by the expansion of the Church will also have a direct public benefit that outweighs the negative aspects of continued decentralization of the City service area."

Growth Inducing and Precedent Setting Impacts

Extending service to this area will encourage other adjacent parcels to seek similar extensions to expand their uses in the rural area. Such extensions of service to unincorporated area will likely set a precedent for other such large scale, primarily non-rural facilities to be located in the rural areas.

Health and Safety/Public Benefit Issues

The City staff report states that there are no apparent current health and safety issues.

The request for extension of water service is not based on the failure of an existing well or a septic system serving an existing building. On the contrary, extension of service is for expansion of facilities on site.

Ability of the City to Provide Services

The City of Morgan Hill has provided documentation stating that it does have the capacity to serve this property and that serving this property outside its boundary will not reduce the level of services it provides its residents. However, the agreement for services is contingent on the city receiving written approval from the South County Regional Waste Water Authority (SCRAW)

Premature Conversion of Agricultural or Open Space Land

It is very likely that the extension of water and sewer service to this property will generate future requests for similar extensions in the adjacent parcels which consist of orchards/row crops and agricultural operations to the south, and open fields and rural-residential ranchettes to the west. This could result in the premature conversion of agricultural land in the area.

CONCLUSION

Sewer and water service is being sought to expand the existing church facility. However, the proposed expansion of the church facility would be inconsistent with the County General Plan and the Zoning Ordinance, as the proposal would not meet the required findings necessary for expanding the use. The proposed project goes against the fundamental development policies of the county not allowing development that would

require urban level of services outside urban service areas within the rural unincorporated areas. Extending services to this facility would set a precedent for other large facilities seeking service extensions outside city limits in rural unincorporated areas.

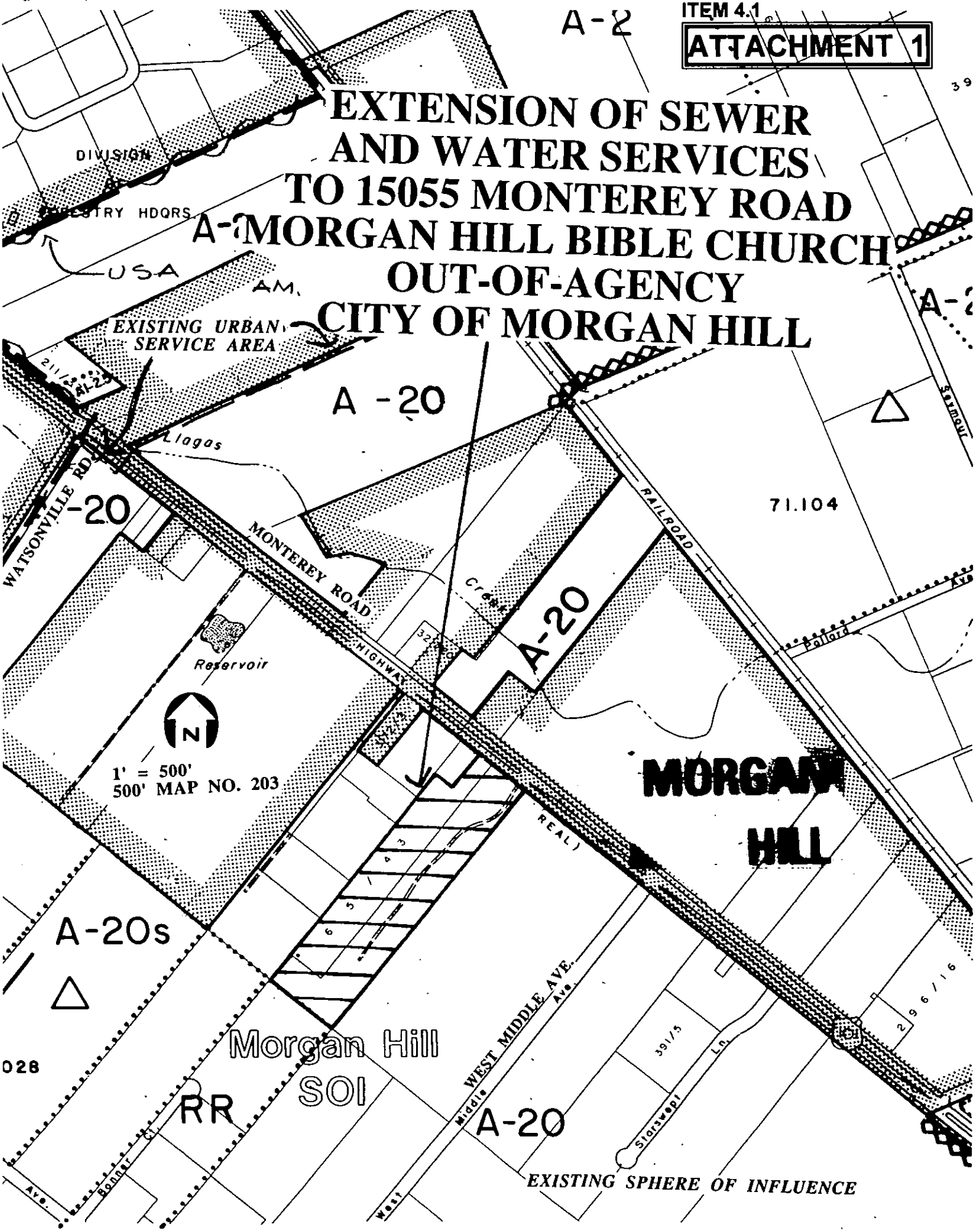
In general, it is against LAFCO policy to allow extension of services beyond a city boundary unless it is in anticipation of future annexation or to resolve a health and safety issue. This project is located outside the city's USA and there are no health and safety concerns involved. Staff recommends that the extension of water and sewer service be denied.

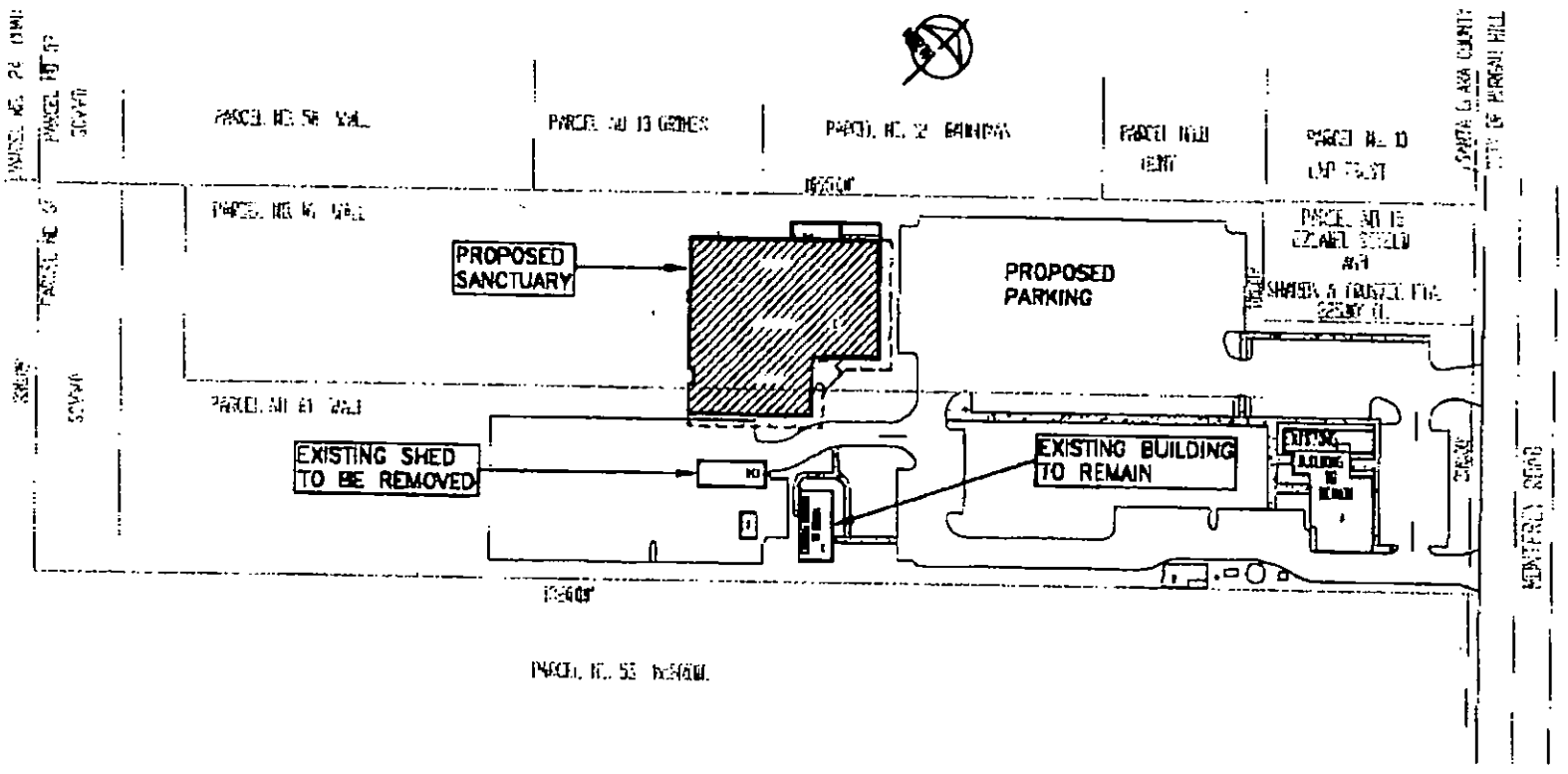
ATTACHMENTS

1. Map showing subject properties and jurisdictional boundaries and detailed map
2. LAFCO Analyst's Environmental Report
3. City of Morgan Hill Resolution requesting LAFCO approval
4. Sewer Service Agreement between the City of Morgan Hill and Morgan Hill Bible Church
5. Letter dated 1/30/02 from the County Planning Office regarding consistency of the proposed church expansion with county policies and zoning

ITEM 4.1
ATTACHMENT 1

EXTENSION OF SEWER AND WATER SERVICES TO 15055 MONTEREY ROAD MORGAN HILL BIBLE CHURCH OUT-OF-AGENCY CITY OF MORGAN HILL





BUILDING FLOOR AREA

BUILDING	EXISTING	PROPOSED
(A)	6,960	6,960
(B)	800	0
(C)	1,800	1,800
(D)	800	0
(E)	0	28,000
TOTAL (SQUARE FEET)	10,360	36,760

PROJECT NOTES

ASSESSOR'S PARCEL NO.	779-04-17
PRESENT USE	CHURCH/MEETING RM
PROPOSED USE	CHURCH/MEETING RM
PRESENT ZONING	A-20
PROPOSED ZONING	A-20
SANITARY SEWER	SEPTIC TANK (EXIST)
WATER SUPPLY	EXIST. WELL
GAS & ELECTRIC	P.G. & E. (EXIST)
TELEPHONE	G.T.E. (EXIST)
EXIST. IMPROVEMENTS	AS SHOWN
LAND AREA	
APN 779-04-061, APN 779-04-016	5.35 AC.
TOTAL	3.93 AC
	9.28 AC

PROPOSED SEWER AND WATER SERVICE EXTENSION FROM THE CITY OF MORGAN HILL

MORGAN HILL BIBLE CHURCH
15055 MONTEREY ROAD
MORGAN HILL, CA 95027
APN: 779-04-016 & 061

FIGURE 7 - PLANNED SITE PLAN

Post-it Fax Note 7671

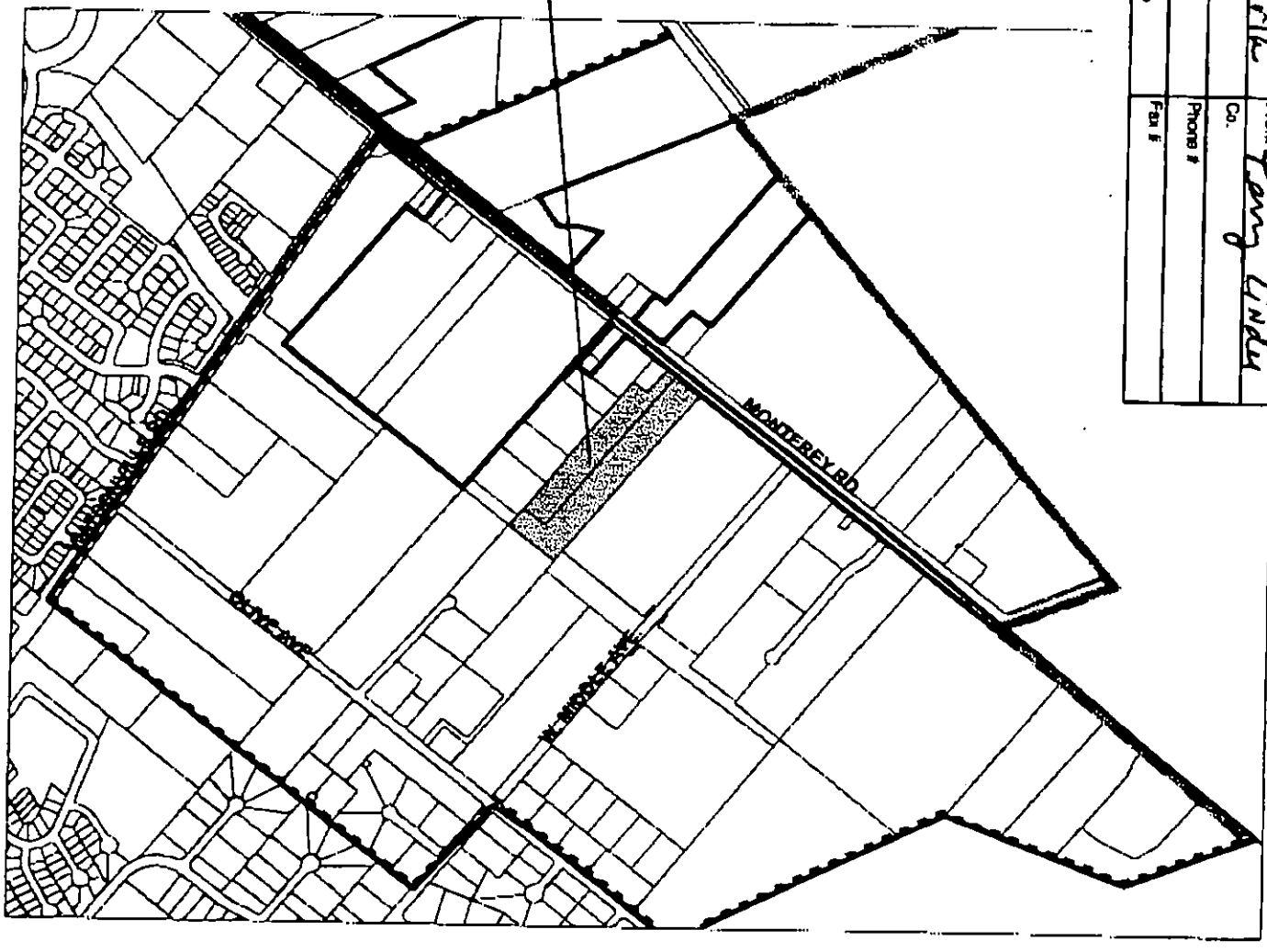
To N. Palacherla | Date 2/4/02

Co./Dept. | From Tony Lindsay

Phone # | Co. | # of pages ▶ 3

Fax # 295-1613 | Phone # | Fax #

Project Parcels



Parcel

City Limit

Sphere of Influence

Urban Service Area

Urban Growth Boundary

24" Sewage Line

10" Water Line

February 1, 2002

UTILITY MAP

OSR-01-05: Monterey-Morgan Hill Bible Church

City of Morgan Hill

0 500 1000 1500 2000 Feet

N

ITEM 4.1

ATTACHMENT 2

LOCAL AGENCY FORMATION COMMISSION
SANTA CLARA COUNTY
www.santaclara.lafco.ca.gov
County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-5127 FAX 295-1613
Neelima Palacherla, Executive Officer

Date prepared: January 30, 2002

Hearing date: February 13, 2002

To: The Santa Clara County Local Agency Formation Commission

From: Dunia Noel, LAFCO Analyst

Subject: Out of Agency, City of Morgan Hill, Extension of Water and Sewer Service to the Morgan Hill Bible Church (15055 Monterey Road)

Recommended CEQA Action:

Deny Categorical Exemption. This project is not categorically exempt from the requirements of CEQA. Approval of the Project requires an Initial Study to identify any potential environmental impacts of the project.

Reasons for Recommendation:

The City of Morgan Hill (Applicant) states that the project is exempt under CEQA Class 3, Section 15303 which exempts "the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures..." Specifically, the project falls into the provisions of Section 15303(d) which exempts the construction of the following:

> *(d) Water main, sewage, electrical, gas, and other utility extensions of reasonable length to serve such construction*

Upon review of the completed application, LAFCO staff concludes that the project does not meet the provisions of CEQA Class 3, Section 15303(d) because the exemption applies to new structures "not exceeding 2,500 sq. ft. in floor area" [Section 15303(c)]. Applicant is proposing that the sewer extension serve existing structures that total 10,360 sq. ft. in size, as well as new structures that total 25,000 sq. ft. in size.

Furthermore, LAFCO staff has reviewed the various Categorical Exemptions contained in CEQA and concludes that project does not meet any of these Categorical Exemptions. Therefore, LAFCO staff concludes that the project requires an Initial Study and preparation of a negative declaration or EIR before LAFCO can approve the project. However, LAFCO review and consideration of the project does not require CEQA analysis.

BACKGROUND

Project Description

The City of Morgan Hill is requesting on behalf of Keith B. Higgins and the Morgan Hill Bible Church, the property owner of 15055 Monterey Road, LAFCO approval of an Out-of-Agency contract for services. The property consists of two parcels totaling approximately 8.69 acres with one existing facility involved with this out of agency agreement. The contract would allow the City of Morgan Hill to provide sewer and water service to an existing 10,360 sq. ft. church facility located on 15055 Monterey Road (APNs 779-04-016 & 017), within an unincorporated area outside of Morgan Hill. These parcels are within the Sphere of Influence and the Urban Growth Boundary and outside the Urban Service Area of Morgan Hill. Since the proposed extension of water and sewer services will be outside of the City of Morgan Hill's jurisdictional boundaries, an out-of-agency approval is required from LAFCO.

Purpose and Need

The owner of these parcels are requesting this service agreement in order to connect to the City of Morgan Hill's sewer and water service. A city sewer line currently exists within Monterey Road, along the property frontage. The project would allow the owner to connect to the City of Morgan Hill's existing sewer line located at the front of the property.

The extension of sewer service to this property would involve the installation of an on-site lateral. A city water main currently exists within the City right of way approximately 650 ft. north of the property. The project would also allow the City to extend the water line south within Monterey Rd. and also onto the site. The City does not currently provide sewer or water to the existing 10,000 sq. ft. church.

Applicant indicates that the provision of city sewer and water could allow the church to expand their facility. The applicant would like to construct a 10,000 sq. ft. sanctuary and 15,000 sq. ft. of new classrooms. The City Council Meeting staff report of June 6, 2001, states that "there are no apparent health and safety issues" present at the project site.

The City of Morgan Hill staff recommended denial of the request at the June 2001 City Council meeting citing that the request did not meet Council Policy No. 96-03 which established provisions to extend services outside the city limits. The policy states that extensions should only be approved when there is a health and safety problem, prior service agreements, or public benefits from extending urban services that outweigh the further decentralization of city services.

However, the City Council, at it June 6, 2001 meeting, voted in favor of approving an extension of city water and sewer service for the Morgan Hill Bible Church citing that "(1) there are unique circumstances such that the public benefits or the religious and social support services provided by the Church outweigh the negative aspects of the continued decentralization of the City service area; (2) the improvements provided by the

expansion of the Church will also have a direct public benefit that outweighs the negative aspects of continued decentralization of the City service area."

Land Use and Planning

These parcels are within the Sphere of Influence and the Urban Growth Boundary and outside the Urban Service Area of Morgan Hill. Both parcels are located in unincorporated Santa Clara County. The County of Santa Clara Zoning for these parcels is A-20 Acres (Exclusive Agricultural Zoning District). The County of Santa Clara General Plan Designation for these parcels is Medium Scale Agriculture. These properties are designated Single Family Low within the City of Morgan Hill's General Plan. The project site is located in unincorporated Santa Clara County, and any new development (additional structures) on the site would require County approval.

The County Planning Office, in their letter dated January 30, 2002, states that the new development proposed by the Morgan Hill Bible Church (construction of 10,000sq. ft. sanctuary and 15,000 sq. ft of classrooms) would not be permitted under the current land use regulations and policies.

According to County Planning Office records, in August 2000 the Planning Office had a pre-application meeting with Morgan Hill Bible Church representatives to discuss their proposal to expand their facilities (by 22,000 sq. ft.) on the project site. Following the meeting, Planning staff sent the Morgan Hill Bible Church a letter concluding that "staff does not believe that this proposed expansion meets the letter of the zoning ordinance or the intent of the general plan." County land use regulations limit quasi-public facilities, such as the churches, to a total of 10,000 sq. ft. Specifically, Planning staff said, "as the Bible Church currently has in excess of 10,000 sq. ft. of covered space, no additional structures can be allowed."

Adjacent land uses include two commercial operations to the north (general contractor business and florist), commercial and agricultural operations to the east (motel and an orchard), orchards/row crops and agricultural operations to the south, and open fields and rural-residential ranchettes to the west. The properties directly east of the project (east of Monterey Rd.) are located within the City of Morgan Hill.

Lastly, the property is located in the Little West Llagas Creek 100-Year Flood Zone, as designated by the Federal Emergency Management Agency (FEMA). According to the Santa Clara Valley Water District (SCVWD), the site is currently subject to flooding. The SCVWD has plans to address flooding in the area through a flood control project that is scheduled to begin in 2004.

ENVIRONMENTAL FACTORS OF CONCERN TO LAFCO

Premature Conversion of Agricultural and Open Space Lands

The County Zoning Ordinance indicates that the project site is zoned A-20 (Exclusive Agricultural Zoning District). The State of California's Department of Conservation (CDC) has identified the parcels as "prime farmland" and "farmland of statewide

importance." However, no agricultural uses currently exist on the site. The site is not subject to a Williamson Act contract. The project site is already developed with over 10,000 sq. ft. of structures; the remaining areas are developed as paved and gravel parking lots. The project will not result in the premature conversion of either agricultural or open space lands on the site. However, the extension of urban services to the project site could impact the surrounding agricultural operations and encourage the premature conversion of agricultural lands.

Growth Inducement and Precedent Setting Implications

The project site is zoned A-20 (Exclusive Agricultural Zoning District) which has a minimum lot size of 20 acres and is identified as Medium Scale Agriculture under the County's land use designation of the County's General Plan. There is no potential for further subdivision of the site. Other properties in the immediate vicinity would not be served by the water and sewer extension as the contract authorizes an extension of service only from the City of Morgan Hill to the Morgan Hill Bible Church properties. As a result, the project would have no direct growth inducing impacts. However, the extension of sewer and water services to the project site based solely on the Morgan Hill Bible Church's desire to expand their facilities could set a precedent as other property owners in the area could then request outside connections on similar grounds.

The surrounding area consists of agricultural/rural uses with some urban uses (e.g. motel, florist, general contractor). All of the urban uses are located within Morgan Hill's city limits. The extension of water and sewer services into the area could indirectly encourage additional development and more intensive types of development in the area, particularly if additional properties were able to connect to the new extensions.

Provision of Public Services

The City of Morgan Hill has provided documentation stating that it does have the capacity to serve this property and that serving this property outside its boundary will not reduce the level of services it provides its residents. The extension of water and sewer services is contingent on the South County Regional Wastewater Authority's approval.

ITEM 4.1
ATTACHMENT 3

RESOLUTION NO. 5485

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN EXTENSION OF CITY WATER AND SEWER SERVICE FOR THE MORGAN HILL BIBLE CHURCH LOCATED AT 15055 MONTEREY RD. (APN 779-04-016 & 017)

WHEREAS, the Morgan Hill Bible Church has served the Morgan Hill community for more than eighteen years, with seven years at its current location. To meet the needs of the Church's growing membership and enable the Church to stay at its current location, additional classrooms and a sanctuary are needed; and,

WHEREAS, the Morgan Hill Bible Church provides social services that not only benefit its religious community, but are also extended to the general public and the expansion of the existing facility would allow the Church to further expand their social services and stay within the community.

WHEREAS, the Santa Clara County Health Department, as part of any expansion of the Church, will require the enlargement of the existing on-site sewer and water facilities which would be very costly and minimize the utilization of the property by using an inordinate amount of square footage; and,

WHEREAS, the long-term use of any new on-site water and sewer systems would also be questionable due to the historic high water table in the area; and

WHEREAS, the City has a 10-inch water line currently within Monterey Road, that would need to be extended 650 feet to the south to service the property and the City has a 24-inch sewer line which currently exists within Monterey Road along the front of the Church site. The impact to the City sewer and water system will be minimal.

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process; and

WHEREAS, such request was considered by the City Council at their regular meetings of June 20 and July 11, 2001, at which time the City Council approved the Out of Agency Service Request, OSR-01-05: Monterey-Morgan Hill Bible Church.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that there are unique circumstances such that the public benefits or the religious and social support services provided by the Church outweigh the negative aspects of the continued decentralization of the City service area.

SECTION 2. The City Council finds that the improvement provided by the expansion of the Church will also have a direct public benefit that outweighs the negative aspects of the continued decentralization of the City service area.

SECTION 3. This City Council approval is contingent upon execution and recordation of an agreement to the City's satisfaction which, among other items clarifies that the water and sewer service provided is temporary, and only for a specific land use, and terminates when the use is eliminated.

SECTION 4. This City council approval is contingent upon the Church complying with all County land use regulations and requirement for the parcel.

SECTION 5. The project is categorically exempt from CEQA under Section 15303(d).

SECTION 6. Extension of City water and sewer service is contingent upon the Santa Clara County Local Agency Formation Commission and the South County Regional Wastewater Authority's Approvals.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Special Meeting held on the 11th day of July, 2001by the following vote.

AYES:	**COUNCIL MEMBERS:**	**Larry Carr, Hedy L. Chang, Dennis Kennedy, Greg Sellers**
NOES:	**COUNCIL MEMBERS:**	**Steve Tate**
ABSTAIN:	**COUNCIL MEMBERS:**	**None**
ABSENT:	**COUNCIL MEMBERS:**	**None**

CERTIFICATION

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5485 adopted by the City Council at the Special Meeting on July 11, 2001.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: 8/13/01

Irma Torrez
IRMA TORREZ, City Clerk

ITEM 4.1
ATTACHMENT 4

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Attorney
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

(Space above for Recorder.)

01451

This document is exempt from payment of a recording fee pursuant to Government Code Section 27383.

Dated: July 27, 2001

AGREEMENT BETWEEN THE CITY OF MORGAN HILL AND MORGAN HILL BIBLE CHURCH REGARDING THE PROVISION OF SEWER AND WATER SERVICE.

THIS AGREEMENT is made this 27 day of July, 2001, by the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Morgan Hill Bible Church ("OWNER").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to the City of Morgan Hill's City Council approval on July 11, 2001.

2. The subject of this AGREEMENT is the Property described on **Exhibit A** attached hereto, and located at 15055 Monterey Rd., Morgan Hill, California.

3. The OWNER operates Bible Church on the property. The PROPERTY is located within the jurisdiction of the County of Santa Clara. OWNER desires to provide water and sewer services to support an expansion of the church facility.

4. This Agreement is contingent upon written approval from LAFCO authorizing the extension of services in accordance with Government Code Section 56133. In the event that LAFCO does not approve the proposed extension of services, the CITY shall not provide sewer and water service.

5. This Agreement is contingent upon written approval from SCRWA authorizing the extension of sewer service in accordance with SCRWA policy. In the event that SCRWA does not approve the proposed extension of services, the CITY shall not provide sewer service.

6. As of the date of execution of this Agreement, CITY has not annexed the property described in this **Exhibit A** of this Agreement.

7. To receive approval of the expansion of the Church facility, the OWNER is required by the Santa Clara County Planning and Environmental Health Service to provide for additional water and septic service.

8. The City currently has a 24 inch sewer main located directly adjacent to the PROPERTY, located within the City right-of way. The City currently has a 10 inch water main located within the City right of way approximately 650 ft. north of the property described in **Exhibit A** of this agreement.

9. In recognition of the long term presence of the Morgan Hill Bible Church, and the benefits it brings to the community, and consistent with the CITY's past practice, CITY desires to enter into this AGREEMENT to allow OWNER to connect to City water and sewer service.

10. The CITY has found, pursuant to Resolution No.5485, that there are unique circumstances such that the public benefits of the proposed project to be served out weigh the negative aspects of the continued decentralization of the CITY service area.

11. This Agreement is not meant to, and should not, be interpreted as any commitment or guarantee of services to any parcel other than the PROPERTY, and may not be used as precedent to any future action involving the CITY.

AGREEMENT

NOW, THEREFORE, IN RECOGNITION OF THE ABOVE RECITALS, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Encroachment Permit; Installation.** It is hereby agreed that OWNER may connect an on-site water line and an on-site sewer line to the City water main and sewer main. Prior to extension or installation of any water line or sewer line, OWNER shall obtain an encroachment permit from the CITY in the form of EXHIBIT B attached hereto. In addition, OWNER shall obtain the CITY's written approval as to the design of the water and sewer lines and connection to be installed, and the means of installation. OWNER agrees to install on-site back-flow protection devices and break off check valves as deemed necessary by the CITY's Director of Public Works. During and following installation of the laterals, the CITY may conduct inspections of the installation. OWNER agrees that any driveway installation and or any curb cuts or improvements shall be subject to City standards as set forth by the City's Director of Public Works. Should the City determine that the

design and/or installations are inappropriate, CITY shall in its discretion, reject the installation and terminate this Agreement.

2. **On Going System Maintenance**. The CITY hereby agrees to provide on-going maintenance for the water main and sewer main in accordance with its standard operating procedures. The OWNER hereby agrees to provide on-going maintenance for the on-site water line and sewer line in accordance with generally accepted standards.

3. **Costs to be Borne by OWNER**.. OWNER agrees to pay for all costs associated with extension, installation and maintenance of the water and sewer lines and connection to the City mains including the following: Prior to permit issuance, OWNER agrees to pay CITY all applicable fees in effect at the time of permit issuance.

4. **Fees and Rates:** OWNER agrees to pay the following fees and rates:

4.1 **Connection Fees**. Prior to connection, OWNER agrees to pay to CITY the customary fees charged for all persons who connect to the CITY's sewer and water system.

4.2 **Sewer and Water Rates**. OWNER shall be charged the same rate that is charged to similar customers outside city limits for which water and/or sewer service is being provided. The rates shall be set forth by ordinance or resolution of the City Council. Should the CITY annex the parcel for which sewer service is being provided for pursuant to this Agreement OWNER shall be charged the same rate as all customers within CITY limits.

5. **Limitation on Use of Water and Sewer:** OWNER agrees that the water and sewer from the City system is to be used solely for the current Church population and uses, as approved by the County of Santa Clara, and use of water and sewer for any other purpose shall be cause for immediate cut-off of service and termination of this Agreement.

6. **Sewer Service.** OWNER is granted the right to connect to the CITY's sewage system. CITY retains the right to disconnect the sewer and/or water service for OWNER's failure to pay the monthly sewer and/or water bills, upon giving proper notice to OWNER.

7. **City Zoning; Applications and permits.** OWNER shall comply with all CITY requirements for the Residential Estate zoning district, and any applications and permits of any nature.

8. **Licenses, Permits and Fees.** OWNER shall obtain all permits and licenses as may be required by this Agreement and shall be responsible for all fees associated with such permits and licenses.

9. **Compliance with Law.** OWNER shall comply with all applicable laws, ordnance and codes, and regulations of the federal, state, county and local government.

10. **Notices.** All notices shall be personally delivered or mailed to the addresses listed below:

A. Address of OWNER is as follow:

Pastor Charlie Youngkin
Morgan Hill Bible Church
15055 Monterey Rd.
Morgan Hill, CA 95037

B. Address of CITY is as follows:

Ed Tewes, City Manager
City of Morgan Hill
17555 Peak Ave.
Morgan Hill, CA 95037

11. **Latent or Unknown Conditions.** Should OWNER discover any latent or unknown conditions materially differing from those represented to CITY, it shall immediately inform CITY of this and shall not proceed until written instructions are received from CITY.

12. **Time if Essence.** Time is of the essence in the performance of this Agreement.

13. **Successor's Interest.** Should the PROPERTY be sold, transferred, or encumbered in any manner, this Agreement shall become null and void, and the CITY shall have no further obligation hereunder. However, the provisions of Paragraph 11 specifically survive any expiration of nullification of this Agreement.

14. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.

15. **Indemnification**. OWNER agrees to protect, defend, and hold harmless CITY and their elective or appointive boards, officers, agents and employees from any and all claims, liabilities, expenses or damages or any nature, including attorneys' fees, or injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with this Agreement. The only exception to OWNER's responsibility to protect, defend, and hold harmless CITY is due to the sole negligence of CITY, or any of their elective or appointive boards, officers, agents, or employees.

16. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by CITY and OWNER.

17. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of CITY and OWNER

18. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced pursuant to this Agreement shall be initiated in the

Santa Clara County Superior Court.

19. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.

20. **Termination of This Agreement**. This agreement is terminable by either Party, with or without cause, upon sixty (60) days' written notice. However, any change from present use of Property and/or modification, extension or enlargement of the waterline or sewer line improvements beyond the plans approved by the CITY shall automatically terminate this Agreement. The CITY shall be entitled to remove the sewer and water connection. Should the OWNER elect to terminate the Agreement, all cost to remove the sewer and water connections shall be the responsibility of the OWNER. The OWNER hereby further acknowledges that the water and sewer service provided is temporary, only for a specific land use, is to be used solely for church purposes, and terminates when the use is terminated.

21. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted and all remaining provisions shall remain enforceable.

22. **Term of Agreement**. This Agreement shall expire upon annexation of the real property described in Exhibit A.

23. **Future Annexation**: OWNER agrees that in consideration for CITY granting sewer and water service pursuant to this Agreement, OWNER, his or her heirs, personal representatives, successors, and assigns will not protest the annexation of the real property to CITY, and shall fully cooperate with any annexation process whether such annexation proceedings are for inhabited or uninhabited territory, and whether such annexation proceedings are commenced by CITY or by private parties desiring to annex to the CITY. Should the property be annexed to the CITY, OWNER shall be responsible to pay to CITY the standard annexation fee at the time of annexation. In the event that several adjoining parcels join in the proceedings the fee will be prorated accordingly.

23.1 **Withdrawal of Services.** In the event that the real property described in Exhibit A is not annexed to CITY due to actions of the OWNER or his or her successors in interest, CITY reserves the right to withdraw its sewer and water services under this Agreement upon thirty (30) days' written notice.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

CITY OF MORGAN HILL

By: _____
J. Edward Tewes, City Manager
Date: 10/18/01

ATTEST:

By: _____
Irma Torrez, City Clerk
Date: 10/19/01

"OWNER"
NAME OF OWNER Morgan Hill Bible Church Inc.

By: Roger Maleh, C.E.O.

Date: 7/27/01

APPROVED:

By: _____
Jack Dilles, Risk Manager
Date: 10/17/01

APPROVED AS TO FORM:

By: _____
Helene Leichter, City Attorney
Date: 10/17/01

R:\PLANNING\WP51\BOUNDARY\OSA\Osr0105.x1x.wpd

ITEM 4.1 Np

ATTACHMENT 5

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

January 30, 2002

Neelima Palacherla
Executive Director
Santa Clara County Local Agency
Formation Commission (LAFCO)
County Government Center, 11th Floor
70 West Hedding St.
San Jose, CA 95110

RE: Proposed Expansion of Morgan Hill Bible Church, 15055 Monterey Road, Morgan Hill, CA – Consistency with County Policies and Zoning

Ms. Palacherla:

This is in response to your questions regarding the proposed expansion of the Morgan Hill Bible Church and whether the expansion being considered would be consistent with the County General Plan and Zoning Ordinance regulations. The City of Morgan Hill has proposed to extend water and sewer services to the subject parcel in order to facilitate the expansion of the church to construct a 10,000 square foot sanctuary and 15,000 square feet of classrooms. In your email you indicate the current use contains structures totaling 10,360 square feet.

The subject parcel is APN 779-04-061. It is located in an area which has a General Plan Land Use designation of "Agriculture-Medium Scale," and zoning of "A-20ac." The "A" zone is the "Exclusive Agriculture Zoning District." The General Plan designation limits allowable uses to agriculture, agriculture-supporting uses, and other uses compatible with agriculture which clearly enhance long term viability of agriculture (Attachment A).

Churches and other quasi-public uses are permitted uses in the A zoning district and in areas with the "Agriculture-Medium Scale" Land Use designation, subject to issuance of a use permit and Architecture & Site Approval, or ASA. The specific section of the zoning ordinance which applies is Section 4-5.6(j), Miscellaneous Uses (Attachment B). (Note: "Quasi-public facility," is defined by Section 3-19, Definitions). Quasi-public facilities may be permitted only if the following findings can be met:

> 4-5.6(j): The following additional uses found to be of substantial public benefit may be permitted on parcels designated for Medium Scale Agriculture on the County's General Plan Land Use Map provided that:

1) The subject parcel is deemed by the Planning Commission to be of marginal quality for agricultural purposes because of one or more of the following conditions: Poor soil type, lack of water availability, or an abundance of surrounding incompatible non-agricultural uses; and

2) The proposed uses are intended, designed, and sized to primarily serve the local rural unincorporated population.

Quasi-public uses in the A zoning district are also limited in total floor area of all covered spaces to 10,000 square feet or less. This limitation includes all enclosed and unenclosed covered space.

Taking into account the zoning provisions that apply to quasi-public facilities described above and the information from your files about the proposed expansion of the existing facilities, the proposed use expansion would not be consistent with the County General Plan or the Zoning Ordinance, for the following reasons:

1. The current use already exceeds the maximum allowable floor area.
2. The proposed use modification would have little likelihood of being intended, designed and sized to serve a primarily rural unincorporated area population. The rural population in this vicinity is very small and insufficient to support or warrant a rural-serving church of the proposed size. Therefore, the proposed size of the use could not satisfy this particular finding, and would furthermore be inconsistent with fundamental policies of the General Plan governing uses for rural areas outside city Urban Service Area boundaries (see Attachment C).

In conclusion, staff's determination based on information provided is that the proposed land use would not be consistent with the County General Plan or Zoning Ordinance regulations for the "A, Exclusive Agriculture" Zoning District.

If you have need of further information, you may contact me at 299-5749.

Sincerely,

Bill Shoe

Bill Shoe, Associate Planner

Attachments

A. "Agriculture" General Plan Land Use Designation policies, p. Q-2, Book B, Santa Clara County General Plan.
B. Article 4, A, Exclusive Agriculture Zoning District regulations applicable to churches and other quasi-public or institutional facilities.
C. Growth and Development Chapter Policies, Rural Unincorporated Area Issues and Policies, p. K-1 – K-4, Book B, Santa Clara County General Plan.

P.S.:
It must also be noted that the current use permit in effect, granted with an effective date of October 16, 1992, is described in the staff report on file (File #2714-91P) and shown on approved plans as being comprised of only 5,826 square feet of buildings. There is no record on file of there having been a use permit modification approved since 1992 to allow for the expansion of the use to that which has been described as its present cumulative floor area of 10,360 square feet.

CC: David Bischoff, Director, City of Morgan Hill, Community Development Department
File # 2714-69-33-91P-91A
Correspondence File

LOCAL AGENCY FORMATION COMMISSION
SANTA CLARA COUNTY
www.santaclara.lafco.ca.gov

County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-5127 FAX 295-1613
Neelima Palacherla, Executive Officer

February 4, 2002

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **2002 West Bay Sanitary District Sphere of Influence (SOI) Amendment and Annexation (Los Trancos Creek Area)**
Agenda Item # 4.2

STAFF RECOMMENDATION

Forward the following recommendation to San Mateo Local Agency Formation Commission, for its consideration and approval:

1. CEQA Action

Find that
a. The Negative Declaration was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project,
b. prior to making a recommendation on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the Negative Declaration.

2. Sphere of Influence Amendment

Deny the proposed amendment of sphere of influence of West Bay Sanitary District to include 4 parcels APNs 182-36-022, 182-34-064, 182-34-063, 182-34-065 shown in Exhibit 1 until further study and documentation / information can be provided to demonstrate the need for including the parcels within the District's SOI.

3. Annexation

Conditionally approve annexation of 10 parcels into West Bay Sanitary District along Los Trancos Creek Road in Santa Clara County, consisting of parcels, APNs 182-34-023, 182-34-053, 182-36-018, 182-36-003, 182-36-004, 182-34-029, 182-34-044, 182-34-046, 182-34-045, 182-34-038 provided:

1. Resolutions of a zero percent property tax exchange reflecting the annexation of the parcels to the West Bay Sanitary District are approved by the West Bay Sanitary District and the Santa Clara County Board of Supervisors

2. Revised legal descriptions and maps of the annexation areas, incorporating the revisions requested are received and approved by the LAFCO Surveyor.

Deny annexation of the 4 parcels that are currently outside the SOI of the West Bay Sanitary District until further study demonstrates need for the service in the area and the SOI issues are resolved.

PROJECT DESCRIPTION

West Bay Sanitary District is requesting a SOI amendment to include 4 parcels within its sphere. The proposed sphere amendment includes 3 unincorporated Santa Clara County parcels on Arastradero Road and one parcel along Los Trancos Creek within the city limits of Palo Alto. The purpose of amending the sphere is to annex the parcels and provide sanitary sewer to them. In addition, the District is also proposing to annex 10 other parcels that are within the district's current SOI and within unincorporated Santa Clara County. See table on following page and attached map. (Attachment #1)

1998 SOI Amendment

In 1998, the SOI for the District was amended to include about 27 parcels along Los Trancos Woods Road adjacent to Los Trancos Creek to address an environmental health problem for existing residences along Los Trancos Creek. At that time, the SOI boundary was defined primarily to include all parcels that were directly along the creek. A field survey conducted at that time by County Environmental Health Department identified the areas that were likely to be underlain with high ground water or where conditions were unclear and further testing was required.

The current proposal seeks to include 3 parcels that are not directly along the Creek and one parcel along the Creek that was in 1998 not included in the District's sphere.

Inter-LAFCO Agreement

Pursuant to Government Code Section 56123, San Mateo LAFCO, as principal LAFCO for West Bay Sanitary District, first received this annexation and SOI amendment application. Consistent with the 1985 agreement between the two LAFCOs for dealing with districts spanning county boundaries, San Mateo LAFCO forwarded this application to Santa Clara LAFCO because the territory involved is located in Santa Clara County. Santa Clara County LAFCO will hold a public hearing and forward a recommendation to San Mateo LAFCO which will take the final action at its own hearing. Santa Clara LAFCO's action is therefore only advisory in this matter.

Proposed Annexation and Sphere of Influence Amendment to West Bay Sanitary District

APN	Property Address	Owner Name	Jurisdiction	Proposal	Est. Acres	1998 Env. Health Survey Report*	Developed N/Y
182-36-022	800 Los Trancos Rd.	Conroe	Palo Alto	Annexation/SOI	3.55	No Info	N
182-34-023	14 Arastradero Rd.	Gerst	Unincorp	Annexation	1.18	Unclear	Y
182-34-064	20 Arastradero Rd.	Hamill	Unincorp	Annexation/SOI	2.00	No HG/No Slope	N
182-34-063	18 Arastradero Rd.	Winchell	Unincorp	Annexation/SOI	0.77	No HG/No Slope	N
182-34-053	4133 Alpine Rd.	Klein	Unincorp	Annexation	1.21	HG	Y
182-36-018	4133 Alpine Rd.	Klein	Unincorp	Annexation	0.70	HG	N
182-36-003	4117 Alpine Rd.	Waterman	Unincorp	Annexation	3.00	HG	Y
182-34-004	4117 Alpine Rd.	Waterman	Unincorp	Annexation	7.40	Unclear	N
182-34-029	4121 Alpine Rd.	Lanza	Unincorp	Annexation	1.62	HG	Y
182-34-044	4107 Alpine Rd.	Reed	Unincorp	Annexation	1.04	HG	Y
182-34-046	4135 Alpine Rd.	Carstens	Unincorp	Annexation	1.00	HG	Y
182-34-045	4111 Alpine Rd.	Urbanowicz	Unincorp	Annexation	1.02	HG	Y
182-34-038	4131 Alpine Rd.	Westall	Unincorp	Annexation	1.01	Unclear	Y
182-34-065	10 Arastradero Rd.	Winchell	Unincorp	Annexation/SOI	3.16	No HG/No Slope	Y

*

Unclear: Conditions unclear; wet weather testing required
HG: High groundwater documented or strongly suspected/inadequate room for septic system expansion due to steep slope
No HG / No Slope: No high groundwater or limiting slope conditions

ENVIRONMENTAL ASSSESSMENT

Negative Declaration

An Initial Study and Negative Declaration have been prepared for the project. There were no significant impacts identified by the Initial Study. Please see attached Analyst's Report for discussion of specific concerns to LAFCO. (Attachment #2)

SPHERE OF INFLUENCE AMENDMENT

LAFCO has received a request by the West Bay Sanitary District to include 4 parcels within the SOI of the District to allow the District to annex and provide sewer service to these parcels.

Effective January 1, 2001, the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 requires that a service review be conducted prior to the establishment or update of a SOI. The requested SOI amendment is minor, no objections have been received from any other agencies in the area and there are no other agencies that are authorized to provide the services that the District provides in this area. Therefore, the SOI amendment is being processed without conducting or requiring a service review.

Sphere of Influence Findings

In approving the sphere amendment, LAFCO must consider the following issues and adopt findings on each of the issues. Provided below is analysis of the issues. As seen below, findings 1 and 2 cannot be made due to lack of information at time of writing this report.

1. The present and planned land uses in the area, including agricultural and open space lands.

Finding: The present and planned land use on the three parcels in the unincorporated area is residential in nature. The General Plan designation and the zoning for the parcels is Hillsides (HS) and the present lot sizes will not allow any further sub division. The proposed inclusion in the District's sphere would not alter existing land uses on the parcels.

The parcel in Palo Alto is designated for Open Space (OS) and is currently vacant. The City of Palo Alto does not provide service in this area but in the past has allowed West Bay Sanitary District to provide sewer service in the area. The City's General Plan contains no policies related to extension of sanitary sewer and the city evaluates proposals on a case-by-case basis. However, as of writing this staff report, the City of Palo Alto

Planning Department has not provided input on this issue. Clarification is required on the planned land use for this parcel located within the city limits.

2. The present and probable need for public facilities and services in the area.

Finding: A map (Attachment # 3) showing the results of a 1998 field survey conducted by the County Environmental Health Department indicates that 3 of the parcels (APNs 182-34-064, 065, 063) proposed for inclusion in the sphere do not have high ground water or limiting slope conditions. Two of the parcels, APNs 182-34-064 and 065 are currently developed with single-family homes served by septic systems and APN 182-34-063 is currently vacant. At this time no further documentation is provided to demonstrate present or probable need for sewer service on these parcels. The field survey does not provide any information on the fourth parcel (APN 182-36-022). This finding cannot be made until further documentation is provided.

3. The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.

Finding: The County does not provide municipal services to unincorporated areas within the county, and does not allow urbanized development in the unincorporated areas. The City of Palo Alto also does not provide services to the parcels in this area as they are located outside its urban service area and are separated by the open space reserve lands. West Bay Sanitary District is authorized to provide sewer services and the addition of these lands to its SOI will not impact the capacity or adequacy of its services.

4. The existence of any social or economic communities of interest in the area.

Finding: The area is accessed through the Town of Portola Valley, which is partially served by the District and partially served by individual septic systems. The area is physically separated from other neighborhoods in Santa Clara County as it is surrounded by open space reserve lands. The District currently provides sewer service to many parcels within this area. Inclusion of the parcels within the SOI of the District will not affect the community. However, the inclusion of these parcels in the SOI will leave only a few other unincorporated parcels in the area bound on the eastern side by the open space reserve that are not within the SOI of the District. No analysis has been conducted to determine if these parcels would benefit from inclusion in the District's SOI.

PROPOSED ANNEXATION

The District is proposing to annex 14 parcels out of which 10 are within the District SOI and the remaining 4 are proposed for inclusion in the SOI prior to annexation.

The following analysis however, includes only the 10 parcels that are currently within the District's SOI. The 4 parcels that are not currently within the District's SOI are not included in this analysis at this time because of unresolved issues relating to their

inclusion in the SOI of the District. Annexation can only be considered if territory is within an agency's SOI.

Health and Safety Issues

A reasonable justification for annexation to a special district would be to address health and safety related needs. Seven out of the 10 parcels have been identified in the Environmental Health Department's Map to have potential high ground water and steep slope conditions. These conditions combined with proximity of the area to the creek and related public health concerns would not allow replacement of failing septic systems. The map states that conditions on the other 3 parcels are unclear. However, all the 10 parcels are situated along the Creek and thus justify the need for connecting to the sewer.

Logical and Efficient Boundaries

All 10 parcels are within the District's SOI. However, the parcels proposed for annexation are not contiguous to each other. Health and Safety Code Section 6830 (d) allows "the district to annex territory not contiguous to the district that will, in the opinion of the district board, be benefited by inclusion in the district".

Provision of Services

District has indicated that it has adequate sewer capacity to provide services to the properties without detracting from the existing service levels within this area.

Conversion of Agricultural or Open Space Lands

None of the 10 parcels are currently in agricultural production or designated as open space.

Alternatives to Annexation

There are no feasible alternatives to annexation to the district as there are no other existing sewer systems in the area. The only alternative would be to continue to rely on septic systems, which over time will be ineffective due to site conditions such a high ground water, steep slopes and proximity to the Creek.

Duplication of Services

Annexation will not result in a duplication of services. The parcels under consideration are all within the SOI of West Bay Sanitary District and are unincorporated; the County does not provide sewer service.

Property Tax Negotiations

The West Bay Sanitary District is not party to the Master Tax Agreement between Santa Clara County and special districts and cities in the county because the District lies almost entirely within San Mateo County. Therefore, resolutions negotiating a zero percent

property tax exchange are required to be adopted by the Santa Clara County Board of Supervisors and the District prior to the San Mateo LAFCO's final action.

CONCLUSION

Staff recommends annexation of the 10 parcels that are currently within the SOI of the District. All these parcels are along the creek and or have limiting site conditions for repair of failing septic systems. These parcels are not sub dividable but provision of sewer to these parcels could potentially allow development of 2 new homes on the 2 vacant lots and possibly secondary dwelling units on other parcels subject to approval by the County. The project has no significant growth inducing impacts or negative impacts on the agricultural or open space resources in the area.

Staff is recommending denial of the SOI amendment to include the 4 parcels at this time, until further study is conducted to determine the need for services to these parcels. This will ensure compliance with the basic policy that urban services should not be provided in the unincorporated rural areas except to resolve a demonstrated health and safety concern. Annexation of these 4 parcels may be considered after the SOI issues are resolved.

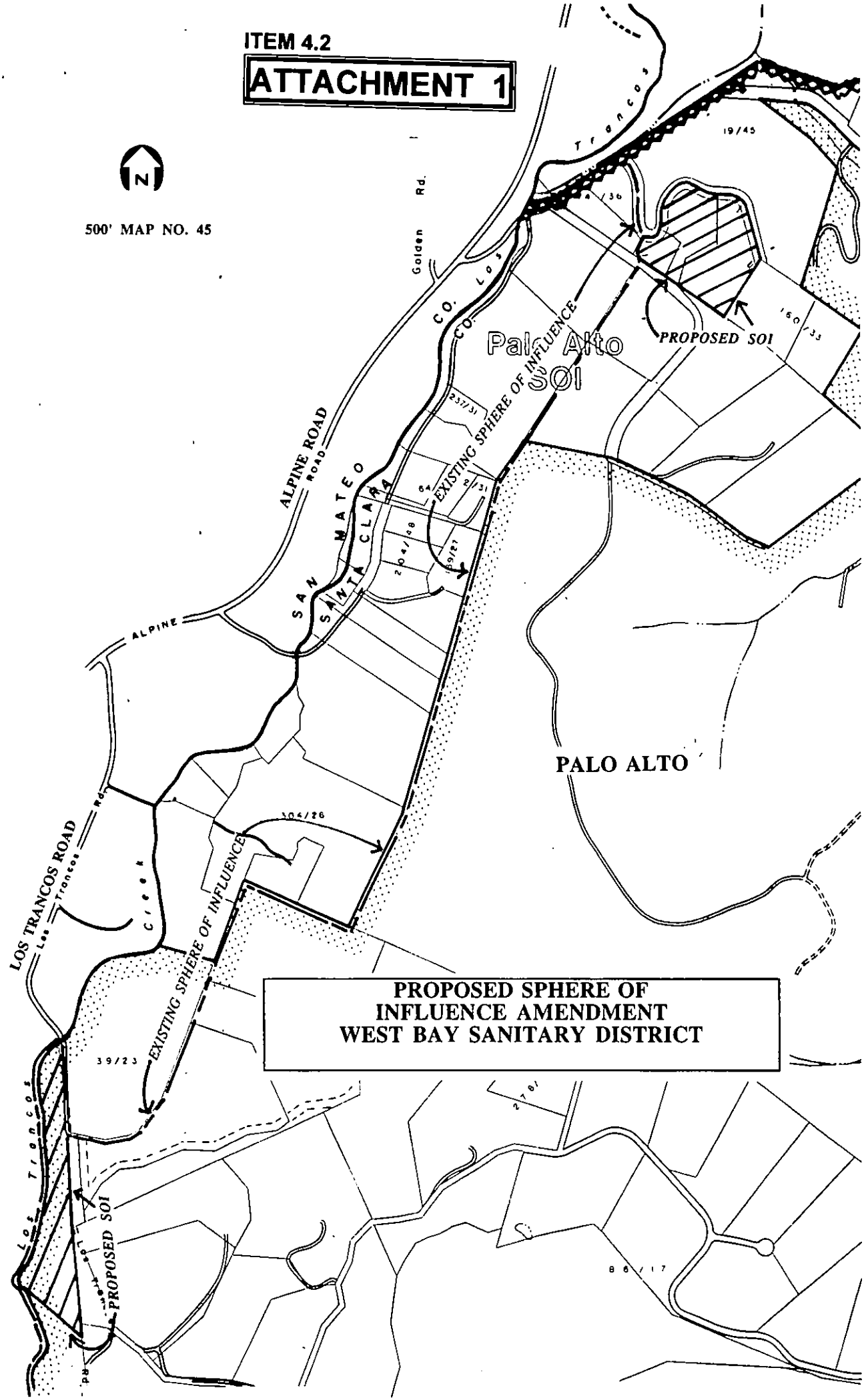
ATTACHMENTS

1. Map showing SOI, annexation and existing jurisdictional boundaries of District
2. LAFCO Analyst's Report
3. 1998 map showing results of field survey conducted by Santa Clara County Department of Environmental Health

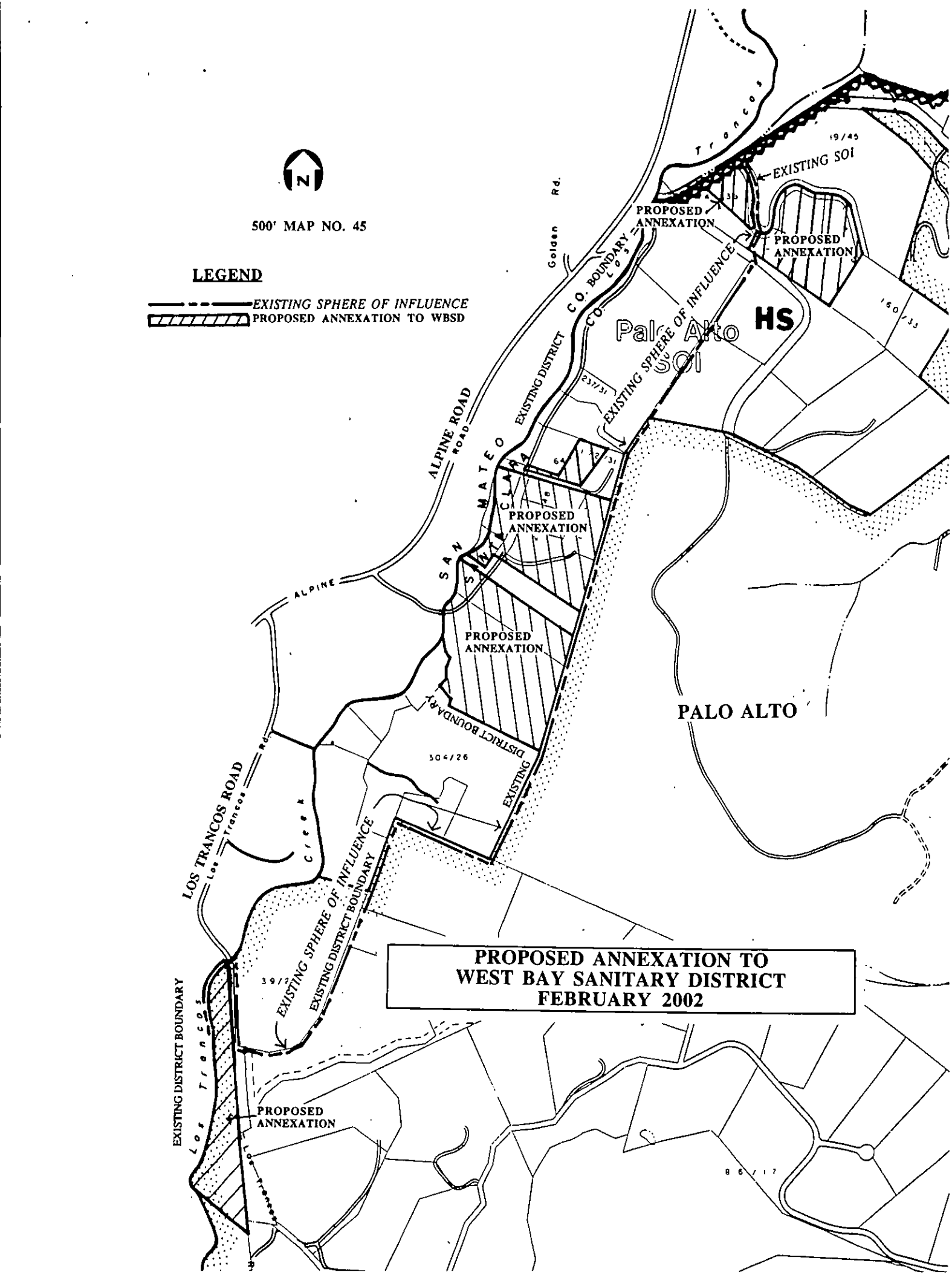
ITEM 4.2

ATTACHMENT 1

500' MAP NO. 45



PROPOSED SPHERE OF INFLUENCE AMENDMENT WEST BAY SANITARY DISTRICT


500' MAP NO. 45
LEGEND
EXISTING SPHERE OF INFLUENCE
PROPOSED ANNEXATION TO WBSD
PROPOSED ANNEXATION
EXISTING SOI
PROPOSED ANNEXATION
PROPOSED ANNEXATION
PROPOSED ANNEXATION
PROPOSED ANNEXATION
PROPOSED ANNEXATION
EXISTING SPHERE OF INFLUENCE
EXISTING DISTRICT BOUNDARY
EXISTING SPHERE OF INFLUENCE
EXISTING DISTRICT BOUNDARY
EXISTING DISTRICT BOUNDARY
Palo Alto SOI
HS
PALO ALTO
ALPINE ROAD
ALPINE
LOS TRANCOS ROAD
Los Trancos Creek
Los Trancos Rd.
Golden Rd.
SAN MATEO
SANTA CLARA
CO. BOUNDARY
Los Trancos
Los Trancos
19/45
160/33
237/31
304/26
86/17
39/2
PROPOSED ANNEXATION TO
WEST BAY SANITARY DISTRICT
FEBRUARY 2002

'TEM 4.2

ATTACHMENT 2

LOCAL AGENCY FORM.. ION COMMISSION
SANTA CLARA COUNTY
www.santaclara.lafco.ca.gov
County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-5127 FAX 295-1613
Neelima Palacherla, Executive Officer

Date prepared: January 16, 2002

Hearing date: February 13, 2002

To: The Santa Clara County Local Agency Formation Commission

From: Dunia Noel, LAFCO Analyst

Subject: West Bay Sanitary District Sphere of Influence Amendment (SOI) and Annexation (Arastradero Road)

Recommended CEQA Action and Required Findings:

As a Responsible Agency under CEQA, LAFCO may take the following action regarding the Negative Declaration for projects referred to the Commission by another agency:

1. Find that [a] the Negative Declaration was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project, [b] prior to making a recommendation on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the Negative Declaration.

BACKGROUND

Project Description

The proposed project consists of the annexation of a total of 14 parcels into the West Bay Sanitary District to provide sanitary sewer service to these parcels, and a sphere of influence amendment to extend West Bay's sphere of influence to 4 of 14 parcels. Of the 14 parcels proposed for annexation, which are not all contiguous, 9 parcels are currently developed with houses and 5 parcels are vacant. All developed parcels at the site are served by existing septic systems.

Purpose and Need

Existing septic systems in the project area are failing due to high groundwater in the vicinity. The Santa Clara County Environmental Health Department has determined that at least 7 of the parcels in the project area are compromised by high groundwater or have insufficient space to expand existing septic systems due to excessive slopes. An additional 3 parcels have unclear conditions and require wet weather testing. However, Environmental Health also concluded that 3 of the parcels in the project area have no high groundwater or limiting slope conditions. The proposed SOI amendment and annexation to the West Bay Sanitary District are intended to allow installation of a

sanitary sewer system that would allow abandonment of the existing septic systems and thereby eliminate the existing health and water quality risk.

Although these parcels are located in Santa Clara County, property owners have requested that West Bay Sanitary District (a San Mateo County based special district) provide sanitary services to the project area. Therefore San Mateo LAFCO has jurisdiction over this special district annexation and Sphere of Influence amendment and any action that the Santa Clara LAFCO takes on the negative declaration is advisory only.

Project Location

A total of 13 of the 14 parcels proposed for annexation (28 acres, non-contiguous site) are located in unincorporated Santa Clara County, along Old Alpine Road between Creek park Drive and Arastradero Road, just south of Los Trancos Creek (which forms the border of San Mateo County). One additional parcel (3 acres) is located within the City of Palo Alto, approximately one-half mile southwest of the other 13 parcels, along Los Trancos Road south of the intersection with Alpine Road and east of Los Trancos Creek.

Land Use and Planning

The Santa Clara County Zoning Ordinance and General Plan designate the13 parcels within unincorporated Santa Clara County as HS (Hillside Zoning). The City of Palo Alto Zoning Ordinance and Comprehensive Plan designate the southernmost parcel as Open Space (OS). The proposed project would not alter existing land uses in the study area. The applicants are not proposing any change to the existing zoning or general plan designations for the properties. As such, the project will not result in any impacts upon any of the current land use designations or development policies of the County or city.

ENVIRONMENTAL ASSESSMENT

Negative Declaration

An Initial Study and Negative Declaration have been prepared for the project. There were no significant impacts identified by the Initial Study. Environmental factors of specific concern to LAFCO are discussed below.

ENVIRONMENTAL FACTORS OF CONCERN TO LAFCO

Premature Conversion of Agricultural and Open Space Lands

Of the 14 parcels proposed for annexation, 9 currently contain single-family residences on lots ranging in size from 1 acre to 3 acres. Of the 4 parcels proposed for inclusion into the sphere of influence, 1 currently contains a single-family residence. None of the parcels is currently in agricultural production or designated for open space. The project therefore will not result in the conversion of any agricultural or open space lands.

Growth Inducement

The subject parcels are located within the unincorporated section of Santa Clara County except for one parcel in the Palo Altos City Limits. As such, any subdivision proposal for any of these parcels must comply with the density requirements of the County General Plan. The County's General Plan designation for the parcels within the study area is

Hillside (20 acre minimum lot sizes). The one parcel located in the City of Palo Alto has a General Plan designation of Open Space (10 acre minimum lot sizes). Therefore, none of these parcels involved in this project are eligible for further subdivision.

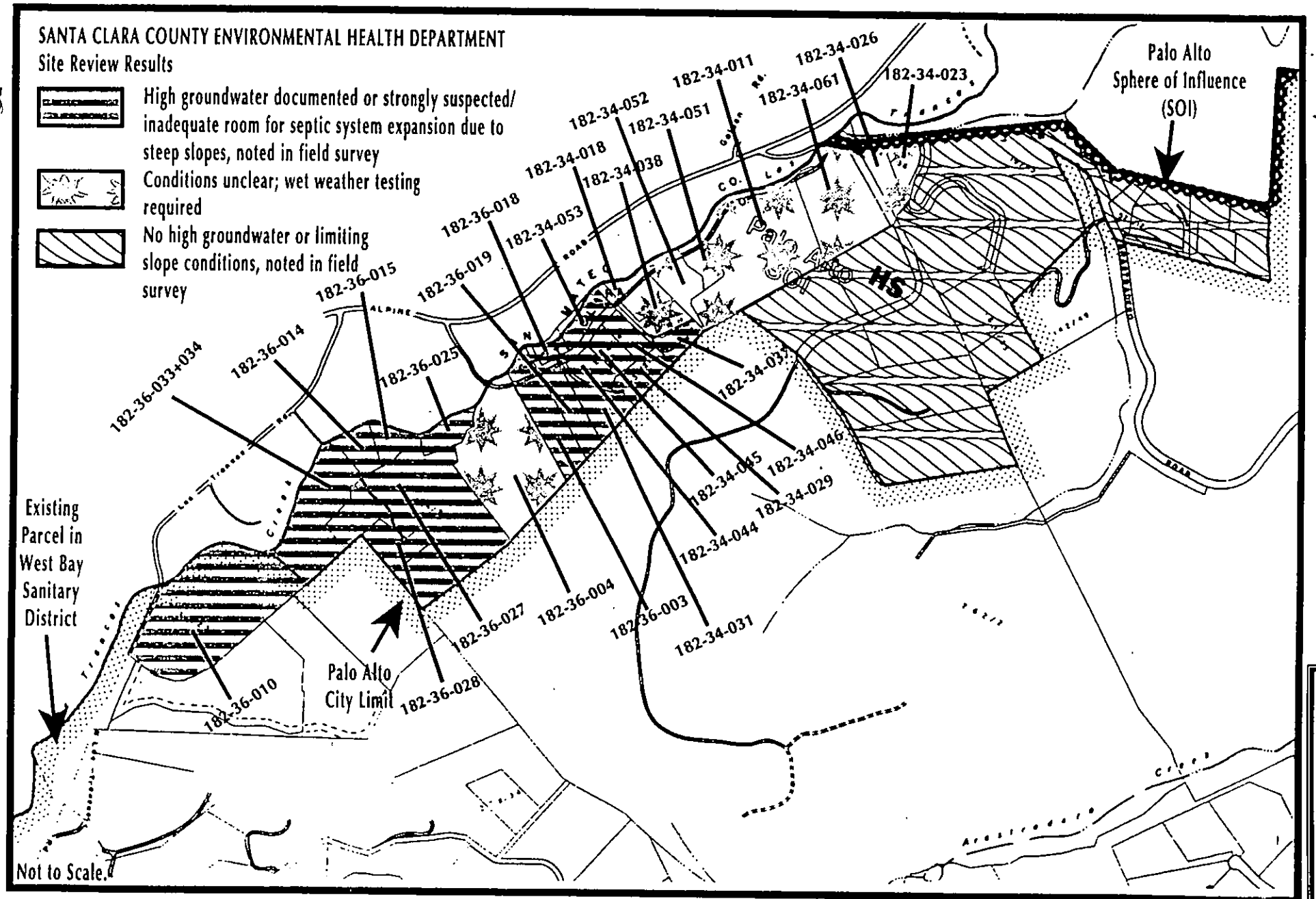
The area included in the proposal sphere is geographically well-defined. The parcels proposed to be included in the sphere amendment are all located between Los Trancos Creek, which is also the County boundary, and a quickly rising hillside to the south. The geography constrains the limits of growth-inducing impacts associated with this proposal.

Of the 10 parcels proposed for annexation only, and the 4 parcels proposed for both annexation and inclusion in the SOI, there is the possibility of 5 new primary dwelling units to be constructed. No additional units are proposed as part of the annexation request and no plans have been submitted at this time.

The provision of sewers to each of the parcels, however, may provide an impetus for additional secondary units in the area, which require a special permit, by removing the current requirement to have a separate system for each dwelling unit. As part of the review for each Special Permit application, the County would evaluate the existing roadway conditions for increased traffic and safety impacts. Improvements to existing roadway to mitigate any impacts could be made a condition of approval for any Special Permit, if deemed necessary by County staff. As a result, the project is not expected to result in any significant impacts.

Provision of Public Services

According to the Negative Declaration/Initial Study, all urban services are available to the site. West Bay Sanitary District has indicated that it does have adequate sewer capacity to provide services to the properties without detracting from the existing service levels within this area. As such, the overall impact on services is minimal.



Source: County of Santa Clara

WEST BAY SANITARY DISTRICT ANNEXATION AND SPHERE OF INFLUENCE AMENDMENT PROJECT

Robert Bein, William Frost & Associates

Area Under Consideration for WBSD - SOI Amendment

ITEM 4.2
ATTACHMENT 3

LOCAL AGENCY FORMATION COMMISSION
SANTA CLARA COUNTY
www.santaclara.lafco.ca.gov

County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-5127 FAX 295-1613
Neelima Palacherla, Executive Officer

February 6, 2002

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **Executive Officer's Report** Agenda Item No. 5

A. Report on LAFCO Workshop for Special Districts

For Information Only

On January 22, 2002, LAFCO staff held a workshop for the special districts to inform them about changes in procedures and filing requirements as a result of the Cortese Knox Hertzberg Act and about the new legislation mandating service reviews and sphere of influence updates every 5 years.

About 15 special districts were represented at the workshop. As a preliminary step to conducting service reviews, the special districts were encouraged to respond to the LAFCO survey that was sent out to collect information to develop the Profiles of Special Districts in Santa Clara County. Staff is continuing to work with the districts on collecting information for mapping special districts in the county. Issues that staff is researching as a result of the workshop include special district representation on LAFCO and master tax share agreements in the County.

B. 2002 CALAFCO Staff Workshop (March 14-15 2002)

Recommendation

Authorize LAFCO staff including the Executive Officer, Analyst and Counsel to attend the 2002 CALAFCO staff workshop and authorize travel expenses to be paid out of the LAFCO travel budget.

C. 2002 CALAFCO Clerks Workshop (April 3-5 2002)

Recommendation

Authorize LAFCO Clerk to attend the 2002 CALAFCO Clerks workshop and authorize travel expenses to be paid out of the LAFCO travel budget.