



AGENDA
REGULAR MEETING
Wednesday, February 11, 2004
1:15 p.m.

Chambers of the Board of Supervisors
70 West Hedding Street, First Floor, East Wing
San Jose, CA 95110

CHAIRPERSON: Blanca Alvarado
COMMISSIONERS: Donald F. Gage, Linda LeZotte, Susan Vicklund-Wilson, Mary Lou Zoglin
ALTERNATES: John Howe, Pete McHugh, Chuck Reed, Terry Trumbull

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.

Pursuant to Government Code Sections 56700.1 and 81000 et seq., any person or combination of persons who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Santa Clara County LAFCO and will require an election must comply with the disclosure requirements of the Political Reform Act of 1974 which apply to local initiative measures. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information about the requirements pertaining to the local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660.

1. ROLL CALL

2. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2004

Possible Action: Appoint Chairperson and Vice-Chairperson for 2004.

3. 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.

4. APPROVE MINUTES OF DECEMBER 10, 2003 MEETING

PUBLIC HEARINGS

5. MORGAN HILL 2003A USA AMENDMENT (SOBRATO HIGH SCHOOL)

A request by the City of Morgan Hill to amend its urban service area (USA) to include two parcels (APNs 725-01-012 and 013) that contain the Sobrato High School.

Possible Action: Consider the request for USA amendment to include the two parcels into Morgan Hill's USA.

6. COUNTYWIDE FIRE PROTECTION SERVICE REVIEW REPORT

Possible Action: Accept public comment and refer to staff for preparation of the final report.

7. MID-PENINSULA REGIONAL OPEN SPACE DISTRICT SOI AMENDMENT AND ANNEXATION OF COASTAL LANDS IN SAN MATEO COUNTY

San Mateo LAFCO has forwarded a request by the Mid-Peninsula Regional Open Space District (MROSD) for a sphere of influence amendment and annexation of about 140,000 acres of coastal land in San Mateo County. The coastal annexation is defined by the southern boundary of City of Pacifica to the north, San Francisco Watershed lands and existing MROSD boundary to the east, the Pacific Ocean to the west and Santa Cruz boundary line to the south. Santa Clara LAFCO will forward a recommendation on the proposal to San Mateo LAFCO.

Possible Action: Consider the staff report regarding recommendation to San Mateo LAFCO.

8. EXECUTIVE OFFICER'S REPORT

8.1 LAFCO Budget Sub-Committee for FY 04-05

Possible Action: Establish a LAFCO Budget Sub-Committee for FY 04-05.

8.2 Update on Countywide Water Service Review

For Information Only.

8.3 2004 CALAFCO Clerks and Staff Workshop (April 21-23, 2004) in Santa Cruz, CA

Possible Action: Authorize LAFCO staff to attend the workshop and authorize travel expenses funded by LAFCO budget.

**8.4 2004 CALAFCO Annual Conference (September 8-10, 2004)
in Anaheim, CA**

Information Only.

8.5 Revised 2004 Schedule of LAFCO Meetings

Information Only.

9. PENDING APPLICATIONS

9.1 West Valley Sanitation District Annexation (Lands of Donnelly, APN 537-24-026, Suview Drive, Los Gatos)

10. WRITTEN CORRESPONDENCE

11. ADJOURN

Adjourn to the next regular business meeting on Wednesday, April 7, 2004.

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.

January 30, 2004

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer *NP*

SUBJECT: Appointment of 2004 Chairperson and Vice Chairperson
Agenda Item # 2

RECOMMENDATION

Appoint Commissioner Susan Vicklund Wilson as Chair and Commissioner Mary Lou Zoglin as Vice Chair.

DISCUSSION

Appointment of Chair and Vice Chair is made on a calendar year basis. LAFCO's rotation schedule is as follows:

- City representative
- County representative
- San Jose representative
- County representative
- Public representative

The Chair for the previous year was Commissioner Alvarado, County representative and the vice chair was Commissioner Wilson, public representative. In accordance with the rotation schedule, staff recommends that LAFCO appoint Commissioner Wilson as 2004 Chairperson and Commissioner Zoglin as Vice Chairperson.

Local Agency Formation Commission
of Santa Clara County

MINUTES

WEDNESDAY, DECEMBER 10, 2003

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 10th day of December 2003 at 1:17 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: Chairperson Blanca Alvarado and Commissioners Donald Gage, Linda LeZotte and Susan Vicklund-Wilson. Commissioner Mary Lou Zoglin is absent.

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

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

2. PUBLIC PRESENTATION

Craig Britton, General Manager, Mid-Peninsula Regional Open Space District (MROSD), submits to the Commission a packet containing general information on the District, including a list of cities and counties supporting the proposed annexation of San Mateo coastal lands to that District. He also invites the Commission to visit the District and site being proposed for annexation.

Terry Gossett, Californians for Property Rights (CPR), addresses the Commission to express opposition to the proposed annexation by MROSD of coastal lands in San Mateo County and submits to the Commission correspondence explaining CPR's opposition.

The Chairperson determines that there are no members of the public who would like to address the Commission.

3. APPROVE MINUTES OF OCTOBER 8, 2003 MEETING

On motion of Commissioner LeZotte, seconded by Commissioner Gage, it is unanimously ordered on a 4-0 vote, with Commissioner Zoglin absent, that the minutes of the October 8, 2003 meeting be approved, as submitted.

4. APPROVAL OF CONSENT CALENDAR

On motion of Commissioner Gage, seconded by Commissioner LeZotte, it is unanimously ordered on a 4-0 vote, with Commissioner Zoglin absent, that the consent calendar be approved.

4.1* CUPERTINO SANITARY DISTRICT ANNEXATION: PIERCE ROAD
(LANDS OF WILSON)

On motion of Commissioner Gage, seconded by Commissioner LeZotte, it is ordered on a 4-0 vote, with Commissioner Zoglin absent, that the annexation to Cupertino Sanitary District of a 1.32 acre area (APN 503-68-015), located on the east side of Pierce Road, between Palomino Way and Mt. Eden Road in the City of Saratoga (LAFCO Resolution No. 03-12), be approved and further protest proceedings be waived.

5. INFORMATIONAL WORKSHOP ON DRAFT COUNTYWIDE FIRE
PROTECTION SERVICE REVIEW REPORT

Ms. Palacherla advises the Commission that the draft Countywide Fire Protection Service Review Report was released in mid-November 2003 and mailed to all fire protection agencies and published on the website. She indicates that the comments, as well as a written response to all comments received by January 7, 2004 will be presented to the commission at its next meeting. A public hearing on the draft report will be held at the LAFCO meeting on February 11, 2004.

Richard Brady, President, Matrix Consulting Group and LAFCO consultant for the countywide fire protection service review project, presents a summary of the draft report. He states that the project is being undertaken because it is required by the Cortese-Knox-Hertzberg (CKH) Act prior to Sphere of Influence (SOI) updates, it is an informational tool for decision makers and the

public, and it may be used to pursue SOI and boundary changes. He adds that the CHK Act requires that the Commission make determinations on: infrastructure needs or deficiencies, growth and population projections for the affected area, financing constraints and opportunities, cost avoidance opportunities, opportunities for rate restructuring, opportunities for shared facilities, government structure options, including the advantages and disadvantages of the consolidation or reorganization of service providers, evaluation management efficiencies, and local accountability and governance. Mr. Brady continues that the study was conducted with data requests to districts and cities, meetings with fire chiefs, city and county staff, formulation of descriptive profiles of current operations and finances, analysis of identified fire service issues and alternatives, and included several meetings with the Technical Advisory Committee (TAC). He notes that the principal issues include fire protection alternatives for the underserved areas, regional protection alternatives for the South County, regional protection alternatives for the City of Saratoga and surrounding areas, regional approaches to fire service training, emergency communications and other support services, and Los Altos Hills County Fire Protection District.

Mr. Brady reports that the underserved area is composed of 627 square miles served by six volunteer fire companies. He adds that it has a population of 6,047 that generate 1.64 calls daily. He adds that there is a growth trend in the area associated with the roadways and the recreation facilities. He advises that the alternatives to address the fire protection needs of the area include the creation of a new fire district or expansion of existing fire protection district to serve the area which, however, may require a new tax assessment, the creation of a joint powers authority to allow a management structure that would consolidate functional operations and collect revenues from participating agencies, creation of a county service area which would require a voter-approved special tax, or continuation of the current system. He then describes the advantages and

disadvantages of each of the alternatives. In response to an inquiry by the Chairperson, Mr. Brady states that the phrase "coordinate development" means greater participation by the involved agencies and the residents in the area.

Mr. Brady states that second issue relates to the South County, which includes Gilroy, Morgan Hill and unincorporated areas. He advises that this area has a total population of 101,612 served by three fire agencies. He reports that Gilroy has a fire department, Santa Clara County Central Fire Protection District provides service in Morgan Hill, and the South Santa Clara County Fire Protection District protects the unincorporated area. He notes that since the area is starting to grow, it is now an opportune time to decide the characteristics of a future regional fire protection system to avoid duplication and fragmentation of services. Mr. Brady reports that the alternatives are creating a new fire district or expanding the existing district, creating a joint powers authority, creating a county service area, or continuation of the current system. Mr. Brady continues by describing the advantages and disadvantages of the alternatives.

In response to an inquiry by the Chairperson, Mr. Brady advises that the structure of the study is not intended to recommend actions; however, it has strong conclusions on the nature and magnitude of the problems, provides options to address the problems and information on how to implement each of these options. Commissioner LeZotte comments that it is important that planners for the Coyote Valley consider this study so as not to overstretch the police and fire protection resources of San Jose, and opines that the City should not be involved in that area unless it has the capability to provide these services. Mr. Brady observes that this service review could help plan the efficient delivery of services.

Mr. Brady continues his report by stating that the third issue is related to the City of Saratoga. He advises that the Saratoga Fire Protection District (SFPD) serves half of Saratoga, while Central Fire Protection District (CFPD) serves the rest of the City and the surrounding areas. He notes that this situation presents

an accountability problem because most of the residents are not aware that there are two levels of services. He then advises that the alternatives are to detach the City from CFPD and annex it to SFPD, withdraw Saratoga from both CFPD and SFPD to allow the City to determine the best fire protection method by either creating its own or contracting with either service provider, expand the boundaries of CFPD to cover the entire City after detaching it from SFPD, or maintain the current system. He notes, however, that the County's fire protection services in the region would be impacted if the City is served by an entity other than CFPD.

Mr. Brady continues to say that the fourth issue is on regional issues which is characterized by independent public safety and emergency answering points among the different jurisdictions, different levels of training infrastructures, different levels of support service capabilities, variance in information systems capabilities, and duplication of support and management services. He notes that an alternative is to share existing services through a joint powers authority concerning regional training programs and facilities.

Finally, he notes that the fifth issue relates to Los Altos Hills County Fire District (LAHCFD). Mr. Brady notes that LAHCFD contracts with CFPD for fire protection services, and provides additional services, such as chipping yard waste and hillside clearance among other services. He continues by informing the Commission that half of LAHCFD's revenue is allotted for fire protection, while the other half is used for these community services. He notes that this arrangement results in a redundant administrative cost of about \$163,000 per year. Mr. Brady notes that one alternative is to dissolve LAHCFD and annex the area to CFPD, which would result in savings, allow greater accountability and enable the use all of LAHCFD's revenues to enhance regional fire protection.

In response to an inquiry by Commissioner Gage, Mr. Brady states that in order to pay for the cost of fire protection in the underserved areas over the long term is either to create a service entity such as a special district or county service

area, or to expand an existing special district. In response to an inquiry by the Chairperson, Ms. Palacherla explains that the implementing agency would have to decide which alternative to pursue. Commissioner Gage notes that a change in service jurisdictions from district to another may create land use issues because each of these agencies has its own land use policies. He adds that funding may also be a challenge because tax revenues from a small population may not sufficiently cover the entire cost of protecting such a large area. Commissioner LeZotte adds that there could be an issue on the reimbursement formula since the fire protection service provider is not the tax collection agency. Mr. Brady acknowledges Commissioner LeZotte's suggestion to include on Page 121 of the draft report the ongoing Inter-Operability Project, which involves communications and regional training center. Commissioners Gage and Alvarado agree to consider the opportunities for the County. Finally, the Chairperson requests Mr. Brady to synthesize the most urgent deficiencies of the County's fire protection services and present them on the report in a manner that would permit the jurisdictions to formulate action plans.

Harold Toppel, SFPD, advises the Commission that his agency will provide the Commission with a written comment to the draft report by January 7, 2004. He notes that some conclusions are faulty because there are problems with the data.

John Keenan, Firefighters and Citizens Task Force (FACT) of Saratoga, observes that residents of Saratoga pay more money for less fire protection services because of redundant administration and training. He reports that SFPD passed a \$6 million bond issue three years ago for a new fire station even as that part of the City is completely surrounded by a better trained and equipped CFPD.

The Chairperson determines that there are no members of the public who would like to speak on this subject.

6. ADMINISTRATIVE APPROVAL OF THE CITY OF MILPITAS' REQUEST TO EXTEND WATER SERVICE TO ONE PARCEL IN SPRING VALLEY HEIGHTS AREA

The Chairperson informs the Commission of the administrative approval (by the Chairperson and the LAFCO Executive Officer) to the request by the City of Milpitas to extend water service to one parcel in the Spring Valley Heights area.

7. 2004 SCHEDULE OF LAFCO MEETINGS

Ms. Palacherla presents the proposed 2004 Schedule of LAFCO meetings. Commissioner Gage notes that the April 14, 2004 LAFCO Meeting is in conflict with the Valley Transportation Authority (VTA) Finance Committee meeting. Commissioners LeZotte and Wilson likewise expressed conflicts with their schedules. In this regard, the Chairperson directs staff to come up with an alternate date.

On motion of Commissioner Gage, seconded by Commissioner LeZotte, it is unanimously ordered on a 4-0 vote, with Commissioner Zoglin absent, that the 2004 Schedule of LAFCO Meetings is approved, subject to a change on the April meeting.

8. UPDATE ON COUNTYWIDE WATER SERVICE REVIEW

Ms. Palacherla reports that staff will send to all water agencies the second draft of the Water Service Review RFP, including the survey questionnaire, by December 17, 2003 for review and comments. She adds that after including all comments, staff will circulate the RFP to prospective consultants and estimates that the selected consultant will be onboard by March 2004. She advises that the Santa Clara Valley Water District has offered to collect basic data on water services in the County. She further advises that a Technical Advisory Committee composed of Commissioner Wilson, as representative of the Commission, LAFCO staff, and representatives from the City Managers Association, Cities Public Works Officials Association, and two representatives from the water agencies will be established.

9. PENDING APPLICATIONS

9.1 MID-PENINSULA REGIONAL OPEN SPACE DISTRICT ANNEXATION OF COASTAL LANDS IN SAN MATEO COUNTY

Ms. Palacherla, reports that a pending application is the annexation by MROSD of approximately 144,000 acres of coastal lands in San Mateo County. She informs the Commission that Santa Clara LAFCO is the principal LAFCO for MROSD, however, the Commission has vested jurisdiction over this particular proposal to San Mateo LAFCO. She advises that for this reason, San Mateo LAFCO will make the final decision for this annexation. She notes that staff is waiting for San Mateo LAFCO to forward the application from MROSD.

10. WRITTEN CORRESPONDENCE

There is no written correspondence.

11. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:18 p.m. to the next regular meeting to be held on February 11, 2004 at the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Blanca Alvarado, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk

January 27, 2004

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **Morgan Hill Urban Service Area (USA) Amendment (2003a)**
Sobrato High School
Agenda Item # 5

STAFF RECOMMENDATION

1. CEQA Action

Please see LAFCO Analyst Staff Report for recommendations related to CEQA action.

2. Project Action

Approve Morgan Hill's request for expansion of the urban service area boundary to include the two parcels containing Sobrato High School.

PROJECT DESCRIPTION

The City of Morgan Hill is requesting LAFCO consideration of its Urban Service Area (USA) boundary amendment to include 4 parcels (APN: 725-01-012, 013, 021 and 022) totaling about 27.8 acres located on the north side of Burnett Avenue, about 1900 feet east of the Burnett Avenue/ Monterey Road intersection. APNs 725-01-012 and 013 are proposed for inclusion as they will contain the soon to be completed Sobrato High School.

LAFCO records indicate that the other two parcels, (APN: 725-01-021 and 022) are already located within the City's USA. Therefore these two parcels do not require any further LAFCO approvals and are not considered in this analysis.

See attached map of proposal area. (Attachment A)

BACKGROUND

The settlement agreement (related to siting and construction of the Sobrato School) between the Morgan Hill Unified School District and the cities of San Jose and Morgan Hill required that the two school parcels be annexed to Morgan Hill and provided with city services. However, the parcels were located outside the City's UGB and USA. Based on City and LAFCO policies, the parcels can only be annexed after their inclusion in the

UGB and USA. To allow the school construction to proceed, LAFCO approved the City of Morgan Hill's request for extending sewer and water service to the school parcels in June 2003. Morgan Hill, in December 2003, amended its General Plan and included the parcels within its UGB and is now requesting LAFCO approval for inclusion in its USA. Inclusion of the parcels within its USA would allow the City to annex the parcels and continue to provide services to the school.

Exception to the once-a-year USA amendment policy

LAFCO policies only allow one application per year from each city for urban service area amendments. Each application may include more than one area. This allows LAFCO to consider the cumulative impacts of the amendments and provide a comprehensive analysis. LAFCO policies also provide for an exception to this once-a-year policy if the amendment is needed to carry out some special institutional development or activity that is in public interest.

Morgan Hill is requesting such an exception for this project. The City had applied to LAFCO earlier this year for an USA amendment involving the water tank by the Boys Ranch site.

Staff recommends that the exception be granted in this case as this amendment is being requested to facilitate annexation of the school site. This could be considered a special institutional development that is in public interest. Also, LAFCO's approval of the extension of services to the site in June 2003 was based on the City seeking eventual annexation of the school site.

CONSISTENCY WITH MORGAN HILL GENERAL PLAN

Urban Growth Boundary

The Morgan Hill City Council included the proposal area within the City's urban growth boundary in December 2003. The City General Plan allows the UGB to be amended as part of a greenbelt study or a comprehensive General Plan update. The Urban Limit Line Committee which has been set up to undertake the greenbelt study recommended to the City Council that the UGB include the parcels to contain the Sobrato High School.

Desirable Infill Standard

The City's Desirable Infill Policy is not applicable to proposals involving lands designated for public facilities.

CONSISTENCY WITH LAFCO POLICIES

Conversion of Prime Agricultural Lands and Open Space

The high school is currently being constructed on the site. Unincorporated lands that are in agricultural use exist to the south of this project site. The project would further

surround the large parcels of unincorporated lands currently in agricultural use and could in the future, potentially impact the existing uses on those lands.

Logical and Orderly, Efficient Boundaries

The proposed expansion is adjacent to the city's existing USA boundary and city limits. It is within the City's SOI and UGB

Five-Year supply of Vacant Land

The only vacant site designated as Public Facility within the City's current USA boundary is the 30-acre Catholic School site added to the USA boundary in 2001. The Sobrato High is currently under construction and is not considered vacant.

Ability of City to Provide Urban Services

Water and Sewer Services

In June 2003, LAFCO approved extension of City water and sewer services to the two High School parcels.

Police and Fire Protection Services

Fire and police protective services are currently provided by Santa Clara County Fire District and the Santa Clara County Sheriff's Office, respectively. Burnett Avenue is partially in the jurisdiction of Santa Clara County, with traffic enforcement provided by the California Highway Patrol, and partly in the jurisdiction of the City of Morgan Hill. Upon annexation, the City of Morgan Hill would provide police service, while the Santa Clara County Fire Protection District would continue to provide fire protection service to the proposal area. Demand for these services would increase, however, no new facilities would be required to accommodate the increased demand.

Fiscal Impacts Analysis

The Morgan Hill Unified School District currently owns the two parcels. Property owned by a public agency is exempt from property taxes. Inclusion of the property in the urban service area and annexation will therefore not have an impact on property tax revenue to the City, School district or the County.

CONCLUSION

This request for LAFCO approval of USA expansion follows the City's request for extending water and sewer service to the High School in anticipation of annexation. LAFCO approved water and sewer service extension to the school site in June 2003. Staff recommends approval of the urban service area expansion to facilitate annexation of the school parcels to the City.

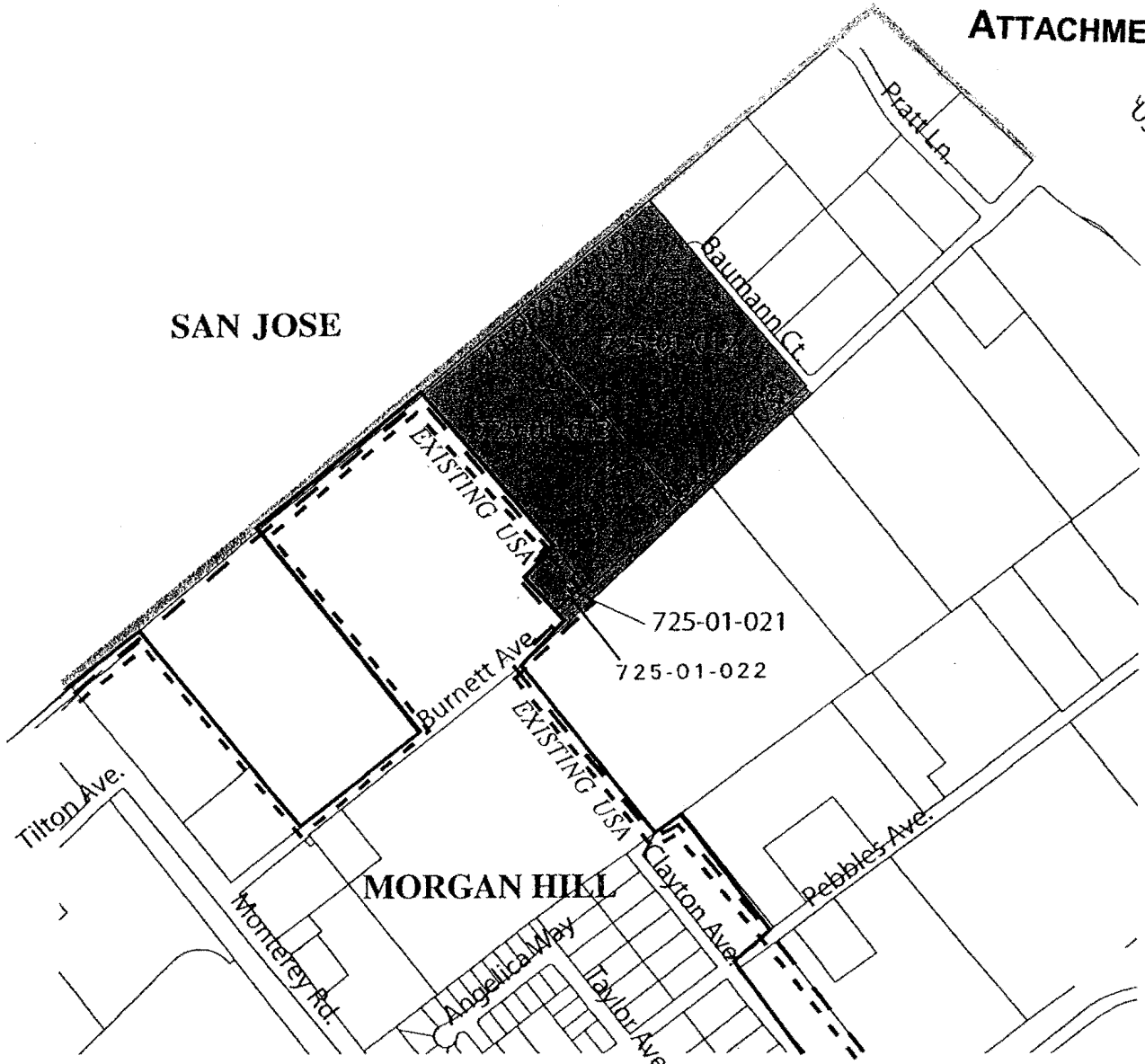
ATTACHMENTS

Attachment A: Map of the Area I






Attachment B: LAFCO Analyst Report with Environmental Analysis

US 101

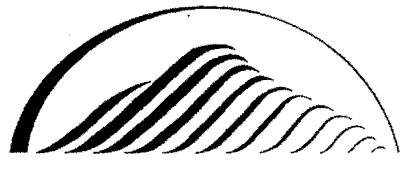
SAN JOSE



**URBAN SERVICE AREA AMENDMENT
CITY OF MORGAN HILL
LAFCO FEBRUARY 2004**

-  Subject Properties
-  Sphere of Influence
-  City Limit
-  Urban Growth Boundary
-  Urban Service Area

1" = 700'



CITY OF MORGAN HILL
Prepared by Community Development Department

Vicinity Map

Existing Conditions: Burnett-MHUSD
Sobrato High School Site



URBAN SERVICE AREA AMENDMENT CITY OF MORGAN HILL LAFCO FEBRUARY 2004

SAN JOSE

PROPOSED
URBAN SERVICE
AREA AMENDMENT

A-20s-p

71.222

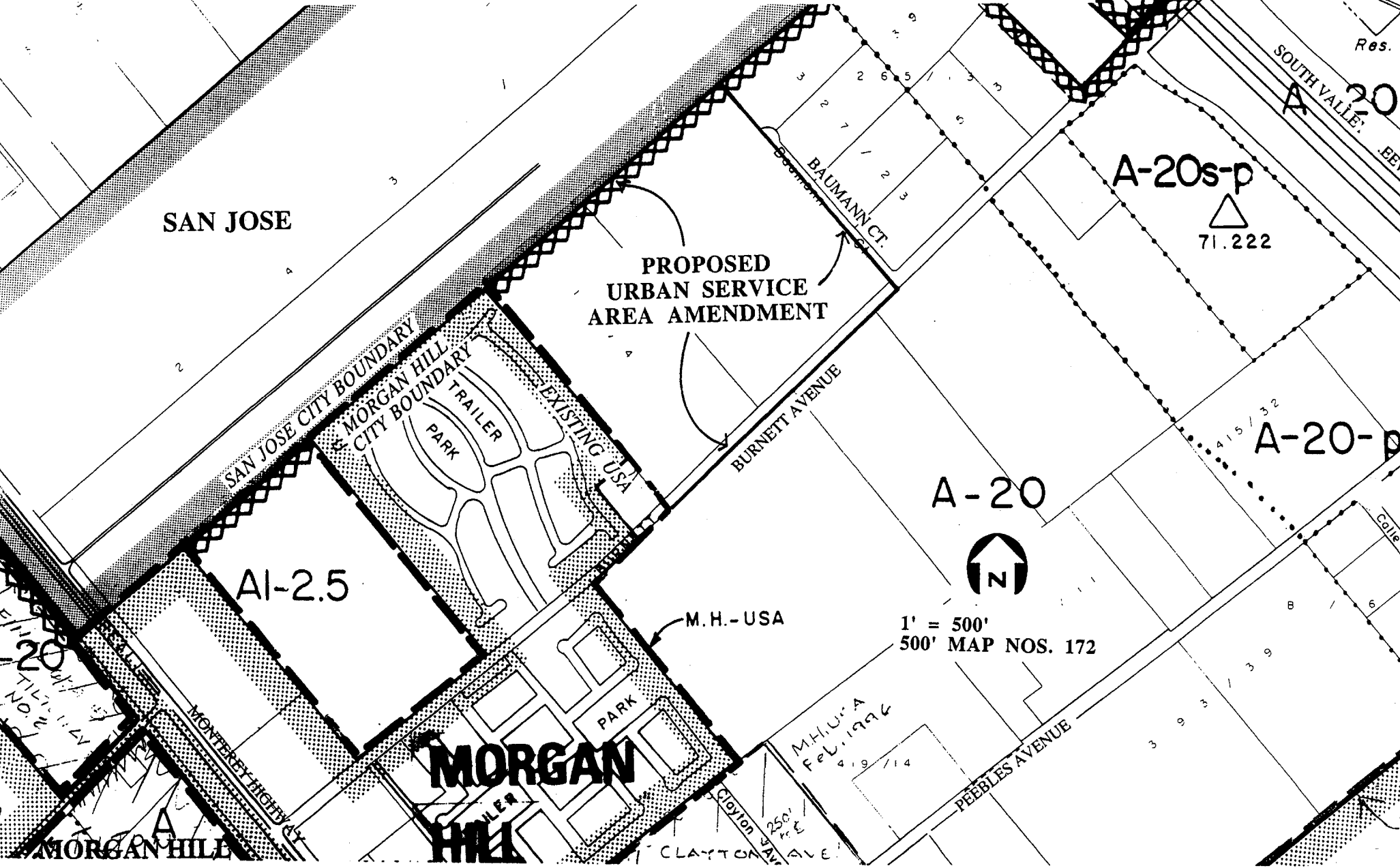
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A-20

A1-2.5

M.H.-USA

1' = 500'
500' MAP NOS. 172



Date prepared: January 21, 2004

Hearing date: February 11, 2004

To: The Santa Clara County Local Agency Formation Commission

From: Dunia Noel, LAFCO Analyst

Subject: **2003A MORGAN HILL URBAN SERVICE AREA EXPANSION –
(Ann Sobrato High School Site and One Additional Parcel)**

Recommended CEQA Action and Required Findings:

The Morgan Hill Unified School District is the Lead Agency for this Urban Service Area expansion request. LAFCO, as a Responsible Agency under CEQA, must take the following actions regarding the Final EIR for this project:

1. Find that [a] the *Final EIR* certified by Morgan Hill Unified School District (MHUSD) on October 18, 2000 and *Final Supplemental EIR* certified by the MHUSD on April 8, 2002 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project for LAFCO purposes, and [b] prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in both the *Final EIR* and *Final Supplemental EIR*.
2. Find that [a] the *Final EIR* and *Final Supplemental EIR* identified potentially significant adverse impacts resulting from the project in the areas listed below, and [b] appropriate mitigation measures have been proposed for each of the potential impacts identified in each of the listed categories that will reduce the impacts to a less than significant level.
 - Aesthetics Open Space
 - Geology and Soils
 - Noise
 - Biological Resources
 - Hazards and Hazardous Materials
3. Find that the *Final EIR* and *Final Supplemental EIR* identified one significant impact resulting from the project that cannot be mitigated to a less than significant level. The impact is listed below:
 - Noise affecting adjacent residences from the marching band during practice
4. Find that a monitoring program was submitted by the Morgan Hill Unified School District, and that the monitoring program ensures compliance with the mitigation measures identified in the *Final EIR* and *Final Supplemental EIR* that would mitigate or avoid significant impacts associated with the Out of Agency Contract for Sewer and Water Services, over which LAFCO has responsibility.

5. Find that, despite the imposition of all feasible mitigation measures and alternatives, the project's noise impacts will remain significant. Therefore, in order to approve the project, LAFCO must find that the project's public benefits outweigh the project's significant, unavoidable environmental impacts. LAFCO staff suggest the following overriding considerations:

Overriding Consideration for LAFCO Approval of Project:

Noise by the marching band during practice affecting adjacent residences in Santa Clara County is in excess of the established acceptable noise levels for residences in Santa Clara County.

LAFCO finds that there are no feasible mitigation measures available to reduce this impact to a less than significant level, and that the benefits of the marching band outweigh its potential adverse impacts from generation of noise. In particular LAFCO finds that the following specific benefits of the Project outweigh this impact:

1. A music program, including a marching band, is an important element of a high school curriculum;
2. District educational objectives for a new high school include the need to maintain individual campus identity for each of the District's high schools, and the marching band contributes to this identity; and
3. Noise generated by the marching band will be occasional in its occurrence, as the marching band will only practice on the campus.

BACKGROUND

Purpose:

The City of Morgan Hill is requesting LAFCO consideration of its Urban Service Area (USA) boundary amendment to include 4 parcels (APN: 725-01-012, 013, 021 and 022) totaling about 27.8 acres located on the north side of Burnett Avenue, about 1900 feet east of the Burnett Avenue/ Monterey Road intersection. APNs 725-01-012 and 013 are proposed for inclusion as they will contain the soon to be completed Sobrato High School.

LAFCO records indicate that the other two parcels, (APN: 725-01-021 and 022) are already located within the City's USA. Therefore these two parcels do not require any further LAFCO approvals and are not considered in this analysis.

Background:

Out of Agency Contract for Sewer and Water Service Approved in 2003

On June 11, 2003, the City received LAFCO approval for an out of agency contract for request for sewer and water service, which allowed for the construction of the Sobrato High School to begin prior to its annexation to the City of Morgan Hill. The water extension was required immediately for fire suppression purposes in order to allow construction of the facility to proceed. Sewer service was not immediately required, however, completion of water and ultimately sewer service was necessary to support the

high school use. The City has stated that the completion of the High School is necessary to meet the growing needs of the Morgan Hill Unified School District (MHUSD).

Existing and Proposed Use of the Property

Ann Sobrato High School is Part of a Larger Project

The request for an Urban Service Area expansion involves a 27.08-acre project site and is part of the much larger Ann Sobrato High School Campus Project that is currently under construction. The Ann Sobrato High School Campus is being constructed on an approximately 77-acre portion of a 151.7-acre project site. The remaining acreage, approximately 75 acres, will become the property of the City of San Jose for open space purposes, of which, approximately 50 acres would be occupied by a shallow drainage basin for the high school. The high school will be comprised of ten buildings totaling approximately 173,000 square feet at the completion of Phase 1, and 15 buildings totaling approximately 290,000 square feet at build-out. The high school athletic fields, agriculture program and buildings, student parking lot, and Phase 2 classrooms will be on a portion of the project site located in the City of San Jose, and within the "Coyote Valley Greenbelt."

Applicable General Plan and Zoning Designations

The parcel currently has a County General Plan designation of "Agriculture, Large Scale", with a zoning designation of "A-40" (40- acre minimum).

The City's General Plan designation for the parcel is "Public Facility," with a pre-zoning designation of "Public Facility." The "Public Facility" zoning district is very restrictive in its use and the only uses permitted in the district are facilities owned or leased and operated or used by the City, the County, the State, the Government of the United States or the Morgan Hill Unified School District.

The proposal area is within the Morgan Hill's Sphere of Influence and Urban Growth Boundary (UGB), but is located outside of the Morgan Hill's City limits and Urban Service Area (USA). The City of Morgan Hill and MHUSD have entered into a memorandum of understanding under which the District has agreed to annex the property into the City. The proposal area must be included in the City's Urban Service Area before the City can annex the proposal area.

Surrounding Land Uses

To the west of the proposal area are a single-family dwelling and a mobile home park. To the north of the proposal area are the original Sobrato parcels, which will be the location of the High School's athletic fields. Adjacent to APN 725-01-012 of the proposal area is Baumann Court, a private street serving four rural residences, located immediately east of Baumann Court. To the south of the proposal area are a wholesale nursery and agricultural fields.

Monitoring Program

A monitoring program (see attached) is required for all environmental documents when significant impacts are identified. In addition, specific monitoring compliance with mitigations described in the *Final EIR* and *Final Supplemental EIR* should occur at the time of annexation, pre-zoning, and use permit approval.

ENVIRONMENTAL FACTORS OF CONCERN TO LAFCO

Premature Conversion of Agricultural Lands and Open Space

The 27.1-acre high school site is currently in non-irrigated oat hay and has been in oat hay for approximately 20 years. Irrigation wells on the site are not currently operable. Prior to that time, from at least 1939, the site was a prune yard. Land immediately to the south of the new campus site is in field crop production and nursery and greenhouse production. Non-agricultural land uses are mixed with the agricultural uses farther to the south of the site.

According to the Supplemental EIR, the northern 60 percent of the Ann Sobrato High School site is designated as Prime Farmland and the approximate southern 40 percent of the new campus site is designated as Farmland of Statewide Importance on the Important Farmlands Map for Santa Clara County. The site contains two soil types: Arbutle gravelly loam and San Ysidro loam. The subject parcels not under a Williamson Act contract. The estimated annual crop value at the site for the most recent crop grown, oat hay, was approximately \$6,075. The proposed project would result in the conversion of approximately 27.1 acres of farmland in addition to the 124.6 acres on the Sobrato parcels. A California Agricultural Land Evaluation and Site Assessment (LESA) model was prepared for the 27.1 acres site. The LESA model scores of 47.7 overall, 33.4 for Land Evaluation and 14.3 for Site Assessment indicate a less than significant impact on agricultural land.

According to City staff, alternative sites considered for the high school also involved the conversion of land in agricultural production. In most cases, the agricultural production has a higher value than the non-irrigated oat hay on the project site. A LESA analysis was prepared for the two most feasible alternative sites, and the LESA scores for those sites were higher than the project site.

North of the project site are the Sobrato parcels, which are currently in non-irrigated oat hay and planned to be developed primarily as athletic fields for the Ann Sobrato High School. A portion (75-acres) of the Sobrato parcels has been dedicated to the City of San Jose as open space as a part of the larger Ann Sobrato High School Campus and the remaining portions of the Sobrato parcels will consist of athletic fields, a drainage basin, parking, agricultural program, and a portion of the Phase 2 high school buildings. This revision to the earlier plan for Ann Sobrato High School Campus has eliminated the *Final EIR's* original finding of an unavoidable significant impact from the loss of designated open space land.

Provision of Public Services and Utilities

According to the EIR, the 27.1 acres are located in unincorporated Santa Clara County. Fire and police protective services are currently provided by Santa Clara County Fire District and the Santa Clara County Sheriff's Office, respectively. According to the City of Morgan Hill staff, these two agencies will continue to provide these services until the site is annexed into the City of Morgan Hill. Burnett Avenue is partially in the jurisdiction of Santa Clara County, with traffic enforcement provided by the California Highway Patrol, and partly in the jurisdiction of the City of Morgan Hill. Upon annexation, the City of Morgan Hill would provide police service, while the Santa Clara County Fire Protection District would continue to provide fire protection service to the

proposal area. Demand for these services would increase, however, no new facilities would be required to accommodate the increased demand.

The proposal area currently receives sewer and water service from the City of Morgan Hill through an Out of Agency Contract for sewer and water service that was approved by LAFCO in June 2003. No change in service provision is expected upon Urban Service Area expansion or annexation of the proposal area.

Existing electricity and gas facilities adjacent to the project site are available and adequate to serve the proposal area.

Growth Inducement

In June 2003 LAFCO approved an out of agency contract for water and sewer service for the proposal area. The contract was granted in anticipation of annexation, and in order to facilitate the development of a high school on the proposal area that consists of unincorporated lands designated for agricultural uses under the Santa Clara County General Plan. In December 2003, the City Council approved including the proposal area in the City's Urban Growth Boundary. The City is now seeking to include the proposal area into its Urban Service Area boundary so that the City may annex the proposal area.

According to the *Supplemental EIR*, the construction of the proposed project would not necessarily result in the decline of adjacent agricultural uses, or development of surrounding parcels. The *Supplemental EIR* states that Live Oak High School, east of Morgan Hill was constructed in 1970 and agricultural uses remain adjacent to the high school on the north and south and rural residences are adjacent to the west and east. Therefore, the proposed Ann Sobrato High School would not necessarily induce growth on adjacent land.

According to the *Supplemental EIR*, the proposed high school development is not likely to result in the addition of any nearby parcels to be added to the urban service area or incorporated area in the near term, but may have long-lasting effects on growth patterns in the northern part of Morgan Hill, as the areas between the project site and the developed areas of Morgan Hill are further surrounded. Furthermore, development of the proposed project would establish a strong urban edge to the land north of Burnett Avenue, however it would also serve to isolate the remaining agricultural land to the south of Burnett Avenue and north of the development areas of Morgan Hill. This area is already largely developed with structure-dependant agricultural uses and rural residential uses. The extension of a four-lane road to the front of this area, combined with the upgraded water line recently constructed by the City of Morgan Hill, would make development of this area more feasible.

Any future requests by property owners in the area to include additional lands in the City's Urban Service Area would require LAFCO approval, would be evaluated for consistency with state law and LAFCO policies, and would be subject to further CEQA analysis. Therefore, the project would not set a precedent for Urban Service Area expansions.

Traffic and Circulation

According to the EIR, the proposed project would increase on Burnett Avenue. Although the overall intersection would remain at acceptable levels, the worst movement level of

service would fall below acceptable levels at two of the three mobile home park driveway intersections during the morning peak hour. Left turn movement delays would increase from 4.3 seconds (LOS A) under existing conditions, to 30.1 seconds (LOS E) under Phase 1 conditions, and more than 100 seconds (LOF F) under build-out and cumulative conditions. Because the overall level of service is acceptable, and signal light is not warranted, the impact is considered to be less than significant. The EIR recommended that beginning in the second year of operation of the high school, in collaboration with the City of Morgan Hill Engineering Division, the MHUSD should conduct annual monitoring of the intersections of the mobile home park driveways and Burnett Avenue to determine if a traffic signal, or other traffic control, is warranted.

School District's Adoption of Overriding Considerations Statement

The Morgan Hill Unified School District is the Lead Agency for the Urban Service Area expansion. On April 8, 2002 the Morgan Hill Unified School District adopted a Statement of Overriding Considerations for the Ann Sobrato High School Project. The Statement is attached as a part of Morgan Hill Unified School District Resolution Number 01/02-033.

ATTACHMENTS:

1. City of Morgan Hill Resolution No. 5753
2. Morgan Hill Unified High School District Resolution Number 01/02-033.
3. *Second Comprehensive High School Supplemental Draft Environmental Impact Report*
4. *Second Comprehensive High School Final Supplemental Environmental Impact Report*
5. Draft Mitigation Monitoring Program for the Ann Sobrato High School *Final EIR* and *Final Supplemental EIR*

**ITEM No. 5
ATTACHMENT B-1****RESOLUTION NO. 5753**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING APPLICATION USA-03-05: BURNETT-MHUSD SOBRATO HIGH SCHOOL ALLOWING FOR THE INCLUSION OF 27.8 ACRES LOCATED ON THE NORTH SIDE OF BURNETT AVENUE EAST OF MONTEREY ROAD INTO THE CITY'S URBAN SERVICE AREA. (APNs 725-01-012, 013, & 021)

WHEREAS, such request was considered by the City Council at their regular meeting of December 17, 2003 at which time the City Council approved Urban Service Boundary application USA 03-05: Burnett-MHUSD Sobrato High School; and

WHEREAS, the Morgan Hill City Council has adopted policy 19e of the General Plan, which encourages cooperation with the City of San Jose and the Morgan Hill Unified School District to insure high quality education experience for school age children by providing adequate and safe school facilities, preventing overcrowding, and providing school locations convenient to the population served;

WHEREAS, the Morgan Hill City Council has adopted a policy defining "Desirable Infill" as specified in Morgan Hill Municipal Code Section 18.78.070; and

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

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

SECTION 1. The City Council finds that the inclusion of the parcels 725-01-012 and 013 into the Urban Service Area boundary will further the City's fulfillment of its General Plan goal policy to insure a high quality education experience for school age children by providing adequate and safe school facilities, preventing overcrowding, and providing school locations convenient to the population served. The City Council recommends readjustment of the Morgan Hill Urban Service Area boundary to include parcels 725-01-012 and 725-01-013 as shown in Exhibit A.

SECTION 2. The City Council finds that the proposed inclusion of parcel 725-01-021 as shown in Exhibit A into the Urban Service Areas is consistent with the General Plan and Desirable Infill policy defined by Morgan Hill Municipal Code Section 18.78.070 B and would prevent the creation of an unincorporated island within the City.

SECTION 3: An Environmental Impact Report has been certified by the Morgan Hill Unified School District Board of Education for parcels 725-01-012 & 013.

SECTION 4: A negative declaration has been approved for parcel 725-01-021.

City of Morgan Hill
Resolution No. 5753
Page 2

SECTION 5: It is hereby requested that the Local Agency Formation Commission consider readjustment of the Morgan Hill Urban Service boundary to include the area shown in the attached Exhibit A.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th Day of December, 2003, by the following vote.

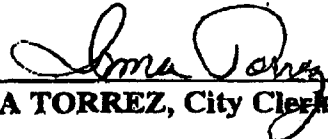
AYES:	COUNCIL MEMBERS:	Larry Carr, Dennis Kennedy, Greg Sellers, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	Hedy Chang

☞ 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. 5753, adopted by the City Council at a Regular Meeting held on December 17, 2003.

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

DATE: 1/9/04



IRMA TORREZ, City Clerk

**ITEM No. 5
ATTACHMENT B-2****MORGAN HILL UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION RESOLUTION NO. 01/02-033****A RESOLUTION OF THE BOARD OF EDUCATION OF THE MORGAN HILL UNIFIED
SCHOOL DISTRICT CERTIFYING THE SECOND COMPREHENSIVE HIGH SCHOOL FINAL
SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT AS ADEQUATE AND PREPARED
IN COMPLIANCE WITH THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, the Board of Education ("Board") of the Morgan Hill Unified School District ("District") has identified a need to build a new 2,500-student high school to accommodate the needs of the District ("Project"); and

WHEREAS, the registered voters within the District approved a bond for construction of the Project; and

WHEREAS, the Board of Education ("Board") of the Morgan Hill Unified School District ("District"), after reviewing and considering the information contained therein, certified a revised environmental impact report ("EIR") on October 18, 2000, prepared in compliance with the California Environmental Quality Act ("CEQA"), for the Project on property located in the City of San Jose identified as a 124.58-acre site with Assessor's parcel numbers 725-01-019 and 725-01-020, located at 11230 Monterey Road, between Monterey Road and U.S. Highway 101, north of Burnett Avenue and Tilton Avenue, and immediately north of the city limits of Morgan Hill ("Sobrato Site"); and

WHEREAS, the Board approved acquisition of the Sobrato Site on October 18, 2000 for the purpose of constructing the Project and the District acquired and now owns the Sobrato Site; and

WHEREAS, the City of San Jose filed suit against the City of Morgan Hill and the District challenging the Project and the District has agreed to conditions contained in a settlement agreement and judgment dated August 31, 2001 with the cities of San Jose and Morgan Hill, including conditions that restrict the uses of the Sobrato Site and require further study of an alternative site for the high school, specifically two properties located immediately south of the Sobrato Site; and

WHEREAS, Haruyo Shintani owns the property located in the unincorporated County of Santa Clara identified as a 15.68-acre site with Assessor's parcel number 725-01-012 and Timothy Miyasaka owns the property located in the unincorporated County of Santa Clara identified as an 11.42-acre site with Assessor's parcel number 725-01-013, both located north of Burnett Avenue, between Monterey Road and U.S. Highway 101 and immediately south of the Sobrato Site, (the "Shintani and Miyasaka Site"); and

WHEREAS, the Board has identified the Shintani and Miyasaka Site as a preferred location for development of the majority of the high school buildings for the Project; and

WHEREAS, the Board is considering acquiring the Shintani and Miyasaka Site for purposes of developing the high school; and

WHEREAS, the Board adopted the role of lead agency for purposes of environmental review of the Project under CEQA; and

WHEREAS, due to the change in location of the Project, a draft supplemental environmental impact ("Draft SEIR") was prepared and circulated in accordance with CEQA and thereafter a final supplemental environmental impact report ("Final SEIR") has been prepared for the revised high school plan; and

WHEREAS, the SEIR consists of the Draft SEIR dated December 2001 and the Final SEIR dated March 2002, and the Final SEIR includes all comments received during the public comment period, the response to those comments on the Draft SEIR, and minor changes to the Draft SEIR; and

WHEREAS, the complete environmental impact report for the Project consists of the EIR certified by the Board on October 18, 2000 and the SEIR; and

WHEREAS, the SEIR fully analyzes the environmental impacts that would occur from development of the revised high school plan at the Shintani and Miyasaka Site and the Sobrato Site and identifies the potential significant environmental impacts of such development; and

WHEREAS, the SEIR identifies and recommends feasible mitigation measures for the identified potential significant environmental effects from the revised high school plan, which will reduce such potential environmental effects to a less than significant level; and

WHEREAS, the SEIR identifies one potential significant environmental effect (noise from the marching band during practice at adjacent residences) for which no feasible mitigation measures exist; and

WHEREAS, the SEIR has been prepared in compliance with the procedural and substantive requirements of CEQA; and

WHEREAS, the SEIR, based upon the Investigative Workplan for a Preliminary Environmental Assessment prepared by D&M Consulting Engineers, Inc. on December 18, 2001 concluded:

1. The Shintani and Miyasaka Site is neither currently nor formerly a hazardous waste disposal or solid waste disposal site;
2. The Shintani and Miyasaka Site is not a hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25366 for removal or remedial action pursuant to Chapter 6.8 of Division 20 of the Health and Safety Code; and
3. The Shintani and Miyasaka Site does not contain pipelines, situated underground or above ground, which carry hazardous substances, acutely hazardous materials, or hazardous wastes.

WHEREAS, the District consulted with the Bay Area Air Quality Management District (BAAQMD), and based on a letter from the BAAQMD dated November 30, 2001, finds that no facilities have been identified within one-quarter mile of the Shintani and Miyasaka Site which might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste; and

WHEREAS, the Board has determined that, as a result of its inspections and investigations and of studies made on its behalf, the best interests of the District would be served by certifying, as required by Section 15090 of the State CEQA Guidelines, that the SEIR was completed in compliance with the requirements of CEQA, that the SEIR was presented to and considered by the Board prior to final consideration of the merits and selection of the Shintani and Miyasaka Site for the Project, and that said SEIR adequately addresses the potential environmental effects of the Project.


NOW, THEREFORE, THE MORGAN HILL UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION HEREBY DETERMINES AS FOLLOWS:

1. The foregoing recitals are hereby adopted as true and correct.
2. The SEIR was presented to the Board and the Board reviewed and considered the information contained in the SEIR prior to approving the Project.
3. Findings of the Board with respect to those matters identified as potential significant effects are set out in **Exhibit A** attached hereto and incorporated herein by this reference.
4. The SEIR has been prepared in compliance with the requirements of CEQA.
5. Except for noise from the marching band during practice at adjacent residences, which has been determined to be a significant and unavoidable impact, changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the SEIR, as part of the mitigation monitoring program.
6. The SEIR reflects the Board's independent judgement and analysis.
7. The SEIR is hereby certified as adequate and found to have been prepared in compliance with CEQA.

PASSED AND ADOPTED by the Board of Education of the MORGAN HILL UNIFIED SCHOOL DISTRICT at a regular meeting held on April 8, 2002 by the following vote:

AYES: Danielson, Foster, Herder, Kennert, Kinosita, Masuda, Panos
NOES: None
ABSENT: None
ABSTAIN: None

DATED: April 8, 2002

SIGNED: 
 Jan Masuda, President
 Board of Education

I, Carolyn McKennan, Secretary of the Board of Education, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Education of the MORGAN HILL UNIFIED SCHOOL DISTRICT at the regular meeting on April 8, 2002, which resolution is on file in the office of said Board.

DATED: April 8, 2002

SIGNED: 
 Carolyn McKennan, Secretary
 Board of Education

EXHIBIT A
Resolution No. 01/02-033

FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS
MORGAN HILL UNIFIED SCHOOL DISTRICT
SECOND COMPREHENSIVE HIGH SCHOOL

The following findings are made by the Board of Education ("Board") of the Morgan Hill Unified School District ("District") in compliance with section 21081 of the Public Resources Code and 14 California Code of Regulations, section 15000 et seq ("CEQA Guidelines"), in particular, section 15091 and concern the selection of a site for, and development of, the Second Comprehensive High School (the "Project") for the District.

The final supplemental environmental impact report ("Final SEIR") for the Project is certified along with the following findings:

GENERAL FINDINGS

- Finding 1:** The District, as lead agency for the SEIR, contracted with EMC Planning Group Inc. to conduct an independent analysis of the proposed project in preparation of the SEIR. EMC Planning Group Inc., under contract with the District, developed the scope of the analysis that was required of the SEIR in consultation with the District.
- Finding 2:** All mitigation measures identified in the SEIR will be made conditions of the Project.
- Finding 3:** The District has prepared a program to report on and monitor mitigation measures for the Project, as set out in Appendix A of the Final SEIR, in order to avoid significant effects on the environment in accordance with the recommendations of the SEIR. This mitigation monitoring plan also includes and incorporates those mitigation measures required by the EIR.
- Finding 4:** Documents and other material constituting the record of the proceedings upon which the District's decision and its findings are based will be located at the Office of the Superintendent for the District.
- Finding 5:** The environmental review for the Project includes the EIR certified for the Project on October 18, 2000 and the SEIR.
- Finding 6:** Fifteen (15) copies of the Draft SEIR were forwarded, along with a Notice of Completion ("NOC") to the California Office of Planning and Research on December 27, 2001, in accordance with CEQA Guidelines §15085. The NOC briefly described the Project and location and indicated that the Draft SEIR was available, where it was available, how long it was available for review, together with the deadline for submittal of comments on the Draft SEIR.
- Finding 7:** The availability of the Draft SEIR was publicly noticed in accordance with CEQA Guidelines §15087. A Notice of Availability was published in the Morgan Hill Times on December 31, 2001. It was also posted at the Santa Clara County Clerk's Office. Copies of the Draft SEIR were sent to responsible and trustee

agencies and to individual members of the public who had previously requested a copy in accordance with CEQA Guidelines §15086. Copies of the Draft SEIR were made available at the Morgan Hill Unified School District office in Morgan Hill, as well as at the Morgan Hill Public Library in Morgan Hill, and the Santa Teresa Branch of the City of San Jose Public Library.

Finding 8: A public review period of forty-five days commenced on December 31, 2001, and ended on February 13, 2002.

Finding 9: All comments on environmental issues received from persons who reviewed the Draft SEIR were evaluated by the District and their consultant and a written response was prepared in accordance with the requirements of CEQA Guidelines §15088. Both the comments and responses thereto are incorporated into the Final SEIR.

Finding 10: The SEIR contains all the necessary components of a supplemental environmental impact report required by CEQA Guidelines §15163, that is, all the supplemental information necessary to make the EIR certified for the Project on October 18, 2000 adequate for the Project. The SEIR consists of the Draft SEIR dated December 27, 2001, and the Final SEIR dated April 2002. The Final SEIR includes all comments received during the public comment period, the responses to those comments on the Draft SEIR, and minor changes to the Draft SEIR. The SEIR contains the following:

1. A description of the minor changes to the Project and the changes to the analysis and mitigation contained in the EIR certified for the Project on October 18, 2000 (SEIR Summary and Draft SEIR Section 1);
2. Identification, description, and discussion of all potential significant environmental effects of the Project (SEIR Summary);
3. A description of those potential significant environmental effects which cannot be avoided or which can be mitigated, but not reduced to a less than significant level (Draft SEIR Section 3.1); and
4. A description of mitigation measures proposed to minimize each potential significant environmental effect of the Project identified in the SEIR (SEIR Summary and more specifically in the Draft SEIR text for each analyzed area).

Finding 11: No new information of substantial importance to the Project covered in the SEIR has become available that was not known and could not have been known at the time the SEIR was recommended to be certified as complete.

Finding 12: The SEIR analyzed and evaluated the potential significant environmental effects of the Project and recommended mitigation measures to avoid or reduce the potential significant environmental effects to a less than significant level.

Finding 13: With the exception of noise from the marching band during practice, for each significant adverse environmental impact identified in the SEIR, changes or alterations have been required in, or incorporated into the Project, which avoid or

substantially reduce the significant adverse environmental impacts to a less than significant level.

Finding 14: Each of the proposed mitigation measures contained in the EIR has been incorporated into the Project. Appendix A of the Final SEIR contains the Mitigation Monitoring Program, which briefly explains how each of the recommended mitigation measures has been incorporated into the Project and supplies the rationale for the finding that each significant adverse environmental impact, as identified in the SEIR, has been reduced to a less than significant level, with the exception of impacts from marching band noise during practice, for which findings of overriding consideration have been made. The findings and monitoring reflected in Appendix A of the Final SEIR are incorporated herein by this reference.

SUMMARY OF IMPACTS FOUND TO BE LESS THAN SIGNIFICANT

Finding 15: Based upon the analysis set out in the SEIR and the Board's own independent judgment, the District finds and concludes that the Project located on the Shintani and Miyasaka Site and the Sobrato Site will not create significant impacts with respect to the following matters:

1. Development in the Coyote Greenbelt. The relocation of most of the high school buildings out of the Coyote Greenbelt, and the dedication of an approximately 75-acre open space to the City of San José has eliminated the unavoidable significant impact from loss of designated open space land. Only the athletic fields, drainage basin, parking, agricultural program, and a portion of the Phase 2 buildings remain in the greenbelt area. All uses proposed for the Coyote Greenbelt area are consistent with the terms of the settlement agreement and judgment;
2. Loss of Prime Agricultural Land. Shintani and Miyasaka Site. The Shintani and Miyasaka Site has a Land Evaluation and Site Assessment (LESA) score of 47.7, with a Land Evaluation score of 33.4 and a Site Assessment score of 14.3. According to the California Department of Conservation, the loss of agricultural land with a LESA score of between 40 and 59 is considered significant if both the Land Evaluation and the Site Assessment subcategories have scores of 20 or higher. Because the Shintani and Miyasaka Site scores do not meet those significance thresholds, the conversion of these lands is a less than significant impact;
3. Pesticide Spray Drift. Significant concentrations of pesticide drift have been documented to travel at least 150 feet from the edge of the sprayed area. Agricultural areas are located upwind and adjacent to the project site. However, the relocation of the high school buildings to the Shintani and Miyasaka Site and the shifting of athletic fields to the south have eliminated this potentially significant impact. The proposed project is no longer adjacent to agricultural uses;

4. **Traffic Noise Along Student Parking Lot Access Driveway.** The noise exposures at residences closest to the access road will be within the 60 dB DNL standard of the City of Morgan Hill Noise Element. The increase in noise due to the proposed project will be no more than 2 dB for a DNL of 59;
5. **Level of Service on Burnett Avenue.** The proposed project would increase traffic on Burnett Avenue. However, the overall intersection levels of service would remain at acceptable levels. The worst movement level of service would fall below acceptable levels at two of the three mobile home park driveway intersections during the morning peak hour. Left turn movement delays would increase from 4.3 seconds (LOS A) under existing conditions, to 30.1 seconds (LOS E) under Phase 1 conditions, and more than 100 seconds (LOS F) under build-out and cumulative conditions. Because the overall level of service is acceptable, and a signal light is not warranted, the impact is considered to be less than significant; and
6. **Inadequate Water Supply System.** In the event that non-potable water supplies are not a feasible source of irrigation water, the proposed project would require the use of potable water from the City of Morgan Hill for irrigation. The City of Morgan Hill has stated that it would be unable to meet the additional demand of irrigation water due to inadequate storage capacity in the City's water supply system. However, it is unlikely that City of Morgan Hill water would be required for irrigation, and if it were, demand for that water would occur at night when the City of Morgan Hill water system would have less demand, and greater available capacity.

FINDINGS ON POTENTIALLY SIGNIFICANT IMPACTS THAT ARE BEING MITIGATED TO A LEVEL OF INSIGNIFICANCE

Finding 16: The District has considered the identified potential significant environmental effects presented in the SEIR and finds that, with the exception of impacts from noise from the marching band during practice on adjacent residences, all the potentially significant environmental effects presented in the SEIR resulting from the implementation of the Project could be reduced to a less than significant level. This would be accomplished through implementation of the mitigation measures presented in the SEIR. Based upon the information provided in the SEIR and the Board's own independent judgment, the District finds and concludes that the Project, by implementation of the mitigation measures set out in Appendix A of the Final SEIR, will not create significant impacts with respect to the following matters:

1. **Aesthetics and Open Space** impacting visual character of urban development along a scenic corridor;
2. **Biological Resources** potentially impacting a state species of concern;
3. **Geology and Soils** impacting safety and structural suitability of the buildings;

- 4. Hazards and Hazardous materials regarding potential hazards from past uses of the site including pesticide use, petroleum storage tanks, and septic tanks;
- 5. Noise regarding exposure of high school buildings to noise from U.S. Highway 101;
- 6. Noise regarding noise generated by project related traffic; and
- 7. Noise from use of the amphitheater;

FINDINGS ON SIGNIFICANT UNAVOIDABLE IMPACTS

Finding 17: The Board has found an unavoidable and significant adverse impact of the Project to be the generation of noise by the marching band during practice at adjacent residences in Santa Clara County in excess of established acceptable noise levels for residences in Santa Clara County. The Board finds that there are no feasible mitigation measures available to reduce this impact to a less than significant level, and that the benefits of the marching band outweigh its potential adverse impacts from generation of noise. In particular the Board finds that the following specific benefits of the Project outweigh this impact:

- 1. A music program, including a marching band, is an important element of a high school curriculum;
- 2. District educational objectives for a new high school include the need to maintain individual campus identity for each of the District's high schools, and the marching band contributes to this identity; and
- 3. Noise generated by the marching band will be occasional in its occurrence as the marching band will only practice on the campus.

**Attachment 3: Second Comprehensive High School
Supplemental Draft Environmental Impact Report**

and

**Attachment 4: Second Comprehensive High School
Final Supplemental Environmental Impact Report**

Both of the above documents were distributed to LAFCO Commissioners as part of the June 11, 2003 LAFCO Hearing Packet (See Agenda Item #8: Out of Agency Extension of Sewer and Water Service by the City of Morgan Hill to the Proposed Sobrato High School for these documents). A copy of both documents is also available from the Emmanuel Abello, LAFCO Clerk, (408) 2995088.

Appendix A

Mitigation Monitoring Program

MITIGATION MONITORING PROGRAM
Morgan Hill Unified School District Second Comprehensive High School
REVISED APRIL 8, 2002

INTRODUCTION

On January 1, 1989, the California State Legislature passed into law Assembly Bill 3180. This bill requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures are implemented.

MONITORING PROGRAM

The basis for this monitoring program is the mitigation measures included in this environmental impact report. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels.

The attached checklist is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in this environmental impact report.

MONITORING PROGRAM PROCEDURES

The Morgan Hill Unified School District shall use the attached monitoring checklist for the proposed project at the Sobrato site on Monterey Road. The monitoring program should be implemented as follows:

1. The Morgan Hill Unified School District, or its designee shall be responsible for coordination of the monitoring program, including the monitoring checklist. The Morgan Hill Unified School District shall be responsible for completing the monitoring checklist and distributing the checklist to the responsible individuals or agencies for their use in monitoring the mitigation measures.
2. Prior to completion of the proposed project, the Morgan Hill Unified School District shall review the checklist to ensure that all mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with.
3. Prior to occupancy of the school, the Morgan Hill Unified School District should review the checklist to ensure that all mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with. Prior to occupancy, all mitigation measures and additional conditions of project approval included in the monitoring checklist should be complied with.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the Morgan Hill Unified School District within 10 days, describing the non-compliance and requiring compliance within a specified period of time. The Morgan Hill Unified School District shall take the necessary steps to comply.

MITIGATION MONITORING CHECKLIST

REVISED APRIL 8, 2002

As a part of the preparation of project plans, the following mitigation measures shall be implemented:

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
Sup-1	<p>The Morgan Hill Unified School District shall, as part of project plans, and subject to the review and approval of the State Architect, prepare a landscape plan in conjunction with plans for any classroom buildings, excluding an agricultural program building of approximately 6,000 square feet, located within the Coyote Greenbelt. The landscape plan shall include a minimum 20-foot landscape buffer along the east, north, and west sides of the building, or group of buildings, and shall emphasize use of native plantings, such as coast live oak and interior live oak, that will harmonize with the natural vegetation on the surrounding hills. The landscape buffer shall reach sufficient height and mass to effectively screen off at least 75 percent of the view of each of the high school classroom buildings on the Sobrato site from southbound U.S. Highway 101 and Monterey Road. The landscape plan shall be implemented prior to the occupancy of the classroom buildings with which it is associated.</p>	MHUSD (supercedes S-1 and S-2)	MHUSD
S-3	<p>The Morgan Hill Unified School District shall prepare a lighting plan to include specifications that on-site lighting be of full cut-off type as defined by the Illuminating Engineering Society of North America, utilizing low-pressure sodium lamps. Lights shall be aimed downward with direct light a minimum of 20 degrees below a horizontal plane. The School District shall consult with the City of San José and City of Morgan Hill concerning the height of lighting stanchions, and shall reduce the height of the stanchions as determined appropriate. The lighting plan shall be subject to review and approval by the Division of the State Architect as part of final plans.</p>	MHUSD	MHUSD
S-4	<p>The Morgan Hill Unified School District shall specify in project plans the implementation of the following dust control measures during grading and construction activities for the proposed project. The measures shall be implemented as necessary to adequately control dust:</p> <p><i>The following measures shall be implemented in all cases:</i></p> <ul style="list-style-type: none"> • Water all active construction areas at least twice daily; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites; • Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites; • Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent 	MHUSD	MHUSD

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
	<p>public streets.</p> <ul style="list-style-type: none"> • Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); • Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.); • Limit traffic speeds on unpaved roads to 15 mph; • Install sandbags or other erosion control measures to prevent silt runoff to public roadways; • Replant vegetation in disturbed areas as quickly as possible. <p><i>As necessary, the following measures shall be implemented when construction takes place near sensitive receptors:</i></p> <ul style="list-style-type: none"> • Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; • Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas; • Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour; • Limit the area subject to excavation, grading and other construction activity at any one time. 		

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-8	<p>Due to the possibility that significant buried cultural resources may be found during construction, the Morgan Hill Unified School District shall ensure that this language is included in all construction contracts:</p> <p>"If historical or unique archaeological resources are accidentally discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project proponent shall notify the Director of the Archaeological Regional Research Center to arrange for an immediate evaluation of the find by a qualified archaeologist. The qualified archaeologist shall determine whether or not the site is a historical resource as defined in CEQA Guidelines section 15064.5(a). If it is determined that the site is a historical resource, the MHUSD shall refer to the provisions of CEQA Guidelines section 15064.5 and the provisions of section 15126.4 of the Public Resources Code to determine the significant environmental effects of the proposed project on this historical resource. If the archaeological site does not meet the criteria defined in CEQA Guidelines section 15064.5(a), but does meet the definition of a unique archaeological resource in Public Resources Code section 21083.2, the preferred project site shall be treated in accordance with the provisions of this section. If it is found that the proposed project will cause damage to a unique archaeological resource, the MHUSD shall require that reasonable efforts be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Some of the measures to be taken in the event of a discovery include: planning future construction to avoid the archaeological site; deeding archaeological sites into permanent conservation easements; capping or covering archaeological site with a layer of soil before building on the sites; and/or planning parks, greenspace or other open space to incorporate the archaeological sites in the site plan."</p>	MHUSD	MHUSD

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-9	<p>The Morgan Hill Unified School District shall ensure that this language is included in all construction contracts, in the event of an accidental discovery or recognition of any human remains, in accordance with CEQA Guidelines section 15064.5(e):</p> <p>"If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Santa Clara County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner."</p>	MHUSD	MHUSD
S-10	<p>The Morgan Hill Unified School District shall specify the following erosion control measures in project plans. The measures shall be implemented as necessary to adequately control erosion:</p> <ol style="list-style-type: none"> a. Remove existing vegetation only when absolutely necessary; b. Protect all downslope drainage courses with hay bales or temporary drainage swales; c. Use check dams or ditches to divert runoff around excavations; d. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles and excavated soil; and e. Schedule excavation and grading work for dry weather. 	MHUSD	MHUSD

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
Sup 3	The Morgan Hill Unified School District shall incorporate the recommendations of the engineering geologic report currently being prepared for the new campus site (APN 725-01-012, and APN 725-01-013) by a qualified geotechnical engineer, including recommendations concerning site preparation, use of fill from elsewhere on the project site, and building designs. The recommendations shall be incorporated into project plans subject to the review and approval of the State Architect.	MHUSD	MHUSD
Sup 4	Subject to the review and approval of the State Department of Toxic Substances Control, the Morgan Hill Unified School District shall have a Preliminary Environmental Assessment prepared by a qualified engineer. No demolition, grading or construction work shall commence until the results of the Preliminary Endangerment Assessment have been finalized and approved by the Department of Toxic Substances Control, and all recommendations contained in the Preliminary Endangerment Assessment implemented.	MHUSD	MHUSD
S-13	<p>The Morgan Hill Unified School District shall incorporate in project plans the following water quality control measures for implementation during grading and construction activities. The measures shall be implemented as necessary to adequately control the transport of potential water pollutants from the project site:</p> <ol style="list-style-type: none"> a. Schedule excavation and grading activities for dry weather periods, as feasible. b. Control the amount of runoff crossing the project site. c. Designate one area of the site for auto parking, vehicle refueling and routine equipment maintenance. This area should be located away from storm drain inlets and bermed if necessary. d. Keep materials out of the rain. e. Cover exposed piles of soil or construction materials with plastic sheeting or temporary roofs. f. Keep pollutants off exposed surfaces. g. Place trash cans and recycling receptacles around the site to minimize litter. h. Clean up leaks, drips and other spills immediately. i. Use dry cleanup methods where materials have been spilled. j. Cover and maintain dumpsters on the project site and check frequently for leaks. k. Maintain all portable toilets at the project site, checking for leaks. l. Dispose of all wastes properly. 	MHUSD	MHUSD

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-14	<p>The Morgan Hill Unified School District shall incorporate in project plans the following site planning concepts from the publication <i>Start at the Source, Residential Site Planning and Design Guidance for Stormwater Quality Protection</i> prepared for the Bay Area Stormwater Management Agencies Association. Some of the planning concepts include:</p> <ul style="list-style-type: none"> • Minimize directly connected impervious areas; • Maximize permeability at the project site by preserving open space and by using permeable pavement surfaces where feasible; • Maximize choices for mobility. 	MHUSD	MHUSD
S-15	<p>The Morgan Hill Unified School District shall have a qualified engineer design grading and drainage plans for the proposed project in consultation with the Santa Clara Valley Water District and subject to the approval of the Division of the State Architect prior to the commencement of grading activities at the project site. The grading and drainage plan shall include at least the following components:</p> <ul style="list-style-type: none"> • an evaluation of flooding risks at the project site and designs to ensure that the ground floor of any building is located outside of the 100-year flood elevation. • drainage plans and storm water run-off designs that will maintain storm water run-off to off-site locations at or below pre-existing conditions. Calculations for 10-year, 25-year and 100-year storm event run-off shall be provided. 	MHUSD	MHUSD
Sup 5	<p>Subject to the review and approval of the State Architect, the Morgan Hill Unified School District shall install windows rated minimum Sound Transmission Class (STC) 32. Those windows facing toward U.S. Highway 101 shall be maintained closed and mechanical ventilation shall be provided for all classrooms with such closed windows.</p>	MHUSD	MHUSD

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
Sup 6	<p>The Morgan Hill Unified School District shall monitor traffic noise levels along Burnett Avenue to ensure that the noise levels do not exceed a 5 dB increase over existing levels at the homes with side yards or back yards fronting on Burnett Avenue. Monitoring shall be conducted when the school enrollment exceeds 1,500 students. If the noise monitoring determines that the increase in noise is less than 5 dB from the existing baseline noise level of 52 dBA DNL, no mitigation measure shall be required and monitoring shall be conducted again when the school enrollment exceeds 2,000 students. If the noise monitoring determines that the increase in noise is less than 5 dB from the existing baseline noise level of 52 dBA DNL, no mitigation measure shall be required and monitoring shall be conducted again when the school enrollment reaches 2,500 students.</p> <p>If and when, however, the noise monitoring results indicate that the increase in noise levels is 5 dB or greater from the existing baseline noise level of 52 dBA DNL for those homes with side yards or back yards fronting on Burnett Avenue, the Morgan Hill Unified School District shall mitigate the increase in noise. Mitigation could include, but not be limited to, additional bussing to keep the noise increase below 5 dB or construction of a noise control barriers along affected property frontages.</p>	MHUSD (Supercedes S-16)	MHUSD
Sup 7	<p>Subject to the review and approval of the State Architect, the Morgan Hill Unified School District shall design the amphitheater and associated sound reinforcement system, to limit noise from any performance to no more than 60 dBA at the Baumann Court residential property lines.</p>	MHUSD	MHUSD

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-18	<p>The Morgan Hill Unified School District shall prepare an off-site roadway improvement plan in conformance with appropriate design standards. This improvement plan shall be prepared and implemented prior to occupancy of the proposed project. The plan shall include the following elements, subject to review and approval by the City of Morgan Hill:</p> <ul style="list-style-type: none"> • expansion of Burnett Avenue to four traffic lanes from Monterey Road to the project access road, with side walks and bicycle lanes on both sides; • a modern roundabout on Burnett Avenue at the project access road, aligned with the existing entrance to the Madrone Manor mobile home park, with crosswalks at the access road, the mobile home driveway and both legs of Burnett Avenue; • one left-turn lane and one left turn/right-turn lane on Burnett Avenue at its approach to Monterey Road; • two southbound left-turn lanes and one northbound right-turn lane on Monterey Road at the Burnett Avenue intersection; and • a sidewalk along the east side of Monterey Road between Burnett Avenue and Cochrane Road. Portions of this sidewalk would be the responsibility of development along the east Monterey Road frontage. <p>If the modern roundabout is unacceptable to the City of Morgan Hill, a standard intersection acceptable to the city would be required.</p>	MHUSD	MHUSD

Prior to any tree removal activity the following mitigation measures shall be implemented:

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-5	<p>Prior to the removal of any trees meeting the definition of "tree" set forth in the City of San Jose Municipal Code, a field survey shall be conducted by a certified arborist to determine the number, type, size, and location of each tree to be removed, and the reason for removal. These findings shall be included in a written report that contains specifications for protecting trees to remain and replacing trees to be removed. The written report shall be prepared prior to the commencement of grading activities, subject to approval by the MHUSD. The MHUSD shall advise the City of San Jose director of neighborhood preservation regarding project planning and tree removal.</p>	MHUSD	MHUSD

Prior to grading or other ground-disturbing activity the following mitigation measures shall be implemented:

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-6	<p>No earlier than 45 days and no later than 20 days prior to the initiation of ground-disturbing construction activities that would occur during the nesting and/or breeding season of California horned lark and loggerhead shrike potentially nesting in the areas proposed for development (generally March 15 through August 1), a field survey shall be conducted by a qualified biologist to determine if active nests of these special-status birds species are present in the construction zone or within 200 feet of the construction zone. If active nests are found in within the survey area, clearing and construction within 200 feet shall be postponed or halted until the nests are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. If grading on the site begins prior to March 15 or after August 1, this survey would not be required.</p> <p>No earlier than 45 days and no later than 20 days prior to commencement of grading or construction activities on the project site, field surveys shall be conducted by a qualified biologist to determine if burrowing owls are present in the construction zone or within 200 feet of the construction zone. These surveys shall be required if any construction would occur during the nesting and/or breeding season of burrowing owls (February 1 through August 31) and/or during the winter residency period (December 1 through January 31). If active nests are found in the survey area, a burrowing owl habitat mitigation plan shall be submitted to the California Department of Fish and Game for review and approval. The burrowing owl habitat mitigation plan shall contain mitigation measures contained in the California Department of Fish and Game Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1995). Compliance with this mitigation measure may include, but not be limited to, the following:</p> <ul style="list-style-type: none"> • Avoidance of occupied burrows during the nesting season (February 1 through August 31); • Acquisition, protection and funding for long-term management and monitoring of foraging habitat adjacent to occupied habitat; • Enhancement of existing burrows and/or creation of new burrows; • Passive relocation of burrowing owls. 	MHUSD	MHUSD

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
Sup. 2	<p>The Morgan Hill Unified School District shall contract with a qualified biologist to prepare a field survey, no more than 30 days prior to commencement of grading or construction activities on the project site, to determine if burrowing owls are present in the construction zone or within 200 feet of the construction zone. Areas within 200 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. These surveys shall be required only if any construction would occur during the nesting and/or breeding season of burrowing owls (February 1 through August 31) and/or during the winter residency period (December 1 through January 31). If active nests are found in the survey area, a burrowing owl habitat mitigation plan shall be submitted to the California Department of Fish and Game for review and approval. The burrowing owl habitat mitigation plan shall contain mitigation measures contained in the California Department of Fish and Game Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1995). Compliance with this mitigation measure may include, but not be limited to, the following:</p> <ul style="list-style-type: none"> • Avoidance of occupied burrows during the nesting season (February 1 through August 31); • Acquisition, protection and funding for long-term management and monitoring of foraging habitat adjacent to occupied habitat; • Enhancement of existing burrows and/or creation of new burrows; and • Passive relocation of burrowing owls. 	MHUSD	MHUSD
Sup 3	<p>Subject to the review and approval of the State Department of Toxic Substances Control, the Morgan Hill Unified School District shall have a Preliminary Endangerment Assessment performed by a qualified engineer. No demolition, grading or construction work shall commence until the results of the Preliminary Endangerment Assessment have been finalized and approve the Department of Toxic Substances Control, and all recommendations contained in the Preliminary Endangerment Assessment implemented.</p>	MHUSD	DTSC

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-7	The Morgan Hill Unified School District shall hire a qualified archaeological monitor to observe earthmoving activities at the preferred/project site.	MHUSD	MHUSD
S-8	See text above.	MHUSD	MHUSD
S-9	See text above.	MHUSD	MHUSD
S-12	The Morgan Hill Unified School District shall prepare and file a Notice of Intent (NOI) to the San Francisco Bay Regional Water Quality Control Board prior to grading activities. The Morgan Hill Unified School District shall propose and implement control measures that are consistent with the State Construction Storm Water General Permit and with recommendations and policies of the local agency and the Regional Water Quality Control Board. The State Construction Storm Water General Permit requires a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP uses storm water "Best Management Practices" to control runoff, erosion and sedimentation from the site. The SWPPP has two major objectives: (1) to help identify the sources of sediments and other pollutants that affect the quality of storm water discharges; and (2) to describe and ensure the implementation of practices to reduce sediment and other pollutants in storm water discharges. The SWPPP must include Best Management Practices, which address source reduction and, if necessary, shall include practices, which require treatment. It should be consistent with the terms of the State Construction Storm Water General Permit, policies and recommendations of the local urban runoff program (city and/or county) and recommendations of the Regional Water Quality Control Board.	MHUSD	MHUSD
S-21	Prior to development of the project site, the Morgan Hill Unified School District shall ensure that the septic system that served the former home site on the project site is removed in accordance with the provisions of the Santa Clara County Health Department.	MHUSD	MHUSD
Sup-2	The Morgan Hill Unified School District shall implement the recommendations of the engineering geologic report prepared for the new campus site (APN 725-01-012, and APN 725-01-013) including recommendations concerning site preparation, use of fill from elsewhere on the project site, and building designs.	MHUSD	MHUSD
Sup 3	See text above.	MHUSD	DTSC

During grading operations the following mitigation measures shall be implemented:

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-4	See text above.	MHUSD	MHUSD
S-10	See text above.	MHUSD	MHUSD
S-13	See text above.	MHUSD	MHUSD
S-17	The Morgan Hill Unified School District shall require the use of construction vehicles that are properly muffled and maintained and shall limit construction to Monday through Friday between the hours of 7:00 AM and 7:00 PM and between 8:00 AM and 5:00 PM on Saturdays for any construction within 500 feet of any residence. All construction activity that results in audible noise at the project site boundaries shall be prohibited on Sundays, as well as all federal holidays. These restrictions shall be included in all contractor specifications for the proposed project.	MHUSD	MHUSD

During construction activities the following mitigation measures shall be implemented:

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-13	See text above.	MHUSD	MHUSD
S-17	See text above.	MHUSD	MHUSD

Prior to occupancy of the school, the following mitigation measure shall be implemented.

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-16	See text above.	MHUSD	MHUSD
S-18	See text above.	MHUSD	MHUSD

During occupancy of the school, the following mitigation measures shall be implemented:

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
Sup 8	The Morgan Hill Unified School District shall limit amplified music at the amphitheater to between the hours of 8:00 AM to 10:00 PM.	MHUSD	MHUSD

Prior to occupancy of the school by more than 1,800 students with an access from Burnett Avenue, the following mitigation measure shall be implemented.

MITIGATION MEASURE NUMBER	NATURE OF MITIGATION	PARTY RESPONSIBLE FOR IMPLEMENTATION	PARTY RESPONSIBLE FOR MONITORING
S-19	<p>The Morgan Hill Unified School District shall design an off-site roadway improvement plan in conformance with appropriate design standards. This improvement plan shall be prepared and implemented prior to occupancy of the proposed project by more than 1,800 students. The plan may include either of the following elements, or other means that can be demonstrated to relieve traffic on Burnett Avenue at the intersection with Monterey Road.</p> <ul style="list-style-type: none"> • A dedicated right turn lane on the westbound Burnett Avenue approach to Monterey Road (subject to review and approval by the City of Morgan Hill); • A roadway providing right turns from the project site to northbound Monterey Road without use of Burnett Avenue (subject to review and approval by the City of San Jose). <p>In the event that any other roadway is constructed that would result in relieving westbound project traffic from Burnett Avenue at the intersection with Monterey Road, the MHUSD may pay a fair share towards construction of that roadway in fulfillment of this mitigation measure.</p>	MHUSD	MHUSD

Notes:

"S" refers to the Sobrato site (to differentiate from the Tennant Murphy preferred alternative site studied in the Revised EIR).

"Sup" refers to the Supplemental EIR.

Mitigation measures S-1, S-2, and S-16 have been superceded as noted above.

Mitigation measure S-11 is not relevant to the revised project and has been eliminated.

Agenda Item #6: Countywide Fire Protection Service Review Report

Information pertaining to this agenda item will be sent to LAFCO
Commissioners under separate cover.

January 28, 2004

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
SUBJECT: Midpeninsula Regional Open Space District (MROSD)
Sphere of Influence (SOI) Amendment and Annexation of
Coastal Lands in San Mateo County

Agenda Item # 7

ACTIONS REQUIRED BY THE COMMISSION

1. Consider Mr. Oscar Braun's (an interested party) request for a continuance of the public hearing.
2. If the Commission denies the request for continuance, hold the public hearing and make a recommendation on the proposal to San Mateo LAFCO.
3. Direct staff to collect any additional processing fees based on actual staff time and resources spent on the proposal review as well as the costs and attorney fees incurred in defense of the CEQA litigation.

STAFF RECOMMENDATION

1. **Continuance Request**
Staff recommends that the Commission deny the request for continuation.
2. **SOI Amendment and Annexation Proposal**
Based on review of the proposal's impact on Santa Clara County and on consistency with LAFCO policies, staff recommends that the Commission forward a recommendation to San Mateo LAFCO to approve the request for the SOI amendment following adoption of an appropriate service review and to approve annexation of the lands to MROSD.

PROJECT DESCRIPTION

San Mateo LAFCO has forwarded to Santa Clara LAFCO, the Mid Peninsula Regional Open Space District's (MROSD) proposal to expand its sphere of influence (SOI) and annex about 140,000 acres of coastal lands within San Mateo

County in order to acquire land and easements for the preservation of open space and agriculture and protection of sensitive resources. The annexation territory is generally defined by the southern boundary of the City of Pacifica to the north, the existing MROSD boundary and San Francisco Watershed lands and to the east, the Pacific Ocean to the west and the Santa Cruz / San Mateo County boundary line to the south. See Attachment 1 for map of annexation and SOI amendment boundaries.

Santa Clara LAFCO will consider the proposal and make a recommendation on the proposal to San Mateo LAFCO for their final action.

REQUEST FOR CONTINUATION

On December 18, 2003, Mr. Oscar Braun, interested party, submitted an e-mail request seeking extension of time for Santa Clara LAFCO to review and issue a recommendation on MROSD's proposal. (See Attachment 2 for Mr. Braun's e-mail). Mr. Braun is requesting the continuance of the Santa Clara LAFCO hearing to allow LAFCO and the public to carefully consider the application and to provide time for a meaningful analysis. He is also requesting that the consideration of the project await the results of the pending legal challenge regarding the adequacy of the EIR.

Santa Clara LAFCO staff has had adequate time for its review and analysis of the proposal. Santa Clara LAFCO action is advisory to San Mateo LAFCO and additional opportunities for public input will be provided through the San Mateo LAFCO public hearing process. With regard to the pending legal challenge, Santa Clara LAFCO is neither a lead agency nor a responsible agency and has no approval authority for this project. No CEQA action is necessary by Santa Clara LAFCO.

Staff therefore recommends denial of Mr. Braun's request for continuance.

MROSD has submitted a letter describing their multi-year process for developing this annexation proposal and requesting that Santa Clara LAFCO move forward without delay. (See Attachment 3 for letter dated February 3, 2004, from Cathy Woodbury, MROSD)

BACKGROUND

LAFCO Action for MROSD, a Multi-County Jurisdiction

MROSD is located within three counties: Santa Clara, San Mateo and Santa Cruz counties. Pursuant to state LAFCO law, when a district has territory in more than one county, the county with the most assessed valuation is the principal LAFCO,

i.e., the LAFCO with authority over boundary changes for the district. For MROSD, Santa Clara County has the highest assessed valuation within the district's boundary and therefore Santa Clara LAFCO is its principal LAFCO even if the annexation territory is in another county.

However, state law allows the principal LAFCO to vest jurisdiction in the LAFCO that includes the affected territory. In February 1999, Santa Clara LAFCO transferred jurisdiction to San Mateo LAFCO for this coastal annexation proposal. As per the agreement between San Mateo and Santa Clara LAFCOs, Santa Clara LAFCO will hold a public hearing and make a recommendation on the proposal to San Mateo LAFCO. San Mateo LAFCO will consider the recommendation before final action on the proposal. Santa Cruz LAFCO is scheduled to meet on February 4, 2004 to adopt a resolution in support of the annexation proposal.

Coastal Annexation will not impact Principal LAFCO Status

Annexation of the coastal area to the MROSD will add about \$3,597,598,947 (to be verified by the San Mateo County Assessor's Office) to the assessed valuation of lands within MROSD boundaries in San Mateo County (\$36,039,243,221) bringing it to a total of \$39,636,842,168. The assessed valuation of MROSD lands in Santa Clara County at \$ 78,939,031,960 would remain greater than that of San Mateo County. Santa Clara County will continue to be the principal LAFCO for the MROSD.

ENVIRONMENTAL CONSIDERATIONS

Environmental Assessment

For informational purposes, staff has provided Santa Clara LAFCO with the *San Mateo Coastal Annexation DEIR and FEIR* which was certified on June 6, 2003 by MROSD as the lead agency for the project. Along with the EIR, staff will forward this staff report as well as all the attachments to this staff report including among others, the service plan and fiscal analysis prepared for this project by MROSD.

CEQA Legal Challenge

As mentioned earlier, Santa Clara LAFCO has vested jurisdiction for MROSD's Coastal Annexation Project in San Mateo LAFCO. Santa Clara LAFCO will hold a hearing and forward a recommendation to San Mateo LAFCO, which is a Responsible Agency. Therefore, LAFCO of Santa Clara County has no approval authority for this project and is neither the lead agency nor a responsible agency.

In July 2003, Half Moon Bay Coast side Foundation, aka Save Our Bay, Oscar Braun, Andrea Braun, and H. John Plock, Jr. brought a petition for Writ of Mandate under the California Environmental Quality Act (CEQA). The petitioners challenge MROSD's certification of an environmental impact report for a proposed coastal annexation project. San Mateo LAFCO and Santa Clara LAFCO have been dismissed from the lawsuit pursuant to a stipulation. MROSD is the remaining party in the lawsuit.

CORRESPONDENCE RE. PROPOSAL

We have received a great deal of correspondence on this proposal from affected or interested organizations and agencies, from coastal area residents and from general public especially existing MRSOD constituents in San Mateo and Santa Clara counties. See Attachment 4 for a listing of the correspondence regarding this proposal received as of February 4, 2004. Copies of the correspondence are available in the LAFCO office. We received about 50 letters in opposition to the proposal and about 130 letters in support of the proposal.

Some of the recurrent reasons for opposition to the annexation proposal include potential use of eminent domain by MROSD in the coastal area, underestimation of fiscal impacts to school districts and other agencies, lack of ability to vote on the annexation proposal, future taxation by MROSD without voter approval, lack of coastal representation on the District Board following annexation, MROSD's lack of expertise in agricultural land management, adverse impacts of public lands on adjacent coastal agricultural lands and adverse impacts of public lands on public safety services such as fire and police protection in the area.

This staff report will discuss and provide information on how these issues are being addressed in the proposal.

WILLING SELLERS ORDINANCE

State law gives MROSD the power of eminent domain to acquire lands for the purpose of open space preserves. In 1999, the coastside residents identified the use of eminent domain by MROSD for acquisition of property as a serious concern for the community. In order to proceed with greater support in the community, MROSD agreed to permanently remove eminent domain from its policies in the Coastal Annexation Area in a manner that is secure and acceptable to both the residents and the district. In June 2003, MROSD Board adopted the Willing Sellers Ordinance which states that MROSD shall not use the power of eminent domain in the Coastside annexation area. To reiterate its permanent policy, MROSD has included this ordinance as a formal mitigation measure in its Final EIR, and has included it within its service plan and annexation proposal to LAFCO.

However, coast side residents as well as the San Mateo Farm Bureau continued to have concerns about the permanency of the policy as it could be canceled or repealed by a future Board. To allay such concerns, MROSD and the San Mateo County Farm Bureau have signed onto a memorandum of understanding (MOU) by which among other things, MROSD will seek state legislation and the Farm Bureau will support the legislation to prohibit MROSD's use of eminent domain in the coastal area. See Attachment 5 for the MOU between MROSD and the Farm Bureau as well as MROSD's Willing Seller's Ordinance.

SERVICE PLAN FOR THE COASTAL AREA

Currently MROSD's services include protecting almost 50,000 acres of open space lands in the Santa Cruz Mountains, providing public recreational use on approximately 220 miles of trails within 26 open space preserves, preserving sensitive habitats, maintaining historic structures, preserving agricultural uses and conducting environmental education programs.

MROSD's service plan for the coastal area describes the phased services that it would provide within the first 15 years and the policies that would apply in the area. See Attachment 6 for a copy of the Service Plan submitted by MROSD.

The District expects to acquire 11,800 acres of coastal land from willing sellers and other public and private agencies for the purpose of open space preservation, public recreation, and maintenance of agriculture and protection of natural resources.

MROSD's Basic Service Plan

	Within 5 years	At the end of 10 years	At the end of 15 years
Lands Acquired (acres)	6,000	7,000	7,500
Easements Acquired (acres)	1,200	1,750	1,800
New Lands Managed under Contract (acres)	1,000	2,000	2,500
Total all lands (acres)	8,200	10,750	11,800
Existing and New Roads and Trails (miles)	22.2	33.1	36.7
Staging Areas	1	1	2
Total Full Time Equivalent Staff	6.3	8.2	9.1

Funding Sources

MROSD proposes to fund its activities in the coastal area from existing revenue sources including gifts and grants. No new taxes are proposed at this time. Additionally, MROSD has adopted a resolution to not seek property tax transfer from any of the affected agencies in connection with this annexation proposal. In years 1-5, grants and gifts are expected to fund about 75% of the acquisitions and 90% of easement acquisitions. The remaining amount will be funded from the district's existing tax revenues. After the first five years, all acquisitions will be made through grants and gifts.

The total cost of implementing the coastal acquisition plan over 15 years will be \$98,478,226. Grants and gifts will be the source of funding for \$67,887,637 and MROSD's existing revenues will fund the remaining \$30,590,590.

Upon annexation, MROSD proposes to work with its constituents to develop appropriate voter approved funding measures to provide supplemental funding for a higher level of service. The Service Plan presents two optional scenarios, both subject to voter approval, for supplemental funding for district activities. The first would involve a voter approved funding measure sponsored within the coastal area alone and the second would involve a district wide funding measure. This supplemental funding is not required for the district to implement the proposed basic service plan.

FISCAL ANALYSIS

Impacts on MROSD's existing services and cash reserves

As seen above, it is estimated that the coastal annexation/ acquisition program would cost MROSD \$30,590,590 over 15 years. This translates into an average annual cost of about \$2 million (see Table 3 in the Fiscal Analysis prepared by MROSD's consultant) to MROSD. Table 4 in the Fiscal Analysis projects the District's existing as well as proposed operating expenses and revenues over the 15-year period. For example, in the first year, the total revenues and reserves amount to \$73.428 million including the beginning cash reserve (\$26.843 million), the District's operating revenue (\$21.585 million) and note proceeds (\$25.000 million). The expenses that year total to \$36.230 million including the District's operating expenses (\$18.600 million), and acquisition costs of coastal lands (\$2.630 million) and non-coastal lands (\$15.00 million). Projected revenues exceed expenses in the first as well as over the 15-year period, indicating that the District is likely to have adequate financial resources to implement the coastal annexation/acquisition program without affecting the District's existing programs or its cash reserves. See Attachment 7 for a copy of the Fiscal Analysis submitted by MROSD.

Loss of Property tax revenues to affected agencies as a result of acquisition of property by MROSD

The District is not seeking a transfer of a share of the property tax revenues upon annexation. Therefore annexation of the area in itself will not impact the property tax revenues of affected agencies. However, the District's service plan for the area includes acquisition of lands. Lands in the ownership of a public agency are exempt from paying property taxes. As a result, the affected agencies would lose property tax revenues from those properties acquired by MROSD.

The Fiscal Analysis is based on these assumptions:

1. Not all lands that the District would acquire are currently on the property tax rolls. The analysis assumes that the District would acquire about 80% of its lands from lands trusts, non-profit organizations and other public agencies and these lands will already be removed from the tax rolls. Therefore acquisition of these lands will not result in additional revenue loss. That is, property tax revenue loss would result from acquisition of only about 2,360 acres (20%).
2. Although the average market value of land is estimated to be \$8,000 per acre, the average assessed valuation of parcels that the District is likely to acquire is at only \$460 per acre. This is because the District is targeting for acquisition properties that are relatively large, typically 100 acres or more, undeveloped or with few improvements, and land adjacent to other public open space lands. It is also assumed that these types of lands will have been under the same ownership for many years and their assessed values will be lower than market values.
3. Due to MROSD's willing seller policy, it is not possible to know the exact geographic location of where the acquisitions will ultimately occur. The Fiscal Analysis has been conducted using a randomly selected sample of parcels that fit the District's criteria for acquisition. Based on these sample parcels, estimates are made regarding each affected district's share of the 1% tax rate.

Table 5 in the Fiscal Analysis estimates that over the 15-year period of the annexation/acquisition program, the affected agencies will lose a total of \$90,184 in property tax revenues. Please note that this total amount does not include the impacts to revenue limit school districts such as the Cabrillo Unified School District whose property tax losses will be offset by state funds.

Table 5 in the Fiscal Analysis also indicates the impacts on the individual districts including San Mateo County and other local districts. Among the

affected agencies, it is estimated that the greatest loss would be to San Mateo County, which would lose \$37,229 in property tax revenues over the 15-year period.

Again, the property tax revenue losses to the districts are only estimates. The actual impact to the individual districts will be based on:

1. whether the property to be acquired is within a district's boundary,
2. what the affected district's tax rate is in that particular tax rate area (TRA) and
3. the assessed value of the property.

The La Honda Pescadero Unified School District, a basic aid district, has expressed concern over the potential loss of property tax revenues due to the coastal annexation/acquisition program. MROSD and the School District are currently working collaboratively on an agreement to address those concerns.

Service Cost Impacts to affected agencies in the Coastal Area

As indicated in the Fiscal Analysis, all the affected service providers in the coastal area were contacted to determine the potential impacts of annexation/acquisition on their service demands. While several agencies that provide fire protection and public safety services indicated that they anticipate a slight increase in the demand for their services, all agencies indicated that they would have the ability to respond to the increased service needs within their current budgets while maintaining current levels of service.

In response partly to La Honda Fire Brigade's concerns, MROSD is working with San Mateo County Fire Department on an MOU that includes a Mutual Aid Agreement and contract for services.

Impacts on Coastal Agricultural Lands and Operations

The coastal annexation area includes San Mateo County's agricultural district consisting of field agriculture, greenhouse production, grazing and timber harvest. The total gross value of San Mateo County agricultural production for 2002 was \$183 million. Approximately 2,641 acres in the coastal area are designated as Prime Farmland and 178 acres are designated as Farmland of Statewide Importance under the California Farmland Mapping and Monitoring Program. The annexation area also consists of approximately 6,411 acres of Unique Farmlands and Farmland of Local Importance. The vast majority of lands under Williamson Act Contract are located within the annexation area.

The San Mateo County Farm Bureau and several residents have raised concerns about the effect of recreational uses on agricultural lands, about the District's ability to manage agricultural lands, and whether and how the agricultural community will have a voice in District plans and activities affecting the area proposed for annexation so that agriculture can remain viable.

According to District, preservation of economically viable agriculture is a major component of its plan for the area. The potential effects of the program on agriculture were considered in detail in the EIR, which concluded that there would be no significant impact to agricultural resources. The Service Plan contains a number of policies to protect agriculture and includes extensive mitigation measures. Furthermore, the District has entered into a Memorandum of Understanding with the San Mateo County Farm Bureau re-affirming the District's commitment to those mitigation measures and setting forth a process for Farm Bureau involvement in implementing many of the Service Plan's agriculture-related policies. Specifically, on a case-by-case basis, the District would seek the advice of the Farm Bureau during the use and management process for lands the District might acquire that include an agricultural operation or might affect an adjoining agricultural property.

Representation on MROSD Board for Coastal Area Residents

The Service Plan provides information on how the area will be represented following annexation. The District is currently composed of 7 wards with an approximate population of 100,000 people in each of the wards. The annexation is expected to add about 29,000 people to the District population.

Some concerns have been expressed about how the area will be represented and how much input the area residents will be able to provide on the District's decisions.

MROSD is in the process of preparing an interim plan for representation and a procedure for working with the community to develop a redistricting plan that would allow representation of coastal area residents on the District Board.

Next Steps in Processing this Application

San Mateo LAFCO will hold two public hearings: the first in Half Moon Bay on March 9 and the second hearing in Redwood City on March 17.

If San Mateo LAFCO approves the annexation, it will hold a protest hearing where residents and voters in the area will have an opportunity to submit written protest against the annexation proposal. A 25 to 50% protest from either registered voters or property owners would trigger an election within the coastal

annexation area. A majority vote is required for successful annexation. If there is more than 50% protest, the annexation will be terminated. See Attachment #8 for the flow chart of the LAFCO application process.

CONCLUSION

MROSD's coastal annexation proposal does not impact services provided by the District in Santa Clara County. Additionally, the annexation will not impact service providers in Santa Clara County. The proposal is generally consistent with LAFCO policies and goals of preserving open space and agricultural lands. MROSD's plans for acquisition and management of the coastal lands will help maintain the natural resources and beauty of open space in the coastal area. The District has adopted policies and mitigation measures that will ensure protection of agricultural lands managed by the district as well as those adjacent to public lands. The District has demonstrated that it has the ability to implement the coastal acquisition plan without adversely impacting its existing service levels in other areas.

While there are still some concerns that have yet to be resolved, the District working with stakeholders has been able to reach resolution on some key issues that were threatening to hinder their annexation proposal. We recognize that San Mateo LAFCO will be reviewing this proposal with regard to local impacts relevant to San Mateo County as well as other specific requirements of the Cortese Knox Hertzberg Act.

Staff recommends that the Commission forward a favorable recommendation on the annexation and SOI expansion proposal to San Mateo LAFCO.

ATTACHMENTS

- Attachment 1: Map of the MROSD Annexation and SOI Amendment Boundaries
- Attachment 2: E-mail from Oscar Braun
- Attachment 3: Letter dated February 3, 2004 from Cathy Woodbury, MROSD
- Attachment 4: Listing of correspondence regarding this proposal as of February 4, 2004
- Attachment 5: MOU between MROSD and the San Mateo County Farm Bureau and Willing Sellers Ordinance
- Attachment 6: Service Plan submitted by MROSD
- Attachment 7: Fiscal Analysis submitted by MROSD

Attachment 8: Flow Chart of LAFCO application process

Note: The Draft Environmental Impact Report and Final Environmental Impact Report for the Midpeninsula Regional Open Space District (MROSD) Sphere of Influence (SOI) Amendment and Annexation of Coastal Lands in San Mateo County have been forwarded to LAFCO Commissioners for their review, prior to this mailing.

ITEM No. 7
ATTACHMENT 2



"Oscar Braun"
<OscarB@pacbell.net>

12/18/2003 07:14 PM

To: "Neelima Palacheria" <neelima.palacheria@ceo.co.santa-clara.ca.us>,
<emmanuel.abello@bos.co.santa-clara.ca.us>

cc:

Subject: FW: Santa Clara County LAFCO letter re: MROSD San Mateo County
220 Square mile Coastal Annexation

> -----Original Message-----

> From: Oscar Braun [mailto:OscarB@pacbell.net]
> Sent: Thursday, December 18, 2003 4:49 PM
> To: Neelima Palacheria; Martha M. Poyatos
> Cc: Lee B. Duboc; Bob Braitman; H. Ann Liroff; Peter W. Daniel; Meg
> Delano; John Wilson; John Plock; John H. Blake Esq.; Terry Gossett; Craig
> Britton; Chief James Ashe; Chief John Ferreira; Ted J. Hannig Esq.;
> Kendyl Kellogg; Charles & Betty Shafae; Bill & Margaret Herndon; Tim Hay;
> Meg Delano; PMAC; POST; Jim Larimer
> Subject: Santa Clara County LAFCO letter re: MROSD San Mateo County
> 220 Square mile Coastal Annexation

> December 18, 2003

> Neelima Palacheria
> Santa Clara County LAFCO Executive Officer
> County Executive's Office
> 11th Floor,
> 70 W. Hedding St.
> San Jose, CA 95110.

> Subject: REQUEST FOR EXTENSION OF TIME FOR SANTA CLARA COUNTY LAFCO
> TO REVIEW AND ISSUE RECOMMENDATIONS ON THE APPLICATION FOR ANNEXATION OF
> THE SAN MATEO COUNTY COASTAL AREA TO THE MID-PENINSULA REGIONAL OPEN SPACE
> DISTRICT.

> Dear Ms. Palacheria:

> I write in regard to the application of the Mid-Peninsula Regional Open
> Space District (the "District") to San Mateo County LAFCo for a Proposed
> Sphere of Influence Amendment and approval of annexation of San Mateo
> County Coastal Lands into the District. It is our understanding that the
> application recently has been or shortly will be forwarded to you for
> recommendation. Although Santa Clara LAFCo is the principal LAFCo for the
> district, the matter is being submitted to San Mateo LAFCo for review and
> recommendation only, since the proposed project is located entirely in San
> Mateo County.

> The purpose of this letter is to request a brief extension of time for
> Santa Clara County LAFCo to review the application and issue its
> recommendations. The application that has been submitted is a major
> project, consisting of the annexation of 144,000 acres (approximately 220
> square miles) of prime San Mateo county rural lands, formerly designated
> the Coastal Annexation Area but now referred to by the District as the
> Coastal Protection Area. The application includes a Fiscal Impact Analysis
> and an EIR.

> Prior to approval of this extensive project, Santa Clara LAFCo and the
> public must review the application materials and carefully consider the

> impacts before offering meaningful analysis, comments and recommendations.
> Santa Clara county LAFCo should also take into account a pending legal
> challenge to the District recently transferred from San Mateo County to
> Santa Clara County Superior Court.

>
> As you may know, the Half Moon Bay Coastside Foundation brought a
> challenge to the EIR certified by the District under the California
> Environmental Quality Act (CEQA). The challenge contests the inadequacy
> of the District's conclusions and findings in the EIR, most significantly
> the findings regarding wildfire risks in the wildland urban interface
> (WUI) areas of San Mateo County adopted just prior to the most
> catastrophic wildfire season in California history, and the acquisition
> of parcels known by the District to contain toxic landfills and leaking
> oil wells polluting the ground and surface waters of the United States
> within the annexation area by the District.

>
> These concerns are highlighted by the District's past record of inadequate
> fire protection in existing District lands, and its history of attempting
> to avoid CEQA review of the acquisition of polluted sites in Santa Clara
> County such as the 1983 acquisition of two parcels of surplus federal
> property which adjoined the district's Sierra Azul Open Space Preserve in
> Santa Clara County, namely a former Air Force station on Mount Umunhum and
> a ground air transmitter receiver site one mile east of the summit of
> Mount Thayer. The District failed to notify adjoining landowners of the
> presence of polychlorinated biphenyls (PCB) on the sites, and later tried
> to claim categorical exemptions to CEQA in an attempt to avoid judicial
> review. The Court of Appeal for the Sixth District discussed these issues
> and inadequacies in *McQueen v. Board of Directors of the Mid-Peninsula
> Regional Open Space District et al.*, (6th Dist 1988) 202 Cal.App.3d 1136,
> a copy of which is attached.

>
> This CEQA challenge was filed in July 2003 and was initially
brought
> in San Mateo County, before falling victim to delays brought about by the
> District, including a month-long delay while the District tried and failed
> to disqualify the designated CEQA judge for San Mateo County, a futile
> effort that went all the way to the Court of Appeal. The case has now
> been transferred to Santa Clara County.

>
> The Santa Clara County LAFCO recommendation on this project
should
> await the final determination of the adequacy of the EIR by a Santa Clara
> County judge. As CEQA actions are given priority in the court system, we
> expect the final trial of the matter to occur within the next four months.

>
> Accordingly, we request a continuance of 120 days so that the request for
> recommendation would be heard no earlier than the regularly scheduled June
> meeting of the Santa Clara County LAFCO. This will provide sufficient
> time for the aforementioned legal challenge to run its course, as well as
> providing the public the opportunity to adequately comment and your office
> to adequately review and comment on the application.

>
> If you have questions about the CEQA action, please feel free to
> contact me or Ted Hannig, Ann Liroff or Peter Daniel with the Hannig Law
> Firm, 2991 El Camino Real, Redwood City CA 94061-4003, phone (650)
> 482-2040. Thank you for your consideration.

>
>
> Sincerely,
>

>
> Oscar Braun
>
> Cc: Bob Braitman, Braitman & Associates
> Martha M. Poyatos, Executive Officer, San Mateo LAFCO
> Meg Delano, Chair Pescadero Municipal Advisory Council
> Lee B. Duboc, Mayor, City of Menlo Park
> Terrance Gossett, President, California for Property Rights
> George Swenson, Chair, Silicon Valley Taxpayers Association
> James Ashe, Chief, Half Moon Bay Fire Protection District
> John Muller, Chair, Coastside County Water District
> John Wilson, Superintendent, LaHonda Pescadero School District
> Craig Britton, General Manager, Mid-Peninsula Regional Open Space
> District
>
> Westlaw Download Summary Report
> for
> LIROFF, H A 2277853 Saturday, November 29, 2003 13:29:24 Central
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>
>
> Request Created Date/Time: Saturday, November 29, 2003 13:29:00
> Central
>
> Client Identifier: BRAU1172
> Database: CA-ORCS
> Citation Text: 202 Cal.App.3d 1136
> Lines: 718
> Documents: 1
> Images: 0
>
>
> LOREN McQUEEN, Plaintiff and Appellant,
> v.
> BOARD OF DIRECTORS OF THE MID-PENINSULA REGIONAL OPEN SPACE DISTRICT et
> al.,
> Defendants and Respondents
>
> No. H003297.
>
> Court of Appeal, Sixth District, California.
>
>
> Jul 18, 1988.
>
> SUMMARY
>
> The superior court denied plaintiff relief on his petition for writ of

Regional Open Space

ITEM No. 7 ATTACHMENT 3

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT
CELEBRATING 30 YEARS OF OPEN SPACE PRESERVATION

February 3, 2004

Neelima Palacherla, Executive Director
Santa Clara Local Agency Formation Commission
70 West Hedding Street
San Jose, CA 95110

RE: San Mateo LAFCo File No. 03-10 –San Mateo County Coastside Protection Program,
Application for Extension of District Boundaries and Open Space Protection Services
submitted by Midpeninsula Regional Open Space District

Dear Ms. Palacherla:

On behalf of Midpeninsula Regional Open Space District, I am pleased to provide you with information about how the District's process for development of the *Coastside Protection Program* has been inclusive and ample time has been provided at each stage of program development for public review, analysis and comment.

The District began developing this vital *Coastside Protection Program* more than six years ago in response to the coastside community's concerns and requests for assistance in preserving our rural and agricultural heritage on the San Mateo County coast. Since 1998, the District has expended considerable time and resources working with the community and other open space preservation organizations and agencies to develop the *Coastside Protection Program*. The District's robust public participation process included discussions with agencies, districts, special interest groups, and other interested community members, as well as, over 40 public meetings that provided a forum for community and agency input.

- The District formed the Coastal Advisory Committee (CAC), chaired by San Mateo County Supervisor Rich Gordon, composed of 13 coastside residents representing diverse community interests. The *Coastside Protection Program* was developed with the input of the CAC at 17 meetings held over the course of one year. At a public meeting on November 28, 2000, the Board received public comment and approved the *Draft Service Plan* for the coastside and accepted updates to the *Draft Service Plan* at a public meeting on June 12, 2002.
- In preparing the *Fiscal Analysis*, the District's fiscal consultant contacted all San Mateo County agencies and districts whose sphere of influence is contained within, or borders on, the *Coastside Protection* area to identify the potential effect of the proposed program on the cost and adequacy of services that they provide.
- Although the act of annexation is a legal and administrative change to the District's boundary and does not itself produce an environmental effect, the District Board and staff chose to have an *Environmental Impact Report (EIR)* prepared to ensure a comprehensive and thorough analysis of potential environmental issues and public concerns. The District held three public scoping meetings to receive public comment on the environmental issues, Mitigation Measures, and alternatives to be addressed in the *Draft EIR*.

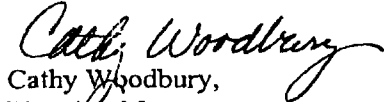
- The District mailed notices of the availability of the *Draft EIR*, including the *Draft Service Plan* and *Draft Fiscal Analysis*, to all individuals and organizations requesting notice, former CAC members, all responsible and trustee agencies, and to over 14,000 coastside residents. The documents were available for review or purchase beginning on June 2, 2002. Review copies of the documents were available at the following locations: the Half Moon Bay Public Library, Woodside Public Library, Los Altos Public Library, Pescadero Bookmobile, the District's administrative office in Los Altos and on the District's website. Printed copies of the documents could be purchased from Kinko's in Mountain View and Ocean Shore Printing in Half Moon Bay at the cost of reproduction. Copies were also available on CD-ROM at no charge.
- The District provided a total of 77 days for review and comment on the environmental document even though the California Environmental Quality Act (CEQA) Guidelines only require a 45-day review period. The District held three public meetings (in Pescadero, Half Moon Bay and Los Altos) to take comments during the review period.
- During the review period the District received over 70 letters from the community in support of the program. In addition, the District received 20 resolutions of support adopted by cities and counties, and 33 letters supporting the program from elected officials, agencies and organizations
- Given the *Coastside Protection Program's* widespread public support, the Board of Directors voted unanimously at a public hearing on June 5, 2003 to move forward with an application to the Local Agency Formation Commission (LAFCo) to extend the District's boundary and sphere of influence to include the San Mateo County coastside. This meeting provided additional opportunity for the Board to receive comments on the *Coastside Protection Program* from agencies, organizations, and the public, all of which were encouraged to participate in the Board's decision on whether to move forward with the annexation. All comments received were presented to the Board.
- Notices providing information about the public hearing on June 5 and where to review or purchase the *Final EIR* and other project documents were mailed to over 14,000 coastside residents, to all individuals and organizations requesting notice, and to all responsible and trustee agencies. Copies of the *Final EIR*, *Service Plan* and *Fiscal Impact Analysis* were mailed to the agencies that had commented on the *Draft EIR*. Review copies of the *Final EIR* and other documents were available at the Half Moon Bay Public Library, Woodside Public Library, Los Altos Public Library, Southcoast Bookmobile, the District's administrative office in Los Altos, and on the District's website. Printed copies were available for purchase from Kinko's in Mountain View and Ocean Shore Printing in Half Moon Bay at the cost of reproduction. The documents were also available on CD-ROM at no charge.
- The community was informed of the status of the project at public meetings, and through mailers and the District's website.

The District has provided a wide range of opportunities for extensive public input and review in development of the *Coastside Protection Program* over the last six years. The process has been inclusive and ample time has been provided at each stage of program development for public review, analysis and comment.

By agreement between the San Mateo LAFCo and the Santa Clara LAFCo, on October 28, 2003 the District applied to the San Mateo LAFCo for approval of the *Coastside Protection Program* to expand the District's boundaries and sphere of influence to include coastal San Mateo County. The San Mateo LAFCo staff reviewed the application for the *Coastside Protection Program* and referred the annexation to the Santa Clara LAFCo for an advisory recommendation prior to San Mateo County LAFCo hearings on March 9 and March 17, 2004 to take action on the project. Because San Mateo LAFCo has the exclusive jurisdiction to approve this proposal (pursuant to the Santa Clara County Resolution No. 99-01, dated February 10, 1999) it is important that the Santa Clara LAFCo hearing process move forward without delay.

If I can be of further assistance, please contact me at (650) 691-1200.

Sincerely,


Cathy Woodbury,
Planning Manager

ITEM NO. 7

ATTACHMENT 4

LETTERS IN FAVOR OF THE MROSD COASTAL ANNEXATION As of 2/4/2004

From: Name/Signatory	Addressed to	Agency/Group	Date	Position
1 Abbe, Jessica	SC LAFCO		1/26/2004	in favor
2 Agramonte, Jessica	MROSD		5/26/2003	in favor
3 Antholzner, Gregory	SC LAFCO		1/26/2004	in favor
4 Arbuckle, Nancy	SC LAFCO		1/26/2004	in favor
5 Barnby, Nancy	SC LAFCO		1/26/2004	in favor
6 Bechert, Nancy	SC LAFCO		1/31/2003	in favor
7 Bender, Dorothy	MROSD		undated	in favor
8 Blank, Steve	MROSD		6/1/2003	in favor
9 Bonfantini, Dario	Both LAFCOs		1/25/2004	in favor
10 Borgstreadt, John	SC LAFCO		1/23/2004	in favor
11 Carr, Pat	MROSD		5/30/2003	in favor
12 Carter, Katryn Slater	SC LAFCO	Midcoast Comm. Council	1/14/2004	in favor
13 Chamberlain, Jo	MROSD		5/27/2003	in favor
14 Cobb, Janet	SC LAFCO	California Oaks Foundation	1/26/2004	in favor
15 Cook, Eda	SC LAFCO		1/25/2004	in favor
16 Cook, Robert	SC LAFCO		1/25/2004	in favor
17 Denman, Dana	MROSD	Shamrock Ranch	6/3/2003	in favor
18 Dryer, Dianne	SC LAFCO		2/4/2004	in favor
19 Dulmage, Diane & John Lovejoy	SC LAFCO		1/22/2004	in favor
20 Elliot, Alison	MROSD		6/1/2003	in favor
21 Emy, Barbara	Both LAFCOs		1/25/2004	in favor
22 Farwell, David	SC LAFCO		1/23/2004	in favor
23 Fellows, Shiela	SC LAFCO		1/26/2004	in favor
24 Ferenz, Tom	MROSD		6/1/2003	in favor
25 Fisher, Kenneth	SM LAFCO		1/14/2004	in favor
26 Fitchen, Jessica	SC LAFCO	Greenbelt Alliance	2/2/2004	in favor
27 Forrister, Ann	Both LAFCOs		1/24/2004	in favor
28 Frank, George	SC LAFCO		2/4/2004	in favor
29 Frazier, Janice	MROSD		6/4/2003	in favor
30 Gallagher, Jane	MROSD		1/1/2003	in favor
31 Garcia, Velia	MROSD		6/2/2003	in favor
32 Ghewala, Tom	SC LAFCO		1/24/2004	in favor
33 Goldstein, Chip & Linda	SC LAFCO		1/14/2004	in favor
34 Gomez, Audrey	SM LAFCO		1/25/2004	in favor
35 Gomez, Richard	MROSD		6/2/2003	in favor
36 Gomez, Richard	Both LAFCOs		1/28/2004	in favor
37 Gomez, Vicki	Both LAFCOs		1/28/2004	in favor
38 Gould, Laure	SM LAFCO		1/18/2004	in favor
39 Green, Robert	SC LAFCO		2/4/2004	in favor
40 Harrington, Herta	MROSD		6/3/2003	in favor
41 Hays, Walter	MROSD		5/30/2003	in favor
42 Henderson, James & Cathy	SC LAFCO		1/26/2004	in favor
43 Hinselwood, Clyde & Lisa	SC LAFCO		1/31/2004	in favor
44 Hippard, Melissa	Both LAFCOs	Sierra Club	1/26/2004	in favor
45 Honkermeyer, Carol	Both LAFCOs		1/28/2004	in favor
46 Jensen, Stephanie	MROSD		5/31/2003	in favor

LETTERS IN FAVOR OF THE MROSD COASTAL ANNEXATION

As of 2/4/2004

47 Johnson, Don	Both LAFCOs		1/24/2004	in favor
48 Ketcham, Lisa	MROSD		5/11/2003	in favor
49 Ketcham, Lisa	SC LAFCO		1/22/2004	in favor
50 Kidwell, Karen	MROSD		6/3/2003	in favor
51 Kimsey, Michael & Dana	MROSD		5/24/2003	in favor
52 Kirkaldie, Joan	MROSD		6/2/2003	in favor
53 Kirkaldie, Joan	Both LAFCOs		1/29/2003	in favor
54 Kisher, Lee	SC LAFCO		1/24/2004	in favor
55 Koland, Ellen	SC LAFCO		1/26/2004	in favor
56 Koletzke, Anne	MROSD		6/3/2003	in favor
57 Krishnnan, Rajesh	SC LAFCO		2/4/2004	in favor
58 Lariz, Mondy	SC LAFCO		1/23/2004	in favor
59 LaTourrette, Peter & Sue	SC LAFCO		1/26/2004	in favor
60 Lee, A.G.	SC LAFCO		1/25/2004	in favor
61 Lewis, Stephen	SC LAFCO		1/31/2004	in favor
62 Lindsay, Loma	MROSD		6/3/2003	in favor
63 Lindsay, Margaret	MROSD		6/1/2003	in favor
64 Lynch, John	MROSD		6/3/2003	in favor
65 Mangold, Keith	SC LAFCO		1/27/2004	in favor
66 Marsh, James & Judy	MROSD		6/4/2003	in favor
67 Marsh, James & Judy	SC LAFCO		1/23/2004	in favor
68 Mayall, Patty	MROSD		5/30/2003	in favor
69 Mayer, Johanna	MROSD		5/30/2003	in favor
70 McCarthy, Leslie	MROSD		5/29/2003	in favor
71 McCarthy, Leslie	SC LAFCO		1/26/2004	in favor
72 McCleod, Christopher	MROSD		6/4/2003	in favor
73 McHenry, Steve & Carolyn Straub	SC LAFCO		1/23/2004	in favor
74 Meissner, Ernst	SC LAFCO		1/28/2004	in favor
75 Morgan, Hillary	MROSD		5/9/2003	in favor
76 Muller, John	SM LAFCO	Coastside County Water District	1/20/2004	in favor
77 Okuzumi, Margaret	SC LAFCO		1/23/2004	in favor
78 Olmsted, Jean & Franklin	SC LAFCO		1/24/2004	in favor
79 Olsen, Jack	MROSD	San Mateo County Farm Bureau	1/20/2004	in favor
80 Ornstein, Severo	SM LAFCO		1/18/2004	in favor
81 Palmer, Gary	MROSD		6/1/2003	in favor
82 Palmer, Gary	Both LAFCOs		1/28/2004	in favor
83 Papajohn, Caroline	Both LAFCOs		2/4/2004	in favor
84 Pendleton, Dave & Ella	SC LAFCO		1/26/2004	in favor
85 Perrone, Dave	SC LAFCO		1/28/2004	in favor
86 Perrone, Dave & Jocelyn	MROSD		6/2/2003	in favor
87 Philip Batchelder	SC LAFCO	San Bruno Mountain Watch	1/27/2004	in favor
88 Powell, Chris	MROSD		5/30/2003	in favor
89 Rich, Ursula	Both LAFCOs		1/27/2004	in favor
90 Riedy, Norbert	MROSD		5/8/2003	in favor
91 Rosengreen, Annemarie	SC LAFCO		1/27/2004	in favor
92 Rourke, Claudia	MROSD		6/1/2003	in favor
93 Rourke, Claudia	Both LAFCOs		1/26/2005	in favor
94 Rourke, Jim	MROSD		6/1/2003	in favor

LETTERS IN FAVOR OF THE MROSD COASTAL ANNEXATION

As of 2/4/2004

95 Rourke, Jim	Both LAFCOs		1/27/2004	in favor
96 Rourke, Krista	SC LAFCO		1/26/2004	in favor
97 Rubin, Cindy	MROSD		6/1/2003	in favor
98 Rust, Audrey	SC LAFCO	Peninsula Open Space Trust	1/23/2004	in favor
99 Rust, Audrey	SM LAFCO	Peninsula Open Space Trust	11/26/2003	in favor
100 Samuelson, Ralph	SC LAFCO		1/2/52004	in favor
101 Schmidt, Brian & Vargas April	SC LAFCO	Committee for Green Foothills	2/3/2004	in favor
102 Schreck, Joel Wells	SC LAFCO		1/28/2004	in favor
103 Scott, Jeri	MROSD		6/30/2003	in favor
104 Sedriks, Walter	MROSD		5/30/2003	in favor
105 Segal, Jonathan	SC LAFCO		1/24/2004	in favor
106 Segall, Jeff	SC LAFCO		1/30/2004	in favor
107 Smernoff, David	Both LAFCOs		1/24/2004	in favor
108 Smith, Clay	Both LAFCOs		1/28/2004	in favor
109 Smith, Zach	SM LAFCO		1/27/2004	in favor
110 Squirei, Pamela	SC LAFCO		1/31/2004	in favor
111 Stein, Antoinette	Both LAFCOs		1/23/2004	in favor
112 Switchy, Kathy	SC LAFCO		1/22/2004	in favor
113 Switky, Kathy	MROSD		5/23/2003	in favor
114 Thomas, Karen	MROSD		6/2/2003	in favor
115 Torrance, Jerry	SC LAFCO		1/26/2004	in favor
116 Tyler, John	MROSD		5/23/2003	in favor
117 Vian, Ted	SC LAFCO		2/4/2004	in favor
118 Vogel, Christie	MROSD		5/19/2003	in favor
119 Waldhauer, Ann	SC LAFCO		1/27/2004	in favor
120 Waldhauer, Ruth	Both LAFCOs		1/6/2004	in favor
121 Waldhauer, Ruth	SM LAFCO		1/10/2004	in favor
122 Walsh, Catherine	SC LAFCO		1/27/2004	in favor
123 Walsh, Kelsey	SM LAFCO		1/25/2004	in favor
124 Walsh, Larry	Both LAFCOs		1/25/2004	in favor
125 Walsh, Shannon	Both LAFCOs		1/25/2004	in favor
126 Webbon, Muriel	SC LAFCO		1/31/2004	in favor
127 Welden, Shutzman	SC LAFCO		1/31/2004	in favor
128 Whiting, Thomas	MROSD		6/2/2003	in favor
129 Wnorowski, Kathy	SC LAFCO	Half Moon Bay Open Space Trust	undated	in favor
130 Woodsbury, John	SC LAFCO	Bay Area Open Space Council	1/26/2004	in favor
131 Woodward, Gladys	Both LAFCOs		1/27/2004	in favor
132 Wynkoop, Christine	SC LAFCO		1/31/2004	in favor
133 Yost, Daniel	Both LAFCOs		1/26/2004	in favor
134	SM LAFCO	San Mateo County Harbor	10/30/2003	in favor
135	SM LAFCO	San Mateo DEH	11/7/2003	in favor
136	SM LAFCO	Pillar Point County Harbor	undated	in favor

LETTERS OPPOSED TO MROSD COASTAL ANNEXATION

From: Name/Signatory	Addressed to	Agency/Group	Date	Position
1 Allen, Geoff & Gillian	SM LAFCO		12/1/2003	opposed
2 Armstrong, Jack & Judy	SM LAFCO		12/1/2003	opposed
3 Bierman, Vicky	SM LAFCO		11/26/2003	opposed
4 Bierman, Vicky	SM LAFCO	Crocker Curve Water Company	12/1/2003	opposed
5 Bordi, Angelo & Shella	SC LAFCO		11/30/2003	opposed
6 Bordi, George & Mary	SM LAFCO		12/1/2003	opposed
7 Boreli, Angelo & Shella	SM LAFCO		12/30/2003	opposed
8 Braitman, Bob	SM LAFCO	Braitman & Associates	11/26/2003	opposed
9 Braun, Oscar, Exec Director	SM LAFCO	Half Moon Bay Coastside Foundation	11/26/2003	opposed
10 Braun, Oscar, Exec Director	SC LAFCO		12/18/2003	opposed
11 Braun, Oscar, Exec Director	SM LAFCO		12/31/2003	opposed
12 Brixen, Pattie	SM LAFCO		11/30/2003	opposed
13 Brixen, Pattie & Roy	SC LAFCO		11/30/2003	opposed
14 Brown, Terry & Cathy	SC LAFCO		11/27/2003	opposed
15 Chalios, Gail	SM LAFCO		11/28/2003	opposed
16 Chalios, Luke	SM LAFCO		12/1/2003	opposed
17 Chalios, Toby	SM LAFCO		12/1/2003	opposed
18 DeLano, Meg, Chair	SC LAFCO	Pescadero Municipal Advisory Council	11/30/2003	opposed
19 DeLano, Meg, Chair	SM LAFCO	Pescadero Municipal Advisory Council	11/30/2003	opposed
20 Domitilli, Bill	SM LAFCO		11/23/2003	opposed
21 Ettineger, Deborah	SM LAFCO		11/21/2003	opposed
22 Finger, Pam/Milbrath, James	Both LAFCOs		12/1/2003	opposed
23 Gardner, Charles	SC LAFCO		11/28/2003	opposed
24 German, Carrie	SM LAFCO		11/21/2003	opposed
25 Gomes, Carron	SM LAFCO		undated	opposed
26 Gosset, Terrence	Both LAFCOs		12/8/2003	opposed
27 Gosset, Terrence, President	SM LAFCO	Californians for Property Rights	12/1/2003	opposed
28 Gosset, Terrence	Both LAFCOs		12/1/2003	opposed
29 Gosset, Terrence	Montara WSD		undated	opposed
30 Gossett, Terrence	SC LAFCO		10/8/2003	opposed
31 Gossett, Terrence	SC LAFCO		11/23/2003	opposed
32 Grote, Judy	Both LAFCOs		12/1/2003	opposed
33 Heiner, Kurt	SM LAFCO		undated	opposed
34 Law, Con & Pat	SM LAFCO		11/26/2003	opposed
35 Lehner, Sandra	SM LAFCO		undated	opposed
36 Maraviglia, Alan/Lorraine	SM LAFCO		12/1/2003	opposed
37 Milbrath, James	All LAFCOs		12/1/2003	opposed
38 Modena, Raymond & Jeanette	SM LAFCO		12/1/2003	opposed
39 Morris, Henry & Garrett	SM LAFCO		12/1/2003	opposed
40 Olsen, Jack	SM LAFCO	San Mateo County Farm Bureau	12/3/2003	opposed
41 Obermayer, Lesley	All LAFCOs		1/1/2004	opposed
42 Pellegrini, Mario	SM LAFCO		12/1/2003	opposed
43 Pellegrini, Nina	SM LAFCO		11/20/2003	opposed
44 Persson, Ingemar	Both LAFCOs		1/30/2004	opposed
45 Rapley, Bonnie	SC LAFCO		12/1/2003	opposed
46 Rapley, Bonnie	SM LAFCO		12/1/2003	opposed
47 Sauerbry, Sandra	SC LAFCO		12/3/2003	opposed
48 Sauerbry, Sandra	SM LAFCO		12/3/2003	opposed

LETTERS OPPOSED TO MROSD COASTAL ANNEXATION

49 Simon Carol
50 Snyder, Bill & Ann
51 Stariha, Marina

SM LAFCOs of 2/4/2004
All LAFCOs
SM LAFCO

12/8/2003 opposed
11/29/2003 opposed
12/1/2003 opposed

COMMENTS ON MROSD COASTAL ANNEXATION

As of 2/4/2004

From: Name/Signatory	Addressed to	Agency/Group	Date	Position
1 Asche, James, Chief	SM LAFCO	Half Moon Bay FPD	11/21/2003	report
2 Burns, Mary, Director	SM LAFCO	San Mateo Parks/Rec	12/8/2003	report
3 Cueno, John	SM LAFCO	San Mateo Sheriff's Office	12/2/2003	report
4 Endoff, Mike	SM LAFCO	San Mateo RCD	11/26/2003	comments
5 Gardner, Charlie	SC LAFCO		11/28/2003	comments
6 Graff, Mark	SM LAFCO	La Honda -Pescadero Sch. Dist	11/30/2003	comments
7 McCormick, Pat	SM LAFCO	Santa Cruz LAFCO	11/14/2003	report
8 Mehl, John	SM LAFCO	San Mateo Office of Education	11/17/2003	comments
9 Raab, Gail, Commissioner	SM LAFCO	San Mateo ESA	12/4/2003	comments
10 Whitney, Larry, Chief	SM LAFCO	La Honda Fire Brigade	12/13/2003	comments
11	SM LAFCO	San Mateo County Assessor	12/1/2003	report
12	SM LAFCO	San Mateo Public Works	12/15/2003	report
13	SM LAFCO	San Mateo Planning Dept	12/16/2003	report

PROPOSED
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE SAN MATEO COUNTY FARM BUREAU
AND
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

WHEREAS, the mission of the San Mateo County Farm Bureau ("Farm Bureau") includes the preservation of existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of agricultural land in production and to provide support and expertise to its members and to private and public entities for those purposes; and

WHEREAS, the Midpeninsula Regional Open Space District ("District") has filed an application with San Mateo County Local Agency Formation Commission ("LAFCo") to extend its boundaries to the San Mateo County Coast and has adopted a related Service Plan for the purposes of preserving open space and agricultural land, encouraging viable agricultural use of land, and preserving agricultural operations in conformance with the San Mateo County General Plan; and

WHEREAS, the Farm Bureau and the District desire to work together cooperatively to support and preserve agricultural operations and to protect the economic and physical integrity of agricultural lands on the San Mateo Coast; and

WHEREAS, the Farm Bureau and the District believe that by such cooperative efforts the Farm Bureau will help enable the District to better accomplish its mission for the Coastside Protection Area for the benefit of its members and all residents of San Mateo County; and

WHEREAS, the Service Plan establishes the policy of the District to insure that where open space recreation or public access occurs, it is planned and managed in a manner that avoids adverse impacts to adjacent agricultural operations; and

WHEREAS, the District desires to consult with the Farm Bureau in planning for open space recreation and public access to ensure that such uses avoid adverse impacts to adjacent agricultural operations; and

WHEREAS, the Service Plan prohibits the District's use of the power of eminent domain in the area proposed for annexation ("Coastside Protection Area"), and the Farm Bureau has requested that this prohibition be established through state legislation so as to further insure the permanence of this District policy; and

WHEREAS, the Board of Directors of the District desires to sponsor such legislation to further insure to the satisfaction of the Farm Bureau and all San Mateo County coastside residents that its policy prohibiting the use of eminent domain in the proposed Coastside Protection Area will be secure and permanent; and

WHEREAS, it is the joint desire of the Farm Bureau and the District to enter into this Memorandum of Understanding in order to formalize the goals and understandings of both parties in their efforts to preserve agriculture in San Mateo County.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The San Mateo County Farm Bureau desires to insure that eminent domain not be used to acquire land in the District's proposed Coastside Protection Area. The Farm Bureau has requested that the District sponsor state legislation permanently removing the District's power of eminent domain in the proposed Coastside Protection Area. The District has agreed to sponsor such legislation. A copy of the proposed legislation is attached hereto, marked "Exhibit A" and incorporated by this reference. The Farm Bureau has agreed to support this legislation without amendment. The enactment of this legislation, in the form set out in Exhibit A, is a condition precedent of the parties' obligations in this MOU. The parties recognize that minor changes to this legislation may be made by the State Legislative Counsel in the normal course of its review and approval of legislative language and the parties shall continue to support and propose such legislation as approved by Legislative Counsel, provided that only minor and technical changes are made by Legislative Counsel. Any other changes shall require the prior written agreement of both the Farm Bureau and the District.
2. The San Mateo County Farm Bureau and the District desire to insure that the District's implementation of the Service Plan and its Coastside Protection Program preserve and encourage viable agricultural operations, and avoid adverse effects on agriculture. To accomplish this goal, the Farm Bureau and the District agree that:
 - a. As part of its Coastside Protection Program, the District has adopted a set of Mitigation Measures to preserve agriculture and to avoid adverse impacts on agriculture. A copy of these Mitigation Measures is attached hereto, marked "Exhibit B" and incorporated by this reference. The Farm Bureau has requested and the District has agreed that these Mitigation Measures shall be incorporated into this MOU. The District agrees that it will implement these Measures, and that implementation of these Measures is a commitment from the District to the Farm Bureau. These Mitigation Measures may not be amended by the District unless required by law.
 - b. The District will consult with the Farm Bureau in the development of site-specific use and management plans and site-specific agricultural production plans in the Coastside Protection Area as set out in Mitigation Measure AGR-3h.
 - c. When practicable and consistent with the Mitigation Measures, when planning for the preservation of land in agricultural production, the District will consider first

whether acquisition of a conservation easement is the best method to enable the land to remain in private ownership and in agricultural production.

- d. When considering the proposed use and management of any agricultural land acquired by the District in the Coastside Protection Area, the District will provide the Farm Bureau prior written notice of any hearings at which site use and management plans, agricultural production plans, reviews or amendments will be considered. Further, the District will provide a prior opportunity for the Farm Bureau to review and comment on any such plans. This will insure that the Farm Bureau has the opportunity to share its expertise, resources and viewpoints with the District prior to any decision concerning future use or management of such lands. In addition, District staff will meet with representatives of the Farm Bureau from time to time on an informal basis upon request of either party to consult regarding development of such plans.

3. The San Mateo County Farm Bureau determines that, based upon the specific terms and conditions of this MOU, the District's Coastside Protection Program will benefit and help preserve agriculture in San Mateo County, and will help to protect agriculture's physical and economic integrity in the County. The elimination of the District's power of eminent domain by legislation is a key component that will further protect agricultural lands from being removed from production. On that basis the San Mateo County Farm Bureau expresses its support for and endorsement of the District's Coastal Protection Program.
4. The San Mateo County Farm Bureau requests that LAFCo approve the District's application for annexation of the San Mateo County Coastside Protection Area as filed on October 28, 2003, in its entirety.
5. This MOU may not be amended without the written consent of both the Farm Bureau and the District.
6. Any written notice sent pursuant to this MOU shall be addressed as follows:

Farm Bureau: Executive Administrator
 San Mateo County Farm Bureau
 765 Main Street
 Half Moon Bay, CA 94019

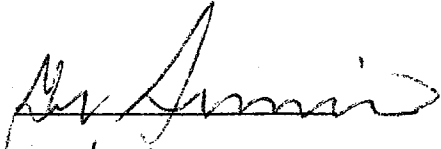
District: General Manager
 Midpeninsula Regional Open Space District
 330 Distel Circle
 Los Altos, CA 94022

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized officers to be effective as of the date of final execution by the District.

FARM BUREAU:

DISTRICT:

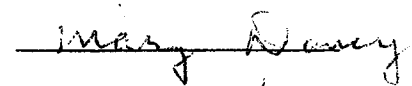
By:



Date:

1/28/04

By:



Date:

1/28/04

EXHIBIT A

SECTION 1. Section 5572.2 is added to the Public Resources Code to read:

5572.2. The Midpeninsula Regional Open Space District shall not exercise the power of eminent domain to acquire any real property or any interest in real property in the San Mateo County Coastal Annexation Area as defined in the Resolution of Application for Annexation Proceedings No. 03-20 adopted by the Board of Directors of the Midpeninsula Regional Open Space District on June 6, 2003.

SECTION 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable only to this proposed project of the Midpeninsula Regional Open Space District. The District has adopted an ordinance and policy prohibiting the use of the power of eminent domain in an area of San Mateo County currently proposed for annexation to the District. This policy was adopted due to the special and unique circumstances of the particular annexation project and the particular nature of the territory proposed for annexation and in response to input from a Citizens' Advisory Committee formed to recommend policies particular to this proposed project. This legislation will further that policy and ordinance. The Legislature further finds and declares that this need is not common to all districts formed under the Regional Park District law nor to other projects of the District.

SECTION 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:
Enactment of this legislation will enable the District to implement the particular policies regarding eminent domain it has adopted for this specific project at the earliest possible time. In order for the prohibitions created by this act to become incorporated into this project, it is necessary for the act to take effect immediately.

EXHIBIT B
Midpeninsula Regional Open Space District Coastside Protection Program
Mitigation Measures

AGRICULTURE

Mitigation AGR-1a: No new buildings or staging areas shall be located on prime agricultural lands or on Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency that are being used for agricultural purposes. To implement this Mitigation Measure, in order to avoid conversion of Farmland to non-agricultural use, the Draft Service Plan should be revised to provide that the ranger office/maintenance facility and the staging areas may not be located on prime agricultural lands or on Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency Farmland in agricultural use.

Mitigation AGR-1b: Trails and habitat preservation areas shall either be located to avoid prime agricultural lands and Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency or traverse such lands in a manner that does not result in interference with agricultural activities or substantially reduce the agricultural potential of those lands. Owners and operators of active agricultural activities lands shall be consulted to identify appropriate routes on those lands they cultivate. The agricultural activities and the agricultural potential of traversed lands shall be protected and buffered from trail user impacts by means of distance, physical barriers (i.e., sturdy fences), or other non-disruptive methods.

Mitigation AGR-1c: The District shall adopt Draft Service Plan Policy P.1 by ordinance. This policy reads as follows: "Within the Coastal Annexation Area, the District shall only acquire lands or interests in lands from willing sellers. The power of eminent domain will not be exercised by the District within the Coastal Annexation Area. This policy is a Basic Policy for the Coastal Annexation Area."

Mitigation AGR-1d: Amend the Draft Service Plan to include the following:

The term "prime agricultural land" as used in this Plan means:

- a) All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.
- b) All land which qualifies for rating 80-100 in the Storie Index Rating.
- c) Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.
- d) Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre.
- e) Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years.

The \$200 per acre amount in subsections d) and e) shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

The term "prime agricultural land" as used in this Plan shall also include Unique Farmland and Farmland of Statewide Importance as shown on the Farmland Mapping and Monitoring Program of the California Resources Agency.

Mitigation AGR-2: See Mitigation LU-2

Mitigation AGR-3a:

Guideline 3.2 in the *Draft Service Plan* should be modified to state: "Improvements or public uses located upon open space lands other than agriculture...shall be located away from existing prime agricultural lands and Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency toward areas containing non-prime agricultural lands, unless such location would not promote the planned, orderly, efficient use of an area. ~~To the extent feasible, all~~ All trails and other public facilities should be located so as not to fragment agricultural operations unless no feasible alternative is available. While trails that bisect grazing lands would not be likely to fragment grazing operations, trails that bisect cultivated crops could adversely affect the vitality of agricultural operations and should be avoided ~~where feasible~~. If trails must traverse cultivated lands ~~then they shall be permitted only if adequate buffers, signs, and other measures necessary to ensure that trail use does not interfere with the agricultural operations shall be~~ are implemented."

Mitigation AGR-3b: The District shall provide private property signs where appropriate and provide trail users information regarding private property rights to minimize public/private use conflicts and trespassing. The District shall clearly sign trails adjacent to active agriculture and provide trail users with information regarding property rights to minimize trespassing and conflicts with agricultural users.

Mitigation AGL-3c: Trails shall either be located to avoid prime agricultural lands and Unique Farmlands or Farmlands of Statewide Importance as shown on Farmland Mapping and Monitoring Program of the California Resources Agency or traverse such lands in a manner that does not result in interference with agricultural activities or substantially reduce the agricultural potential of those lands. Operators of active agricultural activities on lands owned by or under easement to the District shall be consulted to identify appropriate routes on lands they cultivate. Owners and operators of active agricultural activities on lands adjacent to District lands used for non-agricultural purposes shall be consulted to identify routes that will avoid adverse effects on agricultural operations. The agricultural activities and the agricultural potential of traversed lands shall be protected and buffered from trail user impacts by means of distance, physical barriers (i.e., sturdy fences), or other non-disruptive methods.

Mitigation AGL-3d: The District lands or easements ~~that comprise the trail setting upon which trails are sited~~ shall provide width sufficient for management and/or buffer space from adjacent uses so as not to preclude the viability of those uses. Buffers established to separate recreation and other open space uses from agricultural operations shall be designed and managed in accordance with the following standards:

- a) Buffers shall be designed in relation to the nature of the adjoining land use, potential land uses and proposed public access;
- b) Buffers shall be designed in relation to the topography and other physical characteristics of the buffer area;
- c) Buffers shall be designed with consideration of biological, soil, and other site conditions in order to limit the potential spread of non-native invasive species or pathogens onto agricultural lands;
- d) Buffers shall be of sufficient width to allow agricultural use of adjoining

agricultural lands including application of pesticides and other agricultural chemicals on all lands needing treatment taking into account the likelihood and extent of potential pesticide drift;

- e) All lands used for buffers should be on land or interests in land owned by the District; adjoining landowners shall not be required to provide land for buffers.
- f) The District shall be responsible for the management and maintenance of all lands used as buffers.
- g) If a specific buffer fails to resolve conflicts between a recreational use and adjacent agricultural uses the recreational use shall be moved to a different location.

All buffers shall be developed in consultation with the owners and operators of adjoining agricultural lands.

Mitigation AGR-3e: Where pesticides are used, including pesticides for control of noxious weeds, they must be handled, applied, and disposed of in such a manner that they do not adversely affect adjacent agriculture, including organic agriculture. Pesticide use shall be guided by label restrictions and any advisories published by the California Department of Pesticide Regulation (CDPR) or the County Agricultural Commission. These chemicals shall only be applied by a person who is properly trained in their application.

Mitigation AGR-3f: The District shall conduct its land management practices such that they do not have an adverse significant impact on the physical and economic integrity of timberland preserves on or contiguous to properties owned or managed by the District and so that the safety of visitors to District preserves is not compromised by timber harvesting (e.g., establishing appropriate buffers on District lands).

Mitigation AGR-3g: When acquiring lands in agricultural use, the acquisition shall be subject to continued use by the owner or operator until such time as it is sold or leased pursuant to the use and management plan adopted for the property. All agricultural land which is not needed for recreation or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture and, whenever legally feasible, the District will offer for sale or lease the maximum amount of agricultural land to active farm operators on terms compatible with the recreational and habitat use. Lands that do not have significant recreation or sensitive habitat values and which can clearly support productive agricultural operations will generally be offered for sale while other agricultural lands will generally be offered for lease.

Mitigation Measure AGR-3h: *Revise Draft Service Plan* Guideline G.6.3 as follows:

GUIDELINE G.6.3

Inherent in the preservation of open space resources in the Coastal Annexation Area is the protection of: rare, threatened and endangered plant and animal species; ecological systems; agricultural resources, water quality; visual resources; unique biological resources, including heritage and significant trees; and the unique cultural resources in the Coastal Annexation Area, including historic, archaeological and paleontological resources. Therefore, prior to making any lands available to low-intensity public recreational access, the District shall prepare and adopt a use and management plan, which, includes site-specific resource management and public access components plan for any lands acquired by the District or managed through contract for other public or private non-profit property owners. All lands acquired by the District within the Coastal Annexation Area will be inventoried to identify and prioritize resource management issues. Where there are critical issues, such as the presence of non-native invasive species which threaten the habitat of endangered species or the economic viability of an adjacent agricultural operation, resource management plans will be prepared for these areas even if they remain closed to the public.

The use and management plan shall include an agricultural production plan for District-owned agricultural lands or District lands adjacent to agricultural lands. For district-owned lands, the plan shall describe the crop and/or livestock potential for the property together with the management actions required to protect existing agricultural production (e.g., growing seasons, water requirements, pesticide, manure, and waste management) and the agricultural potential of the land. The plan shall consider the following factors:

- a) Availability of labor, including farm labor housing;
- b) Availability of farm support services and goods;
- c) Necessary capital improvements (e.g. water storage, fencing, land leveling)
- d) Farm operations, including erosion control, the season(s) and times of pesticide or herbicide usage, manure and waste management;
- e) Water use and availability;
- f) Access to transportation and markets; and
- g) Promoting agricultural production on District-owned land.

In the case of District lands adjacent to agricultural production, the agricultural production plan shall develop site-specific measures to prevent activities on District lands from interfering with adjacent agricultural production.

The development of use and management plans will include consultation with the current owner or operator of any agricultural operations on the land, adjoining landowners, the San Mateo County Environmental Services Agency in addition to other include opportunities for public involvement.

Mitigation Measure AGR-3i: *Amend Draft Service Plan* Guideline G.2 as follows:

Prior to making any lands available to public access for low-intensity recreation in the Coastal Annexation Area, the District shall have personnel and equipment available to manage public access such that: there would be no

significant negative impact on existing services; and adequate stewardship to protect natural and agricultural resources will be provided.

Mitigation Measure AGR-3j: Amend the *Draft Service Plan* to include the following policy:

The District shall actively work with lessees of District lands and with the owners of land in which the District has an agricultural easement interest to:

- a. Facilitate the provision of farm worker housing on District-owned lands by providing technical assistance in obtaining permits for such housing from the County of San Mateo.
- b. Seek grant funding for the continuation or establishment of viable agriculture through the California Farmland Conservancy Program and other agriculture grant programs.
- c. Provide technical assistance to secure water rights for the continuation or establishment of viable agriculture consistent with protection of sensitive habitats.

Mitigation Measure AGR-3k: Amend the *Draft Service Plan* to include the following policy:

The District shall actively pursue opportunities to enter agricultural easements and leases with interested farmers and ranchers. All agricultural easements and agricultural leases in the Coastal Annexation Area shall:

- a. Be tailored to meet individual farmers and ranchers needs while respecting the unique characteristics of the property;
- b. Specify uses that are unconditionally permitted pursuant to the easement or lease to provide certainty to the farmer or rancher entering the lease or easement with the District;
- c. Include terms that allow farmers and ranchers to adapt and expand their operations and farming practices to adjust to changing economic conditions;
- d. Include terms that ensure farmers or ranchers may provide farm labor housing as defined and approved by San Mateo County;
- e. Ensure compatibility of resource protection and management, low-intensity public recreation and viable agricultural operations; and
- f. In the case of leases, be for a sufficient period of time to gain a return on the investment in the agricultural operation.

ORDINANCE NO. 03-01

ORDINANCE OF THE BOARD OF DIRECTORS
OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT
PROHIBITING THE ACQUISITION OF PROPERTY
BY EMINENT DOMAIN WITHIN SPECIFIED AREAS

ADOPTED JUNE 6, 2003

WHEREAS, it is the desire of the Board of Directors of the Midpeninsula Regional Open Space District to submit a Resolution of Application to the San Mateo County Local Agency Formation Commission for the expansion of the District's boundaries to include the San Mateo County Coast in order to preserve open space and agricultural lands; and

WHEREAS, it was the recommendation of the District's Coastal Advisory Committee that the District adopt a policy prohibiting the use of eminent domain to acquire property on the San Mateo County Coast and that property be acquired from willing sellers only; and

WHEREAS, the District's Board of Directors agrees with the recommendation of the Coastal Advisory Committee and desires to adopt such a policy prohibiting the use of eminent domain on the San Mateo County Coast; and

WHEREAS, some Coastside residents have signed a petition asking the Board of Directors to "pledge to permanently remove eminent domain from its policies in the proposed annexation area in a manner that is secure and acceptable to both the residents and the District (possibly in the LAFCo process)," and pledging their full support for the annexation proposal should the board do so; and

WHEREAS, the District's Board of Directors has approved a Service Plan as required by Government Code Section 56653 in conjunction with its Resolution of Application to the Local Agency Formation Commission for annexation of the Coastal Annexation Area as defined therein, which contains Permanent Policy P.1 prohibiting the use of eminent domain in the area to be annexed; and

WHEREAS, the District has approved the environmental document for this annexation required by the California Environmental Quality Act ("CEQA Document") which contains Mitigation Measure No. AGR-1c prohibiting the use of eminent domain in the area to be annexed; and

WHEREAS, it is the desire of the Board of Directors to further demonstrate its commitment to a prohibition of the use of eminent domain to acquire property in the area to be annexed pursuant to the Resolution of Application, Service Plan, and CEQA Document by adoption and publication of an ordinance of the Midpeninsula Regional Open Space District setting out its intent that this be a permanent rule of conduct of the Midpeninsula Regional Open Space District.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Be it ordained by the Board of Directors of the Midpeninsula Regional Open Space District as Follows:

SECTION 1. On June 6, 2003, the Board of Directors of the Midpeninsula Regional Open Space District approved a Resolution of Application for Annexation ("Resolution of Application for Annexation"), Service Plan, and CEQA Document for submission to the San Mateo County Local Agency Formation Commission to annex the following territory: That area bounded on the north by the southern boundary of the City of Pacifica; on the south by the San Mateo County/Santa Cruz County boundary; on the west by the Pacific Ocean; and on the east by the boundary of the Midpeninsula Regional Open Space District existing on June 12, 2002 and the lands of the San Francisco Watershed owned by the City and County of San Francisco.

SECTION 2. The Midpeninsula Regional Open Space District shall not exercise the power of eminent domain to acquire any real property or any interest in real property within any territory annexed to the Midpeninsula Regional Open Space District pursuant to said Resolution of Application for Annexation.

SECTION 3: This Ordinance shall be a permanent rule of conduct of the Midpeninsula Regional Open Space District.

SECTION 4. The Board of Directors shall publish this Ordinance once within thirty (30) days after adoption in a newspaper of general circulation printed, published and circulated in the District.

SECTION 5. This Ordinance shall take effect from and after the Effective Date of the annexation pursuant to the Resolution of Application for Annexation, as set out in Government Code Section 57202, and shall be effective within all territory annexed pursuant to such Resolution of Application for Annexation.

SECTION 6: This ordinance shall be broadly construed in order to achieve the purposes stated in this Ordinance. Each section, paragraph, sentence, clause and phrase of this Ordinance is intended to be so broadly construed, and, in addition, is severable and independent of every other section, paragraph, sentence, clause and phrase of this Ordinance. If any section, paragraph, sentence, clause or phrase of this Ordinance is held invalid, the Board of Directors declares that it would have adopted the remaining provisions of this Ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this Ordinance should remain in effect after the invalid portion has been eliminated.

The foregoing ordinance was adopted at the Regular or Special Meeting of the Board of Directors of the Midpeninsula Regional Open Space District held on the 6th day of June, 2003, by the following vote:

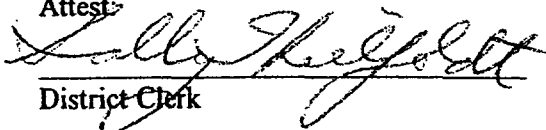
AYES: N. Hanko, L. Hassett, M. Davey, P. Siemens, J. Cyr, D. Little, K. Nitz

NOES: none

ABSENT: none

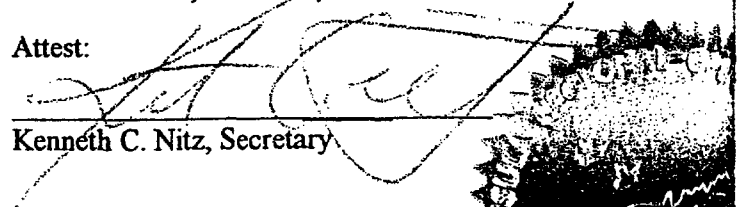
ABSTAIN: none

Attest:


District Clerk


Nonette Hanko, President, Board of Directors

Attest:


Kenneth C. Nitz, Secretary

