



LAFCO MEETING AGENDA

Wednesday, April 12, 2006

1:15 p.m.

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

CHAIRPERSON: Donald F. Gage

COMMISSIONERS: Blanca Alvarado, John Howe, Linda J. LeZotte, Susan Vicklund-Wilson

ALTERNATES: Pete McHugh, Chuck Reed, Terry Trumbull, Roland Velasco

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

If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings. If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, in the proceeding that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings.

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. PUBLIC PRESENTATIONS

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

3. [APPROVE MINUTES OF FEBRUARY 8, 2006 MEETING](#)

4. APPROVE CONSENT CALENDAR

***4.1 CUPERTINO SANITARY DISTRICT ANNEXATION: VIA REGINA ROAD #2**

A request by Cupertino Sanitary District (on behalf of property owners) to annex 24 parcels totaling 47.95 acres, located along Via Regina Road within the City of Saratoga.

Possible Action: Approve annexation to Cupertino Sanitary District subject to certain terms and conditions, and waive further protest proceedings.

PUBLIC HEARINGS

5. GILROY URBAN SERVICE AREA AMENDMENT 2006 (BARBERI)

A request by the City of Gilroy to expand its Urban Service Area (USA) to include four parcels (APNs 808-21-008, 009, 016 and 018) totaling 27.7 acres, located at the southwest corner of Luchessa Avenue and Monterey Road.

Possible Action: Consider the request for USA amendment and staff recommendation.

6. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2007

Possible Action:

- a. Adopt the proposed LAFCO budget for Fiscal Year (FY) 2007.
- b. Authorize staff to transmit the proposed budget adopted by the Commission, as well as the notice for public hearing scheduled for May 31, 2006 on the adoption of the Final Budget for Fiscal Year 2007, to the County, the Cities Association and each of the cities.

7. MAPS FOR SANTA CLARA COUNTY LIGHTING SERVICE AREA, SANTA CLARA COUNTY OPEN SPACE AUTHORITY, AND MID PENINSULA REGIONAL OPEN SPACE DISTRICT

Possible Action: Adopt maps depicting the boundaries and spheres of influence of the following special districts: Santa Clara County Lighting Service Area, Santa Clara County Open Space Authority, and Mid Peninsula Regional Open Space District.

COMMISSION ACTION AND/OR DISCUSSION ITEMS

8. REVIEW OF LAFCO POLICIES

8a. IDENTIFICATION OF NEED FOR REVISIONS TO EXISTING POLICIES OR FOR DEVELOPMENT OF NEW POLICIES

Possible Action: Accept report and provide staff with direction

8b. DEVELOPMENT OF LAFCO POLICIES FOR AGRICULTURAL MITIGATION

Possible Action: Authorize staff to proceed with development of agricultural mitigation policies

9. UPDATE ON CITIES' ISLAND ANNEXATION EFFORTS

Possible Action: Accept report

10. UPDATE ON SOUTH CENTRAL SERVICE REVIEW / SPHERE OF INFLUENCE STUDY

Possible Action: Accept report

11. SUMMARY OF AND FOLLOW-UP ON ITEMS FROM THE FEBRUARY 16, 2006 LAFCO PLANNING WORKSHOP

Possible Action: Accept report and provide staff with further direction

12. WRITTEN CORRESPONDENCE

13. NEWSPAPER ARTICLES

14. PENDING APPLICATIONS

Application for formation of Redwood Estates Community Service District

15. ADJOURN

Adjourn to the next regular meeting on Wednesday, May 31, 2006.

NOTE TO COMMISSIONERS:

Upon receipt of this agenda, please contact Emmanuel Abello, LAFCO Clerk, at (408) 299-6415, 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 LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415 or TDD (408) 993-8272.

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, FEBRUARY 8, 2006**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 8th day of February 2006 at 1:18 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 Don Gage, Commissioners John Howe and Susan Vicklund-Wilson. Commissioner LeZotte arrives at 1:20 p.m. Commissioner Alvarado arrives at 1:22 p.m.

The LAFCO staff in attendance includes 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 Gage and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

There is no public presentation.

3. APPROVE MINUTES OF DECEMBER 14, 2005 MEETING

On motion of Commissioner Howe, seconded by Commissioner Gage, it is ordered on 3 - 0 vote, with Commissioner Wilson abstaining, and Commissioner Alvarado absent, that the minutes of December 14, 2005 be approved.

4. PRESENTATION ON STATUS OF COYOTE VALLEY SPECIFIC PLAN BY CITY OF SAN JOSE

Ms. Noel advises that Sal Yakubu, Darryl Boyd and Susan Walsh from the City of San Jose, will provide an update on the Coyote Valley Specific Plan (CVSP). She reports that CVSP is composed of three sub-areas, namely, Coyote Valley industrial

campus, Coyote Valley urban reserve, and Coyote Valley greenbelt area. She adds that LAFCO approval is required because it entails the expansion of San Jose's USA boundary and annexation of Coyote Valley urban reserve area. Ms. Noel advises that staff is participating in CVSP Technical Advisory Committee (TAC), and since October 2004, staff has provided three comment letters to CVSP Task Force focusing on issues that LAFCO will consider when the City applies for USA amendment. Ms. Noel likewise reports that staff has received a letter from Greenbelt Alliance expressing concerns about the CVSP.

Mr. Yakubu reports that CVSP covers a total of 7,000 acres in south of San Jose. He indicates that the Coyote Valley area has been part of San Jose General Plan 2020 for more than 20 years. He provides an overview of the guiding principles of CVSP for the building of 25,000 residences and generation of 50,000 jobs. He provides an overview of the proposed plan.

Darryl Boyd, Principal Planner, City of San Jose, reports that the draft EIR for CVSP will be available for public review in September 2006. He reports that following the issuance of notice of EIR preparation in June 2005, CVSP Task Force has received comments from LAFCO, State Department of Conservation, and environmental groups, among others. One of the comments relates to conversion of agricultural lands and mitigation for loss of agricultural lands.

Mr. Boyd states that in the past, if a project involved conversion of land included on the farmland conservation map, the project is deemed to have significant impact, however, mitigation had not been required. In such cases, the City adopted a statement of overriding considerations because there was no way to truly mitigate the loss of agricultural land when there is a net loss to overall agricultural acreage. For CVSP, the City proposes to use the farmland conservation map to identify prime agricultural lands, and use the Land Evaluation and Site Assessment (LESA) model to determine the level of impact. If impact is significant, mitigation measures will be required. Mr. Boyd informs that the next step is to meet with stakeholders to review mitigation and its implementation. He notes that it has to be determined if mitigation will be in form of

fees, and whether an existing open space authority will implement it. He completes his presentation by stating that much dialogue with stakeholders has been planned. Mr. Yakubo adds that CVSP Task Force will hold a community workshop on February 23, 2006 to talk about affordable housing and traffic options for CVSP.

On inquiry of the Chairperson, Ms. Palacherla reports that staff will continue to apprise the Commission on CVSP, and will attend Task Force meetings, community meetings, and will provide comment when necessary. She advises that LAFCO will comment on the EIR and will provide updates at future meetings on possible EIR issues to the Commission.

Commissioner Alvarado notes that the presentation provides information that prepares the Commission when the CVSP application is received. She indicates that CVSP is a very important project for the County because it overlaps with other issues that the Board of Supervisors is working on, such as the Habitat Conservation Plan and Williamson Act contracts. In response to the request of Supervisor Alvarado, Mr. Yakubu states that copies of the presentation will be provided to Commissioners and staff. He informs that CVSP maintains a website with the information. Commissioner LeZotte requests Mr. Yakubu to notify the Commission about forthcoming CVSP Task Force meetings and to regularly provide Commissioners with copies of documents given to the City Council.

In response to an inquiry by Commissioner LeZotte, Mr. Yakubu states that an overlay district would be created on lands acquired by Gavilan College and the area would be designated for public use. He adds that Gavilan College will neither impact the creation of 50,000 jobs, nor the building of 25,000 residences, although it may generate about 300 industry-driven jobs. In response to another inquiry by Commissioner LeZotte, Mr. Boyd states that the specific plan and EIR will be presented to the City Council in May or June 2007. Application to LAFCO, which involves expansion of USA boundary and annexation, will be submitted sometime in 2008. In response to an inquiry by Commissioner LeZotte, Ms. Palacherla advises that both the County Board of Supervisors and LAFCO will comment on the EIR separately.

Commissioner LeZotte questions whether the permanence of the CVSP is guaranteed to unlike changes that eroded projects like the Alviso Master Plan. Mr. Yakubu advises that as long as the formula for creation of 50,000 jobs and building of 25,000 homes remains, CVSP would not be altered significantly by changes in land use. He adds that not much change can be done because the environmental footprints shaped the infrastructure framework. Mr. Boyd continues by stating that every part of the plan serves multiple uses and minor deviation from the vision would wreck havoc on overall specific plan. He adds that future changes to the specific plan require a CEQA process and, because of self-mitigating nature of the project components, any major change would result in significant impacts.

Chairperson Gage again requests Mr. Yakubu to leave a copy of the presentation for the members of the Commission.

5. UPDATE ON ISLAND ANNEXATION EFFORTS

Ms. Noel advises that the cities of Los Altos, Monte Sereno and Morgan Hill continue with their island annexation efforts. On January 24, 2006, the Los Altos City Council adopted a resolution for two unincorporated pockets referred to as Blue Oak Lane and Woodland Acres. The second hearing approving the annexation will be on February 28, 2006. The two islands have a combined area of 92 acres with 386 residents. Ms. Noel reports that the City of Monte Sereno has created a working group to review and propose development standards and procedures for the islands that the affected residents could support. The group, which met twice since November, is currently finalizing a proposal for the Monte Sereno City Council meeting in March 2006. Ms. Noel advises that there is no update on Morgan Hill at this time. Ms. Noel adds that the cities of Mountain View and San Jose continue to research island annexations. Mountain View has completed the review of seven unincorporated islands identified in urban pockets maps. Based on that review, City staff will recommend to the City Council to annex four of the seven remaining unincorporated islands through the streamlined annexation process. Of the three pockets that would be deferred, two are properties of

the U.S. Government, and one property is being sold whose buyer is expected to come up with a development proposal that includes annexation.

Ms. Noel advises that, at this point, San Jose continues to discuss the issue of island annexations but has not come forward with a formal plan. In January 2006, staff members from the offices of Supervisor Alvarado and Councilmember Nora Campos met residents of Lyndale Neighborhood Association to provide information relating to annexation, and to determine whether the neighborhood is interested in annexing to San Jose. This is the second meeting of Lyndale Neighborhood Association on the topic. Attendees expressed general support for annexation process and requested more detailed information on the impacts of annexation and the annexation process.

Commissioner Howe observes that when this process started it was reported that the City of Sunnyvale had four or five islands. He indicates, however, that Sunnyvale staff has informed him that all of these have been incorporated into the City, except one whose property owners did not want to be incorporated. He reports that the City presently provides all services to that island.

On motion of Supervisor Wilson, seconded by Supervisor LeZotte, it is unanimously ordered that the report be accepted.

6. UPDATE ON SOUTH CENTRAL SERVICE REVIEW AND SPHERE OF INFLUENCE STUDY

Ms. reports that staff met with South Central Service Review Technical Advisory Committee (TAC) on February 6, 2006 to provide a status report on the project, and discuss the upcoming city and special districts review of data collected and the SOI study recommendations. In view of concerns expressed by some TAC members on some definitions developed by the consultant relating to nine required determinations, staff will work with consultant to revise these definitions as appropriate. She adds that because of the TAC recommendation that a longer review period be provided, cities and special districts will start to review data and determinations by mid-February and complete it by early March 2006. The next TAC Meeting will be held in the last week of March 2006. The draft service review will be released for a 30-day public comment

period in early April 2006. At the May 31, 2006 public meeting, the consultant will apprise the Commission on the comments received and indicate how these will be addressed. The consultant and LAFCO staff will then revise the report and release a final draft for public review and comment. At the August 9, 2006 public hearing, the Commission will consider the adoption of final service review, SOI updates and CEQA action. Meanwhile, staff will continue to provide Commission with regular status reports on the project.

On motion of Commissioner Howe, seconded by Commissioner Alvarado, it is unanimously ordered that the report be accepted.

7. EXECUTIVE OFFICER'S REPORT

7a. LAFCO Budget Sub-Committee for Fiscal Year (FY) 2006-07

Ms. Palacherla proposes that the Commission create a LAFCO Budget Sub-Committee composed of two Commissioners and staff to develop recommendations on the draft budget to be considered at the April 2006 hearing. Chairperson Gage and Commissioner Howe indicate interest in participating on the Sub-Committee.

On motion of Commissioner Alvarado, seconded by Commissioner Wilson, it is unanimously ordered that Chairperson Gage and Commissioner Howe be designated to the LAFCO Budget Sub-Committee for FY 2006-07.

7b. Status of Preparations for the LAFCO Planning Workshop on February 16, 2006.

Ms. Palacherla advises that the Planning Workshop will be held on Thursday, February 16, 2006, from 8:15 a.m. to 12:00 p.m. She provides information on available parking. She notes that materials will be provided at the workshop. The first part of the workshop, which will be facilitated by Bill Chiat, CALAFCO Executive Director, will focus on LAFCO's purpose, the roles and responsibilities of Commissioners and staff, and development of a mission statement. The second part will focus on agriculture in Santa Clara County and will include a presentation by Kevin O'Day, Deputy Agricultural Commissioner, Santa Clara County. This part will also include a review of

Santa Clara LAFCO's agricultural preservation policies. In response to inquiry by Chairperson Gage, it was noted that all Commissioners plan to attend the workshop.

Commissioner Alvarado leaves at 2:25 p.m.

7c. CALAFCO Annual Staff Workshop in South Lake Tahoe (April 26-28, 2006)

Ms. Palacherla requests that the Commission authorize staff to attend the workshop and authorize travel expenses funded by the LAFCO budget. In response to an inquiry by Commissioner Howe, Ms. Palacherla reports that all LAFCO staff attends the workshop. Commissioner Wilson advises that based on a report at the CALAFCO Executive Board in January 2006, this year's staff workshop will be invaluable to staff, particularly because many statewide issues being addressed have significant impact to Santa Clara County. In response to an inquiry by Commissioner Howe, Ms. Palacherla indicates that the LAFCO budget allows travel expenses for staff to attend CALAFCO workshops. On motion of Commissioner Howe, seconded by Supervisor Wilson, it is ordered on 4 - 0 vote, with Supervisor Alvarado absent, that staff be authorized to attend the CALAFCO Staff Workshop and travel expenses be funded by LAFCO budget.

7d. CALAFCO Annual Conference in San Diego (September 5-7, 2006)

Ms. Palacherla reports that staff will provide information on the Annual Conference as it becomes available. In response to Commissioner Howe, Ms. Palacherla advises that staff will assist in travel arrangements for Commissioners who wish to attend the Conference.

8. REVISED 2006 SCHEDULE OF LAFCO MEETINGS

Ms. Palacherla reports that the Commission adopted the 2006 Schedule of LAFCO Meetings on December 14, 2006. However, it has been revised due to conflicts with the schedule of Board of Supervisors budget hearings.

On motion of Commissioner Howe, seconded by Commissioner Wilson, it is ordered on 4 - 0 vote, with Supervisor Alvarado absent, that the revised 2006 Schedule of LAFCO Meetings be adopted.

9. PENDING APPLICATIONS

Ms. Palacherla reports that there has been no action from the proponents relating to the pending application on the formation of Redwood Estates Community Services District.

10. WRITTEN CORRESPONDENCE

There is no written correspondence.

11. NEWSPAPER ARTICLES

There are no newspaper articles.

12. ADJOURN

On order of the Chairperson, there being no objection, the meeting is adjourned at 2:30 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, April 12, 2006 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Donald F. Gage, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk

REPORT OF THE EXECUTIVE OFFICER

Type of Application: Annexation to the Cupertino Sanitary District
Designation: CUPERTINO SANITARY DISTRICT (Via Regina No. 2)
Filed By: Landowner Petition (100% Consent)
Support By: Cupertino Sanitary District, per Resolution No. 1166 Dated 2/15/2006
LAFCO Meeting Date: April 12, 2006

1. REVIEW OF PROPOSAL:

a. Acreage and Location of Proposal:

The proposal consists of about 47.95 acres on Via Regina in the City of Saratoga. The 28 affected Assessor Parcel Numbers are: 503-69-003, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014, -015, -018, -019, -020, -021, -022, -023, -024, -025, -027, -028, -030, -031, -032, -033, -034, -035.

b. Proposal is: ● **Inhabitated** ○ **Uninhabited**

c. Are boundaries Definite and Certain? ● **Yes** ○ **No**

d. Does project conform to Sphere of Influence? ● **Yes** ○ **No**

e. Does project create island, corridor or strip? ● **Yes** ○ **No**

(Project area does not include APN: 503-69-029 that remains as an island within the district)

f. Does project conform to road annexation policy? ● **Yes** ○ **No**

g. Does project conform to lines of assessment? ● **Yes** ○ **No**

If no, explain _____

h. Present land use: Single Family Residential, except APN 503-69-033 which is an orchard and except APNs 503-69-025, -035 which are vacant.

i. Proposed land use: No Change

j. Involves prime agricultural land or Williamson Act land? No

2. ENVIRONMENTAL REVIEW:

The proposal is categorically exempt from the provisions of CEQA pursuant to CEQA Class 19, Section 15319 (b), and Class 3, Section 15303 (a) and (d).

3. SUGGESTED CONDITIONS OR OTHER COMMENTS:

See Exhibit C.

4. PROTESTS:

None

5. RECOMMENDATIONS:

1. Approve annexation to the Cupertino Sanitary District of area depicted in Exhibit A & B and subject to terms and conditions as described in Exhibit C.
2. Waive protest proceedings.
3. Take CEQA action as recommended in the LAFCO Analyst Report (Attachment 1)

By: Neelima Palacherla
Neelima Palacherla, Executive Officer

Date: 4/5/06

Date prepared: April 5, 2006

Hearing Date: April 12, 2006

To: The Santa Clara County Local Agency Formation Commission

From: Dunia Noel, LAFCO Analyst *DN*

Subject: Cupertino Sanitary District (Via Regina No. 2)

Recommended Environmental Action:

Approve Categorical Exemption. The project is categorically exempt from the requirements of CEQA.

Reasons for Recommendation:

The project is exempt under CEQA Class 19, Section 15319 (b); and Class 3, Section 15303 (a) and (d) that states:

Section 15319 (b): Annexation of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures.

Section 15303: Class 3 consists of construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures...The number of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (a) One single-family residence or a second dwelling unit in a residential zone.*
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements of reasonable length to serve such construction.*

Background

The Cupertino Sanitary District proposes to annex 28 parcels that total about 47.95 acres. The properties are located on Via Regina in the City of Saratoga. The annexation consists of Assessor Parcel Numbers 503-69-003, -005, -006, -007, -008, -010, -012, -013, -014, -015, -018, -019, -020, -021, -022, -023, -024, -027, -028, -030, -031, -032, -034) which are developed with single family residential uses. The annexation also includes Assessor Parcel Number 503-69-033 that consists of an orchard, and Parcels Numbers 503-69-025, and -035 that are currently vacant, and Parcels 503-69-09, and -011 which are narrow strips of land that have no development potential. The annexation

to the District is proposed in order to provide sewer service to each residence and to allow abandonment of existing septic systems. According to the applicant, sewer service will be provided via installation of new sanitary sewer mains and street laterals, a reinforced pump station in private roadway, and connection to existing main in Pierce Road (public right of way).

Regarding the annexation into the Cupertino Sanitary District, the 28 parcels are all currently zoned by the City of Saratoga as HR (Hillside Residential) with a 2-acre minimum lot size, based on the slope of the property. The majority of the affected parcels are not eligible for further subdivision due to their size and slope. Development of the two vacant parcels and the orchard parcel would be subject to City of Saratoga's Zoning Ordinance. All of the parcels are located inside of the City of Saratoga's Urban Service Area and Sphere of Influence. The entire area is located within Cupertino Sanitary District's Sphere of Influence. The proposed annexation to the Cupertino Sanitary District is thus exempt from CEQA because this special district annexation meets the requirements of the Class 19 and Class 3 exemptions.

EXHIBIT "A"

**DESCRIPTION OF ANNEXATION TO
CUPERTINO SANITARY DISTRICT
VIA REGINA ANNEXATION # 2**

March 2006

Revised 4-4-2006

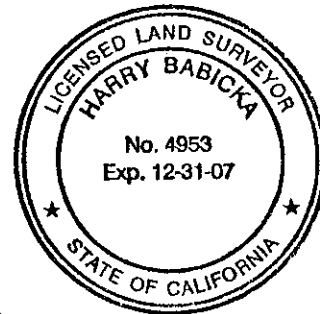
The following described real property being a portion of Northwest ½ of Section 2 Township 8 South Range 2 West M. D. B. & M, situated in the County of Santa Clara, State of California.

Beginning at a southwesterly corner of the present boundary line of the Cupertino Sanitary District as established by annexation entitled "**Lands of Thomas, Via Regina**" filed for record November 13, 1998, in Document No. 14500296, Official Records of County of Santa Clara; thence along said "**Lands of Thomas, Via Regina**" annexation Easterly and Northerly to a point on the Southerly boundary of "**Saratoga Hills No. 29**" annexation filed for record in Book J457, Page 770 Official Records of County of Santa Clara; thence Easterly along said annexation to the Northwesterly corner of district boundary as established by annexation entitled "**Lands of Kohler**" filed for record May 2, 2001, in Document No. 15661162, Official Records of County of Santa Clara; thence along the "**Lands of Kohler**" annexation Southerly to the Easterly limit of Via Regina, a private road, 20' Southeasterly along said Easterly limit, and Northeasterly to the Southerly boundary line of the "**Via Regina No. 1**" annexation, filed for record November 27, 1991 in Book L949, Page 0218 Official Records of County of Santa Clara; thence Northeasterly along said "**Via Regina No. 1**" annexation to a point on the Westerly line of the district boundary as established by annexation "**Saratoga Hills No. 5**" filed for record in Book 9124, Page 148 Official Records of County of Santa Clara; thence along the "**Saratoga Hills No. 5**" annexation Southerly, Westerly, and Southerly to the Northerly corner of the "**Saratoga Hills No. 16**" annexation, filed for record on June 15 1977 in Book C 917, Page 668 Official Records of County of Santa Clara; thence Southwesterly and Southeasterly along said annexation to the Northerly limit of Via Regina, a private road; thence continuing along said "**Saratoga Hills No. 16**" annexation and the said Northerly limit of Via Regina (private road) Northeasterly to the annexation entitled "**Saratoga Hills No. 5**"; thence continuing Easterly along said "**Saratoga Hills No. 5**" to the centerline of Pierce Road; thence continuing Southwesterly along said center line and annexation to the Easterly point of district boundary established by "**Saratoga Hills No. 39**" annexation filed for record in Book L500, Page 2215 Official Records of Santa Clara County; thence Northwesterly along said "**Saratoga Hills No. 39**" boundary to a point on the Easterly line of said "**Saratoga Hills No. 5**" annexation; thence Northwesterly along the "**Saratoga Hills No. 5**" annexation to the Easterly corner of the district boundary as established by "**Saratoga Hills No. 22**" annexation filed for record November 15, 1978 in Document No. 6201047 Official Records of County of Santa Clara; thence Northwesterly along the "**Saratoga Hills No. 22**" annexation to a point on the Easterly line of said "**Saratoga Hills No. 5**" annexation; thence Northwesterly along the "**Saratoga Hills No. 5**" annexation to the Northwesterly corner of

Parcel A as shown on the Record of Survey Map recorded in Book 254 of Maps at Page 43 County of Santa Clara Records; thence along the following courses:

- (1) North 54 Degrees 35 Minutes 51 Seconds East a distance of 232.09 feet;
- (2) North 9 Degrees 18 Minutes 51 Seconds East a distance of 77.07 feet;
- (3) North 89 Degrees 58 Minutes 22 Seconds East a distance of 42.72 feet;
- (4) North 12 Degrees 57 Minutes 23 Seconds East a distance of 105.39 feet;
- (5) North 45 Degrees 02 Minutes 31 Seconds East a distance of 32.76 feet to the
Westerly rights of way line of Via Regina, a private road; thence along
said rights of way line
- (6) North 50 Degrees 00 Minutes 49 Seconds West a distance of 95.53 feet;
- (7) North 47 Degrees 26 Minutes 39 Seconds West a distance of 55.99 feet;
thence leaving said rights of way line
- (8) South 54 Degrees 35 Minutes 51 Seconds West a distance of 404.71 feet to a
point on the Easterly line of said "**Saratoga Hills No. 5**" annexation; thence
Northwesterly along the "**Saratoga Hills No. 5**" annexation to a point on the Southerly
line of the district boundary established by annexation entitled "**Saratoga Hills No. 29**"
filed for record in Book J457, Page 770 Official Records of Santa Clara County; thence
Easterly along the "**Saratoga Hills No. 29**" annexation to a Northwesterly corner of said
"**Lands of Thomas, Via Regina**" annexation; thence Southeasterly along said Lands of
Thomas, Via Regina Annexation to the point of beginning.

Containing 49 acres more or less.

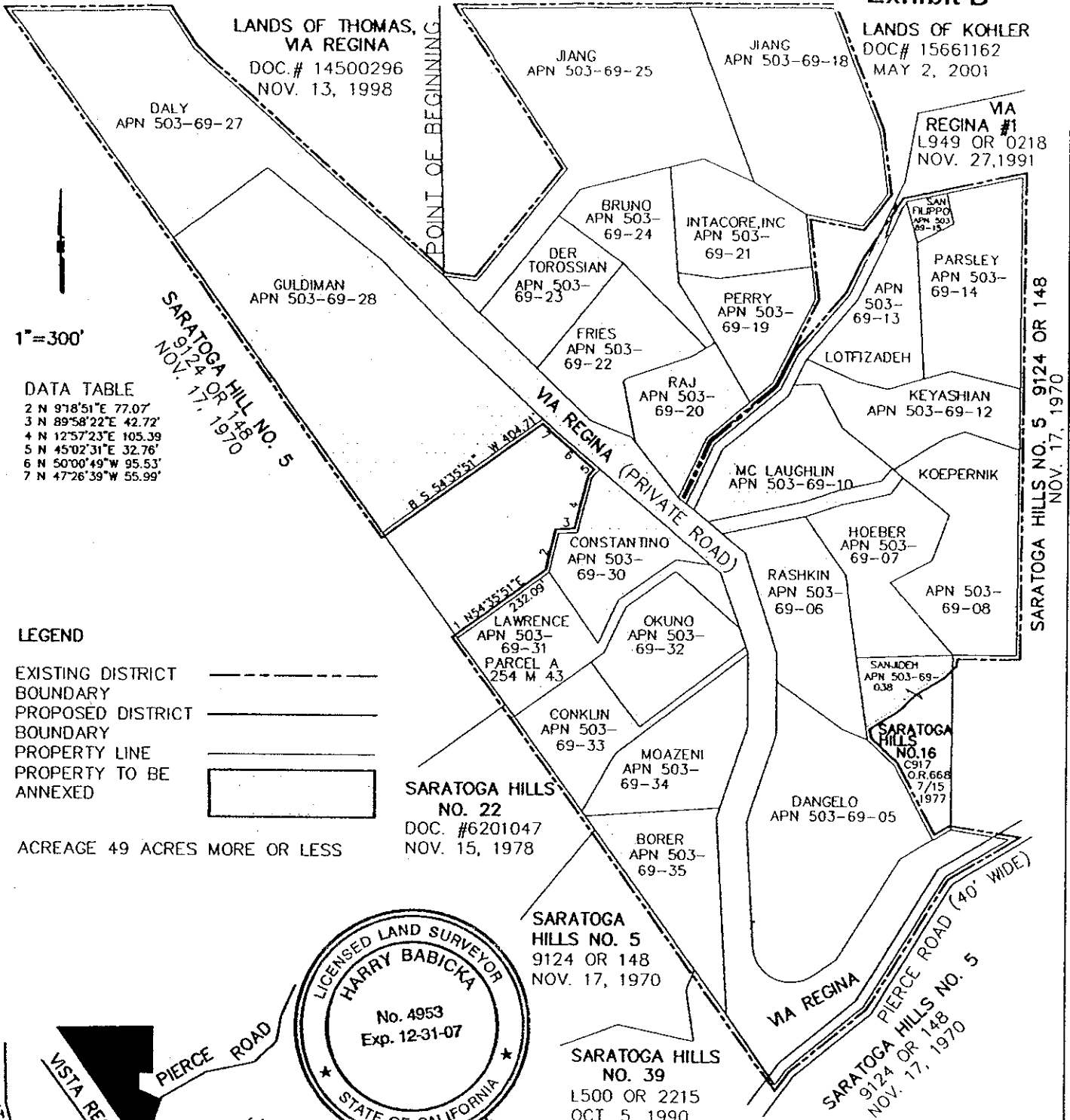


Harry Babicka

SARATOGA HILLS NO. 29
 J457 OR 770
 SEPT. 13, 1985

SARATOGA HILLS NO. 29
 J457 OR 770
 SEPT. 13, 1985

ITEM NO. 4.1
Exhibit B



1"=300'

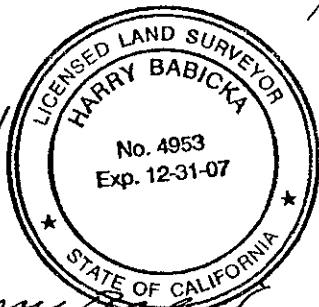
DATA TABLE

2	N	91°8'51"E	77.07'
3	N	89°58'22"E	42.72'
4	N	12°57'23"E	105.39'
5	N	45°02'31"E	32.76'
6	N	50°00'49"W	95.53'
7	N	47°26'39"W	55.99'

LEGEND

- EXISTING DISTRICT BOUNDARY
- PROPOSED DISTRICT BOUNDARY
- PROPERTY LINE
- PROPERTY TO BE ANNEXED

ACREAGE 49 ACRES MORE OR LESS



Harry Babicka
 NW 1/2 OF SECT. 2
 T.8 S., R. 2 W.

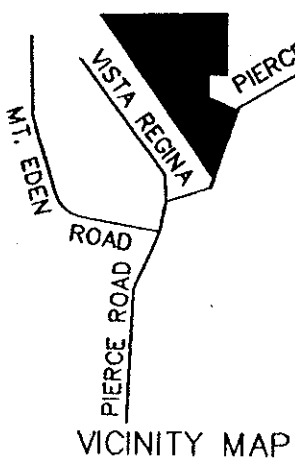
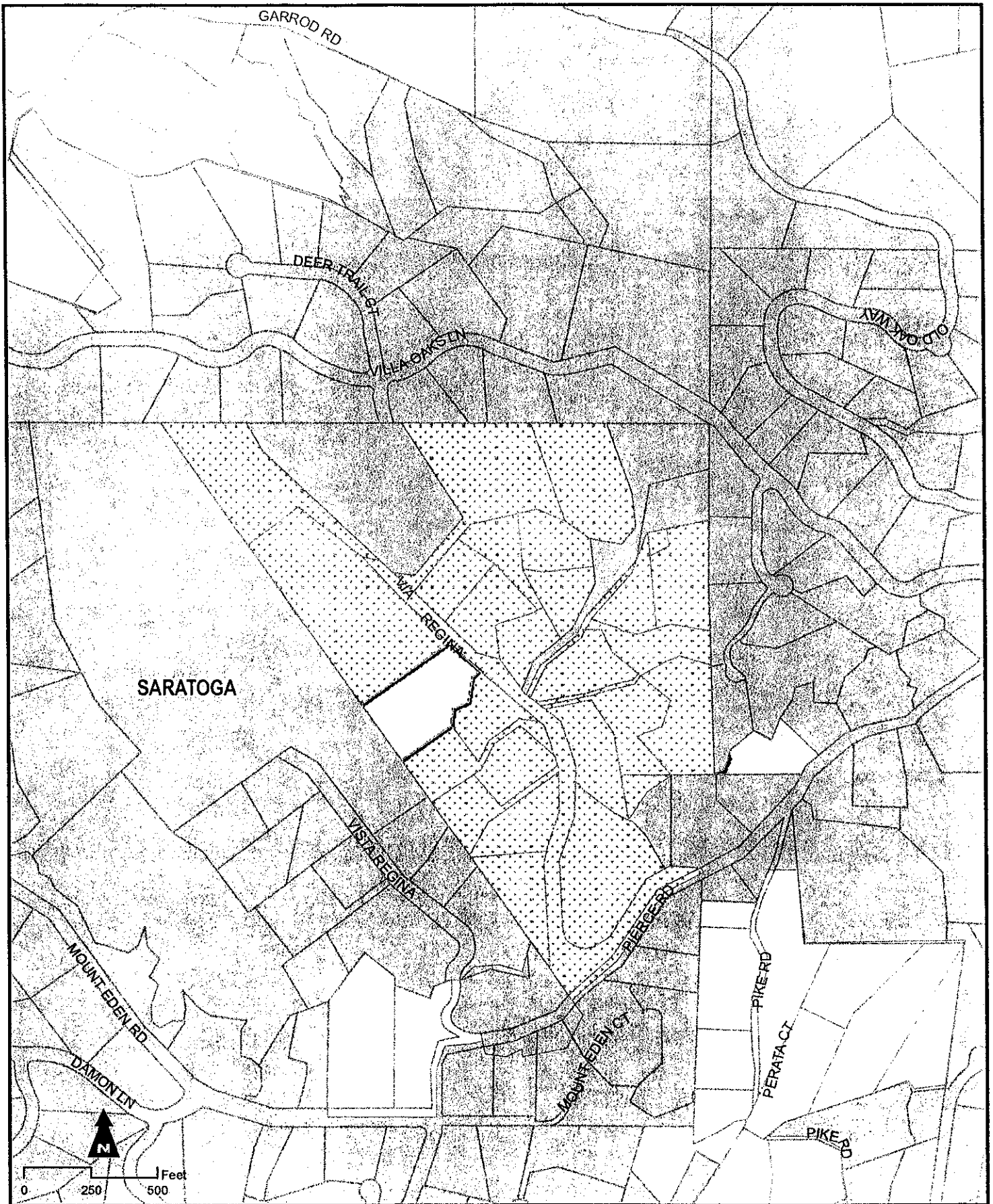


EXHIBIT B
PROPOSED ANNEXATION TO
CUPERTINO SANITARY DISTRICT
ENTITLED VIA REGINA ANNEXATION NO. 2


DATE: MARCH 23, 2006, Revised April 4, 2006

BY: HARRY BABICKA

WESTFALL ENGINEERS, INC.
 14583 BIG BASIN WAY
 SARATOGA, CA 95070



Proposed Annexation to
 Cupertino Sanitary District
 Entitled Via Regina Annexation No. 2

 Proposed Annexation

 Cupertino Sanitary District

**TERMS AND CONDITIONS FOR ANNEXATION
TO CUPERTINO SANITARY DISTRICT**

The annexation shall be subject to the following terms and conditions:

1. In the event that pursuant to rules, regulations or ordinances of the District, as now or hereafter amended, the District shall require any payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of the District, such payment will be made to the District in the manner and at the time as provided by the rules, regulations or ordinances of the District as now or hereafter amended.
2. Upon and after the effective date of said annexation, the Property, all inhabitants within such Property, and all persons entitled to vote by reason of residing or owning land within the Property shall be subject to the jurisdiction of the District, shall have the same rights and duties as if the Property had been a part of the District upon its original formation, shall be liable for the payment of principal, interest and any other amounts which shall become due on account of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of the District and shall be subject to the levying or fixing and collection of any and all taxes, assessments, service charges, rentals or rates as may be necessary to provide for such payment; and shall be subject to all of the rates, rules, regulations and ordinances of the District, as now or hereafter amended.

LAFCO Meeting: April 12, 2006
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer *NP*
SUBJECT: **Gilroy Urban Service Area Amendment (2006)**
Lands of Barberi
Agenda Item # 5

STAFF RECOMMENDATION

I. CEQA Action and Findings

Please see *Attachment A* for CEQA recommendations and Project SEIR and Final SEIR.

II. Project

Staff recommendation is for the Commission to consider the following two options:

1. Deny inclusion of the area into the City's urban service area (USA).

OR

2. Approve inclusion of the area into the City's USA conditioned on amendment of the Deferred Agricultural Mitigation Agreement between Gilroy and Luchessa Road LLC (Agreement), to include all 3 of the following items:
 - a. Instead of at the time of Tentative Map, payment of mitigation fees must be made at the time of City's annexation of project site, which must take place within a year of LAFCO action on USA expansion.
 - b. Determine that mitigation must be provided for all of the 25.69 acres without further exemptions for roads, public lands or buffers that maybe provided within the project site.
 - c. Require that the in-lieu fees must include the costs of easement program administration, outreach to landowners and monitoring of established easements as required by Gilroy's Agricultural Mitigation Policy.

Upon execution of the amended Agreement, City must provide LAFCO with a copy of the amended Agreement, at which time, the USA resolution will be recorded and the USA expansion will become effective.

In addition, the City should establish policies, timelines, procedures and partnerships with appropriate agencies for timely use of in-lieu mitigation payments prior to bringing any future USA expansion proposals to LAFCO.

PROJECT DESCRIPTION

The City of Gilroy proposes to expand its urban service area (USA) boundary to include 4 parcels comprising 27.7 acres located at the southwest corner of Luchessa Avenue and Monterey Road. The project site is adjacent to the City's USA boundary and city limits on the north and east. The City has applied a General Plan designation and pre-zoning of "Neighborhood District" to the project site. The development proposed for the site is expected to include 18,000 square feet of commercial uses and 220 small lot single-family residential units and 30 apartments or condominiums. The proposed development is expected to generate 835 residents and 51 jobs on the project site. No development application has been submitted to date.

BACKGROUND

Application History

The project area was part of a larger USA expansion request by the City of Gilroy in 2002, comprising of approximately 140 acres and totaling 14 parcels, that included these 4 parcels along with the site of the proposed Sports Park as well as other adjacent parcels. LAFCO denied the request for the USA expansion but approved annexation of the Sports Park parcels conditioned on the City adopting and implementing the appropriate agricultural mitigation plan consistent with the City's General Plan policy. The City has not complied with the condition and the area remains unincorporated. The first phase of the City's Sports Park is under construction by the City outside the city limits in the unincorporated area.

Existing Land Use of Project Site and Surrounding Areas

The project site consists of 4 parcels totaling 27.7 acres. The largest parcel (APN: 808-21-016) which is 26 acres, owned by Mr. Barberi, is currently farmed with agricultural row crops. The other parcels are less than one acre each. The parcel to the west (APN: 808-21-018) is owned by the City of Gilroy and used as a staging area for the Uvas Creek Trail system; one of the parcels to the east (APNs: 808-21-008) has utility facilities and the other (APN: 808-21-009) has a propane gas facility.

The project site is bound on the west by Uvas Creek and the City Trail System. To the south and located outside the city's USA and city limits, is the City's Sports Park (under construction) and rural unincorporated parcels. To the north, within the city limits, is a residential sub division and to the east across from Monterey Road are commercial uses. To the south and west of the Sports Park site and the Uvas Creek, is land in agricultural uses. Please see *Attachment B* for the project site and surrounding areas.

Applicable General Plan and Zoning Designations

The project site currently has a County General Plan designation of "Open Space Reserve". This designation is used for land that is adjacent to an existing USA but for

which no long-term use has been determined. The County Zoning designation for the project site is "A-20" Agricultural Zoning (20-acre minimum).

The current Gilroy General Plan Land Use designation for the project site is "Neighborhood District." This designation requires a variety of residential development densities and encourages small-scale commercial uses. Although the City's General Plan provides a target mix of residential densities, it is not expected that every project will meet these density mixes, but rather, that the overall development will attain a mix of densities.

CONSISTENCY WITH COUNTY GENERAL PLAN

The proposal area is not consistent with the Growth and Development Policy C-GD 6, which states that lands containing prime agricultural lands are unsuited for urban development.

The proposal is only partially consistent with policy C-GD 8. Although the area is contiguous to the existing urbanized area, and all needed public services and facilities can be provided within 5 years without lessening existing levels of service, it is inconsistent with the policy because the city already has more than a 5 year supply of vacant residential and commercial land within its USA. Please see detailed discussion below.

CONSISTENCY WITH LAFCO POLICIES

Conversion of Prime Agricultural Lands

The soil on the project site is Yolo loam and is categorized as Agricultural Class I soils and is considered to be the most productive soil in the Santa Clara Valley. (United States Department of Agriculture Soil Conservation Service 1974) The California Department of Conservation's Important Farmlands Map designates the entire project site as "Prime Farmland", defined as land with the best combination of physical and chemical features able to sustain long-term production of agricultural crops. The Final SEIR states that the proposed project would result in the loss of 26.05 acres of prime farmland with a LESA score that indicates agricultural land of significant value.

The Cortese Knox Hertzberg Act and LAFCO policies require that development be guided away from existing prime agricultural lands toward areas containing non-prime agricultural lands and that existing vacant land within city limits be developed before approving additional land for development.

The applicant claims that the size of the project site and surrounding urban uses makes its continued agricultural use economically infeasible. The project site is currently being farmed with row crops. It is the construction of the City's Sports Park that separates the project site from other agricultural uses in the area and adversely affects the continued viability of the agricultural use on the project site. The City's

Sports Park is being developed in an area surrounded by farming and is creating pressures on adjacent farmland.

Agricultural Mitigation

Conversion of prime agricultural lands to other uses is an irreversible process. As called for in Gilroy's General Plan, the City has adopted an Agricultural Mitigation Policy (*Attachment C*) and is requiring the proposed USA expansion project to comply with the agricultural mitigation requirements.

The City's Agricultural Mitigation Policy provides three options to reduce the impact to agricultural resources including:

1. Purchase of equal amount of agricultural land (1:1 ratio) within the "Preferred Areas" and transfer of ownership to Open Space Authority or other City-approved agency.
2. Purchase of development rights on a 1:1 ratio on agricultural lands within the "Preferred Areas" and the transfer of ownership of these rights to the Open Space Authority or other City-approved agency. The purchase value of the agricultural conservation easement will be based on the appraisal of purchasing development rights and not fee-title rights.
3. Payment of an in-lieu fee based on the lowest appraisal of purchasing development rights in the "Preferred Areas". The in-lieu fees will include administrative and transactional fees charged on a cost recovery basis and will be maintained by City in an escrow account and adjusted no more than every two years based on appraisals from the "Preferred Areas".

"Preferred Areas" are defined as the agricultural lands located in Santa Clara County Agricultural preserve, specifically the agricultural lands located outside of Gilroy's General Plan boundary and within Gilroy's Sphere of Influence.

As mitigation for this proposed project, the City and the developer have entered into a "Deferred Agricultural Mitigation Agreement" (Agreement) that includes payment of in-lieu fees equal to the amount of appraised fair market value of development rights in the "Preferred Areas". (Option 3) See *Attachment D* for a copy of the Agreement.

The following are some concerns that staff has identified with the Agreement.

Timing of the Mitigation

The Agreement only requires the payment of the mitigation fee as a condition of the Tentative Map.

If LAFCO approves the USA expansion, there are several processes that must take place before any actual development can occur on the property. First of all, the City would have to annex the project site. This can be done immediately following the USA inclusion. In Santa Clara County, once the area is within a City's USA, the City

Council has the ability to approve the annexation. Following or concurrent with the annexation approval, the City would start developing a Master Plan for the area which is likely to take about 2 years to complete. Once the Master Plan is completed, the developer would submit a Tentative Map with conceptual plans for the proposed development on the project site. If the City Council approves the Tentative Plan, then the developer has 2 years to file a Final Map. Therefore, it could be well over 5 years before the Final Map is recorded.

In Santa Clara County, inclusion within the USA is the first step in converting agricultural lands to urban uses. Therefore, mitigation should occur at the time of LAFCO approval and LAFCO should have the ability to evaluate the specific mitigation measures. Otherwise, there is no certainty / guarantee for LAFCO that the mitigation will take place even though the lands have been approved for urban uses.

How much Land will Require Mitigation

The acreage of the property indicated in the Agreement (25.69 acres) is less than the total acreage of the project site (27.7 acres). The City has indicated that this difference is due to the exclusion of the three small parcels from mitigation requirements. The City also indicated that there was a reduction in the parcel size (from 26.05 to 25.69) due to a lot line adjustment that transferred land from the parcel to the City's Uvas Trail System. However, no documentation on this matter has been provided.

In addition, Gilroy's Agricultural Mitigation Policy exempts certain areas from being included in the calculation of total areas requiring mitigation including (1) a maximum of 100' of land that will remain in a permanent agricultural buffer (2) area intended for city public facilities or (3) area required for roads and bike or pedestrian lanes that are not required solely for the proposed development project. The Agreement does not state exactly how much land will be exempted but indicates that the amount of land will be determined with the processing of the first Tentative Map for the property.

When the above stated exemptions (such as buffers, or public facilities or roads etc) are integral to the proposed development of the agricultural lands, then, mitigation should be provided for all lands converted from agricultural to urban uses, regardless of the type of urban uses to which the agricultural lands would be converted.

Calculation of Mitigation Fees

Gilroy's Agricultural Mitigation Policy requires that for mitigation that involves agencies handling conservation easements, the developers have the responsibility for covering the costs of program administration, outreach to landowners and monitoring of established easements. The Policy requires that a fee to cover these items must be built into the in-lieu fees. This Agreement however, does not indicate that these additional items are built into the in-lieu fees.

City's Plan for Use of Mitigation Fees

As required by the Agricultural Mitigation Policy, and as stated in the Agreement, the in-lieu fees collected by the City will be held in an escrow account and will be used to purchase development rights on agricultural property located within the "Preferred Areas", that is similar in use to the current use of the property. At this time, the City does not have any written policies detailing how exactly these funds will be put to use. The City has indicated that the funds will be accumulated until a sufficient amount is put together to make easement purchases feasible. The City is currently in discussions with the Silicon Valley Land Conservancy and the Santa Clara County Open Space Authority as potential implementers of its agricultural mitigation program. Therefore, it is unclear as to exactly what the mitigation is until there is a specific program in place to use these funds.

In case of mitigation by payment of in-lieu fees, the "mitigation" does not actually occur until permanent agricultural easements are purchased. Therefore, the City should establish policies, timelines and programs (in cooperation with appropriate agencies) to ensure timely use of funds in its escrow account.

Growth Inducing Impacts

The proposed project itself is an extension of urban services into a previously unserved area. Although all urban service infrastructure is currently available near the project site, the approval of the USA amendment would make that infrastructure available to the project site and would result in future development of the site.

Extension of services to the project site could also result in development pressure on the land south of the project site and along Monterey Road. These lands currently in rural residential uses would experience more pressure to develop due to the surrounding urban uses.

Logical and Orderly, Efficient Boundaries

The proposed expansion is adjacent to the existing city limits and USA boundary on two sides. On the third side is the Gilroy Sports Park that is under construction. The Sports Park is outside the City limits and USA.

Ability of City to Provide Urban Services and Utilities

Currently, the project site is served by the South Santa Clara County Fire District. Upon annexation, the City of Gilroy will assume primary responsibility for fire protective services. The EIR states that the fire department would not require additional facilities, equipment or personnel to serve this area within the fire department's emergency response time standard. The project would have cumulative citywide impacts on fire services and the payment of service impact fees would be a standard condition of approval that would pay for these service extensions.

The Santa Clara County Sheriff's Department currently provides police protection services to the project site. The City of Gilroy will assume responsibility for provision of police services after annexation. The City of Gilroy Police Department would be able to serve the project site without the need for additional facilities. Since the project would add about 835 residents, the department would need to add an equivalent of 1.25 officers to maintain established per capita staffing ratios. Again, the public service impact fees would fund this extension.

The EIR for the project indicates that the proposed development would use .05 mgd of water and that the City has an adequate supply of potable water to meet this demand.

Based on the EIR, the proposed project would generate .042 mgd of wastewater. The Sewage treatment plant capacity is 7.5 mgd and will be expanded to 15 mgd. The proposed project would not have a significant adverse impact on the City's wastewater treatment capacity.

Ability of School District to Provide School Facilities

The project site is within the Gilroy Unified School District boundaries. It is estimated that the proposed residential development on the site would generate about 75 new school age students. The EIR states that the State establishes the fees that may be assessed to mitigate school impacts and that payment of those fees is considered adequate mitigation.

Five-Year supply of Vacant Land

Residential Land

The City has inventoried a total of 497.02 acres of vacant land within their USA as of December 21, 2004. This vacant land does not include land for which development entitlements have been secured and on which development is expected in the near term. It also does not include land that was recently subdivided and is expected to be immediately developed by the developer. It does include lands that are in rural residential use, but planned for higher densities.

Residential development in the City of Gilroy is controlled through the City's Residential Development Ordinance (RDO). Based on the RDO's 10-year goal of 3,450 housing units, the City's vacant land inventory includes a supply of vacant land sufficient for about 11 years.

Based on the actual rate of absorption, that is, average number of building permits issued annually (using an average annual rate of 362.8 residential building permits), there is a little over 9 years worth of vacant residential land available within the City's USA.

Commercial Land

According to the Gilroy General Plan EIR Addendum, May 30, 2002, the City has about 458 acres of vacant commercial land within its 20 year planning

boundary indicating that the City has well over the 5 years worth of vacant commercial land within its existing USA boundary.

In both the residential and commercial instances, the City has more than 5 years worth of vacant land within its current boundaries. In such cases, LAFCO policies require the City to explain why the additional land is necessary to be included at this time. The City states that the vacant land inventory was completed in December 2004. Since then, the City approved two specific plan areas which comprise 6.3 years of the 11-year inventory. Also, the City states that the proposed project will help Gilroy meet its regional housing needs and will enable the City to widen Luchessa Avenue which is called for in the City's General Plan Circulation Element. Additionally, the City states that inclusion of this area into the City's USA will allow the City to effectively plan service provision in the area and that the inclusion would not be growth inducing as the area is surrounded by urban uses.

Availability of Alternate Site

The project EIR identifies an alternate site that is located within the City's USA and City limits and is zoned for Neighborhood Residential that could accommodate all of the proposed development. The development of the project on this site would not convert prime agricultural land to urban uses. While some of the other impacts of the proposed development on this site would be similar to the project site, this alternative would be environmentally superior because it avoids the loss of prime agricultural land. However, the City states that since the alternate site is under the control of another developer, whose application for a residential development proposal on this site has been approved by the Planning Commission and is before City Council, this alternative is rejected.

Likelihood of Development of Project Site within a Reasonable Time

Residential development within Gilroy is controlled largely by the City's Residential Development Ordinance (RDO), which allocates a certain number of housing units for a certain time period on a competitive basis. The current RDO time frame is 2004-2013, for which the City Council has already allocated 2,189 units. The remaining 191 units for this timeframe will be allocated in 2007. However, there are several exceptions to the RDO process including development through a Specific Plan process, which the project site would likely use. The City is currently considering the RDO policy to address development through the Specific Plan process especially for the Neighborhood District. It is therefore difficult to determine at this time if development on the project site will occur within a reasonable period of time.

Fiscal Impacts Analysis

The annexation of the project site to the City of Gilroy will result in a shift in the property tax distribution and extend city jurisdiction and services to the area. The proposed development includes 200 medium density single-family homes, 30 high-density homes and 18,000 square feet of commercial space. This proposed development is estimated to generate a population of 835 residents and 51 jobs on

project site. The fiscal impacts to the city and County have been based on these assumptions included in the Fiscal Impacts Analysis submitted by the City. .

Fiscal Impact to City

The residential portions of the project would generate a negative fiscal impact of \$12,305, which is offset by the net revenue of \$16,697 from the commercial space resulting in an overall net benefit of \$4,393 for the City at full build-out.

Fiscal Impact to County of Santa Clara

According to the Fiscal Impacts Analysis report submitted by the City, due to the shift in property tax distribution upon annexation and the difficult budget problems that the County is experiencing, the proposed project would cost the County a little over \$14,000 in net service costs and the deficits would escalate over time to \$15,844 in five years and \$17,562 in 10 years.

CONCLUSION

While the project site may not continue to be in long-term agricultural use, the area contains prime agricultural land that is currently being farmed. The project site became surrounded by urban uses because of the development of the City's Sports Park which essentially isolates the project site from other larger agricultural areas to the south. Based on the large amounts of vacant residential and commercial lands available within the existing boundaries of the City, there is no immediate need for converting additional agricultural lands to urban uses. For these reasons, LAFCO should deny the USA expansion.

The City however states that among other reasons, including this area within its USA will allow the City to better plan service provision in the area. Also, the City has entered into an Agreement with the developer to partially mitigate for the loss of this agricultural land. Gilroy is the first city in this County to adopt an Agricultural Mitigation Policy and this is the first instance of its implementation. Staff has identified some concerns with the proposed mitigation that must be addressed. If LAFCO chooses to approve this project then the approval should be made contingent on resolving the issues surrounding the proposed mitigation as identified in the staff analysis and recommendation.

ATTACHMENTS

<i>Attachment A</i>	CEQA Recommendations and Project SEIR and Final SEIR
<i>Attachment B</i>	Map showing Project Site and Surrounding Areas
<i>Attachment C</i>	Gilroy's Agricultural Mitigation Policy
<i>Attachment D</i>	Deferred Agricultural Mitigation Agreement between the City of Gilroy and Luchessa Road LLC.

RECOMMENDED CEQA ACTION AND REQUIRED FINDINGS

I. LAFCO ANALYST'S RECOMMENDED CEQA ACTION AND REQUIRED FINDINGS:

As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the *Final Subsequent Environmental Impact Report (Final SEIR)* for this project before it approves the USA expansion:

1. Find that, prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the *Final SEIR*.
2. Find that [a] the *Final SEIR* 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 (see Attachment 1 - "Findings of Potential Significant, and Significant, Environmental Impact" for a summary of impacts).
 - Biological Resources
 - Hydrology
 - Traffic
 - Cultural Resources
 - Noise
3. Find that the *Final SEIR* identified three potentially significant impacts resulting from the project that cannot be mitigated to less than significant level. These impacts are listed below:
 - Aesthetics
 - Agricultural Resources
 - Air Quality
4. Find that the City of Gilroy's Planning Division submitted a monitoring program, and that the monitoring program ensures compliance with the mitigation measures identified in the *Final SEIR* that would mitigate or avoid some of the significant impacts associated with the Urban Service Area expansion, over which LAFCO has responsibility.
5. Find that, despite the imposition of all feasible mitigation measures and alternatives, the project's agricultural, aesthetic, and air quality impacts will remain significant. Therefore, in order to approve the project, LAFCO must find that the project's benefits outweigh the project's significant, unavoidable environmental impacts. LAFCO staff suggests the following overriding considerations if the Commission approves the Project:

Overriding Considerations for LAFCO Approval of Project:

Agricultural Resources

The Final SEIR states that the proposed project would result in the loss of 26.05 acres of prime farmland with an Agricultural Land Evaluation and Site Assessment (LESA) score that indicates agricultural land of significant value. Even with the implementation of mitigation measures, the impact to regional agricultural resources would be reduced, but would remain significant and unavoidable. The project area recently became surrounded by urban uses with the development of the City's Sports Park that essentially isolated the project area from other larger agricultural areas to the south. Including this area within Gilroy's USA boundary will allow the City to better plan for service provision in the area and that this benefit outweighs the risks of its potential significant adverse environmental impacts.

Aesthetics and Air Quality

That specific economic, social, and other considerations justify the approval of this project in spite of the existence of unavoidable environmental effects that are deemed significant and that cannot be completely mitigated to a level of insignificance and that these benefits outweigh the risks of its potential significant adverse environmental impacts.

6. Designate the LAFCO Executive Officer as the location and custodian of the documents and other materials that constitute the record of proceedings on which this decision is based.

ATTACHMENT

Attachment 1- City of Gilroy Resolution No. 2006-03 [which includes Gilroy's Findings of Potential Significant, and Significant Environmental Impacts, Gilroy's Adopted Statement of Overriding Considerations, and Gilroy's Mitigation Monitoring Program for Barberi Urban Service Area Amendment 04-02 (USA 04-02) Subsequent EIR]

RESOLUTION NO. 2006-03

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY MAKING REQUIRED FINDINGS CONCERNING SIGNIFICANT EFFECTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, FOR THE BARBERI URBAN SERVICE AREA AMENDMENT (USA 04-02), FOR WHICH A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A MITIGATION MONITORING PROGRAM FOR THE PROJECT

WHEREAS, the Project analyzed in the Final Subsequent Environmental Impact Report "FEIR" is the Barberi Urban Service Area Amendment (USA 04-02) and Rezoning to ND (Neighborhood District) (Z05-07), which would facilitate residential and commercial development on approximately 28 acres located south of Luchessa Avenue, west of Monterey Road, north of the City's partially constructed sports park and east of Uvas Creek on Assessor's parcel numbers 808-21-008, 009, 016 and 018; and

WHEREAS, the FEIR evaluated a probable development scenario of 18,000 square feet of commercial uses near Monterey Road, 220 small lot single-family residential units, and 30 apartments or condominiums on the remainder of the site; and

WHEREAS, the City of Gilroy in accordance with the State CEQA Guidelines section 15082 held a public scoping meeting on May 17, 2005; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 1, 2005, at which time the Commission considered public testimony, the staff report dated November 22, 2005 and all other documentation related to the Project, and recommended that the City Council certify the FEIR as completed in accordance with the requirements of the California Environmental Quality Act of 1970 as amended ("CEQA"); and

WHEREAS, the City Council held a duly noticed public hearing on the Project, including the FEIR on December 19, 2005 at which time the City Council received the full record of the entire proceedings, took public testimony, and heard additional staff responses and thereafter certified the FEIR as completed in accordance with CEQA; and

WHEREAS, the City Council is the decision making body for the Project; and

WHEREAS, the City Council intends to approve other actions related to the project as identified in the FEIR dated November 15, 2005, State Clearinghouse Number 199802079; and

WHEREAS, CEQA requires that in connection with the approval of a project for which an EIR has been prepared that identifies one or more significant environmental effects, the decision making body of the lead agency make certain findings regarding those significant effects on the environment identified in the Final EIR.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GILROY, AS FOLLOWS:

1. The City Council hereby finds that the FEIR has been completed in compliance with CEQA, that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project, and that the FEIR represents the independent judgment of the City; and
2. The findings and recommendations set forth herein are made by this City Council as the City's findings under CEQA relating to the Project. The findings provide the written analysis and conclusions of the City Council regarding the Project's environmental impacts, mitigation measures and alternatives to the Project.
3. The Mitigation and Monitoring Program for the Project (the "Program") is attached to this resolution as Exhibit "A" and is incorporated and adopted as part of this resolution. The Program identifies impacts of the Project and corresponding mitigation measures and designates responsibility for mitigation implementation and the agency responsible for the monitoring action.
4. The City Council hereby finds and recognizes that the FEIR contains additions, clarifications, modifications and other information in its responses to comments on the draft EIR ("DEIR") for the Project, and also incorporates information obtained by the City since the DEIR was issued. This City Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact. No feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project, and no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project.
5. The City Council does hereby designate the City Clerk's office of the City of Gilroy, at 7351 Rosanna Street, Gilroy, California 95020, as the custodian of documents and record of proceedings on which the decision is based.
6. The City Council does hereby adopt the mitigation measures in the FEIR as set forth or modified herein as conditions of the Project.
7. The City Council does hereby make the findings herein with respect to the significant effects on the environment of the Project based on facts within the administrative record as a whole, and as identified in the FEIR, with the stipulation that all information in these findings is intended as a summary of the entire record supporting the FEIR.
8. The City Council does hereby find that with the exception of those impacts identified as significant and unavoidable, the mitigation measures proposed in the FEIR and adopted by the City will reduce impacts to a less than significant level.

I. BARBERI URBAN SERVICE AREA AMENDMENT (USA 04-02)
PROJECT FINDINGS OF SIGNIFICANT ENVIRONMENTAL IMPACT

A. AGRICULTURAL IMPACTS

Loss of Prime Agricultural Land-Project and Cumulative

1. **Impact.** Assessor's parcel numbers 808-21-008, 808-21-009, and 808-21-018 are not in agricultural use, and the project will not result in significant loss of agricultural land on those parcels. Assessor's parcel number 808-21-016 is in agricultural use and is about 26 acres with a LESA score that indicates agricultural land of significant environmental value. The proposed project would result in the loss of about 26 acres of prime farmland. This would be a significant and unavoidable impact on both a project level and is also considered to be cumulatively considerable. Implementation of the City's Agricultural Mitigation Policy would be required. With the implementation of the City Agricultural Mitigation Policy, the impact to regional agricultural resources would be reduced, but would remain significant and unavoidable.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and effective; however, it will not fully mitigate significant adverse effects from the loss of prime farmland, and therefore, this impact is unavoidable. The mitigation measure is fully enforceable by the City of Gilroy, and the Gilroy Planning Division will require documentation of compliance with the measure prior to the issuance of project entitlements.

3. **Partial Mitigation.** The applicant shall negotiate with the City of Gilroy to identify one of the following mitigation measures to reduce the impact on agricultural resources:

- a. Purchase an equal amount of land (1:1 ratio) of agricultural land within the "Preferred Areas" and the transfer of ownership of this land to the Open Space Authority or other City-approved agency.
- b. Purchase of development rights to a 1:1 ratio on agricultural land within the "Preferred Areas" and the transfer of ownership of these rights to the Open Space Authority or other City-approved agency. The purchase value of this agricultural conservation easement will be based upon the appraisal of purchasing development rights and not fee-title rights.
- c. Payment of an in-lieu fee will be based upon the lowest appraisal of purchasing development rights in the "Preferred Areas."

See Section III: Statement of Overriding Considerations.

B. AIR QUALITY IMPACTS

Construction Emissions

1. **Impact.** Sensitive receptors could be exposed to construction emissions, including diesel, during construction.
2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measures are feasible and will, when implemented, effectively mitigate the potentially significant health impacts associated with construction equipment emissions. The mitigation measures are fully enforceable by the City of Gilroy, and the City Engineering Division will require compliance with the measures prior to issuance of grading or building permits.
3. **Mitigation.** During construction, all diesel-powered engines shall be required to have particle trapping filters to reduce the amount of polluting emissions. Construction delivery trucks shall not idle for longer than two minutes.

The following dust control measures shall be incorporated into all permits, subject to the review of the City of Gilroy Engineering Division:

- a. During construction all diesel-powered engines shall be required to have particle trapping filters to reduce the amount of polluting emissions. Construction delivery trucks shall not idle for longer than two minutes.
- b. The idling time for construction equipment shall not exceed two minutes;
- c. Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use;
- d. All equipment shall be properly tuned and maintained in accordance with the manufacturer's specifications;
- e. When feasible, alternative fueled or electrical construction equipment shall be used at the project site;
- f. Use the minimum practical engine size for construction equipment; and
- g. Gasoline-powered equipment shall be equipped with catalytic converters, where feasible.

Construction Dust

1. **Impact.** Sensitive receptors could be exposed to dust (PM₁₀) from grading operations and other soil disturbance during construction.
2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measures are feasible and will, when implemented,

effectively mitigate the potentially significant health impacts associated with construction dust. The mitigation measures are fully enforceable by the City of Gilroy, and the City Engineering Division will require compliance with the measures prior to issuance of grading or building permits.

3. Mitigation Measures. The following dust control measures shall be incorporated into all permits for the proposed project, subject to the review and approval of the City of Gilroy Engineering Division:

- a. Water all active construction areas at least twice daily;
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- c. 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;
- d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- f. Enclose, cover and water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand);
- g. Limit traffic speeds on unpaved roads to 15 mph.
- h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- i. Replant vegetation in disturbed areas as quickly as possible; and
- j. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.

Cumulative Air Quality Impacts

1. Impact. The Gilroy Revised General Plan EIR concluded that build-out of the general plan would result in significant and unavoidable impacts to air quality from vehicle emissions, and a statement of overriding considerations was adopted when the Gilroy Revised General Plan EIR was certified. The proposed project would contribute to significant unavoidable cumulative air quality impacts.

2. Findings of Fact. The City of Gilroy City Council hereby finds that the following mitigation measure will partially mitigate the impact but not to a level of insignificance, and therefore the impact will remain significant and unavoidable.

3. **Partial Mitigation:** The policies in the General Plan addressing improving air quality may assist with mitigating this significant and unavoidable impact.

See Section III: Statement of Overriding Considerations.

C. BIOLOGICAL RESOURCES IMPACTS

Raptor Nests

1. **Impact.** Cottonwood and sycamore trees present near the project site have the potential to provide suitable nesting habitat for raptors. If there are active nest(s) of protected bird species present, construction and site preparation activities, if conducted during the nesting season, could result in the direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measures are feasible and, when implemented, will effectively mitigate the potential impacts to nesting raptors. The mitigation measures are fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measures prior to issuance of grading or building permits.

3. **Mitigation.** Pre-construction surveys for nesting raptors shall be conducted by a qualified biologist if construction is to occur during the nesting season (April 15 – August 1) to reduce impacts to a less than significant level. If raptor nests are located during pre-construction surveys, a qualified biologist shall establish a 300-foot buffer around each nest for the duration of the breeding season (until such time as the young are fully fledged) to prevent nest harassment and brood mortality. Work may proceed prior to August 1 only if a qualified biologist conducts nest checks and establishes that the young are fully fledged. Every effort will be made to avoid removal or impact to known raptor nests within project boundaries. If trees known to support raptor nests cannot be avoided, removal of these trees will only occur during the non-breeding season to reduce impacts to a less than significant level.

Waters of the U.S.

1. **Impact.** Uvas Creek is located approximately 50 feet from the western boundary of the project site. Disturbance to Uvas Creek would be a potentially significant impact resulting from construction on the portions of the project site nearest to Uvas Creek.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the impacts to Uvas Creek from construction-related activities. The mitigation measures are fully enforceable by the City of

Gilroy, and the City Planning Division will require compliance with the measure prior to issuance of grading or building permits.

3. Mitigation. Prior to future development activities, a 50-foot setback from the high water mark of Uvas Creek shall be established for the protection of the water corridor. Although a majority of this corridor is likely to occur on the property owned by the Santa Clara Valley Water District, a portion of the setback may occur on the project site. Grading and equipment shall not be allowed within this setback. If disturbance is proposed within or above the creek bed, a Section 404 permit from the USACE and a Streambed Alteration Agreement from CDFG shall be obtained.

Establishment of Non-native plants

1. Impact. A number of invasive species listed on the California Exotic Plant Council's Exotic Pest Plants of Greatest Ecological Concern in California are present within the property boundaries. Grading and disturbance associated with the proposed project would remove any native plants and create the disturbed environment preferred by invasive species.

2. Findings of Fact. The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the potential for the project to remove native plants and create an environment preferred by invasive species. The mitigation measure is fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measure prior to issuance of grading or building permits.

3. Mitigation. In order to prevent the spread of invasive non-native species, the project proponent shall prepare a landscaping and re-vegetation plan to include the following requirements:

- a. An eradication plan for plants listed in California Exotic Plant Council's Exotic Pest Plants of Greatest Ecological Concern in California currently growing on the project site;
- b. Use of plants listed in California Exotic Plant Council's Exotic Pest Plants of Greatest Ecological Concern in California shall be prohibited;
- c. Exposed soil areas shall be planted, mulched, or covered between October 15 and the following April 15 each year;
- d. Plant materials used in landscaping, erosion control, or habitat restoration shall consist of plants that are included in an appropriate native California plants as identified by a qualified biologist or landscape architect; and
- e. To prevent erosion and conserve water, bare soil between newly installed plant materials shall be mulched, covered with jute netting, or seeded with

a mix of seeds best suited for the climate and soil conditions, and native to the Gilroy region.

D. NOISE IMPACTS

Construction Noise

1. **Impact.** Short-term noise could occur from construction activities at the project site. The temporary elevation of noise may pose a significant impact to nearby residents.
2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate construction noise impacts. The mitigation measure is fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measure prior to issuance of grading or building permits.
3. **Mitigation.** Prior to issuance of a grading permit, the following measures shall be incorporated into the project plans to mitigate construction noise, subject to the review and approval of the City of Gilroy Engineering and Building divisions:
 - a. Construction shall be limited to weekdays between 7 AM and 7 PM, and Saturdays between 9 AM and 7 PM, with no construction on Sundays or City holidays;
 - b. All internal combustion engine-driven equipment shall be equipped with mufflers that are in good condition and appropriate for the equipment; and
 - c. Stationary noise-generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.

Noise Exposure at Proposed Residences in Excess of City Standards

1. **Impact.** Proposed residences on the project site along Monterey Street and Luchessa Avenue would experience noise levels that exceed the City's standards for residences.
2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the exterior noise impacts on future residences at the project site. The mitigation measure is fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measure prior to approval of project entitlements.

3. **Mitigation.** Associated with project-level environmental review when residential development applications are submitted, a detailed noise assessment study shall be conducted for the proposed development. The study shall include descriptions of the exterior and interior noise exposures under existing and future conditions and the mitigation measures necessary to achieve compliance with the City of Gilroy Noise Element and the State of California Code of Regulations, Title 24 (as applied to multi-family housing).

If residential lots are proposed within 235 feet south of the Luchessa Avenue centerline (195 feet from the present property line), or within 470 feet of the centerline of Monterey Street, up to a nine-foot tall noise barrier may be required between the lots and Luchessa Avenue or Monterey Street. The barrier shall be consistent with the policies of the general plan, and if feasible, shall be an earth berm. Specific mitigation measures identified in the project specific noise assessment shall be incorporated into the project design.

Noise Exposure at Proposed Commercial

1. **Impact.** A preliminary evaluation concluded that no commercial building doors or operable windows should be allowed within 110 feet south of the Luchessa Avenue centerline, or within 225 feet west of the of Monterey Street centerline, and no outdoor use should be allowed in these areas, because exterior noise levels could exceed City standards and be considered a significant impact.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the long-term noise impacts on future commercial businesses at the project site. The mitigation measure is fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measure prior to approval of project entitlements.

3. **Mitigation.** Associated with project-level environmental review when commercial development applications are submitted, a detailed noise assessment study shall be conducted for the proposed development. The study shall include descriptions of the exterior and interior noise exposures under existing and future conditions and the mitigation measures necessary to achieve compliance with the City of Gilroy Noise Element. Specific mitigation measures identified in the project specific noise assessment shall be incorporated into the project design.

Noise Impact on Existing Residences North of Luchessa Avenue

1. **Impact.** Traffic generated by the proposed project would increase ambient noise levels along Luchessa Avenue by one to two decibels. Under cumulative, long-term conditions, the increase would be a total of two to three decibels.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the cumulative exterior noise impacts on residences north of Luchessa Avenue. The mitigation measure is fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measure prior to approval of project entitlements.

3. **Mitigation.** The developer shall review the existing barrier along Luchessa Avenue to determine if a three-foot high extension could be added. If this is not effective and/or feasible, a new, nine-foot high barrier shall be constructed in its place. The extension or new barrier shall be constructed prior to issuance of a grading permit for the project site, or when the City determines that noise exposure at this location exceeds city standards. The developer shall be responsible for the cost to study and construct the replacement wall or extension. The entire wall shall be textured and colored, and screened to the extent feasible with drought tolerant, low maintenance landscaping. Any new wall shall be constructed within existing non-access strips on private property, if existing, otherwise immediately adjacent to the property boundary on the public right-of-way. Construction of a noise barrier greater than seven feet in height would be considered a significant visual impact, in accordance with the City of Gilroy thresholds of significance for aesthetics.

Sport Park Generated Noise

1. **Impact.** Sports park noise at the southern boundary of the project site would exceed City standards for residential uses.

2. **Finding of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the noise impacts to the project from the adjacent sports park. The mitigation measure is fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measure prior to approval of project entitlements.

3. **Mitigation.** Prior to issuance of building permits for residences with yards within 175 feet of the sports park, the applicant shall demonstrate that noise levels at residential yards are in compliance with the standards of Gilroy General Plan Policy 26.02. This may be accomplished by the construction of a six-foot sound barrier; however, such barrier shall not impinge on the SCVWD flood flowage easement recorded on the project site. A noise study shall be prepared, based on final improvement plans, to demonstrate that the residences are adequately protected from noise impacts.

Residential Interior Noise Levels

1. **Impact.** Traffic noise would result in interior noise levels in existing and proposed residences in excess of City standards.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the interior noise impacts on future residences at the project site. The mitigation measure is fully enforceable by the City of Gilroy, and the City Building Division will require compliance with the measure prior to approval of project entitlements.

3. **Mitigation.** Subject to the review and approval of the City of Gilroy Building Division, the applicant for any residential development on the project site shall conduct an acoustical study and establish engineering requirements to be included in construction plans to maintain interior noise levels at no greater than 45 dBDNL. Approaches to noise reductions could include use of triple pane windows, ventilation systems with non-operable windows, or noise attenuating wall construction.

E. AESTHETIC IMPACTS

Noise Barrier Visual Impact

1. **Impact.** A noise barrier higher than seven feet results in a significant visual impact. Because a nine-foot high wall is necessary to adequately mitigate the noise impact to the residents on the north side of Luchessa Avenue, and may be required to mitigate future development on the project site, the secondary aesthetic impact is considered unavoidable. According to the noise study prepared for the project, the noise levels in the backyards of the residences on the north side of Luchessa Avenue would exceed the City's acceptable standards under cumulative project conditions, with or without the project.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that there are no feasible mitigation measures that would reduce the visual impacts associated with a noise barrier required to mitigate for noise impacts to a less than significant level.

See Section III: Statement of Overriding Considerations.

F. TRAFFIC IMPACTS

Left turn delays at Monterey Street/Tenth Street Intersection.

1. **Impact.** This intersection would operate at an overall acceptable level of service during project conditions. However, the permitted phasing for the eastbound and westbound left-turn movements causes excessive delays for left-turning vehicles. The proposed project would add volume to the westbound left-turn movement during both peak hours, which could exacerbate this condition and result in a potentially significant impact.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the unacceptable left turn delays at the Monterey Street/Tenth Street intersection. The mitigation measure is fully enforceable by the City of Gilroy, and the City Engineering Division will require compliance with the measure prior to approval of project entitlements.

3. **Mitigation.** The developer of the first project on the project site shall install a full eight-phase signal operation at the Monterey Street/Tenth Street intersection to provide protected left turns on the eastbound and westbound approaches and increase the capacity of the left-turn movement. The signal shall be installed prior to issuance of the first residential or commercial occupancy permit, subject to review and approval by the City Engineering Division.

Commercial Site Access

1. **Impact.** Access to the commercial site if proposed from Monterey Street could result in conflicts with other movements along Monterey Street. This is a potentially significant impact.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the potential access conflicts with vehicle movement along Monterey Street. The mitigation measure is fully enforceable by the City of Gilroy, and the City Engineering Division will require compliance with the measure prior to approval of project entitlements.

3. **Mitigation.** Prior to Architectural and Site Review Approval for the commercial area or high-density residential uses along Monterey Street, or other residential development if an access street is proposed to connect to Monterey Street, a traffic study and engineering design shall be performed to evaluate traffic flow and turning movements along Monterey Street and Luchessa Avenue, and determine suitability of driveway locations on Monterey Street and Luchessa Avenue. If necessary, full access may be provided by an internal street. Driveways along Monterey Street shall be limited to right turns in and out.

Pedestrian and Bicycle Circulation

1. **Impact.** Continuous sidewalks are not provided on the south side of Luchessa Avenue, restricting pedestrian access in and around the project site, and resulting in a potentially dangerous pedestrian environment.

2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the potentially significant safety impacts for pedestrians and bicyclists on Luchessa Avenue. The mitigation measure is fully enforceable by the City of Gilroy, and the City Engineering Division will

require compliance with the measure prior to approval of grading or building permits.

3. Mitigation. The developer shall construct frontage improvements along Luchessa Avenue and Monterey Street concurrent with adjacent development on the project site. The pedestrian improvements shall be completed prior to the issuance of occupancy permits for the adjacent uses. The frontage improvements shall include construction of a half-street section including the eastbound lanes of Luchessa Avenue, the southbound lanes of Monterey Street, and adjacent sidewalks, curbs, gutters, and landscaping, and the re-stripping of the pedestrian crosswalks serving the southwest corner of the Monterey Street and Luchessa Avenue intersection.

Site plans and tentative maps shall include the following bicycle and pedestrian connections: a connection to the Uvas Creek trail. Any modifications to the Uvas Creek trail will need to be approved by the Santa Clara Valley Water District and the United States Army Corps of Engineers Emergency Branch Division. Future trail connections will need to be addressed in a revised joint use agreement with the Water District.

Cumulative Traffic Impacts

1. Impacts. Under cumulative conditions, the Monterey Street/Tenth Street intersection would operate at an unacceptable LOS E during both peak hours, and the following intersections would operate at unacceptable LOS F during both peak hours: Luchessa Avenue/Thomas Road; Luchessa Avenue/Princevalle Street; Monterey Street/Luchessa Avenue; and Monterey Street/Tenth Street.

2. Findings of Fact. The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate the unacceptable level of service at vicinity intersections. The mitigation measure is fully enforceable by the City of Gilroy, and the City Engineering Division will require compliance with the measure prior to approval of grading or building permits.

3. Mitigation. If the following improvements, or equivalent as determined by the Gilroy Engineering Division, are not included in the City's traffic fee program at the time traffic impact fees are paid, the developer shall pay a pro-rata share of the cost of each improvement not included in the fee program in addition to standard traffic impact fees. The project that triggers unacceptable levels of service at these locations will be required to design and construct the improvements and submit their costs to the City for reimbursement out of the traffic impact fee program funds.

1. Luchessa Avenue and Thomas Road: a traffic signal or traffic circle;
2. Luchessa Avenue and Princevalle Street: a traffic signal;

3. Monterey Street and Luchessa Avenue: an additional northbound left-turn lane and widening of the west leg to provide two receiving lanes for the northbound left-turning vehicles;
4. Monterey Street and Tenth Street: a second southbound left-turn lane, a westbound overlap phase, one left-turn lane, two through lanes, and one separate right-turn lane on northbound Monterey Street.

The development that triggers the improvements is responsible for the design and construction of the mitigation measure. If the improvements are traffic impact fee related, the developer will be reimbursed based on City policies and procedures.

G. CULTURAL RESOURCES IMPACTS

Discovery of Unknown Archaeological Resources and Human Remains

1. **Impact.** It is possible that that construction of the proposed project could disturb unknown archaeological resources. This would be a potentially significant impact.
2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measure is feasible and, when implemented, will effectively mitigate for the potential disturbance of unknown archaeological resources. The mitigation measure is fully enforceable by the City of Gilroy, and the City Planning Division will require compliance with the measure prior to approval of grading or building permits.
3. **Mitigation.** Due to the possibility that significant buried archaeological resources might be found during construction, the City of Gilroy shall ensure that the following language is included in any grading or construction documents issued for the proposed project that could include earth movement:

If archaeological resources are 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 developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City of Gilroy shall ensure that the following language is included in any grading or construction documents issued for the proposed school that could include earth movement in accordance with CEQA Guidelines section 15064.5(e):

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 Gilroy Police Department has contacted the coroner of Santa Clara County 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.

H. HYDROLOGY IMPACTS

FEMA Flood Zones

1. **Impact.** About four acres at the eastern end of the project site are within the FEMA 100-year flood zone, and subject to less than one foot of inundation during a 100-year storm. This area may be developed with housing or commercial uses if the pad elevations are raised to at least one foot above flood elevation. Less than one acre in the south-central portion of the project site is within a recorded flood flowage easement, held by the Santa Clara Valley Water District.
2. **Findings of Fact.** The City of Gilroy City Council hereby finds that the following mitigation measures are feasible and, when implemented, will effectively mitigate for the flood potential in the south-central portion of the project site. The mitigation measures are fully enforceable by the City of Gilroy, and the City Engineering Division will require compliance with the measure prior to approval of project entitlements, or grading permit, whichever is required within each mitigation measure.
3. **Mitigation.** Prior to approval of a tentative map or architectural and site review for the area located within the flood zone, the applicant shall submit a hydrology report, prepared for the project by a qualified hydrologist

or engineer, to address issues of site drainage, storm water run-off quantity and quality, and on-site storm water flow, subject to the review and approval of the City of Gilroy Engineering Division and SCVWD prior to issuance of a grading permit. All grading, design or other recommendations of this report shall be incorporated into project plans. The easement area shall be kept clear of any type of buildings or structures for human habitation, and no other structures shall be constructed or maintained except as may be approved by the District, and no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill.

The applicant shall be required to prepare storm drainage improvement plans for each project phase, subject to the review and approval of the City of Gilroy Engineering Division and SCVWD prior to approval of the final map. The storm drainage improvement plan shall be designed to maintain post-development run-off rates at or below existing run-off rates, and pre development rates at the 1 year, 2 year and 5 year mark.

The applicant shall, for each phase of the project, submit a Notice of Intent (NOI) and detailed engineering designs to the Central Coast RWQCB. This permit shall require development and implementation of a SWPPP that uses storm water "Best Management Practices" to control runoff, erosion and sedimentation from the site. The SWPPP must include Best Management Practices that address source reduction and, if necessary, shall include practices that require treatment. The SWPPP shall be submitted to the City of Gilroy Engineering Division for review and approval prior to approval of a grading permit for each phase of the project. Engineering designs shall address feasible post construction water quality measures such as siltation ponds and filters.

For projects located within 50 feet of Uvas Creek, the applicant shall submit plans for review by, and obtain an approved permit from the Santa Clara Valley Water District (SCVWD) prior to approval of a grading permit.

II. FINDINGS CONCERNING PROJECT ALTERNATIVES

Pursuant to CEQA Guidelines section 15126.6(d), the Final EIR identifies and evaluates the comparative merits of alternatives to the project, which could eliminate any significant adverse environmental impacts of the project or reduce them to a level of insignificance. These alternatives are evaluated in the Final EIR even if they would impede to some degree the attainment of project objectives or would be more costly.

One project objective is to develop a residential neighborhood consisting of a range of product types, including small lot single family residential units, apartments and condominiums to contribute to the City's available housing stock and to address the City's share of regional housing needs. Another project objective is to contribute to the City's tax base through the commercial/retail component of the development. A project objective is to provide a development consistent with the newly adopted zoning ordinance implementing the policies of the Neighborhood District as set forth in the Gilroy General Plan. City objectives

for development, which the proposed project meets, are to insure orderly, contiguous patterns of development, and to encourage urban development adjacent to existing urban development. This project is contiguous to existing commercial and residential development within the City limits.

A. NO PROJECT ALTERNATIVE

1. **Description.** The no project alternative occurs if the City denies application USA 04-02 requesting inclusion of the property into the City's USA boundary, or if the City's request of LAFCo for this USA boundary amendment is denied. The property is then assumed to remain as agricultural.
2. **Comparison to the Proposed Project.** The project site would remain outside the City's USA boundary and within the unincorporated area of Santa Clara County with a County zoning designation of agricultural A-20. There would be no urban development of the site.
3. **Findings.** The no project alternative would be the environmentally superior alternative, because by keeping the project site in its current agricultural use under the County zoning designation for agricultural uses, there would be no significant environmental impacts. However, the no project alternative would not meet the objectives of the project. Neither would it meet the City's objectives for the project: to provide a residential development with a variety of housing types needed by the City to meet its regional fair share housing requirements and to provide tax revenue to the City from the commercial/retail development, such urban development to occur in an orderly, contiguous pattern. For these reasons, this alternative is rejected.

B. ALTERNATE LOCATION

1. **Description.** The alternate location is along the west side of Monterey Street near Cohansy Avenue. The alternate location is comprised of six parcels with a total of 34.7 acres. The alternate location is within the Gilroy USA boundary and city limits. Most of the alternate location is designated Neighborhood District in the general plan. The southeastern corner (about two acres) is designated General Services Commercial. Although the alternate location is about five acres larger than the project site, almost half of this difference is a Santa Clara Valley Water District ("SCVWD") parcel with a drainage channel.
2. **Comparison to the Proposed Project.** Although this site is partially in agricultural use (hay production), the development of the project on this site would not convert prime agricultural land to urban uses. The project in this location would, however, result in similar traffic generation, so project and cumulative air quality impacts would remain significant and unavoidable. The impacts to biological resources, the noise impacts, and the transportation and traffic impacts would be similar to those at the proposed project location.

This site already receives public services, such as police and fire, but the site is lightly developed, and if the project were developed here, then additional services would be required and impact fees assessed as with the proposed project. Water and wastewater services can be made available at this location, although most of the parcels are not currently served. The capacity required mirrors that of the proposed project, but the impact as a result of providing the services is less because this site is already within the City and therefore has been planned to receive such services.

3. Finding. While some impacts are the same as with the proposed project, this alternative would be the second environmentally superior alternative, after designation of the no project alternative as the environmentally superior alternative, because this location avoids the loss of prime farmland. This alternative location would meet some, possibly all, of the Project objectives. However, this site is bisected by a SCVWD channel, and could make a comprehensive planned development of the site less feasible. In addition, this property is under the control of another developer, whose application for approval of a residential development on this site has been processed by the City, recommended for approval by the Planning Commission, and is currently before the City Council. For these reasons, this alternative is rejected.

C. INCREASED COMMERCIAL

1. Description. The “reduced residential/additional commercial” alternative would decrease the number of single-family residences and increase the amount of commercial uses. The commercial area would be increased to about 38,000 square feet, on about three acres, and would be expanded westward along Luchessa Avenue to the intersection with Hyde Park Street. The main entrance to the commercial area would be from the extension of Hyde Park Street. The single-family residential would be reduced to about 200 units, and the high density residential would remain at 30 units.

2. Comparison to the Proposed Project. The conversion of prime farmland would remain significant and unavoidable with this development, and the impacts to biological resources would remain the same. The impacts from noise on existing residents to the north of Luchessa Avenue and on proposed residential units on the western portions of the site along Luchessa would remain the same, and therefore possibly result in a significant and unavoidable visual impact due to soundwalls, such as that of the proposed project. Demand for police and fire services would be similar, but demand for parks and schools would be slightly reduced due to the reduction in residential units. The demand for wastewater would be similar to the proposed project, but the demand for water would be greater and create an increased impact to the provision of utilities and service systems. The additional commercial alternative would result in about a 40 percent increase in traffic, and the additional traffic volumes may further reduce the levels of service at nearby

intersections. The superior entry location to the commercial development, placing it closer to residential, may somewhat lessen those impacts by reducing auto trips. Even so, the overall traffic increases result in increased emissions compared to the proposed project, and thereby increase the project and cumulative significant and unavoidable impacts on air quality.

3. **Finding.** This alternative would likely meet most, if not all of the Project objectives and the City's objectives. However, the environmental impacts either essentially remain the same or would be greater with this alternative. For these reasons, this alternative is rejected.

SECTION III. STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council of the City of Gilroy hereby adopts and makes the following Statement of Overriding Considerations regarding the significant, unavoidable impacts of the Project and the anticipated benefits of the Project.

A. Significant Unavoidable Impacts

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant and unavoidable project and cumulative impacts to Agricultural lands, significant and unavoidable Visual impacts, and significant and unavoidable project and cumulative impacts to Air Quality, as disclosed in the Final EIR. These impacts, though partially mitigated, would not be reduced to a less than significant level, and there are no identified feasible mitigation measures that would do so.

B. Overriding Considerations

The City Council finds that this Project has avoided or substantially lessened all significant impacts on the environment where feasible. The City Council finds that each of the benefits set forth in this Statement of Overriding Considerations constitutes a separate and independent ground for finding that the benefits of the Project outweigh the risks of its unavoidable significant adverse environmental impacts. The benefits of the Project, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Project, are set forth below.

C. Benefits of the Project

1. The Project will provide the a variety of housing opportunities that help the City meet its regional fair share housing requirements, including small lot single family residential development, and also apartments and condominiums.
2. The Project will contribute to the City's tax base through the commercial/retail component of the development.
3. The project site has been in the City of Gilroy 20-year Planning Area since 1979.

4. The Project is consistent with General Plan Policy 1.01 to insure an orderly, contiguous pattern of development. This site is adjacent to urban development.

5. The Project is an economical and efficient use of land that helps to reduce urban sprawl and thereby preserve open space and agricultural uses surrounding Gilroy, by directing development to an area at the edge of the City contiguous to existing commercial and residential development.

The City Council hereby finds that the benefits of the Project outweigh the significant and unavoidable project and cumulative impacts on Agricultural lands, the significant and unavoidable Visual impacts, and the significant and unavoidable project and cumulative Air Quality impacts as identified in the Final EIR.

IV. ADOPTION OF THE MITIGATION MONITORING PROGRAM

The City Council hereby adopts the Mitigation Monitoring Program attached hereto as Exhibit "A" and incorporated herein by this reference.

PASSED AND ADOPTED this 23rd day of January, 2006 by the following vote:

AYES: COUNCILMEMBERS: ARELLANO, BRACCO, CORREA,
GARTMAN, VALIQUETTE,
VELASCO and PINHEIRO

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

/s/ ALBERT PINHEIRO
Albert Pinheiro, Mayor

ATTEST:

/s/ RHONDA PELLIN
Rhonda Pellin, City Clerk

Exhibit A: Mitigation Monitoring Program for Barberi Urban Service Area Amendment (USA 04-02)

Introduction

CEQA Guidelines section 15097 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 and subsequent conditions of project approval are implemented.

Monitoring Program

The basis for this monitoring program is the mitigation measures included in the project environmental impact report. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the project proponent is required to complete during and after implementation of the proposed project.

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

Monitoring Program Procedures

The City of Gilroy shall use the attached monitoring checklist for the Barberi Urban Service Amendment. The monitoring program should be implemented as follows:

1. The Gilroy Community Development Department should be responsible for coordination of the monitoring program, including the monitoring checklist. The

Community Development Department should 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. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring checklist have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring checklist to the Community Development Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring checklist should not be returned to the Community Development Department;
3. The Gilroy Community Development Department will review the checklist to ensure that appropriate mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with at the appropriate time, e.g. prior to issuance of a use permit, etc. Compliance with mitigation measures is required for project approvals; and
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 project proponent within 10 days, with a copy to the Community Development Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted and fines may be imposed at the discretion of the City of Gilroy.

Barberi Urban Service Area Amendment Mitigation Monitoring Checklist

Step 1

Prior to approval of **project entitlements** the following mitigation measure shall be implemented:

1. The applicant shall negotiate with the City of Gilroy to identify one of the following mitigation measures to reduce the impact to agricultural resources:
 - a. Purchase an equal amount of land (1:1 ratio) of agricultural land within the "Preferred Areas" and the transfer of ownership of this land to the Open Space Authority or other City-approved agency.
 - b. Purchase of development rights to a 1:1 ratio on agricultural land within the "Preferred Areas" and the transfer of ownership of these rights to the Open Space Authority or other City-approved agency. The purchase value of this agricultural conservation easement will be based upon the appraisal of purchasing development rights and not fee-title rights.
 - c. Payment of an in-lieu fee will be based upon the lowest appraisal of purchasing development rights in the "Preferred Areas."

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

9. Associated with project-level environmental review when residential development applications are submitted, a detailed noise assessment study shall be conducted for the proposed development. The study shall include descriptions of the exterior and interior noise exposures under existing and future conditions and the mitigation measures necessary to achieve compliance with the City of Gilroy Noise Element and the State of California Code of Regulations, Title 24 (as applied to multi-family housing).

If residential lots are proposed within 235 feet south of the Luchessa Avenue centerline (195 feet from the present property line), or within 470 feet of the centerline of Monterey Street, up to a nine-foot tall noise barrier may be required between the lots and Luchessa Avenue or Monterey Street. The barrier shall be consistent with the policies of the general plan, and if feasible, shall be an earth berm.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

10. Associated with project-level environmental review when commercial development applications are submitted, a detailed noise assessment study shall be conducted for the proposed development. The study shall include descriptions of the exterior and interior noise exposures under existing and future conditions and the mitigation measures necessary to achieve compliance with the City of Gilroy Noise Element.

Specific mitigation measures identified in the project specific noise assessment shall be incorporated into the project design.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

Step 2

Prior to **tentative map or architectural and site approval**, the following mitigation measures shall be implemented:

15. Prior to Architectural and Site Review Approval for the commercial area or high-density residential uses along Monterey Street, or other residential development if an access street is proposed to connect to Monterey Street, a traffic study and engineering design shall be performed to evaluate traffic flow and turning movements along Monterey Street and Luchessa Avenue, and determine suitability of driveway locations on Monterey Street and Luchessa Avenue. If necessary, full access may be provided by an internal street. Driveways along Monterey Street shall be limited to right turns in and out.
17. Site plans and tentative maps shall include the following bicycle and pedestrian connections:
- a. a connection to the Uvas Creek trail; Any modifications to the Uvas Creek trail will need to be approved by the Santa Clara Valley Water District and the United States Army Corps of Engineers Emergency Branch Division. Future trail connections will need to be addressed in a revised joint use agreement;
20. Prior to approval of a tentative map or architectural and site review for the area located within the flood zone, the applicant shall submit a hydrology report, prepared for the project by a qualified hydrologist or engineer, to address issues of site drainage, storm water run-off quantity and quality, and on-site storm water flow, subject to the review and approval of the City of Gilroy Engineering Division and SCVWD prior to issuance of a grading permit. All grading, design or other recommendations of this report shall be incorporated into project plans. The easement area shall be kept clear of any type of buildings or structures for human habitation, and no other structures shall be constructed or maintained except as may be approved by the District, and no excavation shall be

conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill.

21. The applicant shall be required to prepare storm drainage improvement plans for each project phase, subject to the review and approval of the City of Gilroy Engineering Division and SCVWD prior to approval of the final map. The storm drainage improvement plan shall be designed to maintain post-development run-off rates at or below existing run-off rates for the 1-year, 5-year, 10-year, and 100-year storm events.
22. The applicant shall, for each phase of the project, submit a Notice of Intent (NOI) and detailed engineering designs to the Central Coast RWQCB. This permit shall require development and implementation of a SWPPP that uses storm water "Best Management Practices" to control runoff, erosion and sedimentation from the site. The SWPPP must include Best Management Practices that address source reduction and, if necessary, shall include practices that require treatment. The SWPPP shall be submitted to the City of Gilroy Engineering Division for review and approval prior to approval of a grading permit for each phase of the project. Engineering designs shall address feasible post construction water quality measures such as siltation ponds and filters.
23. For projects located within 50 feet of Uvas Creek, the applicant shall submit plans for review by, and obtain an approved permit from the Santa Clara Valley Water District (SCVWD) prior to approval of a grading permit.
24. If the following improvements, or equivalent as determined by the Gilroy Engineering Division, are not included in the City's traffic fee program at the time traffic impact fees are paid, the developer shall pay a pro-rata share of the cost of each improvement not included in the fee program in addition to standard traffic impact fees. The project that triggers unacceptable levels of service at these locations will be required to design and construct the improvements and submit their costs to the City for reimbursement out of the traffic impact fee program funds.
 - a. Luchessa Avenue and Thomas Road: a traffic signal or traffic circle;
 - b. Luchessa Avenue and Princeville Street: a traffic signal;
 - c. Monterey Street and Luchessa Avenue: an additional northbound left-turn lane and widening of the west leg to provide two receiving lanes for the northbound left-turning vehicles; and
 - d. Monterey Street and Tenth Street: a second southbound left-turn lane, a westbound overlap phase, one left-turn lane, two through lanes, and one separate right-turn lane on northbound Monterey Street.

The development that triggers the improvements is responsible for the design and construction of the mitigation measure. If the improvements are

traffic impact fee related, the developer will be reimbursed based on City procedures

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Engineering Division*

Step 3

Prior to approval and issuance of **grading or building permits**, the following mitigation measure shall be implemented

2. During construction all diesel-powered engines shall be required to have particle trapping filters to reduce the amount of polluting emissions. Construction delivery trucks shall not idle for longer than two minutes.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

3. The following measures shall be incorporated into all project plans, subject to the review and approval of the City of Gilroy Engineering Division:
 - a. The idling time for construction equipment shall not exceed two minutes;
 - b. Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use;
 - c. All equipment shall be properly tuned and maintained in accordance with the manufacturer's specifications;
 - d. When feasible, alternative fueled or electrical construction equipment shall be used at the project site;
 - e. Use the minimum practical engine size for construction equipment; and
 - f. Gasoline-powered equipment shall be equipped with catalytic converters, where feasible.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Engineering Division*

4. The following dust control measures shall be incorporated into all permits for the proposed project, subject to the review and approval of the City of Gilroy Engineering Division:
 - a. Water all active construction areas at least twice daily;

- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- c. 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;
- d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- f. Enclose, cover and water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand);
- g. Limit traffic speeds on unpaved roads to 15 mph;
- h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- i. Replant vegetation in disturbed areas as quickly as possible; and
- j. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Engineering Division*

5. Pre-construction surveys for nesting raptors shall be conducted by a qualified biologist if construction is to occur during the nesting season (April 15 – August 1) to reduce impacts to a less than significant level. If raptor nests are located during pre-construction surveys, a qualified biologist shall establish a 300-foot buffer around each nest for the duration of the breeding season (until such time as the young are fully fledged) to prevent nest harassment and brood mortality. Work may proceed prior to August 1 only if a qualified biologist conducts nest checks and establishes that the young are fully fledged. Every effort will be made to avoid removal or impact to known raptor nests within project boundaries. If trees known to support raptor nests cannot be avoided, removal of these trees will only occur during the non-breeding season to reduce impacts to a less than significant level.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

6. Prior to future development activities, a 50-foot setback from the high water mark of Uvas Creek shall be established for the protection of the water corridor.

Although a majority of this corridor is likely to occur on the property owned by the Santa Clara Valley Water District, a portion of the setback may occur on the project site. Grading and equipment shall not be allowed within this setback. If disturbance is proposed within or above the creek bed, a Section 404 permit from the USACE and a Streambed Alteration Agreement from CDFG shall be obtained.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

7. In order to prevent the spread of invasive non-native species, the project proponent shall prepare a landscaping and re-vegetation plan to include the following requirements:
 - a. An eradication plan for plants listed in California Exotic Plant Council's *Exotic Pest Plants of Greatest Ecological Concern in California* currently growing on the project site;
 - b. Use of plants listed in California Exotic Plant Council's *Exotic Pest Plants of Greatest Ecological Concern in California* shall be prohibited;
 - c. Exposed soil areas shall be planted, mulched, or covered between October 15 and the following April 15 each year;
 - d. Plant materials used in landscaping, erosion control, or habitat restoration shall consist of plants that are included in an appropriate native California plants as identified by a qualified biologist or landscape architect; and
 - e. To prevent erosion and conserve water, bare soil between newly installed plant materials shall be mulched, covered with jute netting, or seeded with a mix of seeds best suited for the climate and soil conditions, and native to the Gilroy region.

8. Prior to issuance of a grading permit, the following measures shall be incorporated into the project plans to mitigate construction noise, subject to the review and approval of the City of Gilroy Engineering and Building divisions:
 - a. Construction shall be limited to weekdays between 7 AM and 7 PM, and Saturdays between 9 AM and 7 PM, with no construction on Sundays or City holidays;
 - b. All internal combustion engine-driven equipment shall be equipped with mufflers that are in good condition and appropriate for the equipment; and
 - c. Stationary noise-generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

11. The developer shall review the existing barrier along Luchessa Avenue to determine if a three-foot high extension could be added. If this is not effective and/or feasible, a new, nine-foot high barrier shall be constructed in its place. The extension or new barrier shall be constructed prior to issuance of a grading permit for the project site, or when the City determines that noise exposure at this location exceeds city standards. The developer shall be responsible for the cost to study and construct the replacement wall or extension.

The entire wall shall be textured and colored, and screened to the extent feasible with drought tolerant, low maintenance landscaping. Any new wall shall be constructed within existing non-access strips on private property, if existing, otherwise immediately adjacent to the property boundary on the public right-of-way.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

12. Prior to issuance of building permits for residences with yards within 175 feet of the sports park, the applicant shall demonstrate that noise levels at residential yards are in compliance with the standards of Gilroy General Plan Policy 26.02. This may be accomplished by the construction of a six-foot sound barrier, however, such barrier shall not impinge on the SCVWD flood flowage easement recorded on the project site. A noise study shall be prepared, based on final improvement plans, to demonstrate that the residences are adequately protected from noise impacts.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

13. Subject to the review and approval of the City of Gilroy Building Division, the applicant for any residential development on the project site shall conduct an acoustical study and establish engineering requirements to be included in construction plans to maintain interior noise levels at no greater than 45 dBDNL. Approaches to noise reductions could include use of triple pane windows, ventilation systems with non-operable windows, or noise attenuating wall construction.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Building Division*

14. The developer of the first project on the project site shall install a full eight-phase signal operation at the Monterey Street/Tenth Street intersection to provide protected left turns on the eastbound and westbound approaches and increase the capacity of the left-turn movement. The signal shall be installed prior to issuance of the first residential or commercial occupancy permit, subject to review and approval by the City Engineering Division.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Engineering Division*

16. The developer shall construct frontage improvements along Luchessa Avenue and Monterey Street concurrent with adjacent development on the project site. The pedestrian improvements shall be completed prior to the issuance of occupancy permits for the adjacent uses. The frontage improvements shall include construction of a half-street section including the eastbound lanes of Luchessa Avenue, the southbound lanes of Monterey Street, and adjacent sidewalks, curbs, gutters, and landscaping, and the re-striping of the pedestrian crosswalks serving the southwest corner of the Monterey Street and Luchessa Avenue intersection.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

18. Due to the possibility that significant buried cultural resources might be found during construction, the City of Gilroy shall ensure that the following language is included in any grading or construction documents issued for the proposed project that could include earth movement:

If archaeological resources or human remains are 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 developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

19. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City of Gilroy shall ensure that the following language is included in any grading or construction documents issued for the proposed school that could include earth movement in accordance with CEQA Guidelines section 15064.5(e):

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 Gilroy Police Department has contacted the coroner of Santa Clara County 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.

Party responsible for implementation: *Applicant*

Party responsible for monitoring: *Gilroy Planning Division*

I, RHONDA PELLIN, City Clerk of the City of Gilroy, do hereby certify that the attached Resolution No. 2006-03 is an original resolution, or true and correct copy of a city resolution, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 23rd day of January, 2006, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 7th day of February, 2006.

A handwritten signature in cursive script that reads "Rhonda Pellin". The signature is written in dark ink and is positioned above a horizontal line.

City Clerk of the City of Gilroy

(Seal)

**GILROY USA AMENDMENT 2006
SUBSEQUENT EIR
FINAL SUBSEQUENT EIR
APPENDICES**

DUE TO LIMITED NUMBER OF
COPIES, COMPACT DISCS WILL BE
PROVIDED ONLY TO
COMMISSIONERS. HOWEVER, A
COPY IS AVAILABLE IN THE LAFCO
OFFICE FOR REVIEW.

PROJECT SITE AND SURROUNDING AREAS

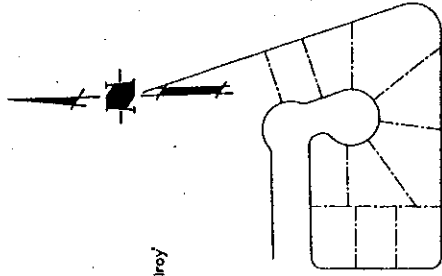
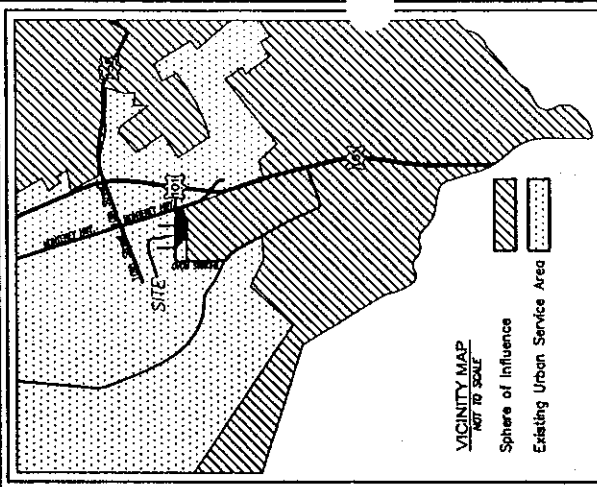


USA Boundary
City Limits



LEGEND

- Boundary of area to be included in the Urban Service Area
- Existing City Limits
- Existing boundary of the Urban Service Area



Existing Annexation per
Thomas-Monterey 76-8
Annexation to the City of Gilroy
Ordinance No. 77-40

Ex Hyde Park Dr.

Ex Luchessa Ave.

Ex Church St.

Existing Annexation per
Thomas-Mesa Annexation
69-1 to the City of Gilroy
Ordinance No. 846

Existing City Limits

Lands of Habing
APN: 808-021-018
0.87 AC±

Lands of
Baker
APN: 808-021-016
25.69 AC±

Lands of
Lands of Calif. Inc.
APN: 808-021-008
0.08 AC±

Lands of
Suburban Propane
APN: 808-021-009
0.57 AC±

Ex Monterey Road

Existing City Limits

LANDS OF CORNETOS
Existing boundary of the
Urban Service Area

Boundary of area to be included
in the Urban Service Area

Lands of the City of Gilroy

Ex Uvas Creek

Existing boundary of the
Urban Service Area

Existing Annexation per
Third Southern addition
(3-64) to the City of Gilroy
Ordinance No. 717

McDermott/Giacalone
6800 Monterey Road
Gilroy, California

HMH
ENGINEERS

DATE	REVISION	BY	APP. BY

LOCATION MAP
Gilroy, California

Sheet
1
of 1
JOB NUMBER
6060-00

AGRICULTURAL MITIGATION POLICY

City of Gilroy

Adopted May 3, 2004

Section 1.00 Statement of Intent

It is the intent of this policy to set forth the specific criteria and guidelines, consistent with the City's General Plan policies on agriculture, to enable the continued viability of agriculture and agri-tourism in the Gilroy area through:

- (a) Recognition of agriculture's significant contribution to the local economy;
- (b) Protection of agricultural lands from urban encroachment;
- (c) Preservation of agricultural lands as a natural buffer between Gilroy and surrounding communities; and
- (d) Appreciation for the role of agricultural lands in enhancing Gilroy's semi-rural, character.

Section 1.01 Definitions

Agricultural Land or Farmland:

Those lands within the City of Gilroy's General Plan 20-year boundary that are deemed to meet the Thresholds of Significance for CEQA purposes, or those that are designated "Prime" or lands of "Statewide Importance" by the State Department of Conservation as shown on their latest "Important Farmland Map." This also includes land that has been used for agriculture but has not been irrigated for six years or more as defined by the California State Farmland Mapping Program.

Agricultural Mitigation Land:

Agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or such other farmland conservation mechanism acceptable to the City.

Agricultural Operations:

Any agricultural activity, operation, or facility including but not limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including viticulture, apiculture or horticulture, the raising of livestock, fur-bearing animals, fish or poultry, agricultural spoils areas, and any practices performed by a farmer or on a farm as incidental to or in conjunction with such operations, including the legal application of pesticides and fertilizers, use of farm equipment, storage or preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Farmland Conservation Easement:

An easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to a farmland conservation easement is an interest in land, which is less than fee simple. However, the farmland conservation easement is permanent.

Farmland Deed Restriction:

The creation of a deed restriction, covenant or condition, which precludes the use of the agricultural land subject to the restriction for any non-agricultural purpose, use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain agricultural land.

Natural Trail:

An unimproved trail.

Preferred Preservation Area:

The agricultural lands located in the Santa Clara County agricultural preserve, specifically the agricultural lands located outside of Gilroy's General Plan boundary and within Gilroy's Sphere of Influence (See Attachment 1 "Preferred Preservation Areas").

Wildlife Habitat:

A wildlife sanctuary that provides water, food shelter and places to raise young for native wildlife.

Wildlife Sanctuary:

An area where native wildlife are safe from people or non-native animals such as dogs and cats.

Section 1.02 Agricultural Mitigation Requirements

(A) Those lands that require agricultural mitigation are identified in Figure 4.4-2 and Table 4.4-5 of the City of Gilroy's General Plan 2020 EIR (attached.) Mitigation requirements are not limited to these lands but would include the loss of agricultural lands due to the conversion to urban uses (including actions such as USA amendments, extension of services, or annexation) when the following criteria are met:

- (1) The City of Gilroy shall require agricultural mitigation for the loss of agricultural lands due to conversion to urban uses for land as defined as "prime farmland or farmland of "Statewide Importance" in *Section 1.01 Definitions*. Mitigation shall only be required for that portion of the land that no longer will be designated agricultural land. One time as many acres of agricultural land shall be protected as was changed to a non-agricultural zoning classification (1:1 ratio of land); and
- (2) The project site is deemed a significant impact based upon the completion of a Land Evaluation and Site Assessment Model (General Plan EIR Appendix F-2) as administered through the standard CEQA process during project review.
- (3) With the following exceptions:
 - a. A maximum of 100 feet of the land that will remain in a permanent agricultural buffer; or

- b. An area intended for city public facilities, as set forth in the City's General Plan or Parks Master Plan, that is adjacent to City roads and with nearby city infrastructure that can serve the project. Such public facilities would include public parks and/or public recreational facilities; permanent natural open space that is not disturbed by the development; trails and developed open space that is open to the public; and public school sites.
 - c. Lands dedicated for lanes, median islands, bike lanes, and pedestrian facilities which qualify for Traffic Impact Fund reimbursement or funding and are not required solely due to the proposed development project, shall not be included in the acre count for agricultural mitigation. Typically these lands include the median and all sections of the roadway except the first travel lane along the frontage and the parking/shoulder lanes for arterials. For expressways all lanes including parking, bike, and shoulder plus pedestrian facilities are included. The lands for these lanes, median islands, bike lanes, and pedestrian facilities are for the common good of the community and are not considered specific to the development.
- (4) Specific plan areas may provide agricultural mitigation on-site as established in the specific plan if approved by the City Council. All proposed mitigation in the specific plan must be consistent with the intent of the General Plan EIR Mitigation Measure 4.4-A and this policy as feasible mitigation for the loss of agricultural lands. Additional mitigation acreage may be required outside the specific plan area to meet the 1:1 ratio mitigation requirement.
- (B)** Mitigation may be accomplished with one of the following three options and the options shall include all costs to cover program administration and monitoring of established easements:
- (1) Mitigation 1: Purchase an equal amount of land (1:1 ratio) of agricultural land within the "Preferred Areas" (see *Section 1.01 Definition*) and the transfer of the ownership of this land to the Open Space Authority or other City-approved agency.
 - (2) Mitigation 2: Purchase of development rights to a 1:1 ratio on agricultural land within the "Preferred Areas" and the transfer of ownership of these rights to the Open Space Authority or other City-approved agency. The purchase value of this agricultural conservation easement will be based upon the appraisal of purchasing development rights and not fee-title rights.
 - (3) Mitigation 3: Payment of an in-lieu fee will be based upon the lowest appraisal of purchasing development rights in the "Preferred Areas."
 - a. The in-lieu fees will include all normal and customary administrative and transactional fees charged on a cost recovery basis.
 - b. The in-lieu fees will be maintained by the City in an escrow account and adjusted no more than every two years based on appraisals from the "Preferred Areas" (Attachment 1).

- (C) At the time of any initial land use application approval, the applicant shall enter into a deferred payment or dedication agreement establishing the specific criteria and timing for implementing any required mitigation. This deferred agreement shall be recorded with the County Recorder's Office against the proposed project property. All required mitigation must be completed prior to final map approval, or if no map is required, no later than issuance of the first building permit.
- (D) Lands deemed acceptable for preservation are:
- (1) Those lands designated as "Prime" or of "Statewide Importance" by the State Department of Conservation in the Preferred Areas as defined in Section 1.01 Definitions; and
 - (2) Has an adequate water supply to support the historic agricultural use on the land. The water supply for the land shall be protected in the farmland conservation easement, the farmland deed restriction or other document evidencing the agricultural mitigation.
- (E) Programs with those City-approved agencies handling conservation easements in the "Preferred Areas for Preservation (*Sec. 1.01 Definitions*), shall include the financial responsibility by the developers for program administration, outreach to landowners and monitoring of established easements. An additional nominal fee to cover these items, the amount of which shall be established by City policy, shall be built into the in-lieu fee outlined in *Section 1.02 (B)*.

Section 1.03 Right to Farm Deed Restrictions

- (A) All lands located within one thousand (1,000) feet of any agricultural lands deemed for preservation, as shown on the Farmland Preservation Area map (Attachment 1), shall be subject to the placement of a "right to farm" deed restriction that conforms with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure requirements as a condition of approval for any discretionary permit.
- (B) The deed restriction shall include the following wording:

"You are hereby notified that the property you are purchasing is located within 1,000 feet of agricultural land, agricultural operations or agricultural processing facilities. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. One or more of the inconveniences described may occur as a result of agricultural operations, which are in compliance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.

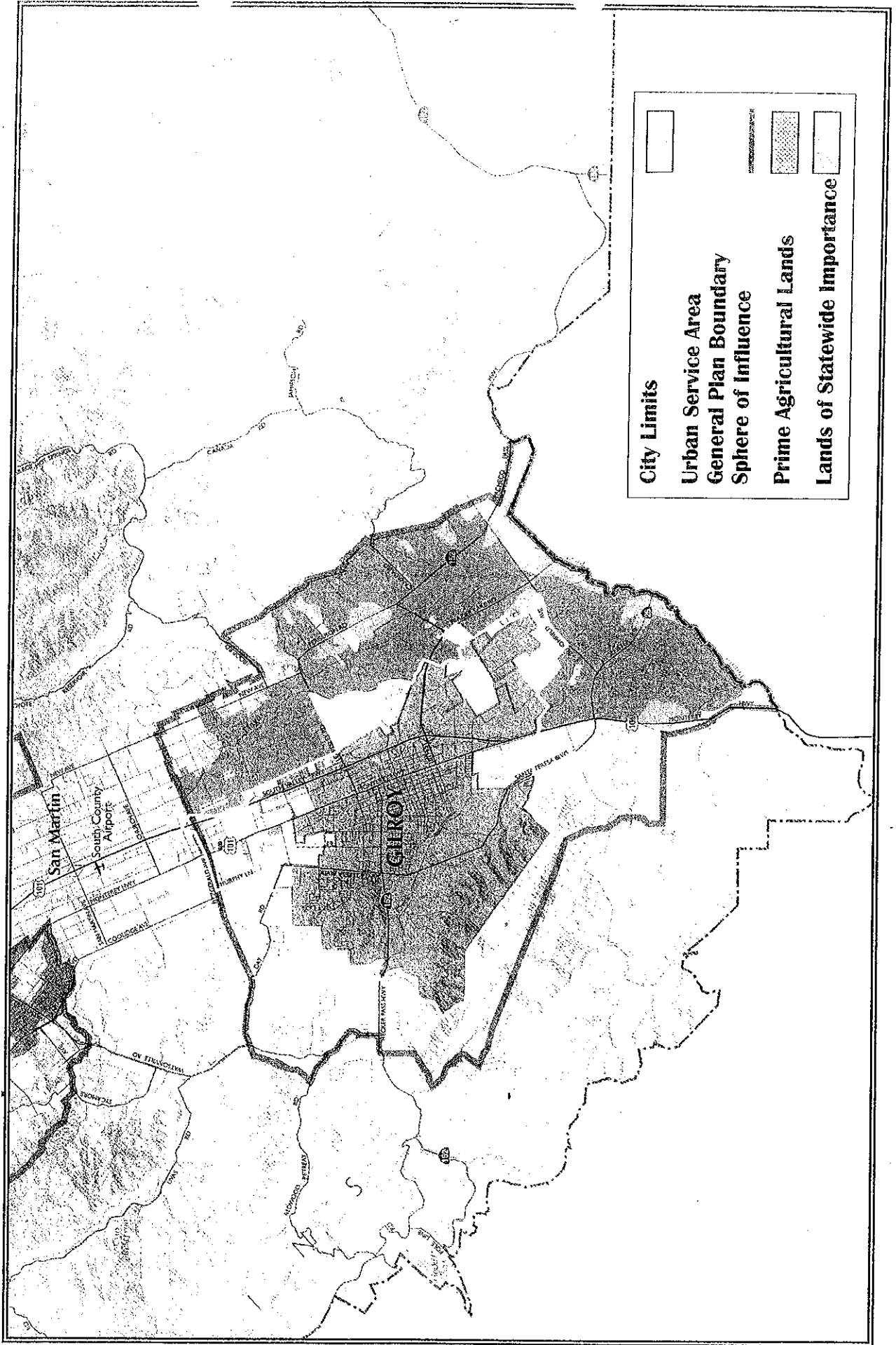
Lawful ground rig or aerial application of pesticides, herbicides and fertilizers occur in farming operations. Should you be concerned about spraying, you may contact the Santa Clara County Agricultural Commission."

- (C) The Right to Farm Deed Restriction shall be included in all subsequent deeds and leases for this property and shall conform with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure as defined by this policy.

Section 1.04 Agricultural Buffer

- (A) To minimize future potential conflicts between agricultural and non-agricultural land uses, all new developments adjacent to designated agricultural, agricultural preserve, agricultural open space, greenbelt/agricultural buffer areas shall be required to provide an agricultural buffer/agricultural transition area.
- (B) The agricultural buffer/agricultural transition area shall be a minimum of one hundred fifty (150) feet measured from the edge of the agricultural, agricultural preserve, greenbelt area. No public access shall be allowed in this transition area due to the potential for complaints about and exposure to the dust and spraying associated with agricultural activities.
- (C) This agricultural buffer/agricultural transition area shall be comprised of two components:
- (1) A one hundred (100) foot minimum wide agricultural buffer zone located adjacent to the agricultural lands or greenbelt area. The following uses in the one hundred (100) foot or greater agricultural buffer area shall be limited to:
 - i. Native plants, trees or hedge rows
 - ii. Drainage channels, storm retention ponds, natural areas such as creeks or drainage swales
 - iii. Railroad tracks or other utility corridors
 - (2) A fifty (50) foot agricultural transition area located between the one hundred (100) foot minimum agricultural buffer area and any new development. The following uses are allowed in the fifty (50) foot agricultural transition area:
 - i. Native plants, trees or hedge rows
 - ii. Drainage channels, storm retention ponds natural areas such as creeks or drainage swales
 - iii. Bike paths, benches, lighting, trash enclosures and fencing
 - iv. Other non-residential uses determined by the Planning Commission to be consistent with the use of the property as an agricultural buffer; such as natural trails, bike paths, wildlife habitats, wildlife sanctuaries, or community service facilities like detention basins.
- (D) The agricultural buffer/transition area shall be constructed by the developer of any land adjacent to agricultural uses, subject to approved plans by the Community Development Department. This area shall be maintained by the developer according to standards approved by the City until the area is dedicated to and accepted by the City or other City approved agency at which time they shall be responsible for maintenance.

City of Gilroy PREFERRED PRESERVATION AREAS



**Figure 4.4-2
Important Farmland Map**

- Prime Farmland
- ▨ Farmland of Statewide Importance
- ▧ Unique Farmland
- ▩ Farmland of Local Importance
- Cropland
- Other Land
- ▬ Urban and Built-Up Land

**CITY LIMITS
20 YEAR PLANNING BOUNDARY (PROPOSED)**

Prime Farmland and Farmland of Statewide Importance Added Planning Area or Existing Farmland Within the Planning Area Where the Designation Would Change from Open Space to an Urban Use
Farmland Proposed for Removal from the Planning Area

CIRCULATION LEGEND

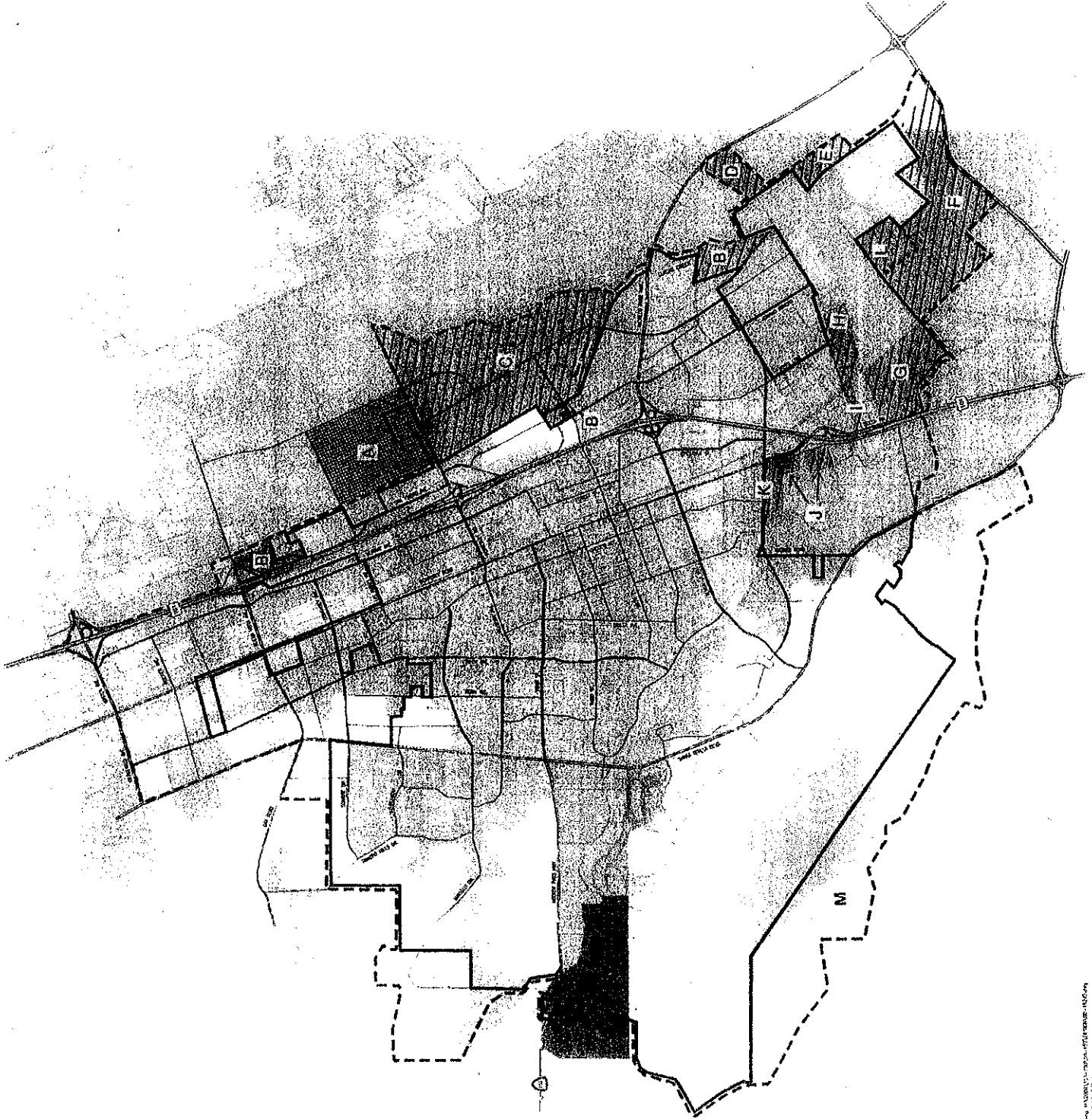
- FREEWAY
- EXPRESSWAY
- ARTERIAL
- COLLECTOR

This map is intended to show the City Limits and the Planning Area. It is not intended to show the boundaries of the City of Gilroy or the County of Santa Clara. It is not intended to show the boundaries of the County of Santa Clara or the County of San Jose.



**City of Gilroy
General Plan**

1. Planning Department
(10/1/10)



Attachment 3

Table 4.4-5 Changes to Land Use Designations or General Plan Boundary ¹ Involving Agricultural Lands		
Area ID	Notes	Acres (Approx.)
A	Prime farmland proposed for removal from the planning area (274 acres total of which 40 acres is rural residential). With the proposed General Plan, the site will be designated as County agricultural and rural residential.	-234
B	Prime farmland to be designated as Campus/General Industrial to better align the planning boundary along the east side of planning area. ("Other land" of 15 acre in northernmost area <i>not</i> included in table or on Figure 4.4-1	93
C	Prime farmland to be added to the planning area and redesignated as Campus Industrial (430 acres) and Open Space (234 acres). The Open Space area is not expected to be actively farmed due to the fact that it would be bound on the west by drainage/recreational uses upon development of the 430 acres of Campus Industrial, on the east by Llagas Creek, and the land between the two is expected to be too narrow to be effectively farmed. See more details in the following section.	664
D	Prime farmland to be added to the planning area as Public Facility. This land to be used by the South County Regional Wastewater Authority (SCRWA).	49
F	Prime and Statewide-Important farmland to be added to the planning area as Public Facility for the South county Regional Wastewater Authority.	380
E, G, H, I, J, K, L	Prime and Statewide-Important farmland within the existing and proposed General Plan areas to be redesignated from Open Space to urban uses. See below for more information.	381
M	Ranchlands to be added to the planning area and designated as Open Space. The new designation does not permit any urban development but does permit grazing; therefore it is not considered an urban use nor a conversion of agricultural land.	1,470
Farmland Proposed to Be Added to Planning Area		952
Farmland Proposed to Be Added/Converted from City or County open space or agricultural designation to an urban land use designation.		1,333
¹ The General Plan Boundary used for this analysis is the "Boundary of the Planning Area" shown in the General Plan map dated 1/7/98 with changes approved in the amendment for the Gilroy Sports Park.		

Accom: 06-4331-002

DOCUMENT: 18801700

Pages: 15

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:



Fees...	49 00
Taxes...	
Copies.	
AMT PAID	49.00

City of Gilroy
Attn: Rhonda Pellin, City Clerk
7351 Rosanna Street
Gilroy, CA 95020

BRENDA DAVIS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
First American Title Company

RDE # 005
2/09/2006
8:00 AM

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**AGREEMENT FOR DEFERRED AGRICULTURAL MITIGATION
BY AND BETWEEN
THE CITY OF GILROY AND
LUCHESSA ROAD, LLC**

THIS DEFERRED AGRICULTURAL MITIGATION AGREEMENT ("Agreement") by and between the City of Gilroy, a California municipal corporation ("City"), and Luchessa Road, LLC, a California limited liability company, ("Developer"), is entered into this January 23rd day of 2006 ("Effective Date").

RECITALS

A. By its Resolution number 2004-45, the Gilroy City Council approved an Agricultural Mitigation Policy to Implement the General Plan 2020 Environmental Impact Report ("EIR") Partial Mitigation Measure 4.4-A for Significant Environmental Impacts on Agricultural Uses. This Agreement is entered into pursuant to the terms of that Policy.

B. The EIR would otherwise have required the mitigation to take place at the first application to convert agricultural property to an urbanized use, but the Agricultural Mitigation Policy allows a deferral of the fulfillment of the mitigation, in this instance by payment of a fee, by entering into this Agreement establishing the timing and specific criteria for the mitigation.

C. Section 1.02(B)(3) of said Policy allows mitigation to be accomplished by specific methods, among which is the payment of certain in-lieu fees based on the appraised fair market value of development rights in certain agricultural areas, which

are identified in Figure 4.4-2 and Table 4.4-5 of the City of Gilroy's General Plan 2020 EIR, and payment of all normal and customary administrative and transactional fees of the City charged on a cost recovery basis. The City has determined, based on the location of and the relatively small number of acres of prime agricultural land that is being displaced, that this project is eligible for mitigation by in-lieu fees.

D. Developer is proposing a housing and neighborhood-serving commercial development on approximately twenty-five and 69/100 (25.69) acres of real property located in a currently unincorporated area of Santa Clara County, contiguous to the City of Gilroy and within its sphere of influence.

E. The proposed development will cause the loss of approximately twenty-five and 69/100 (25.69) acres of prime agricultural land as described in the EIR for the project. The property is located within the Required Mitigation Areas, as defined below, and is subject to the requirement to mitigate the development's impact on the protected lands.

F. Developer has applied to the City for rezoning of the property from A-20(County district) to ND(Neighborhood District), and for inclusion within the City's urban service area boundary, requesting that the City initiate said proceedings with the Local Agency Formation Commission.

G. Developer will thereafter petition the City to annex the property, and if it is annexed, for other required entitlements in order to develop the project.

H. The size of the area of the property requiring mitigation will be determined with the processing of the first tentative map for the property, based upon the calculation of developable area as set forth in the Agricultural Mitigation Policy.

NOW, THEREFORE, in consideration of the foregoing recitals and of the covenants and conditions contained herein, the Parties agree as follows:

1. Definitions.

Agricultural Mitigation Fee: shall have the meaning set forth in **Section 2** herein.

CEQA: shall mean the California Environmental Quality Act.

Developable Area: shall have the meaning set forth in **Section 3** herein.

EIR: shall mean an Environmental Impact Report.

LAFCo: shall mean the Local Agency Formation Commission.

Policy: shall mean the Agricultural Mitigation Policy adopted by the City Council of the City of Gilroy by Resolution number 2004-45.

Project: shall mean a housing and neighborhood-serving commercial development as described in the Subsequent EIR entitled "Barberi Urban Service Area Amendment (04-02)".

Property: shall mean Developer's property consisting of approximately twenty-five and 69/100 (25.69) acres, located in an unincorporated area of Santa Clara County, contiguous to the City of Gilroy and within its sphere of influence, which Property is further described in the attached Exhibit A.

Required Mitigation Areas: shall mean those certain agricultural areas identified in Figure 4.4-2 and Table 4.4-5 of the City of Gilroy's General Plan 2020 EIR.

2. **Agreement to Pay Agricultural Mitigation Fee.** Developer agrees to pay City an "Agricultural Mitigation Fee" in accordance with the terms herein in an amount equal to the fair market value of development rights on agricultural property, located within the "Preferred Preservation Area" as defined in Section 1.01 of the Policy, that is similar in use to the current use of the property, that is, irrigated row crop prime farmland, which land shall be known as the "Mitigation Land." The required mitigation shall be based on a one-acre to one-acre ratio for the agricultural land lost in the Developable Area of the Project. The Fee shall also include payment to the City for an appraisal of the Mitigation Land as further described in Section 4 below, and all normal and customary administrative and transactional fees, including staff time and attorneys' fees, incurred by the City and charged on a cost recovery basis.

3. **Determination of Developable Area.** Upon issuance of the tentative map, City shall determine the total acreage of the Developable Area upon which the Agricultural Mitigation Fee shall be based. The Developable Area shall be established

by calculating the total acreage of that portion of the Property being converted from agricultural use to a non-agricultural use, and subtracting the acreage dedicated to the following uses therefrom:

- a. Lands dedicated for lanes, median islands, bike lanes and pedestrian facilities which qualify for reimbursement of funding from the City's Traffic Impact Fund and are not required solely due to the proposed Project; and
- b. Any area intended for City public facilities as set forth in the City's General Plan or Parks Master Plan, that is adjacent to City roads and with nearby City infrastructure that can serve the Project.

4. **Appraisal.** Concurrently with the filing of an application to the City for the first tentative map in connection with the Property, City shall require Developer to pay a deposit of no less than Five Thousand Dollars (\$5000) to be used toward costs of the appraisal and City costs in connection therewith. The City shall give the Developer a list of not fewer than two eligible appraisers who have the MAI designation and have experience in appraising properties in the South County area, from which list Developer may select the appraiser. Upon approval of the first tentative map, City shall cause the appraiser to determine the fair market value of the development rights for the Mitigation Land. City, at City's sole option, (i) may from time to time require a further deposit or deposits from Developer to cover the price of the appraisal and all administrative and transactional fees, including staff time and attorneys' fees, incurred by the City on a cost recovery basis; or (ii) bill the aforementioned costs to the Developer, minus the deposit, after completion of the appraisal. Developer shall pay said costs within ten (10) days of receiving such invoice from City.

5. **Calculation and Payment of Agricultural Mitigation Fee.** After completion of the appraisal, City will calculate the Agricultural Mitigation Fee and provide Developer with its written determination thereof. Payment of the Agricultural Mitigation Fee shall be made a condition of the tentative map, to which condition Developer consents and agrees not to object, appeal, or protest. Developer shall pay the Agricultural Mitigation Fee, minus any unused and unencumbered deposits made by

Developer to City, prior to City's approval of the first final map for the Property. Adjustment of the Agricultural Mitigation Fee established hereunder is limited by the Policy to no more than every two years.

6. Termination of Agreement.

- (a) Termination: This Agreement shall terminate, at the option of City in its sole discretion, on the occurrence of any of the following events:
- (1) Bankruptcy or insolvency of Developer.
 - (2) Assignment of this Agreement by Developer without consent of City.
- (b) Developer Default. Should Developer default in the performance of this Agreement or materially breach any of its provisions, City, at City's option, may terminate this Agreement by giving written notification to Developer.
- (c) Effect of Termination. If this Agreement is terminated for any reason, then if a final determination has been made by LAFCo to include the property in the City's urban service area boundary, the full Agricultural Mitigation Fee is due and payable to City within 30 days of City's notice to Developer of the amount of the Fee. If LAFCo has not made such a determination, then upon termination of this Agreement, City's obligation to accept payment hereunder as mitigation for the conversion of these certain agricultural lands to an urbanized use shall cease, and City shall be free thereafter not to issue any permits, maps or other approvals without requiring full mitigation of the loss of the agricultural lands. Nothing contained herein shall constrain the City or limit the City's discretion under CEQA or the City's General Plan 2020 EIR or the Project's EIR to require full mitigation of the loss of the agricultural lands.

7. Amendments or Modifications. No amendments, modifications, alterations or changes to the terms of this Agreement shall be effective unless and until made in a writing signed by both parties hereto.

8. **Assignment.** This Agreement shall be binding upon and inure to the benefit of each party hereto and their respective heirs, executors, personal representatives, successors and assigns; provided, however, that Developer shall not assign its rights under this Agreement before completion of construction of the Project and any attempt to do so shall be void and of no force or effect. Notwithstanding the foregoing prohibition on assignment, Developer shall have the right to assign its rights under this Agreement at any time to a developer which has approximately the same or greater experience, financial ability, and capability to complete the Project, upon the consent of the City, which consent shall not be unreasonably withheld. Developer shall promptly upon request by City furnish all documents or other information requested by City in order to evaluate the requested assignment. Any assignee shall agree in writing in form acceptable to the City to be bound by all provisions of this Agreement, as well as any other conditions that City may reasonably require. Any assignment made without the City's consent shall be null and void.

9. **Attorneys' Fees.** If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to all costs and reasonable attorneys' fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

10. **Indemnity.** Developer shall indemnify, protect, defend with counsel of City's choice, and hold harmless City, its officers, officials, employees or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City and any of its officers, officials, employees, or agents thereof, to attack, set aside, void or annul, an approval of the City, including actions approved by the voters of the City, concerning this Agreement.

11. **Captions and Headings.** The captions and headings of the various sections, paragraphs and subparagraphs of the Agreement are for convenience only and shall neither be considered nor referred to for resolving questions of interpretation.

12. **Entire Agreement.** This Agreement supersedes any and all prior agreements, whether oral or written, between the parties hereto with respect to the mitigation of the loss of agricultural lands and contains all the covenants and agreements between the parties with respect thereto. Notwithstanding the above, this Agreement does not supercede any agreements or requirements which may have been, or will be, in the future, required of the parties pursuant to CEQA or other governing laws. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

13. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of California.

14. **Notices.** All notices necessary or convenient to be given hereunder shall be given in writing by personal delivery, or by facsimile (with copy of such notice sent not later than the next day by U.S. mail or overnight private courier in accordance with the provisions herein), or by U.S. mail, or by overnight private courier. Facsimile notices shall be deemed received on the day sent if sent prior to 5:00 p.m. Pacific Time on a business day or, if sent after 5:00 p.m. Pacific Time or on a non-business day, then the notice will be deemed received on the next business day. Notice by U.S. mail shall be deemed received on the third business day following deposit into the U.S. mail. Overnight couriered notices shall be deemed received the next business day following delivery to the private courier. Mailed or couriered notices shall be addressed as set forth below, but either party may change its address by giving written notice thereof to the other in accordance with the provisions of this Article.

To City: City of Gilroy
 7351 Rosanna Street
 Gilroy, CA 95020
 Attention: City Administrator
 Facsimile: (408) 846-0500

To Developer: Luchessa Road, LLC
6300 Monterey Road
Gilroy, CA 95020
Attention: Michael McDermott
Facsimile: (408) 846-6207

With a copy to

Ralph Guenther, Esq.
Duffy & Guenther
149 Bonifacio Place
Monterey, CA 93940
Facsimile: (831) 649-5102

15. **Time of the Essence.** All dates and times referred to in this Agreement are of the essence.

16. **Waiver.** Developer agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

17. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

18. **Amendments.** The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

19. **Severability.** If any provision of this Agreement is, or hereinafter is adjudged by a court of competent jurisdiction to be, for any reason void, unenforceable or invalid, the remainder of this Agreement shall be and remain in full force and effect, except that if Developer's payment obligations under this Agreement are determined to be void, unenforceable or invalid, then this Agreement shall be deemed terminated.

20. **Presumptions.** The parties hereto have read this Agreement and have had the opportunity to have counsel of their own review and advise them with regard to the contents hereof. As a result, this Agreement shall be interpreted and construed only

by the contents hereof, and there shall be no presumption or standard of construction in favor of or against either party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

DEVELOPER:

LUCHESSA ROAD, LLC

By: Giacalone McDermott Management, LLC
A California limited liability company, its Manager

By: 
Name: Michael McDermott
Title: Manager

Social Security or Taxpayer
Identification Number:


20-1781755

CITY:


CITY OF GILROY

By: 
Name: Jay Baksa
Title: City Administrator

Approved as to Form


Linda Callon
City Attorney

Attest:



Rhonda Pellin
City Clerk

STATE OF CALIFORNIA)
)ss.
COUNTY OF SANTA CLARA)

TITLE OF DOCUMENT: Agreement for Deferred Agricultural Mitigation by and between
 the City of Gilroy and Luchessa Road, LLC

On January 24, 2006, before me, Rhonda Pellin, Notary Public, personally appeared Jay Baksa personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature of Notary Public



per GC Sec. 40814; CC Sec. 1181

(Notary Seal)

LAFCO Meeting: April 12, 2006

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer 

SUBJECT: **Proposed Draft LAFCO Budget FY 2006-2007**
Agenda Item # 6

STAFF RECOMMENDATION

1. Adopt the Draft LAFCO Budget for fiscal year 2006-2007.
2. Find that the Draft FY-07 Budget is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the draft budget adopted by the Commission including the estimated agency costs as well as a notice for public hearing on the adoption of the Fiscal Year 2007 Final Budget to each of the cities, the County and the Cities Association.

BACKGROUND

LAFCO Budget and Adoption Process

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) which became effective on January 1, 2001, requires LAFCO to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings. Both the draft and the final budgets are required to be transmitted to the cities and the County. The CKH Act establishes that at a minimum, the budget must be equal to that of the previous year unless the Commission finds that reduced staffing or program costs will nevertheless allow it to fulfill its statutory responsibilities. Any unspent funds at the end of the year may be rolled into next fiscal year budget. After the adoption of the final budget, the County Auditor is required to apportion the net operating expenses of the Commission to the agencies represented on LAFCO.

Apportionment of LAFCO Costs

The CKH Act requires LAFCO costs to be split in proportion to the percentage of an agency's representation (excluding the public member) on the Commission. Since the City of San Jose has a permanent membership on LAFCO, state law

requires costs to be split between the County, the City of San Jose and the remaining cities. Hence the County pays half the LAFCO cost, the City of San Jose a quarter and the remaining cities the other quarter.

The cities' share (other than San Jose's) is apportioned in proportion to each city's total revenue as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county.

The CKH Act requires the County Auditor to request payment from the cities and the County no later than July 1 of each year for the amount each agency owes based on the net operating expenses of the Commission and the actual administrative costs incurred by the Auditor in apportioning costs and requesting payment.

FY 2006-2007 BUDGET TIMELINE

Dates	Staff Tasks / LAFCO Action
March 22 - April 12	Notice period, draft budget posted on LAFCO web site and available for review and comment on April 7
April 12	Public Hearing and adoption of draft budget
April 12- May 18	Draft budget along with draft apportionment amounts transmitted to agencies (cities and County) together with notice of public hearing for the final budget hearing
May 31	Public hearing and adoption of final budget
May 31- July 1	Final budget along with final agency apportionments transmitted to agencies; Auditor requests payment from agencies

WORK PLAN FOR FY 2006-2007

Service reviews and sphere of influence updates, facilitation of island annexations and LAFCO policies review/revision will continue to remain the top priority work items in the Fiscal year 2007. The Draft South Central County Service Review and Sphere of Influence recommendations will be available soon for public review. A public hearing on the report is scheduled for the next

LAFCO meeting in May. The North West County Service Review will be initiated in early fall. Staff will also begin review and update of spheres of influence for the fire and water districts in the County.

Staff will continue to work with cities interested in pursuing island annexations under the streamlined annexation process. Staff is currently working with the cities of Monte Sereno, Los Altos, Morgan Hill and Mountain View. The streamlined provisions in state law expire on January 1, 2007 and we expect other cities to take advantage of these provisions prior to that date.

Application processing activities are expected to continue at existing levels for all types of applications.

LAFCO's public information/communication aspect of the work load includes among other things, upgrading/revision of the LAFCO web site, conducting workshops, making presentations if requested by agencies, communities or other groups, maintaining and updating digital boundary maps for cities and special districts, and actively participating in CALAFCO conferences and workshops.

Other general work areas of LAFCO staff include administration of the LAFCO program, managing LAFCO records, reviewing and updating of LAFCO procedures when necessary, updating and maintaining the LAFCO database, participating in training activities, tracking LAFCO related legislation and preparing budgets and fee schedule revisions.

The LAFCO Annual Report which will be published at the end of the current fiscal year will detail the types of applications processed and various activities / projects that LAFCO has completed in the current year.

STATUS OF CURRENT YEAR BUDGET (FY 2006)

The approved budget for the current year is \$643,669. It is projected that there will be a savings of about \$216,776 at the end of this fiscal year.

Projected Year End Savings = Projected Year End Revenue - Projected Year End Expenses

Projected Year End Savings = \$645,857 - \$429,081

Projected Year End Savings = \$216,776

This savings amount will largely be due to the following:

1. Not having spent the amount (\$60,000) allocated as reserves

2. Having significant savings in the funds allocated for Salary and Benefits, Consultants and Intra-County Professional

The estimated savings of \$216,776, at the end of the current fiscal year of 2006, would be carried over to reduce the proposed FY 07 budget's costs for the cities and the County.

PROPOSED FY 2006-2007 BUDGET

At its February 2006 LAFCO meeting, the Commission appointed a Budget Sub-Committee composed of Commissioners Don Gage and John Howe and LAFCO staff. The Commission directed the budget sub-committee to develop a draft budget for Commission consideration. The budget sub-committee held two meetings to discuss issues related to the budget. The following issues were discussed at the sub-committee level and will be brought to the full commission for consideration and action at a future meeting date:

- Attendance and participation of alternate commissioners at LAFCO meetings
- CALAFCO conference attendance policy
- Per diem amount for LAFCO Commissioners and alternates
- LAFCO Fees revision

The first three issues will be addressed through the policy revisions and the last item related to fee revision will be brought as a separate item to the Commission at its May 31 meeting.

The proposed budget has been developed by the budget sub-committee.

The proposed budget for FY 2006-2007 is \$689,388. The proposed budget is slightly higher (about 7%) than the budget for the current year. A detailed itemization of the budget is provided below.

Object 1. SALARIES AND BENEFITS (\$307,637)

All three LAFCO staff positions will be staffed through the County Executive's Office. The proposed salary and benefits amount includes cost of living expenses and potential increase in benefits costs.

LAFCO Executive Officer \$101,469

The Executive Officer position is proposed to be increased from a 0.6 FTE level to 0.75 FTE. The proposed salary and benefits for the Executive Officer position at the 0.75 FTE is \$101,469.

LAFCO Analyst \$123,356

The LAFCO Analyst position would remain full time. The proposed salary and benefits for the LAFCO Analyst position is \$123,356.

LAFCO Clerk \$82,812

The County has created an unique classification for the LAFCO Clerk position titled " LAFCO Office Specialist". The LAFCO Clerk position would remain full time and the proposed salary and benefits for the position is \$82,812.

Object 2. SERVICES AND SUPPLIES

5258200 INTRA-COUNTY PROFESSIONAL \$112,400

LAFCO Counsel \$54,900

LAFCO would continue to contract with the Office of the County Counsel for this position on an as needed basis at an hourly rate of \$183 (for FY 07) for an estimated 300 hours annually.

LAFCO Surveyor \$52,500

The County Surveyor will continue to assist with map review and approval. It is estimated that about 400 hours of service will be required in the next fiscal year. The County Surveyor's Office charges at the rate of about \$125 per hour.

Miscellaneous Staffing \$5,000

This amount allows LAFCO to seek technical assistance from the County Planning Office on CEQA or other planning issues. LAFCO accesses data in the County Planning Office's GIS server. This item includes maintenance and technical assistance for GIS, if necessary.

5255500 CONTRACT SERVICES \$100,000

This item is allocated for hiring consultants to assist LAFCO with special projects. This year, the amount is allocated for hiring

consultants to upgrade the LAFCO web site and to develop and implement an archival system for LAFCO records.

5210100 FOOD \$750

This item is being maintained at \$750.

5220200 INSURANCE \$281

This item is based on an estimate provided by the County to cover general liability, auto liability and other miscellaneous coverages. Worker's Compensation is part of the payroll charge.

5250100 OFFICE EXPENSES \$2,000

This item is being maintained at \$2,000 and provides for the purchase of books, periodicals, small equipment and supplies throughout the year.

5255650 DATA PROCESSING SERVICES \$15,689

This item includes funds for web site maintenance (100 hours of software engineer time for a total of \$9,328), LAN services (\$6,087, which includes 64 hours of support) and three Lotus Notes Passports Software maintenance (\$274).

5225500 COMMISSIONER'S FEES \$5,400

This item includes a proposed increase in per diem from \$50 to \$100 for LAFCO Commissioners in the Fiscal Year 2007. This item also includes enough monies to make per diem payments to alternate commissioners, should a policy be adopted that alternate commissioners attend and participate in LAFCO meetings.

The actual per-diem increase must be approved by the Commission and adopted by resolution. Staff will bring these items to the Commission for consideration at the next LAFCO meeting in May.

5260100 PUBLICATIONS AND LEGAL NOTICES \$1,000

The budget for this item is being maintained at \$1,000. This amount is for publication of hearing notices as required by state law for LAFCO applications and other projects/ studies.

5245100 MEMBERSHIP DUES \$4,000

This amount provides for the proposed increase in membership dues to the statewide association, CALAFCO -- the California Association of LAFCOs. CALAFCO will consider a three-year phased approach to dues increase starting with Fiscal year 2007. The proposed phased fee increase starts with \$4,000 in Fiscal Year 2007 and increases to \$7,000 in the third year with a cap on further increases for five years except for cost of living adjustments. This fee proposal will be voted on by the CALAFCO Board in September and will take effect only if approved.

In recent years, CALAFCO has expanded its services with the CALAFCO web site, newsletter, CALAFCO Sacramento Office, legislative representation and member publications such as directories to name a few. In addition to these, CALAFCO is implementing other new programs such as the CALAFCO University, insurance and employee benefit options and research resources.

5250750 PRINTING AND REPRODUCTION \$1,500

An amount of \$1,500 is being budgeted for printing expenses for reports such as service review reports or other studies.

5285800 BUSINESS TRAVEL \$10,500

This item is for both staff and commissioners to attend conferences and workshops. It would cover air travel, accommodation, conference registration and other expenses at the conferences. CALAFCO annually holds a Staff Workshop and an Annual Conference that is attended by commissioners as well as staff. In addition, this item covers the travel expenses for commissioner's travel to the CALAFCO Board meetings. Commissioner Wilson is serving a second term on the CALAFCO Executive Board.

5285300 PRIVATE AUTOMOBILE MILEAGE \$1,200

This item provides for travel to conduct site visits, attend meetings, training sessions etc.

5285200 TRANSPORTATION AND TRAVEL (for use of County car) \$1,500

This item would allow for the use of a County vehicle for travel to conferences, workshops and meetings.

5281600 OVERHEAD \$27,531

This is an amount established by the County Controller's Office, for service rendered by various County departments that do not directly bill LAFCO for service. The FY 2007 costs include three elements:

First, the overhead includes the LAFCO share of the County's FY 2007 Cost Allocation Plan which is based on actual overhead costs from FY 2005 – the most recent year for which actual costs are available and include the following charges for LAFCO.

County Executive's Office: \$10,148
Office of Budget and Analysis: \$1,816
Controller-Treasurer: \$3,787
Employee Services Agency: \$1,879
General Services Agency: \$3,036
Other Central Services: \$70

Secondly, a "roll forward" of \$2,384 is applied which is calculated by comparing FY 2005 Cost Plan with FY 2005 actuals. Since actuals exceeded the Plan by \$2,384, this amount is added to the FY 2007 Plan. This is a State requirement.

And lastly, an additional adjustment of \$4,555 is being made in the FY 2007 Cost Plan and is meant to reflect the increase in actual PERS costs in FY 2007. By making the adjustment at this time, the County is hoping to "flatten out" the roll-forward that would be charged in 2 years, when comparing the FY 2007 Plan to the FY 2007 actuals.

5275200 COMPUTER HARDWARE \$2,000

This item is being maintained at \$2,000 and will be used for hardware upgrades / purchases.

5250800 COMPUTER SOFTWARE \$2,000

This item is for purchases of computer software that would be required for the program and is also being maintained at \$2,000.

5250250 POSTAGE \$2,000

This amount is budgeted for the cost of mailing notices, agendas, agenda packets and other correspondence and is being maintained at \$2,000.

5252100 TRAINING PROGRAMS \$2,000

This item provides for staff development courses and seminars.

5701000 RESERVES \$90,000

This item includes reserves for two purposes: litigation reserve – for use if LAFCO is involved with any litigation and contingency reserve - to be used to deal with any unexpected expenses. This item is being increased from \$60,000 to \$90,000 and is at about 13% of the proposed budget for Fiscal Year 2007. If used during the year, this account will be replenished in the following year. In the past years, LAFCO has not had to use the reserves and the amount has been rolled over to the following year to offset the costs.

3. REVENUES

4103400 Application Fees \$30,000

It is anticipated that LAFCO will earn about \$30,000 in fees from processing applications. This amount is based on the current level of application activity, which is much lower than previous years. Additionally, since LAFCO has adopted a fee waiver for island annexations, we anticipate lower revenues.

The actual amount earned from fees is not within LAFCO control and would depend entirely on the actual level of application activity.

4301100 Interest \$5,000

It is estimated that LAFCO will receive an amount of about \$5,000 from interest earned on LAFCO funds.

COST APPORTIONMENT TO CITIES AND COUNTY

Calculation of Net Operating Expenses

**FY 2007 Net Operating Expenses = Proposed FY 2007 Expenditures – Proposed FY2007 Fee Revenues
– Projected Year End Savings**

FY 2007 Net Operating Expenses = \$689,388 - \$35,000- \$216,776

FY 2007 Net Operating Expenses = \$437,612

The proposed net operating expenses for FY 07 is lower (by about \$65,628) than the current year net operating expenses. This cost decrease is mostly due to large fund balance expected at the end of the current year.

This would result in a corresponding decreased cost to the cities and the County from the previous year. The projected operating expenses for FY 2007 are based on projected savings and expenses for the current year and are not actual figures. It is therefore to be expected that there will be revisions to the budget as we get a better indication of current year expenses towards the end of this fiscal year. This could result in changes to the proposed net operating expenses for FY 2007 which could in turn impact the costs for each of the agencies.

Provided below is the draft apportionment to the agencies based on the proposed net operating expenses for FY 2007 (\$437,612).

Cost to Agencies

County of Santa Clara	\$218,806
<hr/>	
City of San Jose	\$109,403
<hr/>	
Remaining 14 cities in the County	\$109,403

Apportionment of the costs among the 14 cities will be based on percentage of the cities' total revenues and will be calculated by the County Controller's Office after LAFCO adopts the final budget in June. A draft of the estimated apportionment to the cities is included as Attachment B to provide the cities a general indication of the LAFCO costs.

ATTACHMENTS

Attachment A: Proposed Draft Budget for FY 2006-2007

Attachment B: Estimated Costs to Agencies Based on the Draft Budget

**DRAFT LAFCO BUDGET
FISCAL YEAR 2006 - 2007**

**ITEM No. 6
Attachment A**

ITEM #	TITLE	APPROVED FY 05-06 BUDGET	END OF YEAR PROJECTIONS	PROPOSED FY 06-07 BUDGET
EXPENDITURES				
Object 1:	Salary and Benefits	\$321,329	\$253,654	\$307,637
Object 2:	Services and Supplies			
5258200	Intra-County Professional	\$107,320	\$87,000	\$112,400
5255500	Consultant Services	\$100,000	\$45,000	\$100,000
5210100	Food	\$750	\$750	\$750
5220200	Insurance	\$96	\$96	\$281
5250100	Office Expenses	\$2,000	\$1,500	\$2,000
5255650	Data Processing Services	\$12,193	\$5,000	\$15,689
5225500	Commissioners' Fee	\$1,500	\$1,500	\$5,400
5260100	Publications and Legal Notices	\$1,000	\$400	\$1,000
5245100	Membership Dues	\$2,161	\$2,161	\$4,000
5250750	Printing and Reproduction	\$1,500	\$1,000	\$1,500
5285800	Business Travel	\$9,000	\$9,000	\$10,500
5285300	Private Automobile Mileage	\$1,200	\$1,200	\$1,200
5285200	Transportation&Travel (County Car Usage)	\$1,500	\$1,000	\$1,500
5281600	Overhead	\$14,120	\$14,120	\$27,531
5275200	Computer Hardware	\$2,000	\$2,000	\$2,000
5250800	Computer Software	\$2,000	\$1,500	\$2,000
5250250	Postage	\$2,000	\$1,200	\$2,000
5252100	Staff Training Programs	\$2,000	\$1,000	\$2,000
5701000	Reserves	\$60,000	\$0	\$90,000
TOTAL EXPENDITURES		\$643,669	\$429,081	\$689,388
REVENUES				
4103400	Application Fees	\$35,000	\$30,000	\$30,000
4301100	Interest: Deposits and Investments	\$5,000	\$9,000	\$5,000
	Total Interest / Application Fee Revenue	\$40,000	\$39,000	\$35,000
4600100	Cities (Revenue from other Agencies)	\$251,620	\$251,620	
5440200	County	\$251,620	\$251,620	
	* Savings/Fund Balance from previous FY	\$100,429	\$103,617	\$216,776
TOTAL REVENUE		\$643,669	\$645,857	
NET LAFCO OPERATING EXPENSES		\$503,240		\$437,612
COSTS TO AGENCIES				
	County	\$251,620		\$218,806
	City of San Jose	\$125,810		\$109,403
	Other Cities	\$125,810		\$109,403

* This amount includes all the unspent funds and the unspent reserves

S:\Lafco\LAFCO\LAFCO BUDGETS\LAFCO Budget 2007\[BudgetPrep07.xls]DraftBudget07

2006/2007 LAFCO COST APPORTIONMENT
Estimated Costs to Agencies Based on the DRAFT Budget

LAFCO Net Operating Expenses for 2006/2007				\$437,612
Jurisdictions	Revenue per 2002/2003 Report*	Percentage of Total Revenue	Allocation Percentages	Allocated Costs
County	N/A	N/A	50.0000000%	\$218,806.00
San Jose	N/A	N/A	25.0000000%	\$109,403.00
Campbell	\$32,891,311	2.3481246%	0.5870311%	\$2,568.92
Cupertino	\$54,314,503	3.8775353%	0.9693838%	\$4,242.14
Gilroy	\$64,950,590	4.6368500%	1.1592125%	\$5,072.85
Los Altos	\$24,185,913	1.7266425%	0.4316606%	\$1,889.00
Los Altos Hills	\$6,976,235	0.4980364%	0.1245091%	\$544.87
Los Gatos	\$26,221,022	1.8719298%	0.4679825%	\$2,047.95
Milpitas	\$72,963,039	5.2088621%	1.3022155%	\$5,698.65
Monte Sereno	\$1,694,050	0.1209389%	0.0302347%	\$132.31
Morgan Hill	\$36,342,726	2.5945225%	0.6486306%	\$2,838.49
Mountain View	\$131,435,450	9.3832322%	2.3458081%	\$10,265.54
Palo Alto	\$305,150,000	21.7847872%	5.4461968%	\$23,833.21
Santa Clara	\$414,752,756	29.6093741%	7.4023435%	\$32,393.54
Saratoga	\$18,118,864	1.2935133%	0.3233783%	\$1,415.14
Sunnyvale	\$210,751,676	15.0456510%	3.7614128%	\$16,460.39
Total	\$1,400,748,135	100.0000000%	100.0000000%	\$437,612.00
Total Cities				\$109,405.00

* The 2002-2003 Report is the most current available to date. The 2003-2004 Report is expected to be published soon.

The cities' cost estimates will be revised according to the 2003-2004 Report in the Final Budget.

Date prepared: April 10, 2006

Hearing date: April 12, 2006

To: Local Agency Formation Commission of Santa Clara County

From: Neelima Palacherla, Executive Officer
Dunia Noel, LAFCO Analyst *SN*

Subject: **Maps for the Santa Clara County Lighting Service Area,
Midpeninsula Open Space District and Santa Clara County Open
Space Authority**

Agenda Item #7

RECOMMENDATION

1. Adopt a map depicting the district boundary and sphere of influence boundary for the Santa Clara County Open Space Authority.
2. Continue to the May 31, 2006 LAFCO Meeting the Commission's consideration and potential adoption of maps depicting the district boundary and sphere of influence boundary of:
 - a. The Midpeninsula Open Space District, and
 - b. The Santa Clara County Lighting Service Area.

PROJECT DESCRIPTION

The map for Santa Clara County Open Space Authority is current as of March 31, 2006 and has been prepared for LAFCO adoption. The map was developed based on information received from the district and meetings and discussions that LAFCO staff have had with district staff. LAFCO staff continues to work with Santa Clara County Lighting Service Area staff and Midpeninsula Open Space District staff in order to resolve several mapping issues and to develop a map depicting each District's boundaries. LAFCO staff anticipates having final maps of the Santa Clara County Lighting Service Area and the Midpeninsula Open Space District available for Commission consideration and adoption at the May 31, 2006 LAFCO Meeting.

BACKGROUND

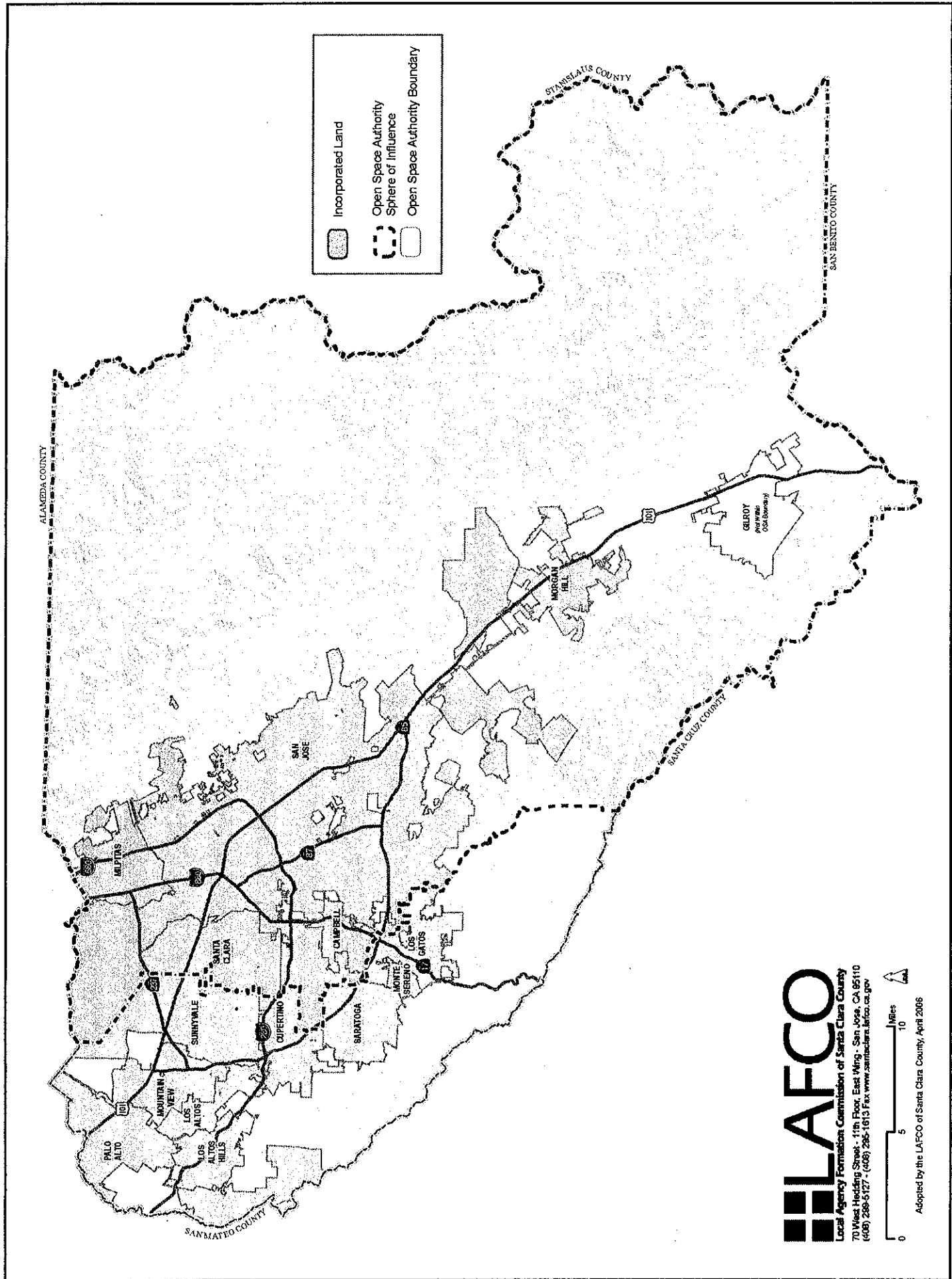
In preparation for LAFCO Service Reviews, LAFCO staff has undertaken the task of developing and maintaining maps of special district boundaries and their Sphere of Influence (SOI) boundaries in Geographic Information Systems (GIS). LAFCO contracted with the County of Santa Clara's Information Systems Department (ISD) to prepare boundary maps for special districts in Santa Clara County.

Prior to this project, LAFCO did not have boundary maps for special districts in Santa Clara County. As a result, this map was prepared using various information sources, including historical sphere of influence documents, LAFCO resolutions, district legal descriptions, information obtained from the County of Santa Clara Assessor and the County of Santa Clara Registrar of Voters, as well as information obtained from open space district staff.

This map could not have been prepared without the efforts of the Santa Clara County Open Space Authority's staff, and County of Santa Clara staff, including staff from the Information Services Department, Surveyor's Office, Controller's Office, Planning Office, Registrar of Voters Office, and Assessor's Office.

This map is the official LAFCO map for this special district and will be maintained and kept current by LAFCO staff with the assistance of the County of Santa Clara Information Systems Department.

Santa Clara County Open Space Authority Boundaries



LAFCO
 Local Agency Formation Commission of Santa Clara County
 70 West Hedding Street - 17th Floor, East Wing - San Jose, CA 95110
 (408) 289-5127 - (408) 285-1613 Fax www.santacruz.lafco.ca.gov

0 5 10 Miles

Adopted by the LAFCO of Santa Clara County, April 2006



Local Agency Formation Commission of Santa Clara County

ITEM No. 8a

LAFCO Meeting: April 12, 2006

To: LAFCO Commissioners

From: Neelima Palacherla, LAFCO Executive Officer

Subject: **Proposed LAFCO Policies Revision**
Agenda Item # 8a

STAFF RECOMMENDATION

Review the required revisions and provide staff with further direction to proceed.

BACKGROUND

At the February 16, 2006 LAFCO Planning Workshop, the Commission requested staff to review its current policies and inform the Commission on the need for revisions. Staff provided an off-agenda memo to the Commission after completing an initial review of its current policies and procedures. Since then, a few other policy areas requiring clarification have arisen. This report includes a listing and short discussion of all the needed revisions.

Staff has sorted the needed policy revisions based on whether they are:

1. A minor revision of existing policies to be consistent with changes in state law
2. A revision or expansion of existing policies, where existing policies are insufficient
3. Development of new policies

1. Revise Existing Policies to be Consistent with Changes in State Law

Are current LAFCO policies consistent with state law, i.e., do LAFCO policies need to be updated to reflect any recent changes in state law.

A. SOI Update Extension to 2008

In 2006, State law extended the timeline for completing the first set of spheres of influence updates from 2006 to 2008.

Recommendation

LAFCO service review policies must be updated to reflect this.

B. Certain SOI Requirements Expire in 2006

Some of the SOI requirements relating to city-county agreements specified in state law also expire at the end of this year. It is unclear if these requirements will be extended beyond 2006.

Recommendation

LAFCO SOI policies should be updated in 2007 to reflect the State law. There is no need for any revision at this time.

C. Island Annexation Provision Expires End of 2006

Similarly, the streamlined island annexation provision in state law expires at the end of 2006. There is currently an effort by CALAFCO to seek extension of this legislation.

Recommendation

If there is an extension of this legislation, LAFCO must revisit its island annexation policies. This will likely need to be done at the end of this calendar year.

D. Waiver of Protest Proceedings

There has been a change in State law relating to conditions for waiving protest proceedings. The current law that became effective on January 1, 2006, no longer requires agencies to consent in writing, to a waiver of protest proceedings. LAFCO may waive protest proceedings if it does not receive any written opposition.

Recommendation

LAFCO's policies on Conducting Authority Proceedings must be revised to reflect this change.

2. Revise or Expand Existing Policies

Is there a need to revise or bolster existing LAFCO policies to address changing local conditions or specific areas where existing policies are insufficient?

A. VLF Funding for New Incorporations

For sometime now, the unincorporated community of San Martin has been seeking to incorporate as a city. Its efforts to incorporate are on hold pending the passage of legislation to allocate VLF revenue shares to newly formed cities allowing incorporations to be financially feasible. LAFCO does not have a petition or application from San Martin. This is the only community likely to incorporate in Santa Clara County.

LAFCO's current policies on incorporation are very general. The State OPR has developed a detailed set of policies for processing incorporation proposals. These have been very helpful to the incorporation proponents as well as to LAFCO staff thus far.

Recommendation

LAFCO should review its policies at an appropriate time and decide if they need to be augmented further.

3. Develop New Policies

Is there a need to develop new policies in order to address specific issues that would come before LAFCO and/or in order to comply with state law?

A. Agricultural Mitigation Policies

As discussed at the LAFCO workshop on February 16th, LAFCO lacks detailed mitigation policies for the loss of agricultural lands. **This issue is discussed in Agenda Item #8b.**

B. LAFCO Records Retention Policy

LAFCO records have been stored by the Clerk of the Board's Office on the 10th floor as part of the County Records. The Clerk's Office has requested that LAFCO manage its own records and has asked that LAFCO records be moved from the 10th floor.

Recommendation

As an independent agency, it is important for LAFCO to establish policies and procedures for retaining and managing its records.

C. Compensation and Reimbursement Policies

CKH authorizes reimbursement to LAFCO Commissioners for reasonable and necessary expenses incurred in attending meetings and in performing the duties of office. AB 1234, effective January 2006, requires that a written policy be adopted specifying the types of occurrences that qualify for a Commissioner to receive reimbursement of expenses relating to travel, meals, lodging and other necessary expenses. The policy may also specify the reimbursement rates, or the IRS rates for reimbursement that shall be used.

Recommendation

LAFCO should adopt a reimbursement policy.

D. Attendance and Participation of Alternate Commissioners at LAFCO Meetings

Should alternate LAFCO Commissioners attend all LAFCO meetings even if they are not needed to take the place of the regular LAFCO commissioner? This issue was raised at the Budget Sub Committee meetings and must be considered by the full commission.

Recommendation

LAFCO should adopt a policy to clarify the role and participation of alternate commissioners.

E. Adoption of Per-diem amount for LAFCO Commissioners

The Budget sub committee recommended that the full commission review and consider revision to the per diem amount paid to the commissioners for attendance at LAFCO meetings.

Recommendation

LAFCO must approve and adopt any changes to the per diem amount by resolution.

Summary: Proposed LAFCO Policies Revision

1. Update Existing Policies to be Consistent with Changes in State Law		
Policies	Begin Revision	Level of Effort Needed
Service Review Policies	Immediately	Minimal
SOI Policies	At the end of 2006	Minimal
Island Annexation Policies	Possibly at end of 2006	Moderate
Conducting Authority Proceedings	Immediately	Minimal
2. Revise or Expand Existing Policies		
Policies	Begin Revision	Level of Effort Needed
Incorporation Policies	Possibly at end of 2006	Extensive
3. Develop New Policies		
Policies	Begin Revision	Level of Effort Needed
Ag mitigation policies	Immediately	Extensive
Records Retention Policies	At the end of 2006	Extensive
Policies on Compensation (AB 1234)	Immediately	Moderate to Extensive
Policy on Participation of Alternate LAFCO Commissioners	Immediately	Moderate
Adoption of Per Diem for LAFCO Commissioners	Immediately	Minimal

Summary: Proposed LAFCO Policies Revision

1. Update Existing Policies to be Consistent with Changes in State Law		
POLICIES	BEGIN REVISION	LEVEL OF EFFORT
Service Review Policies	Immediately	Minimal
* SOI Policies	Immediately	Minimal
Island Annexation Policies	Possibly at end of 2006	Moderate
Conducting Authority Proceedings	Immediately	Minimal
2. Revise or Expand Existing Policies		
POLICIES	BEGIN REVISION	LEVEL OF EFFORT
Incorporation Policies	Possibly at end of 2006	Extensive
3. Develop New Policies		
POLICIES	BEGIN REVISION	LEVEL OF EFFORT
Ag mitigation policies	Immediately	Extensive
Records Retention Policies	At the end of 2006	Extensive
Policies on Compensation (AB 1234)	Immediately	Moderate to Extensive
Policy on Participation of Alternate LAFCO Commissioners	Immediately	Moderate
Adoption of Per Diem for LAFCO Commissioners	Immediately	Minimal

* Also, to clarify and reiterate the intent and use of the SOI boundary in Santa Clara County

LAFCO Meeting: April 12, 2006
To: LAFCO Commissioners
From: Neelima Palacherla, LAFCO Executive Officer *NP*
Subject: Development of LAFCO Agricultural Mitigation Policies
Agenda Item #8b

STAFF RECOMMENDATION

Authorize staff to develop agricultural mitigation policies for LAFCO.

BACKGROUND

Existing LAFCO USA policies provide general examples of different types of mitigation that should be provided when a proposal involves the conversion of agricultural lands to urban uses. These policies however, do not specify what types of lands (e.g., prime farmland, land significantly impacted based on LESA analysis) would require mitigation, where (location) mitigation should occur, how much (number of acres, and/or other costs) mitigation should be required or timing (e.g., prior to or after LAFCO approval of the application) of the mitigation.

Currently, the City of Gilroy is the only city in Santa Clara County with mitigation policies. (San Jose is in the process of developing its own mitigation requirements.) In order to ensure that LAFCO issues are considered and appropriately addressed, LAFCO should develop its own policies for mitigation so that LAFCO's expectations are clear to applicants, cities and affected property owners.

The following is an overview of the proposed process for development of LAFCO's Agricultural Mitigation Policies.

A. Collect Information, Meet with Stakeholders

1. Carefully review other agencies' mitigation policies, including those of cities and other LAFCOs.
2. Collect information through research, interviews, meetings, and workshops in the following three areas.
 - a. Current conditions affecting conventional agriculture in Santa Clara County

- b. Potential for innovative small scale urban edge agriculture and other new forms of agriculture in Santa Clara County and examples from Bay Area counties or elsewhere
- c. Potential agencies or organizations that could implement agricultural protection programs in Santa Clara County

B. Develop Draft Policies for Review by Stakeholders

Based on this information, LAFCO staff will develop a set of draft policies and distribute them to the various groups of stakeholders for review and comment. LAFCO staff will consider and address their comments as best as possible and propose revisions to the draft policies as necessary.

C. Hold LAFCO Public Hearing on Agricultural Mitigation Policies

LAFCO staff will circulate the revised policies for review and comment prior to bringing them to full commission hearing, in the Fall of this year.

Additional Document
Item No. 8b



Loma Prieta Chapter
Sierra Club
3921 East Bayshore Road
Palo Alto, CA 94303
April 11, 2006

Neelima Palacherla, LAFCO Executive Officer
LAFCO, Santa Clara
70 West Hedding Street, 11th Floor
San Jose, CA 95110

Subject: Response to Agenda Item #8b, Development of LAFCO Agricultural Mitigation Policies

Dear Ms. Palacherla:

The Sierra Club strongly supports the development of specific agricultural mitigation policies by LAFCO. Current LAFCO USA policies do provide general examples of different types of mitigation for the conversion of agricultural lands to urban uses. However, they leave many questions unanswered such as what types of lands would require mitigation, where the mitigation should occur, how much mitigation should be required or the timing of the mitigation.

The Sierra Club strongly agrees that the development of specific agricultural mitigation policies would clarify LAFCO's position to applicants, cities and affected property owners. With the pending development of Coyote Valley and the development of mitigation policies by San Jose, this action on your part would seem especially important.

Should LAFCO decide to undertake the creation of such a policy, we would like to be involved as both a workshop participant and a stakeholder. Please contact our director Melissa Hippard at 650-390-8414 or Melissa.Hippard@Sierraclub.org.

Yours truly,

A handwritten signature in cursive script that reads "Karen Maki".

Karen Maki
Executive Committee, Chair
Loma Prieta Chapter, Sierra Club



LAFCO of Santa Clara County
70 West Hedding Street, 11th Floor, East Wing
San Jose, CA 95110

April 12, 2006

Dear LAFCO Commissioners:

Greenbelt Alliance is extremely supportive of the development and adoption of specific agricultural mitigation policies for Santa Clara County by LAFCO. With most of the County's farmland already lost to development, it is important to take the time now to protect the remaining agricultural base, while encouraging cities to focus on more compact, infill development.

Specific agricultural mitigation policies that identify which types of lands would require mitigation, as well as where, how much and when the mitigation should occur, will help provide more certainty to cities, property owners, and applicants. This policy should not preclude efforts to direct all new development within existing cities and towns - either by building up or redeveloping underutilized sites.

We would also like to express concern regarding Gilroy's proposal to expand its Urban Service Area (USA) to include Prime Farmland. Greenbelt Alliance continues to maintain that cities should exhaust all infill opportunities first, before expanding to include more farmland for future development. It is commendable that Gilroy has already adopted an agricultural mitigation policy. However, Gilroy still has many opportunities to grow within their USA, and developing prime farmland, even with an agricultural mitigation policy in place, still means a loss of 26 acres of what is considered to be some of the most productive soil in Santa Clara Valley.

Sincerely,

Michele Beasley
South Bay Field Representative



Local Agency Formation Commission of Santa Clara County

Date Prepared: April 10, 2006

LAFCO Meeting: April 12, 2006

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst *DN*

SUBJECT: Update on Island Annexations

Agenda Item #9

For Information Only

Cities Actively Pursuing Island Annexations

LAFCO staff is currently working with the cities of Los Altos, Monte Sereno, Morgan Hill and Mountain View to facilitate several island annexations. The streamlined provisions in state law expire on January 1, 2007 and LAFCO staff expects other cities to take advantage of these provisions prior to that date. The following is a brief update for each of the various cities that LAFCO staff is working with:

Los Altos

In February 2006, the City of Los Altos completed the first streamlined island annexation in the Santa Clara County for an area called Blue Oak Lane which consists of 21 parcels and has 57 residents. Also, the City and the County are currently negotiating road improvements in the Woodland Acres area and the City is tentatively scheduled to complete the annexation of the Woodland Acres area in late April.

Monte Sereno

Monte Sereno's City Council continues to discuss the potential annexation of 3 unincorporated islands. The City Council at its March 21st Hearing voted 4 to 1 to proceed with the annexation process including commencement of an environmental study and directed the City Manager to work with the Mayor to schedule a public hearing on the matter. One councilmember stated that he supported the moving forward with the annexation process conditioned on the return of the City's TEA (Tax Equity Allocation) revenue.

Morgan Hill

This month, the City of Morgan Hill will be initiating the annexation of 15 islands and the City plans to complete the island annexation process by summer. Also, staff from the County, LAFCO, Morgan Hill, and the Santa Clara Valley Water District continue to work to facilitate the annexation of Holiday Lake Estates. This annexation effort is complex due the area's ongoing septic system issues and the need for unincorporated property owners in Holiday Lake Estates to form and fund a sewer assessment district that will allow the City of Morgan Hill to extend and improve sewer infrastructure in the area.

Mountain View

The Mountain View City Council directed City staff to begin the annexation process for four unincorporated islands. The City has indicated that they will be holding a public hearing to initiate the annexation process in May and expects to complete the annexation in mid-summer.

Saratoga

The Saratoga City Council, at its April 5, 2006 meeting, directed City staff to begin an island annexation process for 2 unincorporated islands (a 104 acre island in the Prospect Road Area and a 20 acre island in the Hidden Hill Road Area). The City expects to complete the island annexation process by fall.

Cities Considering Pursuing Island Annexations

San Jose

The April 11, 2006 San Jose City Council Agenda included an agenda item in which City of San Jose staff is requesting direction from the Council on whether to proceed with an island annexation process, beginning with a Pilot Program involving 16 such islands. The agenda item was originally scheduled for the March 21st City Council Hearing but has been deferred several times. This item was deferred to the April 18, 2006 City Council Meeting.

Campbell

No update.

Cupertino

No update.

Date Prepared: April 10, 2006

LAFCO Meeting: April 12, 2006

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst *DN*

SUBJECT: Update on South Central Service Review/Sphere of Influence Study

Agenda Item #10

Update on the South Central Service Review/Sphere of Influence Study

For Information Only

Staff and consultants met with the South Central County Technical Advisory Committee (TAC) on March 29, 2006 to:

- Update the TAC on the preparation of the service review document and service review process,
- Update and discuss the Sphere of Influence (SOI) recommendations for special districts and cities,
- Update and discuss the proposed CEQA action for the Service Review and SOI Recommendations, and
- Review the next steps and the timeline for completing the project.

The Draft Service Review and SOI Recommendations Report and CEQA documentation will be released electronically for a 30-day public review period in mid-April. The entire document will be available on the LAFCO Website for downloading and affected agencies and interested parties will receive a "Notice of Availability" in the mail that directs them to the LAFCO website. The first public hearing for the Service Review and SOI Recommendations will be held at the May 31st LAFCO meeting. LAFCO staff and the consultants will then revise the Report where appropriate to reflect the comments received. The Final Draft Service Review and SOI Recommendations Report will then be available 30 days prior to Final Public Hearing which is scheduled to occur at the August 9th LAFCO Meeting.

LAFCO staff will continue to provide the Commission with status reports as the project progresses.

April 12, 2006

To: LAFCO Commissioners and Staff
From: Bobbie Fischler, President
League of Women Voters – San Jose/Santa Clara
Subject: Development of LAFCO Agricultural Mitigation Policies

The League of Women Voters – San Jose/Santa Clara urges LAFCO Commissioners to authorize staff to develop agricultural mitigation policies. We believe that appropriate land should be identified and held for agriculture, especially in areas threatened by urbanization. Such is the case with thousands of acres in Coyote Valley being planned as an urban community. A portion of the San Jose Coyote Valley Specific Plan area is in the county. So there is some urgency to complete an agricultural mitigation policy as soon as is feasible.

Farmland is being preserved in Livermore, Davis, Fairfield and Sonoma County through agricultural mitigation. Those programs could be included in the research by LAFCO staff.

Assuming LAFCO approves a work plan to develop Agricultural mitigation policies, LWV-SJ/SC asks that you consider the Commission hearing in the Fall be held in the evening which is the optimum time for public participation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bobbie Fischler", followed by a horizontal line extending to the right.