



**LAFCO MEETING  
AGENDA  
Wednesday, February 8, 2012  
1:15 PM**

**Board Meeting Chambers  
70 West Hedding Street, First Floor, San Jose, CA 95110**

**CHAIRPERSON: Pete Constant • VICE-CHAIRPERSON: Mike Wasserman  
COMMISSIONERS: Margaret Abe-Koga, Liz Kniss, Susan Vicklund-Wilson  
ALTERNATES: Al Pinheiro, Sam Liccardo, George Shirakawa, Terry Trumbull**

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.

**Disclosure Requirements**

**1. Disclosure of Campaign Contributions**

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, 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. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/PartyDisclForm.pdf>

**2. Lobbying Disclosure**

Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/LobbyDisclForm.pdf>

**3. Disclosure of Political Expenditures and Contributions Regarding LAFCO Proceedings**

If the proponents or opponents of a LAFCO proposal spend \$1,000 with respect to that proposal, they must report their contributions of \$100 or more and all of their expenditures under the rules of the Political Reform Act for local initiative measures to the LAFCO office. For additional information and for disclosure forms see:

[http://www.santaclara.lafco.ca.gov/sclafcopolicies\\_annex&reorg\\_home.html](http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html)

1. **ROLL CALL**
2. **PUBLIC COMMENTS**

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

3. **APPROVE MINUTES OF DECEMBER 7, 2011 LAFCO MEETING**

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**PUBLIC HEARING**

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4. **SARATOGA URBAN SERVICE AREA AMENDMENT 2011**

*Continued from December 7, 2011*

Supplemental Information (February 8, 2012)

A request by the City of Saratoga for an amendment of its urban service area boundary to include approximately 54 acres comprising of seven parcels (APNs 503-11-006, 008, 009, 503-74-001, 002, 003 and 004) located on Mt. Eden Road.

**Possible Action:**

- a. Open public hearing and receive public comments.
- b. Close public hearing.
- c. Consider the request for USA amendment and staff recommendation.

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**ITEMS FOR ACTION / DISCUSSION**

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5. **IMPLEMENTATION OF THE RECOMMENDATIONS OF LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT**

**Possible Action:** Accept staff report and provide direction to staff, as necessary.

6. **STATUS REPORT ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY**

**Possible Action:** Accept staff report and provide direction to staff, as necessary.

7. **EXECUTIVE OFFICER'S REPORT**

- 7.1 **UPDATE ON 2012 AUDIT AND SERVICE REVIEW OF EL CAMINO HOSPITAL DISTRICT**

Information Only.

- 7.2 **AD-HOC COMMITTEE FOR FISCAL YEAR 2012-2013 LAFCO BUDGET**

**Possible Action:** Establish an ad-hoc committee composed of two commissioners to work with staff to develop and recommend the proposed FY 2012-2013 LAFCO budget for consideration by the full Commission.

### **7.3 LAFCO STRATEGIC PLANNING WORKSHOP**

**Possible Action:** Delegate authority to LAFCO Executive Officer to enter into an agreement with Bill Chiat of the Alta Mesa Group in an amount not to exceed \$1,500 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

### **7.4 LAFCO STAFF'S PARTICIPATION IN GREENBELT ALLIANCE'S "CHANGEMAKER TRAINING"**

Information Only.

### **7.5 2012 CALAFCO STAFF WORKSHOP**

**Possible Action:** Authorize staff to attend the 2012 CALAFCO Staff Workshop and authorize travel expenses funded by LAFCO budget.

### **7.6 LEGISLATIVE ANALYST'S OFFICE REPORT ON SPECIAL DISTRICTS AND LAFCOs**

Information Only.

## **8. PENDING APPLICATIONS / UPCOMING PROJECTS**

- Campbell 2012 Urban Service area / Sphere of Influence Amendment and Reorganization

## **9. COMMISSIONER REPORTS**

## **10. NEWSPAPER ARTICLES / NEWSLETTERS**

## **11. WRITTEN CORRESPONDENCE**

- Letter from Raymond Sanchez regarding South Santa Clara Valley Memorial District

## **12. ADJOURN**

Adjourn to regular LAFCO meeting on Wednesday, April 4, 2012, at 1:15 PM in the Isaac Newton Senter Auditorium, 70 West Hedding Street, San Jose.

Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commission less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office at the address listed at the bottom of the first page of the agenda during normal business hours. 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 at TDD (408) 993-8272, indicating that the message is for the LAFCO Clerk.

**LOCAL AGENCY FORMATION COMMISSION OF  
SANTA CLARA COUNTY  
MINUTES  
WEDNESDAY, DECEMBER 7, 2011**

**CALL TO ORDER**

**Acting Chairperson Pete Constant** called the meeting to order at 1:15 p.m.

**1. ROLL CALL**

The following Commissioners were present:

- **Vice Chairperson Pete Constant**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Commissioner Susan Vicklund-Wilson**

The following Commissioners were absent:

- **Chairperson Liz Kniss**
- **Alternate Commissioner Al Pinheiro**
- **Alternate Commissioner George Shirakawa**
- **Alternate Commissioner Sam Liccardo**
- **Alternate Commissioner Terry Trumbull**

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Analyst Dunia Noel**
- **LAFCO Counsel Mala Subramanian**

**2. PUBLIC COMMENT**

There was no public comment.

**3. APPROVE THE MINUTES OF OCTOBER 5, 2011 LAFCO MEETING**

The Commission approved the minutes of October 5, 2011 LAFCO meeting, as written.

**Motion:** Margaret Abe-Koga

**Second:** Mike Wasserman

**MOTION PASSED**

**AYES:** Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

**NOES:** None

**4. CONFERENCE WITH LEGAL COUNSEL**

The Commission adjourned to Closed Session at 1:18 p.m. and reconvened at 1:26 p.m. The Acting Chairperson announced that there was no report from Closed Session.

**5. SARATOGA URBAN SERVICE AREA AMENDMENT 2011**

Neelima Palacherla, LAFCO Executive Officer, recommended that the Commission take public comment and continue the hearing to February 8, 2011 to allow time for the City

to finalize and approve the pre-annexation agreement and provide other information necessary for evaluation of the USA amendment proposal.

This being the time and place for the public hearing, the Acting-Chairperson declares the public hearing open.

Chuck Page, Vice-Mayor, City of Saratoga, stated that the USA amendment would bring properties that are split between the City and the County under the City's jurisdiction with the goal of preserving agricultural lands. He directed attention to a map illustrating the proposed USA boundary amendment, the city limits and the subject properties.

**Commissioners Wasserman and Commissioner Wilson** stated that it is more appropriate to take public testimony on the project when the staff report is completed.

James Lindsay, Community Development Director, City of Saratoga, provided a handout to Commissioners and stated that Saratoga is committed to preserve the hillsides and open space. He also stated that the City Council will consider the pre-annexation agreement at its December 21, 2011 meeting.

Gerry de Young, Ruth and Going, Inc., on behalf of Garrod Trust, requested the Commission to notify the applicant of any other requirements that must be met before the February 8, 2012 public hearing.

Jan Garrod, General Manager, Garrod Trust, urged the Commission to approve the USA amendment stating that it is difficult to operate his business under two separate jurisdictions.

**Acting Chairperson Constant** determined that there are no members of the public who wished to speak on the item and declared the public hearing closed.

In response to an inquiry by Commissioner Wasserman, Ms. Palacherla informed that the City had fulfilled the formal filing requirements; however, the pre-annexation agreement has not been approved by the City Council. She added that the City Council is scheduled to consider it at its December 21, 2011 meeting. In response to a follow-up inquiry by **Commissioner Wasserman**, Ms. Palacherla advised the City staff has been informed of this.

In response to an inquiry by **Commissioner Wasserman**, James Lindsay, Community Development Director, City of Saratoga, stated that City staff is aware that the City must demonstrate its commitment to maintain the area as open space and that the pre-annexation agreement would include that information.

In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla informed that while subject parcels are not prime agricultural lands, they are under Williamson Act contract and State law prohibits annexation except under specific circumstances. Ms. Palacherla added that the application is unusual because the City wants to annex these lands in order to protect them. In response to a follow-up inquiry by **Commissioner Wilson**, Ms. Palacherla advised that the best protection is to place these lands under agricultural easement or public ownership. In response to further inquiry by **Commissioner Wilson**, Ms. Palacherla informed that another issue related to this application is that the City has several islands within its USA and LAFCO policies require cities to annex islands prior to expanding USA boundary.

**Acting Chairperson Constant** stated that the application is not for allowing potential development but relates to the City's effort to preserve agricultural land.

The Commission continued the public hearing to February 8, 2012.

**Motion:** Susan Vicklund-Wilson

**Second:** Mike Wasserman

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

6. **2011 COUNTYWIDE WATER SERVICE REVIEW FINAL REPORT AND SPHERE OF INFLUENCE UPDATES FOR WATER AND RESOURCE CONSERVATION DISTRICTS**

Dunia Noel, LAFCO Analyst, provided the staff report.

This being the time and place for the public hearing, **Acting Chairperson Constant** declares the public hearing open.

Meg Giberson, President, Board of Directors, Guadalupe-Coyote Resource Conservation District (GCRCD), thanked the Commission for accepting comment letters from the agency and reiterated that GCRCD's services complement rather than duplicate those provided by the Santa Clara Valley Water District. She added that GCRCD would work with LAFCO to address such perception about jurisdiction and overlaps. She expressed appreciation to the Commission for retaining GCRCD's SOI boundary.

**Acting Chairperson Constant** determined that there are no members of the public who wished to speak on the item and declared the public hearing closed.

In response to an inquiry by **Commissioner Wilson**, Ms. Noel advised that staff notified the affected agencies, public and all those who provided comments when the draft report was revised and posted on the LAFCO website.

The Commission adopted **Resolution No. 2011-04**, adopting the 2011 Countywide Water Service Review Report, adopting service review determinations, and adopting SOI updates and determinations for Santa Clara Valley Water District, Aldercroft Heights County Water District, Purissima Hills Water, San Martin County Water District, Guadalupe Coyote Resource Conservation District, and Loma Prieta Resource Conservation District. Said Resolution, by reference hereto, is made part of these minutes.

The Commission directed staff to (1) prepare the Final Report for the 2011 Countywide Water Service Review and to distribute the Final Report to all the affected agencies; and (2) contact each agency and request a written response on how and when the agency plans to address the findings and/or implement the recommendations presented in the Final Report along with an explanation if it disagrees with a finding or recommendation.

**Motion:** Susan Vicklund-Wilson

**Second:** Margaret Abe-Koga

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

7. **SARATOGA FIRE PROTECTION DISTRICT**

Ms. Palacherla presented the staff report.

David Moyles, Commissioner, Saratoga Fire Protection District (SFPD), urged the Commission not to pursue the dissolution study stating that the SFPD has a long history in Saratoga, enjoys broad community support and that it is unlikely that the projected savings would materialize. He stated that the present set-up, with SFPD collecting revenues and representing voters, and with Santa Clara County Central Fire Protection District (SCCCFPD) providing fire services, is a good example of public accountability.

In response to an inquiry by **Commissioner Wasserman**, Mr. Moyles stated that the small savings to be gained is not worth giving up local control. In response to an inquiry by **Commissioner Abe-Koga**, Mr. Molyes explained that SFPD covers only a portion of Saratoga because it was formed in the 1920s to provide fire services to ranches and that there were no proposals to cover the entire City. He added that there were discussions in the 1980s to merge it with SCCCFPD.

Chuck Page, Vice-Mayor, City of Saratoga, stated that there would be no savings for taxpayers even if SFPD is dissolved because the same amount of tax revenues would be allocated to SCCCFPD. In response to an inquiry by **Commissioner Wasserman**, Mr. Page informed that dissolution would fail if placed on the ballot. **Commissioner Wasserman** stated that the question is whether LAFCO should spend \$8,000 to study this issue and find out the extent of savings from dissolution. Mr. Page agreed that \$8,000 may not be a large sum but continued to question the savings. He also stated that it is premature to conduct a study on SFPD because it has been only three years since SFPD's firemen were absorbed by SCCCFPD.

**Acting Chairperson Constant** determined that there are no members of the public who wished to speak on the item.

**Commissioner Wilson** expressed support for the staff recommendation stating that the issue was raised previously in two fire service review reports as well as in the Civil Grand Jury report. **Commissioner Abe-Koga** noted that the Commission could make a decision on the dissolution issue when the study is completed. **Commissioner Wasserman** stated that government agencies must be reviewed for their relevance over time and agreed that the facts from the study would determine if any changes are warranted.

The Commission (1) authorized staff to conduct a special study on the impacts of dissolution/annexation, including a detailed analysis of the cost savings and fiscal impacts in order to inform the decision on whether or not to initiate dissolution of the Saratoga Fire Protection District and annex its territory to the Santa Clara County Central Fire Protection District; (2) authorized staff to seek a professional service firm through a Request for Proposals process to conduct the special study referenced above; and (3) delegated authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$8,000 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

**Motion:** Susan Vicklund-Wilson

**Second:** Margaret Abe-Koga

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

**8. EL CAMINO HOSPITAL DISTRICT AUDIT AND SERVICE REVIEW**

Ms. Palacherla presented the report and announced that Attachment B is a letter to LAFCO from Mr. Ken King, Administrative Services Officer of the El Camino Hospital and not El Camino Hospital District as indicated in the staff report.

Benjamin Picard, Superintendent, Sunnyvale School District, expressed appreciation to the El Camino Hospital District for providing a school nurse and in supporting healthy eating, student mental health counseling services and other health programs in the school district.

Ngao Bui-Tong, Ambulatory Care and Community Health Services Department, Santa Clara Valley Medical Center, expressed appreciation to the El Camino Hospital District for providing adult health and dental services at the Valley Health Center in Sunnyvale.

The Commission accepted the report.

**Motion:** Susan Vicklund-Wilson

**Second:** Margaret Abe-Koga

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

**9. LEGISLATIVE REPORT**

The Commission accepted the report.

**Motion:** Mike Wasserman

**Second:** Margaret Abe-Koga

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

**10. 2012 SCHEDULE OF LAFCO MEETINGS**

The Commission adopted the 2012 Schedule of LAFCO Meetings and Application Filing Deadlines.

**Motion:** Mike Wasserman

**Second:** Susan Vicklund-Wilson

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

**11. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2012**

The Commission appointed Pete Constant as Chairperson for 2012 and Mike Wasserman as Vice-Chairperson.

**Motion:** Mike Wasserman

**Second:** Susan Vicklund-Wilson

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None



**12. EXECUTIVE OFFICER'S REPORT**

Ms. Noel presented the staff report.

**Acting Chairperson Constant** and **Commissioner Abe-Koga** expressed interest in attending the CALAFCO course on health care districts.

At the request of **Commissioner Wasserman**, Ms. Noel advised that staff will provide a report at the next meeting on responses of each of the cities to LAFCO's May 2, 2011 letter regarding island annexations. In response to an inquiry by **Commissioner Wilson**, Ms. Noel indicated that no analysis of the VLF shift on island annexations is available for the county, and staff would provide additional information at the next meeting. In response to a follow-up inquiry by **Commissioner Wasserman**, Ms. Noel reported that Los Gatos' current response is from staff and a formal response from the City Council is expected later.

**13. PENDING APPLICATIONS/UPCOMING PROJECTS**

**13.1 MORGAN HILL URBAN SERVICE AREA AMENDMENT: MONTEREY-SOUTH OF WATSONVILLE PROJECT**

Ms. Noel informed that the application may be brought to the Commission in early 2012.

**14. COMMISSIONERS REPORT**

There was no report.

**15. NEWSPAPER ARTICLES / NEWSLETTERS**

There were no newspaper articles/newsletters.

**16. WRITTEN CORRESPONDENCE**

There was no written correspondence.

**14. ADJOURN**

The meeting was adjourned at 2:39 p.m. to the next meeting on Wednesday, February 8, 2012 in Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

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Pete Constant, Acting Chairperson  
Local Agency Formation Commission of Santa Clara County

By: \_\_\_\_\_  
Emmanuel Abello, LAFCO Clerk

**LAFCO MEETING: February 8, 2012**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: SARATOGA URBAN SERVICE AREA AMENDMENT 2011**  
**(LANDS OF GARROD TRUST)**

**STAFF RECOMMENDATION**

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**1. CEQA Action**

- a. As a Responsible Agency under CEQA, determine that the proposal is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project has the potential for causing a significant adverse effect on the environment.

**2. Proposal**

- a. Approve the expansion of the City of Saratoga's urban service area (USA) boundary to include the seven properties as depicted in Attachment A conditioned on:
  - 1. Prior to annexation, the City shall apply an overlay designation of Agricultural Preserve / Open Space (AP/OS) on the Garrod Trust property as stipulated in the Pre-Annexation Agreement (Attachment B) between the Garrod Trust and the City of Saratoga.
  - 2. Prior to City annexation proceedings of the Garrod Trust property the City shall submit a report to LAFCO that includes the following:
    - a. The City shall evaluate all proposed compatible uses listed in the proposed combined Williamson Act Contract for the Garrod Trust properties and shall ensure that the uses are consistent with the compatibility principles in Government Code Section 51238.1.
    - b. The City shall submit copies of the Development Agreement and Conditional Use Permit referenced in the Pre-Annexation Agreement to LAFCO.
  - 3. Upon annexation, the City shall succeed to all rights, duties, and powers of the County under the Williamson Act Contract on the Garrod Trust properties.

4. Pursuant to Government Code Section 56856.5, upon annexation, no services or facilities related to sewers, non-agricultural water or streets and roads shall be provided to the Garrod Trust properties during the term of the Williamson Act Contract for land uses or activities not allowed under the Williamson Act Contract.
5. Pursuant to Government Code Section 56889, upon annexation, the City shall adopt the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Sections 51231, 51237, 51237.5.
6. The City shall initiate annexation of the remaining islands and/or seek amendment of its USA in order to eliminate islands, as described in the City's letter dated January 4, 2012 and outlined in this report. No further USA expansions for the City shall be considered by LAFCO until the island annexations and/or USA amendments are initiated.
7. The City shall report annually to LAFCO on the status of its Williamson Act Contract with Garrod Trust for the next ten years following City annexation of the Garrod Trust property as well as at the time of any future City USA amendment proposals to LAFCO.

## **PROJECT DESCRIPTION**

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The City of Saratoga is proposing an amendment to its urban service area (USA) in order to include approximately 54 acres of land comprising seven parcels (APNs 503-11-006, 008, 009, 503-74-001, 002, 003, 004). All of these parcels except for one (APN 503-11-006) are owned by the Garrod Trust. The USA amendment area is part of a larger site comprising of approximately 120 acres and containing the Cooper-Garrod Winery and Garrod Farms Commercial Equestrian Center located on 22600 Mt. Eden Road. Of the 120 acres, 51 acres are located in the City of Saratoga, 1.5 acres are located in the City of Cupertino and 68 acres are located in the unincorporated County, 14 acres of which are located within Saratoga's current USA.

The stated purpose of the USA amendment is to bring all of the Garrod Trust lands under the jurisdiction of the City of Saratoga (except those lands within the City of Cupertino). Garrod Trust will then seek to annex its property located within the unincorporated county into the City of Saratoga such that the existing structures and uses on its property are not bisected by the City/County jurisdictional lines. The City has stated that there is no development proposal associated with the USA amendment proposal and that existing land uses and conditions will be maintained in the future. See attached map of the USA amendment proposal area. (Attachment A)

## **BACKGROUND**

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The City of Saratoga submitted the Garrod Farms USA amendment application to LAFCO in the fall of 2011. Since the City fulfilled all the formal filing requirements, LAFCO staff scheduled a public hearing on the item for the December 2011 LAFCO meeting and sent out public hearing notices. However, upon closer review of the application material, staff found that several aspects of the application were provided in a draft version and not finalized by the City or approved by the City Council. For instance, the City's resolution refers to a Pre-Annexation Agreement between the Garrod Trust and the City. Among other provisions, the Pre-Annexation Agreement sets forth the agreements and conditions under which the annexation will take place and includes the proposed new Williamson Act Contract, provisions for a development agreement, a use permit, and provisions regarding conforming/non-conforming status of existing uses on the properties – all highly relevant and crucial information to the evaluation of the USA application. Only a draft version of the Agreement was included in the application material and was not scheduled to be approved by the City Council before the LAFCO meeting date in December 2011. Therefore, on December 7, 2011, LAFCO opened the public hearing, took public comments (at the request of City staff) and continued the public hearing to its next meeting in February 2012 in order that the City may finalize the Agreement and associated exhibits and provide an executed copy of the Agreement to LAFCO for its review and evaluation.

On January 30, 2012, the City provided a copy of the Pre-Annexation Agreement signed by the Garrod Trust to LAFCO. The City expects to obtain the City Manager's signature and record the Pre-Annexation Agreement with the County shortly. The finalized Pre-Annexation Agreement includes the proposed Williamson Act Contract for the Garrod Trust lands and references a proposed Development Agreement, Conditional Use Permit as well as provisions regarding status of conforming/ non-conforming uses, among other things. The City has informed LAFCO that these documents have not yet been prepared.

## **EXISTING AND PROPOSED LAND USES AND DESIGNATIONS**

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The proposed USA amendment area has a General plan and Zoning designation of Hillside in the County. The lands are developed with residences, stables, equestrian facility, employee housing and winery, and portions of the land are planted with vineyards or maintained as open space. All of the Garrod Trust lands in the USA amendment area are under a Williamson Act Contract with the County.

Table 1 summarizes the land uses and designations in the USA amendment area. Tables 2 and 3 summarize similar information for Garrod Trust properties within the City's USA and its property within the City limits. The City has applied a General Plan designation of Open Space-Hillside and a Zoning designation of Residential-Open Space to the lands proposed to be included in the USA. The City, upon annexation of

these lands, proposes to apply an overlay Zoning Designation of Agricultural Preserve-Open Space (AP/OS) to all the lands under Williamson Act Contract, as specified in the Pre-Annexation Agreement. The AP/OS overlay zoning provides that “each parcel or area of land within the AP/OS overlay district shall be used only for the purposes expressly permitted under the terms of the Williamson Act Contract applicable to such land.” This means that only those uses listed in the Williamson Act Contract’s compatible use list are permitted on the property. Although the County’s Williamson Act Contract compatible use list does not include wineries or tasting facilities, these facilities currently exist on the property. According to the City, these uses were permitted by the County’s 1994 use permit. It is unclear as to how the City would address this issue upon annexation.

**TABLE 1: PARCELS PROPOSED FOR INCLUSION IN THE CITY’S USA AND FOR ANNEXATION TO THE CITY**

APN	Acres	Land Owner	Existing Land Use	County GP Designation	County Zoning	Existing City GP Designation	Existing City Pre-Zoning	Proposed City Overlay Zoning	WA Contract # and Date
503-11-006	1	Hoang/ Nguyen	Residence	Hillside	HS-d1	OS-H	R-OS	AP/OS	NA
503-11-008	3.7	Garrod Trust	Vineyard & Residence	Hillside	HS-d1	OS-H	R-OS	AP/OS	02-004 12/24/2001
503-11-009	25	Garrod Trust	Winery, Stables and Employee Housing	Hillside	HS-d1	OS-H	R-OS	AP/OS	02-004 12/24/2001
503-74-001	0.5	Garrod Trust	Vineyard	Hillside	HS-d1-sr /HS-d1	OS-H	R-OS	AP/OS	02-004 12/24/2001
503-74-002	0.5	Garrod Trust	Vineyard	Hillside	HS-d1-sr /HS-d1	OS-H	R-OS	AP/OS	02-004 12/24/2001
503-74-003	8	Garrod Trust	Vineyard & Residence	Hillside	HS-d1-sr	OS-H	R-OS	AP/OS	02-004 12/24/2001
503-74-004	15.9	Garrod Trust	Vineyard	Hillside	HS-d1-sr	OS-H	R-OS	AP/OS	02-004 12/24/2001

TABLE 2: GARROD TRUST PROPERTIES LOCATED WITHIN THE CITY'S CURRENT USA AND PROPOSED FOR ANNEXATION TO THE CITY

APN	Acres	Land Owner	Existing Land Use	County GP Designation	County Zoning	Existing City GP Designation	Existing City Pre-Zoning	Proposed City Overlay Zoning	WA Contract # and Date
503-10-003	0.4	Garrod Trust	Residence	USA	A	OS-H	HR	AP/OS	NA
503-10-044	3.18	Garrod Trust	Residence & Equestrian	USA	A-20-sr	OS-H	HR	AP/OS	02-004 12/24/2001
*503-10-065	9.81	Garrod Trust	Residence & Vineyard	USA	A-20-sr	OS-H	HR	AP/OS	02-004 12/24/2001
*503-10-067	2.1	Garrod Trust	Residence	USA	A-20-sr	OS-H	HR	AP/OS	02-004 12/24/2001

TABLE 3: GARROD TRUST PROPERTIES LOCATED WITHIN THE EXISTING CITY LIMITS

APN	Acres	Land Owner	Existing Land Use	County GP Designation	County Zoning	Existing City GP Designation	Existing City Pre-Zoning	Existing City Overlay Zoning	WA Contract # and Date
503-12-001	51	Garrod Trust	Stables, Winery, Vineyards & Employee Housing	NA	NA	OS-H	HR	AP/OS	71-902 1/6/1971

## ENVIRONMENTAL ASSESSMENT

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The City of Saratoga is the Lead Agency under CEQA for the proposed USA amendment. Per Resolution No. 11-066, adopted by the Saratoga City Council on October 5, 2011, the City determined that the proposed project is entitled to an exemption under CEQA Guidelines Sections 15319, 15308 and 15061(b)(3). The City specifically determined that "the Integrated Annexation Package, including this Application for Amendment of Urban Service Area Boundary, is entitled to an

exemption under CEQA Guideline 15319 which exempts annexation to a city of areas containing existing private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities. The resolution states that CEQA exempts the Pre-annexation Agreement, Urban Service Area Boundary Amendment, Land Conservation (Williamson Act) Contract, and Zoning Amendment because they will all impose greater land use restrictions on the resulting Property than currently exist, will involve no physical change to the environment, and it can be seen with certainty that there is no possibility that there is any new proposed activity that may have a significant effect on the environment (see CEQA Guidelines Sections 15308 and 15061(b)(3)).”

LAFCO is a Responsible Agency under CEQA for the USA amendment proposal. LAFCO has determined that LAFCO’s approval of the proposal, which is in part based on the City’s statements in its USA application that no new development is proposed as part of this USA expansion and that there would be no expansion of current uses, would be exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project has the potential for causing a significant effect on the environment.

## **CONSISTENCY WITH LAFCO POLICIES**

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### **Conversion of / Impacts to Prime Agricultural Lands and Open Space**

The subject parcels do not contain prime agricultural lands as defined in the Cortese Knox Hertzberg Act. However, the Garrod Trust properties are currently under the Williamson Act Contract. The unincorporated Garrod Trust lands have been under a Williamson Act Contract with the County of Santa Clara since 1971. In December 2001, this contract was rescinded and a new contract was entered between the property owner and the County (Contract #02-004) in order to add some additional property. The Garrod Trust property within the City of Saratoga has been under a Williamson Act Contract (Contract #71-902) with the City since January 6, 1971.

Upon annexation of the unincorporated properties, the City would formally succeed to the Williamson Act contract on that property. As per the Pre-Annexation Agreement, Garrod Trust proposes to apply to the City to rescind the two existing contracts and simultaneously re-enter into a single new contract covering the entire property. The proposed Williamson Act Contract is included in the Pre-Annexation Agreement. For the most part, the new contract reflects the provisions in the existing contracts but includes additional uses to the list of land uses determined to be compatible with agricultural use of the land subject to the contract. See Attachment C for the current

contract between Garrod Trust and the City and the County. These additional uses, not listed in the current contracts include:

1. Tasting or sampling rooms (2a)
2. Weddings (12)
3. The proposed contract also deletes the word “occasional” in reference to social receptions (12)
4. Riding Arenas and other equestrian facilities (10)

City staff has stated in an email dated January 31, 2012, that “any subtle differences between the lists of uses are only meant to affirm the existing usage of Garrod Trust lands.” Additionally, the City states that the wine tasting room was approved by the County and so concludes that the County considers it a compatible use.

The City, in reentering into a new contract is effectively creating a new Williamson Act Contract with the landowner and it can decide what uses are compatible with the agricultural use of the property. However, all compatible uses (newly added or original) must be judged under the principles of compatibility pursuant to Government Code Section 51238.1. In addition, if the City adds new uses or allows for expansion of existing uses to the list of compatible uses, the City must evaluate the environmental impacts of adding the new uses and / or expanding the existing uses under CEQA.

The Pre-Annexation Agreement provides for a Development Agreement and Conditional Use Permit for the Winery/ Equestrian Facility. The City has stated in its USA application that no new development is proposed as part of this USA expansion and that there would be no expansion of current uses. It is unclear why a Development Agreement and Conditional Use Permit for the Winery/Equestrian Facility are necessary and why provisions for such are included in the Pre-Annexation Agreement. Generally, development agreements are entered into by a city and a developer where the city guarantees certain rights to develop the project regardless of future zoning changes in exchange for certain public amenities or fees that the city may otherwise not be able to require of the developer. However, in this case, the City has informed LAFCO that the Development Agreement and Conditional Use Permit are only intended to give surety to the property owner that the property will not be rezoned or that the current uses will not be prohibited in the future.

### **Logical, Orderly and Efficient Boundaries**

The properties proposed for inclusion in the City’s USA are located adjacent to the current City limits and USA. This USA expansion area is part of a larger area proposed for annexation to the City and includes only a portion of an existing island. The City is not proposing to annex the entire island at this time. See more detailed discussion under Island Annexations below.

### **Ability of City to provide Urban Services**

The City has stated that there would be no change in land use upon USA expansion and annexation to the City. The USA amendment area currently receives service from



various providers in the area including water service from the Mt. Eden Mutual Water Company and sewer service from the Cupertino Sanitary District, fire protection services from the Santa Clara County Central Fire Protection District and police services from the County Sheriff's office. The City has indicated that there will be no change in the service providers or in the level of services provided upon annexation.

Mt. Eden Road is an existing road and is currently maintained by the County but would be maintained by the City upon annexation. According to the Pre-Annexation Agreement, the Garrod Trust would provide reasonable stabilization services for geological hazard risks such as clearing minor slides and repair of culverts on Mount Eden Road. The County has also agreed to pay the City \$25,000 for the cost of resurfacing approximately 2,075 feet of Mount Eden Road. Additionally, the County has agreed to complete repair work on two roadway drainage facilities at the cost of approximately \$40,000.

### **Growth Inducing Impacts**

Since the City has stated that one of the purposes of adding the Garrod Trust lands to the USA is to protect and maintain the agricultural and open space status of the lands, LAFCO policies require that the City demonstrate that effective measures have been adopted for protecting open space and agricultural land. The City has stated that the USA amendment will not result in any change to the agricultural use of the property as the lands will continue under the Williamson Act Contract. In addition, the City cites the land use element and open space element of its General Plan that call for protecting natural resources and amenities, protecting existing agricultural resources, and encouraging their expansion among other things. The City also references its Hillside Specific Plan which was prepared to meet the requirements of the voter-approved 1980 Measure A initiative and its primary purpose of conserving the City's natural rural character. And lastly, the City cites Measure G (1996 voter-approved initiative) which restricts changing the General Plan land use designation of residential lands without a vote of the people unless very specific findings are made.

The lands proposed for annexation to the City have been pre-zoned "Residential Open Space" and "Hillside Residential." The existing Garrod Trust lands within the City limits are zoned "Hillside Residential" with the "Agricultural Preserve / Open Space Overlay." Upon annexation, the City will apply the "Agricultural Preserve / Open Space Overlay" to all the properties governed by a Williamson Act Contract within the City limits.

While the City has indicated that it has a long history of protecting its hillsides and open space and agricultural heritage, the City is not proposing any new (that are not available in the County) or additional permanent protection such as easements or public ownership of lands intended for agricultural or open space preservation.

Given the steep slopes and the relatively small parcel sizes and the current slope density standards and minimum lot size requirements in both the jurisdictions, it is

unlikely that the property can be further subdivided currently in either the County or upon annexation to the City.

### **Annexation of Unincorporated Islands**

Of the 68 acres of Garrod Trust property located in the unincorporated area, 14 acres is located within the City's existing USA and is part of an adjacent 90-acre unincorporated island (STG 01). The City however, is not proposing to annex the entire 90-acre island at this time. The island includes the Orchard Meadow subdivision (37 acres) as well as other private parcels. Due to several adverse geologic conditions that have affected the structural integrity of roads within the subdivision, the City has indicated that it would seek a future USA amendment to exclude the Orchard Meadow subdivision and then proceed with annexation of the remaining island.

In addition to this island, LAFCO has identified 5 other islands within the City's USA. See Attachment D for maps of the Saratoga Islands. The City in its letter dated January 4, 2012, summarized its future plans for addressing these islands as follows:

The City intends to seek an USA amendment to exclude the island located in the vicinity of On Orbit Drive (STG 04, 92 acres). The City believes this area is unsuitable for annexation due to the steep terrain and geologic instability of the area.

The City also intends to seek an USA amendment to include the Quarry property recently purchased and identified as a future park site by the City, prior to proceeding with the annexation of the island (STG 02, 9 acres) located adjacent to it at the intersection of Big Basin Way and Tollgate Road.

The City intends to annex the island west of the intersection of Mount Eden Road and Damon Lane (STG 07, 104 acres) which is under a Williamson Act Contract.

The 207-acre island in the vicinity of Redberry Drive (STG 05) does not qualify for a streamlined annexation process. The City intends to gather additional information in the interest of annexing this island in the future.

The City intends to seek an USA amendment to exclude an island which includes a portion of a single parcel along Ravine Road (STG 06, 0.4 acre) as the property is split by the current USA. LAFCO staff believes additional analysis is required to establish whether the USA should be amended to include or exclude the entire parcel.

The City has not provided a time frame for implementing any of these steps. LAFCO policies require that a city first initiate and complete island annexations prior to seeking USA expansions.

### **Fiscal Impact to the City of Saratoga and Affected Agencies**

The City is not proposing to provide any additional or new services to the area and no new development is proposed on the property as part of the USA expansion and

annexation. The property will remain under Williamson Act Contract. The Garrod Trust estimates that the properties proposed for annexation to the City of Saratoga would generate \$750,000 to \$1,000,00 in gross annual revenue. Based on this, the City expects to receive approximately \$7,500 to \$10,000 in additional annual sales tax revenue following annexation of these properties to the City. Additionally, the City expects to receive approximately \$1,500 in property tax revenue (based on tax year 2009-2010). No significant fiscal impacts are projected for affected agencies as a result of this USA expansion and annexation.

## **CONCLUSION**

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LAFCO policies generally discourage the inclusion of open space, or agricultural lands or other lands that are otherwise unsuited for urban development within a city's USA. Under a narrow exception provided in the policies, such lands may be included in a city's USA only if the land is preserved as a non-urban open space use and the city has demonstrated to LAFCO that effective measures have been adopted for protecting the agricultural or open space status of the land. Such exceptions are not meant to be precedent setting and the Commission may reevaluate the policy that allows such exceptions if it feels that it undermines LAFCO's growth management principles.

Here, the City of Saratoga is proposing to add such lands to its USA and annex the lands in order to enable all of the Garrod Trust property to be within the jurisdiction of one public agency and under one land use authority. The City's application also indicates that annexing the land to the City would be beneficial to the protection of the agricultural and open space status of the lands as the County's regulations are less protective than the City's.

Upon review of regulations, it appears that there is no significant difference in the land use regulations between the County and the City as they apply to the specific Garrod Trust properties. It seems that the goal of maintaining the land in agricultural use could be achieved just as well under the County's jurisdiction because the City is not proposing any additional measures such as easements that offer more permanent protection and also because the County has strong policies regarding not providing services outside USAs and not allowing urban uses in the unincorporated area.

There is a long history and use of the Garrod Trust property for various agricultural, recreational and associated uses. Given that the Garrod Trust lands do not include prime agricultural lands, that the City will succeed to the Williamson Act Contract, that the Pre-Annexation Agreement indicates that there are no plans for new or expanded use or development of the property and that the City desires to restrict the use to agricultural open space and compatible uses, and that this may facilitate the annexation of an island, staff recommends approval of the USA expansion upon condition that the City succeed to the WA Contract, that the City evaluate all proposed compatible uses and ensure that the uses are consistent with compatibility principles in the Williamson

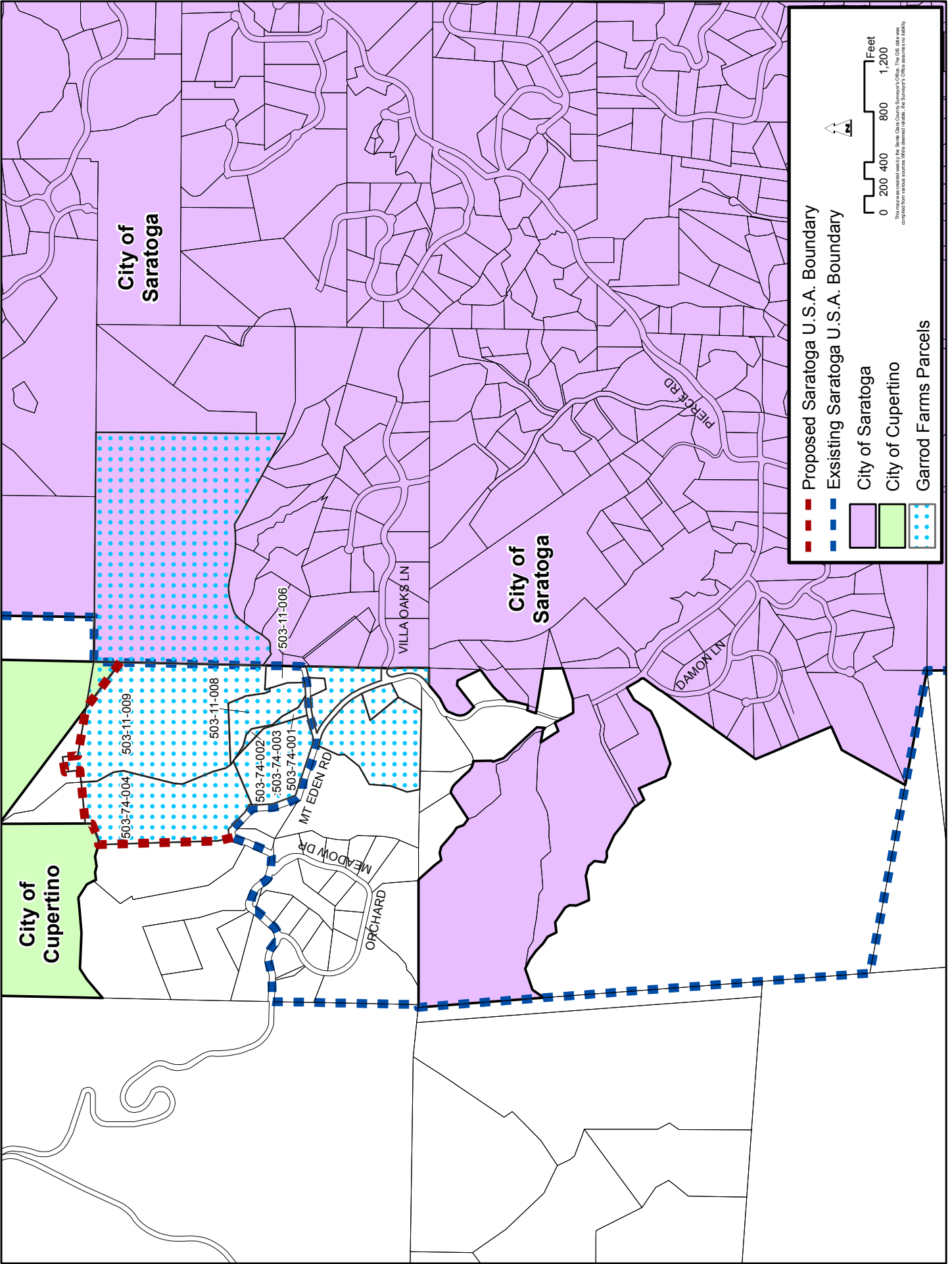
Act, no sewer, water or fire services for uses not allowed under the Williamson Act Contract on the property will be provided, that the City clarify the purpose of the Development Agreement and the Conditional Use Permit included in the Pre-Annexation Agreement, and that the City will report back to LAFCO on the status of the Williamson Act Contract.

## **ATTACHMENTS**

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- Attachment A: Map of Proposed Saratoga Urban Service Area Amendment
- Attachment B: Pre-Annexation Agreement between the City of Saratoga and Garrod Trust
- Attachment C: Current Williamson Act Contracts between Garrod Trust and the County and Garrod Trust and the City of Saratoga
- Attachment D: Maps of Unincorporated Islands located in Saratoga

Proposed Saratoga USA Amendment 2011 (Garrod Farms)



RECORDING REQUESTED BY:  
CITY OF SARATOGA

AFTER RECORDATION RETURN TO:  
CITY OF SARATOGA  
Attn: City Clerk  
13777 Fruitvale Avenue  
Saratoga, CA 95070

AGENDA ITEM # 4  
ATTACHMENT B

THIS SPACE FOR RECORDER'S USE

**PREANNEXATION AGREEMENT**  
**FOR RECORDATION WITH THE RECORDER'S OFFICE**  
**OF THE COUNTY OF SANTA CLARA**

**GARROD TRUST  
PREANNEXATION AGREEMENT**

THIS PREANNEXATION AGREEMENT (“**Agreement**”) is made and entered into this 21<sup>st</sup> day of December, 2011 by and between the CITY OF SARATOGA (**City**), a municipal corporation of the State of California and the Garrod Trust (**Owner**). The Owner and the City are collectively referred to herein as the **Parties**.

**RECITALS**

A. WHEREAS, **Owner** is the owner of a certain parcel of real property (approximately 68 acres) developed with a Winery/Equestrian Facility located in the County of Santa Clara within the **City** Sphere of Influence and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (“Annexation Property”) which said Property is subject to a Williamson Act Contract with the County of Santa Clara dated December 24, 2001 and pursuant to Government Code Section 51243, if the Annexation Property is annexed to the City of Saratoga in 2011, the City will succeed to all rights, duties, and powers of the County under the 2001 Williamson Act Contract.

B. WHEREAS, **Owner** is also the owner of a certain parcel of real property (approximately 51 acres in size) adjoining the Annexation Property and located entirely within the City of Saratoga and more particularly described in Exhibit B, attached hereto and incorporated herein by this reference (“Principal Property”), which said Principal Property is subject to a Williamson Act Contract with the City of Saratoga executed November 21, 1970. The Principal Property is currently developed with three dwelling units, a hay barn, miscellaneous covered horse paddocks, horse riding academy/day camp buildings, and metal shop and an administrative office.

C. WHEREAS, **Owner** currently has no future plans for new or expanded use or development of the Property which will be in the City of Saratoga after the 2011 Annexation (approximately 119 acres – “Resulting Property” or “Property”)

D. WHEREAS, annexation of the Annexation Property to the **City** in accordance with the terms of this **Agreement** will result in rational comprehensive planning and foster predictability, certainty, economy and efficiency in future land use planning.

E. WHEREAS, both **Owner** and **City** desire to restrict the use of the Resulting Property to agricultural, open space and uses compatible thereto; and

F. WHEREAS, the purpose of this **Agreement** is to set forth the **City’s** and **Owner’s** respective responsibilities and understandings in pursuing and achieving annexation of the Annexation Property; hence, the **Parties** intend and agree that the annexation of the Annexation Property subject to the following specified agreements and conditions.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the **Parties** hereby agree as follows:

1. Annexation: A Resolution Initiating Annexation having been approved by the City Council on November 17, 2010, **Owner** and **City** agree that for the purposes and goals and subject to the agreements and conditions set forth in the Recitals above, and in order to provide for rational long-term land use planning, the Annexation Property may be processed for final annexation into the **City**. **City** agrees to take the steps necessary to achieve annexation of the Annexation Property at the soonest reasonable opportunity, including referral of the matters in paragraph 2 below to staff and the Planning Commission to obtain recommendations thereon. **Owner** hereby consents to annexation of the Annexation Property and agrees to support said annexation.
  
2. Application and Approval for Development Agreement and Use Permit for Winery/Equestrian Facility. The **Owner** agrees to formally submit a proposal to the City which includes the following essential elements:
  - a. *Development Agreement and Conditional Use Permit*. The **Owner** shall submit a complete Application and obtain **City** approval for a Development Agreement and Conditional Use Permit for the Winery/Equestrian Facility for the entire Proposal to be located on the Resulting Property;
  
  - b. *Determination of Conformity/Legal Nonconformity Status*. The **Owner** shall submit a complete application and obtain City determination as to Conformity/Legal Nonconformity Status of all Uses and Structures on the resulting Property.
  
  - c. *Williamson Act Contract*. The **Owner** shall submit a complete application and obtain **City** approval to rescind the Williamson Act Contract on the Annexation Property (68 acres) and the Principal Property (51 acres) and simultaneously re-enter a Williamson Act Contract covering the entire Resulting Property (approximately 119 acres) in substantially the form attached hereto as Exhibit C, which Williamson Act Contract shall include the Winery/Equestrian Facility and all other existing uses and structures as compatible uses;
  
  - d. *Agricultural Preserve/Open Space Overlay Zoning*. **Owner** shall submit a complete application and obtain **City** approval to add Agricultural Preserve-Open Space ("AP-OS") overlay zoning to the Annexation Property (which overlay zoning already exists on the Principal Property currently in the City).
  
3. Final Annexation Process and Determination of Conformity. The City staff and Planning Commission shall review the Proposal submitted under Paragraph 2 above and make recommendations to the City Council which shall take such action thereon, and such action as to final annexation, as it deems to be in the best interests of the **City**.



The City General Plan and Hillside Specific Plan establish goals and policies applicable to annexations which are relevant to the Garrod Trust integrated annexation package Application. General Plan (“GP”) Policy LU 14.1 provides that: “Land shall not be annexed to Saratoga unless it ... is determined by the city that public services can be provided without unreasonable cost to the City and dilution of services to existing residents. Similarly, Goal 5 of the Hillside Specific Plan (“HSP”) is that “[d]evelopment and maintenance of public services shall minimize financial risks to the City and shall be equitable to all citizens of Saratoga.”

As part of the Final Annexation Approval, Garrod Trust hereby agrees to take all reasonable actions within its power and to endeavor to assure that the following benefits accrue to the City. With regard to minimized financial risk (HSP Goal 5), avoidance of disproportionate financial risk to the City will be accomplished by Garrod Trust providing reasonable stabilization services (such as clearing of minor slides and repair of culverts) for the annexation-related geological hazard risks to the City regarding Mt. Eden Road as identified by the Geotechnical Survey already conducted at the expense of the Garrod Trust.

The County has also committed to provide some funding or services for repair and maintenance of Mt. Eden Road and Garrod Trust support the City in obtaining such funding or services. The County’s road annexation policies include the agreement to resurface roads that are to be annexed from the County to another public agency. Instead of the County performing this road resurfacing work prior to the annexation of approximately 2,075 feet of Mount Eden Road, the County has agreed to pay to the City \$25,000 for the cost of resurfacing. In addition, the Geotechnical Evaluation of Roadway Conditions identified at least two roadway drainage facilities that require repair. The County has indicated that this work will be paid for by the County and performed by County roadway crews. The County has estimated that their costs to pay for the repairs would be approximately \$40,000.

HSP Goal 5 that the annexation be equitable to all citizens of Saratoga is supported by fact that the portion of the Property proposed to be annexed will bring with annually \$750,000 to \$1,000,000 in gross revenues, as estimated by Garrod Trust which hereby commits to use all reasonable efforts to continue to bring in such revenues or more. The City receives 1 cent of the 9.25 cents in sales tax collected on every taxable dollar – meaning the City would receive approximately \$7,500 to \$10,000 per year in additional revenues. This also supports the GP LU 14.1 determination that public services can be provided without unreasonable cost to the City and dilution of services to existing residents. Analysis of whether this determination can be made is in the context of the fact that the public services which are provided by the City are already being provided to nearly half of the Garrod Trust Property. Since Saratoga is a “contract city” for most public services, the primary services for the Property to be annexed will remain essentially the same.

Garrod Trust shall provide other benefits to the City and the public by providing public trail and restroom access.

4. Survival of Rights and Obligations. The rights and obligations of **the Parties** as set forth in this **Agreement** shall survive annexation of the Annexation Property to the **City**.

5. Termination of Agreement. Unless mutually extended in writing, this **Agreement** shall have no further force and effect and each Party shall be released from the obligations set forth herein in the event that annexation of the Annexation Property to the **City** has not become final (including an executed LAFCO Certificate of Completion) within twelve (12) months after the effective date of this **Agreement**.
6. Legal Action. Any party may, in addition to any other rights or remedies herein provided, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, enforce by specific performance the obligations and rights of **the Parties** hereto or obtain any other remedy consistent with this **Agreement**. In no event shall any party be entitled hereunder to monetary damages for any action or inaction of another party hereunder, including breach of contract. Nothing in this Section shall be deemed to limit any party's rights under the Tort Claims Act or the **City's** right to collect fees allowable and otherwise due and payable or to impose penalties for violations of City Ordinances.
7. Attorneys Fees and Costs. If legal action by any party is brought because of a breach of this **Agreement**, or to enforce a provision of this **Agreement**, each party shall bear their own attorneys fees and costs.
8. Controlling Law. This **Agreement** shall be construed and enforced in accord with the laws of the State of California.
9. No Joint Venture or Partnership. **The Parties** hereby renounce the existence of any form of joint venture or partnership between any or all of **the Parties** and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making any or all of **the Parties** joint ventures or partners. Further, the **Owner** is not an agent of the **City**.
10. Agreement By Owner To Indemnify, Hold Harmless And Defend City As To Action(s) Challenging Approval Of Annexation, This Preannexation Agreement And All City Actions Processed Prior To Or Concurrently With The Annexation. Owner hereby agrees to defend, indemnify and hold the City and its officers, officials, boards, commissions, employees, agents and volunteers (collectively "City") harmless from and against: any and all claims, actions or proceedings to attack, set aside, void or annul any action by City on the subject annexation of the Annexation Property, or any of the proceedings, acts or determinations taken, done or made prior to or concurrently with said annexation: and

**Owner's obligations under subparagraph 10 above shall prevail over any other provision in this Preannexation Agreement.**

11. Cooperation in the Event of Legal Challenge.

In the event of any administrative, legal or equitable action or other proceeding instituted by a third party, governmental agency or official challenging the validity of any provision of this Agreement or the annexation and related proceedings described herein, the Parties shall cooperate in defending the action or proceeding.

12. Notices.

All notices or communications required hereunder between the **Parties** shall be in writing and may be given either personally, by overnight carrier, or by first class mail, addressed to the party intended to be notified. The notice shall be deemed to have been given and received on the date delivered in person, or the date of delivery receipt from the overnight carrier, or five days after deposit with the United States Post Office. Any Party hereto, by giving ten (10) days written notice to the other, may designate any other address as substitution of the address to which the notice or communication shall be given. Notices or communications shall be given to **the Parties** at the addresses set forth below until duly changed as set forth above.

**City of Saratoga**

City Clerk  
City of Saratoga  
13777 Fruitvale Avenue  
Saratoga, CA 95070

**Garrod Trust**

22600 Mt. Eden Road  
Saratoga, CA 95070

Jan Garrod  
Office: (408) 867-9527

Copy to:

Richard S. Taylor  
City Attorney  
City of Saratoga  
Shute Mihaly & Weinberger LLP  
396 Hayes Street  
San Francisco, CA 94102

13. Miscellaneous.

a. *Successor and Assigns.* The covenants, terms, conditions and restrictions of this **Agreement** shall apply to, bind and inure to the benefit of successors in interest of the **Parties** hereto, including heirs, assigns, representatives, executors, administrators and all other parties, whether they succeed by operation of law or voluntary acts of the **City** or **Owner**. All such heirs, representatives, successors, executors, or assigns shall be bound to every provision in this **Agreement**, whether or not this **Agreement** is referred to in the instrument by which such heirs, representatives, successors, executors, or assigns acquire an interest in **Owner's** Properties or any thereof

b. *Parties in Interest.* This **Agreement** is entered only for the benefit of the **Parties** executing this **Agreement** and not for the benefit of any other individual, entity or person.

c. *Amendment of Agreement.* This **Agreement** may be amended in writing by mutual agreement of the original **Parties** or their successors in interest.

d. *Severability.* If a term, provision, covenant or condition of this **Agreement** is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this **Agreement** shall continue in full force and effect, unless the provision held invalid forms a material consideration of this **Agreement**.

e. *Change in Law.* If a subsequent change occurs in federal or state laws or the regulations of a federal or state agency which prevents or precludes compliance with a provision of this **Agreement**, that provision shall be modified or suspended only to the extent necessary to comply with the federal or state law or regulation.

f. *Enforceability.* Unless this **Agreement** is amended or terminated pursuant to the provisions of this **Agreement**, this Agreement shall be enforceable by any party hereto notwithstanding any change hereinafter enacted or adopted in any applicable General Plan or Specific Plan, zoning ordinance, subdivision ordinance or any other land use or building ordinance.

g. *Entire Agreement.* This **Agreement**, and the conditions referred to herein, and the Exhibits attached hereto, constitute the entire understanding and agreement of the parties and supersede all negotiations or previous agreement of the parties with respect to all or part of the subject matter hereof. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment to this **Agreement**.

h. *Captions.* The captions in this **Agreement** have been inserted solely for convenience or reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their respective representatives as follows:

CITY OF SARATOGA, CALIFORNIA  
A Municipal Corporation

Approved as to Form:

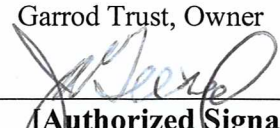


Richard Taylor, City Attorney

By: \_\_\_\_\_  
Dave Anderson, City Manager

ATTEST:

\_\_\_\_\_  
Crystal Morrow, City Clerk

Garrod Trust, Owner  
By:   
[Authorized Signature]

## EXHIBIT A

### Legal Description of Annexation Property (Approximately 68 acres)

All that land situated in the County of Santa Clara, State of California described as follows:

Beginning at the section corner of Sections 34, 35, 3 and 2, Township 7 South Range 2 West M. D. B. & M. as shown on the Record of Survey Map recorded in Book 216 of maps at Page 37, Santa Clara County Records and the westerly limit of the City of Saratoga as established by Original Incorporation dated October 22, 1956;

Thence (1) leaving said city limit along the Southerly section line of Section 34 South 88 Degrees 32 Minutes 20 Seconds West a length of 138.55 feet to the Westerly right of way line of Mt. Eden Road;

Thence (2) along said right of way line North 43 Degrees 44 Minutes 51 Seconds East a length of 72.32 feet;

Thence (3) 144.20 feet along a tangent curve to the left, said curve having a radius of 130.00 feet and a delta 63 Degrees 33 Minutes 17 Seconds;

Thence (4) North 19 Degrees 48 Minutes 26 Seconds West a length of 70.51 feet;

Thence (5) leaving said right of way line South 63 Degrees 27 Minutes 57 Seconds West a length of 168.63 feet;

Thence (6) South 29 Degrees 19 Minutes 34 seconds West a length of 209.06 feet;

Thence (7) along the Southerly section line of Section 34 South 88 Degrees 32 Minutes 20 Seconds West a length of 599.74 feet;

Thence (8) leaving said section line North 11 Degrees 30 Minutes East a length of 110.22 feet;

Thence (9) North 19 Degrees 45 Minutes East a length of 138.60 feet;

Thence (10) North 3 Degrees 30 Minutes East a length of 170.94 feet;

Thence (11) North 60 Degrees 05 Minutes East a length of 163.02 feet;

Thence (12) North 39 Degrees 00 Minutes East a length of 151.14 feet;

Thence (13) North 6 Degrees 30 Minutes West a length of 45.54 feet;

Thence (14) North 24 Degrees 00 Minutes East a length of 194.19 feet to the Southerly right of way line of Mount Eden Road;

Thence (15) along said right of way line North 72 Degrees 31 Minutes 32 Seconds West a length of 91.80 feet;

Thence (16) South 84 Degrees 38 Minutes 46 Seconds West a length of 47.05 feet;

Thence (17) North 71 Degrees 48 Minutes 19 Seconds West a length of 373.10 feet;

Thence (18) North 24 Degrees 06 Minutes 01 Seconds West a length of 204.84 feet;

Thence (19) North 9 Degrees 00 Minutes 44 Seconds West a length of 136.24 feet;

Thence (20) North 12 Degrees 23 Minutes 23 Seconds East a length of 55.90 feet;

Thence (21) North 56 Degrees 49 Minutes 11 Seconds West a length of 75.95 feet;

Thence (22) North 41 Degrees 46 Minutes 23 Seconds West a length of 160.70 feet;

Thence (23) North 83 Degrees 10 Minutes 21 Seconds West a length of 48.64 feet;

Thence (24) leaving said Southerly right of way line North 6 Degrees 49 Minutes 39 Seconds East a length of 40.00 feet;  
Thence (25) North 14 Degrees 15 Minutes West a length of 105.51 feet;  
Thence (26) North 4 Degrees 00 Minutes West a length of 974.82 feet to the Southerly city limit of City of Cupertino annexed by "Stevens Creek No. 13" on September 12, 1961;  
Thence (27) along said city limit North 64 Degrees 00 Minutes East a length of 135.96 feet;  
Thence (28) leaving said city limit North 81 Degrees 08 Minutes 59 Seconds East a length of 413.40 feet;  
Thence (29) North 81 Degrees 11 Minutes 54 Seconds East a length 69.77 feet;  
Thence (30) North 8 Degrees 48 Minutes 06 Seconds West a length of 120.00 feet;  
Thence (31) North 81 Degrees 11 Minutes 51 Seconds East a length of 120.00 feet;  
Thence (32) South 8 Degrees 48 Minutes 06 Seconds East a length of 120.00 feet;  
Thence (33) South 81 Degrees 29 Minutes 03 Seconds East a length of 327.12 feet to the Southerly city limit of City of Cupertino annexed by "Stevens Creek No 13" on September 12, 1961;  
Thence (34) along said city limit South 55 Degrees 00 Minutes 04 Seconds East a length of 489.43 feet to the Westerly city limit of City of Saratoga established by "Original Incorporation" on October 22, 1956, and the Easterly section line of Section 34;  
Thence (35) along the Westerly city limit and Easterly section line South 0 Degrees 07 Minutes 33 Seconds West a length of 2427.12 feet to the point of beginning.

Containing 68.6 acres more or less.

Disclaimer:

"For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described."



*Harry Babicka*

**EXHIBIT B**

**Legal Description of Property in City Prior to 2011 Annexation**  
**(Approximately 51 acres)**

BEGINNING at stake marked 1/4 S. standing at the 1/4 section corner between Sections 34 and 35 Township 7 South Range 2 West, Mount Diablo Base and Meridian, and running thence along the 1/4 section line running East and West through the center of Section 35, Township 7 South, Range 2 West, Mount Diablo Base and Meridian, South  $88^{\circ} 53' 01''$  East 1818.97 feet to a stake marked L.M.1 at the Northeasterly corner of the 78.05 acre tract described in the Deed from John G. Alonso, et ux, to L. A. Molloy, et al, dated August 14, 1946 and recorded August 23, 1946 in Book 1362 of Official Records, page 469, thence along the Easterly line of said 78.05 acre tract South  $1^{\circ} 14' 10''$  West 1482.80 feet to a point in the center of a ravine; thence North  $63^{\circ} 08' 08''$  West 811.40 feet to a point in the centerline of a 60 foot right of way hereinafter described, thence along the centerline of said 60 foot right of way the following courses and distances, to wit: North  $84^{\circ} 49' 19''$  West 264.52 feet; thence along the arc of a curve to the right with a radius of 300.00 feet tangent to the preceding course through an angle of  $13^{\circ} 10'$  a distance of 68.94 feet; thence North  $71^{\circ} 39' 19''$  West 105.16 feet; thence along the arc of a curve to the left with a radius of 266.60 feet and tangent to the preceding course through an angle of  $67^{\circ} 38'$  a distance of 314.70 feet; thence South  $40^{\circ} 42' 41''$  West 116.78 feet; thence along a curve to the left with a radius of 181.71 feet and tangent to the preceding course through an angle of  $15^{\circ} 58' 17''$  a distance of 50.65 feet; thence along the arc of a reverse curve to the right with a radius of 181.71 feet through an angle of  $15^{\circ} 48' 17''$  a distance of 50.65 feet; thence South  $40^{\circ} 42' 41''$  West 65.99 feet; thence along the arc of a curve to the right with a radius of 45.04 feet and tangent to the preceding course through an angle of  $77^{\circ} 29' 25''$  a distance of 60.91 feet; thence along the arc of a reverse curve to the left with a radius of 44.86 feet through an angle of  $83^{\circ} 20' 55''$  a distance of 65.26 feet to the point of intersection of said centerline of said 60 foot right of way with the Southwesterly line of the said 78.05 acre tract described in said Deed to L. A. Molloy et al, above referred to, thence leaving said centerline of said 60 foot right of way and running along said Southwesterly line of said 78.05 acre tract, North  $55^{\circ} 08' 49''$  West 123.82 feet to an iron pipe standing on the section line between said Sections 34 and 35, from which a live oak tree 20 inches in diameter with 3 notches bears South  $1^{\circ} 49' 39''$  West 18.04 feet; said pipe also being at the Southwesterly corner of said 78.05 acre tract thence along the line between said Sections 34 and 35, North  $1^{\circ} 49' 39''$  East 1337.03 feet to the point of beginning and being a portion of said Section 35, Township 7 South, Range 2 West, and containing approximately 51.528 acres, as surveyed by James and Waters, Civil Engineers, San Mateo, Palo Alto and San Jose, California, December 1948.

TOGETHER WITH a right of way, as granted in the Deed executed by Marie Lawlor et al, to Patrick A. McHenry, et al, and recorded April 26, 1917 in Book 455 of Deeds, page 573 conveying a 78.05 acre tract of which the above described property is a part, over the then present road that led from the buildings on said 78.05 acre tract to and over the other land then of Mrs. Mamie Lawlor.

ALSO TOGETHER WITH and as appurtenant to the parcel of land first hereinabove described, an easement for the purposes of ingress and egress and for the installation and maintenance of public utilities over a strip of land 60 feet in width the centerline of which is described as follows, to wit:

Beginning at a point in the Southerly line of said parcel of land first hereinabove described distant thereon North  $63^{\circ} 08' 08''$  West, 811.40 feet from the Southeasterly corner of said parcel of land, thence along the Southerly line of said parcel of land the following courses and distances to wit: North  $84^{\circ} 49' 19''$  West 264.52 feet; thence along the arc of a curve to the right with a radius of 300.00 feet tangent to the preceding course through an angle of  $13^{\circ} 10'$  a distance of 68.94 feet; thence North  $71^{\circ} 39' 19''$  West 105.16 feet; thence along the arc of a curve to the left with a radius of 266.60 feet and tangent to the preceding course through an angle of  $67^{\circ} 38'$  a distance of 314.70 feet; thence South  $40^{\circ} 42' 41''$  West 116.78 feet; thence along a curve to the left with a radius of 181.71 feet and tangent to the preceding course through an angle of  $15^{\circ} 58' 17''$  a distance of 50.65 feet; thence along the arc of a reverse curve to the right with a radius of 181.71 feet through an angle of  $15^{\circ} 48' 17''$  a distance of 50.65 feet; thence South  $40^{\circ} 42' 41''$  West 65.99 feet; thence along the arc of a curve to the right with a radius of 45.04 feet and tangent to the preceding course through an angle of  $77^{\circ} 29' 25''$  a distance of 60.91 feet; thence along the arc of a reverse curve to the left with a radius of 44.86 feet through an angle of  $83^{\circ} 20' 55''$  a distance of 65.26 feet.

3972318

MAR 18 1971



81.84'

373.56

170.28  
151.14  
170.94  
110.22

128.70'  
141.90'  
184.6

marked D. H. 2 standing on the steep West slope of a ravine; thence along the center line of said ravine with the following courses and distances: S. 14 deg. 15' E. 1.95 chains, S. 58 deg. 30' E. 1.24 chains, S. 1 deg. 30' W. 2.15 chains and S. 20 deg. 15' W. 2.80 chains to a stake marked P. S. 3 standing at the Southernmost corner of said 39.80 acre tract of land and at the most Northerly corner of that certain 11.88 acre tract conveyed by Mt. Eden Orchard Vinyard and Land Company, a corporation, to L. F. Chipman by Deed dated December 3, 1891 and recorded December 4, 1892 in Book 140 of Deeds at page 545, records of said count of Santa Clara, and from which stake P. S. 3 a live oak 24" in diameter marked B. T. P. S. 3 bears N. 9 deg. E. 22 lks. and a white oak stump 12" in diameter marked B. T. P. S. 3 bears N. 47 deg. 30' W 50 lks.; thence along the Northerly line of said 11.88 acre tract of land S. 60 deg. 15' E. 5.66 chains, S. 81 deg E. 2.63 chains and S. 69 deg. E. 4.03 chains to a stake marked B. S. 3 standing at the most Easterly corner of said 11.88 acre tract of land and center of a small ravine to the Southwest; thence along the center of said small ravine and the Easterly line of said 11.88 acre tract of land with the following courses and distances; S. 24 deg W. 2.58 chains, S. 6 deg. 30' E 0.69 chain, S. 39 deg. W. 2.29 chains, S. 60 deg. 05' W. 2.47 chains, S. 3 deg. 30' W 2.59 chains, S. 19 deg 45' W. 2.10 chains and S. 11 deg. 30' E 1.67 chains to the Southeasterly corner of said 11.88 acre tract of land; in the Section line between Section 34, T. 7 S. R. 2, W. and Section 3, T. 8 S. R. 2 W.; thence along the said Section line S. 89 deg. 25' E. 14.23 chains to the place of beginning.

867-  
EDEN  
CALIF

939.18

Excepting therefrom the following parcels of land;

1. That certain parcel of land described in the Deed from R.V. Garrod et ux, to Vince Stolte Garrod et. ux, dated December 13, 1948 and recorded December 18, 1948 in [redacted] Santa Clara County Records.
- That certain parcel of land described in the Deed from R. V. Garrod, et ux, to Vince Stolte Garrod dated April 5, 1941 and recorded April 29, 1941 in [redacted] Santa Clara County Records.
- That certain parcel of land described in Deed from Vince Stolte Garrod, Richard Ralph Garrod and Louise Garrod Cooper to Phillip A. Jensen et. ux dated May 27, 1967 and recorded in [redacted] of the Official Records of the County of Santa Clara, State of California.
- That certain parcel of land described in Deeds from R. V. Garrod et ux, to George Emery Cooper, et ux, dated August 1, 1946 and recorded August 6, 1946 in [redacted] and dated February 2, 1946 and recorded February 8, 1946 in [redacted], Santa Clara County Records.

3972350

MAR 18 1971

**EXHIBIT C**

**Land Conservation (Williamson Act) Contract on Entire Resulting Property**

RECORDING REQUESTED BY:  
CITY OF SARATOGA

AFTER RECORDATION RETURN TO:  
CITY OF SARATOGA  
Attn: City Clerk  
13777 Fruitvale Avenue  
Saratoga, CA 95070

THIS SPACE FOR RECORDER'S USE

**LAND CONSERVATION CONTRACT  
(California Land Conservation Act of 1965 – Williamson Act)  
FOR RECORDATION WITH THE RECORDER'S OFFICE  
OF THE COUNTY OF SANTA CLARA**

---

*GARROD TRUST LAND CONSERVATION CONTRACT FOR ALL PROPERTY IN CITY OF  
SARATOGA AFTER 2011 ANNEXATION*

## LAND CONSERVATION CONTRACT

This is a Land Conservation Contract (the “Williamson Act Contract”) between the CITY OF SARATOGA (the “City”), and GARROD TRUST and/or any successors thereof (the “Owner”).

A. WHEREAS, Owner is the owner of a certain parcel of real property (approximately 68 acres) developed with a Winery/Equestrian Facility located in the County of Santa Clara within the City Sphere of Influence and Urban Service Area and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (“Property to be Annexed” or “Annexation Property”) which said Property is subject to a Williamson Act Contract with the County of Santa Clara dated December 24, 2001, and pursuant to Government Code Section 51243 when the Property is annexed to the City of Saratoga in 2011, the City will succeed to all rights, duties, and powers of the County under the Contract.

B. WHEREAS, Owner is also the owner of a certain parcel of real property (approximately 51 acres in size) adjoining the Property to be Annexed and located entirely within the City of Saratoga and more particularly described in Exhibit B, attached hereto and incorporated herein by this reference (“Principal Property”), which said Principal Property is subject to a Williamson Act Contract with the City of Saratoga executed November 21, 1970. The Principal Property is currently developed with three dwelling units, a hay barn, miscellaneous covered horse paddocks horse riding academy, buildings, and metal shop and an administrative office.

C. WHEREAS, concurrent with annexation of the Property to be Annexed to the City, Owner shall rescind the Williamson Act Contracts for the Property to be Annexed and the Principal Property already in the City and simultaneously re-enter a Williamson Act Contract covering the entire Property in the City after the 2011 Annexation (“Resulting Property” or “Property”).

D. WHEREAS, the Resulting Property is presently devoted to agricultural or open space uses and uses compatible thereto;

E. WHEREAS, both Owner and City desire to restrict the use of the Resulting Property to agricultural, open space and uses compatible thereto; and

F. WHEREAS, the parties have determined that the highest and best use for the resulting Property during the term of this Land Conservation Contract, or any renewal thereof, shall be for agriculture, open space and uses compatible thereto.

## AGREEMENT

NOW THEREFORE, City and Owner agree as follows:

1. CONTRACT SUBJECT TO LAND CONSERVATION ACT OF 1965

This Contract is entered into pursuant to Chapter 7 (commencing with Section 51200) of Part 1, Division 1, Title 5 of the Government Code, which is known as the California Land Conservation Act of 1965 or the Williamson Act, hereinafter referred to as the "Act." This Contract is subject to all of the provisions of that Act including any amendments thereto which may hereafter be enacted.

2. RESTRICTIONS ON USE OF PROPERTY

During the term of this Contract, and any and all renewals thereof, the Property shall not be used for any purpose other than the agricultural, open space and recreational uses and uses compatible thereto. A list of all such compatible uses is set forth in Exhibit A, attached hereto and by this reference incorporated herein.

City may from time to time during the term of this Contract and all renewals thereof, add to the list of compatible uses additional uses which shall apply uniformly to all property located in the agricultural preserve in which the Property is located; provided, however, City may not during the term of this Contract or any renewal thereof, without the prior written consent of Owner, remove any of the compatible uses for the subject Property which are set forth in Exhibit A. The provisions of this Contract and any supplementary list of compatible uses are not intended to limit or supersede the planning and zoning powers of City.

3. RESTRICTIONS ON SUBDIVISION OF PROPERTY

In order to be subdivided, the Property must satisfy certain additional requirements of California law (including but not limited to any limitations imposed by the Williamson Act or the Subdivision Map Act) for division of land, or lot line adjustment of land, which is subject to a contract under the Act.

4. TERM OF CONTRACT

This Contract shall become effective on the date of execution by the City and shall remain in full force and effect for an initial term of ten years, which term shall commence on one of the dates specified below in this paragraph. If the date of execution of this Contract is between March 2 and December 31, the initial term of ten years shall commence as of the first day of January next succeeding the date of execution. If the date of execution of this Contract is between January 1 and March 1, the initial term of ten years shall commence as of the first day of January of the year of execution. Each succeeding first day of January shall be deemed to be the annual renewal date of this contract. This Contract shall be renewed automatically on each

succeeding January 1 and one additional year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Paragraph 5.

5. NOTICE OF NONRENEWAL

(a) If either party desires in any year not to renew this contract, that party shall serve written notice of nonrenewal upon the other party in advance of the annual renewal date of this Contract. Unless such written notice of nonrenewal is served by Owner at least 90 days prior to the renewal date, or by City at least 60 days prior to the renewal date, this Contract automatically shall be renewed for an additional year as provided in Paragraph 4 above.

(b) In the event that City serves written notice of nonrenewal of this Contract, the Owner, within ten (10) days after receipt of such notice by Owner, may submit to City a written protest of nonrenewal. The City's notice shall be deemed to have been received on the date delivered in person, or the date of delivery receipt from the overnight carrier, or five days after deposit with the United States Post Office. City may at any time prior to the next following renewal date thereafter, withdraw such notice of nonrenewal and, in such event, this Contract shall continue as if no such notice of nonrenewal had been served.

(c) If either party serves written notice of nonrenewal in any year within the time limits of (a) above, this Contract shall remain in effect for the balance of the term remaining on the Contract as of the last automatic annual renewal. If the initial term of the Contract was ten (10) years, the remaining term after notice of nonrenewal is nine (9) years.

6. NO COMPENSATION

Owner shall not receive any payment from City in consideration of the obligation imposed under this Contract, it being recognized and agreed that the consideration for the execution of this Contract is the substantial benefit to be derived therefrom, and the advantage that may accrue to owner as a result of the effect upon the assessed value of the Property on account of the restrictions on the use of the Property contained herein.

7. SUCCESSORS IN INTEREST

This Contract and the restrictions imposed hereunder shall be binding upon, and inure to the benefit of, all successors in interest of the Owner. Whenever any of the Property is divided, the owner of any parcel of the original Property may exercise, independently of any other Owner of a portion of the divided Property, any of the rights of the Owner in this Contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of the Property shall not be imputed to

this other Owners of the remaining parcels and shall have no effect on this Contract as it applies to the remaining parcels of the divided Property.

8. CANCELLATION

This Contract may not be cancelled except pursuant to the provisions of the Act.

9. NOTICES

All notices required or permitted by this Contract, including notice of a change of address, shall be in writing and given by personal delivery, by overnight carrier, or by first class mail, addressed to the party intended to be notified. The notice shall be deemed to have been given and received on the date delivered in person, or the date of delivery receipt from the overnight carrier, or five days after deposit with the United States Post Office.

Notice to the CITY shall be addressed:

CITY OF SARATOGA, attn. CITY CLERK  
City Hall  
13777 Fruitvale Avenue  
Saratoga, California 95070

Notice to Owner shall be addressed:

Garrod Trust  
22600 Mount Eden Road  
Saratoga, CA 95070  
Attention: Jan Garrod

10. INVALIDITY

City may declare this Contract terminated if it (or another substantially similar Contract) is declared invalid or ineffective in any court adjudication accepted by City as final, but no cancellation fee or other penalties shall be assessed against Owner based upon such termination.

11. HOLDERS OF RECORD

Owner represents and warrants that the persons signing below are the only persons with legal and security interests in the Property and agrees to indemnify, defend and save harmless (collectively "indemnify") the City from any and all claims, suits or losses caused by a breach of this representation or warranty. This representation, warranty and agreement to indemnify, are binding upon the Owner (including Owner's successors in interest). Signatures of holders of

security interests shall only be evidence of notice of the Contract and acceptance by the holders of security interests of the binding restrictions herein.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by Owner and the City.

CITY OF SARATOGA

Date: \_\_\_\_\_

\_\_\_\_\_  
Dave Anderson, City Manager

ATTEST: City Clerk

\_\_\_\_\_  
Ann Sullivan

GARROD TRUST

Date: \_\_\_\_\_

By \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(print name)  
(print title)

NOTE: All signatures of both owners and holders of security interests must be property notarized.

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard Taylor, City Attorney

\_\_\_\_\_  
Attorney for GARROD TRUST



EXHIBIT A

**LAND CONSERVATION CONTRACT (WILLIAMSON ACT)**

**COMPATIBLE USE LIST**

The following is a list of land uses determined to be compatible with the agricultural use and open space use of the land subject to this Contract:

1. Facilities for, and the drying, packing or other processing of, an agricultural commodity usually performed on the premises where it is produced (including but not limited to wine) but not including slaughter houses, fertilizer yards, bone yards or plants for the reduction of animal or vegetable matter.

2. Structures necessary and incidental to the agricultural use of the land.

(a) Tasting or sampling rooms, stands or shelters for the sale of agricultural commodities (including but not limited to wine) produced on the land.

(b) Farmer's markets, including an agricultural stand where agricultural commodities grown, raised or produced off the premises are offered for sale to the general public by the owner or lessee of the land

(c) Limited sales of agricultural supplies, including hay, seed, veterinary supplies and horse tack. The sale of farm equipment or horse trailers is specifically excluded.

(d) Storage and maintenance facilities for trucks used exclusively for hauling agricultural produce, which must include produce grown on the property, as long as the remainder of the property can sustain an agricultural use.

3. The holding of nonproducing land for future agricultural use.

4. The maintenance of land in its natural state for the purpose of preserving open space for recreation or plant or animal preserves.

5. Single family dwellings incidental to the agricultural use of the land for the residence of the owner, and the family of the owner, the lessee of the land and the family of the

lessee, so long as otherwise consistent with the City's land use regulations (including density regulations).

Owner or lessee shall be construed to include:

- (a) stockholders in family corporations
- (b) beneficiaries of family trusts and estates
- (c) owners of undivided partial interests in the fee for the sale of agricultural commodities produced on the land;
- (d) joint tenants; ;
- (e) members in family LLCs; and
- (f) partners in family limited partnerships.

6. Dwellings for persons employed in the agricultural use of land or structures used to provide educational experiences or day-care facilities for their children, provided the use is non-profit and not open to the general public.

7. The erection, construction, alteration or maintenance of gas, electric, water or communication utility facilities, in compliance with the City's Underground Utility Ordinance No. NS-3.20.

8. Public or private fishing.

9. Public or private riding or hiking trails.

10. Riding Stables, Riding Academies, Riding Arenas, and other Equestrian Facilities, and the boarding of horses or other livestock, a horse riding arena, large animal clinics primarily for horses and other livestock including associated stalls and pastures, but not including an animal hospital or kennel.

11. Educational and cultural facilities and uses (including but not limited to vaulting and riding shows), subject to the following: educational and cultural uses shall not be located on prime agricultural soils or require major road improvements, and traffic to and from the subject use location shall not hinder or impair the agricultural operations in the surrounding area. At least three-quarters of the parcel must remain in agricultural or open space uses, and the maximum coverage of the site where the educational and cultural uses are to occur is limited to 20 acres.

12. Weddings, receptions and other social or seasonal events at existing facilities and immediate surrounding grounds, which do not displace or interfere with agricultural and open space use of the parcel or any adjacent parcel. At least three-quarters of the parcel must remain

in agricultural or open space uses, and the maximum coverage of the site where the educational and cultural uses are to occur is limited to 20 acres.

**INSTRUCTIONS**

This LAND CONSERVATION CONTRACT shall be recorded with the County of Santa Clara Recorder. Owner(s) signature(s) must each be acknowledged by a notary. Inform the notary that the acknowledgement is for an instrument to be recorded (California Civil Code §1169, et seq.)

**ACKNOWLEDGEMENT**

State of California                    )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of California                    )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**EXHIBIT A**  
**Legal Description of Annexation Property**

**EXHIBIT B**  
**Legal Description of Principal Property**

71-064

AGENDA ITEM # 4, ATTACHMENT C

DOCUMENT 16036399

Titles: 1 / Pages: 22

RECORDING REQUESTED BY:



Fees... \* No Fees  
Taxes...  
Copies...  
AMT PAID

WHEN RECORDED SEND TO:

Clerk of the Board of Supervisors  
70 West Hedding Street, 10th Floor  
San Jose, CA 95110

BRENDA DAVIS  
SANTA CLARA COUNTY RECORDER  
Recorded at the request of  
County Agency

RDE # 003  
12/31/2001  
10:43 AM

LAND CONSERVATION CONTRACT

This is a Land Conservation Contract (the "Contract") between the County of Santa Clara, State of California (the "County"), and

GARROD TRUST, (dated 12/30/70)

Louise G. COOPER, Trustee

VINCE S. GARROD Trustee, Edna May GARROD, Trustee

PLEASE PRINT OR TYPE NAMES OF ALL PROPERTY OWNERS INCLUDING  
HOLDERS OF ANY SECURITY INTERESTS

or the successors thereof (the "Owner").

WHEREAS, Owner is the legal owner of certain real property (the "Property") located within the County of Santa Clara, State of California, which is described in Exhibit B attached hereto and made a part hereof; and

WHEREAS, the Property is presently devoted to agricultural or open space uses; and

WHEREAS, both Owner and County desire to limit the use of the Property to agricultural, open space and uses compatible thereto; and

WHEREAS, the parties have determined that the highest and best use for the Property during the term of this Contract, or any renewal thereof, shall be for agriculture, open space and uses compatible thereto.

NOW THEREFORE, County and Owner agree as follows:

- 1. CONTRACT SUBJECT TO CALIFORNIA LAND CONSERVATION ACT OF 1965 AND RELATED COUNTY ORDINANCES

This Contract is entered into pursuant to Chapter 7 (commencing with Section 51200) of Part 1, Division 1, Title 5 of the Government Code, which is known as the California Land Conservation Act of 1965 or the Williamson Act, hereinafter referred to as the "Act". This Contract is subject to all of the provisions of this Act including any amendments thereto which may hereafter be enacted. This Contract is also subject to County Ordinances implementing the Act, as amended from time to time.

Application No. 02-004

2. RESTRICTIONS ON USE OF PROPERTY

During the term of this Contract, and any and all renewals thereof, the Property shall not be used for any purpose other than the production of agricultural commodities for commercial purposes, open space and uses compatible thereto. A list of all such compatible uses is set forth in Exhibit A, attached hereto and by this reference incorporated herein. The County may from time to time during the term of this Contract and all renewals thereof, add to the list of compatible uses additional uses which shall apply uniformly to all property located in the agricultural preserve in which the Property is located; provided, however, County may not during the term of this Contract or any renewal thereof, without the prior written consent of Owner, remove any of the compatible uses for the subject property which are set forth in Exhibit A. The provisions of this Contract and any supplementary list of compatible uses are not intended to limit or supersede the planning and zoning powers of County.

3. RESTRICTIONS ON SUBDIVISION OF PROPERTY

In order to be subdivided, the Property must meet certain additional requirements and limitations imposed by the Act, the Subdivision Map Act and County Ordinances implementing the Act and the Subdivision Map Act for division of land which is subject to a contract under the Act.

4. RESTRICTIONS ON SALE OF PROPERTY

If this Contract covers more than one legal parcel, Owner may only sell portions of the Property that meet the minimum acreage requirements of 10 acres prime agricultural land and 40 acres non-prime agricultural land. In no case shall any Property be maintained in separate ownership of less than these minimum sizes even if an existing legal parcel does not meet these sizes; provided, however that smaller portions of land may be sold to contiguous property owners where those portions are merged with other lands covered by a Land Conservation Contract for which no notice of nonrenewal or application for cancellation has been filed as of the date the Property ownership is transferred and the resulting merged parcel(s) meet the minimum sizes set forth in this paragraph.

5. TERM OF CONTRACT

This Contract shall become effective on the date of execution by the County and shall remain in full force and effect for an initial term of at least ten years, which term shall commence on the first day of January following execution of the Contract. Each succeeding first day of January shall be deemed to be the annual renewal date of this Contract. This Contract shall be renewed automatically on each succeeding January 1 and one additional year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Paragraph 5.



6. NOTICE OF NONRENEWAL

- (a) If either party desires in any year not to renew this Contract, that party shall serve written notice of nonrenewal upon the other party in advance of the annual renewal date of this Contract. Unless such written notice of nonrenewal is served by Owner at least 90 days prior to the renewal date, or by County at least 60 days prior to the renewal date, this Contract automatically shall be renewed for an additional year as provided in Paragraph 4 above.
- (b) In the event that County serves written notice of nonrenewal of this Contract, the Owner, within ten (10) days after receipt, may submit to County a written protest of nonrenewal. County may at any time prior to the next following renewal date thereafter, withdraw such notice of nonrenewal and in such event, this Contract shall continue as if no such notice of nonrenewal had been served.
- (c) If either party serves written notice of nonrenewal in any year within the time limits of (a) above, this Contract shall remain in effect for the balance of the term remaining on the Contract as of the last automatic annual renewal. If the initial term of the Contract was ten (10) years, the remaining term after notice of nonrenewal is nine (9) years from the first day of January following the notice of nonrenewal.

7. NO COMPENSATION

Owner shall not receive any payment from County in consideration of the obligation imposed under this Contract, it being recognized and agreed that the consideration for the execution of this Contract is the substantial benefit to be derived therefrom, and the advantage that may accrue to Owner as a result of the effect upon the assessed value of the Property on account of the restrictions on the use of the Property contained herein.

8. SUCCESSORS IN INTEREST

This Contract and the restrictions imposed hereunder shall be binding upon, and inure to the benefit of, all heirs, executors, administrators, trustees, assigns and successors in interest of the Owner. Whenever any of the Property is divided, the Owner of any parcel of the original Property may exercise, independently of any other Owner of a portion of the divided Property, any of the rights of the Owner in this Contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the Owner of a parcel created by the division of the Property shall not be imputed to the other Owners of the remaining parcels and shall have no effect on this Contract as it applies to the remaining parcels of the divided Property. If the Property or any portion thereof is annexed by a city, the city shall succeed to all rights, duties and powers of the County under this Contract, except as otherwise provided by the Act.

9. CANCELLATION

This Contract may not be cancelled except pursuant to the provisions of the Act and County Ordinances implementing the Act.

10. NOTICES

All notices required or permitted by this Contract, including notice of a change of address, shall be in writing and given by personal delivery or sent by United States Mail, postage prepaid, return receipt requested, addressed to the party intended to be notified. Notice shall be deemed given as of the date of delivery in person or as of the date when deposited in any post office or any post office box regularly maintained by the United States Government.

Notice to the County shall be addressed:

COUNTY OF SANTA CLARA  
Office of the Board of Supervisors  
County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110

Notice to Owner shall be addressed:

Name: GARROD TRUST

Address: 22600 MT EDEN

City, State, Zip: SARATOGA, CA 95070

11. INVALIDITY

County may declare this Contract terminated if it (or another substantially similar Contract) is declared invalid or ineffective in any court adjudication accepted by County as final, but no cancellation fee or other penalties shall be assessed against Owner based upon such termination.

12. HOLDERS OF RECORD

Owner represents and warrants that the persons signing below are the only persons with legal and security interests in the Property and agrees to indemnify, defend and save harmless the County from any and all claims, suits or losses caused by a breach of this representation or warranty. This representation and warranty and hold harmless clause are binding upon the Owner. Signatures of holders of security interests shall only be evidence of notice of the Contract and acceptance by the holders of security interests of the binding restrictions herein.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by Owner on Sept 11, 2001 and by County on DEC 24 2001.

COUNTY OF SANTA CLARA

James T. Beall Jr  
JAMES T. BEALL, JR.  
Chairperson, Board of Supervisors

ATTEST:

Phyllis A. Perez  
PHYLLIS A. PEREZ  
Clerk of the Board of Supervisors

Date: DEC 24 2001

APPROVED AS TO FORM AND LEGALITY

Lizanne Reynolds 12-24-01  
LIZANNE REYNOLDS  
Deputy County Counsel

PROPERTY OWNER(S)

Vince S. Garrod  
Signature  
VINCE S. GARROD, Trustee  
Name/Title

Louise G. Cooper  
Signature  
Louise G. Cooper, Trustee  
Name/Title

Edda May Garrod  
Signature  
Edda May Garrod, Trustee  
Name/Title

HOLDERS OF SECURITY INTERESTS:

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name/Title  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name/Title  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name/Title

NOTE: Each signature must be properly notarized using a full-page Form of Acknowledgment.

State of California  
County of Santa Clara

On Sept. 11, 2001 before me, Judy Coulter, Notary Public,  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Yusef S. Samad and Louise A. Casper  
NAME(S) OF SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.  
Judy Coulter  
SIGNATURE OF NOTARY

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_ TITLE(S)
- PARTNER(S)       LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

Land Conservation Contract

\_\_\_\_\_ TITLE OR TYPE OF DOCUMENT  
5 NUMBER OF PAGES  
9-11-01 DATE OF DOCUMENT

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

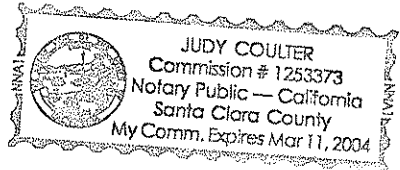
None  
SIGNER(S) OTHER THAN NAMED ABOVE

State of California  
County of Santa Clara

On Sept. 12, 2001, before me, Judy Coulter, Notary Public,  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Edna May Harrod  
NAME(S) OF SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Judy Coulter  
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_ TITLE(S)
- PARTNER(S)       LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

DESCRIPTION OF ATTACHED DOCUMENT

Land  
Conservation Contract  
TITLE OR TYPE OF DOCUMENT

5  
NUMBER OF PAGES

9.11.01  
DATE OF DOCUMENT

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

Tracie S. Harrod  
Louise H. Cooper  
SIGNER(S) OTHER THAN NAMED ABOVE

ALL-PURPOSE ACKNOWLEDGMENT

State of California            }  
  } SS.  
County of Santa Clara        }

On 12/24/2001, before me, Lynn E. Regadanz, Deputy Clerk of the Board of Supervisors, personally appeared James T. Beall, Jr., Chairperson, Board of Supervisors, 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:

PHYLLIS A. PEREZ, Clerk  
Board of Supervisors

  
\_\_\_\_\_  
Deputy Clerk of the Board of Supervisors

Acknowledgment pursuant to Civil Code Sections 1184 and 1189

# County of Santa Clara

Environmental Resources Agency  
Planning Office

County Government Center, East Wing, 7th Floor  
70 West Hedding Street  
San Jose, California 95110-1705  
(408) 299-2454 FAX 279-8537



## LAND CONSERVATION CONTRACT (WILLIAMSON ACT) COMPATIBLE USE LIST

***(PLEASE NOTE: The fact that a use is compatible with the agricultural use of the land does not negate the need for a use permit or other regulatory approvals if otherwise required by applicable laws and regulations, including but not limited to the Santa Clara County Ordinance Code.)***

### 1. Residential uses incidental to the agricultural use of the land, as outlined below:

- a. Single-family homes for the property owner or lessee, which includes stockholders in family corporations, beneficiaries of family trusts and estates, owners of undivided partial interests in the fee, and joint tenants.
- b. Dwellings for persons employed in the agricultural use of the land or structures used to provide educational experiences or day care facilities for their children, provided the use is non-profit and not open to the general public.
- c. Temporary farm labor camps incidental and necessary to the gathering of the crops grown on the land. Permanent agricultural laborer housing facilities are also a compatible use unless the County Board of Supervisors determines otherwise, after notice and hearing (Government Code Section 51238(a)).
- d. Residential care facilities for persons actively participating in agriculture as a prime component of their training or recreation.
- e. Facilities to be used as Bed and Breakfast Inns with a maximum of six (6) guest rooms, kitchen and dining facilities for guests and small private events, all of which are totally contained within the existing residential structure.

### 2. Accessory structures necessary and incidental to the agricultural use of the land, including:

- a. Facilities for the drying, packing, or other processing of an agricultural commodity usually performed on the premises where it is produced, but not including slaughterhouses, fertilizer yards, bone yards, or plants for the reduction of animal or vegetable matter.
- b. Stands or shelters for the sale of agricultural commodities produced on the land.
- c. Farmer's markets, as defined in the Zoning Ordinance of the County of Santa Clara, including an agricultural stand where agricultural commodities grown, raised, or produced off the premises are offered for sale to the general public by the operator of the stand. (Use permit required)
- d. Limited sales of agricultural supplies including hay, seed, veterinary supplies, and horse tack. The sale of farm equipment or horse trailers is specifically excluded.
- e. Aircraft landing strips.
- f. Storage and maintenance facilities for trucks used exclusively for hauling agricultural produce which must include produce grown on the property, as long as the remainder of the property can sustain an agricultural use.
- g. Temporary wood recycling operations.

3. **The maintenance of land in its natural state** for the purpose of preserving open space for recreation or plant or animal preserves, or the holding of nonproducing land for future agricultural use or future mineral extraction.

4. **Recreational uses:**

- a. Public or private fishing or hunting of wildlife, including structures associated with hunting or fishing clubs.
- b. Public or private rifle and pistol practice ranges, trap or skeet fields, archery ranges, golf driving ranges, or other similar uses.
- c. Public or private riding or hiking trails.
- d. Riding academies, stables, and boarding of horses or other livestock.
- e. Large animal clinics primarily for horses or other livestock, including associated stables and pasture. (Small animal hospitals and kennels are excluded.)

5. **Utilities, Resource Extraction, and Waste Disposal Facilities:**

- a. The erection, construction, alteration, or maintenance of gas, electric, water, communication utility facilities; small-scale facilities testing electronic products for electromagnetic emissions under applicable Federal Communications Commission regulations; radio, television or microwave antennas; and, transmitters and related facilities.
- b. Oil and gas well drilling, including the installation and use of such equipment, structures and facilities as are necessary or convenient for oil and gas drilling and producing operations customarily required or incidental to usual oil field practice, including the initial separation of oil, gas, and water and the storage, handling, recycling, and transportation of such oil, gas, and water from the premises.
- c. Surface mining operations which have an approved land rehabilitation plan which returns the land to an agricultural or open space use upon completion.
- d. Sanitary landfills which have a land rehabilitation plan which returns the land to an agricultural or open space use upon completion.

6. **Educational, Cultural, and Religious Facilities:**

- a. Churches, including accessory structures, as long as such use does not substantially interfere with the primary agricultural use of the land within the preserve.
- b. Educational and cultural uses not located on prime agricultural soils which do not require major road improvements, and where traffic to and from the subject use location does not hinder or impair the agricultural operations in the surrounding area. At least three-quarters of the parcel must remain in agricultural or open space uses, and the maximum coverage of the site where the educational and cultural uses are to occur is limited to 20 acres.
- c. Seasonal and occasional social receptions at existing facilities and immediate surrounding grounds, which do not displace or interfere with agricultural and open space use of the parcel or any adjacent parcel.

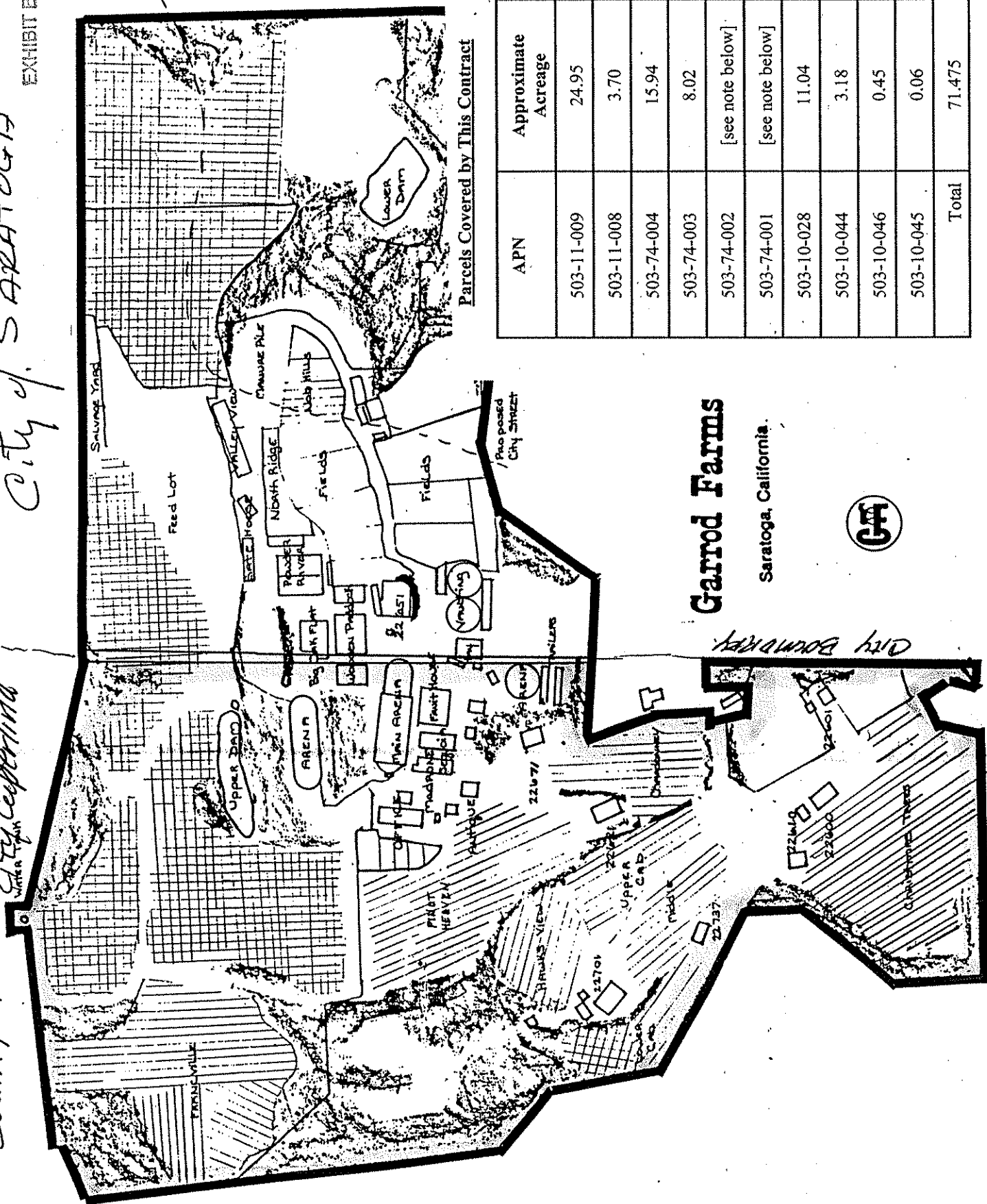
Revised 4/14/2000



MIDWAY OPEN SPACE VISUAL  
 COUNTY of Santa Clara  
 City of Cupertino

City of SARATOGA

EXHIBIT B-1



Parcels Covered by This Contract

APN	Approximate Acreage
503-11-009	24.95
503-11-008	3.70
503-74-004	15.94
503-74-003	8.02
503-74-002	[see note below]
503-74-001	[see note below]
503-10-028	11.04
503-10-044	3.18
503-10-046	0.45
503-10-045	0.06
Total	71.475

# Garrod Farms

Saratoga, California.



Note: APNs 503-74-002 and 503-74-001 total 4.135 acres.



Beginning at the corner common to Sections 34 and 35, T. 7 S., R. 2 W. and Sections 2 and 3, T. 7 S., R. 2 W., M. D. B. & R.; thence along the line between said sections 34 and 35 T. 7 S., R. 2 W., North 14.11 chains to a stake standing in the centerline of Mt. Eden Road at the southeasterly corner of that certain 66 acre tract of land conveyed by Ralph Creffield to David Garrod, et ux, by Deed dated January 18, 1895 and recorded April 17, 1895 in the office of the Recorder of the County of Santa Clara, State of California in Book 179 of Deeds, page 280; thence along the centerline of Mt. Eden Road and the Southerly line of said 66 acre tract of land, S. 83 deg. 45' W. 3.88 chains to a stake marked 1, from which a witness post marked W. P. and standing in the Northerly fence line of said road bears N. 48 deg. 15' W. 22 lks.; Thence leaving said road and running parallel to a fence and distant therefrom 10 feet Westerly and along the centerline of a proposed road 20 feet wide forming the Westerly line of said 66 acre tract of land, with the following courses and distances: N. 48 deg 15' W., 1.43 chains to a stake marked 2, N. 22 deg. 15' W 2.19 chains to a stake marked 3, N. 33 deg. W. 1.58 chains to a stake marked 4, N. 11 deg. 30'. W. 2.56 chains to a stake marked 5, N. 44 deg. 30' W. 0.95 chains to a stake marked 6, N. 76 deg. 15' W. 1.46 chains to a stake marked 7, N. 58 deg. W. 2.475 chains to a stake marked 7½, N. 44 deg. 20' W. 0.87 chains to a stake marked 8, N. 19 deg. W. 1.566 chains to a stake marked 9, N. 22 deg. 30" W. 4.00 chains to a stake marked 10 standing in the centerline of a road 20 feet wide; thence leaving said fence and running along the centerline of said road with the following courses and distances: N. deg. 25' E. 1.00 chain to a stake marked 11, N. 12 deg. 45' E. 6.31 chains to a stake marked 12, N. 9 deg. W. 1.15 chains to a stake marked G. M. 6, N. 27 deg. 30' W. 2.35 chains to a stake marked G. M. 5., N. 4 deg. 15' W. 3.85 chains to a stake marked G. M. 4., standing at a bend of said road to the Northeast; thence leaving said road and running N. 41 deg. 15' W. 5.12 chains to a stake marked G. M. 3., N. 11 deg. 30' W. 2.38 chains to a stake marked G. M. 2 from which a live oak 4" in diameter marked B. T. G. M. 2 bears S. 66 deg. E. 14½ lks. and N. 49 deg. 15' W. 2.94 chains to a stake marked G. M. 1 standing at the point of intersection of the crest of a ridge from which the land slopes South and West with the West line of the Southeast ¼ of the Northeast ¼ of Section 34, T. 7. S. R. 2 W., and from which stake a mountain mahogany 4" in diameter bears N. 28 deg. 45' W. 39 lks. and a live oak 14" in diameter bears S. 52 deg. 30' E. 2.24 chains, both trees being marked B. T. G. M. 1; thence leaving said crest of said ridge and running along the West line of said Southeast ¼ of the Northeast ¼ of Section 34 T. 7 S. R. 2 W., S. 10.94 chains to the Southwest corner of said Southeast ¼ of the Northeast ¼ of said Section 34; thence S. 64 deg. W. 2.06 chains to a stake marked D..H. 3 standing at the Northeasterly corner of that certain 39.50 acre tract of land conveyed by Sarah E. Haskell and D. H. Haskell, her husband, to John Blackwell and Terence Murphy by Deed dated January 26, 1894 and recorded February 5, 1894 in the office of the Recorder of the County of Santa Clara, State of California in Book 162 of Deeds, page 596, and from which a live oak 18" in diameter marked B. T. D. H. 3 bears N. 70 deg. W. 24½ lks. and a live oak 16" in diameter marked B. T. D. H. 3 bears N. 63 deg. E. 24 lks.; thence along the Easterly line of said 39.50 acre tract of land, S. 4 deg. E. 14.77 chains to a bearberry tree 4" in diameter,

100-01-225  
700  
021  
220

marked D. H. 2 standing on the steep West slope of a ravine; thence along the center line of said ravine with the following courses and distances: S. 14 deg. 15' E. 1.95 chains, S. 58 deg. 30' E. 1.24 chains, S. 1 deg. 30' W. 2.15 chains and S. 20 deg. 15' W. 2.80 chains to a stake marked P. S. 3 standing at the Southernmost corner of said 39.80 acre tract of land and at the most Northerly corner of that certain 11.88 acre tract conveyed by Mt. Eden Orchard Vinyard and Land Company, a corporation, to L. F. Chipman by Deed dated December 3, 1891 and recorded December 4, 1892 in Book 140 of Deeds at page 545, records of said count of Santa Clara, and from which stake P. S. 3 a live oak 24" in diameter marked B. T. P. S. 3 bears N. 9 deg. E. 22 lks. and a white oak stump 12" in diameter marked B. T. P. S. 3 bears N. 47 deg. 30' W 50 lks.; thence along the Northerly line of said 11.88 acre tract of land S. 60 deg. 15' E. 5.66 chains, S. 81 deg E. 2.63 chains and S. 63 deg. E. 4.03 chains to a stake marked B. S. 3 standing at the most Easterly corner of said 11.88 acre tract of land and center of a small ravine to the Southwest; thence along the center of said small ravine and the Easterly line of said 11.88 acre tract of land with the following courses and distances; S. 24 deg W. 2.58 chains, S. 6 deg. 30' E 0.69 chaind, S. 39 eeg. W. 2.29 chains, S. 60 deg. 05' W. 2.47 chains, S. 3 deg. 30'W 2.59 chains, S. 19 deg 45' W. 2.10 chains and S. 11 deg. 30' E 1.67 chains to the Southeasterly corner of said 11.88 acre tract of land; in the Section line between Section 34, T. 7 S. R. 2. W. and Section 3, T. 8 S. R. 2 W.; thence along the said Section line S. 89 deg. 25' E. 14.23 chains to the place of beginning.

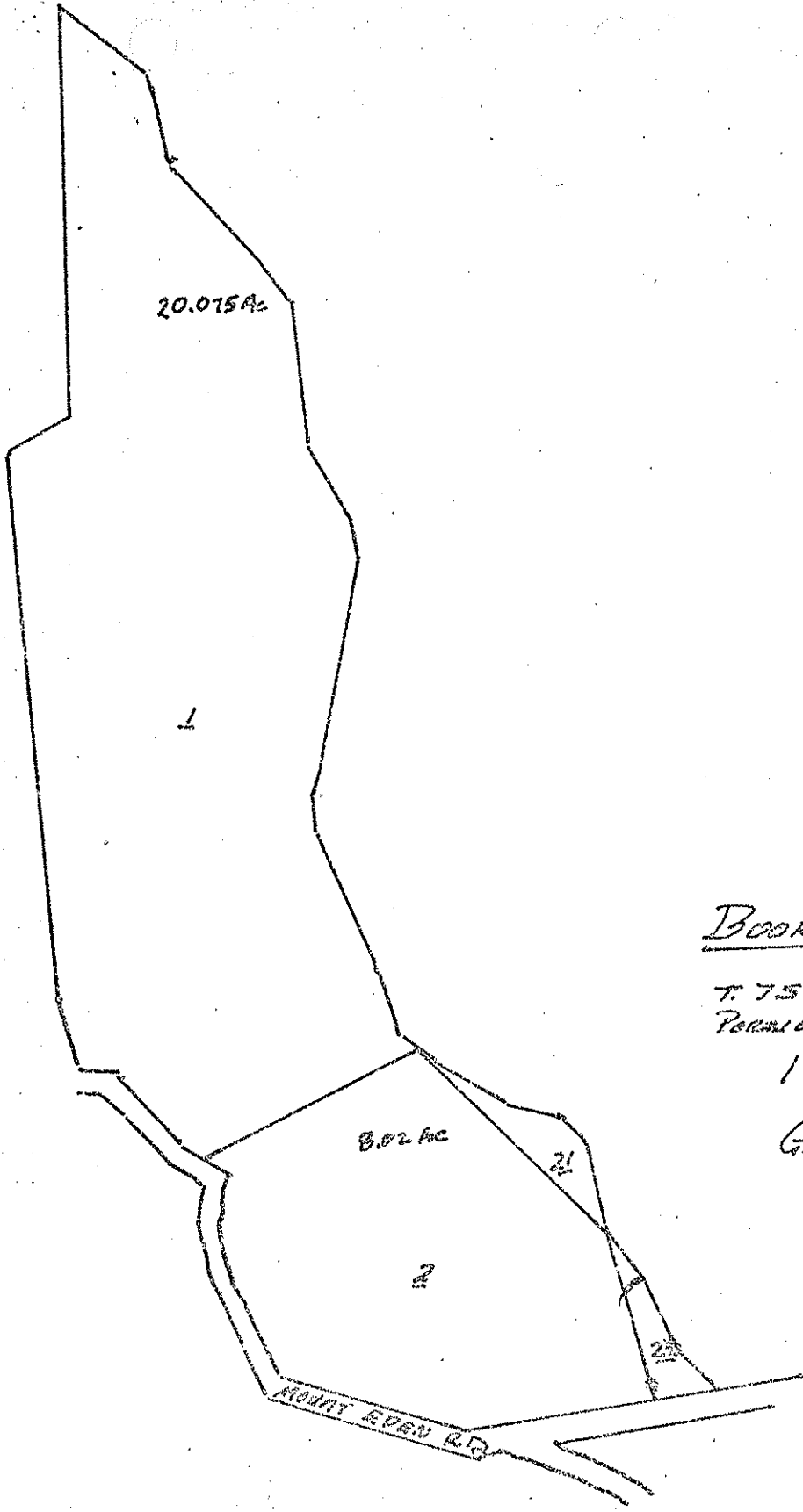
Excepting therefrom the following parcels of land;

503-10-28  
829  
1. That certain parcel of land described in the Deed from R.V. Garrod et ux, to Vince Stolte Garrod et. ux, dated December 13, 1948 and recorded December 18, 1948 in Book 1717 of Official Records, at page 382, Santa Clara County Records.

503-10-003  
14  
15  
2. That certain parcel of land described in the Deed from R. V. Garrod, et ux, to Vince Stolte Garrod dated April 5, 1941 and recorded April 29, 1941 in Book 1038 of Official Records, at page 195, Santa Clara County Records.

503-10-007  
3. That certain parcel of land described in Deed from Vince Stolte Garrod, Richard Ralph Garrod and Louise Garrod Cooper to Phillip A. Jensen et. ux dated May 27, 1967 and recorded in Book 7731, at page 274, of the Official Records of the County of Santa Clara, State of California.

PAGE 2 of 2



BOOK 503 - Pg 10

T. 75 - R. 2 W  
PERMISSION SEC 34

1" = 300'

GARRARD & COOPER  
11/14/70

OFFICE OF COUNTY ASSESSOR - SANTA CLARA COUNTY, CALIFORNIA

BOOK 503  
PAGE 11

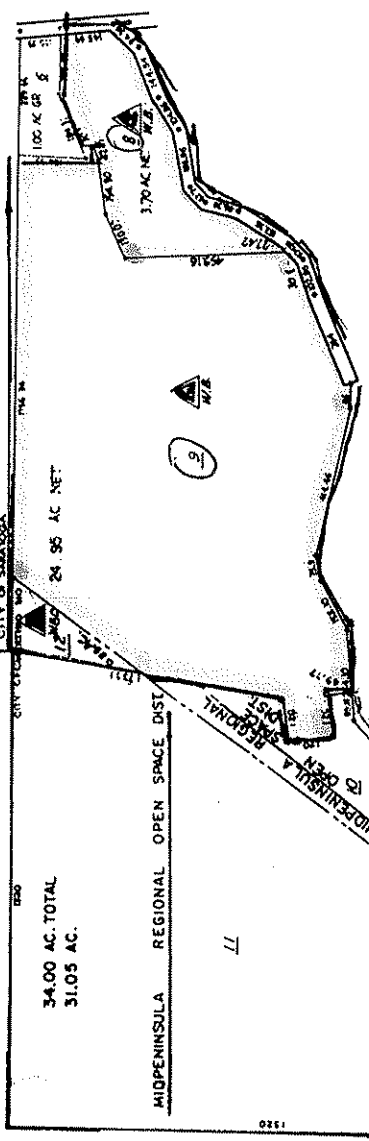
TOWNSHIP 7 SOUTH RANGE 2 WEST

34.00 AC. TOTAL  
31.05 AC.

24.95 AC. NET

100 AC. GR. 8

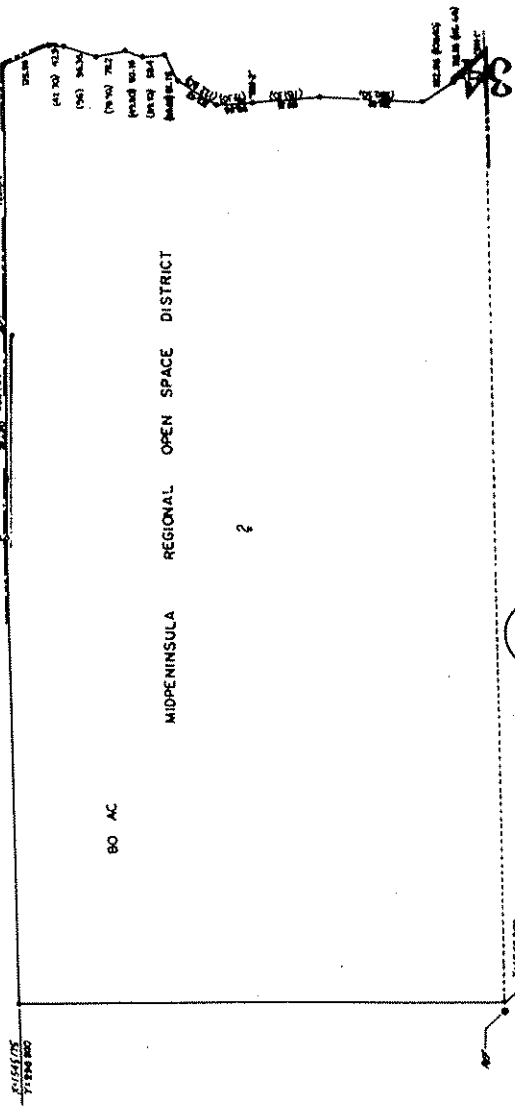
170 AC. NET



BK. 366

BK. 351

26  
26



RECORDER'S MEMO  
FAINT WRITING OR TYPING  
OR CARBON COPIES MAKES  
POOR PHOTOGRAPHIC RECORD

EXHIBIT B

503-11-001-002  
503-11-003

BEGINNING at a point in the East Line of Section 34 in T. 7 S. R. 2 W., of the Mount Diablo Meridian, where said line intersects the center line of the Mount Eden Road; thence along said East line N.0° 5' E., 26 chs. more or less, to the one-fourth section corner on said line and further on the same line 20 chs. to a stake; thence S. 89° 25' W., 20 chs. to a stake; thence S. 0° 5' W., about 12½ chs. to the crest of a ridge from which the land there slopes to the South and West; thence Southwesterly along the general line of a fence about 4½ chs. to a stake set in the center line of a farm roadway; thence along said center line S. 44° and 45' E. 4.76 chs. to a stake; thence further along said center line the following approximate courses and distances: S. 3.10 chs. S. 32° E. 2.50 chs. S. 8° W. 4.83 chs.; S. 11° 10' E. 3.18 chs.; S. 22° E. 5.80 chs.; S. 45½° E. 1 chain; S. 63° E. 4.60 chs.; S. 13° E. 3.16 chs.; S. 26° E. 2.30 chs.; S. 61½° E. 2.25 chs. to a point in the center of the Mount Eden Road; thence East along the center of said road about 4 chs. to the place of beginning.

EXCEPTING THEREFROM the following two parcels:

503-11-005

PARCEL ONE: BEGINNING at a 2" x 3" stake at the point of intersection of the center line of Mt. Eden Road (40 feet wide), with the Easterly line of Section 34, Township 7 South, Range 2 West, Mount Diablo Base and Meridian, said point of beginning also being the Southeasterly corner of that certain 66 acre tract of land conveyed by Ralph Creffield to David Garrod, et ux, dated January 18, 1895, and recorded April 17, 1895 in Book 179 of Deeds, page 280, Santa Clara County Records; thence along the center line of Mt. Eden Road South 96° 41' 10" West 107.80 feet to an iron pipe; thence leaving Mt. Eden Road North 9° 35' 50" West 172.40 feet to an iron pipe; thence North 24° 06' 50" West 162.65 feet to an iron pipe; thence South 89° 38' 20" East 204.78 feet to an iron pipe on the Easterly line of said Section 34; thence along the Easterly line of said Section 34, and the Easterly line of said 66 acre tract of land South 0° 21' 40" West 310.93 feet to the point of beginning.

Containing approximately 1.050 acres of land and being a portion of said 66 acre tract of land and a part of the Southeast one-quarter of Section 34, Township 7 South, Range 2 West, Mount Diablo Base and Meridian.

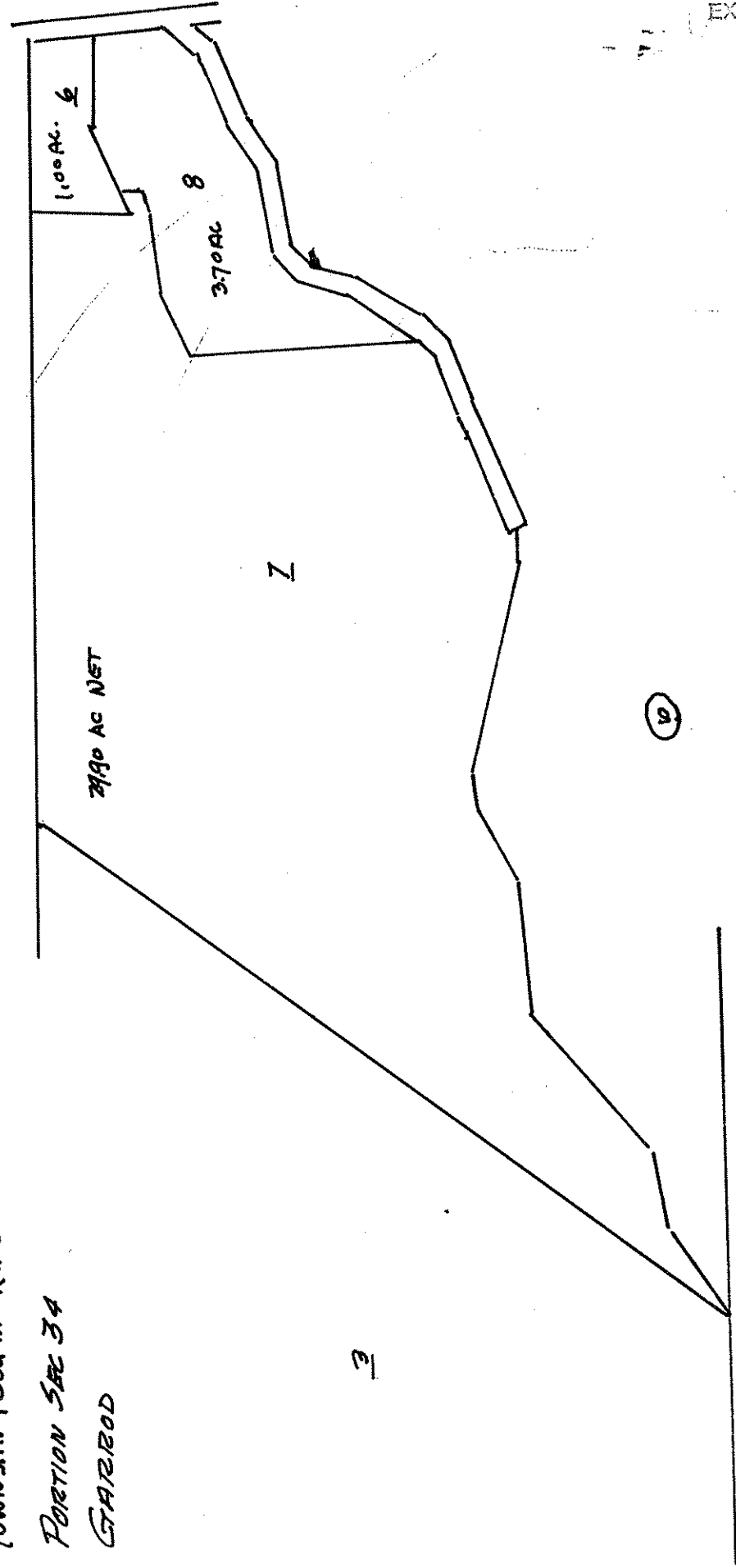
PARCEL TWO: All that portion of said land included in that certain annexation entitled "Stevens Creek #13", and adopted by Ordinance #184 of the City of Cupertino on September 12, 1961.

*Eric Cooper, trustee*

Book 503 Page 11

(12)

TOWNSHIP 1 SOUTH RANGE 2 WEST  
PORTION SEC 34  
GARBERD



3

(10)

300'





Legal Description for APN 503-10-028

BOOK 9259 PAGE 400

Beginning at a 3/4 inch pipe set at the intersection of the center line of Mt. Eden Road with the line dividing Section 34 T. 7. S. R. 2. W. and Section 3 T. 8. S. R. 2. W.; thence along the line dividing said section 34 and Section 3, N. 89 deg. 25' W 12.545 chains to the Southwesterly corner of that 11.88 Acre tract of land conveyed by Mt. Eden Orchard Vinyard and Land Company, a corporation, to L. F. Chipman by Deed dated December 3, 1891 and recorded December 4, 1891 in Liber 140 of Deeds, page 545; thence along the Easterlyline of said 11.88 acre tract N. 11 deg. 45' E, 2.10 chains N. 3 deg. 30' E, 2.59 chains, N 60 deg. 05' E, 2.47 chains, N 39 deg E, 2.29 chains, N. 6deg 30' W, 0.69 chains and N. 24 deg. 0'E. 2.58 chains to the most Easterly corner thereof; thence continuing along said last named course N. 24 deg E. 1.80 chains, more or less to the center line of Mt. Eden Road; thence along said centerline and the Southeasterly prolongation thereof Southeasterly 2.50 chains, more or less to an angle point on the Southwesterly line of that 4.075 acre tract conveyed by R. V. Garrod et ux, to Vince Stelte Garrod by Deed dated April 5, 1941 and recorded April 29, 1941 in Book 1038 of the Official Records, page 195; thence along the Southwesterly line of said 4.075 acre tract S. 43 deg. 50' W. 232.59 feet (at approximately 85 feet said Southwesterly line intersects the center line of Mt. Eden Road); Thence continuing along the Southwesterly line of said 4.075 acre tract and the center line of Mt. Eden Road, on a curve to the right tangently having a radius of 500 feet, through a central angle of 17 deg. 00' for a distance of 148.35 feet; thence S. 26 deg. 50' E. 108.49 feet; thence on a curve to the right tangently having a radius of 1,000 feet, through a central angle of 7 deg. 08' for a distance of 124.50 feet; thence S. 19 deg. 42' E. 105.94 feet; thence on a curve to the right tangently having a radius of 150 feet, through a central angle of 63 deg. 28' for a distance of 166.15 feet; thence S 43 deg. 46' W. 52.95 feet to the point of beginning and being part of the Southeast 1/4 of Section 34 T. 7. S. R. 2 W., M. D. B. & M.

n Titlery  
STREET, SANTA ANA 892  
of The First Arts

Legal Descriptions for APNs 503-10-044 and 503-10-046

Exhibit "A"

BOOK 9259 PAGE 404

EXHIBIT B2

Lying in the southeast  $\frac{1}{4}$  of Section 34, T. 7 S. R. 2 W. M. D. B & M. and being a portion of the lands conveyed to R. V. Garrod by Deed recorded in Volume 742, at page 496, Official Records of Santa Clara County, California

Beginning at a  $\frac{3}{4}$  inch pipe standing in the common corner of Sections 34 & 35, T. 7 S. R. 2 W., and Sections 2 & 3, T. 8 S. R. 2 W. M. D. B. & M. and running thence S. 88 deg. 23' W. 111.25 feet to a  $\frac{3}{4}$  inch pipe standing in the center line of Mt. Eden Road; thence N. 43 deg. 46' E 52.95 feet to a point; thence curving to the left with a radius of 150 feet through an angle of 63 deg. 28' for a distance of 166.15 feet; thence N. 19 deg. 42' W. 103.94 feet to a point; thence curving to the left with a radius of 1000 feet through an angle of 7 deg. 08' for a distance of 1124.50 feet to a point; thence N. 26 deg. 50' W. 108.49 feet to a point; thence curving to the left with a radius of 500 feet through an angle of 17 deg. 00' for a distance of 148.35 feet to a point; thence N. 43 deg. 50' W. 232.59 feet to a one inch pipe standing at the point of intersection of the tangents of a 500 foot radius curve to the left; thence N. 20 deg 30' W. 92.20 feet to a  $\frac{3}{4}$  inch pipe standing in the center line of Mt. Eden Road; thence N. 81 deg. 50' E. 203.75 feet to a  $\frac{3}{4}$  inch pipe; thence N. 83 deg. 52' E 256.08 feet to a 2" x 3" white stake standing in the southeast corner of the lands formerly of D. Garrod as recorded in Volume 742, at page 496, Official Records of Santa Clara County, California; thence S. 0 deg. 07' W. 931.24 feet along the line between Sections 34 and 35, T. 7 S. R. 2 W. M. D. B. & M. to the point of beginning. Containing 4.075 acres, more or less. Courses true. Magnetic Variation 18 deg. East.

Excepting therefrom the following parcels of land:

1. That certain parcel of land described in Deed from Vince Stolte Garrod and Jane Whiteman Garrod to Frank E. Hawkes et. ux as recorded March 2, 1954 in Book 2825, at page 97, of the records of the County of Santa Clara, State of California.
2. That certain parcel of land described in Deed from Vince Stolte Garrod to Anthony T. Cocciardi et. ux as recorded July 30 1958 in Book 4136 at page 322 of the Official Records of the County of Santa Clara, State of California.

*of pews*

503-10-045

Beginning at the point of intersection of center line of a roadway 40 feet in width, as said roadway was granted in the Deed from R. V. Garrod, et ux, to the County of Santa Clara dated March 29, 1941 and recorded April 9, 1941 in Book 1035 of Official Records, page 168, with the Southerly line of Section 34, T. 7 S. R. 2W., M.D.B. & M., thence from said point of beginning, along the Southerly line of said Section 34, N. 88 degrees 23 minutes E., 111.25 feet to a  $\frac{3}{4}$ " iron pipe at the common corner of Section 34 and 35 T. 7 S. R. 2 W., and Sections 2 and 3 T. 8 S. R. 2 W., M.D.B. & M., thence along the easterly line of said Section 34, N. 0 degrees 07 minutes E., 150.00 feet, thence at a right angle N. 89 degrees 53 minutes W., to a point on the center line of said 40 foot roadway, herein above referred to, thence along said center line, Southwesterly along the arc of a curve to the right with a radius of 150 feet to a point thereon from which the point of beginning of this description bears S. 43 degrees 46 minutes W., 52.95 feet; thence continuing along said center line S. 43 degrees 46 minutes W., 52.95 feet to the point of beginning, and being a portion of said Section 34

Book 4136, page 332  
July 30 3:56 PM 1958.

Vince Stolte Garrod and Jane Whiteman Garrod his wife hereby grant to  
Anthony Cocciardi and Mack Erickson

City of Saratoga  
1377 Fruitdale Ave  
Saratoga Calif 95070

3939005

BOOK 9189 PAGE 530

LAND CONSERVATION CONTRACT

NO FEE

This is an agreement between the City of Saratoga, California, (hereinafter called "City"), and VINCE S. GARROD, JANE W. GARROD, RICHARD R. GARROD & EDNA MAY GARROD (hereinafter called "Owner").

WHEREAS, Owner possesses certain real property located within the City of Saratoga, County of Santa Clara, State of California, which is presently devoted to agricultural uses and is described in Exhibit B attached hereto and made a part hereof; and

WHEREAS, the property is located in an agricultural preserve heretofore established by City; and

WHEREAS, both Owner and City desire to limit the use of the property to agricultural and compatible uses; and

WHEREAS, the parties have determined that the highest and best use for the property during the term of this contract, or any renewal thereof, shall be for agricultural purposes.

NOW, THEREFORE, City and Owner agree as follows:

1. CONTRACT SUBJECT TO CALIFORNIA LAND CONSERVATION ACT OF 1965

This contract is entered into pursuant to Chapter 7 (commencing with Sections 51200) of Part 1, Division 1, Title 5 of the Government Code, which is known as the California Land Conservation Act of 1965. This contract is subject to all of the provisions of this Act including any amendments thereto which may hereafter be enacted.

2. RESTRICTION ON USE OF PROPERTY

During the term of this contract, and any and all renewals thereof, the property described in Exhibit B shall not be used by Owner, or Owner's successors in interest, for any purpose other than the production of agricultural commodities for commercial purposes and uses compatible thereto. A list of all such compatible uses is set forth in Exhibit A attached hereto and by this reference incorporated

the term of this contract or any renewal thereof, without the prior written consent of Owner, remove any of the compatible uses for the subject property which are set forth in Exhibit A. The provisions of this contract and any uniform rule supplementing the list of compatible uses are not intended to limit or supersede the planning and zoning powers of City.

3. TERM OF CONTRACT

This contract shall become effective on the date of execution and shall remain in full force and effect for an initial term of ten years. The initial term of ten years shall be measured commencing as of the first day of January next succeeding the date of execution if the date of execution is between March 2 and December 31. The initial term of ten years shall be measured commencing as of the first of January of the year of execution if the date of execution is between January 1 and March 1. Each succeeding first day of January shall be deemed to be the annual renewal date of this contract. This contract shall be renewed on each succeeding January 1 and one additional year shall be added automatically to the initial term unless notice of non-renewal is given as provided in paragraph 4.

4. NOTICE OF NONRENEWAL

(a) If either party desires in any year not to renew this contract, that party shall serve written notice of nonrenewal upon the other party in advance of the annual renewal date of this contract. Unless such written notice of nonrenewal is served by Owner at least 90 days prior to the renewal date, or by City at least 60 days prior to the renewal date, this contract shall be considered renewed as provided in paragraph 3 above.

(b) If either party serves written notice of nonrenewal in any year within the time limits of (a) above, this contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of this contract, as the case may be.

5. NO COMPENSATION

6. SUCCESSORS IN INTEREST

This contract and the restrictions imposed hereunder shall be binding upon, and inure to the benefit of, the successors in interest of the Owner. Whenever any of the property described in Exhibit B is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided property, any of the rights of the owner in this contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land described in Exhibit B shall not be imputed to the owners of the remaining parcels and shall have no effect on this contract as it applies to the remaining parcels of the divided property. The territory described in Exhibit B is within one mile of the City of Cupertino on the date of execution of this contract. The City of Cupertino did not protest the execution of this contract.

7. CANCELLATION

This contract may be cancelled and a cancellation fee imposed pursuant to the provisions of the Land Conservation Act of 1965.

8. NOTICES

All notices required or permitted by this contract, including notice of a change of address, shall be in writing and given by personal delivery or sent by United States Mail addressed to the party intended to be notified. Notice shall be deemed given as of the date of delivery in person or as of the date when deposited in any post office or any post office box regularly maintained by the United States Government.

Notice to the City shall be addressed:

City Clerk  
City of Saratoga  
13777 Fruitvale Avenue  
Saratoga, California 95070

Notice to the Owner shall be addressed:

Name: VINCE S. GARROD  
Address: 22600 Mt Eden Road  
City and State: San Jose, California

LAND CONSERVATION CONTRACT

COMPATIBLE USES

The following is a list of land uses determined to be compatible with the agricultural use of the land subject to this agreement:

1. The drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced but not including slaughter houses, fertilizer yards, bone yards or plants for the reduction of animal or vegetable matter.

2. Structures necessary and incidental to the agricultural use of the land.

3. The holding of nonproducing land for future agricultural use.

4. ~~The holding of nonproducing mineral resource areas for~~

~~XXXXXXXXXX~~

5. The maintenance of land in its natural state for the purpose of preserving open space for recreation or plant or animal preserves.

6. Single family dwellings incidental to the agricultural use of the land for the residence of the owner, and the family of the owner.

Single family dwellings incidental to the agricultural use of the land for the residence of the lessee of the land and the family of the lessee.

Owner or lessee shall be construed to include:

- (a) stockholders in family corporations
- (b) beneficiaries of family trusts and estates
- (c) owners of undivided partial interests in the fee

*Handwritten notes:*  
VLS  
RLL  
EUG  
KWA





STATE OF CALIFORNIA )  
 )  
COUNTY OF SANTA CLARA )

ss.

BOOK 9189 PAGE 535

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of California with principal office in the County of Santa Clara, residing therein, duly commissioned and sworn, personally appeared \_\_\_\_\_ known to me to be the \_\_\_\_\_ of \_\_\_\_\_, the corporation that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of the Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

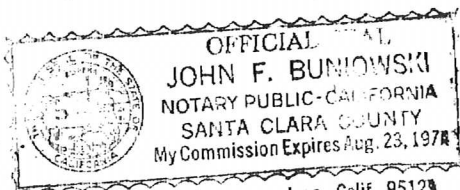
\_\_\_\_\_  
Notary Public in and for the  
State of California

STATE OF CALIFORNIA )  
 )  
COUNTY OF SANTA CLARA )

ss.

On this 9<sup>th</sup> day of November 1970, before me, the undersigned, a Notary Public in and for the State of California with principal office in the County of Santa Clara, residing therein, duly commissioned and sworn, personally appeared Vince S., Jane W., Richard R. & Edwin W. Co and \_\_\_\_\_ known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and acknowledged that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.



John F. Buniowski  
Notary Public in and for the  
State of California

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

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, \_\_\_\_\_,  
a Notary Public in and for said County and State, residing therein, duly commiss-  
ioned and sworn, personally appeared \_\_\_\_\_, known  
to me to be the person described in and whose name is subscribed to the attached  
instrument, and acknowledged to me that \_\_\_\_\_ executed the same.

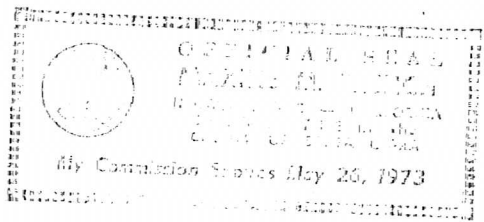
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal,  
the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for the  
County of Santa Clara,  
State of California

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

On this 6th day of January, \_\_\_\_\_, 19 71, before me, \_\_\_\_\_  
Maxine M. French, a Notary Public in and for the said County and State,  
residing therein, duly commissioned and sworn, personally appeared \_\_\_\_\_  
Charles H. Robbins, known to me to be the Mayor of the City of Saratoga that  
executed the within agreement and acknowledged to me that said City of Saratoga  
did execute the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal  
the day and year in this Certificate first above written.



Maxine M. French  
NOTARY PUBLIC in and for said  
County and State

My Commission Expires May 26, 1973

503-12-001 - GARROD

BEGINNING at stake marked 1/4 S. standing at the 1/4 section corner between Sections 34 and 35 Township 7 South Range 2 West, Mount Diablo Base and Meridian, and running thence along the 1/4 section line running East and West through the center of Section 35, Township 7 South, Range 2 West, Mount Diablo Base and Meridian, South  $88^{\circ} 53' 01''$  East 1818.97 feet to a stake marked L.M.1 at the Northeasterly corner of the 78.05 acre tract described in the Deed from John G. Alonso, et ux, to L. A. Molloy, et al, dated August 14, 1946 and recorded August 23, 1946 in Book 1362 of Official Records, page 469, thence along the Easterly line of said 78.05 acre tract South  $1^{\circ} 14' 10''$  West 1482.80 feet to a point in the center of a ravine; thence North  $63^{\circ} 08' 08''$  West 811.40 feet to a point in the centerline of a 60 foot right of way hereinafter described, thence along the centerline of said 60 foot right of way the following courses and distances, to wit: North  $84^{\circ} 49' 19''$  West 264.52 feet; thence along the arc of a curve to the right with a radius of 300.00 feet tangent to the preceding course through an angle of  $13^{\circ} 10'$  a distance of 68.94 feet; thence North  $71^{\circ} 39' 19''$  West 105.16 feet; thence along the arc of a curve to the left with a radius of 266.60 feet and tangent to the preceding course through an angle of  $67^{\circ} 38'$  a distance of 314.70 feet; thence South  $40^{\circ} 42' 41''$  West 116.78 feet; thence along a curve to the left with a radius of 181.71 feet and tangent to the preceding course through an angle of  $15^{\circ} 58' 17''$  a distance of 50.65 feet; thence along the arc of a reverse curve to the right with a radius of 181.71 feet through an angle of  $15^{\circ} 48' 17''$  a distance of 50.65 feet; thence South  $40^{\circ} 42' 41''$  West 65.99 feet; thence along the arc of a curve to the right with a radius of 45.04 feet and tangent to the preceding course through an angle of  $77^{\circ} 29' 25''$  a distance of 60.91 feet; thence along the arc of a reverse curve to the left with a radius of 44.86 feet through an angle of  $83^{\circ} 20' 55''$  a distance of 65.26 feet to the point of intersection of said centerline of said 60 foot right of way with the Southwesterly line of the said 78.05 acre tract described in said Deed to L. A. Molloy et al, above referred to, thence leaving said centerline of said 60 foot right of way and running along said Southwesterly line of said 78.05 acre tract, North  $55^{\circ} 08' 49''$  West 123.82 feet to an iron pipe standing on the section line between said Sections 34 and 35, from which a live oak tree 20 inches in diameter with 3 notches bears South  $1^{\circ} 49' 39''$  West 18.04 feet; said pipe also being at the Southwesterly corner of said 78.05 acre tract thence along the line between said Sections 34 and 35, North  $1^{\circ} 49' 39''$  East 1337.03 feet to the point of beginning and being a portion of said Section 35, Township 7 South, Range 2 West, and containing approximately 51.528 acres, as surveyed by James and Waters, Civil Engineers, San Mateo, Palo Alto and San Jose, California, December 1948.

TOGETHER WITH a right of way, as granted in the Deed executed by Mamie Lawlor et al, to Patrick A. McHenry, et al, and recorded April 26, 1917 in Book 455 of Deeds, page 573 conveying a 78.05 acre tract of which the above described property is a part, over the then present road that led from the buildings on said 78.05 acre tract to and over the other land then of Mrs. Mamie Lawlor.

ALSO TOGETHER WITH and as appurtenant to the parcel of land first hereinabove described, an easement for the purposes of ingress and egress and for the installation and maintenance of public utilities over a strip of land 60 feet in width the centerline of which is described as follows, to wit:

Beginning at a point in the Southerly line of said parcel of land first hereinabove described distant thereon North  $63^{\circ} 08' 08''$  West, 811.40 feet from the Southeasterly corner of said parcel of land, thence along the Southerly line of said parcel of land the following courses and distances to wit: North  $84^{\circ} 49' 19''$  West 264.52 feet; thence along the arc of a curve to the right with a radius of 300.00 feet tangent to the preceding course through an angle of  $13^{\circ} 10'$  a distance of 68.94 feet; thence North  $71^{\circ} 39' 19''$  West 105.16 feet; thence along the arc of a curve to the left with a radius of 266.60 feet and tangent to the preceding course through an angle of  $67^{\circ} 38'$  a distance of 314.70 feet; thence South  $40^{\circ} 42' 41''$  West 116.78 feet; thence along a curve to the left with a radius of

*Other Jurisdiction*

# CITY OF CUPERTINO

10300 TORRE AVENUE • CUPERTINO, CALIFORNIA 95014

OFFICE OF THE PLANNING DIRECTOR



TELEPHONE 253-4005

Date January 12, 1971

APPLICATION NO. 2-2-71

APPLICANT: Garrod Trust

*Ag Pres.*

REQUEST: Rezoning 111.8 acres from A1-43 (Agricultural-Residential Single-family one-acre lots) to A-215 (Agricultural).

LOCATION: Adjacent to and easterly of Stevens Creek County Park, approximately 1500 feet north of Mount Eden Road.

Gentlemen:

The City of Cupertino has received the subject application and the hearing has been scheduled for the Planning Commission meeting of January 25, 1971.

A copy of the exhibit is enclosed for your reference. If you have any comments concerning this matter please forward them to this department within ten (10) days. If there are any questions, do not hesitate in contacting this office.

Very truly yours,

*James H. Sisk*

James H. Sisk  
Planning Director

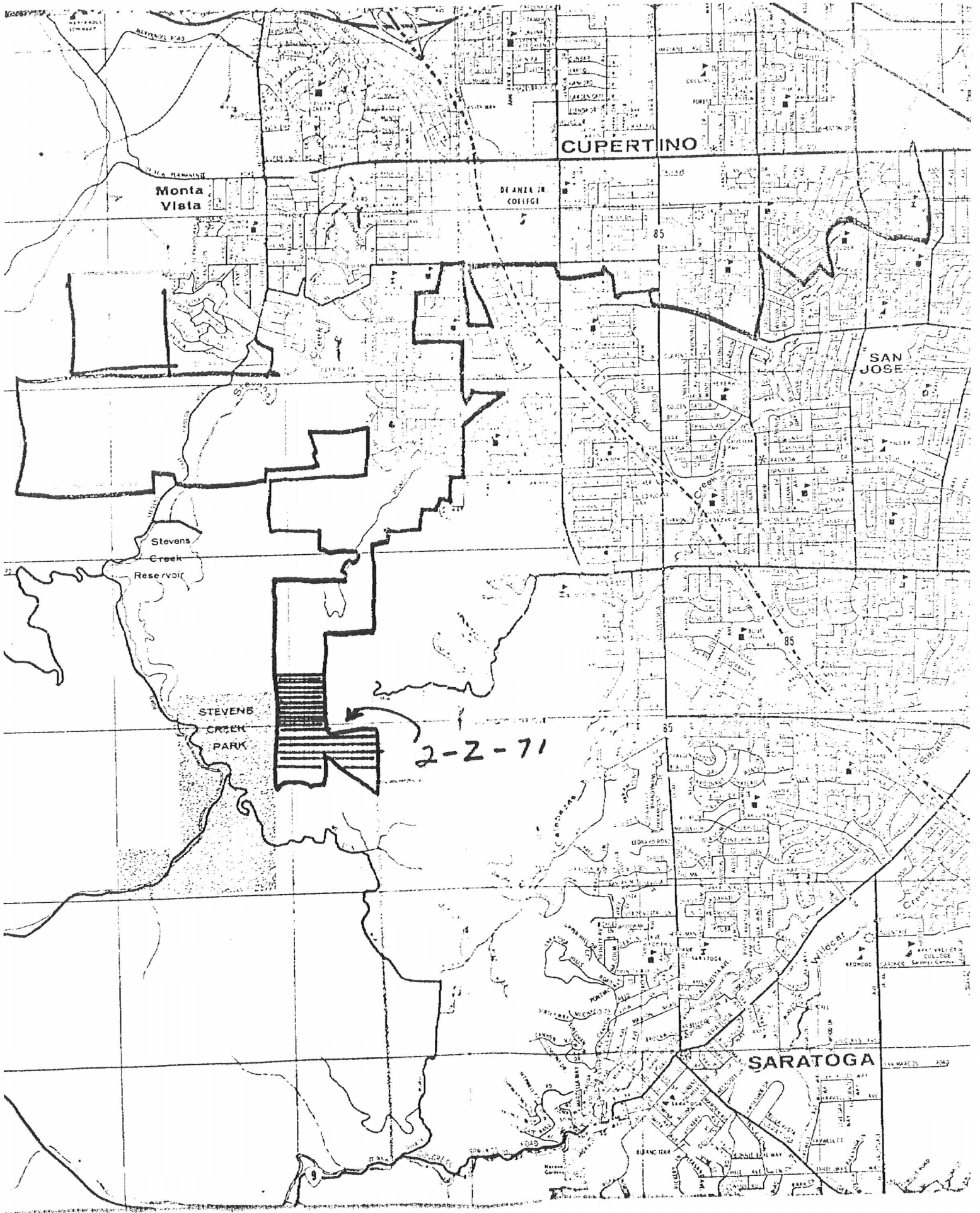
JHS:n  
Enclosure

*Also look up League of Calif. cities  
R/R R/W landscaping along*

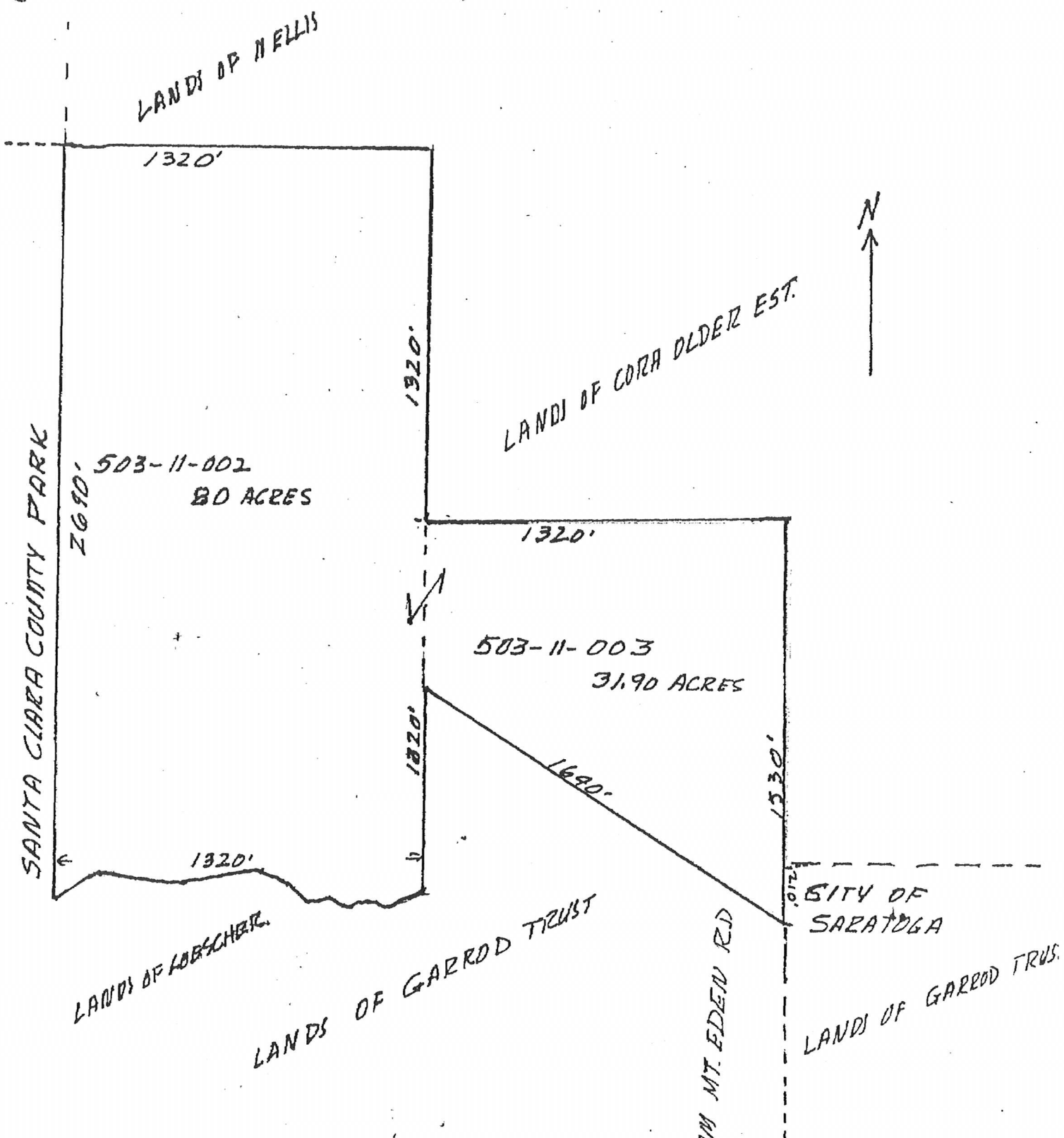
RECEIVED  
JAN 18 1971

CITY CLERKS OFFICE  
SARATOGA, CALIFORNIA

2-2-70



5000 PM



LANDS OF GARROD TRUST  
 WITHIN THE CITY OF CUPERTINO  
 APPROX. 111 ACRES  
 SCALE 1" = 500'  
 PT SEC. 34 T. 7 S. R. 2 W.  
 MAP IS PORTION PAGE 11 BOOK 1772

ACCESS IS FROM MT. EDEN RD

2-2-71  
 A  
 1/8/71

*City Clerk*  
*13747 Fruitvale Ave*  
*Saratoga, Ca. 95070*

RESOLUTION NO. 550

*DA* 3 71619

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SARATOGA ESTABLISHING AN AGRICULTURAL PRESERVE  
WITHIN THE CITY OF SARATOGA

BOOK 9115 PAGE 489

WHEREAS, the Saratoga City Council has by Resolution established a procedure for initiating, filing, and processing requests for establishment of agricultural preserves, and

WHEREAS, Vince S. Garrod, et al, owners of Garrod farms have made written application to the City Council of the City of Saratoga for the establishment of an agricultural preserve pursuant to the California Land Conservation Act of 1965, and

WHEREAS, the Saratoga Planning Department has submitted a report to the City Council on the Garrod application, which report recommends preservation of the Garrod lands for agricultural uses through the establishment of the requested agricultural preserve, and

WHEREAS, the City Council has held a public hearing on the Garrod application which hearing was duly noticed as required by law,

NOW, THEREFORE, the City Council of the City of Saratoga hereby resolves as follows:

That portion of the Garrod Farms property within the City of Saratoga designated as Assessor's Parcel Number 503-012-001 and containing 51.528 Acres is hereby established as an agricultural preserve.

That the City Council finds the following uses compatible within the agricultural preserve:

1. The drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced but not including slaughter houses, fertilizer yards, bone yards or plants for the reduction of animal or vegetable matter.
2. Structures necessary and incidental to the agricultural use of the land.
3. The holding of nonproducing land for future agricultural use.
4. The maintenance of land in its natural state for the purpose of preserving open space for recreation or plant or animal preserves.
5. Single family dwellings incidental to the agricultural use of the land for the residence of the owner, and the family of the owner.

Single family dwellings incidental to the agricultural use of the land for the residence of the lessee of the land and the family of the lessee.

Owner or lessee shall be construed to include:

- (a) stockholders in family corporations
- (b) beneficiaries of family trusts and estates
- (c) owners of undivided partial interests in the fee



- 9. Fishing
- 10. Public or private riding or hiking trails.
- 11. Riding academy, stables and the boarding of horses or other livestock but not including an animal hospital or kennel.

That the hereinabove listed compatible uses will be the only uses permitted within said agricultural preserve except that the City Council may upon request of owners, successors or assigns add additional uses to the list of compatible uses.

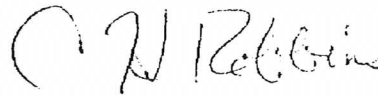
That the Mayor is authorized to execute a Land Conservation contract with Vince S. Garrod, et al, their successors or assigns upon receipt by city of: application to rezone property to "A" Agricultural zoning; income analysis; and properly executed and acknowledged land conservation contract.

The above and foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Saratoga at a regular meeting thereof, held on the 4th day of November, 1970, by the following vote:

AYES: Councilmen Bridges, Sanders, Smith and Robbins

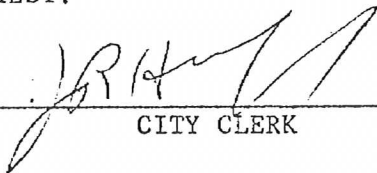
NOES: None

ABSENT: Councilman Dwyer



MAYOR

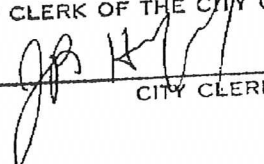
ATTEST:



CITY CLERK

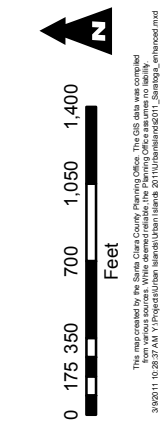
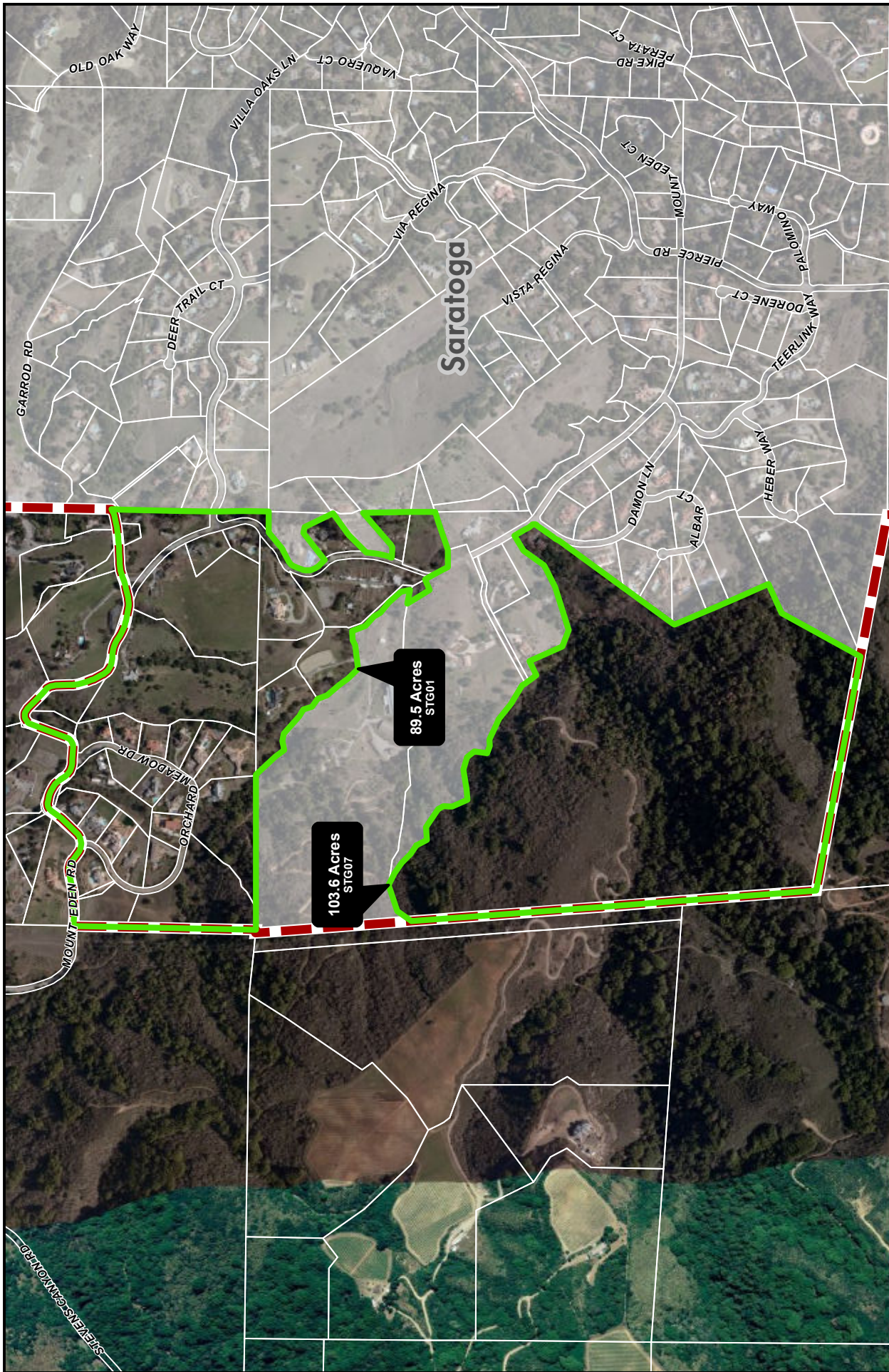
THIS IS TO CERTIFY THAT THE WITHIN INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

ATTEST November 6 19 70  
CITY CLERK OF THE CITY OF SARATOGA

BY  CITY CLERK

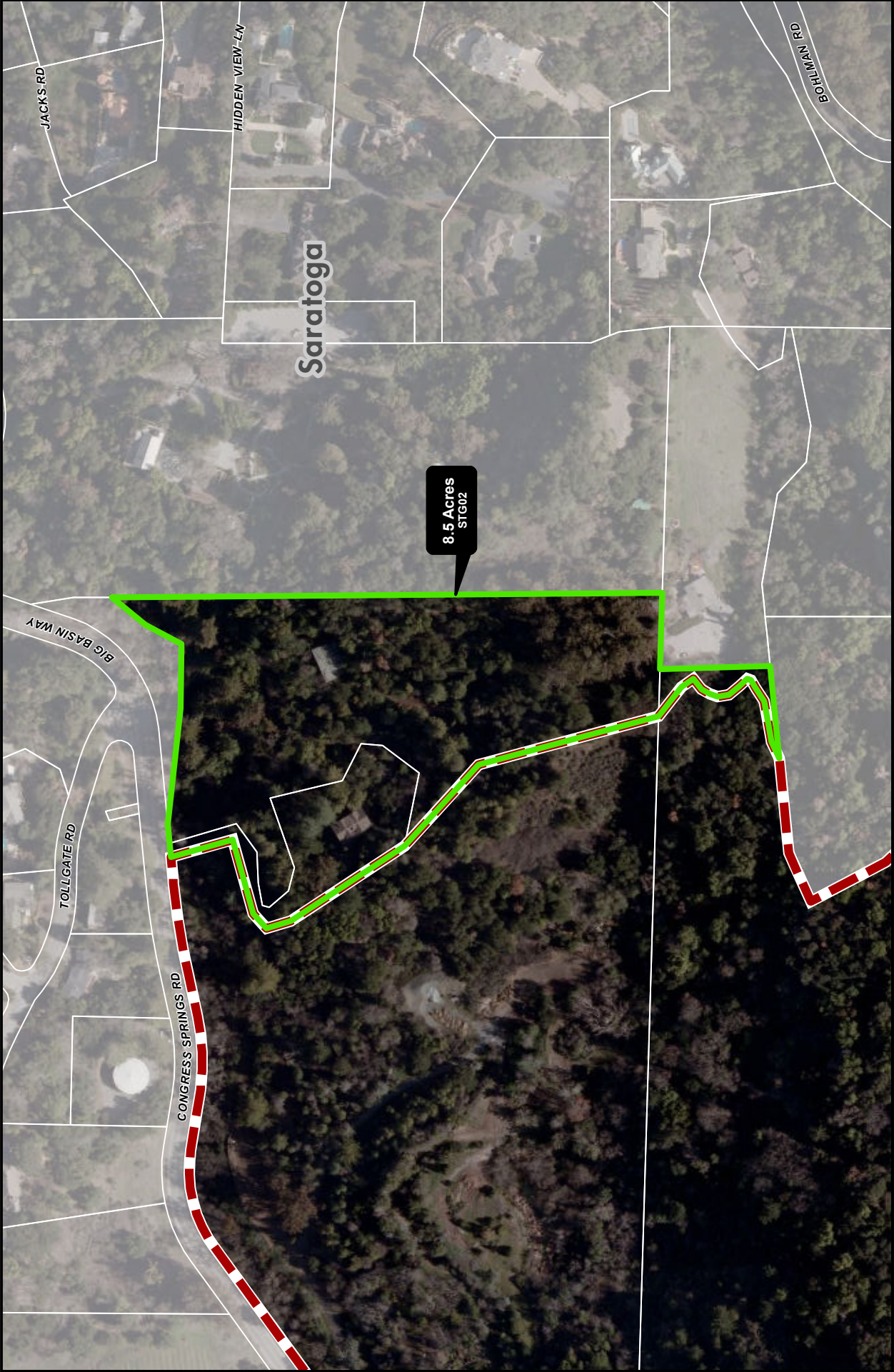






-  Urban Island ≤ 150 Acres
-  Urban Island > 150 Acres
-  Urban Service Area
-  Incorporated Areas

This map was prepared by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability.  
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8.5 Acres  
STG02

**SARATOGA**

Urban Island ≤ 150 Acres      Urban Island > 150 Acres

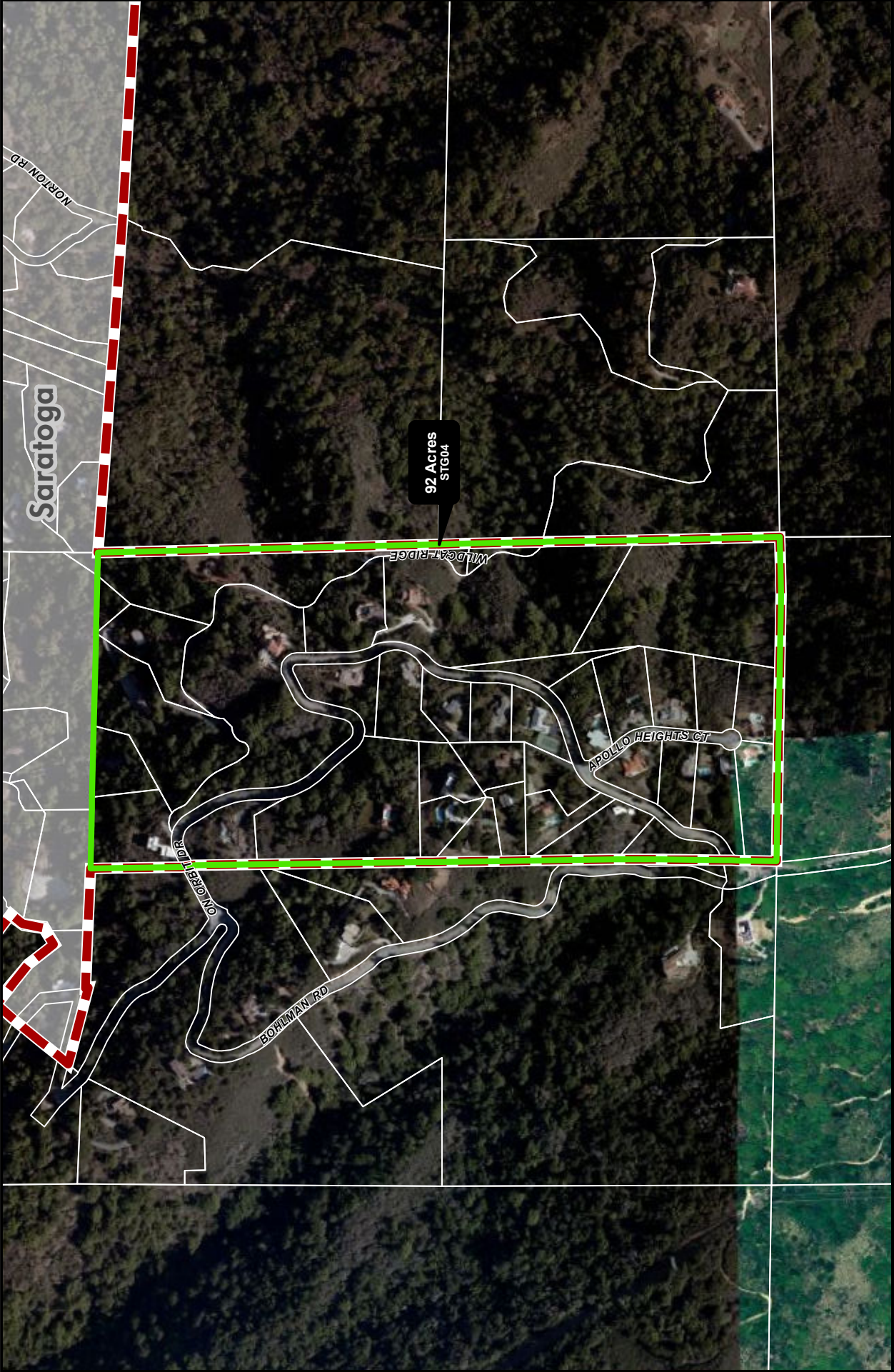
Urban Service Area      Incorporated Areas

Feet

0 50 100 200 300 400

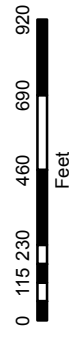
This map was prepared by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability.

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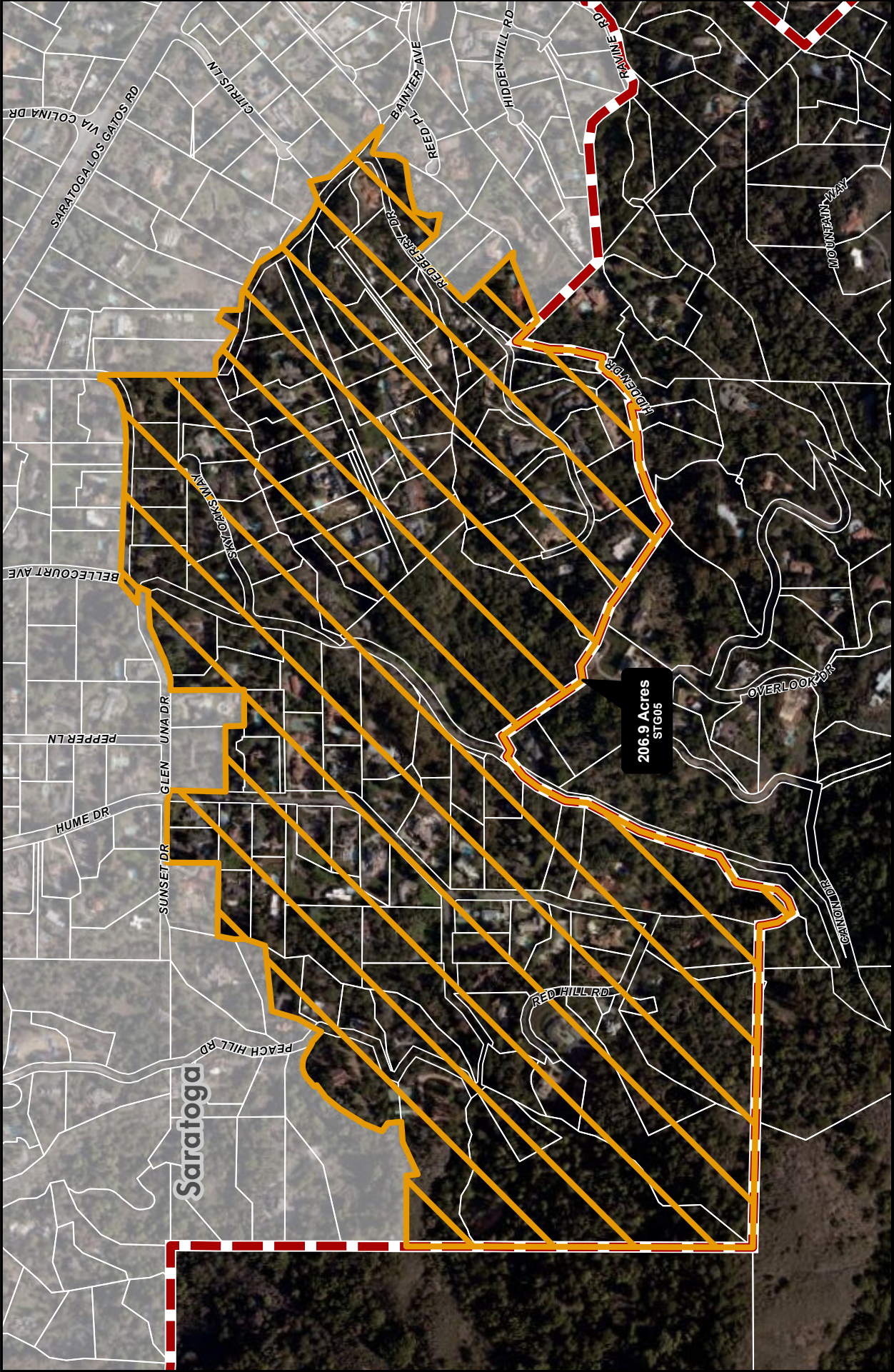


SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Urban Island > 150 Acres
-  Incorporated Areas

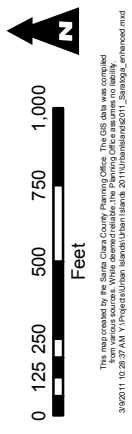


This map was prepared by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office disclaims any liability.  
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SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Urban Island > 150 Acres
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This map was prepared by the Santa Clara County Planning Office. The City of Saratoga was compiled from various sources. While deemed reliable, the Planning Office assumes no liability.  
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 Urban Service Area  
 Incorporated Areas  
 Urban Island ≤ 150 Acres  
 Urban Island > 150 Acres



This map was created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability. 3/6/2011 10:28:37 AM Y:\Project\Urban Islands\Urban Islands\_2011\UrbanIslands0011\_Saratoga\_05.mxd



## **SUPPLEMENT TO THE STAFF REPORT FOR AGENDA ITEM #4**

**Staff is proposing CLARIFICATION OF CONDITION #6 to provide more specific direction:**

6. The City shall initiate annexation of the remaining islands and/or seek amendment of its USA in order to eliminate islands, as described in the City's letter dated January 4, 2012 and outlined in this report. No further USA expansions for the City shall be considered by LAFCO until:
  - a. The City initiates annexation for STG 01 (along with a USA amendment to remove a portion of the island from the USA), STG 07 and STG 02
  - b. The City applies to LAFCO for USA amendment to exclude islands STG 04 from the City's USA
  - c. LAFCO staff will work with the City of Saratoga on STG 06 to resolve whether the USA should be amended to include or exclude the entire parcel as the property is currently split by the USA.
  - d. The City of Saratoga prepares a plan and timeline for annexation of STG 05

### **CORRECTION TO STAFF REPORT RE. PRIME AGRICULTURAL LANDS**

The Staff Report incorrectly states that the urban service area (USA) amendment properties do not include prime agricultural lands as defined in the Cortese Knox Hertzberg Act (CKH Act).

The CKH Act defines Prime Agricultural Land as an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook,

Revision 1, December 2003.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

At least 17 acres of the USA amendment property includes vineyards. According to the 2010 Santa Clara County Crop Report, the average gross value for wine grapes was \$1,285 per ton with an average yield of 3.6 tons per acre. The projected annual income from an acre of vineyard would be \$4,626.

Based on this data, at least a portion of the USA amendment area meets qualification (d) above and therefore the definition of prime agricultural land in the CKH Act.

**LAFCO MEETING:** February 8, 2012  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** **IMPLEMENTATION OF THE RECOMMENDATIONS OF LAFCO'S  
2011 COUNTYWIDE WATER SERVICE REVIEW REPORT**

**STAFF RECOMMENDATION**

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Accept report and provide direction as necessary.

**BACKGROUND**

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LAFCO, at its December 7, 2011 meeting directed staff to contact each agency and request a written response from them on how the agency plans to implement the recommendation(s) presented in LAFCO's 2011 Countywide Water Service Review Report, along with a time-frame for that implementation and to request an explanation if the agency does not plan to implement a recommendation. Attached for your information is a copy of the letters that LAFCO staff emailed to each agency at the beginning of February. Per the letter, staff is requesting a written response from the agency no later than March 14, 2012. Staff will provide those responses to LAFCO at its April 4, 2012 meeting.

**ATTACHMENT**

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**Attachment A:** LAFCO Letters to Affected Agencies Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review

February 1, 2012

**VIA EMAIL**

Kim Gardner  
Business Manager  
Aldercroft Heights County Water District  
20895 Panorama Drive  
Los Gatos, CA 95033

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Ms. Gardner:

As you know, LAFCO recently adopted the 2011 Countywide Water Service Review Report that included sphere of influence updates for water districts and resource conservation districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving water and resource conservation services in the county. Specifically, the Report provides recommendations (see Attachment A) for improving the accountability and transparency of agencies through changes in their operations, management, and administration, and recommendations (Attachment B) for changes in jurisdictional boundaries to improve the services or the governance of agencies.

**Agency's Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that each agency:

1. Review the chapter of the Service Review Report pertaining to the agency and provide a written response to LAFCO on how the agency plans to implement the recommendation(s) presented in the Report and summarized in the attached tables (see Attachments A & B), along with a time-frame for that implementation, and
2. Provide an explanation if the agency does not plan to implement a recommendation.

**Response Due No Later Than March 14, 2012**

Please provide a written response to LAFCO as soon as possible and **no later than March 14, 2012**. If you have any questions or concerns or would like to meet to discuss

the agency's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you and the District for participating in LAFCO's 2011 Countywide Water Service Review and for your consideration and timely response to this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Palacherla".

Neelima Palacherla  
LAFCO Executive Officer

Attachments:

- A. Recommendations for Improving Accountability and Transparency
- B. Recommendations for Changes in Jurisdictional Boundaries to Improve Services or Governance

Cc:

Aldercroft Heights County Water District Board of Directors  
LAFCO Members

**ATTACHMENT A: RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY**

<b>AGENCY</b>	<b>WEBSITE</b>	<b>FINANCIAL RECORDS</b>	<b>AUDITS</b>	<b>ELECTIONS</b>	<b>PLANS / PROGRAMS</b>	<b>OPERATIONAL PRACTICES</b>	<b>MANAGEMENT PRACTICES</b>
<b>Aldercroft Heights County Water</b>	Establish a website or publish a newsletter	Statements need to be more comprehensive	Submit FY09-10 audit to County & prepare future audits on time	Widely advertise board vacancies to ensure contested elections	Establish multi-year capital improvement program	N/A	N/A
<b>Purissima Hills Water District</b>	N/A	N/A	N/A	N/A	Enhance water conservation program efforts to address large lots	N/A	N/A
<b>Pacheco Pass County Water District<sup>1</sup></b>	Establish a website or publish a newsletter	Statements need to be more comprehensive and completed on an annual basis	Submit audit for last 5 years to San Benito County & establish audit schedule	Widely advertise to fill extended board vacancies & to ensure contested elections	Consider long-term future of District  Adopt a capital improvement plan & multi-year CIP for infrastructure needs	Track groundwater levels and usage, and water release through dams	Track workload and hours of District staff monthly
<b>San Martin County Water District</b>	Establish a website or publish a newsletter	N/A	Submit audit for last 5 years to the County & establish audit schedule for future audits	Widely advertise to fill extended board vacancies & to ensure contested elections	Prepare master plan & project future water demands and storage needs  Establish multi-year capital improvement program	Seek LAFCO approval before extending services outside District boundary	Track District & staff workload
<b>Guadalupe-Coyote Resource Conservation District</b>	Continue to populate website with further information and documents	N/A	N/A	N/A	Prepare a plan for services that the District intends to provide that do not overlap with SCVWD efforts or SCVWD's enabling act	Establish policies and guidelines for reviewing development projects to increase transparency & provide consistency	Track workload of staff and evaluate staff on a regular basis
<b>Loma Prieta Resource Conservation District</b>	N/A	N/A	N/A	N/A	More closely align long range plan with functions in principal act		N/A

<sup>1</sup>San Benito County LAFCO is principal LAFCO for the District. Santa Clara LAFCO will forward this information to San Benito LAFCO.

**ATTACHMENT B: RECOMMENDATIONS FOR JURISDICTIONAL BOUNDARY  
CHANGES TO IMPROVE SERVICES OR GOVERNANCE**

	RECOMMENDATIONS	KEY STEPS / ANALYSIS REQUIRED	REQUIRES LAFCO APPROVAL?	WHO MAY INITIATE A LAFCO APPLICATION?
<b>ALDERCROFT HEIGHTS COUNTY WATER DISTRICT</b>	Annex APN: 558-22-019 (parcel that the District is presently serving outside of its boundaries) to Aldercroft Heights County Water District	<ul style="list-style-type: none"> <li>• District contacts property owner to inform them of District's plans to annex parcel</li> <li>• District initiates annexation by resolution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District  Petition of property owner or registered voter
<b>SAN MARTIN COUNTY WATER DISTRICT</b>	Address Illegal Water Service Connections	<ul style="list-style-type: none"> <li>• LAFCO informs property owners and District of illegal connections and corrective measures</li> <li>• District initiates annexation by resolution</li> <li>• District submits application to LAFCO for SOI amendment &amp; annexation, as necessary</li> </ul>	Yes	District  Petition of property owners or registered voters within the proposed annexation area
<b>LOMA PRIETA RESOURCE CONSERVATION DISTRICT</b>	Annex to Loma Prieta RCD the remaining portions of the Cities of Gilroy and Morgan Hill, and the community of San Martin that are not currently within the District	<ul style="list-style-type: none"> <li>• Contact LAFCO staff to discuss annexation boundaries</li> <li>• District initiates annexation by resolution</li> <li>• District works with County on property tax distribution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District  Petition of property owners or registered voters within the proposed annexation area
<b>MORGAN HILL</b>	Annex the Unincorporated Island Holiday Lake Estates to the City of Morgan Hill	<ul style="list-style-type: none"> <li>• County, SCVWD, Morgan Hill, and LAFCO resume discussions with property owners on the issues of annexation and provision of sewer service</li> </ul>	No	City  Petition of property owners or registered voters within the proposed annexation area
<b>GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT</b>	Reevaluation of Guadalupe-Coyote RCD and its SOI considering the District's plan and application for new or different services	<ul style="list-style-type: none"> <li>• District returns to LAFCO, by the December 2012 LAFCO meeting, with a plan for services that the District intends to provide that do not overlap with SCVWD's efforts and could not otherwise be provided by SCVWD through its enabling act</li> <li>• District initiates a request for a change in services and SOI amendment by resolution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District



February 1, 2012

VIA EMAIL

Nancy Bernardi  
Office Manager  
Guadalupe-Coyote Resource Conservation District (GCRCD)  
888 N. First Street  
Suite 204  
San Jose, CA 95112

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Ms. Bernardi:

As you know, LAFCO recently adopted the 2011 Countywide Water Service Review Report that included sphere of influence updates for water districts and resource conservation districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving water and resource conservation services in the county. Specifically, the Report provides recommendations (see Attachment A) for improving the accountability and transparency of agencies through changes in their operations, management, and administration, and recommendations (Attachment B) for changes in jurisdictional boundaries to improve the services or the governance of agencies.

**Agency's Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that each agency:

1. Review the chapter of the Service Review Report pertaining to the agency and provide a written response to LAFCO on how the agency plans to implement the recommendation(s) presented in the Report and summarized in the attached tables (see Attachments A & B), along with a time-frame for that implementation, and
2. Provide an explanation if the agency does not plan to implement a recommendation.

**Response Due No Later Than March 14, 2012**

Please provide a written response to LAFCO as soon as possible and **no later than March 14, 2012**. If you have any questions or concerns or would like to meet to discuss



the agency's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you and the District for participating in LAFCO's 2011 Countywide Water Service Review and for your consideration and timely response to this request.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Attachments:

- A. Recommendations for Improving Accountability and Transparency
- B. Recommendations for Changes in Jurisdictional Boundaries to Improve Services or Governance

Cc:

GCRCD Board of Directors  
Loma Prieta Resource Conservation District  
Santa Clara Valley Water District  
LAFCO Members

**ATTACHMENT A: RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY**

<b>AGENCY</b>	<b>WEBSITE</b>	<b>FINANCIAL RECORDS</b>	<b>AUDITS</b>	<b>ELECTIONS</b>	<b>PLANS / PROGRAMS</b>	<b>OPERATIONAL PRACTICES</b>	<b>MANAGEMENT PRACTICES</b>
<b>Aldercroft Heights County Water</b>	Establish a website or publish a newsletter	Statements need to be more comprehensive	Submit FY09-10 audit to County & prepare future audits on time	Widely advertise board vacancies to ensure contested elections	Establish multi-year capital improvement program	N/A	N/A
<b>Purissima Hills Water District</b>	N/A	N/A	N/A	N/A	Enhance water conservation program efforts to address large lots	N/A	N/A
<b>Pacheco Pass County Water District<sup>1</sup></b>	Establish a website or publish a newsletter	Statements need to be more comprehensive and completed on an annual basis	Submit audit for last 5 years to San Benito County & establish audit schedule	Widely advertise to fill extended board vacancies & to ensure contested elections	Consider long-term future of District  Adopt a capital improvement plan & multi-year CIP for infrastructure needs	Track groundwater levels and usage, and water release through dams	Track workload and hours of District staff monthly
<b>San Martin County Water District</b>	Establish a website or publish a newsletter	N/A	Submit audit for last 5 years to the County & establish audit schedule for future audits	Widely advertise to fill extended board vacancies & to ensure contested elections	Prepare master plan & project future water demands and storage needs  Establish multi-year capital improvement program	Seek LAFCO approval before extending services outside District boundary	Track District & staff workload
<b>Guadalupe-Coyote Resource Conservation District</b>	Continue to populate website with further information and documents	N/A	N/A	N/A	Prepare a plan for services that the District intends to provide that do not overlap with SCVWD efforts or SCVWD's enabling act	Establish policies and guidelines for reviewing development projects to increase transparency & provide consistency	Track workload of staff and evaluate staff on a regular basis
<b>Loma Prieta Resource Conservation District</b>	N/A	N/A	N/A	N/A	More closely align long range plan with functions in principal act		N/A

<sup>1</sup>San Benito County LAFCO is principal LAFCO for the District. Santa Clara LAFCO will forward this information to San Benito LAFCO.

**ATTACHMENT B: RECOMMENDATIONS FOR JURISDICTIONAL BOUNDARY  
CHANGES TO IMPROVE SERVICES OR GOVERNANCE**

	RECOMMENDATIONS	KEY STEPS / ANALYSIS REQUIRED	REQUIRES LAFCO APPROVAL?	WHO MAY INITIATE A LAFCO APPLICATION?
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<b>GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT</b>	Reevaluation of Guadalupe-Coyote RCD and its SOI considering the District's plan and application for new or different services	<ul style="list-style-type: none"> <li>• District returns to LAFCO, by the December 2012 LAFCO meeting, with a plan for services that the District intends to provide that do not overlap with SCVWD's efforts and could not otherwise be provided by SCVWD through its enabling act</li> <li>• District initiates a request for a change in services and SOI amendment by resolution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District



February 1, 2012

VIA EMAIL

Susan Meyer  
Executive Director  
Loma Prieta Resource Conservation District (LPRCD)  
8010 Wayland Lane  
Suite 1D  
Gilroy, CA 95020

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Ms. Meyer:

As you know, LAFCO recently adopted the 2011 Countywide Water Service Review Report that included sphere of influence updates for water districts and resource conservation districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving water and resource conservation services in the county. Specifically, the Report provides recommendations (see Attachment A) for improving the accountability and transparency of agencies through changes in their operations, management, and administration, and recommendations (Attachment B) for changes in jurisdictional boundaries to improve the services or the governance of agencies.

**Agency's Response is Requested**

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1. Review the chapter of the Service Review Report pertaining to the agency and provide a written response to LAFCO on how the agency plans to implement the recommendation(s) presented in the Report and summarized in the attached tables (see Attachments A & B), along with a time-frame for that implementation, and
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**Response Due No Later Than March 14, 2012**

Please provide a written response to LAFCO as soon as possible and **no later than March 14, 2012**. If you have any questions or concerns or would like to meet to discuss

the agency's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you and the District for participating in LAFCO's 2011 Countywide Water Service Review and for your consideration and timely response to this request.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Attachments:

- A. Recommendations for Improving Accountability and Transparency
- B. Recommendations for Changes in Jurisdictional Boundaries to Improve Services or Governance

Cc:

LPRCD Board of Directors  
Guadalupe Coyote Resource Conservation District  
Santa Clara Valley Water District  
LAFCO Members

**ATTACHMENT A: RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY**

<b>AGENCY</b>	<b>WEBSITE</b>	<b>FINANCIAL RECORDS</b>	<b>AUDITS</b>	<b>ELECTIONS</b>	<b>PLANS / PROGRAMS</b>	<b>OPERATIONAL PRACTICES</b>	<b>MANAGEMENT PRACTICES</b>
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<b>Purissima Hills Water District</b>	N/A	N/A	N/A	N/A	Enhance water conservation program efforts to address large lots	N/A	N/A
<b>Pacheco Pass County Water District<sup>1</sup></b>	Establish a website or publish a newsletter	Statements need to be more comprehensive and completed on an annual basis	Submit audit for last 5 years to San Benito County & establish audit schedule	Widely advertise to fill extended board vacancies & to ensure contested elections	Consider long-term future of District  Adopt a capital improvement plan & multi-year CIP for infrastructure needs	Track groundwater levels and usage, and water release through dams	Track workload and hours of District staff monthly
<b>San Martin County Water District</b>	Establish a website or publish a newsletter	N/A	Submit audit for last 5 years to the County & establish audit schedule for future audits	Widely advertise to fill extended board vacancies & to ensure contested elections	Prepare master plan & project future water demands and storage needs  Establish multi-year capital improvement program	Seek LAFCO approval before extending services outside District boundary	Track District & staff workload
<b>Guadalupe-Coyote Resource Conservation District</b>	Continue to populate website with further information and documents	N/A	N/A	N/A	Prepare a plan for services that the District intends to provide that do not overlap with SCVWD efforts or SCVWD's enabling act	Establish policies and guidelines for reviewing development projects to increase transparency & provide consistency	Track workload of staff and evaluate staff on a regular basis
<b>Loma Prieta Resource Conservation District</b>	N/A	N/A	N/A	N/A	More closely align long range plan with functions in principal act		N/A

<sup>1</sup>San Benito County LAFCO is principal LAFCO for the District. Santa Clara LAFCO will forward this information to San Benito LAFCO.

**ATTACHMENT B: RECOMMENDATIONS FOR JURISDICTIONAL BOUNDARY  
CHANGES TO IMPROVE SERVICES OR GOVERNANCE**

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February 1, 2012

VIA EMAIL

Patricia Richardson  
District Secretary  
Pacheco Pass Water District  
P.O. Box 1382  
Hollister, CA 95024

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Ms. Richardson:

As you know, LAFCO recently adopted the 2011 Countywide Water Service Review Report that included sphere of influence updates for water districts and resource conservation districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving water and resource conservation services in the county. Specifically, the Report provides recommendations (see Attachment A) for improving the accountability and transparency of agencies through changes in their operations, management, and administration, and recommendations (Attachment B) for exploring options for the reorganization of the District in order to address financial and infrastructure issues.

**Agency's Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that each agency:

1. Review the chapter of the Service Review Report pertaining to the agency and provide a written response to LAFCO on how the agency plans to implement the recommendation(s) presented in the Report and summarized in the attached documents (see Attachments A & B), along with a time-frame for that implementation, and
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**Response Due No Later Than March 14, 2012**

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the agency's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you and the District for participating in LAFCO's 2011 Countywide Water Service Review and for your consideration and timely response to this request.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Attachments:

- A. Recommendations for Improving Accountability and Transparency
- B. Recommendations for Exploring Options for Reorganization of the Pacheco Pass Water District in order to Address Financial and Infrastructure Issues

Cc:

Pacheco Pass Water District Board of Directors  
San Benito County LAFCO  
San Benito County Water District  
Santa Clara Valley Water District  
LAFCO Members

**ATTACHMENT A: RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY**

<b>AGENCY</b>	<b>WEBSITE</b>	<b>FINANCIAL RECORDS</b>	<b>AUDITS</b>	<b>ELECTIONS</b>	<b>PLANS / PROGRAMS</b>	<b>OPERATIONAL PRACTICES</b>	<b>MANAGEMENT PRACTICES</b>
<b>Aldercroft Heights County Water</b>	Establish a website or publish a newsletter	Statements need to be more comprehensive	Submit FY09-10 audit to County & prepare future audits on time	Widely advertise board vacancies to ensure contested elections	Establish multi-year capital improvement program	N/A	N/A
<b>Purissima Hills Water District</b>	N/A	N/A	N/A	N/A	Enhance water conservation program efforts to address large lots	N/A	N/A
<b>Pacheco Pass County Water District<sup>1</sup></b>	Establish a website or publish a newsletter	Statements need to be more comprehensive and completed on an annual basis	Submit audit for last 5 years to San Benito County & establish audit schedule	Widely advertise to fill extended board vacancies & to ensure contested elections	Consider long-term future of District  Adopt a capital improvement plan & multi-year CIP for infrastructure needs	Track groundwater levels and usage, and water release through dams	Track workload and hours of District staff monthly
<b>San Martin County Water District</b>	Establish a website or publish a newsletter	N/A	Submit audit for last 5 years to the County & establish audit schedule for future audits	Widely advertise to fill extended board vacancies & to ensure contested elections	Prepare master plan & project future water demands and storage needs  Establish multi-year capital improvement program	Seek LAFCO approval before extending services outside District boundary	Track District & staff workload
<b>Guadalupe-Coyote Resource Conservation District</b>	Continue to populate website with further information and documents	N/A	N/A	N/A	Prepare a plan for services that the District intends to provide that do not overlap with SCVWD efforts or SCVWD's enabling act	Establish policies and guidelines for reviewing development projects to increase transparency & provide consistency	Track workload of staff and evaluate staff on a regular basis
<b>Loma Prieta Resource Conservation District</b>	N/A	N/A	N/A	N/A	More closely align long range plan with functions in principal act		N/A

<sup>1</sup>San Benito County LAFCO is principal LAFCO for the District. Santa Clara LAFCO will forward this information to San Benito LAFCO.

## **ATTACHMENT B: EXPLORING OPTIONS FOR REORGANIZATION OF THE PACHECO PASS WATER DISTRICT (PPWD) IN ORDER TO ADDRESS FINANCIAL AND INFRASTRUCTURE ISSUES**

The Service Review Report identified several concerns regarding the financing, operations, and management of the Pacheco Pass Water District, including the District's lack of necessary revenue (i.e. minimal property tax revenues) to complete essential capital improvements at their North Fork Dam. Furthermore, PPWD has indicated an interest in reorganizing with a larger, more established agency with greater financial resources that could fund the necessary capital improvements and continue the groundwater recharge services currently provided by the District. PPWD is unique in that it has territory in both Santa Clara and San Benito Counties and other water districts completely overlap PPWD's territory in each of these counties— Santa Clara Valley Water District (SCVWD) in Santa Clara and San Benito County Water District (SBCWD) in San Benito. Both SCVWD and SBCWD have indicated interest in some type of collaborative solution to address PPWD's issues, as the North Fork Dam and groundwater recharge into the Pacheco Sub-basin are of interest to both agencies.

The Service Review Report identified the following potential reorganization options that could help address PPWD's issues:

- 1) Consolidation of PPWD into the San Benito County Water District (SBCWD)
- 2) Consolidation of PPWD into the Santa Clara Valley Water District (SCVWD)
- 3) Consolidation of PPWD's territory in each county into the respective water district
- 4) Formation of a joint powers authority (JPA) or other collaborative agreement between the affected agencies

LAFCO of San Benito is the principal LAFCO for the District based on the assessed value of the District's territory and therefore any changes in governance structure would ultimately need to be approved by LAFCO of San Benito. Furthermore, each of the options identified above has its own challenges, for example SCVWD's enabling act does not allow it to include territory outside of Santa Clara County and although SCVWD can obtain, retain, and protect water outside of its bounds, that water must be used for beneficial uses within the District. This and other restrictions may ultimately limit the options available to address PPWD's issues or may mean that additional actions may be required to implement a specific option.

LAFCO of Santa Clara County's primary role at this time would be to facilitate discussions between the Pacheco Pass Water District and other affected agencies such as Santa Clara Valley Water District, LAFCO of San Benito County, and the San Benito County Water District concerning the future of the District given the District's financial and infrastructure issues and the above options. LAFCO can also help determine the process/steps required to initiate any of the reorganization options and clarify what role each LAFCO would need to play in implementing the various options (the formation of a JPA would not require actions or approvals from either LAFCO). Additionally, the Service Review Report indicated that there might be an issue with how property taxes in San Benito County are allocated to the District. LAFCO will forward this information to San Benito County and its LAFCO.



February 1, 2012

VIA EMAIL

Peter Forest  
District Manager  
San Martin County Water District  
P.O. Box 120  
San Martin, CA 95046

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Mr. Forest:

As you know, LAFCO recently adopted the 2011 Countywide Water Service Review Report that included sphere of influence updates for water districts and resource conservation districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving water and resource conservation services in the county. Specifically, the Report provides recommendations (see Attachment A) for improving the accountability and transparency of agencies through changes in their operations, management, and administration, and recommendations (Attachment B) for changes in jurisdictional boundaries to improve the services or the governance of agencies.

**Agency's Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that each agency:

1. Review the chapter of the Service Review Report pertaining to the agency and provide a written response to LAFCO on how the agency plans to implement the recommendation(s) presented in the Report and summarized in the attached tables (see Attachments A & B), along with a time-frame for that implementation, and
2. Provide an explanation if the agency does not plan to implement a recommendation.

**Response Due No Later Than March 14, 2012**

Please provide a written response to LAFCO as soon as possible and **no later than March 14, 2012**. If you have any questions or concerns or would like to meet to discuss

the agency's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you and the District for participating in LAFCO's 2011 Countywide Water Service Review and for your consideration and timely response to this request.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Attachments:

- A. Recommendations for Improving Accountability and Transparency
- B. Recommendations for Changes in Jurisdictional Boundaries to Improve Services or Governance

Cc:

San Martin County Water District Board of Directors  
Santa Clara County Environmental Health Department  
California Department of Public Health  
Santa Clara County Planning and Development Department  
Santa Clara Valley Water District  
LAFCO Members

**ATTACHMENT A: RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY**

<b>AGENCY</b>	<b>WEBSITE</b>	<b>FINANCIAL RECORDS</b>	<b>AUDITS</b>	<b>ELECTIONS</b>	<b>PLANS / PROGRAMS</b>	<b>OPERATIONAL PRACTICES</b>	<b>MANAGEMENT PRACTICES</b>
<b>Aldercroft Heights County Water</b>	Establish a website or publish a newsletter	Statements need to be more comprehensive	Submit FY09-10 audit to County & prepare future audits on time	Widely advertise board vacancies to ensure contested elections	Establish multi-year capital improvement program	N/A	N/A
<b>Purissima Hills Water District</b>	N/A	N/A	N/A	N/A	Enhance water conservation program efforts to address large lots	N/A	N/A
<b>Pacheco Pass County Water District<sup>1</sup></b>	Establish a website or publish a newsletter	Statements need to be more comprehensive and completed on an annual basis	Submit audit for last 5 years to San Benito County & establish audit schedule	Widely advertise to fill extended board vacancies & to ensure contested elections	Consider long-term future of District  Adopt a capital improvement plan & multi-year CIP for infrastructure needs	Track groundwater levels and usage, and water release through dams	Track workload and hours of District staff monthly
<b>San Martin County Water District</b>	Establish a website or publish a newsletter	N/A	Submit audit for last 5 years to the County & establish audit schedule for future audits	Widely advertise to fill extended board vacancies & to ensure contested elections	Prepare master plan & project future water demands and storage needs  Establish multi-year capital improvement program	Seek LAFCO approval before extending services outside District boundary	Track District & staff workload
<b>Guadalupe-Coyote Resource Conservation District</b>	Continue to populate website with further information and documents	N/A	N/A	N/A	Prepare a plan for services that the District intends to provide that do not overlap with SCVWD efforts or SCVWD's enabling act	Establish policies and guidelines for reviewing development projects to increase transparency & provide consistency	Track workload of staff and evaluate staff on a regular basis
<b>Loma Prieta Resource Conservation District</b>	N/A	N/A	N/A	N/A	More closely align long range plan with functions in principal act		N/A

<sup>1</sup>San Benito County LAFCO is principal LAFCO for the District. Santa Clara LAFCO will forward this information to San Benito LAFCO.

**ATTACHMENT B: RECOMMENDATIONS FOR JURISDICTIONAL BOUNDARY  
CHANGES TO IMPROVE SERVICES OR GOVERNANCE**

	RECOMMENDATIONS	KEY STEPS / ANALYSIS REQUIRED	REQUIRES LAFCO APPROVAL?	WHO MAY INITIATE A LAFCO APPLICATION?
<b>ALDERCROFT HEIGHTS COUNTY WATER DISTRICT</b>	Annex APN: 558-22-019 (parcel that the District is presently serving outside of its boundaries) to Aldercroft Heights County Water District	<ul style="list-style-type: none"> <li>• District contacts property owner to inform them of District's plans to annex parcel</li> <li>• District initiates annexation by resolution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District  Petition of property owner or registered voter
<b>SAN MARTIN COUNTY WATER DISTRICT</b>	Address Illegal Water Service Connections	<ul style="list-style-type: none"> <li>• LAFCO informs property owners and District of illegal connections and corrective measures</li> <li>• District initiates annexation by resolution</li> <li>• District submits application to LAFCO for SOI amendment &amp; annexation, as necessary</li> </ul>	Yes	District  Petition of property owners or registered voters within the proposed annexation area
<b>LOMA PRIETA RESOURCE CONSERVATION DISTRICT</b>	Annex to Loma Prieta RCD the remaining portions of the Cities of Gilroy and Morgan Hill, and the community of San Martin that are not currently within the District	<ul style="list-style-type: none"> <li>• Contact LAFCO staff to discuss annexation boundaries</li> <li>• District initiates annexation by resolution</li> <li>• District works with County on property tax distribution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District  Petition of property owners or registered voters within the proposed annexation area
<b>MORGAN HILL</b>	Annex the Unincorporated Island Holiday Lake Estates to the City of Morgan Hill	<ul style="list-style-type: none"> <li>• County, SCVWD, Morgan Hill, and LAFCO resume discussions with property owners on the issues of annexation and provision of sewer service</li> </ul>	No	City  Petition of property owners or registered voters within the proposed annexation area
<b>GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT</b>	Reevaluation of Guadalupe-Coyote RCD and its SOI considering the District's plan and application for new or different services	<ul style="list-style-type: none"> <li>• District returns to LAFCO, by the December 2012 LAFCO meeting, with a plan for services that the District intends to provide that do not overlap with SCVWD's efforts and could not otherwise be provided by SCVWD through its enabling act</li> <li>• District initiates a request for a change in services and SOI amendment by resolution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District



February 1, 2012

VIA EMAIL

Patrick Walter  
General Manager  
Purissima Hills Water District  
26375 Fremont Road  
Los Altos Hills, CA 94022

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Mr. Walter:

As you know, LAFCO recently adopted the 2011 Countywide Water Service Review Report that included sphere of influence updates for water districts and resource conservation districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving water and resource conservation services in the county. Specifically, the Report provides recommendations (see Attachment A) for improving the accountability and transparency of agencies through changes in their operations, management, and administration.

**Agency's Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that each agency:

1. Review the chapter of the Service Review Report pertaining to the agency and provide a written response to LAFCO on how the agency plans to implement the recommendation(s) presented in the Report and summarized in the attached table (see Attachment A), along with a time-frame for that implementation, and
2. Provide an explanation if the agency does not plan to implement a recommendation.

**Response Due No Later Than March 14, 2012**

Please provide a written response to LAFCO as soon as possible and **no later than March 14, 2012**. If you have any questions or concerns or would like to meet to discuss the agency's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).



Lastly, I would like to thank you and the District for participating in LAFCO's 2011 Countywide Water Service Review and for your consideration and timely response to this request.

Sincerely,

A handwritten signature in cursive script that reads "Neelima Palacherla".

Neelima Palacherla  
LAFCO Executive Officer

Attachment:

- A. Recommendations for Improving Accountability and Transparency

Cc:

Purissima Hills Water District Board of Directors  
LAFCO Members

**ATTACHMENT A: RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY**

<b>AGENCY</b>	<b>WEBSITE</b>	<b>FINANCIAL RECORDS</b>	<b>AUDITS</b>	<b>ELECTIONS</b>	<b>PLANS / PROGRAMS</b>	<b>OPERATIONAL PRACTICES</b>	<b>MANAGEMENT PRACTICES</b>
<b>Aldercroft Heights County Water</b>	Establish a website or publish a newsletter	Statements need to be more comprehensive	Submit FY09-10 audit to County & prepare future audits on time	Widely advertise board vacancies to ensure contested elections	Establish multi-year capital improvement program	N/A	N/A
<b>Purissima Hills Water District</b>	N/A	N/A	N/A	N/A	Enhance water conservation program efforts to address large lots	N/A	N/A
<b>Pacheco Pass County Water District<sup>1</sup></b>	Establish a website or publish a newsletter	Statements need to be more comprehensive and completed on an annual basis	Submit audit for last 5 years to San Benito County & establish audit schedule	Widely advertise to fill extended board vacancies & to ensure contested elections	Consider long-term future of District  Adopt a capital improvement plan & multi-year CIP for infrastructure needs	Track groundwater levels and usage, and water release through dams	Track workload and hours of District staff monthly
<b>San Martin County Water District</b>	Establish a website or publish a newsletter	N/A	Submit audit for last 5 years to the County & establish audit schedule for future audits	Widely advertise to fill extended board vacancies & to ensure contested elections	Prepare master plan & project future water demands and storage needs  Establish multi-year capital improvement program	Seek LAFCO approval before extending services outside District boundary	Track District & staff workload
<b>Guadalupe-Coyote Resource Conservation District</b>	Continue to populate website with further information and documents	N/A	N/A	N/A	Prepare a plan for services that the District intends to provide that do not overlap with SCVWD efforts or SCVWD's enabling act	Establish policies and guidelines for reviewing development projects to increase transparency & provide consistency	Track workload of staff and evaluate staff on a regular basis
<b>Loma Prieta Resource Conservation District</b>	N/A	N/A	N/A	N/A	More closely align long range plan with functions in principal act		N/A

<sup>1</sup>San Benito County LAFCO is principal LAFCO for the District. Santa Clara LAFCO will forward this information to San Benito LAFCO.



February 1, 2012

VIA EMAIL

J. Edward Tewes  
City Manager  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Mr. Tewes:

As you know, LAFCO recently adopted the 2011 Countywide Water Service Review Report that included sphere of influence updates for water districts and resource conservation districts in Santa Clara County. The Report is available on the LAFCO Website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) under "What's New?" The Report identifies several opportunities and includes several recommendations for improving water and resource conservation services in the county. Specifically, the Report provides recommendations (Attachment A) for changes in jurisdictional boundaries to improve the services or the governance of agencies.

**Agency's Response is Requested**

In an effort to follow-up on these recommendations, LAFCO is requesting that each agency:

1. Review the chapter of the Service Review Report pertaining to the agency and provide a written response to LAFCO on how the agency plans to implement the recommendation(s) presented in the Report and summarized in the attached table (see Attachment A), along with a time-frame for that implementation, and
2. Provide an explanation if the agency does not plan to implement a recommendation.

**Response Due No Later Than March 14, 2012**

Please provide a written response to LAFCO as soon as possible and **no later than March 14, 2012**. If you have any questions or concerns or would like to meet to discuss the agency's plans, I can be reached at (408) 299-5127 / [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Assistant Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Lastly, I would like to thank you and the City for participating in LAFCO's 2011 Countywide Water Service Review and for your consideration and timely response to this request.

Sincerely,

A handwritten signature in cursive script that reads "Neelima Palacherla".

Neelima Palacherla  
LAFCO Executive Officer

Attachment:

- A. Recommendations for Changes in Jurisdictional Boundaries to Improve Services or Governance

**Cc:**

Morgan Hill City Council  
Santa Clara County Planning and Development Department  
Santa Clara County Environmental Health Department  
Santa Clara Valley Water District  
LAFCO Members

**ATTACHMENT A: RECOMMENDATIONS FOR JURISDICTIONAL BOUNDARY  
CHANGES TO IMPROVE SERVICES OR GOVERNANCE**

	RECOMMENDATIONS	KEY STEPS / ANALYSIS REQUIRED	REQUIRES LAFCO APPROVAL?	WHO MAY INITIATE A LAFCO APPLICATION?
<b>ALDERCROFT HEIGHTS COUNTY WATER DISTRICT</b>	Annex APN: 558-22-019 (parcel that the District is presently serving outside of its boundaries) to Aldercroft Heights County Water District	<ul style="list-style-type: none"> <li>• District contacts property owner to inform them of District's plans to annex parcel</li> <li>• District initiates annexation by resolution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District  Petition of property owner or registered voter
<b>SAN MARTIN COUNTY WATER DISTRICT</b>	Address Illegal Water Service Connections	<ul style="list-style-type: none"> <li>• LAFCO informs property owners and District of illegal connections and corrective measures</li> <li>• District initiates annexation by resolution</li> <li>• District submits application to LAFCO for SOI amendment &amp; annexation, as necessary</li> </ul>	Yes	District  Petition of property owners or registered voters within the proposed annexation area
<b>LOMA PRIETA RESOURCE CONSERVATION DISTRICT</b>	Annex to Loma Prieta RCD the remaining portions of the Cities of Gilroy and Morgan Hill, and the community of San Martin that are not currently within the District	<ul style="list-style-type: none"> <li>• Contact LAFCO staff to discuss annexation boundaries</li> <li>• District initiates annexation by resolution</li> <li>• District works with County on property tax distribution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District  Petition of property owners or registered voters within the proposed annexation area
<b>MORGAN HILL</b>	Annex the Unincorporated Island Holiday Lake Estates to the City of Morgan Hill	<ul style="list-style-type: none"> <li>• County, SCVWD, Morgan Hill, and LAFCO resume discussions with property owners on the issues of annexation and provision of sewer service</li> </ul>	No	City  Petition of property owners or registered voters within the proposed annexation area
<b>GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT</b>	Reevaluation of Guadalupe-Coyote RCD and its SOI considering the District's plan and application for new or different services	<ul style="list-style-type: none"> <li>• District returns to LAFCO, by the December 2012 LAFCO meeting, with a plan for services that the District intends to provide that do not overlap with SCVWD's efforts and could not otherwise be provided by SCVWD through its enabling act</li> <li>• District initiates a request for a change in services and SOI amendment by resolution</li> <li>• District submits application to LAFCO</li> </ul>	Yes	District

**LAFCO MEETING:** February 8, 2012  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** STATUS REPORT ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

### **STAFF RECOMMENDATION**

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Accept report and provide direction as necessary.

### **BACKGROUND**

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In early May 2011, LAFCO staff provided each city (except Campbell and Palo Alto which do not have unincorporated islands) with a customized letter concerning the status of unincorporated islands within the city's Urban Service Area and requesting information on their island annexation plans. The letter also provided information on LAFCO's continued fee waiver for island annexations and the County's continued financial incentives, including covering the costs of preparing Assessor and Surveyor reports and maps, paying the State Board of Equalization filing fees, and budgeting for road improvements in islands approved for annexation. Lastly, staff noted in each letter that the law streamlining the annexation process for qualified unincorporated islands will sunset on January 1, 2014 and encouraged each city to take advantage of this process and the incentives currently being offered by both the County and LAFCO for such annexations.

LAFCO staff has received responses or inquiries from nearly all of the affected cities (except from the City of Morgan Hill) and some cities have already initiated or are preparing to initiate annexation of some of their remaining islands during 2012. Staff has also met or had follow-up discussions with staff from the Cities of Cupertino, Gilroy, Los Altos Hills, Milpitas, Mountain View, San Jose, Santa Clara, Saratoga, and Sunnyvale regarding their plans for the islands. At LAFCO's December 7, 2011 meeting, the Commission requested a comprehensive status report on island annexations in the county. The Commission also requested further information on the impact of SB89 on recent and potential island annexations in the County.

### **STATUS REPORT**

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#### **APPROXIMATELY EIGHTY-SEVEN UNINCORPORATED ISLANDS REMAIN**

As the writing of this report, staff estimates that there are a total of 87 remaining unincorporated islands in the county. This number may be adjusted up or down as a

more detailed review of various boundary data (i.e. GIS layers and recorded maps and legal descriptions) occurs.

Approximately 72 of these islands are 150 acres or less in size, while approximately 15 of these islands are greater than 150 acres in size. In order for an unincorporated island to be eligible for the streamlined annexation process it must meet certain requirements, including being 150 acres or less in size. Please see table below for a tally of the remaining islands by size.

<b>NUMBER OF REMAINING UNINCORPORATED ISLANDS BY CITY AND SIZE</b>		
<b>CITIES</b>	<b>≤ 150 ACRES</b>	<b>&gt; 150 ACRES</b>
<b>Cupertino</b>	3	2
<b>Gilroy</b>	4	0
<b>Los Altos</b>	0	1
<b>Los Altos Hills</b>	4	1
<b>Los Gatos</b>	22	3
<b>Milpitas</b>	1	0
<b>Monte Sereno</b>	3	0
<b>Morgan Hill</b>	2	0
<b>Mountain View</b>	2	0
<b>San Jose</b>	14	7
<b>Santa Clara</b>	7	0
<b>Saratoga</b>	5	1
<b>Sunnyvale</b>	5	0
<b>TOTAL</b>	<b>72</b>	<b>15</b>

Please see Attachment A for a summary of each City’s response to LAFCO’s letter and Attachment B for each City’s actual written response.

**UNINCORPORATED ISLANDS THAT ARE 150 ACRES OR LESS IN SIZE**

As indicated in the above table, there are approximately 72 unincorporated islands remaining in the county that are 150 acres of less in size. The Cities of Los Gatos and San Jose have the largest number of remaining islands.

These islands range from less than one acre to upwards of 125 acres in size. Typical land uses in these islands include single family developed home(s), slivers of creeks, slivers of roads and railroad lines. These islands create inefficiencies/confusion in terms of provision of emergency and other municipal services. Annexation of such islands remains a high priority for LAFCO and the County.

**Cities’ Plans for Unincorporated Islands that are 150 Acres or Less in Size**

- The Town of Los Altos Hills has initiated annexation of two of their islands and plans to annex their three remaining islands within the next few years.

- The City of Sunnyvale indicated that they intend to initiate annexation of their remaining islands and LAFCO staff has been working with the City's intern on this project.
- Both the Cities of Milpitas and Santa Clara have not provided a written response to LAFCO's request. However, in fall 2011, staff of each City contacted LAFCO to request an "Island Annexation Mapping Request Form" in preparation for initiating annexation of their islands.
- The City of Saratoga stated that it plans to remove some islands and a portion of an island from the City's USA boundary. The City also stated that it would start preparations to initiate annexation of three islands and gather additional information in interest of annexing an additional island in the future.
- The City of Monte Sereno stated that it would not conduct island annexations. However the City will consider "annexation of individual parcels, on a case by case basis, as property owners voluntarily avail themselves of development projects that trigger the City's right to annex their property."
- The Town of Los Gatos staff stated that "the Council has previously indicated a willingness to annex unincorporated islands if the majority of residents are supportive; however, this has not been the case in previous annexation attempts." They noted that their more recent attempts have been "unsuccessful and resulted in considerable expense to the Town and divisiveness of residents within the islands." According to the Town's staff, "differences in development standards continue to be one of the main concerns of County residents and the perception that the County planning process is less arduous and development standards more lenient are primary arguments used by opponents of annexation." Much like the City of Monte Sereno, the Town annexes individual parcels or groups of parcels as a property owner initiates the request.
- The City of San Jose stated that they had completed an initial review of their islands to determine why these islands remain unincorporated. According to the City, these islands have not been annexed for one of the following reasons: boundaries cross lines of assessment, private development proposals, post-year 2000 islands, urban service area boundary issues, or islands larger than 150 acres. Subsequently, LAFCO staff and City staff met to review these islands and to discuss the City's plans. LAFCO staff, with the assistance of the County Surveyor's Office, verified the boundaries of these islands and recommended to City staff options for addressing them. LAFCO staff anticipates meeting with City staff to discuss how they plan to proceed given LAFCO staff's recommendations.
- The City of Cupertino stated in its letter and during a meeting with LAFCO staff that they do not plan to initiate annexation of the Creston Neighborhood, but will conduct an incremental annexation program in the area as development occurs. As for their remaining two islands, the City indicated that they do not plan to annex these and that exclusion of them from the USA should be considered.



- The City of Mountain View clarified that one of their two remaining islands is military family housing and indicated that the City will wait for the respective property owners to initiate annexation of these remaining islands, as the title of both properties is held in the name of the United States and custody is held by NASA and the Department of the Army.
- The City of Gilroy stated that they do not intend to annex one of their remaining islands, but they are reluctant to spend limited staff resources applying to LAFCO to remove the island from the City's USA boundary. As for their remaining three islands, the City has no plans to initiate annexation because it is either premature, or the property owner is opposed to annexation, or the City will wait for property owner to initiate the annexation.
- The City of Morgan Hill has not responded to LAFCO's letter. Staff has contacted them twice without success. The City has experienced some staffing changes and LAFCO staff will follow-up with their new staff concerning LAFCO's letter.

### **UNINCORPORATED ISLANDS THAT ARE GREATER THAN 150 ACRES IN SIZE**

As indicated in the above table, there are approximately 15 unincorporated islands remaining in the county that are greater than 150 acres in size. These islands are located in the Cities of Cupertino, Los Altos, Los Altos Hills, Los Gatos, Saratoga, and San Jose.

LAFCO staff's research also noted that some of these larger islands, particularly three islands in San Jose and one island in Cupertino consist of primarily county parklands, (i.e. Hellyer Park, Martial Cottle Park, Santa Teresa Golf Course, and Rancho San Antonio Park). LAFCO staff recently met with County Parks Department staff to discuss whether they foresee a need to annex these county parklands to a city in order to receive urban services such as sewer or water. County Parks Department staff indicated that they will consider this issue and advise LAFCO staff on their decision.

These larger unincorporated islands are not eligible for the streamlined annexation process due to their size and the respective City's plan for their island(s) varies. For the most part, these Cities stated that these islands required further research, or that the City will wait for property owner(s) to initiate annexation of the area, or that the City will not annex the specific island(s) and exclusion of these islands from the City's urban service area should be considered.

### **SB89 IMPACT ON POST AUGUST 2004 ISLAND ANNEXATIONS**

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Staff contacted Michael Coleman who is a widely recognized expert on California local government finance and has made many presentations to CALAFCO on SB89. Per Mr. Coleman, effective July 1, 2011, SB89 transferred all Vehicle License Fund (VLF) revenues previously allocated to cities to statewide public safety grant programs. Prior to July 1, 2011, cities received VLF revenue based on population in two different ways. Cities received approximately \$3.50 per capita annually based on their total population. But cities with inhabited annexations completed after August 5, 2004 received an additional annual allocation of approximately \$50 per resident at the time of annexation.

Under SB89, all cities lost their annual per capita VLF revenue and cities that annexed inhabited areas also lost this special allocation. According to an analysis conducted by the League of California Cities, SB89 will cause the City of San Jose to lose \$339,648 in VLF revenue during FY2011-2012 for areas that the City annexed post August 2004. The City of Campbell will lose \$37,558 in VLF revenue during that same period for areas that the city annexed. Similarly, other cities will lose VLF revenue annually. The League of California Cities is challenging the constitutionality of SB89 in court (League of California Cities v. Chiang, Sacramento S. Ct. Case No. 34-2011- 80000957).

In conclusion, SB89 will not encourage annexation of inhabited areas. However, the vast majority of populated islands in Santa Clara County have already been annexed through the streamlined annexation process. Although there remain approximately 72 unincorporated islands that are 150 acres or less in size in the county, less than ten of these islands might be considered inhabited with a large population.

### **NEXT STEPS**

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In summary, LAFCO staff will continue to encourage cities to annex their remaining islands through the streamlined annexation process that will sunset January 1, 2014. Staff will also work with cities to resolve any discrepancies in the boundaries of islands and to facilitate the removal of island(s) from a city's USA boundary if a city does not plan to annex the island(s).

### **ATTACHMENTS**

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- Attachment A:** Table Summarizing Responses from Cities Regarding the Remaining Unincorporated Islands
- Attachment B:** Written Responses from Affected Cities (except City of Morgan Hill who has not responded)

**STATUS OF ISLANDS PER CITY  
(BASED ON CITY'S RESPONSE AND LAFCO DISCUSSIONS WITH CITY STAFF)**

<b>CUPERTINO</b>		<b>STATUS OF ISLANDS PER CITY'S RESPONSE DATED MAY 9, 2011</b>				
<b>County Island ID#</b>	<b>No. of Acres</b>	<b>Further Research Required</b>	<b>Have Initiated Annexation</b>	<b>Will Annex, But Have Not Initiated Yet</b>	<b>Will Wait for Property Owner(s) to Initiate Annexation</b>	<b>Will Not Annex, Exclusion from USA Should Be Considered</b>
<b>CP01 (Rancho San Antonio Area)</b>	189.1					X
<b>CP02 (Creston Neighborhood)</b>	51.3				X	
<b>CP03 (Heidelberg &amp; Permanente Cement Plant)</b>	267.7	X				
<b>CP04 (same as CP03)</b>	3.8					X
<b>CP05 (Regnart Canyon)</b>	1.4					X
<b>Notes:</b> LAFCO staff met with City staff to discuss boundary discrepancies and potential amendments to the City's USA boundary in order create more logical boundaries, particularly in areas that are unlikely to be annexed by the City of Cupertino.						

<b>GILROY</b>		<b>STATUS OF ISLANDS PER CITY'S RESPONSE DATED NOVEMBER 8, 2011</b>				
<b>County Island ID#</b>	<b>No. of Acres</b>	<b>Further Research Required</b>	<b>Have Initiated Annexation</b>	<b>Will Annex, But Have Not Initiated Yet</b>	<b>Will Wait for Property Owner(s) to Initiate Annexation</b>	<b>Will Not Annex, Exclusion from USA Should Be Considered</b>
<b>GR01</b>	76.5				X	
<b>GR02<sup>1</sup></b>	12.5					X
<b>GR03</b>	16.5				X	
<b>GR04</b>	1				X	
<b>Notes:</b> <sup>1</sup> City noted that it does not intend to annex GR02 <sup>1</sup> and that there is not clear purpose for the City to engage in the cost and staff time to amend the USA to delete the property.						

<b>LOS ALTOS</b>		<b>STATUS OF ISLANDS PER CITY'S RESPONSE DATED MAY 24, 2011</b>				
<b>County Island ID#</b>	<b>No. of Acres</b>	<b>Further Research Required</b>	<b>Have Initiated Annexation</b>	<b>Will Annex, But Have Not Initiated Yet</b>	<b>Will Wait for Property Owner(s) to Initiate Annexation</b>	<b>Will Not Annex, Exclusion from USA Should Be Considered</b>
<b>LA01 (Country Club)</b>	627.4				X	
<b>Notes:</b> City has annexed two islands in 2006. City noted that it does not believe LA01 is a true island, that residents of the island oppose annexation of the area, and that the City is not in a position to be able to afford to annex the area. Therefore, the City has no immediate plans to pursue annexation of the area.						

LOS ALTOS HILLS		STATUS OF ISLANDS PER CITY'S RESPONSE DATED SEPTEMBER 26, 2011				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
LAH01	18.6			X		
LAH02 <sup>1</sup>	8.9		X			
LAH03 <sup>1</sup>	32.8		X			
LAH04 <sup>2</sup>	24.3			X		
LAH05	236.9				X <sup>3</sup>	

Notes: <sup>1</sup>LAFCO staff has provided the Town with County Surveyor's Report, including maps, and County Assessor Reports for LAH02 & LAH03.  
<sup>2</sup>Town noted that it will request USA amendment request to exclude MROSD parcel from LAH04 island prior to annexation.  
<sup>3</sup>City has indicated that they plan to work with a group of property owners to facilitate the annexation of some of this island.

LOS GATOS		STATUS OF ISLANDS PER CITY'S RESPONSE DATED NOVEMBER 10, 2011				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
LG01	40.7				X	
LG02	171.6				X	
LG03	0.9				X	
LG04	2.8				X	
LG05	3.1				X	
LG06	1				X	
LG07	1.8				X	
LG08	17.8				X	
LG09	0.6				X	
LG10	1.9				X	
LG11	0.5				X	
LG12	2.4				X	
LG13	0.5				X	
LG14	0.1				X	
LG15	0.3				X	
LG16	1.3				X	
LG17	67.8				X	
LG18	4.5				X	
LG19	378.3				X	
LG20	11.7				X	
LG21	179.9				X	
LG22	4.0				X	
LG23	9.9				X	
LG24	12.2				X	
LG25	15.7				X	
LG26 <sup>1</sup>	16.0	see note				

Notes: <sup>1</sup>LAFCO approved an USA amendment on 6/1/2011 which removed LG26 from Los Gatos' USA and eliminated this island.

MILPITAS		STATUS OF ISLANDS PER DISCUSSION W/CITY STAFF				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
MP01	1			X		
<b>Notes:</b> MP01 is a developed with a residence. As requested by the City, LAFCO staff has provided City staff with the Mapping Request Form and information on the island annexation process.						

MONTE SERENO		STATUS OF ISLANDS PER CITY'S RESPONSE DATED JULY 26, 2011				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
MS01	9.3				X	
MS02	127				X	
MS03	69				X	
<b>Notes:</b> LAFCO staff worked closely with the City in 2005 and 2006 in preparation for the annexation of these islands, including assisting in the preparation of outreach materials and participation in public meetings and hearings on the subject. The County Assessor and County Surveyor prepared the required reports, maps, and a legal description for the annexation of these islands through the County's Island Annexation Incentive Program. Ultimately, the City Council indicated that they would not support the continuation of the island annexation process for these areas due to strong opposition of the affected property owners.						

MORGAN HILL		STATUS OF ISLANDS (NO RESPONSE YET FROM CITY)				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
MH01 (Holiday Lake Estates)	121.3					
MH02	19.9					
<b>Notes:</b> LAFCO staff has contacted the City of Morgan Hill's Director of Community Development twice regarding the City's plans for the two remaining unincorporated islands. To date, LAFCO staff has not received a response from the City of Morgan. LAFCO staff will contact City one last time.						

MOUNTAIN VIEW		STATUS OF ISLANDS PER CITY'S RESPONSE DATED JUNE 15, 2011 & SUBSEQUENT DISCUSSIONS				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
MV01 (Portion of Moffet Federal Airfield)	5.7				X	
MV02 (Shenandoah Military Family Housing)	19.3				X	
<b>Notes:</b> According to City of Mountain View's staff, title to both properties is held in the name of the United States and custody is held by NASA and the Department of the Army, respectively. Furthermore, City believes that "annexation of Federal property by a local jurisdiction generally requires the concurrence of the holding Federal agency at the Secretariat level and cannot be done unilaterally by a local jurisdiction."						

SANTA CLARA		STATUS OF ISLANDS PER DISCUSSION W/CITY STAFF				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
SC01	14			X		
SC02	0.9			X		
SC03	2.3			X		
SC04	1.2			X		
SC05	12.1			X		
SC06	0.5			X		
SC07	0.5			X		

**Notes:** With the exception of SC06, all of these islands consist of slivers of land along Guadalupe River. As requested by the City, LAFCO staff has provided City staff with the Mapping Request Form and information on the island annexation process.

SARATOGA		STATUS OF ISLANDS PER CITY STAFF REPOSSES DATED SEPTEMBER 16, 2011 & JANUARY 4, 2012				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
STG01 <sup>1</sup>	89.5			X		X
STG02 <sup>2</sup>	8.5			X		
STG04	92					X
STG05	206	X				
STG06	0.4	X				
STG07	103.6			X		

**Notes:** <sup>1</sup>City plans to remove 37 acres of STG01 from the City's USA and then annex the remaining 50 acres of STG01. <sup>2</sup>City plans to annex STG02 and adjacent Quarry Properties once City's USA is expanded to include the Quarry Properties.

SUNNYVALE		STATUS OF ISLANDS PER CITY STAFF REPOSSES DATED JUNE 6, 2011				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
SV01	4.3			X		
SV02 <sup>1</sup>	12			X		
SV03	5.3			X		
SV04 <sup>2</sup>	TBD					
SV05 <sup>2</sup>	TBD					

**Notes:** LAFCO staff has been working with City's intern in preparation for the City initiating the annexation of these islands.  
<sup>1</sup>Recent research uncovered an error in how SV02 was mapped in GIS. Sunnyvale staff working with Santa Clara staff to facilitate SV02 being annexed by City of Santa Clara rather than Sunnyvale in order to create a more logical boundary between the two cities.  
<sup>2</sup>Recent research on discrepancies between the boundaries of cities and tax rate areas uncovered two new unincorporated islands in the City of Sunnyvale. City staff was recently informed of this development.

SAN JOSE		STATUS OF ISLANDS PER CITY'S RESPONSE DATED OCTOBER 25, 2011 & ONGOING DISCUSSIONS				
County Island ID#	No. of Acres	Further Research Required	Have Initiated Annexation	Will Annex, But Have Not Initiated Yet	Will Wait for Property Owner(s) to Initiate Annexation	Will Not Annex, Exclusion from USA Should Be Considered
SJ01 (Railroad Tracks & Gas, Bait & Tackle Store)	9.8	X				
SJ02 (Cambrian Park)	388.9				X	
SJ03 (Martial Cottle County Park)	312	X				
SJ04 <sup>1</sup> (Cambrian No. 36)	103.4	see note				
SJ05	1.5	X				
SJ06 (Hellyer County Park)	208	X				
SJ07 (Communications Hill)	335.3				X	
SJ08 <sup>2</sup> (County Fairgrounds)	149.8				X	
SJ09 (Pleasant Hills Golf Course)	113.8				X	
SJ14	15.3	X				
SJ16	2.2	X				
SJ17	2.7	X				
SJ18	18.3	X				
SJ19 <sup>2</sup> (Burbank Area)	47.6				X see note	
SJ20 (Burbank & Fruitdale)	391.5				X	
SJ21 <sup>3</sup>	2.5	see note				
SJ22 <sup>3</sup>	1.1	see note				
SJ23 (Alum Rock)	1421.7				X	
SJ24	8.9				X	
SJ25	0.4	X				
SJ26	7.8	X				
SJ27 (Santa Teresa Golf Course)	225	X				
SJ28	0.6	X				

**Notes:** <sup>1</sup> Island will eventually be removed from City of San Jose's Urban Service Area and annexed to the City of Campbell. <sup>2</sup> Island was greater than 150 acres in size when streamlined island annexation legislation was adopted and is therefore not eligible for the streamlined island annexation process. <sup>3</sup> LAFCO research indicates historical mapping errors and that these islands do not exist.



Incorporated October 22, 1956

AGENDA ITEM #6

ATTACHMENT B

# CITY OF SARATOGA

13777 FRUITVALE AVENUE • SARATOGA, CALIFORNIA 95070 • (408) 868-1200

COUNCIL MEMBERS:

*Manny Cappello*

*Jill Hunter*

*Emily Lo*

*Howard Miller*

*Chuck Page*

January 4, 2012

Neelima Palacherla  
LAFCO Executive Officer  
70 West Hedding Street  
11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

**RE: Status of Unincorporated Islands**

Dear Ms. Palacherla:

You requested the City of Saratoga report back to you on plans to address the six unincorporated islands within our Urban Service Area (USA). These six islands have been identified as Saratoga Unincorporated Island No. 1 (STG01), STG02, and STG04 to STG07. In 2005, LAFCO made a similar request and the City agreed to annex two unincorporated islands, a 104 acre island in the Prospect Road area and a 20 acre island near Hidden Hill Road.

Provided below is a summary of the future actions the City of Saratoga intends to take to address the unincorporated islands:

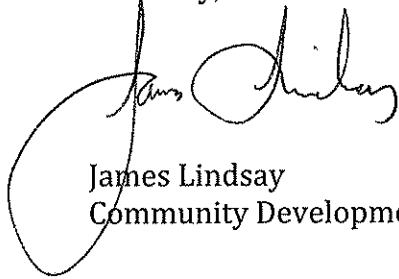
1. Complete an application for LAFCO approval to adjust the boundaries of the USA to include the recently acquired Congress Springs Quarry Properties (APNs 503-48-014 & 517-32-001) and to remove the following areas from the USA:
  - a. STG04 (vicinity of On Orbit Drive)
  - b. STG06 (0.4 acres along Ravine Road) and 37 acres (Orchard Meadow Subdivision) from STG01
2. Start the preparations to initiate annexation of the following areas:
  - a. The remaining 50 acres of STG01
  - b. STG02 and the adjacent Quarry Properties (once USA is adjusted)
  - c. STG07
3. Gather additional information in the interest of annexing STG05 in the future.



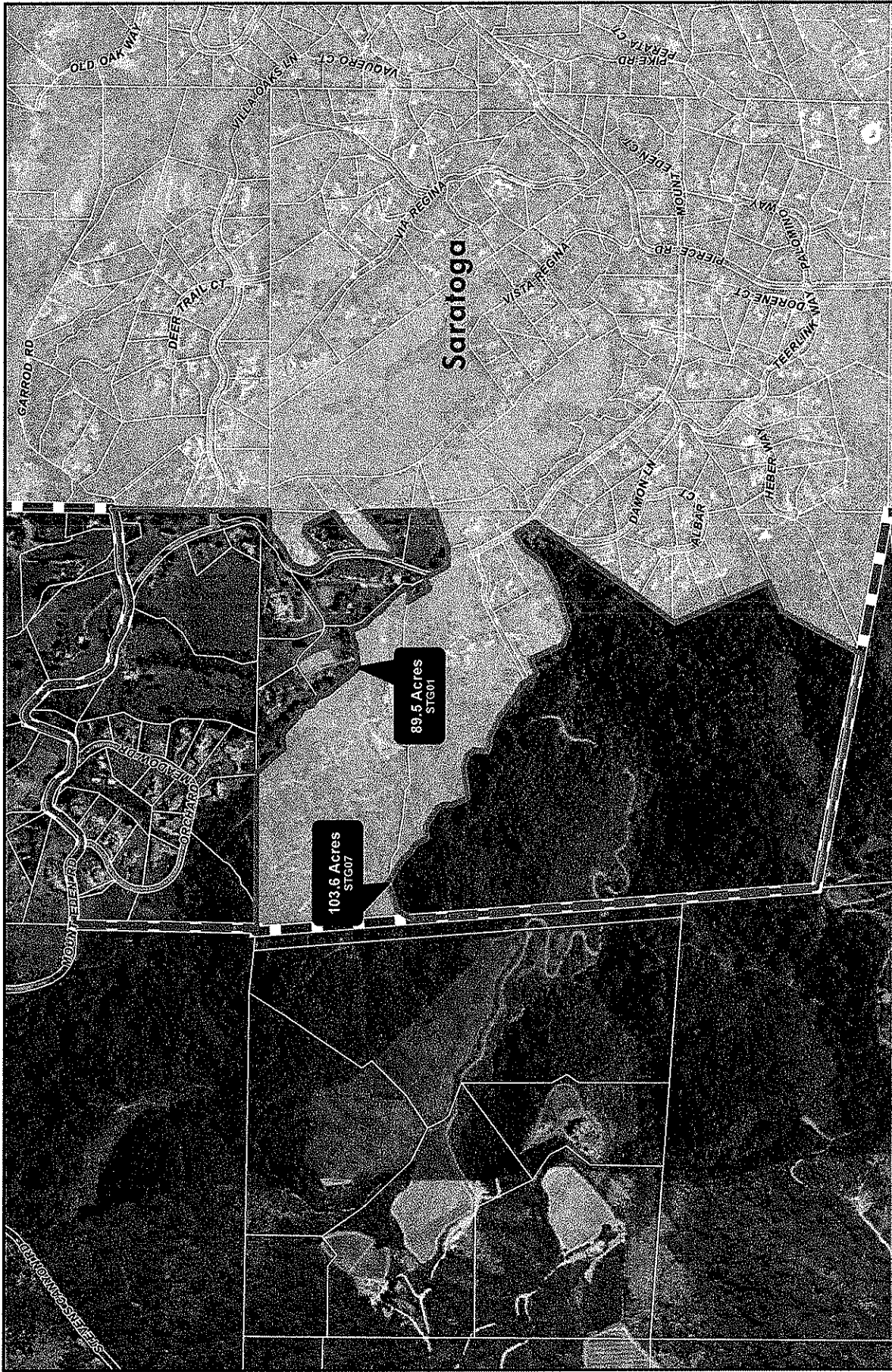
Attached are the exhibits prepared by your staff showing the locations of the islands with an additional exhibit showing the Quarry Properties. Pursuant to your request City of Saratoga staff met with staff from County Roads and the Planning Office to discuss any issues related to the removal of STG04 and the Orchard Meadow Subdivision from the USA. County staff present at the meeting had no objection to those areas being removed.

I hope this letter satisfactorily addresses your request, if you have any questions please contact me at [jlindsay@saratoga.ca.us](mailto:jlindsay@saratoga.ca.us) or (408) 868-1231.

Sincerely,

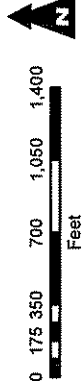
A handwritten signature in black ink, appearing to read "James Lindsay". The signature is written in a cursive style with a large, looping initial "J".

James Lindsay  
Community Development Director

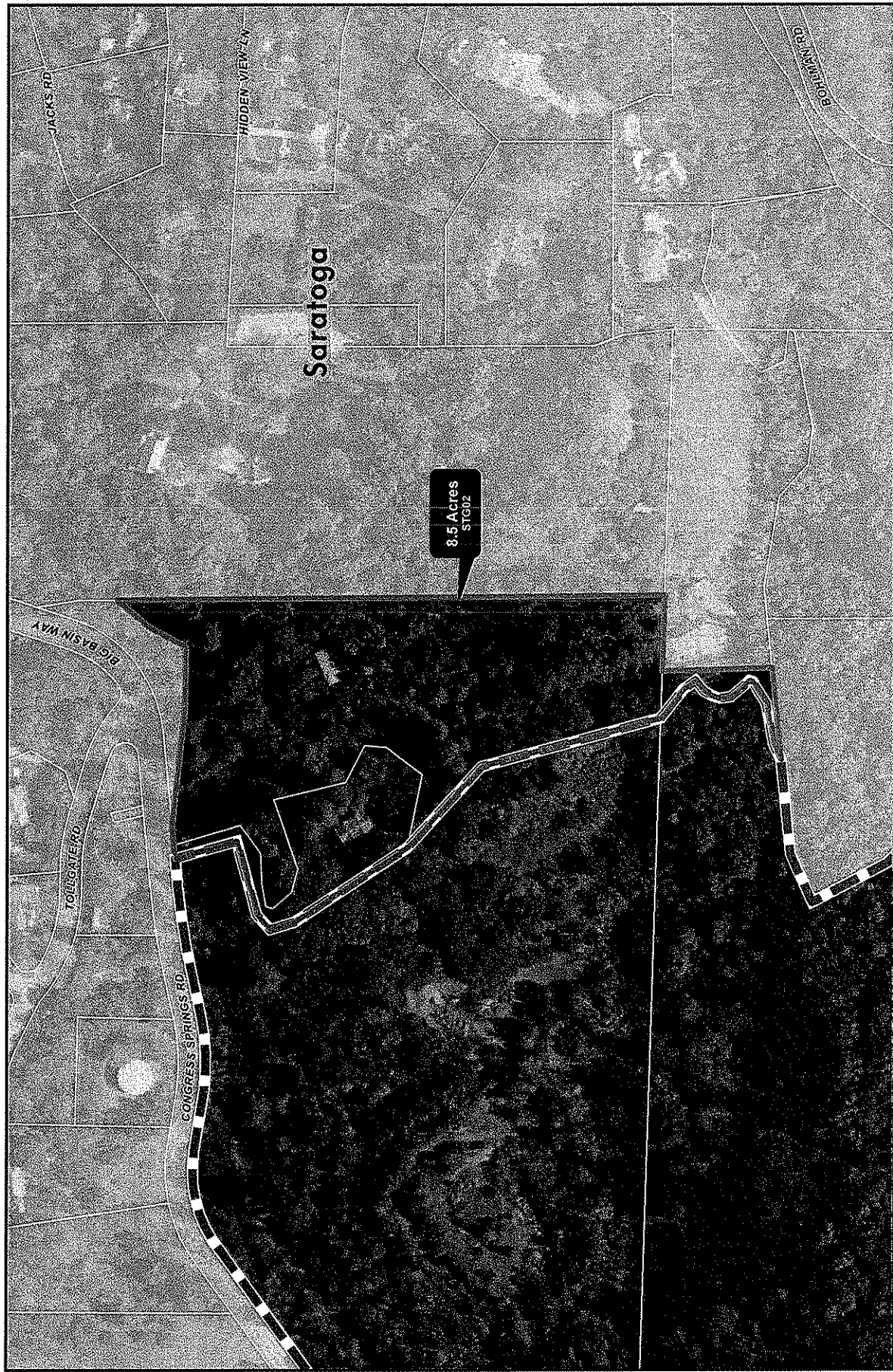


SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Incorporated Areas
-  Urban Island > 150 Acres



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**SARATOGA**

**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

**Urban Service Area**

**Incorporated Areas**

**Urban Island ≤ 150 Acres**

**Urban Island > 150 Acres**





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 Feet

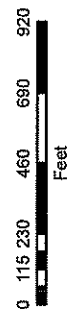
This map was created by the Santa Clara County Planning Division. The GIS data was compiled by the Planning Division on 08/14/2011. File Name: 2011 Urban Islands Map



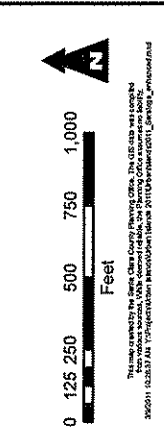
SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located  
 within the cities' Urban Service Areas (USAs)

Saratoga: Page 3 of 5

-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Incorporated Areas
-  Urban Island > 150 Acres



This map was created by Santa Clara County Planning Office. The GIS data was compiled  
 3/30/11 10:27 AM. The Project Data is located in the folder 2011 Urban Islands 2011 Urban Islands 2011



Urban Service Area
 Urban Island ≤ 150 Acres  
 Incorporated Areas
 Urban Island > 150 Acres

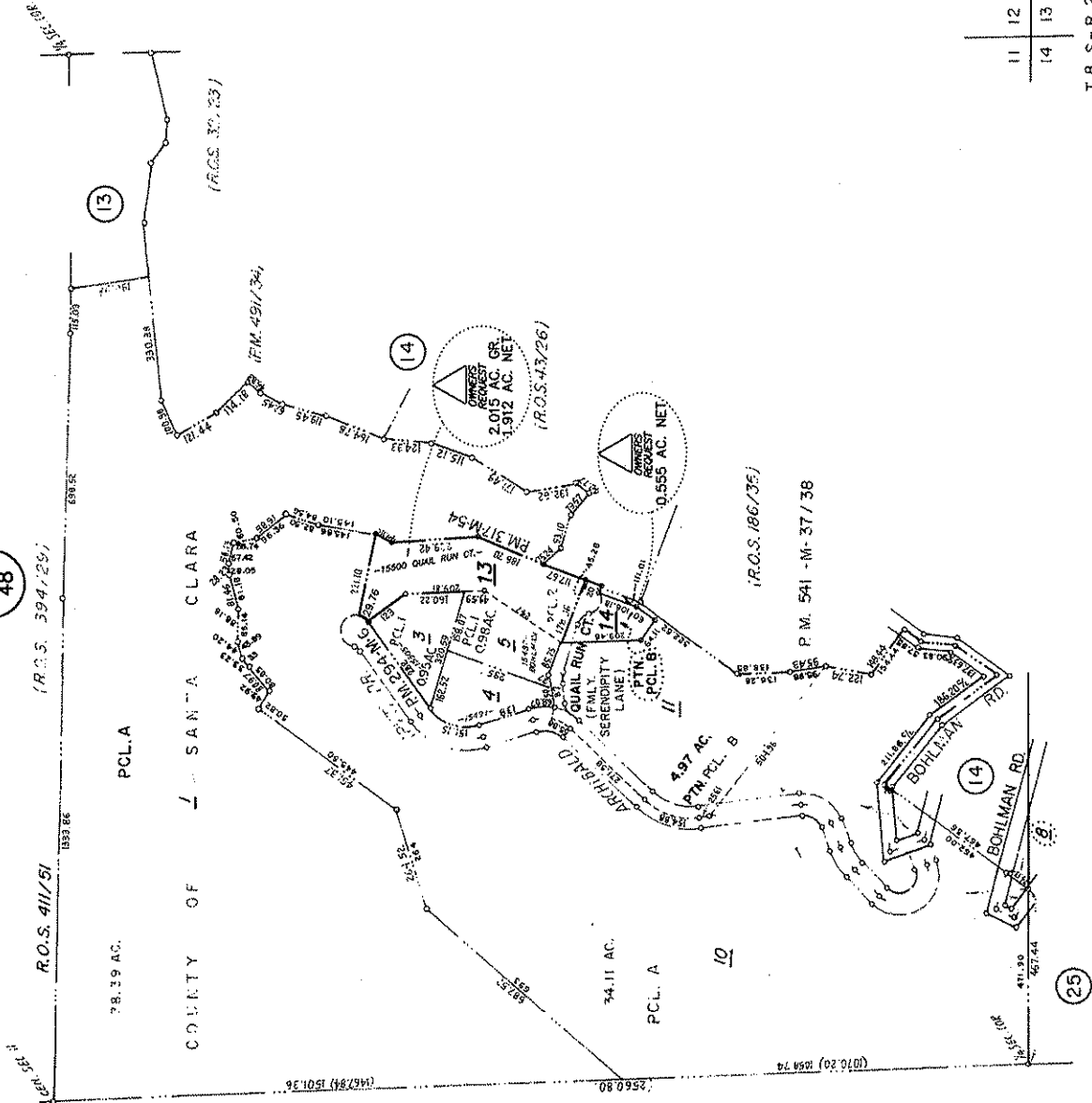
SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)  
 Saratoga: Page 4 of 5

This map was created by the Santa Clara County Planning Department, 2011. It is a public work and is provided for informational purposes only. It is not intended to be used for any other purpose.

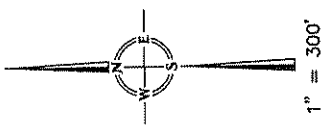




503  
48



(P.M. 445/45)



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T. B. S. - R. 2. M.

TRA. 027, MAP 028  
LAWRENCE E. STONE — ASSESSOR  
Cadastral map for assessment purposes only.  
Compiled under R. & T. Code, Sec. 327.  
Effective Roll Year 2010-2011







## SARATOGA CITY COUNCIL

**MEETING DATE:** November 16, 2011      **AGENDA ITEM:**  
**DEPARTMENT:** Community Development      **CITY MANAGER:** Dave Anderson  
**PREPARED BY:** Christopher Riordan, AICP      **DIRECTOR:** James Lindsay

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**SUBJECT: Annexation of Unincorporated Islands and Adjustments to the Urban Service Area**

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### **RECOMMENDED ACTION:**

Direct staff to take the following actions within the next year to reduce the number of unincorporated islands:

1. Complete an application for LAFCO approval to modify the boundaries of the USA to include the recently acquired Quarry Property and to remove Saratoga Unincorporated Island No. 4 (STG04) in the vicinity of On Orbit Drive and the Orchard Meadow Subdivision (portion of STG01).
2. Start the preparations to initiate annexation of the following areas:
  - a. The remaining portion of STG01
  - b. STG02 and the adjacent Quarry Property
  - c. STG06 and STG07
3. Gather additional information in the interest of annexing STG05 in the future.

### **REPORT SUMMARY:**

The Local Agency Formation Commission (LAFCO) of Santa Clara County formally requested each city to report back on plans to either annex unincorporated pockets and/or make adjustments to their Urban Service Areas (see Attachment #1). An Urban Service Area (USA) is an area, either incorporated or unincorporated, which is receiving urban services or is planned to receive urban services within five years. An unincorporated pocket (commonly referred to as an unincorporated island) is area consisting of one or more parcels located within the USA, but outside the City's limits along its periphery.

The City of Saratoga has six unincorporated island within the USA totaling approximately 500 acres. These six islands have been identified as STG01, STG02, and STG04 to STG07 by LAFCO (see Attachment #1). In 2005, LAFCO requested the City consider annexing several unincorporated islands. At that the time the City agreed to annex two unincorporated islands. One was a 104 acre island in the Prospect Road area and the other was a 20 acre island near Hidden Hill Road.

To encourage cities to annex unincorporated islands, the State of California has created a temporary Streamlined Annexation Process that does not require protest or approval by election for annexation initiated before January 1, 2014. To further encourage these streamlined annexations, LAFCO is offering fee waivers and the County of Santa Clara is funding the costs for preparing Assessor and Surveyor reports and other filing fees. This process, as depicted on the flowchart included as Attachment #2, is applicable to islands that are 150 acres or less in size and are substantially developed or developing. It is a policy of LAFCO that cities should annex unincorporated islands before expanding the boundaries of their USA. A short description of each of the six unincorporated islands is provided below with staff's recommended action.

- **STG01** – The area of this island totals 90 acres located along the south side of Mount Eden Road. The Orchard Meadow subdivision (approximately 37 acres) is located within this island and has several adverse geologic conditions that have affected the structural integrity of the roads within the subdivision (see Attachment #3). Homeowners in the area are considering potential litigation against the developer and County. Garrod Farms owns approximately 11 acres within this island easterly of the Orchard Meadow subdivision. *Recommendation:* Reduce the size of this unincorporated island from 90 to 53 acres by removing the Orchard Meadow subdivision from the USA and annex the remaining 53 acres. Retracting the USA will not result in any additional development potential given the County's General Plan Hillside land use designation has a similar slope density formula as Saratoga and the parcels in this area are all less than 20 acres.
- **STG02** – The area of this island totals nine (9) acres south of the intersection of Big Basin Way and Tollgate Road. This area is adjacent to the Quarry Property that was recently purchased by the City. The Quarry Property is currently outside the USA which most likely need to be expanded to annex the future park site. *Recommendation:* Annex the nine acres and the adjacent Quarry Property through the streamlined process once the Quarry Property is included in the USA.
- **STG04** – 92 acres in the vicinity of On Orbit Drive. This area was reviewed in 2005 and the City did not pursue the annexation due to the steep terrain and the geologic instability of the area. The Public Works Department would recommend that the City Council not initiate annexation proceedings. *Recommendation:* Do not pursue annexation of this area and remove it from the USA. Retracting the USA will not result in any additional development potential given the County's General Plan Hillside land use designation has a similar slope density formula as Saratoga and the parcels in this area are all less than 20 acres
- **STG05** – 207 acres in the vicinity of Redberry Drive. This area is too large to qualify for the Streamlined Annexation Process and would require potential protest proceedings and an election. The majority of these properties are developed and there are no known adverse geologic concerns that the City would inherit if the area was annexed. *Recommendation:* Gather additional information in the interest of a future annexation.

- **STG06** – 0.4 acres at the intersection of Hidden Hills Road and Ravine Road. This area has no known adverse geologic conditions and could be a candidate for the Streamlined Process. *Recommendation:* Annex this unincorporated island.
- **STG07** – 104 acres west of the intersection of Mount Eden Road and Damon Lane. City records indicate that both shallow and deep landslides are known to exist in this area. Future development of the property would require thorough geotechnical analysis and mitigation. County Assessor information indicates that this parcel is covered by a Williamson Act Contract which could be transferred to the City upon annexation. This area could qualify for the Streamlined Annexation Process. *Recommendation:* Annex this unincorporated island.

**FISCAL IMPACTS:** None

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

Current State legislation has set January 1, 2014 as the sunset date for cities to make use of the expedited annexation process.

**ALTERNATIVE ACTION:**

None

**FOLLOW UP ACTION:**

As directed

**ADVERTISING, NOTICING AND PUBLIC CONTACT:**

Pursuant to Government Code 54954.2, this item was properly posted as a City Council agenda item and was included in the packet made available on the City's website in advance of the meeting. A copy of the agenda packet is also made available at the Saratoga Branch Library each Monday in advance of the Council Meeting.

**ATTACHMENTS:**

Attachment 1: Letter from LAFCO (dated May 2, 2011).

Attachment 2: Flow Chart for the expedited island annexation process (created by LAFCO)

Attachment 3: Preliminary Geotechnical Evaluation of Roadway Conditions Report by Cotton, Shires and Associates, Inc. (dated September 15, 2011)





# TOWN OF LOS GATOS

COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
(408) 354-6872 FAX (408) 354-7593

CIVIC CENTER

110 E. Main Street  
Los Gatos, CA 95030

November 10, 2011

Neelima Palacherla, Executive Officer  
Santa Clara County LAFCO  
County Government Center, East Wing, 11th Floor  
70 West Hedding Street  
San Jose, CA 95110-1705

RE: Status of Unincorporated Islands within Town of Los Gatos Urban Service Areas

Dear Ms. Palacherla:

Thank you for the information you provided to staff regarding annexation of the unincorporated islands within the Town's Urban Service Area (USA). Staff does not believe that there are any areas within the USA that should not eventually be annexed into the Town. Staff will be advising the Town Council of the County's desire to have the islands annexed into the Town, and of the benefits of annexing the islands by the end of 2013, including the streamlined process and fee incentives being offered by the County and LAFCO. If the Council is interested in pursuing island annexations, the matter will be placed on a future agenda for discussion.

The Town currently processes annexations when development applications are made and property owners are referred to the Town by the County, or when owners independently request to have their property annexed. Currently, properties that are eligible include those that abut a Town boundary or are within 300 feet of a Town maintained roadway.

The Town Council has previously indicated a willingness to annex unincorporated islands if the majority of the residents are supportive; however, this has not been the case with previous annexation attempts. Island annexations have not only been unsuccessful, they have resulted in considerable expense to the Town and divisiveness of residents within the islands. In 2004 a proposal to annex 31 parcels in the Blossom Hill Manor (LG02) became very contentious within the neighborhood and was ultimately defeated in a special election. This is representative of past efforts to annex unincorporated islands.

Differences in development standards continue to be one of the main concerns of County residents. The perception that the County planning process is less arduous and development standards more lenient are primary arguments used by opponents of annexation.



Santa Clara County LAFCO

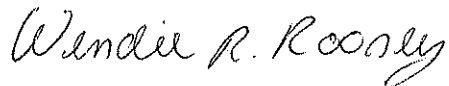
Re: Island Annexations

November 10, 2011

*Page 2 of 2*

Should the Town Council decide to move forward with the island annexations, Planning staff will be available to meet with you and your staff to strategize on the best approach for annexation of the urban islands.

Sincerely,

A handwritten signature in cursive script that reads "Wendie R. Rooney".

Wendie R. Rooney

Director of Community Development

NADEVASUZANNECORRESPONDENCELETTERS\LAFCO-110411.DOC

## Noel, Dunia

---

**From:** Suzanne Davis [sdavis@losgatosca.gov]  
**Sent:** Friday, November 04, 2011 2:32 PM  
**To:** Noel, Dunia  
**Cc:** Wendie Rooney; Sandy Baily  
**Subject:** Los Gatos Island Annexation

Dunia,

A response to the May 2, 2011 letter from LAFCO has been drafted and will be sent early next week. The letter summarizes the Town's current approach to annexation and states that the Town Council will be informed of the County's desire to have the unincorporated islands fully annexed into the Town. The Council will also be advised of the opportunity to annex eligible islands under the streamlined process, and of the incentives being offered by the County and LAFCO. Staff is supportive of island annexation and will be discussing the matter in detail with the Council in January 2012 as part of a planned retreat. Following the retreat, staff will advise LAFCO of the results of the Council discussion and the steps that will be taken towards annexation of Los Gatos islands.

Suzanne



## Noel, Dunia

---

**From:** Wendie Rooney [wrooney@losgatosca.gov]  
**Sent:** Wednesday, October 19, 2011 5:24 PM  
**To:** Noel, Dunia  
**Cc:** Sandy Baily; Suzanne Davis  
**Subject:** RE: Status of Unincorporated Lands within Los Gatos' Urban Service Area Boundary (Unincorporated Islands)

Hello Dunia: I must apologize that the Town has not responded to the May 2, 2011, LAFCO letter. At that time, there was some community interest in championing the annexation of the Manor County Islands, and this effort was being facilitated through another Department within the Town. Consequently, that Department indicated that they would be responding to the May 2, 2011, LAFCO letter. Obviously this has not occurred, and Planning Staff met today, and we will be formally responding to the letter. The Town continues to support annexation of county islands as applicants submit them on a case by case basis. In regards to the larger, county islands, as you may or may not be aware, on several occasions in the past, the Town has initiated community discussions and annexation of some of these larger county islands. Unfortunately, these past efforts were not successful, often very contentious, and the Town Council understandably is a little cautious about initiating another large-scale effort. However, staff will be sending the Council the May 2, 2011, LAFCO letter and advising them of the benefits of annexing the pockets through the Streamlined Process before it sunsets in January 2014. We will follow up with you if this results in renewed interest.

We will also be sending you our formal response in the next couple of days, and again I apologize for the significant delay. We appreciate LAFCO's patience.

Thank you, Wendie Rooney

Wendie Rooney  
Director of Community Development  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, CA 95031  
408-399-5768  
[wrooney@losgatosca.gov](mailto:wrooney@losgatosca.gov)

---

**From:** Noel, Dunia [<mailto:Dunia.Noel@ceo.sccgov.org>]  
**Sent:** Thursday, September 29, 2011 4:53 PM  
**To:** Wendie Rooney  
**Subject:** Status of Unincorporated Lands within Los Gatos' Urban Service Area Boundary (Unincorporated Islands)

**Dear Community Development Director:**

The attached letter from the Local Agency Formation Commission of Santa Clara (LAFCO) regarding the status of unincorporated islands in the City was sent by email to you on May 2, 2011 for your consideration and response. The letter respectfully requested that the City notify LAFCO of the City's annexation and/or urban service area amendment plans for these unincorporated islands as soon as possible and no later than June 10, 2011. To date, LAFCO has not received a response from the City on this matter. LAFCO has asked its staff to provide periodic updates on each City's response to LAFCO's letter or lack thereof. Please let us know when we can expect a response from the City on this matter. If you believe you are receiving this email in error or if you have questions or concerns or would like to meet with LAFCO staff to discuss the City's plans prior to preparing a written response, my contact information is provided below. Thank you for your time and consideration.

---

**Dunia Noel**

LAFCO Assistant Executive Office  
Local Agency Formation Commission of Santa Clara County  
[www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)

70 W. Hedding St.  
East Wing, 11th Floor  
San Jose, CA 95110  
T (408) 299-5148  
F (408) 295-1613

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**City of Gilroy**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
7351 Rosanna Street, Gilroy CA 95020  
(408) 846-0451 (408) 846-0429 (fax)  
[www.cityofgilroy.org](http://www.cityofgilroy.org)

November 8, 2011

Ms. Neelima Palacherla, Executive Director  
Santa Clara County Local Agency Formation Commission  
70 W. Hedding St.  
11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

**Subject: Status of Unincorporated Lands within City of Gilroy's Urban Service Area**

Dear Ms Palacherla:

This letter is in response to your May 2, 2011 letter requesting information regarding the City's plans for annexation and/or Urban Service Area amendments for four "islands" of unincorporated land within Gilroy's Urban Service Area (USA). The following incorporates the results of the review of each area and explains the City's position regarding the future annexation potential of each.

Parcel 1 – 76 acres located west of Highway 101 and south of Buena Vista Avenue

This area is designated primarily for Industrial Park and General Services Commercial uses in the Gilroy General Plan. It is considered important for long-term economic development and employment growth. Annexation would be premature in the near future. The City will retain the property in the USA and allow future annexation to be initiated by the property owners at such time as development of this area proceeds.

Parcel 2 – 12 acres located on the north side of Highway 152, southerly of Holsclaw Road/ Llagas Creek

The existing uses in this area consist of four existing residences and Llagas Creek right-of-way owned by the Santa Clara Valley Water District. The Gilroy General Plan designates the area as Open Space and, as a result, no further development potential exists within the area. The City does not intend to annex this area in the future. Likewise, there is no clear purpose to engage in the cost and staff time to amend the USA to delete the property. Therefore, the property will retain its current status.

Parcel 3 – 16 acres located west of Thomas Road and south of Luchessa Ave.

The General Plan designation for the area is Neighborhood District, which allows primarily residential uses with small amounts of commercial and related uses. The area is surrounded on

Neelima Palacherla

November 8, 2011

Page 2

three sides by incorporated City. The property owner has expressed interest in annexation of the property for future development. The City will retain the property within the USA, due to its potential for infill development and will await property owner initiation of annexation.

Parcel 4 – One acre located at the terminus of Dawn Way

As noted in your letter, this parcel is eligible for annexation through the streamlined process. However, the property owner has notified the City that he has no interest in annexation at this time. The City intends to respect the property owner's position and will not initiate annexation of the property.

I hope the enclosed provides the information you requested. Should you have any further questions, please contact Stan Ketchum, Senior Planner at 408-846-0566.

Sincerely,



Kristi Abrams

Community Development Director

October 25, 2011

Neelima Palacherla  
LAFCO Executive Officer  
70 West Hedding Street  
11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

Dear Ms. Palacherla,

This letter provides a summary of my staff's initial review of twenty-three remaining unincorporated islands identified in your May 2, 2011 letter. Members of my staff will be contacting your staff to arrange a meeting to resolve some more "technical" issues associated with the size and location of specific islands. Following that meeting, we would provide LAFCO with detailed information and status for all remaining unincorporated islands in San Jose's Urban Service Area. Our analysis shows that the reasons these pockets remain unincorporated fall into five general categories:

- Boundaries Cross Lines of Assessment
- Private Proposals
- Post-Year 2000 Pockets
- Urban Service Area (USA) Issues
- Pockets larger than 150 Acres

Boundaries Cross Lines of Assessment

As previously indicated in the attached November 28, 2006 letter from the City of San Jose to the County of Santa Clara, many islands remain unincorporated because their boundaries cross lines of assessment or ownership. In accordance with the California Government Code Section § 56757, San Jose's City Council is required to make findings that a proposed annexation does not split lines of assessment or ownership. These unincorporated islands were not included in the County Island Annexation Program.

Privately Initiated and/or Property Owner Opposed Proposals

The City did not initiate annexation of islands that were expected to be annexed within a few years in conjunction with privately-initiated development proposals. City staff will review the status of these proposals to determine whether private annexation is still anticipated or if not, whether the City should initiate annexation proceedings. My staff is also investigating an assertion by one property owner that an entire unincorporated island is "Prime Agricultural Land" and, therefore, ineligible to be annexed by the City under the streamlined process.



Pockets Created After 2000

As the May 2, 2011 letter correctly indicates, the list of 23 remaining pockets includes islands that were created after January 1, 2000. As you know, the City Council could not, therefore, make all the findings required under § 56375.4, the State law establishing the streamlined annexation procedures. San Jose will not proceed with the annexation of these pockets until State law is amended to allow their annexation under the streamlined process for unincorporated pockets created after January 1, 2000.

Urban Service Area Location Issues

The list includes islands defined with boundaries that differ from those shown in the City of San Jose's records as to the location of the City's Urban Service Area. My staff hopes to reach agreement with LAFCO staff as to the location and size of these pockets in our upcoming meeting, and subsequently the City will determine its course of action on these pockets.

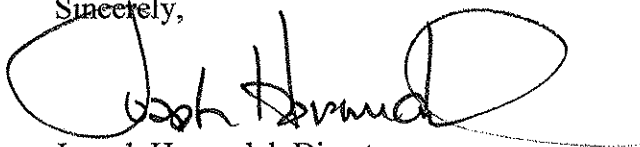
Islands exceeding 150 Acres

Seven of the unincorporated islands listed are described as larger than 150 acres in size and do not qualify to be annexed in accordance with the State law (CAL. GOV. CODE § 56375.4) establishing the streamlined annexation procedures. Therefore, the City has not initiated annexation of these unincorporated islands.

We look forward to working with your staff over the next few weeks to resolve any technical discrepancies with pocket boundaries which could potentially reduce the total number of unincorporated islands in San Jose. Following that staff exercise, the City of San Jose would work with LAFCO to confirm "next steps" in any future annexation of remaining islands within San Jose's Urban Service Area.

Please contact Susan Walton of my staff at (408 )535-7847 with any questions on this initial summary.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Horwedel", written over a horizontal line.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Attachment: 11/28/06 Letter





November 28, 2006

Bill Shoe  
Santa Clara County Planning Office  
70 W Hedding Street  
San Jose, CA 95110

**Re: Finalized Phase 2 of the City of San José County Island Annexation Program**

Mr. Shoe:

After further discussions with LAFCO, 10 of the 20 pockets originally scheduled for Phase 2 of the City of San José County Island Annexation Program have been determined to not qualify to be annexed as part of the program (explained below). The City and LAFCO have agreed to proceed with 11 pockets under this program. One of the remaining pockets (previously identified as 8-2) has been split by a developer-initiated annexation and will now proceed as two separate pockets.

Proposed Phase 2 Annexations that have been removed:

- 2-3 Would sever lines of assessment
- 2-4 Pocket split by urban service area boundary. Planned for inclusion in the Coyote Valley Specific Plan Application to LAFCO, estimated submission in 2008
- 2-5 Would sever lines of assessment
- 2-6 Would sever lines of assessment
- 4-2 Would sever lines of assessment
- 4-6 Would sever lines of assessment
- 4-7 Would sever lines of assessment
- 8-1 Has been privately initiated
- 8-3 Would sever lines of assessment
- 8-5 Would sever lines of assessment

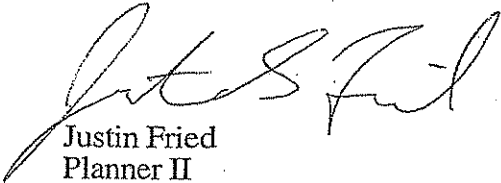
The 11 pockets that now comprise Phase 2 are scheduled for annexation in 2007.

They will proceed under the following Annexation Names:

- |                      |                      |
|----------------------|----------------------|
| 1. Riverside No. 51  | 7. Evergreen No. 200 |
| 2. Penitencia No. 76 | 8. Evergreen No. 201 |
| 3. Story No. 58      | 9. Hillview No. 73   |
| 4. Capitol No. 55    | 10. Parker No. 25    |
| 5. Capitol No. 56    | 11. Parker No. 26    |
| 6. McKinley No. 110  |                      |

Two of these pockets – Riverside No. 51 and Evergreen No. 200 – have potential boundary issues. We will begin the City annexation process, but will await feedback from the County Surveyor before moving forward on these two pockets.

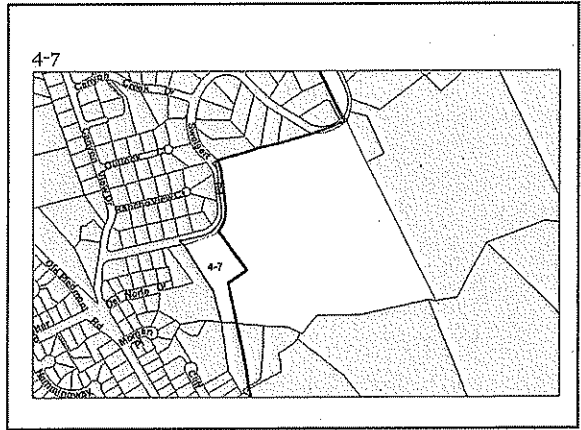
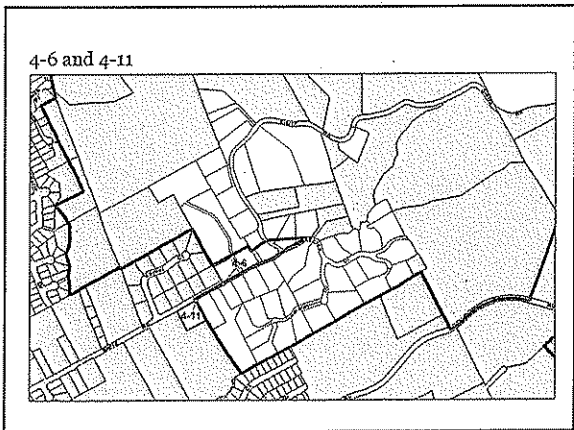
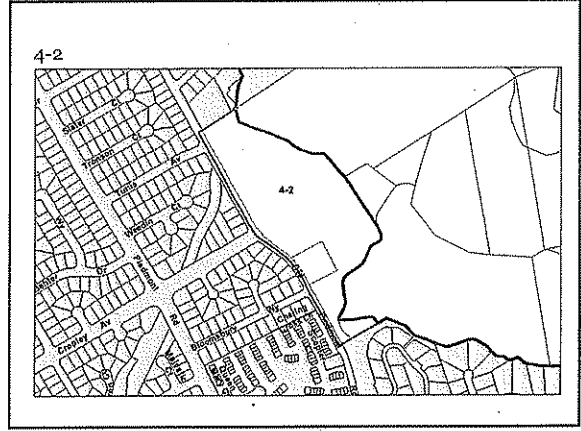
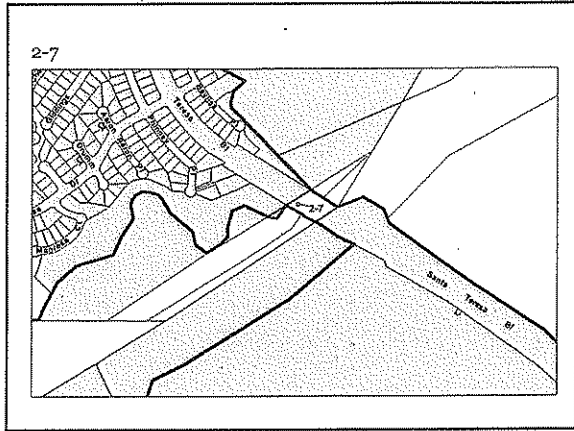
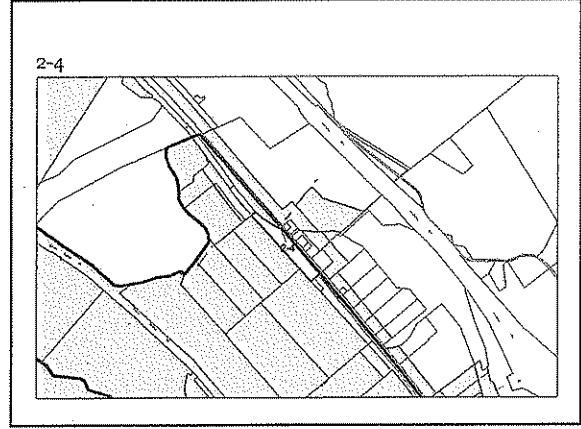
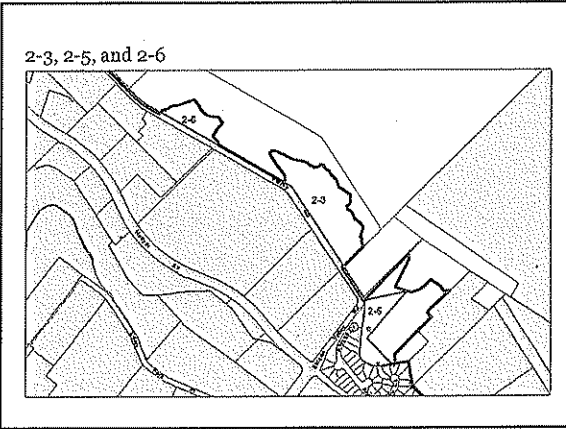
Please let me know if you have any questions regarding these changes or the upcoming Phase 2.



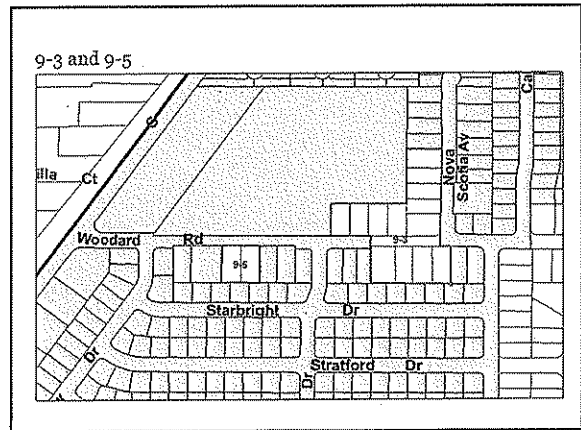
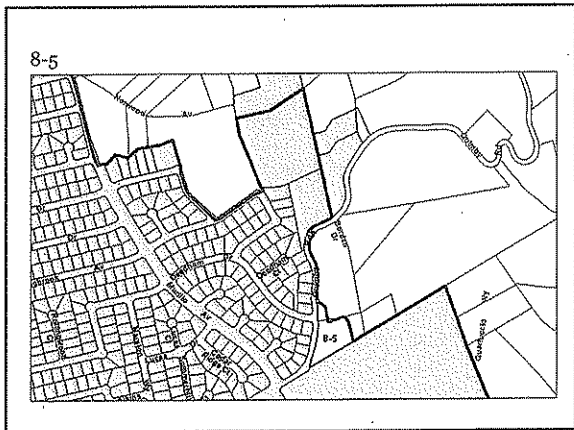
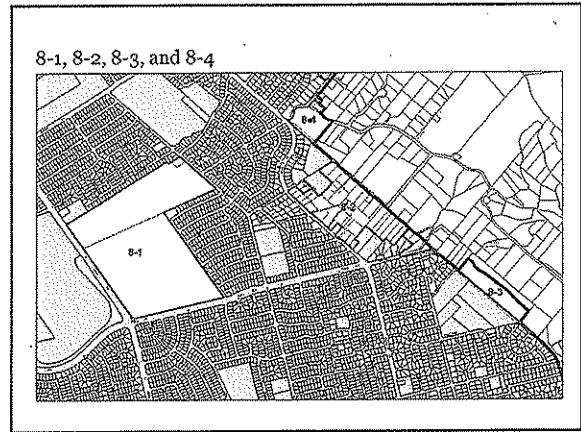
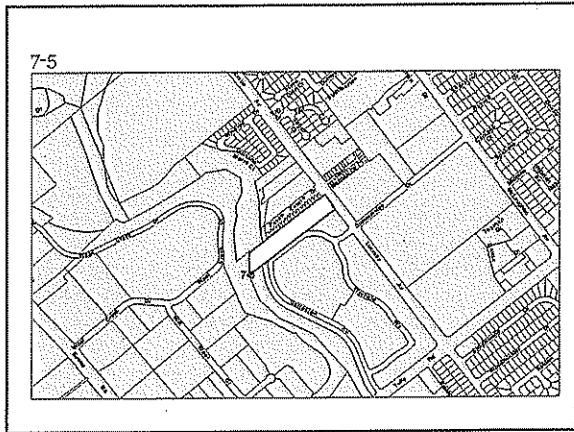
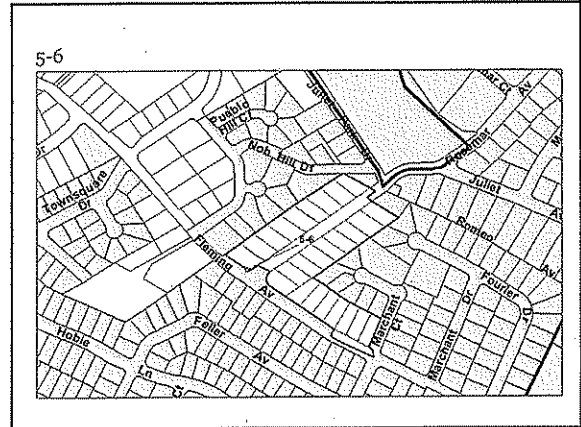
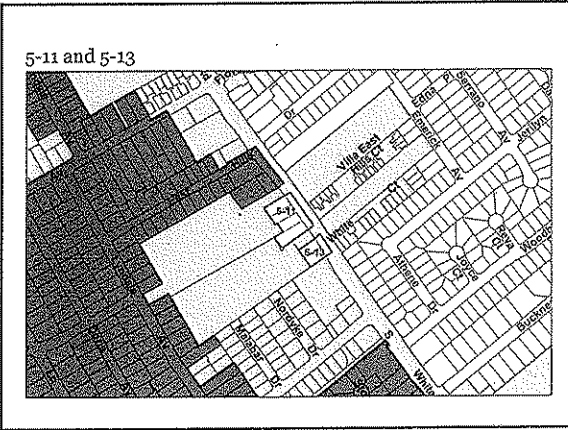
Justin Fried  
Planner II  
Planning, Building and Code Enforcement  
City of San José

cc Dunia Noel, LAFCO

Phase II County Island Annexations



Phase II County Island Annexations





**Community Development Department  
One North San Antonio Road  
Los Altos, California 94022**

May 24, 2011

Neelima Palacherla  
LAFCO Executive Director  
70 West Hedding Street, 11<sup>th</sup> Floor, East Wing  
San Jose, California 95110

**SUBJECT: LAFCO ANNEXATION LETTER**

Dear Ms. Palacherla:

I am in receipt of your letter dated May 2, 2011 regarding the status of the City's plans to annex what is referred to as the Country Club area. The Los Altos City Council has confirmed as recently as February 8 and May 24, 2011 that the City has no immediate plans to pursue annexation of the Country Club area lands, as identified by LAFCO in the attached map, for the following reasons:

- The County refers to these as “islands”, defined as land that is surrounded by the City of Los Altos. That is not the case with the Country Club area – it is comprised of land that is merely adjacent to the City's western boundary. Los Altos annexed our two true former islands – Blue Oak Lane and Woodland Acres – in 2006.
- Unlike Blue Oak Lane and Woodland Acres, it is not a singular neighborhood with which to work with. It is comprised of many independent and unique neighborhoods.
- Unincorporated residents have not expressed any desire to annex, and ultimately they retain the right to vote against annexation. In fact, County neighborhood representatives have stated over the years, in various forums, that they would oppose such annexation.
- The City is not in a position to be able to afford to annex these 627 acres. In addition to long-term operational and maintenance costs, the City would need to bear the up-front costs of preparing the financial and land use analysis and a comprehensive Environmental Impact Report for an effort that does not have County resident support.

The City of Los Altos understands and supports the County and LAFCO's goal to have lands adjacent to cities annexed to those jurisdictions in order to provide more efficient services and land use management. And, in fact, Los Altos undertook annexation of our two true islands in 2005 to support those goals. However, for the reasons noted above, the City of Los Altos will not be pursuing the Country Club area annexation in the near future.

Neelima Palacherla, LAFCO Director

May 24, 2011

Page 2

Please feel free to contact me at (650) 947-2635 or at [jwalgren@losaltosca.gov](mailto:jwalgren@losaltosca.gov) if you have any questions.

Regards,

James Walgren, AICP  
Assistant City Manager  
Community Development Director

Cc: LAFCO Members

LOS ALTOS HILLS



CALIFORNIA

September 26, 2011

Local Agency Formation Commission of Santa Clara County  
Neelima Palacherla, LAFCO Executive Officer  
70 West Hedding Street, 11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

RE: Annexation Plan

Dear Ms. Palacherla:

Thank you for your letter requesting the Town of Los Altos Hills to prepare an annexation plan for the five remaining pockets. We greatly appreciate the incentives that are currently being offered by both the County and LAFCO and we would like to take this opportunity to express our interest in moving forward with the incorporation of these islands.

Our order of preference for the annexations is as follows:

Order of proposed annexation	Island ID#	Number of Acres
1	LAH02	8.9
2	LAH03	32.8
3	LAH04	24.3
4	LAH01	18.6
5	LAH 05	236.9

At the time we consider annexation of LAH04, we may request an Urban Service Boundary change to exclude the MROSD parcel from the island annexation. This is the only change we foresee at this time.

While we desire to complete these listed annexations, as a small City we have limited staff resources. We would anticipate beginning the first annexation at the start of the next fiscal year and thereafter completing one annexation every year, or every other year.

I hope this letter explains our desire and timeline to complete these annexations, if you have any questions please do not hesitate to contact me.

Sincerely,

Debbie Pedro, Planning Director, AICP, LEED AP  
Town of Los Altos Hills

Cc: Carl Cahill, City Manager, Town of Los Altos Hills  
Los Altos Hills Town Council Members  
Jody Hall Esser, Director, Dept. of Planning & Development, Santa Clara County

26379 Fremont Road  
Los Altos Hills  
California 94022  
650/941-7222  
Fax 650/941-3160







Councilmember: Marshall Anstandig  
Councilmember: Burton Craig  
Councilmember: Susan Garner  
Councilmember: Lana Malloy  
Councilmember: Curtis Rogers

## City of Monte Sereno

City Manager: Brian Loventhal  
City Clerk: Andrea Chelemengos  
Finance Officer: Sue L'Heureux  
Building Official: Howard T. Bell

July 26, 2011

Ms. Neelima Palacherla  
LAFCO Executive Officer  
Santa Clara County  
70 West Hedding Street, 11<sup>th</sup> floor, East Wing  
San Jose, CA 95110

RE: Request for status of unincorporated islands within the City of Monte Sereno's  
Urban Service Area

Dear Ms. Palacherla:

The City has received your letter dated May 2, 2011, requesting a status update of the unincorporated islands in the Monte Sereno Urban Service Area. Pursuant to your request, I am providing the following response.

Monte Sereno has three islands identified by LAFCO as MS01, MS02 and MS03. The City is aware that these unincorporated islands are eligible for a streamlined annexation process. The City is also aware that the County and LAFCO have provided financial incentives including payment of fees and costs to annex these islands.

Since 2005, the Monte Sereno City Council has formally considered annexation of the islands on two occasions. On October 19, 2006, the City conducted a public hearing and discussed annexation. Ultimately, the motion to annex these islands failed by a 2-3 vote of the City Council. On September 15, 2009, the City Council again conducted a public hearing and discussed annexation of the three islands. Based on opposition of the affected property owners the majority of the City Council indicated that they would not support the continuation of the annexation process for these islands.

The Land Use Element of the Monte Sereno General Plan identifies the potential annexation of islands MS01, MS02 and MS03. The Land Use Element also contains policy LU-4.5 that details the conditions that must exist for the City to continue annexation of areas within the City's Sphere of Influence in the future.

At this point in time, the City is considering annexation of individual parcels, on a case by case basis, as property owners voluntarily avail themselves of development projects that trigger the City right to annex their property. The City has conducted one such annexation in the last year.

If you have any additional questions please feel free to contact me at 354-7635.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Loventhal". The signature is fluid and cursive, with the first name "Brian" written in a larger, more prominent script than the last name "Loventhal".

Brian Loventhal  
City Manager

CC: Monte Sereno City Council

Attachments: Monte Sereno City Council meeting minutes (10/19/06 and 9/15/09)  
Monte Sereno General Plan, Land Use Policy, LU-4.5

## October 19, 2006 – City Council Meeting Minutes Excerpt

Consider Initiating Annexation of Monte Sereno Urban Pockets #1, #2, and #3 pursuant to Government Code Section 56375.3 See Attachment A for list of all properties located in Monte Sereno Urban Pockets #1, #2, and #3.

City Manager Loventhal presented a staff report on the potential annexation and answered questions from the Council.

Discussion commenced with regard to annexation, county road conditions, repairs and the estimated on-going expense to maintain and repair the roads as well as any associated liability costs.

Mayor Brodsky stated that he could support the City proceeding with the annexation because annexation would result in contiguous City boundaries, improvement of the county roads, consistency in development standards and annexation would economically benefit the City.

Councilmember Wright pointed out that at this time the cost to repair the county roads has been budgeted. However, should the annexation be delayed, the county's offer to repair the roads may be lost. Councilmember Wright reminded the Council of the County's assistance in recovering the TEA funds and stated that he felt that there was a political commitment to pursue annexation.

Councilmember Garner acknowledged the County's support in returning the TEA funds. He pointed out that there was no action taken by the Council that would tie the County's support of returning the TEA funds to annexation of the County properties. Councilmember Garner stated that he is not in favor of annexation at this time.

Councilmember Nesbet stated that she sees annexation with numerous costs and risks and very little benefit to the City or its current residents. She pointed out the overwhelming opposition voiced by the County residents previously and stated that she could not support the proposed annexation.

Councilmember Baxter spoke with regard to the cost of road maintenance and spoke of the pros and cons of annexation. He stated that the County's motion to support the return of the TEA money to the City did not include any conditions relative to the City's action on annexation. He stated that annexation may be inevitable, but that he did not feel that now was the right time.

Mayor Brodsky opened the Public Hearing at 9:00 p.m.

Ms. Spiesman, Farragut Lane, spoke in opposition to the proposed annexation and expressed concern with the storm drains and erosion.

Barbara White, Farragut Lane, stated that the property owners of the subject parcels should be allowed to vote on the matter.

Anastasia Palmer, spoke in opposition to the proposed annexation.

Tom Lofgren, West Road, spoke in opposition to annexation.

Mr. Reed spoke in opposition to the proposed annexation.

Tom DeStefano spoke in opposition to the annexation. He pointed out that the deadline for annexation has been extended and there is no longer a need for immediate action on the issue.

## October 19, 2006 – City Council Meeting Minutes Excerpt (Continued)

Pete Palmer spoke in opposition to annexation. He stated that in light of the time extension, work between the City and the affected property owners can continue in pursuit of acceptable terms for annexation.

Bill Shoe, County Planner, thanked the Council for continuing consideration of annexation. He spoke with regard to a discussion between the County and the City 30 years ago with regard to pursuit of annexation. He urged the Council to keep in mind that the City is a part of a larger regional district and that annexation will ultimately be in the best interest of the residents, the City and the County. Mr. Shoe also answered questions from the Council.

Since there was no one else wishing to speak, the Public Hearing was closed at 9:30 p.m.

Councilmember Garner stated that he found the current process for this annexation to be fundamentally wrong. He pointed out that the County residents do not want to be a part of Monte Sereno at this time and that the City should wait until the residents are receptive to being a part of Monte Sereno. He spoke in opposition to annexation at this time.

Councilmember Wright spoke with regard to the lack of outreach. He appealed to the county residents and discussed such things as consistent development regulations, road improvements, and other City services that would be extended to in-coming properties.

Councilmember Baxter spoke with regard to the efforts to obtain TEA funds. With regard to annexation, he stated that now may not be the time since the residents are opposed and because of other concerns such as financial exposure.

Councilmember Nesbet spoke in opposition to the annexation at this time. She thanked the public for participation and discussed the process. Councilmember Nesbet suggested that a regional effort be made to convince the County residents to annex into Monte Sereno.

Mayor Brodsky stated that he felt annexation is inevitable and discussed various reasons annexation at this time would make sense to both the City and the County residents.

Mayor Brodsky moved that the Council proceed with annexation of all three county pockets. Councilmember Wright seconded the motion. The motion failed with a 2-3 vote. Councilmembers Baxter, Nesbet and Garner voted No.

8. Consider Initiating Annexation of Monte Sereno Urban Pockets #1, #2, and #3 pursuant to Government Code Section 56375.3 See Attachment A for list of all properties located in Monte Sereno Urban Pockets #1, #2, and #3

Mayor Wright provided background information on the matter.

City Manager Loventhal presented the staff report and answered questions from the Council. He spoke with regard to the expenses and revenues the City could expect should the annexation pass.

At 8:45 p.m., Mayor Wright called for a brief recess to allow time for the Council Members to read the written correspondence received pertaining to this matter. At 8:55 p.m., the meeting was reconvened.

Council Member Perry inquired about the area between Monte Sereno and Saratoga.

Staff explained that the area Council Member Perry inquired about was not being considered for annexation.

At 8:58 p.m. the Public Hearing was opened.

Michael Kolitz, county resident, inquired about the annexation process and urged the Council to wait until there is more county resident support.

Mayor Wright asked the City Attorney to explain how the "pockets" are determined. City Attorney Powell explained that LAFCO (Local Agency Formation Commission) determines the pockets.

Wanda Alexander, county resident, spoke with regard to past development in the County and stated that the City's development review process may assist neighbors when faced with development impacts. Ms. Alexander spoke in support of annexation.

City Manager Loventhal discussed the differences between the urban service area and sphere of influence.

Chuck Nunnally, county resident, spoke in opposition to annexation and referred to a past survey that indicated that the residents support annexation only if the annexation is supported by the property owners of the properties to be annexed. He urged the Council to hear the position of the people if they are not allowed to vote on the matter. Mr. Nunnally stated that the process is unfair and that it feels as if the rights of the property owners are being taken away.

Tom Lofgren, county resident, pointed out that the state law does not require a vote on the annexation issue, but that the City Council could allow for a vote of the affected property owners. Mr. Lofgren stated that three years ago when the matter was last considered 70% of the county pocket residents were opposed to annexation. He stated that the matter should be the choice of the property owners.

Thomas DeStefano, county resident, expressed opposition to the annexation and the process.

Deborah Rice, county resident, spoke in support of the annexation for the protection that would be provided by the application of the city development standards and review process.

Barry Blalick, county resident, spoke in opposition to the annexation.

Carl Ferreira, county resident, inquired about the corridor of land between County pockets 1 and 2 and if it were to be a part of the proposed annexation. He inquired about the tax revenue that would be generated should the properties be annexed. Mr. Ferreira spoke of the last repair estimates for Blytheswood Drive and asked about the maintenance of Blytheswood Drive should the annexation pass. He stated that he did not understand why the City Council would want to bring into the City a new block of antagonistic voters.

Chuck Kappen, county resident, spoke in opposition to the annexation.

Mary Speisman, questioned the reason for the City's pursuit of annexation and stated that the division of the subject properties and pockets appears as a manipulation. She stated that she sees no compelling rationale for annexation and urged the Council to discontinue the annexation process.

Jason Farwell, county resident, stated that he does not understand the motivation for the City to annex the properties and he spoke in opposition to the matter. He urged the members of the Council to listen to the property owners' opposition.

Ray Davis, Los Gatos, spoke in favor of annexation for the protection it might bring to residents, especially with regard to development standards and maintaining neighborhood compatibility.

Len Perham, resident, spoke in opposition to the annexation.

Srini Madala, resident, thanked the City for putting together information on the annexation. He stated that he does not feel the City is ready for annexation and needs to work on improving services and relationships and communications with current residents. He stated that the matter should be voted on by the residents and county property owners.

Barry Ford, resident, expressed opposition to the proposed to annexation based on costs and potential assessed value reduction. He expressed skepticism with regard to the estimated costs of maintaining (county) roads and retaining walls.

Mark Brodsky, resident, urged the county residents, should they be annexed into the City, to register to vote and run for City Council to make the changes that they would like to see.

Lon Allan, resident, spoke in opposition to annexation and stated that both the residents of the City and the residents of the targeted county pockets should be allowed to vote on the matter.

Suzanne Jackson, resident spoke in favor of the annexation and stated that the City would better serve the area and provided local emergency responders as well as other essential services. Ms Jackson also answered questions from the Mayor with regard to emergency response times.

Patricia Ladd noted that she had submitted a letter in opposition to the annexation.

Since there was no one else wishing to speak, the Public Hearing was closed at 9:53 p.m.

Council Member Perry expressed appreciation to those who commented. He stated that he does not agree with the opposition, but that he would respect the opinions of the county property owners and will not support continuation of the annexation process. He stated that he hoped that in the future the County residents would want to be come a part of Monte Sereno.

Council Member Garner stated that her vote on the matter would be no. She stated that she does not see a clear benefit to the residents of Monte Sereno and that there is currently no support or very little support from the residents and property owners for annexation.

Council Member Malloy stated that she thinks annexation would be good for the residents of the county and good for the residents of the City, but based on the public opposition she would vote against further pursuit of annexation.

Council Member Anstandig stated that it was reassuring to see such a large turn out. He stated that he thinks it is in the best interest for all to be governed by the same rules and that Mr. Davis made a good point about the City being able to assist property owners through the development review process. Council Member Anstandig stated that he would not support further pursuit of annexation based on the public opposition.

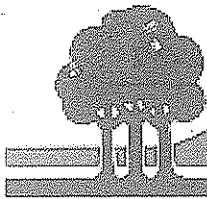
Mayor Wright spoke with regard to benefits annexation would bring to the County residents. He then stated that four Council Members had indicated that they would not support annexation at this time. Mayor Wright stated that the Council would now move on to the next matter on the agenda.



Monte Sereno General Plan  
Land Use Element

Policy LU 4.5      Continue annexation of areas within the City's Sphere of Influence only when:

1. The area is contiguous with the city's boundaries;
2. Necessary infrastructure and services can be provided in an efficient manner;
3. The fiscal well-being of the city will not be adversely impacted
4. The annexation is consistent with State law and Santa Clara County Local Agency Formation Commission (LAFCo) standards and criteria;
5. The annexation is supported by a majority of affected landowners;
6. The annexation will not adversely impact the quality of life of city residents or the character of the community; and
7. The annexation is consistent with the General Plan.



Community Development Department • Current Planning Division  
500 Castro Street • Post Office Box 7540 • Mountain View, California 94039-7540 • (650) 903-6306 • FAX (650) 903-6474

June 15, 2011

MS NEELIMA PALACHERLA  
EXECUTIVE DIRECTOR  
LOCAL AGENCY FORMATION COMMISSION  
OF SANTA CLARA COUNTY  
11<sup>TH</sup> FLOOR, EAST WING  
70 WEST HEDDING STREET  
SAN JOSE, CA 95110

Re: Status of Unincorporated Lands within the City of Mountain View's  
Urban Service Area (Unincorporated Islands)

Dear Ms. Palacherla:

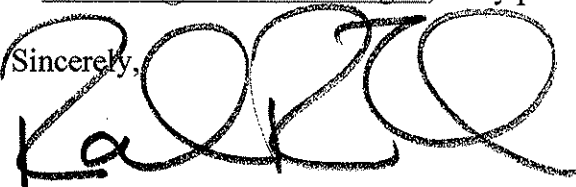
I am pleased to respond on behalf of the City of Mountain View to your May 2 letter regarding two remaining unincorporated islands within our Urban Service Area. The two islands are a 5.7 acre parcel of land located on Moffett Federal Airfield identified as Island ID#MV01 and a 19.3 acre parcel of land used for military family housing (Shenandoah Housing Area) identified as Island ID#MV02. Title to both properties is held in the name of the United States and custody is held by NASA and the Department of the Army, respectively.

In 2006, the City of Mountain View worked with the LAFCO staff and took the necessary actions, including the adoption of Resolutions by our City Council, to annex three island pockets. In early 2008, the City took the necessary actions to annex another property located at Grant Road and Levin Avenue. At the time we were taking actions to annex the various islands within our Urban Service Area, the City decided to defer annexation of the Shenandoah Housing Area (Island ID#MV02) until such time as the property converted to private ownership. That remains the city's position. At the same time, a decision was made not to annex Island ID#MV01 because of its location on Moffett Federal Airfield and remote location within our Urban Service Area. In any event, annexation of Federal property by a local jurisdiction generally requires the concurrence of the holding Federal agency at the Secretariat level and cannot be done unilaterally by a local jurisdiction.

Though nothing has changed about these parcels to affect whether they should be annexed, we would like more information about how the City would be benefitted by removing Island ID#MV01 from the Urban Service Area (since the City does not provide services to this parcel, nor will it in the foreseeable future). If there is inadequate benefit, the City may stay with the status quo.

If you have any questions, please do not hesitate to contact Eric Anderson of my staff by e-mail at [anderson@mountainview.gov](mailto:anderson@mountainview.gov), or by phone at (650) 903-6484.

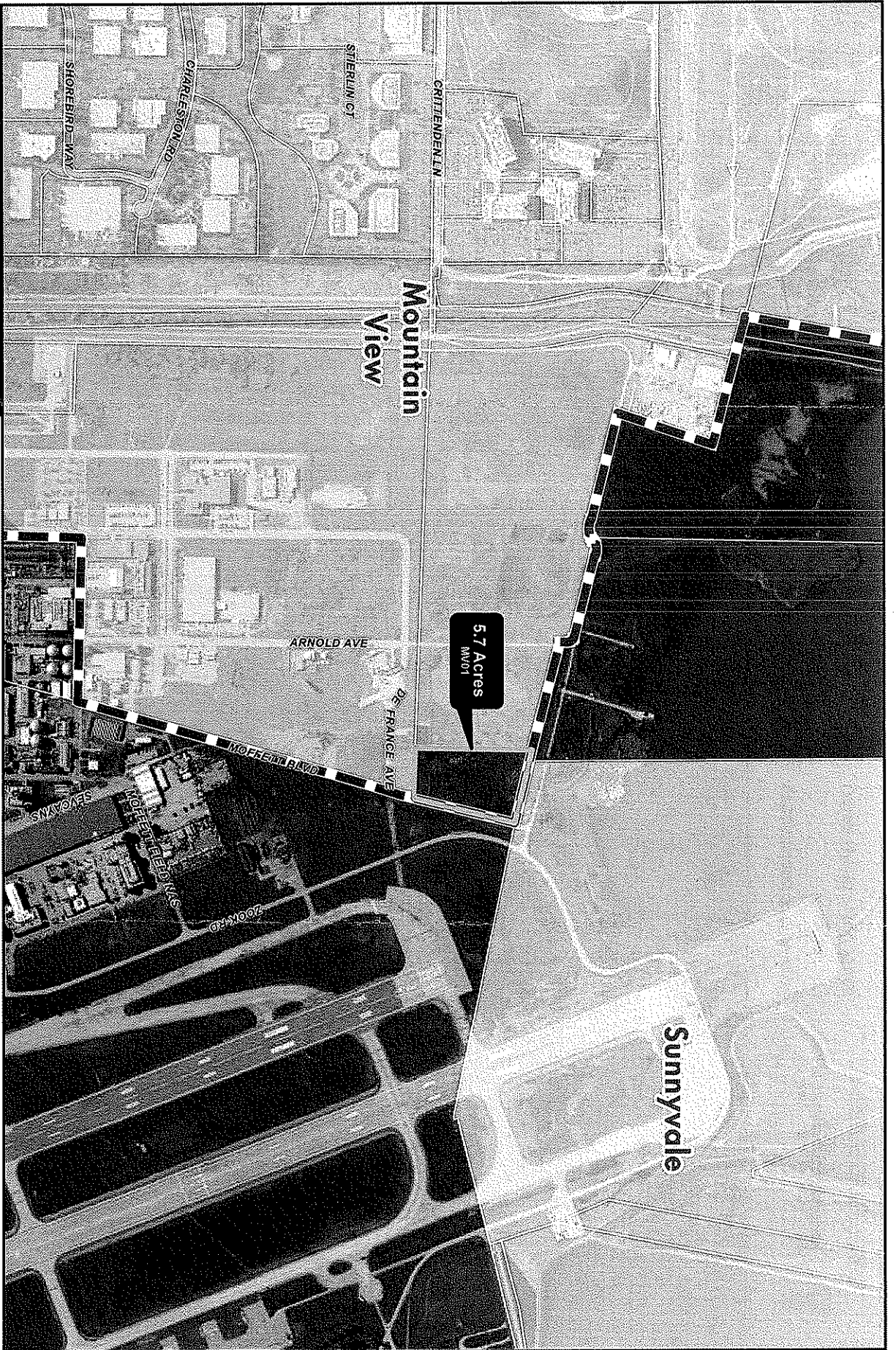
Sincerely,

A handwritten signature in black ink, appearing to read 'Randal Tsuda', written over a large, stylized 'R' that spans across the signature.

Randal Tsuda  
Community Development Director

Cc: City Manager  
City Attorney  
Public Works Director  
Real Property Program Administrator

Attachment: Maps of Unincorporated Islands in Mountain View's Service Area



SANTA CLARA COUNTY  
**Urban Islands 2011**

Map depicting unincorporated lands located within the cities' Urban Service Areas (USAs)



Urban Service Area



Incorporated Areas



Urban Island ≤ 150 Acres



Urban Island > 150 Acres



Feet







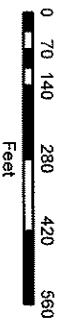
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SANTA CLARA COUNTY  
**Urban Islands 2011**

Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Incorporated Areas
-  Urban Island > 150 Acres



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## Abello, Emmanuel

---

**From:** Anderson, Eric - Planning [Eric.Anderson2@mountainview.gov]  
**Sent:** Monday, May 23, 2011 10:06 AM  
**To:** Palacherla, Neelima; Noel, Dunia; Abello, Emmanuel  
**Cc:** Alkire, Martin; Drennan, Dennis  
**Subject:** Urban service area, annexation

Dear LAFCO members,

Recently you emailed us a letter requesting that we consider the last two county pockets within Mountain View's Urban Service Area for annexation. We have some questions about what the ultimate result of that annexation would be, given that these two pockets are fully owned and operated by Federal interests.

- Do you know why the 5.7-acre parcel in the north-east corner of the city was included in the USA, but not annexed?
- Can you clarify the difference between USA, SOI and annexation, especially when the land is owned and operated by the Federal Government? That is, what would change if we annexed this little 5.7-acre pocket?
- Can we rescind USA land that we are not providing services to, even if it is within the City boundary? For example, if we are not providing any services to NASA Ames at all (anything east of Stevens Creek, north of 101), can we remove it from the USA?

Any information you can give us about this would be helpful. I am available to talk by phone at 650-903-6484, or we can arrange a conference call.

Thanks!

---

**Eric B Anderson**

City of Mountain View, Planning Division  
650-903-6306  
[anderson@mountainview.gov](mailto:anderson@mountainview.gov)





June 6, 2011

Neelima Palacherla  
LAFCO Executive Officer  
70 West Hedding Street, 11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

**RE: Status of Unincorporated Lands within the City of Sunnyvale's Urban Service Area  
Boundary (i.e. Unincorporated Islands)**

Dear Ms. Palacherla:


The City of Sunnyvale is in receipt of your letter dated May 2, 2011 regarding island annexations in Sunnyvale. Per your letter the three remaining unincorporated County islands (totaling 21.6 acres) consist of right-of-way on Central Expressway (a County road), a portion of railroad right-of-way and a residential property located at the corner of Wolfe Road and East El Camino Real.

Sunnyvale intends to begin the streamlined annexation process for the two right-of-way islands in summer 2011 when additional part time staff will be available. Staff will contact the owner of the remaining residential parcel to gauge the owner's interest; however, they have been resistant to annexation when past efforts were attempted. Additional LAFCO assistance may be necessary to further process the residential island.

Although it would assist the City, it is also our understanding that although one island is part of a County road, LAFCO and the County, as owner, cannot process this annexation because it is in the City's Urban Service Area (USA). It is our understanding, per your letter, that there will be assistance by waiving LAFCO fees and covering the entire costs of preparing Assessor and Surveyor maps, paying State Board of Equalization filing fees, and budgeting for roadway improvements in islands approved for annexation.

The City acknowledges LAFCO's desire to clean up remaining annexation areas and will move forward as quickly as possible to begin the streamlined annexation process. As soon as staff is available, the Sunnyvale Planning Division will be in contact with LAFCO regarding the preparation of Assessor and Surveyor reports and maps. Prior to this, if you have any questions, please contact Gerri, Caruso, Principal Planner, regarding the status of island annexations.

**ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707  
TDD (408) 730-7501**

 Printed on Recycled Paper



LAFCO

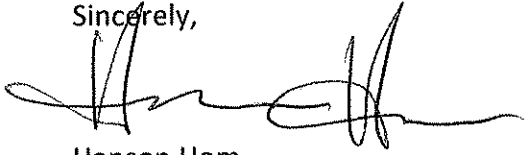
Neelima Palacherla

June 6, 2011

Page 2

We understand that the streamlined annexation process law sunsets January 1, 2014 and appreciate the priority that LAFCO has placed on this process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hanson Hom', written over a horizontal line.

Hanson Hom

Director of Community Development

Cc:

LAFCO Members

Sunnyvale City Council Members

Jody Hall Esser, Director, Department of Planning and Development, Santa Clara County

Gary Luebbbers, City Manager, City of Sunnyvale



**CUPERTINO**

**OFFICE OF COMMUNITY DEVELOPMENT**

CITY HALL

10300 TORRE AVENUE • CUPERTINO, CA 95014-3255

(408) 777-3308 • FAX (408) 777-3333 • [planning@cupertino.org](mailto:planning@cupertino.org)

May 9, 2011

Ms. Neelima Palacherla  
LAFCO Executive Officer  
Santa Clara County  
11<sup>th</sup> Floor, East Wing  
70 West Hedding Street  
San Jose, CA 95110

RE: Status of Unincorporated Lands within the City of Cupertino's Urban Service Area  
(Unincorporated Islands)

Dear Neelima:

I am in receipt of your request letter dated May 2, 2011. Our responses follow:

**CP02: Creston Neighborhood**

Staff is aware that this unincorporated island qualifies for the state's streamlined annexation process, not involving protest or election requirements. We are also aware of the County's financial incentives to pay certain fees and document work. As you are already aware this neighborhood believes it has a long association with the Town of Los Altos, starting with its Los Altos zip code assignment. Despite, the Town of Los Altos's rejection of the neighborhood's invitation to annex them, they have shown no interest in becoming a part of Cupertino.

In addition, the Cupertino City Council has directed staff to conduct an incremental annexation program in the area as development occurs. The Council has never directed staff to conduct a more comprehensive annexation of the island, despite the expedited processing and financial incentives available.

**CP01: Rancho San Antonio Area**

The City has not pursued nor is it intending to pursue any island annexations in this area for the following reasons:

- Except for the Maryknoll Seminary property, the remainder of the lands is owned by public agencies: CALTRANS, Santa Clara County and perhaps Midpeninsula Regional Open Space District. The function and use of these properties will not change regardless of whether they are in the City's or County's jurisdiction.
- There are numerous boundary differences between LAFCO's and the City's maps in this area and may require LAFCO action to clean this up, not a city-initiated proceeding.

- The urban service area boundaries cut across several parcels of land. The boundaries are not definite and certain.

**CP03, CP04: Heidelberg/Permanente Cement Plant Area**

The City has not pursued nor is it intending to pursue any island annexations in this area for the following reasons:

- There are numerous boundary differences between LAFCO's and the City's maps in this area and may require LAFCO action to clean this up, not a city-initiated proceeding.
- The urban service area boundaries cut across several parcels of land. The boundaries are not definite and certain.
- The cement plant area is a small part of a larger quarry operation that extends all the way to Palo Alto boundaries. It makes little sense to place a portion of the quarry/cement plant operation in the city's jurisdiction and a portion in the County's jurisdiction.

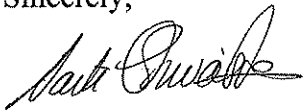
**CP05: Regnart Canyon Area**

The City has not pursued nor is it intending to pursue any island annexations in this area for the following reason:

- There is a boundary difference here. City maps indicate this 1.4 acre area as outside of Cupertino's jurisdiction. LAFCO's map depict it as a City unincorporated island.
- The property is owned by a public agency, Midpeninsula Regional Open Space District. The function and use of this property, if the City could annex it, will not change regardless of whether it is in the City's or County's jurisdiction.

We would welcome the opportunity to work with LAFCO to address any discrepancies in the mapped boundaries (Urban Service Area, city limits), please feel free to contact Colin Jung of my staff (at 408-777-3257) and Teri Gerhardt, the City's Geographic Information Systems Coordinator (at 408-777-3311).

Sincerely,



Aarti Shrivastava  
Community Development Director

cc: Teri Gerhardt

Attachment: Letter from Neelima Palacherla to Aarti Shrivastava dated 5/2/11



May 2, 2011

Aarti Shrivastava  
Director of Community Development  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95041

**RE: Status of Unincorporated Lands within the City of Cupertino's Urban Service Area (Unincorporated Islands)**

Dear Ms. Shrivastava:

In late October 2010, the Local Agency Formation Commission (LAFCO) of Santa Clara County directed its staff to develop an inventory of the remaining unincorporated islands within each city's urban service area and to report back to the Commission on each city's plans regarding its islands.

**Five Unincorporated Islands Remain in the City of Cupertino**

The City of Cupertino has a long history of annexing unincorporated islands, having successfully annexed several large populated islands over the last 15 years. As a result, only five islands (see table below and attached maps) still remain in the City's Urban Service Area (USA).

CUPERTINO	
Island ID #	No. of Acres
CP01	189.1
CP02	51.3
CP03	267.7
CP04	3.8
CP05	1.4
<b>Total</b>	<b>513.3</b>

### **Annex Islands that Qualify for the Streamlined Annexation Process**

CP02 (i.e. Creston) is approximately 51.3 acres and consists primarily of private residential development and is eligible for annexation through the streamlined annexation process. Islands such as Creston, are substantially developed and create inefficiencies / confusion in terms of provision of emergency and other municipal services. Furthermore, residents of such islands are politically disenfranchised from the city government that surrounds them.

Annexation of such islands is a high priority for LAFCO and the County. In order to encourage these annexations, LAFCO continues to waive its fees for island annexations and the County continues to provide financial incentives including covering the costs for preparing Assessor and Surveyor reports and maps, paying the State Board of Equalization filing fees, and budgeting for road improvements in islands approved for annexation. As you may be aware, the law streamlining the annexation process for qualified unincorporated islands sunsets on January 1, 2014.

We encourage the City to take advantage of this process and the incentives currently being offered by both the County and LAFCO for such annexations. Please provide us with an update on the City's plans and time-line for annexing Creston.

### **Review Remaining Islands**

In terms of the City's four other remaining islands (CP01, CP03, CP04, and CP05), please review these islands that may or may not qualify for the streamlined annexation process, and determine whether the City intends to retain them within the City's USA boundary for eventual annexation.

For those islands that the City intends to retain in its USA, please explain what the City's rationale is for retaining them in its USA and when the City plans to annex them.

For those areas not appropriate for eventual annexation, the City should consider whether to exclude these areas from its USA. Please contact LAFCO staff to discuss the USA amendment process and time-line for resolving these islands.

### **A Response is Greatly Appreciated**

LAFCO staff is willing to work with and assist the City in resolving these island issues. We would appreciate knowing the City's annexation and/or urban

service area amendment plans for these islands as soon as possible and no later than June 10, 2011. If you have any questions or concerns or would like to meet to discuss the City's plans, I can be reached at (408) 299-5127 or [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Asst. Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org). Thank for you for your time and consideration.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Attachment:

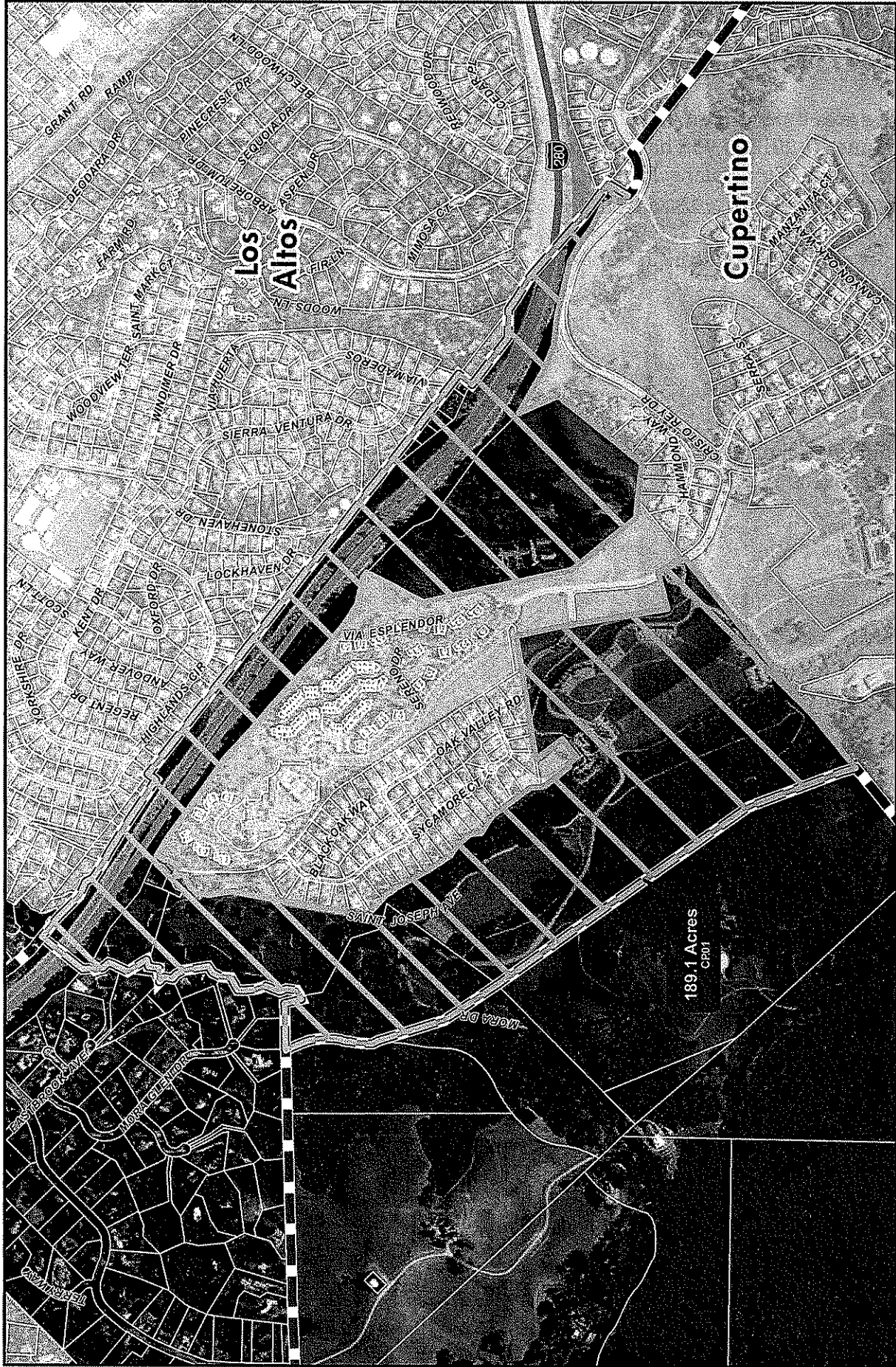
Maps of Unincorporated Islands in City's Urban Service Area prepared by the Santa Clara County Planning Office

Cc:





David Knapp, City Manager, City of Cupertino

Cupertino City Council Members

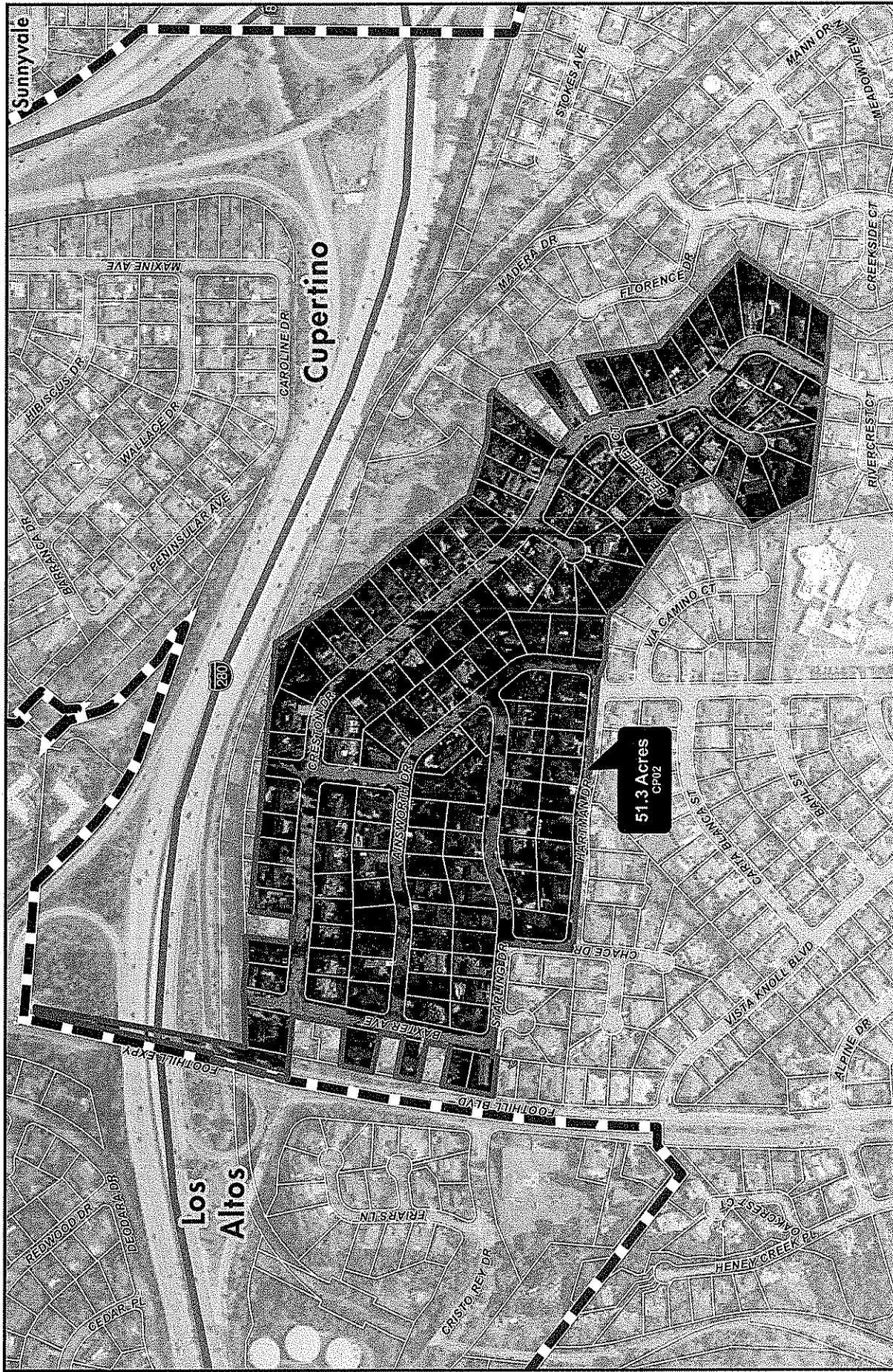
Jody Hall Esser, Director, Dept. of Planning & Development, Santa Clara County  
LAFCO Members




SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)  
 Cupertino: Page 1 of 4

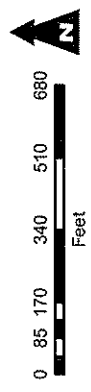
-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Incorporated Areas
-  Urban Island > 150 Acres

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 This map was prepared by the Santa Clara County Planning Office. The USAs were compiled from various sources. While every effort was made to ensure accuracy, the Planning Office assumes no liability for errors or omissions.  
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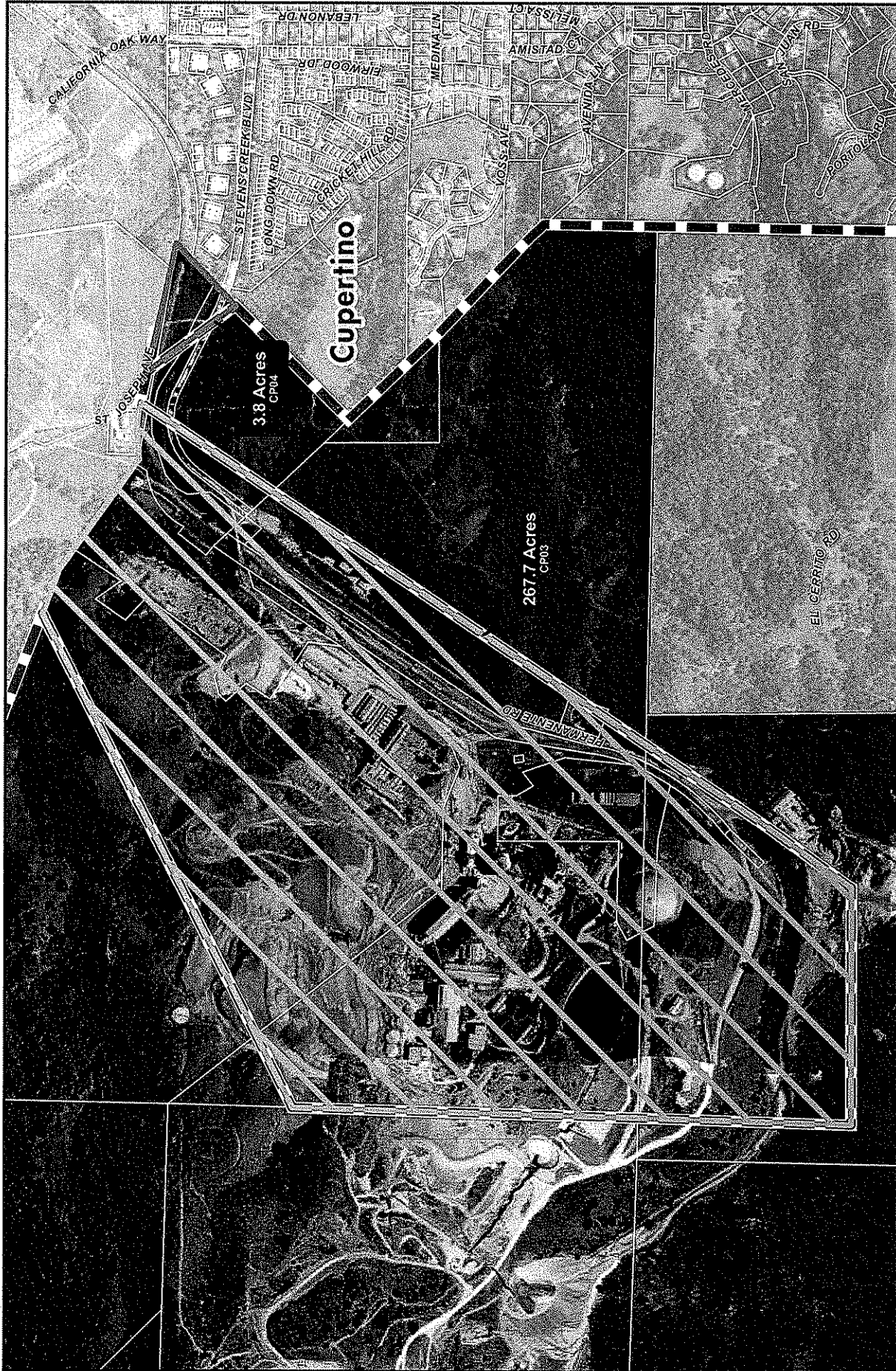
SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)  
**Cupertino: Page 2 of 4**



-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Urban Island > 150 Acres
-  Incorporated Areas







This map is created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While the Planning Office reserves no liability, it warrants that the information is accurate to the best of its knowledge.






  

  
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 Urban Service Area
  Urban Island ≤ 150 Acres

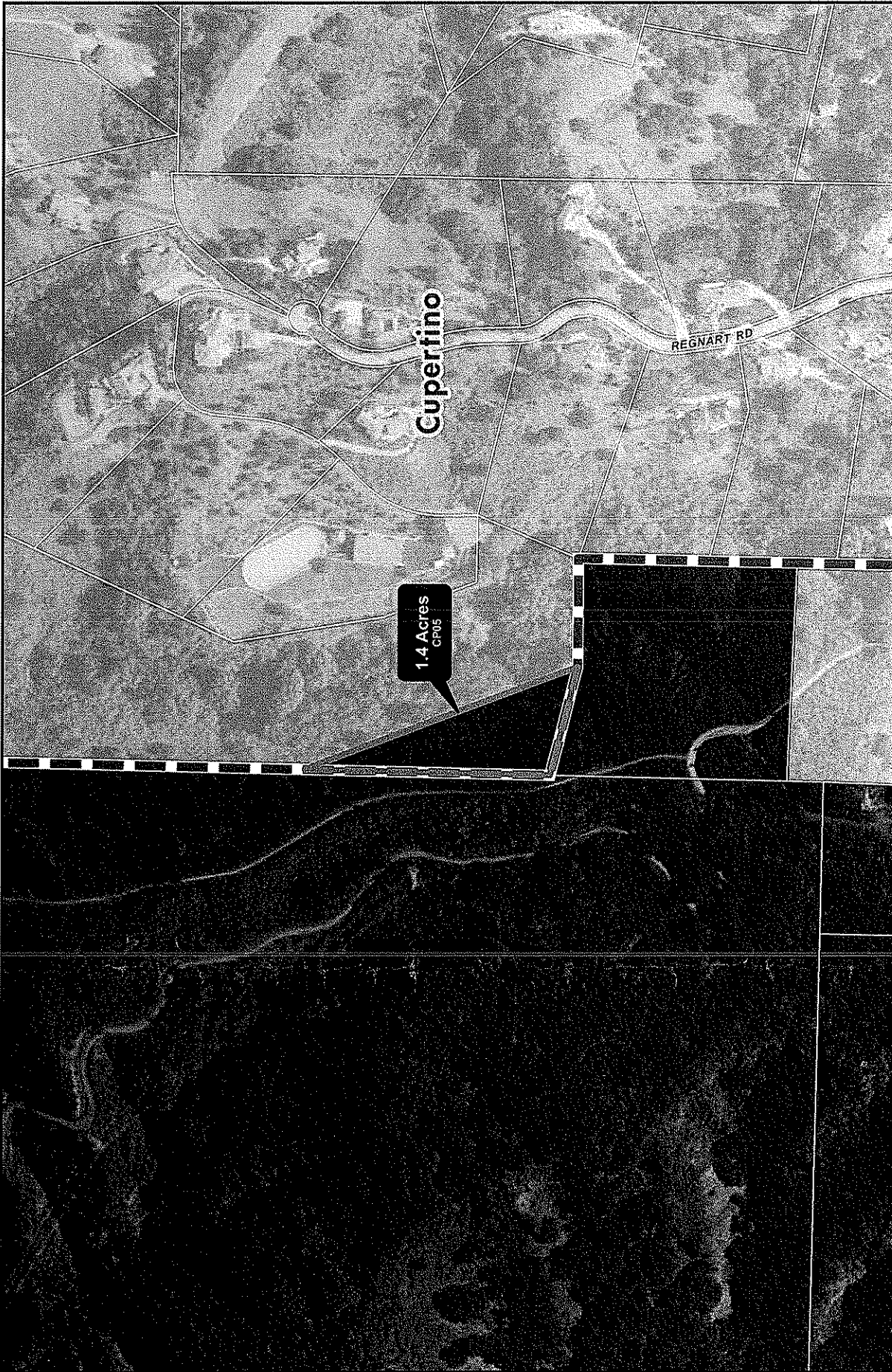
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  Urban Island > 150 Acres

SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located  
 within the cities' Urban Service Areas (USAs)





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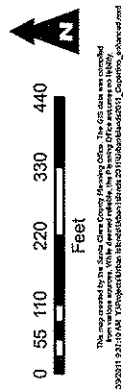
Cupertino: Page 3 of 4

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SANTA CLARA COUNTY  
**Urban Islands 2011**  
 Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)  
 Cupertino: Page 4 of 4

-  Urban Service Area
-  Urban Island ≤ 150 Acres
-  Urban Island > 150 Acres
-  Incorporated Areas



This map prepared by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, we do not warrant the accuracy or liability. 3/20/11 9:57:04 AM. \Desktop\GIS\Information Systems\GIS\UrbanIslands2011\_Cupertino\_03.mxd

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is essential for ensuring the integrity of the financial system and for providing a clear audit trail. The text notes that any discrepancies or errors in the records can lead to significant financial losses and legal complications.

2. The second part of the document outlines the specific procedures for recording transactions. It details the steps involved in the accounting process, from the initial entry of data into the system to the final reconciliation and reporting. The text stresses the need for consistency and accuracy throughout the entire process.

3. The third part of the document addresses the challenges associated with maintaining accurate records. It identifies common sources of error, such as human mistakes and system malfunctions, and provides strategies for minimizing these risks. The text also discusses the importance of regular audits and reviews to ensure the ongoing accuracy of the records.

4. The final part of the document concludes by reiterating the importance of accurate record-keeping and the role of the accounting department in ensuring the financial health of the organization. It encourages all employees to take responsibility for their own records and to report any issues promptly.

**LAFCO Meeting:** February 8, 2012  
**TO:** **LAFCO**  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** **EXECUTIVE OFFICER'S REPORT**

## **7.1 UPDATE ON 2012 AUDIT AND SERVICE REVIEW OF THE EL CAMINO HOSPITAL DISTRICT**

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### **For Information Only**

Harvey M. Rose and Associates, LAFCO's consultant for the Audit and Service Review of El Camino Hospital District, conducted an entrance conference with representatives of the El Camino Hospital District and the Corporation on December 12, 2011. LAFCO staff attended the conference. LAFCO's ad-hoc committee, consisting of Commissioners Abe-Koga and Wilson, met with LAFCO staff and the consultants on January 12, 2012 to receive a progress report on the project. The project is proceeding as scheduled and a Draft Report for public review is expected by late April 2012.

## **7.2 AD-HOC COMMITTEE FOR FISCAL YEAR 2012-2013 LAFCO BUDGET**

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### **Recommendation**

**Establish an ad-hoc committee composed of two commissioners to work with staff to develop and recommend the proposed FY 2012-2013 LAFCO budget for consideration by the full Commission.**

The time commitment from commissioners serving on this ad-hoc committee would be limited to 2-3 meetings, between the months of February and May.

## **7.3 LAFCO STRATEGIC PLANNING WORKSHOP**

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### **Recommendation**

**Delegate authority to the LAFCO Executive Officer to enter into an agreement with Bill Chiat of the Alta Mesa Group in an amount not to exceed \$ 1,500 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.**

LAFCO's 2012 strategic planning workshop is tentatively scheduled for the morning of June 6<sup>th</sup>. Staff is in the process of seeing if a conference room is available at San Jose City Hall for the workshop.

LAFCO's last strategic planning workshop was held on February 16, 2006 and was facilitated by Bill Chiat. Mr. Chiat is the Executive Director of CALAFCO and has facilitated strategic planning workshops for various LAFCOs over the years.

At the strategic planning workshop, the Commission and staff will review LAFCO's mission, discuss key issues for LAFCO, consider what major LAFCO projects/studies should be conducted in the next 2 -3 years, and develop a strategic plan. Further information will be provided to the Commission at its April 4, 2012 meeting.

#### **7.4 LAFCO STAFF'S PARTICIPATION IN GREENBELT ALLIANCE'S "CHANGEMAKER TRAINING"**

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##### **For Information Only**

On December 10, 2011, LAFCO's Executive Officer participated on a panel for the Greenbelt Alliance's "Changemaker Training." Ms. Palacherla was joined by staff from the County Planning Office and from Morgan Hill's City Manager's Office to discuss each agency's role in the land use planning process. Ms. Palacherla's presentation focused on how LAFCO's work and actions impact the community and on how the community may engage with and influence LAFCO's decisions. The training was held at the Gilroy Police Department and was well attended by the local community.

#### **7.5 2012 CALAFCO STAFF WORKSHOP**

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##### **Recommendation**

**Authorize staff to attend the 2012 CALAFCO Staff Workshop and authorize travel expenses funded by the LAFCO budget.**

The CALAFCO Annual Staff Workshop is scheduled for April 25-27 at the Ironstone Vineyards in Murphy. Calaveras LAFCO is hosting the Workshop. Santa Clara LAFCO staff is volunteering on the Workshop Planning Committee and coordinating and presenting at certain workshop sessions.

#### **7.6 LEGISLATIVE ANALYST'S OFFICE REPORT ON SPECIAL DISTRICTS AND LAFCOs**

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##### **For Information Only**

The Legislative Analyst's Office evaluated and prepared a report on the effectiveness of special districts and the effectiveness of LAFCO in providing oversight of special districts, at the request of Assembly Member Roger Dickenson. Attached is a copy of report.

**Attachment A:** Legislative Analyst's Office Report on Special Districts and LAFCO

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GARY HANSEN  
ALVIN HOEHL  
ROBERT LOWENTHAL  
MELLY HAYNES  
RICHARD FAY  
ANTHONY SORANTINO

January 4, 2012

To Interested Parties:

Last year the Assembly Committee on Accountability and Administrative Review held a series of hearings to explore issues related to special districts. As part of that effort, I asked the Legislative Analyst (LAO) to evaluate three questions regarding the efficiency and accountability of special districts, and the effectiveness of Local Agency Formation Commissions (LAFCOs).

I am releasing the LAO's response in an effort to keep the conversation going among policymakers, stakeholders and the public regarding the role of special districts in California, and how to best ensure transparency and accountability. I invite interested parties to provide the committee with feedback regarding the report and especially on the options it presents for Legislative consideration.

A number of the suggestions by the LAO are worthy of further consideration. We will continue to explore and develop these ideas throughout the year, and will potentially introduce legislation in 2013 related to these ideas. I would like to thank the staff of the Legislative Analyst for their work on this issue and I look forward to continuing the discussion with interested parties.

Sincerely,

ROGER DICKINSON

Chair, Assembly Committee on Accountability & Administrative Review

RD/nc

October 21, 2011

Hon. Roger Dickinson  
Assembly Member, 9<sup>th</sup> District  
Room 3126, State Capitol  
Sacramento, California 95814

Dear Assembly Member Dickinson:

### Summary of Findings

You asked the Legislative Analyst's Office to evaluate three questions regarding the (1) efficiency of small special districts, (2) accountability of small special districts, and (3) effectiveness of Local Agency Formation Commissions (LAFCOs).

Our overall findings are as follows:

- We find evidence that in certain cases smaller districts can be less efficient and less accountable than larger districts. However, it is not clear that these associations between district size and efficiency or accountability are true for districts of all types or in all areas of the state. Instead, our analysis suggests that many factors affect the efficiency and accountability of special districts.
- We further find that the LAFCOs are generally well positioned to review the effectiveness and accountability of special districts, though their general approach to undertaking these reviews has some limitations. We also identify some barriers to the implementation of consolidations even when doing so makes analytical sense to the LAFCO.
- Finally, at your request, we offer some options for your consideration that we believe could promote better efficiency and accountability of special districts, as well as improve the LAFCO process.

### Project Overview

*Scope of Project.* You asked us to answer three sets of questions:

- *Efficiency.* Are small special districts less efficient or effective than larger districts? Would consolidation of small districts with other special districts improve efficiency and effectiveness of service delivery? Do functional consolidations improve efficiency and effectiveness?
- *Accountability.* Are small special districts less accountable to the public than larger districts or general-purpose governments? Are small districts less transparent to their constituents?

- **LAFCO Process.** How effectively is the LAFCO process working? Do LAFCOs evaluate the “right” metrics when considering consolidations? What barriers exist to LAFCOs initiating consolidations?

Given the broad nature of your questions and the limited time to carry out the research, we agreed to follow a case study approach and to focus predominantly on water supply and fire districts. In general, we focused our analysis on independent special districts, though some of the consolidations we discuss in this letter included dependent districts. Finally, in evaluating the questions about the merits of special district consolidation, we generally focused on consolidations of special districts and not on other governance changes, such as mergers of special districts with general-purpose governments (cities and counties).

In conducting our analysis, we talked with representatives of statewide organizations, including those representing special districts, water districts, fire districts, and LAFCOs. We met with special district and LAFCO representatives in each of our three case study counties. We also conducted a literature review, consulted with local government experts, and reviewed statewide special district data where available.

**Case Studies Used.** We selected three counties on which to focus our analysis—Napa, San Bernardino, and San Diego. In part, we selected these counties, particularly San Bernardino and San Diego, because we were informed that they included a number of successful and unsuccessful attempts to consolidate fire and water districts in recent years. We hoped that these consolidation attempts would help illuminate how well the LAFCO process works, what role efficiency and accountability play in determining which districts should be consolidated, and how efficiency and accountability were affected by consolidations. In addition, we chose these three counties in an attempt to capture some different cross sections of the state. While we do not claim that these three counties reflect a representative sample of California counties, they do represent some differences in population size, urbanization, regions, and relative number of special districts. The table below illustrates some of these differences.

<b>Figure 1</b>				
<b>Independent Special Districts in Case Study Counties</b>				
<i>(2008-09)</i>				
<b>County</b>	<b>Independent Special Districts</b>	<b>Population</b>	<b>Independent Districts per 100,000 Population</b>	<b>Independent District Revenues (In Millions)</b>
Napa	12	137,359	8.7	\$45
San Bernardino	54	2,054,423	2.6	703
San Diego	69	3,169,490	2.2	3,314
Statewide	2,184	38,134,496	5.7	23,181

Our research consisted of visits to each of the three counties where we met with LAFCO executives and multiple special district representatives. For each county, we reviewed Municipal Service Reviews (MSRs) and other reports prepared by the LAFCO, as well as special district websites and financial information where available.



***The Challenge of Defining “Small” Districts.*** One of the challenges of this research is defining what we mean by a “small” special district as distinct from a medium or large one. This is a challenge for a few reasons:

- First, based on our conversations with state and local representatives, there is no common definition of a small district generally, nor do there appear to be common definitions of small districts even within the different types of services.
- Second, some information we might like to use when comparing district size—such as district population, land area, or service volume (for example, number of emergency responses for fire departments or water volume for water districts)—does not appear to be collected in any single place. The one set of data we have for all districts statewide is revenue and expenditure data collected by the State Controller’s Office (SCO).
- Third, there is great variation in the types of services that special districts provide, making comparisons across types of special districts very difficult. For example, the average independent water district in 2008-09 had \$10.6 million in total revenues. By comparison, the average independent fire district had \$2.7 million and the average cemetery district had \$314,000. So, when using a metric like total revenues, a district that might be considered small among water districts could be considered medium or large among fire and cemetery districts.

Given these limitations, we use different metrics for defining small districts throughout this letter, depending on what data were available to us.

***Caution About Findings.*** While most of the findings in this letter reflect information that we found consistently throughout our review, it is important to stress that many of these findings are based on a small sample of counties and special districts. Therefore, we suggest that you consider our findings to be issues meriting further legislative review and would caution you against assuming that our findings extend to all special districts statewide.

## **EFFECTS OF DISTRICT SIZE AND CONSOLIDATION ON EFFICIENCY**

In this section of our letter, we discuss our findings regarding how district size and consolidation affect efficiency. In summary, we find some evidence that larger districts, and consequently consolidation of small districts, can result in improved efficiency in some cases. However, we also find that consolidations have costs that have to be weighed, and the potential of consolidation to generate ongoing efficiencies depends on several factors, including the type of services provided, location, fiscal resources, and the capacity of management. Moreover, we find that many districts, both large and small, are participating in “functional consolidations” to reduce costs and achieve better efficiencies. In such cases, structural consolidation would not necessarily achieve much greater efficiencies.

***Defining Efficiency.*** Fundamentally, efficiency is a measurement of the level of goods or services provided at a certain cost. Measuring efficiency allows one to evaluate in a single metric (1) the quantity (or quality) of a good or service produced and (2) the price for that good or

service. One can then compare the efficiencies of different good or service providers, as well as evaluate how the efficiency of a single provider changes over time. For example, one could compare the water rate (dollars per acre-foot) charged by like water agencies to make an assessment of which was providing that service more efficiently.

Because efficiency is a metric that takes into account both costs and quantity, a higher efficiency level can be demonstrated in two ways. First, the savings from improved productivity can be reinvested and used to provide customers a higher level of service without changing the cost charged to the customers. For instance, in the case of fire districts, a more efficient district may have shorter response times while receiving the same amount of revenues from its constituents as another district. In water districts, a more efficient district could treat ratepayers' water to a higher quality standard while charging the same fees as a less efficient one. Second, the cost savings from greater efficiency may be used to reduce the taxes or fees that constituents pay while maintaining the same level of service.

### **Theoretical Argument for Larger Districts Being More Efficient**

There are several theoretical arguments for why larger districts may be more efficient than smaller districts—and therefore why consolidation of smaller districts may improve efficiency. Larger organizations may be better able to realize economies of scale by spreading fixed costs like management, overhead, and infrastructure over more constituents, resulting in lower per capita expenditures. A larger organization may also be better positioned to share resources such as capital assets (like buildings, trucks, or maintenance equipment) over multiple activities, reducing underutilization of those assets. Relative to multiple smaller districts providing the same service, a single larger district can also have lower personnel costs because it may require a single set of personnel to provide administrative functions like information technology (IT), human resources, or budgeting. Consolidation of smaller districts also provides an opportunity to reduce personnel costs by eliminating some high-paying leadership positions such as fire chiefs or general managers and by reducing the total number of board members.

We should note that there is a debate within the academic literature on benefits of larger, consolidated, and multipurpose governments compared with smaller, single-purpose agencies. While some academics argue that consolidation creates the benefits described above, others suggest that those benefits may be overstated, arguing, that inefficiencies can arise from such consolidated government agencies. For example, some have cited the leveling up of wages to the highest levels in the previously separate entities. Skeptics of consolidation also argue that smaller, single-purpose governments can be more efficient than larger, multipurpose agencies because constituents of smaller agencies can more easily review and interpret the activities and decisions of more narrowly focused agencies. This does presume, however, that those constituents are knowledgeable about the agency's activities and decisions and have opportunity to intervene when they disapprove.

### **Anecdotal Evidence Suggests Consolidation Can Improve Efficiency**

In all three counties we visited, as well as in other counties around the state, we came across numerous anecdotal examples of small districts that faced challenges to operating efficiently, and in many of those cases, LAFCO recommended some sort of consolidation. We also found

examples of consolidations that appear to have succeeded in improving the efficiency or level of services in the area.

As one example of a consolidation done to achieve improved efficiency, in 2005, a reorganization of several fire protection districts in the county was approved by the San Bernardino LAFCO after it became clear that the organizational structure at the time had led to significant financial troubles for many of the districts. The LAFCO approved the consolidation proposal and created a single county-wide district whose boundaries cover all unincorporated areas in the county. This consolidated fire district is now called the San Bernardino County Fire Protection District (SBCFPD).

The creation of SBCFPD was expected to result in savings in administrative costs and in improved service delivery throughout the county, and in the view of the county, those ends were achieved. Many administrative functions like budgeting and human resources are outsourced to the county for a lower cost than before, and the district is now able to offer a range of services that include fire suppression, emergency medical services, HAZMAT response, rescue operations, flooding and mudslide response, and terrorism response at the same cost as the lesser services provided by smaller independent districts in the county. In fact, several independent districts and cities throughout the county now contract with SBCFPD for their fire services because they receive higher levels of service for a lower cost than they could provide it themselves. According to county and LAFCO executives, coordination has also been enhanced by having a single county-wide district. For example, SBCFPD felt that their response to the 2007 wildfires in Southern California was enhanced by having a consolidated district. In contrast, we heard that the response to those fires in the unincorporated areas of San Diego County may have been hindered by less efficient coordination among the various districts in those areas of the county, resulting in the over commitment of resources to the first of several large fires while leaving other areas vulnerable. Consequently, some San Diego County fire districts indicated that the 2007 fires caused some districts to reevaluate the potential for consolidation, something the San Diego County LAFCO had been working towards for years.

### **Testing the Relationship Between District Size and Efficiency**

While we heard many cases of consolidations designed to improve efficiency or quality of service, we were limited in our ability to empirically test or quantify those efficiencies, for several reasons:

- First, as described above, efficiency improvements can manifest themselves in terms of improved service delivery—something that can be difficult to measure—instead of fiscal savings or rate changes. This complicates attempts to quantify efficiency gains because there may be no observable cost decrease from a consolidation.
- Second, in order to quantify the efficiency gains, it is necessary to have data on both the level of service provided and the cost of that service. Data on the budgets of all special districts across the state can be found in the SCO's special district annual financial report, but the report does not describe the level of services provided by districts. In addition, data were lacking at the individual district level; the districts that we contacted had not tracked their service levels over time in a way that would allow

us to quantify the efficiency gains from consolidation. The LAFCOs also did not quantify efficiency gains. We note that in some cases districts pursuing a consolidation through LAFCO may quantify anticipated efficiency gains in a document called a “plan for service.” However, we are unaware of any attempt to verify whether those efficiency gains occurred.

- Third, in the case of water supply districts, for example, there can be significant variations in the cost of the inputs (such as the water that is treated and then sold to end users), making it difficult to isolate the effect of size on a district’s costs from other sources of variation. For instance, water purchased from the State Water Project makes up 60 percent to 80 percent of the operating costs of some water districts in Southern California, but in Northern California many districts have their own supplies and thus can avoid costs associated with importing water. In addition, energy costs incurred as a result of pumping water are a significant component of water districts’ operating expenses, and an agency’s expenditures on energy can vary significantly due to the geographic features of its service area. As such, relatively high water rates for a given district may reflect factors that are independent of its size or how efficiently the district is operated.

**Wastewater Districts.** In many respects, however, wastewater districts do not share these data limitation problems. The State Water Resources Control Board periodically prepares a report that provides data on all wastewater agencies in the state, including cities, counties, special districts, and Joint Powers Authorities (JPAs) that have wastewater responsibilities. These data are comprehensive and encompass many of the factors that might significantly influence the cost of wastewater service, including the population served, the size of treatment plants (as measured by the average daily flow, which is a rough approximation), the level of treatment applied to waste, whether debt service is included in the rates, and whether the agency received any form of state or federal grant at any point since 1972. It also lists monthly fees for a typical household and fees for new connections to that agency’s water system. These data allow us to empirically examine whether larger districts that provide wastewater service charge lower fees.

Wastewater agencies are uniquely suited to this type of empirical analysis because their fees are a reasonable measure of relative efficiency. Unlike districts that provide water supply services, the cost of wastewater agencies’ inputs does not vary significantly according to geography. These agencies receive wastewater for free and they typically do not incur significant energy costs to move the wastewater because treatment plants are generally positioned downhill of the sources of wastewater (thus using gravity to move the wastewater). Because these costs do not vary, fees are more readily comparable.

We found two indications that larger wastewater agencies are more efficient than smaller agencies. First, we found wastewater fees charged by agencies to be lower the larger the agency, whether measuring the size of the agency by district population or volume, even while controlling for other factors such as other revenue sources, treatment levels, and inclusion of debt service in monthly fees. For example, the smallest wastewater agencies serve populations of less than 1,000 customers and charge an average of \$45.55 per month, while the largest agencies serve more than 500,000 customers and charge an average of \$16.21 per month. Second, we

found that wastewater agencies with larger populations treated their water to a higher level while charging similar fees to their customers. In summary, therefore, we found that in the case of wastewater agencies, larger districts appeared to both provide services at a lower cost, as well as provide a higher quality of service as measured by treatment levels. We should note, however, that district size did not explain all of the variation in wastewater fee levels, and, as we discuss later, there are other factors that may be important in explaining a district's efficiency and rates.

### **Other Factors Affect District Efficiency and Level of Service**

Although there are certainly cases where having larger districts increases the efficiency of special districts, we also found examples of smaller districts that provide high-quality service at a reasonable cost. As such, there are other factors besides size that play a role in the level of service provided and the cost of providing that service.

*Geography.* One such factor is geography. While smaller districts may charge higher fees (all else being equal), many of these districts are located in remote areas. Consolidation may therefore not be cost-effective because there may not be any nearby districts with which they can connect. For example, we observed a small district providing sewer services in Napa County that had considered connecting with a larger wastewater agency. This district ultimately ruled against building the connection because it was too costly. Therefore, in remote areas where consolidation is a cost-prohibitive option, districts may have to focus on other operational and management changes to improve efficiency.

*Type of Service Provided.* We heard from several special district and LAFCO representatives that the relationship between district size and efficiency probably depends on the type of service provided by the district. Districts that provide services with a large capital component (such as water supply) may benefit more from consolidation than districts that provide services that rely heavily on personnel (such as fire protection). Infrastructure-intensive districts tend to have high fixed costs that can benefit from economies of scale. Larger districts can spread those fixed costs over a greater number of people, lowering the cost per person. Infrastructure-heavy districts may also benefit from being better able to recruit and retain expensive support staff like engineers. Because they can afford to employ these personnel with specialized knowledge, larger districts may be in a better position to identify cost-effective solutions to issues that arise. Finally, heavy machinery and equipment is often needed to install, maintain, and replace infrastructure. Again, larger districts are in a better position to spread those fixed costs over a larger ratepayer base.

In contrast, there appear to be fewer opportunities for economies of scale in districts that depend heavily on personnel to provide their services, and therefore consolidation may not offer as many benefits for those districts. For instance, one fire chief we spoke with suggested that, as a general rule, fire districts with fewer than three to five stations may operate less efficiently, but once the number of stations exceeds approximately eight, effective coordination of the larger district requires the same number of leadership positions as in multiple smaller districts, thus reducing the potential savings from economies of scale. On the other hand, we also heard that consolidation can improve the "coordination of command" in fire districts by laying out formal command structures that supplant the ad-hoc arrangements that can arise when multiple districts cooperate to fight a large fire. These formalized command structures can improve fire districts'

responses by ensuring that all personnel have received explicit direction about tasks and responsibilities.

*Access to Resources.* Another factor that can affect efficiency and delivery of service is a district's ability to secure adequate financial resources. Fire districts need revenues to cover costs associated with hiring and training personnel and purchasing equipment. Water districts need funds for operating costs and to pay for maintenance and upgrades to infrastructure. Districts of all sizes need resources to absorb increases that happen due to inflationary pressures, changes in district land use or demographics, and increased regulatory requirements. In some cases, smaller districts may have more difficulty raising funds because their smaller constituent base may have lower aggregate income. But districts of all sizes can have difficulty raising funds because the California Constitution requires them to secure the approval of local residents before imposing taxes and assessments and limits their ability to impose fees for purposes other than the direct delivery of property or personal services.

*Management Quality.* A final factor that we found that affects the efficiency of a district's operations and the level of service it provides is the quality of its management. Good management can lead to positive outcomes, a higher quality of service, effective and efficient use of financial resources and personnel, effective long-term planning, and accountability to the public. Mismanagement can take the form of intentional or unintentional misuse of funds, resulting in higher-than-necessary costs. Mismanagement may also take the form of the failure to engage in effective long-term planning and underinvestment in infrastructure. Based on our conversations, mismanagement appears to be a major factor in many cases of poorly performing districts. Mismanagement occurs in both larger and smaller districts, and therefore size may not be the overriding factor that determines whether a district is managed well. However, most of the cases of mismanagement that we were informed about occurred in smaller districts. Small districts may be more likely to suffer from poor management because they may have difficulty hiring professional managers, and their board members may not be as knowledgeable as those of larger districts. Importantly, we saw evidence that the solution to mismanagement is not necessarily consolidation. We observed various cases where water districts had come close to financial insolvency or had violated environmental laws as a result of poor management. In two of these cases, however, the small water districts replaced their general managers and became financially solvent within a few years of the change. Moreover, in the view of many people we spoke to, consolidation of two poorly managed districts would have resulted in the formation of a larger poorly managed district. Therefore, although poor management can be related in some fashion to district size, consolidation may not solve the issue.

### **Costs Associated With Consolidations**

Even where consolidations have the potential to improve efficiencies, it is important to be cognizant of the potential costs involved.

*Implementation Costs.* First, there are one-time costs associated with conducting the consolidation process. Entities that initiate a consolidation are generally required to cover the cost of numerous LAFCO studies that accompany the effort, such as updated municipal service reviews, sphere of influence updates or special feasibility studies, which can cost hundreds of

thousands of dollars in some cases. Initiating entities also must cover the cost of an election if there is enough public protest to push the proposal to a vote. Small districts, in particular, may not have the resources to pay these costs, although LAFCO can reduce or waive fees for the studies. (We generally did not hear that these costs were truly an obstacle to consolidation.) Districts (and LAFCO) may also incur legal costs if there is resistance to a consolidation.

***LAFCO-Imposed Conditions.*** Second, the conditions LAFCOs approve when enacting a consolidation can add costs that offset efficiencies that would otherwise be achieved. For example, consolidating groups of personnel involves merging compensation packages with differing salaries and benefits. We heard in many cases that when packages are combined, the end result is the inclusion of the highest salaries and highest benefits for the personnel involved, referred to as the “harmonizing” of employee compensation packages. While this harmonization may be a necessary outcome from ensuring support by the districts and their employee groups for consolidation, it has the effect of increasing the cost of service and can offset some or all of the other efficiency gains achieved, at least in the short term. This is particularly prevalent in fire districts, for which personnel are the major expense. As another example, we heard that cost savings from fire district consolidations may be less than anticipated because as part of many final consolidation agreements, no or few fire stations are closed. This can preclude savings from the elimination of overlapping service areas. In the view of the constituents of the district, their local fire station is the symbol of the quality of their service. Therefore, even if there is another station that would be able to provide service as a result of the consolidation, constituents may object.

***Initial Investment Costs.*** Third, agencies absorbing another district through consolidation can face significant up-front costs as they repair aging infrastructure, purchase required equipment, or begin to build a reserve for emergencies or future upgrades. Therefore, providing service in an area previously served by a poorly managed district initially can be more expensive after consolidation. These up-front costs—which may still be offset by longer-term operational savings—are often cited as a barrier to consolidation.

### **Functional Consolidations Frequently Used to Improve Efficiency**

We have thus far described the benefits and costs of “structural consolidations,” which are consolidations performed through the LAFCO process and which involved altering jurisdictional boundaries and responsibilities. But we also found that many special districts of all sizes find other ways to realize some of the efficiency improvements associated with structural consolidations *without* going through the LAFCO process. Specifically, we found many cases of districts pursuing “functional consolidations” to improve efficiency. Functional consolidations can take several forms with differing levels of formality and integration: informal memoranda of understanding between districts, contracting for services, and JPAs. We found that functional consolidations frequently involve sharing administrative staff such as budgeting, human resources, legal, and IT personnel. They may also include contracts for the use of specialized equipment or sharing of operational staff such as maintenance workers. Finally, they can include shared purchasing agreements or shared investments in new facilities, thereby allowing smaller districts to achieve some of the economies of scale and potential efficiencies associated with larger districts.

We observed several examples of functional consolidations that were being considered or had already occurred. Several smaller water districts in San Diego County that are currently facing financial constraints are now in the process of agreeing on a functional consolidation that would focus on IT and human resources personnel while also allowing for the sharing of trucks for cleaning sewer systems. This arrangement may take the form of a JPA if it involves joint ownership of equipment. Similar arrangements have been pursued by northern San Diego County fire districts. In addition, Orange County's LAFCO has established a website to help local governments share services to achieve efficiencies. This website allows districts to post resources or assets they have available as well as resources that they are seeking, which it then matches to one another. Finally, as noted above, several cities and independent fire districts now contract with SBCFPD in order to provide lower cost, higher quality fire protection services to their constituents.

***The Upsides.*** Functional consolidations avoid some of the costs and other downsides of structural consolidations. One of the most frequently aired objections to structural consolidation that we heard was that it reduces local control over service delivery, and a major advantage of functional consolidations is that they allow constituents to retain that control. For instance, some fire districts in San Diego County share fire engines that are identified with multiple logos, each corresponding to a district that uses them. Constituents may see the logo of their local fire district and feel like they have a stake in the service provision. In this way, functional consolidations may not be subject to the same political objections as structural consolidations, and as such they may proceed more quickly. Functional consolidations also avoid some of the costs involved in structural consolidations. They may not trigger efforts to harmonize multiple employee compensation packages and they do not require a LAFCO review, with the process costs and the time associated with that process. Functional consolidations also eliminate the possibility that the residents of one district will directly subsidize those in another district, as may occur with structural consolidations. Finally, we heard that an additional benefit of functional consolidations is that they can be used as an interim step on the way to a full structural consolidation by demonstrating some of the benefits of consolidation and building trust between districts.

***The Downsides.*** In practice, functional consolidations may not deliver all of the same efficiency improvements as structural consolidations. Functional consolidations may not result in the same cost savings as structural consolidations because they do not result in the elimination of board members or district heads like fire chiefs or water district general managers. In fact, they may increase the number of managers and administrative staff if a JPA is created with new board members. Functional consolidations may also miss some improvements to service delivery because they may not allow for the same level of coordination of command as structural consolidations of fire districts.

Another trade-off associated with functional consolidations is that efficiency benefits only occur as long as all participating agencies wish to cooperate. We heard from some district representatives that JPAs can function very well as long as priorities among the participating entities are aligned, but they can fall apart if one district decides to move in a different direction. This can be undesirable because it allows such a district to make unilateral decisions that are beneficial for it but potentially detrimental to other districts.



Another issue we heard with respect to functional consolidations is that LAFCOs do not have explicit statutory authorization to review or alter these JPAs, even where those JPAs are providing direct services such as wastewater treatment or water supply. While LAFCOs may as a practice evaluate some JPAs in the course of conducting studies of services or member agencies, it is not clear that this practice is routine or that LAFCOs have authority to directly make the same kinds of changes in boundaries and services as they do for individual government agencies. We heard differing opinions among LAFCO executives about how significant of a problem this is. However, it appears that this lack of authority can become problematic because it potentially allows districts to expand the area over which they provide service without the same level of LAFCO review as the Legislature requires for other local governments. Based on the SCO's list of special districts, there are about 670 districts formed as JPAs in California (though many of these are agencies other than those formed as special districts).

## **RELATIONSHIP BETWEEN DISTRICT SIZE AND ACCOUNTABILITY**

You asked us to evaluate the linkage between district size and accountability. As we discuss in this section, our findings are inconclusive. We found some evidence—both anecdotal and statistical—that small districts can be less accountable than their larger counterparts. However, we also found anecdotal and statistical evidence that smaller districts may be just as accountable as larger districts. Finally, we suggest that, in part, a lack of transparency of special districts may be a more general problem and not limited to just small districts.

***Defining Accountability.*** In our evaluation of how district size affects accountability, we focused on two components of accountability. First, for districts to be accountable, transparency is required. By this we mean that communities have access to information relevant to making informed decisions. This includes information on both which agencies provide services, as well as how well those services are delivered. Second, for districts to be accountable to the public they serve, that public should have access to the decision making process. In our governmental system, this is typically through the election of representatives. Access to the decision making process can also be achieved outside of the elections process, for example through participation at board meetings. Generally, we assume that if the public has access to relevant information (transparency) and fair access to the decision making process (access), special districts and their public officials can be held accountable for their performance.

### **Linkage Between District Size and Transparency Is Unclear**

We would expect that those agencies most accountable to their public would make important information on meetings, budgets, financial audits, and performance readily available. Current law requires all special districts, regardless of size, to make certain information publicly available. This includes holding open board meetings, making available board meeting recordings and materials, and reporting of financial and employee compensation data to the SCO.

We did find some limited evidence that smaller special districts may be less transparent than larger districts. For example, we heard from LAFCO executives and others that small special districts are more likely than larger districts not to have public websites and to fail to meet all public reporting requirements. As another example, we found that there were 20 independent

special districts that did not fulfill the requirement to report annual revenue and expenditure data to the SCO for 2008-09. Of these, 17 districts appear to be smaller districts—those with annual revenues of less than \$1 million, with a majority taking in less than \$100,000. (This analysis excludes special districts listed as not reporting but that appear to be inactive or for which we could not find prior-year revenue data.)

While there is some evidence to support the notion that some small districts are less transparent, outright violations of the law appear to be the exception, not the rule, according to LAFCO executives. In addition, while 17 districts with revenues of less than \$1 million did not report financial data to the SCO in 2008-09, approximately 1,600 independent special districts with revenues of less than \$1 million did do so as required under current law. In addition, while it appears that small districts are less likely than larger districts to maintain websites, we found some small districts that did so. Perhaps more importantly, however, we could find relatively few examples of small *or* larger districts that provided comprehensive information on their websites—specifically that included all of the following information: meeting agendas and minutes, annual budgets, financial audits, and performance statistics.

***Lack of Transparency May Be a Broader Problem.*** The issue of a lack of special district transparency may be a more general one to consider, rather than simply being associated with district size. Though we could find no survey data on people's knowledge of special districts generally, we suspect that it is common that average citizens may not be easily able to identify all of the special districts within which he or she lives, or whether a specific service is delivered by a special district or a general-purpose government. This is probably particularly true for non-enterprise districts for which residents do not receive a regular bill, as well as for districts in more populated urban areas where the public may assume that the service is provided by a general-purpose government. This general lack of knowledge is probably compounded by the fact that the property tax bill owners receive does not delineate how much of the base 1 percent property tax rate goes to each local government serving that property area. Property taxes make up roughly 10 percent of all special district revenues and a quarter of all non-enterprise special district revenues. It is hard to expect the public to hold local special districts accountable if they do not have complete knowledge of which districts serve them or how much they pay to support each district.

### **Effect of District Size on Community Access to Decision Making Is Unclear**

During our site visits and meetings, we received conflicting information regarding the accessibility of small special districts. Many people suggested that decision makers in smaller districts are *more* accessible to their constituents. If true, this would promote information sharing and help ensure that decision makers are responsive to community needs and preferences. We heard that it is typical for constituents of small districts to use the same neighborhood stores and attend the same social events as board members. We saw an example in the Circle Oaks County Water District (Napa County), where the general manager felt that his ability to walk door to door to communicate to local residents was key to the agency's ability to convince voters to support a rate increase that was instrumental in bringing the district into fiscal solvency. Compared with larger districts, this high degree of interaction between board members and constituents allows constituents to raise concerns in a more informal and accessible environment.

In addition, these informal channels of communication can be an effective means for board members to inform constituents of issues.

In other cases, however, we heard that a special district's small size could contribute to reduced resident access to the decision making process. In particular, we heard that small special districts frequently do not hold elections and that the governing boards are filled with the same individuals year after year. While this could, in some cases, simply reflect an electorate that is generally satisfied with its special district board, the failure to have regular elections runs counter to the idea of a democratic process with regular community access. We even heard that in rare cases, for a variety of reasons, some small districts do not attract enough residents interested in serving on their governing boards to keep their board seats filled. As a result, governing boards of some small districts are filled with individuals appointed by the county board of supervisors or other governing board members.

***Measuring Access to Districts.*** Given the different perspectives regarding special district access, we sought to supplement our review by examining some factors that could be measured quantitatively. For reasons that we describe below, we thought that the following questions could help inform the discussion regarding special district access. Do special districts, particularly small special districts:

- Hold elections regularly?
- Have voter turnout rates that are similar to cities and counties?
- Overcompensate their employees compared with other local governments and the state?

Given time limitations, we focused our assessment on a subset of local governments in San Diego County. Specifically, for our analysis regarding the frequency of elections and voter turnout rates, we looked at local elections there between 2002 and 2010. For our analysis of employee compensation, we examined the compensation provided to the senior managers of 18 water districts there that employ professional staff and the five city departments that supply water to city residents.

***Some Small Special Districts Do Not Hold Regular Elections.*** Accountability is promoted when governing bodies hold regular elections. For our first measure, we examined whether special district elections were taking place in San Diego County from 2002 through 2010. (We used this sample of years from this county because it was the only one of our case study counties with elections data available in database format.)

San Diego County has 52 independent special districts with members elected to the boards of directors. A board member's term is four years and each board has three, five, or seven members. Boards typically have staggered elections—meaning that at least two seats on the board are on the ballot every two years. Since 2002, most San Diego County special districts would have held at least two—and possibly as many as five—elections. Under certain circumstances, state law permits special districts not to hold a regular election. Specifically, a special district need not hold an election if there are the same number of candidates, or fewer candidates, as there are open seats.

Our review of the 52 special districts found that 42 of them—including all of the special districts serving more than 4,000 people—held at least one election since 2002. Ten special districts, in contrast, held no elections at all during the more than eight-year period. Most of the districts that had no elections are very small water or community services districts, typically serving fewer than 1,000 residents and having an operating budget in the range of tens to hundreds of thousands of dollars annually. One of the districts that did not hold an election, however, is a fire district responsible for serving almost 4,000 residents and managing an annual operating budget of about \$1.8 million. We also found that some special districts held fewer elections than otherwise would have been expected (based on the term of the special district governing board members).

It is also worth noting that certain types of independent special districts—primarily cemetery districts—have governing boards with board members that are appointed by general purpose governments, usually the county board of supervisors. We estimate that roughly 400 independent special districts in California (about 19 percent of the total statewide) are board appointed rather than directly elected. To the extent that direct public access to local government is a concern, one could ask whether it makes sense to have independent districts without independently elected boards. When we raised this issue in our meetings, it was suggested that these districts might have trouble finding enough people interested in running for board seats if they were directly elected. It is unclear to us, however, why this would be the case for these districts versus other types of districts. Moreover, if that lack of public interest were true, it suggests that there was not a strong interest in local control and, consequently, as strong a rationale for the district to be independent.

***Special Districts Voter Turnout Was Similar to Cities and County.*** While holding elections is an important component of an accountable government, it is not sufficient. Accountability also requires that citizens express their opinions by voting. For our second measure, we examined voter turnout rates (as defined by the number of votes cast relative to the number of registered voters in a jurisdiction). Comparing these voter turnout rates with city and county voter turnout rates helps assess the degree to which residents are engaged in special district governance. In our analysis of San Diego County local governments since 2002, we found that regardless of the size of the district, special district voter turnout was substantially similar to the turnout for city and county government elections.

***Water Districts Provided Higher Employee Compensation.*** Like any organization that uses public funds, special districts have a fiduciary duty to ensure that public funds are spent efficiently and effectively for the public good. Employee compensation comprises a major component of many governmental entities' expenditures. One could reasonably expect that accountable agencies would seek to not overcompensate employees so as to charge customer rates no higher than otherwise necessary.

For our third measure of accountability, we used data collected by the SCO to compare (1) the amount of compensation that 18 water districts in San Diego County provide their general managers with (2) the amount of compensation that five cities in the county provide directors of departments responsible for providing water services. As an additional point of comparison, we contrasted district general manager compensation with the compensation provided by the State of

California to the director of the Department of Water Resources (DWR). We focused on the compensation provided to these top managers because their responsibilities have significant similarities, and the press and residents often follow senior manager compensation levels closely (particularly in the case of enterprise functions, like water, which recoup their costs by charging residents rates). Thus, executive management compensation can serve as an indirect gauge of local oversight. We found that water districts in San Diego County provide greater compensation to their general managers when compared to city department managers and the director of DWR.

While employee compensation levels are a potential indicator of accountability, we would note that it is an imperfect one. Employee compensation levels can reasonably vary due to factors such as cost of living and desirability of different locations. Some, but not all of this variance is controlled by the fact that we looked at districts and cities within a single county.

With the exception of the two smallest special districts (serving fewer than 400 residents), most water district general managers in San Diego County earn about \$200,000 and have about 86 subordinate employees. Overall, the variation in general manager salaries (from a low of \$160,000 to a high of \$270,000) does not appear to reflect the size of the district as measured by the number of district residents or employees. These district general managers are eligible for pension benefits using the “2.5 percent at 55,” “2.7 percent at 55,” or “3 percent at 60” formulas.

Five cities in San Diego County provide water services through their water department or another municipal department. These department directors earn about \$150,000 and have 217 subordinate employees on average (though this includes the City of San Diego’s water department, which has about 800 employees). Like their special district counterparts, the variation in directors’ salaries (from a low of \$110,000 to a high of \$190,000) does not appear to reflect the number of city residents or employees. The directors are eligible for similar pension benefits as special district general managers. In our review of city and special district salaries, we found that district general manager salaries often are more similar to a city manager’s salary than to the salary of a city water department director. This finding is somewhat perplexing given the generally wider range of responsibilities required of a city general manager.

While there is no state employee classification that is directly comparable to a water district general manager, the position of the director of DWR has some similarities. The state director earns \$165,000 annually—less than all but three of the water district general managers in San Diego County. The director of DWR oversees a department with more than 3,000 staff, significantly more than any district general manager or city director in San Diego County. The director of DWR is eligible for the “2 percent at 55” pension formula, a less generous benefit than the pension formulas extended to general managers and municipal department directors.

### **Overall Assessment of Special District Accountability**

Conflicting viewpoints about special district accountability prompted us to explore several statistical measures related to accountability. The outcome of this review is inconclusive. One measure (SCO reporting) suggests that the vast majority of special districts, including small districts, report financial data to the state as required. Another measure (voter turnout rates) suggests that special districts, including small special districts, have levels of accountability that are similar to other local governments. Two other measures (holding elections and top

management compensation) suggest that there might be some limitations to special district accountability. Given the limited scope and range of our measures, we urge you not to generalize from our findings, but to use the measures as a branching off point for any future legislative hearings on the topic, as discussed later in this letter.

## **EFFECTIVENESS OF LAFCOs**

You asked us to review how well LAFCOs are operating, the degree to which they are evaluating the “right” metrics when considering consolidation, and what barriers they face in initiating consolidations. In this section, we describe our findings that the LAFCOs we reviewed generally appear to be well positioned to review the work of special districts and to consider consolidations. They appear to conduct their reviews in a thorough and professional manner. We also find that LAFCOs vary in how they evaluate when consolidations make sense. This variation reflects the discretion allowed under current law and is probably appropriate. However, we also find that their LAFCOs do not consistently measure efficiency in their evaluations, something that makes it difficult to evaluate and compare how well different districts and general-purpose governments are utilizing public funds. In addition, we find that LAFCOs face some barriers to initiating consolidations and, therefore, are sometimes wary of doing so when the affected districts are likely to be opposed.

### **LAFCOs Appear to Fulfill Legislative Mission**

The Legislature has the authority to create, dissolve, or otherwise modify the boundaries and services of local governments, including special districts. Beginning in 1963, the Legislature delegated the ongoing responsibility for making these determinations to LAFCOs in each county. The responsibilities and authority of LAFCOs have been modified in subsequent legislation, including a major revision of the LAFCO statutes in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Chapter 761, Statutes of 2000 [AB 2838, Hertzberg]). The courts have referred to LAFCOs as “watchdogs” of the Legislature (*City of Ceres v. City of Modesto*). According to the courts, LAFCOs were created “to encourage the orderly formation and development of local government agencies...to guard against the wasteful duplication of services that results from indiscriminate formation of new local agencies or haphazard annexation of territory to existing local agencies.”

Based on our site visits and reviews of various documents, we found that the LAFCOs in San Bernardino, San Diego, and Napa Counties appear to be fulfilling their legislative mission. In each of these counties, the LAFCOs do the analysis of services and boundaries, produce reports, and make recommendations designed to encourage orderly government. They employ professional staff with backgrounds and training in related fields, such as regional planning. The work of LAFCO staff appears to be deliberative and professional.

We would note, however, that the LAFCO executives we spoke with reported that they are not up to date on having all spheres of influence and municipal service reviews updated every five years, as required by law. We heard from LAFCOs that this is a common problem statewide and is a consequence of the workload being more than their current budgets can support. We also note that our findings on the quality of LAFCO products in these three counties are not

necessarily indicative of the quality in all counties. San Diego County and San Bernardino County, for example, appear to be among the best funded LAFCOs in the state, something that could affect the number and quality of staff they are able to hire, as well as the number and quality of service and boundary reviews they are able to complete annually.

### **LAFCOs Have Discretion in How They Evaluate Merits of Consolidation**

It is difficult for us to evaluate whether LAFCOs are using the “right” metrics when evaluating the merits of consolidation proposals, largely because current law does not articulate when consolidations should occur. Current law sets, as a minimum threshold, that LAFCOs must declare that any consolidation (or other reorganization of districts, such as dissolutions or mergers with cities or counties) would result in lower or substantially similar public service costs and that it would promote public access and accountability. However, current law does not say when a consolidation should occur. It does not provide any specific guidance to LAFCOs detailing the criteria under which a consolidation should be approved or when consolidations are likely to promote orderly formation of governments, preservation of agricultural land, and discouragement of urban sprawl as is the mission of LAFCOs.

Possibly because of this lack of statutory specificity, we found that LAFCOs typically evaluated special districts and the possibility of special district consolidation on a case-by-case basis. While LAFCOs generally indicated that there was not a single set of criteria upon which to make consolidation decisions, we heard a couple of common rationales for when LAFCOs believe consolidation of districts is merited:

- LAFCOs recommend consolidations when they believe that a district is not likely to be financially sustainable over the long term and merging that district with another could improve their viability. The evaluation of long-term sustainability could focus on the agency’s ability to fund its annual operations costs, as well as its long-term infrastructure needs, particularly in light of how the LAFCO projects population and service needs to grow or change in that area.
- LAFCOs were more likely to consider consolidations in cases where there are overlapping boundaries or duplication of services. This could occur where two districts are providing the same or similar services in the same geographic area, or where there are small pockets of services provided by one district that is wholly or largely surrounded by another district providing the same service.

These rationales seem generally consistent with the mission of promoting orderly government to the extent that it successfully prevents the financial collapse of poorly operating districts or the inefficient duplication of services.

We would note that while current law does not specify criteria for when consolidations should occur, it does require that a consolidation may occur only if that consolidation is consistent with the recommendations or conclusion of a LAFCO study, which is usually an MSR or sphere of influence report (which is produced after or in conjunction with the MSR).

The MSR is required to review and make written determinations in six areas related to an agency's operations:

- Growth and population projections for the affected areas.
- Present and planned capacity, including infrastructure needs and deficiencies.
- Financial ability of agencies to provide services.
- Opportunities for shared facilities.
- Accountability for local service needs, including governmental structure and operational efficiencies.
- Any other matters related to effective and efficient service delivery, as required by commission policy.

As with the decision to approve consolidations, the law does not provide guidance to LAFCOs to instruct them on how to weigh each of the six factors it is required to review. Instead, it leaves this to the discretion of the local LAFCO, effectively making it a decision based on local priorities and preferences. Importantly, the law does not provide guidance on how each of these six factors is to be measured, again resulting in local discretion of what metrics LAFCOs use. This discretion allows LAFCOs to be flexible to their local priorities and preferences. However, we think the variation results in at least one significant trade-off, specifically in the area of measuring efficiency. As we noted earlier in this letter, we found that when evaluating service delivery, LAFCO MSRs tend *not* to focus on measures of efficiency—such a service per amount of cost—instead focusing more often on other measures of service provided. For example, in the area of fire protection, LAFCO MSRs frequently used the number of emergency responses and response time as measures of service delivery. These appear to be typical measures when evaluating the performance of fire departments. However, in no case did we see where fire service data was combined with financial data to give a measure of efficiency. In part, a focus on level of service rather than efficiency appears to be a consequence of the fact that efficiency can be very difficult to measure. The consequence of the LAFCO focus on service levels rather than efficiency, however, is that it makes it impossible to compare the efficiency of service delivery across similar agencies within a county or across counties, or for a single agency before and after consolidation. An inability to compare government efficiency deprives the LAFCO, Legislature, and public with a meaningful way to evaluate how well public funds are spent by their local agencies.

### **LAFCOs Sometimes Wary of Initiating Consolidations**

Current law does not require LAFCO boards to approve a consolidation when staff recommend that action. A common theme we heard in our conversations with LAFCO and special district representatives was that while LAFCOs have the authority to initiate consolidations, they are often reluctant to do so if the special districts subject to the consolidation were likely to be opposed. The view was that the power of special districts to oppose a proposed consolidation was greater than the power of the LAFCO to force it on an uncooperative district. The reasons a district might oppose consolidation are varied and include a desire by board



members or general managers to retain their positions, the concern by a well-performing district that taking over a poorly functioning district could increase the costs to its own constituents, and the concern by a district and its constituents that consolidation could reduce constituent access to the district and its board.

Some of the barriers to LAFCO-initiated consolidation are inherent in the law itself. Specifically, the constituents of a district generally can send a LAFCO-initiated consolidation proposal to a public vote if 10 percent of the population in any affected district files a protest. By comparison, the protest threshold is 25 percent if a district initiates the consolidation process. Additionally, the law provides that if a consolidation proposal goes to public vote, a majority of voters in each affected district has to support the consolidation for it to be successful, not a majority of all the voters. In both of these cases, our understanding is that the law is designed to preserve the local autonomy of each affected district and its constituents. In addition, the law requires the LAFCO to pay for all costs for studies and elections if it is a LAFCO-initiated consolidation proposal, whereas the district(s) pay for these costs if they propose or request the consolidation.

In addition to the barriers established in existing law, LAFCOs and special district representatives suggested that there are other tools districts can employ if they oppose consolidation. Many districts have more financial and political resources at their disposal than LAFCOs and may use them to ensure their preservation if they oppose consolidation. We heard examples of public outreach campaigns and lawsuits initiated and funded by special districts to oppose consolidation efforts initiated by LAFCOs. In more than one of these examples, the special district was successful at preventing the consolidation, usually by preventing the LAFCO board from approving the staff recommendation to approve consolidation. We heard of very few examples of consolidations that went to public vote.

Because of the varied ways that a district can oppose a LAFCO-initiated consolidation, LAFCOs frequently take into account the likelihood of opposition when deciding whether to propose a consolidation. In such cases, LAFCOs often prefer to act as a broker for consolidation, working with the different districts to convince them that consolidation is in each of the districts' best interest. In part because of this, consolidations can take a long time to complete. For example, the consolidation of fire districts in the unincorporated areas of San Diego County began with a fire study in 1997, followed by the creation of a task force in 1999 and multiple subsequent reports. The district consolidation was initiated in 2007 and is still in the process of being completed today.

## **OPTIONS FOR LEGISLATIVE CONSIDERATION**

As described in this letter, we did not find conclusive evidence that small special districts are inherently less efficient or accountable than their larger counterparts. However, we find that there are opportunities to improve the accountability of special districts generally, thereby potentially promoting better outcomes and efficiency of many local special districts, including small and large districts. We also find that there may be opportunities to improve the LAFCO process to successfully achieve consolidations when they make sense analytically. In this section, we offer several options you may want to consider to achieve these outcomes.

### **Increasing Special District Transparency**

Efforts to increase the transparency of governments can allow the local public and media to have better information upon which to make informed decisions and hold their elected officials accountable.

**Searchable Databases.** One way to promote increased transparency would be to make it easier for individuals to know what special districts they live in and what they pay for in those districts. For example, the state or local governments could create searchable databases accessible on the internet where individuals could input their address and be provided a list of all special and general-purpose governments that serve them. Potentially, this list could include contact information for those agencies, as well as links to their websites if they maintain one. The San Diego County Water Authority's website has this functionality for water districts in that county. According to representatives of the California Special Districts Association, they are currently undertaking a project to accomplish something like this for all special districts statewide. It may be worth considering a way to coordinate their efforts with the SCO (which collects annual financial data on all special districts) and LAFCOs (that have to update and maintain data on district boundaries).

**Property Tax Bill Information.** Another way to promote transparency would be to encourage or require that property tax bills identify how the revenues associated with a property's 1 percent base property tax rate is allocated among all special districts, general-purpose governments, school districts, and redevelopment agencies. Currently, this allocation varies greatly among properties within counties. To our knowledge, no counties put this information on the property tax bill sent to property owners. Consequently, no individual property owner is able to learn from their property bill how their property tax revenues are allocated among different levels of government.

**Public Websites.** A third way to improve transparency of special districts would be to encourage or require all special districts to maintain public websites and to include certain information on those sites, such as annual budgets, fiscal audits, board meeting notices and minutes, performance data, links to LAFCO reports, and the term of office for current board members. Currently, many districts maintain websites, and many of those include much of this information. However, smaller districts appear to be less likely to have websites, and many districts that have websites do not include all of this information.

In considering ways to promote transparency, we would offer a caution to consider how any legislative actions could result in state-reimbursable mandates. For example, requiring counties to alter their property tax bills to include allocation information probably would result in a state-reimbursable mandate for the costs associated with reconfiguring databases and reporting processes necessary to carry out that requirement. We are wary of recommending actions that could result in state-reimbursable mandates because these are costs that are outside the state's control and can end up being much greater than anticipated. However, in some cases, there are strategies the Legislature can employ to achieve much of the same objective without creating a state-reimbursable mandate. One example of such a strategy would be to make the receipt of certain funding—such as state grants—by special districts contingent on conforming with the

desired practice, such as having a website or providing more detailed information on the property tax bill.

### **Providing Voters With Information When Special Districts Do Not Have Elections**

As we note, ten small districts in San Diego County failed to hold a single election during the five election cycles from 2002 through 2010—either because there was only one candidate per board seat or because no one ran for an open seat. One option the Legislature might consider is requiring that all board seats be included in the county voter guide or on the ballot regardless of whether the seat is contested or not. This would provide a measure of increased special district transparency because it would let voters know that they are constituents of this district and who the board member will be (or if the positions will be vacant until they are filled by appointment). By the same logic, perhaps all independent special districts should be elected. As described earlier, there are about 400 independent special districts that have their board members appointed by a general-purpose government, usually the county board of supervisors.

In considering these changes to special district elections, we should note that many provisions relating to elections have been found by the Commission on State Mandates to constitute state-reimbursable mandates. It is possible that requiring special districts to provide this election related information could be found to be reimbursable.

### **Developing More Consistent Evaluation Metrics**

As described above, we find that there is variation in how LAFCOs evaluate efficiency when conducting MSRs, and in many cases LAFCOs do not appear to actually measure efficiency, instead relying on other measures of service delivery such as amount or quality of service. The Legislature might want to promote the use of consistent measures of efficiencies by LAFCOs and the establishment of statewide or regional benchmarks. If LAFCOs used consistent measures in their reports, it would be easier for the public to compare the operations of different special districts and general-purpose governments both within counties and across county lines. Having clearly defined benchmarks also could be a way to hold local governments more accountable to their constituents who would have more information upon which to judge the effectiveness of their service providers.

It is important to note, however, that coming up with such measures would be challenging. As we describe in this letter, measuring efficiency in a service area such as wastewater treatment may be relatively straightforward, but in other service areas measures of efficiency in government operations are often more difficult to determine. For example, how does one evaluate the efficiency of providing park services? Also, meaningful measures of efficiency are going to vary significantly by service type and could, in some cases, vary by region or even within a region or county. For example, measuring efficiency will be very different if one is looking at fire protection versus another type of service, and reasonable expectations for fire response time and costs may be different for urban versus rural areas.

While challenging, we do not believe developing useful metrics for LAFCOs to use is impossible. In fact, the Orange County LAFCO has already begun working in this direction by developing a system on its website that provides multiyear financial data—such as revenues,

expenditures, and reserve data—for every agency in that county. While not directly measuring efficiency of each agency, it is clear that the Orange County LAFCO is attempting to find more consistent ways to evaluate the fiscal operations of agencies. Further, by posting that information on its website, that LAFCO is working to increase the public transparency of its districts.

In establishing these types of metrics, the Legislature would need to consider whether the specific standards for each service type should be developed at the state level—for example, by the Office of Planning and Research or various state departments—or should be set at the local level, for example by each county LAFCO. A more decentralized approach potentially could provide greater flexibility for LAFCOs to tailor the metrics to local differences in geography, demographics, or preferences. On the other hand, a more centralized, consistent approach would better allow the public to compare individual agency outcomes across counties. The Legislature also would need to consider whether to make the development and use of these metrics a requirement for LAFCOs or let them be advisory. Given the fiscal constraints LAFCOs face, it may be important for the state to provide some time and technical assistance before making this a requirement.

Given the complexities of developing standardized metrics, we would suggest that, should the Legislature be interested in encouraging more consistent evaluations by LAFCOs, that the Legislature use a process that is inclusive of representatives of local stakeholders, including special districts, LAFCOs, and general-purpose governments. By including the participation of local stakeholders, there is an increased probability that any standards or benchmarks developed would be flexible enough to be useful to local agencies and constituents in different parts of the state with different service priorities.

### **Reducing Hurdles to LAFCO-Recommended Consolidations and Oversight**

As discussed above, we found that there are some legal barriers to consolidations. Specifically, the law provides a lower protest threshold to place a consolidation proposal on the ballot when the proposal is initiated by a LAFCO rather than a district. Also, when consolidation proposals are placed on the ballot, it takes a majority of any single affected district to defeat the measure, not a majority of all affected voters. In both cases, these provisions are designed to protect the ability of the constituents of each affected local government to maintain local control if that is their preference. In effect, these provisions tilt the process *against* consolidation.

In weighing the rights of local citizens to maintain local control of their governments against a desire for more efficient and effective provision of local services, one approach might be to reduce some of these barriers if certain conditions are met. For example, the protest threshold could be increased if LAFCOs demonstrate certain findings related to failures of a district's public accountability (for example, frequently vacant board seats) and/or specific improvements in efficiency or effectiveness that would be achieved (for example, likelihood of meeting minimum water safety standards). By analogy, other successful legislation has been aimed at reducing barriers and expediting the LAFCO process when certain conditions are met. For example, Chapter 109, Statutes of 2011 (AB 912, Gordon), was recently approved by the Legislature for the purpose of expediting special district dissolutions by eliminating the

requirement for elections or protest proceedings when certain conditions were met related to (1) how the dissolution was initiated and (2) LAFCO findings.

We would also suggest the Legislature consider expanding LAFCO authority to oversee JPAs. As we describe, LAFCOs have no statutory authority to oversee the JPAs that districts or general-purpose governments enter into. This includes JPAs that are providing services, such as wastewater treatment or water supply. Consequently, LAFCOs have no statutory authority to review the financial and service data of these JPAs to ensure that they are providing services and using taxpayer and ratepayer funds efficiently and in a manner consistent with current law. Nor does a LAFCO have authority to alter a JPA's boundaries or services in the same way that it can do for individual special districts and other local government agencies. We do not think this expanded authority should be undertaken with the intent of discouraging the use of JPAs because those agreements are one strategy that special districts use to achieve higher efficiencies. However, we think that it is important that the entities created under JPAs be subject to some level of oversight akin to the districts and general-purpose governments that utilize them. One suggestion we received was to require districts to provide LAFCOs with copies of all JPA agreements, including amendments.

### **Increasing Legislative Oversight of LAFCOs and Special Districts**

As we note, the Legislature created LAFCOs to fulfill a legislative function, reviewing local government boundaries and services. While there is good reason for this process to remain fundamentally a local one, there may be value in formalizing more legislative oversight over this function. This could involve regular policy committee or oversight hearings where LAFCO and local government representatives from a given county or region come before the Legislature to provide updates on the major issues, challenges, and changes in their area. Alternatively, legislative committees could delve into areas of particular concern, including getting more information and perspectives from around the state on some of the issues and options raised in this letter. For example, should the Legislature be interested in additional oversight or policy hearings, some questions we think would be valuable to follow up on with local agencies and LAFCOs include the following:

- Are there opportunities to encourage the use of functional consolidations to improve efficiencies?
- Would providing LAFCOs additional oversight authority over JPAs improve the orderly formation of governments?
- How common is it for special districts to go multiple election cycles without having board elections?
- Are there other opportunities to reduce election or other barriers to consolidations that make sense analytically?
- Do special districts overcompensate employees compared with general-purpose governments providing the same services?

- What are the best metrics to use in evaluating efficiency and accountability, particularly for different service types? Are there statewide or regional benchmarks that could be used as standards against which to evaluate government performance?

## **CONCLUSION**

I hope that this information has been of assistance in answering your questions on the topics of special districts and the LAFCO process. If you should have any follow-up questions, please feel free to contact my staff. For general questions, please call Brian Brown at (916) 319-8325. For more specific questions related to water districts, call Anton Favorini-Csorba at (916) 319-8336, and for questions on special district elections or employee compensation, call Nick Schroeder at (916) 319-8314.

Sincerely,

Mac Taylor  
Legislative Analyst

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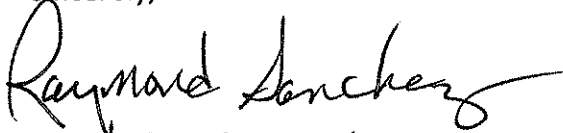
January 23, 2012

Neelima Palacherla  
Executive Officer  
LAFCO of Santa Clara County  
70 West Hedding Street  
San Jose, Ca. 95110

Ms Palacherla,

Enclosed please find correspondence that I have sent and received over the recent past.  
I hope it will bring you up to speed on what has transpired.  
If you have any questions please reach me at the above number or email.  
Thank you in advance.

Sincerely,

A handwritten signature in black ink that reads "Raymond Sanchez". The signature is written in a cursive style with a long, sweeping underline.

Raymond Sanchez, member  
South Santa Clara Valley Memorial District

Raymond Sanchez  
7660 Hanna Street  
Gilroy, Ca. 95020  
408-607-3280  
[hairweare@charter.net](mailto:hairweare@charter.net)

December 9, 2011

Liz Kniss, Chairperson  
Local Agency Formation Commission (LAFCO)  
70 West Hedding Street 10<sup>th</sup> Floor  
San Jose, Ca. 95110

Ms Kniss,

I am a member of the Board of Directors of the South Santa Clara Valley Memorial District. Since my appointment to fill a vacancy in June of 2010 I have become aware of some serious and troubling issues that I feel should come to your attention.

1. The Board President Gabe Perez has removed board member Nick Marquez from the board of directors. Mr. Perez was informed by county counsel that what he did was unlawful. I have enclosed a copy of the letter.
2. Mr. Perez has hired an architect to draw plans for remodeling the building kitchen. He did so without seeking board approval, without a contract, and without advertising for bids seeking other architects. He instructed the secretary to write a check to the individual, which she did. This issue particularly concerns me because of the large amount of taxpayer money which may be spent on this project.

Mr Perez has scheduled a secret meeting for December 21, 2011 at 6:00 pm at the Veterans Memorial Building. This and other meeting agendas are not posted.

I feel that there is a likelihood of misconduct and violations of the Brown Act by Mr. Perez. I trust that my concerns are of significant importance to merit an investigation.

Sincerely,



Raymond Sanchez



OFFICE OF THE COUNTY COUNSEL  
COUNTY OF SANTA CLARA

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Miguel Márquez  
COUNTY COUNSEL

Winifred Botha  
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Lori E. Pegg  
ASSISTANT COUNTY COUNSEL

November 2, 2011

Supervisor Mike Wasserman  
County of Santa Clara Supervisor, District 1  
70 West Hedding Street, 10th Floor  
San Jose, CA 95110

**Re: South Santa Clara Valley Memorial District**

Dear Supervisor Wasserman:

Recently, you informed our office that a constituent had reported an attempted removal of one of the members of the South Santa Clara Valley Memorial District ("Memorial District"). You had asked our office whether the removal was lawful. This letter is sent by way of response.

The Memorial District is a Special District chartered pursuant to the California Military and Veterans Code. The Memorial District is governed by a Board of Directors elected by the voters of the District. In some circumstances, including if the number of candidates is less than or equal to the number of seats and certain other requirements are met, no election may be held. After an appropriate certification by the Registrar of Voters, the County Board of Supervisors appoints to the Board those who properly declared their candidacy for election.

The Memorial District is an *independent* Special District, accountable to the voters of the district. Therefore, even though the Memorial District is subject to regular and special audits by the County auditor, and municipal service reviews by the Local Agency Formation Commission (LAFCO), the County of Santa Clara does not exercise jurisdiction over it.

We understand that on the evening of Wednesday, October 19, a majority of the Memorial District attempted to remove a Director, Nick Marquez. In fact, it appears that a 3-2 vote in favor of removal took place. However, we do not believe that the removal was lawful or effective.

Under California law, there are only a few limited ways to remove public officials who hold elective office. These include:

- First: Pursuant to Government Code section 3060, the California grand jury may present

Letter to Supervisor Wasserman  
Re: South Santa Clara Valley Memorial District  
Date: November 2, 2011  
Page 2 of 2

“[a]n accusation in writing against any officer of a district,” which in turn requires prosecution by the District Attorney. Upon a conviction, the official is to be removed from office. (Govt. Code, §§ 3060, 3072.)

- Second: Elected officials are subject to recall by the voters, a process that begins with the service, filing and publication or posting of a Notice of Intention to circulate a recall petition. (Elec. Code, §§11000 *et seq.*)

We understand that neither of the above procedures was followed with regard to the attempted removal of Mr. Marquez. Instead, a majority of the directors simply decided to vote another director out. Removal is the act of a person or body having lawful authority to deprive someone of an office to which she or he was appointed or elected. Here, we have found no lawful authority that allowed removal of Mr. Marquez by majority vote.

Without any lawful authority, we conclude that the attempted removal was improper and ineffective. Under these circumstances, Mr. Marquez remains a voting member of the Board of Directors of the Memorial District.

Please contact us if you have any further questions.

Very truly yours,

MIGUEL MÁRQUEZ  
County Counsel



STEVE MITRA  
Deputy County Counsel

SSM:ssm

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