

**LAFCO MEETING
AGENDA**

**Wednesday, December 3, 2008
1:15 PM**

**PLEASE NOTE
CHANGE IN VENUE**

**Isaac Newton Senter Auditorium
70 West Hedding Street, First Floor
San Jose, CA 95110**

**CHAIRPERSON: Pete Constant • VICE-CHAIRPERSON: Susan Vicklund-Wilson
COMMISSIONERS: Blanca Alvarado, Don Gage, John Howe
ALTERNATES: Sam Liccardo, Al Pinheiro, Terry Trumbull, Ken Yeager**

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

1. **ROLL CALL**
2. **NEW ALTERNATE COMMISSIONER: KEN YEAGER, COUNTY REPRESENTATIVE**

3. **PUBLIC PRESENTATIONS**

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

4. **APPROVE MINUTES OF NOVEMBER 7, 2008 MEETING**

5. **APPROVE CONSENT CALENDAR**

- *5.1 **Palo Alto Reorganization 2008 (Former Los Altos Sewage Treatment Plant Site)**

An application by the City of Palo Alto for a reorganization involving detachment of property (Former Los Altos Sewage Treatment Plant Site) from the City of Los Altos and annexation to the City of Palo Alto.

Possible Action: Consider the request for reorganization and staff recommendation.

PUBLIC HEARINGS

6. **WEST VALLEY SANITATION DISTRICT SPHERE OF INFLUENCE (SOI) AMENDMENT AND ANNEXATION 2008-02 (OVERLOOK ROAD)**

A request by the West Valley Sanitation District for amendment of its SOI and annexation of 22 parcels with a combined area of approximately 50.13 acres, located on Overlook Road and Linda Vista Avenue.

Possible Action: Consider the request for SOI amendment and annexation, and staff recommendation.

7. **CENTRAL FIRE PROTECTION DISTRICT: ARNERICH-WAGNER NO. 1**

A petition by landowners for annexation to Central Fire Protection District of property with a total area of approximately 42.5 acres, located along Arnerich Road and Wagner Road in Los Gatos.

Possible Action: Consider the petition for annexation and staff recommendation.

CLOSED SESSION

Supervisors' Conference Room, 10th Floor

8. **CLOSED SESSION**

Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code § 54956.9 (1 case)

ITEMS FOR ACTION / DISCUSSION

Isaac Newton Senter Auditorium

9. **RESOLUTION DENYING THE PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN**

Possible Action: Adopt resolution and provide direction to staff.

10. **UPDATE ON REQUEST FOR PROPOSALS SEEKING GENERAL LEGAL COUNSEL SERVICES FOR LAFCO**

Possible Action: Accept report and provide direction to staff.

11. **APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2009**

Possible Action: Appoint the Chairperson and Vice-Chairperson for 2009.

12. **2009 SCHEDULE OF LAFCO MEETINGS**

Possible Action: Adopt the schedule of LAFCO meetings and application filing deadlines for 2009.

13. **EXECUTIVE OFFICER'S REPORT**

14. **COMMISSIONERS' REPORTS**

15. **WRITTEN CORRESPONDENCE**

16. **NEWSPAPER ARTICLES**

17. **PENDING APPLICATIONS / UPCOMING PROJECTS**

18. **ADJOURN**

Adjourn to regular LAFCO meeting on Wednesday, **February 4, 2008**, at 1:15 PM in the **Chambers of the Board of Supervisors, 70 West Hedding Street, First Floor, San Jose, CA 95110.**

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 message is for the LAFCO Clerk.

**LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
FRIDAY, NOVEMBER 7, 2008**

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 7th day of November 2008 at 2:31 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California, with the following members present: Chairperson Pete Constant, Vice Chairperson Susan Vicklund-Wilson, and Commissioners Don Gage, John Howe and Liz Kniss. Alternate Commissioner Terry Trumbull arrives at 3:30 p.m.

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; Dunia Noel, LAFCO Analyst; and, Mala Subramanian, LAFCO Counsel for the San Martin incorporation proposal.

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

2. CLOSED SESSION

At the order of the Chairperson, there being no objection, the Commission adjourns to Closed Session at 2:32 p.m.

Chairperson reconvenes the meeting at 3:30 p.m. and announces that there is no report from the Closed Session.

On order of the Chairperson, there being no objection, the agenda is taken in the following order: Item No. 4.1, Item No. 5, Item 3, Item 4 and Item 6.

The Chairperson introduces Liz Kniss as the new alternate commissioner representing the County. Commissioner Kniss informs that she is fully prepared to take part as a LAFCO member today because she closely followed the incorporation process and has been regularly briefed by her staff who have attended all the LAFCO meetings.

In response to an inquiry by Eric Carruthers, a member of the public, the Chairperson informs that Item No. 5 will be heard after item 4.1.

4.1 PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN: UPDATE ON PAYMENT OF LAFCO FEES AND REQUEST FOR STATE CONTROLLER'S REVIEW OF THE PUBLIC HEARING DRAFT COMPREHENSIVE FISCAL ANALYSIS

The Chairperson requests the staff report. Ms. Palacherla informs that Item 4.1 on the agenda address two issues; namely, a request for State Controller's review of the Public Hearing Draft Comprehensive Fiscal Analysis (CFA) by the proponents, and the payment of LAFCO staff fees for processing the incorporation proposal. She then briefly discusses the process for filing a request for State Controller's Review of the CFA and informs that the proponents delivered a deposit check in the amount of \$38,554.00 on November 6, 2008 at 4:45 p.m. and executed an agreement that is different in form from that drafted by the LAFCO Counsel. She advises that State law requires that a public hearing must be held 90 days after the issuance of Certificate of Filing, and this public hearing was scheduled as close to that date as possible. Since the deposit for State Controller's review fees and agreement have only been submitted on November 6, 2008, the Executive Officer's Report was prepared and a community workshop was held in Morgan Hill. Addressing the request by the proponents to cancel the hearing because of their request for State Controller's review, she advises that there is no provision in State law or LAFCO policies that prohibits LAFCO from holding the public hearing because a request for a State Controller's review has been made. In addition, she reports that at the September 10, 2008 meeting, the Commission directed the proponents to pay the \$171,555.16 in staff fees 72 hours prior to the hearing and no payment has been made to date. The fee agreement states that the process be suspended if no payment is received on time; therefore, she recommends that the incorporation process be suspended.

Ms. Subramanian recommends that the Commission open the public hearing on Item No. 5, hear public testimony, close the public hearing, and direct staff to draft a resolution for adoption at the next meeting denying the incorporation proposal for failure by the proponents to pay the LAFCO fees pursuant to the fee agreement, without consideration of the merits of the proposal.

The Chairperson opens the public comment period for this item.

Kenneth Peterson, a resident of San Martin, states that he had moved to San Martin because of the many restrictions in the cities. He expresses opposition to the incorporation proposal as it would result in more restrictions.

Maureen Peterson, a resident of San Martin, requests the Commission to stop the incorporation process because the proponents have failed to pay the processing fee and are in violation of the fee agreement, she states that there is heavy opposition to the incorporation, and believes the proposed town will not be fiscally sound. She then calls attention to a Morgan Hill Times article on November 7, 2008 about the work force reduction being contemplated by the City of Morgan Hill.

Mike Berlinski, a resident of San Martin, expresses opposition to the proposed incorporation, stating that the Executive Officer's report outlines the fiscal difficulties of the future town. He expresses support for the staff recommendation to suspend the incorporation process because the proponents have failed to pay LAFCO fees. He indicates that Mr. Van't Rood, an attorney and a general contractor, stands to have great personal gain if San Martin is incorporated. He then states his preference is to live in the country and comments about how the utility tax would burden residents if incorporation is approved.

Commissioner Gage informs that he has tried to support the incorporation proposal and ensure that the process is fair. He adds that the proponents have been given enough time to pay as the Commission agreed not to require the fees until the hearing; however, the proponents have not complied with the agreement.

Commissioner Gage then moves that LAFCO suspend all the work on San Martin incorporation proposal, including sending the request by the proponents to have the CFA reviewed by the State Controller's office.

Commissioner Kniss seconds the motion. Commissioner Wilson proposes to amend the motion to include acceptance of the staff report and open Item No. 5, and Commissioners Gage and Kniss express agreement.

The Chairperson comments that the review of the CFA by the State Controller should occur; however, he concurs with the motion to suspend the incorporation process

because the LAFCO fees have not been paid per agreement. Commissioner Gage expresses concern that if LAFCO fees are not paid, the County and the cities will have to pay for the cost because 50 percent of the LAFCO budget is paid for by the County, 25 percent by the City of San Jose, and 25 percent by the other 14 cities in the County.

The Chairperson calls the question. It is ordered on a roll call vote of 4-1, with Commissioner Howe voting against, that the staff report be accepted, that LAFCO suspend the San Martin incorporation proposal, and that staff be directed not to forward to the State Controller the request for review of the CFA.

5. PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

This being the time and place set to consider the proposed incorporation of the Town of San Martin, on motion of Commissioner Gage, seconded by Commissioner Kniss, it is unanimously ordered on a vote of 5-0 that the public hearing be opened.

The Chairperson opens the public comment period for this item.

Eric Carruthers, a retired planner in Santa Clara County, presents a letter and speaks against the incorporation proposal, stating that he has over 30 years of urban planning experience and have seen the creation of cities and transformation of rural lands, and that approving the incorporation proposal would irrevocably change South County. He states that maintaining rural community after incorporation is impossible given the dynamics and economics of cities. He states that San Martin would be a starving city because of financial conditions and demand for services. He also states that it would be irresponsible for the Commission to approve the incorporation with a negative declaration because urban development in San Martin is inevitable. He then talks about how a failure of septic tanks in the central part of San Martin could trigger the construction on an expansive sewer system and that development within the huge proposed boundary would no longer require any LAFCO approval.

Doug Stauffer, a resident of San Martin, expresses support for the incorporation to enable representation regarding land use and for the community. He comments about how the County allows facilities that are undesired by the other cities, and how zoning

designations are being changed whimsically. He states that incorporation will protect the community from the whims of the County.

Michele Beasley, Greenbelt Alliance, provides a letter to the Commission and informs that Greenbelt Alliance is opposed to the incorporation and that the Negative Declaration is inadequate.

The Chairperson notes that there are no other members of the public who would like to speak on the item. On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered on a vote of 5-0 that the public hearing be closed.

At the request of the Chairperson, Ms. Subramanian recommends that the Commission direct staff to prepare a resolution denying the incorporation for failure to pay LAFCO fees pursuant to the fee agreement for the Commission's consideration at the next meeting.

Commissioner Gage moves that staff be directed to prepare a resolution for adoption at the next LAFCO meeting denying the incorporation proposal for failure to pay LAFCO fees pursuant to the fee agreement for the Commission's consideration at the next LAFCO meeting.

Commissioner Wilson seconds the motion.

Commissioner Howe expresses the opinion that the request for a review of the CFA by the State Controller should be allowed to go forward since the proponents have already paid the deposit. Commissioner Wilson proposes that the motion be amended to direct staff to return the check to the proponents. Commissioner Gage expresses agreement.

The Chairperson comments that the review of the CFA by the State Controller should be allowed to go forward; however, the process must be suspended because of breach in the contract for payment of fees. At the request of Commissioner Kniss, Commissioner Gage restates the motion.

The Chairperson calls the question. It is ordered on a vote of 4-1, with Commissioner Howe voting against, that staff be directed to draft a resolution for the Commission's adoption denying the incorporation proposal for failure to pay LAFCO fees

pursuant to the fee agreement, and that staff be directed to return the check paid by the proponents as deposit for the State Controller's review of the public hearing draft CFA.

3. TAKEN OUT OF ORDER - PUBLIC PRESENTATIONS

There are no public presentations.

4. TAKEN OUT OF ORDER - APPROVE THE MINUTES OF OCTOBER 1, 2008 MEETING

Ms. Palacherla advises that staff received a letter from Mr. Van't Rood requesting revisions to the minutes. Staff reviewed the minutes and the minutes are correct except for misspelling of the name of Craig Bassett. Therefore, staff is recommending approval of the minutes, with the correction of the spelling mistake.

On motion of Commissioner Howe, seconded by Commissioner Gage, it is ordered on a vote of 4-0, with Commissioner Kniss abstaining, that the minutes of October 1, 2008 meeting be approved, as corrected.

6. ADJOURN

On order of the Chairperson, there being no objection, the meeting is adjourned at 3:58 p.m. to a regular meeting to be held on Wednesday, December 3, 2008 at 1:15 p.m. in the Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Pete Constant, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk

Meeting date: December 3, 2008

To: The Santa Clara County Local Agency Formation Commission

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

Subject: Palo Alto Reorganization 2008 (Former Los Altos Sewage Treatment Plant Site)

Agenda Item #5.1

STAFF RECOMMENDATIONS (continues on Page 2)

A. CEQA Action and Required Findings:

LAFCO, as a Responsible Agency under CEQA, must take the following actions regarding the Final EIR for this project:

1. Find that [a] the *Final Environmental Impact Report (Final EIR)* certified by City of Palo Alto on March 6, 2000 was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project for LAFCO purposes, and [b] prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the *Final EIR*.
2. Find that [a] the *Final EIR* identified potentially significant adverse impacts resulting from the project in the areas listed below, and [b] appropriate mitigation measures have been proposed for each of the potential impacts identified in each of the listed categories that will reduce the impacts to a less than significant level.
 - Geology, Soils, and Seismicity
 - Biological Resources
 - Air Quality
 - Noise
3. Find that the City of Palo Alto submitted a monitoring program, and that the monitoring program ensures compliance with the mitigation measures identified in the *Final EIR* that would mitigate or avoid significant impacts associated with the detachment of the site from the City of Los Altos, the El Camino Hospital District, and the Santa Clara County Service Area No. 1 (Library Services); and the annexation of the site to the City of Palo Alto, over which LAFCO has responsibility.

B. Project Actions:

1. Approve the proposed Palo Alto Reorganization 2008, consisting of the detachment of the two parcels (APNs 116-01-013 and 047) located at 1247 North San Antonio Road from the City of Los Altos, the El Camino Hospital District, and the Santa Clara County Service Area No. 1 (Library Services), and the concurrent annexation of these two parcels to the City of Palo Alto as shown in Exhibits A & B (Attachment A); and
2. Waive protest proceedings pursuant to Government Code Section 56663.

Project Description

The City of Palo Alto has applied to LAFCO, by Resolution (Attachment B), in order to annex the site of the former Los Altos Sewage Treatment Plant Site (former LATP) and as the owner of the subject properties has given its consent to this annexation. The subject parcels are currently located within the Town of Los Altos. The Town of Los Altos, by Resolution (Attachment E), has given its consent to the detachment of the subject properties. The proposal will also include the detachment of the subject properties from the El Camino Hospital District and the Santa Clara County Library Service Area because these special districts will no longer provide services to the project area. The project site is approximately 13.6 acres and consists of Assessor Parcel Numbers 116-01-013 and 116-01-047 (see Attachment A for map of project site) which are located at 1237 North San Antonio Road (northeast of Highway 101).

Background

From 1958 to 1972, the City of Los Altos operated a sewage treatment plant on the site. In 1972 the plant was closed and some buildings were removed. On August 10, 1984, Palo Alto and Los Altos entered into a lease/purchase agreement for the former LATP site. A component of the agreement was the understanding that part of the site was deemed developable and part was to be dedicated for open space conservation. At that time, Palo Alto was interested in possibly developing a solid waste facility on the developable portion.

Between 1984 and 1991, Palo Alto made payments per the agreement and became the owner of an undivided half interest in the site. During that time period, the site was managed by Palo Alto and rented to various tenants including the Palo Alto Utilities Department who used it for a staging/storage area. Rental revenue was divided between Palo Alto and Los Altos equally. During the 1990s, Palo Alto explored other possible uses for the site including a proposal for a refuse operations facility, a hazardous waste facility, and an equipment area at the site. Because the site was close to the San Francisco Bay and was found to have potential wetlands, the City engaged

consultants to prepare a Jurisdictional Waters and Wetlands Report, an Environmental Impact Report (EIR), and a Conceptual Mitigation and Monitoring Plan. The City of Palo Alto also determined that future site development would require additional environmental assessment.

On March 6, 2000, the City of Palo Alto pre-zoned the site Public Facilities with a Site and Design combining district overlay and certified the EIR for the Los Altos Treatment Plant Site Development Project. In late 2007, Palo Alto and Los Altos reached an agreement for the purchase of the site by Palo Alto and on January 4, 2008, Palo Alto became the sole owner of the former LATP site. Since that time, Palo Alto staff and its consultants have been developing a series of analyses of the site, including:

- An update of the 1996 Jurisdictional Waters and Wetlands Report,
- Development of an environmental risk assessment and remediation plan for the site, and
- Feasibility Study of potential uses including space needs for locating a new Animal Services Building and Recycling Center on the site.

Factors Considered by LAFCO

The reorganization does not include agricultural land or Williamson Act land, or create islands or areas that are difficult to serve. The boundaries of the reorganization are definite and certain. The project conforms to lines of assessment and to LAFCO's street annexation policies. The project site is within Palo Alto's Urban Service Area and contiguous with the Palo Alto city limits. The City of Palo Alto has pre-zoned the subject properties Public Facilities and the project is consistent with the Palo Alto General Plan.

Public Services and Utilities

Fire protection services will be provided by the City of Palo Alto. The site is a 1.7 mile trip from the Fire Station No.4 at 3600 Middlefield Road. The City of Palo Alto Fire Department has been the "first responder" to this site since the 1980s. No new additional resources will be needed as a result of this annexation and there will not be a negative impact on the provision of fire protection service within the city.

Police services will be provided by the City of Palo Alto. The Palo Alto Police Department already provides services to the 13.6 acres site. No new additional resources will be needed as a result of this annexation and there will not be a negative impact on the provision of police service within the city.

As the City of Palo Alto owns its own utilities, water, gas, electricity, and sewer services will also be provided by the City of Palo Alto. The Palo Alto Utilities Department

provides these services to 55,000 people in the adjacent area. The Palo Alto Utilities Department anticipates adding some infrastructure such as underground water, gas, electric, and sewer lines as well as light poles following the annexation. This additional infrastructure will be funded by the City's Enterprise and General Fund Capital Improvement Program as the site is developed for municipal use. The Palo Alto Utilities Department does not anticipate any increased need for staffing or other resources and there will not be a negative impact on the service provision within the city.

Environmental Impact Analysis

The City of Palo, as Lead Agency, prepared an environmental impact report for the former Los Altos Sewage Treatment Plant (LATP) site development project that included annexation of the project site to the City of Palo Alto. The EIR analyzed various project alternatives and was circulated from November 1997 to mid January 2008 to various federal, state, and local agencies, and to members of the general public for review and comment. On January 14, 1998, the Palo Alto Planning Commission certified the adequacy of the Draft EIR and also recommended the reduced project alternative, in which the City Utilities storage and staging yard would be constructed elsewhere. The reduced project alternative was considered the environmentally superior alternative in the Draft EIR. It would allow a majority of the 3.4 acres originally targeted for a Utilities storage yard to either remain undisturbed or to be restored as wetlands. After considering the Planning Commission's comments and recommendations, the Palo Alto Public Works Department revised the proposed project consistent with the Planning Commission's recommendation. The City determined that no new impacts would result from modifying the original project and replacing it with the revised project and therefore the City determined that the Draft EIR did not need to be re-circulated for public review and comment.

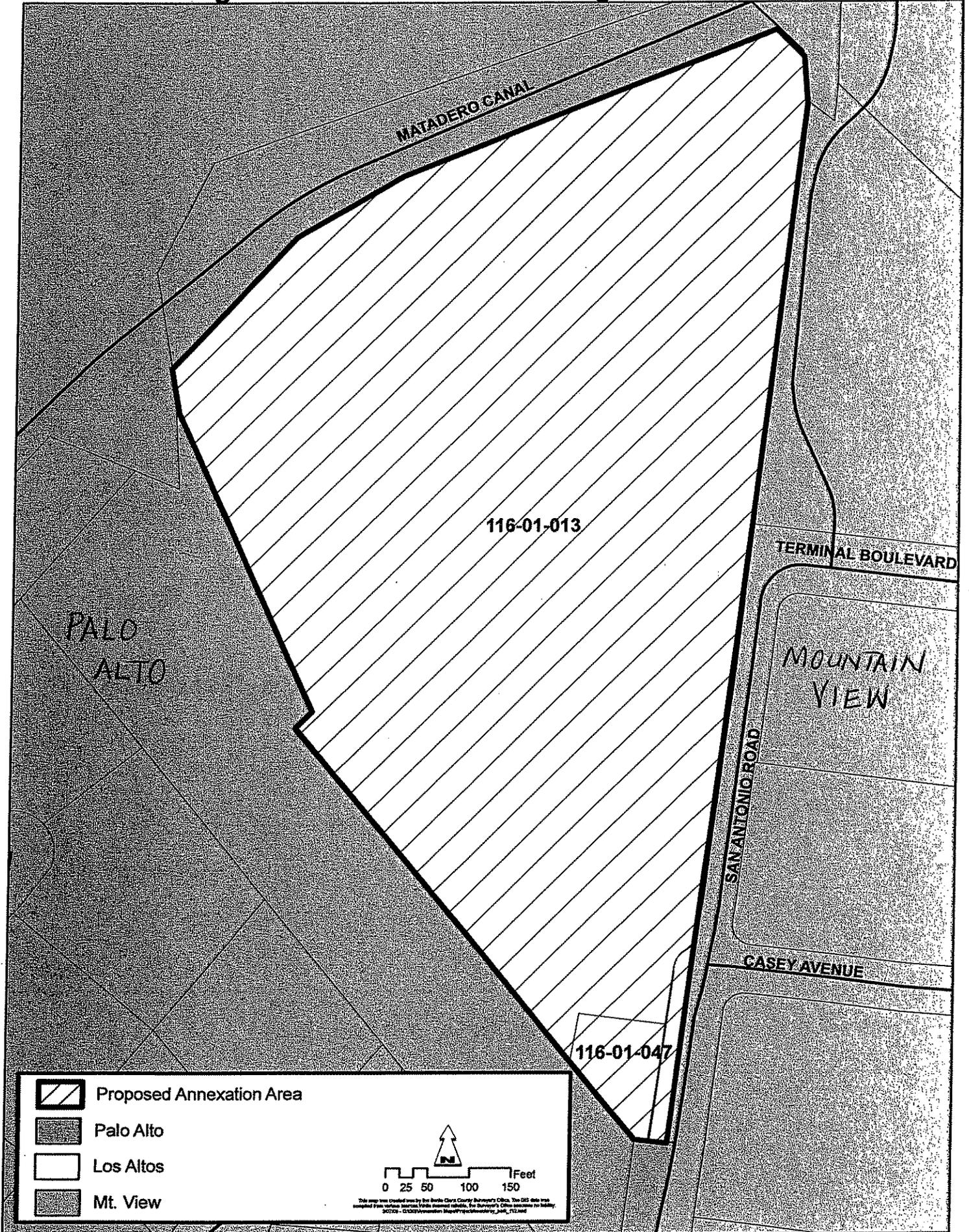
The City then prepared a Final EIR (Attachment D) which included the Conceptual Mitigation and Monitoring Plan dated August 25, 1999. On March 6, 2000, the City of Palo certified the EIR and approved a reporting and monitoring program (Attachment C) which was designed to ensure compliance with mitigation measures imposed to lessen the significant effects identified in the Final EIR. The City required mitigation for construction noise, construction impacts on air quality, soils, and biological resources (wetlands). The City determined that compliance with the proposed mitigation measures in the Final EIR would reduce these impacts to less than significant levels. Therefore the City Council determined that all significant impacts can be mitigated to a less than significant level.

Conclusion

The land to be detached from the City of Los Altos and annexed to the City of Palo Alto is owned by the City of Palo Alto. The project site has been within Palo Alto's Sphere of Influence since November 1985 and within its Urban Service Area for many years. The City of Palo Alto already provides fire and police services to the site and the Palo Alto's Utility Department has the capacity to provide the necessary services without negatively impacting the provision of public and utility services within the city. Staff therefore recommends approval of this request for reorganization.

Attachments

- A. Exhibit A (map) and Exhibit B (legal description)
- B. City of Palo Alto Resolution No. 8862 (dated October 6, 2008)
- C. City of Palo Alto Resolution No. 7940 Certifying Final EIR and approving the former LATP Site Development Project Conceptual Mitigation and Monitoring Plan (dated March 6, 2008)
- D. Draft EIR (dated August 1997) and Final EIR LATP Site Development Project (dated September 1999)
- E. City of Los Altos Resolution No. 98-4 (dated January 27, 1998)



MATADERO CANAL

116-01-013

TERMINAL BOULEVARD

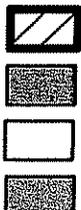
PALO
ALTO

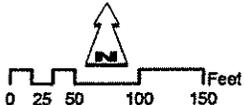
MOUNTAIN
VIEW

SAN ANTONIO ROAD

CASEY AVENUE

116-01-047

 Proposed Annexation Area
Palo Alto
Los Altos
Mt. View



This map was created using the San Diego County Surveyor's Office. The GIS data was compiled from various sources. While we strive for accuracy, we do not warrant the accuracy of the data. © 2010 San Diego County Surveyor's Office, All Rights Reserved.

**ANNEXATION
PALO ALTO REORGANIZATION-2008
(LOS ALTOS SEWAGE TREATMENT PLANT SITE)
ANNEXATION TO CITY OF PALO ALTO
GEOGRAPHIC DESCRIPTION**

All that certain property in the City of Los Altos, County of Santa Clara, State of California, being all of Parcel "B" as shown on that certain Record of Survey filed December 6, 1965, in Book 203 of Maps at page 12, Santa Clara County records, being a portion of the Rancho Rincon de San Francisquito, more particularly described as follows:

BEGINNING at the most easterly corner of that certain annexation entitled "Bayview Business Park", annexed to the City of Palo Alto by Resolution No. 5660, adopted on March 12, 1979, said point being the most Southerly corner of Parcel "B" as shown on said Record of Survey, being on the westerly line of San Antonio Road;

Thence along the general northerly line as established by said annexation "Bayview Business Park" (1) North 84° 00' 00" West, 30.00 feet;

Thence (2) South 06°00'00" West, 7.96 feet;

Thence (3) North 39° 50' 00" West, 662.99 feet;

Thence (4) North 50° 10' 00" East, 30.01 feet;

Thence (5) North 26° 35' 20" West, 403.20 feet to a point on the general easterly line of that certain annexation entitled "Bay Lands", annexed to the City of Palo Alto by Resolution No. 1642, adopted on January 12, 1948;

Thence leaving said "Bayview Business Park" annexation, along said "Bay Lands" annexation, (6) North 06° 00' 00" West, 53.57 feet to the most southerly corner of that certain annexation entitled "Flood Basin Enlargement", annexed to the City of Palo Alto by Ordinance No. 1843, adopted on April 13, 1959;

Thence leaving said "Bay Lands" annexation, along the general southerly line of said "Flood Basin Enlargement" annexation (7) North 42° 19' 00" East, 214.76 feet;

Thence (8) North 58° 40' 54" East, 146.97 feet;

Thence (9) North 66° 46' 49" East, 487.82 feet to a point on the general westerly line of that certain annexation entitled "Middlefield No. 6A" annexed to the City of Mt. View by Ordinance No. 175.346, adopted on February 13, 1956;

Thence leaving said "Food Basin Enlargement" annexation, along the general westerly line of said "Middlefield No. 6A" annexation (10) South 45° 30' 00" East, 55.13 feet;

Thence (11) South 06° 00' 00" West, 1,333.58 feet to the POINT OF BEGINNING and containing 13.597 acres of land, more or less.

END OF DESCRIPTION

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.

Kristina D. Comerer

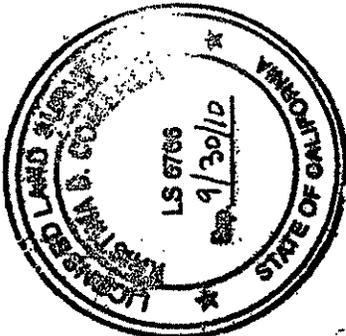
Kristina D. Comerer, PLS 6766
License expires: September 30, 2010

Date: Nov. 3, 2008



SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT AT THE REQUEST OF GLORIA HUMBLE, CITY OF PALO ALTO IN OCTOBER 2008.



Kristina D. Comer
 KRISTINA D. COMER—P.L.S. 6766
 LICENSE EXPIRES: SEPTEMBER 30, 2010
 DATE: Nov. 3, 2008
 116-01-033
 LANDS OF GOOGLE INC.
 DOC. NO. 18882286

R/S 203 M. 12
 PARCEL A

④ N 50°10'00" E
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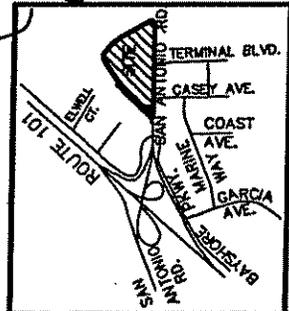
EXISTING CITY LIMITS LINE OF PALO ALTO AS ESTABLISHED BY ANNEXATION ENTITLED "BAYVIEW BUSINESS PARK" BY RESOLUTION NO. 5680, ADOPTED ON MARCH 12, 1979.

116-01-047
 LANDS OF CITY OF PALO ALTO
 9636 O.R. 183
 AREA = 0.324 ACRES ±

① S 06°00'00" W 1333.58
 SAN ANTONIO ROAD

CASEY AVENUE 70'

POINT OF BEGINNING



② S 06°00'00" W 7.96

① N 84°00'00" W 30.00

EXISTING CITY LIMITS LINE OF PALO ALTO AS ESTABLISHED BY ANNEXATION ENTITLED "BAY LANDS" BY RESOLUTION NO. 1642, ADOPTED ON JANUARY 12, 1948

⑥ N 06°00'00" W 53.57

⑤ N 25°35'20" W 403.20

R/S 203 M. 12
 PARCEL B

116-01-013
 LANDS OF CITY OF LOS ALTOS AND CITY OF PALO ALTO
 DOC. NO. 19575245
 GROSS AREA = 13.273 ACRES ±

⑦ N 42°19'00" E 214.76

⑧ N 58°40'54" E 146.97

116-01-014
 LANDS OF CITY OF PALO ALTO
 4194 O.R. 744

⑨ N 66°46'49" E 487.82

⑩ S 45°30'00" E 55.13

116-19-002
 LANDS OF CITY OF MT. VIEW
 8785 O.R. 717

TERMINAL BOULEVARD 90'

EXHIBIT B

PALO ALTO REORGANIZATION—2008
 (LOS ALTOS SEWAGE TREATMENT PLANT SITE) BEING ALL OF PARCEL "B" AS SHOWN ON R/S BK. 203 MAPS PG. 12 BEING A PORTION OF RANCHO RINCON DE SAN FRANCISCO Lying WITHIN THE CITY OF LOS ALTOS SANTA CLARA COUNTY, CALIFORNIA OCTOBER 2008 SCALE: 1" = 200'

LEGEND

BOUNDARY LINE
 CITY LIMITS LINE

008-05-005
 LANDS OF CITY OF PALO ALTO

EXISTING CITY LIMITS LINE OF PALO ALTO AS ESTABLISHED BY ANNEXATION ENTITLED "FLOOD BASIN ENLARGEMENT" BY ORDINANCE NO. 1843, ADOPTED ON APRIL 13, 1959

EXISTING CITY LIMITS LINE OF MT. VIEW AS ESTABLISHED BY ANNEXATION ORDINANCE NO. 175.346 ENTITLED "MIDDLEFIELD NO. 6A", ADOPTED FEBRUARY 13, 1956.

CROSS LAND SURVEYING, INC.
 2210 MT. PLEASANT ROAD
 SAN JOSE, CA 95148
 (408) 274-7994 PROJECT NO. 07-82



RESOLUTION NO. 8862

RESOLUTION OF THE COUNCIL OF THE CITY OF PALO ALTO REQUESTING THE SANTA CLARA COUNTY LOCAL AGENCY FORMATION COMMISSION (LAFCO) APPROVE A REORGANIZATION CONSISTING OF DETACHMENT OF THE LAND KNOWN AS THE "FORMER LOS ALTOS SEWAGE TREATMENT PLANT SITE" (1237 SAN ANTONIO ROAD) FROM THE CITY OF LOS ALTOS AND ANNEXATION OF THE LAND TO THE CITY OF PALO ALTO

WHEREAS, in 1984, the City of Palo Alto and the City of Los Altos entered into an agreement regarding joint ownership of the Los Altos Sewage Treatment Plant property and the agreement stipulated that the City of Los Altos would cooperate with Palo Alto to detach the land from Los Altos for annexation to Palo Alto, and

WHEREAS, on January 27, 1998, the City Council of Los Altos passed and adopted a resolution consenting to a reorganization consisting of detachment of the land known as the "Former Los Altos Sewage Treatment Plant Site" from the City of Los Altos and annexation of the land to the City of Palo Alto, and

WHEREAS, On March 6, 2000, the Palo Alto City Council certified the *Environmental Impact Report, LAMP Site Development Project* which included the annexation of the property, and

WHEREAS, On March 6, 2000, the Palo Alto City Council pre-zoned the land known as the "Former Los Altos Sewage Treatment Plant Site" as Public Facilities with a Site and Design combining district overlay, and

WHEREAS, in 2007, the City of Palo Alto and the City of Los Altos reached an agreement for the purchase of the land by Palo Alto and on January 4, 2008, the City of Palo Alto became the sole owner of the land known as the "Former Los Altos Sewage Treatment Plant Site", and

WHEREAS, the City of Palo Alto intends to use the land known as the "Former Los Altos Sewage Treatment Plant Site" for Public Facility purposes, and

WHEREAS, the land known as the "Former Los Altos Sewage Treatment Plant Site" is within both the sphere of influence and urban service area of the City of Palo Alto.

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NOW, THEREFORE, the Council of the City of Palo Alto does RESOLVE to request that the Santa Clara County Local Agency Formation Commission approve a reorganization consisting of detachment of the land known as the "Former Los Altos Sewage Treatment Plant Site" from the 1) City of Los Altos, 2) the El Camino Hospital District, and 3) the Santa Clara County Service Area No. 1 (Library Services) and annexation of the land to the City of Palo Alto.

INTRODUCED AND PASSED: October 06, 2008

AYES: BARTON, BURT, DREKMEIER, ESPINOSA, KISHIMOTO, KLEIN, MORTON, SCHMID

NOES:

ABSENT: YEH

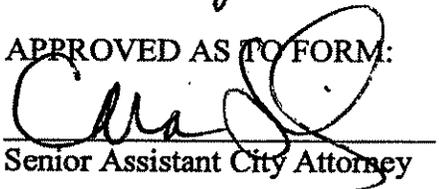
ABSTENTIONS:

ATTEST:


City Clerk

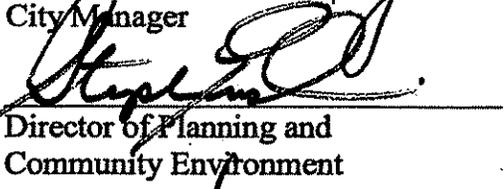

Mayor

APPROVED AS TO FORM:


Senior Assistant City Attorney

APPROVED:


City Manager

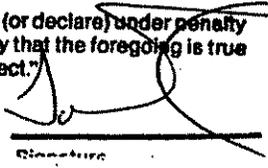

Director of Planning and Community Environment

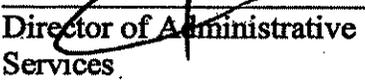
THE FOREGOING DOCUMENT IS CERTIFIED TO BE A CORRECT COPY OF THE ORIGINAL ON FILE.

CITY CLERK,
CITY OF PALO ALTO

"I certify (or declare) under penalty of perjury that the foregoing is true and correct."

October 8, 2008
Date & Place
City of Palo Alto, CA


Signature


Director of Administrative Services

RESOLUTION NO. 7940
RESOLUTION OF THE COUNCIL OF THE CITY OF PALO ALTO
CERTIFYING THE ADEQUACY OF THE LATP SITE
DEVELOPMENT PROJECT [REDACTED]
(STATE CLEARING HOUSE NO. 97032039) PURSUANT TO
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Council of the City of Palo Alto does RESOLVE as follows:

SECTION 1. Background. The City Council of the City of Palo Alto ("City Council") finds, determines, and declares as follows:

A. The Los Altos Treatment Plant ("LATP") site is at the end of North San Antonio Road, northeast of Highway 101. The site, slightly more than 13 acres in area, was used by the City of Los Altos as a waste water treatment plant until 1972. In 1984 the City of Palo Alto ("City") purchased a half interest in the property from the City of Los Altos. The two cities entered into a lease for the property under which the City of Palo Alto managed the property. In 1991, the City of Palo Alto Public Works Department began studying future uses of the property.

B. In August of 1996 the City circulated a Notice of Preparation of an Environmental Impact Report ("EIR") on development of the LATP site. The proposed project ("the Original Project") included a refuse collection contractor facility, a permanent household hazardous waste facility, and a construction storage/staging yard for the City of Palo Alto Utility Department field operations and contractors. The Draft EIR, dated August 1997, was circulated for public review in November and December of 1997. The public comment period was extended into January of 1998 to allow for additional public comment. The Planning Commission held a public hearing on the Draft EIR on January 14, 1998.

C. The Planning Commission recommended certification of the EIR when revised to respond to comments raised at its hearings. The responses to comments made at the hearing and previous to it are contained in that part of the Final EIR titled "Responses to Comments-Final Environmental Impact Report, LATP Site Development Project" dated September 1999.

D. After consideration of the Planning Commission comments and recommendations, the Department of Public Works revised its proposed project. The "Revised Project" is based on the "Reduced Project Alternative" (Draft EIR Section 5.5). This alternative eliminates the utility storage yard from the original project. This permits preservation or restoration of 3.4 acres of wetlands, while new development is limited to 3.8 acres.

E. The City as the lead agency for the Project has caused to be prepared a Final Environmental Impact Report ("Final EIR"). Pursuant to State CEQA Guidelines section 15132, the Final EIR consists of the following documents: "Draft Environmental Impact Report-LATP Site Development Project" dated August 1997, "Responses to Comments/Final Environmental Impact Report LATP Site Development Project" dated September 1999," and "LATP Site Developments Project Conceptual Mitigation and Monitoring Plan dated August 25, 1999", and planning and other City records, minutes, and files constituting the record of proceedings. The Final EIR was prepared pursuant to the California Environmental Quality Act, Public Resources Code section 21000, et seq. ("CEQA"), and the State CEQA Guidelines, California Code of Regulations, Title 14, section 15000, et seq. The Final EIR is on file in the office of the Director of Planning and Community Environment and, along with the planning and other City records, minutes and files constituting the record of proceedings, is incorporated herein by this reference.

F. The City Council, in conjunction with this resolution, is also approving a reporting and monitoring program pursuant to Public Resources Code section 21081.6, which program is designed to ensure compliance with mitigation measures imposed to lessen the significant effects identified in the Final EIR, and described in detail in Exhibit A which is attached hereto and incorporated herein by this reference.

SECTION 2. Certification. The City Council certifies that ~~the Final EIR has been completed in compliance with the California~~ Environmental Quality Act. The Final EIR was presented to the City Council and the City Council has reviewed and considered the information contained in the Final EIR. The City Council hereby finds that the Final EIR reflects the independent judgment of the City as lead agency.

SECTION 3. All Significant Impacts Can Be Mitigated to a Less Than Significant Level. The City Council finds that all significant impacts can be mitigated to a less than significant level. Mitigation is required for construction noise, construction impacts on air quality, soils, and biological resources (wetlands). Compliance with the proposed mitigation measures in the Final EIR would reduce these impacts to less than significant levels.

SECTION 4. No Basis for Recirculation. The Council finds that (a) no new impacts result from modifying the Original Project and replacing it with the Revised Project, and (b) there is no substantial evidence to support a conclusion that significant new information has been added to the Final EIR so as to warrant recirculation of the EIR pursuant to Public Resources Code Section

21092.1 and CEQA Guidelines Section 15088.5. This finding is based upon all the information presented in the Final EIR and record of proceedings to date.

INTRODUCED AND PASSED: March 6, 2000

AYES: BEECHAM, BURCH, EAKINS, FAZZINO, KLEINBERG, KNISS, LYTLE, MOSSAR, OJAKIAN

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

Donna J. Rogers
City Clerk

APPROVED AS TO FORM:

Wynne S. Fuchs
Senior Asst. City Attorney

APPROVED:

Tim Kniss
Mayor

Jan Perry
City Manager

Ed Bauer
Director of Planning and
Community Environment

TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
3.1 Land Use				
3.1.1: Elimination of Current Land Use Designation. The project would require conversion of 7.2 acres of land from a "Public Park" designation to "Major Institution/Special Facilities".	LS	None required.		
3.1.2: Consistency with LAFCO Issues. The project would be consistent with annexation/reorganization requirements of LAFCO.	LS	None required.		
3.2 Geology, Soils, and Seismicity				
3.2.1: Settlement. Existing fill materials are not compacted which could result in differential settlement of facility foundations due to compression or densification.	S	Non-engineered fill material beneath building and facility foundations will be replaced with appropriate engineered fill material to the native ground surface. All fill will be placed 4 to 6 weeks prior to construction of structures to avoid differential settlement.	City of Palo Alto Public Works Department and construction contractor	LS
3.2.2: Seismic Shaking. Major earthquakes could cause damage to the proposed facilities.	LS	None required. All structures will be engineered, designed, and constructed in accordance with current local, state, and Uniform Building Code seismic code requirements and engineering standards.		
3.2.3: Liquefaction. Fill materials in two former sedimentation basins in Area B could liquefy during a moderate earthquake event.	S	Existing fill within the sedimentation basins will be removed and replaced with engineered fill.	City of Palo Alto Public Works Department and construction contractor.	LS
3.2.4: Fault Rupture: No active faults are located beneath the site and the likelihood of surface rupture or fault creep is remote.	LS	None required.		

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
3.3 Water Quality	LS	None required.		
3.3.1: Groundwater Quantity. Stormwater runoff would be directed into the storm drainage system, thereby reducing the amount of recharge to the groundwater.				
3.3.2: Drainage Patterns and Runoff. The increase in impervious area (5.3 acres) would decrease infiltration rates and increase the rate and quantity of surface runoff.	LS	None required. Drainage systems would be installed as part of the project.		
3.3.3: Exposure to Flood Hazards. The increase in impervious area and the proposed increase in elevation of the site could increase flooding in areas near the site.	LS	None required.		
3.3.4: Surface Water Quality. Construction activities and materials associated with the project could increase the runoff of sediment and contaminants into drainage systems and impact water quality.	LS	None required. Water quality protection features are part of the project design.		
3.3.5: Groundwater Quality. Infiltration of stormwater runoff that has contacted pollutants from industrial activities on the site could impact groundwater quality.	LS	None required. Water quality protection features are part of the project design.		
3.3.6: Surface Water Quantity. Filling of wetlands would impact the amount of surface water in water bodies on the site.	S	See wetlands mitigation under Section 3.6, Biological Resources.		

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
<p>3.4 Air Quality</p>	<p>S</p>	<p>The following measures recommended by BAAQMD will be implemented: Water all active construction areas at least twice daily. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard. Pave, apply water 3 times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more). Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.). Limit traffic speeds on unpaved roads to 5 mph. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. Replant vegetation in disturbed areas as quickly as possible.</p>	<p>Construction contractor.</p>	<p>LS</p>
<p>3.4.2: Potential Generation of Asbestos-Bearing Materials During Demolition. If existing buildings contain asbestos, demolition could release asbestos emissions.</p>	<p>S</p>	<p>The following measures, extracted from BAAQMD Regulation 11, Rule 2 would be implemented: Consult with BAAQMD's Enforcement Division prior to commencing demolition. Provide an onsite representative who is familiar with the provisions of BAAQMD Regulation 11, Rule 2 to be present during all stripping and removal of Regulated Asbestos-Containing Material (RACM).</p>	<p>City of Palo Alto Public Works and demolition contractor</p>	<p>LS</p>

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
<p>3.4.3: Air Emissions from Project Operations. Emissions could result from vehicle trips, diesel and propane fuel storage and dispensing, paint spray booth operations, parts cleaning, and household hazardous waste handling.</p>	<p>LS</p>	<p>Provide a written plan or NOI to demolish a stationary structure, as directed by the air pollution control officer. Remove RACM prior to other demolition or other operations. Adequately wet and keep wet all exposed RACM during cutting, stripping, demolition, removal, and handling both inside and outside the building or; use a local High Efficiency Particulate Air (HEPA) exhaust, ventilation, and collection system designed and operated to capture RACM emissions. Remove elements that contain RACM in units, sections, leak-tight chutes, or containers. Isolate the building, room, facility, or installation by physical barrier from the outside air, to the extent feasible, as determined by the air pollution control officer. After wetting, and while still wet, seal all RACM in a leak-tight container prior to removal of the isolated area and deposit at an approved disposal site. All containers must be properly labeled. Other methods include: processing RACM into nonfirable forms (when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure), or converting RACM into asbestos-free material.</p>	<p>None required</p>	<p>LS</p>
<p>3.4.4: Odors. Project operation could result in odors from vehicle exhaust, truck washing,</p>	<p>LS</p>	<p>None required.</p>	<p>None required.</p>	<p>LS</p>

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Significance with Mitigation
<p>and the HHWF.</p> <p>3.5 Traffic and Traffic Safety</p> <p>3.5.1: Short-Term Future (1998) Plus Project Conditions. The project would increase traffic volumes by 4.3 percent at the U.S. 101 northbound on-ramp, increase volumes by less than 1 percent of capacity on U.S. 101, increase peak-hour traffic volumes by 10 vehicles, require queuing of vehicles for the HHWF, and change circulation patterns at the site.</p>	<p>LS</p> <p>None required.</p>		
<p>3.5.2: Comprehensive Plan Update Year 2010 Plus Project Conditions. The project would increase traffic volumes by 4.3 percent at the U.S. 101 northbound on-ramp, increase volumes by less than 1 percent of capacity on U.S. 101, increase peak-hour traffic volumes by 10 vehicles, require queuing of vehicles for the HHWF, and change circulation patterns at the site.</p>	<p>LS</p> <p>None required.</p>		
<p>3.5.3: Pedestrian and Bicyclist Safety. Development of three new driveways on the west side of North San Antonio Road could result in traffic conflicts with pedestrians and/or bicyclists and vehicles entering and exiting the facilities.</p>	<p>LS</p> <p>None required. Safety features such as a sidewalk and stop signs at driveways are part of the project design.</p>		
<p>3.6 Biological Resources</p> <p>Long-term Impacts To Vegetation</p> <p>3.6.1: Loss of non-native grassland vegetation. Approximately 3.7 acres of non-</p>	<p>LS</p> <p>None required.</p>		

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
<p>native grassland (including non-native trees) would be lost in Areas B and C. Approximately 1.4 acres of non-native grassland may be lost in Area A during wetland mitigation activities.</p>	<p>LS</p>	<p>None required.</p>		
<p>3.6.2: Invasion of Non-Native Plant Species Into Non-Native Grassland Habitat. During construction, invasion of exotic species (e.g., seeds transported via truck tires) into non-native grassland habitat adjacent to the project area could occur.</p>	<p>S</p>	<p>Conceptual and final wetlands mitigation plans will be developed and implemented in coordination with resource agencies.</p>	<p>City of Palo Alto Public Works Department</p>	<p>LS</p>
<p>3.6.3: Loss of Seasonal Wetland Vegetation. Approximately 0.2 acres of seasonal wetland vegetation would be lost.</p>	<p>S</p>	<p>Conceptual and final wetlands mitigation plans will be developed and implemented in coordination with resource agencies. The mitigation plan will include mitigation for the loss of brackish water wetland vegetation, as well as criteria to gauge and document the recovery of the brackish water wetland vegetation.</p>	<p>City of Palo Alto Public Works Department</p>	<p>LS</p>
<p>3.6.4: Loss of Brackish Water Wetland Vegetation. A small area that supports brackish water wetland vegetation in Area A could be lost during wetland creation activities.</p>	<p>LS</p>	<p>None required.</p>		
<p>Short-Term Impacts To Vegetation 3.6.5: Disturbance to Non-Native Grassland Vegetation. Small strips of non-native grassland habitat located onsite and adjacent to the project area could be temporarily disturbed during project construction. Small areas of non-native grassland adjacent to the location of wetland mitigation activities could be temporarily disturbed.</p>	<p>LS</p>	<p>None required.</p>		

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
<p>3.6.6: Disturbance to Seasonal Wetland Vegetation. Short-Term impacts that would negatively affect the growth and/or survival of remaining seasonal wetland vegetation could occur during construction.</p>	<p>S</p>	<p>Pond B4 and Pond B5 will be fenced off and denoted on project plans as environmentally sensitive areas.</p>	<p>City of Palo Alto Public Works Department</p>	<p>LS</p>
<p>3.6.7 Disturbance to Brackish Water Wetland Vegetation. Temporary impacts to brackish water wetland vegetation could occur during construction activities and during wetland mitigation activities.</p>	<p>S</p>	<p>The slough area in Area A will be denoted on project plans as environmentally sensitive areas. The mitigation plans will include criteria to gauge and document the recovery of brackish water wetland vegetation from temporary disturbance.</p>	<p>City of Palo Alto Public Works Department</p>	<p>LS</p>
<p>Long-term Impacts To Wildlife</p>				
<p>3.6.8: Interference With Wildlife Movements. Wildlife movements during dispersal and wildlife movements within a home range or territory would be altered.</p>	<p>LS</p>	<p>None required.</p>		
<p>3.6.9: Loss of Nesting Habitat for Terrestrial Avian Species. Loss of landscaping vegetation (i.e., trees and shrubs) along the western boundary of the site, which is used for nesting by terrestrial avian species.</p>	<p>LS</p>	<p>None required.</p>		
<p>3.6.10: Noise and Lighting. Project-related noise and increased lighting may discourage the use of the remaining ponds by waterfowl and shorebirds.</p>	<p>S</p>	<p>Lights installed on the project site will be shielded and directed away from the remaining ponds. A fence would be erected to shield the wetland birds from the vehicle and human activity on the project site.</p>	<p>City of Palo Alto Public Works Department</p>	<p>LS</p>
<p>3.6.11: Loss of Habitat for Wetland Species. The loss of Ponds B1, B2, B3, B6 and Ditches 1-3 would reduce the availability of wetland and open water habitat for numerous avian species; the number of</p>	<p>S</p>	<p>Mitigation plans for creation of replacement wetlands will be developed and implemented in coordination with resource agencies. Mitigation could include creating a combination of wetland types in the proposed location in</p>	<p>City of Palo Alto Public Works Department</p>	<p>LS</p>

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
wetland species that use the site would be reduced.	Area A (see Figure 3.6-1).			
3.6.12: Contamination of Adjacent Wildlife Habitats. If contamination from surface water runoff were to occur to habitats adjacent to the project area, the health or reproduction of wildlife (or plants) could be adversely affected.	LS	None required. With incorporation of project features (described in Section 3.3, Water Quality), to protect water quality, contamination would be prevented.		
Short-Term Impacts To Wildlife				
3.6.13: Disturbance to Wildlife. Temporary impacts to wildlife during project construction or wetlands creation could include increased noise and human activity associated with earthwork.	LS	None required.		
Long-term Impacts To Wetland Resources				
3.6.14: Loss of 1.4 Acres of Waters of the U.S. (Including Wetlands). Approximately 1.2 acres of open water habitat and 0.2 acres of seasonal wetland habitat would be lost. Ponds B1, B2, B3, B6 and Ditches 1 and 2 would be physically lost due to the importation of fill; Ditch 3 would be functionally lost.	S	As part of the permitting process, conceptual and final mitigation plans will be developed and implemented in consultation with resource agencies.	City of Palo Alto Public Works Department	LS
3.6.15: Disturbance to Wetland Resources. During wetlands creation in Area A, a small amount of brackish water wetland vegetation may be lost and the hydrologic regime of the slough may be altered.	S	Conceptual and final wetlands mitigation plans will be developed and implemented in coordination with resource agencies. The wetlands mitigation plans will include mitigation for the loss of brackish water wetland vegetation and altered hydrological regime of the slough, as well as criteria to gauge and document the recovery of the brackish water slough and associated wetlands. As	City of Palo Alto Public Works Department	LS

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Significance with Mitigation
<p>Short-Term Impacts To Wetland Resources 3.6.16: Disturbance to Wetland Resources. The remaining ponds and the slough could be disturbed by activities such as inadvertent trampling and earthwork associated with construction.</p>	<p>S</p>	<p>part of project plans, permanent security fencing would be erected and native shrubs would be planted to prevent long-term disturbance to remaining wetland areas onsite due to operation of proposed facilities.</p>	<p>LS</p>
<p>Long-term Impacts To Special Status Species 3.6.17: Impacts to Special Status Plants. No Special Status Plants were found on the site.</p>	<p>LS</p>	<p>The remaining pond areas and slough onsite would be fenced off and denoted on project plans as environmentally sensitive areas. The northern border of the project boundary would be inspected periodically by the contractor. Workers would be informed that the ponds in Area B and the slough in Area A are valuable resources and that they should be avoided.</p>	<p>Construction contractor</p>
<p>Short-Term Impacts To Special Status Wildlife Species. A small reduction in foraging habitat for special-status birds would occur.</p>	<p>LS</p>	<p>None required.</p>	<p>None required.</p>
<p>Short-Term Impacts To Special Status Wildlife Species. Temporary disturbance to special status wildlife species observed in Area A (American peregrine falcon and saltmarsh common yellowthroat) could include increased noise and other human</p>	<p>S</p>	<p>Any wetlands mitigation in Area A would be conducted outside of the breeding season of the saltmarsh common yellowthroat.</p>	<p>City of Palo Alto Public Works Department</p>

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TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Mitigation Responsibility	Significance with Mitigation
<p>activities associated with construction of the proposed project and during the potential creation of wetlands in Area A. Wetlands mitigation activities could disturb breeding activities of the saltmarsh common yellowthroat.</p>	<p>LS</p>	<p>None required. Implementation of safety features and regulatory requirements as part of the project would ensure protection of human health and the environment.</p>		
<p>3.7 Hazards</p>				
<p>3.7.1: Public and Worker Exposure to Hazardous Waste at the HHWF. Public and worker exposure to hazardous waste could occur in the event of illicit entry into the HHWF, emergency situations such as an explosion in the flammables bay, accidents during transport of packaged wastes from the facility, and accidents resulting from a major earthquake.</p>				
<p>3.7.2: Worker exposure from Fueling Station, Storage Tanks, and Paint Spray Booth.</p>	<p>LS</p>	<p>None required. Implementation of safety features and regulatory requirements as part of the project would ensure protection of human health and the environment.</p>		
<p>3.7.3: Accidental Releases from the HHWF to the Environment. Accidental release of contaminants to surface water and groundwater could result from unauthorized drop-off of waste during non-business hours and from emergency situations.</p>	<p>LS</p>	<p>None required. Implementation of safety features and regulatory requirements as part of the project would ensure protection of human health and the environment.</p>		
<p>3.8 Noise</p>				
<p>3.8.1: Increase in Ambient Noise Levels at Adjacent Commercial Office Buildings and Open Space Areas. Noise from refuse collection vehicle start up and vehicle</p>	<p>S</p>	<p>If workers in the adjacent office buildings are impacted by increased noise levels, the City would implement one of the following measures depending on the severity of the impact: 1) Install soundproofing and noise reducing</p>	<p>City of Palo Alto Public Works Department and</p>	<p>LS</p>

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 LS = Less than Significant Impact
 SU = Significant Unavoidable Impact

TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Significance with Mitigation
<p>maintenance activities could increase the highest instantaneous noise level inside adjacent office buildings to 60 dBA. Noise would exceed 50 dBA at the property line, an increase of over 8 dBA above the local ambient noise level, which is considered a violation of the City's Noise Ordinance.</p>	<p>S</p>	<p>windows in the office building, 2) Construct a shed over the parking spaces adjacent to the buildings to deflect noise, 3) Negotiate agreements regarding the timing of any particularly loud maintenance activity.</p>	<p>PASCO.</p>
<p>3.8.2: Increased Noise Levels at Adjacent Office Buildings During Construction. Construction activities such as grading and site paving could result in maximum noise levels of up to 90 dBA outside of the closest office buildings and 60 dBA inside the buildings.</p>	<p>S</p>	<p>All equipment used on the site will be adequately muffled and maintained. The construction contractor will designate a noise disturbance coordinator who would notify workers in the adjacent office building on the west side of the site about any particularly noisy activities, allowing them to adjust their schedules accordingly.</p>	<p>Construction contractor LS</p>
<p>3.8.3: Increase in Noise Levels on San Antonio Road Between the Site and the 101 Freeway. Refuse collection and recycling trucks would create an increase in noise levels during typical office hours by more than 1 or 2 dBA, an undetectable difference.</p>	<p>LS</p>	<p>None required.</p>	<p>None required.</p>
<p>3.9 Aesthetics 3.9.1: Aesthetic Change of Physical Site. The importation of fill to raise the refuse collection contractor portion of the site to 8 feet above MSL would cause the new structures to be more visible than the existing buildings.</p>	<p>LS</p>	<p>None required. Design features implemented as part of the project would ensure visual compatibility with the surrounding environment.</p>	<p>None required.</p>
<p>3.9.2: Increased Light or Glare. New light sources would be created on the site with</p>	<p>LS</p>	<p>None required.</p>	<p>None required.</p>

S = Significant Impact
 LS = Less than Significant Impact
 SU = Significant Unavoidable Impact

TABLE 1-1
Summary of Impact and Mitigation Findings

Impact	Significance without Mitigation	Mitigation	Significance with Mitigation
lighting at the refuse collection contractor facility from 2:30 A.M. until dawn.	None required.		
3.10 Recreation			
3.10.1: Loss of Public Park Land Use Designation. A land use designation change would result in the loss of 7.2 acres of land designated as "Public Park" in the Comprehensive Plan.	LS	None required.	
3.10.2: Impacts to Recreation. Users of adjacent parks could be impacted by traffic, noise, and dust generated during construction, and by traffic and noise during project operations. See these sections of the EIR for a discussion of impacts.	LS	None required.	

S = Significant Impact
 LS = Less than Significant Impact
 SU = Significant Unavoidable Impact

ITEM No. 5.1
ATTACHMENT D

COPIES OF THE DRAFT EIR (AUGUST 1997)
AND FINAL EIR LATP SITE DEVELOPMENT PROJECT
(SEPTEMBER 1997) ARE ON FILE AT THE LAFCO OFFICE

RESOLUTION NO. 98-4

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
CONSENTING TO A REORGANIZATION CONSISTING OF DEANNEXATION
OF "FORMER LOS ALTOS SEWAGE TREATMENT PLANT SITE"
FROM LOS ALTOS AND ANNEXATION TO PALO ALTO**

WHEREAS, City of Los Altos entered into a 1984 agreement with the City of Palo Alto regarding joint ownership of the Los Altos Sewage Treatment Plant site and the agreement stipulated that the City of Los Altos would cooperate with Palo Alto to deannex the site from Los Altos for annexation to Palo Alto;

WHEREAS, while the former Los Altos Sewage Treatment Plant site is located within the incorporated limits of Los Altos, it is also within the City of Palo Alto's sphere of influence (map and legal description attached as Exhibit "A");

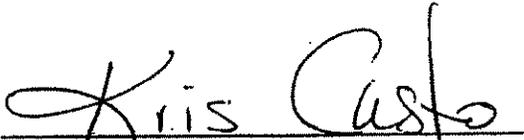
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Altos consents to a reorganization consisting of deannexation of land known as the "Former Los Altos Sewage Treatment Plant Site" from the City of Los Altos and annexation of the site to the City of Palo Alto.

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of a resolution duly passed and adopted by the City Council of the City of Los Altos, California, at a meeting thereof held on the 27th day of January, 1998, by the following roll call vote:

AYES: Mayor Casto, Councilmembers Becker, La Poll, Lear, and Moss

NOES: None

ABSENT: None


KRIS CASTO, MAYOR

Attest:


CAROL SCHARZ, CITY CLERK



Approximate Scale: 1"=5500'

Figure 2-2
Site Vicinity
Palo Alto LATP
Site Development EIR

EXHIBIT "A" - 2
 Reso. 98- 4

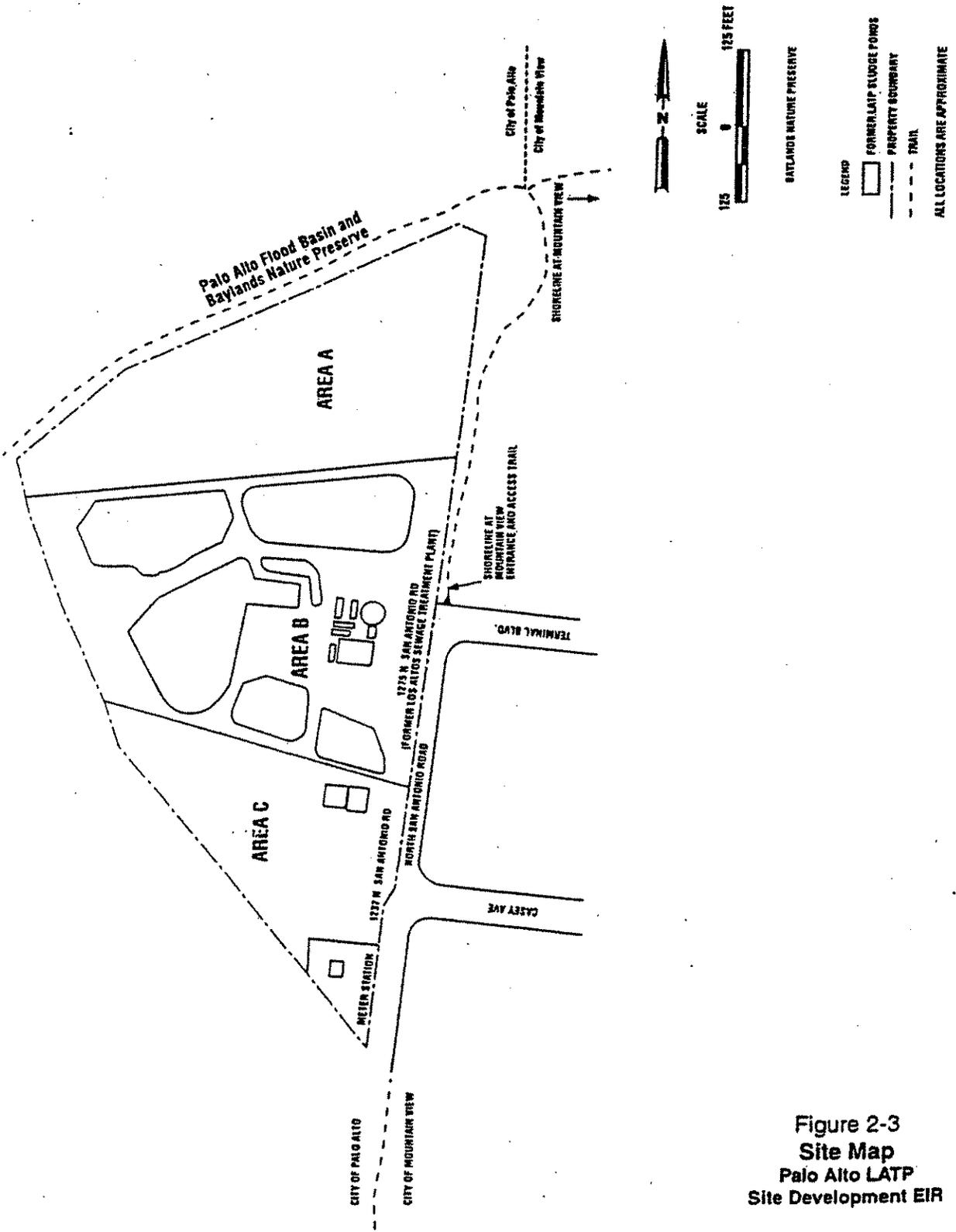


Figure 2-3
 Site Map
 Palo Alto LTP
 Site Development EIR

EXHIBIT "A" -3

Reso. 98-4

A.P. NO.

1 1-13

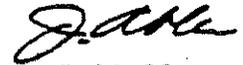
PREPARED BY:

E. Gibbs

CHECKED BY:

J. Abler

APPROVED BY:



DATE:

7-29-83

LEGAL DESCRIPTION

BEGINNING at the most westerly corner of Parcel B as shown on the map entitled "Record of Survey, Land of City of Los Altos, being a portion of Rancho Rincon de San Francisquito", which map was filed December 6, 1965, in Book 203 of Maps, page 12, Official Records of Santa Clara County, California; said point being the intersection of the courses S. 6° 00' 00" E. 53.57 feet and S. 42° 19' 00" W. 214.76 feet as said courses are shown upon said Record of Survey.

THENCE along the boundary of said Parcel B the following courses and distances:

N 42° 19' 00" E, 214.76 feet;
N 58° 40' 54" E, 146.97 feet;
N 66° 46' 49" E, 487.82 feet;
S 45° 30' 00" E, 55.13 feet;
S 6° 00' 00" W, 1191.54 feet to a point on the northeasterly line of that parcel of land described in the Deed to the City of Palo Alto, recorded December 21, 1971, in Book 9636, Official Records, page 183, Records of said County;

THENCE leaving said boundary line of Parcel B N 84° 00' 00" W, 125.00 feet;

THENCE S 6° 00' 00" W, 57.72 feet to a point on the southwesterly line of said Parcel B;

THENCE along said last named line and continuing along the boundary of said Parcel B the following courses and distances:

N 39° 50' 00" W, 530.55 feet;
N 50° 10' 00" E, 30.01 feet;
N 26° 35' 20" W, 403.20 feet and
N 6° 00' 00" W, 53.57 feet to the point of BEGINNING and being 13.273 acres more or less.

Date of Meeting: December 3, 2008

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: **West Valley Sanitation District Sphere of Influence (SOI)
Amendment and Annexation: WVSD 2008-2 (Overlook Road)
Agenda Item # 6**

STAFF RECOMMENDATION

CEQA Action

As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Mitigated Negative Declaration for this project:

1. Find that the *Initial Study and Mitigated Negative Declaration* approved by the West Valley Sanitation District on October 8, 2008 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project,
2. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the *Initial Study and Mitigated Negative Declaration*.
3. Find that a monitoring program was approved by the West Valley Sanitation District as Lead Agency and that the monitoring program ensures compliance with the mitigation measures identified in the *Mitigated Negative Declaration* that would mitigate or avoid significant impacts associated with the sphere of influence amendment and annexation, over which LAFCO has responsibility.

Project Action

1. Approve amendment of West Valley Sanitation District's SOI to include proposal area (approx. 52 acres) and adopt SOI determinations.
2. Approve annexation of proposal area depicted in Exhibits A & B (legal description and map) to the West Valley Sanitation District.

3. Find that the subject territory is inhabited, has less than 100% consent of the affected landowners, and direct the LAFCO Executive Officer to conduct the protest proceedings per the LAFCO Policies and the Cortese Knox Hertzberg Act.

PROJECT DESCRIPTION AND BACKGROUND

A group of property owners approached West Valley Sanitation District and expressed interest in annexing into the District's service area. To support this interest, the group filed a formal petition requesting annexation into the District. The property owners' primary objective for annexing into the District is to be able to connect to the District's sanitary sewer collection system in order to alleviate problems associated with existing septic systems, some of which currently exhibit signs of failure. The project area is located outside of the District's Sphere of Influence (SOI). However, the project area borders the western portion of the District's boundary and SOI, west of the City of Monte Sereno. In response to this request, the District has applied, by District Resolution, to LAFCO of Santa Clara County in order to expand its Sphere of Influence to include the project area and to annex the area into the District. Once the area is within the District, the District will extend its sanitary sewer system to the area.

The proposal consists of approximately 52 acres located off Linda Vista Avenue, Beckwith Road, and Overlook Road in an unincorporated area located outside of the City of Monte Sereno's Sphere of Influence. The 22 affected Assessor Parcel Numbers are: 510-31-015; 510-32-001, 003, 004, 006, 008, 010, 011, 016, 017, 018; 510-34-001, 006, 008, 010, 011, 014, 024, 025, 026, 027; and 510-35-003. The project area is surrounded by unincorporated large lot residential development to the north and east and open space lands to the south and west.

A District sewer main with sufficient extra capacity to serve these additional parcels is located immediately adjacent to the project area. The District will serve the area by constructing a 6-inch, gravity fed collection line within existing roadway Right-of-Way and along property boundaries. See attached map of proposal area. (**Attachment A**)

ENVIRONMENTAL IMPACT ANALYSIS

The West Valley Sanitation District approved a Mitigated Negative Declaration on October 8, 2008 by Minute Order for the proposed Sphere of Influence amendment and annexation involving approximately 52 acres. The District is requiring mitigation measures to reduce potential significant environmental effects to a less than significant level for air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, and traffic and transportation. A Mitigation Monitoring and Reporting Program consistent with the Mitigated Negative Declaration was approved by the District as part of the approval of the Mitigated Negative Declaration. The monitoring and reporting program will ensure

compliance with the mitigation measures that would mitigate or avoid significant impacts associated with the project.

CONSISTENCY WITH LAFCO FACTORS AND POLICIES

Conversion of Prime Agricultural Lands and Open Space

The project does not involve Williamson Act land. None of the project site is considered prime agricultural land. Therefore, there are no impacts on agriculture. In addition, there would be no significant impacts on open space resources.

Logical and Orderly, Efficient Boundaries

The proposed expansion is contiguous to the District's boundary and SOI. The existing SOI of the District for the most part is coterminous with the SOI of the West Valley cities of Monte Sereno, Saratoga and Los Gatos. The current sphere of the District as well as the spheres of the three cities extend beyond the cities' urban service area (USA). The County and the cities' general plans discourage urban development in the unincorporated areas beyond a city's USA by disallowing cities to annex lands outside the USAs and by disallowing urban services to lands outside the USA. The current District boundary extends beyond the City of Monte Sereno's USA and the proposal seeks to extend the District's SOI and boundary further southwest beyond the City's current SOI to enable sewer service provision to the existing single family homes in the unincorporated area. Given that Monte Sereno has not annexed the unincorporated lands within its USA and considering that it has adopted an urban limit line coterminous with its SOI, it is unlikely it will seek to expand its boundaries further west into the proposal area. The City has not expressed any concerns regarding this proposal.

The proposed annexation does not create islands and the proposed boundaries are definite and certain as determined by the County Surveyor. The proposal conforms to lines of assessment and to LAFCO's road annexation policies.

Public Health and Safety Issues

The County's Department of Environmental Health (DEH) issues septic permits and oversees system installations and repairs for properties in Santa Clara County. DEH has reviewed records for the subject properties as well as records for properties located within 300 feet of the subject area and has presented findings in a letter (**Attachment B**). The DEH letter also provides a professional opinion as to the current and future state of septic systems in the area. DEH notes that most of the septic systems in the area were installed prior to the current County Ordinance and are substandard. Many have a cesspool or at most a 1,000 gallon or 1,200 gallon septic tank and the leach field can range from 100 feet to 300 feet installed. The County's current Ordinance, requires for example, that a three bedroom home have a 1,500 gallon concrete septic tank and 400 feet of leach field installed (divided into two fields with a diversion valve). A number of properties have documented problems or issues with their septic systems or site restrictions which restrict

the repair or expansion of the existing septic systems. According to DEH, some properties are developed but do not have a septic permit, which indicates that the septic system was likely installed prior to the 1970s.

The majority of the developed parcels in the project area are 2 acres or less in size. Many parts of the project area have steep slopes (50% or higher), natural swales, installed drainage systems, large trees, cut slopes, retaining walls, road cuts, springs, creeks, wells, development, foundations, paved areas, road, landslides, easements and other mitigating site conditions, which limit or prohibit the installation of septic systems in the area. Repairs are often done to septic systems to maintain a habitable home; however, the repair does not meet all of the County Ordinance requirements. Under the County's regulations, remodels and additions over 500 square feet, and rebuilds require that the septic system be brought up to the current code and many of these properties can not conform due to the aforementioned limitations.

According to DEH, due to the age of the homes and septic systems in the area, the types of materials used in septic system construction prior to the 1970s, the small size of the lots, the terrain, the soil type and vegetation in the area, and the minimal size of the septic tanks and leach fields, it is very likely that septic system failures could occur in the project area at any time. Such failing septic systems could create a threat to the public health and safety of the area residents.

Growth Inducement

The County General Plan designation for the 22 parcels is Hillsides and they are all zoned Hs-d1 (Hillsides with a design review combining district) by the County. The Hs-d1 zoning designation requires a minimum lot size of 160 acres (without the use of the slope-density formula) or 20 to 160 acres per a dwelling unit based on the slope of the property.

As seen in the following Table, parcel sizes in the project area range from 0.01 acres to 21.13 acres. Therefore, the parcels do not meet the minimum lot standards for subdivision. Fourteen of the 22 parcels are currently developed with single family residences. Out of the 8 vacant parcels, three parcels consist of solely local streets. The remaining 5 parcels appear to be used as open space and are currently undeveloped. The parcels are small in size (between 0.04 and 0.46 acres) and have limited development potential without access to a sewer collection system. Assessor Parcel 510-32-017 at 0.04 acres is too small to be developed. Two of the parcels (APNs 510-34-026 and 510-34-027) appear to be used as a side-yard for a neighboring property (APN 510-34-024). Two other parcels (APNs 510-34-010 and 510-34-001) appear to be open space. Once these parcels are in the sanitation district and have access to a sewer system, they may have a greater potential to be developed under the County's regulations. The exact build-out potential for these parcels is very limited and will depend on specific site conditions.

To the east of the proposal area are unincorporated lands that could potentially seek annexation to the district in the future since those properties face similar conditions with

their septic systems as indicated in the preliminary report from the County Environmental Health Department. Any future expansion of the district to the south and west of the annexation area is restricted as those lands belong to the Mid Peninsula Regional Open Space lands and are in the El Sereno Open Space Preserve.

SOI AMENDMENT AND ANNEXATION AREA PROPERTY INFORMATION

Assessors Parcel No.	Approximate Acreage	Current Land Use
510-34-001	0.46	Vacant, Forest & Brush
510-31-015	0.37	Single Family Residence
510-34-011	1.18	Single Family Residence
510-34-027	0.11	Vacant, Open Space
510-34-026	0.13	Vacant, Open Space
510-34-024	0.31	Single Family Residence
510-34-025	0.01	Local Street
510-32-003	1.84	Single Family Residence
510-32-001	1.46	Single Family Residence
510-32-004	3.02	Single Family Residence
510-34-010	0.13	Vacant, Forest & Brush and Local Street
510-34-008	0.68	Single Family Residence
510-34-006	11.75	Single Family Residence
510-35-003	21.13	Single Family Residence
510-34-014	0.26	Local Street
510-32-008	3.28	Single Family Residence
510-32-011	1.03	Single Family Residence
510-32-010	0.77	Single Family Residence
510-32-018	1.46	Single Family Residence
510-32-017	0.04	Vacant, Forest & Brush
510-32-016	0.61	Single Family Residence
510-32-006	0.10	Local Street

Plan for Services

The District will serve the area by constructing a 6-inch, gravity feed collection line. The proposed 2,000 linear feet of sewer line will extend from the terminus of an existing 6-inch sewer pipe located in the backyard of a property located on Matilija Drive located to the north of the proposal area. From the connection point, the pipeline will extend south and diverge in two directions. Since the sewer pipeline will convey waste water via gravity, no new pump stations will be required. Wastewater conveyed by the new pipe line will ultimately flow into the District's sewer trunk line located along Quito Road to the east of the project area.

The project area is expected to generate approximately 2,200 gallons of wastewater per day (gpd). The District's total capacity is 12.05 million gallons per day (mgd) with 10.21 mgd already allocated. The District's existing collection system contains sufficient capacity to accept the project.

The District has estimated that the total project cost would be approximately \$729,900. The project will be financed through the District's Septic System Abandonment Program (SSAP). Under this program, the District designs and constructs the sewers wherever the residents have expressed interest in obtaining the sewer services and recovers the costs from property owners when they connect to the system. Unlike an assessment district, the program is entirely voluntary. Property owners are not required to participate in the costs until they decide to connect to the sewer system. To help encourage connection to the system, the district also offers a ten-year financing agreement for a parcel's pro rata share of the sewer costs. This agreement is recorded on the deed of trust and must be paid in full upon transfer of property ownership. Since the inception of the program, the District has designed and constructed 40 SSAP projects serving a total of 1100 parcels of which over 800 have connected to the system to date. Other than the 10-year financing agreement, the District's only agreement with property owners is the sewer connection permit itself which is not issued until all fees owed the agency have either been paid in full or financed under a SSAP agreement.

The SSAP is funded by the District's capital reserves. The District currently has \$24 million in its Capital Reserve Fund. The funds can only be used for design, construction and / or replacement of capital assets such as pipes, pump stations etc. For this project, the District would be using this funding source as an "advance" or loan to be repaid in full by the benefiting properties as they connect to the sewer system.

The District estimates that the costs per household (including the annexation fees) will be approximately \$40,000 per sewer connection. The District will also charge a flat \$50 per year fee (i.e. Hillside Zone fee) and an annual use charge of \$280 per single family residence. The Hillside Zone fee is allocated to a separate fund that can only be used by the District to recover the District's costs of replacing and/or repairing public sewers within the zone.

If LAFCO approves the SOI amendment and annexation, construction of the project is expected to begin in the summer of 2009 and will likely continue into the fall of 2009.

CONCLUSION

The SOI for the District was originally established to coincide with the SOI of the West Valley cities served by the District and thus the growth of the District is linked to the cities' plans for growth and expansion. The County does not provide urban services in the unincorporated areas and therefore consistent with this, the SOI of the District must not extend into the unincorporated areas outside the SOI of the West Valley cities.

The area seeking annexation consists of single family residences approved in the County which currently rely on septic systems for sewage disposal. The majority of the septic systems were likely installed prior to the 1970s and do not meet the current County standards. Several of these properties have documented problems with the septic systems. The steep terrain, the small size of the lots in the area and the type of soil and vegetation in the area preclude or restrict the repair or reconstruction of existing septic systems to meet the current standards.

Generally, to address such service situations, the area would be considered for annexation by the adjacent city to allow the city to provide services. In this case, the area is not contiguous to the City of Monte Sereno's USA or its city limits and so the preferred alternative of annexing to the city prior to provision of urban services is not a possible option. Furthermore, Monte Sereno does not provide sewer service; the area will need to be annexed to the District for sewer service.

Even though there is some potential for increased development within the proposal area as a result of the sewer extension this potential is limited due to the area being mostly developed, due to the County's restrictive general plan and zoning designation for the area and due to the restrictive site conditions of the properties. Further expansion of the District to the south and west is eliminated due to the presence of the Open Space preserve.

Extension of sewer service to these properties by including them within the District's boundaries would alleviate a public health and safety concern. Due to the lack of other feasible options for serving the existing homes and due to the limited potential for development in the unincorporated area outside cities' SOI and USA as a result of this annexation, staff recommends approval of the SOI amendment and annexation of the area to the West Valley Sanitation District.

NEXT STEPS

This application does not have consent from all property owners whose property is to be annexed to the District. Therefore, following LAFCO approval of such proposals, protest proceedings must be held pursuant to the Cortese Knox Hertzberg Act.

A date will be set for the protest proceedings and a notice will be sent out pursuant to the Cortese Knox Hertzberg Act (see **Attachment C**). The Executive Officer will conduct the protest proceedings. The Commission, on June 13, 2001, delegated all responsibilities of holding a protest proceeding to the LAFCO Executive Officer.

SPHERE OF INFLUENCE DETERMINATIONS

1. Present and planned land uses in the area, including agricultural and open-space lands

The area is currently designated Hillside in the County General Plan and the majority of the properties are developed with single family homes. No change in land uses are proposed or planned for the area. The area does not include agricultural and open-space lands.

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

The sphere amendment and annexation area is unincorporated and the properties rely on septic systems for sewage disposal. These septic systems, many of which were constructed in the 1970s are now substandard and are failing resulting in a threat to public health and safety. There is a need for sewer services in the area.

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

The West Valley Sanitation District has the ability to provide sewer services to the proposal area. The district's present capacity of public facilities and services is adequate.

4. Existence of any social or economic communities of interest in the area, if LAFCO determines that they are relevant to the agency.

The area is southwest beyond the SOI of the City of Monte Sereno and is fairly remote. The area is unincorporated and subject to the County land use jurisdiction, however, the access to the area is through the Town of Los Gatos.

ATTACHMENTS

- | | |
|------------------|---|
| Exhibit A and B: | Legal Description and Map of Annexation Proposal |
| Attachment A: | Map of Sphere of Influence Amendment and Annexation Proposal |
| Attachment B: | Letter from the County Department of Environmental Health dated November 21, 2008 regarding review of septic systems in the annexation area |

- Attachment C: Overview of LAFCO protest proceedings and flowchart showing protest thresholds
- Attachment D: West Valley Sanitation District Resolution # 08.09.01 supporting the SOI amendment and annexation 2008-2 (Overlook Road)
- Attachment E: West Valley Sanitation District Minute Order dated October 8, 2008, approving the Mitigated Negative Declaration
- Attachment F: Mitigated Negative Declaration and Overlook Road Septic Conversion Project Mitigation Monitoring Plan

EXHIBIT "A"

WEST VALLEY SANITATION DISTRICT
SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION 2008-2,
OVERLOOK ROAD

GEOGRAPHIC DESCRIPTION

All that certain real property situate in a portion of Section 19, Township 8 South, Range 1 West, Mount Diablo Base and Meridian, in the County of Santa Clara, State of California, described as follows:

BEGINNING at the most Southwesterly Corner of Annexation 2000-2 to West Valley Sanitation District;

Thence, (1) South 89° 55' 30" East 217.06 feet along the southerly boundary line of said Annexation 2000-2;

Thence, (2) North 89° 59' 30" East 312.58 feet;

Thence, leaving said southerly boundary line of Annexation 2000-2 (3) South 21° 39' 00" East 112.37 feet;

Thence, (4) South 18° 27' 00" West 211.68 feet;

Thence, (5) South 40° 58' 00" West 297.00 feet;

Thence, (6) South 00° 10' 00" East 43.00 feet;

Thence, (7) South 74° 30' 00" East 41.92 feet;

Thence, (8) North 83° 24' 00" East 127.30 feet;

Thence, (9) North 59° 06' 00" East 56.00 feet;

Thence, (10) North 72° 15' 00" East 162.60 feet;

Thence, (11) South 70° 00' 00" East 19.90 feet;

Thence, (12) South 27° 24' 00" East 51.20 feet;

Thence, (13) North 66° 51' 30" East 77.28 feet;

Thence, (14) South 64° 06' 00" East 33.85 feet;

Thence, (15) South 29° 49' 00" East 50.30 feet;

Thence, (16) South 07° 06' 00" East 35.70 feet;

Thence, (17) South 05° 01' 00" East 46.40 feet;

Thence, (18) South 40° 45' 00" East 95.40 feet;

Thence, (19) South 22° 01' 00" East 167.50 feet;

Thence, (20) South 17° 17' 00" West 41.70 feet;

Thence, (21) South 07° 50' 00" East 291.20 feet;

Thence, (22) South 51° 34' 00" West 73.60 feet;

Thence, (23) South 89° 47' 30" West 296.94 feet;

Thence, (24) South 12° 35' 00" East 407.22 feet;

Thence, (25) South 79° 14' 00" West 93.06 feet;

Thence, (26) South 60° 04' 00" West 116.82 feet;

Thence, (27) South 44° 30' 00" West 260.37 feet;

Thence, (28) South 68° 00' 00" West 360.36 feet;

Thence, (29) South 00° 00' 00" East 118.80 feet;

Thence, (30) South 59° 00' 00" West 618.42 feet;

Thence, (31) North 14° 32' 00" West 568.92 feet;

Thence, (32) North 16° 45' 00" East 213.18 feet;

Thence, (33) North 68° 30' 00" East 117.48 feet;

Thence, (34) North 00° 30' 00" East 265.98 feet;

Thence, (35) North 89° 35' 00" East 144.50 feet;

Thence, (36) North 08° 22' 00" East 466.13 feet;

Thence, (37) North 58° 45' 00" West 110.22 feet;

Thence, (38) North 35° 00' 00" East 3.80 feet;

Thence, (39) North 12° 35' 00" East 173.50 feet;

Thence, (40) North 47° 37' 00" East 44.50 feet;

Thence, (41) South 42° 23' 00" East 20.00 feet;

Thence, (42) North 75° 35' 00" East 65.50 feet;

Thence, (43) North 31° 50' 00" East 126.50 feet;

Thence, (44) North 38° 33' 00" West 55.80 feet;

Thence, (45) North 15° 30' 00" West 148.70 feet;

Thence, (46) North 06° 26' 00" West 130.45 feet;

Thence, (47) North 67° 30' 00" West 400.00 feet;

Thence, (48) North 13° 15' 00" East 122.00 feet to a point on the southerly boundary line of Annexation 1991-3 to West Valley Sanitation District;

Thence, (49) North 89° 55' 50" East 286.00 feet along said southerly boundary line of Annexation 1991-3;

Thence, (50) South 15° 25' 50" West 57.60 feet;

Thence, (51) South 39° 44' 10" East 65.85 feet;

Thence, (52) North 56° 20' 50" East 103.00 feet;

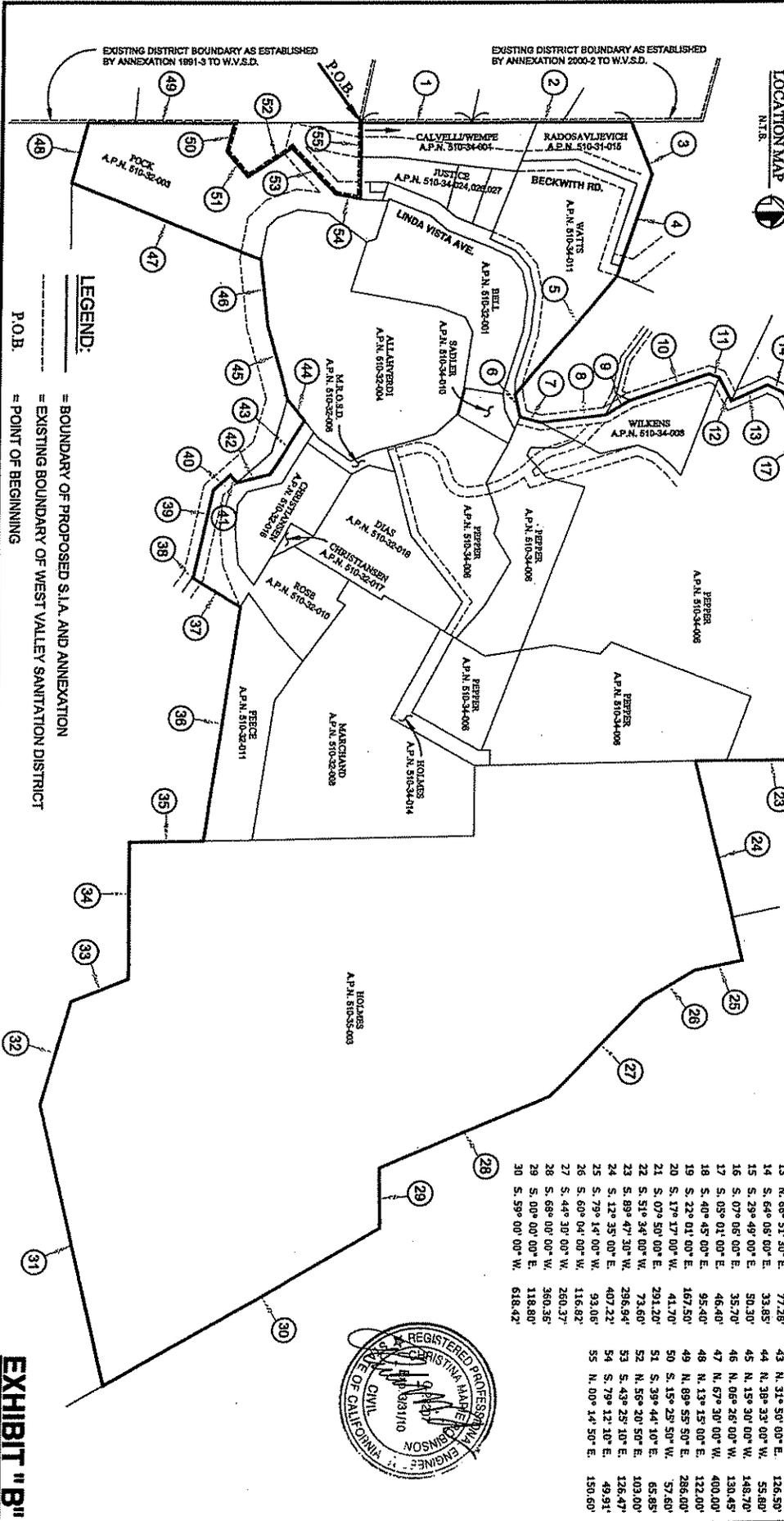
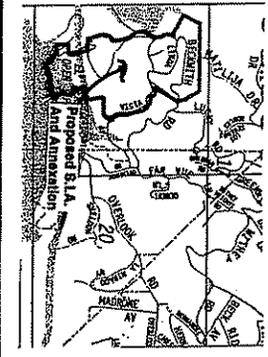
Thence, (53) South 43° 25' 10" East 126.47 feet;

Thence, (54) South 79° 12' 10" East 49.91 feet;

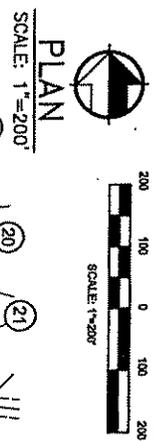
Thence, (55) North 00° 14' 50" East 150.60 feet to the POINT OF BEGINNING and containing 52.03 acres of land, more or less.



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.



LEGEND:
 = BOUNDARY OF PROPOSED S.I.A. AND ANNEXATION
 = EXISTING BOUNDARY OF WEST VALLEY SANITATION DISTRICT
 P.O.B. = POINT OF BEGINNING



TOTAL AREA = 52.03 ACRES

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.

NOTES:
 1. DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
 2. PROPERTY LINES AND LOT LINES SHOWN ARE RECORD DATA ONLY.
 3. BEARINGS AND DISTANCES SHOWN ARE RECORD DATA ONLY.

COURSE TABLE			COURSE TABLE		
No.	Bearing	Distance	No.	Bearing	Distance
1	S. 89° 55' 30" E.	212.05'	31	N. 14° 37' 00" W.	568.92'
2	N. 89° 59' 30" E.	312.58'	32	N. 16° 45' 00" E.	213.18'
3	S. 21° 39' 00" E.	112.37'	33	N. 68° 30' 00" E.	117.48'
4	S. 18° 27' 00" W.	211.68'	34	N. 0° 30' 00" E.	285.58'
5	S. 40° 50' 00" W.	297.00'	35	N. 89° 35' 00" E.	144.59'
6	S. 00° 10' 00" E.	43.00'	36	N. 08° 22' 00" E.	466.13'
7	S. 74° 30' 00" E.	41.92'	37	N. 58° 45' 00" W.	110.22'
8	N. 83° 34' 00" E.	122.30'	38	N. 35° 00' 00" E.	3.80'
9	N. 59° 06' 00" E.	56.00'	39	N. 12° 35' 00" E.	173.50'
10	N. 72° 15' 00" E.	152.60'	40	N. 47° 37' 00" E.	20.00'
11	S. 70° 00' 00" E.	19.90'	41	S. 42° 23' 00" E.	44.50'
12	S. 27° 24' 00" E.	51.20'	42	N. 75° 35' 00" E.	65.50'
13	N. 66° 51' 30" E.	77.28'	43	N. 31° 50' 00" E.	126.50'
14	S. 64° 06' 00" E.	33.85'	44	N. 38° 32' 00" W.	55.89'
15	S. 29° 49' 00" E.	35.70'	45	N. 15° 30' 00" W.	148.70'
16	S. 07° 05' 00" E.	73.60'	46	N. 05° 28' 00" W.	130.45'
17	S. 05° 01' 00" E.	46.40'	47	N. 67° 30' 00" W.	400.00'
18	S. 40° 45' 00" E.	95.40'	48	N. 13° 15' 00" E.	122.00'
19	S. 22° 01' 00" E.	167.50'	49	N. 89° 55' 50" E.	286.00'
20	S. 17° 17' 00" W.	41.70'	50	S. 15° 25' 50" W.	57.60'
21	S. 07° 50' 00" E.	291.20'	51	S. 39° 44' 10" E.	65.85'
22	S. 51° 34' 00" W.	73.60'	52	N. 56° 20' 50" E.	103.00'
23	S. 89° 47' 30" W.	296.94'	53	S. 43° 25' 10" E.	126.47'
24	S. 12° 35' 00" E.	407.22'	54	S. 79° 12' 10" E.	49.91'
25	S. 79° 14' 00" W.	93.06'	55	N. 00° 14' 50" E.	150.60'
26	S. 60° 04' 00" W.	116.82'			
27	S. 44° 30' 00" W.	260.37'			
28	S. 68° 00' 00" W.	360.35'			
29	S. 00° 00' 00" E.	118.80'			
30	S. 59° 00' 00" W.	618.42'			



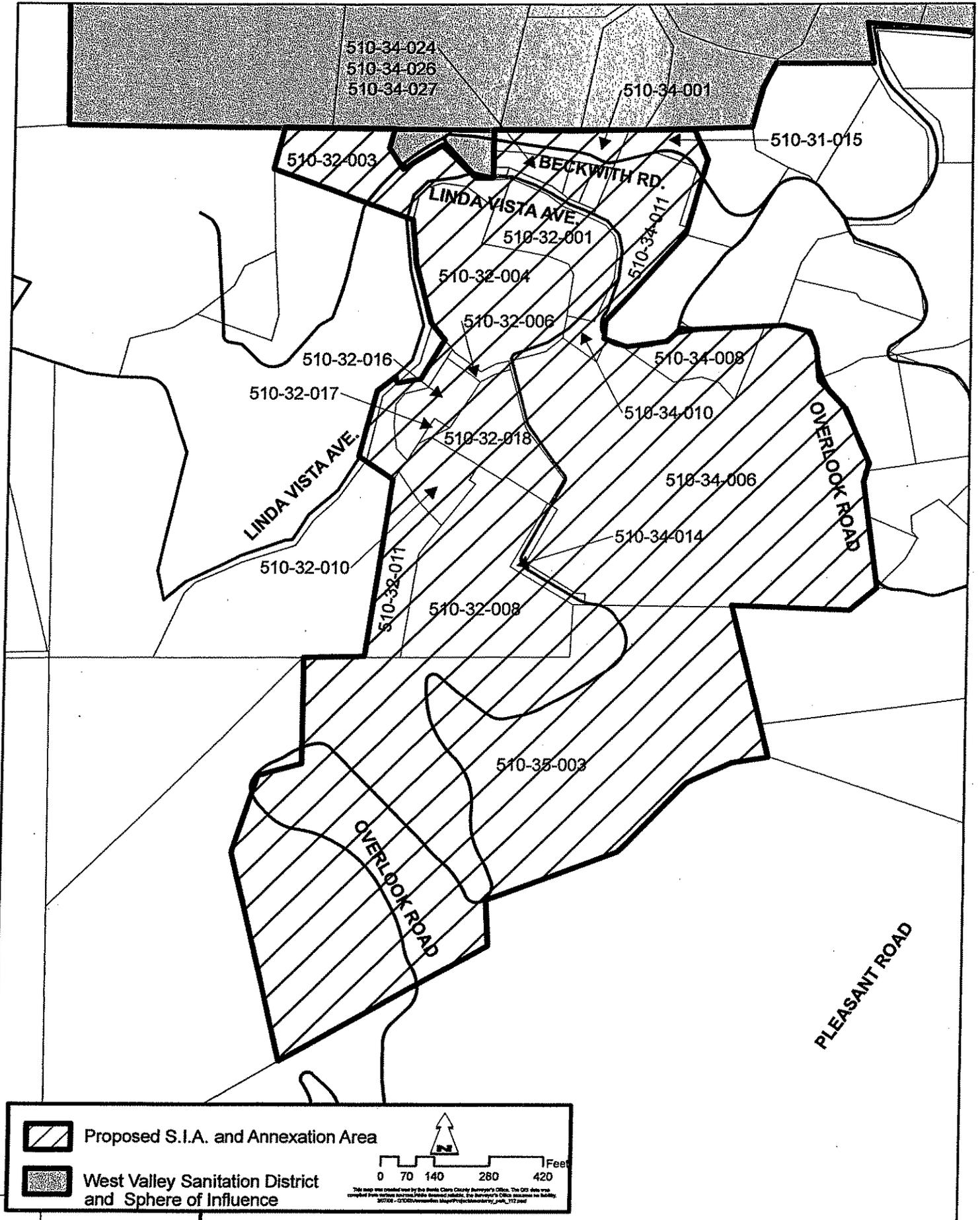
MASON-SULIC
 CIVIL & DESIGN CONSULTANTS, INC.
 2021 Via Alameda, Suite 100, San Jose, CA 95126 Tel: 408/291-0742 Fax: 408/291-0747
 10.21.08

PROPOSED WEST VALLEY SANITATION DISTRICT
 SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION 2008-02, OVERLOOK ROAD
 PORTION OF SECTION 19, TOWNSHIP 8 SOUTH, RANGE 1 WEST,
 MOUNT DIABLO BASE & MERIDIAN
 SANTA CLARA COUNTY, CALIFORNIA
 DRAWING NUMBER
08838-SIA-ANNEX

EXHIBIT "B"

West Valley Sanitation District Sphere of Influence Amendment and Annexation 2008-2, Overlook Road

ITEM NO. 6
ATTACHMENT A



November 21, 2008

Dunia Noel, LAFCO Analyst
Local Agency Formation Commission of Santa Clara County
70 W. Hedding St.
East Wing, 11th Floor
San Jose, CA 95110

Re: Review of specific properties on septic systems in Los Gatos for LAFCO

Dear Ms. Dunia Noel,

The Department of Environmental Health (DEH) maintains septic permits and oversees septic system installations and repairs for properties in Santa Clara County. LAFCO has asked DEH to review a number of properties (see attached table) to determine what issues exist in terms of septic system conditions, problems, repairs, and failures in this area.

The attached table notes if the properties have a septic permit, the date of permit, and the size of the septic tank and leach field installed. Most of these septic systems were installed prior to the current County Ordinance and are substandard. Many have a cess-pool or at most a 1,000 gallon or 1,200 gallon septic tank and the leach field can range from 100 feet to 300 feet installed.

Under today's septic system County Ordinance the following is a minimum size system for a three bedroom home:

- 1,500 gallon concrete septic tank; and
- 400 feet of leach field installed, divided into two fields with a diversion valve.

Of the 46 properties you asked us to review here is a summary of the relevant information:

- 7 have working files, in which we have conducted recent field evaluations of the site for the property owners.
- 17 have septic permits
- 29 do not have septic permits and indicated the septic system was likely to have been installed prior to the 1970's, or the lot is vacant and no septic system has been installed.

A number of the properties have documented problems or issues with their septic systems or site restrictions, which preclude or restrict development of the property.

- 19200 Beckwith Rd – In 1990 85 feet of leach field with double rock was added for a remodel. No additional area for leach field in future.
- 19201 Beckwith Dr – Repair 1992 with double rock due to failure of existing system. Limited space and setbacks restrict further improvement to septic system. No major remodel allowed.
- 16450 Matilija Dr - – Limitations to septic system upgrades include: springs, reservoirs, ravines, easements, water lines, and limited area for new leach field.
- 19040 or 19046 Overlook Rd – Limited area for leach field due to steep slope and swale.
- 19046 Overlook Rd – Limitations to septic system upgrades include: slopes >50%, swale, large trees, and cut slopes.
- 19044 Overlook Rd – In 1997, a repair was done for two houses. Installed 145 feet with double rock for main house and 115 with double rock for cottage. No additional area to install leach field. Limitations to septic system upgrades include: slopes >50%, swale, large trees, and cut slopes.
- 19050 Overlook Rd – Limited leach field area.
- 19120 Overlook Rd – In 1990, 416 feet installed with double rock due to limited leach field area.
- 19190 Overlook Rd – In 1996, an Inspector noted a cess-pool on-site, which will require abatement before any addition to house. There is also a spring on-site. Due to a spring in center of property on-site and the required 100 foot setback to the septic system, upgrade to the septic system can not occur. Additionally, there is a cesspool on-site which requires abatement. No additions or rebuild will be approved for this property.
- 19330 Overlook Rd – On Lot 2, the small house, which is reportedly uninhabited, has a failing septic system and a repair permit was issued, but work not completed. In 2006 an emergency septic system repair. Only 115 feet of leach line with double rock could be installed. No room for more leach field on-site
- 19376 Overlook Rd - Limitations to septic system upgrades include: slopes near 50%, large oak trees, and limited area for new leach field.

This area has many steep slopes up to and above 50% and even above 67%, natural swales, installed drainage systems, large trees, cut slopes, retaining walls, road cuts, springs, creeks, wells, development, foundations, paved areas, roads, landslides, easements and other mitigating site conditions, which limit or prohibit the installation of septic systems for many of these properties. Each of these issues requires a setback to the septic system from 5 feet to 100 feet. Repairs are often done to the septic systems to maintain a habitable home; however, the repair does not often meet all of the Ordinance requirements. Additionally, many homes are limited in site improvements they can do, due to the limitations of the septic systems. Remodels and additions over 500 square feet, and rebuilds require the septic system to be brought up to current code and many of these properties can not conform due to the aforementioned septic system installation limitations. Many properties have limited area to install additional emergency leach field in the event of a failure.

Overall, due to the age of the homes and septic systems in the area, the increased domestic water use in homes since they were built, the types of materials used in septic system construction prior to the 1970's, the small size of the lots, the terrain, the soil type and vegetation in the area, and the minimal size of the septic tanks and leach fields, it is very likely that septic system failures could occur at any time. As septic systems continue to fail and the inability of homes to be remodeled due to leach field installation restrictions, sewage disposal will be an ongoing problem in this area and there will continue to be more requests for sewer connections from individual property owners. The failing septic systems create a threat to public health and safety of the area residents and are a serious cause of concern to the Santa Clara Valley Water District with regard to water quality of the creeks, and their subsurface drinking water source.

Please call if you have any questions at (408) 918-3492.

Sincerely,

Nicole Jorgensen, REHS
Registered Environmental Health Specialist
Consumer Protection Division

C.c. File
C.c. Michael Cervantes, REHS
C.c. Humphrey Karioki, REHS
C.c. Ann Peden, REHS
C.c. Christy Kaufman, REHS

SUBJECT PARCELS								
Apn	SitusAdd	SitusCity	State Zip	septic permit #	permit date	septic tank (gal)	leach field (feet)	notes
51031015	19201 BECKWITH RD	LOS GATOS	CA. 95030-4125	30060	33829	1500	118	
51032001	19240 LINDA VISTA AV	LOS GATOS	CA. 95030-4155	61873	36859	1500	700	
51032003	19301 LINDA VISTA AV	LOS GATOS	CA. 95030-4155	no permit				
51032004	19341 OVERLOOK RD	LOS GATOS	CA. 95030-4127	62648	38757			
51032006	OVERLOOK RD	LOS GATOS	CA. 95030-0000					
51032008	19366 OVERLOOK RD	LOS GATOS	CA. 95030-4134	no permit				
51032010	19356 OVERLOOK RD	LOS GATOS	CA. 95030-4134	no permit				
51032011	19376 OVERLOOK RD	LOS GATOS	CA. 95030-0000	61753	36567	1500	666	Working File
51032016	19350 OVERLOOK RD	LOS GATOS	CA. 95030-4134	28537	32282	1500	400	
51032017	OVERLOOK RD	LOS GATOS	CA. 95030-0000					
51032018	19344 OVERLOOK RD	LOS GATOS	CA. 95030-4134	no permit				
51034001	BECKWITH RD	LOS GATOS	CA. 95030-0000					
51034006	19330 OVERLOOK RD	LOS GATOS	CA. 95030-4134	63237	39079	1500	115	Working File
51034008	19190 OVERLOOK RD	LOS GATOS	CA. 95030-4124	60718	35248	1000		Working File
51034010	LINDA VISTA RD	LOS GATOS	CA. 95030-0000					Working File
51034011	19200 BECKWITH RD	LOS GATOS	CA. 95030-4125	29819	32983	1500	500	
51034014	OVERLOOK RD	LOS GATOS	CA. 95030-0000					
51034024	19261 LINDA VISTA AV	LOS GATOS	CA. 95030-4155	no permit				
51034025	LINDA VISTA RD	LOS GATOS	CA. 95030-0000					
51034026	LINDA VISTA RD	LOS GATOS	CA. 95030-0000					
51034027	LINDA VISTA RD	LOS GATOS	CA. 95030-0000					
51035003	19340 OVERLOOK RD	LOS GATOS	CA. 95030-4134	50905 + 50906	34242	1500	600	
PARCELS WITHIN 300 FEET								
Apn	SitusAdd	SitusCity	State Zip					
51031048	16450 MATILJA DR	LOS GATOS	CA. 95030-3080	22236	23036	1200	600	Working File
51031049	16400 MATILJA DR	LOS GATOS	CA. 95030-3080	60717	35248	1175 (two)		
51031056	BECKWITH RD	LOS GATOS	CA. 95030-0000					
51031072	16530 LUCKY RD	LOS GATOS	CA. 95030-4131	no permit				Working File
51032005	19330 LINDA VISTA AV	LOS GATOS	CA. 95030-4155	no permit				
51032012	(LAND ONLY.)	LOS GATOS	CA. 95030-0000					
51032013			CA. -					
51032014	(LAND ONLY.)	LOS GATOS	CA. 95030-0000					
51032015	19500 LINDA VISTA AV	LOS GATOS	CA. 95030-4155	no permit				
51034005	18860 OVERLOOK RD	LOS GATOS	CA. 95030-4128	no permit				
51034009	19150 OVERLOOK RD	LOS GATOS	CA. 95030-4167	2999	33521	2000		
51034020	LINDA VISTA RD	LOS GATOS	CA. 95030-0000					
51034021	19050 OVERLOOK RD	LOS GATOS	CA. 95030-4165	22284	22719	1200	325	
51034022	19131 LINDA VISTA AV	LOS GATOS	CA. 95030-4158	no permit				
51034023	19120 OVERLOOK RD	LOS GATOS	CA. 95030-0000	29669	32772	1500	400	
51034029	19051 OVERLOOK RD	LOS GATOS	CA. 95030-4166	23942	25309	1500	200	
51034031	19040 OVERLOOK RD	LOS GATOS	CA. 95030-4165	no permit				
51034032	19046 OVERLOOK RD	LOS GATOS	CA. 95030-4134	23357	24433	1500	400	Working File
51034033	19044 OVERLOOK RD	LOS GATOS	CA. 95030-0000	60947	26582	1500 (two)	265	Working File
51034034	OVERLOOK RD	LOS GATOS	CA. 95030-0000					
51035001			CA. -					
51035002			CA. -					
51035004	(LAND ONLY.)	LOS GATOS	CA. 95030-0000					
51035005	(LAND ONLY.)	LOS GATOS	CA. 95030-0000					

All properties with APN only have no address and no working file.
Only 7 properties have working files as noted in 'notes' section.

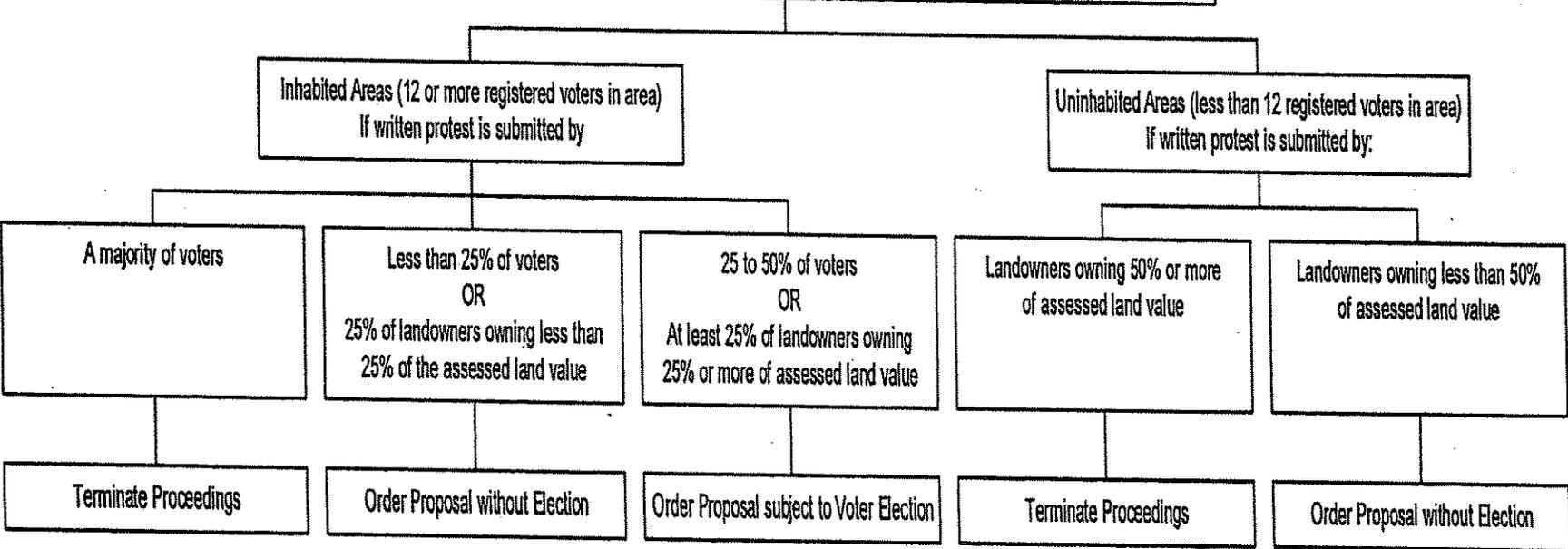
OVERVIEW OF LAFCO PROTEST PROCEEDINGS PROCEDURES

This application is a Non-100% Consent annexation proposal because not all owners of the parcels proposed for annexation have signed the petition for their property to be annexed into the District. Therefore, following LAFCO approval of a Non-100% Consent annexation proposal, the LAFCO Executive Officer must hold protest proceedings (Government Code Section 57000(c)) as follows:

1. Within 35 days of the adoption of the resolution by the Commission, and not prior to the 30-day reconsideration period for a Commission decision, the Executive Officer shall notice the proposal for protest hearing (Government Code Section 57002(a)).
2. Notices are required to be posted and published 21 days prior to the hearing. Notices are required to be sent to each affected city, district or county, all landowners owning land within the subject area, all registered voters within the subject area, and to anyone requesting special notice (Government Code Section 57025(b), (c), and (d)). As part of the protest hearing notice, landowners and registered voters in the affected area will receive a written protest form which they may mail or deliver to the LAFCO office. Protest may be filed with LAFCO from the date of the notice until the conclusion of the protest hearing.
3. The hearing date should be between 21 to 60 days from the date of the notice (Government Code Section 57002(a)).
4. At the protest hearing, the Commission's resolution is summarized and any oral or written protests are heard or received. Protests may be filed with LAFCO from the date of the notice until the conclusion of the protest hearing. Written protests may be withdrawn anytime prior to conclusion of the protest hearing. The law specifies rules for a valid protest. (Government Code Section 57050(b))
5. Within 30 days after the hearing, a finding is made on the value of written protests filed and not withdrawn (Government Code Section 57052), and based on that value (see Attachment B and Government Code Section 57075(a)) a resolution is adopted that:
 - a. Terminates proceedings (Government Code Section 57075(a)(1))
 - b. Orders the proposal without an election (Government Code Section 57075 (a)(3)), or
 - c. Orders the proposal subject to confirmation by the registered voters, i.e., an election must be conducted (Government Code Section 57075 (a)(2)).
6. The finding is based solely on the percentage of valid written protests that were submitted prior to the close of hearing.
7. If an election must be conducted, LAFCO is required to inform the Board of Supervisors of the Commission's determination and request them to direct the elections official to conduct the election.

PROTEST THRESHOLDS

For Annexations, Detachments or County Service Area Formations
(In Registered Voter Districts and Cities)
(Section 57075)



RESOLUTION NO. 08.09.10

RESOLUTION OF THE BOARD OF DIRECTORS OF
WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY
SUPPORTING SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION 2008-02,
OVERLOOK ROAD, LOS GATOS

Whereas, West Valley Sanitation District of Santa Clara County has received a request for a sphere of influence amendment and annexation of territory designated as "Sphere of Influence Amendment and Annexation No. 2008-02, Overlook Road," which territory is more particularly described in Exhibits "A" and "B," which are attached hereto and made part hereof by reference; and

Whereas, the Board of Directors of the West Valley Sanitation District has reviewed the request for annexation designated "Sphere of Influence Amendment and Annexation 2008-02, Overlook Road," and has determined that the District wishes to provide sewer service to the area;

NOW, BE IT RESOLVED, that the Board of Directors of West Valley Sanitation District supports the annexation designated "Sphere of Influence Amendment and Annexation 2008-02, Overlook Road."

Passed and adopted by the Board of Directors of West Valley Sanitation District of Santa Clara County at its regular meeting held on the 10th of September, 2008, by the following vote:

AYES: Directors: Baxter, Burr, Kao, McNutt, Yeager

NOES: Directors: None

ABSENT: Directors: None

Diane McNutt
Chairperson of the Board of Directors
West Valley Sanitation District of
Santa Clara County, California

Attest:

Janna Fuller
Secretary

The foregoing instrument is a correct
copy of the original on file in this office.
WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY.

Attest: Janna Fuller
Secretary

Dated: Sept. 23, 2008

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
OCTOBER 8, 2008**

The Board of Directors of West Valley Sanitation District of Santa Clara County, California, convenes this day in regular session at 6:00 p.m. at the district office, 100 East Sunnyoaks Avenue, Campbell, California, with the following members present: David Baxter, Dan Furtado (Alternate for Donald R. Burr), Chuck Page, Ken Yeager, and Diane McNutt, Chairperson. Staff present are Robert R. Reid, District Manager and Engineer; Charles T. Kilian, District Counsel; Edward H. Oyama, Director of Engineering and Operations; and Joanna Fuller, Secretary.

The minutes of the previous meeting are approved as presented.

Oral communications: This portion of the meeting is set aside for persons wishing to address the board on any matter not on the agenda. There is no public comment.

Written communications: No written communications have been received.

Reports: The following reports are submitted for action in one motion:

San Jose/Santa Clara Water Pollution Control Plant: Minutes of the September 11, 2008, regular meeting, and minutes of the September 24, 2008, special meeting of the Treatment Plant Advisory Committee.

District Open House to celebrate 60 years of service: The manager reports that the Open House is scheduled for Thursday, October 30, 2008, from 3:00 to 5:00 p.m. in the district's maintenance facility.

The reports are accepted.

* Public Hearing: A public hearing is scheduled to receive comments on the proposed Sphere of Influence Amendment and Overlook Road Septic System Conversion Project. The project consists of amending the district's sphere of influence to facilitate annexation of approximately 20 residential parcels in the Overlook Road area, enabling the residents to convert their existing septic systems to public sanitary sewer. The project includes construction of a 6-inch sewerline along portions of Overlook Road and Linda Vista Avenue. At the September 10 board meeting the board adopted a resolution supporting the sphere of influence amendment and annexation, and staff subsequently filed an initial study and mitigated negative declaration in compliance with CEQA guidelines. The 30-day comment period has ended, and a public hearing is required to consider any comments received. The manager reports that no comments were received

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
OCTOBER 8, 2008 (Continued)**

other than a letter from the California Department of Transportation advising of construction equipment permit requirements. After the staff report, the chair opens the hearing, and noting that no comments have been received, closes the public hearing. Upon staff recommendation, the board approves the Mitigated Negative Declaration, approves the Overlook Road Septic System Conversion Project, and directs staff to file the Notice of Determination with the County Clerk.

Consent Calendar: The following items are submitted for action in one motion:

Approval of payment of bills and ratification of payroll summaries of August 24, September 7, and September 21, 2008.

Quito Basin No. 8 Sewer Rehabilitation Project: Results of bids and award of contract to K. J. Woods Construction, Inc., at their bid price of \$1,284,000.00; and approval of construction contingency of \$200,000.00.

Quito Basin No. 7, Area 1: Authorization to issue a design contract to Allied Engineering Company for the Quito Basin No. 7, Area 1, Sewer Rehabilitation Project, at a total cost of \$82,500.00.

Adoption of RESOLUTION NO. 08.10.11, RESOLUTION ACCEPTING SEWERAGE SYSTEM INSTALLED BY ROBERT P. DAVIES, TRUSTEE, AND SITUATED WITHIN THE WEST VALLEY SANITATION DISTRICT: Resolution accepts the sewer extension in Foster Road, Los Gatos, for maintenance by the District.

The consent calendar is approved unanimously.

Under new business, staff reports that pursuant to the policy regarding compensation of the District Manager, an ad hoc subcommittee is to be appointed to review the manager's performance and develop recommendations for consideration by the full board. Pursuant to the policy, the board appoints Directors McNutt and Page to the subcommittee and directs them to report back to the board in closed session at the November board meeting.

Under Directors' Items, Director Furtado reports that Director Burr has been seriously ill and therefore unable to attend tonight's board meeting, and that Mr. Burr will be unable to attend the November board meeting because of his attendance at the League of Cities conference. Since Mr. Burr will not be on the board after November, he has asked Mr. Furtado to convey his thanks to his colleagues on the board and to staff, and to express his appreciation to everyone for the time he has served on the board.

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
OCTOBER 8, 2008 (Continued)**

There being no further items of business, the meeting is adjourned at 6:10 p.m.

DIANE MCNUTT, CHAIRPERSON

Attest:

Secretary

ITEM NO. 6
ATTACHMENT F

COPIES OF THE MITIGATED NEGATIVE DECLARATION AND
OVERLOOK ROAD SEPTIC CONVERSION PROJECT
MITIGATION MONITORING PLAN HAVE BEEN PROVIDED
TO COMMISSIONERS ARE ON FILE AT THE LAFCO OFFICE

REPORT OF THE EXECUTIVE OFFICER

Type of Application: Annexation to the Santa Clara County Central Fire Protection District
Designation: Arnerich-Wagner Road No. 1
Filed By: Landowner Petition (Non-100% Consent)
Support By: Santa Clara County Central Fire Protection District, per letter dated 10/21/2008
LAFCO Meeting Date: December 3, 2008 (Agenda Item #7)

1. REVIEW OF PROPOSAL:

a. Acreage and Location of Proposal:

The proposal consists of approximately 42.5 acres located off Arnerich Road, Hicks Road, and Wagner Road. The majority of the project area is within the city limits of Los Gatos. The entire project area is located within Los Gatos' Urban Service Area and Los Gatos is currently in the process of annexing the remaining three unincorporated parcels in the project area. The 10 affected Assessor Parcel Numbers are: 537-11-008, 009, 011, 015, 030, 031, 032; 537-17-030, a portion 031, and a very small portion of 032. The proposal is Non 100% Consent, as the owner of APN 537-17-032 has not consented to this annexation. Please see attached vicinity map for location of proposal.

b. Proposal is: Inhabited Uninhabited

c. Are boundaries Definite and Certain? Yes No

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

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

An undeveloped portion of APN 537-17-032 is included in this annexation in order to avoid creating an island, as the remaining developed portion of the parcel is already within fire district. A developed portion of APN 537-17-031 is also included in this annexation in order to avoid creating an island, as the remaining portion of the parcel is already within the fire district.

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

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

The boundaries of the proposal cut through a small portion of parcels 537-17-031 and 510-17-032 which is adjacent to Arnerich Road. The remaining portions of both parcels are already located within the boundaries of the fire district.

h. Present land use: Single Family Residential, and undeveloped.

i. Proposed land use: No Change.

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

2. ENVIRONMENTAL REVIEW:

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

3. SUGGESTED CONDITIONS OR OTHER COMMENTS:

None.

4. RECOMMENDATIONS:

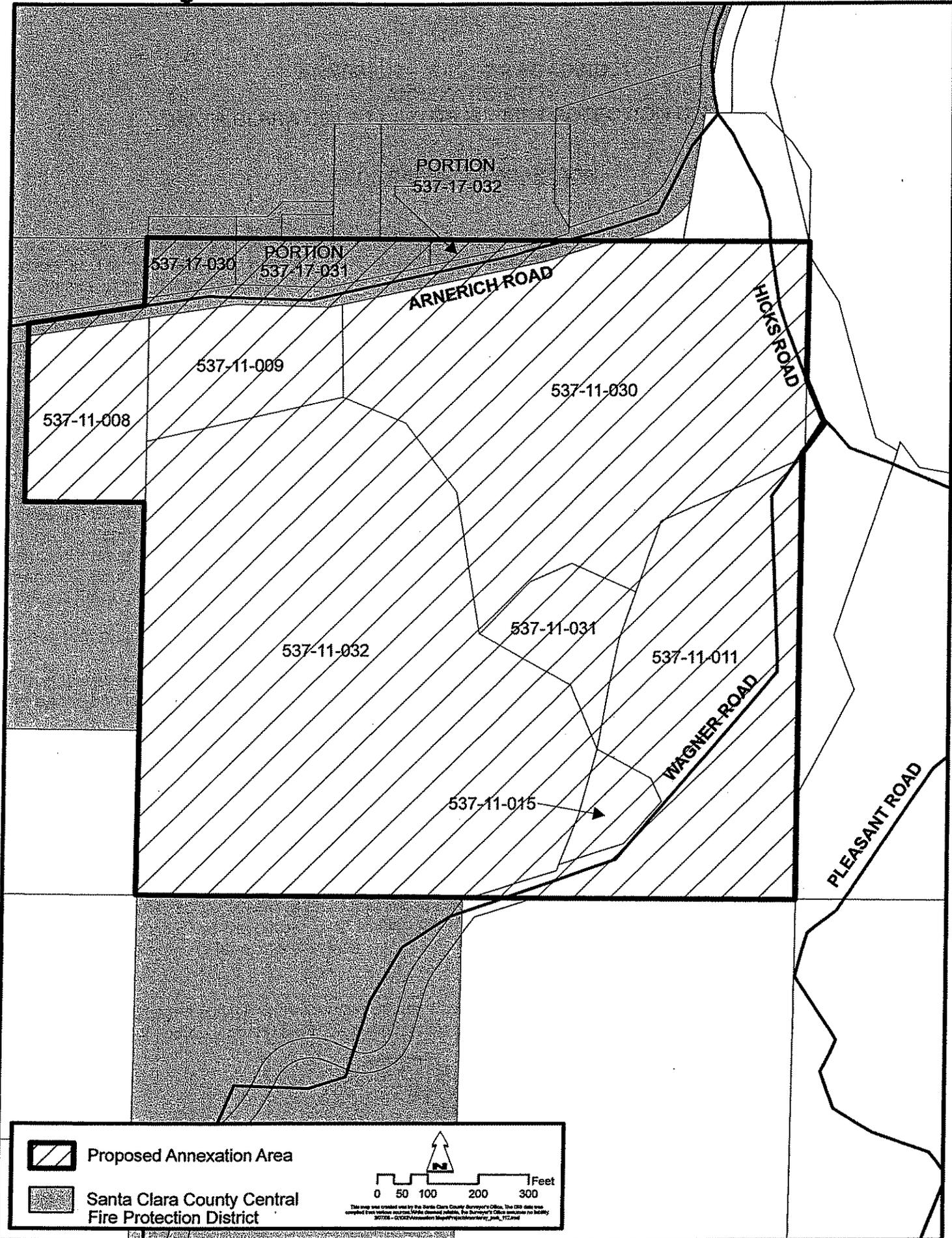
1. Take CEQA action as recommended in the LAFCO Analyst Report (Attachment C)
2. Approve annexation to the Santa Clara County Central Fire Protection District of proposal area depicted in Exhibits A & B.

3. Find that the subject territory is inhabited, has less than 100% consent of the affected landowners, and direct the LAFCO Executive Officer to conduct the protest proceedings per the LAFCO Policies and the Cortese Knox Hertzberg Act. The Commission, on June 13, 2001, delegated all responsibilities of holding a protest proceeding to the LAFCO Executive Officer. A date will be set for the protest proceedings and a notice will be sent out pursuant to the Cortese Knox Hertzberg Act (see Attachments A & B).

By: Neelima Palacherla
Neelima Palacherla, Executive Officer

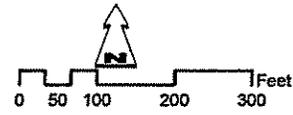
Date: 11/26/08

Arnerich-Wagner Road No. 1



 Proposed Annexation Area

 Santa Clara County Central Fire Protection District



This map was created using the Santa Clara County Surveyor's Office. The GIS data was compiled from various sources. While deemed reliable, the Surveyor's Office assumes no liability for errors. 3/27/08 - GIS/Information Support/Information/Map_112.mxd

EXHIBIT "A"

ARNERICH – WAGNER ROAD NO. 1
ANNEXATION TO
SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

GEOGRAPHIC DESCRIPTION

All that certain real property situate in a portion of Section 25, Township 8 South, Range 1 West, and in a portion of Section 30, Township 8 South, Range 1 East, Mount Diablo Base and Meridian, in the County of Santa Clara, State of California, described as follows:

BEGINNING at the most Southeasterly Corner of the original Central Fire District Boundary established December 1947; said corner also being the Section Corner common to Sections 24 and 25, Township 8 South, Range 1 West, and Sections 19 and 30, Township 8 South, Range 1 East, Mount Diablo Base and Meridian;

Thence, (1) South 00° 00' 00" East 164.02 feet;
Thence, (2) South 23° 06' 30" East 235.50 feet;
Thence, (3) South 36° 30' 00" West 155.38 feet;
Thence, (4) South 00° 00' 00" East 60.44 feet;
Thence, (5) South 07° 58' 30" East 59.67 feet;
Thence, (6) South 02° 53' 30" East 247.20 feet;
Thence, (7) South 40° 35' 00" West 31.90 feet;
Thence, (8) South 00° 00' 00" East 431.35 feet;
Thence, (9) South 89° 39' 00" West 648.93 feet to a point on the northerly boundary line of the Van Cott Annexation to Central Fire District;

Thence, (10) South 89° 39' 00" West 649.00 feet along said northerly boundary line of the Van Cott Annexation;

Thence, leaving said northerly boundary line of the Van Cott Annexation, (11) North 00° 00' 00" East 332.64 feet to a point on the boundary line of the Lands of Unruh Annexation to Central Fire District;

Thence, (12) North 00° 25' 20" West 474.23 feet along said boundary line of the Lands of Unruh Annexation;

Thence, (13) South 89° 34' 40" West 242.88 feet;
Thence, (14) North 00° 25' 20" West 334.82 feet;
Thence, (15) North 78° 26' 54" East 247.54 feet;
Thence, (16) North 00° 25' 20" West 132.46 feet to a point on the southerly boundary line of the original Central Fire District Boundary established December 1947;

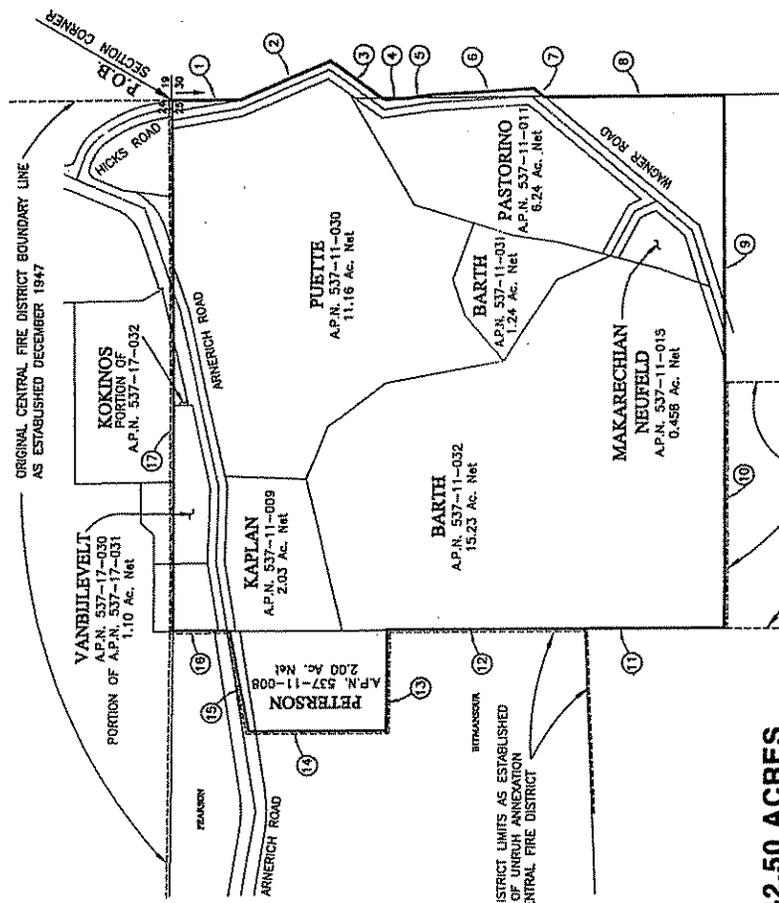
Thence, (17) North 89° 30' 00" East 1,313.40 feet along said southerly boundary line of the original Central Fire District Boundary established December 1947 to the POINT OF BEGINNING and containing 42.5 acres of land, more or less.

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.

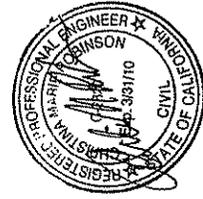


PROPOSED ANNEXATION TO THE SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT
ARNERICH-WAGNER ROAD NO. 1
DRAWING NUMBER 08821-ANNEX
PORTION OF SECTION 25, TOWNSHIP 8 SOUTH, RANGE 1 WEST, AND A PORTION OF SECTION 30, TOWNSHIP 8 SOUTH, RANGE 1 EAST, MOUNT Diablo Base & Meridian, Town of Los Gatos, California.

EXHIBIT "B"



PLAN
SCALE: 1"=300'



EXISTING DISTRICT LIMITS AS ESTABLISHED BY VAN COTT ANNEXATION TO THE CENTRAL FIRE DISTRICT

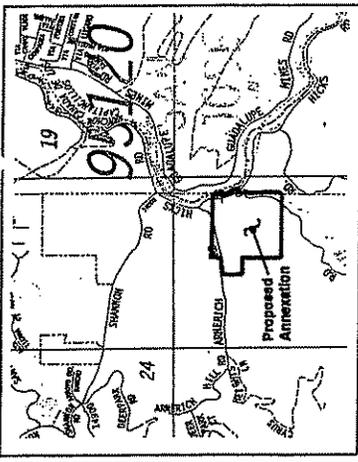
EXISTING DISTRICT LIMITS AS ESTABLISHED BY LANDS OF UNRUH ANNEXATION TO THE CENTRAL FIRE DISTRICT

TOTAL AREA = 42.50 ACRES

Disclaimer:
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- NOTES:**
- DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF. PROPERTY LINES AND LOT LINES SHOWN ARE RECORD DATA ONLY.
 - BEARINGS AND DISTANCES SHOWN ARE RECORD DATA ONLY.

- LEGEND:**
- = BOUNDARY OF PROPOSED ANNEXATION
 - - - = EXISTING BOUNDARY OF CENTRAL FIRE PROTECTION DISTRICT
 - P.O.B. = POINT OF BEGINNING



COURSES	
1.	S 00°00'00" E 164.02'
2.	S 23°06'30" E 235.50'
3.	S 36°30'00" W 155.38'
4.	S 00°00'00" E 60.44'
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MASON-SULIC
CIVIL & DESIGN CONSULTANTS, INC.
2025 The Alameda, Suite 100, San Jose, CA 95126-4111 Fax 408/941-4047
REGISTERED PROFESSIONAL ENGINEER
STATE OF CALIFORNIA
LICENSE NO. 38,337 EXP. 10/31/08
AS 200708

PROFESSIONAL ENGINEER, MARCH 31, 2010

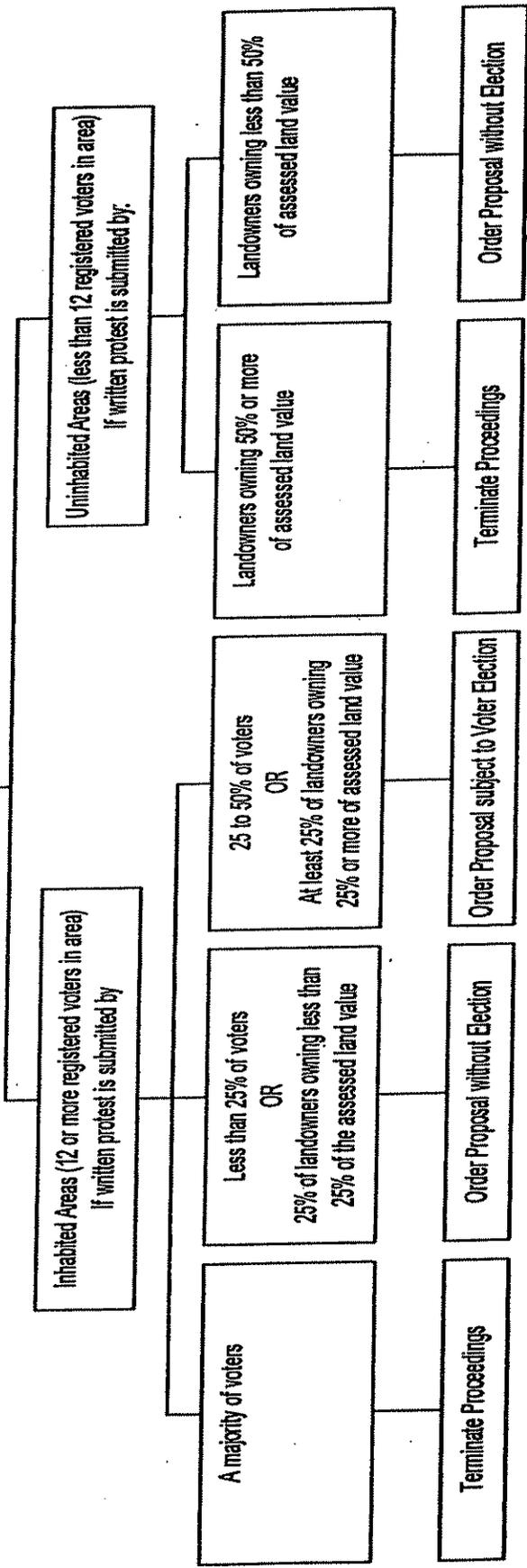
OVERVIEW OF LAFCO PROTEST PROCEEDINGS PROCEDURES

This application is a Non-100% Consent annexation proposal because only the owners of 9 of the 10 total parcels have signed the petition for their property to be annexed into the District. Therefore, following LAFCO approval of a Non-100% Consent annexation proposal, the LAFCO Executive Officer must hold protest proceedings (Government Code Section 57000(c)) as follows:

1. Within 35 days of the adoption of the resolution by the Commission, and not prior to the 30-day reconsideration period for a Commission decision, the Executive Officer shall notice the proposal for protest hearing (Government Code Section 57002(a)).
2. Notices are required to be posted and published 21 days prior to the hearing. Notices are required to be sent to each affected city, district or county, all landowners owning land within the subject area, all registered voters within the subject area, and to anyone requesting special notice (Government Code Section 57025(b), (c), and (d)). As part of the protest hearing notice, landowners and registered voters in the affected area will receive a written protest form which they may mail or deliver to the LAFCO office. Protest may be filed with LAFCO from the date of the notice until the conclusion of the protest hearing.
3. The hearing date should be between 21 to 60 days from the date of the notice (Government Code Section 57002(a)).
4. At the protest hearing, the Commission's resolution is summarized and any oral or written protests are heard or received. Protests may be filed with LAFCO from the date of the notice until the conclusion of the protest hearing. Written protests may be withdrawn anytime prior to conclusion of the protest hearing. The law specifies rules for a valid protest. (Government Code Section 57050(b))
5. Within 30 days after the hearing, a finding is made on the value of written protests filed and not withdrawn (Government Code Section 57052), and based on that value (see Attachment B and Government Code Section 57075(a)) a resolution is adopted that:
 - a. Terminates proceedings (Government Code Section 57075(a)(1))
 - b. Orders the proposal without an election (Government Code Section 57075 (a)(3)), or
 - c. Orders the proposal subject to confirmation by the registered voters, i.e., an election must be conducted (Government Code Section 57075 (a)(2)).
6. The finding is based solely on the percentage of valid written protests that were submitted prior to the close of hearing.
7. If an election must be conducted, LAFCO is required to inform the Board of Supervisors of the Commission's determination and request them to direct the elections official to conduct the election.

PROTEST THRESHOLDS

For Annexations, Detachments or County Service Area Formations
(In Registered Voter Districts and Cities)
(Section 57075)



Hearing Date: December 3, 2008
To: The Santa Clara County Local Agency Formation Commission
From: Dunia Noel, LAFCO Analyst
Subject: **Arnerich-Wagner Road No. 1, Annexation to the Santa Clara County Central Fire Protection District**
Agenda Item #7

Recommended Environmental Action:

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

Reasons for Recommendation:

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

15319. Annexation of Existing Facilities and Lots for Exempt Facilities

Section 15319: Class 19 consists of only the following annexations

(a) Annexations to a city or special district of areas containing existing public or 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.

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

15303. New Construction or Conversion of Small Structures.

Section 15303: Class 3 consists of construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel.

Examples of this exemption include, but are not limited to:

(a) One single-family residence or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

Project Description and Background

A group of property owners has petitioned LAFCO to annex an area located off Arnerich Road, Hicks Road and Wagner Road into the Santa Clara County Central Fire Protection District in order to receive fire protection services. The Santa Clara County Central Fire Protection District supports this annexation of approximately 42.5 acres. The 10 affected Assessor Parcel Numbers are 537-11-008, 009, 011, 015, 030, 031, 032; 537-17-030, a portion 031, and a very small portion of 032. The majority of the project area is located within the city limits of Los Gatos. The entire project area is located within the Los Gatos' Urban Service Area and Los Gatos is currently in the process of annexing the remaining three unincorporated parcels (537-17-032; and 537-11-009 and 030) in the project area through the Arnerich Road No. 2 city conducted annexation. Seven of the subject parcels were recently annexed to the Town of Los Gatos through the Arnerich Road No.1 city conducted annexation.

The Town receives fire protection services from the Santa Clara County Central Fire Protection District and therefore properties within Los Gatos must be annexed by the Central Fire District if they are not already within the District's boundary. However, annexations to special districts can only be conducted by LAFCO. This proposal seeks the annexation of these seven subject parcels. Assessor Parcel Numbers 537-17-032, 537-11-009 and 537-11-030 are part of the proposed Arnerich Road No. 2 city conducted annexation, which also requires the subsequent annexation of these three parcels into the Central Fire Protection District. Therefore, this proposal also seeks the annexation of these three subject parcels into the Central Fire Protection District.

The proposed annexation includes only portions of Assessor Parcel Numbers 537-17-031 and 537-17-032. Including these portions of the two parcels will avoid creating an island. LAFCO is prohibited from creating islands or areas that are difficult to serve. The remaining portions of both of these parcels have been within the Central Fire District since it was established in December 1947.

Growth Inducement

The eight parcels that are located within the City of Los Gatos are zoned HR-20 (Hillside Residential, One (1) dwelling per 20 acres). The three unincorporated parcels (APNs: 537-17-032; and 537-11-009 and 030) are zoned A-20s-d1 (Exclusive Agriculture, 20 acre minimum parcel size based on the slope density formula) by the County of Santa Clara. The County's -d1 combining zoning district is intended to conserve the scenic attributes of those hillside lands most immediately visible from the valley floor. It is intended to minimize the visual impacts of structures and grading on the natural topography and landscape, using a combination of supplemental development

standards, design guidelines, design review, and use of process incentives for smaller and less visible projects.

Annexation Area Property Information

Assessors Parcel No.	Acres (approx.)	Current Land Use	Jurisdiction
537-11-008	1.9	Single Family Residence	Los Gatos
537-11-009*	2	Single Family Residence	County
537-11-011	6.7	Single Family Residence	Los Gatos
537-11-015	0.6	Single Family Residence	Los Gatos
537-11-030*	10.9	Vacant	County
537-11-031	1.2	Single Family Residence	Los Gatos
537-11-032	16.5	Single Family Residence	Los Gatos
537-17-030	0.4	Vacant	Los Gatos
Portion of 537-17-031 ⁽¹⁾	Portion of a 0.9 acre parcel	Single Family Residence	Los Gatos
Portion of 537-17-032 ⁽¹⁾	Small Portion of 2 acre parcel	Single Family Residence	County

* Los Gatos is currently processing a city conducted annexation for these three parcels (i.e. Arnerich No. 2).

⁽¹⁾ The remaining portions of these parcels are within the Central Fire District.

Assessor Parcel Number 537-17-030 has been combined with Assessor Parcel Number 537-17-031 to form Assessor Parcel Number 537-07-035 and this action will be reflected in the new assessment roll. The majority of the project area is developed with single family residences. Assessor Parcel Number 537-11-030, which is nearly 11 acres in size, is currently vacant. Based on the current County zoning designation (A-20s-d1) and the Los Gatos pre-zoning (HR-20), this parcel is not eligible for further subdivision. This proposal to annex into the Central Fire Protection District does not change the zoning or general plan designations that apply to the project area. Further development of all parcels would be subject to the rules and regulations of the applicable jurisdiction and may require further environmental review by the applicable jurisdiction.

Fire Protection Service

The Central Fire Protection District serves much of the unincorporated areas in the central and northern parts of the County, as well as provides services by contract to the cities of Campbell, Cupertino, Los Altos, Los Altos Hills County Fire District, Los Gatos, Monte Sereno, Morgan Hill and a part of Saratoga. The project area is located within the District's Sphere of Influence and the District has indicated that they have the ability to serve the project area without negatively impacting the areas they currently serve. According to the District, they will assume responsibility for fire, rescue and emergency medical first-responder services to the annexation area. The closest District station is located at 16165 Shannon Road in Los Gatos. The station is staffed year-round with a crew of three firefighters (including one trained as a paramedic).

The District maintains an Automatic-Aid agreement with the San Jose Fire Department (SJFD) that facilitates the response of the closest appropriate resource to calls for service originating in the border areas of the two cities. For the project area, SJFD Station 17 at 5170 Coniston Way is the closest resource, and the dispatch systems supporting the District and SJFD have been programmed to route calls to SJFD for the automatic dispatch of Engine 17.

The District has stated that the annexation will not result in an increase in activity for either agency because the District and SJFD (via the Auto-Aid Agreement) already respond to 911 calls in the proposed annexation area on a "good neighbor" basis. Upon annexation, the District will assume responsibility for fire prevention services, including development plan checks, water supply, access, and defensible space inspections. According to the District, the type of existing and anticipated development in the project area would typically result in a very low demand on the Fire/EMS systems. The District will provide all of these services within the capacity of their existing systems, without adding any additional infrastructure or staffing. Any financial impact on the District will be offset by the District's incremental share of the property tax stream generated by the parcels annexed.

The proposed annexation to the Santa Clara County Fire Protection District is exempt from CEQA because this special district annexation meets the requirements of the following CEQA exemptions: Class 19, Section 15319 (a) and (b); and Class 3, Section 15303 (a).

LAFCO Meeting Date: December 3, 2008

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Mala Subramanian, Legal Counsel

SUBJECT: **Resolution Denying Proposed Incorporation of the Town
of San Martin**
Agenda Item # 9

STAFF RECOMMENDATION

Adopt the resolution denying the proposed incorporation of the Town of San Martin.

BACKGROUND

At its November 7, 2008 LAFCO public hearing, the Commission considered and passed a motion directing staff to draft a resolution denying the incorporation for the proponent's failure to pay LAFCO fees pursuant to the fee agreement (between the proponents and LAFCO) and without considering the merits of the incorporation proposal. The Commission directed staff to bring back the resolution for Commission adoption at its next meeting.

Ex Parte Motion for Writ of Mandamus

On November 21, 2008, Richard van't Rood on behalf of the San Martin Neighborhood Alliance (SMNA) filed an ex parte application for alternative writ of mandate to enjoin LAFCO from: (1) interfering with the processing of the request for State Controller's review of the Draft CFA; (2) ordering the Executive Officer to refuse to process the request for State Controller's review; and (3) conducting a final hearing on the incorporation prior to completion of the State Controller's review. Special Counsel appeared in court on behalf of LAFCO to oppose the application.

Judge James Emerson heard the ex parte application and denied SMNA's request in its entirety. The Judge indicated that it was premature to bring the lawsuit and recommended that SMNA exhaust their administrative remedies. He was planning to set the matter for hearing on February 20, 2008, taking into

consideration the December 3rd hearing date and reconsideration timeframe, but Mr. van't Rood withdrew his request for hearing and suggested he would seek a writ of mandate at a later date.

LAFCO staff will continue to provide updates on any further developments.

ATTACHMENTS

Attachment A: Resolution Denying the Proposed Incorporation of the Town of San Martin

RESOLUTION NO. 2008-XX

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF SANTA CLARA COUNTY DENYING THE PROPOSED INCORPORATION OF
THE TOWN OF SAN MARTIN**

WHEREAS, on February 7, 2007, a registered voter petition and application for the incorporation of the Town of San Martin was filed with LAFCO pursuant to Title 6, Division 1, commencing with Section 56000, et seq. of the Government Code ("Incorporation Proposal"); and

WHEREAS, Government Code section 56383 provides that LAFCO may establish a schedule of fees for the costs of proceedings; and

WHEREAS, LAFCO's Incorporation Policies provide that the actual costs for processing the incorporation application are the proponent's responsibility; and

WHEREAS, on June 25, 2007, LAFCO and the proponents of the San Martin incorporation proposal ("Proponents") entered into a Fee Agreement for the Incorporation Proposal ("Agreement"); and

WHEREAS, the Agreement mandates that Proponents are responsible for all costs and expenses of processing and reviewing the Incorporation Proposal, including but not limited to, the entire cost of staff time and all expenses incurred; and

WHEREAS, Section 5(c) of the Agreement requires that LAFCO provide a first invoice ("Invoice") to Proponents for staff costs and expenses 30 days prior to the date set for the first public hearing, and mandates that "LAFCO must receive payment in full on the invoice prior to the public hearing;" and

WHEREAS, on September 10, 2008, the Commission required that Proponent pay the Invoice no later than seventy-two hours from the date set for the public hearing on the Incorporation Proposal;

WHEREAS, on October 7, 2008, LAFCO provided Proponent with the Invoice in the amount of \$171,555.16;

WHEREAS, the Proponents failed to pay the Invoice by November 4, 2008, which is seventy-two hours prior to November 7, 2008, the date set for the public hearing on the Incorporation Proposal;

WHEREAS, the Agreement stipulates that failure by Proponent to pay LAFCO on a timely basis for the full amount of the Invoice will result in suspension of the incorporation process; and

WHEREAS, the Agreement also stipulates that LAFCO will not incur any liability whatsoever for suspension of processing or acting on the application for the incorporation of San Martin due to the late or nonpayment of fees by Proponents; and

Incorporation of the Town of San Martin

WHEREAS, LAFCO received Proponents' written request for State Controller review of the Draft Comprehensive Fiscal Analysis ("CFA") on October 30, 2008 with neither a deposit for review of the CFA nor an executed fee agreement covering LAFCO's participation in that review, as required pursuant to LAFCO's Incorporation Policies; and

WHEREAS, LAFCO received a deposit for review of the CFA at the end of the day on November 6, 2008, but without a fee agreement in the form approved by LAFCO Counsel pursuant to LAFCO's Incorporation Policies; and

WHEREAS, the Proponents are responsible for all costs and expenses of processing and reviewing the Incorporation Proposal and to determine otherwise would be detrimental to the public interest pursuant to Government Code section 56383 and would require the County, and member cities of LAFCO to pay for the Incorporation Proposal;

WHEREAS, it is in the best interest of the public and the public agencies that make up LAFCO that the Proponents pay in full for all costs and expenses for processing and reviewing the Incorporation Proposal pursuant to the Agreement;

WHEREAS, at its meeting on September 10, 2008, LAFCO discussed the schedule for the San Martin Incorporation proposal and set November 7, 2008 as the public hearing date for considering the Incorporation Proposal;

WHEREAS, the November 7, 2008 public hearing was noticed pursuant to the requirements in the Cortese-Knox- Hertzberg Local Government Reorganization Act; and

WHEREAS, at a public hearing on the Incorporation Proposal on November 7, 2008, the Commission considered and passed a motion directing staff to draft a resolution denying the Incorporation Proposal on the sole and exclusive basis of Proponents' failure to abide by the express terms of the Agreement by failing to pay LAFCO the full amount of the Invoice before the hearing.

NOW, THEREFORE, the Local Agency Formation Commission of Santa Clara County, DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

SECTION 1:

The Commission finds that Proponents violated the express terms of the Agreement by failing to timely pay LAFCO the full amount of the Invoice by November 4, 2008 and before November 7, 2008, the date of the public hearing on the Incorporation Proposal. The Agreement authorizes suspension of the incorporation process and therefore, the Commission shall not process the State Controller's review of the CFA.

SECTION 2:

Because of the significant amount of money owed and that is overdue to LAFCO and Proponents' violation of the express terms of the Agreement, and without review of the merits of the Incorporation Proposal, the Commission denies the Incorporation Proposal.

Incorporation of the Town of San Martin

SECTION 3:

Proponents' failure to abide by the express terms of the Agreement as listed in Section 2, is the sole and exclusive basis for the Commission's denial of the Incorporation Proposal.

SECTION 4:

The Incorporation Proposal is exempt from CEQA based upon the Commission's denial of the Incorporation Proposal pursuant to Section 15061(b)(4) of the State CEQA Guidelines.

SECTION 5:

The Commission hereby waives the limitations of Government Code section 56884(a), which provides that no further proceedings shall be taken on the Incorporation Proposal and no similar Incorporation Proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of this Resolution, and finds that these limitations are detrimental to the public interest, so long as Proponents have complied with the Agreement and paid LAFCO the full amount due to LAFCO.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Clara County, State of California, on December 3, 2008, by the following vote:

AYES:

NOES:

ABSENT:

Pete Constant, Chairperson
LAFCO of Santa Clara County

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Emmanuel Abello, LAFCO Clerk

Malathy Subramanian, LAFCO Special Counsel

LAFCO Meeting Date: December 3, 2008

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Mala Subramanian, Legal Counsel

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Incorporation of the Town of San Martin

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The Commission finds that Proponents violated the express terms of the Agreement by failing to timely pay LAFCO the full amount of the Invoice by November 4, 2008 and before November 7, 2008, the date of the public hearing on the Incorporation Proposal. The Agreement authorizes suspension of the incorporation process and therefore, the Commission shall not process the State Controller's review of the CFA.

SECTION 2:

Because of the significant amount of money owed and that is overdue to LAFCO and Proponents' violation of the express terms of the Agreement, and without review of the merits of the Incorporation Proposal, the Commission denies the Incorporation Proposal.

Incorporation of the Town of San Martin

SECTION 3:

Proponents' failure to abide by the express terms of the Agreement as listed in Section 2, is the sole and exclusive basis for the Commission's denial of the Incorporation Proposal.

SECTION 4:

The Incorporation Proposal is exempt from CEQA based upon the Commission's denial of the Incorporation Proposal pursuant to Section 15061(b)(4) of the State CEQA Guidelines.

SECTION 5:

The Commission hereby waives the limitations of Government Code section 56884(a), which provides that no further proceedings shall be taken on the Incorporation Proposal and no similar Incorporation Proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of this Resolution, and finds that these limitations are detrimental to the public interest, so long as Proponents have complied with the Agreement and paid LAFCO the full amount due to LAFCO.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Clara County, State of California, on December 3, 2008, by the following vote:

AYES:

NOES:

ABSENT:

Pete Constant, Chairperson
LAFCO of Santa Clara County

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Emmanuel Abello, LAFCO Clerk

Malathy Subramanian, LAFCO Special Counsel

Meeting Date: December 3, 2008
To: The Santa Clara County Local Agency Formation Commission
From: Neelima Palacherla, Executive Officer
Dunia Noel, LAFCO Analyst *DN*
Subject: **Update on Request for Proposals Seeking General Legal
Counsel Services for LAFCO**
Agenda Item #10

Recommended Action

Appoint a subcommittee to interview qualified firms and provide further direction to staff.

Background

On November 18th, LAFCO issued a request for proposal (RFP) to seek general legal counsel services for LAFCO. The request was sent to 14 legal practices and was posted on the Santa Clara LAFCO website and the CALAFCO website. The closing date for the RFP is January 9, 2009 at 5 PM. An ad-hoc interview committee of the Commission will interview qualified firms in mid-January (date to be determined). It is anticipated that interviews will require a full-day's commitment of the ad-hoc committee. LAFCO will provide ad-hoc committee members with further information about the interviews by January 10th. Attached for your information is LAFCO's RFP for general legal counsel services.



REQUEST FOR PROPOSALS TO PROVIDE GENERAL LEGAL COUNSEL SERVICES

Issue Date: November 19, 2008

Due Date: January 9, 2009

The Local Agency Formation Commission (LAFCO) of Santa Clara County is requesting proposals for providing general legal counsel services to LAFCO. The selected contractor will serve at the discretion of the Commission and work under the direction of the Commission's Executive Officer.

LAFCO OVERVIEW

The Local Agency Formation Commission of Santa Clara County is an independent agency. Created by the State legislature, LAFCO regulates the boundaries of cities and many special districts. LAFCO's purposes are to encourage the orderly and logical formation of local government agencies, to preserve agricultural and open space lands, and to discourage urban sprawl. LAFCO's enabling legislation is contained in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and amendments.

The Commission is composed of five members representing the County, the City of San Jose, the remaining cities in the County and the public and is funded by the represented local agencies. The Executive Officer receives policy direction directly from the Commission and performs all duties necessary for the proper and efficient management of LAFCO, as determined by the Commission and State law. A small professional staff provides support to the Executive Officer and the Commission. Meeting agendas, staff reports, policies, procedures, forms and other information are posted on the LAFCO website at www.santaclara.lafco.ca.gov.

General counsel services are currently provided under contract with the Santa Clara County Counsel's Office. Special counsel services are provided by private law offices when necessary. The Commission directed staff to explore options for obtaining general counsel services and to issue a request for proposals to seek qualified providers of general counsel services to LAFCO.

QUALIFICATIONS

LAFCO of Santa Clara County is seeking a contractor that is committed to providing the highest quality legal representation to public sector clients, and with proven expertise in State, municipal, environmental, and special district laws. The successful contractor will have experience in providing legal services to cities, counties and special districts, and preferably LAFCOs.

Required qualifications include familiarity with the function and purpose of Local Agency Formation Commissions, and knowledge of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and amendments. The successful contractor will also have expertise in public agency law and in advising public officials, administrators and employees on the complex and frequently changing laws pertaining to local government administration, organization, regulation, transactions and litigation matters. Typical matters include statutory compliance, contracting, the California Environmental Quality Act, ethics and conflict of interest law, public records request law, election law, the Political Reform Act, personnel and employment law, the Brown Act, and intergovernmental relations. Also desirable is experience

in real estate, real property tax, land development, planning and zoning laws, litigation and other legal issues that are routine for a LAFCO.

Greater weight in the selection process will be given to contractors with LAFCO experience and expertise.

TYPICAL RESPONSIBILITIES

- Serve as LAFCO general legal counsel in all Commission matters except where special counsel is required.
- Attend all regular LAFCO meetings (approximately 6 per a year) and special meetings when required. Regular meetings are generally held the first / second Wednesday of even months, at 1:15 PM in San Jose and usually last 1 to 2 hours.
- Attend in-person meetings with the Executive Officer and/or Commission committees when required, and maintain frequent telephone and e-mail contact.
- Provide general advice to the Executive Officer in all Commission matters.
- Review agenda items and assist in preparation of agenda documents as necessary (staff reports, resolutions, administrative items, etc.)
- Review CEQA documents and assist in the preparation of environmental documents as necessary.
- Prepare legal opinions and analysis.
- Prepare and/or review resolutions, contracts and indemnification agreements.
- Prepare occasional reports and present information at public hearings.
- Represent the Commission in litigation matters, unless Commission retains special counsel for this purpose. Matters requiring litigation may require a contract amendment depending upon the complexity of the matter.

REQUIRED INFORMATION AND DOCUMENTATION

If you are interested in providing services, please submit the following information to the LAFCO Office:

- Name, address and telephone number of your law office and name of contact person.
- Statement of qualifications of the law office. Describe the office's background and experience in providing general legal services to government agencies.
- Identification and resume of the specific individual(s) who would serve as LAFCO General Counsel, and the availability of that individual to attend regular and special meetings of LAFCO.
- Proposed hourly charges for the designated individual(s) and billing policies. Rates for litigation should be stated if different from rates for general advisory service.
- Information about policy on travel time, travel rates/expenses, proposed adjustments and net estimated travel costs.
- List of representative clientele of the law office and of the individual who would serve as LAFCO Counsel. Please include contact information for references, and permission to contact references.
- Statement regarding any potential conflicts of interest.

- Any other information that you may believe would assist the Commission in reviewing the qualifications of your law office and the identified individual who would serve as LAFCO Counsel.

SUBMISSION OF PROPOSALS

Please deliver **five copies** of your proposal with a cover letter that includes the following:

- The letter must be signed by an individual who is authorized to bind the law office to a contract.
- A statement that the proposal is valid for 90 days from the due date of the proposal.
- The name, title, address and telephone number of the individual to who correspondence and other contacts should be directed during the selection process.

Proposals must be received in the LAFCO Office by **5 p.m. on Friday, January 9, 2009**. Please address your proposal to:

Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County
70 West Hedding Street, 11th Floor, East Wing
San Jose, California 95110

SELECTION CRITERION

- A. **Expertise and Experience of the Law Office and Key Individual:** This includes the law office's experience in comparable government engagements; the quality, experience, expertise and depth of the professional personnel to be assigned to the engagement, and the adequacy of the office's continuing professional education program for its professional personnel.
- B. **Cost:** The cost proposal to perform the requested services.
- C. **Availability** at regular LAFCO meetings.

TERM OF AGREEMENT

The term of the agreement shall be for one year, with an option to extend the agreement for up to two additional years.

INTERVIEW AND SELECTION PROCESS

The proposals will be reviewed upon receipt and the most qualified firms will be requested to interview with an ad-hoc interview committee of the Commission in mid-January 2009. Based on the criterion above, the committee will present its recommendation to the full Commission. A Professional Services Agreement will be executed with the successful bidder.

LAFCO reserves the right not to award a contract, to modify the scope of services required as necessary, and to accept or reject any or all submittals received as a result of this RFP.

INFORMATION AND QUESTIONS

Thank you for your interest. For further information, please contact Neelima Palacherla, Executive Officer, at 408.299.5127 or email at neelima.palacherla@ceo.sccgov.org.

Meeting Date: December 3, 2008

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: Appointment of 2009 Chairperson and Vice Chairperson
Agenda Item # 11

RECOMMENDATION

Per the rotation schedule, the Chairperson for 2009 will be Commissioner Susan Vicklund-Wilson, the public representative to LAFCO and the Vice Chairperson will be Commissioner John Howe, the cities representative.

DISCUSSION

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

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

The Chair for the previous year was Commissioner Pete Constant, San Jose representative and the Vice Chair was Commissioner Susan Vicklund Wilson, public representative. In accordance with the rotation schedule, the public representative is appointed as the 2009 Chairperson and cities representative as the Vice Chairperson.

Please note that the rotation schedule was slightly modified in 2007 and 2008 since there was a change in San Jose's representation towards the end of 2006 and San Jose's representative was not named at the time of appointment of the LAFCO Chairperson for 2007, the rotation schedule was slightly modified and the County representative, Commissioner Alvarado was appointed chair in 2007 instead of the San Jose representative as per the rotation schedule. The chairperson for 2008 was the San Jose representative.

**PROPOSED 2009 SCHEDULE
LAFCO MEETINGS AND
APPLICATION FILING DEADLINES**

LAFCO MEETING	DEADLINE TO FILE APPLICATION
Wednesday February 4, 2009	December 10, 2008
Wednesday April 8, 2009	February 11, 2009
Wednesday June 3, 2009	April 8, 2009
Wednesday August 12, 2009	June 17, 2009
Wednesday October 14, 2009	August 19, 2009
Wednesday December 9, 2009	October 21, 2009

TIME OF MEETINGS: 1:15 PM

LOCATION OF MEETINGS: County Government Center
70 West Hedding Street, 1st Floor
San Jose, CA 95110

FILING LOCATION: LAFCO Office
70 West Hedding Street, 11th Floor
San Jose, CA 95110
(408) 299-6415