

**LOCAL AGENCY FORMATION COMMISSION
SANTA CLARA COUNTY**

www.santaclara.lafco.ca.gov

County Government Center, 11th Floor, East Wing

70 West Hedding Street, San Jose, CA 95110

(408) 299-3800 FAX 295-1613

CHAIRPERSON: Donald F. Gage
COMMISSIONERS: Blanca Alvarado, Suzanne Jackson, Linda LeZotte
Susan Vicklund Wilson
ALTERNATES: Patricia Figueroa, Pete McHugh, Chuck Reed, Mary Lou Zoglin

**AGENDA
REGULAR MEETING
Wednesday, October 10, 2001
1:15 p.m.**

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

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

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

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

1. ROLL CALL

2. PUBLIC PRESENTATIONS

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

3. APPROVE MINUTES OF AUGUST 8, 2001 MEETING

***4. APPROVE CONSENT CALENDAR**

***4.1 ANNEXATION TO WEST VALLEY SANITATION DISTRICT OF A 0.725 ACRE PROPERTY LOCATED ON 17520 HIGH STREET, LOS GATOS**

A petition by the landowners for annexation to the West Valley Sanitation District of a 0.725 acre property located at 17520 High Street, Los Gatos.

Possible Action: Consider the petition for reorganization and approve staff recommendation.

Unless there is opposition expressed to the above proposal prior to, or at the LAFCO Meeting, there will be no further protest proceedings.

5. PUBLIC HEARING

5.1 OUT OF AGENCY EXTENSION OF SEWER SERVICES BY THE CITY OF MORGAN HILL TO 17110 COPPER HILL DRIVE

A request by the City of Morgan Hill to extend sewer services to an existing single family home located at 17110 Copper Hill Drive, outside the City of Morgan Hill.

Possible Action: Consider the request for extension of sewer service and approve staff recommendation.

6. LAFCO ANNUAL REPORT (July 2000 - June 2001)

Possible Action: Accept July 2000 - June 2001 LAFCO Annual Report.

7. UPDATE ON SERVICE REVIEW GUIDELINES

For information only

8. EXECUTIVE DIRECTOR S REPORT

A. New LAFCO Staff
Introduction of new staff

B. 2001 CALAFCO Annual Conference (October 31 - November 2, 2001)
Possible Action: Authorize staff and interested commissioners to attend the conference and authorize travel expenses funded by the LAFCO budget.

C. Santa Clara County & Cities Boundaries Map

D. Update on Payments to LAFCO from Cities

E. LAFCO Legislative Report
Report on pending legislation that is of interest to LAFCO.

9. WRITTEN CORRESPONDENCE

- A. Letter from San Antonio Hills, Inc., regarding the sphere of influence issues and annexation to Los Altos Hills of the Los Altos Country Club Area.

10. ADJOURN

Adjourn to the next regular business meeting on December 12, 2001.

NOTE TO COMMISSIONERS:

Upon receipt of this agenda, please contact Emmanuel Abello, LAFCO Clerk at (408) 299-4321 Ext. 5661 if you are unable to attend the LAFCO meeting.

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

SANTA CLARA COUNTY
Local Agency Formation Commission

MINUTES

WEDNESDAY, AUGUST 8, 2001

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 8th day of August, 2001 at 1:18 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California with the following members present: Commissioners Donald Gage, Linda LeZotte, and Susan Vickland Wilson. LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel; and, Colleen Oda, LAFCO Planner. Commissioner Blanca Alvarado arrives at 1:21 p.m. The meeting is called to order by Chairperson Gage and the following proceedings are had, to wit:

3. APPROVE MINUTES OF JUNE 13, 2001 MEETING

On motion of Commissioner Wilson, seconded by Commissioner LeZotte, it is unanimously ordered that the minutes of June 13, 2001 be approved as submitted.

On Commission consensus the agenda is considered out of order.

2. PUBLIC PRESENTATION

Neelima Palacherla, LAFCO Executive Officer, advises that there is a public presentation by Derek Bell, spokesperson for Overlook Road Homeowners Association.

Mr. Bell directs attention to a map outlining the proposed sewer line and advises that 12 homeowners are requesting sewer connection to the West Valley Sanitation District (WVSD). He provides an overview on the sphere of influence (SOI) issue advising that the 12 parcels are outside the SOI of the Town of Los Gatos, City of Monte Sereno, City of Saratoga, and WVSD. Mr. Bell notes that the engineer from WVSD indicated that under state law, the 12 parcels are required to be in the SOI of WVSD and surrounding municipalities and the engineer of WVSD suggested that the Overlook Road Homeowners Association contact LAFCO for guidance. Mr. Bell states that the Overlook Road

Homeowners Association is requesting assistance from LAFCO on how to proceed with the proposal.

(Commissioner Alvarado arrives at 1:21 p.m.)

Chairperson Gage suggests that the Overlook Road Homeowners Association contact the LAFCO Executive Officer and LAFCO attorney regarding the proposal. Ms. Palacherla advises that the proposal may be complicated because of the SOI issue. Chairperson Gage notes that the Commission cannot take any action at this time and further directs that the Overlook Road Homeowners Association arrange an appointment with LAFCO staff for assistance.

4. PUBLIC HEARINGS

4.1 TOWN OF LOS GATOS URBAN SERVICE AREA (USA) AMENDMENT 2001

This being the time and place set for public hearing to consider a request for an Urban Service Area (USA) amendment by the Town of Los Gatos, Chairperson Gage declares the hearing open.

Ms. Palacherla directs attention to her staff report dated August 3, 2001, recommending that the Commission approve the inclusion of property into the Los Gatos USA conditioned upon approval of the Hillside Specific Plan amendment by the County Board of Supervisors and receipt of a revised legal description and map depicting the USA boundary and incorporating the revisions by the Surveyor. She provides an overview of the Town and County policies as they relate to the USA expansion. Ms. Palacherla notes that the County and the Town jointly adopted the Hillside Specific Plan and that any amendment to the Hillside Specific Plan requires approval of both the County and the Town. She points out that the County Board of Supervisors has not taken any action on the issue.

Ms. Palacherla continues by providing an overview of the LAFCO policies as they relate to urban services in the proposed area. She concludes by noting that the proposed USA boundary expansion does not create any likely growth inducing impacts and does not negatively impact agricultural lands or open space lands.

Terry Szewczyk, Engineer, TS/Civil Engineering, encourages the Commission to take a favorable action on the proposal.

WEDNESDAY, AUGUST 8, 2001

In response to an inquiry by Commissioner Alvarado, Ms. Palacherla advises that the Town of Los Gatos is responsible for providing a metes and bounds description and map for the area that is proposed to be included in the USA.

Receiving no further requests from the public to speak, the Chairperson orders that the hearing be closed.

On motion of Commissioner Alvarado, seconded by Commissioner LeZotte, it is unanimously ordered that Resolution No. 01-9 be adopted approving the urban service area amendment by the Town of Los Gatos and approving the staff recommendation; finding that the Initial Study and Negative Declaration approved by the Town of Los Gatos was completed in compliance with California Environmental Quality Act (CEQA), and together with the additional information being provided by the Town, is an adequate discussion of the environmental impacts of the project; and finding that prior to making a decision on the project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Negative Declaration.

4.2 OUT-OF-AGENCY EXTENSION OF WATER SERVICE BY THE CITY OF MORGAN HILL FOR FIRE PROTECTION TO KAWAHARA NURSERY LOCATED AT 698 BURNETT AVENUE

This being the time and place set for public hearing to consider a request for Out-of-Agency Extension of Water Service by the City of Morgan Hill for Fire Protection to Kawahara Nursery located at 698 Burnett Avenue, Chairperson Gage declares the hearing open.

Ms. Palacherla directs attention to her staff report dated August 2, 2001, recommending denial of the request for extension of water service for fire protection for a replacement production building located at 698 Burnett Avenue. She provides an overview of the project description and discusses the LAFCO policies as they relate to the proposal. Ms. Palacherla notes that the subject property is located in the unincorporated area outside the City Urban Service Area (USA), and states that the property is within the SOI. She further notes that the proposed extension of services is outside of the City's jurisdictional boundaries, therefore requiring LAFCO approval.

Ms. Palacherla continues by noting that the building located at 698 Burnett Avenue was destroyed in a fire last summer and the property owner applied for a

building permit for an 18,000 square foot replacement production building on a 14.72 acre site. As a condition of approval, the Santa Clara County Central Fire Protection Department requires adequate fire flow and fire protection for the building.

Ms. Palacherla concludes by outlining the reasons for the recommendation. She notes that the subject property is not contiguous to the city's USA and is surrounded by rural and agricultural uses. Ms. Palacherla further notes the inefficiencies related to costs and maintenance of decentralized city services, and indicates the potential that the proposal would have to set a precedent for other similar requests in the area. She advises that an alternative method of water service to the site would be to construct an onsite water storage tank indicating that this option would be in compliance with LAFCO policies. Ms. Palacherla recommends that the extension of water service be denied.

Rebecca Tolentino, Associate Planner, City of Morgan Hill, advises that the Council has reviewed the proposal and notes that the Council finds the proposal consistent with City policies. She directs attention to Section 18.78.080 of the Municipal Code of Morgan Hill that is quoted in the LAFCO Executive Director's report, dated August 2, 2001 and points out that it does not apply to the Kawahara Nursery proposal.

In response to an inquiry by Commissioner Wilson, Ms. Tolentino advises that the City Council voted in favor of the proposal.

Gloria Ballard, Engineer, M.H. Engineering, further advises that the City Council of Morgan Hill voted unanimously in favor of allowing the Kawahara Nursery to connect to the main water line. She notes that the city hydrant would enhance, not diminish agriculture. Ms. Ballard directs attention to the staff report dated August 2, 2001, and addresses the decentralization issue of City services and notes that the water would only be used for fire protection services.

David Kawahara, property owner, Kawahara Nursery, provides a brief overview of the proposal and discusses the fire protection issue. He advises that the facility located at 698 Burnett Avenue was destroyed in a fire last year. Mr. Kawahara further notes that the requirement of the building permit is to have enough water supply for fire protection services. In response to Chairperson Gage, Mr. Kawahara advises that some vegetables are grown on the property.

Commissioner LeZotte comments that the contract for water services is solely for fire protection to Kawahara Nursery and states that she is in favor of the proposal on that condition.

Chairperson Gage comments that the proposal is not growth inducing and notes that he is in favor of the proposal provided a clause is included that water services will be strictly used for fire protection and that the City of Morgan Hill is making the request for the Kawahara Nursery to connect to the City's main water line and the water capacity comes from the City.

Commissioner Wilson expresses concern regarding setting a precedent for further water extension services in the area and therefore will not be supporting the motion.

On motion of Commissioner LeZotte, seconded by Commissioner Alvarado, it is ordered on a vote of 3-1 with Commissioner Wilson voting no and Commissioner Jackson absent, that Resolution No. 01-10 be adopted approving the extension of water service to Kawahara Nursery with the condition that the water be used solely for fire protection services. Further that the proposal is categorically exempt from the provisions of CEQA pursuant to CEQA Class 3, Section 15303 (d).

5. EXECUTIVE DIRECTOR'S REPORT

A. Mora Drive Sewer Project: Report on status of application for pre-zoning to the Town of Los Altos Hills

Ms. Palacherla reports that on August 2, 2001, the City Council of Los Altos applied a pre-zoning designation to an unincorporated pocket and advises that property owners located in a portion of the pocket area are interested in annexation to the Town.

B. CALAFCO Executive Board Nominations

Ms. Palacherla advises that CALAFCO is accepting nominations from interested commissioners who desire to serve on the Executive Board. Ms. Palacherla recommends that the Commission nominate any interested commissioners.

Chairperson Gage notes that he serves on various committees and inquires as to whether or not Commissioner Wilson would be interested in serving on the Board.

Commissioner Wilson notes that she will consider serving on the CALAFCO Executive Board.

C. 2001 Annual CALAFCO Conference, October 31-November 2, 2001,
Yosemite National Park

Ms. Palacherla provides information on the Annual CALAFCO Conference and advises that topics of discussion will be the availability of water and regional housing needs. She notes that program and registration information will be provided to Commissioners at a later date.

6. WRITTEN CORRESPONDENCE

There is no written correspondence.

7. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 1:55 p.m. to the next regular meeting to be held on Wednesday, October 10, 2001 at 1:15p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Donald F. Gage, Chairperson
Local Agency Formation Commission

ATTEST:

Ruth Marston, LAFCO Clerk

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SANTA CLARA**

REPORT OF THE EXECUTIVE DIRECTOR

Date : August 27, 2001

Designation: West Valley Sanitation District Annexation 2001-3, High Street

Type of Application: Annexation

LAFCO Hearing Date: October 10, 2001

Filed by: 100% Consent
Petition by
Landowners

1. REVIEW OF PROPOSAL

a. Acreage and location: 0.725 acre,
17520 High Street

- Conform to Urban Service Area X/
Yes No

- b. Effect on community services:
 - Provision of all municipal/district services
 - Municipal/district services not provided as follows: _____
 - Detachment from: _____
 - School District Impact Report
 - County Transit Impact Report

- Create island, corridor or strip /X
Yes No

- Conforms to road policy X/
Yes No

- Conforms to lines of assessment X/
(if no, explain) Yes No

c. Inhabited Uninhabited

e. Present land use: Single Family
Residence

d. Boundaries:

- Definite and Certain X/
Yes No

f. Proposal land use: No change

g. Involves prime agricultural or Williamson Act land:
No

2. ENVIRONMENTAL REVIEW OF PROPOSAL

Annexation is categorically exempt from provisions of CEQA.

Class exemption Class 19, Section 15319(a) and 15319 (b)

The City has rezoned the territory and, as Lead Agency for the environmental review of the annexation, has completed an Initial Study and Negative Declaration/Final EIR (copy attached) which in LAFCO staffs' opinion does/does not adequately address LAFCO regional concerns.

LAFCO is the Lead Agency for the environmental review of this annexation and staff has prepared the attached Negative Declaration/Draft EIR for your review and adoption.

3. SUGGESTED CONDITIONS OR OTHER COMMENTS:

4. PROTESTS:

5. RECOMMENDATIONS: Approve annexation to West Valley Sanitation District and waive protest proceedings.

By: Neelima Palacherla
Neelima Palacherla,
Executive Director

Date: 10/2/03/01

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 951 10-1705
(408) 299-2454 FAX (408) 288-9198
www.sc.cplanning.org



Prepared by: Colleen Oda *CO*
Approved by: Hugh Graham *HG*
Date prepared: September 18, 2001

Hearing Date: October 10, 2001

To: The Santa Clara County Local Agency Formation Commission
From: Santa Clara County Planning Office
Subject: WEST VALLEY SANITARY DISTRICT ANNEXATION - LOS GATOS

Recommended Environmental Action:

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

Reasons for Recommendation:

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

Section 15319 (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 environmental 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.

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

West Valley Sanitary District proposes to annex one parcel totaling .56 acres located on the south side of High Street (17520 High Street) in the Town of Los Gatos. There is an existing single-family residence on the site that is 1300 sq. ft according to the environmental information form provided by the applicant. The subject property wants to abandon their septic system and connect to sewer through the West Valley Sanitary District.

The subject parcel is zoned HR-1 (Hillside Residential) with a minimum lot size of 1 acre for each dwelling unit. No more than 1 residential principal structure is allowed per lot. The property is under the jurisdiction of the Town of Los Gatos, and is not eligible for further subdivision. The proposed annexation to West Valley Sanitary District is thus exempt from CEQA because the special district annexation meets the requirements of the Class 19 exemption.

**THE MAP
AND THE LEGAL DESCRIPTION
WILL BE DISTRIBUTED
DURING THE MEETING.**

**LOCAL AGENCY FORMATION COMMISSION
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County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-3800 FAX 295-1613
Neelima Palacherla, Executive Officer

October 1, 2001

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer *NP*
SUBJECT: Out of Agency Contract for Sewer Service (Morgan Hill)
Copper Hill Drive
Agenda Item # 5.1

STAFF RECOMMENDATION

Approve request for extension of sewer service to a single-family residence (APN 729-31-004) located on 17110 Copper Hill Drive in the unincorporated area, within the sphere of influence of the City of Morgan Hill.

PROJECT DESCRIPTION

The City of Morgan Hill is seeking LAFCO approval for extending sewer service to an existing 768 sq.ft. single family home located at 17110 Copper Hill Drive. The property is located in the unincorporated area outside the City urban service area (USA) but within its sphere of influence (SOI). Since the proposed extension of service will be outside of the City's jurisdictional boundaries, LAFCO approval is required. See attached map for property and its relationship to the SOI and USA boundaries

The extension of sewer service is being sought because of the failure of the on-site septic system. Repair of the system is not possible on the property. A City sewer line currently exists at the front of the property. An on-site hook up to the existing line is necessary for service.

BACKGROUND

The parcel seeking service is located in an area known as the Holiday Lake Estates area to the south of the Anderson Reservoir. There are about 200 parcels in this area with the average size of lots being about half an acre. City sewer and water lines run through the area and the city currently provides water and sewer to several properties in the area. As of writing this report, information was not available as to the number of homes currently receiving city services.

ENVIRONMENTAL ASSESSMENT

Categorical Exemption

The project is categorically exempt from CEQA under Class 3, Section 15303 (d) and Section (c). See attached report from LAFCO Planner.

CONSISTENCY WITH LAFCO POLICIES

Project Within Sphere of Influence (SOI)

State law and local LAFCO policies allow consideration of an agency's proposals for extending services only within its SOI. This proposal is within the SOI of the City of Morgan Hill.

Annexation as Alternative to Service Extension

The property lies outside the urban service area (USA) of Morgan Hill and is not contiguous to the City's existing USA boundary. Measure P, Morgan Hill's growth control measure does not allow expansion of the USA until there is not more than a five year supply of vacant residential designated land either to the east or west of Monterey Road, depending on the location of the proposed expansion. At this time, the area will not qualify for inclusion into the USA because there is an existing supply of vacant residentially designated land. The only exceptions to this condition are projects that qualify under the City's "Desirable Infill Standard", which this area does not meet based on its location.

LAFCO policies require annexation prior to extension of services beyond an agency's boundaries. State law allows extension of services outside an agency's jurisdiction in anticipation of future annexation of the area. However, at this time annexation is not anticipated by the city for the above reasons.

If and when annexation were to become feasible and the city were to initiate annexation for the area, the proposal's agreement for services includes a provision requiring the property owner to waive any right to protest such annexation.

Growth Inducing Impacts

The majority of the parcels in this area are developed with small single-family homes on lots of an average size of half an acre. Out of the approximately 200 parcels in the area, County Assessor's records indicate that about 20 parcels are vacant. Morgan Hill's policies state that the city shall not extend services beyond its USA except in the case that an existing developed lot has a failing septic or well and the council makes a finding that denial of services would adversely affect public health and safety.

It is likely however that there would be requests for service extension from developed lots in the area as most of the homes in this area were originally built to be used as vacation homes and not to support year round living for which they are currently being used, resulting in failing septic systems.

The application for this proposal does not indicate that this service extension request is in association with any expansion plans for the existing home on site. However, connecting to the sewer would open up the possibility for future expansion / development.

Health and Safety/Public Benefit Issues

The letter from County Environmental Health states that the existing septic system on the property is malfunctioning. It further states that a repair of the system may not be feasible due to limited area available for repair as the small size of the lot does not allow the required setbacks.

Factors including the proximity of the area to the reservoir, soil type, existence of trees and the small lot size and depth preclude the alternatives of installing a new septic system or repairing the existing system. Failure to adequately dispose of the sewage could result in a public health hazard. Allowing the sewer connection would help resolve an existing health and safety issue.

Consistency with Policies and General Plans of all Affected Agencies

That services should not be extended beyond a city's urban service area has been a long-standing development policy in this county. Morgan Hill's USA boundary excludes this area through which run the city's water and sewer lines providing services to several parcels in the area. However, as explained above it is not possible to include the area within the USA and annex the lands to Morgan Hill because of Measure P provisions.

The request complies with the city's policies (Section 18.78.080 of the Municipal Code of Morgan Hill) for extending service outside its boundaries as the request is based on a failing septic for an existing home and the city was able to make a finding that denial of services would have an adverse impact on the public health and safety.

Ability of the City to Provide Services

The City of Morgan Hill has provided documentation stating that it does have the capacity to serve this property and that serving this property outside its boundary will not reduce the level of services it provides its residents.

Premature Conversion of Agricultural or Open Space Land

This area is developed with single-family homes on lots averaging about half an acre. There are no agricultural or open space lands that would be impacted by extending the sewer system.

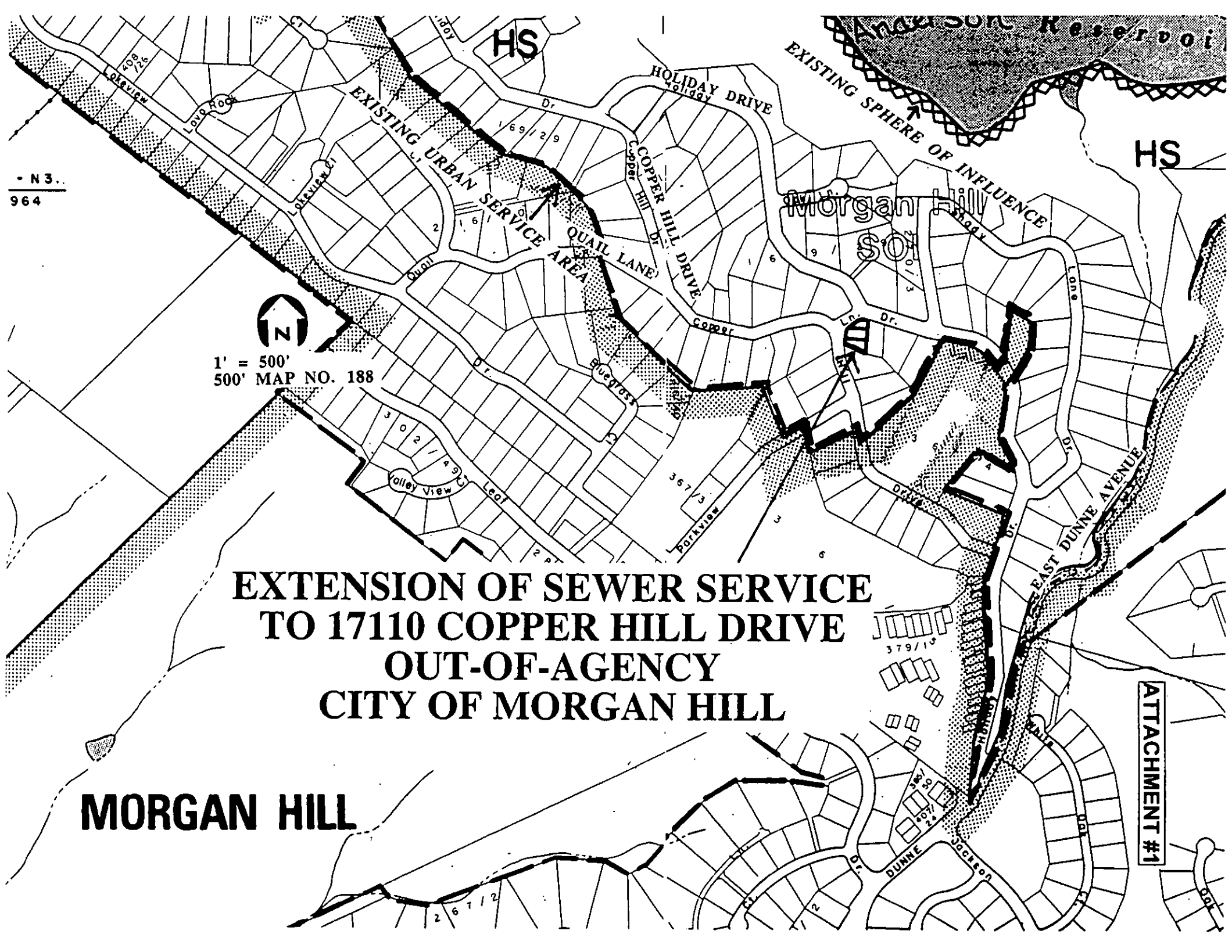
CONCLUSION

Although LAFCO policies generally discourage provision of urban services outside jurisdictional boundaries, the public safety and health issues raised in this proposal outweigh annexation and boundary issues. The property seeking service is outside the city's urban service and is not contiguous to the city's urban service area or city limits. The septic system is failing and it has been determined that repair of the existing system or installation of a new system is not possible. Connection to the sewer system is the only alternative to obtaining service for the existing home on the property. Staff recommends that the extension of sewer service be approved.

Staff also recommends that this area be looked at closely at the time of LAFCO's Service Review and SOI update for Morgan Hill, to consider and resolve the ambiguities of service provision and the city's urban service area boundary in this area.

ATTACHMENTS

1. Map showing properties and jurisdictional boundaries and detailed map.
2. Environmental Planner's Report
3. City of Morgan Hill Resolution requesting LAFCO approval
4. Sewer Service Agreement between the City of Morgan Hill and Property Owner at 17110 Copper Hill Drive



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964


1' = 500'
500' MAP NO. 188

**EXTENSION OF SEWER SERVICE
TO 17110 COPPER HILL DRIVE
OUT-OF-AGENCY
CITY OF MORGAN HILL**

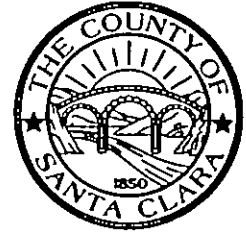
MORGAN HILL

ATTACHMENT #1

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
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Prepared by: Colleen Oda ^{CO}
Approved by: Hugh Graham ^{HGC}
Date prepared: September 18, 2001

Hearing Date: October 10, 2001

To: The Santa Clara County Local Agency Formation Commission
From: Santa Clara County Planning Office
Subject: **OUT-OF-AGENCY, CITY OF MORGAN HILL, EXTENSION OF SEWER SERVICES TO 17110 COPPER HILL DRIVE**

Recommended Environmental Action:

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

Reasons for Recommendation:

The project is exempt under CEQA Class 3, Section 15303(d), "New Construction or Conversion of Small Structures" which states:

Section 15303(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve construction and location of limited numbers of new, small facilities or structures.

The City of Morgan Hill is requesting on behalf of Lynda Whitmire, the property owner of 17110 Copper Hill Drive, LAFCO approval of an Out-of-Agency contract for services. The subject property is approximately 10,000 square feet with one existing single-family residence involved with this out of agency agreement. The contract would allow the City of Morgan Hill to provide sewer service to an existing 768 sq. ft. single-family residence located on 17110 Copper Hill Drive (APN 729-31-004), within an unincorporated area outside of Morgan Hill. This parcel is within the Sphere of Influence and outside the Urban Service Area of Morgan Hill.

The owner of this parcel is requesting this service agreement in order to connect to City of Morgan Hill's sewer service due to the failure of the existing septic system on the property site. A city sewer line currently exists at the front of the property. The project would allow the owner to connect to the City of Morgan Hill's existing sewer line located at the front of the property. The extension of sewer service to this property would involve the installation of an on-site lateral. The single-family residence is currently being served by City water but not City sewer service.

City of Morgan Hill staff recommended approval of the request at the October 2000 City Council meeting because the finding of a direct adverse impact on the public health and safety could be made. The following evidence also contributed to the staff recommendation for approval of the sewer service connection: An inspection report from a septic service company recommended that the property owner hookup to the city's sewer system. The technician of the septic service company noted that there is not enough area to do a repair to the existing septic system. County of Santa Clara's Environ. Health Dept. also recommended that a connection be made to a nearby sanitary sewer to resolve the problem. The technician of Environ. Health concluded that a conventional repair may not be feasible due to the limited area available for a repair. The proposed extension of sewer service is thus exempt from CEQA because it meets the requirements of the Class 3 exemption.

According to the County Zoning Ordinance, the current zoning designation for the subject property and other surrounding parcels in the unincorporated area is HS (Hillsides). Surrounding parcels include other single-family residences. The project site and surrounding area's developed parcels have been developed to the maximum density allowed by the current zoning (HS). Of the parcels outside the urban service area boundary of Morgan Hill, approximately 20 parcels are currently vacant according to the County Assessor's Office records.

Because no other parcels on or adjacent to Copperhill Drive have signed under the sewer extension agreement for this application, future applications for extension of sewer service would be subject to further CEQA analysis.

RESOLUTION NO. 5433**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN EXTENSION OF CITY SEWER SERVICE TO AN UNINCORPORATED PROPERTY LOCATED AT 17110 COPPER HILL DR. (APN 729-31-004)**

WHEREAS, the City Council finds that the present septic system cannot be replaced or repaired. In the best interest of the public health and safety and the hardship imposed on the property owner, a connection to the City sewer is recommended; and

WHEREAS, the existing residential use is consistent with the County zoning and City General Plan and the use without proper sewage disposal has an adverse effect on the public's health and safety; and

WHEREAS, no other options are available for providing sewage disposal for the property; and

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

WHEREAS, such request was considered by the City Council at their regular meeting of October 18, 2000, at which time the City Council approved the Out of Area Service Request, OSR-00-06: Copper Hill-Whitmire.

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

SECTION 1. The City Council finds that the subject property cannot be provided with septic service due to parcel size, soil type, setback requirements and the significant trees which exist on the parcel. Denial of services would have a direct adverse impact on the public health and the property owner.

SECTION 2. The City sewer line currently exists at the front of the property and would not need to be extended to service the subject property. An on-site hook up to the existing line would be necessary and is consistent with the General Plan policies and Urban Service Extension policy and Morgan Hill Municipal Code section 18.78.080.

SECTION 3. The project is ministerial in nature and exempt under section 15268 (b.4) of the CEQA Guidelines.

PASSED AND ADOPTED THIS 18th DAY OF OCTOBER, AT A REGULAR MEETING OF THE CITY COUNCIL BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

Irma Torrez, City Clerk

CERTIFICATE OF THE CITY CLERK

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5433, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18th day of October 2000.

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

DATE: _____

IRMA TORREZ, City Clerk

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City Attorney)
City of Morgan Hill)
17555 Peak Avenue)
Morgan Hill, CA 95037)
APN: 729-31-004)

(Space above for Recorder.)

01186

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

Dated: MARCH 26, 2001, ~~_____~~

SEWER ANNEXATION AGREEMENT
LYNDA W. WHITMIRE

THIS AGREEMENT is made this 26th day of MARCH, 2001, ~~_____~~, by the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and LYNDA W. WHITMIRE ("OWNER").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to the City of Morgan Hill's City Council approval on October 18, 2000.
2. This Agreement is contingent upon written approval from LAFCO authorizing the extension of services in accordance with Government Code Section 56133. In the event that LAFCO does not approve the proposed extension of services, the CITY shall not provide sewer service.
3. As of the date of execution of this Agreement, CITY has not annexed the property described in this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement**. This Agreement shall expire: 1) upon annexation of the real property

described in Section 2 to CITY or 2) in the event that the property is not annexed to CITY in accordance with Paragraph 5.1.

2. **Legal Description of Property.** The land to which this Agreement applies is the real property located in the County of Santa Clara, State of California, described as follows:

17110 COPPERHILL DRIVE
MORGAN HILL, CALIFORNIA

A legal description of the real property is attached hereto and incorporated herein by this reference as Exhibit "1."

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

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

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

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

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

5.1 **Withdrawal of Services.** In the event that the real property described in Section 2 is not annexed to CITY due to actions of the OWNER or his or her successors in interest, CITY reserves the right to withdraw its sewer services under this Agreement upon thirty (30) days' written notice.

6. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY

shall be personally liable for any default or liability under this Agreement.

7. **Non-Discrimination.** OWNER covenants there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, disability, national origin, or ancestry, in any activity pursuant to this Agreement.

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

9. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed addresses. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

a. Address of OWNER is as follows:

LYNDA W. WHITMIRE
P.O. BOX 1925
MORGAN HILL, CA 95038

b. Address of CITY is as follows:

Public Works Director
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

With a copy to:

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

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

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

12. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement or any portion shall be subcontracted or assigned by OWNER without prior written consent of CITY.

13. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.

14. **Indemnification.** OWNER agrees to protect, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by OWNER, OWNER'S agents, officers, employees, subcontractors, or independent contractors hired by OWNER. The only exception to OWNER'S responsibility to

protect, defend, and hold harmless CITY, is due to the sole negligence of CITY. This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable.

The policy limits do not act as a limitation upon the amount of indemnification to be provided by OWNER.

15. **Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their heirs, executors, administrators, successors, and assigns.

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

17. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Santa Clara County Superior Court.

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

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

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

ATTEST:

By: Irma Torrez
Irma Torrez, City Clerk
Date: 6/18/01

APPROVED:

By: Jack Diles
Jack Diles, Risk Manager
Date: 6/18/01

APPROVED AS TO FORM:

By: Helene Leichter
Helene Leichter, City Attorney
Date: 6/14/01

CITY OF MORGAN HILL

By: J. Edward Tewes
J. Edward Tewes, City Manager
Date: 6/15/01

"OWNER"
NAME OF OWNER

By: Lynda W. Whitmire
Lynda W. Whitmire
Date: March 26, 2001

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of **California**
County of **Santa Clara** }ss.

On June 19, 2001 before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. EDWARD TEWES, [X] personally known to me - OR - [] proved to me on the basis of satisfactory evidence to be the person^(s) whose name^(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hers/their authorized capacity^(ies), and that by his/hers/their signature^(s) on the instrument the person^(s), or the entity upon behalf of which the person^(s) acted, executed the instrument.

WITNESS my hand and official seal.

Teresa Crue
SIGNATURE OF NOTARY PUBLIC



(This area for notarial seal)

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

DESCRIPTION OF ATTACHED DOCUMENT

SEWER ANNEXATION AGREEMENT
TITLE OR TYPE OF DOCUMENT

MARCH 26, 2001
DATE OF DOCUMENT

FOUR (4)
NUMBER OF PAGES

CAPACITY CLAIMED BY SIGNER

- [] INDIVIDUAL(S)
- [X] CITY MANAGER

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

CITY OF MORGAN HILL

Signer(s) other than named above: LYNDA W. WHITMIRE

Signer's Name: J. EDWARD TEWES

Signer's Name: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

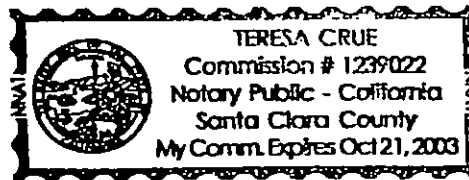
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of **California**
County of **Santa Clara** } ss.

On June 19, 2001 before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. EDWARD TEWES, [X] personally known to me - OR - [] proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Teresa Crue
SIGNATURE OF NOTARY PUBLIC



(This are for notarial seal)

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

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MARCH 26, 2001
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CAPACITY CLAIMED BY SIGNER

[] INDIVIDUAL(S)
[X] CITY MANAGER

SIGNER IS REPRESENTING: [NAME OF PERSON(S) OR ENTITY(IES)]

CITY OF MORGAN HILL

Signer(s) other than named above: LYNDA W. WHITMIRE

Signer's Name: J. EDWARD TEWES

Signer's Name: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

OLD REPUBLIC TITLE COMPANY

ORDER NO. 505029-KSB

The land referred to in this Report is situated in the County of Santa Clara, in the unincorporated area, State of California, and is described as follows:

LOT 49, as delineated upon that certain Map entitled "TRACT NO. 3453 HOLIDAY LAKE ESTATES UNIT NO. 1", filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on November 14th, 1963 in Book 169 of Maps, at Pages 29, 30, 31, 32 and 33.

729-31-004
87058
nm/hm/bf
X 727-32-45
3-31-99

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

County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-3800 FAX 295-1613
Neelima Palacherla, Executive Officer

October 1, 2001

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer *NP*
SUBJECT: 2000-2001 Annual Report
Agenda Item # 6

RECOMMENDATION

Accept 2000-2001 Annual Report. (July 1, 2000 to June 30, 2001)

ANNEXATION & DEANNEXATION ACTIVITY

The total number of LAFCO-conducted reorganization proposals was five, including four special district annexations and one city annexation. This reflects a lower level of activity from the previous year which saw eleven reorganization proposals.

City conducted annexations totaled 12 proposals in five jurisdictions, as compared to 25 proposals in four cities the year before. The acreage annexed was 4.37 acres in Cupertino, 2.29 acres in Los Gatos, 5.1 acres in Los Altos Hills, 20.89 acres in Morgan Hill, and 5.27 acres in San Jose.

URBAN SERVICE AREA AMENDMENTS

LAFCO heard and approved a minor urban service area and sphere of influence amendment between Mountain View and Los Altos.

OUT-OF-AGENCY CONTRACT FOR SERVICE REQUESTS

LAFCO approved one request by the Town of Los Altos Hills for extension of sewer service to 28 properties on Mora Drive.

LAFCO approved a request for extension of water service by the San Martin County Water District to the County Household Hazardous Waste Collection Facility.

SPHERE OF INFLUENCE AMENDMENTS

A minor amendment to the Sphere of Influence for the San Martin County Water District was approved to include the site for the County Environmental Health Department's Household Hazardous Waste Facility in the district's sphere to enable extension of service.

COMMISSION AND STAFF CHANGES

In January 2001, the City of San Jose appointed Linda LeZotte as its representative on LAFCO replacing Commissioner Manny Diaz and Chuck Reed as the alternate replacing alternate member Cindy Chavez.

LAFCO staff has remained relatively stable during this year. The only change being that Colleen Oda replaced Sylvia Donati as the LAFCO Planner in January 2001. The Executive Director position continued to be staffed at a part time level (0.6 position) in the County Executive's Office and the LAFCO Clerk was staffed at a half-time level in the Clerk of the Board's Office. Other staff include the LAFCO Surveyor staffed from the County Surveyor's Office, the LAFCO Planner from the County Planning Office and the LAFCO Counsel from the County Counsel's Office. These positions are available to work on LAFCO issues on an as needed basis.

OTHER ISSUES

LAFCO Web Page (www.santaclara.lafco.ca.gov)

A web site was developed and launched in April 2001 for the Santa Clara County LAFCO. The web site contains LAFCO policies, procedures, fee schedules, commission/staff contact information, agendas, meeting schedules, public hearing notices, downloadable application forms and links to state law. The easy access that this web site provides to information especially on LAFCO policies and application forms has been a very useful resource for applicants and the general public as well as for staff in responding to inquiries.

CALAFCO Workshop on AB 2838

Staff was part of a task force consisting of other LAFCO staff (AB 2838 Policies Sub-Committee) set up by CALAFCO to analyze the required changes in LAFCO policies, provide recommendations on how to implement them and prepare written materials to be integrated into a workbook and distributed at the CALAFCO AB 2838 Implementation workshop in November 2000. One of the issues we focused on was the new Contribution and Lobbying Disclosure requirement on which LAFCO Counsel made a presentation at the workshop.

Implementing AB 2838

The most significant legislation for LAFCO during this year and probably for the next few years is the enactment of AB 2838 known as the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 that became effective on January 1, 2001. Much of the year has been spent in implementing the changes required by the law or in preparation for its implementation. Two sub-committees: a budget sub-committee composed of Commissioner Gage and Commissioner Jackson and staff and a policy sub-committee composed of Commissioner Alvarado and Commissioner Wilson along with staff have been set up to provide direction and make recommendations to the full commission for their final approval. Provided below is a list of actions that the Commission has taken or administrative tasks that staff have completed with regard to implementing the new provisions in the law.

LAFCO Budget Adoption and LAFCO Costs Apportionment

AB 2838 requires that LAFCOs annually adopt a proposed and a final budget and LAFCO be funded proportionately by all agencies represented on LAFCO. The Commission adopted its proposed budget in February and its final budget in April 2001.

In addition to the ongoing yearly LAFCO expenses that were included in previous year's budgets, this budget includes funding for additional staffing and consultant services to handle the responsibilities put on LAFCO by the new legislation as well as the county overhead costs for housing LAFCO that had previously not been charged to LAFCO.

MOU between LAFCO and the County for Staffing and Facilities

The new law also requires LAFCOs to hire its own staff or contract with a public agency for its staffing. The Santa Clara County LAFCO at its December 2000 meeting decided to enter into a formal contract with the County for the County to continue to provide staffing and facilities to LAFCO. The final MOU was approved by the Commission in April 2001

and by the Board of Supervisors in June 2001 and became effective July 1, 2001.

Contributions and Lobbying Disclosure Requirements

At its February meeting, the Commission adopted policies for lobbying disclosure requirements. Staff developed lobbying disclosure forms to be included in application packets.

LAFCO Conducting Authority Proceedings (Protest Procedures)

The new law requires LAFCO to be the conducting authority for all reorganizations requiring protest proceedings excluding the city-conducted annexations. This is a new responsibility for LAFCO that was previously performed by the special districts. At its April meeting, the Commission adopted procedures, flow charts and forms required for LAFCO to assume conducting authority responsibilities.

New Noticing Requirements

Staff has implemented the expanded noticing requirements that AB 2838 calls for including notification on the web page, increasing the notice period from 15 to 21 days, notifying property owners and registered voters within 300 feet of the subject property and expanding the notification list to include additional agencies such as Committee on School District Reorganization required by the Cortese Knox Hertzberg Act.

New Filing Requirements

Staff has revised filing requirements for all applications based on the new requirements. Copies of the new requirements have been mailed to all cities and special districts and posted on the LAFCO web site.

Change in Procedures for Reorganization Proposals

The Cortese Knox Hertzberg Act makes several changes to the processing of reorganization proposals. For example, prior to circulating a petition for reorganization, the applicant now must file an Intent Form that LAFCO is required to then distribute to all affected agencies. Staff has incorporated these types of changes in the procedures and administratively revised the procedures and guidelines/checklists.

The implementation of AB 2838 is a work in progress and will continue to remain the focus of this year's work program.

CALAFCO Annual Conference

The LAFCO Executive Director, LAFCO Counsel and Commissioner Alvarado's policy aide attended the Annual CALAFCO Conference in August 2000.

CALAFCO's "Reinventing LAFCO" Workshop for Commissioners

Commissioner Jackson and the Executive Director attended a workshop that CALAFCO held to provide Commissioners with an overview of the changes effected by AB 2838.

Geographic Information System (GIS) Data Layers

Staff coordinated the work of LAFCO Surveyor and staff from the Planning Office to update and correct the digital files for Urban Service Area (USA) and Sphere of Influence (SOI) boundaries. These layers will be used to print a countywide map depicting the 15 cities and their USA and SOI boundaries.

Staff has acquired GIS software and now has access to the County Planning Office's GIS data layers and uses it for analyzing proposals, providing information to public and for generating the 300 feet mailing lists.

**COUNTY OF SANTA CLARA
LOCAL AGENCY FORMATION COMMISSION (LAFCO)
JULY 1, 2000 THROUGH JUNE 30, 2001**

CITY CONDUCTED ANNEXATIONS

<u>City</u>	<u>Proposal Name</u>	<u>Date of Recordation</u>	<u>Number of Acres Approved</u>
Cupertino	Alcazar Avenue 00-08	09/05/00	0.183
	Grenola Drive 00-02	09/05/00	0.215
	Upland Way 00-03	09/05/00	2.836
	Byrne Avenue 00-06	12/20/00	0.299
	Orange Avenue 00-10	12/20/00	0.22
	San Fernando 00-09	12/20/00	0.1704
	Byrne Avenue 99-09	05/02/01	0.445
	Total Acres:		4.37
Los Altos Hills	Amigos Court	06/20/01	5.095
		Total Acres:	5.095
Los Gatos	Eugenia Way No. 3	01/02/01	2.29
		Total Acres:	2.29
San Jose	Evergreen No. 186	12/20/00	5.269
		Total Acres:	5.27

CITY CONDUCTED ANNEXATIONS (Continued)

<u>City</u>	<u>Proposal Name</u>	<u>Date of Recordation</u>	<u>Number of Acres Approved</u>
Morgan Hill	W. Middle Annexation No. 2	12/27/00	2.62
	Sunnyside Annexation No. 7	12/27/00	18.2737
	Total Acres:		20.89

SPECIAL DISTRICT ANNEXATIONS

<u>Special District</u>	<u>Proposal Name</u>	<u>Date of LAFCO Action</u>	<u>Date of Recordation</u>	<u>Number of Acres Approved</u>
Cupertino Sanitary District	Lands of Develco ¹ , Mt. Glen Road	12/13/00	Please see footnote	18.83
Cupertino Sanitary District	Regnart No. 3 ²	02/14/01	Please see footnote	2.51
Cupertino Sanitary District	Prospect-Hansen	02/14/01	05/02/01	3.0
Cupertino Sanitary District	Via Regina Road Lands of Kohler	04/11/01	05/02/01	2.60
West Valley Sanitation District	WVSD 2001-1 Saratoga Hills Road	04/11/01	05/02/01	1.22
	Total Acres:			28.16

¹ Lands of Develco – The WVSD has yet to approve a conducting authority resolution.

² Regnart No. 3 – Maybe withdrawn by the District.

USA/SOI/CITY ANNEXATION

<u>City/District</u>	<u>Proposal Name</u>	<u>Date of LAFCO Action</u>	<u>Type of Action</u>
City of Los Altos	Vista Grande Avenue 00-1 USA/SOI and Reorganization	02/14/01	Approval
San Martin County Water District	Water Services for the Household Hazardous Waste Collection Facility (HHWCF) SOI Amendment	06/13/01	Approval

OUT-OF-AGENCY CONTRACT FOR SERVICES AGREEMENT

<u>City/District</u>	<u>Proposal Name</u>	<u>Date of LAFCO Action</u>	<u>Action</u>
Town of Los Altos Hills	Sewer Service Extension to 28 Properties on Mora Drive	04/11/01	Approval
San Martin County Water District	Water Services for the Household Hazardous Waste Collection Facility (HHWCF)	06/13/01	Approval

**LOCAL AGENCY FORMATION COMMISSION
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70 West Hedding Street, San Jose, CA 95110
(408) 299-3800 FAX 295-1613
Neelima Palacherla, Executive Officer

October 1, 2001

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer *mp*
SUBJECT: UPDATE ON SERVICE REVIEW GUIDELINES
Agenda Item # 7

FOR INFORMATION ONLY

OPR's Draft Service Review Guidelines

As the Commission knows, the Cortese Knox Hertzberg Act (CKH Act) requires the Office of Planning and Research (OPR) to develop guidelines for service reviews by July 1, 2001. OPR issued a preliminary draft version of the guidelines in August and a final version will be made available in October. The Commission will then need to adopt local policies, procedures and guidelines based on the State's guidelines but adapted to local conditions.

Service Review and Sphere of Influence (SOI) Reviews by Santa Clara LAFCO

The CKH Act mandates that each LAFCO conduct service reviews and SOI updates once every 5 years. (See attachment for summary of the relevant legislation.) By 2006, the Commission is required to complete SOI updates for the 15 cities and about 20 special districts along with a review of services provided by the cities and the special districts in this county.

Develop Local Policies and Revise Existing Policies for SOI and Service Reviews

To conduct these service and SOI reviews in a consistent manner LAFCO needs to adopt its own local policies and procedures for conducting these reviews tailored to address local conditions in this county. Separate policies for special districts and cities may be necessary to take into consideration the different findings required for them and to deal with the different issues such as how to integrate the existence of urban service area boundaries for cities into these studies, how to pay for service reviews for cities and special districts, how to resolve land use and development issues within a SOI boundary of a city and so on. The existing SOI policies will also need revision to reflect the new requirements in the law.

Create Work Plan

In order to meet the 2006 deadline, it is necessary to prioritize the studies, taking into consideration issues that have been already been raised relevant to these studies as well as the need to distribute the workload over the five-year period to ensure completion in an efficient and timely manner.

Many issues remain unclear in the legislation with regard to the conduct of service reviews such as what services should be reviewed, what type of services constitute municipal services, should private service providers be included in this requirement and so on. OPR's guidelines are expected to provide more guidance on these types of issues as well as on procedures to conduct the reviews.

In the mean time however, there are a few preliminary steps that staff will begin to work on in preparation for conducting service reviews.

Special District Profile/Inventory

The first step will be to prepare an inventory/profile of special districts in this county and then to identify those that are subject to LAFCO's SOI requirements and those that are subject to its service review requirement.

Special District Mapping

The second step is to map or acquire maps of current boundaries and SOIs for special districts. Unlike the city limits and city SOI boundary maps that are maintained by the County Surveyor and that were recently updated in Geographic Information Systems (GIS), no single agency maintains maps of special districts. A quick survey has indicated that some districts have well maintained digital maps whereas others rely on old paper maps that have not been updated in years. The County registrar of voters has digital maps for a few districts but their accuracy has not been verified. Staff will acquire paper maps or digital files from the various agencies and verify them with the districts as a preliminary step to assembling the special district maps in this county. More involved work is foreseen

in this area for certain districts that may not have updated records in a useable format. Private consultants may be required to help map these out using GIS.

Next Steps

At the next LAFCO meeting, staff intends to provide the commission with:

An overview of the OPR guidelines

An inventory of special districts in the County of Santa Clara

A status of special district mapping in Santa Clara County

A detailed overview of some key policy issues for commission consideration

Attachment

Summary of Service Review and SOI Reviews Provisions in the CKH Act

Service Review and SOI Reviews Provisions in the CKH Act

5-Year Sphere of Influence (SOI) Reviews for Cities and Special Districts

Section 56425

LAFCO is required to develop and determine the SOI of each local governmental agency within the county and update it once every five years, as found necessary.

City SOI

The new law (until January 1, 2007) requires cities and the county to meet prior to submitting an application to LAFCO for a new SOI or prior to update of an existing SOI, to attempt to come to a mutual agreement regarding the boundaries, development standards, and zoning requirements within the proposed sphere. LAFCO is required to give great weight to any such mutual agreement in its consideration of the proposal. The Commission is also required to make a written statement of determinations regarding:

1. Present and planned land uses of area,
2. Present and probable need for public facilities and services,
3. Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide, and
4. The existence of any social or economic communities of interest in the area.

Special District SOI

For a SOI of a special district or one that includes a special district, the Commission is required to do the following:

1. Require existing districts to file written statements with the Commission specifying the functions or classes of service provided by those districts
2. Establish the nature, location, and extent of functions or classes of service provided by existing districts
3. Determine that no new or different function or class of service shall be provided by any existing district, except upon LAFCO approval, or if otherwise authorized by the regulations.

Service Reviews

Section 56430

Requires LAFCO to prepare and update service reviews of municipal services prior to, or in conjunction with the preparation of SOI documents. These reviews shall include municipal services provided in the county or other appropriate areas designated by the commission. The commission shall comprehensively review all of the agencies that provide the identified services or services within the designated geographic area including a written statement of determinations with respect to the following factors:

1. infrastructure needs or deficiencies,
2. growth and population projections for the affected area,
3. financing constraints and opportunities,
4. cost avoidance opportunities,
5. opportunities for rate restructuring
6. opportunities for shared facilities,
7. government structure options, including advantages and disadvantages of consolidation,
8. evaluation of management efficiencies,
9. local accountability and governance.

The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a SOI or to update a SOI.

Office of Planning and Research (OP&R) is required to provide guidelines for such service reviews.

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

County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, CA 95110
(408) 299-3800 FAX 295-1613
Neelima Palacherla, Executive Officer

October 1, 2001

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer *mp*
SUBJECT: Executive Officer's Report
Agenda Item No. 8

A. NEW LAFCO STAFF

For Information Only

LAFCO Analyst: Dunia Noel has been hired as the LAFCO Analyst and will start in her position on October 15, 2001.

LAFCO Clerk: Emmanuel Abello has been hired as the new full time LAFCO Clerk on August 1, 2001.

B. CALAFCO ANNUAL CONFERENCE (OCTOBER 31 – NOVEMBER 2, 2001)

Recommendation

Authorize LAFCO staff and interested commissioners to attend the 2001 Annual CALAFCO Conference and authorize travel expenses to be paid out of the LAFCO travel budget.

C. SANTA CLARA COUNTY AND CITIES BOUNDARIES MAP

For Information Only

The Santa Clara County and Cities Map depicting the 15 cities and their urban service areas and spheres of influence was jointly produced by LAFCO and the County Planning Office using the Geographic Information system (GIS). This updated map will serve as a valuable source for general information on city and planning boundaries in this county and will replace the previous version of the map printed in 1986.

A copy of this map will be provided at the meeting and will be mailed out to all public agencies and other interested groups or organizations.

D. UPDATE ON PAYMENTS TO LAFCO FROM CITIES

For Information Only

The following is the status report provided by the County Controller's Office that details the receipt of LAFCO payments from cities. This report reflects all payments received through the month of September. A reminder notice will be sent by the Controller's Office to the remaining cities.

2001/2002 LAFCO Cost Allocation Receipt Summary - September 2001

Jurisdictions	Invoice Date	0	Amount Received	Check Number	Check Date
Los Altos	08/21/01	\$1,984.39	\$1,984.39	078887	09/13/01
Los Altos Hills	08/21/01	\$60.71	\$60.71	16965	09/05/01
Los Gatos	08/21/01	\$2,107.30	\$2,107.30	64603	09/07/01
Monte Sereno	08/21/01	\$132.24	\$132.24	6187	09/06/01
Mountain View	08/21/01	\$11,341.81	\$11,341.81	072831	09/06/01
Santa Clara	08/21/01	\$36,943.67	\$36,943.67	272930	08/31/01
Total		\$52,570.12	\$52,570.12		

E. LAFCO LEGISLATIVE REPORT

FOR INFORMATION ONLY

The following report is a legislative update on bills of interest to the Commission for the 2001-2002 Legislative Session.

AB 720 (*Assembly Local Government Committee*): AB 2838 Clean Up

This bill contains AB 2838 cleanup language including technical, non-substantive items only, such as correction of inconsistent cross-references and general clarification of language in the Cortese-Knox-Hertzberg Act. The bill makes 28 changes to the CKH Act. This bill has passed the senate and the assembly and is awaiting the Governor's signature.

SBxx 23 (*Soto*): Public Power Districts

This bill restricts LAFCO review and authority over formation of municipal utility districts (MUDs) and (PUDs). It would prohibit LAFCO from disapproving the formation of a MUD or a PUD if LAFCO has received a resolution in support of the proposal from all cities within the proposed boundaries of the district and the Board of supervisors, if the proposed boundaries include any unincorporated territory.

SBxx 23 failed passage in the Assembly Energy Costs and Availability Committee on September 12th. However, the measure is not dead. It can be revived when the special session on energy reconvenes in January.

AGENDA ITEM No. 9

**THE DOCUMENT
FOR THIS ITEM WILL BE DISTRIBUTED
DURING THE MEETING.**