

AGENDA

REGULAR MEETING

Wednesday, December 11, 2002

1:15 p.m.

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

CHAIRPERSON: Linda J. LeZotte

COMMISSIONERS: Blanca Alvarado, Donald F. Gage, Mary Lou Zoglin, Susan Vicklund-Wilson

ALTERNATES: Patricia Figueroa, Pete McHugh, Chuck Reed

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 OCTOBER 9, 2002 MEETING

PUBLIC HEARINGS

4. CITY OF SAN JOSE 2002 URBAN SERVICE AREA (USA) AMENDMENT

(Continued from August 14 and October 9, 2002 meetings)

A request by the City of San Jose to expand its USA to include the following four areas:

Area A - 17-acre portion of APN 015-40-005 located at the western terminus of Dixon Landing Road;

Area B - 8-acre portion of APN 652-08-009 located on Murillo Avenue, opposite of Groesbeck Hill Park;

Area C - 8-acre portion of APN 654-03-009 located about 1,070 feet east of Murillo Avenue and 380 feet north of Quimby Road; and

Area D - The City withdrew its application for Area D.

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

5. LAFCO POLICIES REVISION AND ADOPTION

Adopt new policies for:

- a. Conducting service reviews and
- b. Processing proposals affecting more than one county

Adopt revisions to existing policies including:

- a. Sphere of Influence policies
- b. Urban Service area policies
- c. Policies relative to annexations / reorganizations for cities and special districts
- d. Policies for out of agency contract for services proposals

Possible Action: Adopt the proposed new policies and proposed revisions to existing policies.

6. COUNTYWIDE FIRE SERVICE REVIEW

Possible Action:

1. Authorize staff to issue a Request for Proposals (RFP) for consultant to prepare a countywide fire service review.
2. If Commissioner representation is desired, appoint a LAFCO commissioner to serve on consultant selection committee.
3. Delegate authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$75,000 and to execute any necessary amendments subject to LAFCO Counsel review and approval.

7. PUBLIC AND ALTERNATE PUBLIC MEMBER APPOINTMENT PROCESS

Possible Action: Determine process for appointment of LAFCO public and alternate public member whose terms expire in May 2003.

8. SCHEDULE OF LAFCO MEETINGS IN 2003

Possible Action: Adopt the schedule of meetings and filing deadlines for 2003.

9. PENDING APPLICATIONS

There are no pending applications

10. WRITTEN CORRESPONDENCE

10.1 Newspaper Articles

11. ADJOURN

Adjourn to the next regular business meeting on Wednesday, February 12, 2003.

NOTE TO COMMISSIONERS:

Upon receipt of this agenda, please contact Emmanuel Abello, LAFCO Clerk at (408) 299-5088 if you are unable to attend the LAFCO meeting.

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

SANTA CLARA COUNTY
Local Agency Formation Commission

MINUTES
WEDNESDAY, OCTOBER 9, 2002

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 9th day of October 2002 at 1:19 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 Linda J. LeZotte, and Commissioners Blanca Alvarado, Donald Gage, Suzanne Jackson and Susan Vicklund-Wilson. Commissioner Patricia Figueroa is also present for the Gilroy 1999 Urban Service Area (USA) Amendment (Gilroy Sports Park) hearing. Commissioner Wilson stated at the August 14, 2002 meeting that she had a conflict of interest on this item and that Commissioner Figueroa would fill the position as her alternate. The LAFCO staff in attendance include Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel; Dunia Noel, LAFCO Analyst; and Ginny Millar, LAFCO Surveyor.

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

2. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF AUGUST 14, 2002 MEETING

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is ordered on a vote of 4-0, with Commissioner Alvarado abstaining, that the minutes of August 14, 2002 meeting be approved, as submitted.

4. CITY OF SAN JOSE 2002 URBAN SERVICE AREA (USA) AMENDMENT

Chairperson LeZotte informs the Commission that the City of San Jose has requested continuation to December 11, 2002 in order to complete the filing requirements.

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that this hearing be continued to the December 11, 2002 meeting.

PUBLIC HEARINGS

5. GILROY 1999 USA AMENDMENT: GILROY SPORTS PARK

This being the time and place set for public hearing to consider the Gilroy 1999 USA Amendment continued from the October 9, 2002 LAFCO meeting, the Chairperson declares the public hearing open.

Chairperson LeZotte announces that although Commissioner Figueroa, who is Commissioner Wilson's alternate for this item, has not yet arrived, this item will be taken up because there is a quorum and Commissioner Alvarado needs to attend another meeting at 2:45 PM. Commissioner Alvarado informs the Commission that she is fully apprised on this item, having listened to the proceedings of the August 13, 2002 meeting on audiotape.

Ms. Palacherla reports that this application was first taken up by LAFCO in June 2002, however, it was continued to August 14, 2002 at the request of the City of Gilroy. The item was again continued to this meeting to enable the City to: (a) submit information on the mitigation measures; and, (b) finalize the pre-zoning of the Gilroy Sports Park parcels. Citing a letter from the City dated September 27, 2002, she states that Gilroy has completed the pre-zoning of the Sports Park parcels and is developing the mitigation policy. However, at this time, the city does not have a work plan or a schedule for completion or implementation. The letter also states that the City does not want the item to be continued to a further date. She clarifies three major issues: (1) the Sports Park could be developed in the unincorporated county without LAFCO approval because the City is exempt from land use authority on lands that it owns; (2) the annexation of only the three Sports Park parcels will not create an island as defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act, as shown on the map, and as discussed on page 8 of the May 31, 2002 staff report; and, (3) LAFCO is required to impose all feasible mitigation measures before the project is approved. The Environmental Impact Review (EIR) identified significant environmental impacts, and the primary means of mitigation identified in the EIR was the agricultural preserve, which after the General Plan amendment was no longer available to mitigate the project's impact. To make the finding that all feasible mitigation measures have been imposed, LAFCO is substituting the agricultural lands mitigation measures that are included in the City's revised General Plan.

Ms. Palacherla informs the Commission that staff has identified four alternative options, namely, Option 1, continue the item to a future hearing, with the City's consent, to allow enough time for the City to provide more information on the City's mitigation plan; Option 2, conditionally approve the annexation of only the three Sports Park parcels, conditioned on the City's implementation within six months of an appropriate mitigation plan consistent with the City General Plan; Option 3, conditionally approve the USA expansion to include the Sports Park and the adjacent parcels, contingent on the City implementing the appropriate mitigation plan within six months; and, Option 4, deny the project. She continues by stating that if the City declines to comply with the mitigation measure in its General Plan, LAFCO could still approve the project in two ways: (a) prepare a supplemental EIR identifying all the feasible mitigation measures; or (b) refer the application back to the City Council to provide substantial information or evidence, including specific data to support the finding that the General Plan mitigation measures are infeasible for this project.

Commissioner Figueroa arrives at 1:38 p.m.

William Faus, Planning Division Manager, City of Gilroy, reports that following the August 14, 2002 meeting, the City has pre-zoned the Sports Park parcels, and the pre-zoning for adjacent properties will be taken up by the City Council on October 21, 2002; the City has determined that the land-swap proposed was infeasible because the owners of the two flag-shaped areas identified for the swap do not want their properties to be de-annexed from the City; and, the City has created a special agricultural task force to develop a comprehensive agricultural mitigation program. He states that the City recommends Option 3, which is to approve the USA amendment for the Sports Park and the adjacent parcels without any conditions or agricultural mitigation. He continues by stating that the requirement for conditions and agricultural mitigations: replace local control because it makes LAFCO an oversight authority to the City's adopted EIR mitigation measure; it removes local control from City to implement its General Plan; and, interprets the City's General Plan policy; and, the USA application was complete prior to the adoption of the General Plan so the EIR mitigation not apply. He indicates that the City's new mitigation measures will apply only to the adjacent lands. He adds that agricultural mitigation measures have not yet been developed by the City Council, and that the measures will be applied in the future (e.g., building permits).

Lee Wieder, representing the property owners on the north side of the Sports Park, states that Option 3 admits that the benefits of including the adjacent properties outweigh the need to preserve prime agricultural lands. However, he states that Option 3 should not have any condition, and requests that LAFCO approve the USA amendment based on goodwill and faith. He states that he will participate in the task force that will be operational in two months, and that he met with key stakeholders, such as Nancy Richardson of the Land Trust of Santa Clara County.

Mel Sornberger, a property owner north of Luchessa, states that he originally proposed that his neighborhood be included in this project, however, it was not included by the City. He advises that the USA amendment be denied because more commercial properties will result in more traffic congestion.

Guadalupe Arellano, former Gilroy City Council member, informs the Commission that she opposes the annexation of the lands adjacent to the Sports Park because these are not needed at this time. She recalls that, in acquiring the Sports Park parcels, an agreement was reach between the City and the landowners that the adjacent areas will be brought into the City. At that time, she had proposed a land swap so that the Sports Park could be built on the adjacent properties to avoid creating an island, however, she was told that those properties were too valuable. She also recalled suggesting to stop the pesticides, however, she was told that if the pesticides continue, LAFCO will be forced to approve the USA amendment.

David Collier, a member of Gilroy Planning Commission, recalls that the City Planning Commission about five to six years ago intended to allow the City to develop agricultural lands at certain times and under certain conditions, within the context of a citywide land use inventory. He notes, however, that the City ignored this principle because it presently has about 20 to 25 years of residential and commercial land under the new General Plan. He also notes that the Sports Park Master Plan and the City's General Plan were adopted simultaneously, so the new agricultural mitigation should apply and that the newly created task force may not need 12 to 18 months to develop an implementation plan.

Connie Rogers, Save Open Space-Gilroy, proposes that only the Sports Park parcels be annexed because more than half of the lands within the City limits are vacant. She reports that the original EIR for the Sports Park cited that the loss of 78 acres of prime agricultural land is insignificant because there is a 15,000-acre County

Agricultural Preserve east of U.S. Highway 101. However, since that preserve no longer exists, she expresses an opinion that the City has only paid lip service to agricultural preservation and does not have a track record for preserving agricultural land. She recommends that the City Council should plan and implement the new mitigation measures.

Jim Blocher, a property owner, requests the inclusion of the adjacent lands because of a special circumstance, stating that his family is now unable to farm such a small property after most of it was taken away for government projects such as flood mitigation. He states that it would be cost-effective for the City to master plan the area and to mitigate the neighborhood concerns (e.g., traffic congestion) with the support of land developers.

Janet Espinosa, a resident in a nearby unincorporated area, urges the Commission to approve all of the parcels in exchange for denying the 660 acres. She adds that the new commercial area will serve South County, the Sports Park will not be in an island, and farmers will no longer farm close to homes.

Peter Arellano, Gilroy City Council member, states that contrary to the statements of the landowners that their properties can no longer be farmed, the area is presently being farmed. Relative to the issue of safety of the children, he reports that there is a school in San Benito County that is in the middle of farmlands. He also notes that pre-zoning can be temporary because the City can change it easily. On the island issue, he states that the City wants to create an island. He states that in order to build trust, the City and the stakeholders must now come up with agricultural mitigation measures and master plan the area before these can be brought into the City's USA. He expresses support for Option 2.

Richard Barberi, one of the landowners, advises that their property is presently being farmed, however, the lands are being leased since the death of his brother who farmed the property. He states that there is a levy near the property where children can ride in bicycles and get into the farm. He also notes that if a buffer zone is established for spraying, it could take away six acres from the land.

Craig Breon, Executive Director of the Santa Clara Audobon Society, notes that while the island issue is a reason for annexing the other lands, however, LAFCO's policies for agricultural land preservation and premature conversion of agricultural lands prevents that. Moreover, he states that the City's policies dictates that annexation

should be made in terms of need, however, the land inventory of Gilroy shows no need. He notes that in five or ten years, the City may review its General Plan, and in a context of a larger land use plan and new land inventories based on the levels of development at that time, the City may decide to annex the adjoining properties. The City may also decide to enlarge the Sports Park, so it is prudent to leave the adjoining properties as they are now rather than developing them now. He notes that the land will still be there in five or ten years and the owners will still get good value at that time. On the mitigation issue, he states that the agricultural preserve intended as mitigation under the old rule has already been eliminated, so that these properties should fall under the current General Plan. He indicates that he believes that Gilroy will be able to come up with an agricultural mitigation plan since that city has produced a General Plan that calls for mitigation. Finally he states that he agrees with the California Environmental Quality Act (CEQA) analysis by LAFCO staff, and expresses hope that the Commission will make the right decision.

Michael McDermott, a landowner, requests that Option 3 be approved because bringing just the Sports Park parcels may not be in line with policies for orderly and efficient growth; the option would have no growth inducing impact since the City limits growth in the area; and the property owners are willing to participate in the agricultural mitigation program.

Tom Springer, Mayor, City of Gilroy, requests approval of Option 3 without any conditions. He states that if the Commission denies the project the City could develop the Sports Park in the unincorporated area. However, the City has to pay property tax to the County, there would be no mitigation and pesticide use would continue. He states that Options 1 and 2 would prolong the discussions. He adds that the 660 acres mentioned by other speakers will not be developed until the Commission decides that it will be developed. In response to an inquiry by Commissioner Alvarado, Mayor Springer explains that the Sports Park would cost \$23 million and will be built over the next 25 years. The road, water and sewer connections will be established first.

Ms. Palacherla explains to Commissioner Figueroa, who was not present during the staff presentation, the two options which may be taken if the City is not willing to comply with the mitigation measures in its General Plan. Ms. Kretchmer explains that the project cannot be approved without conditions, because CEQA requires that feasible mitigation measure be applied, and, in this instance, the mitigation measure is from the

City's General Plan. If the City does not accept this, then the two alternatives will apply, otherwise, any approval will be conditioned on the City's implementation of a mitigation plan. In response to an inquiry by Commissioner Jackson, Mayor Springer states that the mitigation policy exists as part of the General Plan; however, the implementation plan, which is time consuming, will be formulated by the stakeholders.

On the query of Commissioner Gage, Ms. Palacherla states that Option No. 3 will bring in all the lands into the USA, conditioned on the City implementing the mitigation plan within six months. She reports that the Sports Park properties can be developed at this time without LAFCO approval, and the mitigation plan would apply to all the lands, including the Sports Park parcels. Ms. Kretchmer adds that the City can now develop the Sports Park in the unincorporated area; however, conditions should be imposed for the Sports Park to be brought into the City's USA, and that approval will take effect when the City complies with the conditions.

Commissioner Alvarado expresses the opinion that it is important that the mitigation plan should first be defined and implemented before the USA amendment is approved, even if approval is conditional. Ms. Palacherla advises that the City has a mitigation policy, however, it does not have an implementation plan; she further notes that staff recommends Option 2. In response to a question by Commissioner Gage, Ms. Palacherla indicates that the City's General Plan states that mitigation measure shall be implemented prior to land use approval resulting in conversion of prime farm lands to urban uses, and therefore, this USA amendment triggers the application of mitigation policies.

Commissioner Gage expresses concern about the agricultural viability of the small land size even if it is prime agricultural land. He states that these lands, surrounded by development, will be condemned. Ms. Kretchmer responds that Option 3 can be used, with no time limit on the condition to comply with CEQA so the whole area can be included into the City's USA as soon as mitigation is complied with. Commissioner Gage states agreement to change the timeframe.

Commissioner Alvarado notes that the County spent many years to define agricultural preserve and open space and those lands are becoming scarce. She states that while the economic interests of property owners and issues on local control are very important, they must not overshadow LAFCO policies and the joint land use principles of the County and cities. She continues by stating that the City must first

demonstrate efforts to complete and implement agricultural mitigation, or the very important land use principles in this County will be undermined. She indicates that while she sympathizes with the landowners she must first take the role of a state-mandated LAFCO Commissioner. Thus, she proposes that only the Sports Park parcels should be annexed and that the surrounding parcels be referred back to the City to be brought back to the Commission when the implementation plan is completed. She indicates that the City must first come up with an implementation plan before the Commission can approve the annexation conditionally. Ms. Kretchmer advises that the Sports Park parcels should also comply with the mitigation plan under CEQA before it can be included into the City's USA.

In response to an inquiry from Commissioner Figueroa, Commissioner Gage states that under Option 3, the City can implement mitigation without the need to come back to LAFCO, while Option 2 requires otherwise. Ms. Palacherla states that both options require mitigation and that, in addition, both Options 2 and 3 would require overriding considerations. Chairperson LeZotte states that she agrees with Commissioner Alvarado's proposal to require the completed mitigation measures, not just a policy, before approval. She notes that the City earlier proposed to de-annex certain parcels as a mitigation measure; however, the landowners did not agree; she states that rather than speculate that the City would do something, she prefers Option 2 because it will make the City take action first before LAFCO proceeds with the annexation.

In response to an inquiry by Commissioner Gage, Ms. Kretchmer states that the Commission, depending on how much input is desired, has a right to review the mitigation measures prior to approval. She adds that with Option 2, the development of the Sports Park can proceed and it also gives the City time to decide what to do with the surrounding lands. Commissioner Jackson expresses an opinion that Option 3 allows the City to do what is best for its constituency, while Option 2 poses unnecessary obstacles. Chairperson LeZotte notes that she does not consider it as another obstacle because the three parcels will be approved after the mitigation measure is completed. Ms. Palacherla advises that the statement of overriding consideration is in the LAFCO Analyst's report dated August 6, 2002 on the recommended CEQA actions. Commissioner Gage calls for the question.

On motion of Commissioner Alvarado, seconded by Chairperson LeZotte, it is ordered on a vote of 3-2, with Commissioners Gage and Jackson voting against, that Resolution No. 02-11, denying the request of the City of Gilroy for the 1999 expansion, and conditionally approving the annexation of the three Sports Park parcels pursuant to Government Code Section 56742, based on City of Gilroy adopting and implementing the appropriate mitigation plan consistent with the City's General Plan policy, be approved.

Commissioner Gage proposes that the six-month time frame, within which the City must complete the implementation plan for the mitigation measures, be eliminated. Ms. Palacherla advises that the annexation will become effective after recordation. On an inquiry of Commissioner Gage, Ms. Kretchmer states that in order to record the annexation, the City should provide the Commission, through the Executive Officer, with proof of implementation of the mitigation measures. On an inquiry by Commissioner Figueroa, Ms. Kretchmer states any question on the mitigation plan will be brought to the Commission. Commissioner Alvarado commends Commissioner Gage for his participation in the Habitat Conservation Plan meeting stating that habitat conservation and open space preservation are all interrelated and that mitigation should take place when development occurs in the habitat of endangered species.

On motion of Commissioner Gage, seconded by Commissioner Alvarado, it is unanimously ordered that the six-month time frame to complete the implementation plan is removed.

6. COMMENTS ON THE COUNTY'S ANALYSIS OF POSSIBILITY OF ALLOWING URBAN SCALE LARGE GROUP ASSEMBLY FACILITIES (LGAF) IN RURAL UNINCORPORATED AREAS

Ms. Palacherla reports that the proponents of LGAF requested the County to consider amendment of the County General Plan to allow large scale, urban facilities in the rural areas. The Board of Supervisors (BOS) directed the County Planning Office to provide information and policy options on this proposal. The report of the Planning Office has been distributed to other departments and agencies, including LAFCO, for review and comment, and will be taken up at the Board's Housing, Land Use, Transportation and Environment (HLUET) Committee meeting on October 24, 2002.

She continues by saying that since this change will affect the development policies adopted by LAFCO, the cities and the County, LAFCO should send a comment letter informing the County of the Commission's concerns. She indicates that LAFCO's state mandate is reflected in the joint urban policies adopted by LAFCO, the County and the cities. These policies dictate that urban development and services should take place only within the city limits and USA boundaries. She states that allowing urban-scale structures in unincorporated areas is contrary to LAFCO policies and the Cities-County joint urban development plan. She also indicates that on-site water and sewer services in these areas may not be sustainable over a period of time and may require extensions of service from nearby jurisdictions. Hence, she states that LGAFs may result in inefficient provision of services, premature conversion of agricultural open space lands, inducement of growth and creation of illogical boundaries. She indicates that staff, at this point, is seeking authority from the Commission to submit a letter communicating these concerns to the County.

Commissioner Alvarado advises that the County has been under a lot of pressure over the last several years to allow LGAFs because some organizations are unable to find sites within the cities. She notes that it is appropriate that the Commission send its comments to the Planning Commission, HLUET and Board of Supervisors because this is an example of a difficult and sensitive decision that the BOS is going to make. Commissioner Jackson states that in formulating the policies for LGAF, the cities should be informed that these are recommendations which they can appeal to the Board. Commissioner Gage notes that some cities may not want these facilities so they have no place to go. In this regard, he requests all stakeholders to send in comments so they can be discussed by the Board. Commissioner LeZotte expresses agreement for the staff to send a comment letter and indicates that the City of San Jose is also going to send its comments because this also involves issues like cost and availability of lands.

On motion of Commissioner Wilson, seconded by Commissioner Alvarado, it is unanimously ordered that the staff recommendation to send a comment letter on LGAF be approved.

7. REPORT ON WEST LOYOLA ANNEXATION & SEWER PROJECT

Ms. Palacherla advises that staff contacted the Town of Los Altos Hills and the City of Los Altos. Los Altos Hills has indicated a general interest to annex the West

Loyola area. However, the decision will be made after a comprehensive analysis of infrastructure within its SOI is completed and a master sewer plan is developed.

On motion of Commissioner Gage, seconded by Commissioner Wilson, it is unanimously ordered that the staff report on the West Loyola Annexation and Sewer Project be accepted.

8. LAFCO ANNUAL REPORT (FISCAL YEAR 2001-2002)

Ms. Palacherla advises that this item is likewise being considered further from the August 14, 2002 meeting. She states that the annual report includes information on applications and activities in Fiscal Year 2001-2002. During the Fiscal Year, staff processed 28 city-conducted annexation proposals as opposed to 12 in the previous year. There were two requests for USA amendment and two requests for extension of services by the City of Morgan Hill.

In view of the changes in AB 2838, the LAFCO Planner position was replaced by a full-time LAFCO Analyst and a full-time Clerk has been hired. In addition, LAFCO staff (a) produced and distributed the Santa Clara County and Cities Boundaries map in cooperation with the County Planning Office; (b) conducted separate workshops for cities and special districts on annexation processes, changes in law and requirements for service reviews; (c) started work on service reviews activities; (d) started work on mapping of special districts using GIS; (e) started preliminary work on profiles of special districts and the cities; (f) met with various stakeholder groups to present information on service reviews; (g) developed LAFCO database to track applications, maintain records and produce reports; (h) adopted a new fee schedule; (i) adopted a new LAFCO logo; and, (j) participated in CALAFCO activities, including attending conferences and workshops.

In response to an inquiry by Commissioner Alvarado, Ms. Palacherla informs that LAFCO has a website. Ms. Palacherla responds to an inquiry of Commissioner Alvarado that Proposition 218 was one of the issues brought up at the workshop relating to San Jose annexations. Ms. Kretchmer indicates that there is no legal opinion on the matter at this time.

On motion of Commissioner Jackson, seconded by Commissioner Gage, it is unanimously ordered that the LAFCO annual report be accepted.

9. EXECUTIVE OFFICER'S REPORT

9.1 GREENBELT ALLIANCE'S COYOTE VALLEY VISIONING PROJECT (CVVP)

Ms. Palacherla reports that LAFCO was invited to participate on the Partnership Committee of CVVP, and that staff requests authority to participate in the Committee as an observer, and when necessary, as a technical resource on LAFCO policies and procedures, without prejudice to future LAFCO decisions on Coyote Valley issues. Commissioner Gage expresses agreement with the request to staff to participate in the CVVP as an observer. In response to an inquiry by Commissioner Wilson, Ms. Palacherla advises that LAFCO staff attended the CVVP meeting in August as an observer without any active participation.

On motion of Commissioner Alvarado, seconded by Commissioner Jackson, it is unanimously ordered that staff be authorized to participate as an observer and technical resource to CVVP.

9.2 2002 CALAFCO ANNUAL CONFERENCE (NOVEMBER 13-15, 2002)

Ms. Palacherla requests travel authority from the Commission for staff and members of the Commission to attend the California Association of LAFCOs (CALAFCO) Annual Conference in Santa Barbara, California, from November 13 to 15, 2002. Commissioners Alvarado and LeZotte express interest in attending the conference. Commissioner Gage announces that he will be represented by Rachael Gibson, his land use aide. Ms. Palacherla announces that the deadline for registration on October 11, 2002.

On motion of Commissioner Jackson, seconded by Commissioner Gage, it is unanimously ordered that travel expenses be authorized for staff and interested Commissioners to attend the CALAFCO Annual Conference.

9.3 CALAFCO EXECUTIVE BOARD NOMINATIONS

Ms. Palacherla announces that CALAFCO is accepting nominations to its Executive Board. She requests that staff be informed if the Commission wishes to nominate one of its members. In response to an inquiry by Commissioner LeZotte, Ms. Palacherla states that she will inform the Commission of the frequency and location of the CALAFCO Executive Board meetings.

10. PENDING APPLICATIONS

There are no pending applications.

11. WRITTEN CORRESPONDENCE

CALAFCO Newsletter

12. ADJOURNMENT

On order of the Chairperson, there being no objection, the meeting is adjourned at 3:11 p.m. to the next regular meeting to be held on Wednesday, December 11, 2002 at 1:15 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

Linda J. LeZotte, Chairperson
Local Agency Formation Commission

ATTEST:

Emmanuel Abello, LAFCO Clerk

December 4, 2002

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **San Jose Urban Service Area (USA) Amendment - 2002**
Areas A, B, C and D

Agenda Item # 4

RECOMMENDATION

Area A

1. CEQA Action for Area A

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

Find that [a] the *EIR* certified by the City of San Jose on May 7, 2002 was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project, and [b] prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the EIR.

Find that [a] the *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.

- Land Use
- Air Quality
- Biotics

Find that a monitoring program was approved by the City of San Jose as Lead Agency 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 Urban Service Area expansion, over which LAFCO has responsibility.

- 2. Approve** the inclusion of Area A containing 17 acres, into the San Jose Urban Service Area contingent on LAFCO staff verification of the sewer and water contract between the Cities of San Jose and Milpitas. If any issues are identified, staff will bring the issue back to LAFCO. (See Attachment 1, Map 1)

Area B

1. CEQA Action for Area B

As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Negative Declaration for any project approved by the Commission:

- a. Find that the Initial Study and Negative Declaration approved by the City of San Jose were completed in compliance with CEQA and, together with the additional information being provided by the City, are an adequate discussion of the environmental impacts of the project,
- b. 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 Negative Declaration.

2. **Approve** the inclusion of Area B containing about 8 acres, into the City of San Jose Urban Service Area. Any future annexation of the parcel must include the entire parcel with appropriate pre-zoning designations for the portions of the parcel within as well as outside the USA boundary. (See Attachment 1, Map 2)

Area C

1. CEQA Action for Area C

As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Negative Declaration for any project approved by the Commission:

- a. Find that the Initial Study and Negative Declaration approved by the City of San Jose were completed in compliance with CEQA and, together with the additional information being provided by the City, are an adequate discussion of the environmental impacts of the project,
- b. 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 Negative Declaration.

2. **Approve** the inclusion of Area C containing about 8 acres, into the City of San Jose Urban Service Area. Any future annexation of the parcel must include the entire parcel with appropriate pre-zoning designations for the portions of the parcel within as well as outside the USA boundary.(See Attachment 1, Map 3)

PROJECT DESCRIPTION AND BACKGROUND

The City of San Jose proposes to expand its Urban Service Area (USA) boundary to include three (3) areas Area A, B and C. The City withdrew its request for Area D per its letter dated October 16, 2002. The following chart is a summary of the three areas.

Summary of Proposed San Jose Urban Service Area Expansion

Areas	APN and Acreage	County GP Designation	Current Landuse	Proposed Landuse	City GP Designation	City Zoning Designation
Area A (Within San Jose City limits)	Portion of APN 015-40-002 (17 acres)	NA	Landfill	Service yard and administrative office for BFI	Light Industrial	A (PD) Planned Development
Area B	Portion of APN 652-08-009 (8 acres)	Rural Residential	Vacant	Church and Private school	Public/ Quasi Public"	No pre-zoning designation has been applied yet
Area C	Portion of APN 654-03-009 (8 acres)	Rural Residential	Single family residence, a barn and 2 mobile homes	No specific development proposal yet	"Very Low Density Residential"(2DU/ Ac) on 6.3 acres and "Non-Urban Hillside" on 1.7 acres (Potential for 10 homes)	No pre-zoning designation has been applied yet

Area A

Area A consists of a portion (17 acres) of one parcel (APN 015-40-002) and is located at the western terminus of Dixon Landing Road. The area is already within the City limits of San Jose. It is also within the City's Urban Growth Boundary and is contiguous to its urban service area. The proposal area is part of the Newby Island Compost Facility and Sanitary Landfill and the site is currently used to convert green waste into compost. The proposed use for this site after inclusion in the city's urban service area is for an administrative office and service yard for BFI, a local garbage and recycling collection business. The site is bordered by Coyote Creek and the City of Fremont to the north and vacant land approved for a 200,000 sq ft self-storage facility and the City of Milpitas to the east. The City's General Plan designation is "Light Industrial" and the Zoning designation is A PD)Planned Development which would allow the property to be used as a corporate yard for a solid waste company.

Area B

Area B consists of a portion (8 acres) of one parcel (APN 652-08-009) and is located on the northeasterly side of Murillo Avenue between Groesbeck Hill Drive and Norwood. The portion of the parcel proposed for inclusion in the USA is below the 15% slope line and is within the City's urban growth boundary. It is also contiguous to the city's current USA and city limits. Currently the site is a vacant hay field; hay has been grown on the site for the last ten years. Surrounding land uses include single family residential or rural residential and a public park (Groesbeck Park) to the west. The City is requesting an USA amendment on behalf of the property owner to allow potential development of a church and private school on the property. The City General Plan designation for the 8-acre portion of the site is "Public/Quasi Public" and would allow private institutions such as churches, private schools and hospitals.

Area C

Area C consists of a portion (8 acres) of an 11.8-acre parcel (APN 654-03-009) and is located approximately 1070 feet east of Murillo Avenue and 380 feet northerly of Quimby Road. The portion of the parcel proposed for inclusion in the USA is below the 15% slope line and is within the City's urban growth boundary. It is also contiguous to the city's USA and city limits. Currently there are two single-family homes on the property. Surrounding land uses include a church and residences to the south, a retention basin maintained by the Santa Clara Valley Water District for flood control to the west, hillsides to the north and east and a residential sub division to the south west of the project site. The City is requesting an USA amendment on behalf of the property owner to allow for the potential residential development on the property. The City General Plan designation for the 8-acre portion of the site is "Very Low Density Residential" (2.0DU/AC) and on the remaining portion of the property it is "Non-Urban Hillsides". It is estimated that a maximum of 10 new homes may be potentially developed on the site after inclusion in the USA and annexation to the City.

City of San Jose's Green line / Urban Growth Boundary (UGB)

The City of San Jose adopted its UGB or Greenline in 1996. The UGB establishes the maximum extension of urban development and urban services both intended and anticipated in the City's General Plan. The City's policies for its UGB state that the no urban development should be allowed outside the UGB and that the UGB should contain lands suitable and appropriate for urban purposes including all USA lands and certain lands located below the 15% slope line and deemed potentially suitable for future development. To ensure integrity of the boundary, significant modifications to the boundary and its policies should be strongly discouraged. Significant modifications may be considered only during a comprehensive review of the General Plan and only if the City Council makes findings related to among others, service capacities and impacts, fiscal impacts and public benefit considerations. However, minor modifications to the UGB may be considered during the Annual Review of the General Plan if certain criteria are met such as the slope of the property, size of area affected and location of property relative to existing and planned urban uses and services among others.

ENVIRONMENTAL CONSIDERATIONS

An analysis of the environmental information is contained in the attached LAFCO Analyst's staff report.

CONSISTENCY WITH SAN JOSE GENERAL PLAN

All three areas are within the City's UGB.

CONSISTENCY WITH LAFCO POLICIES

AREA A

Conversion of Prime Agricultural Lands and Open Space

The USA amendment will not result in the loss of Prime Farmland or Farmland of Statewide Importance. There is no farming occurring on or in the immediate proximity of the site. The proposed project would have no significant impacts on open space or agriculture.

Logical and Orderly Boundaries

The proposed USA boundary would only include a small portion of the entire parcel within the USA to allow provision of urban services for the proposed corporation yard and offices. The remaining portion of the parcel would continue to serve as a landfill site and would not be provided with urban services. Even though LAFCO policies do not generally encourage boundaries to split lines of assessment, in this case it would be inappropriate to include the entire parcel. The County Surveyor has approved the map and legal description of the proposed amendment splitting assessment lines as having definite and certain boundaries.

Ability of City to Provide Urban Services

Sanitary Sewer and Water Supply

According to the EIR, the area is not receiving water or sewer services currently. The City of San Jose would provide sewer service to the area, however, according to City staff, the pipes would run through the City of Milpitas and connect with its sewer system. Regarding water supply, again, the City of San Jose would provide water service to the area but would be purchasing water from the City of Milpitas. A agreement between the City of Milpitas and San Jose is being negotiated to clarify these issues. At the time of writing this report, a copy of the agreement was not available to LAFCO staff. LAFCO staff will review the agreements to ensure that these issues do not involve any out of agency contracts for services issues.

Fire and Police Protection

Since the site is already within the city limits of San Jose, the City provides fire and police protection. The site does not have proximate access to San Jose streets, but is served by public streets in the City of Milpitas. Milpitas fire protection personnel provide the closest response to a fire or emergency. Development on the site will not increase demand for service significantly and is not sufficient to warrant any new equipment, facilities or personnel.

Ability of School District to Provide School Facilities

The development of this area will not directly generate any new students and so will not require additional provision of school facilities.

Fiscal Impact Analysis

Since this area is already within the City limits, the revenues and expenditures incurred by the different agencies will not change.

Area B

Conversion of Prime Agricultural Lands and Open Space

Area B is not identified as "Prime Farmland". The proposal would not pose a threat to conversion of prime agricultural land.

Logical and Orderly Boundaries

The proposal is adjacent to an area that is within the current city limits and USA boundary and is developed with urban services.

Split Lines of Assessment

The USA amendment only includes that portion of the parcel, which is below the 15% slope and within the City's urban growth boundary. The proposal would allow for development and urban services only on the portion of the parcel below the 15%

slope line while a permanent open space buffer would be established on the remainder of the parcel. Historically, LAFCO has allowed USAs in the east foothills to split lines of assessment to follow the 15% slope line where it is appropriate and where open space is protected.

While the proposal for USA includes only a portion of the parcel, future annexation should include the entire parcel. This would allow the City to apply the appropriate landuse and zoning designations to the portion of the parcel outside the USA in order to ensure its open space status. Any future annexation of the parcel would require LAFCO approval and application of the appropriate pre-zoning designations to the parcel.

Ability of City to Provide Urban Services

Sanitary Sewer

The City of San Jose will provide sanitary sewer to the project area after annexation. A 6-inch sewer line on Groesbeck Hills Drive at the northwesterly corner of the site and on Murillo Avenue at the southwesterly corner of the site are available and adequate to serve future development. A growth management system regulates new development to ensure that capacity at the City's wastewater treatment plant is not exceeded.

Water Supply

The San Jose Municipal Water System Division will provide water to the site after annexation. The 8 & 12-inch lines in Murillo Avenue are available and adequate to serve future development.

Storm Drainage

The site currently drains via overland flow through the Groesbeck Park to a City storm line in Pepperidge Drive. Storm drainage for the area would be provided by the City of San Jose. Existing storm drainage lines are available and adequate to serve increased storm water runoff caused by the future site development.

Fire Protection

The San Jose Fire Department would provide service to the area upon annexation. The first and second due station response times are within the recommended limits, however, the ladder truck response exceeds the 6-minute recommended limit. This occurs in other city areas and is not considered a serious deficiency by the fire department. No additional personnel or equipment is necessary to serve future development of the site.

Police Protection

Upon annexation, the San Jose Police Department would provide police protection. No additional equipment or personnel are required to serve future development.

Ability of School District to Provide School Facilities

The proposal area is within the Evergreen School District (K-8) and the East Side Union High School District (9-12). Future development of a private school on the site would provide capacity for up to approximately 600 students at the local elementary schools.

Five-Year supply of Vacant Land

The City currently has about 951 acres of vacant Public/ Quasi-public lands within its USA. Based on the City's rate of development of 38 acres per year of vacant Public / Quasi-Public lands, this represents about 25 years worth of vacant land designated for Public/ Quasi Public lands.

The following is the City's explanation for why it needs additional lands within its USA at this time. The City's Public/Quasi Public land use designation covers a broad range of uses (For example, schools, corporation yards, fire stations, water treatment facilities, convention centers, museums, governmental office and airports). Large portions of the undeveloped Public/Quasi-public lands are parcels associated with the buffer lands surrounding the Water Pollution Control Plans and the San Jose International Airport. The City estimates that there are only about 59 acres of vacant Public/Quasi-public lands that are vacant and available for development. This is less than 2 years supply of vacant land.

Fiscal Impact Analysis

The proposed school site would have a capacity of 600 students and 30 staff members. The service population is assumed to be the resident population, (which in this case would be zero), plus one half the total employment generated. The service population for the City of San Jose is therefore estimated to increase by only 15 persons as a result of this development. This small increase in population would have negligible impact on the City and County finances. A detailed fiscal impact analysis from the City is not available at the time of writing this report.

Area C

Conversion of Prime Agricultural Lands and Open Space

Area C is not identified as "Prime Farmland". The proposal would not pose a threat to conversion of prime agricultural land.

Logical and Orderly Boundaries

The proposal is contiguous to an area that is within the current city limits and USA boundary and is developed with urban services.

Split Lines of Assessment

The USA amendment only includes that portion of the parcel, which is below the 15% slope and within the City's urban growth boundary. The proposal would allow for development and urban services only on the portion of the parcel below the 15% slope line while a permanent open space buffer would be established on the remainder of the parcel. Historically, LAFCO has allowed USAs in the east foothills to split lines of assessment to follow the 15% slope line where it is appropriate and where open space is protected.

While the proposal for USA includes only a portion of the parcel, future annexation should include the entire parcel. This would allow the City to apply the appropriate land use and zoning designations to the portion of the parcel outside the USA to ensure its open space status. Any future annexation of the parcel would require LAFCO approval and application of the appropriate pre-zoning designations to the parcel.

Ability of City to Provide Urban Services

Sanitary Sewer

The City of San Jose will provide sanitary sewer to the project area after annexation. At the time of development the developer of the site would be responsible for the installation and extension of existing sewer lines on Norwood Avenue to serve the future project.

Water Supply

The San Jose Municipal Water System will provide water to the site after annexation. If annexed, the parcel could be served with existing facilities at acceptable pressures up to an elevation of about 630 feet. The site is at an average elevation of about 560 feet.

Fire Protection

The San Jose Fire Department would provide service to the area upon annexation. No additional personnel or equipment is necessary to serve future development of the site.

Police Protection

Upon annexation, the San Jose Police Department would provide police protection. No additional equipment or personnel are required to serve future development.

Access to Site

The environmental document anticipates that access may be obtained in two ways to the site; both options would likely require the acquisition of additional lands. However, City staff has indicated that the Santa Clara Valley Water District (owns parcel to the west of this site) staff is recommending that the District sell 0.69 acres to accommodate a new right of way for the future development of the site. The District Board will make a decision only after the City pre-zoning for the parcel is completed in December. This issue will be reviewed at the time of future LAFCO annexation of the site.

Ability of School District to Provide School Facilities

The Evergreen School District assumes a pupil generation rate of 0.52 students per residential unit. This equates to six students generated by the 11 homes that could potentially be developed on the site. According to Clarke E. Schiller, Director of Planning, at the Evergreen School District, the additional new students generated as a result of potential development can be accommodated within existing facilities and no new facilities would be needed.

Five-Year supply of Vacant Land

The City currently has about 2,381 acres of vacant Residential designated lands within its USA. The City's rate of development of vacant residential land per year is 421 acres. Based on this information, the City has about 5.7 years worth of vacant residential land within its current USA.

Fiscal Impact Analysis

Development of Area C would result in a maximum of 11 single-family homes generating a resident population of 34 persons at build out. Preliminary fiscal impact analysis shows only a very small impact on the City and County due to the small size of the proposed 11 home development. Detailed analysis was not available at the time of writing this report.

CONCLUSION

Area A is already within the City limits and is adjacent to the City's USA. The proposed USA amendment is a logical boundary change allowing extension of urban services necessary for relocation of the corporation yard. Staff recommends inclusion in the USA.

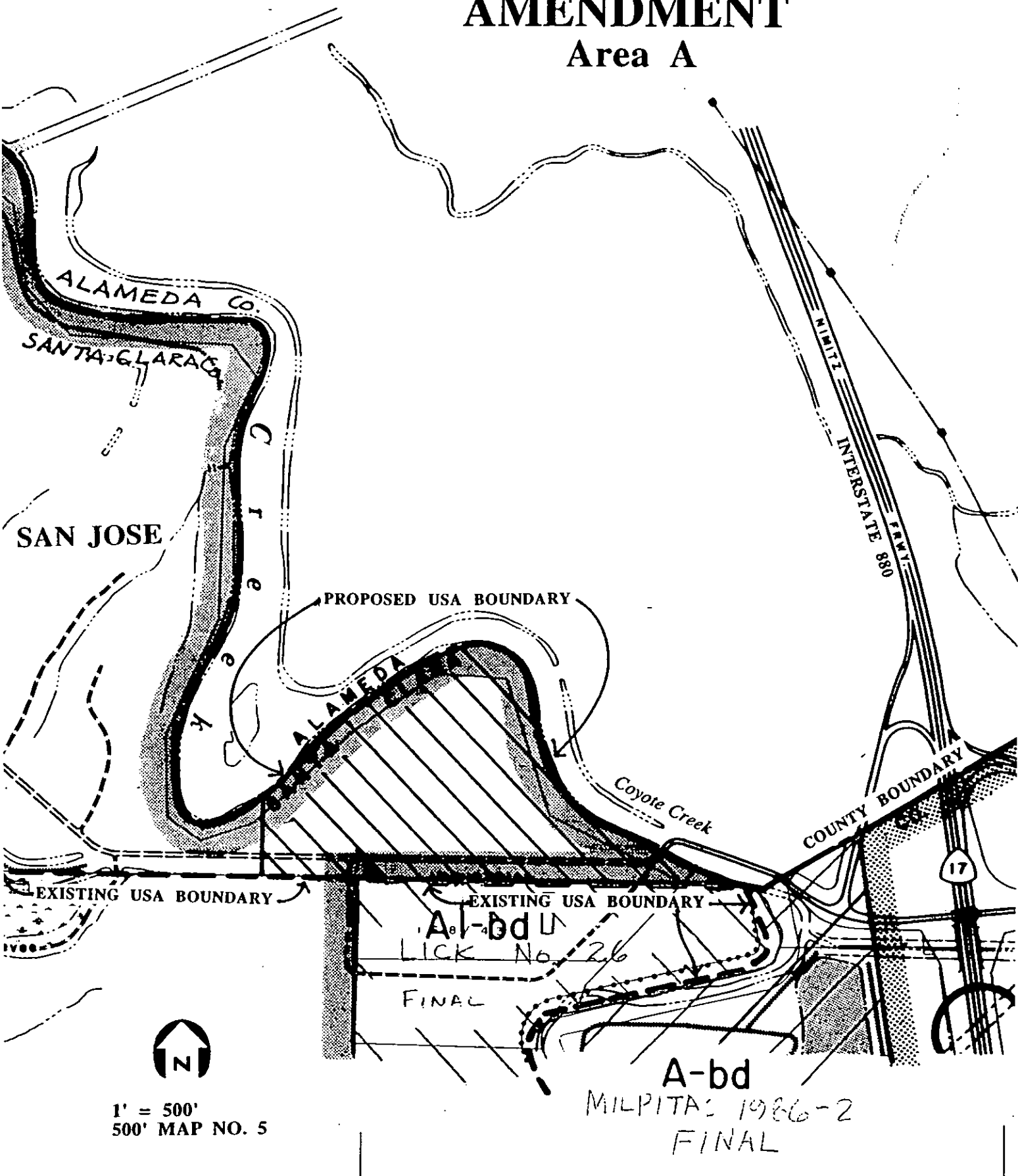
Area B will provide a site for a school and church -facilities that should be located within a city's urban service area and city limits. The City is able to provide the required urban services to the proposed development. The proposal does not impact open space or agricultural lands and is adjacent to a fully developed residential area. Staff recommends approval of USA amendment.

Area C would add eleven new homes to the City adjacent to an existing residential development, the City boundary and its current USA. The City is capable of providing services to this development without detracting from current level of services to its existing customers. Additionally, the City's 5.7 years supply of vacant residential land within its current USA boundary is not substantially more than the 5 years supply that LAFCO policies allow, therefore staff recommends inclusion in the USA.

ATTACHMENTS

- Attachment 1: Maps of the Areas
- Attachment 2: LAFCO Analyst Reports

SAN JOSE 2002 USA AMENDMENT Area A



November 19, 2002
HMH 2970-00-006
Page 1 of 1

EXHIBIT "A"
URBAN SERVICE AREA AMENDMENT
GP01-04-03

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, described as follows:

Being a portion of Coyote Creek and a portion of the parcel of land described in the deed from San Jose Scavenger Company to Newby Island Improvement Company recorded May 15th, 1959, in Book 4417 of Official Records, at page 39, Santa Clara County Records, more particularly described as follows:

BEGINNING at the most easterly corner of said parcel of land, being on the northerly line of the existing Urban Service Area;

Thence along said northerly line, being the southerly line of said parcel of land, South 89°58'00" West, 1659.44 feet;

Thence North 00°21'41" West, 238.18 feet, to the general northerly line of said parcel of land;

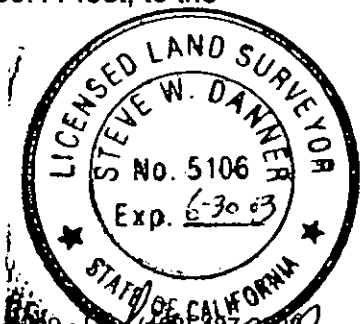
Thence North 00°21'41" West, 92.48 feet, more or less, to the approximate center line of Coyote Creek, being the County line between the Counties of Santa Clara and Alameda and also being the City Limit line of the City of San Jose as established by City of San Jose Ordinance No. 13979;

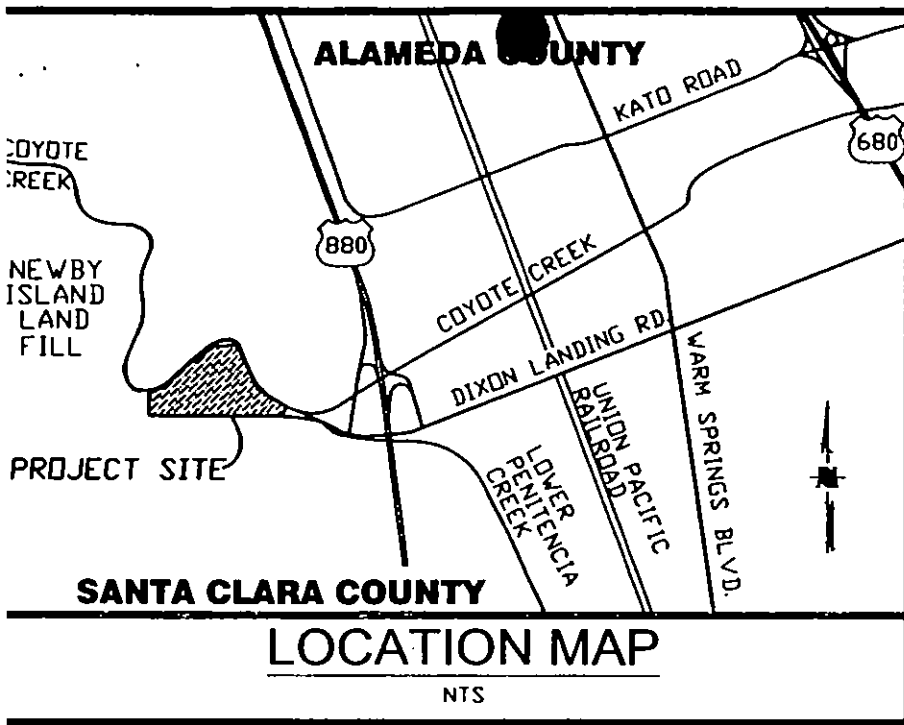
Thence along said City Limit line, the following six courses:

1. Thence North 48°50'00" East, 121.03 feet;
2. Thence North 45°50'00" East, 316.20 feet;
3. Thence North 55°22'00" East, 423.04 feet;
4. Thence South 86°56'00" East, 344.77 feet;
5. Thence South 18°39'00" East, 575.37 feet;
6. Thence South 63°56'00" East 697.29 feet, to the said Urban Service Area Boundary;

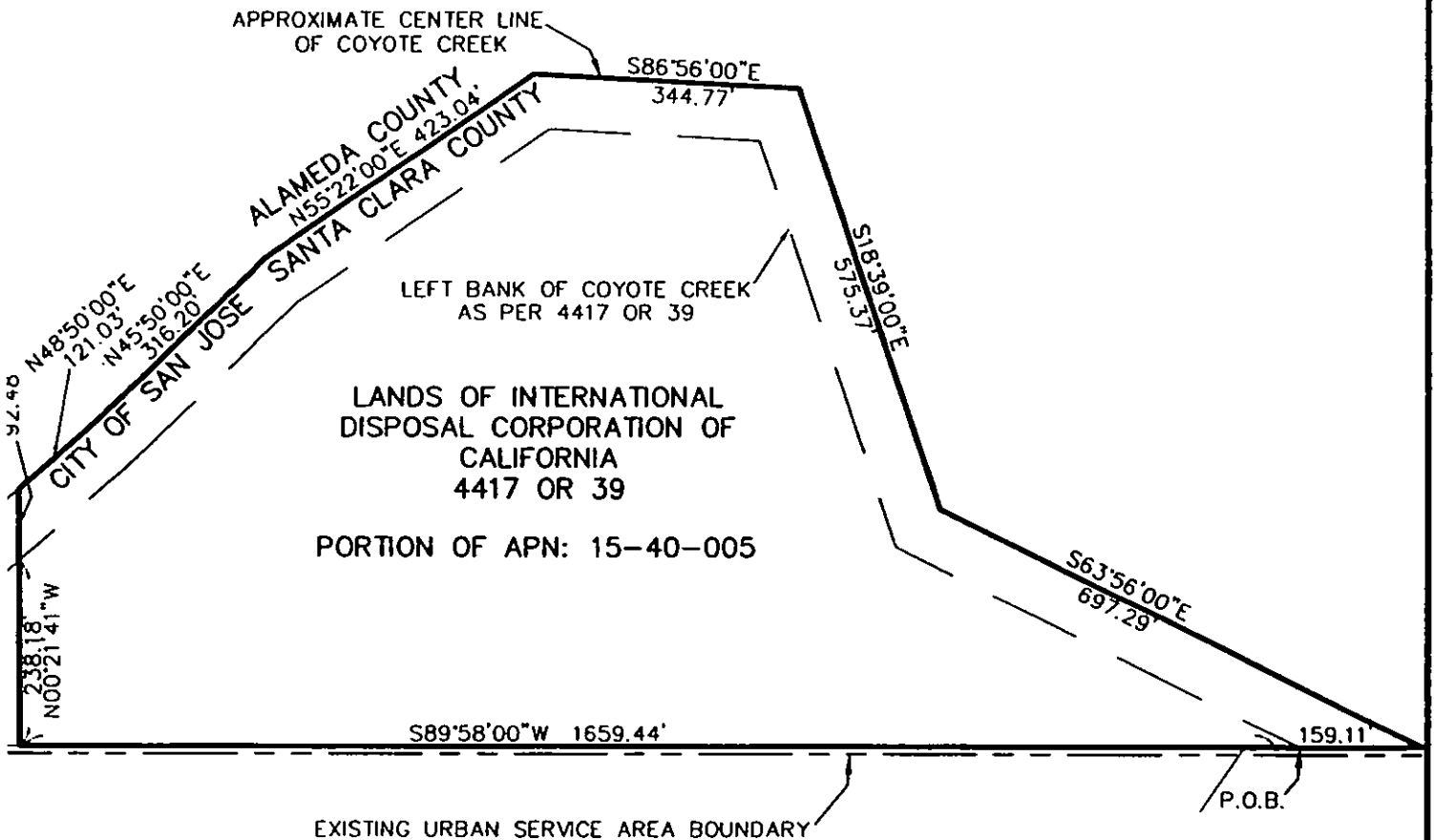
Thence along said Urban Service Area Boundary, South 89°58'00" West, 159.11 feet, to the POINT OF BEGINNING.

Containing 21 Acres, more or less.





GRAPHIC SCALE
1 INCH = 240 FT.



SHEET 1 OF 1

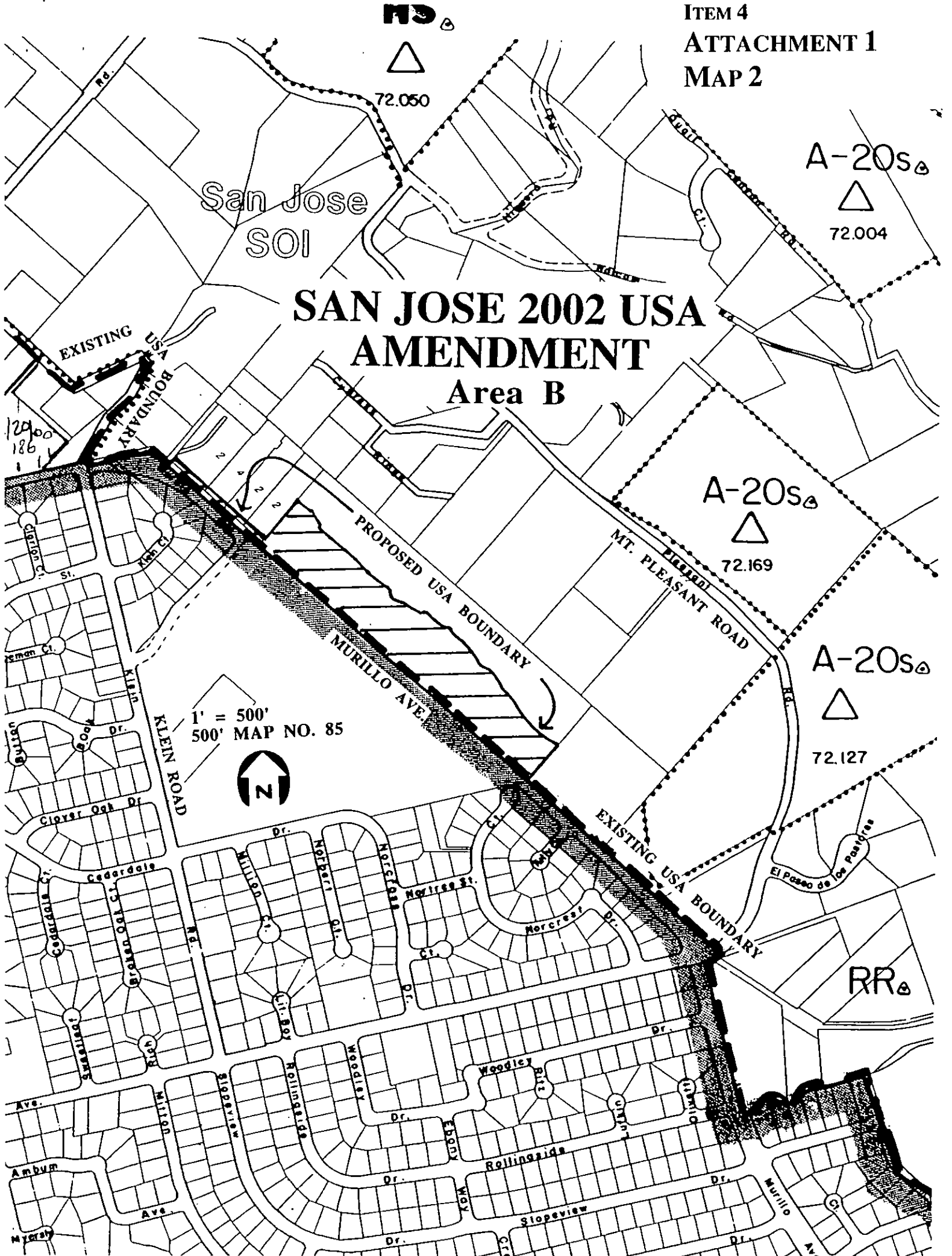
Date: 11-19-02
Scale: 1" = 240'
Designed: -
Drawn: JM
Checked: SD
Proj. Eng.: -
Reg. No.: 2970PL03



HMH, Incorporated
Civil Engineers • Planners • Surveyors
1570 OAKLAND ROAD, SUITE 200
P.O. BOX 611510 SAN JOSE, CALIFORNIA 95161-1510
(408) 487-2200 FAX (408) 487-2222

Plot to accompany description:
URBAN SERVICE AREA
AMENDMENT
GPO1-04-03
SAN JOSE CALIFORNIA

2970PL03: 535: 29700006: 20020723.1705



SAN JOSE 2002 USA AMENDMENT Area B

1" = 500'
500' MAP NO. 85



ND



72.050

A-20s



72.004

A-20s



72.169

A-20s



72.127

RR

15362-0
8/6/02
Rev.11/18/02
S.D.

EXHIBIT "A"

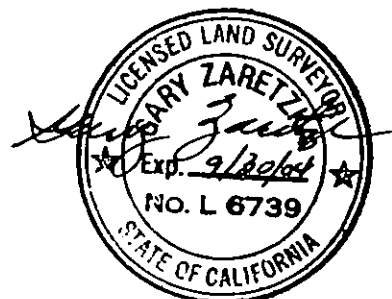
DESCRIPTION

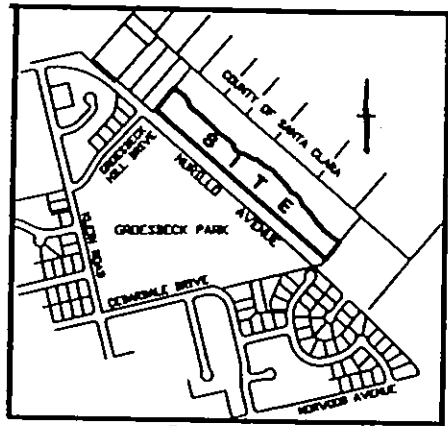
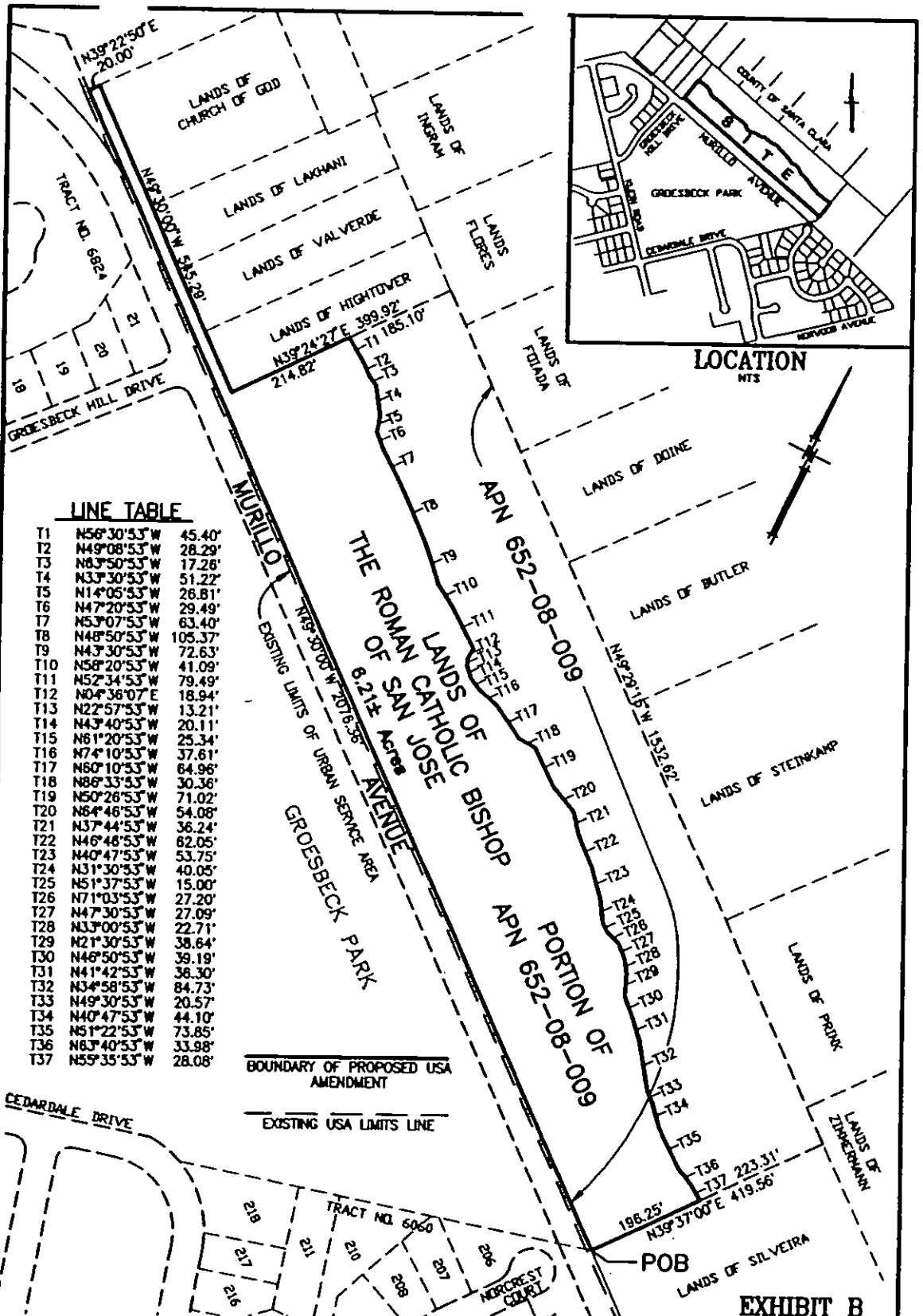
City of San Jose 2002 Urban Service Area Expansion – Area B
Lands of The Roman Catholic Bishop of San Jose

All that certain real property situate in the County of Santa Clara, State of California, being a portion of that certain parcel of land conveyed to The Roman Catholic Bishop of San Jose, a Corporation Sole, by grant deed recorded June 20, 2000 in Document Number 15285334, Santa Clara County Records, described as follows:

BEGINNING at the Southerly corner of said parcel conveyed to The Roman Catholic Bishop of San Jose; said point lying on the existing urban service area boundary as established by the City of San Jose; thence from said POINT OF BEGINNING along the Southwesterly line of said parcel and said urban service area boundary N49°30'00"W 2076.36 feet to a Westerly corner of said parcel; thence leaving said Southwesterly line and said urban service area boundary along a Northwesterly line of said parcel N39°22'50"E 20.00 feet; thence leaving said Northwesterly line along a Northeasterly line of said parcel S49°30'00"E 545.29 feet; thence leaving said Northeasterly line along a Northwesterly line of said parcel N39°24'27"E 214.82 feet; thence leaving said Northwesterly line the following courses: S56°30'53"E 45.40 feet; S49°08'53"E 28.29 feet; S63°50'53"E 17.26 feet; S33°30'53"E 51.22 feet; S14°05'53"E 26.81 feet; S47°20'53"E 29.49 feet; S53°07'53"E 63.40 feet; S48°50'53"E 105.37 feet; S43°30'53"E 72.63 feet; S58°20'53"E 41.09 feet; S52°34'53"E 79.49 feet; S04°36'07"W 18.94 feet; S22°57'53"E 13.21 feet; S43°40'53"E 20.11 feet; S61°20'53"E 25.34 feet; S74°10'53"E 37.61 feet; S60°10'53"E 64.96 feet; S86°33'53"E 30.36 feet; S50°26'53"E 71.02 feet; S64°46'53"E 54.08 feet; S37°44'53"E 36.24 feet; S46°46'53"E 62.05 feet; S40°47'53"E 53.75 feet; S31°30'53"E 40.05 feet; S51°37'53"E 15.00 feet; S71°03'53"E 27.20 feet; S47°30'53"E 27.09 feet; S33°00'53"E 22.71 feet; S21°30'53"E 38.64 feet; S46°50'53"E 39.19 feet; S41°42'53"E 36.30 feet; S34°58'53"E 84.73 feet; S49°30'53"E 20.57 feet; S40°47'53"E 44.10 feet; S51°22'53"E 73.85 feet; S63°40'53"E 33.98 feet; and S55°35'53"E 28.08 feet to a point in the most Southeasterly line of said parcel; thence along said Southeasterly line S39°37'00"W 196.25 feet to the POINT OF BEGINNING.

Prepared by
the firm of
MACKAY & SOMPS





LINE TABLE

T1	N56°30'53"W	45.40'
T2	N49°08'53"W	28.29'
T3	N83°50'53"W	17.26'
T4	N33°30'53"W	51.22'
T5	N14°05'53"W	26.81'
T6	N47°20'53"W	29.49'
T7	N53°07'53"W	63.40'
T8	N48°50'53"W	105.37'
T9	N43°30'53"W	72.63'
T10	N58°20'53"W	41.09'
T11	N52°34'53"W	79.49'
T12	N04°36'07"E	18.94'
T13	N22°57'53"W	13.21'
T14	N43°40'53"W	20.11'
T15	N61°20'53"W	25.34'
T16	N74°10'53"W	37.81'
T17	N60°10'53"W	64.96'
T18	N86°33'53"W	30.36'
T19	N50°28'53"W	71.02'
T20	N64°48'53"W	54.08'
T21	N37°44'53"W	36.24'
T22	N46°48'53"W	82.05'
T23	N40°47'53"W	53.75'
T24	N31°30'53"W	40.05'
T25	N51°37'53"W	15.00'
T26	N71°03'53"W	27.20'
T27	N47°30'53"W	27.09'
T28	N33°00'53"W	22.71'
T29	N21°30'53"W	38.64'
T30	N46°50'53"W	39.19'
T31	N41°42'53"W	36.30'
T32	N34°58'53"W	84.73'
T33	N49°30'53"W	20.57'
T34	N40°47'53"W	44.10'
T35	N51°22'53"W	73.85'
T36	N63°40'53"W	33.98'
T37	N55°35'53"W	28.08'

BOUNDARY OF PROPOSED USA AMENDMENT
 EXISTING USA LIMITS LINE

11-18-2002 10:52:32 Project P:\123882\Drawing\Plot.dwg

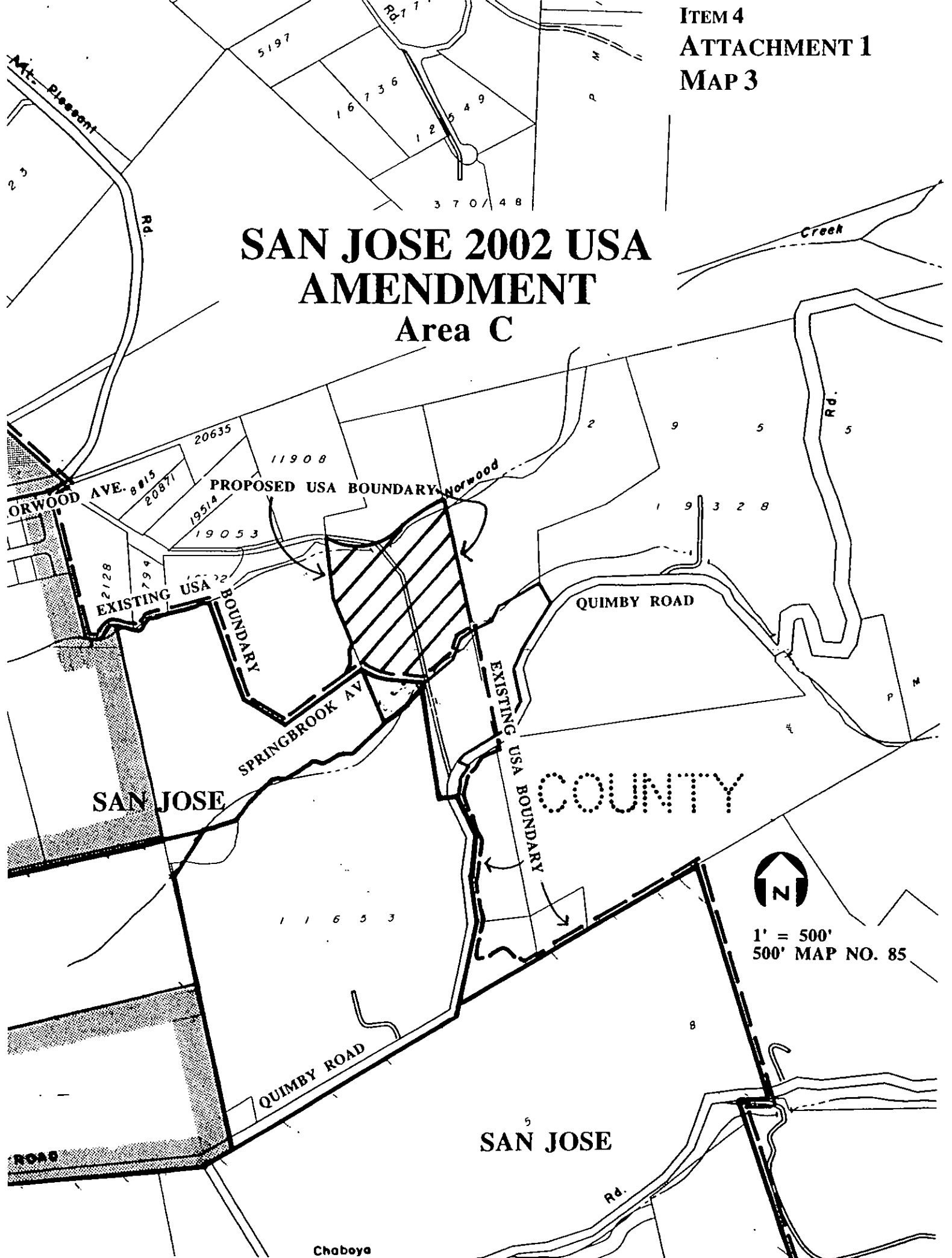


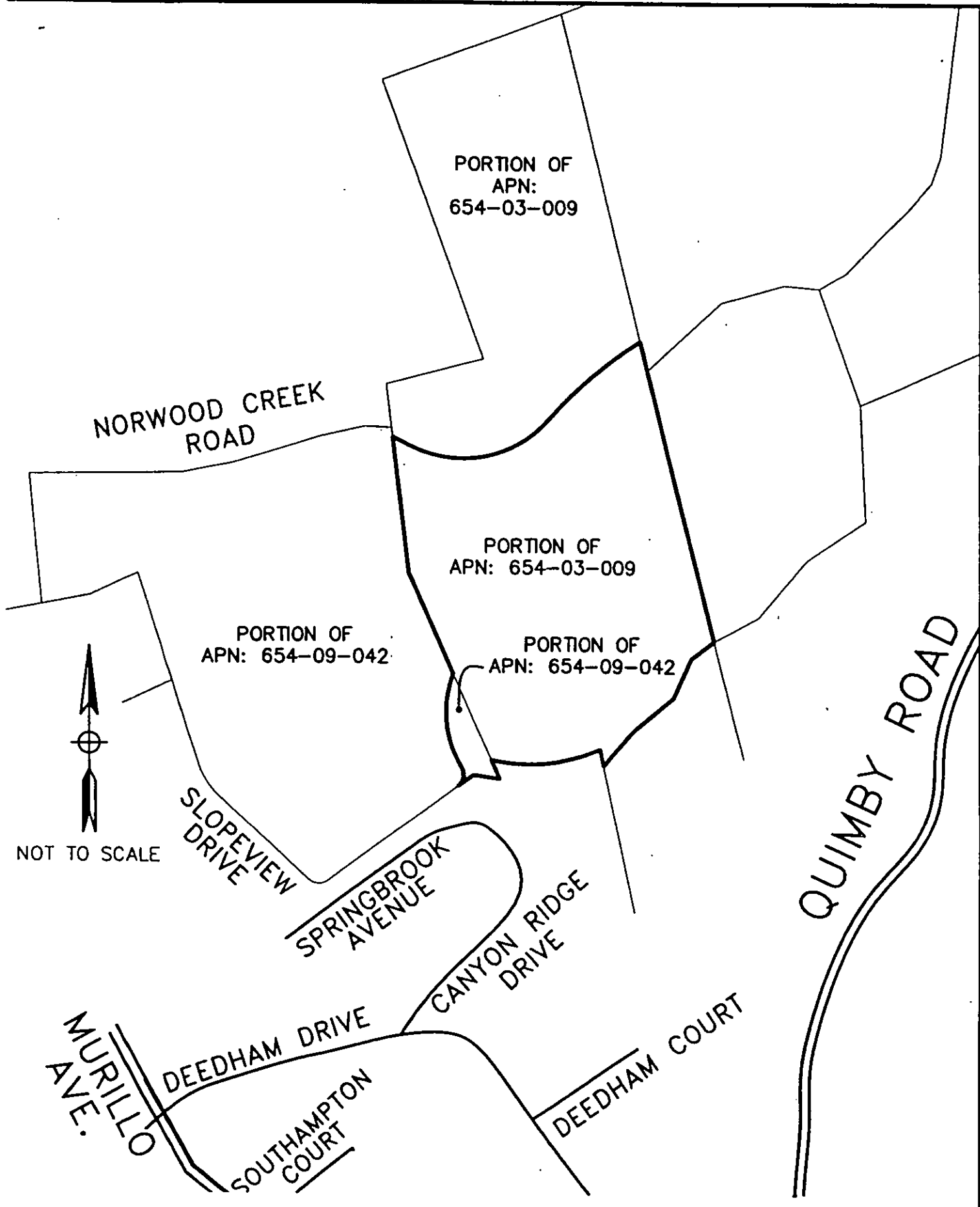
CITY OF SAN JOSE 2002 URBAN SERVICE AREA EXPANSION - AREA B
 LANDS OF THE ROMAN CATHOLIC BISHOP OF SAN JOSE
 SAN JOSE CALIFORNIA

BRACKAY & SOOPS
 CIVIL ENGINEERS, INC.

ONE ENGINEERING-LAND PLANNING-LAND SURVEYING
 1833 THE ALAMEDA, SAN JOSE, CA 95128 TEL:(408) 963-0800

SAN JOSE 2002 USA AMENDMENT Area C





SHEET 2 OF 2

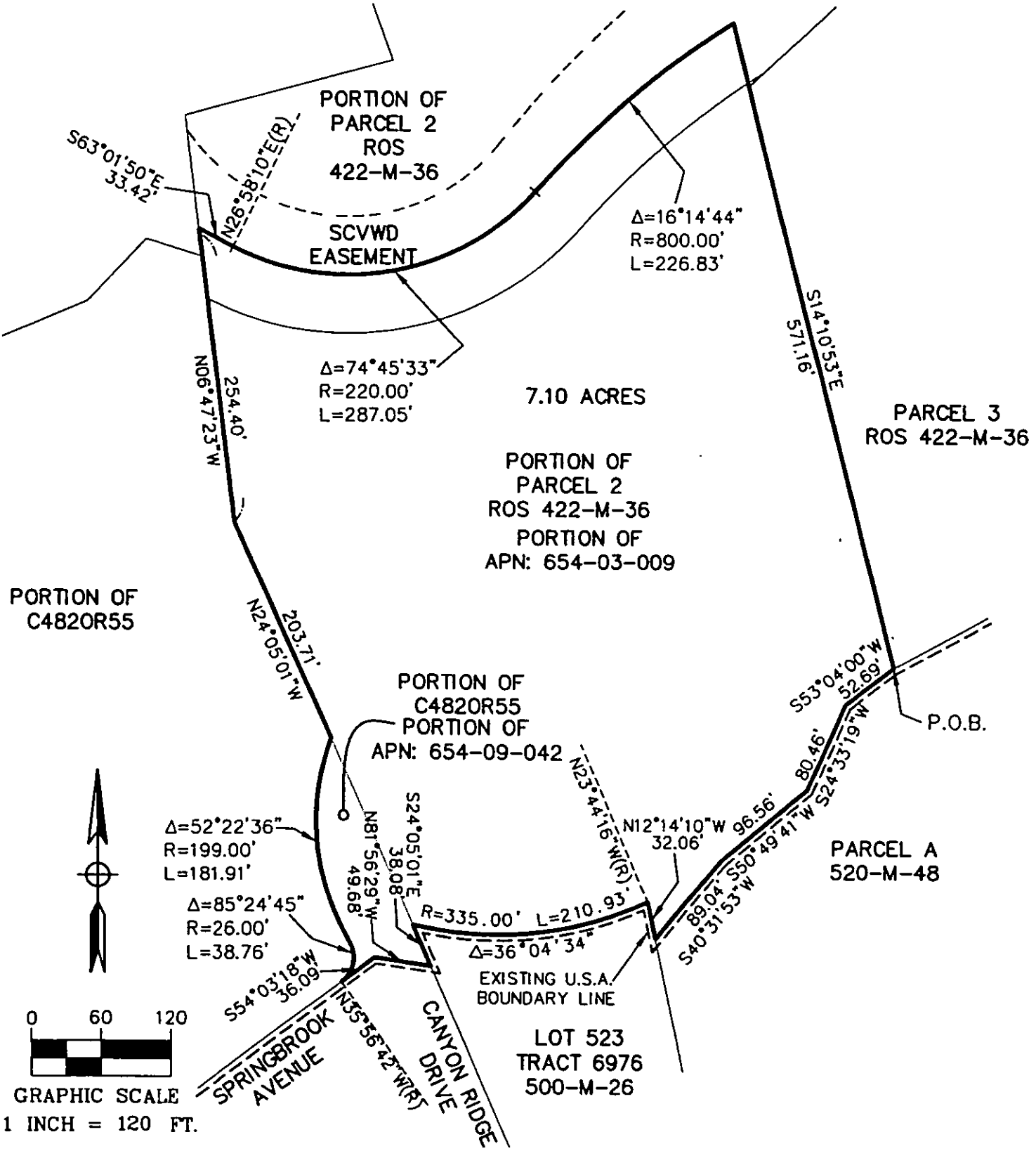
Date: 11-12-02
 Scale: NONE
 Designed: -
 Drawn: JM
 Checked: SD
 Proj. Eng.: -
 Job Name: 2002PL06B



HMH, Incorporated
 Civil Engineers • Planners • Surveyors
 1570 OAKLAND ROAD, SUITE 200
 P.O. BOX 811510 SAN JOSE, CALIFORNIA 95161-1510
 (408) 487-2200 FAX (408) 487-2222

EXHIBIT A
 LOCATION MAP FOR URBAN
 SERVICE AREA
 SANTA CLARA COUNTY, CALIFORNIA

2002PL06B-348-26280023-20021112.0527



GRAPHIC SCALE
1 INCH = 120 FT.

SHEET 1 OF 2

Date:	11-12-02
Scale:	1" = 120'
Designed:	-
Drawn:	JM
Checked:	SD
Proj. Eng.:	-
Doc. Name:	2002PL06

HMH, Incorporated
 Civil Engineers • Planners • Surveyors
 1570 OAKLAND ROAD, SUITE 200
 P.O. BOX 811510 SAN JOSE, CALIFORNIA 95161-1510
 (408) 487-2200 FAX (408) 487-2222

EXHIBIT A
 URBAN SERVICE AREA
 SANTA CLARA COUNTY, CALIFORNIA

2002PL06:548:26260023:20021011.1017

Date prepared: November 27, 2002

Hearing date: December 11, 2002

To: The Santa Clara County Local Agency Formation Commission

From: Dunia Noel, LAFCO Analyst

Subject: **2002 SAN JOSE URBAN SERVICE AREA EXPANSION – AREA A
(Dixon Landing Road -Newby Island Improvement Co.)**

Recommended CEQA Action and Required Findings:

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

1. Find that [a] the *EIR* certified by the City of San Jose on May 7, 2002 was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project, and [b] prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the EIR.
2. Find that [a] the *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.
 - Land Use
 - Air Quality
 - Biotics
3. Find that a monitoring program was approved by the City of San Jose as Lead Agency 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 Urban Service Area expansion, over which LAFCO has responsibility.

Purpose:

The City of San Jose proposes to expand its Urban Service Area (USA) boundary to include a 16.8-acre easterly portion of a 329.5-acre parcel (Assessor's Parcel Number 015-40-002) located at the Newby Island landfill and recycling facility, at the western terminus of Dixon Landing Road, approximately 1,000 feet west of I-880. The physical

address is 1601 Dixon Landing Road. The site is within the City of San Jose, on the easterly perimeter of the Newby Island sanitary landfill.

The applicant/property owner, HMM Inc./Newby Island Improvement Co., initiated the proposal. The subject area (16.8 acres) is within the City's Urban Growth Boundary and contiguous with the City's Urban Service Area boundary.

Background:

Existing and Proposed Use of the Property

According to the *Draft Environmental Impact Report (DEIR)*, the property is part of the Newby Island Compost facility and Sanitary Landfill. This flat site is currently used to convert green waste into compost. The green waste is hauled to the Recyclery, ground, and then transferred to the composting area (i.e., subject site) where it is placed in windrows for processing into compost. The City of San Jose approved a Special Use Permit in May 2001 to allow the composting operation to be moved to another area of the Newby Island Landfill site. The composting occurs on a pad that covers the entire site and consists of finished compost material over imported clay and soil, and approximately 15 feet of compacted waste. The compost and compacted waste extend up to and comprise part of the adjacent berm next to Coyote Creek.

The proposed use is an administrative office and service yard for a local garbage and recycling collection business. The functions that would be located on this site are presently operating at a site in San Jose, at 1995 Oakland Road. Activities that would occur on the site include: (1) a business office for BFI that includes general administration, personnel functions, record keeping, and sales for solid waste collection and landfill operations; (2) dispatching of solid waste and recycling collection vehicles; (3) parking/storage of collection vehicles; (4) storage of empty waste bins and boxes; (5) washing, maintaining, and servicing up to 90 collection vehicles and four light duty service trucks.

It is estimated that the operation of this site would include approximately 29 administrative office and sales staff people and approximately 18 employees working in the indoor and outdoor vehicle maintenance functions, including 24-hour maintenance support for approximately 90 collection vehicles. Drivers for collection vehicles would only be on-site for brief periods of time.

Applicable General Plan and Zoning Designations

The parcel is located in the City of San Jose. The City's General Plan designation for the parcel is "Light Industrial," with a zoning designation of "A(PD) Planned Development." The "A(PD) Planned Development" zoning district would include an Agricultural base zone with a Planned Development (PD) overlay that would allow the property to be used as a solid waste company corporation yard.

Surrounding Land Uses

The site is bordered by the Coyote Creek and the City of Fremont to the north, vacant land recently approved for a 200,000-square foot self-storage facility and the City of

Milpitas to the east, the Recyclery to the south, and a tall sanitary land fill (Newby Island) to the west. South of the Recyclery is the Water Pollution Control Plant lands. At the time of the *EIR* most of the land adjacent to the larger Newby Island property is either vacant or is used for a purpose that could be classified as “non-urban.”

Monitoring Program

A monitoring program (Attachment 2) is required for all environmental documents when significant impacts are identified. In addition, specific monitoring compliance with mitigations described in the *EIR* should occur at the time of annexation, pre-zoning, and use permit approval.

ENVIRONMENTAL FACTORS OF CONCERN TO LAFCO

Premature Conversion of Agricultural Lands and Open Space

According to the U.S. Department of Conservation Farmland Mapping and Monitoring Program (FMMP) Important Farmland Map, the project area is not identified as “Prime Farmland.” The FMMP identifies the area as consisting of lands identified as “Urban” and “Other Land.” “Urban” is land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial, construction, institutional, public administration, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes. “Other Land” is land not included in any other mapping category. Common examples of “Other Land” include low-density rural developments, vacant and nonagricultural land surrounded on all sides by urban development, and water bodies smaller than forty acres. The property is not used for agricultural purposes and has not been so used for agricultural purposes for approximately 70 years. Furthermore, there is no farming occurring in the immediate proximity of the site. Based on the above information, the proposed USA boundary amendment would not result in a loss of Prime Farmland or Farmland of Statewide Importance. Lastly, the proposed project would have no significant impacts on open space resources.

Utilities and Service Systems

The project site is not currently served by any public owned utilities or services. There is an overhead electrical line adjacent to the site, along the private driveway. There is an existing 14-inch potable water line in McCarthy Boulevard, with a six-inch extension at Dixon Landing Road. There is also a ten-inch recycled water line in McCarthy Boulevard, with a smaller extension onto Newby Island. There is an existing four-inch sanitary sewer line that stubs out at the entrance to Newby Island. The project site is currently served by the well on the Recyclery property. The landscaping on the project site is watered by the recycled water line that serves the Recyclery. Furthermore, the site is served by a privately owned and maintained storm-water collection system.

The proposed development of a solid waste collection company corporation yard will require on-site extension of adjacent potable water, recycled water, and sanitary sewer

lines into the project site. Lines to service the project site will be extended from existing laterals on or adjacent to Newby Island.

According to the EIR, the area is not receiving water or sewer services currently. The City of San Jose would provide sewer service to the area, however, according to City staff, the pipes would run through the City of Milpitas and connect with its sewer system. Regarding water supply, again, the City of San Jose would provide water service to the area but would be purchasing water from the City of Milpitas. An agreement between the City of Milpitas and San Jose is being negotiated to clarify these issues. At the time of writing this report, a copy of the agreement was not available to LAFCO staff. LAFCO staff will review the agreements to ensure that these issues do not involve any out of agency contracts for services issues.

According to the EIR, the increased increment of demand for utility lines to serve light industrial development of the property will not result in significant environmental impacts associated with constructing new utilities because water, storm, sewer, and sanitary sewer lines already adjoin the site.

Provision of Public Facilities and Services

According to the EIR, the project site does not have proximate access to City of San Jose streets, but is served by public streets in the City of Milpitas. Therefore the closest response to a fire or Emergency Medical Services (EMS) emergency is by the City of Milpitas fire protection personnel. The City of San Jose participates in several automatic aid programs with the City of Milpitas, and Santa Clara, and the Santa Clara County Fire Protection District. These automatic aid programs assign the closest responding units, when they are available, within designated areas of San Jose and other participating jurisdictions. The nearest fire station in Milpitas is 4.5 minutes travel time from the project site, while the nearest fire station in San Jose is 10 minutes travel time from the project site. According to the EIR, in fiscal year 1999-2000, there were seven responses to the Newby Island area, of which five were responded to by San Jose's Fire Department and two were responded to by Milpitas through the automatic aid program.

Police protection services are provided by the City Police Department if necessary. It is the goal of the Police Department to respond to emergencies within three minutes. The EIR states that the project and its ultimate development with the proposed uses will not increase the demand for any public services sufficient to warrant the construction of new facilities. Therefore, the project will have a less than significant impact on public facilities and services.

Growth Inducement

Approval of the proposed USA boundary expansion would allow for the 16.8-acre site to developed for light industrial uses (corporation yard and administrative office). There are no extensions or expansions of infrastructure that would serve development beyond the proposed corporation yard. The modification proposed to the landfill itself will incrementally reduce its capacity rather than expand it, and will therefore not serve increased development. The remaining area of the parcel is outside of the City's Urban Growth Boundary and Urban Service Area. Any proposal to amend the City's Urban

Growth Boundary for a property that is more than five acres in area can only be processed during a major update of the City's General Plan.

The City of San Jose has proposed a revision to the definition of minor general plan amendment that would be specifically limited to this type of project. Therefore, the project as proposed would not induce, facilitate or enable growth at any location other than the project itself.

Traffic and Circulation

The subject site has no public access. The only vehicular access to Newby Island is through a privately owned driveway that is accessible from Dixon Landing Road, which is a public street in the City of Milpitas. Preliminary plans indicate that at the project development state, McCarthy Boulevard would be extended to intersect with Dixon Landing Road, adjacent to Newby Island. Additionally, the City of Fremont is planning to extend another public street from the north to intersect with McCarthy Boulevard and Dixon Landing Road opposite the entrance to Newby Island.

The three intersections that give access to the project site operate at LOS C or better except for Dixon Landing Road/I-880 NB ramp, which operates at LOS E in the AM peak hour. According to the *EIR*, traffic conditions will worsen in the future if all of the approved development in they are is built out and its associated traffic occurs before the planned improvements to the interchange are completed. Once the interchange improvements are completed, all of the intersections will operate at LOS C or better.

According to the *EIR*, the City determined that a light industrial project proposed for the 16.8 acres would result in fewer than 100 new PM peak hour trips. The City has found that an increase of fewer than 100 PM peak hour trips in this area would not result in a measurable increase in congestion in the City's transportation model. Based on the City's criteria, the proposed project would result in a less than significant long-term traffic impact.

Flooding and Storm Water Management

The project site is located within an area that was once tidal marshlands that drained into the San Francisco Bay. The site is adjacent to Coyote Creek, which curves around its northerly perimeter. FEMA has not printed the FIRM map for the project site, however, the FIRM index indicates that the project site is located in the FEMA 100 year flood zone, A1, with a predicted 100 year flood elevation of 9 feet Mean Sea Level (MSL). All of Newby Island is surrounded by levees ranging from 12 to 18 feet MSL. Newby Island has not flooded in several decades, according to the property owners. The site is also within an area of potential tidal flooding.

All new development will be subject to the City's General Plan policies and City's ordinances regarding protection from the 100-year flood. Therefore all permanent structures will be required to elevate the lowest finished floor of each proposed structure to elevation 9.00 feet MSL. Therefore the proposed project would not result in urban development that would be impacted from flooding.

All storm runoff on Newby Island is collected in a private system and routed to an on-site collection pond. This already currently includes runoff from the project site, which is relatively impervious now due to the pad constructed for the composting operation. The *EIR* states that the proposed project will install a clarifier and oil/water separator through which all storm-water runoff from the site will be routed before being discharged to the on-site pond. There, the proposed project would not result in exceedances of existing service capacities, or require significant construction or expansion of new utilities.

ATTACHMENTS

1. City of San Jose Resolution No. 70965
2. Mitigation Monitoring Program for the *Newby Island GP Amendments and Planned Development Rezoning Final EIR*.
3. *Newby Island GP Amendments and Planned Development Rezoning Final EIR*

ITEM 4

ATTACHMENT 2-A.1

RESOLUTION NO. 70965

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR AMENDMENTS TO THE SAN JOSE MUNICIPAL CODE AND GENERAL PLAN FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San Jose has certified that certain Final Environmental Impact Report ("FEIR") for the Newby Island Plan Amendments and Corporation Yard Development and found the FEIR was completed in accordance with the requirements of the California Environmental Quality Act (CEQA) and related state and local guidelines; and

WHEREAS, the project analyzed in the FEIR consisted of several actions including an amendment to Section 18.30.22 of Chapter 18.30 of Title 18 of the San Jose Municipal Code and certain amendments to the General Plan (collectively hereinafter "Project"), as well as rezoning, a tentative map and development permits to relocate a corporation/service yard and administrative offices to the subject property; and

WHEREAS, the FEIR analyzed potential environmental impacts associated with the Project at a Program-level as well as the actions associated with proposed and reasonably foreseeable project-specific decisions and development subsequent to approval of the Project at a project-specific level; and

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

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

THAT THE CITY COUNCIL does hereby find that it has independently reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Environmental Review and the

Project, prior to acting upon and approving the Project, and has found that the Environmental Review represents the independent judgment of the City of San Jose and designates the Director of Planning, Building and Code Enforcement at his office at 801 North First Street, Room 400, San Jose, California 95121, as custodian of documents and record of proceedings on which the decision is based; and

THAT THE CITY COUNCIL does hereby make the following specific findings with respect to the significant effects on the environment of such Project, as identified in the FEIR:

a. **Land Use**

1. **Impact:** The proposed amendment to the Municipal Code and the implementation of a light industrial land use on the subject property could expose a future working population to adverse land use impacts from the adjacent landfill and Water Pollution Control Plant (WPCP). Complaints about these impacts could result in limitations being placed on the landfill and WPCP. (Significant Impact)

2. **Mitigation:** Conformance with the following General Plan policies and measures would reduce the potential for significant impacts resulting from landfill operations to a less than significant level:

Landfill Siting Criteria Policy #17 states that solid waste sites should be planned, located and maintained to mitigate potential negative impacts on surrounding land uses, including the effects of traffic, noise and odor problems, pollution and littering.

A proposed new policy to be added to the General Plan as part of the General Plan amendments stipulates that all new land uses allowed next to the WPCP and/or operating landfills within the City's Sphere of Influence shall be compatible with those existing facilities.

The project will dedicate an odor easement to the City of San Jose Water Pollution Control Plant across the project site.

3. **Finding:** Adoption of the proposed General Plan text amendment and dedication of the odor easement will ensure that future land uses on the subject property and in the vicinity are compatible with the specific development project, thereby avoiding the identified potential for a significant land use impact.

70965

Page 3

4. Facts in Support of Finding: The following facts indicated the identified impact will be reduced to a less than significant level:

The proposed General Plan policy will apply to future land use decisions in the vicinity of the Project and in conjunction with the odor easement will ensure that future land use conflicts between uses on the subject property and the nearby landfill and WPCP do not occur. These facts support the City's finding.

b. Air Quality

1. Impact: The proposed Municipal Code amendment and implementation of a light industrial land use at the subject property would facilitate future urban development at a location that could be adversely impacted by odor and dust from the adjacent landfill and odors from the WPCP. (Significant impact.)

2. Mitigation: Conformance with the following General Plan policies and measures would reduce the potential for significant impacts resulting from landfill and WPCP operations to a less than significant level:

Landfill Siting Criteria Policy #17 states that solid waste sites should be planned, located and maintained to mitigate potential negative impacts on surrounding land uses, including the effects of traffic, noise and odor problems, pollution and littering.

A proposed new policy to be added to the General Plan as part of the proposed General Plan amendments stipulates that all new land uses allowed next to the WPCP and/or operating landfills within the City's Sphere of Influence shall be compatible with those existing facilities.

3. Finding: Adoption of the new General Plan policy and dedication of an odor easement will ensure that future land uses on the subject property are compatible with surrounding land uses, thereby avoiding the identified potential for a significant air quality impacts relating to odor and dust from nearby landfill and WPCP operations.

4. Facts in Support of Finding: The following facts indicated the identified impact will be reduced to a less than significant level:

70965

Page 4

The proposed General Plan policy will apply to future land use decisions in the vicinity of the Project and in conjunction with the odor easement will insure that future land uses on the subject property and in the vicinity of the landfill are compatible with landfill and WPCP operations, thereby avoiding creation of impacts associated with dust and odor generated by landfill and WPCP operations. This fact supports the City's finding.

c. Biotics

1. **Impact:** Biotic surveys determined that the subject property does not contain suitable Burrowing Owl or raptor habitat and no Burrowing Owls, Loggerhead Shrikes or raptors are currently nesting on the subject property. Further, it is unlikely that Burrowing Owls, Loggerhead Shrikes or raptors will occupy even marginally-suitable areas of the property. However, the possibility exists that Burrowing Owls, Loggerhead Shrikes or raptors may occupy landscaping areas in the region and could be affected by project construction. (Significant impact.)

2. **Mitigation:** A pre-construction survey for Burrowing Owls, Loggerhead Shrikes and raptors will be carried out no more than thirty (30) days prior to removal of the existing landscaping and, in the event Burrowing Owls, Loggerhead Shrikes or raptors are found, buffer zones and owl eviction measures will be carried out by a qualified ornithologist, in consultation with the California Department of Fish and Game.

3. **Finding:** The above-feasible mitigation measure, which is incorporated into the project, will avoid the potentially significant environmental impact described above to a less than significant level.

4. **Facts in Support of Finding:** The following facts indicated the identified impact will be reduced to a less than significant level:

In implementing the above measure, individual special status birds will be protected. This measure is in conformance with federal and state regulations and uses the California Department of Fish and Game's protocol. These facts support the City's findings.

II. Findings Concerning Alternatives

An EIR must describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly obtain most of the basic objectives of the project, but would avoid or substantially lessen any of the

70965

Page 5

significant environmental effects of the project, the decision-maker may reject the alternative if it determines that specific considerations make the alternative infeasible.

The FEIR described and evaluated two alternatives to the project evaluated in the FEIR: the No Project Alternative and a No Office Alternative.

a. NO PROJECT ALTERNATIVE

1. Description of the Alternative: Under the No Project alternative, the Municipal Code amendment would not be adopted and a decision on the specific development project evaluated in the FEIR would not be precluded until the next Major General Plan update. In the interim, the subject property would probably be used for incidental vehicle staging and equipment storage for the landfill and Recyclery, as occurred prior to the creation of the composting facility. Eventually, the site would be filled with garbage, in conformance with the landfill's existing permits, and a waste mound would be placed 72 feet above MSL (approximately 55 to 60 feet taller than the existing ground) and 1,500 feet closer to I-880 than the existing landfill mound.

All BFI trucks would continue to make a final end-of-shift trip from Newby Island to the Oakland Road yard.

2. Comparison of the Project: This alternative would avoid land use, air quality, biotic, geologic and soils, hydrologic, noise, utilities and services, energy and public facilities and services impacts anticipated from the specific development project, of which the Municipal Code and General Plan amendments would allow consideration. This alternative would also preclude realization in the near future of the positive environmental benefits associated with consolidation of landfill-related business activities and the improvements to habitat along Coyote Creek that would be realized from implementation of the specific development project addressed in the project-specific portion of the FEIR. This alternative does not meet any of the goals and objectives of the project identified in the FEIR.

3. Finding: This alternative is hereby rejected for the following reasons:

a. The No Project Alternative would preclude the potential for achievement of consolidating business activities to allow for more efficient operations and use of resources and improving the habitat along Coyote Creek with the creation of a riparian buffer since the current long-term plan for the

70965

Page 6

specific development site is to become part of the sanitary landfill until, at minimum, the next major General Plan update.

b. This alternative would delay the potential for satisfaction of the following objective of the specific development project as identified in the DEIR:

Relocation of the applicant's corporation yard in closer proximity to the landfill and recycling facilities presently operated at Newby Island to allow for more efficient operations and use of resources, reduction of truck travel time and fuel consumption and incremental reduction of associated roadway congestion and air pollution;

c. Based on the foregoing, the City Council finds that the No Project Alternative is not feasible.

b. NO OFFICE ALTERNATIVE

1. **Description of the Alternative:** Under the No Office alternative, the activities that are functionally a part of the active delivery of waste and recyclables to the landfill would be relocated to the project site, while the office administrative and sales functions would be located elsewhere, with the goal of minimizing exposure of indoor office staff to possible odor impacts from the landfill and WPCP.

2. **Comparison of the Project:** This alternative would not substantially reduce the degree to which persons would be exposed to odors from the landfill and WPCP because only three or four accounting and clerical employees of the 28 office/administrative/supervisory staff would not regularly need to spend a substantial amount of time at the corporation yard site. This would result in most of the employees having to make multiple trips to different workplaces on a regular basis, resulting in an increase in overall vehicle mileage and air quality impacts, while still exposing them to odor impacts. Sales staff needing to confer with several drivers would either have to make multiple trips, or would have to remain on the site for extended periods.

This alternative is not compatible with the project objective of making the business operation more efficient. This alternative would result in substantially the same degree of impacts as the proposed project with respect to biotic, geology and soils, hydrology, noise, utilities and services, energy and public facilities and services impacts and this alternative is not environmentally superior to the proposed project.

70965

Page 7

3. **Finding:** This alternative is hereby rejected for the following reasons:

a. The No Office Alternative would reduce the potential for satisfaction of the following objective of the specific development project as identified in the DEIR:

Consolidation of related business activities to allow for more efficient operations and use of resources, reduction of truck travel time and fuel consumption and incremental reduction of associated roadway congestion and air pollution.

b. This alternative would result in an incremental increase in vehicle miles traveled and air quality impacts compared to the proposed project.

c. This alternative would not result in a substantial reduction in the level of land use compatibility and air quality impacts compared to the proposed project. As a result, the perceived benefits of approving this alternative in order to mitigate/avoid impacts are diminished.

//

//

//

//

//

//

//

Page 8

d. Based on the foregoing, the City Council finds that the No Office Alternative is not feasible.

ADOPTED and issued this 7th day of May, 2002 by the following vote:

AYES: CAMPOS, CHAVEZ, CORTIKE, DANDO, REED, SHIRAKAWA, WILLIAMS YEAGER

NOES: NONE

ABSENT: DIQUISTO, LeZOTTE; GONZALES

DISQUALIFIED: NONE

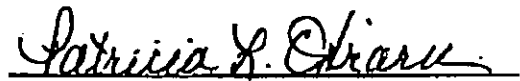


RON GONZALES, Mayor

City of San Jose

By: GEORGE SHIRAKAWA, Jr., Vice Mayo

ATTEST:



PATRICIA L. O'HEARN, City Clerk

**MITIGATION, MONITORING AND REPORT PROGRAM
NEWBY ISLAND**

Impact	Mitigation	Implementation Responsibility	Oversight Responsibility
<p>Implementation of a light industrial land use at the proposed location could expose a future working population to adverse land use impacts from the adjacent landfill and Water Pollution Control Plant (WPCP).</p> <p>Complaints about these impacts could result in limitations being placed on the landfill and WPCP.</p>	<p>Conformance with the existing and proposed General Plan policies would reduce the potential for significant impacts resulting from landfill operations to a less than significant level.</p> <p>The project includes dedication of an odor easement across the project site.</p>	<p>The City Council will need to approve both the proposed General Plan policy revision and the General Plan land use amendment. The City Council will also ultimately be required to approve any PD rezoning proposed for the project.</p> <p>The Director of Planning, Building & Code Enforcement will ensure that an odor easement is included in the approval of a Tentative Map separating the project site from the landfill site.</p> <p>The project proponent will dedicate an odor easement, and will include air conditioning or ventilation in any office building on site.</p>	<p>Director of Planning, Building & Code Enforcement will evaluate conformance of PD rezoning with General Plan policies and inform the Council of any nonconformance.</p> <p>The Director of Public Works will ensure that the odor easement is recorded prior to recordation of the Final Parcel Map.</p>
<p>The proposed General Plan amendments would allow future urban development at a location that could be adversely impacted by odor and dust from the adjacent landfill and odors from the WPCP.</p>	<p>Conformance with the existing and proposed General Plan policies would reduce the potential for significant impacts resulting from landfill operations to a less than significant level.</p> <p>The project includes dedication of an odor easement across the project site.</p>	<p>The City Council will need to approve both the proposed General Plan policy revision and the General Plan land use amendment. The City Council will also ultimately be required to approve any PD rezoning proposed for the project.</p> <p>The Director of Planning, Building & Code Enforcement will ensure that an odor easement is included in the approval of a Tentative Map separating the project site from the landfill site.</p> <p>The project proponent will dedicate an odor easement, and will include air conditioning or ventilation in any office building on site.</p>	<p>Director of Planning, Building & Code Enforcement will evaluate conformance of PD rezoning with General Plan policies and advise the Council of any nonconformance.</p> <p>The Director of Public Works will ensure that the odor easement is recorded prior to recordation of the Final Parcel Map.</p>

CITY OF SAN JOSE PLANNING

**MITIGATION, MONITORING AND REPORT PROGRAM
NEWBY ISLAND**

Impact	Mitigation	Implementation Responsibility	Oversight Responsibility
<p>The project could impact individual Burrowing Owls, raptors, or other migratory birds that might be found on the site prior to construction.</p>	<p>The project includes preconstruction surveys for special status bird species and implementation of specific methods to avoid incidental take of any such birds should they be found on the site.</p>	<p>The Director of Planning, Building & Code Enforcement will include conditions of approval requiring the implementation of surveys and avoidance methods in the PD rezoning, PD permits, and tree removal permits approved for this project.</p> <p>The project proponent will retain qualified biologists to implement the surveys and any avoidance techniques required.</p>	<p>The Director of Public Works will require proof of implementation prior to issuance of Grading Permit.</p>
<p>Excavating and removing the waste on the project site, and moving the compost being processed, could result in wind blown dust and/or litter.</p>	<p>The project will include all best management practices for avoiding dust and litter generation, as described in the FEIR.</p>	<p>The Director of Planning, Building & Code Enforcement will include conditions of approval requiring the implementation of dust control methods in the PD rezoning and PD permit approvals.</p> <p>The project proponent will implement the dust control techniques during excavation and grading.</p>	<p>The Local Enforcement Authority and the Director of Public Works will ensure that all appropriate dust and litter control procedures are followed during excavation and grading.</p>
<p>Hazardous materials discovered during excavation of the waste materials on-site could pose risks to worker safety and the environment.</p>	<p>A hazardous materials workplan will be prepared and followed that includes testing, excavation procedures, and materials handling and disposal protocols for all hazardous materials.</p>	<p>The Director of Planning, Building & Code Enforcement will require submittal of a workplan prior to approval of a PD permit, and will include conditions of approval requiring the implementation of the workplan in the PD rezoning and PD permit approvals.</p> <p>The project proponent will implement the workplan.</p>	<p>The Local Enforcement Authority and the Director of Public Works will ensure that all appropriate workplan testing and materials handling procedures are followed during excavation and grading.</p>

NOTE:

**DUE TO LIMITED COPIES, THE DRAFT ENVIRONMENTAL IMPACT REPORT:
"NEWBY ISLAND GENERAL PLAN AMENDMENTS AND PLANNED DEVELOPMENT
REZONING" (LABELLED AS ITEM 4, ATTACHMENT 2-A.3) WILL BE PROVIDED
ONLY TO THE COMMISSIONERS.**

Date prepared: November 27, 2002

Hearing date: December 11, 2002

To: The Santa Clara County Local Agency Formation Commission
From: Dunia Noel, LAFCO Analyst
Subject: **2002 SAN JOSE URBAN SERVICE AREA EXPANSION – AREA B
(Murillo - Whittaker)**

Recommended CEQA Action and Required Findings:

As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Negative Declaration for any project approved by the Commission:

1. Find that [a] the *Initial Study and Negative Declaration* approved by the City of San Jose was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project, [b] prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the *Initial Study and Negative Declaration*.

Purpose:

The City of San Jose proposes to expand their Urban Service Area (USA) boundary to include a portion (7.95 acres) of a 14.92-acre parcel (APN: 652-08-009) located at the northeasterly side of Murillo Avenue between Groesbeck Hill Drive and Norwood. MacKay & Soms, representing the applicant (The Roman Catholic Bishop of San Jose) and the property owner (William L Whittaker, et al.), initiated the proposal.

This area (7.95 acres) is within San Jose's Urban Growth Boundary, but is outside of San Jose's Urban Service Area boundary and City Limits. A portion of the parcel is co-terminus with the City's USA boundary and City Limits along Murillo Avenue. The City, on behalf of the applicant, is requesting an USA expansion to include a portion (7.95 acres) of the parcel in order to facilitate the future annexation and development of the property as a public/quasi-public use. The public/quasi-public use described in the application is a church and private school.

Under the City's existing General plan land use designations public/quasi-public development should be served by public streets and city utilities, necessitating an expansion of the Urban Service Area. According to the City of San Jose's staff, since this parcel is within the Urban Growth Boundary, an extension of services and the Urban Service Area is appropriate.

Background:

Existing and Proposed Use of the Property

The subject site consists of 7.95-acre portion of a 14.9-acre site and is located on the east side of Murillo Avenue, opposite Groesbeck Park. The 15% line defines the upper boundary of the proposed Urban Service Area Amendments. Currently the land is a vacant hay field and is unincorporated County land. Hay has been grown on the site for approximately the last ten years. Previously, the site supported a prune orchard.

The City is proposing to include the parcel in its USA and to eventually annex the area. A specific timeframe for the annexation has not been identified in the application. The current General Plan land use designation for the 7.95-acre site is "Public/Quasi-Public." According to the environmental documents submitted by City staff, the site could be developed as a church or private school in the future. However no specific development is proposed for the site at this time.

Applicable General Plan and Zoning Designations

The parcel currently has a County General Plan designation of "Rural Residential", with a zoning designation of "RR" Rural Residential (5- 20 acre minimum lot size) depending on the Combining Zoning District or on the size and average slope of the property.

The City's General Plan designation for the 7.95-acre area is "Public/Quasi-Public." The "Public/Quasi-Public" designation is intended for wide variety of public land uses, such as schools, colleges, corporation yards, homeless shelters, and libraries. The designation is also used to designate lands used by some private entities, including public utilities and such institutions as churches, private schools and private hospitals. Development intensities expected under this designation should generally be no greater than FAR of 1.5.

Surrounding Land Uses

Lands uses surrounding (within 500 feet of) the site include: single family detached residential to the northwest and southwest; rural residential properties within the County of Santa Clara to the northeast, east and southeast; and public park (Groesbeck Park) to the west.

ENVIRONMENTAL ASSESSMENT:

Negative Declaration

A Negative Declaration was prepared for the site and adopted by the City of San Jose on October 7, 1999. There were no significant impacts identified by the Negative Declaration. Environmental factors of specific concern to LAFCO are discussed below.

ENVIRONMENTAL FACTORS OF CONCERN TO LAFCO:

Premature Conversion of Agricultural and Open Space Lands

According to the U.S. Department of Conservation Farmland Mapping and Monitoring Program (FMMP) Important Farmland Map, the project area is not identified as "Prime Farmland." The FMMP identifies the area as consisting of lands identified as "Grazing" "Grazing" land is land on which existing vegetation, whether grown naturally or through management, is suitable for grazing. Based on this information, the proposed USA boundary amendment would not result in a loss of Prime Farmland or Farmland of Statewide Importance. The City is proposing that 7.95 acres of the 14.9-acre site be included in the City's USA boundary. According to staff a permanent open space buffer or "conservation easement" on the remaining 7± acres of the property would be created through the future development of the site. Therefore, the proposed project would have no significant impact on open space resources.

Growth Inducement and Precedent Setting Implications

Approval of the proposed USA boundary expansion would allow for a portion (7.95 acres) of a 14.9-acre parcel to be annexed into the City of San Jose and developed for "Public/Quasi-Public" use in the future. In 2000, the San Jose voters approved a Greenline/Urban Growth Boundary (UGB) for the City to ensure compact urban growth and infill development. The project area is located inside this UGB.

The UGB limits expansion of urban services over the next 20 to 30 years to only those parcels located within the UGB. The project area is also contiguous with the City's current USA boundary.

Currently there is no site-specific development application for the project area. However, the USA boundary adjustment could increase the development potential of the subject parcel. If the lack of urban services on the subject parcel is an existing constraint to development that the proposed USA boundary adjustment would overcome, the adjustment may increase the amount of development in the project area. Therefore, the proposed USA boundary adjustment would indirectly be growth inducing.

The *Initial Study* states that no through streets would be extended to adjacent properties with future site development. However, utility extensions along Murillo Avenue may provide capacity for adjacent parcels.

Traffic Impacts

According to City staff, long-term traffic capacity exists for the proposal for a Public/Quasi-Public designation. A preliminary, short-term traffic analysis indicated that the trips generated by the potential Public/Quasi-Public use would not have a significant impact on intersections operating at an E or F Level of Service. This preliminary traffic analysis indicates that the current proposal does conform with the Evergreen Development Policy; however, at the project level stage, a complete short term analysis is

required and the project must meet Evergreen Development Policy standards and mitigation requirements.

Flood Impacts

The site is not within an areas of historic flooding, and according to the Federal Emergency Management Agency's *Flood Insurance Rate Maps*, the site in not within Zone A, the area of the 100-year flood. Upon annexation, the project site would be located within the Evergreen Development Policy Area. Future development is required to be designed and constructed so that it would not divert floor or overland flows onto or cause flooding on any adjacent properties.

Provision of Utilities and Service Systems

According to the *Initial Study and Negative Declaration*, municipal services will be provided by the City of San Jose. No applications have been proposed for the project area. During subsequent development and CEQA review, future development plans would be required to demonstrate to the satisfaction of the City of San Jose that adverse effects on municipal services would be less than significant. Therefore, implementation of the proposed USA boundary adjustment would not constitute a significant impact. Please see below for more detailed discussions concerning the provision of municipal services.

Sanitary Sewers:

Sanitary sewer for the area is provided by the City of San Jose. The 6-inch sanitary sewer line on Groesbeck Hills Drive at the northwesterly corner of the site and on Murillo Avenue at the southwesterly corner of the site are available and adequate to serve future development. Extensions along the site's Murillo Avenue frontage as well as within the future development would be required:

Wastewater Treatment:

The San Jose-Santa Clara Water Pollution Control Plant provides wastewater treatment for the City of San Jose. A Growth Management System regulates new development to assure that the capacity is not exceeded.

Water Supply:

The San Jose Municipal Water System Division provides water for the area. The 8-inch lines in Murillo Avenue and in Groesbeck Hill Drive, north of the site, and the 12-inch line in Murillo Avenue, south of the site, are available and adequate to serve future development. Extensions along the site's Murillo Avenue frontage and within the future development would be required.

Storm Drainage Facilities:

An increase in impervious surfaces associated with future project development would cause an increase in storm-water runoff. Storm drainage service for the area is provided

by the City of San Jose. Existing storm drainage lines in the vicinity are available and adequate to serve future development.

Gas and Electric:

There are existing Pacific Gas and Electric Company gas and electric services in the area that would be extended as required to serve future development. There is sufficient capacity in this utility system to provide adequate service.

Provision of Public Services, and School Services

Fire Protection:

Upon annexation, the proposed site would be within the service area of the San Jose Fire Department. The first and second due station response times are within the recommended limits; however, the ladder truck response exceeds the 6-minute recommended limit. This also occurs in several other areas in the City and is not considered by the Fire Department to be a serious deficiency. No additional fire personnel or equipment would be necessary due to the implementation of future development.

Police Protection:

The San Jose Police Department provides police protection for the city. No additional police personnel or equipment are expected to be necessary to service future development.

Schools:

The proposed site is in the Evergreen School District (K-8) and the East Side Union High School District (9-12). Future development of a private school on the site would result in a beneficial impact on local public schools by providing capacity for up to approximately 600 students at the local elementary schools.

ATTACHMENT

1. *Initial Study and Negative Declaration for San Jose Urban Service Area Expansion for Whitaker Property*

CITY OF SAN JOSE, CALIFORNIA
DEPARTMENT OF CITY PLANNING
NEGATIVE DECLARATION

FILE NUMBER GP 99-08-02

Council District Number 8

The Initial Study on which this Negative Declaration is based was prepared by the Director of Planning and is on file in the office of the Department of Planning, Building and Code Enforcement, Room 400, 801 North First Street, San José, California.

PROJECT LOCATION

County Assessor's Parcel Number 652-08-009

Northeasterly side of Murillo Avenue, opposite Groesbeck Hill Drive.

PROJECT DESCRIPTION

General Plan Amendment request to change the Land Use Diagram designation from Non-Urban Hillside to Public/Quasi-Public, expand the Urban Service Area, and a minor modification to the Urban Growth Boundary on a 7.95-acre portion of a 15-acre site.

CERTIFICATION

The Director of Planning certifies that the above project will not have a significant effect on the environment. This finding is based on the following considerations:

1. This proposal to amend the General Plan is compatible with the adopted environmental goals and policies of the City.
2. Future development of the site will be required to conform to the City's General Plan noise guidelines.
3. No rare or endangered species of flora or fauna are known to inhabit the site.
4. No significant or ordinance-size trees exist on the site.
5. Long-term traffic is available to serve this proposal. Prior to development, this project will conform to the Evergreen Development Policy adopted by the City to ensure adequate traffic capacity for existing and approved development.
6. The project is located in an area of potential geological sensitivity. Prior to development, a geotechnical study will be required to determine potential problems can be mitigated to a non-significant level.

7. The project is subject to the Evergreen Development Policy Area flood protection requirements. Future development will be designed and constructed to ensure that adjacent properties are not impacted by project runoff and that the project runoff will not increase stormwater to adjacent creeks.
8. The project is located in an area of potential archaeological and cultural sensitivity. Prior to development, a report will be required to determine potential impacts on archaeological resources and identify appropriate mitigation.

PROTEST OF A NEGATIVE DECLARATION

The Negative Declaration may be protested in writing by any person prior to 5:00 p.m. on **October 7, 1999**. Such protest shall be filed in the Department of Planning, Building and Code Enforcement, Room 400, 801 North First Street, San José, upon payment of the \$50 filing fee and shall include a statement specifying those anticipated environmental effects which may be significant. A protest of a Negative Declaration will be heard by the Planning Commission at the earliest date.

James R. Derryberry, Director
Planning, Building and Code Enforcement

Circulated on: September 17, 1999

Susan Walton
Deputy

Adopted on: October 7, 1999

Susan Walton
Deputy



Mindigo &
Associates
Environmental
Consultants

RECEIVED

JUL 30 1999

CITY OF SAN JOSE
PLANNING DEPARTMENT

Transmittal

July 30, 1999

Donovan Corliss
Planning Division
City of San Jose
801 N. First Street, Room 400
San Jose, CA 95110

Reference: **Whittaker Property GPA**

Description:

Section 15. Transportation and Traffic, Redline Changes to the Administrative Draft
Environmental Clearance Application, June 25, 1999

Comments:

For your review.

By:

Richard P. Mindigo

(RM)

Whittaker Property PA
"Redline Changes"

7/30/99

15. TRANSPORTATION / TRAFFIC

Hexagon Transportation Consultants, Inc. conducted a traffic impact analysis that is included in the Technical Appendix.

SETTING

Street System

Access to the amendment site is provided by future Murillo Avenue, which is a four-lane northerly-southerly major collector street to the north and the south of the proposed amendment site that provides access to Tully Road and to Norwood Avenue. Regional access is provided by White Road, Capitol Expressway and U.S. 101 to the west.

Existing Plus Approved Conditions

The capacity analysis technique developed by the City of San Jose Department of Public Works Development Services Division is used to evaluate local conditions and future project impacts. Fourteen intersections that would be affected by future development of the proposed amendment site are reviewed.

The key intersections were evaluated under existing and future traffic conditions to determine their level of service. Future conditions were determined by adding traffic projections from approved projects that have not been occupied, as provided by the City Department of Public Works Development Services Division, to the existing condition.

The levels of service for the existing plus approved morning and evening peak hours are shown on the following Major Street System map. Under the existing plus approved condition, four intersections are operating below level D, as follows:

Level E

White Road and Story Road (p.m.)

King Road/Silver Creek Road and Capitol Expressway (a.m.)

Level F

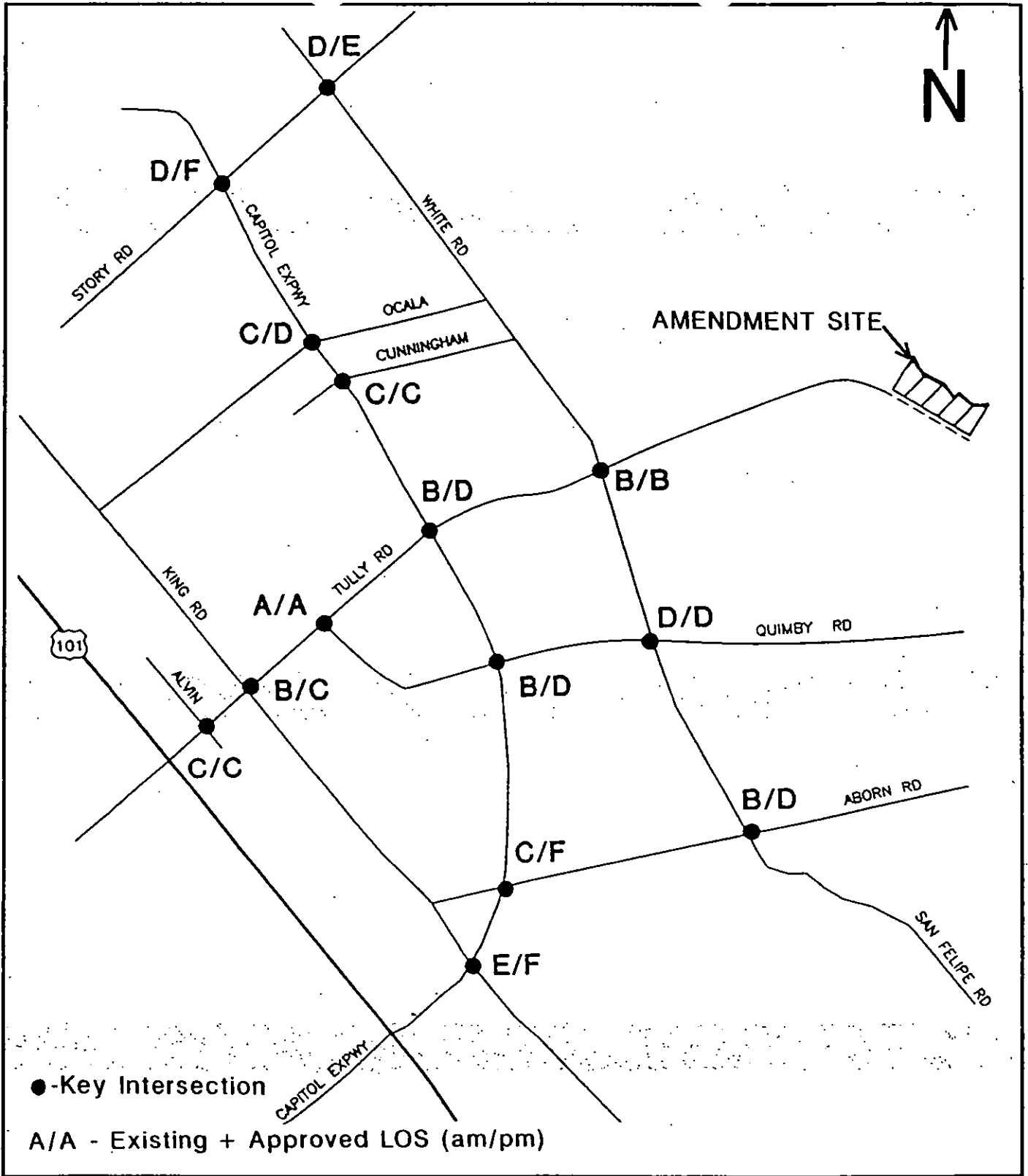
Capitol Expressway and Story Road (p.m.)

Capitol Expressway and Aborn Road (p.m.)

King Road/Silver Creek Road and Capitol Expressway (p.m.)

Public Transit

Public transit is provided in the project area by the Santa Clara Valley Transportation Authority. Bus routes 39 and 39A operate along Flint Avenue and Tully Road, which is within walking distance from the site. The amendment site is not located within 2,000 feet of a light rail station.



Major Street System

Figure 10

Evergreen Development Policy

The Evergreen Development Policy (EDP) was adopted in August, 1976 and revised in 1991 and 1995 to address the issues of traffic capacity and flood protection in the Evergreen area. The purpose of the 1995 Revised EDP is to provide the updated policy framework for the buildout of Evergreen, and it identifies the remaining street system improvements required to allow up to 4,620 planned or potential dwelling units to proceed. In 1998, the Policy was amended to define a significant impact requiring mitigation as 1) the addition of any traffic to an intersection operating at Level of Service E or F for residential projects or 2) the addition of more than a one-half percent increase in critical traffic movement to an intersection operating at Level of Service E or F for non-residential projects.

This Policy is intended to apply to all properties planned for development in the EDP Area defined as land within San Jose's Urban Service Area Boundary, south of Story Road and east of U.S. 101. Upon inclusion of the proposed amendment site within the City's Urban Service Area, the site would be located within the Evergreen Development Policy Area.

SIGNIFICANCE CRITERIA

The proposed project would have a significant impact on traffic if it:

- Causes a City intersection operating at Level D or better to operate at Level E or F; or causes an increase in critical delay of 4.0 or more seconds and an increase in the critical V/C ratio of 0.010 or more at a City intersection that is projected to operate at Level E or F with existing plus approved projects. Adds any traffic to an intersection within the Evergreen Development Plan Area operating at Level E or F for residential projects; or adds more than a one-half percent increase in critical traffic movement to an intersection within the Evergreen Development Plan Area operating at Level E or F for non-residential projects.

IMPACT

ISSUES	POTENTIALLY SIGNIFICANT IMPACTS	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
15. TRANSPORTATION/TRAFFIC. Would the project:					
a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X		25,27,84
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X	25,27

ISSUES	POTENTIALLY SIGNIFICANT IMPACTS	POTENTIALLY SIGNIFICANT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT	SOURCES
15. TRANSPORTATION/TRAFFIC (Cont.). Would the project:					
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X	25,27
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X	25,27
e. Result in inadequate emergency access?				X	25,27
f. Result in inadequate parking capacity?				X	25,27
g. Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X	25,27

Trip Generation

The proposed amendment traffic is estimated in the following table.

Table 2. Proposed Amendment Traffic Generation

Land Use	No. of Students	Peak Hour Factor (per student)		A.M. Peak Hour Trips	P.M. Peak Hour Trips
		A.M.	P.M.		
Catholic elementary school	600	0.867	0.154	520	92

Trip Distribution and Assignment

The trips generated by future development were distributed and assigned to the local street system based on the parish boundaries, as detailed in the traffic analysis in the Technical Appendix.

Future Development Impacts

Future development of the amendment site would add traffic to the area; however, the increase in critical volume at the intersections operating at Level E or Level F would be less than one-half percent in all cases. Thus, traffic generated by the proposed amendment would be non-significant, and no mitigation measures are required.

Evergreen Development Policy

The Evergreen Development Policy controls growth in the Evergreen Area by granting allocations based on the available and planned roadway capacity, and defining significant impacts that require mitigation. The vehicular trips generated by future public/quasi-public

development on the site would be non-residential trips; therefore, they would have to have an and would have an impact of less than one-half percent in the critical movement or mitigate the impact. These trips would be internal within the Evergreen Development Plan area of any intersection operating at Level E or Level F under existing plus approved traffic. Therefore, traffic generated by the proposed amendment would conform to the Evergreen Development Policy.

MITIGATION MEASURES INCLUDED IN THE GENERAL PLAN

Services and Facilities Level of Service Policy No. 2

- Capital and facility needs generated by new development should be financed by new development. The existing community should not be burdened by increased taxes or by lowered service levels to accommodate the needs created by new growth. The City Council may provide a system whereby funds for capital and facility needs may be advanced and later repaid by the affected property owners.

Services and Facilities Level of Service (Traffic) Policy No. 5

- The minimum overall performance of City streets during peak travel periods should be level of service "D".
 - Development proposals should be reviewed for their measurable impacts on the level of service and should be required to provide appropriate mitigation measures if they have the potential to reduce the level of service to "E" or worse.
 - To strengthen the neighborhood preservation strategy and objectives of the Plan, the City Council may adopt a Council Policy which establishes alternative mitigation measures for projects whose required traffic mitigation would result in a substantial adverse impact on an affected neighborhood.
 - An "area development policy" may be adopted by the City Council to establish special traffic level of service standards for a specific geographic area which determines development impacts and mitigation measures. Area development policies may be first considered only during the General Plan Annual Review and Amendment Process; however, the hearing on an area development policy may be continued after the Annual Review has been completed and the area development policy may thereafter be adopted or amended at a public meeting at any time during the year.
 - In recognition of the substantial non-traffic benefits of infill development, small infill projects may be exempted from traffic mitigation requirements.
 - In recognition of the unique position of the Downtown Core Area as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, development within the area bounded by Julian Street, Fourth Street, Interstate 280 and State Route 87 is exempted from traffic mitigation requirements. Intersections within and on the boundary of this area are also exempted from the level of service "D" performance criteria.

Services and Facilities Transportation (Thoroughfares) Policy No. 3

- Public street right-of-way dedication and improvements should be required as development occurs. Ultimate thoroughfare right-of-way should be no less than the dimensions as shown

on the Land Use/Transportation Diagram except when a lesser right-of-way will avoid significant social, neighborhood or environmental impacts and perform the same traffic movement function.

Services and Facilities Transportation (Parking) Policy No. 25

- Adequate off-street parking should be required in conjunction with all future developments. The adequacy and appropriateness of parking requirements in the Zoning Code should be periodically re-evaluated.

NOTE:

DUE TO LIMITED COPIES, THE ENVIRONMENTAL CLEARANCE APPLICATION INITIAL STUDY ENTITLED, "WHITTAKER PROPERTY GPA" (LABELLED AS ITEM 4, ATTACHMENT 2-B.1) WILL BE PROVIDED ONLY TO THE COMMISSIONERS.

Date prepared: November 27, 2002

Hearing date: December 11, 2002

To: The Santa Clara County Local Agency Formation Commission
From: Dunia Noel, LAFCO Analyst
Subject: **2002 SAN JOSE URBAN SERVICE AREA EXPANSION – AREA C
(Murillo-Ceraolo)**

Recommended CEQA Action and Required Findings:

As a Responsible Agency under CEQA, LAFCO must take the following actions regarding the Negative Declaration for any project approved by the Commission:

1. Find that [a] the *Initial Study and Negative Declaration* approved by the City of San Jose was completed in compliance with CEQA and is an adequate discussion of the environmental impacts of the project, [b] prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as shown in the *Initial Study and Negative Declaration*.

Purpose:

The City of San Jose proposes to expand their Urban Service Area (USA) boundary to include a portion (8 acres) of an 11.8-acre parcel (APN: 654-03-009) located approximately 1,070 feet east of Murillo Avenue and 380 feet northerly of Quimby Road. HMM, Inc., representing the property owner, Richard Ceraolo, initiated the proposal. This area is within San Jose's Urban Growth Boundary, but is outside of San Jose's Urban Service Area boundary and City Limits. A portion of the parcel is co-terminus with the City's USA boundary. The City, on behalf of the applicant, is requesting an USA expansion to include a portion (8 acres) of the parcel in order to facilitate the further residential development of the property. Under the City's existing General plan land use designations residential development should be served by public streets and city utilities, necessitating an expansion of the Urban Service Area. According to the City of San Jose's staff, since this parcel is within the Urban Growth Boundary, an extension of services and the Urban Service Area is appropriate.

Background:

Existing and Proposed Use of the Property

The parcel is located in the eastern foothills, north of the Evergreen Planned Residential Community and Quimby Road. The site is currently occupied by a single-family residence, a barn, out-buildings, and two mobile homes.

The City is proposing to include the parcel in its USA and to eventually annex the area. A specific timeframe for the annexation has not been identified in the application. The City estimates that approximately 5-acres of the site would be developable given the 100-foot riparian setback area on the northern and southern edges of the parcel.

Applicable General Plan and Zoning Designations

The parcel currently has a County General Plan designation of "Rural Residential", with a zoning designation of "A20" Agricultural Zoning" (20 acre minimum lot size).

The City's General Plan designations for the area are "Very Low Density Residential" (2.0 DU/AC) on 6.3 acres and "Non-Urban Hillside" on 1.7 acres. Given this and the environmental constraints present on the site (i.e. required riparian setback), the development potential for the site would be 10 residential dwellings at the most.

Surrounding Land Uses

The surrounding land uses are the hillsides to the north and east, the Light of the World Apostolic Church and single-family residences to the south, and a retention basin maintained by the Santa Clara Valley Water District for flood control to the west. Norwood Creek is located along the northern property edge while the Quimby Creek borders the south. A residential subdivision is located to the southwest of the project site.

ENVIRONMENTAL ASSESSMENT:

Negative Declaration

A Negative Declaration was prepared for the site and adopted by the City of San Jose on July 26, 2001. There were no significant impacts identified by the Negative Declaration. Environmental factors of specific concern to LAFCO are discussed below.

ENVIRONMENTAL FACTORS OF CONCERN TO LAFCO:

Premature Conversion of Agricultural and Open Space Lands

According to the U.S. Department of Conservation Farmland Mapping and Monitoring Program (FMMP) Important Farmland Map, the project area is not identified as "Prime Farmland." The FMMP identifies the area as consisting of lands identified as "Grazing" and "Urban." "Grazing" land is land on which existing vegetation, whether grown naturally or through management, is suitable for grazing. "Urban" is land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial,

construction, institutional, public administration, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes. Based on the above information, the proposed USA boundary amendment would not result in a loss of Prime Farmland or Farmland of Statewide Importance. Lastly, the proposed project would have no significant impacts on open space resources.

Growth Inducement and Precedent Setting Implications

Approval of the proposed USA boundary expansion would allow for a portion (8 acres) of an 11.8 acres parcel to be annexed into the City of San Jose and developed for residential uses in the future. In 2000, the San Jose voters approved a Greenline/Urban Growth Boundary (UGB) for the City to ensure compact urban growth and infill development. The project area is located inside this UGB.

The UGB limits expansion of urban services over the next 20 to 30 years to only those parcels located within the UGB. The project area is also contiguous with the City's current USA boundary.

Currently there is no site-specific development application for the project area. However, the USA boundary adjustment could increase the development potential of the subject parcel. If the lack of urban services on the subject parcel is an existing constraint to development that the proposed USA boundary adjustment would overcome, the adjustment may increase the amount of development in the project area. Therefore, the proposed USA boundary adjustment would indirectly be growth inducing.

Given the subject site's location within the Evergreen Area Development Policy area, traffic capacity is a concern. Any future project for the site would need to conform to the Evergreen Development Policy adopted by the City to ensure adequate traffic capacity for existing and approved development. According to City staff, further traffic analysis and conformance with City policies may further limit the number of dwelling units in the area.

Traffic Impacts

Access to the site is also an issue for the proposed project. City staff anticipates that access to the site can be obtained in two ways, but both options would likely require the acquisition of additional land to accommodate appropriate ingress and egress. One option is to take access from the easement on the adjacent church's property. However, the City's Public Works Department indicates that approximately 15 additional feet would be needed along the length of the existing easement to accommodate construction of a public street. The other option is to take access from Springbrook Avenue. However, City staff anticipates this option would require land to be taken from adjacent Santa Clara Valley Water District property for the development of a street.

Provision of Public Services and Utilities

According to the *Initial Study and Negative Declaration*, the proposed USA boundary adjustment would not result in the need for any additional fire protection, or fire protection facilities in the project vicinity. The proposed project is located adjacent to existing residential areas that are currently provided with police services from the San Jose Police Department (SJPD). No site-specific development applications for the site have been proposed for the project area. During subsequent development and CEQA review, future development plans would be required to demonstrate to the satisfaction of the City of San Jose that adverse effects on police services would be less than significant.

The *Initial Study* indicated that adjacent properties currently have water, sanitary sewer, storm sewer, solid waste/recycling and natural gas/electric services and that these services are available for the project site. The City of San Jose will provide sanitary sewer to the project area after annexation. At the time of development, the developer of the site would be responsible for the installation and extension of existing sewer lines on Norwood Avenue to serve the future project. The San Jose Municipal Water System will provide water to the site after annexation. If annexed, the parcel could be served with existing facilities at acceptable pressures up to an elevation of about 630 feet. The site is at an average elevation of about 560 feet. Therefore, implementation of the proposed USA boundary adjustment would constitute a less than significant impact.

Schools

The Evergreen School District assumes a pupil generation rate of 0.52 students per residential unit. This equates to six students generated by the 11 homes that could potentially be developed on the site. According to Clark E. Schiller, Director of Planning, at the Evergreen School District, the additional new students generated as a result of potential development can be accommodated within existing facilities and no new facilities would be needed. According to the *Initial Study*, there is an elementary school and a middle school within 2 miles of the project site. Additionally, there is a high school within 4 miles of the project site. Therefore, implementation of the proposed USA boundary adjustment would constitute a less than significant impact.

ATTACHMENT

1. *Initial Study and Negative Declaration for San Jose Urban Service Area Expansion for Ceraolo Property*

**CITY OF SAN JOSÉ, CALIFORNIA
DEPARTMENT OF CITY PLANNING
NEGATIVE DECLARATION**

FILE NUMBER: GP01-08-01

Council District Number: 8

The Initial Study on which this Negative Declaration is based was prepared by the Director of Planning and is on file in the office of the Department of Planning, Building and Code Enforcement, Room 400, 801 North First Street, San José, California.

PROJECT LOCATION

County Assessor's Parcel Number: 654-03-009

Approximately 1,070 feet east of Murillo Avenue and 380 feet north of Quimby Road

PROJECT DESCRIPTION

The project consists of a General Plan amendment to change the Land Use/Transportation Diagram from Very Low Density Residential (2.0 DU/AC) on 6.3 acres and Non-Urban Hillside on 1.7 acres to Low Density Residential (5 DU/AC) on 8 acres; inclusion in the Urban Service Area.

CERTIFICATION

The Director of Planning certifies that the above project will not have a significant effect on the environment. This finding is based on the following considerations:

1. The proposed General Plan amendment is not inherently incompatible with the adopted environmental goals and policies of the San Jose 2020 General Plan.
2. Future development of the site will be required to conform to the City's General Plan noise guidelines.
3. All significant and ordinance-size trees on the property will be considered for preservation at the time of any subsequent proposals. Landscaping will be required to mitigate the loss of any trees proposed for removal.
4. The project will have no significant impact on fish and wildlife resources and will meet all objectives of Section 711.2 of the State Fish and Game Code (exempt from fish and game fees).
5. The project site is not within the 100-year flood plain.
6. The project is located in an area of potential archaeological and cultural sensitivity. Prior to development, a report will be required to determine potential impacts on archaeological resources and identify appropriate mitigation.
7. Future development of the site will be required to conform with the requirements of the National Pollutant Discharge Elimination System (NPDES) to reduce impacts on storm water quality from the proposed land use, construction activities, and post construction activities. A Storm Water Pollution Prevention Plan (SWPPP) may be required at the time of future development, in compliance with State regulations, to control the discharge of storm water pollutants.
8. Development under the proposed General Plan land use designation will not adversely affect existing local uses.
9. No rare or endangered species of flora and fauna are known to inhabit the site. A biological report prepared for the General Plan amendment concluded that although no special status species were found to be present on site, the possibility exists that special status species could be found on site in the future. The report recommended that prior to future development of the site, protocol level and pre-construction surveys for special status species such as burrowing owls, raptors, tiger salamander or California Red Legged frogs would be warranted.

10. The project site is located within 100 feet of a riparian corridor. A biologist's report has been prepared that indicates that future development will be designed in conformance with the City's Riparian Corridor Policy. The proposed land use on the site will not adversely impact the riparian corridor.
11. In the context of the San Jose 2020 General Plan horizon year, this project would have a less than significant traffic impact. Prior to development, this project would need to conform to the Evergreen Development Policy adopted by the City to ensure adequate traffic capacity for existing and approved development/
12. The subject site is located in an area of geologic sensitivity. A preliminary geologic investigation was conducted for a portion of the site that suggests there were no traces of the Quimby fault exposed by the trenching. Further geotechnical analysis will be necessary prior to development of the site to determine potential fault traces with respect to the site plan, and to demonstrate that all potential problems can be mitigated to a less than significant level.

PROTEST OF A NEGATIVE DECLARATION

The Negative Declaration may be protested in writing by any person prior to 5:00 p.m. on **July 26, 2001**. Such protest shall be filed in the Department of Planning, Building and Code Enforcement, Room 400, 801 North First Street, San José, upon payment of the \$50 filing fee and shall include a statement specifying those anticipated environmental effects which may be significant. A protest of a Negative Declaration will be heard by the Planning Commission at the earliest date.

James R. Derryberry, Director
Planning, Building and Code Enforcement

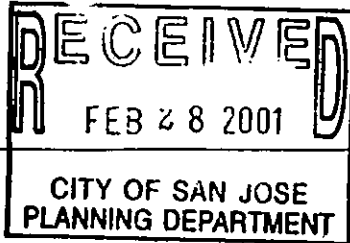
Circulated on: July 6, 2001

Susan Walton
Deputy

Adopted on:

July 26, 2001

Ron Eddow
Deputy



CITY OF SAN JOSE

Department of Planning, Building and Code Enforcement
 Planning Division, 801 North First Street, Room 400
 San Jose, California 95110-1795

ENVIRONMENTAL CLEARANCE APPLICATION

TO BE COMPLETED BY PLANNING DIVISION STAFF		
FILE NUMBER: <u>EIR GP01-08-01</u>		RECEIPT #: <u>A773426</u>
ND GRANTED:	EIR REQUIRED:	AMOUNT: <u>13,131.00</u>
PROJECT MANAGER:	ENVIRONMENTAL COORDINATOR:	DATE: <u>2-28-01</u>
		BY: <u>Lesley Xavier</u>
NOTES:		

TO BE COMPLETED BY APPLICANT (PLEASE PRINT OR TYPE)

I. GENERAL INFORMATION

NAME OF APPLICANT/DEVELOPER/ENGINEERING FIRM <u>HMH, Inc.</u>		DATE <u>2/27/2001</u>
ADDRESS <u>1570 Oakland Road, Suite 200</u>	DAYTIME PHONE NUMBER <u>(408) 487-2200</u>	FAX NUMBER <u>(408) 487-2222</u>
NAME OF PROPERTY OWNER <u>Richard Ceraolo</u>		DATE <u>2/27/2001</u>
ADDRESS <u>5579 Morningside Drive</u>		DAYTIME PHONE NUMBER <u>(408) 639-0679</u>
NAME OF DOCUMENT PREPARER (IF DIFFERENT FROM ABOVE) OR ENVIRONMENTAL CONSULTANT		DATE
ADDRESS	DAYTIME PHONE NUMBER	FAX NUMBER
NAME OF PROJECT <u>Quimby Road</u>		ASSESSOR'S PARCEL NUMBER(S) <u>654-03-009</u>
BRIEF DESCRIPTION OF THE PROJECT <u>North of Quimby Road, 50' west of Springbrook Avenue and Canyon Ridge Drive.</u>	PROJECT LOCATION/ ADDRESS <u>654-03-009</u>	

Note: Information regarding the Assessor's Parcel Number can be obtained from the County Assessor's Office, County of Santa Clara 70 West Hedding Street, 5th Floor, San Jose, CA 95110, Phone (408) 299-3227.

ENVIRONMENTAL CLEARANCE APPLICATION

PROVIDE THE FOLLOWING PLANNING INFORMATION BELOW:

Note: Information regarding General Plan, Zoning and Specific Plan information can be obtained at the City of San Jose Department of Planning, Building and Code Enforcement, 801 North First Street, Room 400, San Jose, CA 95110 Phone (408) 277-4576.

ZONING DISTRICT: County - A(Ag)	GENERAL PLAN LAND USE/TRANSPORTATION DIAGRAM DESIGNATION: Non-Urban HS
--	---

INDICATE BELOW IF THE PROJECT SITE IS LOCATED WITHIN ANY OF THE FOLLOWING AREAS:

- | | |
|--|--|
| <input type="checkbox"/> Midtown Planned Community and Specific Plan Area
<input type="checkbox"/> Jackson-Taylor Planned Residential Community
<input type="checkbox"/> Communications Hill Planned Residential Community
<input type="checkbox"/> Evergreen Planned Residential Community
<input type="checkbox"/> Berryessa Planned Residential Community
<input type="checkbox"/> Silver Creek Planned Residential Community
<input type="checkbox"/> Aviso Master Plan Area | <input type="checkbox"/> Tamien Specific Plan Area
<input type="checkbox"/> Downtown Strategy Plan Area
<input type="checkbox"/> North San Jose (Rincon de los Esteros) Redevelopment Area
<input type="checkbox"/> Edenvale Redevelopment Area |
|--|--|

List and describe any other related permits to be obtained from the City of San Jose and any other public agency approvals required for this project by other local, state or federal agencies (site development permit, planned development rezoning permit, Department of Fish and Game permit, etc.):

PD Rezoning, PD Permit, Tentative Map, Grading Plans and Improvement Plans.

II. DESCRIPTION OF THE PROJECT

SIZE OF THE SITE: 11.50 gross acres	BUILDING SQUARE FOOTAGE: TBD square feet
NUMBER OF FLOORS: TBD	BUILDING HEIGHT: TBD feet
FLOOR AREA RATIO: TBD	AMOUNT OF OFF-STREET PARKING PROVIDED: TBD spaces

HOW MUCH AND WHAT PERCENT OF THE SITE WILL BE OCCUPIED BY BUILDINGS, PARKING/DRIVEWAYS, AND LANDSCAPING/OPEN SPACE:

Project Site Uses	Amount of Area	Percentage of Total Project Area
Building (footprint)	TBD	0% TBD
Parking/Driveways		0% ↓
Landscaping/Open Space		0% ↓
Total	0.0 ↓	100 %

DOES THE PROJECT PROPOSE THE DEMOLITION OR ALTERATION OF ANY EXISTING STRUCTURES ON THE PROJECT SITE? NO YES

If yes, describe below:

There are existing single family structures on site.

ENVIRONMENTAL CLEARANCE APPLICATION

IS THE PROJECT A LAND USE PRESENTLY EXISTING IN THE SURROUNDING NEIGHBORHOOD (within 500 feet of the projectsite)? NO YES

HAS THERE BEEN A COMMUNITY MEETING HELD TO DISCUSS THE PROJECT WITH NEIGHBORS?

NO YES When: # attending: Notification Process:
(mailing, newspaper, etc.)

If yes, indicate what issues were discussed with neighbors:

IF THE PROJECT IS RESIDENTIAL PROVIDE THE INFORMATION BELOW:

Type of units: (i.e., single-family detached, multi-family, etc.)
Number of each type of unit: Density per gross acre:
Bedroom count: Estimated population*:

*Persons per Household: SF Detached = 3.43; SF Attached = 2.88; 2-4 units = 3.12; 5+ units = 2.29; Mobile Homes = 2.23

IF THE PROJECT IS COMMERCIAL PROVIDE THE INFORMATION BELOW:

Neighborhood or Regionally oriented:
Number and type of establishments: (i.e., restaurant, department store, etc.)

Square footage of each:
Size and population of market area: Number of employees anticipated:
Number of shifts per workday: Number of employees per shift:
Hours of Operation: Drive-through uses:

IF THE PROJECT IS INDUSTRIAL PROVIDE THE INFORMATION BELOW:

Number and type of establishments:
Square footage of each:
Size and population of market area: Number of employees anticipated:
Number of shifts per workday: Number of employees per shift:
Hours of Operation:

IF THE PROJECT IS INSTITUTIONAL PROVIDE THE INFORMATION BELOW:

Major functions:
Square footage and other relevant characteristics:
Number of employees:
Number of shifts per workday: Number of employees per shift:
Service area:
Hours of Operation:

Other: If the project does not fit into the categories listed above, include information from the above which is relevant:

ENVIRONMENTAL CLEARANCE APPLICATION

WILL HAZARDOUS MATERIALS BE USED AS A PART OF THE OPERATION OF ANY OF THE ESTABLISHMENTS ON THE PROJECT SITE? NO YES

If yes, discuss below:

IF REQUIRED, HAS A HAZARDOUS MATERIALS STORAGE PERMIT BEEN OBTAINED FOR THE OPERATION OF THE PROJECT? NO YES

IF REQUIRED, LIST THE APPROPRIATE STATE AND FEDERAL PERMITS THAT HAVE BEEN OBTAINED FOR THE USE, HANDLING, AND STORAGE OF HAZARDOUS MATERIALS ON THE SITE:

DISCUSS BRIEFLY THE PHYSICAL AND ENGINEERING ASPECTS OF THE PROJECT, INCLUDING THE FOLLOWING:

Grading or excavation contemplated: NO YES

If Yes: Cut: volume in cubic yards; depth in feet max
 Fill: volume in cubic yards; depth in feet max

Landscaping proposed (landscape strips, open space areas, etc.):

To be determined.

DESCRIBE EXTERIOR LIGHTING PROPOSED FOR SECURITY, PARKING LOTS, AND PEDESTRIAN PATHS, INCLUDING TYPE OF LIGHTING, PROPOSED HEIGHT, AVERAGE FOOTCANDLE, PROXIMITY TO SENSITIVE RECEPTORS, ETC:

To be determined.

DISCUSS ANY CHANGES IN THE DRAINAGE PATTERNS, ABSORPTION RATES, AND AMOUNT OF SURFACE RUNOFF RESULTING FROM THE PROJECT:

To be determined.

UTILITIES

Indicate the availability of the utilities for the project and name the provider of the utility below:

Utility	Availability	Name of Provider or other:
Water	<input type="text" value="Utilities serve Adj. Prop."/>	<input type="text" value="San Jose Municipal Water"/>
Sanitary Sewer	<input type="text" value="Utilities serve Adj. Prop."/>	<input type="text" value="City of San Jose"/>
Storm Sewer	<input type="text" value="Utilities serve Adj. Prop."/>	<input type="text" value="City of San Jose"/>
Solid Waste/Recycling	<input type="text" value="Utilities serve Adj. Prop."/>	<input type="text" value="GreenTeam"/>
Natural Gas/Electric	<input type="text" value="Utilities serve Adj. Prop."/>	<input type="text" value="PG&E"/>

PUBLIC IMPROVEMENTS: INDICATE ANY PUBLIC IMPROVEMENTS NECESSARY FOR THE PROJECT (DEDICATIONS, HALF-STREETS, STOP LIGHTS, ETC.):

To be determined

RESERVATION OF LAND FOR PUBLIC FACILITIES: INDICATE ANY RESERVATION OF LAND FOR PUBLIC FACILITIES NECESSARY FOR THE PROJECT (SCHOOLS, PARKS, TRANSIT FACILITIES, ETC.):

To be determined

PROJECT OBJECTIVES: INDICATE THE FUNCTION AND COMMUNITY BENEFITS DERIVED FROM THE PROJECT:

To provide much needed housing in the City of San Jose.

ENVIRONMENTAL CLEARANCE APPLICATION

III. ENVIRONMENTAL SETTING

Describe the project site and the surrounding area as it currently exists (prior to the commencement of the project). In general, the size of the area described should be within one-half mile of the project site.

LIST THE CURRENT LAND USES ADJACENT TO THE PROJECT SITE (undeveloped, commercial, residential, etc.)

The site is surrounded by residential uses and a detention facility operated by the Santa Clara Valley Water District.

LIST ANY PROFESSIONAL REPORTS PREPARED FOR THE PROJECT SITE KNOWN TO THE APPLICANT (I.E., GEOLOGIC, HAZARDOUS MATERIALS, ARCHAEOLOGICAL, ENVIRONMENTAL IMPACT REPORTS, ETC.,)

Lands of Stewart - Biological Constraints Report, June 21, 2000
 Engineering Geologic Study for Four Homesites off Norwood Avenue - JCP Geologists, Dec. 5, 1977

LAND USE

List the current land uses on the project site (undeveloped, commercial, residential uses, etc.)

Residential Uses

DOES THE PROJECT SITE CONSIST OF AGRICULTURAL LAND? NO YES

If yes, describe below the type of use (orchards, row crops, greenhouses, etc.):

List specific land uses that were previously on the site. This list should identify the past use of the site for a minimum of 5 years. If agricultural land uses were present on the site, these uses should be listed for the past 10 years, or as close to this time period as records will provide.

Residential

GEOLOGIC HAZARDS

DESCRIBE THE GEOLOGICAL CHARACTERISTICS OF THE SITE INCLUDING TOPOGRAPHY AND ANY UNIQUE GEOLOGIC FEATURES (I.E. ROCK OUTCROPS, ETC.)

Refer to JCP Report.

LIST KNOWN FAULT(S) CLOSEST TO THE PROJECT SITE AND DISTANCE AND LOCATION IN RELATION TO THE PROJECT SITE (E.G., SILVERCREEK FAULT LOCATED ONE MILE TO THE NORTHEAST OF THE PROJECT SITE):

Refer to JCP Report

ENVIRONMENTAL CLEARANCE APPLICATION

IS ANY PART OF THE PROJECT SITE SUBJECT TO GEOLOGIC HAZARDS INCLUDING EROSION, LANDSLIDE, LIQUEFACTION, EXPANSIVE SOILS, SUBSIDENCE OF THE LAND? NO YES

If yes, describe below.

Refer to JCP Report

DESCRIBE THE SOIL TYPES ON THE PROJECT SITE (I.E., CLASS I, CLASS II).

Refer to JCP Report

WATER RESOURCES

Note: Information regarding waterways and flooding conditions can be obtained from the City of San Jose Public Works Department, 801 North First Street, Room 308, San Jose, CA 95110, Phone (408) 277-3133.

ARE THERE ANY NATURAL WATERWAYS OCCURRING THROUGH THE PROJECT SITE AND/OR WITHIN 300 FEET OF THE PROJECT SITE? NO YES

If yes, discuss below the name, type of waterway and the distance to the project site:

Two seasonal creeks border the study area, Refer to Hartesveldt report for further information.

LIST THE FLOOD ZONE AND PANEL NUMBER WITHIN WHICH THE PROJECT SITE IS LOCATED.

Flood Zone: Panel Number:

IS THE PROJECT SITE LOCATED WITHIN AN AREA SUBJECT TO FLOODING (I.E., WITHIN THE 100-YEAR FLOODPLAIN): NO YES

BIOLOGICAL RESOURCES

Note: Information regarding heritage trees and riparian corridor habitat can be obtained from the San Jose Heritage Tree Survey report and the Riparian Corridor Policy report, respectively, available for review at City of San Jose Department of Planning, Building and Code Enforcement, 801 North First Street, Room 400, San Jose, CA 95110, Phone (408) 277-4576.

DESCRIBE THE BIOTIC FEATURES OF THE SITE, INCLUDING OPEN SPACES, LANDSCAPING ON THE SITE AND ANY UNIQUE BIOLOGICAL FEATURES.

The project site is bounded on both sides by seasonal creeks.

DOES THE SITE CONTAIN ANY KNOWN ENDANGERED THREATENED, SPECIAL STATUS ANIMAL OR PLANT SPECIES? NO YES

If yes, list below:

ENVIRONMENTAL CLEARANCE APPLICATION

DOES THE SITE CONTAIN ANY KNOWN IMPORTANT WILDLIFE BREEDING, NESTING OR FEEDING AREAS?

NO YES

If yes, list below:

Refer to Hartesveldt Report

IS THERE RIPARIAN CORRIDOR HABITAT OCCURRING ON OR WITHIN 300 FEET TO THE SITE (I.E. VEGETATION OCCURRING ALONG THE BANKS OF A WATERWAY)?

NO YES

If yes, discuss below:

Refer to Hartesveldt Report

WILL THE PROJECT BE CONSTRUCTED WITHIN 100 FEET OF RIPARIAN CORRIDOR HABITAT (WITHIN 100 FEET OF THE TOP OF BANK OF ANY WATER WAY)?

NO YES

If yes, discuss below:

ENVIRONMENTAL CLEARANCE APPLICATION

Are existing trees on the project site to be removed as part of the project? NO YES

Are existing trees on the project site to be retained and incorporated as part of the project landscaping? NO YES

Will grading on the project site occur within the dripline of existing trees to be retained? NO YES

In the table provided below, list any existing trees on the project site, including size and species, indicate if any of the trees are ordinance-size trees. In addition, indicate trees to be removed and trees to be retained as part of the project. If additional space is required, attach supplemental pages.

(Note: Trees size is determined by measuring the circumference of the tree trunk at 24 inches above natural grade— Ordinance-size trees are defined as trees measuring 56 inches in circumference at 24 inches above natural grade).

Photos of each ordinance-size tree must be submitted and the location of the trees on the site must be defined.

Number	Tree Species	Size	Ordinance-Size Trees	Tree to be Removed	Condition of Tree	Tree to be Retained
<i>Example</i>	<i>Coast Live Oak</i>	<i>62 inches</i>	<i>Yes</i>	<i>No</i>	<i>Good</i>	<i>Yes</i>
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						

ARE THERE HERITAGE TREES ON THE PROJECT SITE? NO YES

If yes, list the number of trees, size of trees and species below:

Heritage Tree List Number:	Address/Location:	Location of Tree on Project Site:	Species

ENVIRONMENTAL CLEARANCE APPLICATION

TRANSPORTATION/CIRCULATION

Note: Information regarding transportation and circulation issues can be obtained from the, City of San Jose Public Works Department, 801 North First Street, Room 308, San Jose, CA 95110, Phone (408) 277-5161.

NAME AND DESCRIBE THE ROADWAYS PROVIDING ACCESS TO THE PROJECT SITE (E.G., FOUR-LANE ROADWAY WITH MEDIAN, ETC.):

The project proposes to connect to Springbrook Road and Canyon Ridge Drive.

IS THE PROJECT SITE CURRENTLY SERVED BY MASS TRANSIT (I.E., BUS SERVICE, LIGHT-RAIL, ETC.):

NO YES

If yes, list routes below:

Route 39 and 39A run along Quimby Road

IS THE PROJECT SITE WITHIN 2,000 FEET OF A LIGHT RAIL STATION?

NO YES

If yes, list which station:

MINERAL RESOURCES

DOES THE PROJECT SITE CONTAIN ANY KNOWN IMPORTANT MINERAL RESOURCES?

NO YES

If yes, list below:

AIR QUALITY

Note: Information can be found in the City of San Jose Planning, Building and Code Enforcement Department, 801 North First Street, Room 400, San Jose, CA 95110, Phone (408) 277-4576.

WILL THE PROJECT GENERATE OBJECTIONABLE ODORS OR PLACE SENSITIVE RECEPTORS ADJACENT TO A USE THAT GENERATE ODORS (I.E. LANDFILLS, COMPOSTING, ETC.)?

NO YES

If yes, discuss below:

HAZARDOUS MATERIALS

Note: Information regarding hazardous materials issues can be obtained from the City of San Jose Environmental Services Department, 777 North First Street, Suite 400, San Jose, CA 95110, Phone (408) 277-5161.

ARE PESTICIDES CURRENTLY USED ON THE SITE FOR USE IN EITHER AGRICULTURAL PRODUCTION AND/OR LANDSCAPE MAINTENANCE OPERATION?

NO YES

If yes, discuss below:

ARE THERE ACTIVE OR ABANDONED WELLS ON THE PROJECT SITE?

NO YES

If yes, discuss below:

ENVIRONMENTAL CLEARANCE APPLICATION

ARE HAZARDOUS MATERIALS CURRENTLY BEING USED AS A PART OF THE PRESENT BUSINESS OPERATING ON THE SITE? NO YES

If yes, discuss below:

IF REQUIRED, DOES THE CURRENT OWNER/OPERATOR HAVE A HAZARDOUS MATERIALS STORAGE PERMIT?

NO YES

IF REQUIRED, LIST THE APPROPRIATE STATE AND FEDERAL PERMITS THAT HAVE BEEN OBTAINED FOR THE USE, HANDLING, AND STORAGE OF HAZARDOUS MATERIALS FOR PREVIOUS OPERATIONS ON THE PROJECT SITE:

HAS THE PROJECT SITE EVER BEEN OCCUPIED BY A GAS STATION AND/OR AUTO REPAIR FACILITY?

NO YES

DOES THE SITE HAVE UNDERGROUND STORAGE OF CHEMICALS OR USED UNDERGROUND STORAGE TANKS?

NO YES

If yes, describe below the type of storage use (i.e., gasoline, diesel, etc.):

IS THE PROJECT SITE LISTED ON ANY LOCAL, STATE AND/OR FEDERAL REGULATORY DATABASE DUE TO HAZARDOUS MATERIALS CONTAMINATION (I.E., LEAKING UNDERGROUND STORAGE TANKS DATABASE, ETC.):

NO YES

If yes, discuss below:

HAVE ANY SOILS/GROUNDWATER TESTS EVER BEEN CONDUCTED ON THIS PROPERTY IN RELATION TO POTENTIAL HAZARDOUS MATERIALS CONTAMINATION?

NO YES

If yes, discuss below:

HAS THE REMEDIATION OF HAZARDOUS MATERIALS EVER BEEN PERFORMED ON THE PROJECT SITE?

NO YES

If yes, discuss below:

DOES THE PROJECT PROPOSE THE DEMOLITION OF ANY STRUCTURE THAT MAY CONTAIN HAZARDS SUCH AS ASBESTOS OR LEAD PAINT?

NO YES

If yes, discuss below:

DATE OF TESTS FOR PRESENCE OF ASBESTOS AND LEAD BASED PAINT:

ENVIRONMENTAL CLEARANCE APPLICATION

NOISE

Note: Information regarding noise issues can obtained from City of San Jose Department of Planning, Building and Code Enforcement, 801 North First Street, Room 400, San Jose, CA 95110 Phone (408) 277-4576.

IS THE PROJECT SITE LOCATED WITHIN THE AIRPORT LAND USE COMMISSION PLAN NOISE ZONE (65 CNEL)? NO YES

WILL THE PROJECT GENERATE EXCESSIVE LONG-TERM NOISE/VIBRATION FROM OPERATIONS OR MACHINERY (E.G., GENERATORS, LATE-NIGHT ACTIVITIES, ETC.) NO YES

If yes, discuss below:

IS THE PROJECT LOCATED ADJACENT TO A MAJOR NOISE/VIBRATION SOURCE (I.E., RAILWAY, MAJOR ROADWAY, ETC.): NO YES

If yes, list below:

WILL THE PROJECT GENERATE EXCESSIVE NOISE/VIBRATION DURING CONSTRUCTION OF THE PROJECT (I.E. PILE DRIVING, HEAVY MACHINERY, ETC.) NO YES

If yes, discuss below:

PUBLIC SERVICES

LIST THE NAME, ADDRESS AND APPROXIMATE DISTANCE OF THE NEAREST FIRE STATION:

Fire Station No. 31

IF THE PROJECT IS RESIDENTIAL PROVIDE THE INFORMATION BELOW:

LIST THE NAME, ADDRESS AND APPROXIMATE DISTANCE OF THE NEAREST ELEMENTARY, MIDDLE AND HIGH SCHOOL:

Evergreen Elementary, 3010 Fowler Road, San Jose 95135 - 2 miles
Chaboya Middle School, 3276 Fowler Road, San Jose 95135 - 2 miles
Silvercrest High School, 3434 Silvercreek Road, San Jose, CA 95121 - 4 miles

LIST NAME OF NEAREST LOCAL AND REGIONAL PARKS AND RECREATIONAL FACILITIES:

Groesbeck Hill Park
Lake Cunningham Park

ENVIRONMENTAL CLEARANCE APPLICATION

AESTHETICS

Note: Information regarding aesthetics can be obtained from the San Jose 2020 General Plan available for review at City of San Jose Department of Planning, Building and Code Enforcement, 801 North First Street, Room 400, San Jose, CA 95110 Phone (408) 277-4576.

IS THE PROJECT SITE LOCATED ADJACENT TO A SCENIC HIGHWAY?

NO YES

If yes, list below:

[Empty box for listing scenic highways]

CULTURAL RESOURCES

Note: Information regarding historical and archaeological resources can be obtained from the San Jose Historic Resources Inventory available for review at City of San Jose Department of Planning, Building and Code Enforcement, 801 North First Street, Room 400, San Jose, CA 95110 Phone (408) 277-4576.

LIST THE NUMBER AND APPROXIMATE AGE OF ANY STRUCTURES ON THE PROJECT SITE (USE ASSESSOR'S INFORMATION TO IDENTIFY THE DATE OF CONSTRUCTION):

Two Residential structures and several outbuildings exist on the site.

DESCRIBE THE ARCHITECTURAL STYLE OF ANY STRUCTURES ON THE PROJECT SITE (I.E., VICTORIAN, MEDITERRANEAN, COLONIAL, RANCH, SAN JOSE PROVINCIAL, ETC.)

Ranch

ARE ANY STRUCTURES ON THE PROJECT SITE LISTED AS CITY LANDMARKS, CANDIDATE CITY LANDMARKS, STRUCTURES OF MERIT, OR LISTED OR DETERMINED ELIGIBLE FOR LISTING ON THE NATIONAL OR CALIFORNIA REGISTER OF HISTORIC PLACES?

NO YES

If yes, describe below:

[Empty box for describing landmarks]

IS THE PROJECT SITE LOCATED WITHIN AN AREA OF KNOWN ARCHAEOLOGICAL SENSITIVITY? (STAFF)

NO YES

IV. CERTIFICATION AND DISCLOSURE STATEMENT FOR THE APPLICATION FOR ENVIRONMENTAL CLEARANCE

The attached Application for Environmental Clearance File No. _____, has been prepared by HMH, Inc. doing business as (indicate the legal name for dba designation, such as individual, "a partnership", "a corporation", etc.) [A California Corporation]

The above-named, now has or will have the following direct or indirect economic interest in the development of, or, after its completion, the operation of the project for which the Application for Environmental Clearance has been submitted.

I/We declare, under penalty of perjury, that the statements furnished above, and in the attached exhibits, pertaining to the environmental information of the proposed project and to my/our economic interest or interests in that project are complete, true and correct to the best of my/our knowledge and belief.

If any of the facts represented here change it is my responsibility to inform the City of San Jose.

Executed on 2/27/2001 at San Jose, California

PREPARER'S SIGNATURE(S) Tim Carter

November 7, 2002

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
SUBJECT: Proposed Revisions to LAFCO Policies

STAFF RECOMMENDATION

Staff recommends that the Commission:

1. Adopt policies for:
 - a. Conducting service reviews (Attachment A)
 - b. Processing proposals affecting more than one county (Attachment B)
2. Adopt revisions to existing:
 - a. Sphere of Influence policies (Attachment C)
 - b. Urban Service area policies (Attachment D)
 - c. Policies relative to annexations / reorganizations for cities and special districts (Attachment E)
 - d. Policies for out of agency contract for services proposals (Attachment F)
3. Establish January 1, 2003 as the effective date for adopted policies.

PROJECT DESCRIPTION

The proposed policies include two aspects:

1. Development of new policies for
 - a. Service reviews*
 - b. Processing proposals affecting more than one county

Santa Clara LAFCO does not currently have policies for these items.

2. Revisions to existing policies including
 - a. Sphere of influence policies*
 - b. Urban service area policies*
 - c. Policies relative to annexations / reorganizations for cities and special districts
 - d. Policies for out of agency contract for services proposals

The proposed revisions to these policies are intended to identify and delete provisions that are no longer appropriate or that are redundant, to consolidate statements whenever possible, to add new provisions where necessary in response to changes in the CKH Act, to make correct references to the Government Code sections, and to clarify and strengthen existing policies.

Due to staffing and time constraints, staff has first focused on these four policy areas. Staff will review the remaining policies and bring any proposals for revision to the Commission at a later date.

** These proposed new policies and proposed revised existing policies were developed by LAFCO staff with the assistance of Barbara Graichen, Principal and owner of Graichen Consulting, Sacramento, California.*

BACKGROUND

Reasons for Revisions

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires LAFCO to adopt written policies and procedures (Government Code section 56300). These written policies should be consistent with the CKH Act and are intended to expand public understanding of the state law and LAFCO process as well as provide guidance to LAFCO and staff in the review of LAFCO applications. Santa Clara LAFCO currently has a set of local policies that have been adopted over time. In recent years, there have been a number of changes in the statutes governing LAFCO. The CKH Act added several new provisions including the service review requirement, additional review factors such as water availability and housing needs, five-year reviews of spheres of influence, other sphere of influence requirements for cities and special districts etc. Existing Santa Clara LAFCO policies are being revised and new policies are being developed to reflect these changes in state law.

Notice of Public Hearing

In addition to following standard noticing requirements for public hearings, a notice regarding this item along with the staff report and draft policies was mailed out to the city managers, planning directors and clerks of all the cities and the county, to the managers and clerks of the special districts, to adjacent LAFCOs and to other agencies and interested parties. This item has also been noticed in the San Jose Mercury News. A copy of this staff report along with draft policies has been posted on the LAFCO web site.

SERVICE REVIEW POLICIES (ATTACHMENT A)

The proposed service review policies are intended to provide guidance to Santa Clara LAFCO and staff in preparation and implementation of service reviews as required by the CKH Act (section 56430). These policies describe how service reviews will be organized in Santa Clara County, when they will be required, how they will be conducted and include a description of the factors to be evaluated. These policies are intended to be used along with the State Office of Planning and Research's (OPR) Final Service Review Guidelines. A copy of OPR's guidelines is available on their web site at www.opr.ca.gov.

POLICIES FOR PROCESSING PROPOSALS AFFECTING MORE THAN ONE COUNTY (ATTACHMENT B)

The proposed policies and procedures formalize the existing practice of referring multi-county annexations between Santa Clara and San Mateo LAFCOs. Since 1987, San Mateo and Santa Clara LAFCOs have had an informal agreement by which the principal LAFCO refers applications involving territory in the other county to the affected LAFCO for consideration and recommendation prior to the hearing of the principal LAFCO. However, the referral process outlined in the proposed policies is not mandated by the CKH Act.

Santa Clara and San Mateo LAFCO are affected in two ways by this provision. In one case, San Mateo LAFCO is principal LAFCO for West Bay Sanitary District, which includes some territory in Santa Clara County. Conversely, Santa Clara LAFCO is principal LAFCO for Mid-peninsula Regional Open Space District, which encompasses territory in Santa Clara, San Mateo and Santa Cruz counties.

SPHERE OF INFLUENCE (SOI) POLICIES (ATTACHMENT C)

Significant revisions proposed to the Sphere of Influence policies include:

- Policy A2 has been added to provide a general description of the purposes of the SOI in Santa Clara County.
- Policy A4 has been added in response to CKH Act (section 56425(f)) requiring review and update of SOI not less than once every five years.
- Policy 5 and 6 have been added in response to CKH Act's (section 56430 (c)) service review requirements.
- Policy A7 has been added to clarify existing practice.
- Policy C1 and D1 have been added in response to new provisions in the CKH Act (sections 56425 b, c, d & h) with respect to adoption of SOI for cities and special districts.

URBAN SERVICE AREA (USA) POLICES (ATTACHMENT D)

Significant revisions proposed to the Sphere of Influence policies include:

- Policy A3 has been added to explain existing practice and state law provision regarding city conducted annexations in Santa Clara County.
- Policy B3 j & k have been added in response to CKH Act (sections 56668 k & l) which requires LAFCO to consider water availability and housing needs in evaluating proposals.
- Policy B4 has been added to implement the CKH Act's service review requirement
- Policy B8 has been added to explain and strengthen LAFCO policy requirements with regard to conversion of agricultural and open space lands.
- Policies B10 & B11 are added to explain how LAFCO will analyze Urban Service Area proposals with respect to availability of water supply and regional housing needs.

POLICIES RELATIVE TO ANNEXATIONS / REORGANIZATIONS FOR CITIES AND SPECIAL DISTRICTS (ATTACHMENT E)

Significant revisions proposed to the annexation and reorganization policies include:

- Policy B7 has been added in response to the CKH Act (section 56375 a & e) not allowing changes in pre-zoning designation for 2 years after annexation.
- Policy B12 has been added to implement the CKH Act's service review requirement

POLICIES FOR OUT OF AGENCY CONTRACT FOR SERVICES PROPOSALS (ATTACHMENT F)

Significant revisions proposed to the out of agency contract for services policies include:

- Addition to Policy 1 has been made to reflect the CKH Act provision (section 56133 e) allowing exemptions to LAFCO approval for extension of services.
- Policy 4 has been added to describe and strengthen existing practice and policy.
- Policy 7 has been added to implement the CKH Act's service review requirement.
- Policy 8c has been added to explain the existing requirement for administrative approvals.

EFFECTIVE DATE FOR THE NEW POLICIES

Staff is proposing that the revised policies become effective January 1, 2003.

NEXT STEPS

After Commission adoption of the revised policies:

- The revised policies will be mailed to the County, cities and special districts in the county and other interested persons or parties.
- The revised policies will be posted on the LAFCO web site.

ATTACHMENTS

- | | |
|--------------|---|
| Attachment A | Draft Service review policies |
| Attachment B | Draft Policies for processing proposals affecting more than one county |
| Attachment C | Draft sphere of influence policies |
| Attachment D | Draft urban service area policies |
| Attachment E | Draft policies relative to annexations / reorganizations for cities and special districts |
| Attachment F | Draft policies for out of agency contract for services proposals |

**SANTA CLARA LAFCO
DRAFT POLICY REVISIONS**

ATTACHMENTS

Attachment A: Draft Service review policies*

Attachment B: Draft Policies for processing proposals affecting more than one county

Attachment C: Draft sphere of influence policies*

Attachment D: Draft urban service area policies*

Attachment E: Draft policies relative to annexations / reorganizations for cities and special districts

Attachment F: Draft policies for out of agency contract for services proposals

* *These proposed new policies and proposed revised existing policies were developed by LAFCO staff with the assistance of **Barbara Graichen**, Principal and owner of **Graichen Consulting**, Sacramento, California.*

DRAFT

SERVICE REVIEW POLICIES

Background

Section 56430 of the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires LAFCO to conduct municipal service reviews prior to establishing or updating spheres of influence. The service reviews are intended to serve as a tool to help LAFCO, the public and other agencies better understand the public service structure and evaluate options for the provision of efficient and effective public services.

These policies, along with the State Office of Planning and Research's Municipal Service Review Guidelines will provide guidance to LAFCO in preparing and conducting service reviews.

1. Service Review

A service review is a comprehensive review of municipal services within a designated geographic area and includes steps to:

- Obtain information about municipal services in the geographic area,
- Evaluate the provision of municipal services from a comprehensive perspective, and
- Recommend actions when necessary, to promote the efficient provision of those services.

LAFCO is not required to initiate boundary changes based on service reviews. However, LAFCO, local agencies or the public may subsequently use the service reviews to pursue changes in jurisdictional boundaries or spheres of influence.

2. Services to be Reviewed

Service reviews will cover a range of services that a public agency provides or is authorized to provide (examples include fire, water, sewer, lighting, library, police, storm water and solid waste collection/ disposal, gas and electricity). General government services such as social and health services, courts and criminal justice will be excluded from the reviews. Service reviews are triggered by requirements to create or update the Sphere of Influence (SOI) for public agencies. Therefore, LAFCO will review services

that are provided by public agencies that have, or are required to have, SOIs. In doing so, LAFCO will also take into consideration other services (e.g., emergency response along with fire protection services) and the operation of other providers that service the same region (e.g., private water providers or volunteer fire crews).

3. Service Providers to be Included:

Agencies that are required to have SOIs will be the focus of service reviews.

The agencies with SOIs in Santa Clara County include cities (15), and special districts (30) such as but not limited to, county service areas, community service districts, fire protection districts, sanitary districts, water districts, vector control districts, open space districts and resource conservation districts. Please see attached list of cities and special districts in Santa Clara County.

Agencies that do not have SOIs include school districts, private providers, state or federal agencies and other agencies that provide complementary, joint, support or overlapping services in the region. These agencies will also be reviewed to the extent necessary to establish relationships, quantify services, designate or map service locations / facilities and provide a complete overview of services in the area. These agencies may be requested to participate and provide information necessary to conduct the review.

4. Service Review Preparation and Update

- a. The first set of service reviews should be completed by 2006 to enable timely SOI updates as required by the CKH Act.
- b. Service review reports will be reviewed and updated as necessary every five years in conjunction with or prior to SOI reviews and updates. LAFCO will determine if a new service review is required or not. CKH Act requires SOIs to be updated every five years. Minor amendments of a SOI, as determined by LAFCO, will not require a service review.
- c. Service reviews may need to be updated independent of SOI reviews, to facilitate review of a pending application or other LAFCO action, unless LAFCO determines that prior service reviews are adequate for the purpose.

5. Service Review Boundaries

A service review may be conducted for sub-regional areas within the county or on a countywide basis, it may review a single agency or multiple agencies

and it may review a single service or multiple services. LAFCO will determine how service reviews will be organized and conducted in Santa Clara County.

Generally, LAFCO will include in a service review the geographic area and agency(ies) that best facilitate a logical, comprehensive and adequate review of services in the area. LAFCO may need to include a service provider in more than one service review area, only review services of some providers to the extent that they affect the service review area and services under study, or only review a portion of services provided. Service reviews may extend beyond the county boundary in some cases, to provide a more useful and accurate analysis of service provision, especially where multi-county service providers are involved.

6. Service Review Funding

- a. LAFCO will include the funding for LAFCO initiated service reviews in its annual work plan and budget development process. Sufficient funds necessary to satisfactorily complete the required reviews including consultant costs will be allocated in the LAFCO budget for each fiscal year service reviews are to be conducted.
- b. An application-processing fee for conducting the service reviews will be charged when LAFCO applications (such as, but not limited to sphere of influence amendments, urban service area amendments or out of agency contract for service applications) trigger the service review requirement and an applicable service review does not exist.

7. Stakeholder Outreach and Public Participation

- a. LAFCO will encourage collaboration, cooperation and information sharing among service review stakeholders.
- b. LAFCO will encourage public participation in the service review process.

8. Service Review Process

- a. As an initial step, LAFCO will develop and mail a questionnaire to the agencies included in the service review. The questionnaire will request information pertinent to the nine evaluation categories stated in Policy #10 herein. Meetings may be held as necessary, or additional questionnaires may be sent out to gather further input.
- b. LAFCO Executive Officer will prepare and issue a draft service review report which includes draft determinations required by state law. Notice

of availability of the draft service review will be provided to all affected agencies and to interested persons who have submitted a written request for notice.

- c. LAFCO will distribute and provide a 21-day public review period for the draft service review.
- d. LAFCO will conduct a noticed public hearing to consider and accept comment on the draft service review and appropriate CEQA review. At the hearing, LAFCO may:
 - 1. Take the necessary CEQA action and find that the draft service review report is adequate and final and adopt written determinations,
 - 2. Direct staff to address comments and concerns and prepare a final service review report, or
 - 3. Continue the hearing.
- e. A draft service review may be considered final if no substantive comments are received prior to the end of the hearing and LAFCO determines it satisfactory.
- f. If a revised final service review is necessary, the LAFCO Executive Officer will prepare it including comments received during the public review period.
- g. LAFCO will distribute the final service review report 21 days prior to the LAFCO public hearing
- h. LAFCO will conduct a noticed public hearing to act on the CEQA document and adopt the service review report. Any service review determinations will be adopted by resolution. LAFCO may also adopt other staff recommendations and direct staff to further study issues raised in the service reviews.
- i. LAFCO may also take action on a SOI update or initiate a reorganization proposal based on the approved service review at the same hearing, if the service review supports the action and if LAFCO has complied with all required processes.
- j. LAFCO will distribute the Final Service Review Report to all participating and interested local and regional agencies for use as a resource in their work.

9. Applicability of CEQA to Service Reviews

LAFCO will consider service reviews as projects for CEQA purposes. They will be processed consistent with the requirements of CEQA and LAFCO's CEQA procedures.

10. Service Review Evaluation Categories

As part of the service review process, the CKH Act requires LAFCO to make written determinations on nine evaluation categories. The following is a general description of the categories and criteria used to evaluate these categories. It should be noted that how these categories apply to each of the service reviews may vary and will depend mostly on the nature of the service being reviewed

a. Infrastructure needs or deficiencies

One of LAFCO's goals is to encourage the efficient provision of public services. Any area needing or planned for services must have the infrastructure necessary to support the provision of those services. Infrastructure needs and deficiencies refers to the adequacy of existing and planned infrastructure and its relationship to the level of service that is being provided or needs to be provided in an area.

Infrastructure can be evaluated in terms of capacity, condition, availability, quality and levels of service and quality of plans and programs.

b. Growth and population projections for the affected area

A plan for service provision to an area should take into consideration the existing as well as future need for public services in the area. Service reviews will examine the existing and future need for public services and will evaluate whether projections for future growth and population patterns are integrated into an agency's planning function. This analysis may be used to determine whether the SOI / USA boundaries reflect the expected growth boundaries, if future SOI changes are necessary or feasible and if agencies are aware of, and planning for anticipated changes in service demand.

In order to examine the existing and future levels of demand for a service, the service review will contain and consider existing and projected population changes and their relationship to agency plans, planning boundaries and existing and proposed land uses.

c. *Financing constraints and opportunities*

A community's public service needs should be viewed in light of the resources available to fund the services. Through a service review, the financing constraints and opportunities affecting service provision will be identified and analyzed to determine if agencies are capitalizing on financing opportunities and collaborative strategies to deal with financial constraints will also be identified.

The service review will contain information on current and planned financing mechanisms, funding practices and revenue sources.

d. *Cost avoidance opportunities*

Efficient delivery of services depends, in part, on eliminating unnecessary costs. The service reviews will explore cost avoidance opportunities including but not limited to:

1. Reducing or eliminating duplicative services;
2. Reducing high administration to operation cost ratios;
3. Replacing outdated or deteriorating infrastructure and equipment;
4. Reducing inventories of underutilized equipment, buildings and facilities;
5. Redrawing overlapping or inefficient service boundaries;
6. Implementing economies of scale; and
7. Efficiently using outsourcing opportunities.

e. *Opportunities for rate restructuring*

When applicable, service reviews may identify strategies to positively impact rates charged for public services, without adversely affecting service quality. In order to examine opportunities for rate restructuring, the service reviews will consider information such as but not limited to:

1. Rate setting methodologies;
2. Relationship between service rates, service boundaries and district boundaries; and
3. Rates per unit and reasons for rate variances among service providers.

f. *Opportunities for shared facilities*

The service review will identify opportunities for service providers to share facilities with the intent of lowering current and potential infrastructure / capital improvement costs. When applicable, the service review will inventory facilities within the study area to determine if facilities are currently being utilized to capacity and whether efficiencies

can be achieved by accommodating the facility needs of adjacent agencies. Options for planning for future shared facilities and services may also be considered.

g. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers

The objective is to study existing and future public service conditions and evaluate organizational alternatives for accommodating growth, preventing urban sprawl and ensuring efficient delivery of services. While the service review does not require LAFCO to initiate any changes of organization as part of the review, LAFCO, the public or local agencies may pursue subsequent changes to government structure. LAFCO may evaluate the advantages and disadvantages of amending or updating the SOI, annexations to or detachments from cities or special districts, formation of new special districts, incorporation of cities, dissolutions, mergers, consolidations and other reorganization options found in the CKH Act.

h. Evaluation of management efficiencies

Management efficiency refers to the effectiveness of an agency's internal organization to facilitate the provision of efficient public services. An efficiently managed local entity implements improvement plans and strategies for, among others:

1. Budgeting, managing costs and maintaining adequate contingency reserves;
2. Training, maintaining and utilizing qualified personnel;
3. Customer service; and
4. Encouraging public involvement.

The service review will evaluate management efficiencies taking into consideration local circumstances, resources and issues identified during review of other evaluation categories.

i. Local accountability and governance

Local accountability and governance refers to a public agency's decision making processes and operational and management practices. Ideal local government is marked by processes and actions that:

1. Include accessible and accountable elected or appointed decision-making body and agency staff;
2. Encourage public participation;

3. Disclose budgets, programs and plans;
4. Solicit public input in the consideration of work plans, rate changes; and
5. Evaluate plans, programs, operations and disclose results to the public.

The objective of this analysis is to positively impact the public's knowledge of and involvement in local decision-making processes and actions and use this information when evaluating potential government structure changes which could improve accountability or governing practices.

DRAFT

**POLICIES AND PROCEDURES FOR PROCESSING PROPOSALS
AFFECTING MORE THAN ONE COUNTY**

Legislative Authority

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 sets forth that the county having all or the greater portion of the assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district for which a change of organization or reorganization is proposed, is the principal county for changes in organization involving that district. It further states that the LAFCO of the principal county shall have jurisdiction over all boundary changes affecting that district including changes of organization involving territory in another county. Exclusive jurisdiction shall be vested in the LAFCO of the principal county, unless the principal county vests jurisdiction in the LAFCOs of the affected county and both LAFCOs agree to transfer of jurisdiction.

Santa Clara LAFCO recognizes the need to collaborate on a regional level when considering a change of organization of a district that affects another County. In order to further this collaboration and assure thorough and consistent consideration of applications affecting more than one county, this Commission adopts the following procedure for processing applications from multi-county districts.

A. Procedure for Processing of Applications affecting more than county when Santa Clara LAFCO is Principal LAFCO

1. Applications affecting the boundaries of a district for which Santa Clara LAFCO is principal LAFCO will be submitted to Santa Clara LAFCO including instances in which the subject territory is located in another county. Prior to application, applicants should meet with staff of principal LAFCO regarding process and application requirements. Applicant must comply with application requirements of both LAFCOs.
2. Upon receipt of the application involving territory in another county, staff will immediately forward a copy of the application to the LAFCO of the county containing the subject territory.
3. The commission of the principal county will also provide notice to the chair, each board member, and the executive office of all affected agencies of any proceedings, actions or reports on the proposed change of organization.
4. Santa Clara LAFCO staff will consult with the staff of the affected LAFCO and affected agencies in the county containing territory in order to gather data for the Executive Officer's report and recommendation.

5. The application will be scheduled for hearing by Santa Clara LAFCO so that the LAFCO of the affected county has had time to review the application and submit a written recommendation to be included in the Executive Officer's report for Santa Clara LAFCO consideration at a public hearing.
6. At the hearing, the Commission will consider the Executive Officer's report, the recommendation of the LAFCO containing the subject territory and the comments of affected individuals and agencies in making its determination.
7. Following the conclusion of the hearing, the Executive Officer will forward any resolutions and written report of Commission action to the chair, each board member, the executive office of all affected agencies and the LAFCOs of the affected county.

B. Applications affecting territory in Santa Clara County when Santa Clara LAFCO is not Principal LAFCO

Upon receipt by Santa Clara LAFCO of a notice and referral from a LAFCO of another county of an application for change of organization affecting territory in Santa Clara County, staff will place the application and report and recommendation on Santa Clara LAFCO's next possible agenda so that the Commission may consider the application and forward a recommendation to the LAFCO of the principal county. Said applications will be processed and a staff report will be prepared consistent with Santa Clara LAFCO's Policies and Procedures

DRAFT

SPHERE OF INFLUENCE POLICIES

A. GENERAL GUIDELINES

1. Pursuant to Government Code Section 56425, LAFCO must adopt and maintain a Sphere of Influence (SOI) for each local governmental agency. Once established, a Sphere of Influence shall be used as a guide to LAFCO in the determination of any proposal concerning cities or special districts and territory adjacent thereto.
2. Santa Clara LAFCO shall use SOIs to:
 - a. Promote orderly urban development
 - b. Promote cooperative planning efforts among cities, the county and special districts to address concerns regarding land use and development standards, premature conversion of agriculture and open space lands and efficient provision of services.
 - c. Serve as a master plan for future local government reorganization by providing long range guidelines for efficient provision of public services; shaping logical government entities able to provide services in the most economical manner, avoiding expensive duplication of services or facilities.
 - d. Guide consideration of proposals and studies for changes of organization or reorganization
23. LAFCO may include areas of planning concern in city Spheres of Influence. Inclusion of territory within a Sphere of Influence SOI should not necessarily be seen as an indication that the city will either annex or develop to urban levels such territory. The Urban Service Area boundary will serve as LAFCO's primary means of indicating a city's intention of development and provision of urban services.
4. Each adopted SOI will be reviewed as necessary, but not less than once every five years.
5. A service review pertaining to the SOI will be prepared prior to, or in conjunction with each SOI adoption, update or amendment unless LAFCO determines that a prior service review is adequate. A minor SOI amendment will not require a service review. A minor SOI amendment is

one that does not have any adverse regional, planning, economic or environmental impacts.

6. LAFCO will consider service review determinations and recommendations when rendering SOI findings.
- ~~3. The Commission may periodically review and update the Spheres of Influence developed and determined by it, either at the request of a local government agency or at its own discretion.~~
7. While LAFCO encourages the participation and cooperation of the subject agency; the determination of the SOI is a LAFCO responsibility.

B. ADOPTION AND AMENDMENT POLICIES FOR CITY SOI

1. LAFCO will require consistency with city / county general plans and SOIs of affected local agencies ~~when in~~ adopting or amending a Sphere of Influence ~~SOI~~. Joint City/County Specific Plans and factors such as density policies, development standards, geology, and future use will be considered by the Commission when establishing Spheres of Influence.
2. Pursuant to Government Code Section 56425, LAFCO will consider and make a written finding regarding the following, in adopting or amending a SOI for a local agency:
 - a. The present and planned land uses in the area, including agricultural and open space lands
 - b. The present and probable need for public facilities adequacy of public facilities and services in the area
 - c. The present capacity of public facilities and adequacy of public services, which the agency provides or is authorized to provide;
 - d. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.
3. LAFCO will consider fiscal impacts of proposed ~~Sphere~~ SOI amendments upon the County, affected cities, special districts and school districts. Where such amendments may have negative fiscal impacts upon the County or other local agencies, LAFCO may require mitigations thereof from the city / district proposing the amendment.
4. LAFCO will consider city annexation proposals outside the Urban Service Areas, but within the Spheres of Influence, only if such annexations will promote LAFCO's mandate to preserve open space areas, including agricultural open space and greenbelts.

~~5. LAFCO shall amend the Sphere of Influence of an affected agency in the event a change of organization is approved which does not conform to the adopted Sphere of Influence.~~

65. Spheres of Influence for cities and special districts may overlap when both agencies expect to provide different service to the area.

~~* 7. In the case of Palo Alto, the following policies apply:~~

~~a. The Sphere of Influence includes all lands within the Palo Alto Boundary Agreement Area except those Stanford lands outside the Palo Alto Urban Service Area which are reserved for academic use.~~

~~b. It is acknowledged that the establishment of these boundaries is not meant to imply that it would be appropriate to allow new governmental formations within the territory that is excluded from the Palo Alto Sphere of Influence merely because such territory is being excluded there from at this time.~~

~~c. The Palo Alto Sphere of Influence boundary should be reviewed in the future if:~~

~~(1) There is any amendment of the County General Plan or the University's Land Use Plan that changes an academic land use designation to non-academic, or the reverse; or~~

~~(2) Santa Clara County adopts any other policy that might alter the likelihood of annexation of any areas of Stanford.~~

* These policies are specific to Palo Alto SOI and will be deleted from general LAFCO policies for SOI and placed in the Palo Alto SOI document when it is reviewed and updated.

C. Adoption and Amendment Policies for Special District Spheres of Influence

16. Adoption or amendment proposals for special district Spheres of Influence will be reviewed for conformity with the County General Plan and the general plans of the cities served by the district. Spheres of Influence for special districts which provide urban services will generally be tied to city growth plans.

27. LAFCO will discourage duplications in service provision in reviewing new or amended Sphere SOI proposals. Where a special district is coterminous with, or lies substantially within, the boundary or SOI of a

city which is capable of providing the service, the special district may be given a zero sphere of influence which encompasses no territory.

3. ~~LAFCO will consider fiscal impacts of district growth upon the County, affected cities, and other special districts.~~

C. ADDITIONAL REQUIREMENT FOR A CITY SOI ADOPTION / UPDATE / AMENDMENT**

1. At least thirty days prior to submitting an application for a new city SOI or a city SOI update, city and County representatives must meet to discuss SOI issues, boundaries and methods to reach agreement on such boundaries, and development standards and zoning requirements within the SOI. The purpose is to consider city and county concerns and ensure orderly development within the SOI. Discussions may continue an additional 30 days, but no longer than 60 days.

If an agreement is reached, it must be forwarded to LAFCO. LAFCO will seriously consider the agreement when determining the city's SOI. If LAFCO's final SOI determinations are consistent with a city/County agreement, the city and the County must adopt the agreement at noticed public hearings. After the agreement and related General Plan amendments are adopted, County-approved development within the SOI must be consistent with the agreement terms.

If no agreement is reached, LAFCO will render determinations and enact policies consistent with its policies and the Cortese Knox Hertzberg Act.

** This requirement pursuant to Government Code section 56425 expires on January 1, 2007.

D. ADDITIONAL REQUIREMENT FOR A SPECIAL DISTRICT SOI ADOPTION / UPDATE / AMENDMENT

1. LAFCO shall require the special districts to provide written statements specifying the functions or classes of service provided and establish the nature, location, and extent of any functions or classes of services provided.

DRAFT

URBAN SERVICE AREA POLICIES

A. General Guidelines

1. Review and amendment of Urban Service Area (USA) boundaries is the Commission's primary vehicle for encouraging orderly city growth.
2. LAFCO will review/amend a city's Urban Service Area once a year, if such review is desired by the city and initiated by city resolution and application. Until a city's application has been heard and acted upon by the Commission, no further Urban Service Area amendments will be accepted for filing from that city. LAFCO may make an exception to the once a year limitation upon Urban Service Area amendment requests where amendment is needed to carry out some special institutional development or activity that is in the public interest. Such exceptions shall not normally be extended in connection with proposed residential, commercial, or industrial development.
3. Within the Urban Service Areas, LAFCO does not review city annexations and reorganizations if the proposals are initiated by city resolution and meet certain conditions. State law gives cities in Santa Clara County the authority to approve such reorganizations.

B. Urban Service Area Amendment Policies

1. ~~LAFCO will review/amend a city's Urban Service Area once a year, if such review is desired by the city and initiated by city resolution and application. Until a city's application has been heard and acted upon by the Commission, no further Urban Service Area amendments will be accepted for filing from that city. LAFCO may make an exception to the once a year limitation upon Urban Service Area amendment requests where amendment is needed to carry out some special institutional development or activity that is in the public interest. Such exception shall not normally be extended in connection with proposed residential, commercial, or industrial development.~~
21. LAFCO will require application of an appropriate general plan designation to territory proposed for inclusion in an Urban Service Area.

32. LAFCO encourages contractual agreements and/or plans between the cities and the County which define:
 - a. Growth at the urban fringe; and
 - b. Potential new growth areas.

43. LAFCO will consider factors included in Government Code section 56668 as well as factors such as the following to determine the local and regional impacts of a proposed Urban Service Area amendment:
 - a. The ratio of lands planned for residential use to lands planned for employment-producing use
 - b. The existence of adequate regional and local transportation capabilities to support the planned city growth;
 - c. Ability of the city to provide urban services to the growth areas without detracting from current service levels;
 - d. The ability of school districts to provide school facilities;
 - e. Whether the conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth;
 - f. The role of special districts in providing services;
 - g. Environmental considerations which may apply;
 - h. The impacts of proposed city expansion upon the County as a provider of services;
 - i. Fiscal impacts on other agencies;
 - j. Regional housing needs;
 - k. Availability of adequate water supply; and
 - l. Consistency with city or county general and specific plans.

4. LAFCO will consider the applicable service reviews and discourage urban service area amendments that undermine adopted service review determinations or recommendations.

5. When a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained.

6. The Commission will discourage Urban Service Area expansions which include agricultural or other open space land unless the city has accomplished one of the following:
 - a. Demonstrated to LAFCO that effective measures have been adopted for protecting the open space or agricultural status of the land. Such measures may include, but not limited to, the establishment of agricultural preserves pursuant to the California Land Conservation Act; the adoption of city/County use agreements or applicable specific plans; the implementation of clustering or transfer-of-development-rights policies; evidence of public acquisition; or
 - b. Demonstrated to LAFCO that conversion of such lands to other than open space uses is necessary to promote the planned, orderly, efficient development of the city.

7. The Commission will consider whether an Urban Service Area amendment, leading to the conversion of agricultural or other open space land, will adversely affect the agricultural or open space resources of the County. Factors to be studied include, but are not limited to:
 - a. The agricultural significance of the amendment area relative to other agricultural lands in the region (soil, climate, water-related problems, parcel size, current land use, crop value, Williamson Act contracts, etc.)
 - b. The economic viability of use of the land for agriculture;
 - c. Whether public facilities, such as roads, would be extended through or adjacent to other agricultural lands in order to provide services to anticipated development in the amendment area or whether the public facilities would be sized or situated to impact other agricultural lands in the area
 - d. Whether the amendment area is adjacent to or surrounded by existing urban or residential development.

8. If an Urban Service Area proposal includes the conversion of open space lands or agricultural lands, LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. LAFCO will require an explanation of why the inclusion of agricultural and open space lands is necessary and how the loss of such lands will be mitigated.

Mitigation measures include, but are not limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands

within the county, participation in other development programs such as transfer or purchase of development rights, payments to recognized government and non-profit organizations for such purposes, and establishment of buffers to shield agricultural operations from the effects of development.

9.8. Where appropriate, LAFCO will consider adopted policies advocating maintenance of greenbelts or other open space around cities in reviewing Urban Service Area amendments.

10. LAFCO will require evidence that an adequate water supply is available to the amendment areas and that water proposed to be provided to new areas does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already charged for city water services. In determining water availability, LAFCO will evaluate, review and consider:

- a. The city's plan for water service to the area and statement of existing water supply in terms of number of service units (edus, meters etc.) available; service units currently allocated; number of service units within city (and current USA) boundaries that are anticipating future service and service units needed for amendment area.
- b. Whether the city is able to provide adequate water supply to the amendment area in the next 5 years, including drought years, while reserving capacity for areas within the city and Urban Service Area that have not yet developed.
- c. Whether the city is capable of providing adequate services when needed to areas already in the city, in the city's Urban Service Area or to other properties entitled to service.
- d. If capacity is not reserved for unserved property within the city and its Urban Service Area boundary, the current estimate of potential unserved properties and related water supply needs
- e. Whether additional infrastructure and or new water supplies are necessary to accommodate future development or increases in service demand. If so, whether plans, permits and financing plans are in place to ensure that infrastructure and supply are available when necessary including compliance with required administrative and legislated processes, such as CEQA review, CEQA mitigation monitoring plans, or State Water Resources Board allocation permits. If permits are not current or in process, or allocations approved, whether approval is expected.

- f. Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water.
11. LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will consider:
- a. Whether the proposal creates conditions that promote local and regional policies and programs intended to remove or minimize impediments to fair housing including city/ county general plan housing elements, Analysis of Impediments to Fair Housing or Consolidated Plans for Housing and Community Development and ABAG's regional housing needs assessment and related policies.
 - b. Whether the proposal introduces urban uses into rural areas thus increasing the value of currently affordable rural area housing and reducing regional affordable housing supply.
 - c. Whether the proposal directs growth away from agricultural / open space lands towards infill areas and encourages development of vacant land adjacent to existing urban areas thus decreasing infrastructure costs and potentially housing construction costs.
 - d. Whether funding of infrastructure to support development in the amendment area imposes an unfair burden on residents or customers within the existing boundaries thus impacting housing construction costs in the area.

DRAFT

**POLICIES RELATIVE TO ANNEXATION/REORGANIZATIONS
FOR CITIES AND SPECIAL DISTRICTS**

A. GENERAL GUIDELINES

1. The Commission will encourage city processing of annexations and reorganizations within Urban Service Areas without LAFCO review. Ppursuant to Government Code Section 5682656757, reorganizations within a city's urban service area may be approved by the city council without LAFCO review if the proposal meets certain conditions.
2. Urban development should take place in cities rather than in unincorporated territory.
3. Whenever possible, cities should pursue development of vacant incorporated land before annexation of fringe areas.
4. Annexations and reorganizations should result in logical and reasonable expansions for cities and special districts.
5. Cities are encouraged to pursue annexation of unincorporated islands.
6. Cities are encouraged to exchange territory between them to improve illogical boundary or service situations.
7. The Commission encourages local agencies to seek means for increasing governmental efficiency and reducing overlaps of service provisions. Specifically:
 - a. Annexation to an existing agency is favored over creation of a new agency.
 - b. Creation of subsidiary districts, and mergers or consolidation of special districts, are encouraged whenever possible.

B. ANNEXATION/REORGANIZATION POLICIES

1. LAFCO will strongly discourage city annexations of land outside Urban Service Areas until inclusion into the Urban Service Area is appropriate. However, the Commission recognizes that in some circumstances, city annexations outside Urban Service Areas will help promote preservation of agriculture, open space, and/or greenbelts. Such cases will be considered on their merits on a case-by-case basis. LAFCO will reconsider allowance of exceptions if it appears a pattern of such requests is developing.

2. Where development outside Urban Service Areas will necessitate annexations to special districts, LAFCO will consider city general plans, joint city/county plans, and land use studies, such as the South County Plan and Preservation 2020, in reviewing proposals.
3. Proponents must clearly demonstrate that the city or special district is capable of meeting the need for services.
4. Boundaries of proposals must be definite and certain, and split lines of assessment must be avoided wherever possible.
5. The boundaries of a proposed annexation or reorganization must not create or result in areas that are difficult to serve.
6. Pre-zoning is a requirement for city annexation. ~~unless it can be clearly demonstrated by the applicant that pre-zoning is unnecessary.~~ Where territory is pre-zoned agricultural, but has an urban use designation on the city's general plan, the applicant will be required to demonstrate why such an annexation is not in violation of the Cortese-Knox Local Government Reorganization Act, which requires LAFCO to:
 - a. Steer growth away from agricultural areas; and
 - b. Determine that annexation and development of land for non-agricultural purposes is not premature.
7. No subsequent change may be made to the general plan or the zoning of the annexed territory that is not in conformance to the pre-zoning designations for a period of two years after the completion of the annexation unless the city council makes a finding at a public hearing that a substantial change has occurred in the circumstances that necessitate the change.
78. For annexations for residential development of five acres or more, a copy of the application shall be sent to the appropriate school district(s) for the purpose of ascertaining the impact the proposal may have on the district's ability to provide educational services.
89. All applications for annexations where pre-zoning indicates that land development could cause the number of vehicle trips per day to exceed 2,000, shall be sent by the LAFCO Executive Officer to the County Transportation Agency Congestion Management Agency with the Valley Transportation Authority for comment as to impact on regional transportation facilities and services.
910. Where service providers other than the reorganizing agencies may be substantively impacted by a proposed reorganization, LAFCO shall request

comments on the proposal from the affected service providers. Comments received will be a factor considered in reviewing the proposal.

~~10~~11. Concurrent detachment of territory from special districts which will no longer provide service is a required condition of city annexation.

12. LAFCO will consider the applicable service reviews and discourage changes in organization that undermine adopted service review determinations or recommendations.

~~11. Special district annexations which result in duplication of authority to perform similar functions must be clearly justified. Reasonable justifications shall include, but not be limited to:~~

~~a. Health related needs for services outside city boundaries, such as sewer services to replace a failing septic system for existing development.~~

~~b. Safety related needs for services outside city boundaries such as provision of fire protection service to unincorporated development.~~

C. STREET ANNEXATION POLICIES

1. Cities will be required to annex entire street sections whenever possible.

2. When streets are used as a boundary for an annexation, the annexation proposal shall be designed to include a continuous section of roadway sufficient in length to allow maintenance and policing of the street by a single jurisdiction. Annexation of full-width sections normally shall be made in increments of not less than one thousand feet, or the distance between two consecutive intersections, where 50 percent or more of the frontage on both sides of the street in said increment has been or is to be included in the city. This policy shall not supercede other provisions in State law.

3. Annexation of existing short segments of county road to provide single-agency jurisdiction of a full-width section of the road or to provide continuity of city limits shall be accomplished in the most practical manner.

4. When a street is the boundary line between two cities, the centerline of the street may be used as the boundary. Such street annexations shall occur in increments as described in Policy 2, above.

5. Half-street annexations will not be approved except as provided in Policies 3 and 4, above, unless otherwise provided by State law.

DRAFT

POLICIES FOR "OUT-OF-AGENCY CONTRACT FOR SERVICES" PROPOSALS

1. A city or special district may provide new or extended services by contract or agreement outside its jurisdiction only upon LAFCO approval.

Agreements for services solely between public agencies are exempt from LAFCO approval, ONLY where the service to be provided is an alternative to, or substitute for, services already being provided by an existing public service provider and where the level of service is consistent with the level of service contemplated by the existing service provider.

Agreements for the transfer of non-potable or non-treated water, or for the provision of surplus water to agricultural lands for projects which serve conservation purposes or directly support agricultural industries, in accordance with the provisions of Government Code section 56133, do not need LAFCO approval.

2. LAFCO shall not accept for review any proposal, which is outside of the agency's sphere of influence except as provided under § 56133 (c) of the Government Code.
3. LAFCO will consider whether annexation is a logical alternative to extending services beyond the jurisdictional boundaries of a local agency.
4. If immediate annexation is not a feasible alternative, then an extension of services may be approved in anticipation of a future annexation if the agency is able to provide LAFCO with a resolution of intent to annex as well as appropriate assurances. Such assurances will be evaluated on a case by case basis and will include all appropriate actions such as pre-zoning the area, preparing a plan for annexation of the area, requiring deferred annexation agreements and waiver of protest rights from property owners in the area, and requiring that the property owners submit in advance the legal map, description and fees for the future annexation of the area.
54. LAFCO will consider the public benefit of the proposal, including the resolution of an existing health and safety hazard.
65. LAFCO will consider factors such as the following to determine the local and regional impacts of an out-of-agency contract for services:
 - a. The growth inducing impacts of any proposal.
 - b. The proposal's consistency with the policies and general plans of all affected local agencies.

- c. The ability of the local agency to provide service to the proposal area without detracting from current service levels.
- d. Whether the proposal contributes to the premature conversion of agricultural land or other open space land.

7. LAFCO will consider the applicable service reviews and discourage service extensions that undermine adopted service review determinations or recommendations.

86. An administrative approval may be allowed for those projects which pose an urgent health or safety concern, without consideration by LAFCO. The administrative approval shall be made jointly by the LAFCO Chairperson (or Vice Chairperson if the Chair is not available) and the Executive ~~Director~~ Officer. Both must agree that an administrative approval is appropriate, based upon the criteria outlined below:

- a. The lack of service being requested constitutes an immediate health and safety concern.
- b. The property is currently developed.
- c. There are physical restrictions on the property that prohibit a conventional service delivery method typically suited to the unincorporated area (i.e., septic tank, private well, etc.)

Adopted on December 11, 1996

Revised on (date)

December 4, 2002

TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
SUBJECT: **Countywide Fire Service Review**
Agenda Item # 6

RECOMMENDATION

1. Authorize staff to issue a Request for Proposals (RFP) for consultant to prepare a countywide fire service review.
2. Advise whether LAFCO commissioner representation is desired on the consultant selection committee. If desired, appoint commissioner to serve on committee.
3. Delegate authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$75,000 and to execute any necessary amendments subject to LAFCO Counsel review and approval.

BACKGROUND

Service Reviews

The mandate for LAFCOs to conduct service reviews is part of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). LAFCOs are required to conduct service reviews prior to or in conjunction with Sphere of Influence updates and are required to review and update the Sphere of Influence for each city and special district as necessary, but not less than once every five years. Thus, LAFCO must complete service reviews for all cities and special districts within five years from the effective date of the CKH Act or by January 1, 2006.

LAFCO of Santa Clara County is responsible for establishing, reviewing and updating Spheres of Influence for 45 public agencies in Santa Clara County (15 cities and about 30

special districts). In preparing for initiating the service review and sphere of influence update process, Santa Clara LAFCO at its August 2002 meeting established boundaries for conducting service reviews and established priorities for their completion. The schedule calls for completion of about 6 studies over the next four years. For the most part it is anticipated that these studies will be conducted by professional service firms under the direction of the LAFCO Executive Officer. One of the first priorities, a review of countywide fire protection service in Santa Clara County, is the subject of this report.

Request for Proposals (RFP)

Attached is a Draft RFP for the Countywide Fire Protection Service Review. This Draft will be forwarded for review and comment to all the agencies that will be included in the service review i.e., those agencies that provide fire protection services in Santa Clara County. At this stage this Draft is for comment only from involved agencies. Staff will develop a final RFP incorporating agencies' comments where appropriate.

Staff will compile a list of consultants who work in this field. The final RFP will be sent out to those firms and will be posted on the LAFCO web site as well as on the CALAFCO web site for other interested firms.

Evaluation Criteria and Selection Process

Firms will be selected for further consideration and follow-up interviews based on the following criteria:

- relevant work experience,
- the completeness of the responses,
- overall project approaches identified and
- proposed project budget

An interview/selection committee will conduct interviews and the most qualified firm will be selected based on the above evaluation criteria. Following the selection of the most qualified firm, a final services agreement including budget, schedule, and final Scope of Services statement will be negotiated before executing the contract.

ATTACHMENTS

Draft RFP including the Draft Scope of Services

DRAFT REQUEST FOR PROPOSALS

Countywide Fire Protection Service Review

I. Objective

The Local Agency Formation Commission (LAFCO) of Santa Clara County is seeking proposals from professional service firms to prepare a Service Review for Countywide Fire Protection Services. This work is to be completed in compliance with applicable California Government Code sections, local LAFCO policies and the latest available LAFCO Service Review Guidelines prepared by the Governor's Office of Planning and Research (OPR).

II. Background

The mandate for LAFCOs to conduct service reviews is part of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), California Government Code §56000 et seq. LAFCOs are required to conduct service reviews prior to or in conjunction with Sphere of Influence updates and are required to review and update the Sphere of Influence for each city and special district as necessary, but not less than once every five years. Thus, LAFCO must complete service reviews for all cities and special districts within five years from the effective date of the CKH Act or by January 1, 2006.

LAFCO of Santa Clara County is responsible for establishing, reviewing and updating Sphere of Influence for 45 public agencies in Santa Clara County (15 cities and about 30 special districts). At its December 12, 2002 meeting LAFCO is scheduled to adopt policies and procedures for conducting service reviews (*Attachment 2*). In preparing for initiating the service review and sphere of influence update process, Santa Clara LAFCO at its August 2002 meeting established service review boundaries and set priorities for their completion. The service review work plan calls for completion of about 6 studies over the next four fiscal years. For the most part it is anticipated that these studies will be conducted by professional service firms under the operational direction of the LAFCO Executive Officer. One of the first priorities, a review of countywide fire protection service in Santa Clara County, is the subject of this Request for Proposals (RFP).

III. Scope of Services

The CKH Act requires LAFCO to prepare, with respect to each service reviewed, an analysis and a written statement of determination regarding each of the following considerations:

- 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

DRAFT FOR REVIEW AND COMMENTS ONLY

- 6) Opportunities for shared facilities
- 7) Government structure options, including advantages and disadvantages of the consolidation or reorganization of service providers
- 8) Evaluation of management efficiencies
- 9) Local accountability and governance

A draft Scope of Services is enclosed with this RFP as Attachment 1. A final statement of services to be provided will be negotiated with the firm selected to conduct the service review and will be included as part of the professional services agreement.

IV. Budget

A final budget amount for this project will be negotiated with the firm selected for the work prior to reaching agreement. The anticipated project cost of the proposal should not exceed \$75,000.

V. Schedule

Timing is a concern to LAFCO because of the deadlines in the CKH Act and the need to address issues faced by some of the agencies or areas. It is anticipated that the firm will start work by March 2003. It is strongly desired that the service review be completed by October 31, 2003. The final schedule for this project will be negotiated with the firm selected for the work prior to reaching an agreement.

VI. Proposal Requirements

Response to this RFP must include all of the following:

1. A statement about the firm that describes its history as well as the competencies and resumes of the principal and all professionals who will be involved in the work. This statement should describe the firm's level of expertise in the following areas:
 - Management level understanding of how municipal services are financed and delivered
 - Familiarity with CKH Act, the role and functions of LAFCO, and the service review process
 - Experience with operational aspects of fire protection service provision in California
 - Experience in governmental organization analysis, including performance measurement and benchmarking techniques
 - Ability to facilitate and synthesize input from a variety of stakeholders
 - Ability to quickly interpret varied budget and planning documents
 - Experience in fostering multi-agency partnerships and cooperative problem-solving

DRAFT FOR REVIEW AND COMMENTS ONLY

- Familiarity with public input processes and experience in handling the presentation and dissemination of public information for review and comment
 - Ability to analyze and present information in an organized format
 - Ability to provide flexible and creative alternatives where necessary to resolve service and policy issues
2. Identification of the lead professional responsible for the project and identification of the professional(s) who will be performing the day-to-day work.
 3. Identification of any associate consultant firms to be involved. If associate consultant firms are proposed, describe the work they will perform and include the same information for each as required for items 1 and 2 above.
 4. A statement of related experience accomplished in the last two years and references for each such project, including the contact name, address and telephone number.
 5. A statement regarding the anticipated approach for this project, explicitly discussing and identifying suggested changes to the draft Scope of Services (*Attachment 1*).
 6. Identification of any information, materials and/or work assistance required from LAFCO to complete the project.
 7. An overall project schedule, including the timing of each work task.
 8. Information about the availability of all professionals who will be involved in the work, including any associate consultants.
 9. The anticipated project cost, including:
 - a. A not-to-exceed total budget amount.
 - b. The cost for each major sub-task identified in the draft Scope of Services.
 - c. The hourly rates for each person who will be involved in the work, including the rates of any associate consultants.
 10. Comments about the draft services agreement (*Attachment 3*) specifically including the ability of the firm to meet the insurance requirements and other provisions.

VII. Submission Requirements

DUE DATE AND TIME: _____

Proposals received after this time and date may be returned unopened.

NUMBER OF COPIES:

6 original copies and 1 fully reproducible copy

DRAFT FOR REVIEW AND COMMENTS ONLY

DELIVER TO:

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

Note: If delivery is to be in person please first call the LAFCO office (408-299-5127) to arrange delivery time.

VIII. Evaluation Criteria and Selection Process

Firms will be selected for further consideration and follow-up interviews based on the following criteria:

- relevant work experience,
- the completeness of the responses,
- overall project approaches identified and
- proposed project budget

An interview/selection committee will conduct interviews and the most qualified firm will be selected based on the above evaluation criteria. Interviews will be held soon after the due date. Tentatively, the selection committee is expected to make a decision by _____. Following the selection of the most qualified firm, a final services agreement including budget, schedule, and final Scope of Services statement will be negotiated before executing the contract.

LAFCO reserves the right to reject any or all proposals, to issue addenda to the RFP, to modify the RFP or to cancel the RFP.

IX. LAFCO Contact

Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County
Voice: (408) 299-5127
Fax: (408) 295-1613
Email: neelima.palacherla@ceo.co.scl.ca.us

X. Attachments

1. Draft Scope of Services (*Attachment 1*)
2. Santa Clara LAFCO policies for Conducting Service Reviews (*Attachment 2: to be provided*)
3. Draft Professional Service Agreement (*Attachment 3: to be provided*)

XI. Reference Information

For general information about LAFCO of Santa Clara County, refer to its website:
www.santaclara.lafco.ca.gov

For the latest publicly available LAFCO Service Review Guidelines, see the Governor's Office of Planning and Research website:
www.opr.ca.gov/localplanning/LAFCOReform.shtml

DRAFT SCOPE OF SERVICES

Countywide Fire Protection Service Review in Santa Clara County

LAFCO of Santa Clara County will conduct a service review of fire protection services provided within Santa Clara County. The Cortese Knox Hertzberg Act (California Government Code section 56430) requires LAFCO to conduct the review in order to develop information for updating spheres of influence. The statute requires LAFCO to adopt written determinations on the following nine categories:

- 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 the consolidation or reorganization of service providers
- 8) Evaluation of management efficiencies
- 9) Local accountability and governance

Service Review Tasks Overview

The Countywide Fire Protection Service Review will be conducted in accordance with LAFCO policies adopted by the Commission and the service review guidelines developed by the Governor's Office of Planning and Research (OPR) where feasible. Preparation of the service review will include the following steps, although other activities may be necessary:

1. Data Collection and Review

- Collect information through interviews, meetings, surveys and research
- Verify submitted information
- Compile information in a database

Work Products: Consultant must deliver to LAFCO staff complete information for each agency.

2. Data Analysis

- Analyze data and prepare preliminary findings
- Present to and discuss with LAFCO staff the preliminary findings
- Present preliminary findings to agency staff

DRAFT FOR REVIEW AND COMMENT ONLY

Work Products: Consultant must deliver preliminary analysis and findings to LAFCO staff

3. Draft Service Review Report

- Prepare a draft Service Review report including required findings for public review and comment
- Present the draft service review report to LAFCO at public hearing

Work Products: Consultant must deliver to LAFCO one draft report along with one camera-ready original and one MS Word formatted version of the report.

4. Final Service Review

- Respond to comments and prepare a final service review report including required findings
- Present the final service review to LAFCO at public hearing for adoption

Work Products: Consultant must deliver to LAFCO one final, one camera-ready original and one MS Word formatted version of the final report.

Overview of Fire Protection Service in Santa Clara County

There are a total of 13 agencies providing fire protection services in Santa Clara County. Seven of the county's 15 cities provide their own fire protection services. Four special districts provide fire protection services to various parts of the County. These agencies coordinate fire protection services with each other through a system of contracts, mutual aid agreements, automatic aid agreements, and boundary drop agreements.

In addition, the Moffett Federal Airfield Fire Department is responsible for fire protection service at Moffett Airfield. Stanford University contracts with the City of Palo Alto for fire suppression services for Stanford University facilities and lands. The California Department of Forestry (CDF) provides fire protection services for wild land fires during the "fire season" to some of the unincorporated areas within the county. Several volunteer fire crews/companies operate independent of these agencies within the county.

Identification of Service Providers

Within Santa Clara County, the following agencies provide fire protection services:

1. Santa Clara County Central Fire Protection District
2. South Santa Clara County Fire Protection District
3. Los Altos Hills County Fire District

DRAFT FOR REVIEW AND COMMENT ONLY

4. Saratoga Fire Protection District
5. City of Milpitas Fire Department
6. City of Santa Clara Fire Department
7. City of San Jose Fire Department
8. City of Sunnyvale Fire Department
9. City of Gilroy Fire Department
10. City of Palo Alto Fire Department
11. City of Mountain View Fire Department
12. Moffett Federal Airfield Fire Department
13. California Department of Forestry

Additionally, several volunteer fire crews/ companies operate independent of these agencies within the county.

Potential Fire Protection Service Issues

The following is a working list of fire protection service issues that have been identified

- Funding and providing fire and rescue services to the unprotected areas of the County (i.e. areas not located within any fire district's/agency's service area)
- Funding issues for expansion of fire protection services
- Efficiencies of providing fire protection service by contract
- Fire protection service issues in the City of Saratoga and surrounding areas
- Future provision of fire protection service to the proposed development at Moffett Field
- The most efficient and effective method of provision of fire protection service throughout the entire county

Outline for the Service Review Report

The service review must include data and analysis upon which the required determinations are based on as required by Government Code Section 56430. The recommended format for the Service Review includes the following sections:

1. **Executive Summary**
2. **Setting**
 - 2.1. Description of Existing Services and Providers
 - 2.2. Service Areas and Sphere of Influence
 - 2.3. Present Levels of Service and Required Standards for each Provider
 - 2.4. Present Rates and Funding Mechanism
 - 2.5. Infrastructure/Facilities/Personnel Deployment

- 3. Growth and Population**
 - 3.1. Present and Projected Service Population over 20 Year Timeframe
 - 3.2. Land Use and Significant Growth Areas
 - 3.3. Recommended Determinations

- 4. Infrastructure**
 - 4.1. Facilities/Equipment / Personnel Analysis
 - a. Sufficiency for Present and Projected Need
 - b. Adequacy to Meet Current and Known Future State, local and Federal Requirements
 - 4.2. Age and Condition of Facilities and Equipment
 - 4.3. Plans for Expansion/Upgrades
 - 4.4. Recommended Determinations

- 5. Financing Constraints and Opportunities**
 - 5.1. Finance Plans
 - 5.2. Bond Rating
 - 5.3. Joint Finance Projects
 - 5.4. Revenue Sources
 - 5.5. Recommended Determinations

- 6. Cost Avoidance Opportunities**
 - 6.1. Current Practices
 - 6.2. Overlapping Services
 - 6.3. Transfer of Costs to Public
 - 6.4. Inter-Agency Cooperation
 - 6.5. Recommended Determinations

- 7. Rate Restructuring**
 - 7.1. Current Rate Restructure Basis
 - 7.1.1. Tax Revenues/Service Ratio
 - 7.1.2. Rates/Service Ratio
 - 7.2. Assessment/Fee Districts
 - 7.3. Rate Comparisons
 - 7.4. Recommended Determinations

- 8. Opportunities for Shared Facilities**
 - 8.1. Currently Shared Resources, Facilities, Personnel and Systems
 - 8.2. Opportunities for Expanded Sharing
 - 8.3. Recommended Determinations

9. Government Structure Options

- 9.1. Review of Alternatives
 - 9.1.1. Formation of New Agencies
 - 9.1.2. Reorganization of Existing Agencies
 - 9.1.3. Private Sector Opportunities
- 9.2. Previous Restructuring Efforts
- 9.3. Opportunities for and Obstacles to Restructuring
- 9.4. Recommended Determinations

10. Evaluation of Management Efficiencies

- 10.1. Review of Current Management Structure
- 10.2. Interdepartmental Relations, Communication and Coordination
- 10.3. Inter-Agency Relations, Communication and Coordination
- 10.4. Recommended Determinations

11. Local Accountability and Governance

- 11.1. Governing Body Selection Process
- 11.2. Public Access and Interest
- 11.3. Budget Process
- 11.4. Recommended Determinations

December 4, 2002

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **Process for Appointment of LAFCO Public Member and Alternate Public Member**
Agenda Item # 7

RECOMMENDED ACTION

1. Determine process for appointment of LAFCO public and alternate public member whose terms expire in May 2003. Appointment will be made at the February 2003 LAFCO meeting.

BACKGROUND

LAFCO public member, Susan Wilson's and alternate public member, Patricia Figueroa's terms expire in May 2003. Both the commissioners have expressed interest in being reappointed to LAFCO for 4-year terms starting in May 2003.

Government Code Section 56327 requires that the public member be appointed by the four members of the commission. The statute leaves the public member selection process to the discretion of the four commission members except to provide (applicable to Santa Clara County only) that the public member must not be a resident of a city which is already represented on the commission.

Public Member

With regard to appointment of the public member, LAFCO has two options:

1. Reappoint Public Member Susan Wilson to another 4-year term.

It has been the practice of several LAFCOs statewide to reappoint well-qualified and interested public members. This LAFCO has had a tradition as well of reappointing the public member; former commissioner Sig Sanchez represented LAFCO as public member for 12 years until 1995. When Mr. Sanchez stepped down from his position, Commissioner Wilson was chosen through an interview process. She was reappointed to a second term in 1999. Commissioner Wilson has been an active and involved member of

the commission. She has attended several CALAFCO annual conferences and has volunteered to serve on various sub-committees of the commission.

2. Use a formal recruitment process to fill the public member position

LAFCO may advertise in the newspaper and/or ask each commissioner to recruit for the position of the LAFCO public member. Information regarding the position would be prepared for distribution by the commissioners. A filing period will be established. Interested candidates would be required to submit a resume and participate in a group interview to be jointly conducted by the city and county members of the commission using questions prepared beforehand. Selection would be made at the end of the interview.

Alternate Public Member

With regard to appointment of the public member, LAFCO again has two options:

1. Reappoint Alternate Public Member Pat Figueroa to another 4-year term.

Commissioner Figueroa has served on LAFCO for several years, first as a city member and then as an alternate public member.

In choosing this option, the Commission should be aware that both Ms. Figueroa and current City member Mary Lou Zoglin are residents of the City of Mountain View. There is a provision in the state law applicable only to Santa Clara County that states that the public member must not be a resident of a city which is already represented on the commission. In the past, LAFCO has not applied this provision to alternate members of the commission. For e.g., Commissioner Zoglin was an alternate city member while Ms. Figueroa was an alternate public member.

2. Use a formal recruitment process to fill the alternate public member position

If LAFCO chooses to fill the position through a recruitment and selection process, LAFCO may use the same process as outlined under the public member position.

**2003 SCHEDULE OF MEETINGS
AND APPLICATION FILING DEADLINES**

FILING DEADLINE	LAFCO MEETING*
Wednesday, December 18, 2002	Wednesday, February 12, 2003
Wednesday, February 19, 2003	Wednesday, April 9, 2003
Wednesday, April 16, 2003	Wednesday, June 11, 2003
Wednesday, June 18, 2003	Wednesday, August 13, 2003
Wednesday, August 20, 2003	Wednesday, October 8, 2003
Wednesday, October 15, 2003	Wednesday, December 10, 2003

TIME OF MEETINGS: 1:15 PM

LOCATION OF MEETINGS: Board of Supervisors' Chambers
County Government Center
70 West Hedding Street, 1st Floor
San Jose, CA 95110

FILING LOCATION: County Government Center
70 West Hedding Street, 10th Floor
San Jose, CA 95110
(408) 299-5088

**Every second Wednesday of even months*

**RESOLUTION OF THE SANTA CLARA COUNTY
LOCAL AGENCY FORMATION COMMISSION DENYING
THE REQUEST OF THE CITY OF GILROY FOR THE 1999
GILROY SPORTS PARK AND ADJACENT AREA URBAN SERVICE AREA
EXPANSION, AND CONDITIONALLY APPROVING THE ANNEXATION
OF THREE PARCELS PURSUANT TO GOVERNMENT CODE SECTION 56742**

RESOLVED by the Local Agency Formation Commission of the County of Santa Clara, State of California, that

WHEREAS, a request by the City of Gilroy for expansion of its urban service area to include 14 parcels forming a 140.21 acre project site on the west side of Monterey Road, south of West Luchessa Avenue, as described in more detail in the Executive Officer's Reports of May 31, August 6, and October 1, 2002, was set for hearing on June 12, 2002, continued to August 14, 2002, and continued again to October 9, 2002, and the Executive Officer gave the required notice of hearing; and

WHEREAS, the Commission called this proposal for public hearing, heard from the interested parties, considered the request, the three reports of the Executive Director (and attachments thereto) which included alternative proposals, and considered the factors determined by the Commission to be relevant to the proposals; and

WHEREAS, this Commission as the Responsible Agency has complied with the California Environmental Quality Act (CEQA) incident to its consideration of these proposals, as described below;

NOW, THEREFORE, the Local Agency Formation Commission of the County of Santa Clara, does hereby resolve, determine and order as follows:

SECTION 1:

1. As the Responsible Agency under CEQA, the Commission has prior to its determination herein, reviewed and considered the environmental effects of the project as shown in the Environmental Impact Report (EIR) and Subsequent Environmental Impact Report (SEIR) prepared by the City of Gilroy, for the 1999 Gilroy Urban Service Area Expansion.

2. The Commission finds that:

(a) the EIR and SEIR identified potentially significant adverse impacts resulting from the project in the areas listed below, and

(b) appropriate mitigation measures have been proposed for each of the potential impacts identified in each of the listed categories that will reduce the impacts to a less than significant level (see Attachment 1 - "Findings of Potential Significant, and Significant, Environmental Impact" for a summary of impacts).

Aesthetics	Cultural Resources
Air Quality	Hydrology
Biological Resources	Interior Noise
Transportation Circulation	

3. The Commission finds that the EIR and SEIR identified two potentially significant impacts resulting from the project that cannot be mitigated to less than significant level. These impacts are listed below:

Agricultural Resources
Exterior Traffic Noise

4. The Commission finds that all feasible mitigation measures and alternatives have been imposed to mitigate or avoid the project's significant effects. However, because the City subsequently amended its General Plan and reduced the size of the agricultural preserve, which was the primary means of mitigating the project's agricultural impacts, this mitigation measure will no longer mitigate the project's impacts. Therefore, to make the required finding that all feasible mitigation measures have been imposed for the project's agricultural impacts, substitute mitigation is being imposed for these impacts and consists of those measures set forth in the City's current General Plan (Attachment 2 - 4.4-A1. a., b., c.).

5. The Commission finds that conditions have been imposed on the project to ensure that the mitigation measures imposed on the project are fully enforceable, and adopts a mitigation monitoring and reporting program ("MMRP") that is identical to the monitoring program approved by the Gilroy City Council, as Lead Agency, for the Project (Attachment 3), with the addition of the substitute mitigation measures for agricultural impacts (Attachment 2 - 4.4-A1. a., b., c.) and requires the City to submit an annual report

to LAFCO concerning the status of the project's mitigation measures.

6. The Commission finds that, despite the imposition of all feasible mitigation measures and alternatives, the project's agricultural and traffic noise impacts will remain significant. LAFCO finds that the project's benefits outweigh the project's significant, unavoidable environmental impacts and adopts the following overriding considerations for the project as modified by the Commission:

Overriding Considerations for LAFCO Approval of Modified Project:

The City of Gilroy approved the Gilroy Sports Park on June 7, 2002. LAFCO staff is recommending that LAFCO consider annexing into the City of Gilroy the three parcels that are the site for the future Gilroy Sports Park without bringing these parcels into the City's Urban Service Area. The annexation of the Sports Park will allow the City to provide the necessary city services to the project site.

Agricultural Resources

Staff's recommendation removes adjacent agricultural land from the project and therefore will reduce the loss of prime agricultural land and the potential loss of prime agricultural land on adjacent properties. Furthermore, the modified project will create a valuable and unique recreational and park resource not currently available to the public.

Exterior Traffic Noise Impacts

Staff's recommendation removes the area proposed for residential development from the project and therefore the exterior traffic noise associated with the operation of the Gilroy Sports Park will not impact the proposed residential area. Furthermore, the modified project will create a valuable and unique recreation and park resource not currently available to the public that outweighs any potential impacts on other existing development surrounding the Sports Park site.

7. The Commission designates the LAFCO Executive Officer as the location and custodian of the documents and other materials that constitute the record of proceedings on which this decision is based.

SECTION 2:

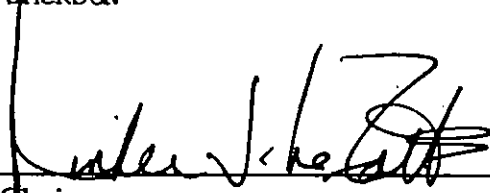
The Commission hereby denies the request for the Gilroy Urban Service Area Amendment - 1999 Gilroy Sports Park and Adjacent Areas Area, consisting of 14 parcels forming a 140.21 acre project site located on the west side of Monterey Road south of West Luchessa Avenue.

SECTION 3:


The Commission hereby approves the annexation of three parcels with APN's 808-21-030, 808-21-0128 and 808-21-026 pursuant to Government Code section 56742 conditioned on the City of Gilroy adopting and implementing the appropriate agricultural mitigation plan consistent with the City's General Plan policy.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Clara County, State of California on October 9, 2002 by the following vote:

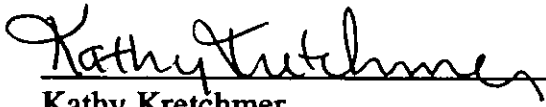
- AYES: Commissioners: ALVARADO, LEZOTTE and FIGUEROA
- NOES: Commissioners: GAGE and JACKSON
- ABSENT: Commissioners: NONE



Chairperson
Local Agency Formation Commission

ATTEST: LAFCO Clerk


Emmanuel Abello

APPROVED AS TO FORM AND LEGALITY:


Kathy Kretchmer
LAFCO Counsel

ATTACHMENT 1

I. Findings of Potentially Significant, and Significant, Environmental Impact

A. Aesthetics

1. Nighttime Lighting

- a) **Potentially Significant Impact:** The proposed project would place residences near the planned athletic field lights of the approved Gilroy Sports Park. Several of the planned lights are within 400 to 500 feet of, and aimed towards, the nearest homes. These field lights would be directly visible from the windows of these homes. This would be a significant adverse impact resulting from light or glare that could effect residents in these homes.
- b) **Mitigation Measure (1):** Subject to the review and approval of the City of Gilroy Planning Division, prior to approval of a tentative subdivision map, the applicant for residential development on the parcels north of the Gilroy Sports Park site shall provide a landscape plan that is consistent with the Gilroy Consolidated Landscape Policy, and includes a double row of trees along the Gilroy Sports Park boundary, utilizing tree species that will attain a crown between 30 and 50 feet above street level. One row of trees may be planted on the Gilroy Sports Park side of the shared property boundary. The plantings shall be a minimum size of 24-inch boxed specimens and shall be planted prior to occupancy of the houses located within 100 feet of the Gilroy Sports Park.
- c) **Finding:** Implementation of the above mitigation measure will reduce this potentially significant impact to a less than significant level.

B. Air Quality

1. Construction Emissions

- a) **Potentially Significant Impact:** The proposed project is located close to residential areas. Lack of feasible construction dust control measures could result in a significant adverse air quality impact due to construction activities.
- b) **Mitigation Measure (2):** The following dust control measures shall be incorporated into all permits for any phase of proposed construction on the project site. The measures shall be implemented as necessary to adequately control dust subject to the review and approval of the City of Gilroy Planning Division.

The following measures shall be implemented at all construction sites:

- Water all active construction areas at least twice daily;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

The following additional measures shall be implemented at construction sites greater than four acres in area:

- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible.

Subject to determination by the Gilroy Planning Division the following measures shall be implemented at construction sites that are very large or are located near sensitive receptors:

- Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;
- Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas;
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour;
- Limit the area subject to excavation, grading and other construction activity at any one time.

- c) **Finding:** Implementation of the above mitigation measure would reduce this potentially significant impact to a less than significant level.

C. Biological Resources

1. Invasive Plant Species

- a) **Potentially Significant Impact:** The existing riparian habitat along Uvas Creek and the planned habitat buffer are sensitive areas that could be affected by the presence of non-native, invasive plant species. Any deterioration of habitat quality caused by the introduction of non-native, invasive plant species into the riparian habitat and/or buffer would be a potentially significant impact. Landscaped streetscape areas shown in the conceptual residential plan would adjoin the Uvas Creek riparian corridor and could result in the introduction of non-native, invasive plant species. This is considered a potentially significant adverse environmental impact.
- b) **Mitigation Measure (3):** A landscape plan consistent with the Gilroy Consolidated Landscape Policy shall be prepared for common and street side planting areas abutting the Uvas Creek habitat corridor, subject to the review and approval of the City of Gilroy Planning Division. The landscape plan shall include appropriate locally obtained native plant species and shall not include plantings of non-native, invasive plant species. Native grasses or other native species shall be preferred in the areas adjacent to the Uvas Creek levee to provide additional native habitat in association with the Uvas Creek habitat corridor.
- c) **Finding:** Implementation of the above mitigation measure will reduce this potentially significant impact to a less than significant level.

2. Loss of Potential Active Raptor Nesting Habitat

- a) **Potentially Significant Impact:** The riparian woodland habitat found along Uvas Creek contains potential nesting habitat for raptors, including white-tailed kite, northern harrier, Cooper's hawk, and short-eared owl, which are protected by the CDFG. Should active raptor nests occur in the area proposed for development (i.e., trail and bridge construction through the riparian corridor), any construction and site preparation activities within or immediately adjacent to nest habitat, if conducted during the nesting season, could result in the direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults. Depending on the number and extent of raptor nests on the site that may be disturbed or removed, the loss of active raptor nests would be a potentially significant impact.
- b) **Mitigation Measure (4):** Subject to the review of the City of Gilroy Planning Division, no earlier than 45 days and no later than 20 days prior to commencement of clearing, grading or construction in or adjacent to any riparian habitat, a field survey shall be conducted by a qualified biologist to determine if active raptor nests are present in the construction zone or within 250 feet of the construction zone. These surveys shall be required only if any construction would occur during the nesting and/or breeding season of raptors potentially nesting in the areas proposed for development (generally March 1 through August 1). If active nests are found within the survey area, at the discretion of the biologist, clearing and construction within 250 feet shall be

postponed or halted until the nests are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting.

Mitigation Measure (6): Prior to commencement of construction activities, the applicant shall arrange for a qualified biologist to inform workers of the potential presence of the all special-status species, their protected status, work boundaries, and measures to be implemented to avoid loss of these species during construction activities.

- c) **Finding:** Implementation of the mitigation measures presented above will reduce this impact to a less than significant level.

3. Loss of Potential Active Burrowing Owl Nesting Habitat

- a) **Potentially Significant Impact:** Potential burrowing owl habitat exists along the slope of the levee in the northwest corner of the project site. Residential development, trail connections and landscaping would occur on and near the levee. Should active burrowing owl nests occur along the slope of the levee, any construction and site preparation activities within or immediately adjacent to nest habitat, if conducted during the nesting season, could result in the direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults. Depending on the number and extent of burrowing owl nests on the site that may be disturbed or removed, the loss of active burrowing owl nests would be a potentially significant impact.

- b) **Mitigation Measure (5):** Subject to the review of the City of Gilroy Planning Division, no earlier than 45 days and no later than 20 days prior to commencement of grading or construction on or adjacent to the slope of the levee, field surveys shall be conducted at least four consecutive evenings by a qualified biologist to determine if burrowing owls are present in the construction zone or within 250 feet of the construction zone. These surveys shall be required only if any construction would occur during the nesting and/or breeding season of burrowing owls potentially nesting in the area (February 1 through August 31) and/or during the winter residency period (December 1 and January 31). Pre-construction survey results shall be submitted to the California Department of Fish and Game for review and approval. If active nests are found within the survey area, a burrowing owl habitat mitigation plan shall be submitted to the California Department of Fish and Game for review and approval. The burrowing owl habitat mitigation plan shall contain mitigation measures contained in the California Department of Fish and Game Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1995). Compliance with this mitigation measure may include, but not be limited to, the following:

- Avoidance of occupied burrows during the nesting season (February 1 through August 31);

- Acquisition, protection and funding for long-term management and monitoring of foraging habitat adjacent to occupied habitat;
- Enhancement of existing burrows and/or creation of new burrows;
- Passive relocation of burrowing owls.

c) **Finding:** Implementation of the mitigation measure presented above, as well as mitigation measure (6) presented above, will reduce this impact to a less than significant level.

4. Loss of Potential Riparian Special-Status Species—Construction Activities.

a) **Potentially Significant Impact:** Several special-status species may potentially occur in Uvas Creek and in the riparian habitat adjacent to Uvas Creek. Any adverse effects on these special-status species, if present, resulting from construction activities associated with the residential area adjacent to the riparian habitat would be a significant impact.

b) **Mitigation Measure (7):** All food-related trash items shall be enclosed in sealed containers and regularly removed from the project area to deter attraction of potential predators of the California red-legged frog, foothill yellow-legged frog, western spadefoot toad, California tiger salamander, and western pond turtle. Pets shall not be allowed on the construction site. The proper location of the trash containers shall be subject to the review and approval of the City of Gilroy Community Development Department.

c) **Finding:** Implementation of the mitigation measure presented above, as well as mitigation measure (6) presented above, will reduce this impact to a less than significant level.

5. Effects of Nighttime Lighting on Wildlife

a) **Potentially Significant Impact:** Nighttime lighting of roads adjacent to Uvas Creek in the proposed residential area could spill over into the riparian woodland habitat and could potentially disturb wildlife species occurring in the riparian habitat, restrict the movement or activity of wildlife species in the riparian habitat, or facilitate increased predation of wildlife species, which could potentially include special-status species. Restricted movement of wildlife species and increased predation of special-status species occurring as a result of increased levels of nighttime light would be a potentially significant impact.

b) **Mitigation Measure (8):** Subject to the review and approval of the City of Gilroy Planning Division, luminaires in the proposed residential area shall be limited in height to 20 feet and shall be of a full cutoff design to reduce light

spillage to adjacent areas. Luminaires located along a street adjacent to the Uvas Creek levee shall be located to the east side of the street.

- c) **Finding:** Implementation of the mitigation measure presented above will reduce this impact to a less than significant level.

D. Cultural Resources

1. Potentially Historic Resources

- a) **Potentially Significant Impact:** Background research and a field reconnaissance conducted by Archaeological Resource Management in December 1999 indicates that the project site contains four potentially historic houses. These houses are likely to be removed to accommodate future development on the project site. The houses may also have significant buried historic resources associated with them. Loss or disturbance of these houses and any associated historic resources is a potentially significant impact.
- b) **Mitigation Measure (9):** Prior to removal of any of the potentially historic houses on the project site an historical evaluation shall be completed. The historic evaluation shall include an architectural description of the structure, an historic background for the property and the completion of an appropriate State Department of Parks and Recreation form with photographic documentation.
- c) **Finding:** Implementation of the mitigation measure presented above will reduce this impact to a less than significant level.

2. Potentially Buried Cultural Resources

- a) **Potentially Significant Impact:** Background research and a field reconnaissance conducted by Archaeological Resource Management indicates that the project area may contain buried and unknown significant cultural resources. The Santa Clara Valley is known to be rich in buried prehistoric resources, especially the alluvial soils found near waterways. Therefore, due to the proposed project's location in a creek-side environment and the presence of a recorded historic resource directly adjacent to the trail extension, there is an elevated chance that currently unidentified buried cultural resources may be found during construction on the project site. Disturbance of prehistoric or historic cultural resources would be considered a significant impact.
- b) **Mitigation Measure (10).** The developers for any portion of the project site shall contract with a qualified archaeologist to arrange a schedule for monitoring during grading and excavation activities due to the project site's creek-side location and proximity to recorded historic and prehistoric sites.

Mitigation Measure (11): Due to the possibility that significant buried cultural resources might be found during construction the following language shall be included any permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Gilroy Planning Division:

If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

Mitigation Measure (12): In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Santa Clara County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent (MLD) from the deceased Native American. The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

- c) **Finding:** Implementation of the mitigation measures presented above will reduce this impact to a less than significant level.

E. Hydrology

1. On-Site Flooding

- a) **Potentially Significant Impact:** The proposed commercial area and portions of the proposed residential area are within 100-year flood zones as identified on the FEMA maps. The Gilroy Floodplain Control Ordinance allows development within 100-year floodplains provided certain measures are taken to prevent potential damage from flooding. Portions of the commercial area are within a 25-year flood zone based on a hydrology study conducted for the Gilroy Sports Park. Development within these areas prone to flooding presents potential risks to health and safety of people and damage to buildings and property. This is a potentially significant impact.
- b) **Mitigation Measure (13):** Any applicant for development within FEMA-delineated 100-year flood zones on the project site shall have a hydrology report, based on the Army Corps of Engineers flow rates for Uvas Creek, prepared for that development by a qualified hydrologist or engineer, to specify hydrology-related design requirements for the site and buildings, subject to the review and approval of the City of Gilroy Engineering Division and SCVWD prior to issuance of a building permit. The hydrology report shall address the following requirements:
- Site plans and building designs shall comply with the City of Gilroy Flood Plain Control Ordinance.
 - Development on the project site shall not impede the flow of floodwaters.
 - Procedures shall be developed and site plans designed that will assure that any materials, supplies or goods used, stored or hold for sale at the proposed use that may present health hazards or risks of water contamination during flood conditions are securely kept at least one foot above the 100-year flood level.
 - Development on the project site shall not result in an increase in floodwater levels off the project site.

Calculations for both the 25-year and 100-year flood events shall be submitted in support of these requirements. All grading, design or other recommendations of the hydrology report shall be incorporated into project plans.

- c) **Finding:** Implementation of the mitigation measures presented above will reduce this impact to a less than significant level.

2. Off-Site Flooding

- a) **Potentially Significant Impact:** The proposed commercial area and portions of the proposed residential area are within 100-year flood zones as identified on the FEMA maps. The Gilroy Floodplain Ordinance allows development within 100-year floodplains provided certain conditions are met, including elevating the first floor elevations to at least one foot above the 100-year flood elevation. Construction within the floodplain could potentially result in diversion of floodwaters and increases in flood levels off the project site. This would be a significant environmental impact.
- b) **Mitigation Measure (13) see above.**
- c) **Finding.** Implementation of mitigation measure 13 above will reduce this potentially significant impact to a less than significant level.

2. Flood Flowage Easement

- a) **Potentially Significant Impact:** SCVWD holds a flood flowage easement that restricts land use and development on a large portion of the project site. Inappropriate development within this easement could put structures at risk of damage and people at risk of injury or death from storm-related flooding. Structures within the flood flowage easement could impede the flow of floodwaters and result in additional flooding in adjacent areas. The flood flowage easement is contained almost entirely within the Gilroy Sports Park site. Drainage plans and site design for the approved Gilroy Sports Park have accounted for flood flows within this easement. Portions of the proposed residential and commercial areas are within the flood flowage easement. Construction in this area may have impacts on the flow of floodwaters that could potentially have impacts both on- and off-site.
- b) **Mitigation Measure (13) see above.**
- c) **Finding:** Implementation of mitigation measure 13 above will reduce this potentially significant impact to a less than significant level.

3. Surface Water Quality During Construction

- a) **Potentially Significant Impact:** During construction, grading would expose sediments to rain or wind erosion and subsequent transportation of sediments to the Uvas Creek, Pajaro River and Monterey Bay. The silt load that could be generated could degrade the quality of water in the Uvas Creek, Pajaro River and Monterey Bay by transporting other pollutants adhered to sediments, obstructing natural flow patterns at the points of sediment deposition, or adversely affecting biological resources.

Materials used and wastes generated during construction would degrade water quality also. Wastes generated commonly include wash water from concrete mixers, paints and painting equipment cleaning activities, oil, grease and fuel constituents from vehicle use, storage and maintenance, solid wastes from tree and shrub removal during land clearing, and wood and paper materials from packaging of building products.

Development of the project site would increase the amount of runoff from the site under some weather conditions by adding new impervious surfaces and would generate non-point source pollutants from newly established urban activity at the project site. The runoff would contain pollutants typical of urban activity, such as oil and grease, fuel constituents, heavy metals, organic chemicals, bacteria, and sediments. These pollutants would degrade the quality of the surface waters in Uvas Creek, Pajaro River and Monterey Bay. Introduction of pollutants into a watercourse is a significant environmental impact.

- b) **Mitigation Measure (14):** The project applicant for any proposed development, shall, for each phase of the development, submit a Notice of Intent (NOI) and detailed engineering designs to the Central Coast RWQCB. This permit shall require development and implementation of a SWPPP that uses storm water "Best Management Practices" to control runoff, erosion and sedimentation from the site. The SWPPP must include Best Management Practices that address source reduction and, if necessary, shall include practices that require treatment. The SWPPP shall be submitted to the City of Gilroy Engineering Division for review and approval prior to approval of a building permit for each phase of the project.

Mitigation Measure (15): The project applicant for any proposed development within 50 feet of a waterway or flood flowage easement shall submit plans for review by, and obtain an approved permit from the Santa Clara Valley Water District (SCVWD) prior to approval of a building permit for each phase of the project.

- c) **Finding:** Implementation of the mitigation measures presented above will reduce this potentially significant impact to a less than significant level.

4. Surface Water Quality During Operation

- a) **Potentially Significant Impact:** A variety of contaminants are common to urban area storm water and irrigation run-off. These contaminants include coliform bacteria, sediment, organic chemicals, nutrients and pesticides from landscaping and athletic fields, and fuel constituents, heavy metals, oil and grease from automobiles, roads and parking areas. The proposed project will introduce new urban pollutants to the project site and this could potentially result in the pollution of Uvas Creek and the Pajaro River. These contaminants could be transported to the drainage system, polluting downstream water systems. This would be a significant adverse environmental impact.

- b) **Mitigation Measure (16):** Project plans for any development proposed for the project site, subject to the review and approval of the City of Gilroy Engineering Division shall include a sedimentation basin adequate for filtering out heavy storm water contaminants such as silt, and grease traps suitable for filtering out other urban pollutants to the extent feasible. Additional measures as presented in "Start at the Source, Design Guidance Manual for Storm Water Quality Protection," prepared by the Bay Area Storm Water Management Agencies Association and "Parking Lot Best Management Practices Manual," prepared by the Santa Clara Valley Urban Run-off Pollution Prevention Program may be required for specific projects. Any physical water quality safeguards shall be installed prior to occupancy of the proposed development, and any best management practices plan must be implemented upon occupancy.
- c) **Finding:** Implementation of the mitigation measures presented above will reduce this potentially significant impact to a less than significant level.

F. Noise

1. Interior Noise Levels in Homes on the Project Site

- a) **Potentially Significant Impact:** Title 24 of the California Code of Regulations requires a maximum interior noise level of 45 dBA. Traffic and Gilroy Sports Park noise at the proposed residential area would exceed the City standard of 60dBA_{DNL} for exterior areas. Typical residential construction provides approximately 15 dB of noise reduction, so interior noise levels would be expected to exceed 45 dBA. This would be a significant adverse environmental impact.
- b) **Mitigation Measure (18):** Subject to the review and approval of the City of Gilroy Building Division, the applicant for any residential development on the project site shall conduct an acoustical study and establish engineering requirements to be included in construction plans to maintain interior noise levels at no greater than 45 dBA_{DNL}.

Interior noise attenuation techniques may include forced air ventilation or air conditioning for all habitable rooms with a window facing noise sources, triple-paned windows, sound insulation or other appropriate means that will reduce interior noise levels to no greater than 45 dBA_{DNL}.

2. Short-term Construction Noise

- a) **Potentially Significant Impact:** Construction activities at the project site would result in noise levels that exceed the standards specified in the *City of Gilroy General Plan*. This would be a significant environmental impact.

- b) **Mitigation Measure (19):** The following language shall be included on any permits issued at the project site, subject to the review and approval of the City of Gilroy Engineering Division. "All noise generating construction activities shall be limited to weekdays between 7:00 AM and 7:00 PM, and to Saturdays and City holidays between 9:00 AM and 7:00 PM. No construction is allowed on Sundays. In addition, temporary berms or noise attenuation barriers shall be utilized when necessary."
- c) **Finding.** Implementation of the mitigation measure presented above would reduce this potentially significant impact to a less than significant level.

G. Traffic

I. West Luchessa Avenue/Church Street

- a) **Potentially Significant Impact:** The addition of project traffic to the West Luchessa Avenue/Church Street intersection would cause both overall intersection operations and the worst approach to deteriorate from acceptable operating levels to LOS F during both the PM and Saturday peak hours.

The Caltrans Peak Hour Volume warrant requirements are also satisfied for the intersection of West Luchessa Avenue and Church Street during the PM and Saturday peak hours under Project Build-out Conditions. The proposed project's impact at this intersection would be reduced to a less than significant level with the implementation of the following mitigation measure: With implementation of this mitigation measure the intersection is projected to operate at LOS B during the AM, PM, and Saturday peak hours under Project Build-out Conditions.

- b) **Mitigation Measure (20):** The following street improvements shall be made to the intersection of West Luchessa Avenue and Church Street:
- installation of a traffic signal with two-phase operation;
 - re-configuration of the northbound and southbound approaches as necessary to provide one approach lane for all movements;
 - provision of one left-turn lane and one shared through and right-turn lane on the eastbound and westbound approaches.

The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.

- c) **Finding.** Implementation of the mitigation measure presented above will reduce this potentially significant impact to a less than significant level.

2. Monterey Street/Luchessa Avenue

- a) **Potentially Significant Impact:** The intersection of Monterey Street and Luchessa Avenue is projected to degrade from LOS C to LOS F during the PM peak hour with the addition of project-generated traffic.
- b) **Mitigation Measure (21):** The following street improvements shall be made to the intersection of Monterey Street and Luchessa Avenue:
- construction of a second northbound left-turn lane and an exclusive eastbound right-turn lane;
 - addition of a right-turn arrow for the eastbound right-turn movement (so vehicles in this movement could move while the northbound left-turn movement has a green arrow).

The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.

- c) **Finding.** Implementation of the mitigation measure presented above will reduce this potentially significant impact to a less than significant level.

3. Monterey Street/Monterey Frontage Road

- a) **Potentially Significant Impact:** The operation of the Monterey Street/Monterey Frontage Road intersection is projected to deteriorate from acceptable level under Background Conditions to LOS F during the PM and Saturday peak hours with the addition of project traffic and construction of the proposed traffic signal. This is considered a significant adverse environmental impact.
- b) **Mitigation Measure (22).** Following or in conjunction with the signalization of the intersection of Monterey Street and Monterey Frontage Road, the following street improvements shall be made:
- re-configuration of the southbound approach as necessary to provide one left-turn lane, two through lanes, two right-turn lanes;
 - re-configuration of the westbound approach as necessary to provide one shared lane for all movements;

- re-configuration of the northbound approach as necessary to two left-turn lanes, one through lane, one shared through/right-turn lane;
- re-configuration of the eastbound approach as necessary to provide one exclusive left-turn lane, one shared through and left-turn lane, and one right-turn lane.
- right-turn arrows shall be provided for the eastbound and southbound right-turn movements to provide LOS C intersection operations during all three study periods. This lane configuration will require split phase operation of the eastbound and westbound approaches.

The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.

- c) **Finding.** Implementation of the mitigation measure presented above will reduce this potentially significant impact to a less than significant level.

4. Luchessa Avenue Roadway Segment

- a) **Potentially Significant Impact:** With the addition of project-generated traffic, one of the key roadway segments is projected to deteriorate to an unacceptable level of service. The segment of West Luchessa Avenue between Princevalle Street and Monterey Street is projected to degrade from LOS A to LOS E, an unacceptable level based on the City of Gilroy standard. This is considered a significant impact.
- b) **Mitigation Measure (23):** A right-of-way sufficient for a six-lane arterial shall be dedicated to the City of Gilroy along the West Luchessa Avenue frontage of the project site. The dedication shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis. The dedication shall be implemented at such a time as to allow construction necessary to prevent the deterioration of traffic operations below acceptable levels.

Mitigation Measure (24): West Luchessa Avenue shall be widened to four lanes between Monterey Street and Princevalle Street. The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.

- c) **Finding.** Implementation of the mitigation measures presented above will reduce this potentially significant impact to a less than significant level.

II. Findings of Unavoidable Significant Environmental Impact

A. Agricultural Considerations

1. Loss of Prime Farmland

- a) **Unavoidable Significant Impact:** Approval of the Urban Service Area amendment and development of parcels adjacent to the Gilroy Sports Park site, in conjunction with development of the approved Gilroy Sports Park, would result in the loss of 133.21 acres of designated prime farmland. Approximately 128.21 acres of this farmland is in agricultural production. This would be a significant unavoidable adverse environmental impact.
- b) **Mitigation Measures:** No feasible mitigation measures are available to reduce this impact to a less than significant level. The establishment of the Gilroy Agricultural Lands Area by both the City of Gilroy and the County of Santa Clara serves as a regional mitigation for losses of prime farmland in southern Santa Clara County outside of the agricultural lands area. Although this regional mitigation has been implemented, it does not reduce the loss of prime farmland to a less than significant level and the proposed project would still be considered to have a significant and unavoidable impact on prime farmland.
- c) **Finding:** The regional mitigation measure does not avoid or substantially lessen the impact to prime farmland on the project site. There are no other recommended mitigation measures. Specific economic, social, and other considerations make adequate mitigation infeasible.
- d) **Statement of Overriding Consideration:** The City Council hereby finds that because of economic, social, and other considerations, the benefits of the project outweigh the unavoidable loss of prime agricultural land. First, the proposed project will create a valuable and unique recreational and park resource not currently available to the public. Second, the project is in an area where urban services are immediately available. Third, the development of the project will contribute to the City's job base. Fourth, the project will contribute to the City's tax base. Fifth, the project site is contiguous to the City's existing urban developed lands within the City and represents a consistent and logical expansion. The City finds that each of these benefits constitutes a separate and independent ground for finding that the benefits of the proposed project outweigh the risks of its potential significant adverse environmental impacts.

2. Potential Loss of Prime Farmland through Growth-inducement on Adjacent Parcels

- a) **Unavoidable Significant Impact:** Implementation of the proposed project could induce the adjacent farmland to the south of the project site and nearby farmland to the west of the project site to be converted to non-agricultural uses. These parcels adjacent to the project site are within the proposed City of Gilroy 20-year planning area but are proposed to be designated for open space uses. Development pressures could result in a change of general plan designation and subsequent development.
- b) **Mitigation Measures:** The establishment of the Gilroy Agricultural Lands Area by both the City of Gilroy and the County of Santa Clara serves as a regional mitigation for losses of prime farmland in southern Santa Clara County outside of the agricultural lands area. Although this regional mitigation has been implemented, it does not reduce the loss of prime farmland to a less than significant level and the proposed project would still be considered to have a significant and unavoidable impact on prime farmland.
- c) **Finding:** The regional mitigation measure does not avoid or substantially lessen the impact to prime farmland on the project site. There are no other recommended mitigation measures. Specific economic, social, and other considerations make adequate mitigation infeasible.
- d) **Statement of Overriding Consideration:** The City Council hereby finds that because of economic, social, and other considerations, the benefits of the project outweigh the potential unavoidable loss of prime agricultural land on adjacent properties. First, the proposed project will create a valuable and unique recreational and park resource not currently available to the public. Second, the project is in an area where urban services are immediately available. Third, the development of the project will contribute to the City's job base. Fourth, the project will contribute to the City's tax base. Fifth, the project site is contiguous to the City's existing urban developed lands within the City and represents a consistent and logical expansion. The City finds that each of these benefits constitutes a separate and independent ground for finding that the benefits of the proposed project outweigh the risks of its potential significant adverse environmental impacts.

3. Long-Term and Short-term Noise from Gilroy Sports Park Activities

- a) **Unavoidable Significant Impact:** Activities at the approved, but not yet constructed Gilroy Sports Park, including athletic events and traffic entering and exiting the project site would generate long-term noise. The noise generated by these activities would be up to 63 dBA_{DNL}, thereby exceeding acceptable City standards (60 dBA_{DNL}) at the proposed residential area north of the Gilroy Sports Park. These noise levels would be within City standards (65 dBA_{DNL}) for the commercial areas. In addition, activities at the approved, but not yet constructed Gilroy Sports Park, including spectator shouting and public address system announcements, would generate short-term, annoyance

noise at the residential area. The short-term noise generated by these activities would be up to 80 dBA.

- b) **Mitigation Measures:** Mitigation measures are available that would reduce both long-term and short-term operational noise impacts to a less than significant level. To reduce the long-term noise to a less than significant level, a six-foot tall acoustically effective barrier would be required along the northern boundary of the Gilroy Sports Park site. To reduce flanking noise, the barrier would continue along the east boundary of the residential area for a distance of 100 feet. The barrier height is in reference to the nearest ball field elevation at the foot of the bleachers. This barrier would reduce the noise level to 60 dBA_{DNL} at the nearest residences. To reduce short-term noise impacts to a less than significant level an 11-foot tall acoustically effective barrier would be required along the northern boundary of the Gilroy Sports Park site. To reduce flanking noise, the barrier would continue along the east property line of the residential project for a distance of 100 feet, diminishing in height to six feet at its terminus. This barrier would reduce noise levels at the nearest residences to 55 dBA_{DNL}.

To achieve an acoustically-effective barrier, the barrier would need to be made air-tight, i.e. without cracks, gaps, or other openings and would need to provide for long-term durability. The barriers could be constructed of wood, concrete, stucco, masonry, earth berm or a combination thereof. All joints, including connections with posts or pilasters would need to be sealed air-tight and no openings would be permitted between the upper barrier components and the ground.

Implementation of the mitigation measures necessary to reduce the noise impacts to a less than significant level would not be feasible. The location of the barrier is partly within the SCVWD flood flowage easement. Placement of the barrier would potentially impede the flow of floodwaters and could result in increased flooding impacts in other areas. This would be a significant adverse secondary environmental impact. Therefore, Gilroy Sports Park noise impacts on the proposed residential area would be an unavoidable significant impact.

- c) **Finding:** No feasible mitigation measures are available that would reduce the noise impact to a less than significant level.
- d) **Statement of Overriding Consideration:** The City Council hereby finds that because of economic, social, and other considerations, the benefits of the project outweigh the unavoidable impact of noise from the Sports Park at the adjacent planned residential area to the north. First, the proposed project will create a valuable and unique recreational and park resource not currently available to the public. Second, the project is in an area where urban services are immediately available. Third, the development of the project will contribute to the City's job base. Fourth, the project will contribute to the City's tax base. Fifth, the project site is contiguous to the City's existing

urban developed lands within the City and represents a consistent and logical expansion. The City finds that each of these benefits constitutes a separate and independent ground for finding that the benefits of the proposed project outweigh the risks of its potential significant adverse environmental impacts.

4: Exterior Traffic Noise at Residential Areas along Monterey Street

- a) **Unavoidable Significant Impact:** At General Plan build-out, noise levels from traffic on Monterey Street would exceed City standards at adjacent proposed residential areas. Noise exceeding City noise standards would be a significant adverse environmental impact.
- b) **Mitigation Measures:** This portion of the project site is located within a flood zone, and a sound attenuation barrier would not be feasible if the barrier were to interfere with flood flows or affect off-site flood levels. A mitigation measure presented in Section 2.7 Hydrology requires a hydrology study to determine requirements for development of the portion of the proposed residential area that is within the 100-year flood zone, which includes the area nearest to Monterey Road. The hydrology study may indicate that a sound attenuation barrier in this location would result in flood impacts. This would make a sound attenuation barrier infeasible in this location. Additionally, a noise barrier would place a visually obtrusive element along southern Monterey Street, a principal gateway designated in the *Draft Gilroy 1999-2020 General Plan*. This would result in a secondary visual impact. Because of the potential for secondary impact to hydrology and aesthetics, exterior noise levels in excess of City standards in this location would be an unavoidable significant impact.
- c) **Finding:** No feasible mitigation measures are available that would reduce the noise impact to a less than significant level.
- d) **Statement of Overriding Consideration:** The City Council hereby finds that because of economic, social, and other considerations, the benefits of the project outweigh the unavoidable impact of noise from traffic on Monterey Road at the planned residential area west of Monterey Road. First, the proposed project will create a valuable and unique recreational and park resource not currently available to the public. Second, the project is in an area where urban services are immediately available. Third, the development of the project will contribute to the City's job base. Fourth, the project will contribute to the City's tax base. Fifth, the project site is contiguous to the City's existing urban developed lands within the City and represents a consistent and logical expansion. The City finds that each of these benefits constitutes a separate and independent ground for finding that the benefits of the proposed project outweigh the risks of its potential significant adverse environmental impact.

5. Exterior Traffic Noise at Residential Areas along West Luchessa Avenue

- a) **Unavoidable Significant Impact:** At General Plan build-out, noise levels from traffic on West Luchessa Avenue would exceed City standards at the proposed residential areas adjacent to that street. The actual noise levels experienced at the residential area would depend on actual future traffic volumes and the lot configuration of the residential area. Noise exceeding City noise standards would be a significant adverse environmental impact.
- b) **Mitigation Measures:** A sound attenuation barrier would be required to reduce the level of noise to within City standards. Because of unknown variables, the exact requirements for mitigation of the noise impact cannot be determined at this time. It is probable that reducing noise to an acceptable level would require a sound attenuation barrier that is taller than would be considered aesthetically acceptable by the City. Implementation of the following mitigation measure would reduce the impact, but because the height of the attenuation barrier would be limited, the impact would probably not be reduced to a less than significant level. The impact would be an unavoidable significant impact.

Mitigation Measure (17): Subject to the review and approval of the City of Gilroy Community Development Department, the applicant for any residential development on the project site along West Luchessa Avenue shall construct a sound attenuation barrier eight feet in height when measured from the near curb of West Luchessa Avenue. The barrier shall be completed prior to occupancy of any homes on lots adjacent to West Luchessa Avenue.

- c) **Finding:** Although a feasible mitigation measure is available that would reduce the impact, the mitigation measure may not be adequate to reduce the impact to a less than significant level.
- d) **Statement of Overriding Consideration:** The City Council hereby finds that because of economic, social, and other considerations, the benefits of the project outweigh the unavoidable impact of noise from traffic on West Luchessa Avenue at the planned residential area south of West Luchessa Avenue. First, the proposed project will create a valuable and unique recreational and park resource not currently available to the public. Second, the project is in an area where urban services are immediately available. Third, the development of the project will contribute to the City's job base. Fourth, the project will contribute to the City's tax base. Fifth, the project site is contiguous to the City's existing urban developed lands within the City and represents a consistent and logical expansion. The City finds that each of these benefits constitutes a separate and independent ground for finding that the benefits of the proposed project outweigh the risks of its potential significant adverse environmental impact.

ATTACHMENT 2
Additional Mitigation Measures
for the City of Gilroy General Plan
(as approved by the City Council on June 13, 2002)

AGRICULTURE

4.4-A Prior to any land use approval that would result in the conversion of land that is designated as prime farmland or farmland of statewide importance to an urban use (i.e., zoning changes, annexation to the City, urban service amendments, etc.) the City shall:

1. Implement a conservation and open space easement program.

Guidance for this program may be found, in part, in "A Proposal to Establish and Agricultural Conservation Easement Program in Santa Clara County"(Appendix F-3 of the Draft Environmental Impact for the City of Gilroy Revised General Plan dated September 2001)

As this implementation is of significance countywide, this program should be established as a joint effort of the City, the County, the Farm Bureau, the Open Space authority and other agencies.

This program shall offer the following options as an acceptable mitigation for said land use approval:

a. Purchase of an equal amount of prime agricultural land within the area of the Open Space Authority and the transfer of the ownership of this land to the Open Space authority or other City-approved agency.

b. Purchase of development rights on agricultural land within the area of the Open Space Authority and the transfer of the ownership of this land to the Open Space authority or other City-approved agency. The purchase value shall be equivalent in value to that required under (a) above.

c. Payment, in lieu of purchase, of fee to the Open Space Authority or other City-approved agency, equal to the amount required to comply with either of the above elements. The amount of this fee shall be equivalent in value to that required under (a) above.

2. Require all future projects that involve the conversion of agricultural land to urban uses to use generally accepted methodologies to identify the potentially significant impacts of changes in agricultural land use (Appendix F of the Draft Environmental Impact for the City of Gilroy Revised General Plan dated September 2001).

One example is the California Agricultural Land Evaluation and Site Assessment (LESA Model) developed by the California Department of Conservation to help establish standards of significance for CEQA evaluations of agricultural land conversions.

Additional programs to protect prime farmland and farmland of statewide importance comparable to those used by other counties or cities described in the Draft EIR may be considered by the City from time to time for adoption as meeting the requirements of this mitigation.

In addition, the City shall consider joining the Open Space Authority to help conserve remaining viable agricultural land within the City's sphere of influence.

4.4-B Encourage active farming without further development on the remaining agricultural land within the South County area by implementing and reaffirming the policies outlined in this section related to agricultural resources.

4.4-C Where use compatibility impacts exist, the City shall require open space buffers be established between future residential uses and existing agricultural operations.

TRAFFIC

4.5-A The City shall work with the County of Santa Clara, the City of Morgan Hill and the Santa Clara Valley Transportation Agency (as the designated Congestion Management Agency for Santa Clara County), to develop and implement the South County Regional Transportation Plan and identify the mitigation measures required by the City under this plan for roadways outside the Gilroy City limits. Once adopted, Mitigation 4.5-D through 4.5-F may be revised to conform to this regional plan.

4.5-B For roadways within Gilroy's General Plan area, the City shall develop a comprehensive Traffic Circulation Master Plan, supported by a City Traffic Impact Mitigation Fee, that shall be imposed on all projects identified under CEQA as having a significant impact to the City's circulation element. Periodically, the City shall review and update its Traffic Circulation Master

ATTACHMENT 3

Mitigation Monitoring Program for Gilroy Urban Service Area Amendment 98-02 Subsequent EIR

Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

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

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

Monitoring Program

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

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

Monitoring Program Procedures

The City of Gilroy shall use the attached monitoring checklist for the proposed project. The monitoring program should be implemented as follows:

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

Responsible Parties and Timing of Implementation and Monitoring

The following table lists the parties responsible for implementing and monitoring each mitigation measures at each stage of the proposed project. The party(ies) responsible for implementation of the mitigation measure is (are) indicated by italics. The party(ies) responsible for monitoring the mitigation measure is (are) indicated by bold text. A key to abbreviations is located following the table.

Mitigation Measure Number	Implementation Timeframe					
	Final Map	Project Plans Permits	Prior/During Grading	Prior/During Construction	Prior to Occupancy	Post Development
1		A PLN			A PLN	A PLN
2			A A, BLD, PLN	A A, BLD, PLN		
3		A PLN			A PLN	A PLN
4			A 1, PLN			
5			A 1, PLN, CDFG			
6			A 1, PLN	A 1, PLN		
7			A PLN	A PLN		
8	A ENG	A ENG				
9			A PLN	A PLN		
10			A 2, PLN	A 2, PLN		
11			A 2, PLN	A 2, PLN		
12			A COR, NAHC	A COR, NAHC		
13		A, 3 ENG, SCVWD				
14		A RWQCB, ENG	A A, ENG	A A, ENG		
15		A SCVWD	A SCVWD	A SCVWD		
16	A ENG	A ENG	A ENG	A ENG		A ENG
17	A CD				A CD	
18		A BLD			A BLD	
19		A ENG	A A, ENG, BLD	A A, ENG, BLD		
20	A, ATT ENG	A, ATT ENG				
21	A, ATT ENG	A, ATT ENG				
22	A, ATT ENG	A, ATT ENG				
23	A, ATT ENG	A, ATT ENG				
24	A, ATT ENG	A, ATT ENG				

Principal Responsible Parties: A: Applicant or designee; ATT: Gilroy City Attorney; BLD: Gilroy Building Division; CD: Gilroy Community Development Department; CDFG: California Department of Fish and Game; COR: Santa Clara County Coroner; ENG: Gilroy Engineering Division; NAHC: Native American Heritage Commission; PLN: Gilroy Planning Division; RWQCB: Central Coast Regional Water Quality Control Board; SCVWD: Santa Clara Valley Water District.

Other Responsible Parties and Specialized Consultants: 1: Biologist; 2: Archeologist; 3: Hydrologist.

The text of the mitigation measures and the role of each responsible party is listed in the following table.

Mitigation Measure Number	Text of Mitigation Measure	Implementing Party	Monitoring Party
1	Subject to the review and approval of the City of Gilroy Planning Division, prior to approval of a tentative subdivision map, the applicant for residential development on the parcels north of the sports park shall provide a landscape plan that is consistent with the Gilroy Consolidated Landscape Policy, and includes a double row of trees along the sports park boundary, utilizing tree species that will attain a crown between 30 and 50 feet above street level. One row of trees may be planted on the sports park side of the shared property boundary. The plantings shall be a minimum size of 24-inch boxed specimens and shall be planted prior to occupancy of the houses located within 100 feet of the sports park.	Applicant shall prepare plan, install plantings prior to occupancy, and replace any plants that fail to grow adequately for the first five years following initial occupancy	Gilroy Planning Division shall ensure that the landscape plans meet requirements, and shall conduct annual monitoring for five years following initial occupancy to ensure trees are growing adequately.
2	<p>The following dust control measures shall be incorporated into all permits for any phase of proposed construction on the project site. The measures shall be implemented as necessary to adequately control dust subject to the review and approval of the City of Gilroy Planning Division.</p> <p>The following measures shall be implemented at all construction sites:</p> <ul style="list-style-type: none"> • Water all active construction areas at least twice daily; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites; • Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites; • Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets. <p>The following additional measures shall be implemented at construction sites greater than four acres in area:</p> <ul style="list-style-type: none"> • Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); • Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.); • Limit traffic speeds on unpaved roads to 15 mph; • Install sandbags or other erosion control measures to prevent silt runoff to public roadways; • Replant vegetation in disturbed areas as quickly as possible. <p>Subject to determination by the Gilroy Planning Division the following measures shall be implemented at construction sites that are very large or are located near sensitive receptors:</p> <ul style="list-style-type: none"> • Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; • Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas; • Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour; • Limit the area subject to excavation, grading and other construction activity at any one time. 	Applicant shall implement dust control measures as necessary to control the migration of visible dust off site.	<p>Gilroy Planning Division shall ensure that all permits issued include dust control requirements.</p> <p>The construction manager shall note implementation of dust control measures in the construction log and provide a copy of the log to the City at the end of each week.</p> <p>Gilroy Planning Division shall review construction logs weekly for the initial four weeks and monthly thereafter.</p> <p>Gilroy Building Division shall investigate reported violations.</p>

- 3 A landscape plan consistent with the Gilroy Consolidated Landscape Policy shall be prepared for common and street side planting areas abutting the Uvas Creek habitat corridor, subject to the review and approval of the City of Gilroy Planning Division. The landscape plan shall include appropriate native plant species and shall not include plantings of non-native, invasive plant species. Native grasses or other native species shall be preferred in the areas adjacent to the Uvas Creek levee to provide additional native habitat in association with the Uvas Creek habitat corridor.
- Applicant shall prepare plan and install plantings, and replace any plants that fail to grow adequately during the first year.
- Gilroy Planning Division shall review the plans and inspect the plantings following installation, and shall ensure that the landscape plans meet requirements, and shall conduct monitoring following planting and one year later to ensure plants are growing adequately.
- 4 Subject to the review of the City of Gilroy Planning Division, no earlier than 45 days and no later than 20 days prior to commencement of clearing, grading or construction in or adjacent to any riparian habitat, a field survey shall be conducted by a qualified biologist to determine if active raptor nests are present in the construction zone or within 250 feet of the construction zone. These surveys shall be required only if any construction would occur during the nesting and/or breeding season of raptors potentially nesting in the areas proposed for development (generally March 1 through August 1). If active nests are found within the survey area, at the discretion of the biologist, clearing and construction within 250 feet shall be postponed or halted until the nests are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting.
- Applicant shall arrange for the surveys, and shall abide by the determinations of the biologist.
- Qualified biologist shall conduct surveys, and report results to the applicant and the Gilroy Planning Division.
- Gilroy Planning Division shall approve the selection of the biologist and review the biologist's reports.
- 5 Subject to the review of the City of Gilroy Planning Division, no earlier than 45 days and no later than 20 days prior to commencement of grading or construction on or adjacent to the slope of the levee, field surveys shall be conducted at least four consecutive evenings by a qualified biologist to determine if burrowing owls are present in the construction zone or within 250 feet of the construction zone. These surveys shall be required only if any construction would occur during the nesting and/or breeding season of burrowing owls potentially nesting in the area (February 1 through August 31) and/or during the winter residency period (December 1 and January 31). Pre-construction survey results shall be submitted to the California Department of Fish and Game for review and approval. If active nests are found within the survey area, a burrowing owl habitat mitigation plan shall be submitted to the California Department of Fish and Game for review and approval. The burrowing owl habitat mitigation plan shall contain mitigation measures contained in the California Department of Fish and Game Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1996). Compliance with this mitigation measure may include, but not be limited to, the following:
- Avoidance of occupied burrows during the nesting season (February 1 through August 31);
 - Acquisition, protection and funding for long-term management and monitoring of foraging habitat adjacent to occupied habitat;
 - Enhancement of existing burrows and/or creation of new burrows;
 - Passive relocation of burrowing owls.
- Applicant shall arrange for the surveys, and shall abide by the determinations of the biologist, and the provisions of the mitigation program.
- Qualified biologist shall conduct surveys, and report results to the California Department of Fish and Game, the applicant, and the Gilroy Planning Division.
- Gilroy Planning Division shall approve the selection of the biologist and review the biologist's reports.
- California Department of Fish and Game shall review the reports and the mitigation plan, and shall monitor compliance with the mitigation plan.

- | | | | |
|----|--|---|---|
| 6 | <p>Prior to commencement of construction activities, the applicant shall arrange for a qualified biologist to inform workers of the potential presence of the all special-status species, their protected status, work boundaries, and measures to be implemented to avoid loss of these species during construction activities.</p> | <p>Applicant shall arrange for a qualified biologist to educate workers.</p> | <p>Gilroy Planning Division shall approve the selection of the biologist.</p> <p>Biologist shall inform the Gilroy Planning Division of completed educational sessions.</p> |
| 7 | <p>All food-related trash items shall be enclosed in sealed containers and regularly removed from the project area to deter attraction of potential predators of the California red-legged frog, foothill yellow-legged frog, western spadefoot toad, California tiger salamander, and western pond turtle. Pets shall not be allowed on the construction site. The proper location of the trash containers shall be subject to the review and approval of the City of Gilroy Community Development Department.</p> | <p>Applicant shall place trash containers at approved locations.</p> | <p>Gilroy Community Development Department shall review proposed placement of trash containers.</p> |
| 8 | <p>Subject to the review and approval of the City of Gilroy Planning Division, luminaires in the proposed residential area shall be limited in height to 20 feet and shall be of a full cutoff design to reduce light spillage to adjacent areas. Luminaires located along a street adjacent to the Uvas Creek levee shall be located to the east side of the street.</p> | <p>Applicant shall indicate the height and placement of luminaires on Final Maps and project plans.</p> | <p>Gilroy Engineering Division shall review Final Map and project plans.</p> |
| 9 | <p>Prior to removal of any of the potentially historic houses on the project site an historical evaluation shall be completed. The historic evaluation shall include an architectural description of the structure, an historic background for the property and the completion of an appropriate State Department of Parks and Recreation form with photographic documentation.</p> | <p>Applicant shall have an historical evaluation performed and follow the recommendations of the report.</p> | <p>Gilroy Planning Division shall review the historic report and determine the appropriate measures.</p> |
| 10 | <p>The developers for any portion of the project site shall contract with a qualified archeologist to arrange a schedule for monitoring during grading and excavation activities due to the project site's creek-side location and proximity to recorded historic and prehistoric sites.</p> | <p>Applicant shall arrange for the archeological monitoring at least once per day during grading and excavation.</p> | <p>Archeologist shall provide weekly reports of site monitoring to the Gilroy Planning Division, and halt work if significant resources are discovered.</p> |
| 11 | <p>Due to the possibility that significant buried cultural resources might be found during construction the following language shall be included any permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Gilroy Planning Division:</p> <p style="margin-left: 40px;">If archeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.</p> | <p>Applicant shall halt work if archeological resources or human remains are discovered on the project site, and notify a qualified archeologist.</p> | <p>Archeologist shall investigate finds, and report immediately to the Gilroy Planning Division if significant resources are discovered.</p> <p>Gilroy Planning Division shall consult with the archeologist to develop appropriate measures.</p> |

12

In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Santa Clara County is contacted, to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Applicant shall halt work if human remains are discovered on the project site, and notify the Santa Clara County Coroner.

Coroner shall investigate finds, and report to the Native American Heritage Commission within 24 hours if the remains are determined to be of Native Americans. The Native American Heritage Commission shall identify likely descendants.

13

Any applicant for development within FEMA-delineated 100-year flood zones on the project site shall have a hydrology report prepared for that development by a qualified hydrologist or engineer, to specify hydrology-related design requirements for the site and buildings, subject to the review and approval of the City of Gilroy Engineering Division and SCVWD prior to issuance of a building permit. The hydrology report shall address the following requirements:

- Site plans and building designs shall comply with the City of Gilroy Flood Plain Control Ordinance.
- Development on the project site shall not impede the flow of floodwaters.
- Procedures shall be developed and site plans designed that will assure that any materials, supplies or goods used, stored or held for sale at the proposed use that may present health hazards or risks of water contamination during flood conditions are securely kept at least one foot above the 100-year flood level.
- Development on the project site shall not result in an increase in floodwater levels off the project site.

Calculations for both the 25-year and 100-year flood events shall be submitted in support of these requirements. All grading, design or other recommendations of the hydrology report shall be incorporated into project plans.

Applicant shall have a hydrological report prepared, and incorporate the recommendations into project plans.

Gilroy Engineering Division shall approve the hydrologist, review the hydrology report, and review project plans to ensure that the recommendations of the report are adequately addressed in the project plans. SCVWD shall review project plans to ensure that the recommendations of the report are adequately addressed in the project plans.

- 14 The project applicant for any proposed development, shall, for each phase of the development, submit a Notice of Intent (NOI) and detailed engineering designs to the Central Coast RWQCB. This permit shall require development and implementation of a SWPPP that uses storm water "Best Management Practices" to control runoff, erosion and sedimentation from the site. The SWPPP must include Best Management Practices that address source reduction and, if necessary, shall include practices that require treatment. The SWPPP shall be submitted to the City of Gilroy Engineering Division for review and approval prior to approval of a building permit for each phase of the project.
- Applicant shall submit NOI, proposed SWPPP, and engineering designs to the Central Coast RWQCB.
- Central Coast RWQCB shall review and approve a SWPPP for the proposed project. Gilroy Engineering Division shall review project plans to ensure that the SWPPP is adequately addressed on project plans. The construction manager shall note implementation of SWPPP measures in the construction log and provide a copy of the log to the City at the end of each week. Gilroy Engineering Division shall review construction logs weekly for the initial four weeks, and between November 15 and April 15 and monthly at other times.
- 15 The project applicant for any proposed development within 50 feet of a waterway or flood flowage easement shall submit plans for review by, and obtain an approved permit from the Santa Clara Valley Water District (SCVWD) prior to approval of a building permit for each phase of the project.
- Applicant shall obtain a permit from the SCVWD.
- SCVWD shall monitor the project site for compliance with its permit.
- 16 Project plans for any development proposed for the project site, subject to the review and approval of the City of Gilroy Engineering Division shall include a sedimentation basin adequate for filtering out heavy storm water contaminants such as silt, and grease traps suitable for filtering out other urban pollutants to the extent feasible. Additional measures as presented in "Start at the Source, Design Guidance Manual for Storm Water Quality Protection," prepared by the Bay Area Storm Water Management Agencies Association and "Parking Lot Best Management Practices Manual," prepared by the Santa Clara Valley Urban Run-off Pollution Prevention Program may be required for specific projects. Any physical water quality safeguards shall be installed prior to occupancy of the proposed development, and any best management practices plan must be implemented upon occupancy.
- Applicant shall include on the Final Map and construct the required features. Applicant shall prepare any required management plan.
- Gilroy Engineering Division shall review plans to ensure that the required features are included on the Final Map, and have been constructed prior to occupancy. Gilroy Engineering Division shall monitor the management plan annually for the first five years to ensure the plan is adequate to safeguard water quality.
- 17 Subject to the review and approval of the City of Gilroy Community Development Department, the applicant for any residential development on the project site along West Luchessa Avenue shall construct a sound attenuation barrier eight feet in height when measured from the near curb of West Luchessa Avenue. The barrier shall be completed prior to occupancy of any homes on lots adjacent to West Luchessa Avenue.
- Applicant shall include noise attenuation barriers on Final Maps and construct prior to occupancy.
- Gilroy Community Development Department shall review Final Maps and ensure that the required walls are constructed.

- 18 Subject to the review and approval of the City of Gilroy Building Division, the applicant for any residential development on the project site shall conduct an acoustical study and establish engineering requirements to be included in construction plans to maintain interior noise levels at no greater than 45 dBAeq.
- Interior noise attenuation techniques may include forced air ventilation or air conditioning for all habitable rooms with a window facing noise sources, triple-paned windows, sound insulation or other appropriate means that will reduce interior noise levels to no greater than 45 dBAeq.
- Applicant shall have an acoustical study prepared and incorporate engineering and design requirements in project plans.
- Gilroy Building Division shall review project plans to ensure that the recommendations of the acoustical study are adequately addressed.
- 19 The following language shall be included on any permits issued at the project site, subject to the review and approval of the City of Gilroy Engineering Division. "All noise generating construction activities shall be limited to weekdays between 7:00 AM and 7:00 PM, and to Saturdays and City holidays between 9:00 AM and 7:00 PM. No construction is allowed on Sundays. In addition, temporary berms or noise attenuation barriers shall be utilized when necessary."
- Applicant shall limit noise-generating construction to the hours listed.
- The construction manager shall note hours of noise-generating construction activities in the construction log and provide a copy of the log to the City at the end of each week.
- Gilroy Engineering Division shall review construction logs.
- Gilroy Building Division shall investigate reported violations.
- 20 The following street improvements shall be made to the intersection of West Lockness Avenue and Church Street:
- installation of a traffic signal with two-phase operation;
 - re-configuration of the northbound and southbound approaches as necessary to provide one approach lane for all movements;
 - provision of one left-turn lane and one shared through and right-turn lane on the eastbound and westbound approaches.
- The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.
- Applicant for applicable project shall include the listed improvements in project plans, and shall implement the improvements within nine months of notification by the City of Gilroy Engineering Division.
- Gilroy City Attorney shall prepare a reimbursement agreement applicable to all projects in the amendment area.
- Gilroy Engineering Division shall determine the timing for the listed improvements as part of its traffic monitoring program, and provide notice to the applicant for the appropriate project upon determining that the improvements are required.

21 The following street improvements shall be made to the intersection of Monterey Street and Luchessa Avenue:

- construction of a second northbound left-turn lane and an exclusive eastbound right-turn lane;
- addition of a right-turn arrow for the eastbound right-turn movement (so vehicles in this movement could move while the northbound left-turn movement has a green arrow).

The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.

Applicant for applicable project shall include the listed improvements in project plans, and shall implement the improvements within nine months of notification by the City of Gilroy Engineering Division.

Gilroy City Attorney shall prepare a reimbursement agreement applicable to all projects in the amendment area.

Gilroy Engineering Division shall determine the timing for the listed improvements as part of its traffic monitoring program, and provide notice to the applicant for the appropriate project upon determining that the improvements are required.

22 Following or in conjunction with the signalization of the intersection of Monterey Street and Monterey Frontage Road, the following street improvements shall be made:

- re-configuration of the southbound approach as necessary to provide one left-turn lane, two through lanes, two right-turn lanes;
- re-configuration of the westbound approach as necessary to provide one shared lane for all movements;
- re-configuration of the northbound approach as necessary to two left-turn lanes, one through lane, one shared through/right-turn lane;
- re-configuration of the eastbound approach as necessary to provide one exclusive left-turn lane, one shared through and left-turn lane, and one right-turn lane.
- right-turn arrows shall be provided for the eastbound and southbound right-turn movements to provide LOS C intersection operations during all three study periods. This lane configuration will require split phase operation of the eastbound and westbound approaches.

The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.

Applicant for applicable project shall include the listed improvements in project plans, and shall implement the improvements within nine months of notification by the City of Gilroy Engineering Division.

Gilroy City Attorney shall prepare a reimbursement agreement applicable to all projects in the amendment area.

Gilroy Engineering Division shall determine the timing for the listed improvements as part of its traffic monitoring program, and provide notice to the applicant for the appropriate project upon determining that the improvements are required.

23 A right-of-way sufficient for a six-lane arterial shall be dedicated to the City of Gilroy along the West Luchessa Avenue frontage of the project site.

The dedication shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis. The dedication shall be implemented at such a time as to allow construction necessary to prevent the deterioration of traffic operations below acceptable levels.

Applicant for any project in the amendment area along West Luchessa Avenue shall include a dedication on the Final Map and/or in project plans

Gilroy Engineering Division shall review Final Map and/or project plans to ensure inclusion of the right-of-way dedication.

West Luchessa Avenue shall be widened to four lanes between Monterey Street and Princesville Street.

The street improvements shall be implemented at such time as determined by the City of Gilroy traffic-monitoring program or a project-specific traffic analysis, and at such time as to prevent the deterioration of traffic operations below acceptable levels. Construction of the improvements shall be required as a condition of approval for the applicable project. Improvements may be subject to a reimbursement agreement.

Applicant for applicable project shall include the listed improvements in project plans, and shall implement the improvements within nine months of notification by the City of Gilroy Engineering Division.

Gilroy City Attorney shall prepare a reimbursement agreement applicable to all projects in the amendment area.

Gilroy Engineering Division shall determine the timing for the listed improvements as part of its traffic monitoring program, and provide notice to the applicant for the appropriate project upon determining that the improvements are required.