City of Sunnyvale

Agenda Item

15-0655 **Agenda Date:** 7/28/2015

REPORT TO COUNCIL

SUBJECT
Approve a Process for the Butcher Property Annexation and Discuss Status of Development Applications, with No Action on a Proposed Project

REPORT IN BRIEF
Over the past months, there appears to be some confusion on staff's actions to implement the City Council's direction relative to annexation at Butcher's Corner. In an effort to ensure that we are implementing the process that the Council directed, the purpose of this agenda item is for the City Council is to confirm its former direction or to provide alternative direction to staff on the process and to establish timing for annexation of the Butcher property. This agenda item pertains to the annexation process for the Butcher property, a 5.1-acre county "island" located at the intersection of East El Camino Real, South Wolfe Road and East Fremont Avenue. Approximately two years ago, Council initiated annexation of this property but chose to postpone the final action. Staff believes it is beneficial to revisit this item at this time, before completion of the draft environmental impact report (DEIR) for the proposed rezoning and development applications. If the City Council decides to discontinue the city-initiated annexation, this would inform the property owner that he needs to initiate the annexation through the Local Agency Formation Commission (LAFCO).

No actions on the rezoning or development applications are being considered by the City Council tonight. This agenda item is for Council to confirm or provide alternative direction on the annexation process for the Butcher property. However, the status of the project proposal is provided for context in discussing the overall process for the annexation, rezoning and development applications.

Staff recommends that the City Council adopt Alternatives 1 and 3: direct staff to continue the City-initiated annexation process independent of and prior to action on the rezoning and development applications, and direct staff to schedule for Council action the resolution for annexation; and defer consideration of the two-year changed circumstance finding until action on the rezoning and development applications.

BACKGROUND
On August 27, 2013, the City Council initiated a request to the Local Agency Formation Commission (LAFCO) to annex the Butcher property (RTC-13-201), with LAFCO offering to assume the cost for processing the annexation. At the same time, the property owner, De Anza Properties, submitted a concept plan (Preliminary Review) for a 211-unit residential project on the Butcher property with heights between three stories and ten stories.

LAFCO accepted the City's initiation of annexation, and on October 8, 2013, the City Council considered a draft resolution to annex the Butcher property. However, the City Council decided to postpone the annexation at the request of the property owner and residents to allow the property

owner to further develop its plans and share them with the community for further input. The City Council also directed staff to not require 25 percent of the property as commercial use, which is typically required for properties located within a Node (areas identified for a higher concentration of mixed uses) per the Precise Plan for El Camino Real. The staff report and minutes of that Council meeting are contained in Attachment 1 and 2, respectively.

Since then, the property owner has revised the proposed project and submitted a formal application for a reduced project consisting of 153 dwelling units. An Environmental Impact Report (EIR) is being prepared to address the redevelopment of the site. Attachment 3 includes an update on the development applications, including staff's comments on the latest project plans. Staff also presented an update on the proposed project to the Planning Commission at a study session on July 13, 2015. A summary of staff's presentation, Planning Commission comments, and comments from the public are included in Attachment 4. No Council action on the proposed project is being considered or proposed at this time.

ENVIRONMENTAL REVIEW

An EIR is being prepared for the development applications. Environmental impacts being studied as part of the EIR include aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hydrology and water quality, land use and planning, noise, public services (fire, police, schools), transportation and traffic, and utilities and service systems. Several technical studies to evaluate the above impacts are underway, including a traffic study that will identify potential project impacts and mitigation measures to reduce impacts, such as road improvements. The Draft EIR is expected to be available for public review in October 2015. Public hearings to consider certification of the Final EIR are expected in March 2016.

The EIR could incorporate the required annexation into the project description if annexation will be considered at essentially the same time as the rezoning and development applications. Alternatively, the City can choose to annex the property independent of the rezoning and development applications. If annexation occurs separately prior to action on the proposed project, this sole action could be considered exempt from CEQA since it does not constitute any form of pre-development approval and, thus, would not result in any environmental impacts (CEQA Guideline 15319(a))**.**

DISCUSSION

The purpose of this agenda item is for the City Council is to confirm its former direction or to provide alternative direction to staff on the process and to establish timing for annexation of the Butcher property. It is not to make a final decision on annexation.

The key issues pertaining to annexation are as follows:

- City or property owner-initiated annexation; and
- Finding to allow rezoning of the property within two years of annexation.

Current General Plan and Zoning Designations

State law requires cities to plan for all properties within their city limits, including "island" areas (property with a county's jurisdiction which is surrounded on all sides by a city's jurisdiction). The Butcher property currently has a General Plan designation of Residential High Density. The Residential High Density designation allows for consideration of residential development with the

density range of 27 to 45 dwelling units per acre.

The corresponding zoning designation that would be most consistent with the current General Plan designation is High Density Residential (R-4), which allows up to 36 dwelling units per acre. However, the Butcher property is currently pre-zoned Medium Density Residential/Precise Plan for El Camino Real (R-3/ECR), which allows up to 24 dwelling units per acre.

City or Property Owner-Initiated Annexation
The Local Agency Formation Commission (LAFCO) of Santa Clara County is empowered by the State to review proposed boundary changes to cities. In this case the Butcher property is an unincorporated part of Santa Clara County. With potential boundary changes such as this, LAFCO ensures that municipal services such as utilities, fire, police and recreation can be served adequately by the municipality that will annex the land. LAFCO encourages cities to annex island areas that are currently unincorporated but within the Urban Service Areas (USA), such as the Butcher property. The Butcher property is completely surrounded by land within the City of Sunnyvale's jurisdiction. Annexations are generally initiated either by a city or by a property owner, but island annexations are generally initiated by cities at county request. The general procedure and timeline are similar for either a city or property owner initiated annexation, but there is a streamlined process for island annexations.

In 2011 LAFCO submitted a request asking the City of Sunnyvale to annex existing island parcels, including the Butcher property, and to encourage the process, offered to absorb the fees. The City Council conducted a series of public hearings in 2013 and initiated the process for annexation. The next action would have been for the City Council to adopt a resolution asking LAFCO to approve the annexation. On October 8, 2013, the Council approved annexation of several other residual parcels, but decided to postpone annexation of the Butcher property at the request of the property owner and residents.

In this case, if the property owner directly petitioned LAFCO to approve the annexation, LAFCO has indicated they would refer the matter back to the City. If the City declined to initiate or approve the annexation, LAFCO would have to conduct the public hearings and make a decision on the annexation. According to LAFCO, however, this is not encouraged or consistent with their practices, and they are not aware of it ever having occurred in Santa Clara County. In this instance, LAFCO staff has indicated that they would likely approve the annexation with or without the City's concurrence, given that the property is an island located within the City's USA and is completely surrounded by the City. LAFCO staff prefers that the City complete the annexation process that was previously initiated by the Council rather than shift to a property owner-initiated process.

Implications on Land Use Authority: Annexation does not pre-approve a project. In this case, the Butcher's property if annexed to Sunnyvale would continue to be zoned R-3/ECR. Separate actions and public hearings are required for the annexation and development applications. The primary benefit of annexing the Butcher property is that it would secure and clarify that the City of Sunnyvale has land use authority over the future development of the property.

If annexation is not approved and the property remains unincorporated, land use authority over the property would remain with Santa Clara County. Staff has consulted with LAFCO and the County of Santa Clara Planning Department. If the City of Sunnyvale does not annex the property, the property owner could submit rezoning and development applications to the County. While County Planning

staff would strongly prefer that the City annex the property and decide the rezoning and development application, the County could potentially process the applications and approve the project if it is consistent with the Sunnyvale General Plan.

As previously discussed, the General Plan designation for the Butcher property is Residential High Density, which allows for consideration of residential development with the density range of 27 to 45 dwelling units per acre. The current proposed density of the Butcher property project is 30 dwelling units per acre, which is consistent with Sunnyvale's General Plan. While the County could theoretically approve a project based on local General Plan conformance, the property is also pre-zoned R-3/ECR, which restricts development to a lower density of up to 24 dwelling units per acre. This inconsistency between the City's General Plan and the pre-zoning would need to be considered by the County if it were to act on a development application. An additional benefit of annexation, other than clarifying land use authority, is it that the City would take the lead to resolve this land use inconsistency rather than having the County possibly assume this role.

Timing for Annexation
Residents may perceive that annexation of the property indicates receptiveness to the project as currently proposed, or that with the City initiating annexation it will facilitate development of the property. In response to these community concerns and continuing requests to postpone annexation, the City Council may consider continuing to defer the annexation and consider it concurrently with the project proposal. However, as discussed above, annexing the property does not pre-approve any project; rather, it secures the City's land use authority and control over the property, and requires the property to submit applications to the City, rather than potentially obtaining County approval.

Staff recommends that Council continue the City-initiated annexation process independent of and prior to action on the rezoning and development applications. If this is the Council direction, staff would return to the Council with a resolution for annexation (Alternative 1).

The Council could also discontinue the City-initiated annexation process (Alternative 2). The property owner would then have the option to initiate the annexation through LAFCO.

Two Year Rezoning Finding
The Cortese-Knox-Hertberg Act governing annexation provides that a change in General Plan or zoning designations of annexed property may not occur for a period of two years after the annexation unless the legislative body makes a finding that there has been a "substantial change" in circumstances that "necessitate a departure from the pre-zoning." While "substantial change" is not defined in the state law, it appears the provision was intended to prevent sudden or dramatic changes in land use policies on newly annexed properties. What constitutes a change of circumstances would likely require comparison of conditions at the time of pre-zoning compared to current conditions. For example, factors such as the critical shortage of available housing for workers in Sunnyvale and the desire to locate housing along transit corridors in order to reduce greenhouse gas emissions might be changed circumstances that would support the need for higher-density housing on ECR consistent with the General Plan/Precise Plan policies.

If the City Council makes such a finding, the property owner's proposal to rezone the property from R-3/ECR to R-4/ECR could be considered without having to wait two years. If the finding is not made, the property owner would have several options:

- Withdraw or postpone the rezoning and development applications until the time Council could consider them (two years after the annexation);
- Amend the development application by re-designing the project to comply with the current pre-zoning density allowed under R-3/ECR; or
- Maintain the current proposed density and exceed the R-3/ECR density by using the Sunnyvale green building incentive and the State's affordable housing density bonus program.

Although not required for the annexation process, if the Council does not wish to consider rezoning the property from R3/ECR, a determination to not make the two-year rezoning finding could be considered along with the action to annex the property. No formal action is actually needed, but early policy direction could be provided to the property owner (Alternative 4).

Alternatively, if the Council believes that making the finding is inconclusive at this time, the Council may defer consideration of the two-year changed circumstance finding until action on the rezoning and development applications (Alternative 3).

FISCAL IMPACT

No fiscal impacts are anticipated as part of the action at this time. Fiscal impacts associated with the development applications will be analyzed during the entitlement process.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. In addition, notices were sent to residents and property owners within 2,000 feet of the project site, neighborhood associations within the vicinity (SunnyArts, Braly Corners, Ponderosa, Stratford Gardens, Gavello Glen, Wisteria Terrace, Raynor Park, Birdland, Panama Park, and Ortega Park), and to the interested parties list. Information was also provided on the project webpage at ButchersCorner.InSunnyvale.com.

ALTERNATIVES

1. Direct staff to continue the City-initiated annexation process independent of and prior to action on the rezoning and development applications, and direct staff to schedule for Council action the resolution for annexation.
2. Direct staff to discontinue the City-initiated annexation process.
3. Defer consideration of the two-year changed circumstance finding until action on the rezoning and development applications.
4. Consider whether there are changed circumstances at the same time as when the annexation is considered.

STAFF RECOMMENDATION

Alternatives 1 and 3: 1) Direct staff to continue the City-initiated annexation process independent of and prior to action on the rezoning and development applications, and direct staff to schedule for Council action the resolution for annexation; and 3) Defer consideration of the two-year changed circumstance finding until action on the rezoning and development applications.

Staff recommends that the Butcher property annexation proceed as a city-initiated annexation to

ensure the City's land use authority and control over the property. Annexation does not indicate tacit or pre-approval of any rezoning or development application. Separate City Council and Planning Commission public hearings and actions are required to consider any land use/zoning change or proposed project. Finally, staff recommends deferring the two-year changed circumstance finding until it reviews the rezoning and development applications. The merits and basis for this finding would more appropriately be considered at that time.

Prepared by: Noren Caliva-Lepe, Associate Planner
Reviewed by: Hanson Hom, Director, Director of Community Development
Reviewed by: Kent Steffens, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Report to Council, Dated October 8, 2013
2. City Council Public Hearing Minutes, Dated October 8, 2013
3. Update on Development Applications
4. Planning Commission Study Session Summary, Dated July, 13, 2015
5. Project Plans, Dated June 15, 2015

REPORT TO MAYOR AND COUNCIL **NO:** 13-240

Council Meeting: October 8, 2013

SUBJECT: Discussion and Possible Action on Adoption of Resolutions to Approve the Annexation of Two Island Areas Located within the City of Sunnyvale Urban Service Area but Currently under the County of Santa Clara's Jurisdiction (Central Expressway and Butcher's Corner), and a Finding of Categorical Exemption Under the California Environmental Quality Act

BACKGROUND

The Local Agency Formation Commission (LAFCO) of Santa Clara County and the County of Santa Clara Planning Division are encouraging the City of Sunnyvale to annex island areas that are currently unincorporated but within the Urban Service Area (USA) of Sunnyvale.

On August 27, 2013 the City Council adopted two resolutions to initiate the annexation process for two island areas located within the City of Sunnyvale Urban Service Area but currently under the County of Santa Clara's jurisdiction (Central Expressway and Butcher's Corner); RTC 13-201.

On September 10, 2013 the City Council and Planning Commission held a joint study session to discuss the Butcher's Corner island area general plan and zoning designations. At this study session staff presented information on the proposed annexations and site information for Butcher's Corner. Staff also discussed potential development standards that may be allowed on the site based on the General Plan Designation (Residential High Density), Precise Plan for El Camino Real (ECR) policies and zoning (R-3/ECR, Medium Density Residential with the ECR combining district).

EXISTING POLICY

Land Use and Transportation Element

Policy LT-4.1 – Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

Housing Element

Goal HE-4 Adequate Housing Sites – Provide adequate sites for the development of new housing through appropriate land use and zoning to address the diverse needs of Sunnyvale's residents and workforce.

ENVIRONMENTAL REVIEW

The annexations are categorically exempt under CEQA Guideline 15319(a) as they are annexations of existing facilities.

DISCUSSION

Staff has received the necessary (corrected) documentation from LAFCO (Attachment D & E) to process the annexations for two island areas (Central Expressway and Butcher's Corner).

The following steps are required to complete the annexation of the island areas into the City of Sunnyvale:

1. A public hearing to adopt resolutions to initiate the annexation process for two sites (*completed on August 27, 2013)*.
2. A second public hearing to adopt a resolution approving the annexations (*action associated with this RTC*).
3. Sending the signed resolutions to LAFCO.
4. Recordation of Certificates of Completion (within 7-10 days after receiving the resolution) by LAFCO. This step results in the properties formal incorporation into the City of Sunnyvale.

Central Expressway Island Area

The first site is a 4.3 acre segment of Central Expressway (Attachment D) known as SV01 on the LAFCO letter (Attachment F). This site is (and will continue to be) owned and maintained by the County of Santa Clara. The annexation of this site merely cleans up the incorporated area within the USA boundary for Sunnyvale.

To the north of this site are properties within the City of Mountain View; Residential Mobile Home (RMH) and Medium Density Residential/Planning Development (R-3/PD) zoned properties within the City of Sunnyvale are to the south. Since the road is public right-of-way, and will remain as such, it does not need to be designated under a specific zoning district.

Butcher's Corner Island Area

The second island site, SV03 (Attachment E), is 5.3 acres and referred to as Butcher's Corner by City staff. This site contains six parcels and is currently developed with two residential homes, several accessory structures and an orchard. Four of the parcels within this island site were owned by the Butcher family (the parcels were recently purchased by De Anza Properties). The remaining two parcels are City owned and are located on the east edge of the site adjacent to the public right-of-way and developed with asphalt paving next to the Wolfe Road sidewalk.

The four De Anza Properties parcels are pre-zoned Residential Medium Density/Precise Plan for El Camino Real (R-3/ECR) and designated Residential High Density (RHI) in the General Plan. The site is also within the area

designated as a Node in the Precise Plan for El Camino Real. The two City-owned parcels, totaling 1,200 square feet, are pre-zoned Residential High Density/Precise Plan for El Camino Real (R-4/ECR) and designated Residential High Density (RHI) in the General Plan. No action to change the General Plan designation or rezone the parcels is necessary with the annexation.

General Plan Initiation

At the September 10, 2013 study session meeting the City Council discussed studying the Butcher's Corner parcels to determine what the appropriate zoning and General Plan designations would be for those parcels. The Cortese-Knox-Hertzberg Act states that a change in General Plan or zoning designations of annexed property may not occur for a period of two years unless the City Council makes a finding that a substantial change has occurred in circumstances that necessitate a departure from the pre-zoning in the application to LAFCO. This provision is in the law to protect property owners from sudden or dramatic changes in land use policies on newly annexed properties. For example, the City Council may find that the change of ownership and owner's interest in resolving the policies constitute a substantial change to proceed with amending General Plan and Precise policies or zoning for the property.

The Council also discussed the ECR combining district in that location. There are approximately 25 parcels located within the Eastern Node of the Precise Plan for El Camino Real with various General Plan and zoning designations ranging from Low Density Residential to Highway Commercial. Based on this range of designations and the concerns raised in the study session, if the Council were to initiate a General Plan Amendment study, it would be appropriate to study the entire Eastern Node vs. only the Butcher's Corner parcels. A map of the Eastern Node properties has been provided (Attachment C).

FISCAL IMPACT

Annexation

The County of Santa Clara has agreed to cover all of LAFCO's costs related to the annexation of these island parcels (if the annexations are completed before the end of 2013) because they wish to incorporate the land into the appropriate USA (Attachment F). Recent discussions held between City and LAFCO staffs indicate that LAFCO would waive the already incurred fees for preparation of the documents; however, they are unsure at this time if additional funds will be budgeted in 2014. Fees could range from $1,000 to $5,000. As the County and LAFCO are preparing the documentation needed to process the annexations, minimal staff time should be required. Additionally, should the Butcher parcels be annexed into the City, the City would receive property taxes and utility user tax. Because the properties have been essentially agricultural (including two homes) and have been owned by the same family for well over 100 years, these revenues would be minimal. As the property was sold recently, there will be a

reassessment of the property increasing the property tax estimate; if the property is redeveloped there will be a reassessment.

General Plan Amendment Study

A General Plan Amendment study, if initiated by the City Council, has both fiscal and timing implications. If the study is conducted as a city-sponsored study, staff would charge time to the Policy Planning budget resulting in less staff time available for other policy items such as Study Issues. It may also affect the timing of the study as staff already has other Study Issues and policy projects they are currently working on. If an EIR is required, the City would need to allocate at least $250,000. However, if the owner of the Butcher's Corner parcels wants to accelerate the study and pay the fees for an applicant sponsored General Plan Amendment study, staff could charge time to the Development Services portion of the Planning Budget, the property owner would finance the EIR (managed by city staff). Similar to a city-sponsored study, a property owner initiated study would affect the timing of other studies. If the owner agreed to pay for the EIR, it would most likely cover the possible General Plan changes and include the proposed project on the Butcher's Corner parcels.

PUBLIC CONTACT

Public contact was made in the following ways:

1. Posting of the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety;
2. Making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site;
3. Publication of a notice in the newspaper 21 days prior to both hearings;
4. Meeting notices were sent to all property owners within 300 feet of the parcels to be annexed into the City prior to both hearings; and
5. Neighborhood Associations were notified of the hearing.

In early 2013 staff discussed the annexation with representatives from the Butcher family who indicated that the family had no objection to the City proceeding with the annexation of the properties. The current owner (John Vidovich of De Anza Properties), does not object to annexation, but recently requested that it be deferred (Attachment H).

In addition, 13 members of the public spoke at the September 10, 2013 study session. Twelve of those speakers live in neighborhoods surrounding the Butcher's Corner parcels and voiced their concerns regarding traffic, loss of views, school overcrowding, parking, density, and safety mainly in regards to the preliminary project that had been submitted to the City for the Butcher's Corner parcels. The new property owner also spoke at the meeting and stated that he plans to work with the surrounding neighborhoods before submitting an application for development to the City.

ALTERNATIVES

1. Find that the project is categorically exempt from CEQA pursuant to guideline 15319(a).
2. Adopt the resolution to approve the annexation of the Central Expressway Island Area (SV01).
3. Adopt the resolution to approve the annexation of the Butcher's Corner Island Area (SV03).
4. Postpone the annexation of the Butcher's Corner Island Area.
5. Do not adopt one or either of the resolutions and take no further action on either of the annexations at this time.

RECOMMENDATION

Staff recommends the City Council adopt Alternatives 1, 2 and 4 to find that the project is categorically exempt from CEQA, approve the annexation of the Central Expressway island area and postpone the decision on the Butcher's Corner annexation.

Regarding the Butcher's Corner island area, the applicant and residents have expressed a desire to defer annexation until further discussion can occur on the development options for the property. Staff previously recommended proceeding with the annexation (Alternative 3) as it is generally accepted that a municipality should assume primary land use authority over all properties within its jurisdiction. The County also supports this position by offering to assume the fees for annexation. The Council has the authority to approve the annexation; however, proceeding with the annexation is not time sensitive, and the Council could adopt Alternative 4 to postpone action on that annexation at this time.

Independent of the decision on annexation, the City Council could direct staff to schedule for a future Council meeting initiation of a General Plan Amendment study for the properties within the Eastern Node.

Reviewed by:

Hanson Hom, Director, Community Development Department
Reviewed by: Trudi Ryan, Planning Officer
Prepared by: Amber El-Hajj, Senior Planner

Approved by:

Gary M. Luebbers
City Manager

Attachments

A. Resolution to Adopt the Annexation of the Central Expressway Island Area
B. Resolution to Adopt the Annexation of the Butcher's Corner Island Area
C. Map of the Eastern Node of the Precise Plan for El Camino Real
D. Information and Map from LAFCO on the Central Expressway Island Area
E. Information and Map from LAFCO on the Butcher's Corner Island Area
F. Letter from LAFCO dated May 2, 2011
G. Meeting Minutes from the September 10, 2013 Joint City Council/Planning Commission Study Session
H. Letter from the Butcher's Corner Property Owner, John Vidovich of De Anza Properties

Attachment A

RESOLUTION NO. _____-13

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO APPROVING ANNEXATION OF A PORTION OF CENTRAL EXPRESSWAY FROM BERNARDO AVENUE TO MIDDLEFIELD AVENUE

WHEREAS, the City Council of the City of Sunnyvale desires to conduct proceedings pursuant to the Cortese Knox Hertzberg Government Reorganization Act of 2000 (Act), commencing with Section 56000 of the Government Code, for the annexation of an unincorporated island to the City and the concurrent detachment from any special districts presently providing services to the subject property; and

WHEREAS, the unincorporated island that the City desires to annex is depicted on Exhibit "A" attached hereto and incorporated herein by reference, and is designated as Parcel SV-01, and

WHEREAS, the territory has a zoning designation of P-F and is consistent with the City's adopted General Plan. Pursuant to provisions of Section 56375(e) of the Act, this zoning designation shall remain in effect for two years following annexation unless specific actions are taken by the City Council; and

WHEREAS, the City Council of the City of Sunnyvale desires to conduct proceedings pursuant to the Cortese Knox Hertzberg Government Reorganization Act of 2000 (Act), commencing with Section 56000 of the Government Code, for the annexation of an unincorporated island to the City; and

WHEREAS, the unincorporated island that the City desires to annex is depicted on Exhibit "A" attached hereto and incorporated herein by reference, and is located within the unincorporated area of the County consisting of a portion of Central Expressway from Bernardo Avenue to Middlefield Avenue, referred to as "Parcel SV-01")' and

WHEREAS, the annexation of the territory would constitute an annexation which does not exceed 150 acres, and at a duly noticed public hearing on August 27, 2013 the City Council initiated the annexation proceedings for the territory pursuant to Government Code Section 56375.3; and

WHEREAS, as provided in Government Code Section 56757, the City Council of the City shall be the conducting authority for the reorganization, and at the duly noticed public hearing on October 8, 2013 the City Council approved annexation of the territory pursuant to Government Code Section 56375.3; and

WHEREAS, the County Surveyor has found the attached Exhibit "A" map for the territory to be in accordance with Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with LAFCO's annexation policies; and

WHEREAS, the City Council has complied with the California Environmental Quality Act incident to its consideration of the annexation, as described below.

THE CITY COUNCIL OF THE CITY OF SUNNYVALE HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

SECTION 1. As Lead Agency under CEQA, the City finds that the annexation of this island is a Class 19 exempt project pursuant to Article 19 of the CEQA Guidelines (Guideline 15319). The parcels are developed, consistent with both the County zoning and the City's pre-zoning of the area.

SECTION 2. The City Council makes the following findings and determinations:

a. The territory is less than 150 acres, is contiguous to and surrounded by the City and is within the City's urban service area and sphere of influence; and
b. Based on the facts that public utility services are available to the territory to be annexed, public improvements are present, and physical improvements are present upon the parcels making up the territory, the City Council finds and determines that the territory is substantially developed or is developing; and
c. The territory does not include prime agricultural lands; and
d. The territory will benefit from the annexation or is receiving benefits from the City, and
e. The annexation does not split lines of assessment or ownership and will not create islands or areas which in which it would be difficult to provide municipal services; and
f. The territory meets all the requirements of Section 56375.3 and Section 56757 of the Act.

SECTION 3. The City Council of the City of Sunnyvale hereby approves annexation of the territory to the City of Sunnyvale and concurrent detachment of the territory from any special districts identified in Exhibit "A" attached hereto, effective October _____, 2013.

Adopted by the City Council at a regular meeting held October 8, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

Joan A. Borger, City Attorney

Attachment B

RESOLUTION NO. _____-13

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO APPROVE ANNEXATION OF SIX PARCELS LOCATED NEAR THE INTERSECTION OF WOLFE ROAD, AT EL CAMINO REAL AND FREMONT AVENUE, KNOWN AS THE "BUTCHER PROPERTY" (AND ALSO INCLUDES TWO CITY-OWNED PARCELS)

WHEREAS, the City Council of the City of Sunnyvale desires to conduct proceedings pursuant to the Cortese Knox Hertzberg Government Reorganization Act of 2000 (Act), commencing with Section 56000 of the Government Code, for the annexation of an unincorporated island to the City; and

WHEREAS, the unincorporated island that the City desires to annex is depicted on Exhibit "A" attached hereto and incorporated herein by reference, and is located within the unincorporated area of the County near the intersection of Wolfe Road at El Camino Real and Fremont Avenue, and includes four parcels privately owned, known as the Butcher's Corners" and two small parcels owned by the City of Sunnyvale, collectively referred to as "Parcel SV-03")' and

WHEREAS, the territory is consistent with the City's adopted General Plan, and has been pre-zoned by the City with the designation R-3, which zoning will take effect upon annexation. Pursuant to provisions of Section 56375(e) of the Act, pre-zoning designation shall remain in effect for two years following annexation unless specific actions are taken by the City Council; and

WHEREAS, the annexation of the territory would constitute an annexation which does not exceed 150 acres, and at a duly noticed public hearing on August 27, 2013 the City Council initiated the annexation proceedings for the territory pursuant to Government Code Section 56375.3; and

WHEREAS, as provided in Government Code Section 56757, the City Council of the City shall be the conducting authority for the reorganization, and at the duly noticed public hearing on October 8, 2013 the City Council approved annexation of the territory pursuant to Government Code Section 56375.3; and

WHEREAS, the County Surveyor has found the attached Exhibit "A" map for the territory to be in accordance with Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with LAFCO's annexation policies; and

WHEREAS, the City Council has complied with the California Environmental Quality Act incident to its consideration of the annexation, as described below.

THE CITY COUNCIL OF THE CITY OF SUNNYVALE HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

SECTION 1. As Lead Agency under CEQA, the City finds that the annexation of this island is a Class 19 exempt project pursuant to Article 19 of the CEQA Guidelines (Guideline

15319). The parcels are developed, consistent with both the County zoning and the City's pre-zoning of the area.

SECTION 2. The City Council makes the following findings and determinations:

a. The territory is less than 150 acres, is contiguous to and surrounded by the City and is within the City's urban service area and sphere of influence; and
b. Based on the facts that public utility services are available to the territory to be annexed, public improvements are present, and physical improvements are present upon the parcels making up the territory, the City Council finds and determines that the territory is substantially developed or is developing; and
c. The territory does not include prime agricultural lands; and
d. The territory will benefit from the annexation or is receiving benefits from the City, and
e. The annexation does not split lines of assessment or ownership and will not create islands or areas which in which it would be difficult to provide municipal services; and
f. The territory meets all the requirements of Section 56375.3 and Section 56757 of the Act.

SECTION 3. The City Council of the City of Sunnyvale hereby approves annexation of the territory to the City of Sunnyvale and concurrent detachment of the territory from any special districts which territory is identified in Exhibit "A" attached hereto and incorporated herein by reference, effective _____, 2013.

Adopted by the City Council at a regular meeting held on October ____, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

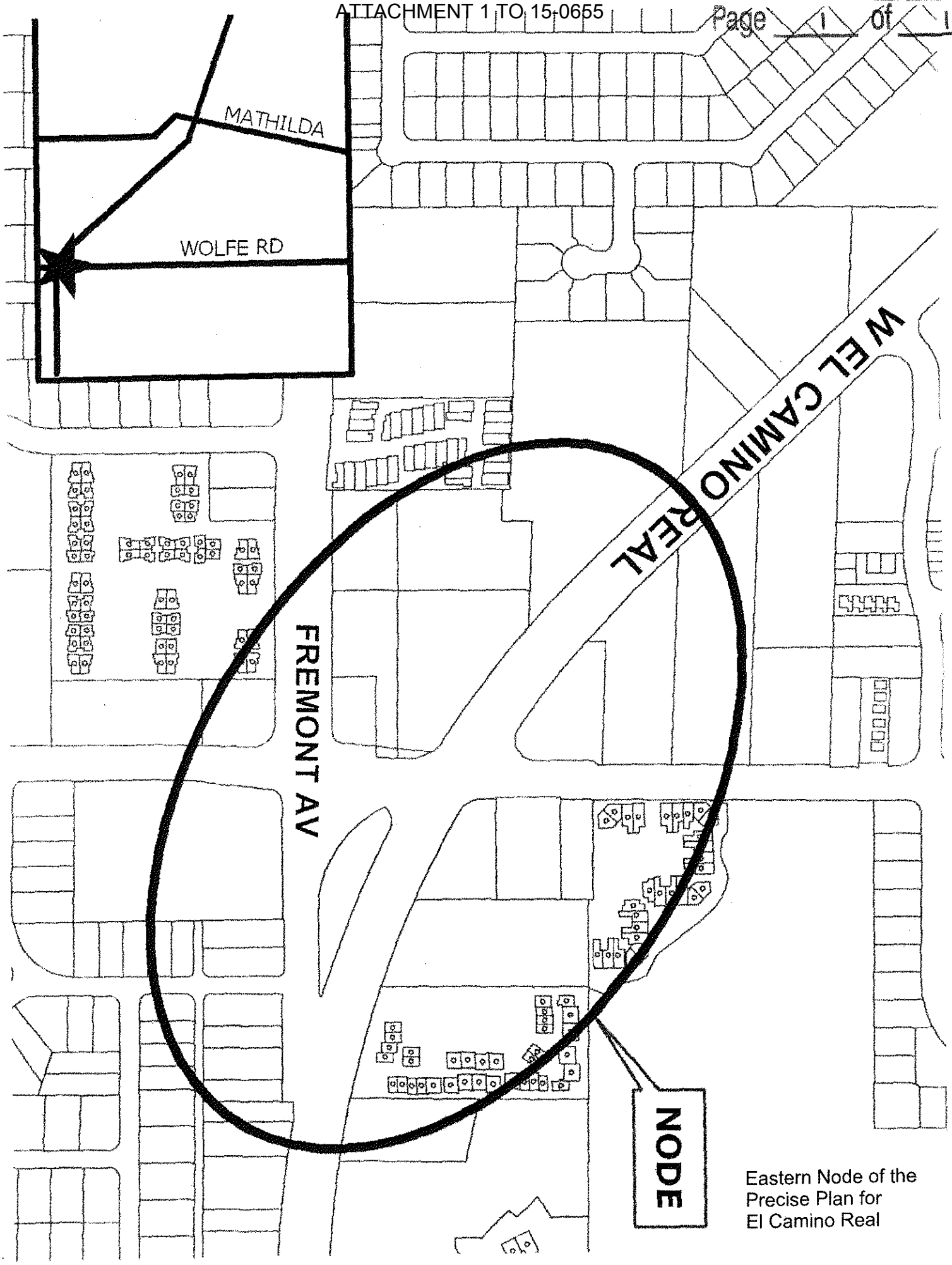
_____
City Clerk
(SEAL)

_____
Mayor

APPROVED AS TO FORM:

_____
Joan A. Borger, City Attorney

Attachment C



Eastern Node of the Precise Plan for El Camino Real

Attachment D

County of Santa Clara
Planning and Development
Office of the County Surveyor
County Government Center
70 West Hedding Street, E. Wing, 7th Floor
San Jose, California 95110
(408) 299-5730

RECEIVED
SEP 10 2013
PLANNING DIVISION

September 5, 2013

Ms. Neelima Palacherla, Executive Officer
LAFCO
70 W. Hedding Street
11th Floor, East Wing
San Jose, CA 95110

SUBJECT: **Sunnyvale Pocket Annexation No. 2 "SV01 - Central Expressway"**

The attached Exhibit "A" dated June 24, 2013 of the territory proposed to be annexed to the City of Sunnyvale entitled:

Sunnyvale Pocket Annexation No. 2 "SV01 - Central Expressway"

is in accordance with Government Code Section 56757 (c)(2). The boundaries of said territory are completely surrounded by the City of Sunnyvale and City of Mountain View and are definite and certain. The proposal is in compliance with the Local Agency Formation Commission's road annexation policies.

Per the Local Agency Formation Commission and the State Board of Equalization, this Pocket annexation does not require a legal description.

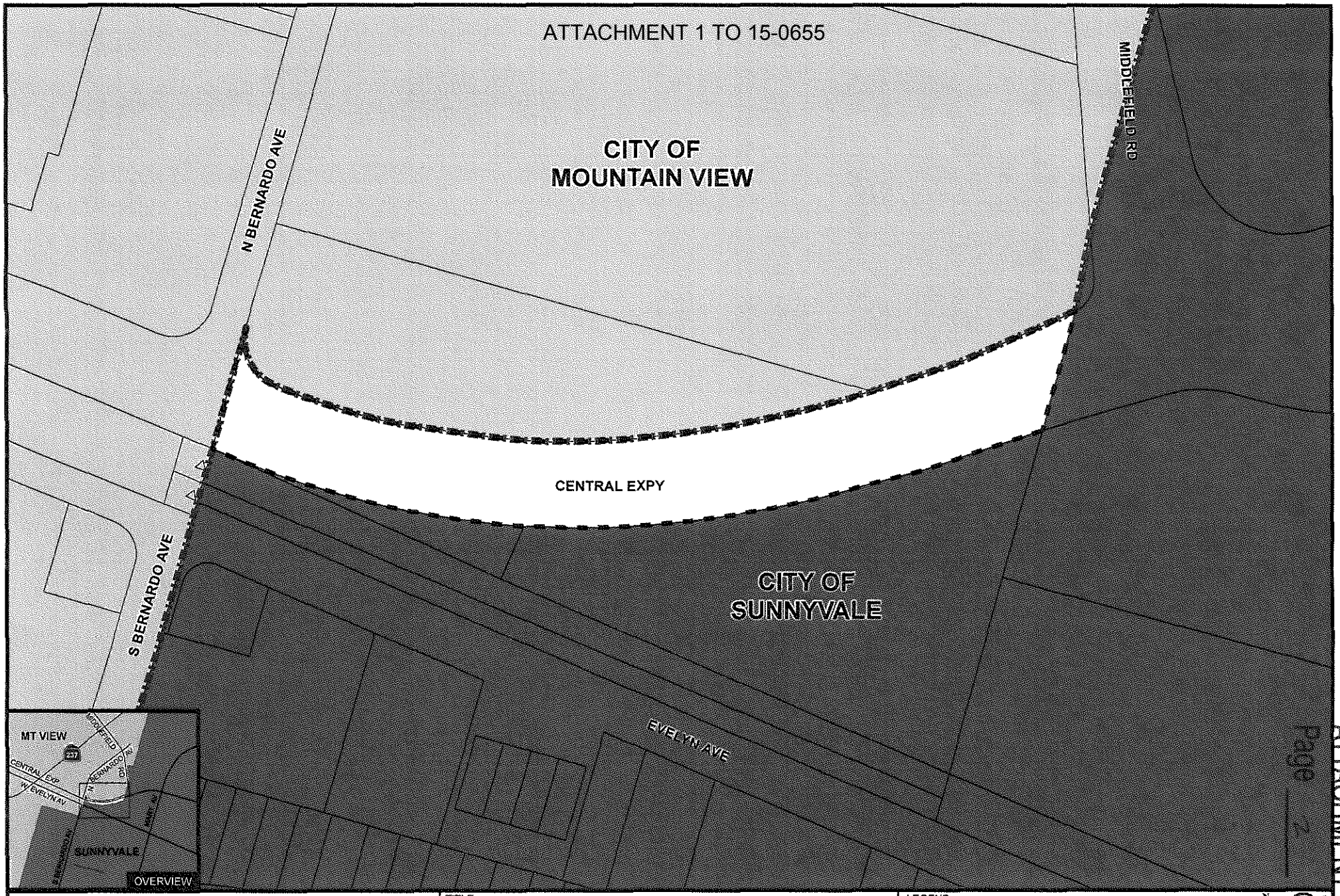
PROFESSIONAL LAND SURVEYOR
WILLIAM F. SLEPNIKOFF
5701
STATE OF CALIFORNIA

William F. Slepnikoff, PLS
Deputy County Surveyor

Date signed: September 5, 2013

Attachments:
Exhibit "A" (PSV-2)

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith



County of Santa Clara
Department of Planning and Development
Office of the County Surveyor
County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 95110

TITLE:

EXHIBIT "A"
Sunnyvale Pocket Annexation No. 2
SV01 - Central Expressway
4.3 Acres +/-

Prepared by the Office of the County Surveyor
June 24, 2013
Gwendolyn Gee, County Surveyor

LEGEND:
- Area of Annexation
- Sunnyvale Incorporated Lands
- Mountain View Incorporated Lands
- Unincorporated Lands
- Sunnyvale U.S.A./S.O.I.

N W E S
0 30 60 90 120
Feet

Sheet 1 of 1

Attachment E

County of Santa Clara
Planning and Development
Office of the County Surveyor
County Government Center
70 West Hedding Street, E. Wing, 7th Floor
San Jose, California 95110
(408) 299-5730

RECEIVED
SEP 10 2013
PLANNING DIVISION

August 30, 2013

Ms. Neelima Palacherla, Executive Officer
LAFCO
70 W. Hedding Street
11th Floor, East Wing
San Jose, CA 95110

SUBJECT: **Sunnyvale Pocket Annexation No. 1 "SV03 - Butcher's Corner"**

The attached Exhibit "A" dated June 24, 2013 of the territory proposed to be annexed to the City of Sunnyvale entitled:

Sunnyvale Pocket Annexation No. 1 "SV03 - Butcher's Corner"

is in accordance with Government Code Section 56757 (c)(2). The boundaries of said territory are completely surrounded by the City of Sunnyvale and are definite and certain. The proposal is in compliance with the Local Agency Formation Commission's road annexation policies.

Per the Local Agency Formation Commission and the State Board of Equalization, this Pocket annexation does not require a legal description.

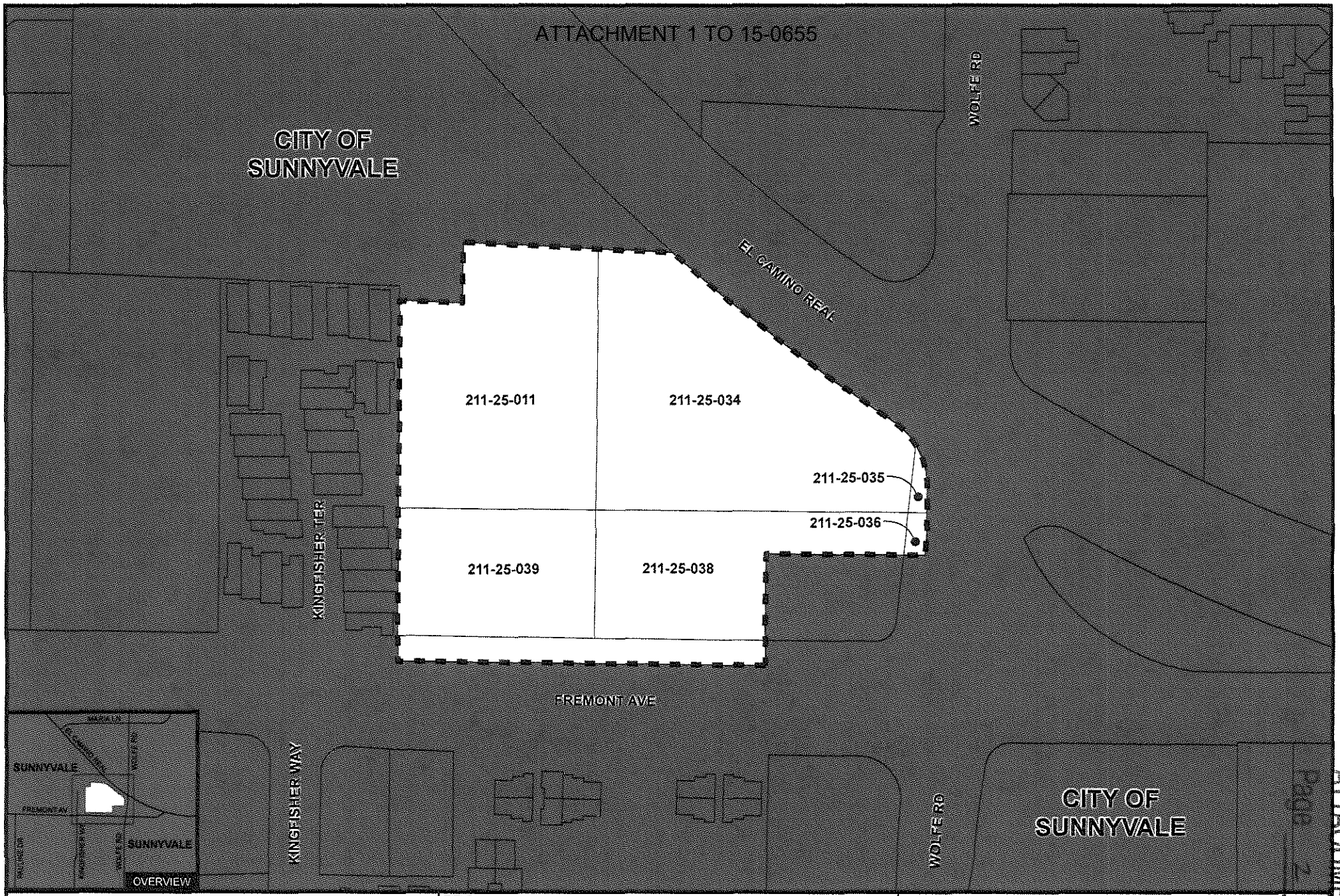
PROFESSIONAL LAND SURVEYOR
WILLIAM F. SLEPNIKOFF
5701
STATE OF CALIFORNIA

William F. Slepnikoff, PLS
Deputy County Surveyor

Date signed: August 30, 2013

Attachments:
Exhibit "A" (PSV-1)

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith



County of Santa Clara
Department of Planning and Development
Office of the County Surveyor
County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose, California 95110

TITLE:

EXHIBIT "A"
Sunnyvale Pocket Annexation No. 1
SV03 - Butcher's Corner
5.5 Acres +/-

Prepared by the Office of the County Surveyor
June 24, 2013
Gwendolyn Gee, County Surveyor

LEGEND:
- Area of Annexation
- Sunnyvale Incorporated Lands
- Unincorporated Lands
- 211-25-011 Assessor's Parcel Number

N W E S
0 25 50 75 100 Feet

Sheet 1 of 1

ATTACHMENT E
Page 2 of 2

Attachment F

LAFCO
Local Agency Formation Commission of Santa Clara County

May 2, 2011

Hansom Hom
Director of Community Development
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94088-3707

RE: Status of Unincorporated Lands within the City of Sunnyvale's Urban Service Area Boundary (i.e. Unincorporated Islands)

Dear Mr. Hom:

In late October 2010, the Local Agency Formation Commission (LAFCO) of Santa Clara County directed its staff to develop an inventory of the remaining unincorporated islands and to report back to the Commission on each city's plans regarding its islands.

Three Unincorporated Islands Remains in the City of Sunnyvale

The City has three unincorporated islands within its Urban Service Area (USA). See table below and attached maps.

SUNNYVALE	
Island ID #	**No. of Acres**
SV01	4.3
SV02	12.0
SV03	5.3
Total	**21.6**

Annex Islands that Qualify for the Streamlined Annexation Process

Island SV01 consists of a segment of Central Expressway. Island SV02 consists of a segment of the Caltrain/Union Pacific railroad tracks and right-of-way. Island SV03 consists of residential development. All three islands are eligible for annexation through the streamlined annexation process. Islands such as these are substantially developed

70 West Hedding Street • 11th Floor, East Wing • San Jose, CA 95110 • (408) 299-5127 • (408) 295-1613 Fax • www.santaclara.lafco.ca.gov
COMMISSIONERS: Pete Constant, Liz Kniss, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
ALTERNATE COMMISSIONERS: Sam Liccardo, Al Pinheiro, George Shirakawa, Terry Trumbull
EXECUTIVE OFFICER: Neelima Palacherla

and create inefficiencies / confusion in terms of provision of emergency and other municipal services. Furthermore, residents of such islands are politically disenfranchised from the city government that surrounds them.

Annexation of such islands is a high priority for LAFCO and the County. In order to encourage these annexations, LAFCO continues to waive its fees for island annexations and the County continues to provide financial incentives including covering the costs for preparing Assessor and Surveyor reports and maps, paying the State Board of Equalization filing fees, and budgeting for road improvements in islands approved for annexation. As you may be aware, the law streamlining the annexation process for qualified unincorporated islands sunsets on January 1, 2014.

We encourage the City to take advantage of this process and the incentives currently being offered by both the County and LAFCO for such annexations. Please provide us with an update on the City's plans and time-line for annexing these three islands.

A Response from the City is Greatly Appreciated

LAFCO staff is willing to work with and assist the City in resolving these island issues. We would appreciate knowing the City's annexation and/or urban service area amendment plans for these islands as soon as possible and no later than June 10, 2011. If you have any questions or concerns or would like to meet to discuss the City's plans, I can be reached at (408) 299-5127 or at neelima.palacherla@ceo.sccgov.org or you may contact Dunia Noel, LAFCO Asst. Executive Officer, at (408) 299-5148/ dunia.noel@ceo.sccgov.org. Thank for you for your time and consideration.

Sincerely,

Neelima Palacherla
LAFCO Executive Officer

Attachment:
Maps of Unincorporated Islands in City's Urban Service Area prepared by the Santa Clara County Planning Office

Cc:
Gary Luebbers, City Manager, City of Sunnyvale
Sunnyvale City Council Members
Jody Hall Esser, Director, Dept. of Planning & Development, Santa Clara County
LAFCO Members

Attachment G

CITY OF SUNNYVALE
CITY COUNCIL JOINT STUDY SESSION WITH PLANNING COMMISISON
REVISED SUMMARY
Discuss General Plan and Zoning of the "Butcher" Property at El Camino Real / Wolfe Road / Fremont Avenue
Location: West Conference Room
September 10, 2013

The City Council and Planning Commission met in joint study session at City Hall in the Council Chambers Room, 456 W. Olive Avenue, Sunnyvale, California on September 10, 2013, with Mayor Spitaleri presiding.

City Councilmembers Present:
Mayor Anthony (Tony) Spitaleri
Vice Mayor James Griffith
Councilmember Christopher Moylan
Councilmember David Whittum
Councilmember Jim Davis
Councilmember Tara Martin-Milius
Councilmember Patrick Meyering

City Councilmembers Absent:
None

Planning Commissioners Present:
Maria Dohadwala, Chair
Russell Melton, Vice Chair
Ken Olevson

Planning Commissioners Recused:
Glenn Hendricks
Gustav Larsson

Planning Commissioners Absent:
Bo Chang

City Staff Present:
City Manager, Gary Luebbers
City Attorney, Joan Borger
Assistant City Manager, Robert Walker
Director of Community Development, Hanson Hom
Planning Officer, Trudi Ryan
Senior Planner, Shaunn Mendrin
Senior Planner, Amber El-Hajj
Director of Public Works, Kent Steffens

Visitors/Guests Present:
Members of the public

Call to Order:
Mayor Spitaleri called the meeting to order at 5:48 p.m.

Study Session Summary:
Community Development Director, Hanson Hom presented information about the General Plan and Zoning of the former Butcher property, using a PowerPoint slide presentation.

Councilmembers asked questions, made comments and requested additional information; summarized below.

- Development scenarios under current county zoning and City R-3 zoning
- County deadline and fees association with island annexations
- Overview of the processes for a General Plan Amendment study, development review application and environmental analysis
- Clarification of Project Review Committee (PRC) and terms used to provide feedback to applicants
- Review of the R-3 zoning district and El Camino Real (ECR) combining zoning district development standards including number of housing units and maximum height
- Comments on the Grand Boulevard Initiative
- Clarification of what preliminary plan means in terms of details
- Review of the non-residential Floor Area Ratio (FAR) requirements for ECR
- Discussion of features that contribute to an "attractive street"
- Clarification on the genesis of the annexation effort

Public Comment:
Fourteen members of the public spoke about the Butcher property. Residents of nearby neighborhoods expressed concerns with the preliminary plans they had seen including: height, potential for graffiti, noise, effect on nearby property values, traffic quantity, flow & safety, effect of retail on Fremont Avenue, access to property from El Camino Real, distance to schools, impact to school enrollment, 300 year old oak tree, cumulative effects with other projects (e.g. Apple campus further south), and lack of transit friendly features. Residents suggested the Council: defer annexation, buy the property for a city park, revise the Precise Plan for El Camino Real and rezone to R-2. A couple of speakers expressed concern that there are other areas of the city where residents were ignored and noted that the issue is an intersection of rights (property owner and community). The property owner spoke expressing a desire to work with the community to achieve a plan that the community is satisfied with.

Adjournment:
Mayor Spitaleri adjourned the meeting at 7:07 p.m.

Respectfully submitted,
Trudi Ryan, Planning Officer

Attachment H

De Anza Properties

September 23, 2013

City of Sunnyvale
Honorable Mayor and City Council
456 W. Olive Avenue
Sunnyvale, CA 94088

Re: Butchers Corner

Dear Mayor Spitaleri and City Council Members:

I have met with the neighborhood. 75 people attended our weekend meetings; these people represented hundreds of residents from at least 5 or 6 associations. A unanimous consensus was reached on two items in particular. One is that Annexation should be delayed until the neighborhood understood its implications. My opinion is that this is a trust issue and granting the neighborhood the delay is a goodwill gesture. I, as the property owner request the same and I expect your thoughtful and kind consideration in this matter. Secondly all the neighbors strongly object to the requirement that commercial (retail) be mandated on this property. They think it creates undue traffic, does not fit this portion of El Camino and is just plain inappropriate for the site. Lastly they recognize that the commercial component increases the density, height, and bulk of the building.

I appreciate the opportunity to work with the neighbors. I think any council action to accommodate the items above will help us all move forward. The project we will apply for is going to change from our preliminary design and I ask that the city staff and council give us time to work out all other aspects of the project. As part of the next phase we intend on meeting with the directly impacted neighbors next door (King Fisher) to discuss the reduction in height, movement east of buildings and/or the entry and any shadow effect. This group is generally considerate and reasonable and I expect to make good progress.

While it is unusual the entire group wants to understand the traffic and they are asking us to provide technical studies. I think as the project changes we will provide this information. This neighborhood is well organized and very much together on reviewing this project. If the council unanimously accommodated both the reinterpretation of the commercial requirement and the annexation I think it would be a positively neutral political move that would earn appreciation for the present pro-business city Council. They all understand jobs, progress, and the eventual build out of the Butcher property.

Sincerely,

John Vidovich

960 N. San Antonio Road • Suite 114 • Los Altos, California 94022 • Phone: 650/209-3232

3. City Manager Recruitment Update by Avery Associates

Paul Kimura, Principal, Avery Associates, presented a report.

MOTION: Councilmember Meyering moved to delete the paragraph regarding salary, delete the benefits and deferred compensation, delete the paragraph that the city manager has to interact with and have positive engagement with the development community, delete the requirement that all applicants should have municipal management experience and add a bullet point regarding restoring the neglected infrastructure of transportation, law enforcement and parks.
Motion died for lack of a second.

4. RTC 13-240 Discussion and Possible Action on Adoption of Resolutions to Approve the Annexation of Two Island Areas Located within the City of Sunnyvale Urban Service Area but Currently under the County of Santa Clara's Jurisdiction (Central Expressway and Butcher's Corner), and a Finding of Categorical Exemption Under the California Environmental Quality Act

Director of Community Development Hanson Hom presented the staff report.

Councilmember Whittum disclosed he attended two community meetings and visited the site.

Public Hearing opened at 8:21 p.m.

John Vidovich, property owner, requested a delay in annexation to allow time to work with the neighborhood and requested Council make commercial optional and not required.

Steve Smith reiterated the points presented by John Vidovich.

Art Kushner expressed concerns regarding traffic congestion, school overcrowding and lack of compatibility with the surrounding neighborhood, and recommended postponing annexation.

Ed Cramer spoke in support of postponement of the annexation and optional commercial use.

Steve Sarette spoke in support of doing traffic studies and reducing the commercial FAR requirements, and recommended delaying annexation.

Holly Lofrgren spoke in support of staff’s recommendation to delay annexation and asked Council to direct staff to make non-residential optional.

Lenora Montoya-Heuchert, representing Ortega Park neighborhood, expressed concerns regarding traffic impacts in the area and at neighboring schools, and requested Council delay annexation and make non-residential optional for the property.

Dwight Davis spoke regarding the poor planning of LinkedIn, suggested 2,000 foot notification Citywide, and requested pictures of future buildings be put online.

Galen Davis stated agreement with earlier speakers regarding traffic impacts, the need for re-signalization, and impacts to school capacity. Davis stated he disagreed with earlier speakers with regard to commercial use of the property and spoke in support of commercial use with pedestrian infrastructure.

Mei-Ling Stefan urged Council to delay annexation until a study is done to revise the El Camino Real Precise Plan to include the option of removing the retail requirement at Butcher's Corner.

Ann Davis spoke in support of 2,000 foot notification Citywide with pictures of proposed projects and suggested Hexagon should be removed as the preferred vendor for traffic studies.

Don Haislet stated he doesn't believe the project applies to the El Camino Real Precise Plan, as Fremont is the road that would be impacted.

Tap Merrick suggested Council redo the node concept and suggested solving the traffic at El Camino and Fremont with a traffic circle.

Neil Citraro spoke regarding the difficulty of working with ECR zoning and spoke in support of adopting the policy and how to interpret the precise plan, and having applications reviewed on an individual basis.

Greg Malley spoke regarding the commercial requirement.

Steve Hoffman spoke regarding contributions by the developer to Council candidates and proposed $500 contribution limits.

Public Hearing closed at 8:51 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Davis seconded the motion to approve Alternatives 1, 2 and 4: 1) Find that the project is categorically exempt from CEQA pursuant to guideline 15319(a); 2) Adopt the resolution to approve the annexation of the Central Expressway Island Area (SV01); and 4) Postpone the annexation of the Butcher's Corner Island Area.

FRIENDLY AMENDMENT: Councilmember Davis offered a friendly amendment that the Council find that the inclusion of commercial operations at Butcher's Corner is not mandatory.

Vice Mayor Griffith expanded the motion to add an additional alternative that Council direct staff that until such a time as this can be more thoroughly studied, any zoning of residential plus ECR does not require commercial.

VOTE: 5 - 2 (Councilmembers Meyering and Moylan dissented)

Vice Mayor Griffith proposed a study issue to examine the commercial requirements or potentially lack thereof for properties zoned residential plus ECR.
Councilmember Moylan co-sponsored the study issue.

Update on Development Applications

In September 2014, the property owner submitted a formal application to redevelop the site. In response to community comments, the property owner revised the project to reduce the number of residential units from 211 to 153 (approximately thirty dwelling units per acre), with 6,936 square feet of retail/office use. The proposal includes three-story townhouses on the west side. A five-story multi-family residential building (with the retail/office on the first floor) is proposed along the frontage of El Camino Real; a multi-family residential building proposed for the Fremont Avenue frontage is seven stories. A copy of the latest plans is provided in Attachment 5 of the Report to Council.

The proposed project requires rezoning for all or a portion of the property from R-3/ECR to R-4/ECR, and approval of a Special Development Permit and Vesting Tentative Map. The applications are incomplete at this time and public hearings have not yet been scheduled. The proposed project and required approvals may change as the developer continues to update their plans.

Project Plans: While the project revisions to date have been positive, staff has remaining concerns with several aspects of the latest plans, including: 1) building heights and massing of the multi-family buildings on El Camino Real and Fremont Avenue; 2) the proposed reduced front setback along El Camino Real; and 3) the proposal to remove mature Oak trees.

> *Building Heights and Massing:* In staff's opinion, the massing of the five-story building facing El Camino Real needs to be further mitigated through a height reduction, additional wall setbacks or other architectural solutions. Additionally, the seven-story building facing Fremont Avenue does not provide an optimal step down relationship or transition with the nearby residential uses. Staff has provided suggestions to the applicant to reduce the height of the buildings to no more than four stories immediately adjacent to El Camino Real and Fremont Avenue. An additional story above four stories could be supported by staff with increased setbacks from the street to reduce the visual mass of the buildings and increase neighborhood compatibility. The applicant does not agree with staff's suggestions and has expressed interest in proceeding with the heights currently proposed.
>
> *Front Setback:* A minimum fifteen-foot front setback is required for residential structures, as measured from the back of sidewalk. For non-residential portions of buildings, no front setback is currently required. The building facing Fremont Avenue complies by providing the minimum required fifteen-foot front setback. The front setback along the retail/office portion of the building facing El Camino Real is ten feet, which is in compliance. However, the front setback for the remaining residential portion of the building is deficient and ranges from eight feet two inches to eleven feet three inches. In

staff's opinion, the front setback deficiency along El Camino Real further adds to the visual bulk and massing of the building and should be increased to minimum fifteen feet.

Trees: Staff has recommended that the applicant retain as many mature trees as possible. Perhaps the most significant tree, an existing healthy Valley Oak near the center of the site will be incorporated into the project, which is a positive feature of the project. However, the applicant proposes to remove the entire row of healthy Oak trees near the corner of El Camino Real and Wolfe Road. The City Arborist has noted that the trees appear to be mates to the Oak trees across Wolfe Road within the public right-of-way, and staff recommends that the trees be retained.

Adjacent Dental Building: The property owner has indicated that he is in under contract to purchase the adjacent two-story dental building at the corner of Wolfe Road and Fremont Avenue. The parcel is not part of the proposed project at this time. If the purchase occurs, the property owner has expressed interest in relocating the existing dental office into the designated retail/office tenant space facing El Camino Real. The property owner has submitted conceptual site and landscaping plans (see Attachment 3, Sheets A.1 and L.1), showing the dental parcel to be converted into additional usable open space. With the dental parcel, the overall density of the project would slightly decrease to twenty-nine dwelling units per acre.

Project Timeline: City Council decision on the proposed development applications would occur after the EIR has been certified (anticipated in March 2016) and after annexation is completed.

Planning Commission
July 13, 2015
7:00 p.m. – 8:00 p.m.

Study Session Summary:

Associate Planner, Noren Caliva-Lepe, presented information about the latest Butcher's Corner project plans using a PowerPoint slide presentation. Ms. Caliva-Lepe noted staff's concerns regarding building height and massing, reduced front setback along El Camino Real, and the request to remove mature Oak trees.

The applicant/property owner, John Vidovich of DeAnza Properties, noted potential benefits from the project, including possible street dedications for bike lanes on El Camino Real and a lane on Wolfe Road. Mr. Vidovich also expressed his intent to complete the purchase of the adjacent dental building at 895 E. Fremont Avenue and include the parcel as open space.

Planning Commissioners asked general questions about the annexation process and provided the following comments on the project:

- Four stories adjacent to the streets is more appropriate
- Need enhanced/distinctive architecture with varying building forms and styles
- Increase front setback on El Camino Real needed to reduce massing
- Break up building wall along El Camino Real
- Encourage oak trees to be preserved
- Plant large trees in front of the building facing El Camino Real
- Explore unbundled parking
- EIR should thoroughly analyze school impacts, including the ability for schools to accommodate new students
- Include potential school impact fees in future staff report

Public Comments:

Approximately 25 members of the public attended the Study Session. Six members of the public spoke and expressed concerns regarding building height, architecture, water, sewage, tree removal, front setback deficiency, spillover parking, school impacts, privacy impacts, historical preservation and traffic. Several residents also recommended that the City explore the option of downzoning to R-2.