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**CITY OF SAN JOSE
DEVELOPMENT SERVICES**

June 29, 2007

Darryl Boyd, Principal Planner
Department of Planning, Building, and Code Enforcement
City of San Jose
200 East Santa Clara Street, Tower, 3rd Floor
San Jose, CA 95113-1905

Re: Comments on the Coyote Valley Specific Plan DEIR

Dear Mr. Boyd:

Thank you for giving the Local Agency Formation Commission (LAFCO) of Santa Clara County the opportunity to comment on the City of San Jose's Draft Environmental Impact Report for the Coyote Valley Specific Plan (CVSP). The following comments are provided on behalf of the LAFCO in anticipation of receiving an Urban Service Area expansion request from the City of San Jose for the Coyote Valley Urban Reserve:

LAFCO IS A RESPONSIBLE AGENCY FOR THE CVSP

Page 10 of the Draft Environmental Impact Report (DEIR) identifies LAFCO as a responsible agency for approval of the Urban Service Area (USA) expansion, and annexation of the Coyote Valley Urban Reserve.

Page 9 of the DEIR indicates that the City and various responsible government agencies will use the EIR in conjunction with their role in reviewing, approving, and/or permitting various components of the CVSP. The extension of the Urban Service Area Boundary to Palm Avenue is listed as a component of the Coyote Valley Specific Plan and is a component that will require LAFCO's approval.

As a Responsible Agency, LAFCO complies with CEQA by considering the EIR prepared by the City of San Jose as Lead Agency and by reaching its own conclusion on

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whether and how to approve the project involved. In order for LAFCO to meet its CEQA requirement in consideration of the proposed USA expansion and annexation, the EIR must be adequate for use by LAFCO. The DEIR is not adequate for LAFCO purposes as explained herein.

DEIR IS INADEQUATE FOR LAFCO'S USE AS A RESPONSIBLE AGENCY

In general, the DEIR is incomplete and inadequate in terms of its discussion of the project's consistency with various relevant LAFCO Policies. It is also incomplete and inadequate in its discussion of impacts to agricultural resources and lacks consideration and analysis of associated performance standards and mitigation measures that could be used to address those impacts. Information on specific agricultural mitigation programs and approaches must be included in the EIR in order to inform the public, the City, and other public agencies, and is necessary for LAFCO's evaluation of an USA expansion request. Due to lack of this essential information in the current Draft, LAFCO requests that upon revision of the document, LAFCO be provided adequate time to review the Revised DEIR and to provide further comments if necessary.

CVSP IS NOT CONSISTENT WITH THE LONG-STANDING JOINT URBAN GROWTH AND DEVELOPMENT POLICIES

The Joint Urban Growth and Development Policies adopted by the County, LAFCO, and the 15 Cities favor urban infill and redevelopment over further significant expansion of the urbanized area, particularly where expansion would result in the loss of agricultural and open space resources. Since 1973, these Policies have guided the urban growth and development decisions of the County, LAFCO and the Cities within Santa Clara County. Given the amount of vacant and underutilized land currently within the City of San Jose and the fact that the CVSP Area consists almost entirely of agricultural lands, the CVSP is not consistent with these Joint Policies.

COMMENTS CONCERNING LAFCO POLICIES AND THE DEIR

LAFCO's Urban Service Area Boundary Policies Must Be Analyzed in the DEIR

The DEIR should include a detailed analysis of whether and how the project is consistent with LAFCO's Urban Service Area Amendment Policies (see Attachment A). To date, LAFCO has provided the City of San Jose with three letters (see Attachment B) requesting that the City address these specific Policies and other policies in the environmental document and yet the DEIR fails to address these Policies. The cursory

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discussion of the project's consistency with LAFCO's Annexation/Reorganization Policies, beginning on page 100 of the DEIR, must be expanded to address the project's consistency with LAFCO's USA Amendment Policies which are much more relevant to LAFCO's anticipated role in the project (i.e. considering an Urban Service Area expansion). Unless and until the City analyzes the correct set of LAFCO Policies, it is inappropriate for the DEIR to state that the CVSP would be consistent with existing LAFCO policies and conclude that the impact is less than significant (page 117, Impact LU-9).

LAFCO's Island Annexation Policies Must Be Analyzed in the DEIR

In February 2005, LAFCO adopted a set of Island Annexation Policies indicating that cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs (see Attachment C, specifically Policies #5 and #6). LAFCO is particularly concerned about the City's ability to annex and serve all of the unincorporated islands while potentially being simultaneously responsible for serving the CVSP Area. The City must address LAFCO's Island Annexation Policies as part of the DEIR.

LAFCO's Agricultural Mitigation Policies Must Be Analyzed in the DEIR

On April 4, 2007, LAFCO adopted Agricultural Mitigation Policies (see Attachment D), including Government Code Section 56064's definition of "prime agricultural lands." The purpose of these policies is to "provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands." The proposed CVSP involves the conversion of 2,270 acres of prime agricultural lands and impacts adjacent agricultural lands in the Greenbelt area. Therefore, the DEIR must include an analysis of the project's consistency with LAFCO's recently adopted Agricultural Mitigation Policies.

The DEIR states that the Agricultural Mitigation Policies are "advisory only" (page 101, first paragraph). This statement is misleading. The policies provide guidance to applicants on how agricultural mitigation should be provided. LAFCO, at its May 30, 2007 public hearing clarified that LAFCO will consider the impact to agricultural lands along with all other LAFCO policies when it reviews a proposal. For example, LAFCO's existing USA Amendment Policies discourage premature conversion of agricultural

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lands, guide development away from agricultural lands, and require the development of vacant lands within the city limits before agricultural lands are converted. In approving or denying a project, LAFCO will weigh and balance these multiple considerations, and make its decision on the totality of all the factors. LAFCO has the ability to deny a proposal if the application will not result in orderly growth and development based on LAFCO's policies. So LAFCO must have adequate information in the EIR to evaluate the compliance with LAFCO policies and state law and to make an informed decision. Please include this clarification within the DEIR in order to accurately inform the public, local agencies, and the City Council.

The DEIR does not adequately consider how the project will impact surrounding unincorporated lands planned or envisioned for agriculture (as required by CEQA, LAFCO's Urban Service Area Policies, and LAFCO's Agricultural Mitigation Policies), nor does it include any mitigations for this impact. The project as proposed would create a situation where urban development interfaces with agricultural and rural lands located within the "Greenbelt," thus setting up a potential conflict. Mitigations to be considered for reducing this conflict include feathering densities, selecting land uses that will have the least likely potential to create a conflict, implementing design guidelines, and requiring effective buffers within the Specific Plan Area. Furthermore, the City should consider adopting a City Right to Farm Ordinance (e.g. City of Davis' Right to Farm Ordinance) rather than rely on the County's Right to Farm Ordinance. This will ensure that potential landowners are fully informed of the rights of those in the vicinity to lawfully conduct agricultural operations. LAFCO, as part of the USA Amendment review process, needs information on how the City will protect adjoining agricultural lands in order to prevent their premature conversion to other uses and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses.

Impacts to Agricultural Lands and Planned Mitigations Must Be Analyzed in this DEIR

As indicated by Darryl Boyd, **Principal Planner for the City of San Jose**, via a June 7, 2007 email sent to LAFCO staff, the DEIR is a "hybrid" of program and project EIR depending on the circumstances and particular project being considered. Mr. Boyd also indicated that a determination on the need for further environmental review would be made on a case by case basis and that the City staff's expectation at this point in time is

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that the CVSP EIR would be the document submitted to LAFCO with the USA/Annexation application.

Implementation of the CVSP will result in the loss of over 2,270 acres of prime farmland. This magnitude of loss due to a single project is unprecedented in Santa Clara County and unprecedented for LAFCO of Santa Clara County. LAFCO has strong policies aimed at discouraging the premature conversion of agricultural lands and encouraging the preservation of prime agricultural lands. It appears that the City is deferring the formulation of specific mitigation strategies until some future point in time. This deferral is problematic for LAFCO because LAFCO will be unable to properly consider the City's Urban Service Area/Annexation request without a firm understanding of how the City will mitigate for this loss of agricultural resources. Since the City does not at this time anticipate any additional CEQA documentation for the USA expansion, it must formulate and commit to specific mitigation measures within the DEIR.

CEQA Requires that EIRs Include Specific Mitigation Measures and/or Performance Standards/Standards of Significance

In general, an agency (the City, LAFCO, or other agencies) should not rely on a mitigation measure of unknown efficacy. Although CEQA allows for some deferral, it is only permissible where the adopted mitigation measure both:

- Commits the agency to a realistic performance standard/standards of significance or criteria that will ensure the mitigation of the significant effect; and
- Disallows the occurrence of physical change to the environment unless the performance standard is or will be satisfied.

The DEIR does not clearly specify what performance standard the City will use in order to ensure the mitigation of significant impacts to agricultural resources and what measure(s) the City will use in order to make further approvals contingent on satisfying that performance standard.

During the process of developing its agricultural mitigation policies, LAFCO identified several concerns with using the California Land Evaluation Site Assessment (LESA) Model for evaluating impacts to agricultural lands. In analyzing the USA expansion

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request, LAFCO will require consideration of project impacts on agricultural lands and prime farmland as specified in Government Code Section 56064 and LAFCO Policies.

Additionally, the DEIR (page 106) also states that the proposed project would be required to comply with future CVSP Design Guidelines and that implementation of these future CVSP Design Guidelines would reduce the likelihood that significant land use compatibility impacts would occur and therefore concludes that development in accordance with future CVSP would reduce these impacts to a less than significant level (page 107). LAFCO fails to see how the DEIR can conclude based on non-existent CVSP design guidelines that the impacts will be less than significant. Furthermore, if the City's existing design guidelines do not address the specific type of conflicts (i.e. agricultural/high density urban edge conflicts) that are likely to occur as a result of this project, then these guidelines are not an adequate CEQA performance threshold for this project.

Water Supply Discussion is Inadequate for LAFCO's Purposes, Some Environmental Conclusions Lack Foundation and LAFCO's USA Policies Regarding Water Supply Must be Analyzed in the DEIR

The DEIR's discussion of water supply for the CVSP indicates that the proposed methods of water supply are uncertain, particularly long-term. The feasibility of many of the proposed options also appears to be questionable. One of the preferred options identified in the DEIR is the installation of groundwater recharge basins in the Greenbelt area of the South Coyote Valley. However, the DEIR does not identify a specific location within the Greenbelt for these recharge basins. Therefore, the DEIR's conclusion that the impacts associated with the option will be at a less than significant level is premature without further detailed environmental analysis.

Furthermore, LAFCO's Urban Service Area Amendment Policies include several policies (see Attachment A: Policies #10a -10f) directly related to water supply. The DEIR should identify and address these policies. LAFCO requires evidence that an adequate water supply is available to the amendment area and that water proposed to be provided to the new area does not include supplies that are 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:

- The city's plan for water service to the area and statement of existing water supply in terms of number of service units 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

- 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
- Whether the city is capable of providing adequate services when needed to areas already in the city, in the City's Urban Service Area that have not yet developed
- If capacity is not reserved for unserved property within the city and its Urban Service Area boundary, the current estimates of potential unserved properties and related water supply needs
- 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.
- Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water.

Furthermore, the DEIR does not adequately evaluate long-term water sources necessary to serve the project under build-out conditions. The DEIR should:

- Address the full build-out of the project, including impacts associated with providing infrastructure and services necessary to serve the project at build-out;
- Describe other projects that may be competing for long-term water supply;
- Acknowledge level of uncertainty and if there is uncertainty, the DEIR should discuss other sources and impacts associated with those sources and impacts associated with ceasing development prior to build out;
- Identify all significant impacts associated with using that water supply and impacts associated with using other potential sources;
- Discuss mitigation measures for all significant impacts; and
- Make findings for each alternative water supply.

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Revised EIR Should Be Re-circulated For Further Review and Comment, Particularly to Responsible Agencies

As a Responsible Agency, LAFCO complies with CEQA by considering the EIR prepared by the City of San Jose and by reaching its own conclusion on whether and how to approve the project involved. In order for LAFCO to meet its CEQA requirement, LAFCO must have an adequate environmental document. To reiterate, the DEIR is inadequate in its discussion of the project's consistency with various relevant LAFCO Policies and is inadequate in its discussion of impacts to agricultural resources and in providing the associated performance standards and mitigation measures that the City will employ in order to address those impacts. Therefore the DEIR, as it is now, is not adequate for LAFCO's use as a Responsible Agency. LAFCO requests that the document be revised to correct these shortcomings and upon revision of the document, and that LAFCO be provided adequate time to review the revised document and provide further comments if necessary. If you have any questions regarding these comments, you can reach me at (408) 299-5127 or may contact Dunia Noel, LAFCO Analyst, at (408) 299-5148. Thank you for your time and attention.

Sincerely,

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Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County

cc: LAFCO Members
California Department of Conservation

Attachments

- A. LAFCO's Urban Service Area Amendment Policies
- B. Previous Letters from LAFCO Regarding CVSP Project and NOP
- C. LAFCO's Island Annexation Policies
- D. LAFCO's Agricultural Mitigation Policies

Effective January 1, 2003

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 require application of an appropriate general plan designation to territory proposed for inclusion in an Urban Service Area.
2. 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.
3. 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. 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 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.

June 30, 2005

Darryl Boyd, Principal Planner
San Jose Planning Department
City of San Jose
801 N. First Street
San Jose, CA 95110-1704

Re: Comments on the Scope of the EIR for San Jose's Coyote Valley Specific Plan (CVSP)

Dear Mr. Boyd:

Thank you for providing the Local Agency Formation Commission of Santa Clara County (LAFCO) with the opportunity to provide input on the scope and content of environmental information to be addressed in the Environmental Impact Report (EIR) for the Coyote Valley Specific Plan.

The current scoping and preparation period for the Draft Environmental Impact Report provides an opportunity for LAFCO to inform the City about the issues that LAFCO will be considering as part of the Urban Service Area amendment and annexation process. LAFCO provides these preliminary comments to the City at this time, so that the City can consider them during the fiscal and environmental impacts analysis process and address them in the Coyote Valley Specific Plan.

BACKGROUND

LAFCO staff has been attending the Coyote Valley Specific Plan community workshops and participating on the CVSP Technical Advisory Committee in order to stay informed about the development of the specific plan and to provide input where appropriate.

According to City staff:

- The City Council is tentatively expected to consider adopting the CVSP in Spring 2006. Once the CVSP is adopted, the City then plans to apply to LAFCO to expand its Urban Service Area boundary and to annex the mid-Coyote Urban Reserve in Winter 2006,

- The City will be preparing an Environmental Impact Report (EIR) for the CVSP and expects to start the scoping and preparation of the Draft Environmental Impact Report (DEIR) for CVSP this summer (June 2005), and to circulate the DEIR for public review and comment in Fall 2005, and
- The City also plans to use the CVSP Final EIR when they apply to LAFCO for an Urban Service Area amendment and annexation.

In October 2004, the Local Agency Formation Commission of Santa Clara County (LAFCO) provided preliminary comments to the City of San Jose regarding the issues that LAFCO will consider during the urban service area amendment and annexation process for Coyote Valley. We request that the EIR for the Coyote Valley Specific Plan address the following issues in anticipation of the City's request to expand its Urban Service Area Boundary in order to implement the Coyote Valley Specific Plan:

ISSUES OF CONCERN TO LAFCO BASED ON PRELIMINARY REVIEW

Project's Consistency With LAFCO's Objectives

As part of the USA and annexation review process, LAFCO staff will be evaluating whether the project is consistent with LAFCO's four primary objectives. These objectives are as follows:

- Encourage the orderly formation of local governmental agencies,
- Preserve agricultural land and open space resources,
- Discourage urban sprawl, and
- Encourage the efficient provision of services.

LAFCO of Santa Clara County has adopted local policies based on the above objectives. Furthermore, LAFCO has adopted specific policies for Urban Service Area (USA) amendments and annexations (See Attachment A). The following comments are in light of LAFCO's Urban Service Area amendment policies:

Loss of Agricultural Lands and City's Plans for Mitigating That Loss

Development of the Coyote Valley will result in the conversion of thousands of acres of prime agricultural land. LAFCO policies discourage USA expansions that include agricultural and open space land. LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. As part of the USA amendment process, 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.

LAFCO's policies state that mitigation measures could 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.

Evidence That An Adequate Water Supply is Available to USA Amendment Area

City staff has indicated that discussions are occurring between the City and potential water suppliers to determine water supply options for the CVSP. LAFCO will require evidence that an adequate water supply is available to the amendment area and that water proposed to be provided to the new area does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already committed for city water services.

Addressing Local and Regional Impacts of Proposed USA Amendment

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 USA amendment:

- The ratio of lands planned for residential use to lands planned for employment-producing use;
- The existence of adequate regional and local transportation capabilities to support the planned city growth;
- The ability of the city to provide urban services to the growth areas (both lands within the city, as well as lands within San Jose's USA boundary) without detracting from current service levels; and
- The project's fiscal impact on schools and the ability of school districts to provide school facilities.

Addressing Affordable Housing Needs as Part of the CVSP

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 specifically consider 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,
- Consolidated Plans for Housing and Community Development, and
- ABAG's regional housing needs assessment and related policies.

City's Inventory of Vacant Lands Within its Urban Service Area

LAFCO will require current information on the amount of vacant lands located in San Jose's Urban Service Area. If a city has a substantial supply of vacant land within its Urban Service Area and applies for an USA 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.

City's Efforts to Annex Urban Unincorporated Islands Existing With Their Current USA

In February 2005, LAFCO adopted a set of Island Annexation Policies indicating that cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs (see Attachment B, specifically Policies #5 and #6). We request that the City address this new set of policies as part of the environmental analysis process as well as all applicable LAFCO policies.

LAFCO WILL CONTINUE TO PROVIDE INPUT WHERE APPROPRIATE

LAFCO staff will continue to attend the Coyote Valley Specific Plan community workshops and participate on the CVSP Technical Advisory Committee in order to stay informed and to provide input where appropriate. If you have any questions regarding these comments, you can reach me at (408) 299-5127 or contact Dunia Noel, LAFCO Analyst, at (408) 299-5148. Thank you.

Sincerely,



Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: Coyote Valley Specific Plan Task Force
LAFCO Members

Attachment s

- A. LAFCO's Urban Service Area Amendment Policies
- B. LAFCO's Island Annexation Policies

June 20, 2005

Honorable Ron Gonzales and
Members of the Coyote Valley Specific Plan Task Force
c/o Sal Yakubu, Principal Planner
City of San Jose
801 N. First Street
San Jose, CA 95110-1704

Re: CVSP Timing and Logistical Requirements Discussion

Dear Mayor Gonzales and Coyote Valley Specific Plan Task Force Members:

The letter is in regard to the April 28, 2005 memo from Mayor Ron Gonzales and Councilmember Forrest Williams concerning CVSP Timing and Logistical Requirements. LAFCO has reviewed this memo and has a few comments concerning some of the ideas and concepts discussed in the memo.

LAFCO staff has been attending the Coyote Valley Specific Plan community workshops and participating on the CVSP Technical Advisory Committee in order to stay informed about the development of the specific plan and to provide input where appropriate and in anticipation of the City's plans to apply to LAFCO for an Urban Service Area expansion and annexation of Central Coyote Valley.

We agree that permanent protection of the South Coyote Greenbelt and Greenbelt permanence should be an extremely high priority. Furthermore, we agree that the Coyote Valley Specific Plan should include mechanisms to facilitate the permanent protection of the Greenbelt.

Development of the Coyote Valley will result in the conversion of thousands of acres of prime agricultural land. LAFCO policies discourage USA expansions that include agricultural and open space land. LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. As part of the USA amendment process, 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.

Some of the ways (as stated in LAFCO policies) to mitigate for this loss include, but are not limited to: 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.

As mentioned earlier, development of the Coyote Valley will result in the conversion of thousands of acres of prime agricultural land. Therefore, any agricultural lands converted to urban uses would result in the loss of agricultural land, irrespective of whether these lands are developed as residential, industrial, commercial, public, or institutional uses. We believe this loss must be mitigated.

LAFCO WILL CONTINUE TO PROVIDE INPUT WHERE APPROPRIATE

LAFCO staff will continue to attend the Coyote Valley Specific Plan community workshops and participate on the CVSP Technical Advisory Committee in order to stay informed and to provide input where appropriate. If you have any questions regarding these comments, you can reach me at (408) 299-5127. Thank you.

Sincerely,

Handwritten signature of Neelima Palacherla in black ink, with a stylized initial 'NP' to the right.

Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: Coyote Valley Specific Plan Task Force
LAFCO Members

Attachment

LAFCO's Urban Service Area Amendment Policies

October 20, 2004

Members of the Coyote Valley Specific Plan Task Force
c/o Sal Yakubu, Principal Planner
City of San Jose
801 N. First Street
San Jose, CA 95110-1704

Re: Preliminary Comments on San Jose's Coyote Valley Specific Plan (CVSP)

Dear Coyote Valley Specific Plan Task Force Members:

At its October 13, 2004 meeting, the Local Agency Formation Commission of Santa Clara County (LAFCO) directed staff to provide preliminary comments to the City of San Jose regarding the issues that LAFCO will consider during the urban service area amendment and annexation process for Coyote Valley.

BACKGROUND

LAFCO staff has been attending the Coyote Valley Specific Plan community workshops and participating on the CVSP Technical Advisory Committee in order to stay informed about the development of the specific plan and to provide input where appropriate.

According to City staff:

- The City Council is tentatively expected to consider adopting the CVSP in December 2005. Once the CVSP is adopted, the City then plans to apply to LAFCO to expand its Urban Service Area boundary and to annex the mid-Coyote Urban Reserve in early 2006,
- The City will be preparing an Environmental Impact Report (EIR) for the CVSP and expects to start the scoping and preparation of the Draft Environmental Impact Report (DEIR) for CVSP this fall (October 2004), and to circulate the DEIR for public review and comment in Spring 2005, and
- The City also plans to use the CVSP Final EIR when they apply to LAFCO for an Urban Service Area amendment and annexation.

LAFCO believes that the current scoping and preparation period for the Draft Environmental Impact Report provides an opportunity for LAFCO to inform the

City about the issues that LAFCO will be considering as part of the Urban Service Area amendment and annexation process. LAFCO provides these preliminary comments to the City at this time, so that the City can consider them during the fiscal and environmental impacts analysis process and address them in the Coyote Valley Specific Plan.

ISSUES OF CONCERN TO LAFCO BASED ON PRELIMINARY REVIEW

Project's Consistency With LAFCO's Objectives

As part of the USA and annexation review process, LAFCO staff will be evaluating whether the project is consistent with LAFCO's four primary objectives. These objectives are as follows:

- Encourage the orderly formation of local governmental agencies,
- Preserve agricultural land and open space resources,
- Discourage urban sprawl, and
- Encourage the efficient provision of services.

LAFCO of Santa Clara County has adopted local policies based on the above objectives. Furthermore, LAFCO has adopted specific policies for Urban Service Area (USA) amendments and annexations (See attachment). The following are its comments in light of LAFCO's Urban Service Area amendment policies:

Loss of Agricultural Lands and City's Plans for Mitigating That Loss

Development of the Coyote Valley will result in the conversion of thousands of acres of prime agricultural land. LAFCO policies discourage USA expansions that include agricultural and open space land. LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. As part of the USA amendment process, 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.

LAFCO's policies state that mitigation measures could 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.

Evidence That An Adequate Water Supply is Available to USA Amendment Area

City staff has indicated that discussions are occurring between the City and potential water suppliers to determine water supply options for the CVSP. LAFCO will require evidence that an adequate water supply is available to the amendment area and that water proposed to be provided to the new area does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already committed for city water services.

Addressing Local and Regional Impacts of Proposed USA Amendment

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 USA amendment:

- The ratio of lands planned for residential use to lands planned for employment-producing use;
- The existence of adequate regional and local transportation capabilities to support the planned city growth;
- Ability of the city to provide urban services to the growth areas (both lands within the city, as well as, lands within San Jose's USA boundary) without detracting from current service levels; and
- The project's fiscal impact on schools and the ability of school districts to provide school facilities.

Addressing Affordable Housing Needs as Part of the CVSP

LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. Specifically, LAFCO will consider 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.

City's Inventory of Vacant Lands Within its Urban Service Area

LAFCO will require current information on the amount of vacant lands located in San Jose's Urban Service Area for the various zoning designations. If a city has

a substantial supply of vacant land within its Urban Service Area and applies for an USA 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.

LAFCO WILL CONTINUE TO PROVIDE INPUT WHERE APPROPRIATE

LAFCO staff will continue to attend the Coyote Valley Specific Plan community workshops and participate on the CVSP Technical Advisory Committee in order to stay informed and to provide input where appropriate. If you have any questions regarding these comments, you can reach me at (408) 299-5127. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "N Palacherla", with a small flourish above the name.

Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: Coyote Valley Specific Plan Task Force
LAFCO Members

Attachment

LAFCO's Urban Service Area Amendment Policies

ISLAND ANNEXATION POLICIES

1. In order to fulfill the intent of the state legislature and implement the joint urban development policies of the cities, County and LAFCO, and in the interests of efficient service provision and orderly growth and development, the cities should annex unincorporated urban islands.
2. LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands.
3. LAFCO will provide a 2-year LAFCO fee waiver for annexations that result in the elimination of entire unincorporated islands. The current LAFCO fee is \$670 for each annexation area. This fee waiver will expire on January 1, 2007.
4. Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than conducting single parcel annexations.
5. In the interests of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs.
6. Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:
 - a. Initiate and complete annexation proceedings pursuant to Government Code Section 56375.3(a)(1), for all unincorporated islands that meet the provisions of Government Code Section 56375.3, unless the island constitutes publicly owned land, and,
 - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for the islands after holding community meetings, to apply a pre-zoning designation and to adopt resolutions to initiate annexation.
7. LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
8. LAFCO will provide information on the island annexation procedures to each of the cities. LAFCO will develop process flow charts and public hearing notice / resolution templates for cities to use. LAFCO staff will conduct workshops on island annexation process for city staff.
9. LAFCO will work with the County, the cities and other interested parties/agencies to find ways to reduce or share the cost of processing unincorporated island annexations.
10. LAFCO staff will report to the Commission at each LAFCO meeting on the status of each city's island annexation efforts.

Adopted February 9, 2005

AGRICULTURAL MITIGATION POLICIES

Background

LAFCO's mission is to encourage orderly growth and development, discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with other factors in its evaluation of proposals. LAFCO's Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

Purpose of Policies

The purpose of these policies is to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands.

General Policies

1. LAFCO recommends provision of agricultural mitigation as specified herein for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policy #6. Variation from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.
2. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies.
3. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with these policies.
4. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.

5. LAFCO will review and revise these policies as necessary.

Definition of Prime Agricultural Lands

6. "Prime agricultural land" as defined in the Cortese Knox Hertzberg Act means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:
 - a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
 - b. Land that qualifies for rating 80 through 100 Storie Index Rating.
 - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
 - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
 - e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

Mitigation Recommendations

7. Proposals involving the conversion of prime agricultural lands should provide one of the following mitigations at a not less than 1:1 ratio (1 acre preserved for every acre converted) along with the payment of funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and maintenance of agriculture on the mitigation lands:
 - a. The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
 - b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.

- c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund*:
 - 1. The cost of acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
 - 2. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of maintaining agriculture on the mitigation lands.

* with provisions for adjustment of in-lieu fees to reflect potential changes in land values at the time of actual payment
- 8. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity should be located in Santa Clara County and be lands deemed acceptable to the city and entity.
- 9. The agricultural mitigation should result in preservation of land that would be:
 - a. Prime agricultural land of substantially similar quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, and
 - b. Located within cities' spheres of influence in an area planned/envisioned for agriculture, and
 - c. That would preferably promote the definition and creation of a permanent urban/agricultural edge.
- 10. Because urban/non-agricultural uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. Examples of such measures include, but are not limited to:
 - a. Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
 - b. Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.
 - c. Development of programs to promote the continued viability of surrounding agricultural land.

Agricultural Conservation Entity Qualifications

11. The agricultural conservation entity should be a city or a public or non-profit agency. LAFCO encourages consideration of agricultural conservation entities that:
 - a. Are committed to preserving local agriculture and have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
 - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
 - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and are operating in compliance with those standards.

Timing and Fulfillment of Mitigation

12. LAFCO prefers that agricultural mitigation be in place at the time of LAFCO approval or as soon as possible after LAFCO approval. The mitigation (as detailed in the Plan for Mitigation) should be fulfilled no later than at the time of city's approval of the final map, or issuance of a grading permit or building permit, whichever occurs first.
13. Cities should provide LAFCO with information on how the city will ensure that the agricultural mitigation is provided at the appropriate time.
14. Cities should provide LAFCO with a report on the status of agricultural mitigation fulfillment every year following LAFCO approval of the proposal until the agricultural mitigation commitments are fulfilled.
15. The agricultural conservation entity should report annually to LAFCO on the use of the in-lieu fees until the fees have been fully expended.

Plan for Mitigation

16. A plan for agricultural mitigation that is consistent with these policies should be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO. The plan for mitigation should include all of the following:
 - a. An agreement between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property owner(s) to provide the mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation. Upon LAFCO approval of the proposal, the agreement should be recorded with

the County Recorder's office against the property to be developed. The agreement should specify:

1. The type of mitigation that will be provided in order to mitigate for conversion of agricultural lands. (purchase of fee title or easement or payment of in-lieu fees)
 2. The agricultural conservation entity that will be involved in holding the lands, easements, or in-lieu fees.
 3. The acreage that would be preserved through mitigation and /or the amount of in-lieu fees that would be paid (with provisions to adjust fees to reflect land values at time of payment) along with the methodology adopted by the entity for calculating the in-lieu fees.
 4. The location of the mitigation lands, when possible.
 5. Information on the specific measures adopted by the city as encouraged in Policy #10 (mitigation for impacts to adjacent agricultural lands)
 6. The time-frame within which the mitigation will be fulfilled, which should be no later than at the time of city's approval of the final map, or issuance of the grading permit or building permit, whichever occurs first.
 7. The mitigation agreement is to be contingent on LAFCO approval of the proposal.
- b. Applicant should provide all other supporting documents and information to demonstrate compliance with these policies.