

SAN BENITO LOCAL AGENCY FORMATION COMMISSION

REGULAR MEETING AGENDA

Thursday, June 11, 2020 – 6:00 P.M.

Board of Supervisors Chambers
481 Fourth Street, Hollister CA

THE ATTENDANCE AT THE MEETING IS CLOSED TO THE PUBLIC PER EXECUTIVE ORDER N-29-20. The public may join meeting by Zoom: <https://zoom.us/join> per instructions below:

1. Call to Order and Roll Call
2. Recitation of the Pledge of Allegiance
3. Approve Affidavit of Posting Agenda

TEMPORARY PROCEDURES FOR LAFCO COMMISSION MEETING:

Pursuant to California Governor Gavin Newsom's Executive Order N-29-20 issued on March 17, 2020, relating to the convening of public meetings in response to the COVID-19 pandemic, attendance at LAFCO meetings is closed to the public. Additionally, members of the Boards and Commissions are allowed to attend the meeting via teleconference and to participate in the meeting to the same extent as if they were present.

Members of the public are encouraged to participate in Board meetings in the following ways:

ZOOM INSTRUCTIONS FOR REMOTE PARTICIPANTS:

Three ways to attend zoom meetings: over the phone, on a web browser, or through the Zoom App. Each meeting will have a meeting ID, which is a unique number associated with an instant or scheduled meeting.

1. **Over the phone (Audio Only):** (669) 900-6833 or (408) 638-0968.
2. **Open the Web-browser:** <https://zoom.us/join>
3. **Smart Device Application:**
 - *Apple App store: <https://apps.apple.com/us/app/id965-9271-2370>, Password: 762430
 - *Android App store:
<https://play.google.com/store/apps/details?id=us.zoom.videomeetings>

Zoom Audio Only (phone)

If you are calling in as audio-only, please dial (669) 900-6833 or (408) 638-0968.

1. It will ask you to enter the Meeting ID **#965-9271-2370, Password: 762430**, followed by the "#" key, which can be found at the top page of the agenda. The meeting agenda can be found at <http://cosb.us/>

Commissioners: Mark Medina, Chair ♦ Ignacio Velazquez, Vice Chair ♦ Richard Bettencourt ♦ Cesar Flores ♦ Jim Gillio

Alternate Commissioners: Peter Hernandez ♦ Elia Salinas ♦ Rolan Resendiz **Executive Officer:** Bill Nicholson

2. It will then ask for a **Participant ID**, press the “#” key to continue.
3. Once you enter the zoom meeting, you will automatically be placed on mute.
Zoom On Web-browser or Zoom app on Tablet or Smartphone
 If joining through web-browser launch: <https://zoom.us/join> or launch the Zoom app on your Tablet or Smartphone
 1. Select “JOIN A MEETING”
 2. The participant will be prompted to enter **Meeting ID #965-9271-2370**, **Password: 762430** and name to join the meeting. Which can be found at the top page of the agenda. The meeting agenda can be found at <http://cosb.us/>
 3. Participant can launch audio through their computer or set it up through the phone.

PUBLIC COMMENT

4. **Public Comment:** select the “Participants Tab” and click “Raise hand” icon, the zoom facilitator will unmute you when your turn arises.

CONSENT AGENDA

5. Approval of minutes: May 14, 2020

BUSINESS ITEMS – PUBLIC HEARING ITEM

6. LAFCO 533 – Gonzalez Annexation No. 2 to the City of Hollister: Involving the annexation of approximately 12.1 acres of property into the City for future residential development. The property is located on the north side of Buena Vista Road, north of the extension of Vista View Lane, and approximately 500 feet west of Gonzales Drive (Assessor's Parcel Number 019-110-031). The actions requested are to make a determination that the Commission has reviewed and considered the City's Initial Study/Mitigated Negative Declaration prepared by the City of Hollister, and that there are no mitigation measures for the Commission to adopt, and to approve the annexation, and authorize LAFCO staff to complete the proceedings without further notice, hearing or election.

INFORMATIONAL

7. Commissioner Announcements and Requests for Future Agenda Items
8. LAFCO Counsel oral report on question regarding the Executive Officer's Contract raised at the May 14, 2020 Commission Meeting
9. Executive Officer oral status report on pending proposals
10. Adjourn to next regular meeting on July 9, 2020, unless cancelled by Commission Chair.

Disclosure of Campaign Contributions – LAFCO Commissioners are disqualified and are not able to participate in proceedings involving an “entitlement for use” if, within the 12 months preceding the LAFCO decision, the Commissioner received more than \$250 in campaign contributions from the applicant, an agent of the applicant or an financially interested person who actively supports or opposes the LAFCO decision on this matter.

Those who have made such contributions are required to disclose that fact for the official record of the proceedings. Disclosures must include the amount of the contribution and the recipient Commissioner and may be made either in writing to the Executive Officer of the Commission prior to the hearing or by an oral declaration at the time of the hearing.

The foregoing requirements are set forth in the Political Reform Act of 1974, specifically in Government Code section 84308.

Disability Accommodations - Persons with a disability who require any disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the meeting are asked to contact the LAFCO office at least three (3) days prior to the meeting by telephone at 831/637-5313 or by email at jslibsager@cosb.us.

*LOCAL AGENCY FORMATION COMMISSION
2301 Technology Parkway
Hollister, CA 95023*



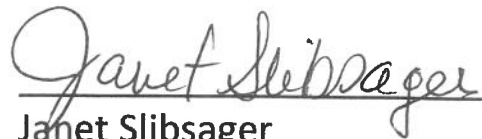
CERTIFICATE OF POSTING

Pursuant to Government Code § 59454.2(a) I, Janet Slibsager, Clerk of the Board of Supervisors, certify that the REGULAR MEETING AGENDA for the

SAN BENITO COUNTY LOCAL AGENCY FORMATION COMMISSION

Scheduled for June 11, 2020 was posted at the San Benito County Planning Department, 2301 Technology Parkway, Hollister, CA and at the San Benito County Administration Office, 481 Fourth Street, Hollister, CA on this 5th Day of June, 2020.

All locations freely accessible to the general public.



Janet Slibsager

Clerk of the Board of Supervisors

CONSENT AGENDA

5. Approval of minutes: May 14, 2020 meeting.



**SAN BENITO LOCAL AGENCY FORMATION
COMMISSION
MINUTES OF MEETING**

May 14, 2020

Board of Supervisors Chambers - Hollister, CA

CALL TO ORDER

1. Chair Mark Medina called the meeting to order at 6:00 p.m. Those present were Executive Officer Bill Nicholson and Commissioners: Cesar Flores (joined after Item #10 started), Mark Medina, Richard Bettencourt, Jim Gillio, and Ignacio Velazquez. Also present were Barbara Thompson and Reed Gallogly, LAFCO Counsel, and Janet Slibsager, Recording Secretary.
2. Commissioner Bettencourt led the Pledge of Allegiance.

3. **APPROVE AFFIDAVIT OF POSTING AGENDA**

Commissioner Gillio made a motion to accept the Affidavit of Posting, Commissioner Bettencourt seconded.

*Ayes: Medina, Gillio, Bettencourt, and Velazquez
Noes: None
Abstain: None
Absent: Flores*

PUBLIC COMMENT

4. **Public Comment Period:** There was no one from the public who wished to speak.

CONSENT AGENDA

5. **Approval of minutes: April 15, 2020**

Commissioner Bettencourt made a motion to approve the minutes of April 15, 2020, Commissioner Gillio seconded.

*Ayes: Medina, Gillio, Bettencourt, Velazquez
Noes: None
Abstain: None
Absent: Flores*

BUSINESS ITEMS- PUBLIC HEARING ITEMS

6. Approval of the Final Fiscal Year 2020-21 Budget

Executive Officer Bill Nicholson provided information on the proposed budget at the April 15th meeting. No changes have been requested from the public or outside agency. The budget reflects increases in the CALAFCO Membership, proposed registration for the CALAFCO Conference in Monterey, CA, cost plan by the County, and cost of living increase for the executive officer.

Commissioner Betterncourt had a question for County Counsel if Mr. Nicholson is an independent contractor and if he is exempt from being an employee under recent changes in state law.

Reed Gallogly from County Counsel provided information on an independent contractor and that it does not change any factors for LAFCO

Barbara Thompson from County Counsel also provided additional information on independent contractors.

Chair Medina asked Mr. Nicholson who checks his hours when he turns in his time sheet.

Mr. Nicholson provided information that he only bills hours that he has worked and the RMA Director signs off on his time sheet.

Chair Medina opened up public comment.

There was no one from the public who wished to speak.

Commissioner Gillio made a motion to approve Final Fiscal Year 2020-21 Budget, Commissioner Bettencourt seconded.

Ayes: Medina, Velazquez, Bettencourt, Gillio
Noes: None
Abstain: None
Absent: Flores

BUSINESS ITEMS- NON-HEARING ITEMS

7. First Amendment to the Contract for Executive Officer Services for a cost of living increase

Executive Officer Bill Nicholson provided information regarding the cost of living increase for the annual inflation adjustment. He brought it forward with the budget.

Commissioner Gillio commented that Mr. Nicholson performance is great and has no reflection personally but would like to bring this back at a later date due to the current circumstances.

Commissioner Bettencourt agrees with Commissioner Gillio.

Commissioner Velazquez supports the increase.

Commissioner Medina commented that he cannot support the increase and it has nothing to do with his performance but because of the time we are in. He would like this to be brought back at a later date.

Commissioner Bettencourt wanted to know if they could furlough the meetings for four months in favor of the increase by cutting back the meetings.

Commissioner Medina responded that Mr. Nicholson gets paid for the work done regardless if he is at a meeting or not. A lot of the work is done before and after meetings.

Mr. Nicholson responded that LAFCO is unique, items are done on a timely basis and applicants want items heard as soon as possible. Pushing meetings back to hold items would not be ideal.

Barbara Thompson from County Counsel looked at the AB5 criteria and will do additional research and will report back at the next meeting.

Commissioner Medina opened up public comment.

Elia Salinas agrees with Commissioner Gillio and Chairman Medina that this is not the right time. The rate increase cannot be justified by the public while there is in an economic crisis. Bringing back this item at another time is a better idea. She would like to see what January looks like and bring the item back then.

Commissioner Gillio made a motion to officially bring back in January 2021, Commissioner Bettencourt seconded.

Ayes: Medina, Gillio, Bettencourt
Noes: Velazquez
Abstain: None
Absent: Flores

8. Update on Legislation proposed by or monitored by the California Association of Local Agency Formation Commissions (CALAFCO)

Executive Officer Bill Nicholson provided information on the State Legislation that it has had a lot of delays because of COVID-19 and the Legislative has just gone back into session. Three bills were discussed that would be beneficial for CALAFCO

Commissioner Bettencourt questioned if CALAFCO will be having their annual conference?

Mr. Nicholson responded that the conference should be held in October in Monterey, CA and provided additional information.

Commissioner Bettencourt had questions regarding attending the conference and if alternates can attend.

Mr. Nicholson responded that there is only a small amount budgeted for the Commissioners to attend and this would be up to the Commission of who attends.

Commissioner Velazquez responded that the Commission should not look into ways to send more people to the conference.

Commissioner Bettencourt would like to know if he could attend the conference if he paid for it himself.

Commissioner Velazquez responded that is fine.

Chair Medina opened public comment.

No one from the public wished to speak.

INFORMATIONAL

9. Commissioner Announcements and Requests for Future Agenda Items

There were no announcements or requests.

10. Executive Officer oral status report on pending proposals

Executive Officer Bill Nicholson provided information on next month's annexation for the City of Hollister on Buena Vista Road for the Gonzalez property which was formerly part of the Borelli Ranch project.

Mr. Nicholson provided information on another application for annexation but it will be on hold until revenue sharing negotiations between the County and Hollister are completed.

Chairman Medina had questions about the second annexation and the agreement.

Barbara Thompson from County Counsel provided information.

Commissioner Gillio commented that this is a commercial project and should be a priority for the City and the County and hopes it gets done quickly.

Commissioner Bettencourt questioned if LAFCO does not have authority over the County.

Mr. Nicholson provided information on the LAFCO code.

ADJOURNMENT

11. Upon a motion by Commissioner Bettencourt, and seconded by Commissioner Gillio, adjourned meeting at 6:46 p.m.

Final Minutes Approved by the Commission
on _____

By: _____
Mark Medina, Chairman

BUSINESS ITEMS- PUBLIC HEARING ITEM

6. LAFCO 533 – Gonzalez Annexation No. 2 to the City of Hollister: Involving the annexation of approximately 12.1 acres of property into the City for future residential development. The property is located on the north side of Buena Vista Road, north of the extension of Vista View Lane, and approximately 500 feet west of Gonzales Drive (Assessor's Parcel Number 019-110-031). The actions requested are to make a determination that the Commission has reviewed and considered the City's Initial Study/Mitigated Negative Declaration prepared by the City of Hollister, and that there are no mitigation measures for the Commission to adopt, and to approve the annexation, and authorize LAFCO staff to complete the proceedings without further notice, hearing or election.



SAN BENITO LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT
(Agenda Item 6)

June 11, 2020 (Agenda)

LAFCO No. 522: Gonzalez Annexation No. 2 to the City of Hollister

PROPOSER: City Council of the City of Hollister, by resolution

ACREAGE & LOCATION Approximately 12.1 acres located on the north side of Buena Vista Road and approximately 500 feet west of Gonzalez Drive. The addresses on the property are 1620 and 1632 Buena Vista Road. (APN: 019-110-031)

PURPOSE: To provide municipal services for future residential development in a density range of 8 to 12 dwellings per acre, consistent with neighboring development currently under construction by the project developer, Kiper Homes. No tentative subdivision map has been submitted for processing with the City.

BACKGROUND/HISTORY

The proposed annexation of the Gonzalez property (the "Gonzalez Annexation No. 2") was initially part of a larger annexation referred to as the "Gonzalez/ Borelli Annexation" involving 37.28 acres of property, which included the 25 acre Borelli property (APN: 019-120-038) located just east of the Gonzalez property on the northwest corner of Buena Vista Road and Miller Road. The Gonzalez property is under a Williamson Act contract, and due to an incorrect City protest to the contract in 1973, the contract would still remain in effect following annexation which precluded LAFCO from processing an annexation for urban development.

As a result, a letter was sent to LAFCO by Soren Diaz, City Attorney, dated July 10, 2017, confirming the City's willingness to allow LAFCO to process only the Borelli portion of the annexation. In the letter, it was stated that Mr. Gonzalez is in agreement with having his property excluded from the annexation application. Once the issues involving the Williamson Act were resolved, a separate application would be submitted to LAFCO for processing annexation of the Gonzalez property.

After months of communication between the applicants and City Staff, Counsel, the Executive Officer and the State Department of Conservation, it was concluded that the appropriate process was to cancel the Williamson Act Contract, pay a corresponding cancellation fee to the State, and move forward with the annexation. The Board of Supervisors approved the tentative cancellation of the Contract on February 18, 2020 through Resolution No. 2020-16 (attached as Exhibit A to the "Proposal Justification Questionnaire" labeled Attachment 2 to this Report). The new application was prepared and signed by Michael Kiper, representing Kiper Development, Inc. the potential

developer of the property. On March 17, 2020, the Executive Officer notified Brett Miller, Interim City Manager of this development resubmittal, which is based upon the original Hollister City Council Resolution of Application No. 2017-62, and corresponding Annexation Agreement with Fernando Gonzalez dated March 20, 2017. No response was received from the City, and subsequently, the Certificate of Filing accepting the application as complete was issued by the Executive Officer on April 3, 2020, and the notice of hearing was mailed and published on May 22, 2020.

The actions requested are to make an environmental determination regarding the adequacy of the City's Mitigated Negative Declaration, and approve the annexation, and authorize LAFCO staff to complete the proceedings without further notice, hearing or election.

PROJECT INFORMATION

1. Land Use, Planning and Zoning - Present and Future

The annexation area consists of agricultural land planted in row crops, with two existing homes. The County General Plan designation is Residential Mixed (RM), and the zoning is Agricultural Productive (AP). The City General Plan designates the site as Medium Density Residential. The City rezoned the property as Medium Density Residential Performance Overlay Zoning District (R3-M/PZ) on March 7, 2016, through Ordinance No. 1126. The area is located within the City Sphere of Influence and is designated as a priority infill parcel in the City General Plan. Following annexation, any new development would be subject to the City's zoning and development standards that would permit both small lot single family and multiple family residential units at a density between 8 and 12 units per acre. While no subdivision has been submitted to the City, the developer has indicated the property can accommodate a range between 66 and 100 residential dwellings.

Surrounding land uses are agricultural to the north and west, existing residential development in the City to the south, and subdivision improvements and new home construction on the former Borelli property to the east. Buena Vista Road running along the south side of the property is already within the City limits.

2. Topography, Natural Features and Drainage Basins:

The site and surrounding areas are generally level. There are no significant natural boundaries affecting the proposal.

3. Population:

There are two dwellings within the proposal area, and four registered voters. The territory is considered "uninhabited" under the LAFCO definition (less than 12 registered voters). Following annexation, development within the City will result in the construction of between 66 and 100 dwellings based on information provided by the applicant (Response to Question 13.B. in the "Proposal Justification Questionnaire for Annexations"). Assuming an average of 3.61 occupants per unit (reflecting the household population identified in the US Census, the project) would result in a population increase of between 238 and 361 people.

4. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

The City Plan for Providing Services as required by Government Code section 56653 is included in response to Item Number 14 in the "Proposal Justification Questionnaire for Annexations, Detachments and Reorganizations" and in related letter from the Interim City Engineer responding to questions 15 and 16, both of which are attached to this Executive Officer's Report in Attachment 2. The City's responses are that the City has adopted impact fees and connection fees to cover the costs of providing services and that new development won't lead to a demand for additional personnel. Sewer and water infrastructure is available adjacent to the property in Buena Vista Road, and according to the developer, the location and sizing of the park amenities, sewer lift station, and street stubs in the adjacent Borelli Annexation property have been designed to serve future development of this site (Response to Item Number 20.B of the Proposal Justification Questionnaire).

It should be noted that the County and City of Hollister have entered into a new Master Tax sharing agreement for residential annexations, and issues in the previous Borelli annexation regarding special conditions of approval and agreements with LAFCO are no longer necessary.

5. Impact on Prime Agricultural Land, Open Space and Agriculture:

The annexation area consists of prime agricultural land that has historically grown a variety of row crops, along with two homes. While the City's Initial Study identified the conversion of this farmland as a significant impact, they also indicated that this area along Buena Vista Road is designated as a priority infill area for annexation by the City. The City's Initial Study also relied on CEQA Guidelines section 15063(b)(1)(C) to conclude the loss of farmland was adequately examined in the City of Hollister General Plan 2020, and that the project is consistent with the development densities identified in the 2020 General Plan and under CEQA Guidelines section 15183, and no additional environmental review of agricultural resource impacts is necessary.

The conversion of approximately 10 acres of prime farmland remains a significant impact for LAFCO's action on the annexation, in its role as a Responsible Agency under CEQA. The City adopted a statement of overriding considerations when adopting their General Plan EIR in 2005 and didn't adopt a specific measure to require mitigation through obtaining agricultural conservation easements on other farmland, or other similar mitigation, which would at least partially offset the impact.

Although several study sessions have been held by San Benito LAFCO on the topic of agricultural preservation, the Commission has not adopted any standard requirement for the mitigation of the loss of prime farmland. In this instance, the landowner received County approval from the Board of Supervisors for the Tentative Cancellation of the Williamson Act Contract, and as referenced in Resolution No. 2020-16, the landowner will be required to pay a cancellation fee in the amount of \$216,875 to the Department of Conservation as a penalty. (A copy of the Resolution is presented as Exhibit A to the Justification of Proposal Questionnaire in Attachment 2.) These cancellation funds are used by the State to support implementation of the Williamson Act Program. While required under State law, and calculated in compliance with Government Code section 51283, this payment can be considered a form of mitigation for this annexation as the funds will indirectly protect agricultural resources through the continued administration of the Williamson Act (California Land Conservation Act) by the State Department of Conservation.

It should also be noted that this annexation parcel is at the western boundary of the City's Sphere of Influence north of Buena Vista Road. At the current time, this is the western extent of annexations in this area of the City because all annexations must be located within the City's sphere. However, the City has initiated an update of their General Plan, and this update may need to identification of new urban growth boundaries and a future request to LAFCO to modify the City's Sphere of Influence.

6. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within Tax Rate Area 067-003. The current assessed value is \$552,066. The overall tax rate will not be affected by this annexation, although property values will increase upon development of the property within the city. The property will be subject to the recently updated tax sharing agreement negotiated between the County and City of Hollister where there is a 50-50 split of the local County share of the property tax. Upon annexation, the territory will not be liable for any existing or authorized assessments or debt (see responses Item 17 of the Proposal Justification Questionnaire, Page 10).

7. Environmental Impact of the Proposal:

The City of Hollister, acting as Lead Agency under CEQA, prepared an Initial Study to evaluate the impacts from the project. The City determined that most areas of potential impact in the Environmental Checklist would have a less than significant impact. (The City's Initial Study is attached to this Report in the Commissioner's packet in a flash-drive, with the environmental document labeled Document No. 5 "Gonzalez IS-MND.") Mitigation measures were adopted for the topic areas of: Agricultural Resources for "right to farm" notification measures; Air Quality for construction activities and grading; Biological Resources related to noise impacts on nesting birds and bats; Cultural Resources for potential historic structures and buried human remains, archeological and paleontological resources; Geology and Soils by requiring a soils report for liquefaction hazards, and a geologic report for identification of earthquake safety measures; Hazards and Hazardous Materials for a Phase I Site Assessment and building demolition requirements; Hydrology and Water Quality related to adequate stormwater improvements necessary to protect groundwater quality; Noise involving an acoustical analysis for future development and noise reduction measures during construction; and Transportation and Traffic to pay adopted local and regional impact fees, future intersection and sidewalk improvements, and improvements to signal timing and transit/bicycle and pedestrian facility improvements. None of these measures are under LAFCO's authority to adopt or administer.

8. Public Notice and Subject Agency and Landowner Consent:

Notice of the Public Hearing was published in the Hollister Freelance on May 22nd and was sent to all landowners within 300 feet of the project boundary. A phone call was received by the Executive Officer on May 29th from Lucy Gomes followed by an email dated May 31, 2020, who is the neighboring landowner to the west of the annexation property. She indicated that an existing agricultural and domestic well is located on the west end of the Gonzalez parcel, which has historically been jointly used between the properties. The well provides for agricultural irrigation of the 11 acre annexation parcel along with the adjacent 13.91 and 33.58 acre parcels to the north and west (Assessor's Parcel Numbers 019-110-019 and 032). In addition, there is a water storage tank and pump connected to the well providing domestic water to homes on the existing Gonzalez property and homes on APN 019-110-020 and 032. Severing these water supplies upon annexation would create a significant hardship.

Staff contacted the City of Hollister Community Development staff and the project applicant to ensure this important utility service will be protected. A condition of approval is recommended that the Property Owner provide a written commitment to ensure the continuation of adequate water service to the neighboring farmland and

residences prior to recording the Certificate of Completion which is the date annexation formally occurs. The City Engineer, Danny Hillstock, has indicated this type of easement issue is not uncommon and a similar easement was required in the adjacent Borelli Annexation property in order to continue irrigation service to the farming parcel located north of the subdivision currently under construction. But the details of how best to provide the easement or relocate facilities occurs when the subdivision is designed with related improvement plans for roads, utilities and similar public facilities. This proposal has been shared with Mrs. Gomes who indicated she is comfortable with it.

The City Council, through adoption of Resolution No. 2017-62 initiated this annexation request along with the neighboring Borelli property. The annexation boundary was subsequently modified through correspondence dated July 10, 2017, from the City Attorney to reflect a smaller 25.0 acre annexation area, and indicated that a future application would be processed for the Gonzalez property once the Williamson Act contract issues were resolved. Because, resolutions do not expire, Resolution No. 2017-62 was the basis of resubmittal of the application by the applicant, and the Interim City Manager was notified of this resubmitted annexation application.

The property owner has indicated his consent to the annexation in a letter dated February 18, 2020, in compliance with Government Code section 56662(a)(3)(B). Therefore, if the Commission approves the annexation, no protest hearing will be required.

9. Boundaries, Lines of Assessment and Registered Voters:

The boundary map and legal description have been submitted to the County Surveyor for review, but no comments have been received. A condition of approval is proposed that: "The Executive Officer is directed not to record the Certificate of Completion until the map and legal description are found by the County Surveyor to be acceptable."

10. Disadvantaged Unincorporated Communities and Low Income Housing

Government Code Section 56375(a)(8) requires the Commission to determine whether there is a disadvantaged unincorporated community adjacent to a city annexation of more than 10 acres in size. The site is not adjacent to a disadvantaged unincorporated community as the adjacent land located in the County contains primarily agricultural and non-residential land uses. The annexation does not propose any low or moderate income housing, and therefore will not directly help the City of Hollister meet its fair share of affordable housing, although the smaller lot sizes and housing density at a minimum of 8 units per acre will help reduce costs compared to traditional low density subdivisions which achieve only 4 to 5 dwellings per acre.

ALTERNATIVES FOR COMMISSION CONSIDERATION

After reviewing this report and any testimony or materials that are presented, the Commission can take one of the following actions:

OPTION 1 – APPROVE the proposal as submitted based on the following determinations, with two conditions of approval.

- A. Find the Commission has reviewed the Initial Study and Mitigated Negative Declaration prepared by the City of Hollister as lead agency under CEQA for approval of the rezoning ordinance and annexation request. There are no mitigation measures that are the responsibility of LAFCO to adopt or monitor as a responsible agency for approval of this annexation proposal.
- B. Determine that the subject territory is uninhabited and all affected landowners have given consent to the annexation.
- C. Adopt Resolution No. 533 and approve the proposal known as the Gonzalez Annexation No. 2 to the City of Hollister, subject to two conditions of approval:
 - 1. Direct staff not to record the Certificate of Completion for the annexation until the property owner has provided a written commitment to ensure the continuation of adequate water service to the neighboring farmland and residences on APN Numbers 019-110-019, 019-110-020 and 019-110-032 as identified in the Grant Deed dated December 14, 1994, from Manuel Periera to Joe L. Gomes and Maria L. Gomes, as Trustors/Trustees of the Gomes Family Trust, dated 01/25/1991.
 - 2. The Executive Officer shall not record the Certificate of Completion until the map and legal description are found by the County Surveyor to be acceptable.

OPTION 2 - Consider this report and DENY the proposal based on the inability to make all the determinations presented.

OPTION 3 - CONTINUE this proposal to a future meeting for additional information.

Executive Officer's Report

LAFCO No. 533

June 11, 2020 (Agenda)

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RECOMMENDED ACTION:

Approve OPTION 1.



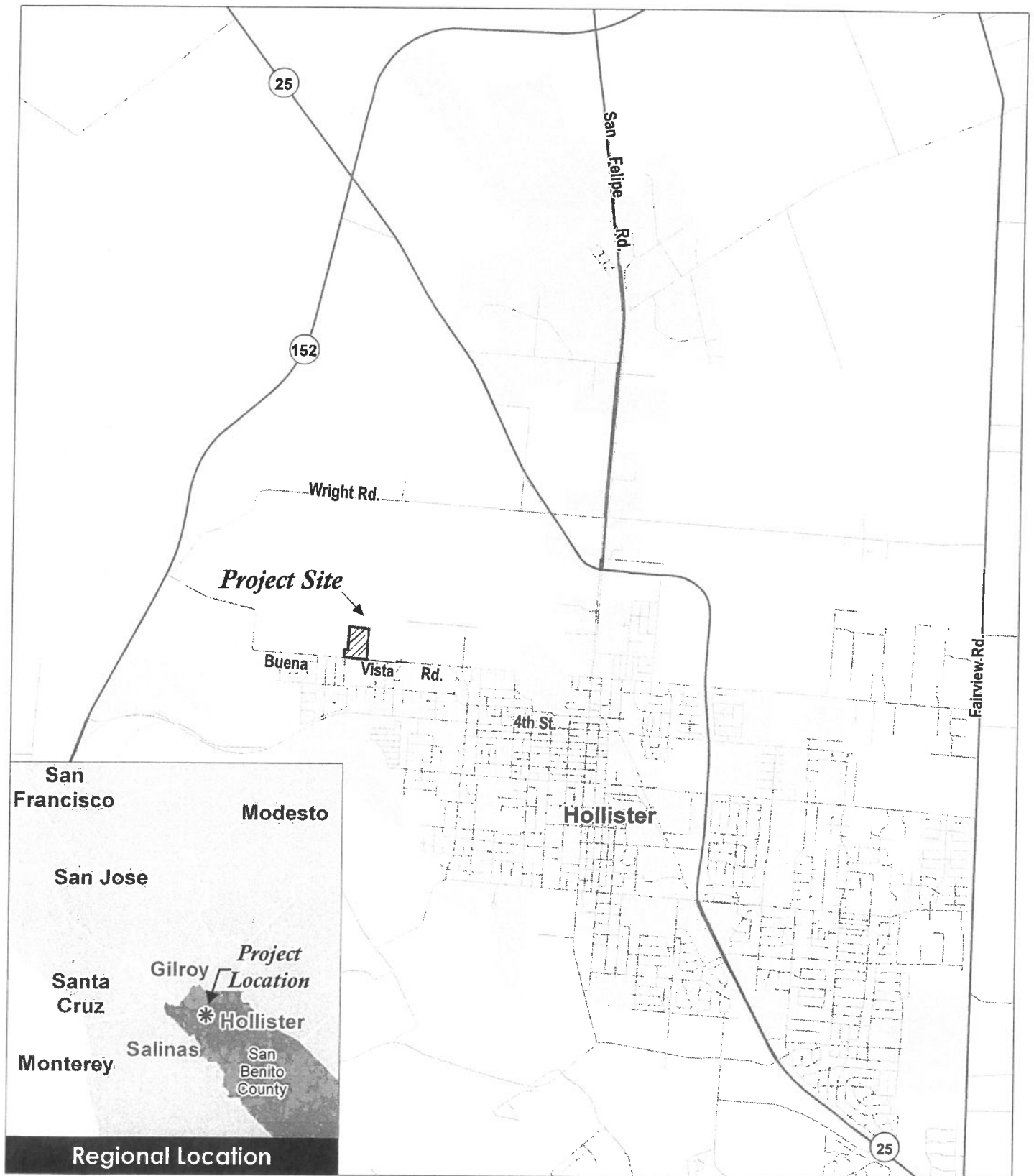
BILL NICHOLSON
EXECUTIVE OFFICER

LOCAL AGENCY FORMATION COMMISSION

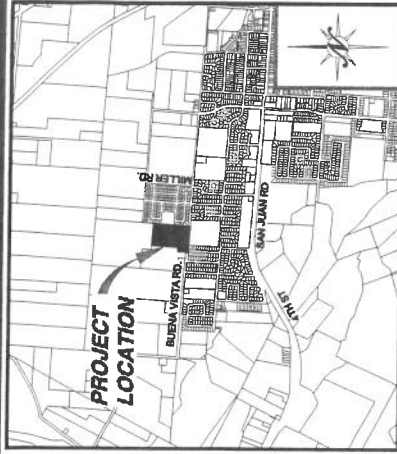
cc: Fernando Gonzalez, Landowner
Michael Kiper, Kiper Development, Inc., project applicant
Bryan Swanson, Director of Development Services, City of Hollister

Enclosures:

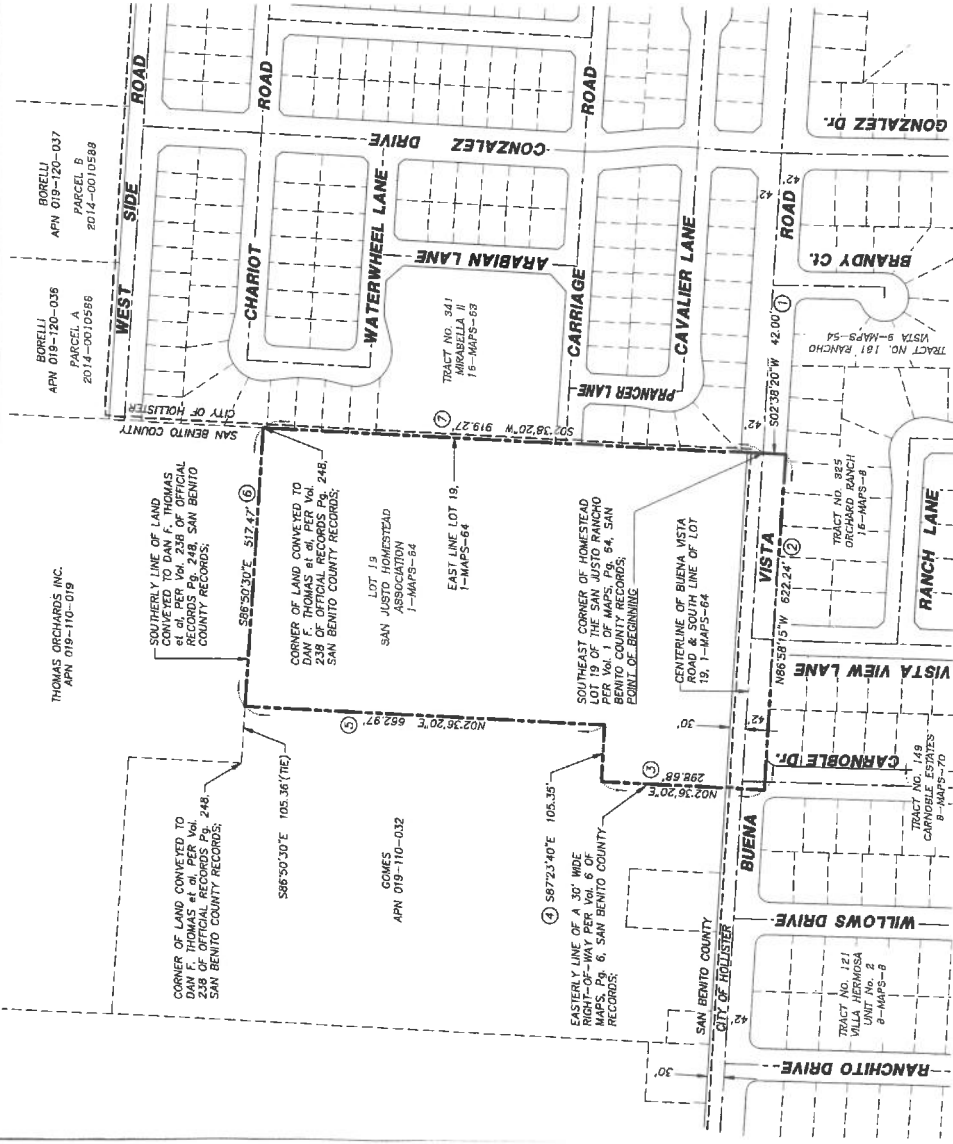
1. Vicinity Maps and Annexatin Map
2. Proposal Justification Questionnaire for Annexations, Detachments and Reorganizations with City Engineer Letter and various Exhibits including: Board of Supervisors Resolution No. 2020-16 for the Tentative Cancelation of the Williamson Act Contract; a copy of the City's 1973 protest of the Williamson Act Contact through Resolution No. 73-11; the Annexation Agreement between the City of Hollister and Fernando Gonzalez executed on March 20, 2017; City of Hollister City Engineer's letter dated 4/21/15 addressing the plan for services to the property; City of Hollister Resolution No. 2016-16 adopting the Mitigated Negative Declaration for Prezone 2013-2; City of Hollister Ordinance No. 1126 Prezoning the property to Medium Density Residential Performance Overlay Zone; City of Hollister Resolution No. 2017-61 authorizing the Mayor to enter into an Annexation Agreement with Fernando Gonzalez, dated 3/20/2017; and City of Hollister Resolution No. 2017-62 "Resolution of Application to San Benito LAFCO to initiate proceedings for annexation of the "Gonzalez Borelli" territory.
3. Email from Doug Ledeboer and Michael Kiper, Attorney, regarding acknowledgement of easement and water access rights for Mrs. Gomes
4. Letter from Maria Gomes regarding well and pump access easement for adjacent property Dated May 29, 2020 with attachments
5. Draft LAFCO Resolution No. 533
6. Flash drive containing the Initial Study/Mitigated Negative Declaration



Source: San Benito County 2014



VICINITY MAP
NOT TO SCALE



PROJECT INFORMATION

Owner: Fernando Gonzalez
1201 San Juan Road
Hollister, CA 95023

Assessor's Parcel Number: 019-110-031

County: OF SAN BENITO

Zoning: AP

General Plan Designation: Low Density Residential

Existing Use: Agriculture

Applicant: City of Hollister
375 Fifth Street
Hollister, CA 95023

Engineer: NorthStar Engineering Group, Inc.
620 12th Street
Modesto, CA 95354
(209) 524-3525

CITY OF HOLLISTER

Coning: R-1

General Plan Designation: Low Density Residential

Proposed Use: Single Family Homes

Hazard Zones: There are no known seismic hazard zones on this property and the property is located outside of any flood hazard zones.

Water District: This project is within the service area of the City of Hollister.

Adjacent Property uses: Agricultural to the North and West;
Residential to the South and East.

Required Setbacks: Front= 18' Residence/20' Garage
Side = 6' interior lot/10' corner lot
Back = 15'-20'

MAP SCALE: 1" = 150'

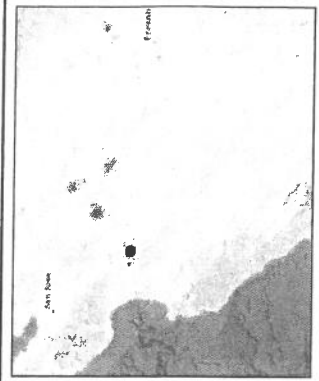


03-17-2020
Date
Rian Greenwood P.L.S. 6946

APPROVED BY: _____ DATE: _____
GEORGE Y. MARCHENKO
L.S. 6964 EXP. 09/30/2019

THIS SPACE RESERVED FOR THE APPROVAL OF THE COUNTY SURVEYOR

GONZALEZ ANNEXATION No. 2 TO THE CITY OF HOLLISTER



- Legend**
- Parcels
 - California County Boundaries
 - <all other values>
 - San Benito
 - City Limit
 - Tentative Subdivision
 - Hollister Airport Runways
 - Tentative Streets
 - Park
 - World Street Map

Notes



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

1,504.7 752.33 1,504.7 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
©County of San Benito, GIS Services

SAN BENITO LOCAL AGENCY FORMATION COMMISSION

Proposal Justification Questionnaire for Annexations, Detachments and Reorganizations (Attach additional sheets as necessary)

1. **Name of Application:** (The name should match the title on the map and legal description; list all boundary changes that are part of the application)
Gonzalez Annexation No. 2 to the City of Hollister
2. **Describe the acreage and general location; include street addresses if known:**
The Gonzalez Annexation No. 2 to the City of Hollister area consists of approximately 12.14 acres located in unincorporated San Benito County, inclusive of a portion of Buena Vista Road. The property lies within the City of Hollister's sphere of influence and is designated a priority infill parcel in the General Plan. The Hollister city limit is contiguous to the site on the east and south sides of the property. The site is bordered to the east by a residential subdivision currently under construction; the location and sizing of the subdivision's park amenities, sewer lift station, and street stubs all contemplate expansion westward into the Gonzalez property. The site is bordered to the south by existing residential uses; and to the north and west by existing agricultural uses. Adjacent rights-of-way to the site are Buena Vista Road to the south and Carriage Road (under construction) to the east, which shall connect the site to the adjacent subdivision.
3. **List the Assessor's Parcels within the proposal area:**
019-110-031
4. **Purpose of proposal:** (List all actions for LAFCO approval. Identify other actions that are part of the overall project, i.e., a tract map, development permit, etc. Why is this proposal being filed?)
Annexation to the City of Hollister consistent with the policies of the General Plan.
5. **Land Use and Zoning - Present and Future**
 - A. **Describe the existing land uses** within the proposal area. Be specific.
The parcel currently contains two residential dwelling units and row crops.

ATTACHMENT 2

The parcel currently contains two residential dwelling units and row crops. The property currently zoned Agricultural Productive (AP). The property has been Prezoned R3 M/PZ (Medium Density Residential Performance Overlay Zone) and Annexation would change the land use from agriculture to residential. Pending annexation, the applicant would submit for a tentative map to subdivide the property consistent with the densities allowed within the City's R3 M/PZ Zoning Designation.

C. Describe the existing zoning designations within the proposal area.

The parcel is designated "Residential Mixed" in the County of San Benito General Plan and is currently zoned Agricultural Productive (AP) by the County of San Benito. The parcel is within the City's Sphere of Influence and designated in the City's General Plan for Medium Density Residential.

D. Describe any proposed change in zoning for the proposal area. Do the existing and proposed uses conform with this zoning?

Any new residential development will need to conform to the City of Hollister's zoning classification of Medium Density Residential Performance Overlay Zoning District (R3 M/PZ). The parcel currently contains a total of two residential dwelling units and row crops. The Parcel is zoned Agricultural Productive (AP) within the jurisdiction of San Benito County. This would change the land use from agriculture to residential. Pending annexation, the applicant would submit for a tentative map to subdivide the property into residential units consistent with the densities allowed within the City's R3 M/PZ Zoning Designation. The Medium Density Residential (R3) Zoning District includes areas substantially developed with small-lot single-family and multi-family residences with densities of eight to twelve dwelling units per net acre. The R3 Zoning District is consistent with the Medium Density Residential (MDR) land use category of the General Plan which now allows eight to twelve units per net acre.

E. (For City Annexations) Describe the prezoning that will apply to the proposal area upon annexation. Do the proposed uses conform with this prezoning?

The prezoning for the property is Medium Density Residential Performance Overlay Zoning District (R3 M/PZ). The property currently contains two existing residential dwelling units and row crops. Pending annexation of the parcels, the applicant would submit for tentative map to subdivide the property into residential uses consistent with the densities allowed within the City's R3 M/PZ Zoning Designation.

- F. List all known entitlement applications pending for the property (i.e., zone change, land division or other entitlements).
None.

6. **Describe the area surrounding the proposal**

Using Table A, describe existing land uses, general plans and zoning designations for lands adjacent to and surrounding the proposal area. The application is incomplete without this table. *Please see Table A at the end of the application.*

7. **Conformity with Spheres of influence**

- A. Is the proposal area within the sphere of influence of the annexing agency?
Yes.

- B. If not, are you including a proposal to revise the sphere of influence?
Not applicable. The property is within the City of Hollister Sphere of Influence.

8. **Conformity with County and City General Plans**

- A. Describe the existing County General Plan designation for the proposal area.
Residential Mixed (RM).

- B. (For City Annexations) Describe the City general plan designation for the area.
Medium Density Residential (R3).

- C. Do the proposed uses conform with these plans? If not, please explain.
There are currently two existing dwelling unit and row crops located on the property. Pending annexation, the applicant would submit for tentative map for a medium density residential subdivision to be consistent with the City of Hollister's Medium Density Residential Designation of 8 to 12 dwelling units per net acre.

9. **Topography and Natural Features**

- A. Describe the general topography of the proposal area and any significant natural features that may affect the proposal.
The general topography of the proposed area is generally flat and there are no significant natural features that may affect the proposal.

- B. Describe the general topography of the area surrounding the proposal.

Topography of surrounding parcels:

The general topography of the area surrounding the proposed area is generally flat.

10. Impact on Agriculture

A. Does the property currently produce a commercial agricultural commodity?

Yes. Portions of the property are currently farmed.

B. Is the property fallow land under a crop rotational program or is it enrolled in an agricultural subsidy or set-aside program?

No.

C. Is the property Prime Agricultural Land as defined in G.C. Section §56064?

Yes.

D. Is the proposal area within a Land Conservation (Williamson) Act contract?

The proposed area is currently subject to the remainder of Land Conservation (Williamson) Act Contract Number 73-38, however a tentative cancellation was approved by the San Benito County Board of Supervisors on February 18, 2020 by Resolution No. 2020-16 (attached as Exhibit "A"). Pursuant to CA Gov Code § 56856.5(d)(2), the statute limiting the processing of annexations to cities of Williamson Act contracted land shall not apply to properties for which such a tentative cancellation has been approved.

1) If "yes," provide the contract number and date contract was executed.

LCA Contract Number 73-38, executed February 26, 1973.

2) If "yes", has a notice of non-renewal be filed? If so, when?

Yes. Landowner filed and recorded a notice of non-renewal on November 4, 2019 (Recorder's Document No. 2019-00110773). Tentative Cancellation approved February 18, 2020, per item D above.

3) If this proposal is an annexation to a city, provide a copy of any protest filed by the annexing city against the contract when it was approved. City of Hollister's protest (Resolution 73-11) is attached as Exhibit "B".

11. Impact on Open Space

Is the affected property Open Space land as defined in G.C. Section 65560?

No.

12. Relationship to Regional Housing Goals and Policies (City annexations only)

If this proposal will result in or facilitate an increase in the number of housing units, describe the extent to which the proposal will assist the annexing city in achieving its fair share of regional housing needs.

Developing the site consistent with the City's General Plan will increase and assist in the number of housing units for the City of Hollister and shall assist the city in meeting its Regional Housing Needs Allocation.

13. Population

A. Describe the number and type of existing dwelling units within the proposal area.

There are two existing dwelling units on the property.

B. How many new dwelling units could result from or be facilitated by the proposal?

Although there are currently no specific development plans for the project site, for purposes of environmental review, an approximate maximum development scenario has been established based upon net parcel size: 11.11 acre property, reduced by 25 percent gross acreage to account for interior roads, infrastructure, and open space, leaving approximately 8.33 net acres. Based on a residential density of 8 to 12 units per net acres it is assumed that future development of the project site would include between approximately 66 minimum to 100 maximum residential units.

14. Government Services and Controls – Plan for Providing Services (per §56653)

A. Describe the services to be extended to the affected territory by this proposal.

B. Describe the level and range of the proposed services.

C. Indicate when the services can feasibly be provided to the proposal area.

Please see below answers for A, B, and C.

Police Service

Police service to the affected area upon annexation will be provided by the Hollister Police Department. The Police Department provides this service throughout the City based upon staffing levels set by the City Council of the City of Hollister. The affected area is contiguous to the current City limits (current service area). The annexation will extend the boundary of police service currently in effect. Upon annexation and upon development,

the project will include roadways that would affect traffic enforcement/collision investigation responsibilities and an incremental increase in staffing levels and capital equipment, due to the minor increase in population. The incremental increase in police service will be financed by the imposition of a Mello Roos Community Facilities public safety tax. The annexation of the affected area will not create the need for any police related structures or improvements.

Fire Service

The Hollister Fire Department will provide fire service to the affected area upon annexation. The Fire Department provides this service throughout the City and adjoining County areas, via a mutual aid agreement, based upon staffing levels set by the City Council. The Fire Department currently houses its fire personnel and equipment at its stations located at the northwest corner of Fifth and Sally Streets and the north side of Union Road between Valley View Road and Airline Highway. The affected area is part of an unincorporated parcel immediately adjacent to the City limits (current service area), thus it will not extend the range of fire service currently in effect. The affected area is within the five-minute first engine response time, as set forth in City Fire Protection Master Plan for Fire Station 1. The affected area in its current condition may require a minor increase in fire service, even assuming it is currently in the response area. Development of the site will require an incremental increase in staffing levels and capital equipment, due to the increase in population and structures. An increase in staffing will be financed by the imposition of a Mello Roos Community Facilities public safety tax. The incremental increase in capital equipment will be financed through the imposition of fire impact fees.

General Government

General Government services include the City Council, City Administration (City Manager, City Attorney), City Finance (Payment of Utility Bills), Building, Planning, Engineering, and Animal Control. These services are currently being provided to the City at large. Annexation of the affected area in its current condition will not cause any increase in City General Government services. Development of the site if annexed will cause a negligible incremental increase in General Government services for the City Council, City Administration, City Finance, and Animal Control. These will be financed through an incremental increase in General Fund revenues, such as property and sales taxes. The affected area has also entered into an annexation agreement for fiscal neutrality (see attached Exhibit "C"). Pursuant to the annexation agreement, owner has agreed to pay to the City a fee for each residential unit developed on the subject property to mitigate the fiscal impacts created by development of the

subject property. The incremental increase in services for Building, Planning and Engineering will be financed through permit fees.

Sewer Service

At the time of development, the parcel will connect to an existing 8" sanitary sewer line stubbed to the eastern edge of the property from the neighboring residential subdivision currently under construction. The neighboring subdivision's sewer line and sewer lift station have been located and sized for residential development of the Gonzalez property. The property owner will be required to fund the installment of sewer lines to City standards. The City currently treats domestic wastewater at its new regional immersed membrane bioreactor (MBR) wastewater treatment plant located on the west side of the City, on the north side of San Juan Hollister Road. In accordance with the implementation of the Long-Term Wastewater Management Plan (LTWMP) filed with the Water Quality Control Board, the City is currently implementing a long-term program of phased improvements for the disposal and reuse of reclaimed wastewater including spray fields, non-potable irrigation for landscaping, and certain agricultural uses. The new facility expands the City's ability to provide wastewater treatment service for the next 10 years, with an additional five years of expansion possible with the expansion of the membrane biological reactor. The City will continue to implement efforts to improve water quality and to implement the water conservation measures. The development will incrementally utilize capacity at both the treatment plant and within the City sewer transmission line. To offset the use of the capacity for the transmission facilities, the property owner will be assessed an impact fee at the time of connection of the subdivision. A sewer treatment impact fee will also be assessed to provide funding for additional capacity at the treatment plant.

Domestic Water Service

The subject site is within the City of Hollister's adopted service area. All plans for water service will need to be approved by the City. The area requested for annexation, will comprise a total of 12.14 acres of primarily vacant land. An existing water main is located in the right-of-way of Buena Vista Road along the southern boundary of the project site. The project proponent will be required to fund the installment of a future water connection to the City of Hollister standards. To offset these incremental costs, the development project will be assessed a water impact fee at the time of final occupancy for a building permit.

Storm Drain

The affected area is within San Benito River drainage area. Annexation of the property shall not alter the capacity of the City storm transmission lines and area wide storm water treatment and recharge facilities. The subject

property will adhere to MS4 storm water regulations in place by the California Water Boards with the intention of using stormwater for groundwater recharge. Low Impact Development (also referred to as LID) is a sustainable practice that benefits water supply and contributes to water quality protection. Unlike traditional storm water management that collects and conveys storm water runoff through storm drains, pipes, or other conveyances to a centralized storm water facility, LID takes a different approach by using site design and storm water management to maintain the site's pre-development runoff rates and volumes. All new projects in the City of Hollister now capture stormwater runoff and pipe it to a central location in the project where a series of underground chambers are used to facilitate groundwater recharge. City of Hollister Community Facilities District No. 4 provides for maintenance storm drain systems, retention/detention basins, and pump lift stations. Additionally, the City of Hollister assesses a storm drain impact fee at the time of final occupancy for a building permit to offset the incremental storm drain costs of development projects to the city.

Parks and Recreation

Annexation of the site in its current state will require additional park facilities or recreational programs. The city requires that new residential projects either dedicate land and/or pay park-in-lieu impact fees for the incremental need for expanded park facilities. The site is bordered to the east by a residential subdivision currently under construction; the location and sizing of the neighboring subdivision's park amenities contemplate park expansion westward into the site. City of Hollister Community Facilities District No. 4 provides for maintenance of parks and open space.

The City of Hollister funds a number of recreation programs to serve the needs of City residents and residents of adjoining unincorporated San Benito County. These programs are funded at a level of 75 percent by user fees. The remaining costs are funded by the City of Hollister General Fund. The City has entered into an annexation agreement with the owners of the affected area to ensure that the development of the site is fiscally neutral, which would include the City portion of the funding required for recreational programs.

Road Construction

The City of Hollister requires that there be adequate roadways to serve the transportation needs of City residents. The City, private developers, or a combination of both will fund roadways. To offset these incremental costs, the development project will be assessed a traffic impact fee at the time of final occupancy for a building permit.

Street and Utility Maintenance

Annexation of the site in its current state will not require an increase in the need for the funding for street or utility maintenance. Upon annexation, development of the project site will require the maintenance of area City streets, landscaping and utility facilities that will serve the affected area, as well as streets and utility systems within the development. The area street maintenance is funded by the City of Hollister's state taxes. City of Hollister Community Facilities District No. 4 also provides for maintenance of landscape, lighting, and hardscapes. City utility systems are currently funded by City user fees. The property has existing access to Buena Vista Road and annexation of the property would not require the addition of new roads, landscape area or utility systems to service the properties.

- D. Indicate any improvements or upgrading of structures, roads, sewers or water facilities or other conditions that will be required as a result of the proposal.**

Existing water, sewer, and storm drainage will be extended to serve the property upon future residential improvements.

- E. Identify how these services will be financed. Include both capital improvements and ongoing maintenance and operation.**

All utilities will be public. Upon development, the property shall be included within a Community Facilities District to finance the related maintenance costs. Any proposed streets will be public and will be maintained by the City of Hollister. The street, water, sewer, storm water drainage improvements are developer-financed.

- F. Identify any alternatives for providing the services listed in Section (A) and how these alternatives would affect the cost and adequacy of services.**

No alternative mechanisms proposed.

15. Ability of the annexing agency to provide services

Attach a statement from the annexing agency describing its ability to provide the services that are the subject of the application, including the sufficiency of revenues (per Gov't Code §56668j). Please see letter attached as Exhibit "D".

16. Dependability of Water Supply for Projected Needs (as per §56653)

If the proposal will result in or facilitate an increase in water usage, attach a statement from the retail water purveyor that describes the timely availability of water supplies that will be adequate for the projected needs.

The site is expected to obtain domestic water service from the City of Hollister. The services can be provided upon annexation of the site pending LAFCO approval of the annexation of territory. Please see letter attached as Exhibit "D".

17. **Bonded indebtedness and zones** – These questions pertain to long term debt that applies or will be applied to the affected property.

- A. **Do agencies whose boundaries are being changed have existing bonded debt?**
☐ Yes ☒ No If yes, please describe
- B. **Will the proposal area be liable for payment of its share of this existing debt?**
☐ Yes ☒ No If yes, how will this indebtedness be repaid (property taxes, assessments, water sales, etc.?) N / A
- C. **Should the proposal area be included within any 'Division or Zone for debt repayment?** ☐ Yes ☒ No If yes, please describe.
- D. **(For detachments) Does the detaching agency propose that the subject territory continue to be liable for existing bonded debt?** ☐ Yes ☒ No Please describe.

18. **Environmental Impact of the Proposal**

- A. **Who is the "lead agency" for this proposal?**
The "lead agency" for this proposal will be the City of Hollister.
- B. **What type of environmental document has been prepared?**
A Mitigated Negative Declaration was prepared titled "Gonzalez Borelli Prezone (Prezone No. 2013-2)".
- C. **If an EIR has been prepared, attach the lead agency's resolution listing significant impacts anticipated from the project, mitigation measures adopted to reduce or avoid significant impacts and, if adopted, a "Statement of Overriding Considerations."**
Not applicable.

19. **Boundaries**

- A. **Why are these particular boundaries being used? Ideally, what other properties should be included in the proposal?**
The boundaries of the Gonzalez Annexation are being used. APN 019-110-031. The proposed parcel is within the Sphere of Influence and is designated a priority infill parcel in the General Plan. As properties to the east and south are already annexed, and properties to the north and west are outside the sphere of influence, no other properties should be included in the proposal.

- B. **If any landowners have included only part of the contiguous land under their ownership, explain why the additional property is not included.**

The property owner has included the entire parcel.

20. Final Comments

- A. **Describe any conditions that should be included in LAFCO's approval.**

Owner agrees to comply with all ordinances, rules and policies of the City with regard to the development of the property.

- B. **Provide any other comments or justifications regarding the proposal.**

Since the landowner purchased the property in 1999, he was informed by various former San Benito County, LAFCO, and City of Hollister personnel that the filing of a notice of non-renewal would not be necessary to remove his property from the Williamson Act for purposes of development, because the City of Hollister had protested the execution of the contract in 1973, and therefore the City would be able to exercise its right not to succeed to the contract upon annexation. Relying upon this information, the property owner applied to annex the property into the City of Hollister concurrently with the neighboring property to the east, incurring substantial costs processing the application and related CEQA documents. On February 16, 2016, the Hollister City Council adopted Resolution 2016-16 adopting a Mitigated Negative Declaration and rezoning application (see attached Exhibit "E"). The City of Hollister City Council then adopted Ordinance No. 1126 on March 7, 2016 rezoning the property to Medium Density Residential Performance Overlay Zoning District (R3-M/PZ) (see attached Exhibit "F"). On March 20, 2017, the City Council adopted Resolutions 2017-61 and 2017-62, authorizing the Mayor to execute an annexation agreement and requesting LAFCO to initiate proceedings for the annexation of the property (see attached Exhibit "G"). At that time, it was discovered that the City's 1973 protest was inadvertently filed with the County Board of Supervisors rather than LAFCO, as was then required by statute. As a result of this minor technicality, and in accordance with the letter provided to LAFCO by former City Attorney Soren Diaz on July 10, 2017 (attached as Exhibit "H"), LAFCO suspended the application to annex the Gonzalez property into the City of Hollister pending property owner's resolution of the Williamson Act issue (meanwhile, the neighboring property to the east proceeded to be annexed and is now undergoing residential development). A tentative cancellation of the Williamson Act contract was approved by the San Benito County Board of Supervisors on February 18, 2020 by Resolution No. 2020-16, constituting resolution of the Williamson Act Issue as explained in Question 10(D) above. Accordingly, as

contemplated by City Attorney Soren Diaz's letter, this separate application is now being filed. The request is for annexation only. Pending annexation of the parcel, the owner would submit for tentative map to subdivide the property consistent with the densities allowed within the City's R3 M/PZ Zoning Designation. The location and sizing of the park amenities, sewer lift station, and street stubs of the residential subdivision currently under construction on the neighboring property to the east (part of the larger original annexation application) all contemplate westward expansion into the Gonzalez property.

- C. **Enclose all pertinent staff reports and supporting documentation related to this proposal. Note any changes in the approved project that are not reflected in these materials.**
Please see attached exhibits.

21. Notices and Staff Reports

List up to three persons to receive copies of a notice of hearing and staff report.

<u>Name and agency</u>	<u>Address</u>	<u>Email address</u>
Development Services Department, Planning Division Attention: Bryan Swanson	339 Fifth Street Hollister, CA 95023	bryan.swanson@hollister.ca.gov
San Benito County Resource Management Agency Planning Division Attention: Taven Kinison Brown	2301 Technology Pkwy Hollister, CA 95023	sclark@cosb.us
Michael Kiper	3200 Danville Blvd., Suite #200 Alamo, CA 94507	mkipper@kipperinc.com

Who should be contacted if there are questions about this application?

<u>Name</u>	<u>Address</u>	<u>Email address</u>	<u>Phone</u>
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City of Hollister: Bryan Swanson	339 Fifth Street Hollister, CA 95023	bryan.swanson@hollister.ca.gov	831-636-4340 – x 1221
Developer: Michael Kiper	3200 Danville Blvd., Suite #200, Alamo CA 94507	mkipper@kiperinc.com	925.683.7053

Signature 
Michael Kiper

Date 2-28-2020

TABLE A

Information regarding the areas surrounding the proposal area

	Existing Land Use	General Plan Designation	Zoning Designation
East	Residential Subdivision	County of San Benito: Residential Mixed City of Hollister: Medium Density Residential	City of Hollister: R-3M/PZ
West	Agricultural and Residential Uses	County of San Benito: Residential Mixed City of Hollister: Low Density Residential	County of San Benito: Agricultural Productive
North	Agricultural Uses	County of San Benito: Agriculture City of Hollister: Low Density Residential	County of San Benito: Agricultural Productive
South	Residential Subdivision	City of Hollister: Low Density Residential	City of Hollister: R1 Low Density Residential

Other comments or notations: N/A

TABLE OF EXHIBITS

Exhibit A	County Board of Supervisors Resolution 2020-16: Cancellation of Gonzalez Williamson Act Contract
Exhibit B	City of Hollister Resolution 73-11: Protesting Execution of Williamson Act Contract
Exhibit C	Annexation Agreement: Fernando Gonzalez APN 019-110-031
Exhibit D	City of Hollister Letter Re: Questions #15 & #16
Exhibit E	City of Hollister Resolution 2016-16: Adopting Mitigated Negative Declaration for Prezone 2013-2
Exhibit F	City of Hollister Ordinance No. 1126 Rezoning to Medium Density Residential Performance Overlay Zone
Exhibit G	Resolutions 2017-61 and 2017-62, Authorizing Annexation Agreement and Requesting LAFCO Initiate Annexation
Exhibit H	Letter from Former City Attorney Soren Diaz

EXHIBIT A

**County Board of Supervisors Resolution 2020-16:
Cancellation of Gonzalez Williamson Act Contract**

[Please see attached]

1 **BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO**

2 A RESOLUTION OF THE SAN BENITO COUNTY BOARD) Resolution No. 2020- 16
3 OF SUPERVISORS APPROVING A CANCELLATION)
4 REQUEST ON AN AGRICULTURAL PRESERVE UNDER)
5 THE REMAINDER OF CONTRACT NUMBER 73-38)
6 (GONZALEZ))

7 **WHEREAS**, Counties are authorized to establish agricultural preserves and to establish local
8 procedures for creating, altering and terminating agricultural preserves, under the California Land
9 Conservation Act (Cal. Government Code section 51200 et seq.); and

10 **WHEREAS**, the Board of Supervisors of the County of San Benito adopted an ordinance
11 implementing the California Land Conservation Act in the County of San Benito, now codified in the
12 San Benito County Code, title 19, chapter 19.01, article II, commencing with section 19.01.020; and

13 **WHEREAS**, once established agricultural preserves may be terminated by cancellation of the LCA
14 contract, pursuant to Government Code section 51282(a) and San Benito County Code sections
15 19.01.021(C) and 19.01.025, upon making one of the following findings:

- 16 1) Cancellation is consistent with purposes of the Williamson Act, or
17 2) Cancellation is in the public interest; and

18 **WHEREAS**, on September 27, 2019, the owner of one parcel (Assessor's Parcel No. 019-110-031),
19 comprising 11.11 acres of land in an agricultural preserve under the remainder of Contract
20 Number 73-78, submitted an application for cancellation of the remainder of Contract Number 73-38;
21 and

22 **WHEREAS**, the applicant's request for cancellation is based, in part, on the following:

- 23 1) Since he purchased the property in 1999, he was informed by various former San Benito
24 County, LAFCO and City of Hollister personnel that the filing of a notice of non-renewal
25 would not be necessary to remove his property from the Williamson Act for purposes of
26 development, because the City of Hollister had protested the execution of the contract in 1973,
27 and therefore the City would be able to exercise its right not to succeed to the contract upon
28 annexation;
29 2) Relying upon this information, the property owner applied to annex the property into the City
30 of Hollister, incurring substantial costs processing the application and related CEQA
31 documents, without filing a notice of non-renewal;
32 3) On February 16, 2016, the Hollister City Council adopted Resolution No. 2016-16 adopting a
33 Mitigated Negative Declaration for annexation and development of the property;
34 4) On March 20, 2017, the City Council adopted Resolution Nos. 2017-61 and 2017-62,
35 authorizing the Mayor to execute an annexation agreement and requesting LAFCO to initiate
36 proceedings for the annexation of the property;
37 5) At that time, it was discovered that the City's 1973 protest was inadvertently filed with the
38 County Board of Supervisors rather than LAFCO, as was then required by statute, and
39 LAFCO suspended the application to annex the property into the City of Hollister and
40 recommended the property owner seek cancellation under Government Code section 51282 at
41 this time; and

1 **WHEREAS**, the Board of Supervisors is capable of making findings under Government Code section
2 51282(a)(1) or (2); and

3 **WHEREAS**, under the finding set forth in Government Code section 51282(a)(1), that the
4 cancellation is consistent with the purpose of the Williamson Act, the Board must make the following
5 additional specific findings under section 51282(b):

- 6 1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to
7 Government Code section 51245;
- 8 2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use;
- 9 3) That cancellation is for an alternative use which is consistent with the applicable provisions of
10 the city or county general plan;
- 11 4) That cancellation will not result in discontinuous patterns of urban development; and
- 12 5) That there is no proximate non-contracted land which is both available and suitable for the use
13 to which it is proposed the contracted land be put, or, that development of the contracted land
14 would provide more contiguous patterns of urban development than development of
15 proximate non-contracted land; and

16 **WHEREAS**, under the finding set forth in Government Code section 51282(a)(2), that the
17 cancellation is in the public interest, the Board must make the following additional specific findings
18 under section 51282(c):

- 19 1) That other public concerns substantially outweigh the objectives of the Williamson Act; and
- 20 2) That there is no proximate non-contracted land which is both available and suitable for the use
21 to which it is proposed the contracted land be put, or, that development of the contracted land
22 would provide more contiguous patterns of urban development than development of
23 proximate non-contracted land; and

24 **WHEREAS**, under Government Code section 51283(a) (Cancellation Fee), prior to any action by the
25 Board of Supervisors giving tentative approval of cancellation, the County Assessor shall determine
26 the current fair market value of the land as though it was free of the contractual restrictions of the
27 Williamson Act; and

28 **WHEREAS**, under Government Code section 51283(b), prior to giving tentative approval to the
cancellation of any contract, the Board of Supervisors shall determine and certify to the County
Auditor the amount of the cancellation fee, in an amount equal to twelve and one-half percent
(12.5%) of the cancellation valuation of the property, which the landowner shall pay to the County
Treasurer upon cancellation; and

WHEREAS, under Government Code section 51283(e), the County Treasurer will transmit the
cancellation fee to the State of California Controller's Office within 30 days of collection; and

WHEREAS, under Government Code section 51283.4(a), if the Board of Supervisors approves the
cancellation request, the Board shall specify all appropriate conditions and contingencies that must
be satisfied in order for the certificate of cancellation to be recorded, including the condition that the
cancellation fee be paid in full within one year from the date that the certificate of tentative
cancellation is recorded, which may be extended by the Board subject to a reevaluation to update
the cancellation fee, and a requirement that the landowner obtain all permits necessary to commence
the project; and

1 **WHEREAS**, if the Board of Supervisors approves the cancellation request, the Board's approval
2 shall constitute the approval of a project under the California Environmental Quality Act (CEQA)
because it will facilitate implementation of a residential subdivision; and

3 **WHEREAS**, the City of Hollister, as lead agency under CEQA regarding the application to annex
4 and develop the subject property, prepared and adopted a Mitigated Negative Declaration, pursuant
5 to Hollister City Council Resolution No. 2016-16; and

6 **WHEREAS**, the Board of Supervisors, as a responsible agency under CEQA, has reviewed and
7 considered the information contained in the Mitigated Negative Declaration for the annexation and
development of the subject property; and

8 **WHEREAS**, the State of California, Department of Conservation reviewed the application for
9 cancellation and information submitted by the San Benito County Assessor's Office and provided
no objections to the Board of Supervisors' approval of the cancellation request; and

10 **WHEREAS**, the San Benito County Agricultural Preserve Advisory Committee considered the
11 cancellation request and found that the request meets the requirements of Government Code section
12 51282(a)(1) and (2) and recommended that the Board of Supervisors approve the cancellation
request based on the required findings; and

13 **WHEREAS**, the entire administrative record, including but not limited to the application materials
14 regarding the cancellation request for the remainder of Contract Number 73-38, the Department of
15 Conservation providing no objection to the cancellation request, and the Agricultural Preserve
16 Advisory Committee's recommendation, were forwarded to the Clerk of the Board of Supervisors,
and the cancellation request was set for a public hearing pursuant to Government Code section
51284; and

17 **WHEREAS**, the Board of Supervisors held a duly noticed public hearing to consider the
18 cancellation request regarding the remainder of Contract Number 73-38; and

19 **WHEREAS**, at the public hearing, the Board of Supervisors heard and received all oral and written
20 testimony and evidence that was made, presented, or filed, and all persons present at the hearing
21 were given ample opportunity to hear and be heard with respect to any matter related to the
cancellation request; and

22 **WHEREAS**, at the conclusion of public testimony, the Board closed the public hearing, deliberated
23 and considered the merits of the cancellation request.

24 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of San
25 Benito that, based on the entire record of proceedings before it, the Board hereby finds and
26 determines that cancellation of the remainder of Contract Number 73-38 is appropriate under
Government Code section 51282(a)(1) and (2).

1 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it
2 hereby finds and determines that the cancellation of the remainder of Contract Number 73-38 is
3 consistent with the purposes of the Williamson Act, based on the following findings, as set forth in
4 Government Code section 51282(a)(1) and (b):

- 5 1) The cancellation is for land on which a notice of nonrenewal has been served pursuant to
6 Government Code section 51245, in that the applicant filed and recorded a notice of
7 nonrenewal on November 4, 2019 (Recorder's Document No. 2019-0010773);
- 8 2) Cancellation is not likely to result in the removal of adjacent lands from agricultural use, in
9 that the subject property lies immediately between Hollister's City Limits and its Sphere of
10 Influence and cancellation of the contract is not likely to result in the removal of adjacent
11 lands from agricultural use, because (i) adjacent lands to the west and north are outside the
12 City's Sphere of influence and thus not likely to be developed without a general plan
13 amendment, and (ii) adjacent lands to the east and south have already been annexed and
14 removed from agricultural use for development;
- 15 3) Cancellation is for an alternative use which is consistent with the applicable provisions of the
16 city or county general plan, in that the City of Hollister's General Plan depicts the subject
17 property as "Medium Density Residential" and the County of San Benito's General Plan
18 designates it as "Residential Mixed", and the intended development of the property shall be
19 residential housing of a density that is consistent with both general plans;
- 20 4) Cancellation will not result in discontinuous patterns of urban development, in that the general
21 plans for the City of Hollister and County of San Benito have already made this finding,
22 serving as the blueprints for how the City and County will grow and develop in a logical,
23 continuous pattern, designating the subject property as "Medium Density Residential" and
24 "Residential Mixed", respectively, as well as being within the City of Hollister's "Priority
25 Infill Area" within its Land Use and Community Design Element, and adjacent lands to the
26 east and south have already been removed from agricultural use for development, so
27 cancellation of the contract will facilitate a natural, continuous pattern of urban development
28 consistent with the pattern of urban development set forth in the City of Hollister's General
Plan; and
- 5) There is no proximate non-contracted land which is both available and suitable for the use to
which it is proposed the contracted land be put, or, that development of the contracted land
would provide more contiguous patterns of urban development than development of
proximate non-contracted land, because the property along the eastern border of the subject
property is currently undergoing development as a single-family residential subdivision
("Mirabella II") after undergoing the initial CEQA and annexation processes in conjunction
with the subject property, and so the Mirabella II subdivision was entirely designed with the
expectation that development of the subject property would commence concurrently or follow
in short order, the location and sizing of Mirabella II's park amenities, sewer lift station, and
street stubs all contemplate expansion westward with the development of the subject property,
in conjunction with traffic calming measures being installed on Buena Vista Road, sidewalks
and bike paths are being constructed as part of the Mirabella II project to allow for safe
pedestrian and bicycle traffic to Calaveras Elementary School from the subject property,
development of the subject property would flow naturally from development of the Mirabella
II project, and there is no proximate non-contracted land which is available and suitable for the
development of this residential density which would provide more contiguous patterns of
urban development in the area.

1 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it
2 hereby finds and determines that the cancellation of the remainder of Contract Number 73-38 is in
3 the public interest, based on the following findings, as set forth in Government Code section
4 51282(a)(2) and (c):

- 5 1) Other public concerns substantially outweigh the objectives of the Williamson Act, because,
6 according to the forthcoming California Bill SB 330 (the "Housing Crisis Act of 2019"),
7 California has accumulated an unmet housing backlog of nearly 2,000,000 units and would
8 need to provide for at least 180,000 new units annually to keep pace with growth through
9 2025, SB 330 is based on the premise that much of the housing needed has already been
10 planned for by local communities, it simply needs to be developed, and the objectives of the
11 Williamson Act are substantially outweighed by this public concern for housing, and the
12 development of housing in Hollister is necessary for the economic and social well-being of the
13 community and is necessary to implement the housing policies of the City's and County's
14 general plans; and
- 15 2) There is no proximate non-contracted land which is both available and suitable for the use to
16 which it is proposed and contracted land be put, or, that development of the contracted land
17 would provide more contiguous patterns of urban development than development of
18 proximate non-contracted land, because the property along the eastern border of the subject
19 property is currently undergoing development as a single-family residential subdivision
20 ("Mirabella II") after undergoing the initial CEQA and annexation processes in conjunction
21 with the subject property, and so the Mirabella II subdivision was entirely designed with the
22 expectation that development of the subject property would commence concurrently or follow
23 in short order, the location and sizing of Mirabella II's park amenities, sewer lift station, and
24 street stubs all contemplate expansion westward with the development of the subject property,
25 in conjunction with traffic calming measures being installed on Buena Vista Road, sidewalks
26 and bike paths are being constructed as part of the Mirabella II project to allow for safe
27 pedestrian and bicycle traffic to Calaveras Elementary School from the subject property,
28 development of the subject property would flow naturally from development of the Mirabella
II project, and there is no proximate non-contracted land which is available and suitable for the
development of this residential density which would provide more contiguous patterns of
urban development in the area.

20 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it
21 hereby certifies that it has reviewed and considered the information contained in the Mitigated
22 Negative Declaration for the annexation and development of the subject property, adopted by the
Hollister City Council, as lead agency, pursuant to City Council Resolution No. 2016-16.

23 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it
24 hereby finds and determines that approving the cancellation request for the remainder of Contract
25 Number 73-38 is supported by the findings set forth above, and that the findings are supported by
26 substantial evidence in the record, and are consistent with the Agricultural Preserve Advisory
27 Committee's recommendation.

27 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it
28 hereby finds and determines that the San Benito County Assessor has certified the amount of the
cancellation fee of \$216,875, in an amount equal to twelve and one-half percent (12.5%) of the
cancellation valuation of the property, and the Board of Supervisors hereby certifies to the San
Benito County Auditor the amount of the cancellation fee of \$216,875, in an amount equal to
twelve and one-half percent (12.5%) of the cancellation valuation of the property.

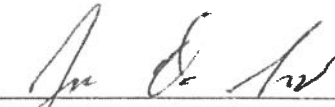
1 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it
2 hereby grants approval of the cancellation request on the following conditions of approval:

- 3 1) The landowner shall make payment in full of the amount of the cancellation fee (\$216,875)
4 computed under Government Code section 51283; and
5 2) The landowner will initiate the annexation process with the City of Hollister to develop the
6 land for the needed residential units.

7 **BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of San Benito that it
8 hereby authorizes and directs the Clerk of the Board of Supervisors to record with the San Benito
9 County Recorder, a certificate of tentative cancellation, meeting the requirements set forth in
10 Government Code section 51283.4.

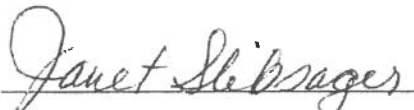
11 **PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN**
12 **BENITO THIS 18th DAY OF FEBRUARY, 2020 BY THE FOLLOWING VOTE:**

13 Ayes: Supervisor(s): **De La Cruz, Botelho, Hernandez, Medina, Gilio**
14 Noes: Supervisor(s): *none*
15 Absent: Supervisor(s): *none*
16 Abstain: Supervisor(s): *none*

17 By: 
18 Jaime De La Cruz, Chair

19 **ATTEST:**
20 Janet Slibsager, Clerk of the Board

21 **APPROVED AS TO LEGAL FORM:**
22 San Benito County Counsel's Office

23 By: 
24 Date: 2-18-20

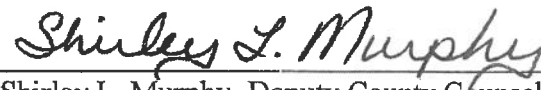
25 By: 
26 Shirley L. Murphy, Deputy County Counsel
27 Date: Feb. 12, 2020

EXHIBIT B

**City of Hollister Resolution 73-11:
Protesting Execution of Williamson Act Contract**

[Please see attached]

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

RESOLUTION NO. 73- 11

RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF HOLLISTER PROTESTING THE EXECUTION OF
CONTRACTS UNDER THE CALIFORNIA LAND
CONSERVATION ACT OF 1965, AS AMENDED

WHEREAS, pursuant to the provisions of Section 51243.5 of the Government Code of the State of California, the Clerk of the Board of Supervisors of the County of San Benito has given notice to the City of Hollister that at 7:30 o'clock P.M. on February 26, 1973, the Board of Supervisors of the County of San Benito intends to consider the execution of contracts which include land within one (1) mile of the exterior boundaries of the City of Hollister under the California Land Conservation Act of 1965, as amended; and

WHEREAS, the City Council of the City of Hollister desires to protest the execution of such contracts.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hollister as follows:

1. The City of Hollister protests the annexation of contracts which include land within one (1) mile of the exterior boundaries of the City of Hollister under the California Land Conservation Act of 1965, as amended, between the County of San Benito and the following:

<u>Assessor's Parcel No.</u>	<u>Name</u>
------------------------------	-------------

19-060-01 and 19-210-14	
----------------------------	--

BERTUCCIO, Paul W. and Concetta

19-110-18 and 19-110-24	
----------------------------	--

PEREIRA, Manuel E. and Nancy GOMES, Joe L. and Marie L.

NEW APN-19.11-31

2. The City Clerk of the City of Hollister shall cause a certified copy of this Resolution to be filed with the Clerk of the Board of Supervisors

[EXHIBIT B to Gonzalez Annexation Questionnaire]

14 the execution of such contracts.

15 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
16 Hollister as follows:

17 1. The City of Hollister protests the annexation of contracts
18 which include land within one (1) mile of the exterior boundaries of the
19 City of Hollister under the California Land Conservation Act of 1965, as
20 amended, between the County of San Benito and the following:

21	<u>Assessor's Parcel No.</u>	<u>Name</u>
22	19-060-01 and	
23	19-210-14	BERTUCCIO, Paul W. and Concetta
24	19-110-18 and	
25	19-110-24	PEREIRA, Manuel E. and Nancy GOMES, Joe L. and Marie L.

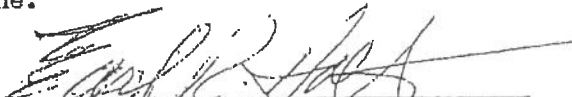
26 2. The City Clerk of the City of Hollister shall cause a certified
27 copy of this Resolution to be filed with the Clerk of the Board of Supervisors
28 of the County of San Benito prior to 7:30 o'clock P.M. on February 26, 1973.

29 The foregoing Resolution was adopted at a regular meeting of the
30 City Council of the City of Hollister held on the 20th day of February, 1973,
31 by the following vote:

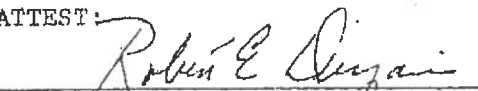
32 AYES: Councilmen Klauer, Kludt, Machado, Maynes, Mayor Holt.

1 NOES: Councilmen None.

2 ABSENT: Councilmen None.

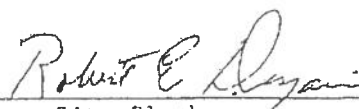
3 
4 Mayor of the City of Hollister

5 ATTEST:

6 
7 Clerk of the City of Hollister

8 The foregoing instrument is a true and correct copy of the original
9 on file in the Office of the City Clerk of the City of Hollister, California.

10 Dated: February 20, 1973.

11 
12 City Clerk
13 City of Hollister
14 State of California

15
16
17
18
19
20
21
DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK,
CITY OF HOLLISTER

EXHIBIT C

**Annexation Agreement:
Fernando Gonzalez APN 019-110-031**

[Please see attached]

**ANNEXATION AGREEMENT
FERNANDO GONZALEZ
APN 019-110-031**

THIS AGREEMENT is made and executed on March 20, 2017 by and between the City of Hollister, a municipal corporation ("City") and Fernando Gonzalez, ("Owner").

WHEREAS, Owner owns that certain real property (the "subject property") located within the unincorporated area of the Hollister Sphere of Influence, County of San Benito, State of California. The subject property, comprised of approximately 11.11 acres, is described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Owner has applied for and City has approved the rezoning of the subject property per Ordinance 1126 on March 7, 2016 to the City zoning classification specifically described in Exhibit "A" and

WHEREAS, Owner intends to maintain the subject property in accordance with City ordinances and policies governing such property and use; and

WHEREAS, it is the policy of the City Council of the City of Hollister, that an applicant receiving rezoning approval must execute an annexation agreement as a condition to City Council's approval of the applicant's request for rezoning and annexation; and

WHEREAS, Owner is seeking approval to annex the subject property to the incorporated territory of the City of Hollister, and in connection therewith, Owner agrees to hold and use the subject property in accordance with the terms and conditions described herein, which conditions have been found by the City Council to be necessary to advance the goals of the General Plan, protect the community against potentially deleterious effects arising out of Owner's use of the property, satisfy the community's need for facilities required to meet the public service demand created by development of the subject property, and ensure that the proposed development pays its own way and eliminates or minimizes the financial burden on City services and facilities created by development of the subject property; and

WHEREAS, in order to induce the City Council of the City of Hollister to approve such annexation, Owner now desires to enter into this Agreement, undertaking to hold and use the subject property in accordance with all City requirements, which constitute conditions of annexation.

NOW THEREORE, the parties agree as follows:

1. In consideration of the San Benito County LAFCO Policies 2.219 for annexations, Owner shall submit the annexation application for property shown in Exhibit A to include the following area in the annexation map and in the legal description of the annexation area:
 - a. The full width and full length of Buena Vista Road on the south side of the property line of the annexation described in Exhibit A incorporated herein by this reference.
2. In consideration of City's approval of Owner's application to annex the real property described in Exhibit "A", Owner agrees to hold and use the subject property in compliance with and subject to all City ordinances, resolutions, and policies, and in compliance with all applicable provisions of the Tax Sharing Agreement dated June 6, 2011, between the City of Hollister and County of San Benito, as amended from time to time.
3. As a further condition of annexation and in accordance with the fiscal neutrality provisions of the General Plan, Owner agrees to pay to the City a fee for each residential unit developed on the subject property in, an amount to be determined by City, at building permit issuance, to mitigate the fiscal impacts created by development of the subject property.
4. As a further condition of annexation, Owner agrees to comply with all ordinances, rules and policies of the City with regard to the subdivision and development of property, including:
 - a. As a condition of annexation, the owner agrees to consent to annexation of subject property to all Community Facilities Districts and Landscape and Lighting Districts.
 - b. The subject property shall not be annexed before the recordation of any final map for residential development to an existing or new Mello-Roos Communities Facilities district for staffing for police and fire protection; to an existing or newly created Mello Roos Landscaping and Lighting District; and to a Communities Facilities District.
 - c. Owner agrees that in developing and maintaining subject property that deed restrictions shall be recorded that requires maintenance of storm water facilities in compliance with the adopted City of Hollister Storm Water Management Plan per City Resolution 2006-100.
 - d. Owner agrees that no on-site regenerating water treatment systems or individual water softeners shall be installed or used in any structure or building whether commercial, industrial, or residential without city approval.
 - e. Dedication of right-of-way along the project site's frontages
 - i. Dedication of right-of-way for the completion of Buena Vista Road.

- f. Improvements of the project's road frontages to City requirements and standards applicable at the time of site development including Buena Vista Road, Miller Road, and Westside Road.
5. Owner understands and agrees that nothing in this Agreement shall be construed to assign or approve any residential allocations for development of the subject property. Development of the subject property shall be governed by and proceed in accordance with the City's growth management ordinances and policies, which are in effect at the time of application for residential allocations.
6. The conditions of this Agreement shall be binding on all of the Owner's heirs, successors in interest and assigns and shall be covenants that run with the subject property described in Exhibit "A".

FERNANDO GONZALEZ

Fernando Gonzalez owner
Name and Title

CITY OF HOLLISTER

Ignacio Velazquez For:

Ignacio Velazquez
Mayor, City of Hollister

EXHIBIT A

ANNEXATION BOUNDARY

BEING A PORTION of Homestead Lots 19 and 20 of the Rancho San Justo, bounded by a line more particularly described as follows:

BEGINNING at a point in the center of Buena Vista Road at the intersection thereof with the center of Miller; thence along the centerline of Buena Vista Road

[1] North 87° 00' 00" West 1597.13 feet; thence leaving said centerline

[2] North 2° 34' 00" East 256.57 feet; thence

[3] South 87° 26' 00" East 105.35 feet; thence

[4] North 2° 34' 00" East 662.97 feet; thence

[5] South 86° 52' 50" East 517.47 feet; thence

[6] North 3° 00' 00" East 232.43 feet; thence

[7] North 87° 00' 00" East 974.86 feet to a point on the centerline of said Miller Road; thence along said centerline

[8] South 3° 00' 00" West 1151.70 feet to the point of beginning

Containing 37.28 acres, more or less



6/15/14

EXHIBIT D

City of Hollister Letter Re: Questions #15 & #16

[Please see attached]



CITY OF HOLLISTER

Send All Mail To:

375 Fifth Street • Hollister, CA 95023-3876

ENGINEERING DIVISION

Office Location: 339 Fifth Street • (831) 636-4340 Fax: (831) 634-1834

April 21, 2015

LAFCO Commission
2301 Technology Parkway
Hollister, CA 95023

RE: Gonzalez Annexation Application Question Number 15 and 16

Dear LAFCO Commissioner,

Mr. Fernando Gonzalez is requesting annexation approval of his property located south of Buena Vista Road, east of Carnoble Drive, and north of Central Avenue, further identified as San Benito County Assessor Parcel Number 019-250-001. Question number 15 of the LAFCO application states, *attach a statement from the annexing agency describing its ability to provide the services that are the subject of the application, including the sufficiency of revenues.* The city of Hollister will provide services to the site upon development pending LAFCO approval of the annexation of territory. The project site is within the City of Hollister General Plan area and is accounted for in the City's Long-Term Wastewater Management Program. It is proposed that services including sewer and wastewater generated onsite be collected and conveyed to the City of Hollister Domestic Wastewater Treatment Plant (DWTP) for treatment and disposal. The site is expected to obtain domestic water service from the City of Hollister. Impact fees will be assessed at the time of building permit issuance for use in future capital improvement projects. At the time the property is annexed and developed the City will be able to provide and will have sufficient revenues to provide the proposed municipal services.

Question number 16 of the LAFCO application states, *if the proposal will result in or facilitate an increase in water usage, attach a statement from the retail water purveyor that describes the timely availability of water supplies that will be adequate for the projected needs.* In response, the site is expected to obtain domestic water service from the City of Hollister. At the time the property is developed the City will be able to supply water which is adequate for the projected needs of the proposed land use.

Should you have any questions, or require additional information, please do not hesitate to contact our department at your convenience at (831) 636-4340.

Sincerely,

David Rubcic, PE, PLS
Interim Engineering Manager/City Engineer

[EXHIBIT D to Gonzalez Annexation Questionnaire]

EXHIBIT E

**City of Hollister Resolution 2016-16:
Adopting Mitigated Negative Declaration for Prezone 2013-2**

[Please see attached]

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER
Black, Deputy City Clerk

RESOLUTION NO. 2016-16

**A RESOLUTION OF THE CITY OF HOLLISTER CITY COUNCIL ADOPTING A
MITIGATED NEGATIVE DECLARATION FOR PREZONE 2013-2
(GONZALEZ AND BORELLI)**

WHEREAS, Fernando Gonzalez and Frank Borelli ("the applicants") submitted an application for Prezone 2013-2 to prezone for annexation 37.28 acres to Medium Density Residential Performance Overlay zoning district located north of Buena Vista Road, between Carnoble Drive and Miller Road, and the property is further identified as Assessor's Parcel Numbers 019-110-031 and 019-120-038; and

WHEREAS, an initial study was prepared for Prezone 2013-2, ("Project") and it was determined that potentially significant impacts from the Project could be reduced to an insignificant level with the incorporation of mitigation measures agreed to by the applicant into the project and that a Mitigated Negative Declaration could be prepared; and,

WHEREAS, the Mitigated Negative Declaration for Prezone 2013-2 was circulated from December 11, 2015 to January 11, 2016 to the Association of Monterey Bay Area Governments, the State Clearinghouse, and local agencies; and

WHEREAS, all federal, state, and local requirements must be met with any proposed project within Prezone 2013-2; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 28, 2016, to consider the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, staff reports, and to hear and consider written and oral comments and approved Planning Commission Resolution 2016-4 recommending to the City Council the approval of the Mitigated Negative Declaration; and

WHEREAS, the City Council held a duly noticed public hearing on February 16, 2016, to consider the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, staff reports, and to hear and consider written and oral comments; and

WHEREAS, after considering written and oral comment, the City of Hollister City Council deliberated and determined to adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting program; and

WHEREAS, the Initial Study and Mitigated Negative Declaration and the Mitigation Monitoring Program are in compliance with the provisions of the California Environmental Quality Act; and

WHEREAS, pursuant to Section 711.4 of the Fish and Game Code, a de minimis finding cannot be made for the proposed project and the applicant shall be required to pay Fish and Game fees when the Notice of Determination is filed.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Hollister hereby adopts the following findings:

1. The Mitigated Negative Declaration for Prezone 2013-2 evaluated the impacts of the proposed projects.
2. The City Council has reviewed and considered the information contained in the Mitigated Negative Declaration, Mitigation Monitoring Program and based on the whole record before the Council, including the initial study and any comments received, that there is not substantial evidence that the Project will have a significant effect on the environment.
3. The Mitigated Negative Declaration and the Mitigation, Monitoring and Reporting Program comply with the California Environmental Quality Act, the State CEQA Guidelines, and the City of Hollister CEQA process.
4. The proposed mitigated negative declaration reflects the City of Hollister's independent judgment and analysis.
5. The mitigation measures contained in the Mitigation Monitoring and Reporting Program were agreed to by the applicant and are adequate to reduce the impacts of the project on the physical environment to a less than a significant level.
6. The document and other materials that constitute the record of the proceedings on which the City's determinations are based are located at the City of Hollister Development Services Department, 339 Fifth Street, Hollister California 95023, (831) 636-4360

BE IT FURTHER RESOLVED, that the City Council hereby adopts the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for Pre-zone 2013-2.


PASSED AND ADOPTED, by the City Council of the City of Hollister at a regular meeting held this 16th day of February, 2016, by the following vote:

AYES: Council Members Gomez, Friend, and Luna.

NOES: None.

ABSTAINED: None.

ABSENT: Council Member Klauer and Mayor Velazquez.



Ignacio Velazquez, Mayor

ATTEST:



Thomas A. Graves, CMC, City Clerk

APPROVED AS TO FORM:

L+G LLP, Attorneys at Law



City Attorney

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

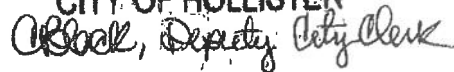

Book, Deputy City Clerk

EXHIBIT F

**City of Hollister Ordinance No. 1126
Rezoning to Medium Density Residential Performance Overlay Zone**

[Please see attached]

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

ORDINANCE NO. 1126

**AN ORDINANCE OF THE CITY OF HOLLISTER AMENDING MUNICIPAL CODE
CHAPTER 17.24.250 PREZONING OF SPECIFICALLY DESCRIBED REAL
PROPERTIES TO MEDIUM DENSITY RESIDENTIAL
PERFORMANCE OVERLAY ZONE
(APNS 019-110-031 AND 019-120-038)**

WHEREAS, following duly noticed public hearing on January 28, 2016, the Planning Commission recommended adoption of a Mitigated Negative Declaration for PZ 2013-2 and approval of the request to Prezone 37.28 acres to Medium Density Residential Performance Overlay Zone; and

WHEREAS, on February 16, 2016, the City Council of the City of Hollister held a duly noticed public hearing to consider adoption of a Mitigated Negative Declaration and the prezoning application;

NOW, THEREFORE, the City Council of the City of Hollister ordains as follows:

Section 1: Zoning Map Amended. The Official Zoning Map of the City of Hollister is hereby amended by prezoning to R3-M/PZ (Medium Density Residential Performance Overlay Zone) all that real property situated in the County of San Benito, State of California, particularly described in "Exhibit A" and identified as R-3- M/PZ (Medium Density Residential Performance Overlay Zone) attached hereto and made a part thereof by reference.

Section 2: Severability. The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 3: Effective Date. This ordinance shall take effect and be in force thirty days from and after its final passage.

Section 4: Publication. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in the Free Lance, a newspaper of general circulation.

INTRODUCED following a public hearing held at a regular meeting on the 16th day of February, 2016


PASSED AND ADOPTED, by the City Council of the City of Hollister at a regular meeting held this 7th day of March, 2016, by the following vote:

AYES: Council Members Gomez, Friend, and Luna.

NOES: Mayor Velazquez.

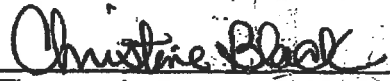
ABSTAINED: None.

ABSENT: Council Member Klauer.



Ignacio Velazquez, Mayor

ATTEST:



Thomas A. Graves, CMC, City Clerk

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

APPROVED AS TO FORM:

L+G LLP, Attorneys at Law



City Attorney

EXHIBIT A

ANNEXATION BOUNDARY

BEING A PORTION of Homestead Lots 19 and 20 of the Rancho San Justo, bounded by a line more particularly described as follows:

BEGINNING at a point in the center of Buena Vista Road at the intersection thereof with the center of Miller; thence along the centerline of Buena Vista Road

[1] North 87° 00' 00" West 1597.13 feet; thence leaving said centerline

[2] North 2° 34' 00" East 256.57 feet; thence

[3] South 87° 26' 00" East 105.35 feet; thence

[4] North 2° 34' 00" East 662.97 feet; thence

[5] South 86° 52' 50" East 517.47 feet; thence

[6] North 3° 00' 00" East 232.43 feet; thence

[7] North 87° 00' 00" East 974.86 feet to a point on the centerline of said Miller Road; thence along said centerline

[8] South 3° 00' 00" West 1151.70 feet to the point of beginning

Containing 37.28 acres, more or less



6/15/14

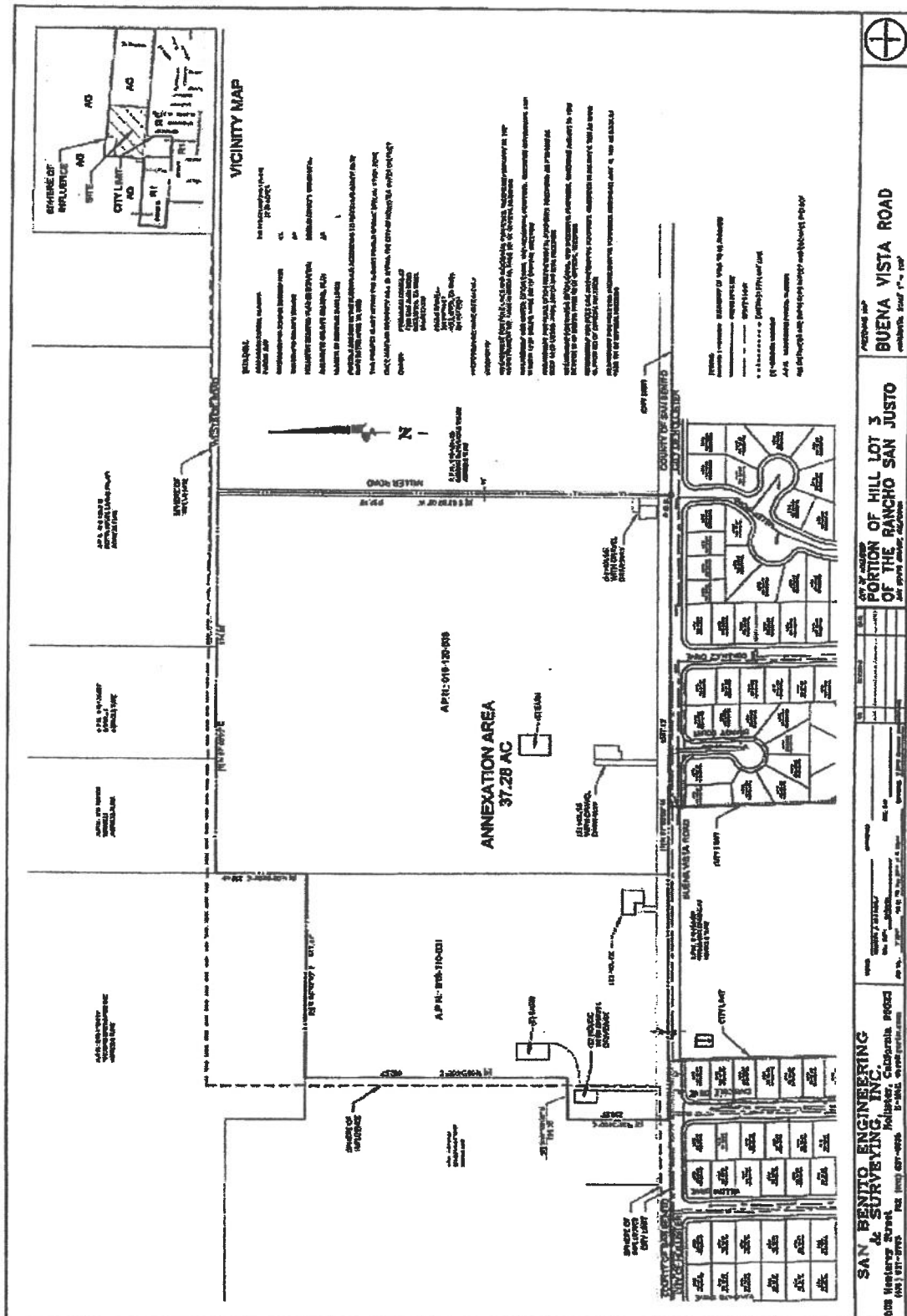


EXHIBIT G

**Resolutions 2017-61 and 2017-62:
Authorizing Annexation Agreement and Requesting LAFCO Initiate Annexation**

[Please see attached]

RESOLUTION No. 2017-61

**A RESOLUTION OF THE CITY OF HOLLISTER CITY COUNCIL AUTHORIZING THE
MAYOR TO EXECUTE AN ANNEXATION AGREEMENT WITH
FERNANDO GONZALEZ**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOLLISTER, that the Mayor of the City of Hollister is hereby authorized and directed, for and on behalf of the City of Hollister, to execute the agreement with Fernando Gonzalez for the property identified as San Benito County Assessor's Parcel Number 019-110-031 as described in Exhibit A, ensuring implementation of the City/County Tax Sharing Agreement, City of Hollister policy, and compliance with LAFCO policies for annexation of roads and elimination of unincorporated islands and to ensure adequate services.

PASSED AND ADOPTED, at the regular meeting of the City of Hollister held this 20th day of March 2017 by the following vote:

AYES: Council Members Friend, Luna, and Vice Mayor Klauer.

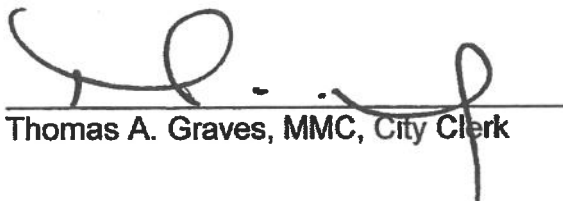
NOES: None.

ABSENT: Mayor Velazquez.



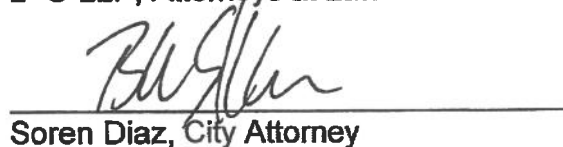
Karson Klauer, Vice Mayor

ATTEST:


Thomas A. Graves, MMC, City Clerk

APPROVED AS TO FORM:

L+G LLP, Attorneys at Law


Soren Diaz, City Attorney

**DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER**

EXHIBIT A

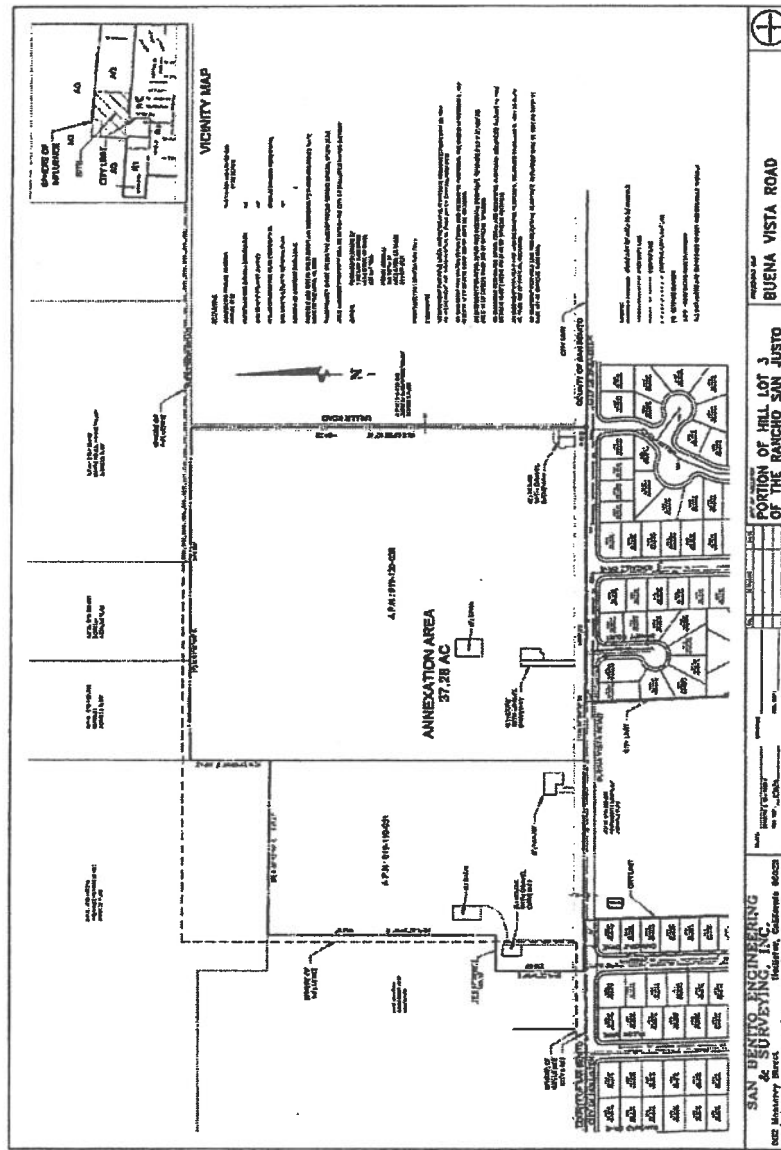
ANNEXATION BOUNDARY

BEING A PORTION of Homestead Lots 19 and 20 of the Rancho San Justo, bounded by a line more particularly described as follows:

BEGINNING at a point in the center of Buena Vista Road at the intersection thereof with the center of Miller; thence along the centerline of Buena Vista Road
[1] North 87° 00' 00" West 1597.13 feet; thence leaving said centerline
[2] North 2° 34' 00" East 256.57 feet; thence
[3] South 87° 26' 00" East 105.35 feet; thence
[4] North 2° 34' 00" East 662.97 feet; thence
[5] South 86° 52' 50" East 517.47 feet; thence
[6] North 3° 00' 00" East 232.43 feet; thence
[7] North 87° 00' 00" East 974.86 feet to a point on the centerline of said Miller Road; thence along said centerline
[8] South 3° 00' 00" West 1151.70 feet to the point of beginning
Containing 37.28 acres, more or less



6/15/14



RESOLUTION NO. 2017-62

**A RESOLUTION OF APPLICATION BY THE CITY OF HOLLISTER CITY COUNCIL
REQUESTING THE LOCAL AGENCY FORMATION COMMISSION (LAFCo) OF SAN
BENITO COUNTY TO INITIATE PROCEEDINGS FOR THE ANNEXATION OF
TERRITORY
(GONZALEZ AND BORELLI)**

WHEREAS, the City Council of the City of Hollister desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, (the "Act") for a change of organization consisting of the annexation of multiple properties identified as San Benito County Assessor's Parcel Numbers 019-110-031 and 019-120-038; and

WHEREAS, the reasons for the proposed reorganization is to annex the territory of multiple properties owned by Fernando Gonzalez and Frank Borelli (the "Territory") which is bordered along the southern property line by the City of Hollister, and to allow for the provision of municipal services to the Territory that will allow development consistent with the City of Hollister General Plan; and

WHEREAS, the following agency would be affected by the proposed jurisdictional change:

<u>Agency</u>	<u>Nature of Change</u>
County of San Benito	Annexation to City of Hollister

WHEREAS, a description and map of the boundaries of the Territory are attached hereto as Exhibits A and B and by this reference incorporated herein; and

WHEREAS, the proposed annexation of the Territory is consistent with the City of Hollister sphere of influence as set forth in the City's General Plan; and

WHEREAS, the Territory has been rezoned by City of Hollister Ordinance No. 1126 in conformance with state and local law; and

WHEREAS, the City Council certifies that as lead agency pursuant to the California Environmental Quality Act it has adopted a Mitigated Negative Declaration at its March 7, 2016 meeting per Resolution No. 2016-16 which is on file in the office of the City Clerk, as the appropriate environmental document for the project.

[EXHIBIT G to Gonzalez Annexation Questionnaire]

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

1. This Resolution of Application is hereby adopted and approved by the City Council of the City of Hollister, and the San Benito County Local Agency Formation Commission is hereby requested to take proceedings for the change of organization as authorized and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
2. The City Clerk shall cause a certified copy of this Resolution to be filed with the Executive Officer of the San Benito County Local Agency Formation Commission.

PASSED AND ADOPTED by the City Council of the City of Hollister at a regular meeting duly held on this 20th day of March, 2017, by the following vote:

AYES: Council Members Friend, Luna, and Vice Mayor Klauer.

NOES: None.

ABSENT: Mayor Velazquez.


Karson Klauer, Vice Mayor

ATTEST:


Thomas A. Graves, MMC, City Clerk

APPROVED AS TO FORM:

L+G LLP, Attorneys at Law


Soren Diaz, City Attorney

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

EXHIBIT A

ANNEXATION BOUNDARY

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[8] South 3° 00' 00" West 1151.70 feet to the point of beginning

Containing 37.28 acres, more or less



6/15/14

EXHIBIT B

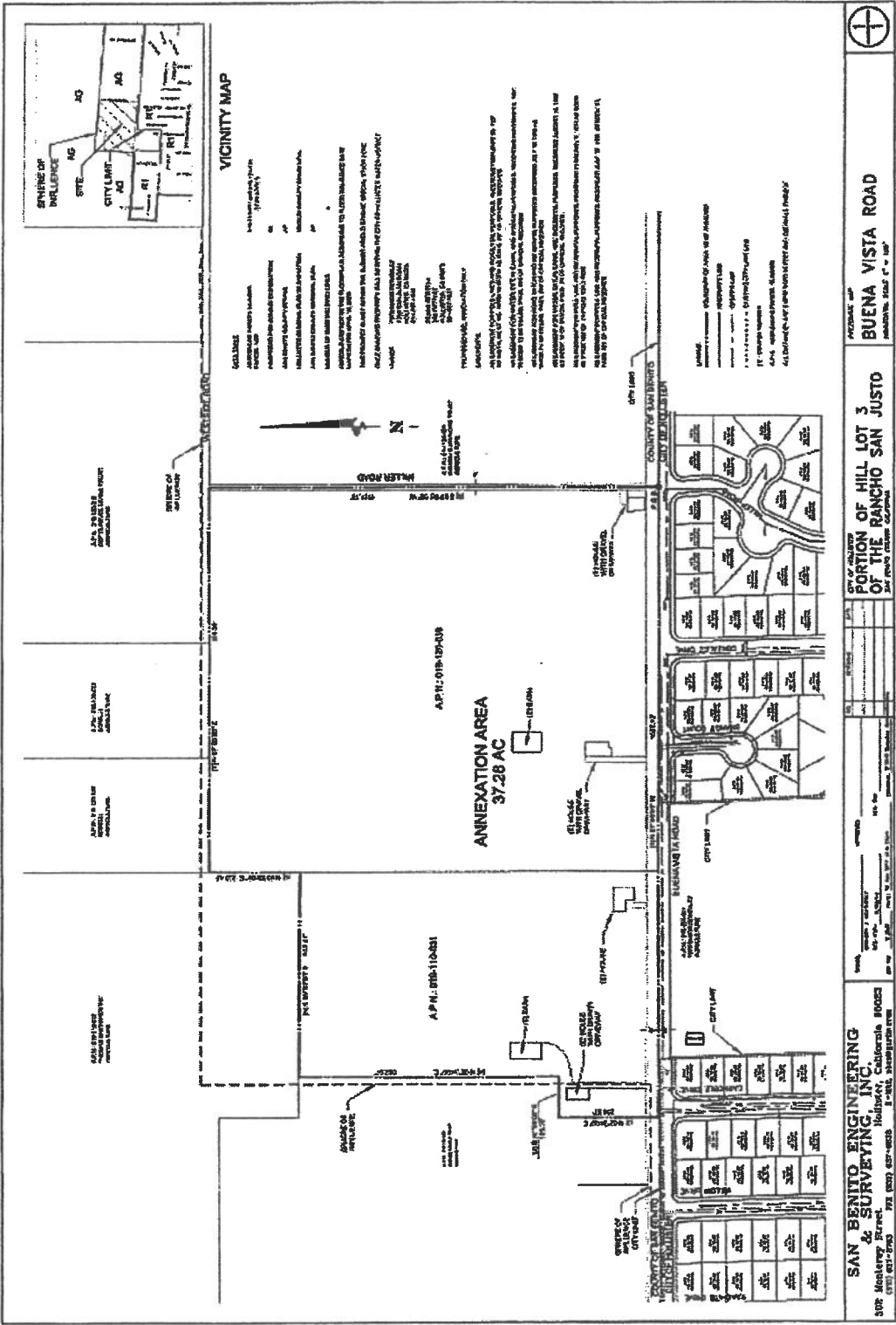


EXHIBIT H

Letter from Former City Attorney Soren Diaz

[Please see attached]



City of Hollister

375 Fifth Street, Hollister, CA. 95023 Telephone (831) 636-4300

July 10, 2017

To: Bill Nicholson
Executive Officer
LAFCO of San Benito County
2301 Technology Parkway
Hollister, CA 95023

From: City Attorney of the City of Hollister, California
375 Fifth Street
Hollister, California 95023

RE: San Benito County Assessor's Parcel Number 019-110-031 and 019-120-038

Dear Mr. Nicholson,

The City of Hollister City Council at its regular meeting of March 7, 2016 adopted Ordinance No. 1126 pre-zoning to Medium Density Residential Performance Overlay Zone (R3-M/PZ) two properties identified as San Benito County Assessor Parcel Number 019-110-031 and 019-120-038 for a total of approximately 37.28 acres. The property identified as APN 019-110-031 is currently owned by Mr. Fernando Gonzalez (the "Gonzalez"). The property identified as APN 019-120-038 is currently owned by Felice Clarice Borelli Trust Et Al (the "Borelli Property").

As you know, on April 25, 2017 the City of Hollister submitted to the San Benito County Local Agency Formation Commission (LAFCO) an application for the annexation of both properties. On June 21, 2017, Mr. Gonzalez provided an e-mail to the City of Hollister indicating the following: "As owner of property identified as APN 019-110-031 it is ok with me that the City of Hollister not submit an application to LAFCO for annexation because of Williamson Act matter."

Given pending Williamson Act issue(s) with the Gonzalez Property, the City of Hollister is respectfully requesting that instead of proceeding with the annexation process of both properties together, that only the annexation of the Borelli Property be processed at this time. The Borelli application for annexation to the City of Hollister for the property identified as APN 019-120-038 was submitted to LAFCO on June 7, 2017. Upon resolution of the Williamson Act issue(s) with the Gonzalez Property, a separate application for the annexation for the property identified as APN 019-110-031 will be submitted to LAFCO. The City of Hollister looks forward to working with you in regards to the Borelli Property annexation.

Please don't hesitate to contact me if you should have any questions on this matter.

Sincerely,


E. Soren Diaz,
City Attorney

Cc: Bryan Swanson
Abraham Prado

Bill Nicholson

From: dledeboer@kiperinc.com
Sent: Wednesday, June 03, 2020 4:05 PM
To: Bill Nicholson
Cc: 'Michael Kiper'; 'Fernando Gonzalez'
Subject: FW: Hollister Annexation - LAFCO 533 - Gonzalez Property

Bill,

As a follow-up to our telephone conversation this afternoon, below is a copy of the email that Michael sent to Allan Gomes yesterday. If Mrs. Gomes correspondence is to be included in the packet to the Board Members, please include Michael's email as well. As I mentioned during our conversation, we intend to accommodate Mrs. Gomes, it's just more appropriate to do so during our development plan process.

If you should have any questions or be in need of additional information, please don't hesitate to contact us.

Thanks,

Doug Ledebouer

From: Michael Kiper <mkiper@kiperinc.com>
Sent: Tuesday, June 2, 2020 7:16 PM
To: agomes@andgolaw.com
Cc: Doug Ledebouer <dledeboer@kiperinc.com>
Subject: Hollister Annexation - LAFCO 533 - Gonzalez Property

Hi Allan,

Pleasure speaking to you earlier today. My colleague Doug Ledebouer (CC'ed) spoke with your mother as well, and they've agreed to meet at the property tomorrow morning at 10 AM so that your mother can show Doug the well and the lines. Understandably, your mother is concerned that development of the Gonzalez property will impact her access to water and electricity. Again, I want to reiterate our commitment to resolve this matter cooperatively and to preserve any easement rights your mother may have on the Gonzalez property. Whatever the specific solution may be (property line adjustment, granting an easement in the final map, digging of a new well on your property, etc.), we can confidently assure you that the end result will protect your mother's existing rights to access water and electricity.

Deciding upon the best solution to reach this end result may take some time. As I mentioned on our call, we will need to engage our surveyors to depict the exact locations of the easements in order to understand what might be the most appropriate remedy. To the extent that we cannot resolve this issue in the one week prior to our LAFCO annexation hearing, I am hoping that we can agree that this is not an issue that needs to be resolved prior to annexation. My understanding (which I encourage you to confirm) is that any easement rights held by your mother in the Gonzalez property will not be impacted in any way whatsoever by the Gonzalez property's legal annexation into the city limits of the City of Hollister. The issue will of course need to be resolved prior to the City of Hollister's subsequent approval of development plans for the Gonzalez property, however this will be several months down the road. To the extent your mother and LAFCO Executive Officer Bill Nicholson are agreeable to the approach, agreeing to resolve the matter after annexation and prior to development plan approval will also have the added benefit of providing sufficient time to evaluate the surveys of the easements and to draft the appropriate agreement(s).

ATTACHMENT 3

Once you've had a chance to speak with your mother following tomorrow's meeting, please let us know what assurances we can provide, if any, in order to consider this matter temporarily "resolved" exclusively with respect to next week's annexation hearing (and subject to Bill Nicholson's blessing). For example, we would be happy to provide a signed writing confirming that any easement rights in the Gonzalez property will be preserved through annexation and development, or some other such writing to your satisfaction.

Thank you again for your help in this matter—please don't hesitate to call me if you'd like to discuss.

Sincerely,
Michael Kiper



Celebrating 40 Years

3200 Danville Blvd, Suite 200
Alamo, CA 94507
c. (925) 683-7053
www.kiperhomes.com

May 31, 2020

Bill Nicholson
Executive Director
San Benito Local Agency Formation Commission
2301 Technology Parkway
Hollister, CA 95023
bnicholson@cosb.us

VIA EMAIL

RE: LAFCO 533

Dear Mr. Nicholson,

Thank you for taking the time to speak with me on Friday regarding the above referenced LAFCO matter.

Mr. Gonzalez's property at issue in LAFCO 533, is directly east of my property (1660 Buena Vista Road). Initially, Mr. Gonzalez's property and mine were a part of what amounted to essentially a single property parcel ("Original Parcel"). The land was owned and operated by Manuel Pereira and my late husband, Joe Gomes. Perreira and my husband were business partners in a farming operation. Both Manuel's and our primary residences were built on the Original Parcel. In addition, there were other residences and structures located on the Original Parcel.

In 1994 the partnership ended and the property between Perreira and ourselves was divided. (**Attachment A**). Because there were structures that needed to be assigned between the two parties, the Original Parcel was not divided with a clean line. As shown in the notice related to LAFCO 533, the property line is a zig-zag splitting the Original Parcel.

However, the line is not the most significant issue in this matter. Both properties receive water from a well, which is located on the Gonzalez portion of the property and is served by a well and pump which is also located on the Gonzalez portion of the property. (**Attachment B**). Also, please see the location of the well as noticed on the second page of the LAFCO notice (**Attachment C**). This well provides water to my home, a rental property on our parcel, our barn and the farmland on my property. Additionally, the well also provides water to a home I own at 1690 Buena Vista Road. Moreover, a right to water from the well is included in the deed for the 1690 parcel. (**Attachment D**). The location of these pipes is not apparently obvious, though I know where they are located.

In addition, electricity for the pump for the well, the barn on our property, and the rental house located on our parcel originates on the Gonzalez property. Similarly the natural gas lines for the additional residence originates from the Gonzalez property.

ATTACHMENT 4

I have significant concern that should this matter be approved for annexation to the City, I will face significant issues with access to water and electricity. Please let me know if you have any questions. Feel free to reach out to me at (831) 637-3189. In addition, you may also reach out to my son, Allan Gomes at (415) 994-9261 or agomes@andgolaw.com.

Regards,

Maria L. Gomes

Attachment A

RECORDING REQUESTED BY:

FIDELITY NATIONAL TITLE
When Recorded Mail Document
and Tax Statement To:

MANUEL PEREIRA
1620 BUENA VISTA ROAD
HOLLISTER, CA 95023

Escrow No.
Title Order No. 47100
APN:

9412153

Recorded at the Request of
PUBLIC

DEC 14 1994

SAN BENITO COUNTY RECORDER
3:30 p.m. FEE: 16.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$ NO TAX DUE City tax \$ _____

[] computed on full value of property conveyed, or

[] computed on full value less value of liens or encumbrances remaining at time of sale,

[X X] Unincorporated Area City of _____

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

MANUEL E. PEREIRA, an unmarried man

hereby GRANT(S) to

JOE L. GOMES AND MARIA L. GOMES, AS TRUSTORS/TRUSTEES OF THE GOMES FAMILY
TRUST, DATED 01/25/91
the following described real property in the City of HOLLISTER
County of SAN BENITO State of California:

SEE ATTACHED EXHIBIT "A"

THIS DEED IS BEING RECORDED TO PERFECT A LOT LINE ADJUSTMENT BEING RECORDED
CONCURRENTLY HERewith

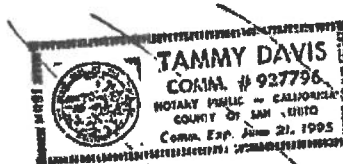
DATED: December 12, 1994

STATE OF CALIFORNIA
COUNTY OF SAN BENITO

ON DECEMBER 12, 1994 before me,
TAMMY DAVIS personally appeared
MANUEL E. PEREIRA

Manuel E. Pereira
MANUEL E. PEREIRA

personally known to me (or proved to me on the
basis of satisfactory evidence) to be the person(s)
whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon
behalf of which the person(s) acted, executed the
instrument.



Witness my hand and official seal

Signature Manuel E. Pereira

MAIL TAX STATEMENT AS DIRECTED ABOVE

1-4

State of California

County of San Bernito

SS.

Title or Type of Document Grant Deer
Number of Pages 4 Date of Document 12-12-94
Signer(s) Other than named below NONE

9412153

2

On December 14, 1994 before me, Tammy Davis
Notary Public, personally appeared Marivel E. Pereira
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Tammy Davis (Seal)

FD-1 (Revised 1/93)



9412153

3

EXHIBIT "A"**GOMES/PEREIRA
BUENA VISTA ROAD****PARCEL 1**

That part of Homestead Lot 19 of San Justo Rancho, according to the Map thereof filed July 21, 1876, Vol. 1 of Maps, at page 64, San Benito County Records, bounded and particularly described as follows:

Beginning at a point in the center of the public road on the south boundary line of said Lot, 1130 feet west of the southeast corner of said Homestead Lot 19 and the southwest corner of Homestead Lot 20; thence North 2° 34' East 1128.34 feet along the east line of that part of said Homestead Lot 19 conveyed to G.A. Pedrazzi by Deed from Serasada M. Brown dated December 26, 1906 and recorded January 2, 1907, in Vol. 37 of Deeds, at page 201; thence South 87° East and parallel with the south line of said Lot 477.92 feet; thence South 2° 34' West, a distance of 207.78 feet to an iron pipe and corner of Land conveyed to Dan F. Thomas et al, by Deed from Ralph Elliott and wife, dated January 31, 1958 and recorded in Vol. 238 of Official Records, at page 248, San Benito County Records; thence along the southerly line of said land South 86° 52' 50" East, a distance of 105.36 feet; thence leaving said line South 02° 34' 00" West, a distance of 662.97 feet; thence North 87° 26' 00" West, said right of way is a distance of 105.35 feet to a point lying on the easterly line of a 30 foot right of way, as shown upon that Map recorded in Vol. 6 of Maps, at page 6, San Benito County Records; thence along said westerly line South 02° 34' 00" West, a distance of 256.57 feet to a point on the south line of the aforementioned Lot 19, and the centerline of said public road, and said point also being South 87° East 652.26 feet from the said southeast corner of Homestead Lot 19; thence North 87° West along said line, 130.70 feet and North 02° 36' East 30.00 feet to a 1" iron pipe at the southeast corner of land quitclaimed to Rose Berri, a widow, by Quitclaim Deed from Anthony Fazio and Josephine L. Fazio, husband and wife, dated August 31, 1966 and recorded January 18, 1967, in Vol. 324 of Official Records, at page 324, Recorder's File No. 95643 San Benito County Records; thence along the easterly line thereof, North 02° 34' East 164.50 feet to a 1" iron pipe at the northeast corner thereof; thence along the northerly line of said land so quitclaimed to Rose Berri, North 87° 00' West 108.95 feet to a 1" iron pipe at the northwest corner thereof; thence along the westerly line of said land so quitclaimed to Rose Berri, South 02° 34' West 164.50 feet to a 1" iron pipe and the southwest corner thereof; and the northerly line of the public road; thence South 02° 34' West 30.00 feet to the centerline of said public road; and thence along the centerline thereof, North 87° West 238.27 feet, more or less, to the point of beginning.

TOGETHER WITH a right of way, in common with other parties, beginning at a point in South boundary of said Homestead Lot, 622.264 feet North 87° West from the Southeast corner thereof; thence North 2° 34' East 1280 feet; thence North 87° West 30.8 feet; thence South 2° 34' West 1280 feet to said South line; thence South 87° East 30 feet to the point of beginning, as granted to Charles B. Berri, by Deed from Mary Frigerio, et al., dated June 2, 1924 and recorded June 10, 1924, in Vol. 11 of Official Records, at page 387, San Benito County Records.

TOGETHER WITH an undivided one-fourth interest in those certain three wells, pump, motor and equipment and the use thereof, together with certain rights and privileges, all as contained in that certain Agreement by and between Mary Frigerio, formerly Mary Berri, Lucy M. Hosang, Elvezio L. Berri and Charles B. Berri, dated June 2, 1924 and recorded June 10, 1924, in Vol. 12 of Official Records, at page 390, San Benito County Records.

EXCEPTING THEREFROM, the following:

1. That certain property conveyed to Manuel F. Martin and Loretta A. Martin, husband and wife, as joint tenants, by Deed from Anthony Fazio and Josephine L. Fazio, his wife, dated and recorded April 29, 1968, in Vol. 337 of Official Records, at page 414, Recorder's File No. 99469, San Benito County Records, described as follows:

Beginning at a 1½" iron pipe in the western boundary of the above-described lands and the Northern boundary of Buena Vista Road, a public road so called; thence from said true point of beginning, continuing along the Northern boundary of said road, South 86° 53' East 61.00 feet to a ¾" iron pipe; thence leaving said road, parallel with the before mentioned Western boundary of Fazio, North 2° 34' East 78.00 feet to a ¾" iron pipe; thence North 86° 53' West 61.00 feet to a ¾" iron pipe in the last mentioned Western boundary of Fazio; thence along said boundary South 2° 34' West 78.00 feet to the point of beginning.

2. An undivided one-half interest in and to all oil and mineral rights, as reserved in Deed from Charles B. Berri and Rose Berri, husband and wife, to Anthony Fazio and Josephine L. Fazio, husband and wife, as joint tenants, dated March 12, 1962 and recorded April 12, 1962, in Vol. 276 of Official Records, at page 148, Recorder's File No. 79986, San Benito County Records.

RESERVING THEREFROM, unto Grantors, an undivided one-fourth (¼) interest in and to all oil and mineral rights.

END OF DOCUMENT

Attachment B



Attachment C

**SAN BENITO LOCAL AGENCY
FORMATION COMMISSION
2301 Technology Parkway, Hollister CA 95023
Phone: (831) 637-5313**

DATE: MAY 22, 2020

TO: LANDOWNERS AND REGISTERED VOTERS WITHIN 300' OF THE
ANNEXATION PROPERTY

FROM: BILL NICHOLSON, EXECUTIVE OFFICER

NOTICE IS HEREBY GIVEN that a public hearing of the San Benito Local Agency Formation Commission (LAFCO) will be held on **Thursday, June 11, 2020 at 6:00 p.m.** (or as soon thereafter as the matter may be heard) in the Board of Supervisors Chambers, 481 Fourth Street, Hollister, California to consider the matters set forth below:

PUBLIC HEARING ITEM

LAFCO 533 – Gonzalez Annexation No. 2 to the City of Hollister: Involving the annexation of approximately 11 acres of property into the City for future residential development. The property is located on the north side of Buena Vista Road, north of the extension of Vista View Lane, and approximately 500 feet west of Gonzalez Drive (Assessor's Parcel Number 019-110-031). The actions requested are to make an environmental determination regarding the adequacy of the City's Environmental Initial Study, and to consider approval the annexation.

PUBLIC PARTICIPATION

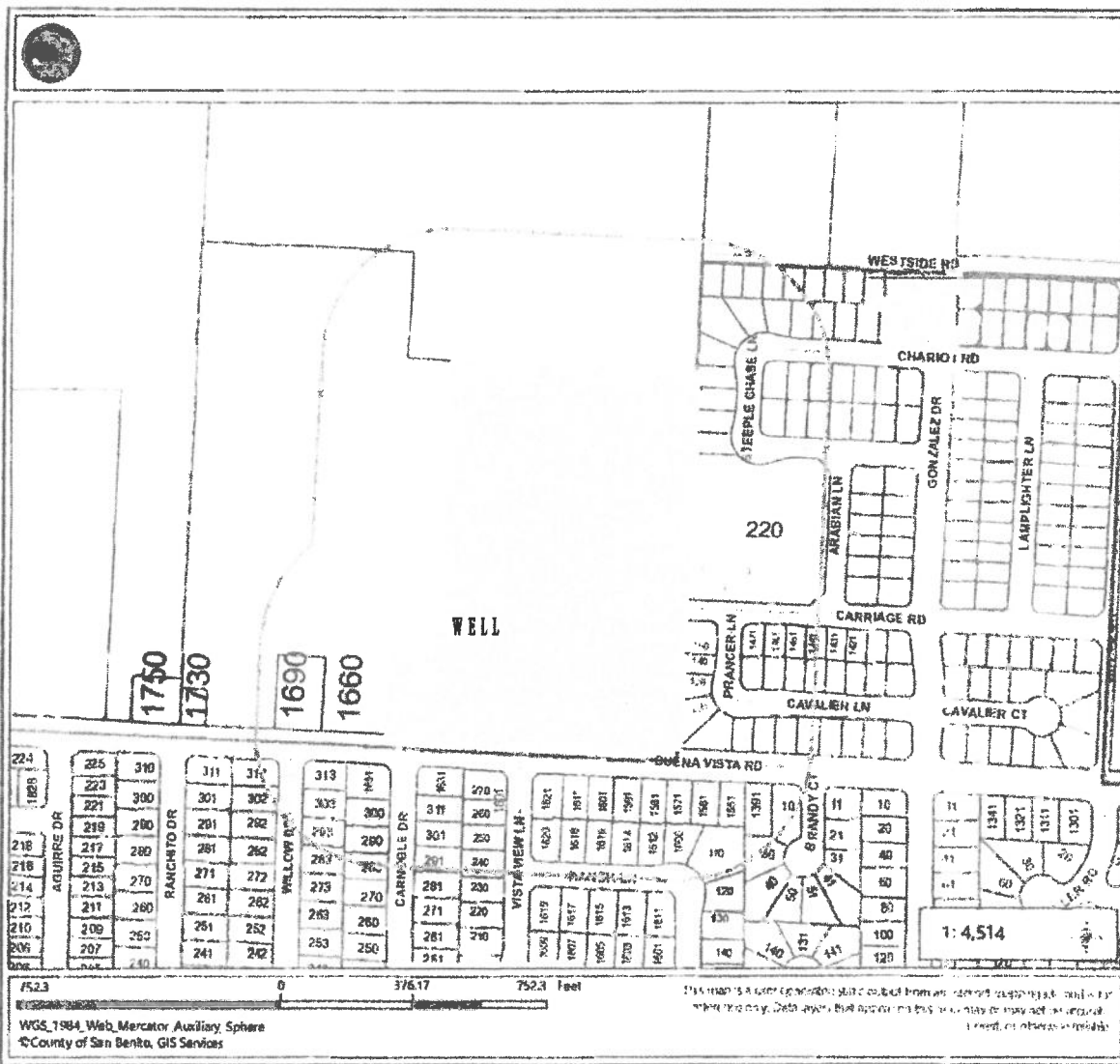
In accordance with Executive Orders N-25-20, N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways:

Members of the public may **NOT** physically attend meetings at the San Benito County Board of Supervisors' Chambers.

Those members of the public wishing to participate must do so remotely via Zoom electronic meetings. Access information for Zoom will be provided on the Meeting Agenda which will be posted on the San Benito LAFCO Website at least 72 hours before the meeting. The Website address is: <https://cosb.us/county-departments/lafco/>

Public comment for the LAFCO meeting will be accepted via email to jslibsager@cosb.us (prior to 1:00 p.m. on May 14, 2020), and/or through the chat feature of the Zoom electronic meeting during the meeting, prior to the close of public comment on an item, and read into the record during public comment.

In compliance with the Americans with Disabilities Act (ADA) the LAFCO meeting will be accessible to persons with disabilities. If you need special assistance to participate in



- Legend**
- SBG Parcels
 - California County Boundaries
 - City Limit
 - Hollister Airport Runways
 - Tentative Streets
 - Park
 - World Street Map

Notes

7523
 0 375.17 750.3 Feet
 WGS 1984 Web Mercator Auxiliary Sphere
 ©County of San Benito, GIS Services

This map is a computer-generated product derived from an electronic mapmaking tool and is not a survey. Data shown on this map may or may not be current. A legend or other information is not provided.

Attachment D



Title Insurance and Trust Company

FALCON AT WINHAM STREETS • SALINA, CALIFORNIA 95401 • TELEPHONE 438-4241 (3 lines)
 PEARL AT TYLER STREETS • MONTEREY, CALIFORNIA 93940 • TELEPHONE 438-3701 (3 lines)
 X 535 MONTEREY STREET • HOLLISTER, CALIFORNIA 95023 • TELEPHONE 438-1971 (4 lines)

JOE L. GOMES
 • 1682 BUENA VISTA ROAD
 HOLLISTER, CALIFORNIA 95023

IMPORTANT
 When replying refer to
 Our No. 4011

Your No.

In response to the above referenced application for a policy of title insurance, Title Insurance and Trust Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a California Land Title Association Standard Coverage form Policy of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy form.

This report (and any supplements or amendments thereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of OCTOBER 17, 1974, at 7:30 a.m. David M. Pacheco
 DAVID M. PACHECO, Title Officer

The estate or interest in the land hereinafter described or referred to covered by this Report is a fee.

Title to said estate or interest at the date hereof is vested in:

DOROTHY L. BOYL, A WIDOW

At the date hereof exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

1. GENERAL AND SPECIAL COUNTY TAXES FOR THE FISCAL YEAR 1974-75, INCLUDING PERSONAL PROPERTY TAX, IF ANY
 FIRST INSTALLMENT : \$362.50 PAID
 SECOND INSTALLMENT : \$362.50 PAYABLE
 A.V. PERSONAL PROPERTY : NO
 ASSESSORS PARCEL NO. : 11-160-16
 CODE AREA : 53-00
 TAX BILL NO. : 41

2. WATER BILL AND PUMPING PLANT AGREEMENT
 BY AND BETWEEN: MARY FRIGERIO, FORMERLY MARY BERRI, LUCY M. ROSAIA,
 ELVEZIO L. BERRI AND CHARLES D. BERRI
 DATED : JUNE 2, 1924
 RECORDED : JUNE 10, 1924 IN VOL. 12 PAGE 390 OFFICIAL RECORDS

ORDER NO. 4711
PAGE 2

NOTES:

(A) TITLE OF THE VESTEE HEREIN WAS ACQUIRED BY DEED RECORDED PRIOR
TO SIX MONTHS FROM THE DATE HEREOF

(B) BASIC RATE APPLICABLE

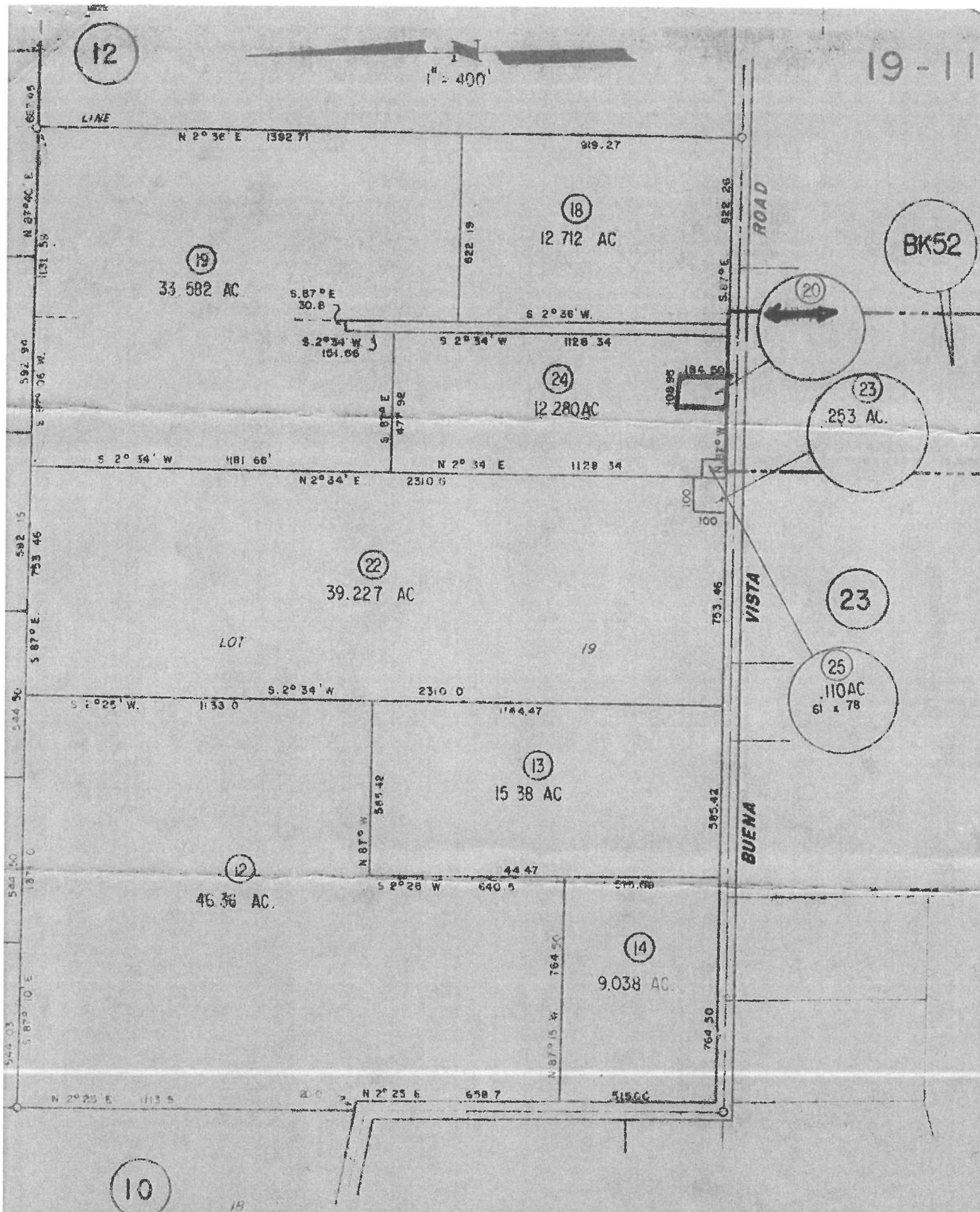
DESCRIPTION:

ALL THAT CERTAIN REAL PROPERTY, SITUATE, LYING AND BEING IN THE STATE OF CALIFORNIA, COUNTY OF SAN BENITO, PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF HOMESTEAD LOT 19 OF THE SAN JUSTO RANCHO, ACCORDING TO THE MAP THEREOF FILED JULY 21, 1876 IN VOL. 1 OF MAPS, AT PAGE 64, SAN BENITO COUNTY RECORDS, BOUNDED AND PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE IN THE NORTHERLY LINE OF BUENA VISTA ROAD DISTANT THEREON NORTH $87^{\circ} 00'$ WEST 782.00 FEET AND NORTH $02^{\circ} 30'$ EAST 30.00 FEET FROM THE SOUTHERLY LOT CORNER COMMON TO HOMESTEAD LOTS 19 AND 20; AND RUNNING THENCE ALONG THE NORTHERLY LINE OF BUENA VISTA ROAD, NORTH $87^{\circ} 00'$ WEST 108.95 FEET TO AN IRON PIPE; THENCE NORTH $02^{\circ} 34'$ EAST 164.50 FEET TO AN IRON PIPE; THENCE SOUTH $87^{\circ} 00'$ EAST 108.95 FEET TO AN IRON PIPE; THENCE SOUTH $02^{\circ} 34'$ WEST 164.50 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE RIGHT TO TAKE WATER FOR DOMESTIC PURPOSES FROM THAT CERTAIN WELL AND PUMPING PLANT LOCATED APPROXIMATELY SOUTH $87^{\circ} 00'$ EAST 300.00 FEET, AND NORTH 158.00 FEET FROM THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED REAL PROPERTY AND FROM THAT CERTAIN PRESSURE SYSTEM LOCATED APPROXIMATELY NORTH $02^{\circ} 34'$ EAST 89.00 FEET AND SOUTH $87^{\circ} 00'$ EAST 5.00 FEET FROM SAID SOUTHEAST CORNER OF SAID ABOVE DESCRIBED REAL PROPERTY. THE ABOVE RIGHT TO TAKE SAID WATER IS AN APPURTENANCE TO THE SAID ABOVE DESCRIBED REAL PROPERTY, AND THE GRANTEE HERLIN, HER HEIRS AND ASSIGNS SHALL HAVE THE RIGHT TO TAKE SAID WATER AT COST.



This is not a survey of the land but is compiled for information from data shown by the official records by Title Insurance and Trust Company.

SAN JUSTO HOMESTEAD ASS'N DIST 1.
Assessor's Office, County of San Bernardino, Calif.

LAFCO No. 533

RESOLUTION OF THE SAN BENITO LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING THE GONZALEZ
ANNEXATION NO. 2 TO THE CITY OF HOLLISTER

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the San Benito Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Sections 56000 et seq. of the Government Code) ; and

WHEREAS, the proposal seeks Commission approval to annex 12.1 acres into the City of Hollister and represents the parcel identified by the San Benito County Assessor as APN Number 019-110-032; and

WHEREAS, the Executive Officer has reviewed the proposal and prepared a report with recommendations; and

WHEREAS, the Commission heard and fully considered all the evidence presented at public hearings held on the proposal on June 11, 2020; and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal through publication in the Hollister Freelance Newspaper, and mailed notice to all owners within 300 feet of the project boundaries; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, in accordance with applicable provisions of the California Environmental Quality Act (hereinafter "CEQA"), the Commission serves as responsible agency for the annexation and has determined that the annexation is a "project" subject to CEQA; and

WHEREAS, the Local Agency Formation Commission finds the proposal to be in the best interests of the affected area and the organization of local governmental agencies within San Benito County.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Local Agency Formation Commission of San Benito County as follows:

(1) Find the Commission has reviewed the Initial Study and Mitigated Negative Declaration prepared by the City of Hollister as lead agency under CEQA for approval of the rezoning ordinance and annexation request. There are no mitigation measures that are the responsibility of LAFCO to adopt or monitor as a responsible agency for approval of this annexation proposal.

(2) The annexation proposal is assigned the distinctive short-form designation:

GONAZLEZ ANNEXATION NO. 2 TO CITY OF HOLLISTER

(3) Said territory is found to be uninhabited as there are four registered voters within the annexation area.

(4) The boundaries of the affected territory are found to be definite and certain as approved and set forth in the legal descriptions, attached hereto and made a part hereof, subject to confirmation by the County Surveyor.

(5) All proceedings in connection with this proposal shall be conducted only in compliance with the approved boundaries set forth in the attachments.

(6) The annexation boundary is consistent with the sphere of influence in compliance with Section 56425 of the Government Code.

(8) Since the subject territory is uninhabited and the affected landowner has given written consent to the annexation, the conducting authority proceedings are waived and the staff is directed to complete the proceeding.

(9) The territory being annexed shall not be liable for any existing or authorized taxes, charges, fees or assessments comparable to properties presently within the City.

(10) The proposal is APPROVED, subject to completion of the following conditions of approval:

(a) Direct staff not to record the Certificate of Completion for the annexation until the Property Owner has provided a written commitment to ensure the continuation of adequate water service to the neighboring farmland and residences on APN Numbers 019-110-019, 019-110-020 and 019-110-032 as identified in the Grant Deed dated

December 14, 1994, from Manuel Periera to Joe L. Gomes and Maria L. Gomes, as Trustors/Trustees of the Gomes Family Trust, dated 01/25/1991.

(b) The Executive Officer is directed not to record the Certificate of Completion until the map and legal description are found by the County Surveyor to be acceptable.

I, Mark Medina, Chairman of the Local Agency Formation Commission of San Benito County, California, do hereby certify that the foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof held upon the 11th day of June, 2020, by the following vote:

AYES:

NOES:

ABSTAINS:

Dated: _____

Mark Medina, Chair
San Benito Local Agency Formation Commission

ATTEST

Bill Nicholson, Executive Officer
San Benito Local Agency Formation Commission

INFORMATIONAL

- 7. Commissioner Announcements and Requests for Future Agenda Items**
- 8. LAFCO Counsel oral report on question regarding the Executive Officer's Contract raised at the May 14, 2020 Commission Meeting**
- 9. Executive Officer oral status report on pending proposals**
- 10. Adjourn to next regular meeting on July 9, 2020, unless meeting time is changed based on Commission action or cancelled by the Chair.**

