



April 6, 2010

Steve Piasecki, Community Development Director  
Community Development Department  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, CA 95037-4128

**Re: South East Quadrant (SEQ) Project**

**Dear Mr. Piasecki:**

Thank you for meeting with us on March 25<sup>th</sup> and for providing us with an overview of the South East Quadrant Project. As we indicated to you at the meeting, the proposed project presents several issues of concern to LAFCO. The following is a summary of our concerns based on our initial understanding of the Project.

**Annexation of Lands Outside of a City's Urban Service Area is Not Supported by LAFCO's Policies**

It is our understanding that as part of the Southeast Quadrant Project, the City intends to request annexation of lands outside of its Urban Service Area (USA). LAFCO Policies strongly discourage such annexations until inclusion into the Urban Service Area is appropriate because the general purpose for a city to annex lands is to provide them with urban services in order to allow their development. As you know, LAFCO has no authority over lands once they are annexed into a city. Upon annexation, these lands are under the city's authority for land use and development decisions and a city can amend the zoning and general plan designations for these lands and develop them.

LAFCO would only consider annexations outside of the USA if it is to promote the preservation of open space and/or agricultural land. If it is the City's intent to annex lands outside its USA for open space/agricultural purposes, LAFCO will require the City to sufficiently demonstrate that the affected lands will be permanently preserved for agricultural/open space purposes, and not developed or provided with urban services. One potential way in which permanent preservation can be demonstrated is by dedicating such lands to a qualified agricultural/open space conservation entity that has a clear preservation program and has the legal and technical ability to hold and manage conservation easements or lands for the purpose of maintaining them in open space or agriculture. Absent these measures, such a request to annex lands outside of a City's USA Boundary is not supported by LAFCO's Policies. Please see LAFCO's "*Policies Relative to Annexation / Reorganizations for Cities and Special District*" (B)(1).

## **LAFCO Policies and State Law Encourage Cities to Pursue the Development of Vacant and Underutilized Incorporated Lands before Seeking to Annex Agricultural Lands**

The City is also seeking to expand its USA and annex portions of the SEQ Area. We understand that the SEQ Area consists of largely prime agricultural land - land that the City wants to include in its USA even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized. State law and LAFCO policies discourage the conversion of agricultural land to non-agricultural uses and require that development be guided away from existing prime agricultural lands. Please see LAFCO's "*Policies Relative to Annexations / Reorganizations for Cities and Special Districts*" (A)(3) and (B)(3) and Government Code Section 56377 (a) & (b).

The statutes and policies call for a city to exhaust existing vacant or underutilized lands within its boundaries before expanding into agricultural lands because developing lands which are already within a city's boundaries would allow for more effective use of existing city infrastructure, would result in more efficient provision of city services, would discourage premature and unnecessary conversion of irreplaceable agricultural land to urban uses, and would encourage compact development that would be more consistent with recent greenhouse gas reduction regulations and goals. Therefore we encourage the City to conduct a comprehensive review of its large inventory of vacant or underutilized lands to consider how best to provide opportunities for its development and maximize its use prior to expanding outwards into agricultural lands.

## **LAFCO Policies and State Law Require Consideration of many Factors, Including whether the City has the Ability to Provide Urban Services to the Expansion Area without Detracting from Current Service Levels**

In addition to considering the impacts on agricultural lands and evaluating the need and timeliness of expanding the City's boundaries to accommodate growth, the City must also evaluate whether or not it has the financial ability to extend and provide services to the new area without detracting from current service levels to existing residents within the city. This is a particularly important issue in these economic times when many cities are struggling to provide and maintain acceptable service levels for services such as public safety (emergency medical, fire and police), libraries and schools. Other factors that LAFCO would consider in evaluating such proposals are contained in LAFCO's USA policies and include among other things, environmental impacts of the proposed development, availability of adequate water supply for the proposed development, and fiscal impacts to other affected agencies.

## **City is Encouraged to Adopt Agricultural Mitigation Policies/Program that are Consistent with LAFCO's Agricultural Mitigation Policies**

We understand that the City is in the process of developing its agricultural mitigation program and that the specifics of the program are yet to be finalized by the City. However, we believe it is timely to let the City know that many of the key recommendations that are being discussed and considered by the City are not

consistent with LAFCO's Policies. Please see LAFCO's "Agricultural Mitigation Policies" (Policies #1 & #2). As you may know, in 2007, LAFCO adopted Agricultural Mitigation Policies in order to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with LAFCO's Agricultural Mitigation Policies.

**Proposed Agricultural Mitigation for SEQ Project is not Consistent with LAFCO's Agricultural Mitigation Policies and is Problematic**

If the City decides to move forward with the SEQ Urban Service Area expansion request, the City must address agricultural mitigation issues in a manner consistent with LAFCO's Agricultural Mitigation Policies. Please see the table below for a summary of the key differences between the City's Proposed Agricultural Mitigation and LAFCO's Agricultural Mitigation Policies. If these inconsistencies are not addressed, LAFCO would be unable to consider the proposed mitigation as effective.

<b>COMPARISON OF CITY'S RECOMMENDED AGRICULTURAL MITIGATION PROGRAM AND LAFCO'S AGRICULTURAL MITIGATION POLICIES AS THEY RELATE TO THE SOUTH EAST QUADRANT</b>		
	<b>CITY'S RECOMMENDED AGRICULTURAL MITIGATION</b> <i>(based on information provided at the February 18<sup>th</sup> Workshop)</i>	<b>LAFCO'S AGRICULTURAL MITIGATION POLICIES</b>
<b>Lands Subject to Agricultural Mitigation</b>	Uses Important Farmland Map and modified LESA model to determine if mitigation is required.  No mitigation required for development during first year of City's Agricultural Mitigation Program.	Mitigation recommended for LAFCO proposals resulting in the conversion of any and all lands that meet LAFCO's definition for "Prime agricultural land." (Policies #1 & #6)
<b>Exemption from Mitigation for Converting Agricultural Lands to Certain Land Uses</b>	Consider potential exemptions and/or reduced mitigation fees for certain types of land uses such as less intensive sports, recreational, and leisure uses or for economic development uses.	Mitigation recommended for all projects resulting in the conversion of "Prime agricultural land" irrespective of the type of proposed land use or development. (Policies #1 & #6)

<b>Mitigation Ratio</b>	Less than 1:1 Mitigation Ratio.	1: 1 Mitigation Ratio recommended. ( <i>Policy #7</i> )
<b>Future Use of Lands Preserved as Agricultural Mitigation</b>	Consider allowing low intensity sports, recreational and leisure uses on agricultural preservation areas.	Areas preserved as agricultural mitigation are intended in perpetuity for the purpose of agriculture. ( <i>Policy #7</i> )

**City Should Consider and Address these Major Concerns and Re-Evaluate the Scope and Need for the SEQ Project**

The City’s USA expansion and annexation proposals for the SEQ area in their present form are contrary to LAFCO objectives of preventing urban sprawl and preventing premature conversion of agricultural lands and are inconsistent with LAFCO policies and provisions in state law. The proposed agricultural mitigation program under consideration varies significantly from what is recommended in recently adopted LAFCO policies and is inadequate for providing effective mitigation. We urge the City to fully consider and address the issues presented before proceeding further and spending time and resources on the Environmental Impact Report for the SEQ Project.

If you have any questions regarding these comments, please contact me at (408) 299-5127. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,



Neelima Palacherla,  
LAFCO Executive Officer

Cc: LAFCO Members  
Morgan Hill City Council Members  
Jody Hall Esser, Director, County of Santa Clara Department of Planning and Development  
Michele Beasley, Greenbelt Alliance

**Attachment A:** LAFCO’s February 17, 2010 Comment Letter Re: Southeast Quadrant, including LAFCO’s Urban Service Area Policies, Annexation Policies, and Agricultural Mitigation Policies.