



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

SUBJECT: SEE BELOW

DATE: March 12, 2012

Approved

Date

3/21/12

COUNCIL DISTRICT: 4

**SUBJECT: INTENTION TO ANNEX TERRITORY INTO MAINTENANCE
DISTRICT 19**

RECOMMENDATION

Adopt a resolution of intention to annex territory into Zone A of Maintenance District 19 (River Oaks), and direct the Director of Public Works to create and file an engineer's report.

OUTCOME

Adoption of the resolution will initiate the district annexation process and satisfies the requirement to allow affected property owners the opportunity to vote on proposed new assessments.

BACKGROUND

Maintenance District 19 (River Oaks) (hereafter "MD 19") was formed in 2001 to accommodate the maintenance requirements of enhanced public improvements installed around the River Oaks area in north San José. These improvements include enhanced landscape in the median islands and special paving at select intersections.

Essex Portfolio, LP currently has a development permit (PDC06-067) to construct up to 769 condominium units (Tract 10080) on a 10.4 acre site located on the south east corner of Seely Avenue and River Oaks Parkway. This project is adjacent to the Crescendo condominium development and across the street from the Elan Apartments at River Oaks. This proposed development changes the site usage from office to residential similar to adjacent properties in the district and relies on access from the adjacent district. The project will therefore benefit from the improvements being maintained by the district.

ANALYSIS

Essex Portfolio, LP has entered into an agreement with the City to initiate proceedings to annex its land within the development into MD 19. The agreement requires the developer to put \$20,000 on deposit with the City to pay for costs incurred by the City in performing the steps required for the annexation. The deposit has been received by the City. If costs exceed the initial deposit, the agreement provides for additional deposits by the developer. In the event that the City does not wholly expend the deposit amount, the agreement provides for a refund to the developer.

Staff recommends Council initiate proceedings to add Annexation Area 1 to Zone A of MD 19, as identified in Attachment A. It is proposed that Tract No. 10080 be annexed into existing Zone A and be subject to the same assessment and annual escalator as those properties currently within Zone A. If successfully annexed, the funds collected from assessments upon these new homes would be used to contribute to the existing district maintenance allowing either a higher level of service or the reduction of assessments on all benefitting properties within the district.

State and local law require that any new assessment on property must be approved by the owners of the parcels assessed through a form of an election process called an assessment ballot proceeding whereby property owners within the district cast ballots in favor or opposed to the assessment, with votes weighed by the amount of the assessment on each parcel. The amount of the assessment by parcel is determined in the engineer's report. The assessment can only be implemented if affected property owner ballots objecting do not outweigh the ballots cast in favor of the assessment. Council cannot impose the assessment in the event the ballots submitted in opposition to the assessment exceed the ballots in favor of the assessment. For maintenance districts, a four-step process is necessary for Council to complete the assessment ballot proceeding. The actions required of Council are to:

- 1) Adopt a resolution of intention and to direct the Director of Public Works to file an engineer's report;
- 2) Adopt a resolution preliminarily approving the engineer's report, and setting the date and time of the public meeting, public hearing and tabulation of ballots;
- 3) Conduct a public meeting;
- 4) Conduct a public hearing, and at the end of the hearing, tabulating the ballots.

The proposed schedule of events for imposition of a new assessment:

April 3, 2012	Adopt resolution of intention (Council)
May 15, 2012	Adopt resolution to preliminarily approve the engineer's report, set Public Hearing, and Tabulation of Ballot (Council)
June 14, 2012	Publish Notice of Public Meeting and Hearing (staff)
June 15, 2012	Mail Notice of Public Meeting and Hearing along with property owner ballots (staff)

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June 26, 2012	Conduct Public Meeting (Council)
August 7, 2012	Conduct Public Hearing and tabulate ballots (Council) Adopt resolution declaring ballot tabulation results, and if approved by voters annexing the land into the district (Council)

Council may, at any time during the process, withdraw its intent to annex the territory into the district.

EVALUATION AND FOLLOW-UP

On May 15, 2012, Council is scheduled to preliminarily approve the engineer's report as filed or as modified by the Council. Council will then set Public Meetings to be held on June 26, 2012 and Public Hearings and the tabulation of ballots to be held on August 7, 2012.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website for the April 3, 2012 Council Agenda. This action was initiated at the request and with support from the Developer and was prepared by Public Works. City staff has met with the Developer regularly regarding the district and their development plans.

COORDINATION

This memorandum, related documents and resolutions were prepared in cooperation with the City Attorney's Office, the Departments of Transportation and Planning, Building and Code Enforcement, and the City Manager's Budget Office.

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FISCAL/POLICY ALIGNMENT

These actions are in compliance with the Council-approved Budget strategy in that staff costs are funded by the Developer's deposit. If district annexation is approved by the property owners, the costs of services provided through the district will be funded through annual assessments on the properties within the district.

COST IMPLICATIONS

The Developer has deposited funds to pay annexation costs for the districts. Any unused funds will be returned to the Developer. If all funds are exhausted prior to the tabulation of ballots, the Developer must provide additional funds to continue the process or the formation process will be discontinued.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC#	Total Appn	2010-2011 Annual Report (Page)	Last Budget Action (Date, Ord. No.)
465	7378	Maintenance District 19 Feasibility Study	169569	\$20,000	IV-27	10/18/2011 Ord. No. 28979

CEQA

North San José Development Policy Update EIR, Resolution No. 72768.

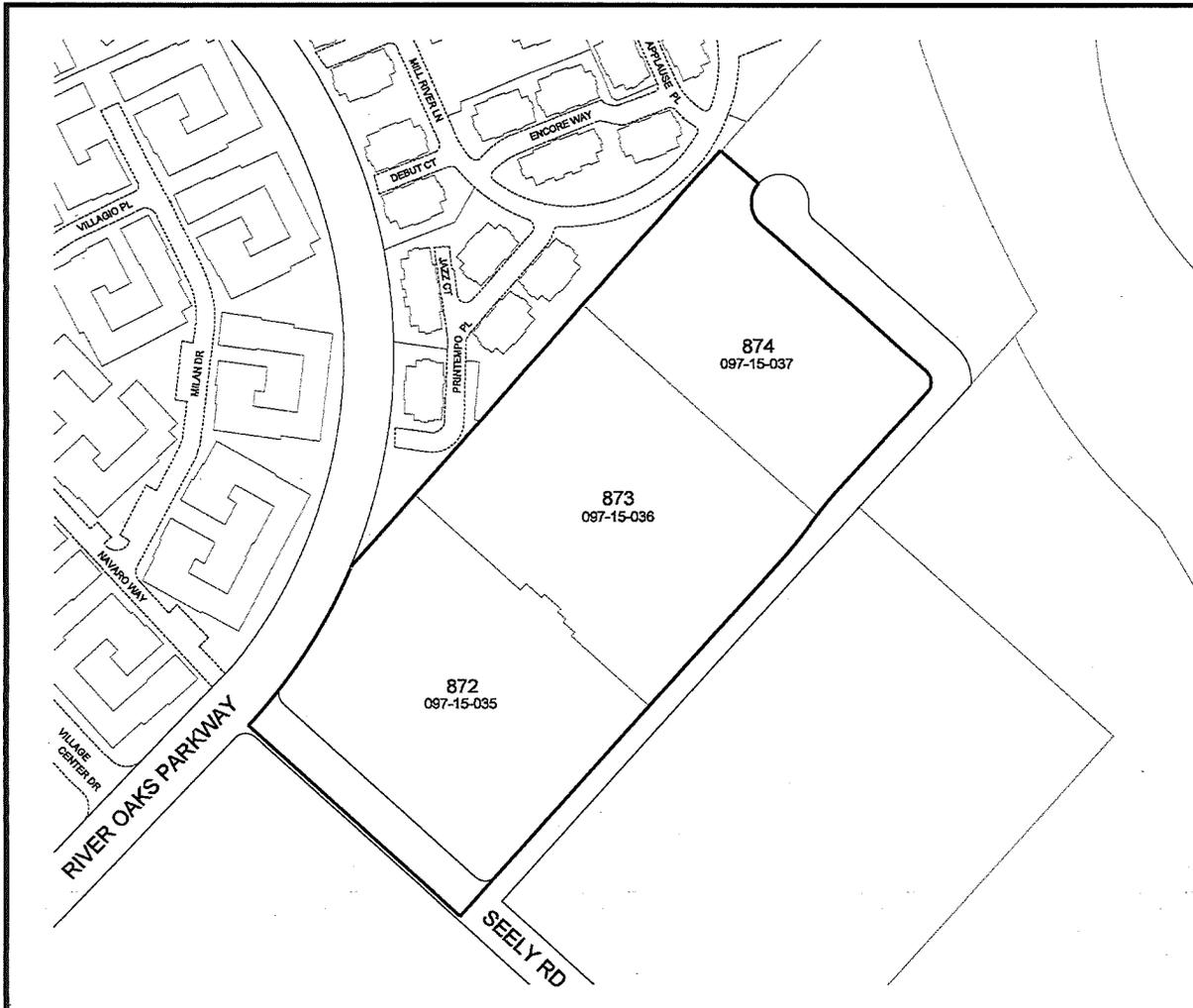
/s/

DAVID SYKES

Director of Public Works

For questions please contact Thomas Borden, Special Districts Manager, Department of Public Works, at (408) 535-6831.

Attachment



CERTIFICATIONS

(1) DIRECTOR OF PUBLIC WORKS
 FILED THIS _____ DAY OF _____, 2012, IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF SAN JOSE.

DAVID BYRER
 DIRECTOR OF PUBLIC WORKS

(2) CITY CLERK
 FILED THIS _____ DAY OF _____, 2012, IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE.

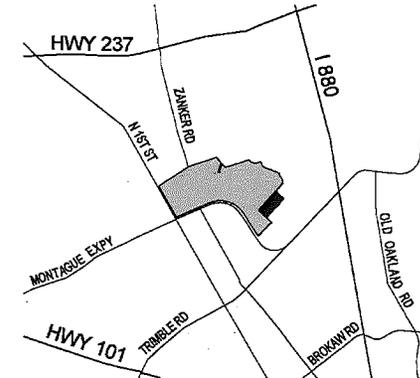
DENNIS D. HAWKINS, CMG
 CITY CLERK

(3) CITY COUNCIL
 BY RESOLUTION NUMBER _____ ON THE _____ DAY OF _____, 2012, AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL ON THE LOTS, PIECES, AND PARCELS OF LAND SHOWN ON THIS DIAGRAM. THE APPROVED DIAGRAM AND ASSESSMENT ROLL FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS CONTAINS THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS DIAGRAM.

DENNIS D. HAWKINS, CMG
 CITY CLERK

(4) COUNTY RECORDER
 FILED THIS _____ DAY OF _____, 2012, AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS (PAGE#) _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA. RECORDER'S SERIES NO. _____ FEE PAID: _____

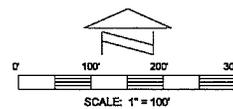
REGINA ALDOMENDRAS, COUNTY RECORDER
 COUNTY OF SANTA CLARA



LOCATION MAP



LEGEND	
	ANNEXATION AREA NO. 1
	PROPERTY LINE
	STREET RIGHT OF WAY
	PRIVATE STREET
1	DISTRICT PARCEL NUMBER (DPN)
123-45-678	ASSESSOR'S PARCEL NUMBER (APN)



CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA
ANNEXATION AREA NO. 1
 TO
MAINTENANCE DISTRICT 19
 (RIVER OAKS AREA LANDSCAPING)
 FISCAL YEAR 2012-2013