



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

**SUBJECT: PROPOSED ANNEXATION TO
MAINTENANCE DISTRICT 15
(SILVER CREEK VALLEY)**

DATE: August 27, 2012

Approved 

Date 9/4/12

COUNCIL DISTRICT: 8

RECOMMENDATION

Conduct a public meeting to receive public comment on a proposal for annexation and formation of Zone I into Maintenance District 15 (Silver Creek Valley).

OUTCOME

This public meeting gives the public an opportunity to express any concerns regarding the annexation and formation of Zone I of the maintenance district for Council's consideration.

BACKGROUND

Maintenance District 15 (Silver Creek Valley) (hereafter "MD 15") was formed in 1992 to accommodate the maintenance requirements of the various enhanced public improvements installed around the Silver Creek Valley Country Club area. These improvements include enhanced landscape in the median islands, neighborhood entrances, and along the slopes adjacent to some streets; unique street lighting; and open space trails. Currently, there are seven zones within MD 15 to address specific maintenance needs of the various neighborhoods in the Silver Creek area.

TRI Pointe Homes, LLC currently has a development permit (PDC09-010) to construct 38 homes (Tract 10057) on a 16.5 acre site located on Nieman Boulevard approximately 500 feet south of Sequoia Creek Drive on the west and extends to Cadwallader Avenue approximately 450 feet south of Country Vista Court on the east. This project is on land both within and adjacent to the maintenance district and requires a new public cul-de-sac and various other improvements to facilitate the project. In order to comply with current stormwater guidelines and to improve the overall impact of the addition to the adjacent neighborhood, the project

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proposes three public underground storm water treatment vaults in public easements, a landscaped Emergency Vehicle Access path (hereafter "EVA") and various enhanced landscaping areas within the public right-of-way. The developer has provided the City with a deposit to annex the development into MD 15 and to form special benefit Zone I to provide for the maintenance and operation of the storm water facilities, EVA and enhanced landscaping.

State and City code require that any new assessment proposal be approved by a simple majority of property owners in the maintenance district through a special election process called an assessment ballot proceeding. For maintenance districts, a four step approval process is necessary. The first two steps in this process were completed on April 3, 2012 and August 7, 2012, respectively. The final step, to conduct a Public Hearing and tabulate ballots is scheduled for October 30, 2012.

The proposed schedule of events for the district annexation:

April 3, 2012	Adopt resolution of intention (Council) (completed)
August 7, 2012	Adopt resolution to preliminary approve the Engineer's report, set Public Hearing, and Tabulation of Ballot (Council) (completed)
September 7, 2012	Publish Notice of Public Meeting and Hearing (staff)
September 7, 2012	Mail Notice of Public Meeting and Hearing along with property owner ballots (staff)
September 18, 2012	Conduct Public Meeting (Council) (this action)
October 30, 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)

ANALYSIS

Public Meeting

At this September 18, 2012 public meeting, public testimony may be presented to Council regarding the proposed district. The Public Meeting, as prescribed by the San José Municipal Code and the Brown Act, allows the public to express concerns about the proposed district and/or provide comments, although the Council does not necessarily take action at this time. The Engineer's Report and district boundary map are available in the City Clerk's Office for public examination. A copy of the district boundary map showing the 38 parcels proposed for annexation is provided as Attachment A.

Public Hearing & Tabulation of Ballots

On October 30, 2012, Council will conduct a public hearing to receive and record any additional public comment. Council must consider all objections or protests to the proposed annexation and assessments. The hearing may be continued if necessary to allow staff to respond to

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Council's inquiries or to implement changes proposed by Council. At the close of the Public Hearing, Council will conduct a form of an election called an assessment ballot proceeding whereby property owners within the annexation area cast ballots in favor of or opposed to the annexation, with votes weighted by the amount of the assessment on each parcel. The properties will only be annexed into MD 15 and the assessment levied if affected property owner protests do not outweigh the ballots cast in favor of the District annexation. If approved, the proposed assessment will commence in fiscal year 2012-2013 and will be adjusted annually by the Consumer Price Index. The staff is aware that the developer has been passing the appropriate ballots to new purchasers at the close of escrow. In the event the ballots submitted in opposition to the assessment exceed the ballots in favor of the assessment, Council cannot form the district and levy the assessment.

The Notice of Public Hearing is scheduled to be mailed on or before September 7, 2012 and will include the property owner ballot. The notice will inform the owners of the public meeting and hearing, the services to be provided by the district and the proposed assessment. Each completed ballot must be received by the City Clerk prior to the close of the public hearing in order to be included in the tabulation. Although this is a mailed ballot election, any property owner may submit their ballot at the hearing.

It is also proposed that properties seeking to gain street access via Nieman Boulevard be annexed into existing Zone B and be subject to the same assessment as those properties currently within Zone B, which is \$33.60 per unit annually. Properties within Tract 10057 seeking to gain street access via Nieman Boulevard will be assessed between \$1,455.68 and \$1,476.88 per unit annually. Properties that do not gain street access via Nieman Boulevard will be assessed \$1,031.46 annually. The maximum annual aggregate assessment for the annexation area is proposed to be \$53,649.90 in Fiscal Year 2012-2013 with a provision for the assessment to be adjusted annually thereafter by the average annual change in the Consumer Price Index for the San Francisco-Oakland-San José area to attempt to keep pace with inflation in the same manner as the other zones in MD 15. The Engineer's Report quantifies the general benefit to be approximately \$22,200 and will be funded by the Environmental Services Department. The general benefit contribution would be satisfied through a transfer from the Storm Sewer Operating Fund to the Maintenance District 15 (Silver Creek Valley) Fund.

EVALUATION AND FOLLOW-UP

If the district annexation and zone formation is approved by the affected property owners, the assessments will be placed on the County property tax roll for collection. Staff will bring forward appropriation and funding sources recommendations for Council approval at a later date as appropriate.

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 September 18, 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.

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 and zone formation 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 district. 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. It should be noted that the developer funds were recognized in 2011-2012 and were not rebudgeted as part of the Adopted Budget process. It is anticipated that these funds will be recommended for rebudget into 2012-2013 as part of the 2011-2012 Annual Report, scheduled for City Council consideration in October 2012.

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If the district annexation and formation of Zone I is approved on October 30, 2012, the City would be required to contribute approximately \$22,200 annually to the Maintenance District No. 15 Fund for the City's general benefit share of costs associated with the maintenance and operation of the storm vaults and bioretention cells. It is anticipated that a recommendation to establish a transfer from the Storm Sewer Operating Fund to the Maintenance District No. 15 Fund will be brought forward at a later date, once the construction of the storm vaults is completed and the 2012-2013 maintenance costs can be accurately projected.

CEQA

Mitigated Negative Declaration, File No. PDC09-010

Planning has issued a mitigated negative declaration for the Brookside Estates Project. The environmental impacts that need to be addressed are identified in the Mitigation Monitoring and Reporting Program (MMRP) for the project. The mitigations that are required for this project have been incorporated into the project design and the construction documents.

Construction activities shall adhere to the guidelines as stated in the MMRP for the following required mitigation measures:

- Air Quality
- Biological Resources
- Geology and soils
- Hazardous Materials
- Transportation and Traffic

/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

DPN	APN	DPN	APN	DPN	APN
901	678-01-021	914	678-01-034	927	678-01-047
902	678-01-022	915	678-01-035	928	678-01-048
903	678-01-023	916	678-01-036	929	678-01-049
904	678-01-024	917	678-01-037	930	678-01-050
905	678-01-025	918	678-01-038	931	678-01-051
906	678-01-026	919	678-01-039	932	678-01-052
907	678-01-027	920	678-01-040	933	678-01-053
908	678-01-028	921	678-01-041	934	678-01-054
909	678-01-029	922	678-01-042	935	678-01-055
910	678-01-030	923	678-01-043	936	678-01-056
911	678-01-031	924	678-01-044	937	678-01-057
912	678-01-032	925	678-01-045	938	678-01-058
913	678-01-033	926	678-01-046		



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 BYKES
 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.

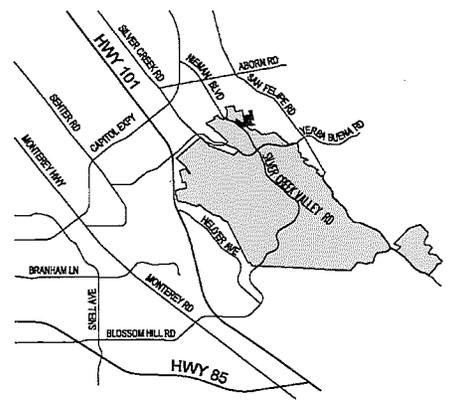
 DENNIS D. HAWKINS, CMC
 CITY CLERK

(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, CMC
 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(S) _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA. RECORDER'S SERIES NO.: _____ FEE PAID: _____

 REGINA ALCONDEHUAL, COUNTY RECORDER
 COUNTY OF SANTA CLARA



LOCATION MAP

CITY OF SAN JOSE
 CAPITAL OF SILICON VALLEY
 PUBLIC WORKS DEPARTMENT
 DEVELOPMENT SERVICES DIVISION
 300 S. FIDELITY AVENUE

LEGEND

	ANNEXATION AREA NO. 1		STREET RIGHT OF WAY
	PROPOSED ZONE I BOUNDARY		PROPERTY LINE
	PROPOSED ZONE II ANNEXATION		DISTRICT PARCEL NUMBER (DPN)
			ASSESSOR'S PARCEL NUMBER (APN)

0' 100' 200' 300'
 SCALE: 1" = 100'

CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA
ANNEXATION AREA NO. 1
 AND
ZONE I (CADWALLADER)
 ANNEXATION TO
MAINTENANCE DISTRICT 15
 (SILVER CREEK VALLEY)
 FISCAL YEAR 2012-2013

SHEET 1 OF 1