

**County of Santa Clara and City of Cupertino Joint
Policy Framework Agreement Regarding the Restoration and Potential Future
Development
of the Lehigh Quarry Property**

This Policy Framework Agreement for Reclamation and Development of Lehigh Quarry Property (“Agreement”) is adopted by and between the County of Santa Clara (“County”) and the City of Cupertino (“Cupertino”), which may also be collectively referred to as the “Parties” herein. The purpose of this Framework is to set forth joint planning principles to guide the Parties when considering restoration and potential future development of the Lehigh Property.

RECITALS

A. This Agreement applies to the real property in the western Santa Clara County foothills known as the Permanente Quarry and other property owned by Lehigh Southwest Cement, Lehigh Hanson, Inc., Hanson Permanente Cement Inc., Heidelberg Cement Inc., Heidelberg Materials US Cement LLC, or other related entities (collectively, “Lehigh”) within the Parties’ jurisdictions (collectively, the “Lehigh Property”). A list of the parcels that comprise the Lehigh Property is attached hereto as Exhibit A, and the parcels are depicted on the map attached hereto as Exhibit B. A map of the Lehigh Property showing the jurisdictional boundaries is attached hereto as Exhibit C.

B. Lehigh has historically operated two facilities on the Lehigh Property: the Permanente Quarry, and the Lehigh Cement Plant. Permanente Quarry is a limestone and aggregate mining operation that operates subject to vested rights and a Reclamation Plan that was originally approved in 1985 and amended in 2012 (2012 Reclamation Plan Amendment). The Lehigh Cement Plant operates pursuant to a use permit issued by the County in 1939.

C. Over the years, operations at the Lehigh Property have been the subject of numerous notices of violation and other enforcement actions by federal, state, and local regulatory agencies including, but not limited to, the U.S. Environmental Protection Agency, the Bay Area Air Quality Management District, the San Francisco Regional Water Quality Control Board, and the County.

D. Lehigh has made public representations that it intends to permanently cease cement production at the Lehigh Property. The cement kiln has not been operational since April 2020. Lehigh informed the County in November 2022 that the kiln would not resume operations, and confirmed this in numerous subsequent public hearings and in writing in March 2023.

E. Lehigh has also made public representations that it does not intend to quarry new material from the pit or elsewhere on the Lehigh Property, but may continue to process and sell previously quarried material. To this end, Lehigh has informed the County that it intends to apply for a Reclamation Plan amendment in the second quarter of 2023 for the portion of the Lehigh Property that is subject to the Surface Mining and Reclamation Act (SMARA), Pub. Res. Code §§ 2710-2796 and state and local implementing regulations.

F. It is an appropriate time for the Parties to work together proactively to set forth a policy framework for considering the restoration and potential future development of the Lehigh Property for many reasons including, but not limited to, the following:

- Each party currently has land use and other regulatory authority over portions of the Lehigh Property;
- Lehigh has stated its intent to wind down operations;
- There is a high likelihood that the reclamation, restoration, and environmental remediation of the Lehigh Property will be lengthy, complex, and have the potential to significantly impact the public health, safety, and welfare and the environment;
- Lehigh and/or future owners of the Lehigh Property will likely seek to maximize the value of the Lehigh Property by redeveloping the site for other uses;
- Most of the Lehigh Property lacks the public services that may be required to support proposed future development, which may trigger requests for annexation of some or all of the Lehigh Property; and
- It is important to ensure that the type, intensity, and timing of any future development of the Lehigh Property is consistent with the Parties' respective goals, policies, and ordinances and does not occur prematurely.

In light of the above Recitals, the Parties agree to the following Joint Planning Principles and Miscellaneous Provisions set forth in this Agreement.

JOINT PLANNING PRINCIPLES

The following Joint Planning Principles reflect the applicable laws, policies and regulations, including but not limited to those set forth on Exhibit D attached hereto.

1. The Parties agree to work together toward the goal of ensuring that any future development of the Lehigh Property benefits the surrounding community and maximizes environmental and natural resources conservation benefits.
2. Reclamation, restoration, and environmental remediation of the Lehigh Property shall occur in a timely manner and in compliance with all applicable laws, policies, and regulations. To this end, the Parties agree to work cooperatively with each other and any other applicable federal, state, and local regulatory agencies.
3. Lehigh and any future owners of the Lehigh Property shall be required to prevent and eliminate any conditions that constitute a nuisance or could pose a danger to the environment or to public health, safety, or welfare. This includes, but is not limited to, protecting the public and any future residents of the Lehigh Property from potential exposure to hazards (e.g., unstable slopes) or pollutants that currently exist on the Lehigh Property or may be generated or released through reclamation, restoration, or remediation activities on the Lehigh Property or from transportation routes providing access to the Lehigh Property.

4. When considering any proposals for future development of the Lehigh Property, the Parties shall comply with their respective land use policies, zoning ordinances, and other applicable policies and ordinances including, but not limited to, those pertaining to: orderly growth patterns; availability of adequate public services; climate change and other sustainability considerations; and the preservation and protection of scenic and visual resources, water resources, sensitive species and their habitats, and other natural resources.

5. The timing of any development of the Lehigh Property shall not outpace the reclamation, restoration, and environmental remediation of the Lehigh Property. Prior to approval of any development application or other approval for any portion of the Lehigh Property, the applicant shall demonstrate that all applicable requirements and timelines have been met regarding the reclamation, restoration, and environmental remediation of the Lehigh Property, or that such requirements will be met as part of the proposed development. The Parties further agree that they will work cooperatively to ensure that any future requirements and timelines are satisfied.

6. Consistent with the Parties' existing land use and development policies, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Gov't Code § 56000 *et seq.*, and the Santa Clara County Local Agency Formation Commission's (LAFCO's) policies, no portion of the Lehigh Property shall be developed for any new purpose (i.e., other than uses that are currently being undertaken lawfully on the Property) other than very low-density residential use¹ without first being annexed to Cupertino or another city.

7. Any proposals for residential development of the Lehigh Property in either Party's jurisdiction shall comply with any applicable affordability laws or ordinances or other requirements applicable to residential development within the applicable Party's or Parties' jurisdiction. To the extent practicable, such development should assist the applicable Party or Parties in achieving their Regional Housing Needs Allocations (RHNA) and other adopted Housing Element goals.

8. If either Party receives any application to develop the Lehigh Property for any use, that Party shall consult with the other Party regarding whether the application is consistent with the Joint Planning Principles in this Agreement and whether one or more development agreements between the applicant and the Parties pursuant to Government Code section 65864 *et seq.* is necessary or appropriate to ensure compliance with the Joint Planning Principles.

MISCELLANEOUS PROVISIONS

9. **Term.** The term of this Agreement shall commence on the date both Parties have executed the Agreement.

10. Either Party may terminate this Agreement by giving the other Party at least 60 days' written notice of termination pursuant to Section 11.

¹ See County General Plan policies R-LU 18 through R-LU 21; Cupertino General Plan policies LU-12.1 through LU-12.5.

11. Notice. Any notice to a Party or Parties required by or related to this Agreement shall be in writing and shall be deemed to have been given when sent by U.S. mail addressed as follows:

County

County Executive
County of Santa Clara Government Center
70 W. Hedding St., E. Wing, 11th Floor
San Jose, CA 95110

County Counsel
County of Santa Clara Government Center
70 W. Hedding St., E. Wing, 9th Floor
San Jose, CA 95110

Cupertino

City Manager
Cupertino City Hall
10300 Torre Avenue
Cupertino, CA 95014-3202

City Attorney
Cupertino City Hall
10300 Torre Avenue
Cupertino, CA 95014-3202

12. Dispute Resolution. If any dispute arises between the Parties regarding the subject of this Agreement, the Parties shall cooperate in good faith to resolve all such disputes before resorting to litigation.

13. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions shall be exclusively vested in a state court in the County of Santa Clara. The Parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara and waive all venue objections.

14. Severability. If there is a final court determination that any one or more of the provisions in this Agreement is invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

15. Preservation of Authority. Nothing in this Framework is intended to interfere with the Parties' exercise of any of their lawful powers, including but not limited to their legislative authority to adopt or amend their General Plans, zoning ordinances, or any other policies, ordinances, or regulations.

16. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

17. Contract Execution. Unless otherwise prohibited by law or City or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the City and County.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last signature date below.

COUNTY OF SANTA CLARA

By: _____
SUSAN ELLENBERG, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.
ATTEST:

TIFFANY LENNEAR
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

LIZANNE REYNOLDS
Lead Deputy County Counsel

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CITY OF CUPERTINO

By: _____
PAMELA WU, City Manager

ATTEST:

KIRSTEN SQUARCIA
City Clerk

APPROVED AS TO FORM:

CHRISTOPHER D. JENSEN
City Attorney

Exhibits:

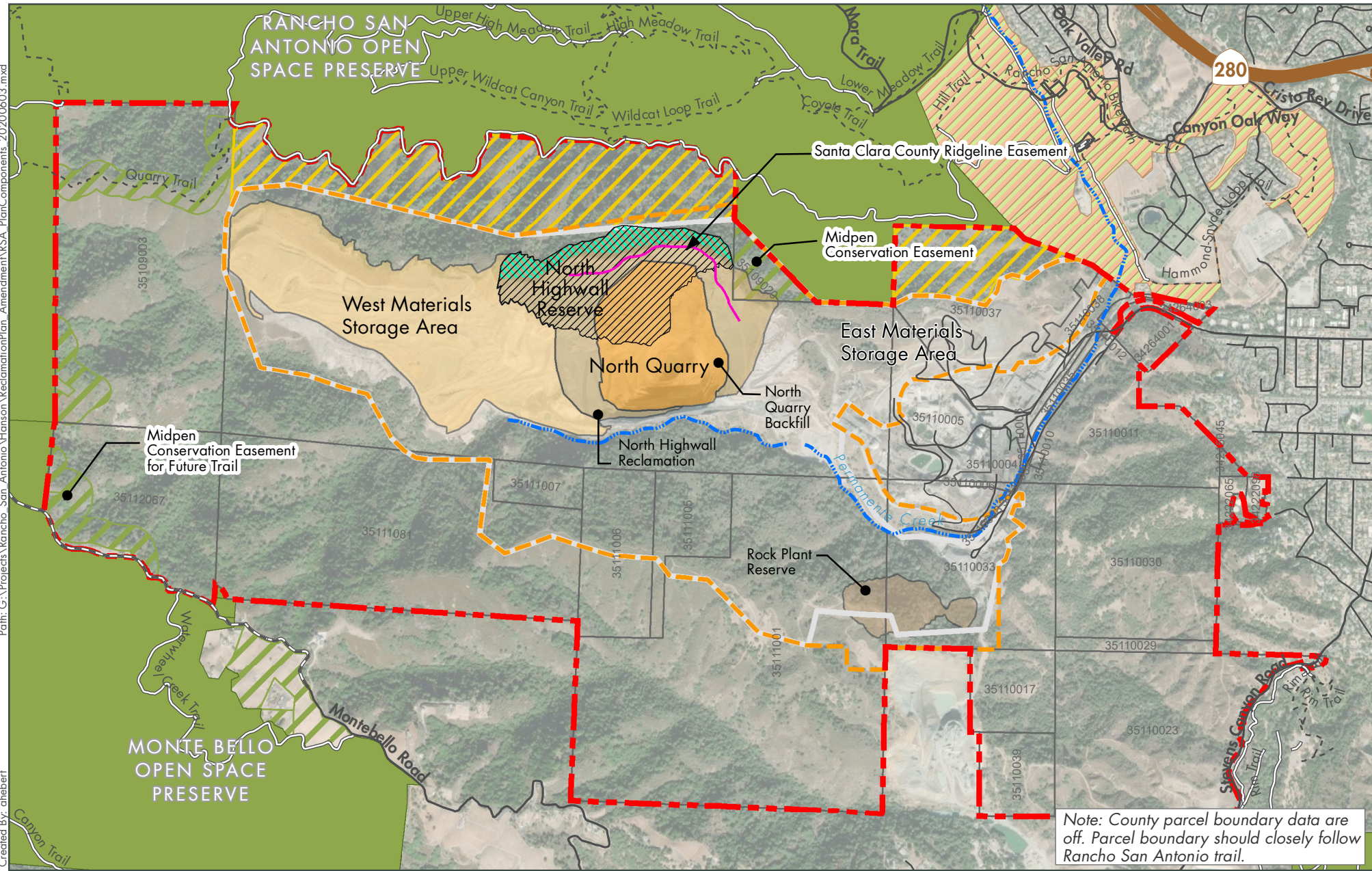
- A – List of Parcels Comprising Lehigh Property
- B – Map of Lehigh Property
- C – Map of Lehigh Property Showing Jurisdictional Boundaries
- D – Applicable Laws, Policies and Regulations

EXHIBIT A

Lehigh Quarry Property by Assessor's Parcel Number

Unincorporated	Cupertino	Palo Alto
342-64-001	342-22-065	351-09-003
351-09-013	342-22-098	351-12-067
351-09-020	351-10-017	
351-09-022	351-10-023	
351-09-023	351-10-030	
351-09-025	351-10-039	
351-10-003		
351-10-004		
351-10-005		
351-10-006		
351-10-008		
351-10-010		
351-11-011		
351-11-012		
351-10-016		
351-10-033		
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351-10-038		
351-11-001		
351-11-005		
351-11-006		
351-11-007		
351-11-081		

Path: G:\Projects\Ranchos\San Antonio\Hanson\ReclamationPlan_Amendment\RSA_PlanComponents_20200603.mxd
Created By: ahbert



Note: County parcel boundary data are off. Parcel boundary should closely follow Rancho San Antonio trail.

Attachment 1: 2019 Reclamation Plan and Rancho San Antonio Open Space Preserve

- - - Property Boundary
- - - Amended Reclamation Boundary
- - - Existing Reclamation Plan Boundary
- - - Creek
- West Materials Storage Area
- North Highwall Reclamation
- North Quarry Backfill
- Rights of First Refusal
- Trail Easement

Midpeninsula Regional
Open Space District
(Midpen)
8/25/2020



While the District strives to use the best available digital data, these data do not represent a legal survey and are merely a graphic illustration of geographic features.

EXHIBIT B

Lehigh Property with Jurisdictional Boundaries

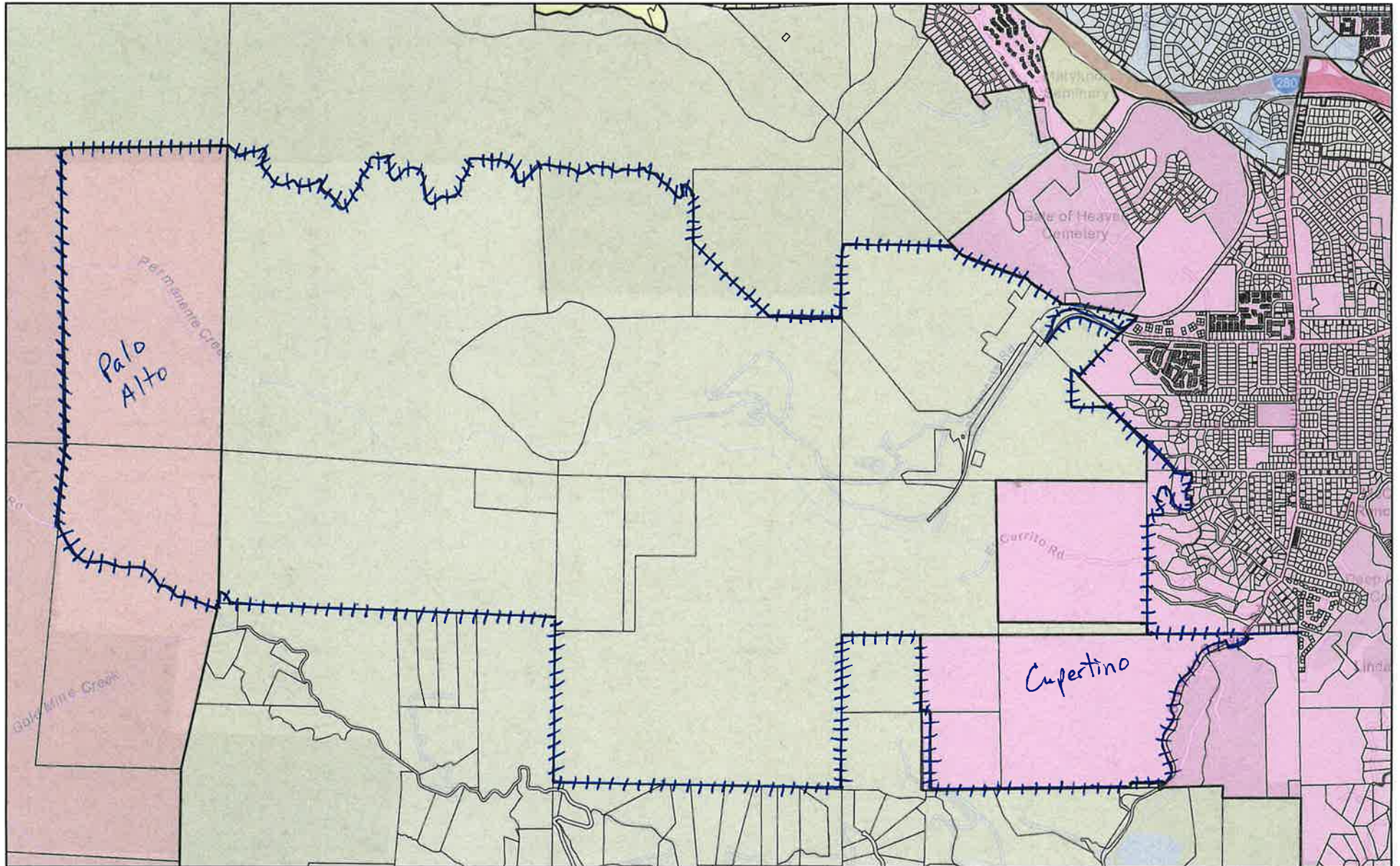
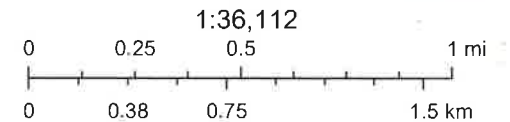
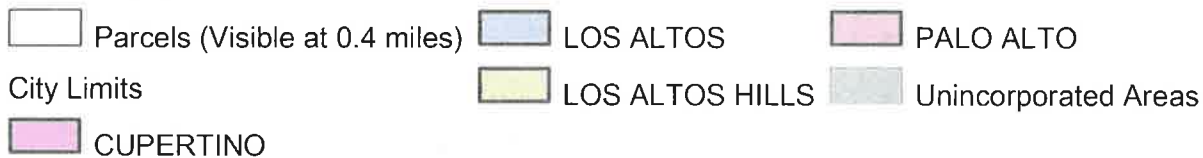


EXHIBIT C

5/19/2023, 4:23:27 PM



County of Santa Clara, California State Parks, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land

EXHIBIT D

APPLICABLE LAWS, POLICIES, REGULATIONS & ORDINANCES

The state and local laws, regulations and ordinances applicable to the Policy Framework Agreement for Reclamation and Development of Lehigh Quarry Property between the County of Santa Clara and City of Cupertino include, but are not limited to, those listed below.

County of Santa Clara Policies and Ordinances

Document	Policies
<p>Santa Clara County General Plan – Growth and Development Chapter (p. B-1 et seq.)</p>	<p>Calls for managed, balanced growth, preventing sprawl, promoting compact urban development by controlling USA expansion and making more efficient use of existing lands in urbanized areas rather than into hillsides and resource areas (policies C-GD 1 et seq., p. B-5 et seq.)</p> <p>Calls for any urban expansion to be planned on a staged, orderly basis consistent with County and applicable city plans and the availability of urban services and LAFCO approval, land use and development that enhance the cost effectiveness of transportation and other infrastructure investments, reducing auto dependency, reducing trips (policies C-GD 29 et seq., p. B-18 et seq.)</p> <p>Emphasizes importance of maintaining environmental quality, nature resource conservation, open space preservation, recreational opportunities, habitat conservation (pp. B-21–B-23)</p> <p>Calls for improved coordinated planning between the County and cities (p. B-24 et seq.)</p>
<p>Santa Clara County General Plan – Transportation Chapter (p. F-1 et seq.)</p>	<p>Calls for compact urban development to improve air quality</p> <p>Calls for reducing energy use</p> <p>Calls for maximizing existing urban infrastructure</p> <p>Calls for encouraging use of alternatives to single-occupancy vehicles</p>
<p>Santa Clara County General Plan – Parks & Recreation Chapter (p. G-1 et seq.)</p>	<p>Calls for interjurisdictional coordination (Strategy #6)</p> <p>Calls for balancing recreation, environmental, and landowner concerns (Strategy #4)</p>

	<p>Cites high number of users at Rancho San Antonio and concerns about overuse of parklands because of growing demand (p. G-6 (reflects pre-1994 data))</p>
<p>Santa Clara County General Plan – Resource Conservation Chapter (p. H-1 et seq.)</p>	<p>Calls for reducing pollution, preserving habitats, encouraging habitat restoration, mitigating impacts of mineral resource extraction and transport, reclaiming sites for appropriate subsequent uses (pp. H-34–H-35)</p> <p>Calls for protecting scenic resources (pp. H-40–H-43)</p>
<p>Santa Clara County General Plan – Safety & Noise Chapter (p. I-1 et seq.)</p>	<p>Calls for managing hazardous materials safely (pp. I-7 – I-11)</p> <p>Calls for preventing noise conflicts (pp. I-22- I-23)</p> <p>Calls for minimizing natural hazards (pp. I-24 – I-30)</p> <p>Calls for prevention of contamination of groundwater from wastewater disposal (pp. I-35 et seq.)</p>
<p>County Zoning Ordinance</p>	<p>§ 2.20.010 – Purpose of the Hillside (HS) zoning district is to “preserve mountainous lands unplanned or unsuited for urban development primarily in open space and to promote those uses which support and enhance a rural character, which protect and promote wise use of natural resources, and which avoid the risks imposed by natural hazards found in these areas. These lands are watersheds and may also provide such important resources as minerals, forests, animal habitat, rare or locally unique plant and animal communities, historic and archeological sites, scenic beauty, grazing lands, and recreational areas. Additionally, lands zoned Hillside define the setting or viewshed for the urban area of the County.”</p> <p>§ 2.20.070 – Supplemental development standards for HS districts</p> <p>§ 2.20.040 – Minimum lot sizes and slope-density requirements for residential subdivisions in HS districts</p> <p>§ 4.10.370 – Standards applicable to surface mining including compliance with all SMARA requirements</p> <p>§ 4.20.130 – Inclusionary housing ordinance – requires inclusion of affordable units in new market rate residential developments with 3 or more dwellings or payment of in lieu fee</p>

	<p>Ch. 5.45 – Cluster subdivision and development plan standards include requirements for allowable density of development, open space and natural resource conservation, and avoidance or mitigation of potential adverse environmental impacts including visual/aesthetic impacts in hillside areas (§ 5.45.055)</p> <p>Ch. 5.50 – Design review requirements include mitigation of any adverse visual impacts from proposed structures, grading, vegetation removal and landscaping; compatibility with the natural environment; and compatibility with the neighborhood and adjacent development</p>
County Subdivision Ordinance, § C12.1 et seq.	<p>§ C12-122 – Criteria requiring denial of subdivision include:</p> <ul style="list-style-type: none"> • the proposed map, including the design or improvement of the subdivision, is not consistent with applicable general and specific plans • the site is not physically suitable for the type or proposed density of development • the design or proposed improvements are likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause serious public health problems
County Nuisance Abatement Ordinance, § A1-33 et seq.	<p>§ A1-34 defines public nuisance as any of the following:</p> <ul style="list-style-type: none"> • any condition, act, or omission declared by any statute of the State of California or any provision of this Code to be a public nuisance; • any public nuisance known or recognized in common law or equity; • any condition that constitutes a nuisance as defined in Civ. Code § 3479; or • any use or condition of property that poses a danger to human life or is unsafe or detrimental to the public health, safety, or welfare.
County Onsite Wastewater Treatment Systems Ordinance, § B11-60 et seq.	<p>Imposes requirements for onsite wastewater treatment systems (OWTS)</p> <p>Proposed subdivisions must demonstrate compliance with conventional septic system requirements; alternative systems are not allowed (§ B11-60)</p> <p>Projects generating over 10,000 gal/day are subject to RWQCB approval (§§ B11-60, B11-66)</p>
County Fire Code, § B7-1 et seq.	Adopts California Fire Code with local amendments
County Grading and Drainage Ordinance, § C12-400 et seq.	Establishes requirements for grading and drainage alteration work to protect surface water quality, adjacent and neighboring properties and

	the environment by preventing soil erosion and transport of soil sediments (§ C12-400)
County Sustainability Master Plan (Jan. 2021)	<p>Plan is intended to be a collaborative cross-county process between the County, cities, other public agencies, businesses, nonprofits, CBOs, and community leaders (p. 8)</p> <p><u>Establishes 4 priorities:</u></p> <ul style="list-style-type: none"> • <i>Climate Protection and Defense:</i> reduces greenhouse gases and builds resilience to the threats of climate change and natural disasters like fires and floods. • <i>Natural Resources and the Environment:</i> protects, enhances, and restores natural resources and habitats and reduces the cumulative impacts of environmental hazards to maintain a healthy environment for all residents and living creatures. • <i>Community Health and Well-Being:</i> protects and improves the health of the community and the conditions in places where people live, learn, work, and play. • <i>Prosperous and Just Economy:</i> builds financial security and prosperity for all and promotes leadership and collaboration. <p><u>Goals include:</u></p> <p><i>Goal 3. Air and Water Resources – Maintain a healthy environment for all residents and living creatures.</i></p> <ol style="list-style-type: none"> 3.1. Air Quality and Pollution 3.2. Water Use and Conservation 3.3. Water Quality and Stormwater Management 3.4. Streams and Riparian Corridors 3.5. Hazardous Materials Management <p><i>Goal 4. Natural Lands and Land Use – Enhance and protect natural and working lands so that they provide a range of social, environmental, economic, and health benefits for County residents and businesses.</i></p> <ol style="list-style-type: none"> 4.1. Habitat Conservation 4.2. Working Lands 4.3. Parks and Recreation

City of Cupertino Policies and Ordinances

Cupertino General Plan – Ch. 3: Land Use and Community Character Element	Acknowledges Cupertino’s hillsides as an irreplaceable resource shared by the entire Santa Clara Valley (p. LU-4)
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	<p>Calls for collaborative local and regional planning processes (p. LU-8)</p> <p>Calls for integrating community health into land use planning (p. LU-8)</p> <p>Calls for preservation of natural environment and hillsides, creek corridors, and sensitive animal and plant habitats (p. LU-9)</p> <p>Goal LU-10 calls for regional and local coordination on issues including planning, transportation, sustainability, urban service area boundaries, annexation issues (p. LU-35)</p> <p>Goal LU-12 is to preserve and protect the City’s natural habitat and aesthetic values using develop standards such as slope-density formulas, clustering, very low density development, and preserving views of the foothills (pp. LU-37 – LU-39; see also pp. A-3 and Appx. F)</p>
<p>Cupertino General Plan – Ch. 5: Mobility Element</p>	<p>Emphasizes importance of ensuring that future growth does not overwhelm transportation network, limits greenhouse gas emissions, improves community health, and improves walking/biking environment</p>
<p>Cupertino General Plan – Ch. 6: Environmental Resources and Sustainability Element</p>	<p>Focuses on supporting growing urban and suburban populations while seeking to mitigate their continued demands on the landscape, identifying and systemically prioritizing ways to protect and restore natural ecosystems through land use decisions, building designs and resource conservation (pp. ES-2, ES-13 – ES 14,)</p> <p>Important rural ecosystems include the relatively undeveloped western foothills and mountains near Rancho San Antonio Open Space Preserve and along Stevens Creek (pp. ES-6 – ES 8)</p> <p>Describes mineral resources in City’s sphere of influence, including Hanson Permanente quarry (pp. ES-9 – ES 10)</p> <p>Calls for strengthening regional partnerships for implementing new policies and programs related to sustainability and environmental health (p. ES-12)</p>

	<p>Recognizes that urban and suburban areas can provide habitat for many plant and animal species (p. ES-12)</p> <p>Commits to use sustainability principles when evaluating all aspects of new development (p. ES-12)</p> <p>Establishes policies to improve air quality, reduce emissions, and improve overall community health, including minimizing generation of toxic air contaminants, dust control (pp. ES-19 – ES 20)</p> <p>Encourages clustering of new development away from sensitive areas such as riparian corridors, wildlife habitat and corridors, and public open space preserves and ridgelines. (pp. ES-21 – ES-22)</p> <p>Seeks to minimize impacts of mineral resource operations by working cooperatively with the County to ensure that plans for restoration and mining operations at Lehigh Hanson and Stevens Creek quarries consider environmental impacts and mitigation. Strategies include strongly encouraging the County to engage with affected neighborhoods when considering changes to restoration plans and mineral extraction activity, and considering designating abandoned quarries for passive recreation to enhance plant and wildlife habitat and rehabilitate the land. (p. ES-23)</p> <p>Seeks to reduce water demand and ensure future water sources are protected, including creeks, streams and drainage areas (p. ES-24)</p> <p>Calls for watershed-based planning and reviewing development plans to ensure impacts on entire watershed are considered (p. ES-25)</p> <p>Calls for retaining and restoring creek beds, riparian corridors, watercourse and associated vegetation in their natural state to protect wildlife habitat and recreation potential and assist in groundwater percolation, and to encourage land acquisition or dedication of such areas (p. ES-26)</p>
Cupertino General Plan – Ch. 7: Health and Safety Element	Acknowledges high fire risk in Stevens Canyon area (p. HS-5)

	<p>Acknowledges various seismic faults crossing the western portion of the City and attendant hazards (pp. HS-12 – HS 13; see also Appx. E)</p> <p>Acknowledges potential flooding risks from creeks, including Permanente Creek (pp. HS-17, HS-19)</p> <p>Identifies traffic noise as the greatest contributor to noise pollution in Cupertino and one of the most difficult to control, and heavy-duty trucking operations to and from the Hanson Permanente Cement plant as a significant transportation-related noise contributor (p. HS-21)</p> <p>Establishes maximum noise levels for land use compatibility purposes (p. HS-23)</p> <p>Requires geotechnical and structural analysis for any site with slope over 10 percent (p. HS-33)</p> <p>Requires proper storage and disposal of hazardous materials (p. HS-35)</p> <p>Requires assessment of future residents’ exposure to hazardous materials when new residential development or sensitive populations are proposed in existing industrial and manufacturing areas. Does not allow residential development or sensitive populations if such hazardous conditions cannot be mitigated to an acceptable level of risk. (p. HS-35)</p> <p>Discourages new residential development in flood plains and discourages filling that may increase flood potential or modify natural riparian corridors (p. HS-38)</p> <p>Restricts extent and timing of hillside grading; requires performance bonds to guarantee repair of any erosion damage; requires planting of graded slopes as soon as practical after grading is complete (p. HS-38)</p> <p>Calls for working to carry out noise mitigation measures to diminish noise along Foothill and Stevens Creek Boulevards from the quarry and cement plant trucking operations. Strongly encourages rail and other alternatives to truck transport when feasible. (p. HS-40)</p>
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<p>Cupertino General Plan – Ch. 8: Infrastructure Element</p>	<p>Requires new development to pay its fair share of, or to extend or construct, improvements to accommodate growth without impacting service levels (p. INF-10)</p> <p>Prioritizes funding of infrastructure to stimulate economic development and job creation (p. INF-10)</p> <p>Requires developers to pay their fair share of costs for, or in some cases construct, wastewater infrastructure upgrades to ensure service levels are met (p. INF-15)</p>
<p>Cupertino General Plan – Ch. 9: Recreation, Parks and Community Services Element</p>	<p>Acknowledges the need to coordinate with other agency providers to ensure the community’s growing and changing needs for parks and open space are met (pp. RPC-3, RPC-19)</p> <p>Notes that City’s land uses in and around open space areas typically include low-intensity residential uses, which are consistent with protecting open space areas. This includes several County parks and Midpeninsula Regional Open Space preserves, as well as trails along creeks owned and managed by Valley Water. (pp. RPC-3 – RPC 5)</p> <p>Identifies promoting more trails and connectivity along creeks, hillsides and through neighborhoods as a major objective of the General Plan (p. RPC-9, RPC-23)</p> <p>Goals include creating a full range of park and recreational resources and preserving natural resources (p. RPC-21)</p> <p>Requires major new developments to incorporate private open space and recreational facilities, and ensure park space is publicly accessible where feasible (p. RPC-24)</p> <p>Requires dedication or easements for trails and their implementation as part of the development review process where appropriate (p. RPC-29)</p>
<p>Cupertino Noise Control Ordinance, Muni. Code, Ch. 10.48</p>	<p>Establishes daytime and nighttime maximum noise levels at receiving properties (§ 10.48.040)</p> <p>Prohibits “noise disturbances” (§§ 10.48.010, 10.48.060)</p>

Cupertino Truck Traffic Routes Ordinance, Muni. Code Ch. 11.32	Establishes specified truck traffic routes and other restrictions on truck traffic (e.g., school zone prohibitions, origin and destination points)
Cupertino Environmental Regulations, Muni. Code, Title 17	<p>Imposes numerous environmental protection requirements, including air quality standards (e.g., control of diesel particulate matter, preparation of Health Risk Assessment) and restricts residential and other sensitive land use projects to areas designated on BAAQMD Planning Healthy Places Map (§ 17.04.040)</p> <p>Imposes environmental protection permit requirements regarding air quality, hazardous materials, GHG emissions, biological resources, cultural resources, hydrology/water quality, noise and vibration, etc. (§ 17.040.050)</p> <p>Establishes VMT standards for land use development projects (Ch. 17.08)</p>
Cupertino Subdivision Regulations, Muni. Code Title 18	Ch. 18.52: Hillside Subdivisions – requires harmony between development activities and natural environment, clustering of development with 90% dedicated open space, watercourse protection, compliance with ridgeline visibility standards, protection of natural vegetation and wildlife migration, etc.
Cupertino Zoning Ordinance, Muni. Code Title 19	Ch. 19.40: Purpose of Residential Hillside (RHS) zoning is to balance residential development with preservation of natural setting, reinforce predominantly low-intensity setting, conserve natural resources, and protect life and property from natural hazards
Cupertino Below Market Rate Housing Program Ordinance, Muni. Code Ch. 19.172	Objective is to obtain actual affordable housing units within each development rather than off-site units or mitigation fee payments. Provision of off-site units, land donation, or payment of housing mitigation fees are only permitted under certain circumstances. (§ 19.172.020)

Santa Clara County LAFCO Policies

Countywide Urban Development Policies	<p>LAFCO, the County and 15 cities adopted growth management policies known as the Countywide Urban Development Policies (CUDPs) in the early-1970s. (§ 1.1)</p> <p>The fundamental CUDPs are as follows:</p>
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	<ul style="list-style-type: none"> • Urban development should occur, and urban services should be provided only on lands annexed to cities – and not within unincorporated areas, urban or rural. • Urban expansion should occur in an orderly, and planned manner – with cities responsible for planning and providing services to urban development within explicitly adopted Urban Service Areas (USA) whose location and expansion is subject to LAFCO approval authority. • Urban unincorporated islands within USAs should eventually be annexed into their surrounding cities, so that cities have the responsibility for urban services and land use authority over all lands within their USA boundaries. (§ 1.3) <p>The CUDPs benefit the community as a whole by promoting:</p> <ul style="list-style-type: none"> • Sustainable Growth: ensuring sustainability and livability of communities by ensuring quality of life is not sacrificed to disorderly growth; • Fiscal Responsibility and Resiliency: minimizing costs to taxpayers for public infrastructure and services through compact growth; • Environmental Stewardship: safeguarding air and water quality, wildlife habitat, and water supply reservoir watersheds, and preventing loss of public open space assets critical to ecological balance; • Affordable and Responsibly-Located Housing: promoting complete and efficient use of existing urbanized lands within cities, building within rather than outward, resulting in more cost efficient housing opportunities close to transit and services; • Transportation Options: reducing sprawl and promoting compact development to reduce traffic demand generated by outward growth, emissions and pollution from vehicles, reduce longer commute distances, and encouraging urban densities supportive of transit solutions; • Open Space and Farmland Preservation: protecting open space, parklands, hillsides and farmlands from premature and/or unwarranted development. (§ 1.5)
Urban Service Area Policies	<p>LAFCO’s review of Urban Service Area (USA) boundaries is its primary vehicle for encouraging orderly city growth (§ A)</p> <p>LAFCO encourages contractual agreements and/or plans between the cities and the County which define:</p>

	<p>a. Growth at the urban fringe; and b. Potential new growth areas. (§ B.2)</p> <p>LAFCO considers factors in Gov't Code § 56668 and other factors when evaluating proposed USA amendments, including the following:</p> <ul style="list-style-type: none"> • the existence of adequate regional and local transportation capabilities to support the planned city growth; • the ability of the city to provide urban services to the growth areas without detracting from current service levels; • the ability of school districts to provide school facilities; • whether the conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth; • environmental considerations that may apply • regional housing needs; • availability of adequate water supply; • consistency with city or county general and specific plans (§ B.3) <p>LAFCO will discourage USA expansions that include agricultural or other open space land unless the city demonstrates:</p> <ul style="list-style-type: none"> • that effective measures have been adopted for protecting the open space or agricultural status of the land. Such measures may include, but not limited to, the establishment of agricultural preserves pursuant to the California Land Conservation Act, the adoption of city/County use agreements or applicable specific plans, the implementation of clustering or transfer-of-development-rights policies; evidence of public acquisition; or • that conversion of such lands to other than open space uses is necessary to promote the planned, orderly, efficient development of the city. (§ B.6)
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State Laws and Regulations

<p>Surface Mining & Reclamation Act (SMARA)</p>	<p>Legislative intent is to assure that:</p> <ul style="list-style-type: none"> • adverse environmental effects from surface mining and reclamation are prevented or minimized and that lands are
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<p>Pub. Res. Code §§ 2710-2796; 14 Cal. Code Regs. § 3500 et seq.</p>	<p>reclaimed to a usable condition that is readily adaptable for alternative land uses;</p> <ul style="list-style-type: none"> • encourage production and conservation of minerals while giving consideration to values relating to recreation, watershed, wildlife, range and forage and aesthetic enjoyment; • eliminate residual hazards to public health and safety (§
<p>California Environmental Quality Act (CEQA), Pub. Res. Code §21000 et seq.</p>	<p>Legislative intent includes:</p> <ul style="list-style-type: none"> • maintaining and providing a high-quality environment; • controlling environmental pollution; • taking all action necessary to provide people of California with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise (§§ 21000, 21001) <p>Declares state policy that public agencies should not approve projects as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen a project’s significant environmental effects (§ 21002)</p>
<p>Cortese-Knox-Hertzberg Local Gov’t Reorganization Act, Gov’t Code § 56000 et seq.</p>	<p>In Santa Clara County, city councils may serve as the conducting authority for annexation and reorganization proposals. City councils must make several findings, including:</p> <ul style="list-style-type: none"> • the territory is within the city’s USA as adopted by LAFCO; • the proposal does not create islands or areas in which it would be difficult to provide municipal services; • the proposal is consistent with the city’s general plan; • the territory is contiguous to existing city limits; • the city has complied with all conditions imposed by LAFCO for including the territory in its USA (§ 56757) <p>USA boundaries are developed in cooperation with the city and adopted by LAFCO pursuant to adopted LAFCO policies (§ 56080)</p>
<p>Hazardous Waste Control Law, Health & Saf. Code §§ 25100-25259</p>	<p>Legislative findings and declarations include:</p> <ul style="list-style-type: none"> • Inappropriate handling, storage, use, and disposal of hazardous wastes pose long-term threats to public health and to air and water quality; • To protect public health and the environment, regulations and incentives are needed to ensure that hazardous waste generators use technology and management practices for

	<p>the safe handling, treatment, recycling, and destruction of their hazardous wastes prior to disposal (§§ 25100, 25101)</p>
<p>Porter-Cologne Water Quality Control Act, Water Code § 13000 et seq.</p>	<p>Legislative findings and declarations include:</p> <ul style="list-style-type: none"> • The people of California have a primary interest in the conservation, control, and utilization of the State’s water resources, and the quality of all State waters shall be protected for use and enjoyment by the people; • Waters of the State shall be regulated to attain the highest water quality which is reasonable (§ 13000) <p>No provision in Water Code Div. 7 (“Water Quality” §§ 13000-16104) is intended to limit the power of any city or county to:</p> <ul style="list-style-type: none"> • adopt and enforce additional regulations not in conflict with state law; or • declare, prohibit and abate nuisances (§ 13002)
<p>Global Warming Solutions Act of 2006 (AB 32), Health & Saf. Code § 38500 et seq.</p>	<p>Legislative declaration that global warming poses a serious threat to the State’s economic well-being, public health, natural resources, and the environment (§ 38501)</p> <p>Requires California Air Resources Board to adopt a statewide GHG emissions limit and rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions. (§§ 38560-38568)</p>
<p>Sustainable Communities and Climate Protection Act of 2008 (SB 375)</p>	<p>Requires metropolitan planning organizations (e.g., ABAG) to develop regional transportation plans and a sustainable communities strategy that establishes GHG emissions reduction targets (Gov’t Code § 65080)</p>
<p>Subdivision Map Act, Gov’t Code § 66410 et seq.</p>	<p>Requires city or county to disapprove a subdivision if certain findings cannot be made, including:</p> <ul style="list-style-type: none"> • The map is not consistent with the applicable general plan • The site is not physically suitable for the type or density of development; • The design of the subdivision or proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat; • The design of the subdivision or type of improvements is likely to cause serious public health problems (§ 66474)

State Minimum Fire Safe Regulations, Pub. Res. Code § 4290, 14 Cal. Code Regs § 1270.01 et seq.	Imposes stringent requirements for development in areas designated as High and Very High Fire Hazard Severity Zones
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