

Lehigh Permanente Quarry

Annexation Study Session



**CITY OF
CUPERTINO**

What is Annexation?

“ [T]he inclusion, attachment, or addition of territory to a city or district.”

(Gov. Code, § 56017).

Local Agency Formation Commission (LAFCO)

- The starting point for the annexation process.
- Independent agency with countywide jurisdiction.

Santa Clara LAFCO



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Santa Clara
County Board of
Supervisors



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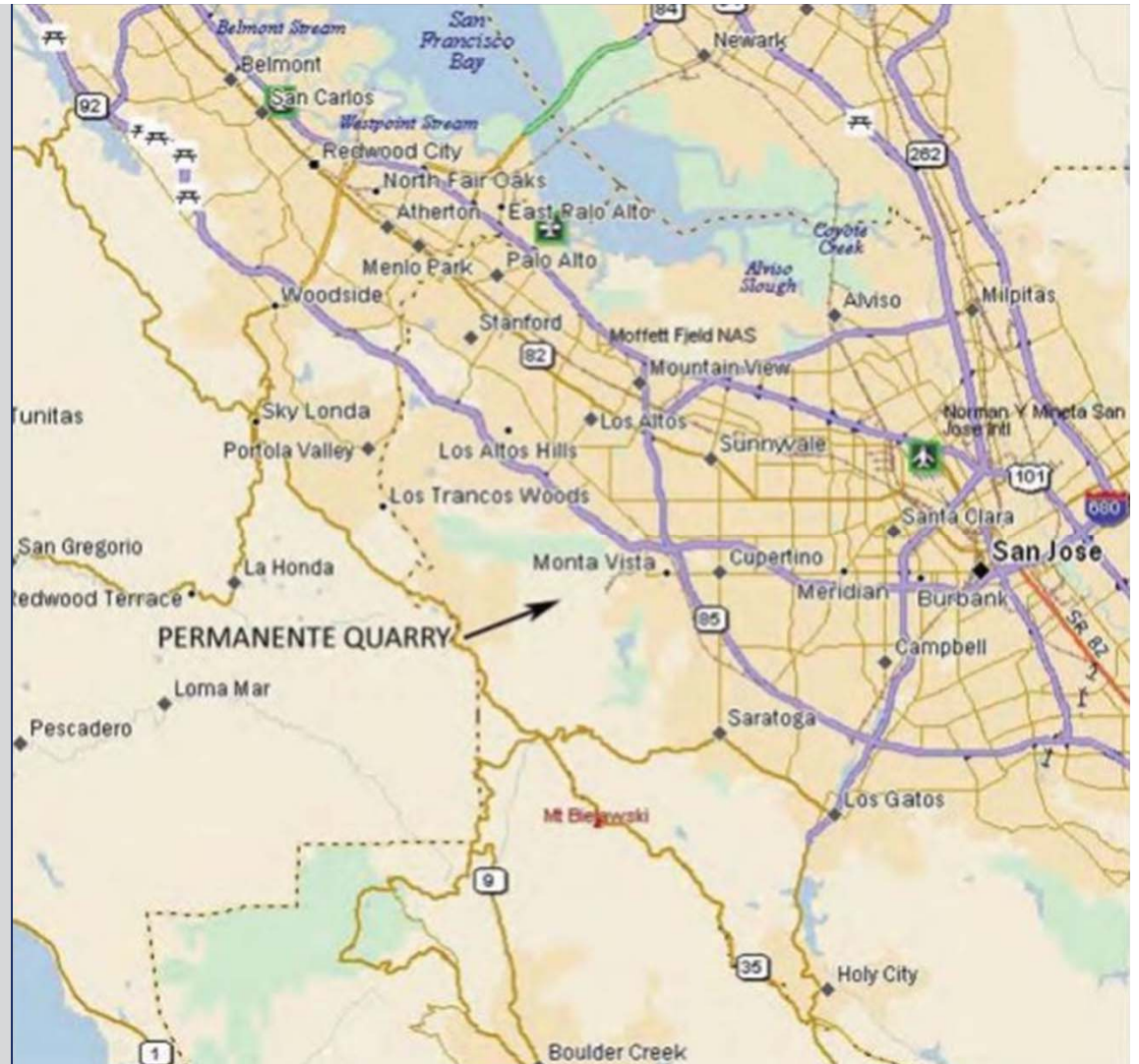


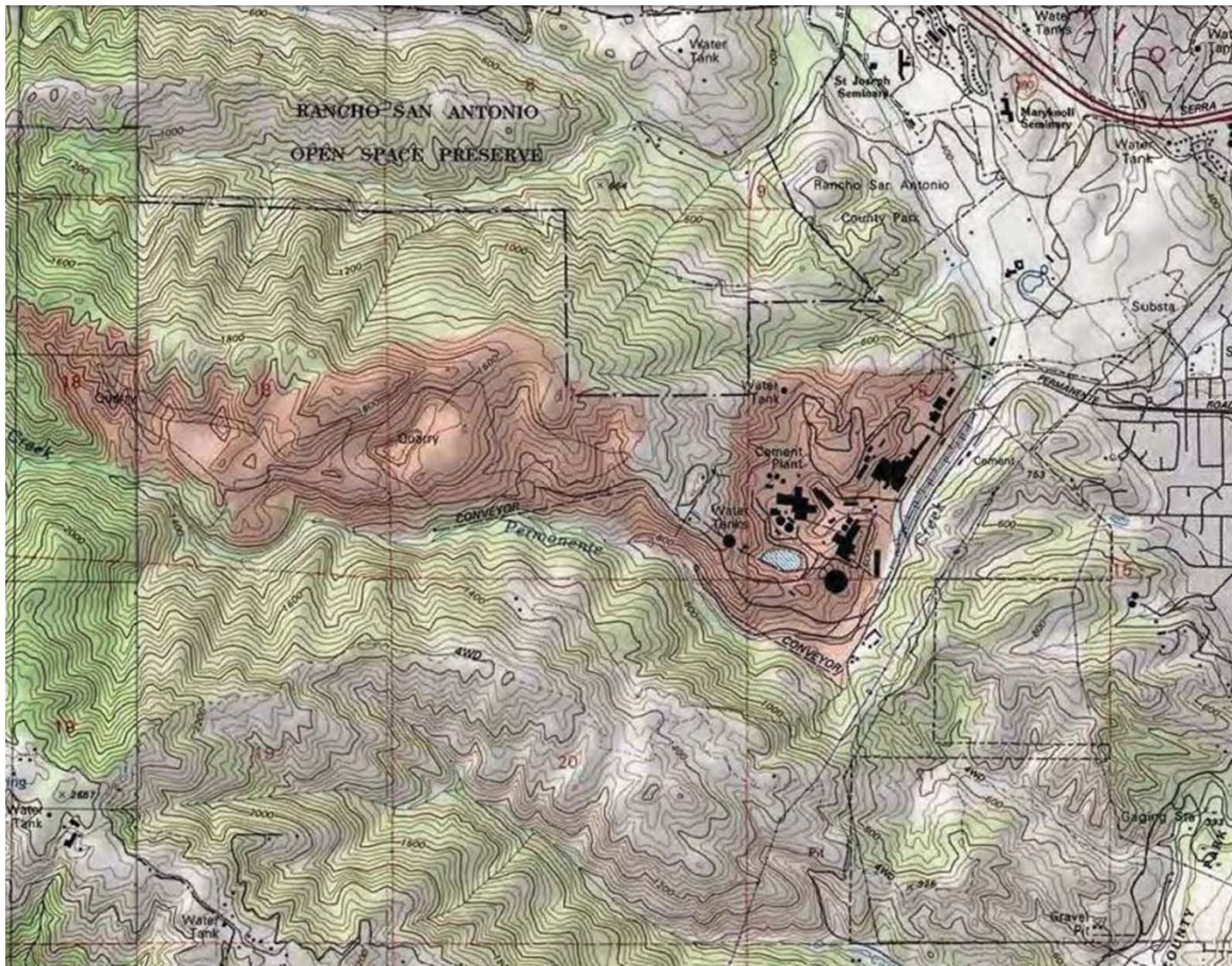
Mike Wasserman
Santa Clara
County Board of
Supervisors



Background on the Lehigh Quarry

Regional Map





Area Map



History

- The Quarry is a single-pit limestone and aggregate mining operation.
- Site also includes cement plant.
- Use permit issued by Santa Clara County in 1939.
- Santa Clara County has recognized that the quarry has a vested right to mine.


Current Status

- Owner: Heidelberg Cement, Inc.
- Operator: Lehigh Southwest Cement Co.
- Still operating under 1939 Use Permit.
- Reclamation Plan (under Surface Mining & Reclamation Act) updated and approved by County 2012.
- Cement plant area of Quarry is within the city's urban service area (USA) and sphere of influence (SOI).
- Cupertino currently has no zoning or land-use designation for the cement plant area.
- Recent violations re selenium discharge and noise.



Regulatory Issue	Agencies
Air Quality	BAAQMD, Cal ARB
Water Quality	RWQCB, Santa Clara Valley Water District
In-Creek Projects	US Army Corps of Engineers
Environmental Protection	US EPA
Mine Safety	Cal. Mining & Geology Board
Wildlife/Habitat	USFWS, Cal. FWS
Surface Mining & Reclamation Act	Cal. Division of Mine Reclamation, Santa Clara County
Noise	Santa Clara County
Land Use	Santa Clara County
Hazardous Waste	Santa Clara County
Human Health	Santa Clara Public Health Department

Annexation Procedures

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1. Amend General Plan and Zoning to Set Land Use Policies for Land to be Annexed
 2. Amend Urban Service Area and Sphere of Influence
 3. Conduct Annexation Proceedings

1. Amend General Plan and Zoning to Set Land Use Policies for Land to be Annexed

- State Requirements

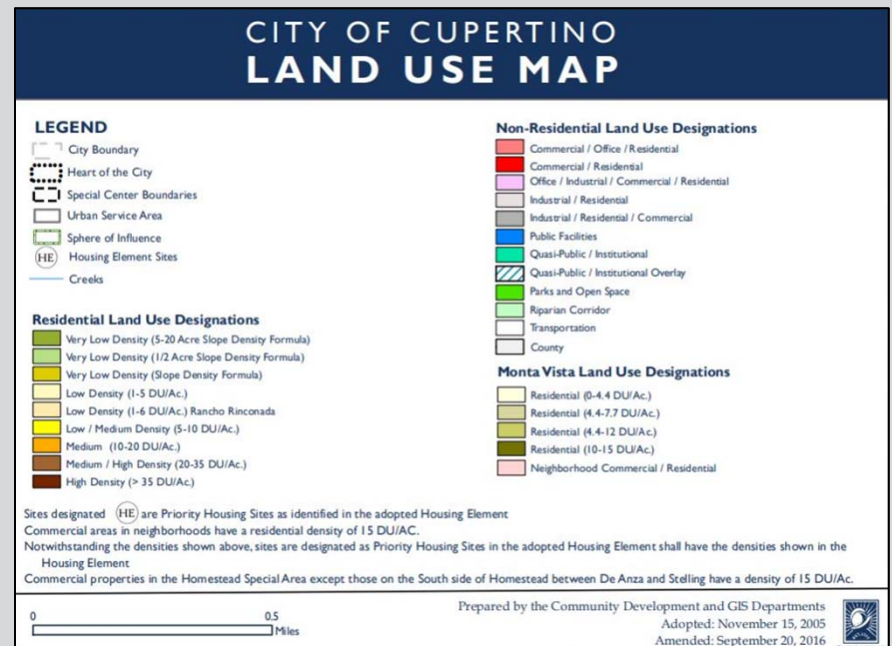
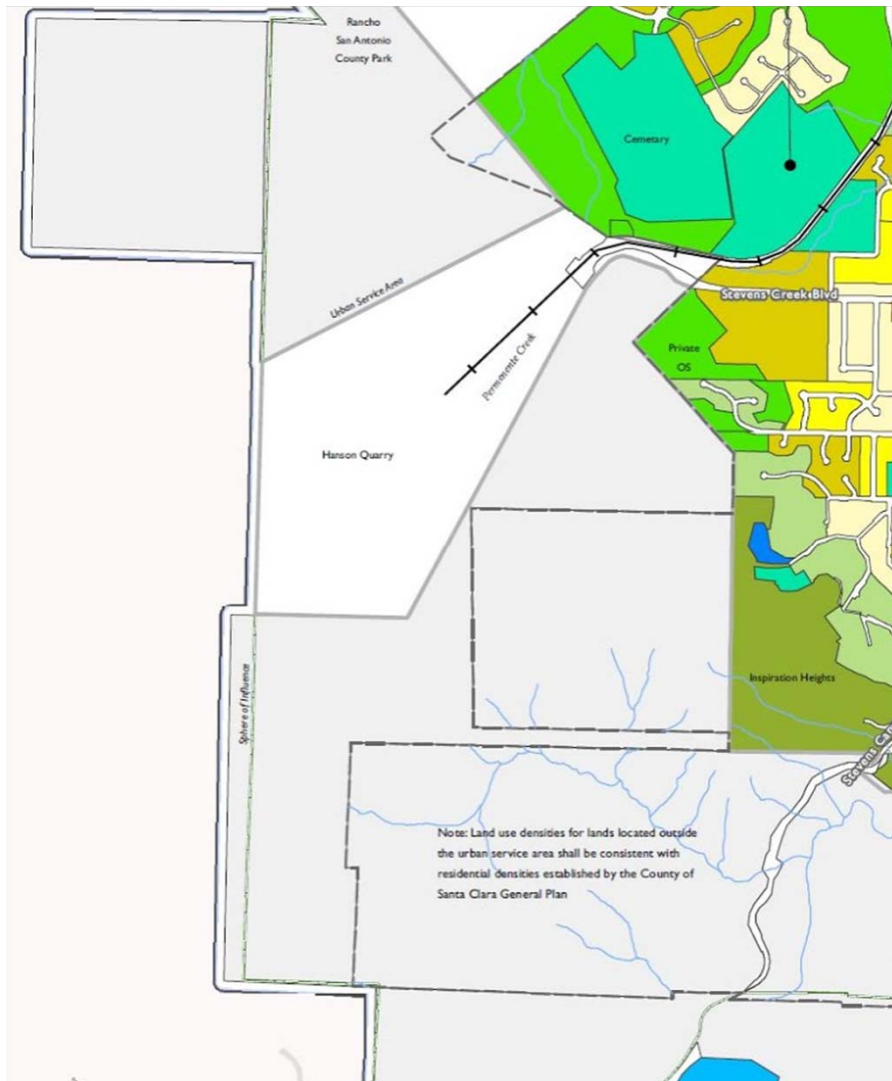
- Site must be pre-zoned prior to annexation.
- Annexation proposals must be reviewed for consistency with general and specific plans.

- County LAFCO Requirements

- Santa Clara County LAFCO requires land proposed to be annexed to have a general plan and zoning designations before starting annexation process.
- Proposed sphere of influence must be consistent with general plans.

1. Amend General Plan and Zoning to Set Land Use Policies for Land to be Annexed

- Santa Clara County (current):
 - Land Use Designation: Hillsides, Open Lands, Regional Parks
 - Zoning: Hillside, Exclusive Agriculture
- City of Cupertino (potential):
 - Land Use Designation:
 - Residential Very Low Density (5-20 Acre Slope Density Formula)
 - Parks & Open Space
 - Zoning:
 - Residential Hillside
 - Open Space





City of Cupertino Zoning Map

- | | | | |
|---|--|---|---|
|  | - City Boundary |  | CG-rg Adopted by Ordinance 436 |
|  | - Heart of the City Specific Plan Area |  | FP-o Adopted by Ordinance 1574 |
|  | A1 - Agricultural Residential |  | P-Hotel Adopted by Ordinance 1368 |
|  | BA - Public Building |  | ML-fa: Adopted by Ordinance 350 |
|  | BQ - Quasi- Public Building |  | See Master Plan/Specific Plan/
Conceptual Plan for details |
|  | CG - General Commercial | | |
|  | ML - Light Industrial | | |
|  | MP - Planned Industrial Zone | | |
|  | P - Mixed Use Planned Development | | |
|  | OA/OP - Office / Planned Office | | |
|  | OS/PR - Open Space / Public Park / Recreational Zone | | |
|  | R1 - Single Family Residential | | |
|  | R1C - Single Family Residential Cluster | | |
|  | R2 - Residential Duplex | | |
|  | R3 - Multiple Family Residential | | |
|  | RHS - Residential Hillside | | |
|  | T - Transportation | | |

Sites designated (HE) are Priority Housing Sites as identified in the adopted Housing Element

Numbers following zoning designations denote minimum lot sizes divided by one thousand.

The "Pre" designation denotes a prezoned unincorporated area and is colored white.



0.25 Miles

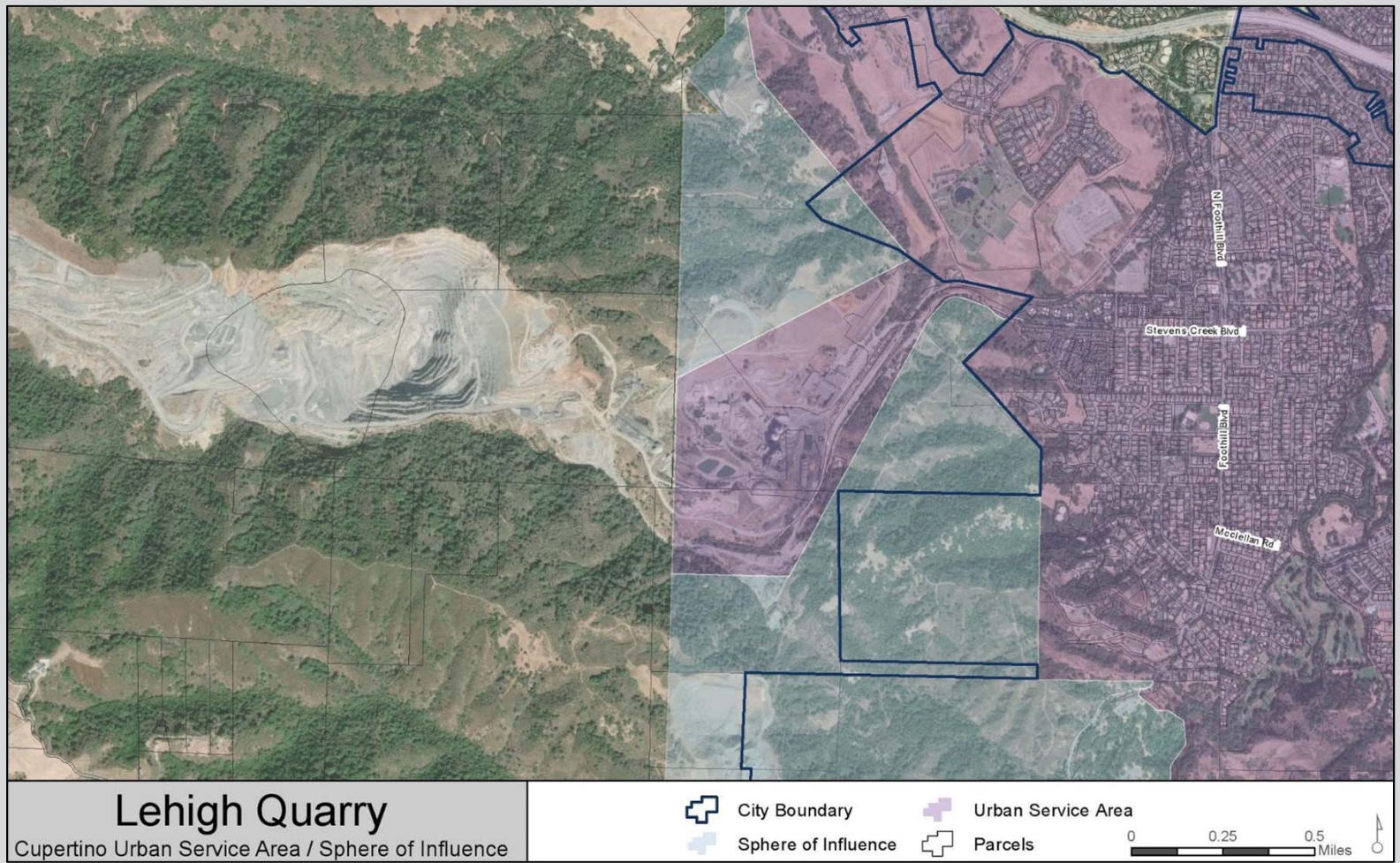
Prepared by the Community Development Department
Created: October 15, 2000
Last Updated: October 18, 2017



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2. Amend Sphere of Influence and Urban Service Area

- **What is the Sphere of Influence (SOI)?**
 - Long-range planning tool to help LAFCO evaluate Urban Service Area amendments and annexation requests.
- **What is the Urban Service Area (USA)?**
 - Land within the SOI that is “served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services” or areas proposed to be annexed to City within 5 years to receive those services.
- **SOI and USA changes must be approved by LAFCO.**
- **LAFCO discourages city annexations of land outside USAs until inclusion into the USA is appropriate.**



2. Amend Sphere of Influence and Urban Service Area

- File SOI amendment application with LAFCO (any person or entity may file) to include quarry.
- File USA amendment application with LAFCO (only City Council may file one per calendar year, by resolution) to include quarry.

3. Conduct Annexation Proceedings

- City Council (not LAFCO)—conducts annexation proceedings for land within the city's USA.

Process

1. Notice of Application
 - A. City staff conducts initial review/analysis.
 - B. City Council initiates annexation by resolution (Gov. Code § 56757).
 - C. City provides hearing notice.
2. City Council Public Hearing
 - A. If no opposition, City Council may approve resolution to annex.
 - B. If written opposition to the proposal is received from an affected landowner before the hearing, City Council may make findings and adopt resolution approving the annexation, but must set date for protest proceedings.

3. Conduct Annexation Proceedings

3. Protest Proceedings

- A. City provides notice.
- B. City Council holds protest proceeding.
 - 1. *If written protest is filed* → City Council determines value of protest within 30 days and either:
 - a. Terminates proposal (protested by landowners owning ≤50% assessed land value);
 - b. Orders proposal subject to election (protested by landowners owning ≤25% - <50% assessed land value);
or
 - c. Orders proposal without election (protested by landowners owning <25% assessed land value).
 - 2. *If no written protest is filed* → City Council orders proposal without election.
- c. If (a) the election receives a majority or (b) City Council orders proposal without election → City Council adopts resolution ordering annexation.

3. Conduct Annexation Proceedings

4. Final Certification
 - A. City forwards resolution to LAFCO.
 - B. LAFCO records Certificate of Completion and annexation takes effect on date of recordation.

Effect of Annexation

Cupertino Police Powers

- Once annexed, Cupertino's police powers will apply to the annexed territory.
- City General Plan policies, zoning, and other ordinances apply.
- City is responsible for code enforcement.
- City may regulate noise and SMARA compliance.
- City may not interfere with vested rights.

Landowner's Vested Rights

- Constitutional right to continue existing use until it is abandoned.
- Lehigh Quarry owners have right to continue to operate under terms of 1939 ordinance, subject to local government's power to abate nuisance.
- This vested right was recognized by Santa Clara County in 2011 & confirmed by courts.