

**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

740 Renz Lane  
Gilroy, CA 95020  
(408) 427-0700  
(800) 735-2929 (TT/TDD)  
(800) 735-2922 (Voice)



July 29, 2024

File No.: 725.15606

City of Hollister  
339 Fifth Street  
Hollister, CA 95023

Subject: SCH 2021040277

The California Highway Patrol, Hollister-Gilroy Area received the Revised July 2024 – *Hollister 2040 General Plan, Climate Action Plan, and Agricultural Lands Preservation Program – Draft Environmental Impact Report*, State Clearing House (SCH) number 2021040277. After review, we have some concerns as previously described in a June 2023 response letter from this command, see enclosed for reference.

Our concern relates to the lack of detail provided for the proposed Bus-On-Shoulder concept, see draft page 586. Without the opportunity to: review details regarding the specific location(s) and day(s)/time(s) for planned use; evaluate plans for traffic control devices to be installed; and assess plans for motorist education to ensure safe implementation of the concept, none of which are described in the revised draft, the previously articulated concerns offered by this command remain.

Should you have any questions regarding these concerns, or wish to discuss this matter further, please contact Captain Noel Coady at (408) 427-0700.

Sincerely,

A handwritten signature in blue ink that reads "N. C. Coady, ID 15606".

N. C. COADY, Captain  
Commander

Enclosure

cc: Coastal Division



**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

Hollister-Gilroy Area  
740 Renz Lane  
Gilroy, CA 95020  
(408) 427-0700



June 21, 2023

File No.: 725.14548.17803

City of Hollister  
339 Fifth Street  
Hollister, CA 95023  
Attention: Eva Kelly, Interim Planning Manager

SCH: 2021040277

I was recently requested to review the Notice of Environmental Impact document from the State Clearinghouse (SCH) related to the Hollister 2040 General Plan. After reviewing SCH# 2021040277, as well as the information and procedures outlined in General Order 41.2, *Environmental Impact Documents*, the Hollister-Gilroy Area does not believe the addition of bicycle paths within the City of Hollister will adversely affect traffic-related matters in the area. The Hollister-Gilroy Area is opposed to the bus-on-shoulder concept of this project. Motorists involved in traffic crashes, experiencing medical emergencies, or who have mechanical troubles, are instructed to move to the shoulder and out of the traffic lanes. Peace officers respond to these incidents make all efforts to move the involved vehicles off the freeway or to the right shoulder to minimize secondary traffic crashes and the associated risks. When officers make traffic stops on the freeway, drivers pull to the shoulder and stop, as they are instructed to do in driving classes and per California Vehicle Code §21806. Based on past experiences in San Benito and Santa Clara counties, if busses (or other vehicles) are allowed to drive on the shoulder, other motorists will undoubtedly follow suit, creating an additional lane and removing the availability of the shoulder for true emergencies. Busses driving on the shoulders, and the inevitable vehicles which follow them, may cause confusion for other motorists and result in an increase of traffic related crashes in the area. Additionally, Appendix F, exhibit 5, identifies a Class III Bicycle Path along SR-25. These scenarios have the potential of making the roadways more dangerous and increasing liability for the State and all involved government agencies. Authorizing any vehicle to drive on the shoulder will cause an undue safety hazard to the motoring public, road workers, and peace officers working in the area. If the bus-on-shoulder program were to progress, additional discussion would be needed to develop proper procedures regulating specific times or scenarios which would allow busses to use the shoulder as well as the speeds at which they would be allowed to travel. The Hollister-Gilroy CHP Area has concerns with this overall project.



The Hollister-Gilroy Area supports the construction of a Class I Bicycle Path adjacent to the existing railway. The Hollister-Gilroy Area recommends additional safety measures be considered for the proposed bicycle path along the existing railway to ensure the safety of the bicyclist and the passenger/freight trains.

If you have any questions, please contact our office at (408) 427-0700.

Sincerely,

*P. Cooper*  
P. COOPER, Captain  
Commander



**From:** Braucher, Annika@CalOES <[Annika.Braucher@CalOES.ca.gov](mailto:Annika.Braucher@CalOES.ca.gov)>  
**Sent:** Tuesday, August 13, 2024 12:52 PM  
**To:** Eva Kelly <[eva.kelly@hollister.ca.gov](mailto:eva.kelly@hollister.ca.gov)>  
**Cc:** CalOES Mitigation Planning <[mitigationplanning@caloes.ca.gov](mailto:mitigationplanning@caloes.ca.gov)>; LaMar-Haas, Victoria@CalOES <[Victoria.LaMar-Haas@CalOES.ca.gov](mailto:Victoria.LaMar-Haas@CalOES.ca.gov)>; Raether, Constantin@CalOES <[Constantin.Raether@CalOES.ca.gov](mailto:Constantin.Raether@CalOES.ca.gov)>  
**Subject:** City of Hollister 2040 General Plan

You don't often get email from [annika.braucher@caloes.ca.gov](mailto:annika.braucher@caloes.ca.gov). [Learn why this is important](#)

Good afternoon,

The California Governor's Office of Emergency Services (Cal OES) Local Hazard Mitigation Planning Team has taken the time to review the proposed updates/changes to your General Plan. Government Code 65302(g)(8) states "before preparing or revising its Safety Element, each city and county shall consult... the Office of Emergency Services for the purpose of including information known by and available to the department."

The Cal OES Local Hazard Mitigation Planning Team reviews and compares your current Safety Element hazards against those listed in the most recent Federal Emergency Management Agency (FEMA) approved San Benito County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP).

Our office has reviewed your proposed Safety Element and found no substantive changes to your hazard profiles when compared against the most recent FEMA approved County of San Benito MJHMP.

Please reach out to you our office at [mitigationplanning@caloes.ca.gov](mailto:mitigationplanning@caloes.ca.gov) if you have any further questions or need additional assistance.

Thank you,  
Annika Braucher

**Annika Braucher**, Environmental Planner

Local Mitigation Planning | Recovery Directorate

California Governor's Office of Emergency Services

(916) 639-3619 | [Annika.Braucher@CalOES.ca.gov](mailto:Annika.Braucher@CalOES.ca.gov)





State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



August 21, 2024

Eva Kelly, Planning Manager  
City of Hollister  
339 Fifth Street  
Hollister, California 95023  
(831) 636-4360  
[eva.kelly@hollister.ca.gov](mailto:eva.kelly@hollister.ca.gov)

**Subject: Hollister 2040 General Plan, Climate Action Plan, and Agricultural Lands Preservation Program (Plan)  
Revised Environmental Impact Report (EIR)  
SCH No.: 2021040277**

Dear Eva Kelly:

The California Department of Fish and Wildlife (CDFW) received a Revised EIR (REIR) from the City of Hollister for the above-referenced Plan pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code. While the comment period may have ended, CDFW respectfully requests that the City of Hollister still consider our comments.

CDFW previously provided comments and recommendations to the City of Hollister during circulation of the Plan's Notice of Preparation (NOP) on May 10, 2021, and Draft EIR (DEIR) on June 27, 2023 (Attachment 1). Within these letters, CDFW provided a list of special-status species to be evaluated as part of the Plan's DEIR and recommended measures be incorporated for projects tiered from this Plan, including habitat assessments, protocol surveys, and a robust analysis on cumulative impacts to

---

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Eva Kelly, Planning Manager  
City of Hollister  
August 21, 2024  
Page 2

biological resources. CDFW recommends that the comments and recommendations provided in CDFW's DEIR comment letter for the Plan be incorporated as part of the REIR and that recommended measures be carried forward into the Final EIR.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

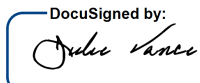
## FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project and to assist the City of Hollister in identifying and mitigating the Plan's impacts on biological resources.

If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3194, or by electronic mail at [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...  
Julie A. Vance  
Regional Manager

Eva Kelly, Planning Manager  
City of Hollister  
August 21, 2024  
Page 3

ec: State Clearinghouse,  
Governor's Office of Planning and Research  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

CDFW LSA/1600; [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov)



Eva Kelly, Planning Manager  
City of Hollister  
August 21, 2024  
Page 4

**Attachment 1**



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



May 10, 2021

Abraham Prado, Interim Development Services Director  
City of Hollister  
339 Fifth Street  
Hollister, California 95023  
[abraham.prado@hollister.ca.gov](mailto:abraham.prado@hollister.ca.gov)

**Subject: Hollister General Plan Update 2040, Climate Action Plan, and Sphere of Influence Amendments and Annexations Environmental Impact Report (EIR) Project (Project) Notice of Preparation (NOP) SCH No.: 2021040277**

Dear Mr. Prado:

The California Department of Fish and Wildlife (CDFW) received a NOP from the City of Hollister for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

### **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on

---

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Abraham Prado  
City of Hollister  
May 10, 2021  
Page 2

projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Hollister

**Objective:** The City of Hollister's existing General Plan was adopted in 2005, with a horizon year of 2023. Since the horizon year is approaching, the City is now updating its plan to extend the planning period to 2040. The Hollister General Plan Update will build off the current General Plan and provide a framework for land use, transportation, and conservation decisions through the year 2040. The proposed General Plan will direct future growth within the EIR Study Area and address the city's vulnerability to environmental challenges such as earthquakes, wildland fires, and other hazards identified in the proposed Local Hazard Mitigation Plan and Climate Action Plan to be completed concurrently with the General Plan Update. The General Plan is intended to respond to local and regional housing needs, foster economic growth and local job creation, enhance civic identity and placemaking, and protect sensitive natural resources. The proposed Climate Action Plan (CAP) will identify strategies and measures to reduce greenhouse gas emissions generated by existing and potential future uses in Hollister. The General Plan Update could potentially lead to Sphere of Influence (SOI) amendments and annexations that would accommodate future housing sites and limited commercial development.

**Location:** The Project encompasses the Hollister City Limits, the SOI, Urban Service Area, and Planning Area located in San Benito County, also referred to as the EIR Study Area.

**Timeframe:** The proposed project would extend its planning period to 2040.

Abraham Prado  
City of Hollister  
May 10, 2021  
Page 3

## COMMENTS AND RECOMMENDATIONS

The NOP indicates that the Environmental Impact Report (EIR) for the Project will describe existing environmental conditions in the Project area, and analyze potential impacts resulting from Project activities. The EIR will also identify and evaluate alternatives to the proposed project.

When an EIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation. There are numerous special-status species that have been documented in the Project vicinity (CDFW 2021) that may be present at individual Project sites in the Project area. These resources need to be addressed prior to any approvals that would allow ground-disturbing activities or land use changes to adequately assess potential impacts. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*) and the steelhead south-central California Coast Distinct Population Segment (DPS) (*Oncorhynchus mykiss irideus* pop. 9); the State and federally threatened California tiger salamander (*Ambystoma californiense*); the Federally threatened and State Species of Concern California red-legged frog (*Rana draytonii*); the State threatened Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*); the State species of special concern burrowing owl (*Athene cunicularia*), western spadefoot (*Spea hammondi*), western pond turtle (*Emys marmorata*), San Joaquin Coachwhip (*Masticophis flagellum ruddocki*) and American badger (*Taxidea taxus*).

CDFW also recommends consulting with the United States Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) on potential impacts to federally listed species including, but not limited to, San Joaquin kit fox, vernal pool fairy shrimp, steelhead, California tiger salamander, and California red-legged frog. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS and NMFS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

In addition to potential species impacts, it is likely that some Project activities that will be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. If a Lake or Streambed Alteration Agreement (LSAA) is needed, CDFW is required to comply with CEQA in the issuance or the renewal of a LSAA. Therefore, for efficiency in environmental compliance, we recommend that any potential lake or stream disturbance that may result from Project activities be described, and mitigation for the

Abraham Prado  
City of Hollister  
May 10, 2021  
Page 4

disturbance be developed as part of the EIR. This will reduce the need for the CDFW to require extensive additional environmental review for a LSAA in the future. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

CDFW is available to meet with you ahead of draft EIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the draft EIR. If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead or by electronic mail at [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov).

Sincerely,

DocuSigned by:

  
041A77B10D78486...

*for* Julie A. Vance  
Regional Manager

ec: Leilani Takano  
United States Fish and Wildlife Service  
[leilani\\_takano@fws.gov](mailto:leilani_takano@fws.gov)

Abraham Prado  
City of Hollister  
May 10, 2021  
Page 5

### **Literature Cited**

CDFW. 2021. Biogeographic Information and Observation System (BIOS).  
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed May 1, 2021.



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



June 27, 2023

Abraham Prado, Interim Development Services Director  
City of Hollister  
339 Fifth Street  
Hollister, California 95023  
(831) 636-4360  
[abraham.prado@hollister.ca.gov](mailto:abraham.prado@hollister.ca.gov)

**Subject: Hollister General Plan Update 2040, Climate Action Plan, and Sphere of Influence Amendments and Annexations Program Draft Environmental Impact Report (DEIR) Project (Project)  
SCH No.: 2021040277**

Dear Abraham Prado:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Hollister for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

## **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

---

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Abraham Prado, Interim Development Services Director  
City of Hollister  
June 27, 2023  
Page 2

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Hollister

**Objective:** The existing General Plan for the City of Hollister (City) was adopted in 2005, with a horizon year of 2023. The City is now updating its plan to extend the planning period to 2040. The Hollister General Plan Update will build off the current General Plan and provide a framework for land use, transportation, and conservation decisions through the year 2040. The proposed General Plan will direct future growth within the EIR Study Area and address the City's vulnerability to environmental challenges such as earthquakes, wildland fires, and other hazards identified in the proposed Local Hazard Mitigation Plan and Climate Action Plan, which is to be completed concurrently with the General Plan Update. The General Plan is intended to respond to local and regional housing needs, foster economic growth and local job creation, enhance civic identity and placemaking, and protect sensitive natural resources. The proposed Climate Action Plan (CAP) will identify strategies and measures to reduce greenhouse gas emissions generated by existing and potential future uses in the City. The General Plan Update could potentially lead to Sphere of Influence amendments and annexations that would accommodate future housing sites and limited commercial development.

**Location:** City of Hollister, San Benito County.

**Timeframe:** 2040

## **COMMENTS AND RECOMMENDATIONS**

**Special-Status Species:** Given the City-wide nature of the Project, there is the potential for the Project to impact State-listed species. Records from the California Natural Diversity Database (CNDDDB) show that the following special-status species, including CESA-listed species (CDFW 2023) could be impacted: the State endangered (SE) and federally endangered (FE) San Joaquin kit fox (*Vulpes macrotis mutica*), the federally threatened (FT) vernal pool fairy shrimp (*Branchinecta lynchi*), the FT and State threatened (ST) California tiger salamander-central population (*Ambystoma californiense*), the State candidate-listed endangered (SCE) Crotch bumblebee



Abraham Prado, Interim Development Services Director  
City of Hollister  
June 27, 2023  
Page 3

(*Bombus crotchii*), the ST Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*), the FT and State species of special concern (SSC) California red-legged frog, the FT steelhead, south/central California coast (*Oncorhynchus mykiss irideus*), and the SSC burrowing owl (*Athene cunicularia*), western spadefoot (*Spea hammondi*), Monterey hitch (*Lavinia exilicauda*), western pond turtle (*Emys marmorata*), American badger (*Taxidea taxus*), and San Joaquin coachwhip (*Masticophis flagellum ruddocki*), and the 1B.2 plant rank (plants rare, threatened, or endangered in California and elsewhere) San Joaquin spearscale (*Extriplex joaquinana*) and Hall's tarplant (*Deinandra halliana*). Along with the species listed above that have been observed within the Project limits, there was a 2021 sighting of the SE and FE California condor (*Gymnogyps californianus*) approximately two miles northeast of the proposed Project site near the John Smith Landfill, as well as a 2023 sighting of the fully protected (FP) golden eagle (*Aquila chrysaetos*) just north of the landfill site (CDFW 2023).

The primary purpose of a DEIR is to consider all the potential impacts associated with the suite of projects that would eventually tier from the EIR over time. As such, the DEIR should serve primarily as a planning level EIR and consider, in detail, the cumulative impacts of the reasonably foreseeable projects on the environment, and on the species CDFW has identified in this comment letter. CDFW recommends that habitat assessments be conducted in and surrounding all locations for planned work/ground disturbance in the DEIR and identify all the potential plant, animal, invertebrate, and fish species that could be present. Then, for those species, CDFW recommends a robust analysis of cumulative impacts for each of those species along with avoidance, minimization, and mitigation measures that could be implemented on each project to reduce harm. For many species, subsequent protocol level surveys may be required during biological studies conducted in support of the future CEQA documents that will be tiered from the Final EIR and, depending on the results, avoidance and minimization measures, permits, and mitigation may be required.

CDFW recommends that survey-level protocols be conducted for these species as part of the biological technical studies prepared in support of each future CEQA document tiered from the Final EIR, with conclusions of those studies summarized therein and repeated as necessary prior to Project ground-disturbing activities. For all future projects tiered from the EIR, CDFW recommends that focused surveys be conducted by qualified biologists familiar with the appropriate survey protocols per individual species. In the future CEQA documents tiered from the EIR, CDFW advises that special status species be addressed with appropriate avoidance and minimization measures. If take could occur as a result of Project implementation, consultation with CDFW would be warranted.

**Cumulative Impacts:** CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts

Abraham Prado, Interim Development Services Director  
City of Hollister  
June 27, 2023  
Page 4

are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the Project, even if those impacts are relatively small (i.e. less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA and we recommend that the City reach out to CDFW to discuss various methodologies and strategies for an analysis of this type for CDFW trustee agency resources.

**CNDDDB:** Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project area.

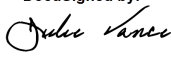
**Lake and Stream Alteration:** The Projects that tier from the EIR may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires the project proponent to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial in nature. For additional information on notification requirements, please contact our staff in the LSA Program at (559) 243-4593, or [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov).

**Federally Listed Species:** CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) on potential impacts to federally listed species including, but not limited to, the San Joaquin kit fox, the vernal pool fairy shrimp, the California tiger salamander, the California red-legged frog, and the south/central California coast steelhead. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

Abraham Prado, Interim Development Services Director  
City of Hollister  
June 27, 2023  
Page 5

CDFW is available to meet with you ahead of Final EIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that were or should be analyzed in the EIR. If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3194, or by electronic mail at [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...

Julie A. Vance  
Regional Manager

cc: United States Fish and Wildlife Service  
Patricia Cole; [patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov)

State Clearinghouse, Governor's Office of Planning and Research  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

California Department of Fish and Wildlife  
CDFW LSA/1600; [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov)  
Kelley Nelson; [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov)

Abraham Prado, Interim Development Services Director  
City of Hollister  
June 27, 2023  
Page 6

## **LITERATURE CITED**

California Department of Fish and Wildlife. 2023. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed May 17, 2023.



August 5, 2024

Eva Kelly  
Planning Manager  
Development Service Department -Planning Division  
City of Hollister  
339 Fifth Street  
Hollister, California 95023

**RE: Comments on City of Hollister's GP 2040, CAP, and ALPP Revised Draft Environmental Impact Report (State Clearinghouse # 2021040277)**

Dear Ms. Kelly:

Thank you for the opportunity to review the Revised Draft Environmental Impact Report for the City of Hollister's General Plan 2040, Climate Action Plan, and Agricultural Lands Preservation Program. The following comments are offered for your consideration:

- Page 4.8-1 states, "The analysis in this chapter is based on buildout of the proposed project, as modeled using the California Air Resources Board's (CARB's) Emissions Factor Model (EMFAC2021), the Off-Road Emissions Factor Model (OFFROAD2021, version 1.0.2), energy use provided by Pacific Gas and Electric Company (PG&E) and Central Coast Community Energy (CCCE), solid waste disposal from Association of Monterey Bay Area Governments (AMBAG)..."

AMBAG is not responsible for solid waste disposal, so this sentence is incorrect. Please revise.

- Page 4.8-28 states, "Therefore, the proposed project would not conflict with the land use concept plan in AMBAG's 2045 RTP/SCS and impacts would be less than significant."

Revise sentence to state "...AMBAG's 2045 MTP/SCS..."

- Page 4.11-2 states, "The Association of Monterey Bay Area Governments (AMBAG) is the federally designated MPO and Council of Governments (COG) for Monterey County, San Benito County, and Santa Cruz County."

AMBAG is not the Council of Governments for San Benito County; instead, it is the Council of San Benito County Governments (San Benito COG).

- Page 4.11-2 states, “The 2045 MTP/SCS is the long-range SCS and RTP for the three counties and 18 local jurisdictions within the tri-county Monterey Bay region, including the City of Hollister.”

Revise sentence to state, “The 2045 MTP/SCS is the long-range SCS and Metropolitan Transportation Plan...”

- Page 4.14-2 states, “The 2045 MTP/Sustainable Communities Strategy (SCS) is the long-range SCS and regional transportation plan for the 3 counties and 18 local jurisdictions in the Monterey Bay Region, including the City of Hollister.”

Revise sentence to state, “The 2045 MTP/SCS is the long-range SCS and Metropolitan Transportation Plan...”

- Starting on the bottom of Page 5.6, it states, “Implementation of the No Project Alternative assumes that development growth throughout the city would remain unchanged until the buildout horizon year 2040, which is consistent with other regional plans, including Association of Monterey Bay Area Government’s (AMBAG) 2045 Metropolitan Transportation Plan & the Sustainable Communities Strategy (2045 AMBAG MTP/SCS).”

Revise the sentence to state “... (AMBAG 2045 MTP/SCS).”

- Page 5-29 states, “However, implementation of the proposed project was found to have a less-than-significant impact due to the focus on infill development, which is in alignment with the regional planning framework of the 2045 AMBAG MTP/SCS.”

Revise the sentence to state “... the AMBAG 2045 MTP/SCS.”

- Page 6-5 state, “State law requires the City to promote the production of housing to meet its fair share of the regional housing needs distribution made by AMBAG.”

The Council of San Benito County Governments (San Benito COG) is responsible for the Regional Housing Needs Allocation (RHNA) process for San Benito County. AMBAG is responsible for RHNA for Monterey and Santa Cruz Counties only.

Thank you for the opportunity to review the Revised DEIR for the General Plan 2040. Please feel free to contact me at [hadamson@ambag.org](mailto:hadamson@ambag.org) or (831) 264-5086 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Adamson". The signature is fluid and cursive, with a large loop at the end.

Heather Adamson  
Director of Planning

August 16, 2024

Eva Kelly, Planning Manager  
City of Hollister  
Development Services Department- Planning Division  
339 Fifth Street  
Hollister, CA 95023  
Submitted via email: [generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)

Re: Hollister GPU 2040, CAP and ALPP Revised EIR

Dear Ms. Kelly,

Thank you for providing the Monterey Bay Air Resources District (MBARD) with the opportunity to comment on the Revised Draft EIR for the Hollister 2040 General Plan, Climate Action Plan, and Agricultural Land Preservation Program. MBARD has reviewed the EIR and has the following comments:

**Rule 424 National Emission Standards for Hazardous Air Pollutants (NESHAP)**

On page 4.3-13, MBARD rules and regulations that are applicable to the Plan are listed. Please add MBARD Rule 424 NESHAP. Rule 424 states that, “All suspect building materials, in each building, that will be disturbed by planned demolition or renovation activities shall be sampled and analyzed for asbestos using the method specified in Appendix E, Subpart E, 40 Code of Federal Regulations, Part 763, Section 1 (Polarized Light Microscopy) or assumed to be asbestos containing. Suspect materials include, friable asbestos-containing material, Category I nonfriable asbestos-containing material, Category II nonfriable asbestos-containing material or any other material that may contain asbestos, based on past manufacturing practices or use”. Additionally, MBARD requires a “written building survey report be submitted along with notification for each demolition project and for asbestos removal projects that will disturb building materials”.

**Asbestos Cement Pipe (ACP) and Other Asbestos Piping Infrastructure**

MBARD has prior experience with abatement of asbestos cement pipe (ACP) and other asbestos utility infrastructure components within the City of Hollister. Proper procedures must be followed during construction activities when encountering active or abandoned ACP or other asbestos-containing subsurface infrastructure.

**MBARD Attainment Status**

Table 4.3-4: Attainment Status of Criteria Pollutants in the NCCAB on page 4.3-18 reports the NCCAB is in nonattainment for ozone regarding the state standard. The NCCAB has been in attainment since September 2021 for the State’s 8-hour ozone standard of 0.070 ppm. Please visit the California Air Resources Board’s (CARB) State and Federal Area Designations webpage for more details- [State and Federal Area Designations | California Air Resources Board](#).

Furthermore, impact AIR-2 “**Implementation of the proposed project would result in a cumulatively considerable net increase of a criteria pollutant for which the project region is in nonattainment under applicable federal or state ambient air quality standard**”, on page 4.3-38, should be reassessed. As stated above, MBARD is in attainment for ozone, therefore conclusions regarding air quality impacts should reflect this fact. The general plan, when fully implemented, will exceed the threshold for VOCs, NO<sub>x</sub> and CO. MBARD would like to see more



approaches to reduce emissions from transportation, such as construction and installation of public electric vehicle infrastructure.

### **Engine Permitting**

If a generator, boiler, or another stationary source of air pollutants is needed to support the construction process or will be installed for use in the operation of the project, a permit may be required. Per Rule 201, any stationary piston-type internal combustion engine of greater than or equal to 50 brake horsepower (bhp) requires a permit. Please contact MBARD's Engineering Division if there are any questions regarding the permitting process.

### **Portable Equipment Registration Program**

If project construction uses portable equipment registered with the California Air Resources Board (CARB) in the Portable Equipment Registration Program (PERP), MBARD must be notified within two working days of commencing operations when a registered unit will be at a location for more than five days. Portable equipment not registered with CARB may be subject to MBARD permit requirements.

### **VOC Emissions**

Page 4.3-9 Federal and State Regulations: The majority of the VOC emissions attributed to the project are from consumer products (Table 4.2-7). Therefore, a reference to the state consumer products regulation should be added to the discussion. This regulation was recently updated and should result in emissions reductions by the proposed project buildout year of 2040. The updated regulations are reported to achieve statewide VOC reductions of 3.00 tons per day (tpd) in 2023 and 9.80 tpd in 2031. Therefore, the emissions reported in Table 4.2-7 should reflect these reductions in the consumer products category.

Page 4.3-24 Policy NRC-3.6: Technical Assessments. Since the majority of the VOC emissions are from consumer products, MBARD recommends adding a sentence to the discussion of this policy that consumer product regulation updates and consumer product emission calculation tools should be reviewed. The EIR does not reflect emissions reductions in this category which may be required in the future.

### **Odors**

Page 4.3-56 Operational Related Odors: Residential and Other Land Uses. A variety of land uses can contribute to odors due to the additional infrastructure needed to support these land uses such as expansion of wastewater treatment plants or sewer lines. MBARD suggests adding language to explain these potential indirect odor sources from future residential or other land use development projects.

MBARD appreciates the opportunity to comment on the Revised Draft EIR for the Hollister 2040 General Plan, Climate Action Plan, and Agricultural Land Preservation Program. Please let me know if you have any questions. I may be reached at (831) 718-8030 or [eballaron@mbard.org](mailto:eballaron@mbard.org).

Regards,



Edward Ballaron  
Air Quality Planner I

cc: Richard A. Stedman, Air Pollution Control Officer  
David Frisbey, Planning and Air Monitoring Manager  
Shawn Boyle, Planning and Air Monitoring Supervisor



**San Benito**  
HIGH SCHOOL DISTRICT  
*Continuing Excellence*

**1220 Monterey Street  
Hollister, CA 95023**

**Phone (831) 637-5831x1133  
[www.sbhs.sbhsd.org](http://www.sbhs.sbhsd.org)**

**Shawn Tennenbaum, Ed.D.  
Superintendent**

**VIA ELECTRONIC MAIL**

August 16, 2024

City of Hollister  
Development Services Department – Planning Division  
ATTN: Eva Kelly, Planning Manager  
339 Fifth Street  
Hollister, CA 95023  
Email: [generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)

RE: Hollister GPU 2040, CAP, and ALPP Revised EIR

Dear Ms. Kelly,

This letter regarding the City of Hollister's ("City") Revised Draft Environmental Impact Report for the proposed Hollister 2040 General Plan ("General Plan"), Climate Action Plan, and Agricultural Lands Preservation Program (collectively, "Project") is sent on behalf of the San Benito High School District ("District") and its Board of Trustees. As a California public school district serving children who reside and attend school within the City, and as an owner of property within the City and proposed sphere of influence in Figure LU-1 of the General Plan, the proposed Project directly affects the District's operations. Thus, the District wishes to comment in support of the Project.

The District first wants to thank the City for the significant revisions made to the Project since it was circulated for review in 2023. While the previous version of the Project projected 6,455 new dwelling units and 21,635 new residents by the year 2040, the revised Project now projects *10,530 new dwelling units and 31,575 new residents*. With this increase in projected residents, there will also be a dramatic increase in the number of projected students served by the District by 2040.

As the City is likely aware, the District has been planning to develop a second high school in the Buena Vista Corridor. The elements described in the Project reflect a direction shared by the District and the City to plan for residential and nonresidential growth within identified new growth areas, including the Buena Vista area. Most notably, the City proposes to expand its sphere of influence to include the entire Buena Vista Corridor, the area where the District has projected the greatest density of students will be generated from new residential development. Moreover, the City identifies a Buena Vista Specific Plan Area to encourage a complete neighborhood with a mix of housing types where residents may live within close proximity to commercial/industrial services, parks, schools and open space. The District appreciates that the City illustrates an anticipated location of a school in the Buena Vista Specific Plan Area in Figure LU-5 of the General Plan, which is also the approximate location of the District's site for its new high school. The mixed use illustrated in Figure LU-5

**The mission of San Benito High School District is to educate all students to their highest potential so they will have the greatest range of personal options upon graduation.**

reflects both the District's and City's shared vision to create a walkable community that promotes pedestrian activity and reduce the need to drive to other areas in the City, including the opportunity for students to safely walk or bike to school. (General Plan Goal LU-4).

The proposed expansion of the sphere of influence and the development of a Buena Vista Specific Plan are both major elements of the City's plans to ensure logical growth of the City. The District chose the location of its second high school in anticipation of the community's natural development into the Buena Vista Corridor, so the District is excited that the General Plan also anticipates similar growth patterns for the City. The District is eager to serve as the cornerstone of the Buena Vista neighborhood with its new high school and looks forward to supporting the City in its careful growth of the Buena Vista area. With the City's focus on continuing to increase the connectivity between neighborhoods, schools, shops, jobs, healthcare, and public services, the District looks forward to the thoughtful and eventual integration of its future high school, and the entire Buena Vista area, into the City.

With the addition of the proposed expansion of the City's sphere of influence to include the Buena Vista area to the City's long-term plans, the District hopes to be involved in that process, since the District's high school may very well be amongst the initial development in the Buena Vista area and will ultimately serve as a focal point for the future community. Policy CSF-1.2 of the General Plan highlights the City's priority of "cooperat[ing] and coordinat[ing] with the County of San Benito, Local Agency Formation Commission (LAFCO), and other local agencies in the provision of infrastructure and services in the Hollister Planning Area." (emphasis added.) Likewise, Policy LU-1.11 sets the City's intention to coordinate regional planning efforts through intergovernmental coordination. Accordingly, the District seeks to support the City through joint efforts to amend the City's sphere of influence as proposed in the General Plan and through the annexation process, as contemplated by General Plan Actions LU-1.1 to 1.3.

For instance, following the City's submission of its application to LAFCO to amend its sphere of influence, the District hopes to be at the table to support a potential agreement that expands the City's sphere of influence to include the Buena Vista area and that would be beneficial for both the City and County, while ensuring that the second high school is able to connect to the municipal services provided by the City and special districts. Moreover, opportunity for the District's participation in the process aligns with the General Plan's Policy CSF-8.5 to support the District's efforts to construct a new high school. The District is prepared to actively contribute to the process by consulting on issues in the community that the District is intimately familiar with, as related to the District's second high school, including adequacy of education facilities, traffic congestion, circulation, parking, noise, and air quality.

Lastly, the District would like to draw the City's attention to the revised Draft EIR which includes now out-of-date enrollment numbers for the District. While the District's lone high school has a current capacity for 3,437 students, the District would like to state on record that enrollment for 2023-2024 should be included to reflect 3,556 students. These accurate and current enrollment numbers truly showcase the severity of the District's overcrowding concerns as the District works to provide an excellent education to its students. The District has quickly become the second largest high school in Northern California, with the fastest growth rate in Northern California.

**The mission of San Benito High School District is to educate all students to their highest potential so they will have the greatest range of personal options upon graduation.**

The District, again, wants to thank the City for its revisions to the Project. The District is excited for the envisioned development of the Buena Vista Corridor and hopes to actively contribute to the discussions and decisions regarding its development and incorporation into the City's sphere of influence, and its eventual annexation. The District appreciates the City's support in the District's efforts to continue providing an excellent education as its student enrollment continues to grow.

Very truly yours,



Shawn Tennenbaum, Ed.D.  
Superintendent  
San Benito High School District  
(831) 637-5831 (x133)  
[stennenbaum@sbhsd.k12.ca.us](mailto:stennenbaum@sbhsd.k12.ca.us)

cc: Members, San Benito High School District Board of Trustees  
John Frusetta, Chief Business Officer, San Benito High School District

**From:** [Eva Kelly](#)  
**To:** [Carey Stone](#)  
**Cc:** [David Early](#); [Ambur Cameron](#)  
**Subject:** FW: Hollister General Plan: Revised EIR, Draft General Plan, Draft CAP, and Draft ALPP  
**Date:** Friday, July 5, 2024 9:45:42 AM  
**Attachments:** [CogRejectsCaltrain.pdf](#)  
[COGUMHG02-24.pdf](#)  
[FALSEGODSOCIALISM.pdf](#)  
[GOVERNANCE ABUSE IN SBC 2017.pdf](#)  
[L51.COGsPOLICYFLAWS.pdf](#)  
[L167.BiggestPolicyFlaw.pdf](#)  
[L178.COGsPOLICYFLAWS2009.pdf](#)  
[L182.COGsPOLICYFLAWSDejaVu-4nd.pdf](#)  
[L189.ABOLISHCOG100811.pdf](#)  
[L191.DirtyGovt021513.pdf](#)  
[L192.COGsRevenueII.pdf](#)  
[LESSON16tofCOFC.pdf](#)  
[image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image009.png](#)

---

Good morning Carey,

We received the below (and attached) comments in response to the General Plan. The same person also sent a follow up, so I will forward that as well.

Best,  
Eva



**Eva Kelly**

Planning Manager  
City of Hollister | Development Services Dept.  
339 Fifth Street, Hollister, CA 95023  
[Eva.Kelly@hollister.ca.gov](mailto:Eva.Kelly@hollister.ca.gov)

(831) 636-4360 x 1225



CONFIDENTIALITY NOTICE: This message, together with any attachments, is intended for the sole use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or by return e-mail and delete this message, along with any attachments.

---

**From:** Joseph P Thompson <[translaw@pacbell.net](mailto:translaw@pacbell.net)>

**Sent:** Thursday, July 4, 2024 10:33 AM

**To:** [generalplan](mailto:generalplan@hollister.ca.gov) <[generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)>; SBC Board of Supervisors <[sbcsuper@supervisor.co-sanbenito.ca.us](mailto:sbcsuper@supervisor.co-sanbenito.ca.us)>; [supervisorkosmicki@cosb.us](mailto:supervisorkosmicki@cosb.us); [supervisorzanger@cosb.us](mailto:supervisorzanger@cosb.us); Supervisor Bea Gonzales <[supervisorgonzales@cosb.us](mailto:supervisorgonzales@cosb.us)>; Supervisors <[supervisors@cosb.us](mailto:supervisors@cosb.us)>; [supervisorsotelo@cosb.us](mailto:supervisorsotelo@cosb.us); Angela Curro <[supervisorcurro@cosb.us](mailto:supervisorcurro@cosb.us)>; Sanbenitocog Info <[info@sanbenitocog.org](mailto:info@sanbenitocog.org)>; Roxy Montana <[roxymontana2@aol.com](mailto:roxymontana2@aol.com)>; [rwells@edcsanbenito.org](mailto:rwells@edcsanbenito.org); Coh.CityClerk <[coh.cityclerk@hollister.ca.gov](mailto:coh.cityclerk@hollister.ca.gov)>; Michael Moore <[mmoore@weeklys.com](mailto:mmoore@weeklys.com)>

**Subject:** Fw: Hollister General Plan: Revised EIR, Draft General Plan, Draft CAP, and Draft ALPP

Some people who received this message don't often get email from [translaw@pacbell.net](mailto:translaw@pacbell.net). [Learn why this is important](#)

**PUBLIC COMMENT: NEXT MEETING; REAL OR VIRTUAL; REGULAR OR SPECIAL; STUDY SESSION, OR PRIVATE RETREAT, OR PUBLIC WORKSHOP; AND ESPECIALLY THE UNCONSTITUTIONAL "MOBILITY PARTNERSHIP" VTA-COG**

Dear Friends,

Thank you for inviting public comment. I now repeat my comment sent previously during other planning episodes in SBC. See attached.

Please see that your staff includes this for the official record of proceedings, so that future generations will know that you were warned. As we

see radical socialism infecting and ruining California, my personal observation of governance abuses in SBC as I previously said to you, and

others in local, State and Federal government, goes double today. Your policy and governance abuse have us on the Road to Serfdom,

same route taken by the USSR. I urge you to reject the quicksand of socialism, and build our children's future on the bedrock of capitalism.

Thank you.

Joseph P. Thompson, Esq.

Past-Chair, Legislation Committee, Transportation Lawyers Assn.

Past-President 1999-2001, 2006, Gilroy-Morgan Hill Bar Assn.

Charter Member, SBCCOG Citizens Transit Task Force

Charter Member, SBCCOG Citizens Rail Advisory Committee

Post-Doc student, transport law & policy, Norman Y. Mineta International Institute for Surface Transportation Policy Studies, SJSU;

Transportation Research Board, Georgetown U.; and Library of Congress

(408) 848-5506

E-Mail: [TransLaw@PacBell.Net](mailto:TransLaw@PacBell.Net)

----- Forwarded Message -----

**From:** City of Hollister <[generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)>

**To:** "[translaw@pacbell.net](mailto:translaw@pacbell.net)" <[translaw@pacbell.net](mailto:translaw@pacbell.net)>

**Sent:** Wednesday, July 3, 2024 at 02:47:51 PM PDT

**Subject:** Hollister General Plan: Revised EIR, Draft General Plan, Draft CAP, and Draft ALPP

[View this email in your browser](#)



## Revised Draft Environmental Impact Report for the Hollister 2040 General Plan, Climate Action Plan, and Agricultural Lands Preservation Program

Pursuant to the California Environmental Quality Act (CEQA), the City of Hollister has prepared a [Revised Draft Environmental Impact Report](#) (EIR) for the Hollister 2040 General Plan, Climate

Action Plan, and Agricultural Lands Preservation Program (proposed project), which will help guide future development, conservation, economic development, and policy direction in the City over the buildout horizon of the General Plan. The Revised Draft EIR addresses potential environmental impacts associated with the proposed project as revised at a programmatic level.

The City is requesting comments on the content of the Revised Draft EIR from interested public agencies, organizations, and individuals. A public meeting to accept verbal comments on the Revised Draft EIR will be held on **Tuesday, July 16, 2024, at 3:30 p.m.**

### **Public Meeting on Revised Draft EIR**

**Tuesday, July 16, 2024, at 3:30 p.m.**

-

**In person: City Hall Council Chambers  
375 Fifth Street, Hollister, CA 95023**

-

**Remotely: via the Zoom platform**

**[https://us02web.zoom.us/webinar/register/WN\\_O9HCwqNTRrKcbyZtAJ2XPO](https://us02web.zoom.us/webinar/register/WN_O9HCwqNTRrKcbyZtAJ2XPO)**

The City will also be accepting written comments on the Revised Draft EIR until **5:00 p.m. on Friday, August 16, 2024**. Written comments may be emailed to [generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov) with "Hollister GPU 2040, CAP, and ALPP Revised EIR" as the subject line, or mailed to:

City of Hollister Development Services Department – Planning Division  
ATTN: Eva Kelly, Planning Manager  
339 Fifth Street, Hollister, CA 95023

Information regarding the proposed project can be accessed at: <https://hollister2040.org/>.

Public comments may also be sent to City staff ([generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)) prior to the meeting or afterwards.

---

## **Draft Plans Available for Public Review!**

In 2020, the City of Hollister kicked-off the General Plan Update, a document that serves as the blueprint for the City's growth and development over the next 20 years. The [Draft 2040](#)

[General Plan](#) addresses topics that shape City decisions about land use, environmental justice, housing, economics, arts and culture, transportation, conservation, open space, public services, safety, and noise. Creating the Draft 2040 General Plan relied on community feedback, input from the General Plan Advisory Committee (GPAC), recommendations from the Planning Commission, and direction from the City Council to ensure that the community's vision and priorities are correctly captured.

In September 2023, the City Council provided feedback to add new planning areas to the proposed Sphere of Influence (SOI). The SOI indicates land that is likely to be annexed into the City in the future. Any proposed amendment to the SOI must be approved by the San Benito County Local Agency Formation Commission. The updated Draft 2040 General Plan incorporates Council direction, but is largely the same as the draft published in April 2023.

In tandem with the General Plan Update, the City of Hollister is also developing a Climate Action Plan (CAP) to reduce greenhouse gas (GHG) emissions and foster a more sustainable community through 2045 and beyond. The [Draft CAP](#) helps implement the community's General Plan 2040 vision, goals, and policies. Topics in the Draft CAP include the causes and impacts of climate change, the community's existing GHG emissions and projected future emissions, and strategies for reducing GHG emissions. The City updated the Draft CAP to align with the revised proposed Sphere of Influence and the associated growth that could occur in these areas.

Another consideration for the future of Hollister as the city grows is the preservation of agricultural land. To preserve agricultural land as more housing, jobs, and public services are added to the city, the City prepared a [Draft Agricultural Preservation Program](#). In September 2023, the City Council provided direction to update the Draft Agricultural Preservation Program to require land preservation offsets for the loss of agricultural land at a 1:1 ratio instead of a 2:1 ratio. For future development that converts agricultural to urban uses, the developer would be required to preserve the same area of agricultural land developed through a conservation easement (1 acre of land preserved for every 1 acre developed).

The Draft Plans will be considered for adoption in Fall 2024. A subsequent email with the public hearing dates will be sent out in advance of these meetings.

Have a comment or question? Please email: [generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov).

---

**For questions and comments, contact:**

City of Hollister Planning Division

[generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)

(831) 636-4360





---

*Copyright © 2024 City of Hollister, All rights reserved.*  
You are receiving this email because you opted in via our website.

**Our mailing address is:**

City of Hollister  
375 Fifth Street  
Hollister, CA 95023

[Add us to your address book](#)

Want to change how you receive these emails?  
You can [update your preferences](#) or [unsubscribe from this list](#).

---

This email was sent to [TransLaw@PacBell.Net](mailto:TransLaw@PacBell.Net)  
[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)  
City of Hollister · 375 Fifth Street · Hollister, CA 95023 · USA

Email Marketing Powered by Mailchimp



July 8, 2024

City of Hollister

339 Fifth Street

Hollister, CA 95023

To: Whom it may concern

As a prelude to this letter, I would like to inform the reader of past events to add some meaningful information. Around March of 2016 the Churchill family had entered an Option Contract with the KMS Company, owned by Mr. Shawn Milligan. His proposal at the time of the contract termination is shown on figure 1 of the next page. The layout had just been modified to show an area dedicated to Multi-Family-Housing at the request of one Abraham Prado, a Senior Planner for the City of Hollister.

It was around this time that Mr. Milligan was informed there was a breeding pond of the California Tiger Salamander (CTS) within 0.50 miles of the Churchill property. The CTS is an endangered species. The cost of mitigation was \$2.1 Mil. Shawn Milligan elected to terminate the contract with the Churchill family.

It is noted the Breeding Pond was washed out due to a severe rainstorm in 1996. Attempts were made to correct the situation. However, Mr. Anderson and Mr. Guerra of the Santana Development, did not want to help and quoting "We don't want any competition" and "It will be a cold day in Hell when I will allow a Biologist on my property". Later in time the cost was changed to \$ 56,000 per ac.

After the ground was disturbed (2021), the site was determined not to be a CTS breeding pond.

In 2021 the City of Hollister imposed a freeze on any new housing projects and then we had to wait for the new 20-40 plan to be approved. At present the plan is not expected to be approved until late in 2024 at best.

I'm telling you this as the Churchill's don't want to lose our place in line for continuation of approvals.

1. The **2005 General Plan** For all practical purposes, Churchill's 2005 plan was complete. Abraham Prado had verbally approved our tentative map with the addition of LLA providing low cost rental units. As I recall there was enough acreage for 41 completed units. The 20-40 plan has put the Churchill property in a special district called the **Meridian Street Extension Special Planning Area**. The entire area, not in the City of Hollister SOI, has been Designated as General Commercial. Most of the properties in the special planning area consist of 1 ac parcels. We draw to attention to the fact that Churchill's do not have any legal means to persuade any annexation. I have tried to contact them by phone from CO but to no avail. (more suggestions later in another comment EIR comment).

2. **Mixed-Use.** As testified at **Hollister CITY COUNCIL AGENDA** Special Meeting September 11, 2023, my daughter, Jennifer Churchill, requested the Land Use Designation be changed from Commercial to Mixed-Use. The reason for the request is to bring to light several phone conversations Mr. Churchill had with Commercial Developers. I also contacted existing comments from current “Barnyards” or “Community Centers”. In summary, they all informed me a Community Center would not be viable for the City of Hollister at least for 30-40 years. They said it was due to demographics and the lack of affluence in the surrounding area. Not any of the contacts would put their responses in writing. The City Council asked the planning group present for a recommendation and the request was denied.

2.a After a preliminary look at the 23 acreage it appears there is room to provide the following:

- 212 low-cost affordable apartments consisting of 15 handicap (lower level) + 2 & 3 bedrooms.
- 600 three-bedroom Condominiums and 230 garage type storage units and 2 meeting facilities. There is room for at least 2-3 playgrounds. 2.7 ac will be designated as Commercial.

2 **Design Intention for the Project Site.** The Churchills have determined the site to be much more viable to Hollister as a Mixed-Use rather than a Community Center as autos are not allowed and have a variety of restaurants. Please see paragraph 2. And 2.a. above.

3 **2018 Sanitary Sewer Collection System Master Plan Update (SSCSMP).** At the time when the SSCSMP was updated in 2018 I spoke with Mr. Nicholson of LAFCO, who employed the City of Hollister. I told him we were in the SOI. Nicholson told me that if the Churchills were in the SOI that we would qualify for sewer service. He stated the City of Hollister had to give Churchill’s Sewer Service. I remember my satisfaction at his answer. Churchill’s desire to be included in the next study. **Let it be known that the Churchill property wants to be in the next Sewer System Study.**

4 **Timing.** Because LAFCO is presently non-existent in San Benito County, I would like to object to any unnecessary delays in the hiring process. One year is not acceptable. I was pleased to hear the process is progressing. And LAFCO is now in existence in San Benito County and Hollister.

5 **General Plan EIR.** We expect to provide an appropriate EIR. This was dependent on the acceptance of the Churchill property to be designated as “Mixed-Use”.

6 **PG&E.** I have just recently read where PG&E will be talking about this subject on February 8, at 10 AM at the Veterans building in Hollister. I intend to be represented. And we want power soon. I have been told by Planning that they have not been able to contact PG&E.

7 **Traffic Analysis.** Will comply.

**8 Meridian Street Bridge.** There are no bridge cost estimates currently. Therefore, there is no agreement. However, if we do receive the Mixed-Use designation, there could be two entries/exits onto Hillcrest Rd. If an agreement to participate in the cost can be reached, the property could connect to Meridian Street.

**9 Annexation Area** As previously stated, the Churchill family has no legal right to enforce the annexation of APN's 025-350-0320 and 025-250-034.

**10** The correct PN's for the Churchill properties are 025-350-067-000 and 025-350-069-000.

Thank you for your patience in this matter, and the Churchill family sincerely hopes you can concur with this request for a new land designation or Mixed Use.

Jim Churchill, part owner and Trustee of the James Kenneth Churchill Revocable Trust.

John Churchill, part owner and Trustee of the John Robert Churchill Revocable Trust

Jennifer Churchill, Heir

Dr. Christopher Churchill, Trustee of the William A. Churchill and Carol Nelson Churchill Revocable Trust

Cathy Churchill Collins, Heir

Leslie Churchill Grannaman, Heir

**From:** Eva Kelly  
**Sent:** Monday, July 8, 2024 12:22 PM  
**To:** 'gmackie16@gmail.com' <[gmackie16@gmail.com](mailto:gmackie16@gmail.com)>  
**Subject:** RE: land preservation in the City of Hollister

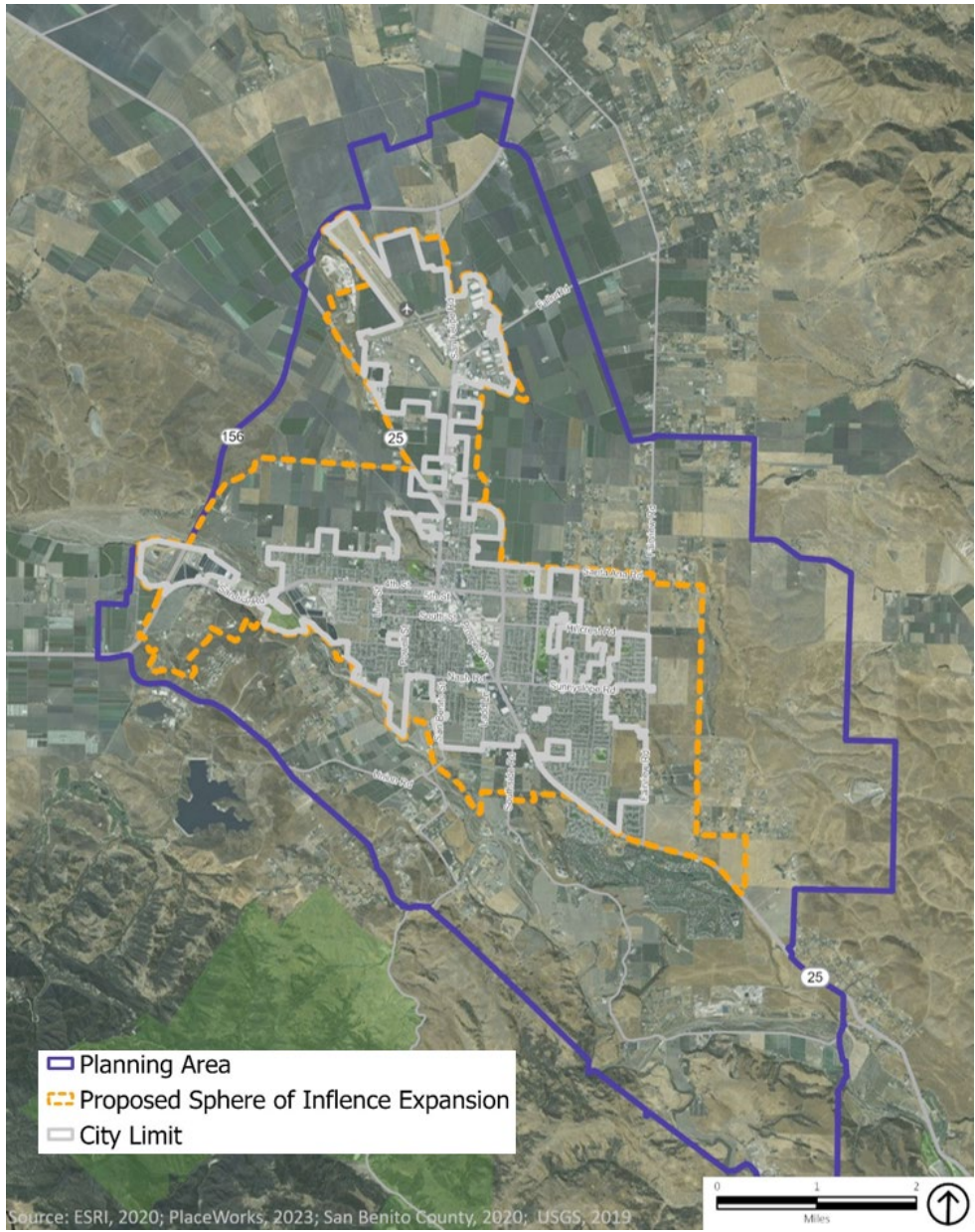
Good afternoon Graham,

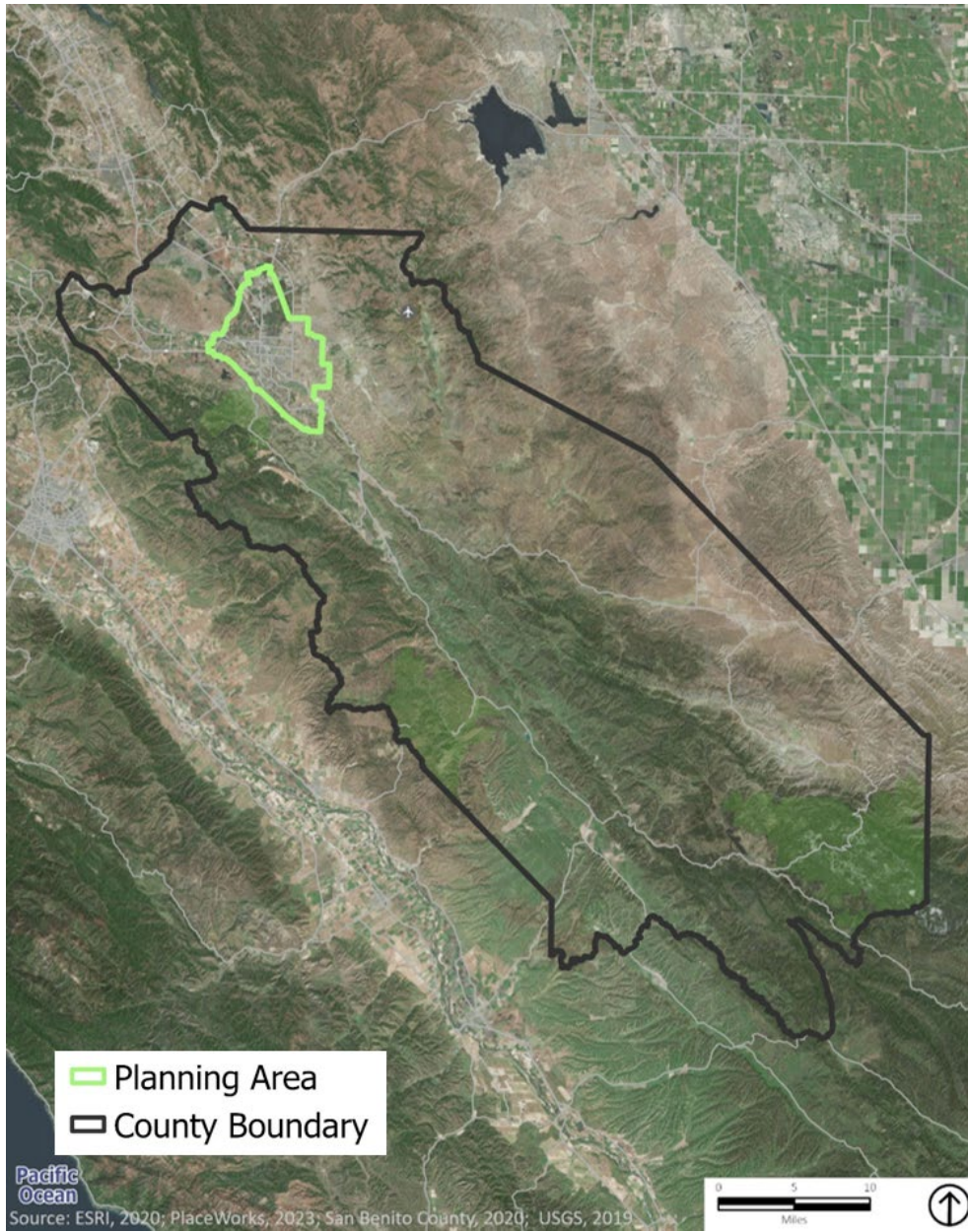
Thank you for your question. As drafted, the Agricultural Preservation Program does allow for land to be preserved in the unincorporated County. However, the program does not allow for the land to be anywhere in the entire county, but rather within the General Plan Planning Area. This is the largest area (all of the colored land) shown on our General Plan Land Use Map. The Planning Area is much larger than the current City limit and the proposed Sphere of Influence (potential land that the city might annex), but is not the entire county. The reason that the Planning Area was proposed as the boundary for the Ag. Preservation program for several reasons, including the following:

- Preserving land nearer to the City limits supports other policy direction and goals to preserve the small town, agricultural community feel of Hollister
- A significant portion of the highest quality agricultural lands already exist in the relatively-immediate surrounds of the City; particularly to the northwest of the City, and are already located within the General Plan Planning Area
- If lands were preserved further away from the City, the benefits of preservation would be less impactful
  - o Lands which are not nearby to existing urban development are already unlikely to be developed, and thus are at much less risk of being lost than lands nearer to urban development – even without a program for conservation in place. The program is intended to preserve a portion of lands that may have otherwise been lost to urban development – i.e. lands which exist closer to urban development already.
  - o Lands which are further from urban development that do not have an urban land use designation typically have less land value, so there would be a financial incentive for lands to be purchase farther away from the city, which again would lessen the impact of the preservation program

As you mentioned, there are very few properties within the City limits which would meet the requirements of the program, and also would therefore be required to purchase conservation easements under the program. The program is likely to mostly apply to proposed development on parcels which are currently located in the County and are annexed into the City as part of the development process. The review of preservation requirements would occur during the annexation phase of any proposed development. This will allow the City to continue orderly growth as proposed within the Sphere of Influence on parcels that are currently very close to the City's existing urban development and therefore may be less viable for agricultural uses, but will allow for nearby-but-not-immediately-adjacent preservation of existing agricultural lands as well. The draft General Plan also includes policies to support the continued use of those agricultural uses, such as a buffer between new development and agriculture, to ensure that both uses remain viable for the City/County in the future.

For your information, I've copied two maps below which show the city limits and planning area, and then also the planning area in comparison to the entire county boundary.





I hope this helps to answer your questions. Please feel welcome to reach out to us if you have any other questions or comments on the General Plan, Ag Preservation Program, or other draft documents.

Best,  
Eva



**Eva Kelly**

Planning Manager

City of Hollister | Community Development Department

339 Fifth Street, Hollister, CA 95023

[Eva.Kelly@hollister.ca.gov](mailto:Eva.Kelly@hollister.ca.gov)

(831) 636-4360



**CONFIDENTIALITY NOTICE:** This message, together with any attachments, is intended for the sole use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or by return e-mail and delete this message, along with any attachments.

**From:** [gmackie16@gmail.com](mailto:gmackie16@gmail.com) <[gmackie16@gmail.com](mailto:gmackie16@gmail.com)>

**Sent:** Monday, July 8, 2024 11:42 AM

**To:** generalplan <[generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)>

**Subject:** land preservation in the City of Hollister

Some people who received this message don't often get email from [gmackie16@gmail.com](mailto:gmackie16@gmail.com). [Learn why this is important](#)

Eva, my question applies to Agriculture Land Preservation in the city of Hollister.

If a land owner in the city of Hollister applies for development, does the applicant have to preserve land within the city or can the land be in the County of San Benito.

The reasons behind the questions.

1. Available land within the City is limited.
2. Land that is placed in an agriculture preserve over a longer period of time could be 50%, which would eventually limit the amount of housing and commercial space available, pushing development in to the county, which would not be undesirable.
3. Smaller areas, say 10 acres held in Agriculture Preserve in the City, would not be too desirable for Agriculture due to economics, water supply and environmental/ development setbacks.

I would like the City to consider allowing preserved land to be out in San Benito County. Thank you  
Graham Mackie, concerned citizen.



**From:** Alexander Sywak <[alex.sywak@gmail.com](mailto:alex.sywak@gmail.com)>  
**Sent:** Friday, July 26, 2024 8:00 AM  
**To:** Eva Kelly <[eva.kelly@hollister.ca.gov](mailto:eva.kelly@hollister.ca.gov)>  
**Cc:** Rod Powell <[rod.powell@hollister.ca.gov](mailto:rod.powell@hollister.ca.gov)>; Delia Ramon <[delia.ramon@hollister.ca.gov](mailto:delia.ramon@hollister.ca.gov)>; Planning <[planning@hollister.ca.gov](mailto:planning@hollister.ca.gov)>; generalplan <[generalplan@hollister.ca.gov](mailto:generalplan@hollister.ca.gov)>; Ingrid Sywak <[ingrid.sywak@gmail.com](mailto:ingrid.sywak@gmail.com)>  
**Subject:** Re: GIS Plan 2040 parcel designations

Dear Ms. Kelly,

I had occasion to speak with Mr. Powell yesterday re the above GIS link and understood that it was a County administered data system with no definite date for it to be up and running. Since adjacent APNs appear to have radical differences in densities, interpreting proposed densities from a one page color map of the City may be inaccurate. The proposed densities per APN have to be available before meaningful comments to the GP can be made.

Presumably, the underlying information for the GIS color map is based on a data file of proposed density by APN. Given that comments to the GP are due in the next two weeks, and no APN based proposed density is publically available, the underlying data file by APN number should be made available to the public prior to the comment period being closed on August 16.

Specifically, I am requesting the proposed densities in the GP for the following APNs:

1. 055-220-038-000
2. 055-220-039-000
3. 020-080-022-000
4. 020-040-059-000
5. 020-040-061-000

Please advise when you expect this data will be made available.

Regards,

Alex Sywak

On Mon, Jul 22, 2024 at 11:06 AM Alexander Sywak <[alex.sywak@gmail.com](mailto:alex.sywak@gmail.com)> wrote:

Thx. Let me know when up and running.

On Mon, Jul 22, 2024 at 10:42 AM Eva Kelly <[eva.kelly@hollister.ca.gov](mailto:eva.kelly@hollister.ca.gov)> wrote:

Good morning Mr. Sywak,

Apparently the GIS link was taken down in the website update with the revised draft plan release. I've reached out to our project team and requested it be re-linked to the project website and they are working on my request. I will follow up when I have additional information. I apologize for the misleading information, I did not realize the link had been removed.

Best,

Eva



**Eva Kelly**

Planning Manager

City of Hollister | Community Development  
Dept.

339 Fifth Street, Hollister, CA 95023

[Eva.Kelly@hollister.ca.gov](mailto:Eva.Kelly@hollister.ca.gov)

(831) 636-4360 x 1225



**CONFIDENTIALITY NOTICE:** This message, together with any attachments, is intended for the sole use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or by return e-mail and delete this message, along with any attachments.

**From:** Alexander Sywak <[alex.sywak@gmail.com](mailto:alex.sywak@gmail.com)>

**Sent:** Monday, July 22, 2024 8:00 AM

**To:** Eva Kelly <[eva.kelly@hollister.ca.gov](mailto:eva.kelly@hollister.ca.gov)>

**Cc:** Planning <[planning@hollister.ca.gov](mailto:planning@hollister.ca.gov)>; Delia Ramon  
<[delia.ramon@hollister.ca.gov](mailto:delia.ramon@hollister.ca.gov)>; Ingrid Sywak <[ingrid.sywak@gmail.com](mailto:ingrid.sywak@gmail.com)>  
**Subject:** GIS Plan 2040 parcel designations

Dear Ms. Kelly,

At the GP update meeting last week, you mentioned there is an interactive GIS based map that designates the new GP's density range for each APN.

I have not been able to find this website.

Please forward the link to access what you described.

Thx, Alex Sywak

August 15, 2024

Comments re the 2040 Hollister Draft General Plan

Dear Personnel,

My name is Alex Sywak. I attended the July 16, 2024 Public Comment meeting for the 2040 Hollister Draft General Plan. At that meeting I raised that certain proposed (new) land use policies are against state law and that proposed density designations for many parcels are not consistent with state law, are impossible to achieve due to their topography and contradict tenets of VMT policies.

I spoke at the August 7, 2023 Planning Commission meeting re the new GP, and provided written comments to the Commissioners.<sup>1,2</sup> The Commissioners reversed the density designation for an 8 acre parcel in the middle of town surrounded by single family homes built over 40 years ago (#4 on the attached map) from a proposed maximum of 60 units/acre to remain at 8-10 units/acre. Conditions for infill development, Muni Code 17.16.070, would have had to be completely disregarded if the up-zoning stayed. Fortunately, one of the Commissioners drove by that site and realized how ridiculous it would be to erect a 4-5 story building in that neighborhood to achieve the proposed density. However, no Commissioners drove by the parcels labelled #1 in our email. Even though those parcels are currently designated single family, 8 units/acre and have a recorded Deferred Improvement Agreement with the City at that density, Planning had proposed that the Commission downgrade those parcels to a density of 1 unit per 1-5 acres. At the end of the hearing, the only vocal Commissioner, now retired and moved to Oregon, arbitrarily and without any apparent consideration, increased the density from 1 unit per 1-5 acres, to 60 units/acre, a factor of 300. Comments that the terrain to achieve that density was unsuitable and such density did not comport with VMT tenets were ignored.

Other comments at the August 7, 2023 hearing were unsettling. Even though the City is opposed to annexations, the Commissioners recommended the SOI be dramatically expanded, not to have more lands available for annexation, but rather to restrict County development of those lands.

Policy LU-1.5 is against state law. Gov. Code section 66454 permits any applicant to file a tentative map for property that is adjacent to the City. The Superior Court of California County of San Benito in Tentative Decisions for June 26, 2024 upheld that the City cannot refuse to accept the filing of a tentative map for properties adjacent to the City.<sup>3</sup>

Policy LU-1.6 may also be against state law. By requiring applicants for annexation of properties adjacent to the City to do so only when other properties are included is against the intent of Gov. Code section 66454, which does not include such a condition.

Policy LU-1.7 may also be against state law. Gov. Code section 66454, does not include such a condition. The Density Bonus Law, the Housing Accountability Act and the Housing Crisis Act all

---

<sup>1</sup> Email to Planning Commissioners for August 7, 2023 PC Hearing.

<sup>2</sup> Written Comments emailed to the Planning Commissioners for the August 7, 2023 PC Hearing.

<sup>3</sup> Superior Court of California County of San Benito Tentative Decisions for June 26, 2024, from bottom of Page 3.

base their applications on whatever is the designation and density of parcels in the GP. Requiring parcels to perform specific plans prior to annexation is not a condition of Gov. Code section 66454.

The second portion of Policy LU-1.9 is too vague and very dependent on how “irregular” is to be interpreted. As recounted below, the shape of an annexation was approved for anything but being “regular” in shape.

Action LU-1.1 is not necessary until the parcels currently within the SOI are annexed. With the City’s demonstrated opposition to annexation, the only stated purpose in expanding the SOI is to prevent projects from being approved in the County.

Action LU-1.2 is necessary, but will require a complete reversal of the City’s current attitude to annexation. The two properties in the above June 26, 2024 Tentative Ruling are County islands surrounded by the City. Both have been pre-zoned and one has a recorded Deferred Improvement Agreement with the City. Those conditions were known to the City when in 2021 Planning opposed their annexation until the new GP was adopted.<sup>4</sup> Demanding that properties wait until a new GP is adopted is illegal. We corrected Planning’s misconception several days later, with no response.<sup>5</sup> City attorneys encouraged that we pursue annexation of both properties by petition as provided by LAFCO statutes.<sup>6,7</sup> Our LAFCO applications were completed and the Glenmore annexation (#4 parcel) was scheduled for the February 2024 hearing.<sup>8</sup> Planning opposed both annexations.<sup>9,10</sup> At the last minute the City informed LAFCO that the current Tax-Sharing Agreement (TSA) only applied if the City initiated the annexation by resolution. LAFCO tabled our applications. The County has no objection to applying the terms of the TSA to our parcels. We understand the City objected because the City wants to determine what is annexed, not LAFCO. Such posture is against state land use law and LAFCO statutes. And ultimately, the City does have control anyway. Once annexed, for the property to be developed, all City ordinances would apply to any development planned.

The proposed land use policies will not improve current abuses. The applicability of the City’s convoluted approach to annexation is illustrated by PZ 2021-2.<sup>11</sup> The applicant requested that only their 3 acres be annexed. Staff recommended that the surrounding 15 acres be included. Knowing that the other owners would protest and negate the annexation, Council approved the middle-finger shaped very “irregular” annexation as applied for.

Proposed density designations need consider the topography of affected parcels. Parcels on the north side of Hillcrest Road east of the creek<sup>12</sup>, are steeper in places than areas of Santa Ranch, with their known amount of grading necessary to attain just 5-6 units per acre.<sup>13</sup> It is

---

<sup>4</sup> Planning response dated November 23, 2021.

<sup>5</sup> Response to Planning dated November 26, 2021.

<sup>6</sup> Email from City attorney, February 2, 2023 re Glenmore (last paragraph).

<sup>7</sup> Email from City attorney, February 2, 2023 re Hillcrest (last paragraph).

<sup>8</sup> LAFCO February 8, 2024 Notice of Public Hearing.

<sup>9</sup> Planning response to Glenmore annexation.

<sup>10</sup> Planning response to Hillcrest annexation.

<sup>11</sup> PZ 2021-2.

<sup>12</sup> Hillcrest area topography.

<sup>13</sup> Santa Ranch topography.

infeasible to designate densities upto 60 units per acre in the Hillcrest areas. No thoughtful person could have driven by and concluded that 60 units/acre was feasible on the Hillcrest hillsides. In the same stroke, the proposed designation for APN 019-370-009, which is almost completely flat, is designated the lowest density, upto 10 units per acre. The Hillcrest parcels up-zoned to 60 units per acre, should remain at 8-10 units per acre.

One of the main goals of VMT policy, is to have higher density projects locate within walking distance of household amenities. The Hillcrest parcels are way out from the City hub. Designating that highest density projects be located furthest from day to day necessities would surely increase immitigable GHG production and thwart all purposes of VMT policy.

We offer these comments in good faith and because we have lived them. Please advise if you need any clarification or additional information.

Regards,

Ingrid and Alex Sywak. (408) 309-9253



Alexander Sywak <alex.sywak@gmail.com>

---

## PD application forms

---

**Planning Dept** <planning@hollister.ca.gov>  
To: Alexander Sywak <alex.sywak@gmail.com>

Tue, Nov 23, 2021 at 3:45 PM

Cc: Mitch Burley <MBurley@bkf.com>, Ingrid Sywak <ingrid.sywak@gmail.com>, Mieka Sywak <mieka.sywak@gmail.com>, Tania Gonzalez <tania.gonzalez@hollister.ca.gov>, Abraham Prado <abraham.prado@hollister.ca.gov>

Good afternoon Mr. Sywak,

Gmail - PD application forms 10/8/22, 11:09 AM



## PD application forms

**Alexander Sywak** <alex.sywak@gmail.com> Fri, Nov 26, 2021 at 8:00 AM To: Planning Dept <planning@hollister.ca.gov>

Cc: Mitch Burley <MBurley@bkf.com>, Mieka Sywak <mieka.sywak@gmail.com>, Tania Gonzalez <tania.gonzalez@hollister.ca.gov>, Abraham Prado <abraham.prado@hollister.ca.gov>, Ingrid Sywak <ingrid.sywak@gmail.com>, Eva Kelly <eva.kelly@hollister.ca.gov>

If the parcels which you would like to develop are the three that we are aware of which are located in unincorporated San Benito County, you may submit an application for the initiation of prezone for future annexation for the properties, which is the first step. I have attached the application for prezone and initiation of prezone to this email. There was a previous version of the application which is available on the website, but it does not include the most current fees. I just updated this version of the application that is attached for you, and it should be updated on our website soon as well. A development application cannot be submitted to the City for properties which are not currently in the incorporated City limits. I do understand that there was possibly a rezoning of those parcels in the 1990s. However, that prezone would no longer be valid, as the zoning designation to which it was rezoned was under a previous general plan and zoning ordinance, and the prezone process would need to be reinitiated to updated designations. Also, in accordance with the letter provided to you on June 22, 2018, attached for your reference, further environmental work pursuant to CEQA would need to be completed for the annexation of these parcels and the recommended annexation area would encompass not only your parcels north of Hillcrest Road, but also the peninsula to the south of the site and the parcels west of the west up to the current city limits.

Importantly I would also note that the City is currently in the process of updating our General Plan and it is possible that the designation of the parcels may change from what they are designated in the current 2005-2023 General Plan. Staff's recommendation would be that the initiation of prezone not be approved until the general plan update is adopted and the new designations for parcels are determined, and that the initiation of prezone be in line with the adopted general plan. The City anticipates a public draft of the general plan to be released in the spring of 2022, and we would encourage you to participate in the public review and provide any

comments on the plan during that time. Pending the comments that are received on the draft, we are anticipating adoption of the plan in the Fall of 2022 at this time.

You may still apply for initiation of prezone if you wish, as the decision will ultimately lie with the City Council on the approval of the initiation, but it is important to know staff's recommendation would not be for approval at this time due to the General Plan Update being under way.

To your question regarding SB 330, the City does not have an application which satisfies the requirements for a complete preliminary application under the law. The state provides an application form which can be used for that purpose on their website. Please note again, that SB 330 would not be applicable to the request to initiate rezoning. It would be applicable for a preliminary housing development application for a site which is located within the City limits. If you would like to set up a preliminary application meeting for this or another development project, we can do so. However, there is a fee which was adopted by the City Council of \$1,026.98 for this service. We request that you provide preliminary project plans for the meeting participants to review and provide comment on, and bring any specific questions you have for the various departments (engineering, police, fire, planning, building) during a preliminary review meeting. The Development Services Department Support Services Assistant, Tania Gonzalez, can assist in setting up a preliminary meeting if you would like to do so.

Best,  
Eva Kelly  
Associate Planner





Alexander Sywak &lt;alex.sywak@gmail.com&gt;

## PD application forms

**Alexander Sywak** <alex.sywak@gmail.com>

Fri, Nov 26, 2021 at 8:00 AM

To: Planning Dept &lt;planning@hollister.ca.gov&gt;

Cc: Mitch Burley &lt;MBurley@bkf.com&gt;, Mieka Sywak &lt;mieka.sywak@gmail.com&gt;, Tania Gonzalez &lt;tania.gonzalez@hollister.ca.gov&gt;, Abraham Prado &lt;abraham.prado@hollister.ca.gov&gt;, Ingrid Sywak &lt;ingrid.sywak@gmail.com&gt;, Eva Kelly &lt;eva.kelly@hollister.ca.gov&gt;

 **9 EIR Hillcrest Property, August 1989.pdf**

Dear Ms. Kelly,

Thank you for your note of November 23. Our responses follow in red.

If the parcels which you would like to develop are the three that we are aware of which are located in unincorporated San Benito County, you may submit an application for the initiation of prezone for future annexation for the properties, which is the first step.

**Correction:** One parcel was annexed in 2015 and the other two have been prezoned and are ready for completion of annexation. All three parcels have passed your *first step*.

## 1) Cienega Property:

2.18 acres @ intersection of Cienega Road/Promise Way/San Benito Street, APN: 057-740-041.

a) Prezoned October 20, 2014 as R-1 L/PZ<sup>[1]</sup>.b) Annexed per LAFCO June 1, 2015<sup>[2]</sup>.

## 2) Powell Property:

8.06 acres @ Powell Street/Glenmore Drive/Homestead Avenue.  
APN: 020-080-022.a) Prezoned April 4, 2016 (First Reading)<sup>[3]</sup>.b) Prezoned April 8, 2016 (Second Reading)<sup>[4]</sup>.c) Initial Study completed December 1, 2015<sup>[5]</sup>.d) Annexation map prepared December, 2015<sup>[6]</sup>.

## 3) Hillcrest Property:

44.5 acres @ 1490, 1510 Hillcrest Road.  
APNs: 020-040-028; 020-040-057; 020-040-059.a) Prezoned October 1, 1990<sup>[7]</sup>.b) Deferred Improvement Recorded, October 1, 1990<sup>[8]</sup>.

I have attached the application for prezone and initiation of prezone to this email. There was a previous version

of the application which is available on the website, but it does not include the most current fees. I just updated this version of the application that is attached for you, and it should be updated on our website soon as well.

**Thank you for forwarding current rezoning application forms. Given properties 2 and 3 have already been rezoned, reapplications for rezoning are unnecessary.**

A development application cannot be submitted to the City for properties which are not currently in the incorporated City limits. I do understand that there was possibly a rezoning of those parcels in the 1990s.

**Please reconsider *there was possibly a rezoning*. The attached documents confirm the two properties *have been rezoned*.**

However, that rezoning would no longer be valid, as the zoning designation to which it was rezoned was under a previous general plan and zoning ordinance, and the rezoning process would need to be reinitiated to updated designations.

**Rezoning does not expire. The general plan designation has remained constant for each property.**

Also, in accordance with the letter provided to you on June 22, 2018, attached for your reference, further environmental work pursuant to CEQA would need to be completed for the annexation of these parcels and the recommended annexation area would encompass not only your parcels north of Hillcrest Road, but also the peninsula to the south of the site and the parcels west of the west up to the current city limits.

**Environmental conditions have not changed since the EIR was certified in 1990<sup>[9]</sup>. An update to CEQA is not required. The other properties you have referenced should be required to perform CEQA analyses if they choose to rezone. When Council made the precedent decision to exempt Mr. Intravia's peninsula 3.3 acres parcel from having to address CEQA for the 15 acre block north of Cobblestone Court**

**(dismissing Planning's recommendations)<sup>[10]</sup> while burdening any other property within that block to prepare CEQA for the whole remainder block, **without notice to those affected properties** when adding this amendment from the dais to the publicly noticed Resolution, it is arbitrary and capricious to require our rezoned properties to have to prepare CEQA for the swathe you have indicated.**

Importantly I would also note that the City is currently in the process of updating our General Plan and it is possible that the designation of the parcels may change from what they are designated in the current 2005-2023 General Plan. Staff's recommendation would be that the initiation of rezoning not be approved until the general plan update is adopted and the new designations for parcels are determined, and that the initiation of rezoning be in line with the adopted general plan.

**Properties 2 & 3 having been rezoned and will be subject to the GP at the time of their submission. All three properties will utilize the City's Muni. Code 17.04.300 *et seq.*, and meet provisions in Gov. Code §65915, as amended.**

The City anticipates a public draft of the general plan to be released in the spring of 2022, and we would encourage you to participate in the public review and provide any comments on the plan during that time. Pending the comments that are received on the draft, we are anticipating adoption of the plan in the Fall of 2022 at this time.

**Given that the legislature has declared that California's housing is in crisis, particularly affordable housing, we intend to submit under whatever GP governs at the time of submission.**

You may still apply for initiation of rezoning if you wish, as the decision will ultimately lie with the City Council on the approval of the initiation, but it is important to know staff's recommendation would not be for approval at this time due to the General Plan Update being under way.

Since properties 2 & 3 have already been rezoned, your statement is misplaced. Moratoriums for the submission of density bonus projects are prohibited

To your question regarding SB 330, the City does not have an application which satisfies the requirements for a complete preliminary application under the law. The state provides an application form which can be used for that purpose on their website.

Since we intend to apply pursuant to the City and state Density Bonus Law (DBL), please forward Planning's forms and timelines as mandated by Gov. Code §65915(a)(3)(A) and (B). Each property will provide single detached dwelling units on a 1-Lot condominium map per Muni. Code Chapter 16.36 and the Subdivision Map Act. We are considering including a childcare facility in each project as provided by Gov. Code §65915(h).

Please note again, that SB 330 would not be applicable to the request to initiate rezoning.

SB 330 will apply to all three properties upon submission for their density bonus grants and tentative maps.

It would be applicable for a preliminary housing development application for a site which is located within the City limits.

Gov. Code §65915(f)(5) prohibits requiring any *other discretionary approval* in order to grant a density bonus. The over thirty year battle between the City of Hollister and the County of San Benito needs to come together to allow affordable housing to be constructed. Neither jurisdiction is meeting their low-income housing quotas.

If you would like to set up a preliminary application meeting for this or another development project, we can do so. However, there is a fee which was adopted by the City Council of \$1,026.98 for this service. We request that you provide preliminary project plans for the meeting participants to review and provide comment on, and bring any specific questions you have for the various departments (engineering, police, fire, planning, building) during a preliminary review meeting. The Development Services Department Support Services Assistant, Tania Gonzalez, can assist in setting up a preliminary meeting if you would like to do so.

We appreciate your offer for a preliminary meeting. However, given the state DBL and the City's TMap requirements and timelines are clear, we will submit density bonus requests and tentative maps for all three properties accordingly.

Please verify the attached documentations and advise if you need anything further.

We very much appreciate your note and look forward to working with you and staff to construct affordable housing for the community and care for their children.

Regards,

Ingrid and Alex Sywak (408) 309-9253.

---

[1] Cienega rezoning, October 20, 2014.

[2] Annexation per LAFCO #493, recorded April 30, 2015.










[3] Ordinance 1129, First Reading April 4, 2016.

- [4] Ordinance 1129, Second Reading April 18, 2016.
- [5] Powell Initial Study prepared December 1, 2015.
- [6] Annexation map, December 16, 2015.
- [7] Ordinance 761, October 1, 1990.
- [8] Deferred Improvement Agreement, Recorded October 1, 1990 Rec. No. 9008426.
- [9] Hillcrest property EIR, certified 1990.
- [10] Resolution No. 2021-124, passed and adopted by Council, June 21, 2021.

[Quoted text hidden]

---

### 9 attachments

-  **1 Cienega Council Resolution to annex.pdf**  
162K
-  **2 Cienega Annex.pdf**  
762K
-  **4 2016-04-18 Agenda.pdf**  
704K
-  **3 2016-04-04 Agenda.pdf**  
795K
-  **5 INITIAL STUDY PZ2014-6\_DRAFT.PDF**  
1407K
-  **6 Annexation Map 2015-12-16 Signed 14-3137.pdf**  
2135K
-  **7 Ordinance 761 Prezone 10\_01\_1990.pdf**  
92K
-  **8 Deferred Improvement Agreement Recorded 19901001 #9008426.pdf**  
5534K
-  **10 Resolution No. 2921-124, June 21, 2021.pdf**  
898K



Jennifer P. Thompson  
Attorney at Law

E-mail: [jthompson@lozanosmith.com](mailto:jthompson@lozanosmith.com)

February 2, 2023

**Sent by E-Mail: [cob@breenlaw.net](mailto:cob@breenlaw.net)**

Christine Breen, Esq.  
Breen Law Firm  
330 Tres Pinos Road, Suite F8-4  
Hollister, CA 95023

Re: NATMAR Entitlement Project - Glenmore

Dear Ms. Breen:

This letter serves as a response to your December 14, 2022, letter regarding NATMAR, L.P.'s ("NATMAR") Glenmore Project entitlement application. As we've discussed, the City of Hollister ("City") Planning Department will not accept NATMAR's Density Bonus and Vesting Tentative Map applications for the Glenmore Project because the parcel is not currently within the City's jurisdiction. If NATMAR would like to proceed with the Glenmore Project, the parcel must be pre-zoned and/or annexed into the City prior to applying for other City entitlements.

The Glenmore Project site consists of two parcels, one of which is within City limits (APN 055-220-038, approximately 0.14 acres) and one of which is outside of City limits (APN 020-220-038, approximately 7 acres). Unlike the Hillcrest Project parcels, the Glenmore Project parcels are contiguous to City limits. The City's records indicate that the Glenmore Project parcels were pre-zoned into the Low Density Residential Performance Overlay (R1-LP/Z) zone in 2016. The City nor the County have any record that, following the 2016 prezone, an application was made to the Local Agency Formation Commission ("LAFCo") for annexation. It has been approximately seven (7) years since the Glenmore Project parcel prezone and, in that time, CEQA requirements have changed. As one example, the required use of vehicle miles traveled ("VMT") to assess development project transportation impacts was adopted by the legislature. (14 CFR § 15064.3.) In order for the Glenmore Project to proceed, the City must likely perform a new CEQA analysis taking into account the changes to VMT and any other changes that have occurred since 2016. City staff will not begin this process without receiving the appropriate fee from your client.

Cities may, at their discretion, but are not required to, act upon a tentative map for a proposed subdivision of unincorporated territory adjacent to the city. (Gov. Code, § 66454.) The City does allow for the pre-zoning of parcels outside the City's jurisdiction prior to annexation but the City does not have a policy in place to act upon tentative maps outside of City limits. (Hollister Municipal Code section 17.24.250.) The City Municipal Code, therefore, requires that development entitlements which are currently located outside of the City's jurisdiction proceed using the following steps: (1) pre-zone; (2) annexation; and then (3) tentative map approval.

Christine Breen  
February 2, 2023  
Page 2

Your client has completed step number one, although the previous CEQA review likely needs further analysis, so the next step is to apply for annexation. Your client can proceed with annexation in one of two ways, (1) by applying directly to LAFCo, or (2) if your client would like the City's assistance potentially reviewing CEQA documents and support with his application, your client may apply for and pay the City for Prezone review.

Please let me know if you would like to discuss.

Sincerely,

LOZANO SMITH



JENNIFER THOMPSON/ab

cc: City of Hollister Planning Department  
Brett Miller, City Manager  
Mary Lerner, City Attorney



Jennifer P. Thompson  
Attorney at Law

E-mail: [jthompson@lozanosmith.com](mailto:jthompson@lozanosmith.com)

February 2, 2023

**Sent by E-Mail: [cob@breenlaw.net](mailto:cob@breenlaw.net)**

Christine Breen, Esq.  
Breen Law Firm  
330 Tres Pinos Road, Suite F8-4  
Hollister, CA 95023

Re: NATMAR Entitlement – Hillcrest Project

Dear Ms. Breen:

This letter serves as a response to your December 14, 2022, letter regarding NATMAR, L.P.'s ("NATMAR") Hillcrest Project entitlement application. As we've discussed, the City of Hollister ("City") Planning Department will not accept NATMAR's Density Bonus and Vesting Tentative Map applications for the Hillcrest Project because the parcel is not currently within the City's jurisdiction. If NATMAR would like to proceed with the Hillcrest Project, the parcel must be pre-zoned and/or annexed into the City prior to applying for other City entitlements. That being said, it is the City's understanding that your client has begun discussions with the Local Agency Formation Commission ("LAFCo") to begin annexation proceedings. If so, the City appreciates your client taking this next, appropriate step. Please keep in mind that the City will only recommend annexation of the Hillcrest Project parcels if the annexation does not create a City or County peninsula or other irregular city limit border so the annexation application should include, at a minimum, the two parcels that are situated within the Hillcrest Project parcels. (Gov. Code, § 56668 (f).)

The proposed Hillcrest Project is located in San Benito County ("County") and shares a point of connection with City limits at the Southeast corner of the Hillcrest Project parcels. Contiguity requires more than a single point of connection; it requires that a parcel abut or share a **common boundary** with the local agency. (Gov. Code, § 56031 (a).) The Hillcrest Project parcel is within the City's sphere of influence and was previously pre-zoned in approximately 1990 to the Single Family Residential District ("PZ-R-1") zone. The PZ-R-1 zone has not existed since the City's 2005-2023 General Plan and subsequent 2008 Zoning Ordinance overhaul. In order for the Hillcrest Project to proceed, your client may apply for Prezone under the City's current General Plan or may apply to annex the Hillcrest Project parcels into the City.

In your letter, you assert that the Hillcrest Project parcels share thirty-five (35) feet of contiguity with the City limits. You provided several exhibits which are meant to demonstrate this contiguity. City staff attempted to interpret your explanation and the exhibits however City staff could not, based solely upon the information that you provided, determine whether or not the thirty-five (35) feet of contiguity exists. That being said, City staff does not have a surveyor on staff so they may lack the necessary expertise to interpret the explanation and exhibits that you

Christine Breen  
February 2, 2023  
Page 2

provided. We suggest that your client hire a surveyor to map and mark the boundaries of the Hillcrest Project parcels to clearly demonstrate that the City and the Hillcrest Project parcels share thirty-five (35) feet of contiguity.

Cities may, at their discretion, but are not required to, act upon a tentative map for a proposed subdivision of unincorporated territory adjacent to the city. (Gov. Code, § 66454.) The City does allow for the rezoning of parcels outside the City's jurisdiction *prior to annexation* but the City does not have a policy in place to act upon tentative maps outside of City limits. (Hollister Municipal Code section 17.24.250.) The City Municipal Code, therefore, requires that development entitlements which are currently located outside of the City's jurisdiction proceed using the following steps: (1) pre-zone; (2) annexation; and then (3) tentative map approval. Your client has completed step number one, although the previous CEQA review likely needs further analysis, so the next step is to apply for annexation. Your client can proceed with annexation in one of two ways, (1) by applying directly to LAFCo, or (2) if your client would like the City's assistance potentially reviewing CEQA documents and support with his application, your client may apply for and pay the City for Prezone review.

Please let me know if you would like to discuss.

Sincerely,

LOZANO SMITH



JENNIFER THOMPSON/ab

cc: City of Hollister Planning Department  
Brett Miller, City Manager  
Mary Lerner, City Attorney



Friday May 26, 2023

# City of Hollister Planning Division

339 Fifth Street, Hollister, CA. 95023 ☎ Telephone (831) 636-4360 📠 Fax (831) 634-4913

To: Darren McBain  
Interim Executive Officer

San Benito County LAFCO

From: Eva Kelly  
Interim Planning Manager

Development Services Department – Planning Division

**RE: Natmar (Glenmore) Annexation – City of Hollister Response to Application**

---

Dear Mr. McBain,

Thank you for providing an opportunity to comment upon the proposed “Natmar” Glenmore Annexation application which was received by LAFCO. The application proposes the annexation of 5 parcels totaling 8.18 acres at the west terminus of Glenmore Drive (APNs 020-080-022, 050-080-005, 020-080-007, 020-080-013, 020-080-021). The City of Hollister has reviewed the proposed application, and has the following comments in response.

- 1. Size of Annexation Area.** The proposed application and annexation area map are inconsistent with regard to the APNs and acreage proposed to be annexed. The map provided identifies APN 020-080-022 and 7.26 +/- acres as the annexation area. However, the application also identifies 4 additional APNs within the application. The total acreage for the five parcels is approximately 8.18 acres. The exhibit, legend, legal description, and application should be revised for consistency and clarity.
- 2. SB 330 Preliminary Application.** Item 4 of the application indicates, correctly, that an SB 330 Application was received for a proposed Density Bonus and Tentative Map on May 9, 2022 (PLM 2022-7). However, as you may be aware, SB 330 provides vested rights for a proposed preliminary application if a development application is submitted within 180 days of the submission of a preliminary application containing the list of items outlined in the State Law. This preliminary application expired and holds no remaining vested rights for the proposed project as of November 9, 2022, as a complete development application was not received by the City prior to that date.
- 3. Prezone.** Item 5.C. of the applicant describes the rezoning of the subject parcels in 2016 via Ordinance 1129. I have provided Ordinance 1129 approving Prezone 2014-6 as Attachment 1. Staff reviewed the available project files within the City’s digital files, and was able to locate document which are titled as the Final Initial Study/Mitigated Negative Declaration (IS/MND) (Attachment 2) and Final Mitigation Monitoring and Reporting Program (Attachment 3) for this

project. The records available do not indicate whether this was the final version recorded and filed with the Department of Fish & Wildlife.

In Staff’s review of the Ordinance, CEQA documentation, and available records within the project file, it appears that there are inconsistencies within the project description as to whether the rezoning included the five parcels identified within the referenced 2023 LAFCO Application. However, in reading through the available documents, it does appear that all five parcels were intended to be a part of the rezoning, despite the inconsistent mapping and project descriptions. It appears that this was a recommendation of the City of Hollister Planning Commission and was not originally part of the application file. If that is the case, all five parcels were rezoned by the City to the Low Density Residential Performance Overlay (R1-L/PZ) Zoning District, which currently allows 1-8 du/ac as a residential density.

4. **Environmental Review.** The LAFCO Application indicates in multiple locations that there is a proposal for 80 single family units each to contain an attached Accessory Dwelling Unit on APNs 020-080-022, 055-220-039, and 055-220-038. The application also indicates that an Environmental Impact Report was prepared for the proposal. As indicated above, there was a Mitigated Negative Declaration prepared for the rezoning, not an Environmental Impact Report.

Please note that the IS/MND analyzed the following maximum number of units on the 7 parcels analyzed (note that two parcels proposed as part of the future development, shown in red in the table below, are already located within the City limits of Hollister:

Assessor Parcel Number	Size of Parcel	
020-080-022	7.25 acres	58
055-220-039	0.66 acres	5
055-220-038	0.13 acres	1
020-080-005	0.24 acres	2
020-080-021	0.24 acres	2
020-080-013	0.13 acres	1
020-080-017	0.32 acres	3
<b>Total</b>	8.18 acres	

Any proposed future development within the City of Hollister must be in conformance with the adopted general plan, zoning ordinance, and any other regulations at the time of proposal. LAFCO should consider advising the applicant to amend their application to address the discrepancy between the adopted IS/MND and the proposal. The adopted IS/MND analyzed a maximum of 64 units on these three parcels, not 80 single family dwellings and 80 accessory dwelling units. Additional environmental review may be required.

Additionally, CEQA Guidelines have changed within the time that has passed since the adoption of the IS/MND on April 18, 2016. Updates to this analysis may be required, including but not limited to a Vehicle Miles Traveled (VMT) impact analysis to replace the Level of Service (LOS) analysis which was completed at the time.

5. **Development Application.** Item 5.F. of the application indicates that an application for a Density Bonus and Vesting Tentative Map were filed with the City of Hollister. This is incorrect. The applicant attempted to submit an application to the City of Hollister Planning Division several times, where, at each attempt the applicant was informed by City staff that the City does not have a policy in place which permits the City to accept a development application for a property located outside of the City limits for processing. The applicant left documentation with the City of Hollister, which was returned to the applicant because it cannot be processed until the subject property of the development application is located within the City Limits. The City has not accepted a development application for the subject property that is located within the jurisdiction of San Benito County.

City Staff had requested of the applicant, due to the time which has passed since the consideration of the rezoning by the City Council, and the potential need to re-review and update the environmental review for this annexation, that the applicant submit an application for rezoning again to the City of Hollister. The Municipal Code requires City Council authorization prior to Staff accepting and processing a rezoning application. Staff did not have the ability to assist the applicant with completing the review of the previous proposal; reviewing and updating the environmental review as necessary; and completing the proceedings required to have the City apply for the annexation on the applicant's behalf, without the re-authorization of the City Council and payment of the application fees which cover Staff time to process such a request. The applicant did not submit such an application, and thereby did not express interest in having the City's assistance or support in moving forward with this annexation through the processes that we require.

6. **Conformity with County and City General Plans.** Item 8.C of the application indicates that "no change in land use is proposed..."; however, other sections of the application indicate that the applicant intends to develop the property with 80 Single Family Detached Units and 80 attached Accessory Dwelling Units. This is inconsistent and should be revised. The subject property, APN 020-080-022, as rezoned to R1-L/PZ, can support a maximum of 8 du/acre as rezoned. This amounts to a maximum of 58 units (7.26 acres x 8 du/acre).
7. **Availability of Services.** The Plan for Services for the annexation of APN 020-080-022 was prepared in February 2014 (Attachment 4). Significant development has occurred within the City of Hollister and San Benito County since the preparation of this 2014 report. The report also analyzes the service for only the annexation of APN 020-080-022, at a development capacity of 58 maximum dwelling units of future development, and does not include the plan for services of the additional properties within the county island proposed for annexation. The Plan for Services for this property should be updated accordingly.

The project description within the application does not discuss the four parcels (APNs 020-080-005, 020-080-007, 020-080-013, and 020-080-021). However, for this discussion it is assumed that each has existing development of one, detached single family residence. If this is not the case, the City requests that the application be revised and information regarding the existing uses within the proposed annexation area to be provided for review.

To address Police, Fire, and Facilities Maintenance for annexations, the City of Hollister typically requires an agreement with all property owners prior to annexation which indicates that they will agree to annex into the City's Community Facilities Districts 4 and 5. After the original rezoning of the subject properties, this would have been the next step in the process, prior to application to LAFCO. According to the record, the applicant appears to have never signed the draft agreement for APN 020-080-022, and there was no draft agreement(s) prepared to indicate the involvement of the property owners for the remaining four parcels within the annexation area. Note that for the purposes of this discussion, the City would consider any property owner within the annexation area agreeing to the annexation as an "applicant", and any property owner who may be forcibly annexed by this proposal would not be considered the "applicant". At the time of this review, the applicant appears to only be the owner of APN 020-080-022.

- a. **Stormwater, Street, and Utility Maintenance.** The City would request, if it is the decision of LAFCO to annex the subject properties into the City Limits, that a condition of approval be placed such that all five properties shall be annexed into the City's Community Facilities District (CFD) 4 for the maintenance of public facilities such as streets, sidewalks, lighting, landscaping, and stormwater, upon future development of the undeveloped parcel at the expense of the development applicant, or, prior to the approval of any city entitlement or other such application upon the properties with established residential development if it should occur before a development application is approved for APN 020-080-022. This will ensure that the facilities which are being brought into the City by this annexation can be maintained in perpetuity, and ensures that the facilities proposed by any future development are captured within the tax rate that will be established when the finalized project details are available.
- b. **Police and Fire Services.** Additionally, the City would request that a condition of approval be placed such that all five properties are annexed into the City's Community Facilities District 5 for the funding of Police and Fire Services upon the jurisdictional change taking effect, at the expense of the applicant - who controls the voting share of the annexing land (020-080-022). To ensure compliance, the applicant should be required to complete this process prior to submittal of any development application to the City of Hollister. This annexation will bring in four existing residential units which should contribute to the fair share costs of providing continued police and fire services and equipment and facilities to such units upon the jurisdictional change. The undeveloped parcel should be annexed into the CFD in anticipation of future residential development. The property tax for CFD 5 is not assessed upon undeveloped property, so would not come into effect until such residential development occurs in the future. The property tax for CFD 5 is also not assessed upon commercial or industrial land, so the annexation of the undeveloped property will have no effect if there were to be a general plan or zoning designation change in the future and non-residential development were to occur on the property instead of residential development.
- c. **Water and Sewer Services.** It is the standard practice of the City of Hollister to require the payment of any affiliated water and sewer impact fees upon the time of connection. This means that the impacts of both future development and future connection by the

existing development will be captured at the time of connection to the City's services. However, as indicated above, for the update of the plan for services please contact the City of Hollister Community Services Director, William Via, at [william.via@hollister.ca.gov](mailto:william.via@hollister.ca.gov) or 831.636.4370 regarding the availability of sewer and water services to serve this property should it be annexed or developed. Director Via has been cc'd on this comment letter.

- d. **Parks and Recreation, Jail and Juvenile Hall, Library Facilities, and City Hall/City Yard Impacts.** Upon any future development within the annexation area, impacts to the City's services and infrastructure for the new development can be addressed through the payment of impact fees. However, for the existing four residential units, these impact fees have not been collected, nor were they accounted for in the baseline of existing city uses when establishing the current fees. The City would request, as a condition of approval, that the applicant pay the current City Impact Fees (at time of payment) for Parks and Recreation, Jail and Juvenile Hall, Library Facilities, and City Hall/City Yard fees for the existing established residential units that would not otherwise be captured for this area, upon the jurisdictional change taking effect. To ensure compliance, the applicant should be required to complete this prior to submittal of any development application to the City of Hollister.
8. **Fiscal Neutrality/Annexation Fee.** The property owners are advised that any future development within the annexation area will be subject, as condition of approval, to payment of the fiscal neutrality fee established by the current Master Residential Agreement for Tax Transfer Upon Annexation, adopted on December 16, 2019, between the City of Hollister and the County of San Benito.
9. **Timeliness of Application.** While the City of Hollister Municipal Code does not specify an expiration for a rezoning for annexation, it is noted that the Municipal Code does require the authorization of the City Council to proceed prior to the initiation of the rezoning process. This ensures that the legislators for the City have reviewed the potential proposal and find it aligns with the City's goals and priorities, prior to an applicant embarking on the rezoning process, which can be costly and time consuming. The initiation of the rezoning for APN 020-080-022 was originally authorized by the City Council on September 21, 2009, over 15 years ago. The rezoning of the property itself was approved on April 18, 2016, almost 9 years ago.

Since the approvals of the initiation and rezoning, City Leadership have cycled through many changes – at the staff, planning commission, and city council levels; and local, state, and federal laws have changed significantly – particularly with respect to residential development. The City of Hollister is currently in the process of updating the City's current 2005-2023 General Plan to plan for the City's development and policy through the year 2040, as well as in the process of updating the 2015-2023 5th Cycle Housing Element to plan for residential development through the year 2031 (6th Cycle Housing Element). In the preliminary outreach and direction for the 2040 General Plan Update, this area was identified as a potential site for up-zoning and assisting the City in reaching our housing development goals. The City is also in the process of reviewing our codes and design standards for residential development within the city to update the currently outdated

ordinances that are in place, and make processes and requirements clearer and in line with the objective requirements of the State of California.

City Staff acknowledges both the approval of the rezoning of this area to the Low Density Residential Performance Overlay (R1-L/PZ) Zoning District, and that this rezoning remains in line with the current general plan designation of Low Density Residential adopted in 2005. Staff also acknowledges and agrees that this county island is a priority infill area and the undeveloped property is a prime location both for annexation and ultimate residential development; in line with City and State goals to prioritize infill development as opposed to residential sprawl.

However, City Staff also requests of LAFCO to consider the length of time that has passed in between when last the City Council of the City of Hollister opined upon this annexation and the zoning designation that was identified for this property. The current rezoning allows for the development of 1-8 dwelling units per acre. APN 020-080-022, at ~7.26 acres, could support a maximum of 58 units, but also a minimum of 8 units. While the LAFCO application implies a proposed development of 80 dwelling units – even higher than the permitted density for the zoning proposed – the annexation of the property does not guarantee that this proposal will come to fruition. It does, however, grant the developer all rights affiliated with a residentially designated property, and severely restricts the City's ability to impose any new regulations that are in the process of changing with the General Plan, Housing Element, and Zoning amendments that are currently under way. Additionally, Section 56375(e) of the Government Code restricts the ability of the City to change the general plan or zoning regulations for recently annexed territory for 2 years after the completion of the annexation.

As stated, the City is currently looking at this area for possible up-zoning in the General Plan and as a potential housing site to meet the City's Regional Housing Needs Assessment (RHNA) goals for the 6th Cycle Housing Element. The site selection requirements provided by the state tend to, with limited exception, require that minimum gross density be used when calculating the development potential of a site. Giving the timing of the proposed annexation, the current rezoning would severely limit the City's ability to look to this infill area as a RHNA site, and the City would likely need to look elsewhere for additional housing sites to account for the inability to consider rezoning this site to a higher density; despite this being a prime location, with interest from the property owner both in annexation and development.

Standard practice for annexation requests within the City of Hollister is that, following the adoption of an ordinance for the rezoning of the property, the applicant would enter into an annexation agreement with the City, and the City Council would adopt a resolution authorizing City Staff to submit an application for annexation on behalf of the applicant. Unfortunately, no staff remain with City who worked on this project, and we cannot opine on why the draft annexation agreement was not signed and why the applicant did not move forward with requesting the City Council to authorize Staff to assist with the preparation of this annexation application 9 years ago. However, it is unusual to lack the acknowledgement of a recent City Council decision to annex this property to accompany the annexation. City Staff would urge LAFCO to consider requesting the current Hollister City Council to comment upon the request to ensure that the rezoning supporting this annexation remains in line with the current goals and policies of the City.

Again, we wish to thank you for the opportunity to comment on this annexation request which was received by LAFCO. If you have any questions or concerns regarding these comments, please contact me at [eva.kelly@hollister.ca.gov](mailto:eva.kelly@hollister.ca.gov) or 831.636.4360.

Sincerely,

Eva Kelly, Interim Planning Manager

Development Services Department – Planning Division

CC:

Christy Hopper, Development Services Director

William Via, Community Services Director

David Mirrione, Interim City Manager

Attachments:

1. Ordinance 1129 approving Prezone 2014-6
2. Adopted Initial Study/Mitigated Negative Declaration for Prezone 2014-6
3. Adopted Mitigation Monitoring and Reporting Program for Prezone 2014-6
4. Plan for Services for Prezone 2014-6 dated February 2014

Friday July 28, 2023

City of Hollister Planning Division

339 Fifth Street, Hollister, CA. 95023 ☐ Telephone (831) 636-4360 ☐ Fax (831) 634-4913

To: Darren McBain  
Interim Executive Office  
San Benito County LAFCO

From: Eva Kelly  
Interim Planning Manager  
Development Services Department – Planning Division

RE: Hillcrest Annexation – City of Hollister Response to Application

Dear Mr. McBain,

Thank you for providing an opportunity to comment upon the proposed Hillcrest Annexation application which was received by LAFCO. The applicant proposes the annexation of four parcels totaling ~47.6 acres at 1490 and 1510 Hillcrest Road (APNs 020-080-059, 020-080-060, 020-080-061, and 020-080-062). The City of Hollister has reviewed the proposed application, and has the following comments in response.

1. SB 330 Preliminary Application. Item 4 of the application indicates, correctly, that an SB 330 Application was received by the City of Hollister for a proposed Density Bonus and Tentative Map on June 1, 2022 (PLM 2022-8). However, as you may be aware, SB 330 provides vested rights for a proposed preliminary application if a development application is submitted within 180 days of the submission of a preliminary application containing the list of items outlined in the State Law. The preliminary application expired and hold no remaining vested rights for the proposed project as of November 28, 2022, as a complete development application was not received by the City prior to that date. Additionally, as the property in question is located outside of the jurisdiction of the City, there are no vested development rights which could have been offered to the application because the City has no jurisdiction by which to grant any rights to the property owner.
2. Prezone. Item 5.C. of the application describes the pre zoning of the subject parcel in 1990 with Ordinance 761. Ordinance 761, included herein as Attachment 1 was adopted by the City of Hollister on October 1, 1990 to the “PZ-R-1 District (Single Family Residence)”. Since October 1990, the City of Hollister has adopted two new General Plans – the first being the 1995-2010 General Plan, and the second being the current 2005-2023 City of Hollister General Plan – and is currently in the process of updating the General Plan again. On December 15, 2008, the City of Hollister Adopted Ordinance 1038 repealing and replacing both the City’s Zoning Map and Zoning Ordinance in their entirety. Ordinance 1038 is attached for reference (Attachment 2), as well as a higher quality file of the adopted Zoning Map from Ordinance 1038 (Attachment 3). Attachment 4 contains the text of Section 17.02.030 Districts established and designated of the Hollister



Municipal Code. The Zoning District “PZ-R-1 (Single Family Residence)” to which the subject property was rezoned in 1990 no longer exists in the City of Hollister. Additionally, as you may see, the City of Hollister’s adoption of the amended Zoning Map in 2008 does not demonstrate a rezone existing on these properties today. The rezone from thirty-three years ago is not consistent with the City of Hollister’s current zoning districts and the property would require a current rezoning application to be processed and considered by the City Council.

City Staff have informed the applicant on several occasions that the 1990 Prezone is not valid because it is not a recognized Zoning Designation and that the proper process to proceed with annexation to the City of Hollister is to apply for a request for the Initiation of Prezone with the City of Hollister, and if approved, to file a formal application for Prezone for future annexation with the City for processing. City Staff have also informed the applicant that the proposal should include additional properties to make the proposed annexation area contiguous to the current city limits – see further discussion regarding contiguity below.

3. Environmental Review. City Staff have reviewed the available documents in our records and have not located an environmental review document for the rezone from 1990. Regardless, the California Environmental Quality Act (CEQA) Guidelines and Requirements have changed significantly over the thirty-three-year period from 1990 to 2023. Common practice in CEQA review, also put limits on the age of any environmental analysis that is being considered for useable data – typically five to ten or possibly fifteen years is the longest period in which any technical analysis is considered good data for a modern environmental decision. The LAFCO application does not include any environmental analysis for consideration. Any analysis from the original 1990 rezone, if it exists, should be redone under modern standards and modern site conditions to evaluate the potential impacts of this proposal.

Attachment 5 contains a letter from M. Abraham Prado, former Planning Manager of the City of Hollister, dated June 22, 2018, in which it was indicated to the applicant that a new environmental analysis would be required in order to consider this proposal. The City’s position remains the same today. If the applicant wishes for the City of Hollister to act as the lead agency for the CEQA analysis, they must apply for an application for rezone for annexation to the City. As mentioned above, this would first require an initiation process and authorization to submit such an application to be granted by the City Council.

Item 18 of the application indicates that the City of Hollister is the Lead Agency for this proposal. The City of Hollister **is not** the lead agency for this proposal. No environmental document has been prepared by or certified by the City of Hollister. The City **does not** make this application for annexation to LAFCO, and this application has not been brought before the City of Hollister City Council for consideration. Should LAFCO choose to proceed with this application, LAFCO must act as the Lead Agency for any environmental analysis required for this proposal. The City of Hollister further requests all notice of any preparation of an environmental document for this proposal and should be considered a responsible agency during the course of such review.

Item 18 further suggests that the City of Hollister 2005-2023 General Plan EIR contemplated specific annexation and development of the Hillcrest Annexation Area parcels. The City of Hollister 2005-2023 General Plan EIR is programmatic in nature and may be used to tier off of as appropriate for further analysis (however, noting that some analyses may be inadequate due to age), but a project-specific analysis must be prepared for the annexation proposed.

4. Consistency with City of Hollister General Plan. The 2005-2023 City of Hollister General Plan (“Current General Plan”) designates this property as low density residential which allows 1 to 8 dwelling units per gross acre. The project site, at 47.6 acres, would currently allow a maximum of 380 dwelling units. Item 5.B indicates a proposal to develop 429 single family detached residential units, each with an ADU for a total of 858 new dwelling units. Throughout the application it is listed that no change in land use is proposed or required. If the described project in Item 5.B. is to be proposed, a change in the land use designation within the City of Hollister’s General Plan would be required.

Additionally, it is noted that the City of Hollister is currently in the process of updating the Current General Plan through the year 2040. The Draft City of Hollister 2040 General Plan (“Draft General Plan”) is available for public review and comment, and can be reviewed at [hollister2040.org](http://hollister2040.org). The land use designation of the properties is currently proposed to be changed in the Draft General Plan.

5. Development Application. Item 5.F. of the application indicates that an application for a Density Bonus and Vesting Tentative Map were filed with the City of Hollister on October 25, 2022. This is incorrect. The applicant attempted to submit an application to the City of Hollister Planning Division several times, where, at each attempt the applicant was informed by City Staff that the City does not have a policy in place which permits the City to accept a development application for a property located outside of the City limits for processing. The applicant left documentation with the City of Hollister which was returned to the applicant because it cannot be processed until the subject property of the development application is located within the City Limits. The City has not accepted a development application for the subject property that is located within the jurisdiction of San Benito County.

City Staff had requested of the applicant, for reasons described above, to submit an application for the initiation of rezoning of the properties. The Municipal Code requires City Council authorization prior to Staff accepting and processing a prezone application. The applicant did not submit such an application, and thereby did not express interest in having the City’s assistance or support in moving forward with this annexation through the processes that we require.

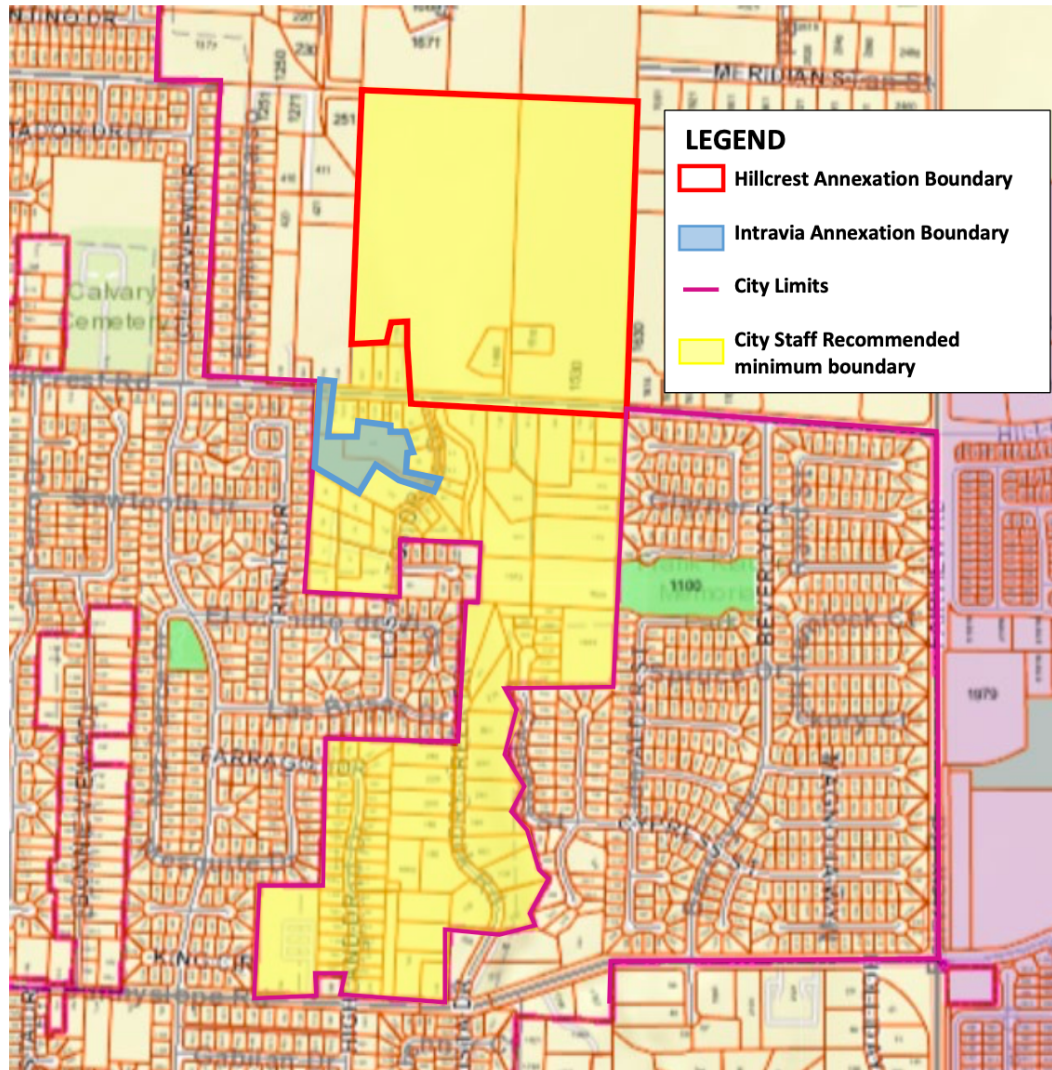
6. Contiguity of Property to City Limits. In discussions with the applicant, City Staff have expressed concerns that the subject properties do not share a contiguous property line with another parcel within City Limits. To the southeast of the subject properties, the current City Limits do contain the full right-of-way of Hillcrest Road along the frontage of properties to the south of the road beginning with APN 060-170-001 on the west and ending with APN 060-180-016 to the east at Fairview Road. This proposal would annex the full right-of-way of Hillcrest Road along the subject properties’ frontage. However, APN 060-170-001 (the nearest parcel within City Limits) and the subject properties share

no contiguous property lines and the only point of contiguity with the City Limits if annexed would be the right-of-way of Hillcrest Road itself. No properties on either side of Hillcrest Road would join the properties, and the annexation area would act as a quazi-island of City property, surrounded to the north, south, east, and west by county land.

Additionally, the properties proposed for annexation, while not fully forming a “county island” to the south if approved for annexation, would further exacerbate the existing county “peninsula” of land that currently exists. The proposed City Limit boundary is illogical and does not promote orderly growth and expansion of the City Limits.

Additional lands should be included within the annexation proposal to both eliminate the county “peninsula” which is likely to become an “island” if not incorporated in an orderly fashion, and to create an orderly City boundary. Consideration of the ultimate City Limit line should also be taken as to the Intravia Annexation which was recently approved by the City Council and is currently under review by LAFCO. See Figure 1 below showing the current city limits, proposed Hillcrest Annexation area, proposed Intravia Annexation area, and City Staff’s recommended minimum area of annexation should the Hillcrest Annexation area be approved for annexation. Note that City Staff’s recommended minimum boundary has not been reviewed for consideration by the City Council, and City Staff would recommend both their consideration of an ultimate boundary and proper outreach to all property owners involved prior to any decision being made on such a proposal.

Figure 1.



7. Availability of Services. The Application indicates that all services are available and can be provided by the City of Hollister. This has not been evaluated by the City, and a Plan for Services has not been provided. City makes no statement of its ability to provide such services at this time and requests a full evaluation of the services proposed to be provided and the proposed impact that annexation and future development of this property will have on the City's facilities and operations.
8. Bonded Indebtedness. Item 17 of the application indicates that the affected properties are subject to bonded debt and that the City of Hollister should provide a statement to describe this debt. The City of Hollister has not made this application to LAFCO for a request for annexation. The applicant should provide this information for LAFCO and the City of Hollister for review and consideration. City Staff does not know what debt is being referenced by the Applicant.

9. Property Owner Involvement. Records indicate that APNs 020-040-060 and 020-040-062 are not owned by the Applicant nor are the property owners listed within the application. All property owners proposed for annexation should be listed within the application and notified of the proposal which affects their property.

Due to the lack of proper rezoning to a current zoning district, City Council consideration and recommendation, and contiguity to City Limits, the City of Hollister recommends that LAFCO deny the proposed annexation application.

If, however, it is the desire of LAFCO to consider approval of the annexation request, proper environmental documentation and an analysis of the provision of City services to the parcel must be prepared. The City requests review of any such documentation prior to approval. It is the City's recommendation that the City of Hollister City Council also be granted consideration of the proposed boundary, and property zoning designation prior to annexation.

Again, we wish to thank you for the opportunity to comment on this annexation request which was received by LAFCO. If you have any questions or concerns regarding these comments, please contact me at [eva.kelly@hollister.ca.gov](mailto:eva.kelly@hollister.ca.gov) or 831.636.4360.

Sincerely,

Eva Kelly  
Interim Planning Manager  
Development Services Department – Planning Division  
City of Hollister

CC:

Christy Hopper, Development Services Director  
Dave Mirrione, Interim City Manager

Attachments:

1. Ordinance 761 – October 1, 1990
2. Ordinance 1038 – December 15, 2008
3. Adopted Zoning Map – Ordinance 1038
4. Hollister Municipal Code Section 17.02.030 Districts established and designated
5. June 22, 2018 Letter to Applicant from M. Abraham Prado



Alexander Sywak &lt;alex.sywak@gmail.com&gt;

---

**2040 GP**

---

**Alexander Sywak** <alex.sywak@gmail.com>

Mon, Aug 7, 2023 at 8:00 AM

To: generalplan@hollister.ca.gov, Planning Dept <planning@hollister.ca.gov>, christine hopper <christine.hopper@hollister.ca.gov>, David Mirrione <David.Mirrione@hollister.ca.gov>, Kevin Henderson <getkevinh@gmail.com>, Carol Lenoir <lbnricky@yahoo.com>, David Huboi <huboi@huboi.com>, Steven Belong <steve.belong@dc16sj.org>, Luke Corona <muledeer54@gmail.com>, Mia Casey <cohmayor.casey@hollister.ca.gov>, Ingrid Sywak <ingrid.sywak@gmail.com>

Dear Planning Commissioners, Please review our attached comments re the GP Update scheduled for Thursday.

Happy to discuss anytime. Ingrid and Alex Sywak (408) 309-9253.

**20230807 PC to re GP.pdf**

15292K

SAN BENITO LOCAL AGENCY FORMATION COMMISSION  
NOTICE OF PUBLIC HEARING

Thursday, February 8, 2024  
4:00 p.m. (or as soon thereafter as possible)  
in the  
Board of Supervisors Chambers  
481 Fourth Street, Hollister, CA 95023

Notice is hereby given that the San Benito Local Agency Formation Commission (LAFCo) will hold a public hearing to consider the following item:

**Annexation to the City of Hollister of five parcels constituting 8.22 acres more or less at the terminus of Glenmore Drive.**

This proposal is for a private petitioner-initiated annexation to the City of Hollister of five parcels totaling 8.22 acres more or less of territory that is located between Homestead Avenue and Powell Street at the terminus of Glenmore Drive and is within the City's Sphere of Influence. The proposal comprises APNs 020-080-022, 020-080-005, 020-080-007, 020-080-013, and 020-080-021. The application was filed by the private petitioner – NATMAR, L.P. The proposal, if approved, would result in the addition of 8.22 acres more or less to the City of Hollister.

The Commission will consider oral and written testimony by any interested person or affected agency as well as the report of the Executive Officer. At the hearing, the Commission may approve or disapprove a proposal with or without amendment, wholly, partially, or conditionally, may include or exclude territory in a change of organization or may continue its consideration with or without amendment, as a whole, in part, or upon such conditions as the Commission may determine. The extension or continuation of any previously authorized charge, fee, assessment, or tax by a local agency or a successor local agency may be applied in the affected territory. The Commission will consider affirming the findings outlined in the City of Hollister's Initial Study/Mitigate Negative Declaration developed for the pre-zoning of the affected territory on December 1, 2015. This notice complies with Section 15182 of the CEQA Guidelines.

Persons may attend and be heard at the time and place of the hearing. If you challenge the action of the Commission on any of the above stated items in court, it may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the San Benito Local Agency Formation Commission at, or prior to, the public hearing.

The Executive Officer's report will be available for review at the San Benito County Resource Management Agency located at 2301 Technology Parkway Hollister, CA 95023, and as practicable, the LAFCO website <https://www.cosb.us/departments/lafco> five (5) days prior to the hearing. The contact person is Jennifer Stephenson, Executive Officer who may be reached at (310) 936-2639 or [jennifer@pcateam.com](mailto:jennifer@pcateam.com).



# Superior Court of California County of San Benito

## Tentative Decisions for June 26, 2024

**Courtroom #1: Judge J. Omar Rodriguez**

**8:30a.m.**

**CU-22-00156 Perez v. EDPO, LLC, et al.**

There being no opposition, and the underlying settlement having been signed by all parties or their representatives, the court grants final approval of the proposed settlement.

**10:30 a.m.**

**PR-23-00012 Estate of Steven Harold Bulger**

The Petition for Final Distribution is APPROVED as requested.

**PR-23-00018 In re Tarek Yasin**

The hearing is continued to July 24, 2024, at 10:30 a.m. to allow for the completion of the investigation and report.

**PR-24-00042 In re Joshua Hinsta**

The hearing is continued to July 24, 2024, at 10:30 a.m. to allow for the completion of the investigation and report.



**3:30 p.m.**

**CU-22-00247 Center for Biological Diversity and Protect San Benito County v. San Benito County**

In light of the current status of Plaintiff's appeal, the court will continue to stay this matter pending the ruling of the Sixth District Court of Appeal. Oral Argument is scheduled for 7-18-24. Defendants and real parties in interest motion for attorney's fees is stayed pending the ruling of the sixth district court of appeals. The status conference and setting for hearing on the motion is continued to September 18, 2024, at 10:30 a.m.

**CU-23-00183 Natmar L.P., a California Limited Partnership, et al. v. City of Hollister, et al.**

The Court GRANTS the Defendants Motion to Strike as to the Third and Fourth Causes of Action, which allege Violations of Due Process and Denial of Equal Protection, respectively. Following an order sustaining a demurrer, the plaintiff may amend his or her complaint only as authorized by the court's order. (*Harris v. Wachovia Mortgage, FSB* (2010) 185 Cal.App.4th 1018, 1023.) The plaintiff may not amend the complaint to add a new cause of action without having obtained permission to do so, unless the new cause of action is within the scope of the order granting leave to amend. (*Ibid.*) The Third and Fourth Causes of Action are unrelated to an distinct from the other causes of action that were asserted in the original Complaint. They require different analyses of the facts, have different essential elements to establish a prima facie case, and have distinct thresholds of liability. Most notably though, they are advanced under a separate body of law (federal law as opposed to state law). As such, Plaintiffs' inclusion of these causes of action without obtaining leave from the Court is improper.

A demurrer generally serves to test the legal sufficiency of the complaint's factual allegations. (*Genis v. Schainbaum* (2021) 66 Cal. App. 5<sup>th</sup> 1007, 1014.) It does not test the

Page 2 of 6

**\*\*Please contact Judicial Courtroom Assistant, Wendy Guerrero, at (831) 636-4057 x129 or [wguerrero@sanbenitocourt.org](mailto:wguerrero@sanbenitocourt.org) with any objections or concerns.**

factual accuracy or truth of the facts alleged. The court must assume the truth of all properly pled allegations. The process of a demurrer does not serve to test the merits of the Plaintiff's case. (*Tenet Health System Desert Inc. v. Blue Cross of CA. (2016) 245 Cal App 4th 821, 834.*) Because a demurrer only challenges the defects on the face of the complaint, it can only refer to matters outside the pleadings which are subject to judicial notice. (*Id.* at 831.) For demurrer, a judge must treat the demurrer as an admission of all material facts properly pled in the challenged pleading or that reasonably rise by implication, however improbable they are. (*Collins v. Thurmond (2019) 41 Cal. App 5th 879, 894.*)

The failure to state facts sufficient to constitute a cause of action are proper to sustain a demurrer. (CCP §430.10 (e); see also *Esparza v. County of Los Angeles (2014) 224 Cal. App. 4th 452,459.*) To prevail against the challenge, the complaint must sufficiently allege 1) every element of that cause of action and 2) the Plaintiff's standing to sue. (*Shaeffer v. Califa Farms, LLC (2020) 44 Cal. App. 5th 1125, 1134.*) The facts that must be included in the complaint to properly allege a cause of action are the essential elements of that cause of action, as determined by the substantive law defining that cause of action. (*Foster v. Sexton (2021) 61 Cal. App. 5th 998, 1018.*) A plaintiff need only plead ultimate facts rather than evidentiary facts. (*CW Johnson and Sons v. Carpenter (2020) 53 Cal. App. 5th 165,169.*) A plaintiff however must allege the essential facts with "clearness and precision so that nothing is left to surmise," and those allegations of material fact that are left to surmise are subject to demurrer. (CCP§430.10 sub. (f); *Bernstein v. Pillar (1950) 98 Cal. App. 2nd 441,443.*) The court may sustain demurrer without leave to amend, unless there is a reasonable probability that the Plaintiff will be able to cure by amendment. (*Goodman v. Kennedy (1976) 18 Cal. 3rd 335, 349.*)

As to the First Cause of Action, Ordinary Mandamus pursuant to Code of Civil Procedure section 1085, the Demurrer is OVERRULED.

"A traditional writ of mandate will issue to 'compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station' (Code Civ. Proc., § 1085), 'where there is not a plain, speedy, and adequate remedy, in the ordinary course of law' (*id.*, § 1086). (*CV Amalgamated LLC v. City of Chula Vista (2022) 82 Cal.App.5th 265, 278.*) Traditional mandamus under CCP §1085 can be used to compel the performance of a

duty which is purely ministerial in character, it cannot be applied to control discretion to a matter lawfully entrusted to a commission. (*State v. Sup. Ct.* (1974) 12 Cal. 3<sup>rd</sup> 237, 247.) The appropriate method for challenging a ministerial decision, even one involving vested rights, is traditional mandamus under CCP §1085. (*Di Genova v State Bd. of Educ.* (1955) 45 Cal.2d 255; *Poschman v Dumke* (1973) 31 Cal.App.3d 932, disapproved on other grounds in *Armistead v State Personnel Bd.* (1978) 22 Cal.3d 198, 204 n3.) A statute or an ordinance that clearly defines the course of action that a governmental body or official must take in specified circumstances and eliminates any element of discretion imposes a ministerial duty. (*Monterey Coastkeeper v Central Coast Reg'l Water Quality Control Bd., Central Coast Region* (2022) 76 Cal.App.5th 1, 18; *Ellena v Department of Ins.* (2014) 230 Cal.App.4th 198, 205. See, e.g., *Kreutzer v County of San Diego* (1984) 153 Cal.App.3d 62 (if there is mandatory duty to suspend or revoke license on conviction of specified crime, ministerial duty is involved and no hearing is necessary).)

Ministerial acts involve no judgment or discretion by the public official as to the wisdom or manner of carrying out the activity. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. (*Protecting Our Water & Env't'l Resources v County of Stanislaus* (2020) 10 Cal.5th 479, 489.) A ministerial decision involves only the use of fixed standards or objective measures, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. (*Mountain Lion Found. v Fish & Game Comm'n* (1997) 16 Cal.4th 105, 117.)

Here, the allegation is the FAC is that the City failed to allow Plaintiffs to file either of the VTMs under California Government Code section 66454, which states that “(a)ny subdivider may file with a city the tentative map of a proposed subdivision of unincorporated territory adjacent to such city.” Here, the FAC alleges that Plaintiff complied with this statute and that the City arbitrarily refused such a filing, thereby prohibiting Plaintiffs from exercising its ability as referenced in Section 66454 to file with a city the tentative map.

As to the Second Cause of Action, Administrative Mandamus pursuant to CCP section 1094.5, the Demurrer is SUSTAINED. A petition under CCP §1094.5 for administrative mandamus is appropriate when a party seeks review of a “final determination, finding, or

decision of a public agency, made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in a public agency.” (*California Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal. App. 4<sup>th</sup> 1464, 1482. (*California Water*)). Here, there are no allegations of facts adduced at hearing or findings thereon for judicial review. Nor have Plaintiffs alleged that any final adjudicatory or quasi-judicial decision was made by any of the Defendants in this matter. Thus, administrative mandamus is not appropriate here, and the City's demurrer to the Second Cause of Action is sustained.

As to the Fifth Cause of Actions, the demurrer is sustained with leave to amend. Plaintiffs have not stated that they suffered a legally cognizable Inverse Condemnation or regulatory Taking, as they cannot meet the factors under *Penn Central Transp. Co. v. New York City* (1978) 438 U. S. 104, 124. Plaintiffs have failed to allege any facts demonstrating that they have suffered a legally cognizable inverse condemnation or regulatory taking. (*Customer Co. v. City of Sacramento* (1995) 10 Cal.4<sup>th</sup> 368, 377.) Such actions are limited to physical invasions of property taken for "public use" in eminent domain and special and direct damage to adjacent property resulting from public improvements. (Id at 879-380.) Accordingly, "in order to state a cause of action for inverse condemnation, there must be an invasion or an appropriation of some valuable property right which the landowner possesses and the invasion or appropriation must directly and specially affect the landowner to his injury." (*Selby Realty Co. v. City of San Buenaventura* (1973) Cal.3d 110, 117.)

As to the individual defendants, the Demurrer is SUSTAINED without leave to amend. "Where property damage results from the acts of employees, and not from a policy decision, there is no taking." (*Paterno v. State of Cal.* (1999) 74 Cal.App.4th 68, 87; see also *Customer Co. v. City of Sacramento* (1995) 10 Cal.4th 368, 378.)

The Defendant's Demurrer is sustained with leave to amend. California has a strong policy favoring liberality in amending pleadings. When the complaint, liberally construed, can state a cause of action under any theory or there is a reasonable possibility that amendment could cure the defect, it is an abuse of discretion to deny leave to amend. (*Alborzi v. Univ. of Southern Cal.* (2020) 55 Cal, App. 4<sup>th</sup> 155, 183.) Denial of leave to amend is proper when no amendment could change the result, such as when, as a matter of law, the

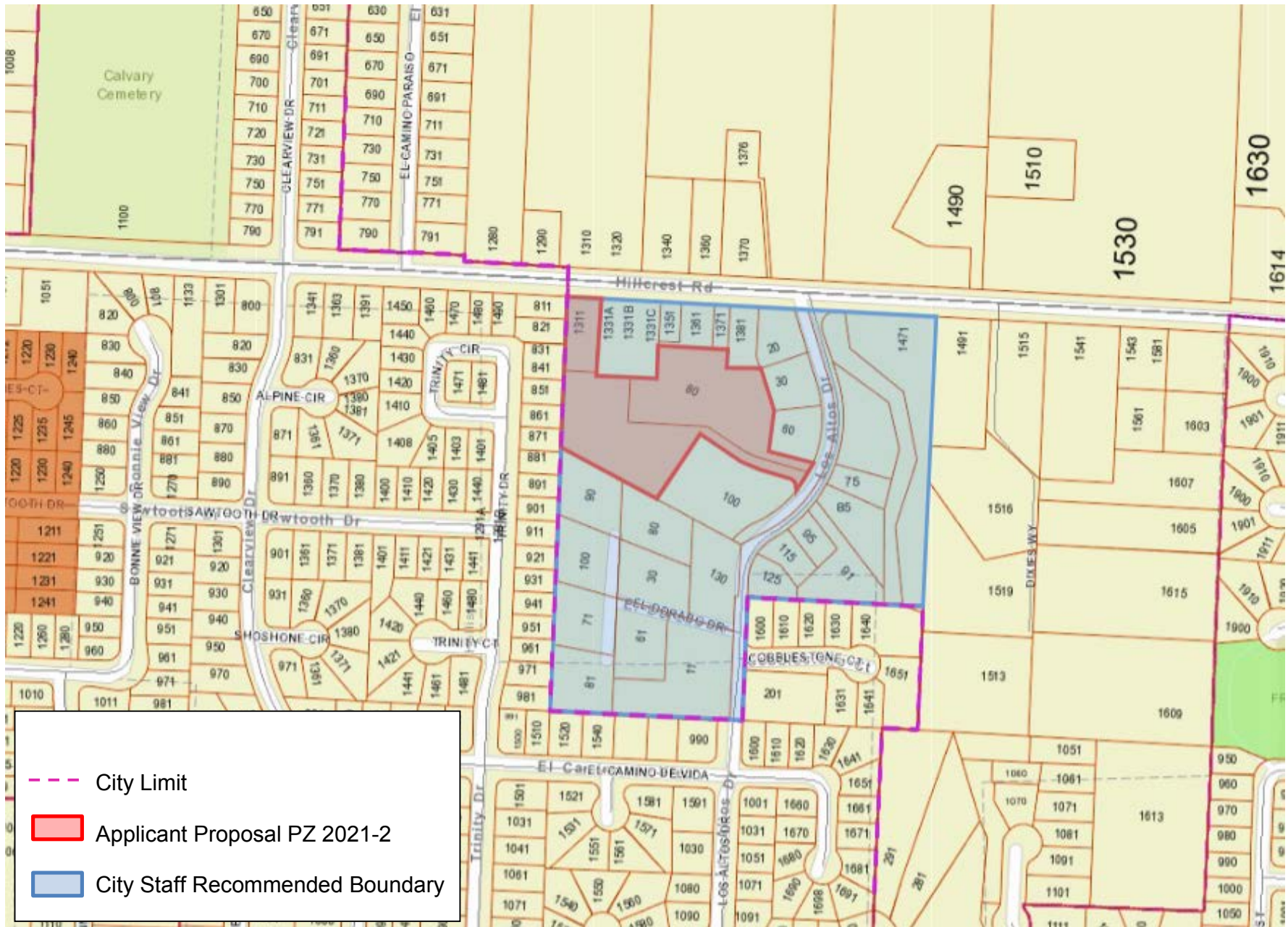
defendant has no liability to the plaintiff. (*Nealy v. County of Orange* (2020) 54 Cal. App. 4<sup>th</sup> 594, 608-609.) Denial of leave to amend is appropriate only when it conclusively appears that there is no possibility of alleging facts under which recovery can be obtained. (*Cabral v. Soares* (2007) 157 Cal. App. 4<sup>th</sup> 1234, 1240.)

**PR-24-00048 In re Gertrude Hansen Trust**

The Petition for Appointment of Successor Trustee is APPROVED as requested.

**END OF TENTATIVE DECISIONS**

**\*\*Please contact Judicial Courtroom Assistant, Wendy Guerrero, at  
(831) 636-4057 x129 or [wguerrero@sanbenitocourt.org](mailto:wguerrero@sanbenitocourt.org) with  
any objections or concerns.**



- City Limit
- Applicant Proposal PZ 2021-2
- City Staff Recommended Boundary

Joe Tonascia  
2325 Southside Road  
Hollister, CA 95023

August 20, 2024

**Re: July 2024 Draft Hollister General Plan 2040**

Dear Mayor Casey and Honorable City Council Members:

I have had the chance to review the July 2024 draft Hollister General Plan 2040, which was recently released for public review. I've previously requested that my property located east and southeast of Ladd Lane School, which is intersected by Union Road, be re-designated in the Hollister General Plan 2040 for residential uses. Previously, the Hollister General Plan 2040 showed the part of my property north of Union Road designated as residential and the south of Union Road designated as agriculture.

The July 2024 draft Hollister General Plan 2040 now shows my property as included in the Union Road Specific Plan Area and designated for residential uses. Thank you for accommodating my request for residential designations.

Unfortunately, the inclusion of my property within a Specific Plan Area creates new issues. For starters, this development will result in further delays to any future plans I may have for this property, which is proving more and more difficult to farm given increasing urban development pressures. For example, Section 3.4 of the July 2024 draft Hollister General Plan 2040 states that such specific plans be adopted by the City Council and that "additional policy direction to guide development in these areas will be developed and adopted before development occurs." The adoption of these plans and creation of policies for adoption, which will be required before development occurs, could be a lengthy process, and cause further indefinite delays to contributing to the housing needs of this community. I've been prevented from even submitting an application for almost a year already.

I am also now concerned that a Specific Plan Area will significantly increase development costs and would ultimately prevent development of affordable housing units and necessary infrastructure. The goal of the specific plan area is to create a "single project." However, if I am ready to proceed with my project before any of my neighbors, I may be required to advance the cost to construct infrastructure improvements to serve the entire specific plan area. Unless I elect to pass on those costs to buyers, which would increase housing prices, those costs would be excessive and would inhibit me from moving ahead with my project until others are ready with their projects and can share in such costs.

Again, thank you for the residential designations of my Union Road property. Please consider removing the Union Road Specific Plan Area if you want timely and affordable residential development.

Sincerely,

DocuSigned by:



Joe Tonascia

CC: Hollister Planning Commission