



MEETING DATE: 10/2/06
ITEM NO: 1

COUNCIL AGENDA REPORT

DATE: SEPTEMBER 20, 2006
TO: MAYOR AND TOWN COUNCIL
FROM: DEBRA J. FIGONE, TOWN MANAGER *[Signature]*
SUBJECT: ADOPT RESOLUTION SETTING DATE (OCTOBER 16, 2006) FOR CONSIDERATION OF REORGANIZATION OF UNINHABITED AREA DESIGNATED "TOPPING WAY NO. 4", APPROXIMATELY 0.633 ACRES LOCATED AT 16622 TOPPING WAY (APN: 532-09-021)

RECOMMENDATION:

Adopt resolution (Attachment 1) setting date for consideration of reorganization of uninhabited area designated "Topping Way No. 4", approximately 0.633 acres located at 16622 Topping Way (APN: 532-09-021).

BACKGROUND:

The Town has an agreement with Santa Clara County that requires annexation of any property located within the Town's Urban Services Area boundary and within 300 feet of the Town limits if the use is intensified. The property owner has requested approval from the Community Development Department to construct a new house on the site.

Section 56757 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 gives the cities in Santa Clara County the authority to annex territory without application to and hearing by the Santa Clara County Local Agency Formation Commission (LAFCO). The process is initiated by the Town after the property owner files an annexation petition. However, legislation that became effective in 2004 now requires us to hold a "protest proceeding" even if the area proposed for annexation is uninhabited and all property owners have consented to the annexation. This first meeting and resolution sets the date for the protest proceeding.

PREPARED BY:

John E. Curtis
JOHN E. CURTIS
Director of Parks and Public Works

N:\B&E\COUNCIL REPORTS\Annex-Topping-4 Introduce.doc

Reviewed by: PS Assistant Town Manager OK Town Attorney
____ Clerk Administrator SC Finance ____ Community Development

PAGE 2

MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION SETTING DATE (OCTOBER 16, 2006) FOR
CONSIDERATION OF REORGANIZATION OF UNINHABITED AREA
DESIGNATED "TOPPING WAY NO. 4", APPROXIMATELY 0.633 ACRES
LOCATED AT 16622 TOPPING WAY (APN: 532-09-021)
SEPTEMBER 20, 2006

DISCUSSION:

The Town has received a petition from Topping Way, L.P. (Attachment 2), owners of the property at 16622 Topping Way, requesting annexation to the Town of Los Gatos. The property is located in Englewood Avenue area, one of the unincorporated "island" of the County.

In addition to the lot proposed for annexation, the Town will also be acquiring approximately 288 linear feet of Topping Way, in conformance with the Santa Clara County Road Annexation Policy.

The property is in the Town's Urban Services Area, boundary, and is rezoned R1:8 (single family residential, 8,000 sq. ft. minimum lot size). Annexation will allow "city" services to be extended to the property and help in fill an existing County "island."

Request for waiver of the protest proceeding has been sent to Santa Clara County and the County Library Service Area. These agencies have responded and have waived their right to a protest proceeding (Attachments 3 & 4). The protest proceeding has been scheduled for October 16, 2006.

CONCLUSION:

Staff recommends that the Council accept the staff recommendations noted above.

ENVIRONMENTAL ASSESSMENT:

Annexation of the subject property is exempt for the California Environmental Quality Act guidelines, pursuant to Section 15061(b)(3).

FISCAL IMPACT:

The following fees are assessed by Santa Clara County, LAFCO and the State Board of Equalization, and must be paid by the petitioner:

Map, Legal Description and Guideline Checking Fees	\$2,000.00 (paid)
Santa Clara County Assessor's Review Fee.....	55.00 (paid)
LAFCO Processing Fee.....	670.00 (paid)
State Board of Equalization Fee	300.00 (paid)

PAGE 3

MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION SETTING DATE (OCTOBER 16, 2006) FOR
CONSIDERATION OF REORGANIZATION OF UNINHABITED AREA
DESIGNATED "TOPPING WAY NO. 4", APPROXIMATELY 0.633 ACRES
LOCATED AT 16622 TOPPING WAY (APN: 532-09-021)

SEPTEMBER 20, 2006

The petitioner has paid the Town an Annexation Fee of \$2,400.00, a Computer Service Fee of \$96.00, and a Microfiching Fee of \$30.00.

Once the annexation is certified by the State Board of Equalization, the Town will receive nine point six percent (9.6%) of the property taxes.

Attachments:

1. Resolution making determinations and approving the reorganization of territory designated "Topping Way No. 4" approximately 0.633 acres located at 16622 Topping Way (APN: 532-09-021) - (with Exhibits A and B).
 - A. Legal Description of Topping Way No. 4 Annexation.
 - B. Plat to Accompany Legal Description.
2. Petition for Annexation
3. Waiver of Protest Proceeding - Santa Clara County
4. Waiver of Protest Proceeding - Santa Clara County Library Service Area

Distribution:

Topping Way, L.P., 1975 El Camino Real West, Suite 202, Mountain View, CA 94040

Stanley F. Nielson, Nielson Architects, Inc., 2540 Camino Diablo, Suite 201, Walnut Creek, CA 94597

Michael Lopez, Interim Planning Director; Environmental Resources Agency, 7th Floor; County Government Center, East Wing; 70 W. Hedding Street, San Jose, CA 95110

RESOLUTION

RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
SETTING DATE FOR CONSIDERATION OF REORGANIZATION
OF UNINHABITED TERRITORY DESIGNATED
“TOPPING WAY NO. 4,”
PROPERTY LOCATED AT 16622 TOPPING WAY;
APPROXIMATELY 0.633 ACRES (APN: 532-09-021)

WHEREAS, the Town Council of the Town of Los Gatos has received a request for annexation of territory designated “Topping Way No. 4” from Topping Way, L.P.; and

WHEREAS, the property, 0.633 acres, more or less, at 16622 Topping Way (APN: 532-09-021) is contiguous to the Town of Los Gatos and is within its urban service area; and

WHEREAS, the following special district would be affected by the proposal: Santa Clara County Library Service Area; and

WHEREAS, the annexation would provide for use of Town services; and

WHEREAS, this territory was pre-zoned over 25 years ago to Town of Los Gatos rezoning R1:8 (single family residential, 8,000 sq. ft. minimum lot size); and

WHEREAS, the Town of Los Gatos, as Lead Agency for environmental review for the reorganization has determined annexation of the subject property is exempt for the California Environmental Quality Act guidelines, pursuant to Section 15061(b)(3); and

WHEREAS, the County Surveyor of Santa Clara County has found the description and map (Exhibits “A” and “B”) to be in accordance with Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with LAFCO’s street annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the Town Council of the Town of Los Gatos shall be the conducting authority for a reorganization including an annexation to the Town; and

WHEREAS, the territory is uninhabited and all owners of land included in the proposal have consented to this annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of land within the affected territory the Town Council may approve or disapprove the annexation without public hearing;

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Los Gatos hereby initiates annexation proceedings and will consider annexation of the territory designated as "Topping Way No. 4" at their regular meeting of October 16, 2006.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 2nd of October 2006, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

EXHIBIT "A"

**PROPOSED ANNEXATION TO THE TOWN OF LOS GATOS
ENTITLED: "TOPPING WAY No. 4"**

Date: August 21, 2006

All that real property situated in the County of Santa Clara, State of California, being a portion of Section 22, Township 8 South, Range 1 West, and more particularly described as follows:

BEGINNING at the northeasterly end of the curve on Lot 55, as shown on that certain Map entitled "Tract No. 328, Kenwood Acres", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, in Book 10 of Maps at page 56, said point being on the southerly line of Topping Way, as shown on said Map, and being the southeasterly corner of that certain annexation to the Town of Los Gatos entitled "Topping No. 3";

- 1) Thence along the northerly line of said Lot 55 and the northerly line of said Lots 56 and 57, and the southerly line of Topping Way South $77^{\circ}51'45''$ East, 213.15 feet to the northwesterly corner of Lot 58 of said Tract No. 328, Kenwood Acres;
- 2) Thence along the westerly line of said Lot 58 South $12^{\circ}08'15''$ West, 137.00 feet to the southwest corner of said Lot 58;
- 3) Thence along the southerly line of said Lot 58 South $77^{\circ}51'45''$ East, 75.00 feet to the southeasterly corner of said Lot 58;
- 4) Thence along the easterly line of said Lot 58 North $12^{\circ}08'15''$ East, 137.00 feet to the northeasterly corner of said Lot 58 and the southerly line of Topping Way;
- 5) Thence North $12^{\circ}08'15''$ East, 60.00 feet to the northerly line of Topping Way;
- 6) Thence along said northerly line of Topping Way North $77^{\circ}51'45''$ West, 288.15 feet to the northeasterly corner of said annexation "Topping Way No. 3";
- 7) Thence along the easterly line of said annexation "Topping Way No. 3" South $12^{\circ}08'15''$ West, 60.00 feet to the POINT OF BEGINNING.

Said parcel of land containing 27,564 square feet or 0.633 acres, more or less.

End of description

Prepared By:

Alberto Gomez-Masso
RCE 20442
Registration Expires: 03-31-08
Date signed: *8-22-06*



AG Masso

EXHIBIT A



EXHIBIT "B"

PROPOSED ANNEXATION TO THE TOWN OF LOS GATOS

ENTITLED: "TOPPING WAY NO. 4"

BEING A PORTION OF SEC. 22, T8S, R1W

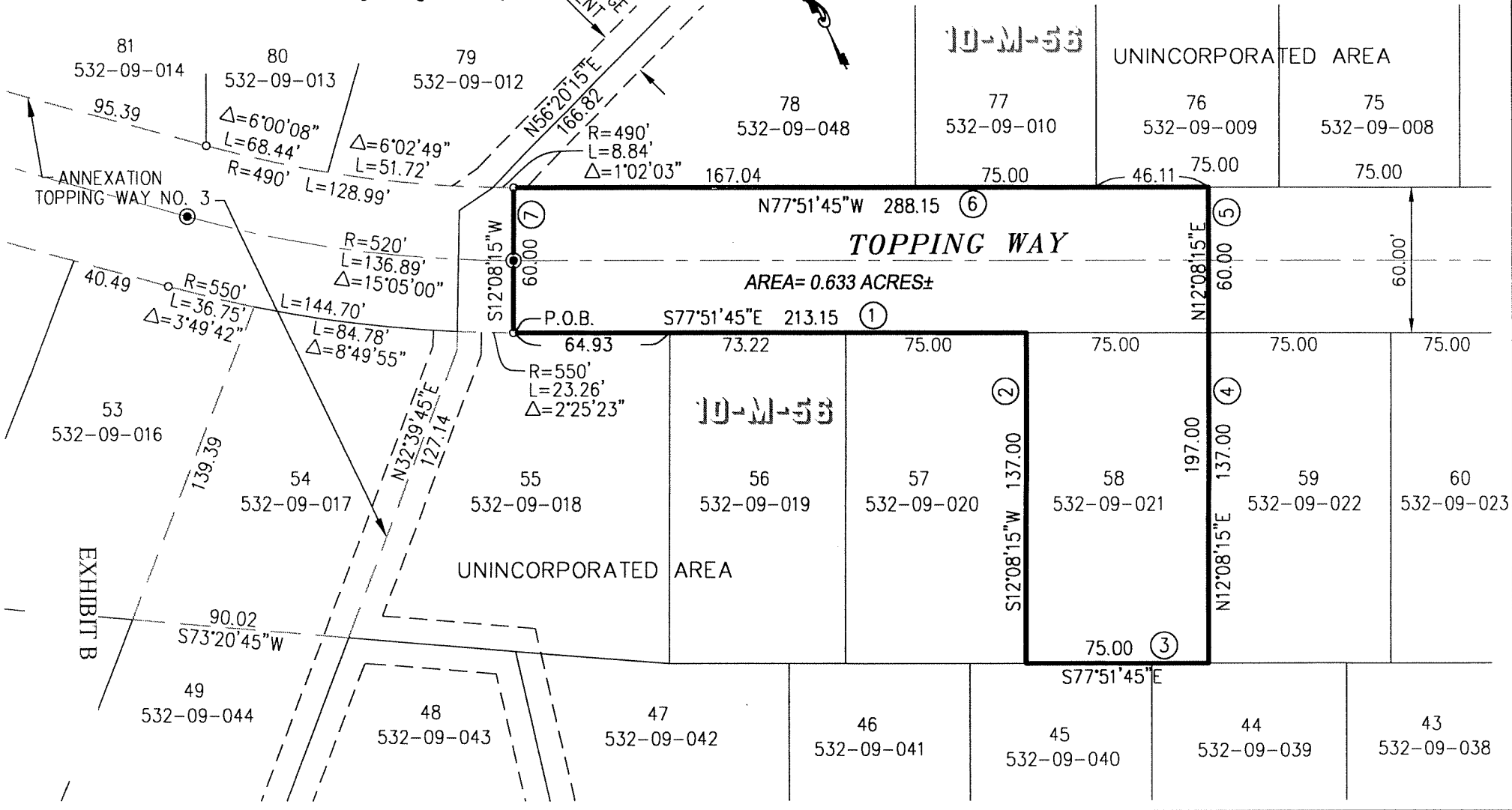
SCALE: 1" = 60'

DATE: AUGUST 21, 2006

LEGEND

- LOS GATOS TOWN LIMITS
- ===== PROPOSED ANNEXATION LIMITS
- STREET CENTERLINE
- EASEMENT LINE
- EXISTING PROPERTY LINE
- MONUMENT PER 10-M-56

AG Margoso
Date signed: *8-22-06*



PETITION

FOR THE ANNEXATION OF TERRITORY TO THE TOWN OF LOS GATOS

The undersigned hereby petition the Town Council of the Town of Los Gatos for approval of a proposed annexation, and stipulate as follows:

1. This proposal is made pursuant to Part 3, Division 3, Title 5 of the California Government Code (commencing with Section 56000, Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000).

2. The proposed annexation is designated as: (To be completed by Town Staff)
Topping Way No. 04 and consists of
Annexation to the Town of Los Gatos of 0.633 acres on the (N/S/E/W) side
of Topping Way (street name) between Englewood Ave
(street name) and Hilow Road (street name).

3. A metes and bounds description of the exterior boundaries of the territory included in the proposal, marked "Exhibit 'A'", and a map of said territory, marked "Exhibit 'B'", are attached to this petition and by this reference incorporated herein.

4. The territory to be annexed is:
 inhabited (12 or more registered voters)
 uninhabited (less than 12 registered voters).

5. This proposal is consistent with the Sphere of Influence of the Town of Los Gatos.

6. The reason(s) for the proposed annexation is/are:
OBTAIN MUNICIPAL SERVICES

7. It is desired that the proposed annexation be made subject to the following terms and conditions:
NONE

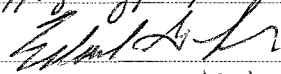

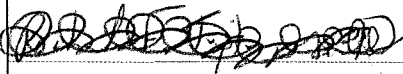
8. The person(s) signing this petition has/have signed as (check one):

_____ owner(s) of land within the affected territory.

_____ registered voter(s) within the affected territory.

9. The undersigned proponents ()do/()do not (*check one*) own 100 percent of the territory proposed for annexation.

Wherefore, petitioner(s) request(s) that be taken in accordance with the provisions of Section 56000 et seq. of the Government Code, and herewith affix signature(s) as follows:

SIGNATURES OF PETITIONERS (Please print name below signature)	MAILING ADDRESS	ASSESSOR'S PARCEL NO.
<i>Colvin Investments, LLC (owner) / Robert Topping, LP, Edward G. Lusk</i>  DATE: 6/20/06	1975 El Camino Real #207 Mt. View, CA 94040 Phone: H - 610-914-8278	532-09-021 532-09-021 W - 610-428-0565
 DATE:	Phone: H -	W -
 DATE:	Phone: H -	W -

For additional signatures, use Supplemental Petition.

WHEN COMPLETE RETURN TO:

**TOWN OF LOS GATOS
 PARKS & PUBLIC WORKS DEPARTMENT
 41 MILES AVENUE
 LOS GATOS, CALIFORNIA 95030**

PHONE: (408) 399-5771

CONSENT TO WAIVE PROTEST PROCEEDINGS

This form must be completed by agencies losing or gaining territory if they desire that protest proceedings be waived.

DESIGNATED TITLE OF PROPOSAL: Topping Way No. 4

Brief Description of Proposal:

This proposal is to annex a single parcel of residential property to the Town of Los Gatos. It is adjacent to the Town boundary, within the Town's Urban Service Area Boundary, not under the Williamson Act, does not create "islands", conforms to lines of assessment and has less than 12 registered voters.

Address: 16622 Topping Way, Los Gatos, CA 95032

Assessor's Parcel Number: 532-09-021

The County of Santa Clara, losing territory as a result of this proposal does hereby consent to the waiver of protest proceedings in accordance with Government Code Section 56663 (c) & (d).

[Signature]
Signature of Authorized Representative

September 14, 2006
Date

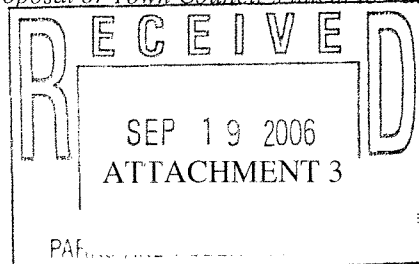
Interim Planning Manager
Title of Representative

In the case of inhabited (12 or more registered voters) or uninhabited city or district annexations or detachments or both, § 56663 (c) & (d) of Government Code allows for waiver of protest proceedings if:

<i>Uninhabited area [§56663(c)] Area with less than 12 registered voters</i>	<i>Inhabited area [§56663(d)] Area with 12 or more registered voters</i>
<i>All owners of land within affected area consent to annexation</i>	<i>Town provided written notice (of project and Town's intent to not hold a protest proceeding) to all property owners and registered voters and if no written opposition is received from them prior to conclusion of meeting</i>
<i>All affected agencies that gain or lose territory give written consent to waiver of protest proceedings</i>	<i>All affected agencies that gain or lose territory give written consent to waiver of protest proceedings</i>

If at the public hearing there is opposition expressed regarding the proposal or Town Council's intent to waive protest proceedings, then protest proceeding will be required.

Enclosures: Detailed Map and Description of proposal



CONSENT TO WAIVE PROTEST PROCEEDINGS

This form must be completed by agencies losing or gaining territory if they desire that protest proceedings be waived.

DESIGNATED TITLE OF PROPOSAL: Topping Way No. 4

Brief Description of Proposal:

This proposal is to annex a single ^ acre parcel of residential property to the Town of Los Gatos. It is adjacent to the Town boundary, within the Town's Urban Service Area Boundary, not under the Williamson Act, does not create "islands", conforms to lines of assessment and has less than 12 registered voters.

Address: 16622 Topping Way, Los Gatos, CA 95032

Assessor's Parcel Number: 532-09-021

The Santa Clara County Library Service Area, losing territory as a result of this proposal does hereby consent to the waiver of protest proceedings in accordance with Government Code Section 56663 (c) & (d).

Key F. ...
Signature of Authorized Representative

9/15/06
Date

ADMIN SERVICES MGR III
Title of Representative

In the case of inhabited (12 of more registered voters) or uninhabited city or district annexations or detachments or both, § 56663 (c) & (d) of Government Code allows for waiver of protest proceedings if:

<i>Uninhabited area [§56663(c)] Area with less than 12 registered voters</i>	<i>Inhabited area [§56663(d)] Area with 12 or more registered voters</i>
<i>All owners of land within affected area consent to annexation</i>	<i>Town provided written notice (of project and Town's intent to not hold a protest proceeding) to all property owners and registered voters and if no written opposition is received from them prior to conclusion of meeting</i>
<i>All affected agencies that gain or lose territory give written consent to waiver of protest proceedings</i>	<i>All affected agencies that gain or lose territory give written consent to waiver of protest proceedings</i>

If at the public hearing there is opposition expressed regarding the proposal or Town Council's intent to waive protest proceedings, then protest proceeding will be required.

Enclosures: Detailed Map and Description of proposal

