

## **THOSE PERPLEXING CITY BOUNDARIES - SORTING OUT THE WHYS?**

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Ever wonder how those confusing city boundary lines that zigzag through the El Sobrante Valley came to be? Well, you're not alone. People new to the community are often puzzled by the myriad City of Richmond signs that seem haphazardly placed along El Sobrante's main road corridors. Even long-time residents wonder how it came to be that Richmond has jurisdiction over so much of the valley, particularly where suburban housing tracts began replacing cattle ranches since the mid 1950's. The answer, not surprisingly, is complex.

The simple and accurate answer is these properties were annexed by the City of Richmond when they were undeveloped grazing lands. The complexity lies in the manner in which the annexations were accomplished and in some of the strategies employed by the city to extend its reach deep into the unincorporated El Sobrante Valley.

### **THE FIRST BIG MOVE**

To explain how the city boundaries came to be, it's necessary to go back in time to December 1953 when Richmond's annexation plans first came to public light. That was when Richmond first disclosed its proposal to annex some 6,600 acres (10 square miles) of land stretching from Tilden Park along both sides of San Pablo Ridge and through what was known as Tank Farm Hill (now Rolling Hills Memorial Park and Hilltop Mall) and westerly to include the Atlas Powder Company properties (now Point Pinole regional Park).<sup>1</sup> (see figure 1). As proposed, the annexation would severely limit outward expansion by the cities of San Pablo and El Cerrito. It would also squelch any hopes of El Sobrante one day becoming an incorporated city. The annexation would give Richmond control over most of El Sobrante's prime development land, reducing the size and potential value of its future tax base and thereby making incorporation financially marginal at best.

Properties included in this massive annexation proposal were mostly under three ownerships, EBMUD (Wildcat Canyon), Standard Oil of California (Tank Farm Hill), and Atlas Powder Company (Point Pinole). An interesting side note is that Interstate 80 had yet to be constructed, though its route had been established and construction was imminent. Richmond surely foresaw the tax-generating retail potential the new freeway would have for the Tank Farm Hill lands, and undoubtedly coveted those potential tax dollars.

Needless to say, both San Pablo and El Cerrito opposed Richmond's aggressive actions, but its City Council pushed ahead, adopting an Ordinance 1423 on February 16, 1954 purporting to

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<sup>1</sup> El Sobrante Herald, December 31, 1953, page 1

annex the 6,600-acres, and then filing it with the Secretary of State. In a second annexation move just seven months later, Richmond’s City Council filed Ordinance 1448 with the Secretary of State on September 21, 1954, purporting to annex the planned De Anza Vista subdivision which overlapped a portion of the earlier 6,600-acres. The De Anza Vista annexation encompassed some 3,724-acres (5.82 square miles), and appears to have been a strategic move by Richmond to stay a step ahead of legal challenges.

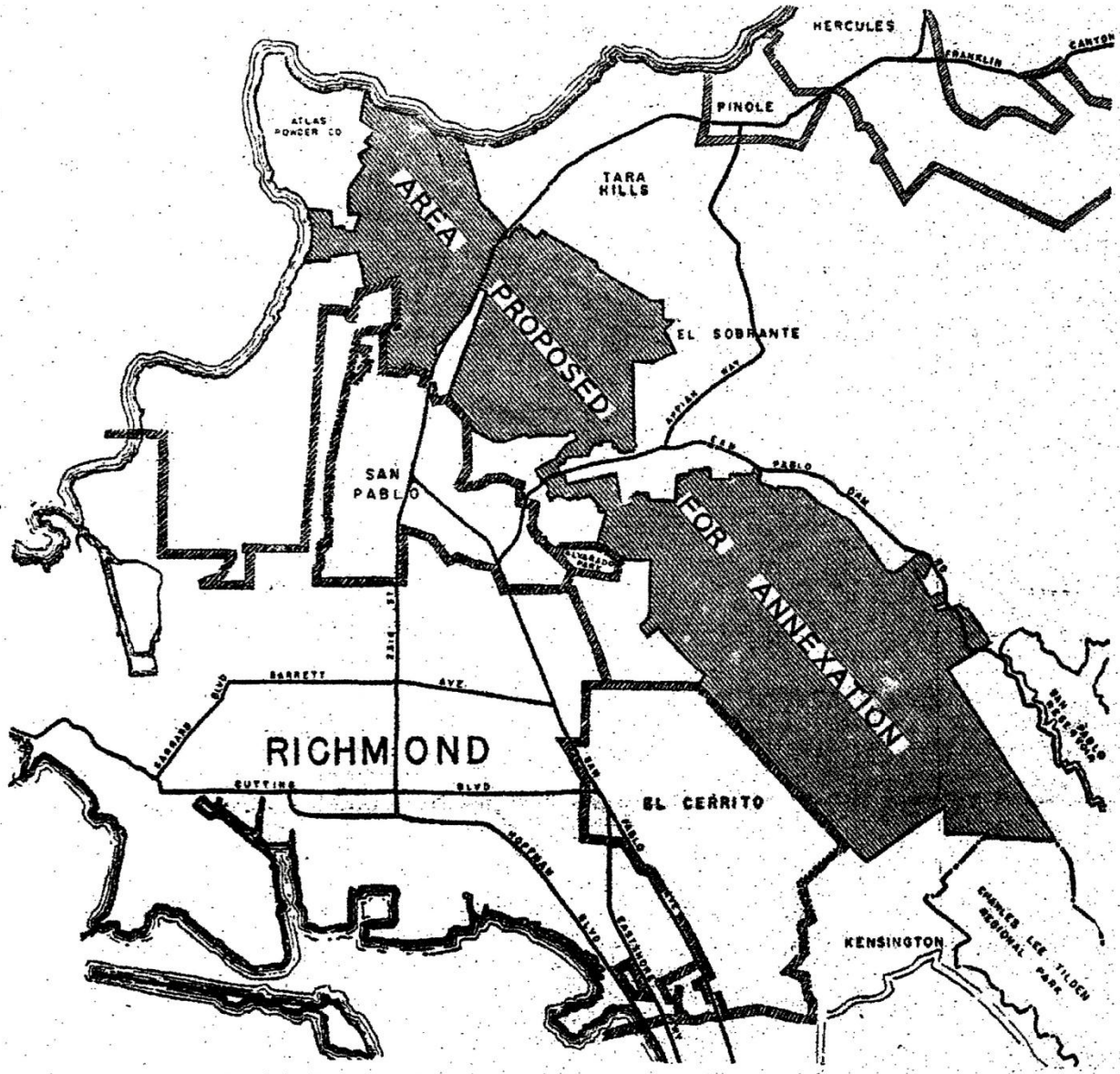


Figure 1 – 6,600-acre Annexation Proposal (Source: El Sobrante Herald, December 31, 1953)

The De Anza Vista subdivision lands were in the heart of the El Sobrante Valley, along May and Valley View Roads, and included much of the undeveloped lands that would become the De Anza Vista and Whitecliff neighborhoods, better known today as the May Valley neighborhood.

## FIRST LEGAL CHALLENGE

Richmond's 6,600-acre annexation move faced a legal challenge in what came to be known as the Pennington case (Carl Pennington owned a small parcel that Richmond necessarily included in the annexation boundary). The presiding Superior Court judge, Dudley MacGregor (Butte County), handed a victory to Pennington, ruling against Richmond on January 13, 1955 and issuing a restraining order against the city on January 31, 1955. Judge MacGregor ruled that Richmond's purported annexation of the 6,600-acres was "void and invalid".<sup>2</sup> Though not a part of the Pennington case, the separate De Anza Vista annexation was indirectly challenged and affected because it overlapped a portion of the 6,600-acre area.<sup>3</sup>

Not to be thwarted and clearly anticipating this legal setback, Richmond's City Council adopted Resolution 5923 on Feb 1 1955, the day following Judge MacGregor's restraining order action, initiating a new annexation proceeding, the Fairmede-College Highlands annexation. The new proposal included 640-acres (1.0 square miles) of territory almost completely within the original 6,600-acre "void and invalid" annexation under construction.<sup>4</sup> Fairmede and College highlands were two subdivisions that were then, Fairmede situated between Hilltop Drive and the Rollingwood neighborhood, and College Highlands, as its name implies, above the Contra Costa College campus. In a separate resolution, Richmond also once again initiated annexation of the 1,035-acre Tank Farm Hill property.

The Fairmede/College Highlands annexation strategically avoided inhabited properties, allowing the State's Uninhabited Territories Act of 1939 to be employed. Richmond created an annexation boundary that began at the city's Alvarado Park boundary, included part of adjacent Wildcat Canyon, then crossed San Pablo Ridge into El Sobrante. There the annexation corridor took in the properties of El Sobrante's Hillcrest Baptist Church, Saint Callistus Catholic Church and what was then Rancho School (now Creek View apartment) on El Portal Drive, all uninhabited lands.

Soon after Judge MacGregor's January 13th "void and invalid" ruling against the Richmond, the city filed a motion for a new trial with the First District Court of Appeals in San Francisco.<sup>5</sup> San Pablo officials were incensed by Richmond's aggressive actions. Its then Mayor John M. Snider declared, the "meandering and erratic boundary lines" were "dedicated to grasping hundreds of acres of land". Continuing, Snider said the Richmond moves were designed to "cut off from

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<sup>2</sup> ca.findacase.com, The People, ex rel. Carl Pennington et al., Respondents, v. City of Richmond et al., Appellants

<sup>3</sup> ibid

<sup>4</sup> ca.findacase.com; City of San Pablo et al., appellants, v. City of Richmond et al., respondents. College Highlands, Inc. (A Corporation) et al., respondents v. City of San Pablo et al., appellants

<sup>5</sup> ibid

natural expansion the cities of San Pablo and El Cerrito and to attempt to force into its boundaries built-up unincorporated areas such as El Sobrante".<sup>6</sup>

## THINGS HEAT UP

So, the annexation 'war' was now in full force. San Pablo fired the next volley on February 15, 1955 when its Council adopted Resolution 832, initiating its own annexation request for the Fairmede/College Highlands properties. The County's Boundary Commission (predecessor to today's Local Agency Formation Commission, LAFCO) allowed the application, stating that it was neutral as to which cities claim was justly made.<sup>7</sup>

San Pablo and Richmond sued one another, challenging the validity of their respective Fairmede/College Highlands annexation proceedings. The trial court heard these and a third related case (Johnson v. City of Richmond) jointly, upholding the validity of the Richmond annexation, and held that the San Pablo annexation was invalid, and entered its judgments accordingly. Superior Court Judge Lilburn Gibson (Mendocino) ruled Richmond's claim valid because that city was first to file to annex the Fairmede-College Highlands area.<sup>8</sup>

San Pablo appealed Judge Gibson's decision. The legal issue was basically this: If a city starts an annexation proceeding which is challenged and subsequently held to be invalid (as was Richmond's 6,600-acre annexation), can that city validly start a second proceeding to annex the whole or part of the same territory (as Richmond did in the De Anza Vista and Fairmede-College Highlands annexations) before the judgment is entered declaring the first proceeding to be invalid? In its February 8, 1957 judgment, the appeals court said "yes, it may", dealing a blow to San Pablo's efforts to halt Richmond's territorial aggressiveness.<sup>9</sup>

The Fairmede-College Highlands annexation was approved by the County's Boundary Commission in September 1955. This action drove a permanent jurisdictional wedge between San Pablo and unincorporated El Sobrante, precluding any opportunity for El Sobrante to annex to San Pablo.

Richmond's appeal of the January 13<sup>th</sup> MacGregor ruling finally wound its way through the First District Court of Appeal in San Francisco. The appellate court, while upholding MacGregor's basic decision, amended it in one critically important way that was, in essence, a victory for Richmond. While the wording of MacGregor's "void and invalid" ruling affected the entire 6,600-acre area, the subject territory of the Pennington case involved only several smaller

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<sup>6</sup> El Sobrante Herald, February 10, 1955, page 1

<sup>7</sup> El Sobrante Herald, February 17, 1955, page 1

<sup>8</sup> ca.findacase.com; City of San Pablo et al., appellants, v. City of Richmond et al., respondents. College Highlands, Inc. (A Corporation) et al., respondents v. City of San Pablo et al., appellants

<sup>9</sup> ibid

properties whose residents objected to being annexed, not the total 6,600 acres.

The appellate court ruled that Judge MacGregor's ruling was "too broad in its sweep" and that "it impinges upon any other annexation proceeding that may have been initiated concerning this territory or some portion thereof. It should be confined to the proceeding which is the subject of this action." In other words, the ruling should apply only to the properties of those persons that were party to the legal action, in this case a very small portion of the total annexation acreage. So, by the appellate court's affirmation of the MacGregor ruling as amended on March 29, 1955, the bulk of the 6,600-acre annexation area was thereby confirmed to have been legally annexed to the City of Richmond and not void and invalid.<sup>10</sup>

### **POINT OF NO RETURN**

The preceding actions by the City of Richmond, supported for the most part by various court cases gave Richmond major influence over the future of the El Sobrante Valley and, indirectly, over the destiny of its remaining unincorporated area.

A statewide proliferation of boundary issues such as those faced in the Richmond cases led to 1963 state legislation creating Local Agency Formation Commissions (LAFCO's) in California Counties. Later legislation expanded and reinforced LAFCO powers to oversee the logical and efficient creation and change of public agency jurisdictional boundaries. A specific legislative charge of LAFCO is to determine and update at least every five years the "sphere of influence" of each city and special district.<sup>11</sup> A Sphere of Influence is a plan for the probable physical boundaries and service area of a local agency. Factors that LAFCO must consider in determining spheres of influence are:

- The present and planned land uses, including agricultural and open space lands,
- The present and probable needs for public facilities and services in the area,
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide,
- The existence of any social or economic communities of interest in the area if the Commission determines they are relevant to the agency.<sup>12</sup>

Because Richmond's boundaries by then encompassed so much of the El Sobrante Valley, LAFCO determined that the City of Richmond's logical Sphere of Influence would include unincorporated El Sobrante. This also paved the way for further Richmond annexations of El Sobrante territories that collectively created today's confusing city boundaries. Looking back,

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<sup>10</sup> ibid

<sup>11</sup> California Association of Local Agency Formation Commission web site, calafco.org; What is LAFCO?

<sup>12</sup> ibid

the 3,724-acre De Anza Vista annexation, once approved, was the point of no return for the El Sobrante Valley. With that annexation, Richmond's footprint and jurisdictional influence in the valley was firmly entrenched and irreversible. So what does that mean for unincorporated El Sobrante going forward?

## **THE FUTURE**

El Sobrante's unincorporated area has in its future few jurisdictional possibilities. Will it incorporate as an independent city? Will it one day be swallowed up entirely by Richmond, voluntarily or otherwise? Or, will it remain in its current state, an unincorporated pocket? Any attempt to answer these questions would be pure conjecture. One thing is for certain, however; change is inevitable and the El Sobrante Valley community will change, just as it has throughout its relatively short history. And, no matter what form Richmond's future City limits may take, residents of the valley will still be saying "We live in El Sobrante".

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