

East Palo Alto: A Community Divided*

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East Palo Alto is an anomaly in the Mid-Peninsula. The unincorporated community houses a primarily minority and low-income population. The economic miracle which brought development and tax revenues to the rest of the Silicon Valley has largely bypassed East Palo Alto. This paper examines the current debate in East Palo Alto over whether incorporation will help solve the community's problems.

On April 13, 1982, the community of East Palo Alto voted 1587 to 1238 to incorporate as a city. Yet, on the same day, a different group of East Palo Alto voters disapproved the dissolution of the East Palo Alto Sanitary District 1215 to 1174 and thus defeated the incorporation proposal.¹ This dramatic result and the events leading up to it reflect the sharp division within East Palo Alto and its anomalous position on the Mid-Peninsula. The failure of the incorporation measure also portends a continuation of the status quo: inadequate economic development and ineffectual endeavors to resolve the community's problems.

EAST PALO ALTO—A DESCRIPTION

East Palo Alto is located in the southeastern corner of San Mateo County, approximately midway between San Francisco and San Jose. It is bordered by San Francisco Bay on the east, the City of Menlo Park (San Mateo County) on the north and west, and the City of Palo Alto (Santa Clara County) on the south. All of East Palo Alto is currently in an unincorporated part of San Mateo County. It is governed by the County Board of Supervisors, although an elected body, the East Palo Alto Municipal Council, acts in an advisory capacity to the Board but has no actual decision-making powers. Community services are provided by a variety of special

* In June, 1983, just before this *Annual* went to print, the residents of East Palo Alto decided by a 15-vote margin to incorporate. Although some sections of this article are now out-of-date, many of the other issues are still pertinent to the land use issues in the community.

1. The Stanford Daily, Apr. 16, 1982, at 1.

districts which cover varying portions of the area and its surroundings. In addition, some services are provided by the County.

The Bayshore Freeway (U.S. 101) cuts through the community in a northwest/southeast direction. This freeway divides East Palo Alto and forms a physical and psychological barrier between the eastern subarea ("East of Bayshore") and the western subarea ("West of Bayshore") and other communities to the west. East Palo Alto's two disparate subareas are different in several fundamental ways: the age, economic status and racial mix of their respective populations; the type of housing dominating in each area; and the extent of "community development"—as gauged by tax base and including the type and quality of housing and commercial and industrial development.

TABLE I

East Palo Alto Racial Characteristics²

	West of Bayshore	East of Bayshore	E.P.A. Total
White	68.7%	13.9%	25.5%
Black	20.1%	72.0%	61.0%
Spanish-origin	9.0%	15.5%	14.1%
Asian	6.0%	5.3%	5.5%
Other	5.2%	8.8%	8.0%
Total Persons	3840	14351	18191

Table I indicates the racial composition of East Palo Alto. The East of Bayshore area is predominantly black, while the West of Bayshore neighborhoods are predominantly white. Even the West of Bayshore area, however, has a larger minority population than the neighboring communities.³

Many of the households in East Palo Alto, particularly those East of Bayshore, have relatively low incomes. In 1970 the median annual income in East Palo Alto was \$9,401—as compared with a San Mateo County median of \$13,222—and 14% of East Palo Alto house-

2. Department of Environmental Management, Planning and Development Division, San Mateo County, California, East Palo Alto Community Plan and Environmental Impact Report, Hearing Draft 1-13 (July 1981) (hereinafter cited as Plan). All persons of "Spanish origin" are also included in one of the other classifications. The percentages therefore add up to 100% *plus* the percentage of persons identified as of "Spanish origin." This method of racial categorization was used in the 1980 census.

3. In 1970, 91.3% of the San Mateo County population was white; 4.7% were black; and 11.33% were "Spanish surname"—the categorization used in the 1970 census. Again, these groups show some overlap. Department of Public Health and Welfare, Research and Statistics Section, San Mateo County, California, Social and Economic Characteristics—San Mateo County, California 20, 22, 24 (June 31 [sic], 1973).

holds were below the Federal poverty level.⁴

The housing stock in East Palo Alto also reflects the east/west differences. Housing West of Bayshore is generally newer (over 50% built during the 1960's) than the housing East of Bayshore (over 50% built during the 1950's).⁵ Furthermore, 92.6% of the housing units West of Bayshore are in multi-family dwellings. In contrast, 82.0% of the housing units East of Bayshore are single-family dwellings.⁶ Not surprisingly, given this statistic, more dwellings are owner-occupied East of Bayshore (53.4%) than West of Bayshore (8.0%).⁷ The population West of Bayshore—characteristic of areas with a substantial percentage of apartment dwellers—contains a high number of relatively young and childless adults. East of Bayshore is a more family-oriented area with its substantial percentage of single-family, owner-occupied homes.

East Palo Alto's tax base in the West of Bayshore area is more substantial than in the East of Bayshore area. However, for several reasons, the area as a whole still lags behind the rest of the Mid-Peninsula. East Palo Alto's housing prices are lower than those in neighboring communities and thus property taxes on residential property are lower. Although housing costs in East Palo Alto have increased substantially over the past decade—almost 300% between 1970 and 1980—the median price for a single-family dwelling in 1980, \$70,000, was still only one-third of that in adjacent Palo Alto.⁸ The relatively small geographical area West of Bayshore represents 32.3% of East Palo Alto's assessed property value, whereas the significantly larger area East of Bayshore represents only 67.8%.⁹ Second, East Palo Alto lacks commercial development and thus has little sales tax income. In 1973 an estimated 57% of East Palo Alto income was spent outside the community.¹⁰ Per capita sales revenue in 1977 was only \$8.33 in East Palo Alto compared to \$50.35 in Redwood City, \$48.18 in Menlo Park, and \$64.35 in Palo Alto.¹¹ In this respect, the West of Bayshore area again accounts for a disproportionately large percentage of taxable retail sales—57.9% as compared to

4. Plan, *supra* note 2, at 1-12.

5. *Id.* at 3-6.

6. *Id.* at 3-2.

7. *Id.* at 3-9.

8. *Id.* at 3-10. The East Palo Alto median, however, was close to the national average.

9. Angus McDonald and Associates, Spheres of Influence for East Palo Alto II-3 (1981) (hereinafter cited as McDonald).

10. Plan, *supra* note 2, at 7-10.

11. *Id.* at 7-11.

42.1% East of Bayshore.¹² Given these statistics and the lack of diverse commercial development, little money from outside the community is spent in East Palo Alto. Moreover, the prospects for change are not encouraging. Most of the existing commercial development is neighborhood-oriented, consisting mainly of small stores. For example, of eleven food markets in the community, there is only one supermarket.¹³ The one shopping center in East Palo Alto—built in 1957 at the busy intersection of University and Bay Roads—has never been fully leased.¹⁴ Currently, a couple of stores are occupied and the rest of the center lies abandoned, boarded up, and dilapidated—unlikely to be very attractive to shoppers.

Finally, although East Palo Alto has an area zoned for light and heavy industry (the Ravenswood Industrial Park), only about half of the area is currently in industrial use. Moreover, a significant portion of the existing uses are relatively low-value industries such as auto wrecking and chemical plants which have not been welcomed in other nearby locations.¹⁵ The clean, labor-intensive light industries prevalent in neighboring communities have not yet been attracted to East Palo Alto.

In light of this unpromising economic situation, East Palo Alto's primary concern is to attract housing and industrial and commercial development to increase its tax base. Current zoning and land use plans in no way inhibit the achievement of this objective. Much prime land zoned for these uses now lies vacant or underutilized. East Palo thus presents a striking contrast to neighboring cities which are attempting to curtail growth and protect the environment through restrictive zoning and adamant protection of open space. The major land use debate in those communities revolves around how to accomplish these objectives without instituting measures that are illegally exclusionary. Current East Palo Alto land use issues center not around zoning, but involve the promotion of community development unconstrained by existing zoning. However, attempts to further this development, and the debate over the best way to achieve such development, have been subsumed by a larger political debate within East Palo Alto and San Mateo County—the debate over whether or not East Palo Alto should incorporate.

12. McDonald, *supra* note 9, at II-3.

13. Plan, *supra* note 2, at 7-7.

14. *Id.* at 7-10.

15. *Id.* at 7-16, 7-20.

THE MAJOR ISSUE—INCORPORATION

The incorporation of East Palo Alto was first proposed by the East Palo Alto Chamber of Commerce (no longer in existence) in 1931. At that time, the community split on the issue: those west of the then Bayshore Highway opposed it; those east of the Highway supported it. Although the issue faded away temporarily, it is interesting to note that it was the Chamber of Commerce that promoted the idea—presumably to enhance business development in the fledgling community.¹⁶

Since that first proposal, the idea of incorporation has surfaced numerous times. At some point, an alternative proposal, annexation to either Menlo Park or Palo Alto, became the favored option for those citizens who opposed incorporation. As in the first incorporation debate, the East Palo Alto community split on the issue—those East of Bayshore tended to favor incorporation and those West of Bayshore tended to favor annexation.

The most recent debate over incorporation exhibited this schism. In the late seventies, the two opposing groups each filed a petition with the Local Agency Formation Commission (LAFCO).¹⁷ The East Palo Alto Municipal Council filed an application for incorporation; the Woodland Association of Residential Property Owners (WARPO), a homeowners association from West of Bayshore, filed a petition for annexation to Menlo Park.

LAFCO hired a consultant to study the alternatives for East Palo Alto and to recommend whether an East Palo Alto sphere of influence should be formed or whether East Palo Alto should be included in Menlo Park's sphere of influence. LAFCO's consultant rejected

16. The Peninsula Times-Tribune, Sept. 3, 1981, at B-1 (3rd edition).

17. LAFCO is a county agency comprised of five members—two from the County Board of Supervisors, two from cities within the county, and one public member chosen by the other four members. LAFCO's stated purpose is to promote orderly growth. It has the power of approval over annexations and incorporations. In ascertaining whether proposed annexations or incorporations will occur, LAFCO first identifies the "sphere of influence" in which an area is located. CAL. GOV'T CODE § 54774 (West 19). Generally speaking, a sphere of influence is an unincorporated area adjacent to an existing city or town. But some well-developed unincorporated communities may constitute their own sphere of influence. An area within its own sphere of influence may incorporate, but only if it will not operate at a deficit. An area within another city's sphere of influence cannot incorporate but may be annexed to that city. After the appropriate sphere of influence of an area is determined, LAFCO votes on applications for incorporation or annexation which are presented to it by the parties concerned. After LAFCO approves an annexation or incorporation, the County Board of Supervisors must act on LAFCO's recommendation and either deny it or set an election for the area in question to determine if annexation or incorporation will occur. *See* CAL. GOV'T CODE §§ 54773-54799.2, 56000-61802 (West 19).

the alternative of including East Palo Alto in Palo Alto's sphere of influence with the eventual objective of annexation to Palo Alto. The consultant found that to do so would require a change of county boundaries—an almost impossible task under California law.¹⁸

In July 1981, LAFCO's consultant recommended that East Palo Alto be awarded its own sphere of influence and that incorporation, rather than annexation to Menlo Park or maintenance of the status quo, be pursued as the best alternative. The consultant recognized the tenuous economic position that a new city of East Palo Alto would occupy due to its low property values and tax revenues. The consultant recommended incorporation only if the new city could meet five conditions which would maximize the new city's financial resources.¹⁹ One condition not explicitly stated but included by implication in the five was that the *entire* East Palo Alto area be incorporated. Given the concentration of revenue sources in the West of Bayshore area, incorporation of the East of Bayshore area alone was deemed infeasible.²⁰

Financially, annexation to Menlo Park was slightly more attractive than incorporation, since annual revenues exceeded costs by 3% for the area after the first year.²¹ In contrast, incorporation presented a break-even scenario, assuming the conditions mentioned above.²² However, LAFCO's consultant concluded that the better prospects for community development afforded by incorporation outweighed the immediate financial disadvantages. Incorporation would vest decision-making authority in one local body—the new City Council—which would be able to focus exclusively on the problems of East Palo Alto; in contrast, the County, if the status quo were to be maintained, or Menlo Park, if that annexation alternative

18. See CAL. GOV'T CODE §§ 5600-58908 (West 19).

19. These conditions were:

- (1) That the incorporation take place on July 1, 1982, in order to maximize the time during which the new city would automatically be supported by the County;
- (2) That the County finance major street improvements before incorporation took place;
- (3) That all East Palo Alto property tax revenues be transferred to the new city;
- (4) That the Menlo Park Fire Protection District continue to serve the new city for an undetermined length of time; and
- (5) That residents be willing to support a \$54/household/year increase in utility user fees.

The Peninsula Times-Tribune, Aug. 6, 1981, at B-1 (3* edition); McDonald, *supra* note 9, at 1-10, 1-11.

20. The Peninsula Times-Tribune, Oct. 16, 1981, at A-8 (1* edition).

21. McDonald, *supra* note 9, at II-12.

22. *Id.* at II-9.

were to be adopted, could only focus a portion of its attention on East Palo Alto.²³

In addition, incorporation, through the creation of a local governmental unit, would facilitate the evolution of the public/private relationship necessary to promote community development. As the consultant recognized, the extensive network of Federal community development grants available to areas such as East Palo Alto in the late sixties and early seventies no longer could be relied upon to provide funds for community development. Instead, such funds must come from private investment.

The private sector is motivated by consideration of rates of return as well as often being willing to consider social objectives. Perceptions about risk are directly related to perceptions about whether the public participants in a public/private partnership can actually deliver on their commitments . . . [C]ommunity development in East Palo Alto has not progressed satisfactorily during the last ten years. A major reason is that the private sector recognizes that decision making authority—the ability to “make a deal”—is not located in East Palo Alto.²⁴

Incorporation would locate such authority in East Palo Alto.

The consultant's report elicited heated opposition from WARPO and equally strong support from the East Palo Alto Citizen's Committee on Incorporation (EPACCI), which organized in 1980 to coordinate incorporation efforts. One argument long used by the opponents of incorporation—that a city of East Palo Alto would be a financial disaster—had seemingly been muted by the report. Barbara Mouton, mayor of the East Palo Alto Municipal Council and ardent supporter of incorporation, said “the economic question has been laid to rest. It is now basically a political and racial issue. I think that there is a small portion west of Bayshore that does not want to remain in East Palo Alto, for basically racial reasons.”²⁵ WARPO continued its opposition to incorporation, stressing the West of Bayshore population's desire not to financially support a city it did not want. Emphasizing the West of Bayshore community's attraction to established services in Menlo Park, WARPO denied that racism was involved in this continued opposition.²⁶

In this heated atmosphere, LAFCO set about deciding whether or not to follow its consultant's recommendation to approve a sphere

23. *Id.* at I-9.

24. *Id.* at I-9, I-10.

25. The Peninsula Times-Tribune, Sept. 3, 1981, at B-4 (3rd edition).

26. The San Jose Mercury, July 28, 1981, at B-1.

of influence for East Palo Alto. Weighing against such approval was the recommendation of LAFCO's executive officer who, in spite of the report, opposed incorporation for financial reasons, maintaining that the necessary community development would take too long to provide the tax base required to keep the city from operating at a deficit. He instead recommended gradual annexation to Menlo Park, starting with the West of Bayshore area, and dissolution of the East Palo Alto Municipal Council.²⁷ In making its decision, LAFCO also had to consider the Menlo Park City Council's resolution in favor of incorporation (and implied denial of support for annexation)²⁸ and the San Mateo County Board of Supervisors' vote to comply with the conditions set forth by LAFCO's consultant as prerequisites for feasible incorporation (an implied vote of support for incorporation).²⁹

On September 16, 1981, LAFCO declined to give East Palo Alto a sphere of influence for at least one year and placed the West of Bayshore area in Menlo Park's sphere of influence. The rest of East Palo Alto was placed in what LAFCO called a "holding sphere" pending further action.³⁰ Less than a week later, however, LAFCO voted to reconsider its decision.³¹ A month after its original decision, LAFCO partially reversed itself and approved a sphere of influence for East Palo Alto that included all of the East of Bayshore area but only a part of the West of Bayshore area. The rest of the western area was placed in Menlo Park's sphere of influence.³²

LAFCO approved East Palo Alto's application for incorporation on November 16, 1981. It stated that its reason for splitting the area West of Bayshore was that the part placed in Menlo Park's sphere of influence was "more like Menlo Park than East Palo Alto". However, it stated that the property tax revenues from the area could still help finance a new city of East Palo Alto.³³ The next day, the San Mateo County Board of Supervisors indicated that they might want all of East Palo Alto to be included in the incorporation.³⁴ However, no official recommendation to that effect was ever made to LAFCO.

Early in December, a new opponent of incorporation entered the

27. The Peninsula Times-Tribune, Sept. 12, 1981, at A-1 (3* edition).

28. *Id.*, Sept. 16, 1981, at A-1, (3* edition).

29. *Id.* at B-1.

30. *Id.*, Sept. 17, 1981, at A-1 (3* edition).

31. *Id.*, Sept. 22, 1981, at A-1 (3* edition).

32. *Id.*, Oct. 16, 1981, at A-1, (1* edition).

33. *Id.*, Nov. 17, 1981, at A-1, (3* edition).

34. *Id.*, Nov. 18, 1981, at B-2 (3* edition).

picture. The head of the East Palo Alto Sanitary District requested an exclusion for the district from incorporation on the grounds that it would be unfair for sewer revenues to go into a general city fund and that the sewers were at capacity and would permit no further growth.³⁵ On December 16, 1981, LAFCO denied the District's request³⁶ and, five days later, the Board of Supervisors voted unanimously to approve an incorporation election for East Palo Alto.³⁷ The date of the election was set for April 13, 1982.

On April 13, 1982, East Palo Alto voters went to the polls to vote on four measures. All four had to pass in order for incorporation to succeed. The first measure was the actual incorporation vote; only those persons in the proposed incorporation area could vote. This measure passed 1587 to 1238. The other measures were to determine the dissolution of three special districts, the functions of which would be assumed by the new city. Every person living in each of these areas could vote on those measures. Measure D, proposing the dissolution of the recreation district (boundaries coincidental with the entire East Palo Alto area), passed 1586 to 1337. Measure B, proposing the dissolution of the East Palo Alto Waterworks District (including all of East Palo East of Bayshore and part of the West of Bayshore area), passed 1367 to 1107. However, Measure C, proposing the dissolution of the East Palo Alto Sanitary District (including only *part* of the *East* of Bayshore area, *all* of the *West* of Bayshore area, and part of *Menlo Park*), failed by 41 votes, 1174 to 1215. Menlo Park and West of Bayshore voters rejected the measure while East of Bayshore voters approved it. As a result, incorporation failed.³⁸

HERE AND BEYOND

East Palo Alto was left with a sphere of influence including only part of the West of Bayshore area and the unresolved question of what would eventually happen to the area. The East Palo Alto Municipal Council remains in the untenable and uncomfortable position of trying to promote community development in a split community where it serves only as an advisory body to the County. It is not unlikely that the incorporation/annexation debate will be revived again after both sides have regrouped. The energy of the community may well continue to be channelled into a project that only can ac-

35. *Id.*, Dec. 4, 1981, at A-1, A-12 (3* edition).

36. *Id.*, Dec. 17, 1981, at B-1 (3* edition).

37. *Id.*, Dec. 21, 1981, at B-1 (3* edition).

38. The Stanford Daily, Apr. 16, 1982, at 1.

comply with its ultimate goal—community development—if one side or the other prevails. In the meantime, that goal recedes into the background.

The combination of factors that make East Palo Alto a troubled and divided community work to maintain the status quo. The acute lack of economic development East of Bayshore raises serious doubts about the fiscal feasibility of an independent incorporated East Palo Alto. That same lack of development engenders fear in the West of Bayshore population that joining with the eastern area would merely spread the problems around rather than provide the means to resolve them. Many East of Bayshore residents perceive this reluctance as a position based on racial antipathy (as it well might be, at least in part). The anger and frustration on both sides exacerbates the intensity of the disagreement over the best future for the community. The more the opponents polarize, the less likely timely resolution becomes.

This is indeed a bleak portrayal. However, indications persist that East Palo Alto's economic dilemma may abate. There are signs that this oasis of relatively reasonably-priced land is beginning to attract buyers.³⁹ If significant private investment were to occur, East Palo Alto could find itself in the position of its neighbors—trying to manage growth. Ironically, such a scenario might present problems of its own. Low-income residents who can now barely afford housing might be driven out if prices rose significantly.⁴⁰ The absence of local control could be as detrimental in dealing with growth as it is in dealing with the present economic stagnation. In short, community development without resolution of the political debate would not necessarily be best for the area. On the other hand, such development might facilitate resolution of the debate; the West of Bayshore population might view incorporation with less suspicion if the East of Bayshore area exhibited an improving economy.

Creation of a mechanism for local control appears vital. Absence of such local control may well have helped create East Palo Alto's current economic and social problems. While other Mid-Peninsula cities were busily zoning to cultivate property values and hustling to attract high-quality, clean industrial and commercial development,

39. R. Ellickson, Remarks to Land Use Seminar, Stanford Law School, Stanford, California (Fall 1981).

40. Already, the estimated median East Palo Alto household income is inadequate to purchase the median-priced East Palo Alto home. Plan, *supra* note 2, at 3-11. This process of "gentrification" would be especially troubling in East Palo Alto because there are few low-income neighborhoods on the Peninsula to which displaced residents could move.

East Palo Alto, with no zoning authority and no local business organization, became the only option for the low-income population that could not afford to live in the other communities and for the industry that was unacceptable elsewhere. Reversal of this trend seems unlikely without a strong, concerned, local decision-making authority.