



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** JOSEPH HORWEDEL

**SUBJECT:** SEE BELOW

**DATE:** February 7, 2007

Approved

*Kay Wimer*

Date

*2/13/07*

**COUNCIL DISTRICT:** 4  
**SNI AREA:** None

**SUBJECT: PENITENCIA NO. 74. REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF AN APPROXIMATELY 3.3 GROSS ACRE COUNTY POCKET CONSISTING OF 4 PARCELS LOCATED ON THE EAST SIDE OF NOBLE LANE, APPROXIMATELY 200 FEET NORTH OF NOBLE AVENUE.**

## RECOMMENDATION

It is recommended that the City Council adopt a resolution ordering the reorganization of territory designated as Penitencia No. 74 which involves the annexation to the City of San Jose of an approximately 3.3 gross acre County pocket located at the east side of Noble Lane, approximately 200 feet north of Noble Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, and Area No. 01 (Library Services) County Service.

## OUTCOME

Upon completion of the annexation/reorganization proceedings, the territory designated Penitencia No. 74 shall be annexed into the City of San Jose.

## BACKGROUND

The City Council voted unanimously to initiate this annexation as part of Phase 1 of the County Island Annexation program on January 23, 2007. There were two speakers at the public hearing regarding this item. Both speakers supported the annexation, but wanted to raise specific issues. One property owner expressed concern that a cottage in the back of his property would be considered illegal upon annexation. He stated that the building was constructed legally, but there are no permits on file at the County to verify this. A neighbor also spoke at the hearing, describing a burnt building on one of the properties that is an eyesore in the neighborhood. Staff explained the process to file a complaint with Code Enforcement upon annexation.

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The proposed annexation consists of 4 parcels (Assessor's Parcel Numbers 595-26-045; -046; -047; -055) and the detachment of the same from the appropriate special districts including: Central Fire Protection and Area No.01 (Library Services) County Service Districts. Maps showing the affected territory are attached.

On April 26, 2006, the City Council voted to provide direction to City staff to proceed with a County island annexation program that involves the annexation of all unincorporated County pockets less than 150-acres in size. The City of San Jose has initiated the annexation of the subject area in conjunction with Phase 1 of this program. Thus far, 17 County pockets have been annexed.

The City Council approved a Director-Initiated Rezoning (File No. C06-037) on December 12, 2006 which rezoned the parcels from unincorporated County to R-1-5 Single Family Residence District to allow residential uses consistent with the Zoning Code, the existing neighborhood and the existing uses and/or structures on the subject property. The properties are developed with single-family residences.

### **ANALYSIS**

The proposed annexation is being included within the first phase of the County island annexation program as it has been determined that it will create a negligible impact on City services because of its size, location and number of inhabitants. The area is surrounded on all sides by the City of San Jose and its annexation is logical for the purposes of providing urban services in an efficient manner. It is inefficient and potentially confusing for the same urban services to be provided by different service providers to residents within the same general area.

Before approving the reorganization proposal, the City Council is required to make certain findings as listed below. Staff comments follow each such finding.

1. **The unincorporated territory is within the City's Urban Service Area as adopted by LAFCO.** The site is located within the City's Urban Service Area.
2. **The County Surveyor has determined the boundaries of the proposal to be definite and certain and in compliance with LAFCO Annexation Policies.** The County Surveyor has certified the boundaries of the reorganization.
3. **The proposal does not split lines of assessment or ownership.** All affected parcels are being reorganized in their entirety.
4. **The proposal does not create island or areas in which it would be difficult to provide municipal services.** As proposed, the annexation will not create islands. The completion of reorganization proceedings would result in the elimination of a pocket of unincorporated territory.

5. **The proposal is consistent with the City's adopted General Plan.** The proposed annexation is consistent with the City's adopted policy in that existing and future urban development should be located within cities.
6. **The territory is contiguous to existing City limits.** The area proposed to be reorganized is contiguous to the City limits as shown on the attached map.

### **POLICY ALTERNATIVES**

Not Applicable

### **PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, Outreach will occur consistent with Council Policy 6-30: Public Outreach for Pending Land Use and Development Proposals. A notice of the public hearing was distributed to the owners and tenants of all properties located within 300 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public. All property owners within areas proposed for annexation were mailed a copy of the "Annexation Answer Book".

### **COORDINATION**

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department, Local Agency Formation Commission and the City Attorney.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan policies that urban development should take place within the Urban Service Area.

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**COST SUMMARY/IMPLICATIONS**

The proposed annexation is being done as part of the first phase of the County island annexation process as it has been determined that it will create a negligible impact on City services because of its size, location and number of inhabitants.

**BUDGET REFERENCE**

Not applicable.

**CEQA**

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan," and certified on August 16, 1994, by the City of San José City Council.

*For*   
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions, please contact Richard Buikema at (408) 535-7800.

Attachments



**USE OF A PROGRAM EIR  
SAN JOSE 2020 GENERAL PLAN FINAL EIR**

Pursuant to Section 15168 of the CEQA Guidelines, the City of San Jose has determined that the project described below is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the San Jose 2020 General Plan and does not involve new significant effects beyond those analyzed in this Final EIR. Therefore, the City of San Jose may take action on the project as being within the scope of the Final EIR.

**PROJECT DESCRIPTION AND LOCATION**

Penitencia No. 74. Planning Director-initiated reorganization/annexation to the City of San José of an approximately 3.3 gross-acre site referred to as Penitencia No. 74, prezoned R-1-5 Single Family Residence, located on the east side of Noble Lane, 200 feet north of Noble Avenue.

Council District 4  
County Assessor's Parcel Numbers: 595-26-045, 595-29-046, 595-29-047, and 595-26-055

The environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and findings were adopted by City Council Resolution No. 65459 on August 16, 1994. The Program EIR was prepared for the comprehensive update and revision of all elements of the City of San Jose General Plan, including an extension of the planning timeframe to the year 2020. The following impacts were reviewed and found to be adequately considered by the EIR:

- |                         |                         |                         |
|-------------------------|-------------------------|-------------------------|
| Traffic and Circulation | Soils and Geology       | Noise                   |
| Cultural Resources      | Hazardous Materials     | Land Use                |
| Urban Services          | Air Quality             | Aesthetics              |
| Energy                  | Facilities and Services | Water Quality/Resources |
| Open Space              | Schools                 | Drainage and Flooding   |
| Vegetation and Wildlife |                         |                         |

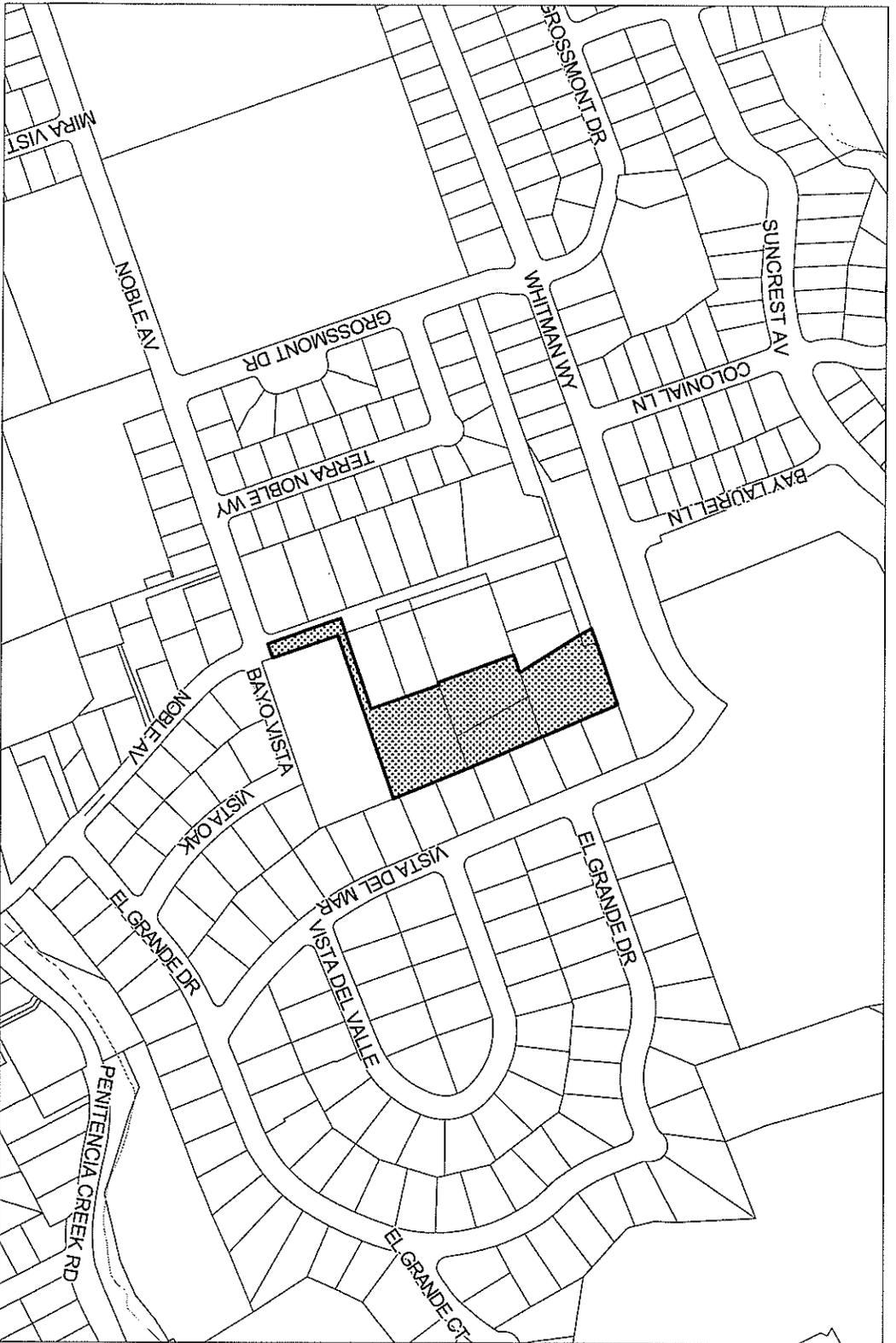
The City of San Jose may take action on the proposed project as being within the scope of the General Plan and uses of the Program EIR in that (1) the Final EIR is a Program EIR pursuant to CEQA and CEQA Guidelines Section 15168, (2) it is determined that no new significant impacts will occur from this proposed project, and no new mitigation measures would be required beyond those contained in the General Plan and Final EIR pursuant to CEQA Guidelines 15162.

Justin Fried  
Project Manager

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

1/22/07  
Date

Deputy



Scale 1 in = 400 ft 1:4800  
Noticing Radius: 500 ft

Map Created On:  
5/5/2006

**File No: Penitencia No. 74**  
**District: 04**  
**Quad No: 052**