



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** JOSEPH HORWEDEL

**SUBJECT:** SEE BELOW

**DATE:** February 12, 2007

Approved:

*Deanna Antua*

Date:

*2/15/07*

**COUNCIL DISTRICT:** 4

**SNI AREA:** Not Applicable

**SUBJECT: BERRYESSA NO. 68. REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF ON AN APPROXIMATELY 15.3 GROSS ACRE COUNTY POCKET CONSISTING OF 2 PARCELS ON THE SOUTHWEST CORNER OF CAPITOL AVENUE AND HOSTETTER ROAD**

## RECOMMENDATION

It is recommended that the City Council at a public hearing on March 6, 2007 at 7:00 p.m. adopt a resolution initiating proceedings, and setting April 3, 2007 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Berryessa No. 68 which involves the annexation to the City of San Jose of 15.3 gross acres of land located at the southwest corner of Capitol Avenue and Hostetter Road, and the detachment of the same from the appropriate special districts including West Valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service.

## OUTCOME

Upon completion of the annexation/reorganization proceedings, the territory designated Berryessa No. 68 will be within the incorporated area of the City of San José.

## BACKGROUND

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 is initiating the annexation of the subject area in conjunction with this program. The City Council approved the rezoning of the site to the R-M Multiple Residence Zoning District. (File No.C06-074) in preparation for annexation.

The proposed annexation consists of 2 parcels which upon annexation to the City of San Jose would be detached from the following special districts: West Valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service.

On November 8, 2006, the Planning Commission held a public hearing to consider the proposed Prezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed prezoning. A representative of the owner of one of the parcels objected to prezoning the property to R-M Multiple Residence Zoning District, in favor of a possible zoning that would allow for higher density on the site, in conformance with the Transit Corridor Residential (20+ DU/AC) General Plan land use designation. The Planning Commission deferred the item for two months to allow the owner time to prepare an application for a privately initiated PD Planned Development prezoning. The owner's representative indicated that they would be submitting a preliminary review application for a Planned Development proposal.

On January 17, 2007, the Planning Commission held a public hearing to consider the proposed Prezoning. The Director of Planning, Building and Code Enforcement again recommended approval of the proposed prezoning as no preliminary review proposal had been received. No representative of the owner was present at the hearing. The Planning Commission inquired whether there was a more suitable zoning district that would allow mixed-use development with high density residential, in conformance with the Transit Corridor Residential (20+ DU/AC) General Plan land use designation. Staff stated that there is currently no zoning district for high density residential with an allowance for mixed-use. The Director of Planning, Building and Code Enforcement stated that the R-M Multiple Residence Zoning District was the most suitable for the site, but that it might be prudent to analyze how the R-M Multiple Residence Zoning District could be made more flexible in the future to allow for mixed-use, transit-oriented development.

On January 23, 2007, the City Council voted to prezone the property to the R-M Multiple Residence Zoning District. No members of the public spoke on this item.

A preliminary review application (File No. PRE07-030) was filed on January 25, 2007. However, no specific proposal for development was included. Instead, the applicant requests that a zoning district be established that allows for the higher density residential and commercial uses outlined in the Transit Corridor Residential land use designation in the Land Use / Transportation Diagram of the 2020 General Plan.

Because of the greater complexity and mix of uses associated with transit oriented, mixed use projects, they are handled through the PD Planned Development zoning process. The description of the Transit Corridor Residential land use designation expressly states that "Development under this designation should be allowed only under Planned Development zoning and should be compatible with existing neighborhoods and not impair the viability nor the character of those neighborhoods."

As the owner is not pursuing specific plans for development of the site, staff recommends initiating annexation proceedings, rather than delay annexation for an indeterminate period of time. The City Council would not be able to consider a proposal for a PD Planned Development rezoning for two years after the annexation becomes effective, but the work to prepare a rezoning application could be undertaken during this time.

Staff is also investigating the possibility of amending the provisions of the R-M Multiple Residence Zoning District to facilitate development that is more in keeping with the Transit Corridor Residential General Plan designation.

### ANALYSIS

The proposed annexation and the rezoning to R-M Multiple Residence District will allow residential uses consistent with the Zoning Code, the existing neighborhood and the existing uses and/or structures on the subject property. 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.

### POLICY ALTERNATIVES

The City Council could drop this Director initiated annexation and await privately initiated rezoning and annexation applications at the applicant's expense.

### 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 has been posted on the City's website, and staff has been available to respond to questions from the public.

### COORDINATION

The project was coordinated with the Departments of Transportation, Fire, Police, Parks, Recreation and Neighborhood Services, Environmental Services, Public Works, Library, and the Redevelopment Agency. These departments are participating in a working group to coordinate, discuss and resolve issues associated with the annexation efforts

### FISCAL/POLICY ALIGNMENT

This project is consistent with the City Council's direction to initiate annexation of unincorporated islands of less than 150-acres.

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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.

  
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Richard Buikema at the Department of Planning, Building and Code Enforcement at 408-535-7800.

cc: