



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** JOSEPH HORWEDEL

**SUBJECT:** SEE BELOW

**DATE:** November 26, 2007

Approved

*Debra A. ...*

Date

*11/28/07*

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

**SUBJECT: PENITENCIA NO. 76 REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF AN APPROXIMATELY 1.14 GROSS ACRE COUNTY POCKET CONSISTING OF 1 PARCEL ON THE SOUTH SIDE OF SIERRA ROAD, 200 FEET EAST OF VARNER COURT.**

## RECOMMENDATION

It is recommended that the City Council adopt a resolution ordering the reorganization of territory designated as Penitencia No. 76 which involves the annexation to the City of San Jose of an approximately 1.14 gross acre County pocket located on the south side of Sierra Road, 200 feet east of Varner Court, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No.01 (Library Services) County Service Districts.

## OUTCOME

Upon completion of the annexation/reorganization proceedings, the territory designated Penitencia No. 76 shall be annexed into the City of San Jose.

## BACKGROUND

The City Council voted unanimously to initiate this annexation as part of Phase 2 of the County Island Annexation program on November 20, 2007. There were no speakers at the public hearing regarding this item.

The proposed annexation consists of 1 parcel (Assessor's Parcel Numbers 595-04-010) and the detachment of the same from the appropriate special districts including: Central Fire Protection and Area No.01 (Library Services) County Service Districts. A map showing the affected territory is attached.

On April 26, 2006, the City Council voted to proceed with a County island annexation program that involves the annexation of all unincorporated County pockets less than 150-acres in size. Phase 1 of this program resulted in the annexation of 21 County islands. The City of San Jose is initiating the annexation of the subject area in conjunction with Phase 2 of this program.

The City Council approved a Director-Initiated Rezoning (File No. C06-105) on November 6, 2007 which rezoned the parcel from unincorporated County to R-1-2 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 property is developed with a single-family residence.

Staff has had multiple conversations with the owner of the property. He has expressed interest in changing water service, sewer connection, and subdividing his property into two lots or constructing an in-law unit. Staff has provided the owner with information on in-law units and the permitting process and costs associated with connecting to City sewer service. Staff has also contacted San Jose Water Company and the Public Utilities Commission to provide the owner with information regarding making changes to water service territory. Water service boundaries are not affected by annexation, but upon annexation territory becomes eligible to obtain service from a City franchised water provider. However, this requires the existing provider to relinquish territory.

### ANALYSIS

The proposed annexation is being done as part of the second 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 the north, west, and south 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. Information on the County Pocket Annexation Program is available on the Planning Division's website, including specific information on the areas proposed for annexation and general information on what current county residents can expect upon the annexation of their property to the City of San Jose. An Answer Book has been distributed to all residents and property owners within the areas to be annexed as a part of Phase 2 of the program. Staff held a community meeting on August 23, 2007, with the residents and property owners within the islands proposed for annexation as part of Phase 2 of the County Island Annexation Program. This memorandum has been posted on the City's website, and staff has been available to respond to questions from the public.

HONORABLE MAYOR AND CITY COUNCIL  
November 26, 2007  
**Subject: Penitencia No. 76**  
Page 4

### **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. This project was also coordinated with the Local Agency Formation Commission and the City Attorney.

### **FISCAL/POLICY ALIGNMENT**

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

### **COST SUMMARY/IMPLICATIONS**

The proposed annexation is being done as part of the second 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.

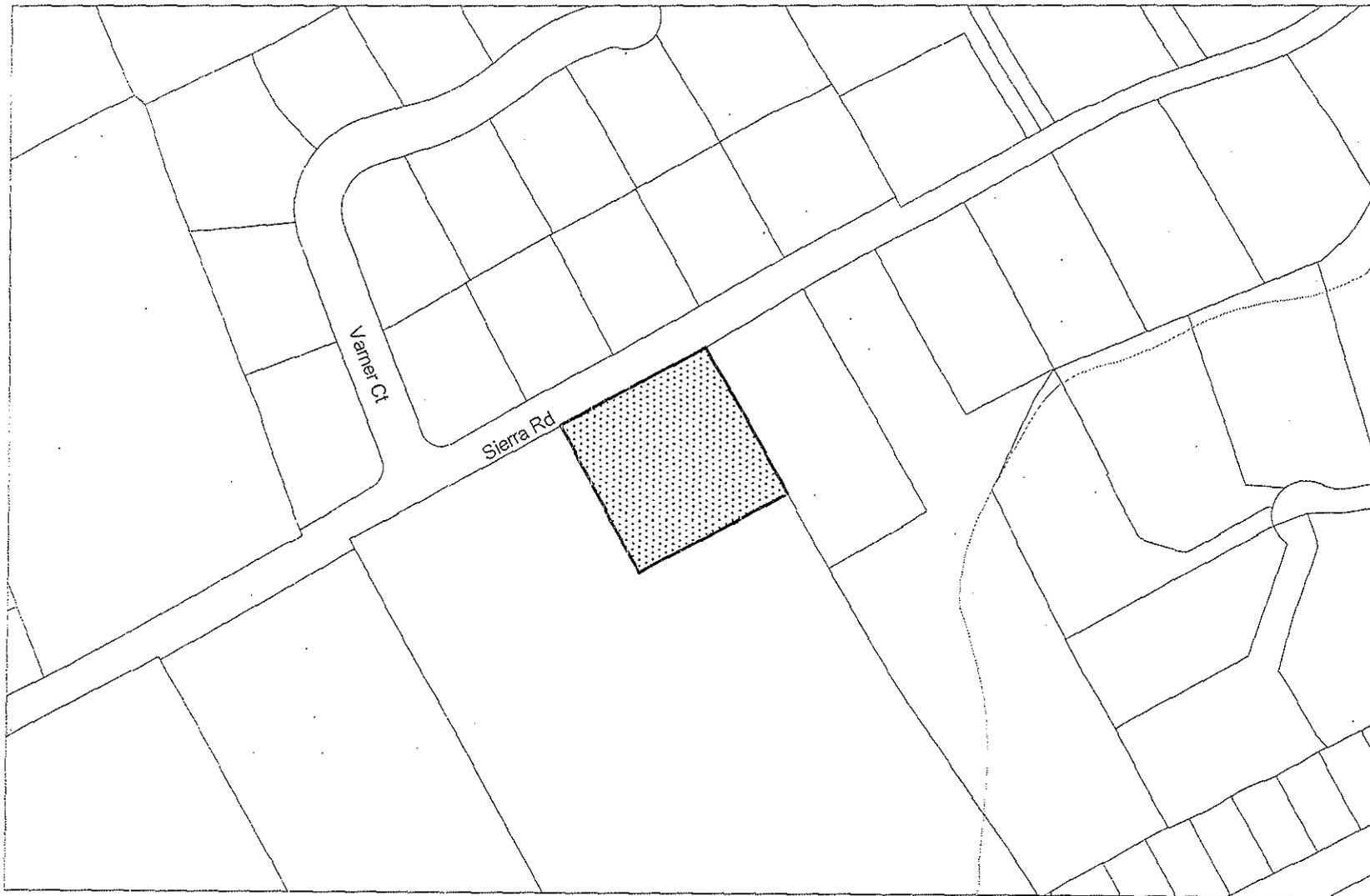
### **CEQA**

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, Senior Planner, at the Department of Planning, Building and Code Enforcement at 408-535-7800.

Attachments



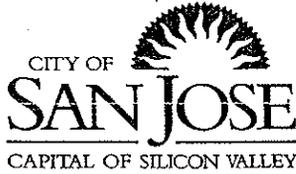
N  
  
Map Created On:  
10/10/2006

Scale 1 in = 200 ft 1:2400  
Noticing Radius: 300 ft



**File No: CC06-105 / PENITENCIA NO\_76**  
**District: 04**  
**Quad No: 37**

WDW



**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**

C06-105 / Penitencia No. 76 Planning Director-initiated rezoning to R-1-2 Single Family Residence District and reorganization/annexation to the City of San José of an approximately 1.14 gross-acre site referred to as Penitencia No. 76, located on the south side of Sierra Road, 200 feet east of Varner Court.

Council District 4  
County Assessor's Parcel Number: 595-04-010

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

10/11/07  
Date

Deputy