

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: April 28, 2008

Approved Paul Krutz Date 6/4/08

COUNCIL DISTRICT: 6
SNI AREA: BURBANK/DEL MONTE

SUBJECT: ANNEXATION OF BURBANK NO. 40 (PRIVATELY INITIATED)

RECOMMENDATION

Adoption of a resolution initiating proceedings and setting June 17, 2008 at 1:30 p.m. for City Council consideration on the reorganization of the territory designated as Burbank No. 40 which involves the annexation to the City of San Jose of approximately 2.78 acres of land located at the northwest corner of West San Carlos Street and Brooklyn Avenue and public right-of-way along West San Carlos Street, Brooklyn Avenue, and Topeka Avenue, and the detachment of the same from the appropriate special districts, including Central Fire Protection, Area No. 01 (Library Services) County Service, Burbank Sanitary and County Lighting County Services.

OUTCOME

Upon completion of the annexation/reorganization proceedings, the territory designated "Burbank No. 40" shall be annexed into the City of San José.

BACKGROUND

On March 18, 2008, the City Council adopted an Ordinance, which rezoned the subject property from unincorporated County to CP Commercial Pedestrian Zoning District on one parcel along West San Carlos and to R-1-8 Single Family Residence District on three parcels along Brooklyn Avenue (File No.C07-065) to allow commercial uses. This is a privately initiated annexation to allow commercial uses and an existing parking lot for the use of the existing retail building. Under the City-County agreement, the annexation of the parcels to the City is necessary because of the façade and site modifications proposed for the existing retail development.

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The proposed annexation consists of four parcels (Assessor's Parcel Numbers 274-17-085, -011, -012, -013) and the detachment of the same from the appropriate special districts including: Central Fire Protection, Area No. 01 (Library Services) County Services, Burbank Sanitary and County Lighting County Services. A map showing the affected territory is attached.

ANALYSIS

The applicant initiating the annexation owns all four parcels of private property within the subject territory. The subject annexation is considered a consenting annexation or a 100% Consent annexation, as all of the landowners in the annexation have agreed to the annexation proposal. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 does not require a public hearing and appurtenant noticing for the initiation of the subject annexation, as it is a "100% Consent annexation."

The subject annexation takes place in a large, unincorporated county island of approximately 440 acres. This county island is not part of the County Island Annexation Program, as it is over 150 acres in size and does not qualify for the streamlined annexation process. While the subject annexation will cut off the portion north of West San Carlos from the rest of the county island, it will not affect the larger unincorporated area with respect to annexation procedures. As of January 1, 2000, only areas under 150 acres qualify for the streamlined island annexation process.

EVALUATION AND FOLLOW-UP

As noted in the Background Section, on March 18, 2008, the City Council rezoned the subject site to CP Commercial Pedestrian and R-1-8 Single Family Residence Zoning Districts. No specific Council direction was made to staff for follow-up action prior to Council initiation of the subject annexation. Following initiation of the annexation proceedings on May 20, 2008, the Council would consider the annexation/reorganization on June 17, 2008.

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)**

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Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy and the Cortese-Knox-Hertzberg Local Government Reorganization Act 2000. Mailed noticing for 100% Consent Annexation (Initiation) is not required. A notice of the rezoning was distributed to the owners and tenants of all properties located within 500 feet of the project site and was posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is posted on the City's website. Staff has been available to respond to questions from the public

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department 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.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

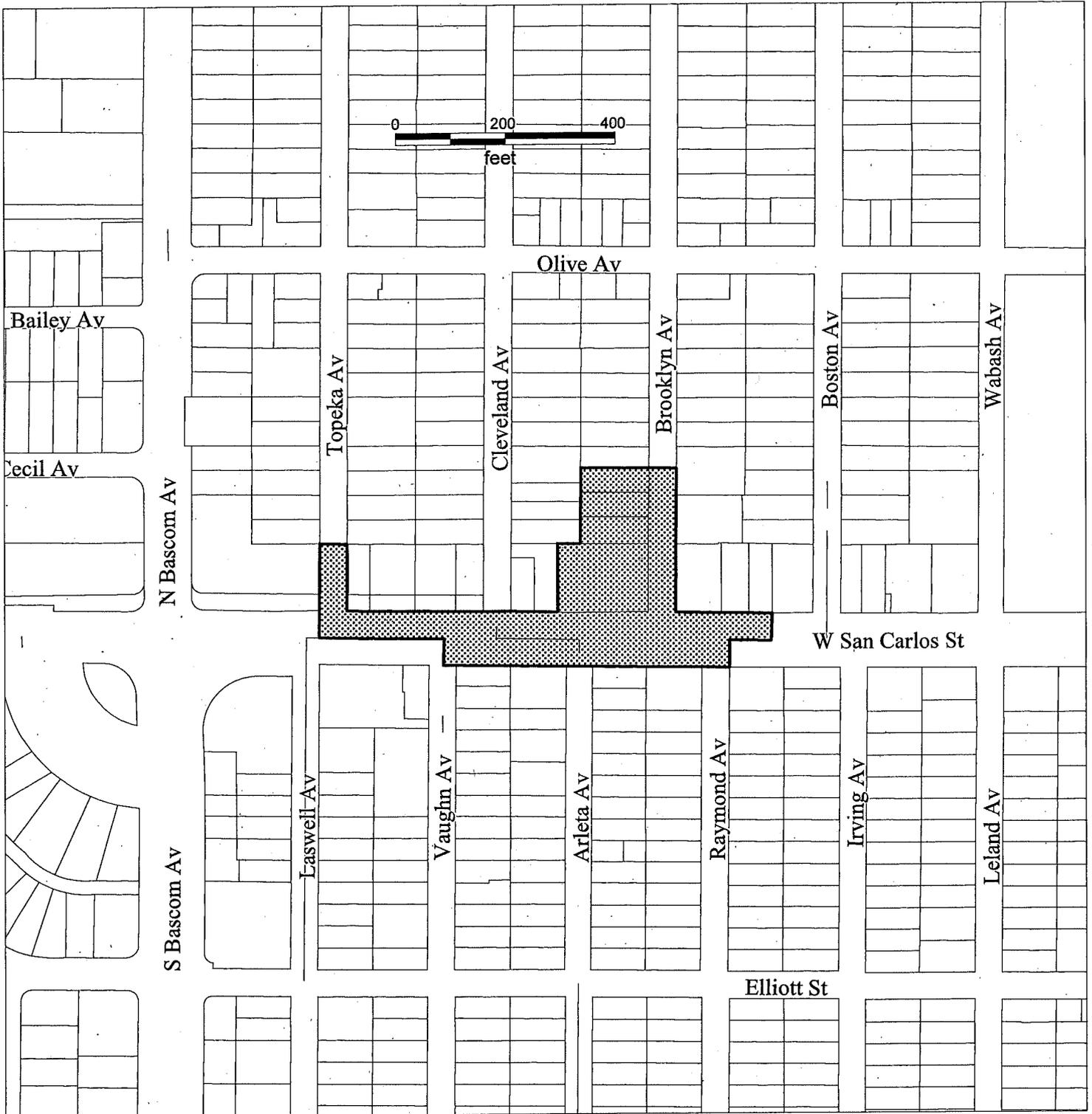
CEQA: Final EIR entitled, "San Jose 2020 General Plan EIR" adopted August 16, 1994, Resolution No. 65459, (C07-036).

For 
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Rich Buikema at 408-535-7835.

cc: Will Judy, 99 Cents Only Stores, 4000 Union Pacific Ave, Commerce CA 90023-3202

BURBANK 40 Location Map



Map Created On:
4/25/2008

Noticing Radius = 500 Ft

Prepared by the Department of Planning, Building, and Code Enforcement
City of San Jose, California

Joseph Horwedel, Director

District: 6
Quad: 82





**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

BURBANK NO. 40. Director initiated reorganization/annexation to the City of San José for a property located at 1915 West San Carlos Street on a 2.78-gross-acre site, rezoned CP Commercial Pedestrian and R-1-8 Single Family Residence Districts.

Council District: 6. County Assessor's Parcel Number: 274-17-011, -012, -013, -085

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:

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|-------------------------|-------------------------|-------------------------|
| 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 | | |

No additional site specific environmental analysis was necessary for this project.

Justin Fried
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

4/24/00
Date


Deputy