



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: May 12, 2008

Approved

Date

5/16/08

COUNCIL DISTRICT: 5

SNI AREA: N/A

SUBJECT: ANNEXATION OF MCKEE NO. 134 (PRIVATELY INITIATED)

RECOMMENDATION

It is recommended that the City Council adopt a resolution ordering the reorganization of territory designated as McKee No. 134 which involves the annexation to the City of San Jose of approximately 1.33 gross acres of land located on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive, and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service, and County Sanitation District 2-3.

OUTCOME

Upon completion of the annexation/reorganization proceedings, the territory designated "McKee No. 134" shall be annexed into the City of San José.

BACKGROUND

The proposed annexation consists of two parcels (Assessors' Parcel Numbers 599-01-091 and 599-01-092) and the detachment of the same from the appropriate special districts including: Central Fire Protection, Area No. 01 (Library Services) County Services, County Lighting County Service, and County Sanitation District 2-3. A map showing the affected territory is attached.

The annexation was initiated by the owner (Timothy Chen) of the larger parcel (Assessor's Parcel Number 599-01-091). The second parcel, adjacent to the initiating parcel (Assessor's Parcel Number 599-01-092), was included in the annexation since it would otherwise become a residual County island, surrounded on all sides by San Jose territory, if annexation of the larger parcel is ordered. The Cortese-Knox- Hertzberg Local Government Reorganization Act of 2000 provides that an annexation proposal shall not create islands of one jurisdiction surrounded by another jurisdiction. It was therefore necessary to incorporate this remaining County parcel into the McKee No. 134 annexation

in order to not create an island of County property surrounded by properties under the City's jurisdiction.

The applicant initiating the annexation consents to the annexation. The owner of the second, adjacent smaller parcel (Bruno J. Zulpo) was mailed a "consent" letter on July 20, 2007 requesting their consent to the annexation. Mr. Zulpo declined to consent to the annexation. The subject annexation cannot be considered a consenting annexation or a 100% Consent annexation, as not all of the landowners in the annexation have agreed to the annexation proposal. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a public hearing and appurtenant noticing for a "Non-100% Consent annexation."

On December 4, 2007, the City Council adopted an Ordinance, which rezoned the initiating larger property from unincorporated County to A(PD) Planned Development Zoning District (File No. PDC07-041) to allow residential uses on parcel APN 599-01-091. On April 22, 2008, City Council adopted an Ordinance, which rezoned the adjacent parcel (APN 599-01-092) to R-1-8 Single Family Residence Zoning District (File No. C08-013).

ANALYSIS

Landowners of unincorporated property within the City's Urban Service Area and within 300 feet of the existing San Jose City limits line can generally be required to annex before development is permitted to occur. A Planned Development Zoning (PDC07-041) was approved on December 4, 2007 to allow up to 7 single-family detached residences on the site. Annexation/reorganization proceedings are the next step before permits can be issued for this development.

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 reduction 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 along three sides as shown on the attached map.
7. **The City has complied with all conditions imposed by LAFCO for inclusion of the territory in the City's Urban Service Area.** No such conditions have been imposed.

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, staff followed Council Policy 6-30: Public Outreach Policy and the Cortese-Knox-Hertzberg Local Government Reorganization Act 2000. A notice of the annexation hearings is distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The hearings are 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.

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.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

Negative Declaration adopted on November 13, 2007 for parcel 599-01-091. The environmental impacts of the annexation of the adjacent parcel 599-01-092 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 Andrew Crebtree
for JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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

cc: Lon Dunaway, c/o Prodis Associates Architects, 1855 Park Ave., San Jose, CA 95126
Timothy Chen, 15221 Skyview Dr., San Jose, CA 95132-3016
Bruno J Zulpo, 586 N 1st Street, Suite 106, San Jose CA 95112-5362

MCKEE 134
Location Map



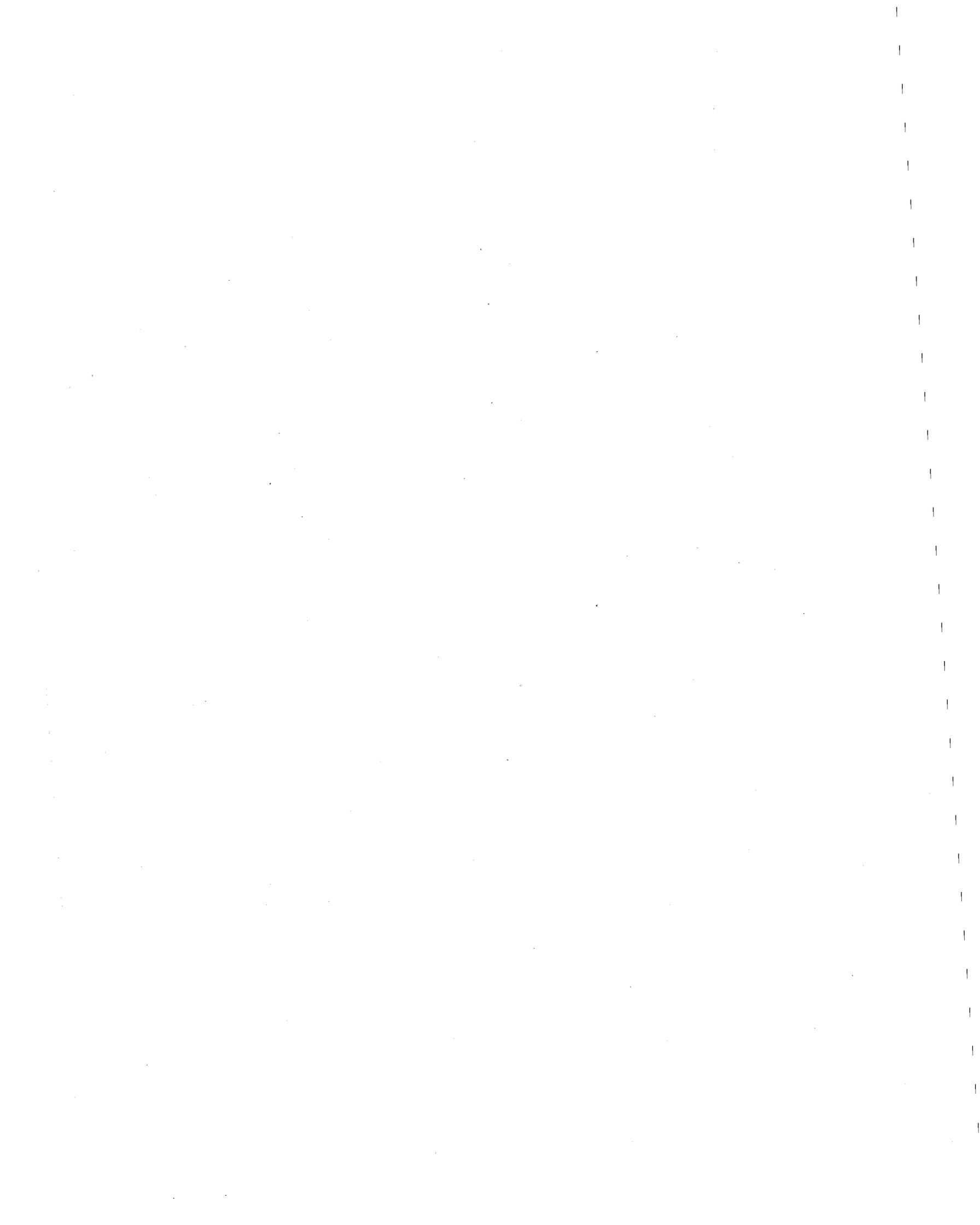
Noticing Radius = 500 Ft

Map Created On:
4/7/2008

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

District: 5
Quad: 52





NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: PDC07-041

PROJECT FILE NUMBER: PDC07-041

PROJECT DESCRIPTION: Conforming Planned Development Pre-zoning from County to A(PD) Planned Development Zoning District to allow up to 7 single-family detached residences on a 0.98 gross acre site and subsequent permits

PROJECT LOCATION & ASSESSORS PARCEL NO.: East side of North White Road, approximately 100 feet southerly of Kentridge Drive (380 N WHITE RD); 599-01-057

COUNCIL DISTRICT: 5

APPLICANT CONTACT INFORMATION: Tim Chen, 15221 SKY VIEW DR, SAN JOSE CA, (408)896-4728

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

NO MITIGATION MEASURES ARE REQUIRED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL.

I. AESTHETICS – The project will not have a significant impact on this resource, therefore no mitigation is required.

II. AGRICULTURE RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

- III. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. **BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- V. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IX. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. **NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XII. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on November 13, 2007, any person may:

Review the Draft Negative Declaration (ND) as an informational document only; or

Submit written comments regarding the information, analysis, and mitigation measures in the Draft ND. Before the ND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft ND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final ND; or

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 10/23/07

Aloni Danielson
Deputy

Adopted on: 11/14/07

Aloni Danielson
Deputy

**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

MCKEE NO. 134. Director initiated reorganization/annexation to the City of San José for a property located at 370 N. White Road on a 0.31-gross-acre site, prezoned R-1-8 Single Family Residence District.

Council District: 5.

County Assessor's Parcel Number: 599-01-092

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		

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

Justin Fried
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Date

4/14/08

Deputy

