



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: JOSEPH HORWEDEL

SUBJECT: SEE BELOW

DATE: March 18, 2009

Approved

Date

3/25/09

COUNCIL DISTRICT: 5
SNI AREA: None

SUBJECT: STORY NO. 61. REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSÉ OF AN APPROXIMATELY 3.21 GROSS ACRE COUNTY POCKET CONSISTING OF 4 PARCELS LOCATED ON THE NORTH SIDE OF STORY ROAD, 780 FEET WESTERLY OF MACHADO LANE

RECOMMENDATION

It is recommended that the City Council adopt a resolution ordering the reorganization of territory designated as Story No. 61 which involves the annexation to the City of San José of 3.21 gross acres of land located at the north side of Story Road, 780 feet westerly of Machado Lane, 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 Story No. 61 shall be annexed into the City of San José.

BACKGROUND

The City Council voted to initiate this annexation as part of Phase 3 of the County Island Annexation program on March 17, 2009. No one spoke in support or opposition to the initiation of the subject annexation.

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The subject site, located on the north side of Story Road 780 feet westerly of Machado Lane, is developed primarily with single-family detached residences and is surrounded by residential uses and one nursery school. The subject site consists of four properties with parcel sizes ranging from one third of an acre to an acre and a half.

The proposed annexation consists of 4 parcels which upon annexation to the City of San José would be detached from the following special districts: Central Fire Protection, and Area No. 01 (Library Services) County Service.

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. Phases 1 and 2 of this program resulted in the annexation of 32 County islands (covering 230 acres). The City of San José is initiating the annexation of the subject area in conjunction with Phase 3 of this program.

At the request of the County of Santa Clara Development Services Office, the subject annexation was deferred from the January 23, 2007 City Council Meeting (Initiation) and the February 27, 2007 City Council Meeting (Ordering) in order to await completion of a County abatement for a grading violation on APN 601-31-005. The property owner did not comply with a public nuisance abatement order; therefore County staff abated the most severe nuisance conditions on the property. The property owner did not pay the cost of the abatement as required. On January 15, 2008, the Santa Clara County Board of Supervisors resolved the nuisance abatement by placing a lien on the property for payment of the abatement cost. This in turn allows for the subject annexation to proceed.

ANALYSIS

Annexation of this and other islands of less than 150-acres as part of the County Island Annexation Program fulfills the long-standing policy of the City, County and LAFCO that existing and future urban development should be located within cities. In addition, the County Island Annexation Program implements the Urban Service Area policies of the San José 2020 General Plan that encourage cooperative efforts to seek the annexation of urbanized County pockets within San José's Urban Service Area. Annexation of County Pockets will ultimately result in more efficient delivery of urban services throughout San José by creating logical city boundaries, removing existing gaps in infrastructure, and improving the efficiency of the delivery of urban services such as police and fire protection.

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.

EVALUATION AND FOLLOW-UP

City staff provides status updates on the County Island Annexation Program on the website dedicated to the program and in periodic updates to the City Manager's Office.

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. Staff held community meetings on March 19, March 25, April 2, April 3, and July 8, 2008 with residents, property owners, and business owners in the county islands scheduled for annexation in 2008. The July 8th meeting focused on presenting the staff recommended zoning districts.

A notice of the public hearing was published, posted on the City's web site and distributed to the owners and tenants of all properties located within 300 feet of the project site. Information on the County Island Annexation Program is available on the Planning Division's website 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 José. An Answer Book has been distributed to all residents and property owners within the areas scheduled to be annexed in 2009 as a part of Phase 3 of the program. Staff has also been available to discuss the proposal with members of the public.

Below is a summary of some of the primary issues of concern to residents of this and other County Islands proposed for annexation as part of the County Island Annexation Process:

- **Taxes.** There will be no change to the assessed valuation of property or tax rate as a result of annexation to the City of San José. Some assessments change or will be eliminated (libraries, sewer, street lighting), with the amount of special assessments comparable to what was paid in the County. Newly annexed residents will be subject to the City's transfer tax (\$3.30/1000) and utility user's tax (5%).
- **Streamlined Annexation Process.** The State has waived formal protest proceedings for unincorporated areas surrounded or substantially surrounded by cities, that are already developed and within their Urban Service Area, and are less than 150 acres in size. Staff has received comments of concern from residents and property owners regarding the limits placed on their ability to protest annexations as a result of the streamlined process.
- **County/City Permit Processes.** Under State law, no changes in zoning or general plan designations can be approved for two years after the annexation unless findings can be made that a substantial change has occurred. The County stops accepting new development permits about six weeks prior to the annexation initiation hearing. Those with valid building permits in the County can continue construction, and inspections will be conducted by the County. New development permits can be obtained from the City once the annexation is effective.
- **Zoning Regulations.** Staff has provided information to residents regarding development standards under the new zoning districts, as well as other policies and programs such as regulations for legal nonconforming uses and the secondary unit program.
- **Boundaries (School district, zip code, and real estate)** Annexation does not affect school district boundaries. Address and real estate listing boundaries are not determined by the City. There are no immediate changes to these boundaries as a result of annexation. Staff cannot speak to the possibility of future changes in these boundaries by outside agencies or organizations.

- **Code Enforcement.** City of San José Code Enforcement will respond to complaints of code violations once the annexation is effective.
- **Sidewalks, Sewers, Lighting, Streets.** Upon annexation, residents should not expect the City to construct sidewalks or require construction of sidewalks until new development takes place or improvements are made within the public street right-of-way. The City also constructs sidewalks as part of street improvement projects funded through the City's Capital Improvement Program. San José does not have an assessment for street lights but will take over responsibility for maintaining existing street lights and taking care of outages, malfunctions, and damages.
- **Collection of Garbage and Recyclables** Annexation into San José will result in an eventual change to one of the companies under contract with the City for garbage and recyclable collection services. The change will not occur immediately upon annexation. Customers will be notified in advance regarding the time at which their garbage collection services will change to the new company.

Information regarding these and other issues are addressed in the Annexation Answer Book which was provided to all residents and property owners, well in advance of the proposed annexation to the City of San José.

COORDINATION

This project was coordinated with the Department of Public Works, Department of Transportation, Fire Department, Police Department, Building Division, Environmental Services Department and the City Attorney. Staff from the relevant Departments meets on a regular basis regarding issues related to the County Island Annexation Program. The City provides regular updates to the County of Santa Clara on the status of the program.

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 annexation of this and other islands will remove existing gaps in infrastructure and inefficiencies in the delivery of urban services such as police and fire protection. Upon annexation, the City of San José will receive tax revenue from property in these unincorporated pockets whose residents utilize City facilities such as roads, libraries, parks, and community centers. Incorporation of these islands will result in a more equitable distribution of costs amongst all residents who benefit from City services and facilities.

The City will incur operational costs to provide direct services to the area such as emergency services provided by the Police and Fire Departments, demands by residents and businesses for street maintenance, code enforcement, recreational and library services. The larger County islands were intentionally included as part of the third and last phase of the County Island Annexation Program (initiated in 4/2006) to allow sufficient time for City service providers to prepare to take responsibility for providing services in these areas. Planning staff has closely coordinated with staff from other departments to assist in their preparation to provide services to the area.

BUDGET REFERENCE

Not applicable.

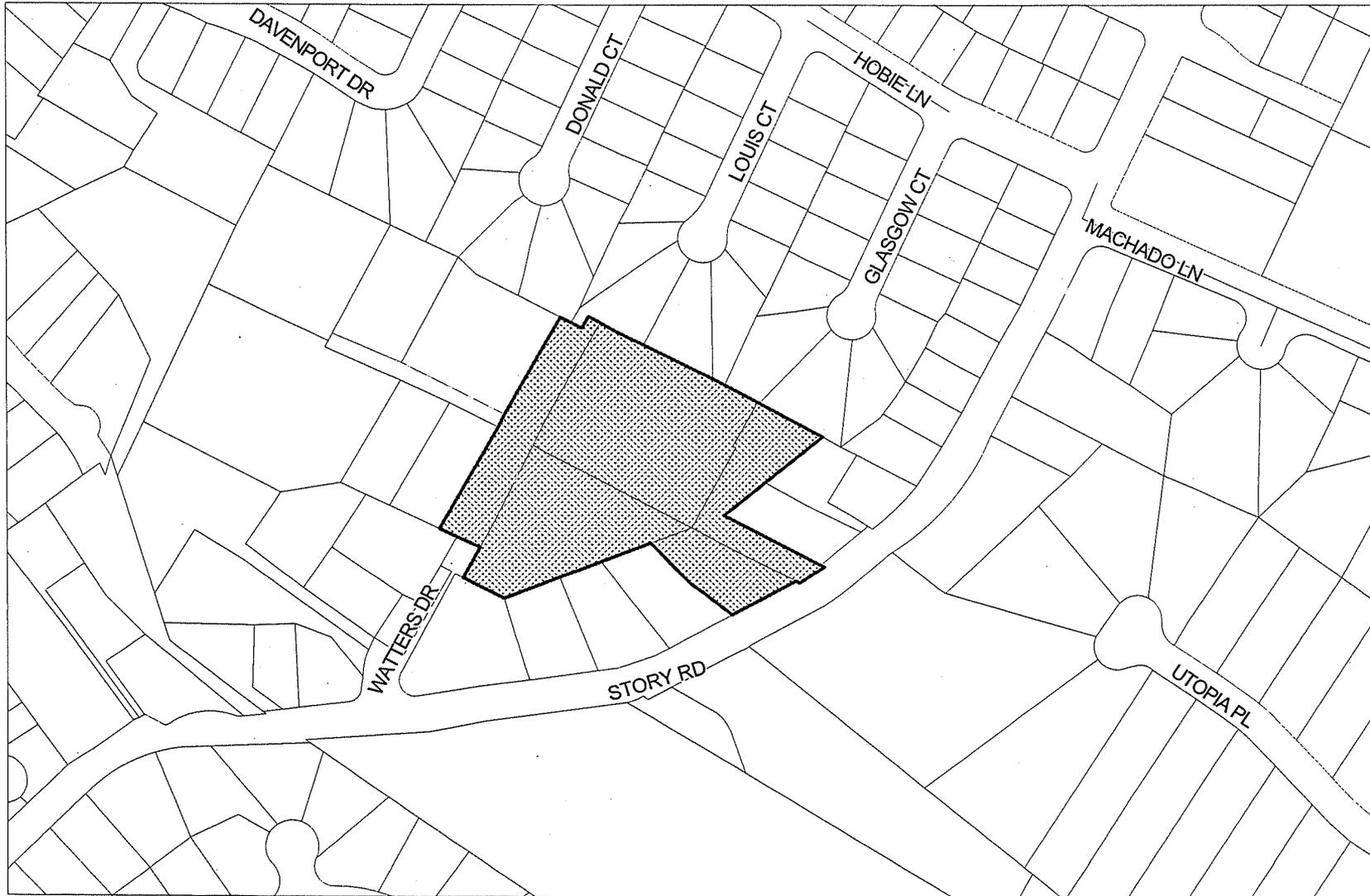
CEQA

Resolution No. 65459

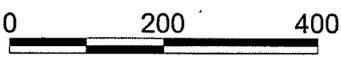

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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

Attachments




Map Created On:
7/10/2006

Scale 1 in = 250 ft 1:3000
Noticing Radius: 300 ft

feet

File No: C06-075 / Story No. 61
District: 05
Quad No: 069

**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

Story No. 61. Reorganization/Annexation to the City of San José of an approximately 3.21 gross acre County pocket consisting of 4 parcels located on the north side of Story Road, 780 feet westerly of Machado Lane.

Council District 5

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.

Lesley Xavier
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

2-18-09
Date


Deputy