



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** September 14, 2009

Approved

*Paul Kruth*

Date

*9/17/09*

**COUNCIL DISTRICT:** 9  
**SNI AREA:** N/A

**SUBJECT: PARKER NO. 27 REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF AN APPROXIMATELY 78 GROSS ACRE COUNTY ISLAND CONSISTING OF APPROXIMATELY 280 PARCELS GENERALLY BOUNDED BY SAMARITAN DRIVE TO THE NORTH, UNION AVENUE TO THE EAST, WILMA WAY TO THE WEST AND ROSSWOOD DRIVE TO THE SOUTH.**

## RECOMMENDATION

It is recommended that the City Council adopt a resolution initiating proceedings and setting November 17, 2009 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Parker No. 27 which involves the annexation to the City of San José of approximately 78 gross acres of land generally bounded by Samaritan Drive to the north, Union Avenue to the east, Wilma Way to the west and Rosswood Drive to the south, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service.

## OUTCOME

Upon completion of the annexation/reorganization proceedings, the approximately 78 gross acre County island designated as Parker No. 27 will be within the incorporated area of the City of San José.

## BACKGROUND

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. There is a pending Planning Director initiated Rezoning (File No. C09-026) to assign City of San José zoning districts to the area prior to annexation, which is scheduled for City Council consideration on September 15, 2009.

In November of 2006, the City and County entered into a Settlement Agreement to resolve disputes related to development of the County Fairgrounds site and development under the City's North San Jose Area Development Policy. As a part of that Settlement Agreement, the City agreed to review and process for ultimate consideration by the City Council the annexation to City of pockets of County territory that are 150 acres or less. While not agreeing to any particular outcome or decision on any particular annexation proposal, City did agree to make good faith efforts to process those annexations for City Council consideration by April 15, 2011. This proposed annexation has been reviewed and processed pursuant to the agreements reached by the City and County in that Settlement Agreement.

The proposed annexation consists of approximately 280 parcels developed with single-family residences, which upon annexation to the City of San Jose would be detached from the following special districts: Central Fire Protection, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service.

### **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 Jose 2020 General Plan that encourage cooperative efforts to seek the annexation of urbanized County pockets within San Jose's Urban Service Area. Annexation of County Pockets will ultimately result in more efficient delivery of urban services throughout San Jose 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.

### **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**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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 a community meeting on June 25, 2009 with residents, property owners, and business owners in these areas. Approximately 32 people attended the meeting. Residents asked questions and had concerns regarding the following issues:

- Changes in services – Residents had questions regarding fire services, police services, and sewer hook up changes including maintenance of sewer and water pipes.
- Timing of annexation – Residents were concerned that this County pocket is being annexed when the City’s budget is not balanced.
- Inability to vote on annexation - Residents were concerned that they are not represented in the decision making process and considered the proposed annexation “taxation without representation”.
- Legal nonconforming regulations – residents specifically asked questions regarding home occupations.

A petition was signed by 24 residents opposing the proposed annexation (see attached).

On August 3, 2009 staff presented the proposed rezoning and annexation at the Cambrian Community Council. Residents asked questions about legal non-conforming uses and changes in service.

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 made available 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.

As part of the outreach effort, staff has provided the following information to neighborhood residents:

General information applicable to most annexations in the County Island Annexation Program

- **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 Jose. 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 Jose 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 made available to all residents and property owners, well in advance of the proposed annexation to the City of San Jose.

### **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.

HONORABLE MAYOR AND CITY COUNCIL

September 14, 2009

**Subject:** Parker No. 27

Page 6

**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.

Owner/Applicant:	Attachments:
Director-Initiated	Residents petition, June 21, 2009

6-21-2009

We the people who live on Winton Way, in the county of Santa Clara, DO NOT want to be annexed into the city of San Jose.

<u>Name</u>	<u>Address</u>	<u>Signature</u>
ANNE SCHWEININGER	15280 WINTON WAY	Anne Schweininger
JOHN SCHWEININGER	15280 WINTON WAY 95124	John Schweininger
Regina DiTullio	15261 Winton Way, SJ 95124	Regina DiTullio
Randy DiTullio	15261 Winton Way, SJ 95124	Randy DiTullio
Lauren Brown	15341 Wilma Way SJ 95124	Lauren Brown
Matt Brown	15341 Wilma Way SJ 95124	Matt Brown
Joe August	15390 Wilma Way SJ 95124	Joe August
Bill Miller	15300 Winton Way, SJ 95124	Bill Miller
Dorot G. Schatz	15266 Winton Way	Dorot G. Schatz
Mark A. Deloye	15250 Winton Way	Mark A. Deloye
Vadon Repasa	15290 Winton Way	Vadon Repasa
Dan Menden	15230 Winton Way San Jose	Dan Menden
Cheri Lozoya	15210 Winton Way San Jose	Cheri Lozoya
Steve Lopez	15210 Winton Way San Jose	Steve Lopez
Edie Mills	15240 Winton Way San Jose	Edie Mills
DONNA DONAN	15241 Winton Way SAN JOSE CA	Donna Donan
Pat Donan	15241 Winton Way SAN JOSE	Pat Donan
Nancy Williams	15231 Winton Way San Jose	Nancy Williams
Bill Williams	15231 Winton Way San Jose	Bill Williams
PIERRE KOUCHERECY	15251 WINTON WAY	Pierre Koucherecy
ERIC BURDICK	15351 WILMAWAY SAN JOSE, CA	Eric Burdick
Nancy Plew	15270 Winton Way San Jose, CA 95124	Nancy Plew
Jim Miller	15211 Winton Way San Jose CA 95124	Jim Miller
Kathy Phelan	15191 Winton Way San Jose CA 95124	Kathy Phelan