



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: January 18, 2007

COUNCIL DISTRICT: 4
SNI AREA: N/A

SUBJECT: C06-074. DIRECTOR INITIATED PREZONING FROM COUNTY OF SANTA CLARA TO R-M MULTIPLE RESIDENCE ZONING DISTRICT FOR MULTI-FAMILY RESIDENTIAL PURPOSES ON AN APPROXIMATELY 15.3 GROSS ACRE AREA CONSISTING OF 2 PARCELS ON THE SOUTHEAST CORNER OF CAPITOL AVENUE & HOSTETTER ROAD (RELATED ANNEXATION BERRYESSA NO. 68)

RECOMMENDATION

The Planning Commission voted 5-0-0-1 (Commissioner Dhillon abstaining) to recommend the City Council consider and adopt an ordinance rezoning the property located on the southeast corner of Capitol Avenue and Hostetter Road from unincorporated County to R-M Multiple Residence Zoning District to allow multi-family residential uses on a 15.3 gross acre site.

OUTCOME

Approval of the Director initiated rezoning from unincorporated County to the R-M Multiple Family Residence Zoning District would facilitate subsequent annexation of the subject site to the City of San Jose. There is development potential for the site, as much of the site is currently developed with agricultural and parking uses.

BACKGROUND

On November 8, 2006, the Planning Commission held a public hearing to consider the proposed Rezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning. A representative of the owner objected to rezoning the property to R-M Multiple Residence Zoning District, in favor of a possible zoning that would allow for higher density on the site, in conformance with the Transit Corridor Residential (20+ DU/AC) General Plan land use designation. The Planning Commission deferred the item for two months to allow the owner time to prepare an application for a privately initiated PD Planned Development rezoning. The owner's representative indicated that they would be submitting a preliminary review application for a **Planned Development. No Preliminary Review application has been submitted to date.**

On January 17, 2007, the Planning Commission held a public hearing to consider the proposed Prezoning. The Director of Planning, Building and Code Enforcement again recommended approval of the proposed prezoning. No representative of the owner was present. Planning Commission inquired whether there was a more suitable zoning district that would allow mixed-use development with high density residential, in conformance with the Transit Corridor Residential (20+ DU/AC) General Plan land use designation. Staff stated that there is currently no zoning district for high density residential with an allowance for mixed-use. The Director of Planning, Building and Code Enforcement stated that the R-M Multiple Residence Zoning District was the most suitable for the site, but that it might be prudent to analyze how the R-M Multiple Residence Zoning District could be made more flexible in the future to allow for mixed-use, transit-oriented development.

ANALYSIS

There is no conforming prezoning district with the General Plan Land Use/Transportation Diagram land use designation of Transit Corridor Residential (20+ DU/AC). The R-M Multiple Residence Zoning District is the most suitable zoning district for the Transit Corridor Residential (20+ DU/AC) land use designation, allowing densities of up to 25 DU/AC.

POLICY ALTERNATIVES

If the City Council chooses to deny the subject prezoning, the property could not be annexed at this time and would continue to remain as unincorporated property and be used for residential, agricultural, and parking uses.

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. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

HONORABLE MAYOR AND CITY COUNCIL

Date: January 18, 2007

Subject: File # C06-074

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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 and City Council approved design guidelines as discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

The environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and was certified on August 16, 1994, by the City of San Jose City Council.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Senior Planner, Richard Buikema, at 535-7835.



Memorandum

TO: PLANNING COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: January 3, 2007

COUNCIL DISTRICT: 4

SNI AREA: None

SUBJECT: C06-074. DIRECTOR INITIATED PREZONING FROM COUNTY OF SANTA CLARA TO R-M MULTIPLE RESIDENCE ZONING DISTRICT FOR MULTI-FAMILY RESIDENTIAL PURPOSES ON AN APPROXIMATELY 15.3 GROSS ACRE AREA CONSISTING OF 2 PARCELS ON THE SOUTHEAST CORNER OF CAPITOL AVENUE & HOSTETTER ROAD (RELATED ANNEXATION BERRYESSA NO. 68)

S U P P L E M E N T A L

At the November 8, 2006 Planning Commission meeting, this Director-initiated prezoning was deferred to January 17, 2007, to allow time for the applicant to prepare a privately-initiated request to rezone the property. At the November 8th hearing, the owner's representative objected to prezoning the property to R-M Multiple Residence Zoning District, in favor of a possible zoning that would allow for higher density on the site. Approval of the Director-initiated prezoning would preclude a change in zoning for two years after annexation to the City, per Government Code Section 56375(e) (as part of the Cortese-Knox-Hertzberg Act).

Staff recognizes that the site's General Plan land use designation of Transit Corridor Residential (20+ DU/AC) would support higher density on the site than could be accommodated under the R-M Multiple Residence Zoning District; however, the City currently does not have a conventional zoning district to allow for higher density without a Planned Development (PD) zoning. A PD prezoning would require that the Director-Initiated prezoning be dropped to accommodate planned development prezoning application submitted by the owner.

Staff contacted the owner's representative on December 14, 2006, to discuss their intentions to submit an application for a planned development prezoning. The owner's representative stated their intention to submit a preliminary review application in January 2007.

Staff has not received any application by the date of this memorandum to evaluate the potential for a PD prezoning. Staff recommends the Planning Commission move this prezoning to the City

Council, to allow the associated Annexation (File No. Berryessa No. 68) to move forward, based on the City Council's direction to proceed with the County Island Annexation Program.

for 
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

1-23-07
COUNCIL AGENDA: ~~11-14-06~~
ITEM: ~~File~~ 11.1(a)



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 1, 2006

TRANSMITTAL MEMO

COUNCIL DISTRICT: 4
SNI AREA: N/A

SUBJECT: C06-074. LOCATED ON THE SOUTHEAST CORNER OF CAPITOL AVENUE AND HOSTETTER ROAD.

The Planning Commission will hear this project on November 8, 2006. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.


 JOSEPH HORWEDEL, ACTING DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Susan Walton at (408) 535-7800.

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113

Hearing Date/Agenda Number
P.C. 11/08/06 *3a*
C.C. 11/14/06 *11.1.c*

File Number
C06-074

Application Type
Director Initiated Rezoning

Council District
4

Planning Area
Berryessa

Assessor's Parcel Number
245-01-003 & 245-01-004

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Chris Burton

Location: Southeast (South) corner of Capitol Avenue and Hostetter Road

Gross Acreage: 15.3

Net Acreage: 15.3

Net Density: N/A

Existing Zoning: Unincorporated

Existing Use: Orchard and VTA Car Park

Proposed Zoning R-M Multiple Residence District

Proposed Use: Multi-family Residential

GENERAL PLAN

Land Use/Transportation Diagram Designation
Transit Corridor Residential (20+ DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Commercial

CP -Commercial Pedestrian & A(PD)

East: Single Family Residential

R-1-8 Single Family Residential

West: Single Family Residential

R-1-8 Single Family Residential

South: Single Family Residential

R-1-8 Single Family Residential

ENVIRONMENTAL STATUS

Environmental Impact Report "San José 2020 General Plan," and certified on August 16, 1994
 Negative Declaration circulated on
 Negative Declaration adopted on

Exempt
 Environmental Review Incomplete

FILE HISTORY

Annexation Title: Berryessa No. 68

Date: Pending

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: 10/5/06

Approved by: *Susan Walton*
 Action
 Recommendation

OWNER/APPLICANT

245-01-003 – Clara Bianchi - Owner

245-01-004 – Valley Transportation Authority

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Chris Burton

Department of Public Works

See attached Memo.

Fire

See attached Memo.

OTHER CORRESPONDENCE

None Received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

On April 26, 2006, the City Council voted to provide direction to City staff to proceed with a County island annexation program which involves the annexation of all unincorporated County pockets less than 150-acres in size. The subject project is a Planning Director-initiated rezoning which is being done in preparation for the annexation of the 15.3-acre area referred to as Berryessa No.68 (one of the 58 unincorporated County islands or "pockets" scheduled for annexation).

Rezoning is the process of assigning City of San Jose zoning district to a property in advance of annexation so that the property will be appropriately zoned once the annexation is effective. All of the unincorporated island sites are within the City of San Jose's Sphere of Influence and thus currently have a City of San Jose General Plan Land Use/Transportation Diagram designation. The proposed rezoning should be consistent with the City's General Plan and also address existing uses on the subject property and surrounding sites. In this case, staff is recommending that the property be zoned R-M Multiple Residence in accordance with the Transit Corridor Residential (20+ DU/A) General Plan designation. The Planning Commission is scheduled to consider this item on November 8, 2006.

No changes are proposed to the existing uses on the property. Any legal aspects of the existing condition that would no longer be in conformance after annexation in to the City of San Jose and after the new zoning district is adopted shall become legal nonconforming. Any changes to the legal nonconforming aspects of the property would be subject to the provision of Chapter 20.150 of the San Jose Municipal Code.

Site and Surrounding Uses

The subject site, located on the southeast corner of Capitol Avenue and Hostetter Road, consists of two properties and is developed primarily with a mixture of agricultural uses (orchard trees) and a Valley Transportation Authority Park-and-Ride parking lot, and is surrounded by single-family residential properties to the south, east and west, and commercial uses to the north. There is a single residence on site with associated agricultural buildings.

ENVIRONMENTAL REVIEW

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.

GENERAL PLAN CONFORMANCE

The site is designated Transit Corridor Residential (20+ DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed R-M Multiple Residence Zoning District allows residential uses consistent with this land use designation.

The zoning and annexation of this unincorporated pocket furthers the General Plan Urban Service Area policies that encourage the County and LAFCO to join in cooperative efforts to seek the annexation of urbanized County pockets with the City's Urban Service Area.

ANALYSIS

The proposed R-M Multiple Residence Zoning District will allow residential uses compatible with the existing neighborhood and the existing uses and/or structures on the subject property. The proposed rezoning to the R-M Multiple Residence Zoning District will also bring the zoning into conformance with the General Plan.

Prezoning the property is necessary in order to proceed with the County Island Annexation Program as outlined in the phasing schedule provided to the City Council in a memorandum dated July 19, 2006 and adopted on August 8, 2006.

PUBLIC OUTREACH

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 Pocket annexation program is available on the Planning Divisions 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 Jose. An Answer Book has been distributed to all residents and property owners within the areas to be annexed as a part of Phase I of the program. Staff has also been available to respond to questions from the public.

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney.

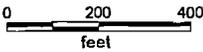
RECOMMENDATION

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed prezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of Transit Corridor Residential (20+ DU/A).
2. The proposed prezoning will facilitate the annexation and continued use or re-development of this site with a use that is consistent with the General Plan and compatible with the surrounding land uses.



Scale 1 in = 400 ft 1:4800
Noticing Radius: 300 ft



Map Created On:
7/7/2006

File No: C06-074 / Berryessa No. 68
District: 04
Quad No: 051

Memorandum

TO: Sanhita Mallick
Planning and Building

FROM: Michael Liw
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 07/28/06

PLANNING NO.: C06-074, BERRYESSA 68
DESCRIPTION: Planning Director Initiated Prezoning from unincorporated county to RM Multiple Residence District on an approximately 15.3 gross acre area consisting of 2 parcels
LOCATION: Southeast (South) corner of Capitol Av & Hostetter Rd
P.W. NUMBER: 3-18098

Public Works received the subject project on 07/10/06 and has no comments related to this Planning application. The following comments and requirements are related to future Planning permit stages and are included for information only.

Project Conditions:

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the future developer will be required to have satisfied all of the following Public Works conditions. The future developer is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
2. **Transportation:** A Traffic Report is required prior to environmental clearance or the Planning Permit stage.
3. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance.
 - b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP)

for controlling storm water discharges associated with construction activity.

Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.
5. **Flood: Zone AO, Depth 1', Portion in Zone D**
 - a) Elevate the lowest floor of all structures in Zone AO, including basement, more than 1 foot above the highest existing adjacent grade to the proposed structure.
 - b) Provide vent openings for all enclosures below the base flood elevation (ex. at-grade garages), except basements. The design must either be certified by a registered professional engineer or meet the following requirements:
 - i) Provide vent openings on at least two exterior walls of each enclosure to automatically equalize the lateral pressure of the floodwaters. The bottom of each opening shall be no higher than twelve inches above the exterior adjacent grade. Provide a minimum of two vent openings having a total net area of not less than one square inch per one square foot of enclosed area.
 - c) An Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on finished construction is required for each built structure prior to issuance of an occupancy permit.
 - d) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
8. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Capitol Avenue prior to issuance of a Public Works clearance. One hundred percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)

9. **Sanitary:**

- a) A conceptive sanitary sewer plan will be required prior to approval at the Planning Permit stage.
- b) Applicant may be required to provide flow-monitoring data of existing surrounding sanitary mains to evaluate potential capacity constraints for this proposed project. Upgrading/rehabilitation of surrounding sanitary mains or alternative points of connection to the sanitary system serving this site may be required. Meeting with applicant will be required to determine monitoring locations.

10. **Storm:**

- a) A conceptive grading/drainage plan will be required prior to approval at the Planning Permit stage.
- b) Indicate the overland release path in arrows.
- c) The release path must be paved.
- d) On-site ponding must be less than one foot.
- e) Finished floor elevations must be one foot higher than overland release elevation.

11. **Street Improvements:**

- a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- b) Close unused driveway cut(s).
- c) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- d) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

12. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project. Based on established criteria, the public improvements associated with this project have been rated high complexity. An additional surcharge of 50% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.

13. **Electrical:** Install electroliers on the project frontage to the satisfaction of the Director of Public Works.

14. **Landscape:**

- a) Install street trees within the public right-of-way along the entire street frontage per City standards.
- b) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
- c) Contact the City Arborist at (408) 277-2756 for the designated street tree.

Planning and Building

8/4/2006

Subject: C06-074, BERRYESSA 68

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15. **Referrals:** This project should be referred to the Santa Clara Valley Transportation Authority.

Please contact the Project Engineer, Mirabel Aguilar, at (408) 535-6822 if you have any questions.

A handwritten signature in black ink, appearing to read 'ML' with a stylized flourish.

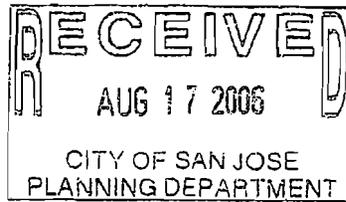
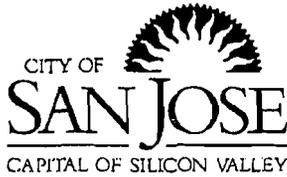
Michael Liw

Senior Civil Engineer

Transportation and Development Services Division

ML:MA:ar

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Memorandum

DATE: 08/8/06

TO: Christopher Burton
FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: C06-074

DESCRIPTION: Planning Director Initiated Prezoning from unincorporated county to RM Multiple Residence District on an approximately 15.3 gross acre area consisting of 2 parcels

LOCATION: Southeast (South) corner of Capitol Av & Hostetter Rd

ADDRESS: Southeast (South) corner of Capitol Av & Hostetter Rd (1587 N CAPITOL AV)

FOLDER #: 06 020278 ZN

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.

Planner to check with Hazardous Materials Division, , Michael Murtiff, for Environmental concerns, and Fire Administrative Officer Geoff Cady for response impact.

Nadia Naum-Stoian
Fire Protection Engineer
Bureau of Fire Prevention
Fire Department
(408) 535-7699



**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

C06-074. Conventional Rezoning for a project located on the southeast corner of Capitol Avenue and Hostetter Road on a 15.3-gross-acre site with a San Jose 2020 General Plan Land Use/Transportation Diagram Designation of Transit Corridor Residential (25+ DU/AC) from Unincorporated County to R-M Multiple Residence District.

Council District 4

County Assessor's Parcel Numbers 245-01-003 & 245-01-004

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.

Chris Burton
Project Manager

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

October 26, 2006
Date

Susan Walton
Deputy