

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
C.C. 4/3/07 11.1(a)

File Number
C06-114

Application Type
Conforming Rezoning

Council District
1

Planning Area
West Valley

Assessor's Parcel Number(s)
303-39-015

STAFF REPORT

PROJECT DESCRIPTION

Completed by: S. Martina Davis

Location: West side of Spar Avenue, approximately 130 feet northerly of Olin Avenue

Gross Acreage: 0.21

Net Acreage: 0.21

Net Density: 4.76 DU/AC

Existing Zoning: Unincorporated

Existing Use: Single-family detached residential

Proposed Zoning: R-1-8 Single Family Residence District

Proposed Use: Single-family detached residential

GENERAL PLAN

Completed by: SMD

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: SMD

North: Single-family detached residential

Unincorporated

East: Single-family detached residential

Unincorporated

South: Commercial/Office

Unincorporated

West: Single-family detached residential

Unincorporated

ENVIRONMENTAL STATUS

Completed by: SMD

Environmental Impact Report (GP2020 EIR certified 8-16-94)
 Negative Declaration circulated on
 Negative Declaration adopted on

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: SMD

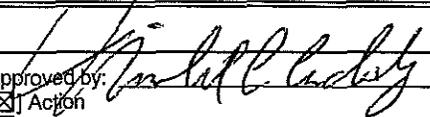
Annexation Title: Winchester No. 40

Date: Pending

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: 3/15/07

Approved by: 
 Action
 Recommendation

OWNER

Ali Zahabi
383 Spar Avenue
San Jose, CA 95117

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: SMD

Department of Public Works

No comments or requirements.

Other Departments and Agencies

N/A

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Ali Zahabi., has filed a Conforming Rezoning Application on the subject 0.21 gross-acre site to R-1-8 Single-Family Residence Zoning District. The subject site, on the west side of Spar Avenue, approximately 130 feet northerly of Olin Avenue, is currently developed with one single-family residence.

Rezoning is the process of assigning City of San Jose zoning district designation to a property in advance of annexation so that the property will have an appropriate zoning designation once the annexation is effective. All of the unincorporated lands within the City of San Jose's Sphere of Influence currently have a General Plan Land Use/Transportation Diagram designation. The proposed rezoning designation should be consistent with the City's General Plan and also address existing uses on the subject property and surrounding sites.

No physical changes are proposed to the existing residential building on the property as part of this application. Upon annexation any legal physical or use aspects of the existing condition that are not in conformance with the requirements of the R-1-8 Zoning District 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. In addition to the subject parcel, the pending annexation would bring a portion of Spar Avenue into the City, which would connect the parcel to Olin Avenue, which is a City street.

In addition, the applicant has also filed for a Conditional Use Permit (file no. CP06-058) to allow a day care center for 14 children on the site. This application is currently under review for conformance with the Zoning Ordinance and City Council Policy 6-14, Guidelines for Child Care.

The site is relatively flat and rectangular in shape with approximately 75 feet of frontage on Spar Avenue. Single-family residences are directly adjacent to the north and west, and across the Spar Avenue to the east, and an office/commercial use is to the south.

GENERAL PLAN CONFORMANCE

The subject site is designated Medium Low Density Residential (8 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed R-1-8 Single-Family Residence Zoning District is consistent with this designation because it would allow single family detached residential uses at a density of up to 8.0 DU/AC. In addition, a daycare could be facilitated under this Zoning designation. An analysis of General Plan conformance for the CUP on file will be evaluated independently from this analysis.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR." On August 16, 1994, the City Council adopted Resolution Number 65459 making findings for adoption of the San Jose 2020 General Plan.

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 (3) no new mitigation measures would be required beyond those contained in the General Plan and Final EIR pursuant to CEQA Guidelines 15162.

ANALYSIS

The proposed rezoning to R-1-8 Single Family Residence District would allow single-family detached residential uses consistent with the Medium Low Density Residential (8 DU/AC) General Plan designation in a manner that is compatible with surrounding residential uses. The site will have an existing density of 4.76 DU/AC. As mentioned in the Background section, a day care use is currently proposed on the site. A day care is a conditionally permitted use in the R-1-8 Single Family Residence Zoning District. The proposal is under review under the permit file no. CP06-058, and major outstanding issues include parking, circulation, and noise. Approval of this Rezoning in no way constitutes or obligates approval of the associated CUP.

The Zoning Designation R-1-8, which allows single family uses with a 5,445 square-foot minimum lot area, is the zoning designation that is most consistent with the existing development of the parcel on an approximately 9,148 square foot lot. The subject site is surrounded by development of similar lot sizes and patterns.

PUBLIC OUTREACH

The property owners and occupants within a 500-foot radius were sent public hearing notices for the City Council hearing. This staff report will be posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

COORDINATION

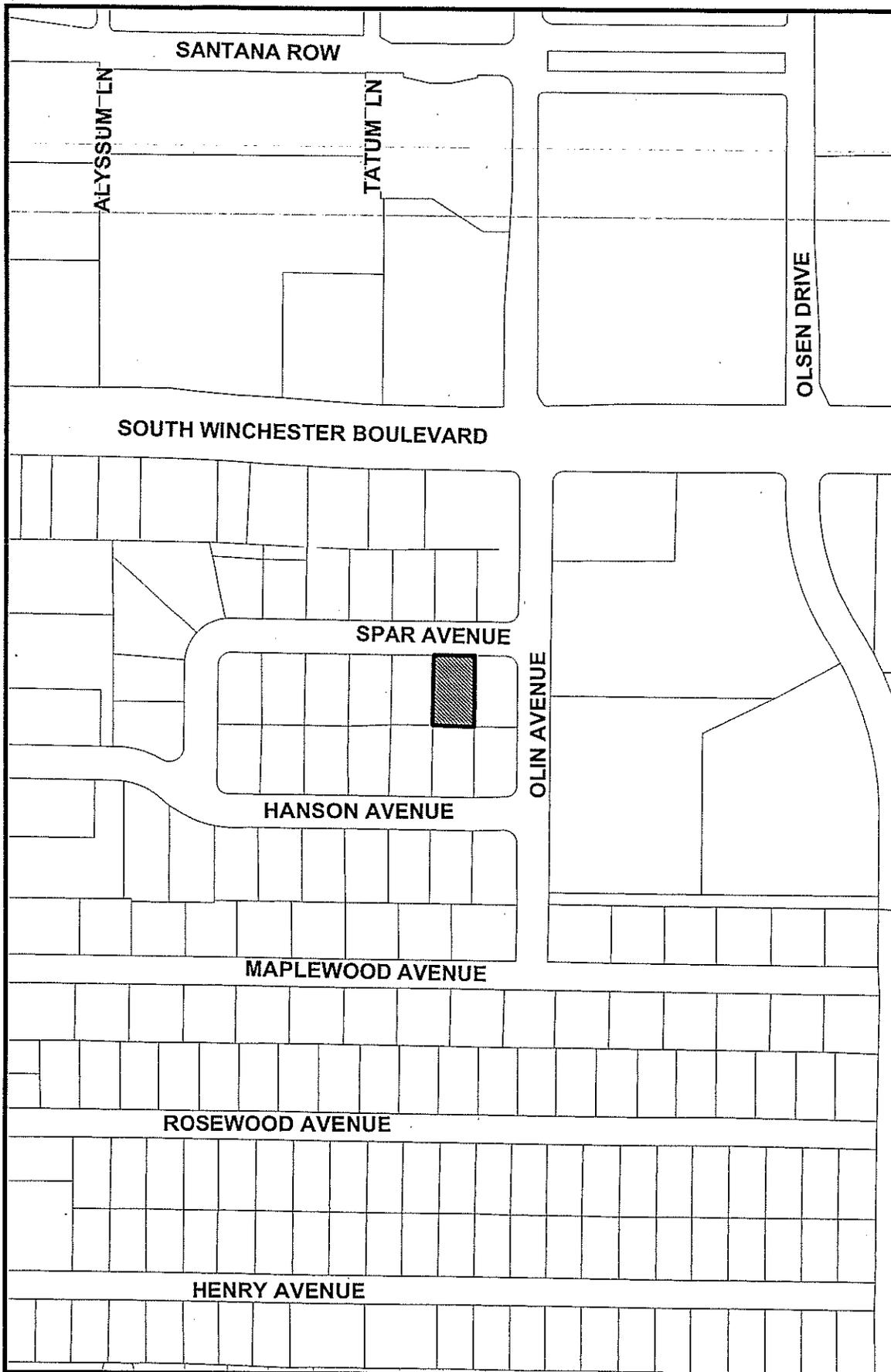
This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney.

RECOMMENDATION

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

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC).
2. The proposed rezoning would allow single-family detached residential uses at this site at a density which is compatible with the surrounding residential uses.

Attachments



File No: C06-114

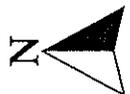
District: 1

Quad No: 82

Scale: 1"= 250'

Map Created On: 10/20/2006

Noticing Radius: 500 feet





Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

**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

C06-114. Conforming Conventional Rezoning for a project located on the west side of Spar Avenue, approximately 130 feet northerly of Olin Avenue on a 0.21-gross-acre site with a San Jose 2020 General Plan Land Use/Transportation Diagram Designation of Medium Low Density Residential (8 DU/AC) from unincorporated County to R-1-8 Single Family Residence District.

Council District 1

County Assessor's Parcel Number 303-39-015

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:

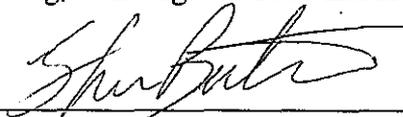
- | | | |
|-------------------------|-------------------------|-------------------------|
| Traffic and Circulation | Soils and Geology | Noise |
| Cultural Resources | Hazardous Materials | Land Use |
| Urban Services | Air Quality | Aesthetics |
| Energy | Facilities and Services | Water Quality/Resources |
| 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.

Martina Davis
Project Manager

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

3/13/07
Date


Deputy

COURSES:

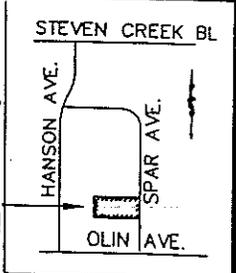
- ① N89°58'15"W 100.00'
- ③ N0°01'30"E 56.63'
- ④ N89°58'30"W 125.00'
- ⑤ N0°01'30"E 75.00'
- ⑥ S89°58'30"E 125.00'
- ⑦ S89°58'30"E 60.00'
- ⑧ S0°01'30"W 131.51'

CURVE DATA:

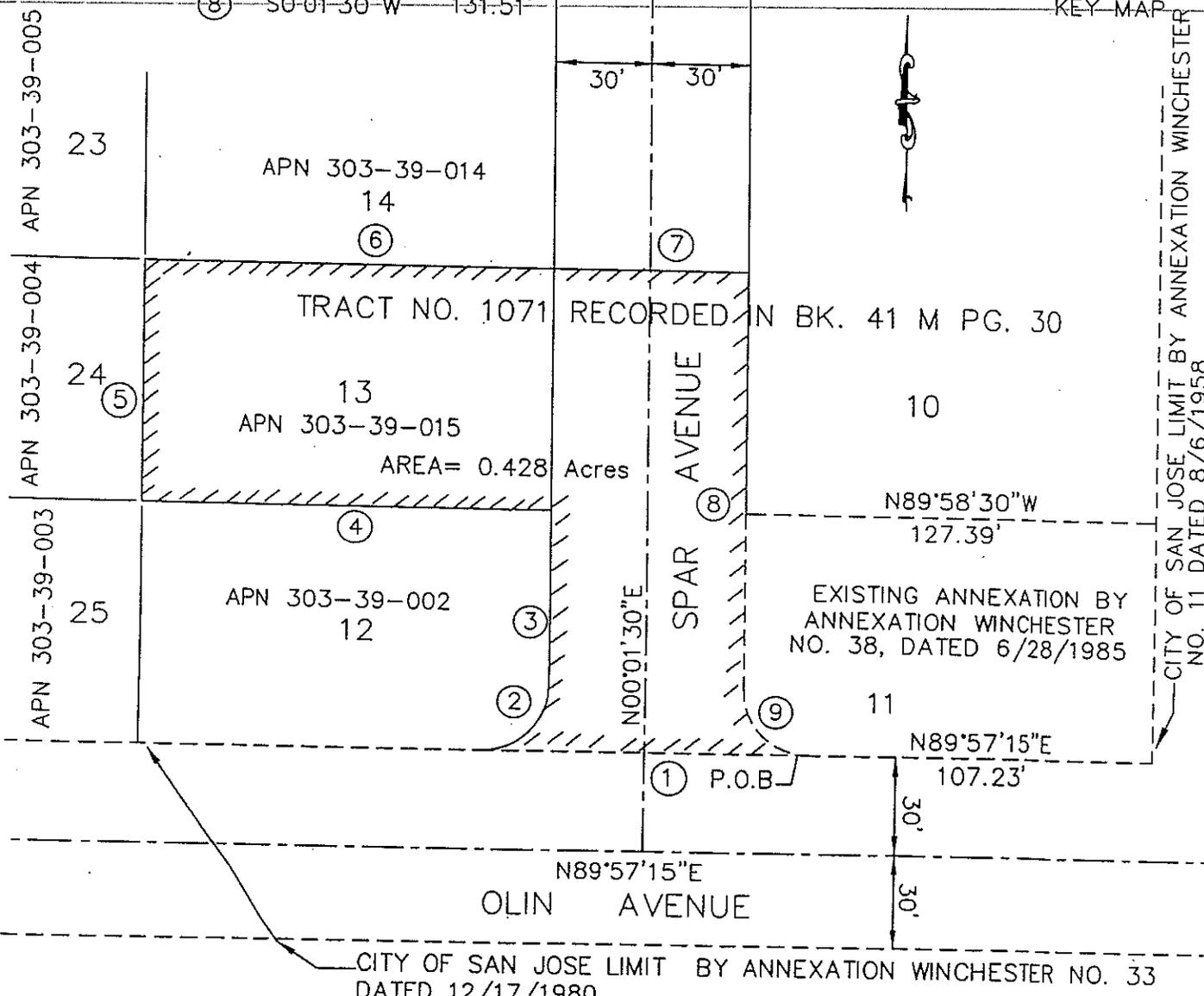
- ② R=20.00' L=31.39' Δ=89°55'45"
- ⑨ R=20.00' L=31.44' Δ=90°04'15"

0.428 Acres

PROPOSED ANNEXATION



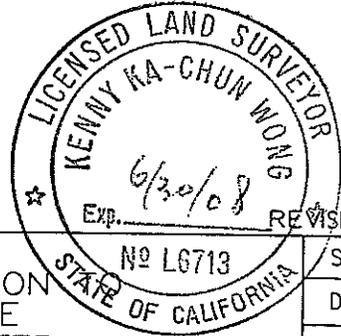
KEY MAP



CITY OF SAN JOSE LIMIT BY ANNEXATION WINCHESTER NO. 11 DATED 8/6/1958

- LEGEND:
- PROPOSED ANNEXATION
 - P.O.B. POINT OF BEGINNING
 - CITY LIMIT
 - CENTER LINE

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PREPARED BY:
K W ENGINEERING, INC.
516A VALLEY WAY
MILPITAS, CA 95035

EXHIBIT "B"
PROPOSED ANNEXATION
CITY OF SAN JOSE
ANNEXATION WINCHESTER NO. 40

SCALE: 1"=50'
DATE: 10/13/06
JOB NO. 06766