

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. 11-14-06

11.1 (F)

File Number  
C 06-079

Application Type  
Director Initiated Rezoning

Council District  
5

Planning Area  
Alum Rock

Assessor's Parcel Number  
612-64-034, -035

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Hadasa Lev

Location: West side of Fleming Avenue, 350 feet northerly of Warner Avenue

Gross Acreage: 0.9

Net Acreage: n/a

Net Density: n/a

Existing Zoning: Unincorporated

Existing Use: Single-family detached residences

Proposed Zoning R-1-5 Single Family Residence  
District

Proposed Use: No change

### GENERAL PLAN

Land Use/Transportation Diagram Designation  
Low Density Residential (5 DU/AC)

Project Conformance:

Yes  No

See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Northeast: Single-family residence

A(PD) Planned Development Zoning District

Northwest: Single-family residence

R-1-5 Single Family Residence District

Southeast: Single-family residence

A(PD) Planned Development Zoning District

Southwest: Single-family residence

R-1-5 Single Family Residence District

### 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: STORY 62

Date: Pending

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

Uphold Director's Decision

Date: October 25, 2006

Approved by:

Action

Recommendation

### OWNERS

612-64-034 Ramoz Family Trust  
1245 Fleming Ave.  
San Jose, CA 95127

612-64-035 Ernesto Gutierrez  
1247 Fleming Ave.  
San Jose, CA 95127

### APPLICANT

City of San Jose

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: Hadasa Lev

Department of Public Works

See attached Memo.

Fire

None recieved.

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**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 0.9-acre area referred to as Story 62 (one of the 59 unincorporated County islands or "pockets" scheduled for annexation).

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 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 designation 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-1-5 Single Family Residence District in conformance with the Low Density Residential (5 DU/AC) General Plan designation.

No changes are proposed to the existing land uses on the subject properties. Any legal aspects of the existing condition that would no longer be in conformance after annexation into 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 west side of Fleming Avenue, 350 feet northerly of Warner Avenue, is developed with single-family detached residences and is surrounded by single-family detached residences. The subject site consists of two properties.

**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 Low Density Residential (5 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. This designation generally applies to areas that need slightly larger than normal lots to prevent excessive grading on slopes between five and fifteen percent and to the need to provide a variety of lot and house sizes within the City. The proposed R-1-5 Single Family Residence District would allow the existing land uses to remain and would guide future development in a manner consistent with the General Plan density.

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-1-5 Single Family Residence District will allow residential uses consistent with the Zoning Code, the existing neighborhood and the existing uses on the subject property. As discussed above, the proposed rezoning will also bring the zoning into conformance with the General Plan.

## **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.

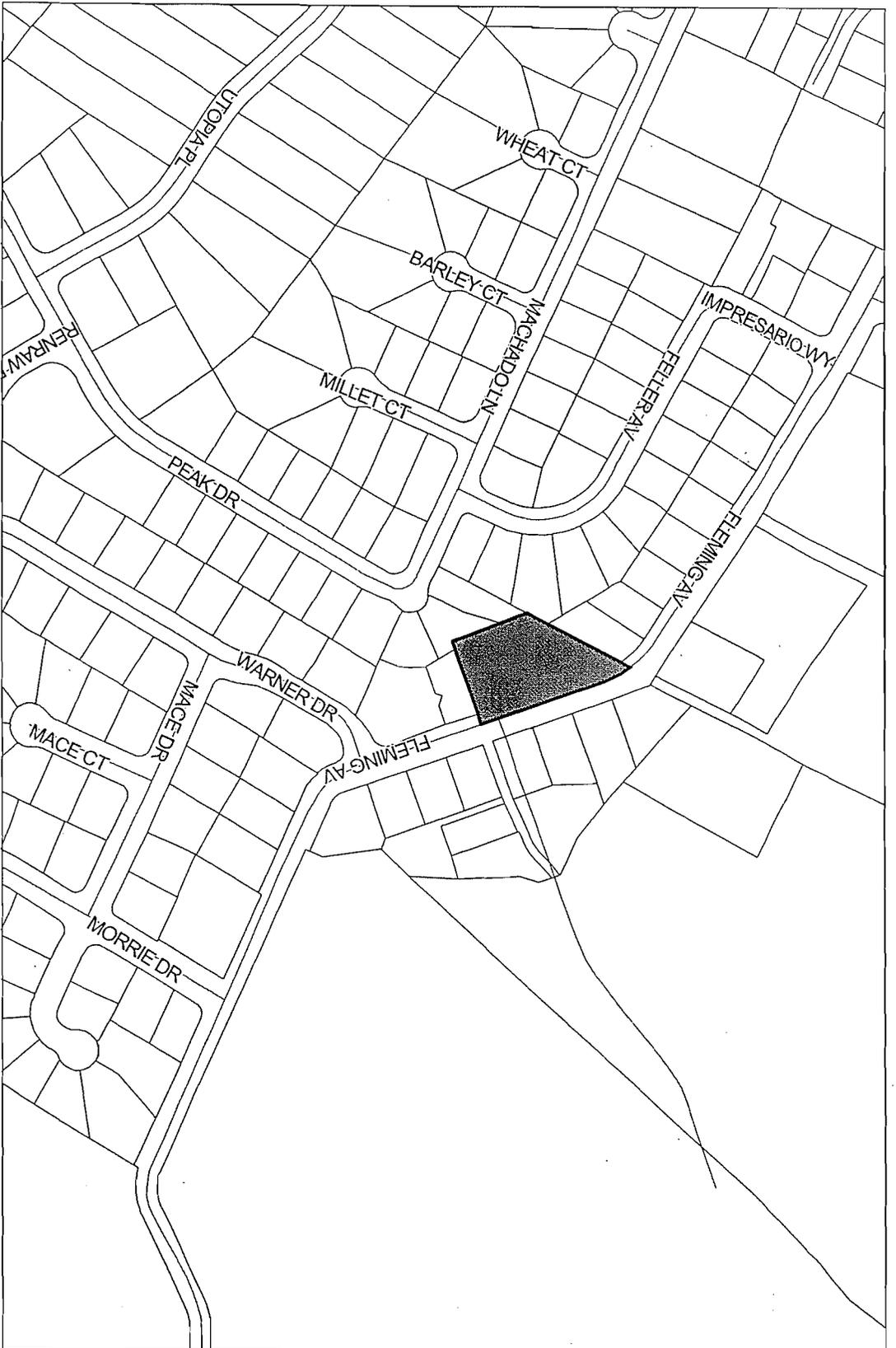
## **COORDINATION**

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 rezoning for the following reasons:

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of Low Density Residential (5 DU/AC).
2. The proposed rezoning will facilitate the annexation and continued use or redevelopment of this site with a use that is consistent with the General Plan and compatible with the surrounding land uses.



Scale 1 in = 300 ft 1:3600  
Noticing Radius: 300 ft

Map Created On:  
7/17/2006

**File No: C06-079 / STORY 62**  
**District: 05**  
**Quad No: 069**

# Memorandum

**TO:** Hadasa Lev  
Planning and Building

**FROM:** Ebrahim Sohrabi  
Public Works

**SUBJECT: RESPONSE TO PREZONING  
APPLICATION**

**DATE:** 07/20/06

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**PLANNING NO.:** C06-079/STORY 62  
**DESCRIPTION:** Planning Director Initiated Prezoning from unincorporated county to R-1-5 Single Family Residence District on an approximately 0.9 gross acre area consisting of 2 parcels  
**LOCATION:** West side of Fleming Av 350 ft northerly of Warner Av  
**P.W. NUMBER:** 3-18101

Public Works received the subject project on 07/18/06 and submits the following comments:

[NO] Flood Zone  
[YES] Geological Hazard Zone  
[YES] State Landslide Zone  
[NO] State Liquefaction Zone  
[NO] Inadequate Sanitary capacity  
[NO] Inadequate Storm capacity  
[NO] Major Access Constraints  
[YES] Near-Term Traffic Impact Analysis

**Comments:** This project has no Evergreen Traffic allocation, and therefore it shall conform to the Evergreen Development Policy.

Please contact the Project Engineer, Winnie Pagan at 535-6824 if you have any questions.

EBRAHIM SOHRABI  
Senior Civil Engineer  
Transportation and Development Services Division

ES:WLP:jk



**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**

C06-079. Conforming Conventional Rezoning for a project located on the west side of Fleming Avenue, 350 feet northerly of Warner Avenue on a 0.9-gross-acre site with a San Jose 2020 General Plan Land Use/Transportation Diagram Designation of Low Density Residential (5 DU/AC) from unincorporated County to R-1-5 Single Family Residence District (5DU/AC).

Council District 5

County Assessor's Parcel Numbers 612-64-034, -035

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.

Hadasa Lev  
Project Manager

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

10/25/06  
Date

  
Deputy

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. 11/14/06 11.1 (g)

File Number  
C 06-048

# STAFF REPORT

Application Type  
Director Initiated Rezoning

Council District  
7

Planning Area  
South

Assessor's Parcel Number  
455-07-002, -019, -021, -022, -023, -  
028, -029, -041, -042

**PROJECT DESCRIPTION:**

Completed by: S. Martina Davis

Location: Both sides of Perrymont Avenue, westerly of Stone Avenue

Gross Acreage: 8.6 Net Acreage: 8.6 Net Density: NA

Existing Zoning: Unincorporated Existing Use: Industrial, Residential, Commercial and Religious Assembly

Proposed Zoning HI Heavy Industrial Proposed Use: No Change

**GENERAL PLAN**

Land Use/Transportation Diagram Designation  
HI Heavy Industrial Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

**SURROUNDING LAND USES AND ZONING**

North: Industrial	HI Heavy Industrial
East: Single Family Residential	R-1-8 Single Family Residential and LI Light Industrial
West: Industrial	IP Industrial Park
South: Industrial	IP Industrial Park

**ENVIRONMENTAL STATUS**

Reuse of Environmental Impact Report "San Jose 2020 General Plan"  Exempt  
 Negative Declaration circulated on  Environmental Review Incomplete  
 Negative Declaration adopted on

**FILE HISTORY**

Annexation Title: Monterey Park No. 108 Date: Pending

**PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION**

Approval  Approval with Conditions  Denial  Uphold Director's Decision  
Date: October 26, 2006 Approved by: *Susan Walton*  
 Action  Recommendation

**OWNER/APPLICANT**

Numerous City of San Jose

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: Martina Davis

Department of Public Works  
See attached memorandum

Fire  
None received

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**OTHER CORRESPONDENCE**

None received

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

On April 26, 2006, the City Council voted to provide direction to City staff to proceed with a County island annexation program that 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 8.6-acre area referred to as Monterey No. 108 (one of the 59 unincorporated County islands or "pockets" scheduled for annexation).

Rezoning is the process of assigning a 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 designation 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 HI Heavy Industrial in accordance with the Heavy Industrial General Plan designation.

No changes are proposed to the existing industrial buildings on the properties. 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 Surrounding Uses**

The property is surrounded by industrial uses to the north, single-family residences across Stone Avenue to the east, railroad tracks and industrial uses to the west, and industrial uses to the south.

The site contains single-story buildings developed with primarily industrial uses. Uses include automotive repair, woodworking, landscaping, and wholesale. One building on the site is used for martial arts, and another is used for religious assembly purposes.

The northeast parcel contains single-story, older multi-family housing of approximately 7 units, with parking in carports. This parcel is currently zoned multi-family residential in the county. However, neighboring uses and the rest of Stone Avenue are developed almost entirely with heavy industrial uses.

**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 Heavy Industrial on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed HI Heavy Industrial Zoning District allows industrial uses consistent with the General Plan Heavy Industrial land use designation.

## **ANALYSIS**

The proposed HI Heavy Industrial Zoning District will allow industrial uses consistent with the Zoning Code, the existing neighborhood and the existing uses and/or structures on the property currently used for industrial purposes. The multi-family residential housing would become a legal nonconforming use, providing it was legally permitted through the County. The HI Heavy Industrial Zoning District is appropriate on this site, given the predominant industrial character of the area, and the unsuitability of residential uses over the long term in this heavy industrial zone. The proposed rezoning to the HI Heavy Industrial Zoning District will also bring the zoning into conformance with the Heavy Industrial General Plan designation.

The proposed HI Heavy Industrial Zoning District which allows heavy industrial uses with a 6,000 square-foot minimum lot area is the zoning district that is most consistent with the existing development of the parcels on over 6,000 square foot lots. The surrounding neighborhood is also largely zoned HI Heavy Industrial.

## **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.

A business owner in the area expressed concern with the financial impact of being subject to the City of San Jose's 5% tax on utilities that are not currently subject to in the County of Santa Clara.

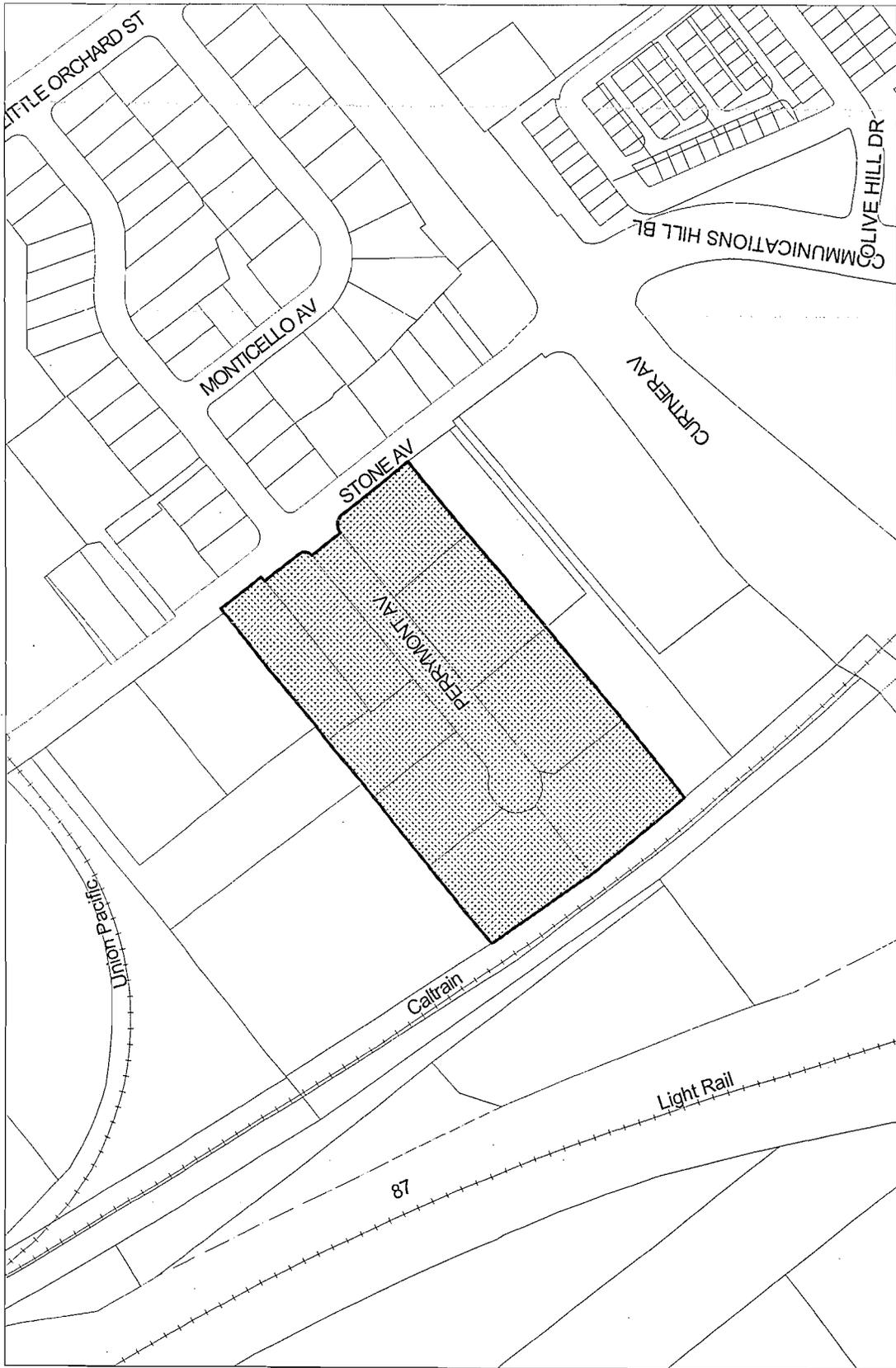
## **COORDINATION**

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 HI Heavy Industrial.
2. The proposed rezoning 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.



**File No: C06-048**  
**District: 07**  
**Quad No: 99**

Scale 1 in = 300 ft 1:3600  
Noticing Radius: 300 ft



Map Created On:  
5/10/2006



**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**

**C06-048** Conforming Prezoning from unincorporated county to HI Heavy Industrial Zoning District for heavy industrial purposes on an approximately 8.6 gross acre area consisting of 9 parcels on both sides of Perrymount Avenue, southwesterly of Stone Avenue (Numerous Owners)

Council District 7.

County Assessor's Parcel Numbers: 455-07-002, -019, -021, -022, -023, -028, -029, -041, -042

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 |                         |                         |

Martina Davis  
Project Manager

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

10/26/06  
Date

  
Deputy

# Memorandum

**TO:** Lori Moniz  
Planning and Building

**FROM:** Ebrahim Sohrabi  
Public Works

**SUBJECT: FINAL RESPONSE TO  
DEVELOPMENT APPLICATION**

**DATE:** 05/15/06

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**PLANNING NO.:** C06-048 & MONT PARK 108  
**DESCRIPTION:** Planning Director Initiated Prezoning from unincorporated county to HI Heavy Industrial Zoning District for heavy industrial purposes on an approximately 8.6 gross acre area consisting of 9 parcels  
**LOCATION:** Both sides of Perrymount Avenue, southwesterly of Stone Avenue  
**P.W. NUMBER:** 3-99999

Public Works received the subject project on 05/11/06. We have no comments or requirements.

Please contact the Project Engineer, Amit Mutsuddy, at (408) 535-6828 if you have any questions.

Ebrahim Sohrabi  
Senior Civil Engineer  
Transportation and Development Services Division

ES:AM:atl  
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