

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

PC 11/07/07 *4. h.*

CC 12/04/07

File Number

C06-106

Application Type

Director Initiated Rezoning

Council District

5

Planning Area

Alum Rock

Assessor's Parcel Numbers: 612-28-010
through -025; 612-57-002 through -010

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Justin Fried

Location: Both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court. (25 parcels)

Gross Acreage: 6.93

Net Acreage: ~ 6.07

Net Density: ~ 4.1 DU/AC

Existing Zoning: Unincorporated

Existing Use: Residential

Proposed Zoning R-1-5

Proposed Use: No change

GENERAL PLAN

Land Use/Transportation Diagram Designation

Low Density Residential (5 DU/AC) (7 parcels) and
Urban Hillside (18 parcels)

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Single Family Residence and Vacant

R-1-5 and pending A(PD) PDC06-063

East: Single Family Residence

R-1-5 and A(PD) (3.7 DU/AC)

West: Single Family Residence

R-1-2, R-1-5, and A(PD) (2.9 DU/AC)

South: Single Family Residence

R-1-8

ENVIRONMENTAL STATUS

Environmental Impact Report found complete (San Jose 2020 General Plan; August 16, 1994)

Negative Declaration circulated on

Negative Declaration adopted on

Exempt

Environmental Review Incomplete

FILE HISTORY

Annexation Title: Story No. 58

Date: Pending

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

Uphold Director's Decision

Date: *10-26-07*

Approved by: *Andrew Calabrese*

Action

Recommendation

OWNER/APPLICANT

Multiple Owners/ Planning Director-Initiated

PUBLIC AGENCY COMMENTS RECEIVED	Completed by: Justin Fried
Department of Public Works No comments.	
Fire See attached memorandum.	
OTHER CORRESPONDENCE	
County Roads and Airports Department had no comments.	
ANALYSIS AND RECOMMENDATIONS	

BACKGROUND

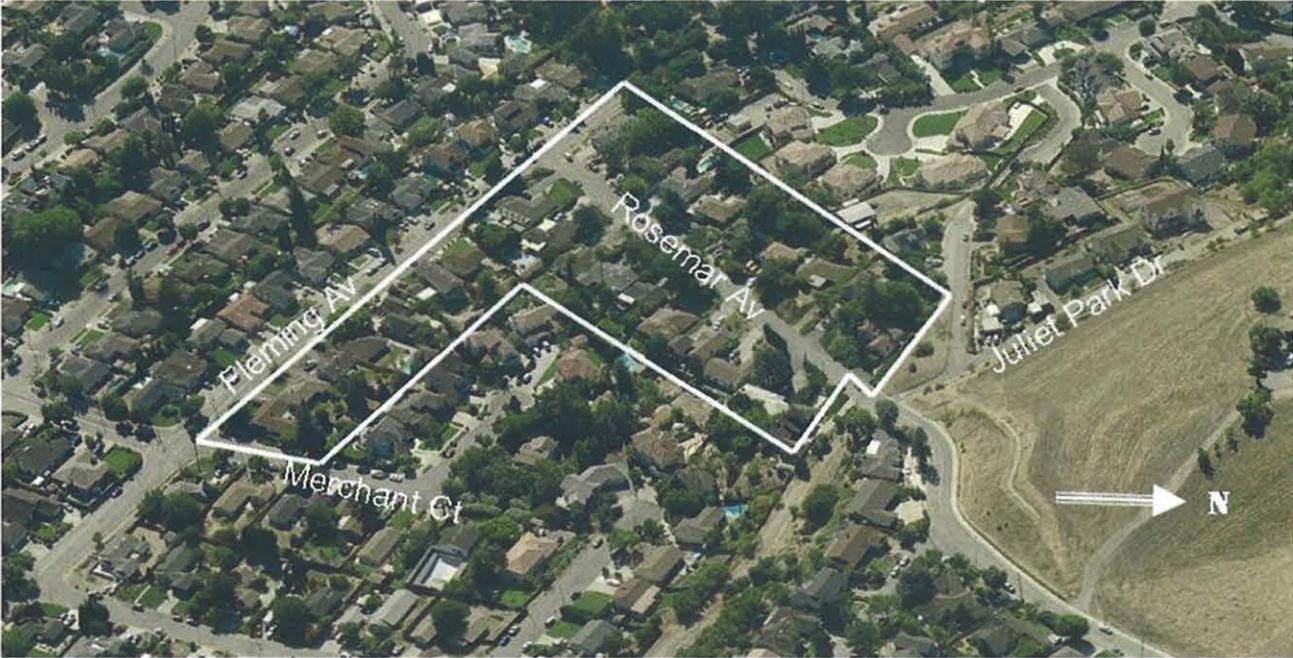
The subject project is a Planning Director-initiated rezoning to the R-1-5 Single Family Residence District which is being done in conjunction with the annexation of the 6.93 acre County island referred to as Story No. 58. The area is one of the 49 unincorporated County islands or "pockets" scheduled for annexation as part of the County Island Annexation program (initiated by the City Council in April 2006) that includes the annexation of all remaining unincorporated County islands that are less than 150-acres in area. The City of San Jose is initiating the annexation of the subject area as part of Phase 2 of this program which includes 11 islands in total. Phase 1 of this program resulted in the annexation of 21 County islands. Phase 3 of the program is scheduled to begin in early 2008 and includes 14 islands which are generally larger and more populous.

Rezoning is the process of assigning City of San Jose zoning district 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 island sites are within the City of San Jose's Sphere of Influence and thus currently have a General Plan Land Use/Transportation Diagram designation. The Director's recommendation of a proposed zoning is determined based on consideration of a site's General Plan designation and the existing, legally established uses on the site and in the surrounding area. In this case, staff is recommending that the property be zoned R-1-5 Single Family Residence which allows single family homes on lots of no less than 8,000 square feet and reflects the existing use of the properties.

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 with the Zoning Ordinance after annexation in to the City of San Jose and after the new zoning district is adopted shall become legal nonconforming. Any future 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 6.93 acre area consists of 25 individual parcels which are all currently developed with single family residences. The parcels range in size from 7,800 to 11,800 square feet in area. The parcels are part of an existing single-family neighborhood in the eastern foothills with a comparable density.



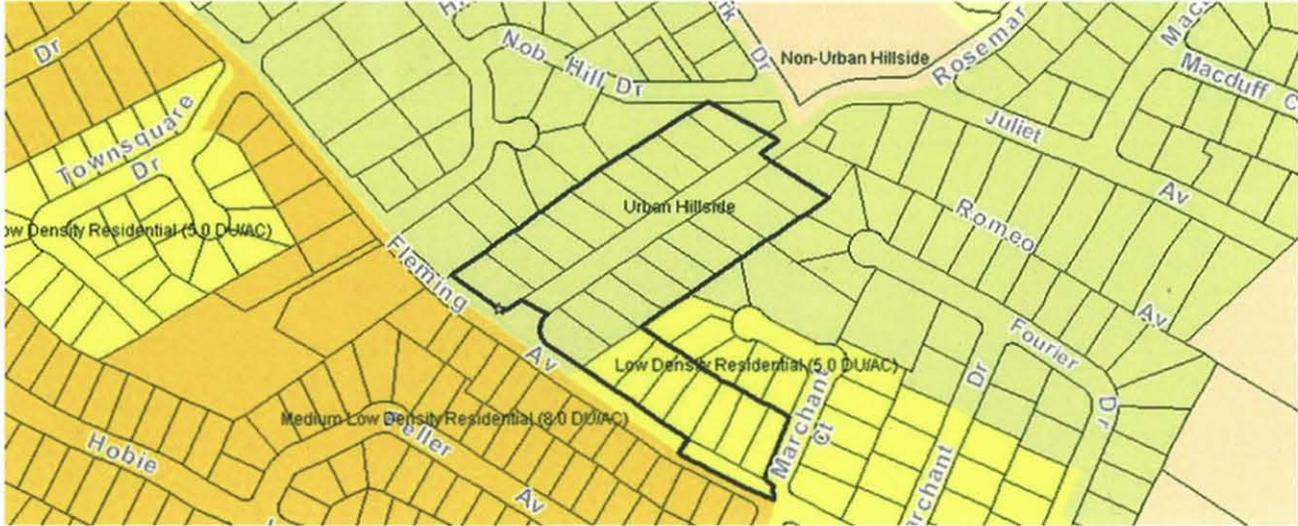
Aerial photograph of proposed rezoning area showing existing development conditions

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 (5.0 DU/AC) and Urban Hillside on the San Jose 2020 General Plan Land Use/Transportation Diagram.



General Plan Land Use/Transportation Diagram

The proposed R-1-5 Single Family Residence Zoning District is consistent with the Low Density Residential (5.0 DU/AC) General Plan land use designation (applied to 7 of the 25 lots) which is typified by 8,000 square foot lots and is applied in areas in which there is a need for slightly larger than normal lots to prevent excessive grading on slopes of between five and fifteen percent.

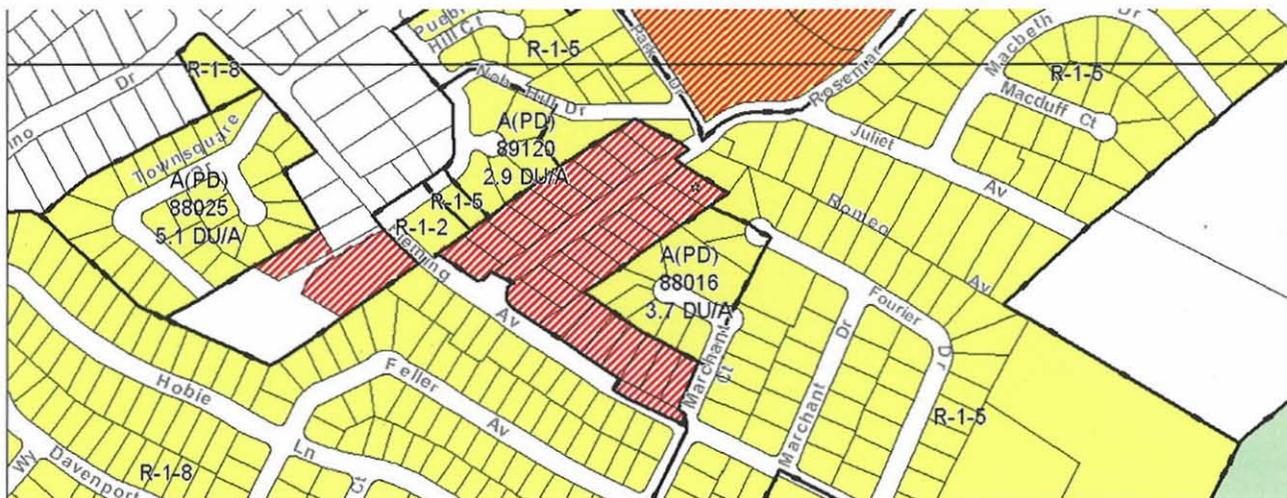
The Urban Hillside Designation (applied to 18 of the 25 lots) is intended for most hillside areas above the fifteen percent slope line but within the Urban Service Area. The maximum residential density allowed for new development on sites with this designation is one dwelling unit per five acres. The R-1-RR zoning district (5-acre minimum lot size) most closely corresponds with the Urban Hillside designation; however, given that the area has already been subdivided and developed, the R-1-5 district is the most appropriate designation. The proposed zoning is considered consistent with this designation as it reflects the character (lot sizes, use) of the existing development and would not allow for further subdivision of the lots at a density below what is specified by the General Plan. Building permits would still be referred to Public Works for review within geohazard and seismic hazard zones. The General Plan indicates that a zoning designation consistent with the existing conditions for developed parcels of two acres or less in area can be deemed to be in conformance with the General Plan.

Additionally, 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 within the City's Urban Service Area.

ANALYSIS

As discussed in the General Plan Conformance section of this report, the proposed R-1-5 zoning district is the most appropriate zoning as it is consistent with the City's General Plan and reflects the existing uses on the subject property and surrounding sites.

R-1-5 Single Family Residence is the appropriate zoning as it will provide development regulations appropriate for the existing single family residential uses. Any future redevelopment requiring planning permits will require conformance with the General Plan, including the Hillside Development Policies. The proposed R-1-5 Zoning District will not permit any additional subdivision of the parcels on the site. It will provide setback and development regulations more suitable for the existing lot sizes than the R-1-RR Zoning District, which has a maximum of one dwelling unit per five acres consistent with the Urban Hillside General Plan designation.



Zoning Map

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 2 of the program. Staff held a community meeting on August 23, 2007, with residents of Phase 2 County pockets. Staff has also been available to discuss the proposal with members of the public.

Staff has received phone calls from property owners asking about the proposed zoning and the timing for the annexation. There have also been requests for updates related to the nearby pending zoning, which may involve lighting and street improvements within the subject site to mitigate traffic impacts.

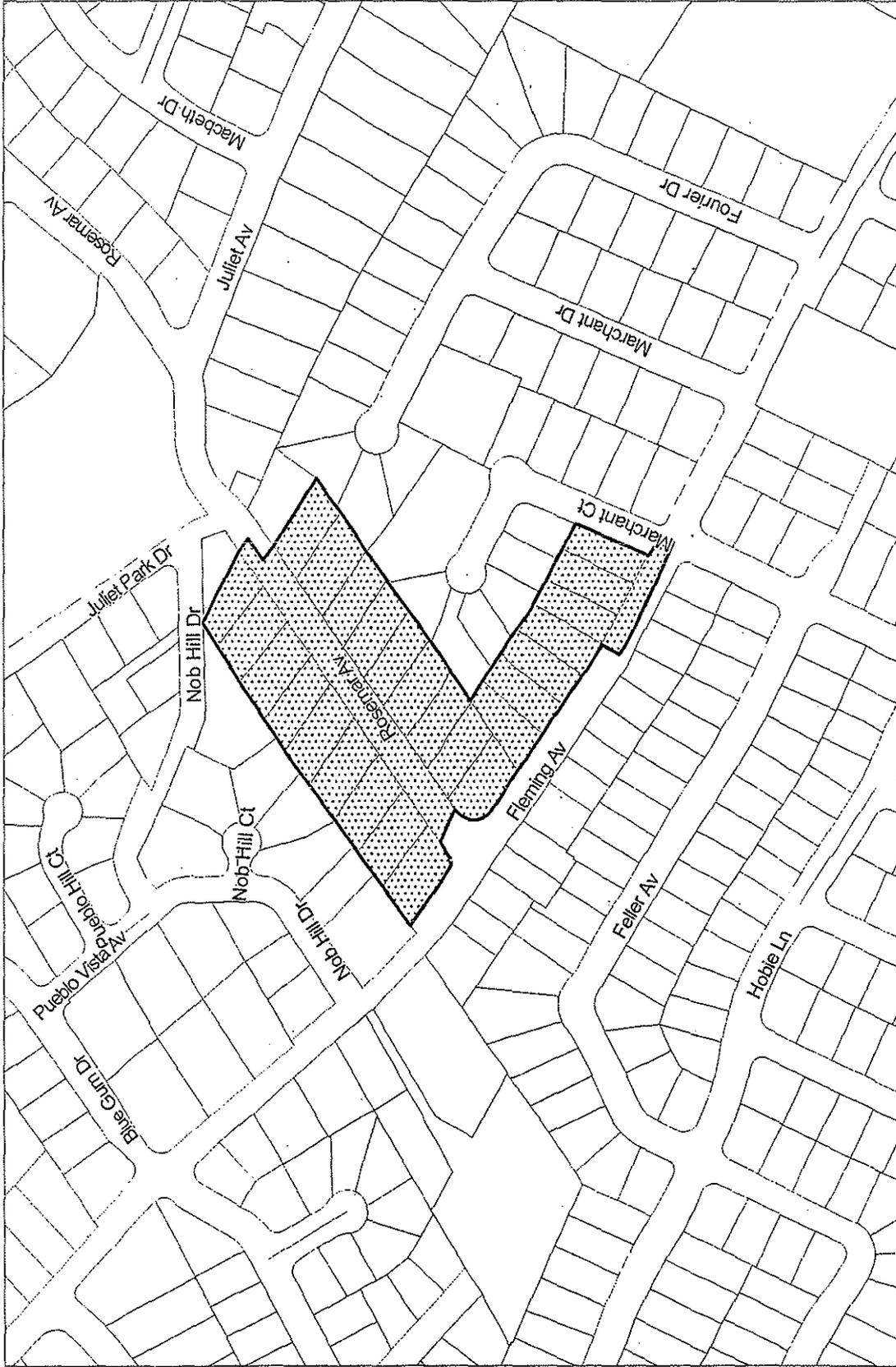
COORDINATION

This project was coordinated with the Department of Public Works, Fire 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.

RECOMMENDATION

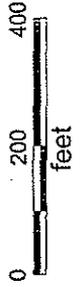
Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is in conformance with the San José 2020 General Plan Goals and Policies and Land Use Diagram designation.
2. The proposed rezoning will facilitate the regulation of this site with a zoning designation that is consistent with the existing use. Further intensification will require General Plan conformance.
3. The proposed rezoning will facilitate the elimination of a County island as directed by the City Council's initiation of the County Island Annexation Program.



File No: C06-106 / STORY_58
District: 05
Quad No: 069

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



N
Map Created On:
10/10/2006

WDW

**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

C06-106 / Story No. 58. Planning Director-initiated rezoning to R-1-5 Single Family Residence District and reorganization/annexation to the City of San José of an approximately 6.93 gross-acre site referred to as Story No. 58, located on both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court.

Council District 5

County Assessor's Parcel Numbers: 612-28-010 through -025; 612-57-002 through -010

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		

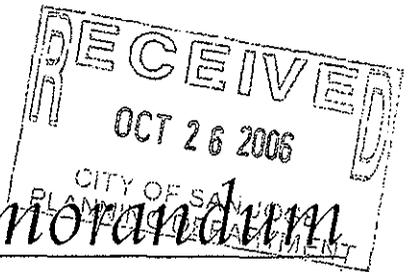
The City of San Jose may take action on the proposed project as being within the scope of the General Plan and uses of the Program EIR in that (1) the Final EIR is a Program EIR pursuant to CEQA and CEQA Guidelines Section 15168, (2) it is determined that no new significant impacts will occur from this 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.

Justin Fried
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

10/26/07
Date


Deputy



Memorandum

DATE: 10/25/06

TO: Hadasa Lev

FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: C06-106

DESCRIPTION: Planning Director Initiated Prezoning from unincorporated county to R-1-RR and R-1-5 Single-Family Residence Zoning Districts for single family residential purposes of an approximately 6.90 gross acres area consisting of 25 parcels.

LOCATION: Both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court

ADDRESS: Both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court (15240 ROSEMAR AV)

FOLDER #: 06 030000 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.

The application provided does not include adequate information for our review; Fire Department staff will provide further review and comments when additional information is received as part of subsequent permit applications.

County Territories may be fire flow/hydrants deficient.

A handwritten signature in black ink, appearing to read "Nadia Naum-Stoian".

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

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSÉ PREZONING CERTAIN REAL PROPERTY SITUATED ON BOTH SIDES OF ROSEMAR AVENUE, BETWEEN JULIET PARK DRIVE AND FLEMING AVENUE, AND THE NORTH SIDE OF FLEMING AVENUE BETWEEN ROSEMAR AVENUE AND MARCHANT COURT TO R-1-5 SINGLE FAMILY RESIDENCE ZONING DISTRICT.

WHEREAS, all prezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, the area encompassed by the subject proposed prezoning was the subject of an Environmental Impact Report (EIR) prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, and certified by the City Council on August 16, 1994; and

WHEREAS, this Council of the City of San José, acting as lead agency under CEQA, proposes to approve a project which was the subject of said EIR, to wit: the adoption of an ordinance prezoning certain real property hereinafter described to R-1-5 Single Family Residence Zoning District; and

WHEREAS, this Council has, on August 16, 1994, adopted Resolution No. 65459; and

WHEREAS, the Council is the decision-making body for subject prezoning from unincorporated County to R-1-5 Single Family Residence Zoning District; and

WHEREAS, this Council does hereby certify that, as the decision-making body, it has considered and approves the information contained in such EIR and Resolution No. 65459 prior to acting upon or approving such project; and

WHEREAS, the proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby prezoned as R-1-5 Single Family Residence Zoning District.