

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

CC 12/04/07

11.4

File Number

C06-108

Application Type

Director Initiated Rezoning

Council District

5

Planning Area

Alum Rock

Assessor's Parcel Number 484-26-080; -082

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Justin Fried

Location: Southwest side of South White Road, 600 feet southeast of East Hills Drive.

Gross Acreage: 0.27

Net Acreage: 0.27

Net Density: 7.4

Existing Zoning: Unincorporated

Existing Use: Residential and Commercial

Proposed Zoning R-1-8

Proposed Use: No change

### GENERAL PLAN

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

North: Residential and Commercial

R-1-8 and Unincorporated

East: Single and Multiple Family Residence (13.2  
DU/Acre)

R-1-5 and A(PD)

West: Lyndale Elementary School

R-1-8

South: Institutional and Commercial

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: Capitol No. 56 (Pending)

Date: \_\_\_\_\_

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

Uphold Director's Decision

Date: 11-13-07

Approved by:

Action

Recommendation

### OWNER/APPLICANT

Michael Sanders Jr. and Sr.

Isabel M. Hernandez

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: Justin Fried

Department of Public Works

**Fire**

See attached memorandum.

**OTHER CORRESPONDENCE**

See attached memorandum from the Santa Clara Valley Water District

**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The subject project is a Planning Director-initiated rezoning to the R-1-8 Single Family Residence District which is being done in conjunction with the annexation of the 0.27 acre County island referred to as Capitol No. 56. 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 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 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-1-8 Single Family Residence which allows single family homes on lots of no less than 5,445 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 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, consisting of 2 parcels on approximately 0.27 acres, is located on the southwest side of South White Road, 600 feet southeast of East Hills Drive and is currently developed with single family residences, one of which is also used as a barbershop. The site is surrounded by religious use to the south, single family residences to the north, single and multi family residences to the east, and the Lyndale Elementary School to the west. The site is one parcel away from another County pocket (prezone file C06-107)



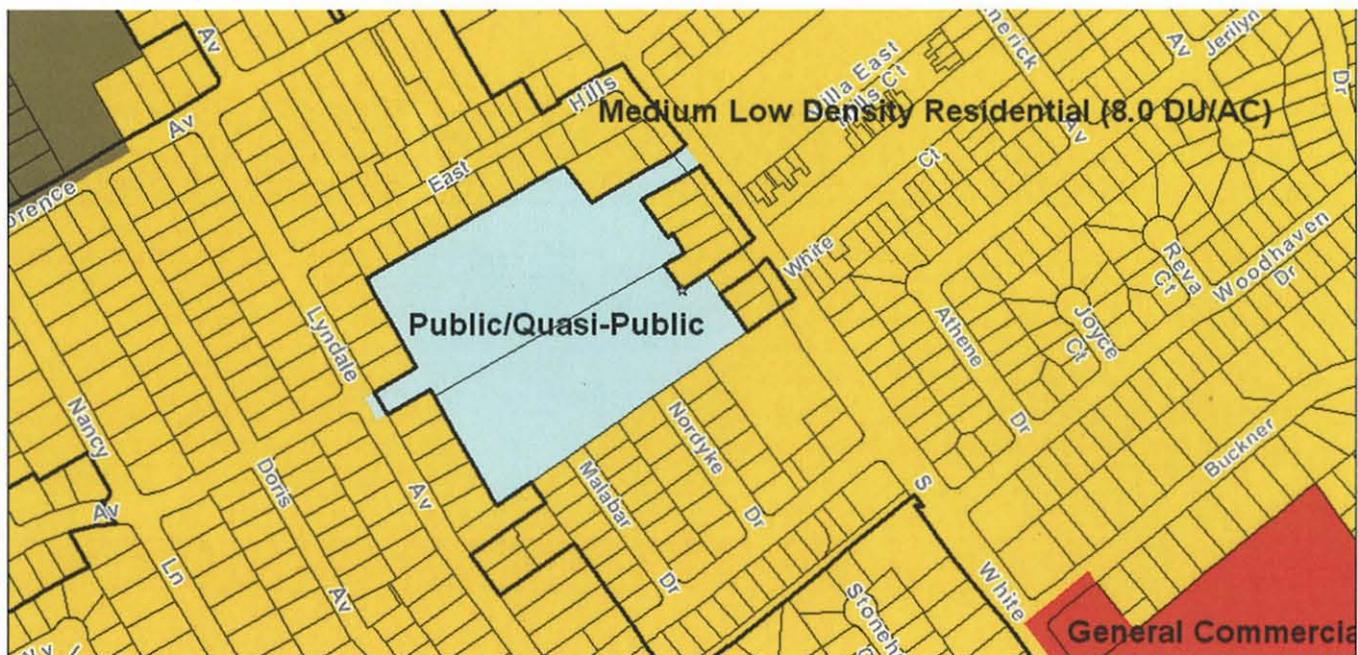
**Aerial photograph of the subject site showing existing development conditions**

## **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 Medium Low Density Residential (8.0 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed R-1-8 Single Family Residence Zoning District allows uses consistent with the General Plan Medium Low Density Residential (8.0 DU/AC) land use designation.

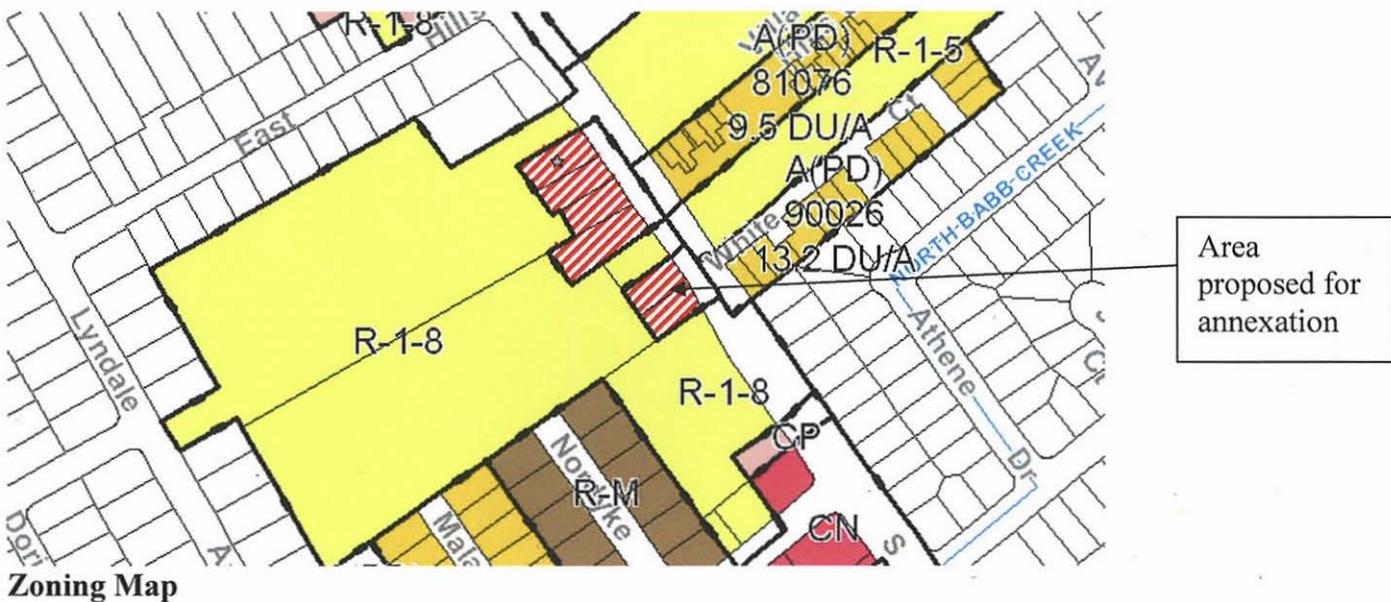


**General Plan Land Use / Transportation Diagram**

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

The San Jose 2020 General Plan Land Use/Transportation Diagram designates the site for Medium Low Density Residential (8.0 DU/AC) development. The site is developed with single family residences, one of which also functions as a barbershop. The barbershop use within a single family residence will likely be permitted to continue as a home occupation or as a legal nonconforming use (there is no existing code violation in the County). Neighboring uses are predominantly residential and institutional as well as the Lyndale Elementary School to the west of the subject site.



The R-1-8 Single Family Residence Zoning will allow single family residential use consistent with the existing neighborhood. County zoning on the subject site is R1 Residential. Commercial uses legally established in the County will become legal nonconforming. Alternatively, the commercial use within a residence may be permitted if it meets the requirements for a home occupation.

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.

## **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 (8.0 DU/Acre).
2. The proposed rezoning will facilitate the re-development of this site with a use that is consistent with the General Plan and compatible with the surrounding uses.
3. The proposed rezoning will facilitate the elimination of a County pocket.



**N**  
  
Map Created On:  
10/12/2006

Scale 1 in = 200 ft 1:2400  
Noticing Radius: 300 ft



**File No: C06-108 / CAPITOL\_56**  
**District: 05**  
**Quad No: 068**

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**

C06-108 / Capitol No. 56. Planning Director-initiated rezoning to R-1-8 Single Family Residence District and reorganization/annexation to the City of San José of an approximately 0.27 gross-acre site referred to as Capitol No. 56, located on the southwest side of South White Road, 600 feet southeast of East Hills Drive.

Council District 8  
County Assessor's Parcel Numbers: 484-26-080; -082

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:

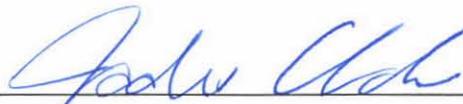
- |                         |                         |                         |
|-------------------------|-------------------------|-------------------------|
| Traffic and Circulation | Soils and Geology       | Noise                   |
| Cultural Resources      | Hazardous Materials     | Land Use                |
| Urban Services          | Air Quality             | Aesthetics              |
| Energy                  | Facilities and Services | Water Quality/Resources |
| Open Space              | Schools                 | Drainage and Flooding   |
| Vegetation and Wildlife |                         |                         |

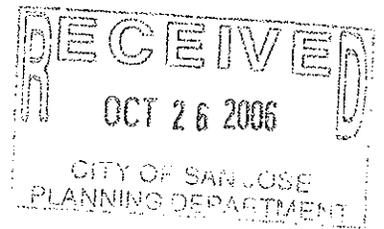
The City of San Jose may take action on the proposed project as being within the scope of the General Plan and uses of the Program EIR in that (1) the Final EIR is a Program EIR pursuant to CEQA and CEQA Guidelines Section 15168, (2) it is determined that no new significant impacts will occur from this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

11/9/07  
Date

  
Deputy



# Memorandum

**DATE:** 10/24/06

**TO:** Suparna Saha  
**FROM:** Nadia Naum-Stoian

Re: Plan Review Comments

**PLANNING NO:** CAPITOL\_56  
**DESCRIPTION:** Planning Director Initiated Annexation from unincorporated county to R-1-8 Single-Family Residence Zoning District for single family residential purposes of an approximately 0.35 gross acres area consisting of 2 parcels.  
**LOCATION:** Southwest side of South White Road, 600 feet southeast of East Hills Drive  
**ADDRESS:** Southwest side of South White Road, 600 feet southeast of East Hills Drive (501 S WHITE RD)  
**FOLDER #:** 06 030221 AO

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.

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

**Lev, Hadasa**

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**From:** Maddox, Helen  
**Sent:** Wednesday, October 25, 2006 4:10 PM  
**To:** Roche, Jeff; Lev, Hadasa; Saha, Suparna; Davis, Martina; Chu, Tracy; Baty, John; Nusbaum, Jenny; Early, Dionne  
**Subject:** Comments received from Santa Clara Valley Water District

-----Original Message-----

**From:** Samuel Yung [mailto:SYung@valleywater.org]  
**Sent:** Wednesday, October 25, 2006 3:56 PM

Please note the following regarding this week's agenda:

PT06-097 (Manager: Jeff Roche) - Vincent Stephens from our office is currently reviewing the zoning for this site and comments will be submitted shortly. For our records, please send a copy of the tentative map.

C06-107 & CAPITOL\_55, C06-108 & CAPITOL\_56 (Manager: Hadasa Lev & Suparna Saha) - We have no objections to the rezoning/annexation. Please note that the District's East Pipeline is located within South White Road. If or when a project is proposed that could potentially impact the District's pipeline, please have the project proponent submit plans for our review.

C06-109 (Manager: Martina Davis) - We completed our review of this project. Comments will be sent by the end of the week.

TR06-183 (Manager: (Maddox, Helen) Tracy Chu ) - Please note that the site is directly adjacent to Los Gatos Creek. Mitigation trees, used to replace the loss of the illegally removed tree, should be from a plant species native to the local watershed. If that is not feasible, the plant should be non invasive and have a very low potential in hybridizing with the existing riparian plants. If the work will occur within 50 feet from the creek banks, please have the applicant apply for a permit from the District.

Thanks,

**Samuel Yung**

Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3686

Ph. (408)265-2607 ext. 3174  
Fax (408)979-5635

10/26/2006