

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

11.5

File Number

C06-127

Application Type

Director Initiated Rezoning

Council District

8

Planning Area

Alum Rock

Assessor's Parcel Number

652-10-001 to -015; 652-11-002 to -005
and -013 to -016; 652-13-003 to -006;
-008 to -016

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Justin Fried

Location: Between Pleasant Acres Drive and Ruby Avenue, west of Murillo Avenue

Gross Acreage: 34.1

Net Acreage:

Net Density:

Existing Zoning: Unincorporated

Existing Use: Residential

Proposed Zoning R-1-2 (30 parcels) and R-1-RR (6 parcels)

Proposed Use: No change

GENERAL PLAN

Land Use/Transportation Diagram Designation

Very Low Density Residential (2 DU/AC) and Urban Hillside

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Single Family Residence and Agriculture

Unincorporated

East: Single Family Residence and Institutional

R-1-5 and A(PD)

West: Single Family Residence

R-1-5, R-1-RR and A(PD)

South: Single Family Residence

R-1-8, R-1-5, and R-1-2

ENVIRONMENTAL STATUS

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

Exempt

Negative Declaration circulated on

Environmental Review Incomplete

Negative Declaration adopted on

FILE HISTORY

Annexation Title: Evergreen No. 200 (Pending)

Date:

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Date: 11-13-07

Approved by: Andrew Curbice

Approval with Conditions

Action

Denial

Recommendation

Uphold Director's Decision

OWNER/APPLICANT

Multiple Owners

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Justin Fried

Department of Public Works
See attached memorandum.

Fire
See attached memorandum.

OTHER CORRESPONDENCE

See attached memoranda from County Roads and Airports Department and Santa Clara Valley Water District.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

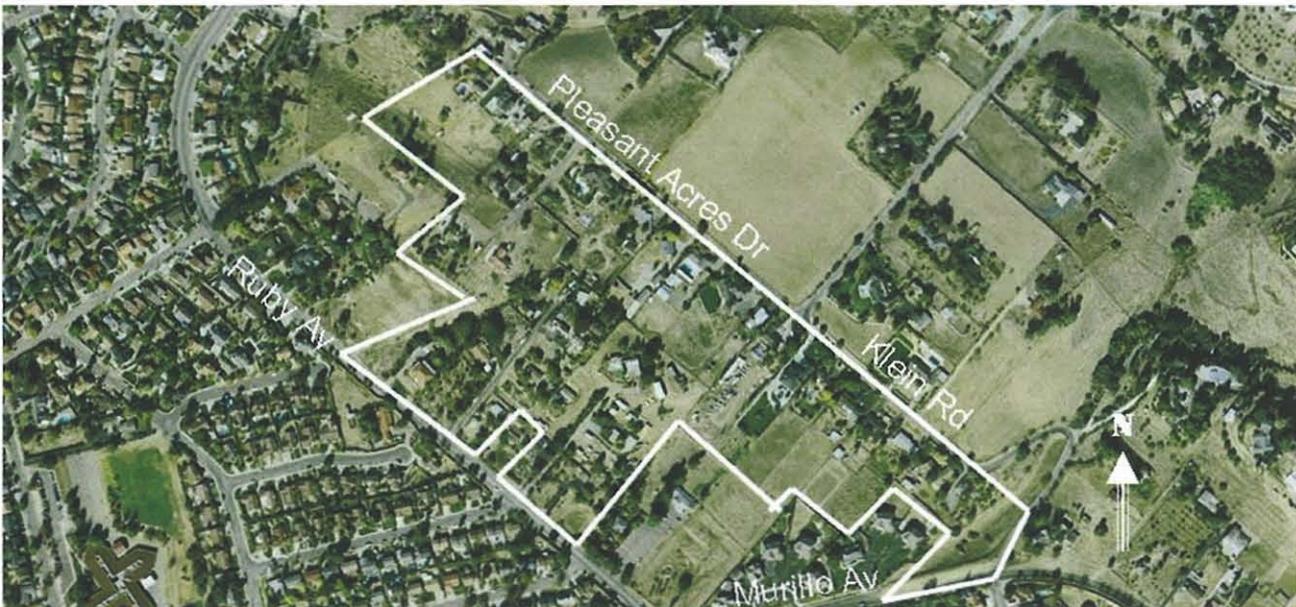
The subject project is a Planning Director-initiated rezoning to the R-1-2 Single Family Residence and R-1-RR Single Family Residence Districts which is being done in conjunction with the annexation of the 34.1 acre County island referred to as Evergreen No. 200. The area is one of the 49 unincorporated 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 30 parcels be zoned R-1-2 Single Family Residence which allows single family homes on lots of no less than 20,000 square feet and reflects the existing use of the properties. Staff is recommending the other 6 parcels be zoned R-1-RR Single Family Residence which allows single family homes on lots of no less than 5 acres, reflecting the geologic constraints of areas above the fifteen percent slope line.

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 34.1 acre area consists of 36 individual parcels which are primarily developed with single family residences on large lots ranging in size from 0.36 to 2.09 acres in area.



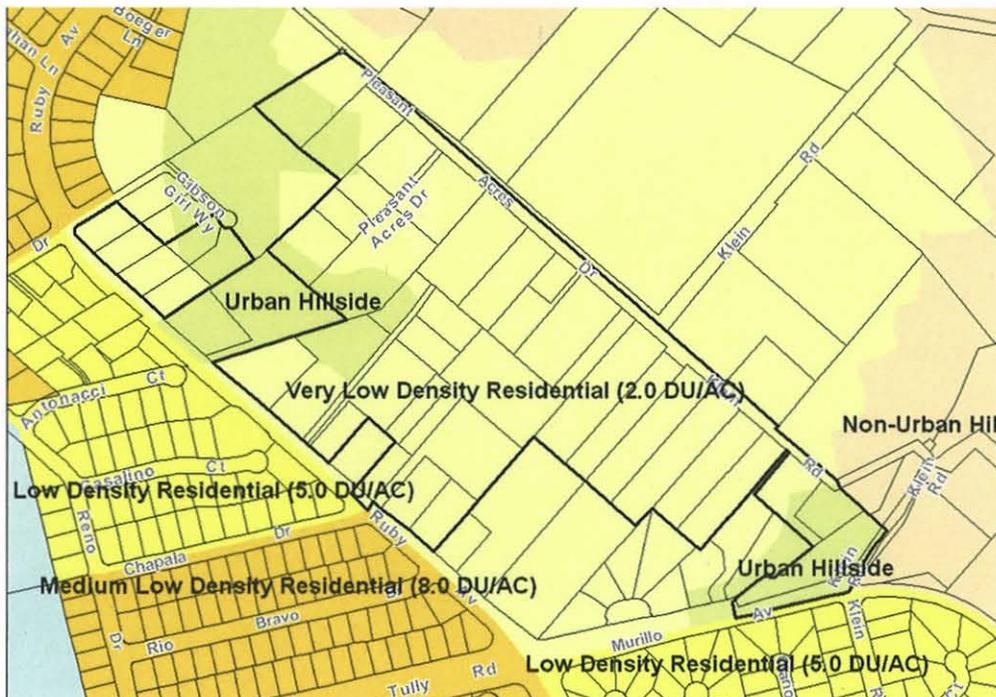
Aerial photo of proposed rezoning area depicting existing development conditions

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

Two parcels and portions of 6 parcels are designated Urban Hillside and the remainder of the County island is designated Very Low Density Residential (2.0 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram.



General Plan Land Use/Transportation Diagram

The proposed R-1-2 Single Family Residence Zoning District for the majority of the parcels is consistent with the Very Low Density Residential (2.0 DU/AC) General Plan land use designation which is typified by 20,000 square foot lots and is applied in areas with geologic considerations. In the Alum Rock foothills, this is based on the need to limit development due to the potential for landsliding and soil creep.

The R-1-RR Single Family Residence Zoning District (5-acre minimum lot size) most closely corresponds with the Urban Hillside designation and this zoning is recommended for the large parcels with both designations and parcels entirely within the Urban Hillside designation. The Urban Hillside Designation 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, which corresponds to 5 acre lots.

Smaller parcels that share Urban Hillside and Very Low Density Residential designations are recommended for the R-1-2 zoning district. The R-1-2 setbacks and development standards are more appropriate for these parcels and they are too small for this zoning to permit further subdivision. 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.

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.

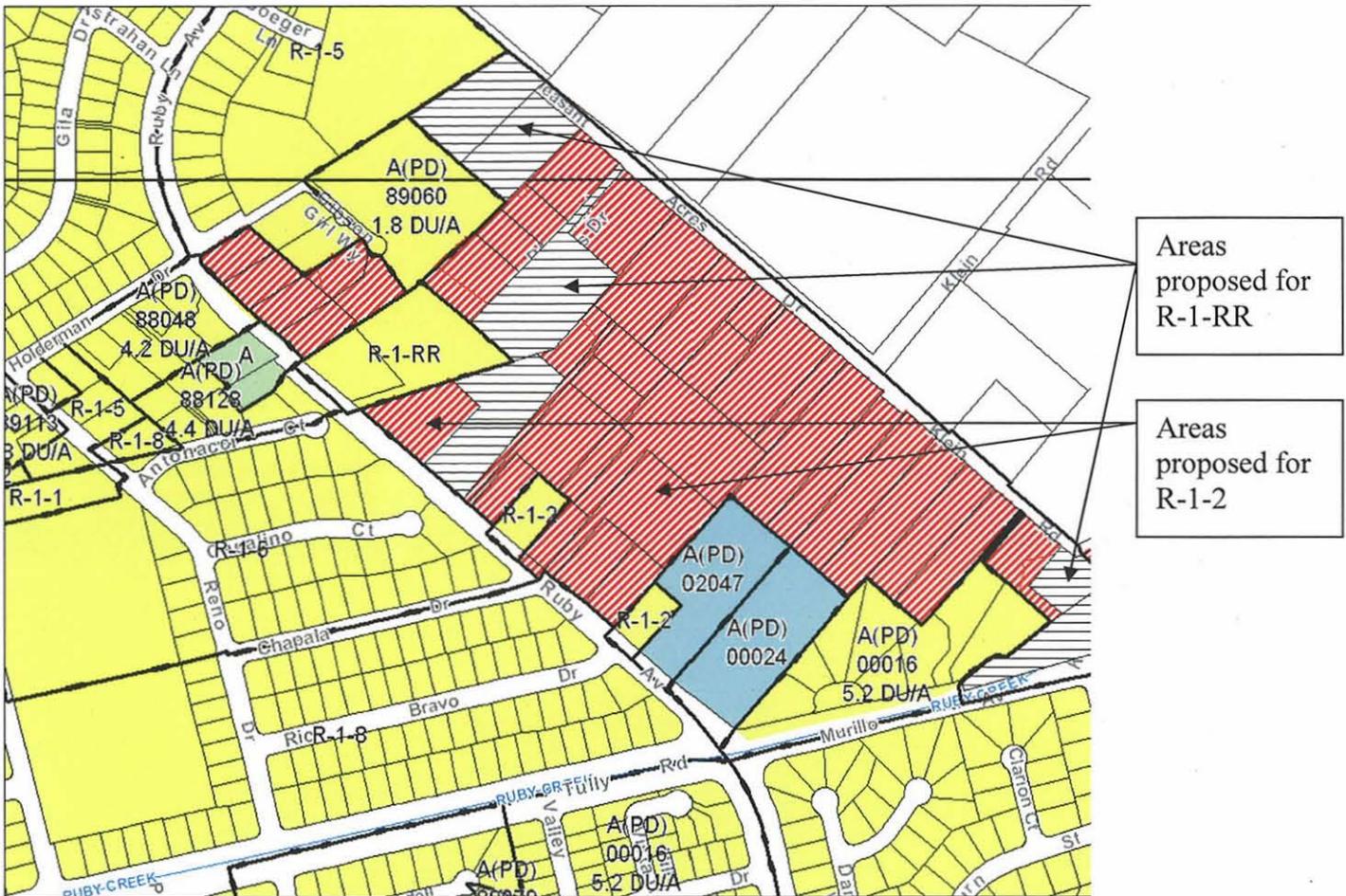
ANALYSIS

As discussed in the General Plan Conformance section of this report, the proposed R-1-2 zoning district is the most appropriate zoning for areas with General Plan designations of Very Low Density Residential and smaller parcels with split designations of Very Low Density Residential and Urban Hillside. This is consistent with the City's General Plan and reflects the existing uses on the subject property and surrounding sites.

The R-1-RR zoning district is the most appropriate zoning for areas designated Urban Hillside and larger parcels with split designations of Very Low Density Residential and Urban Hillside. This designation will not permit any additional subdivision of these parcels. While none of these parcels are 5 acres in size, the minimum lot area is the area approved on the subdivision map as long as the parcel is over 3,000 square feet. All of these parcels meet this requirement. However, all of the existing structures may not meet the R-1-RR setback requirements, and would subsequently be regulated as legal nonconforming.

Any future redevelopment requiring planning permits will require conformance with the General Plan, including the Hillside Development Policies. The Evergreen Development Policy also limits further subdivision of parcels in this area.

Rezoning 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.



Zoning Map

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 regarding water and sewer service, zoning regulations, rules regarding animals and livestock, and secondary unit policies.

This area is not currently served by sanitary sewers. Property owners will be eligible to connect to the City sewer system upon annexation, but the costs to extend sewer mains will be high. At least some of the area is currently served by a small, private water company – Klein Homes Water Co. After annexation, the water company would be eligible to connect to San Jose Water Co. or San Jose Municipal Water System, both of which serve neighboring areas. The cost of upgrading the infrastructure to current standards may be substantial.

COORDINATION

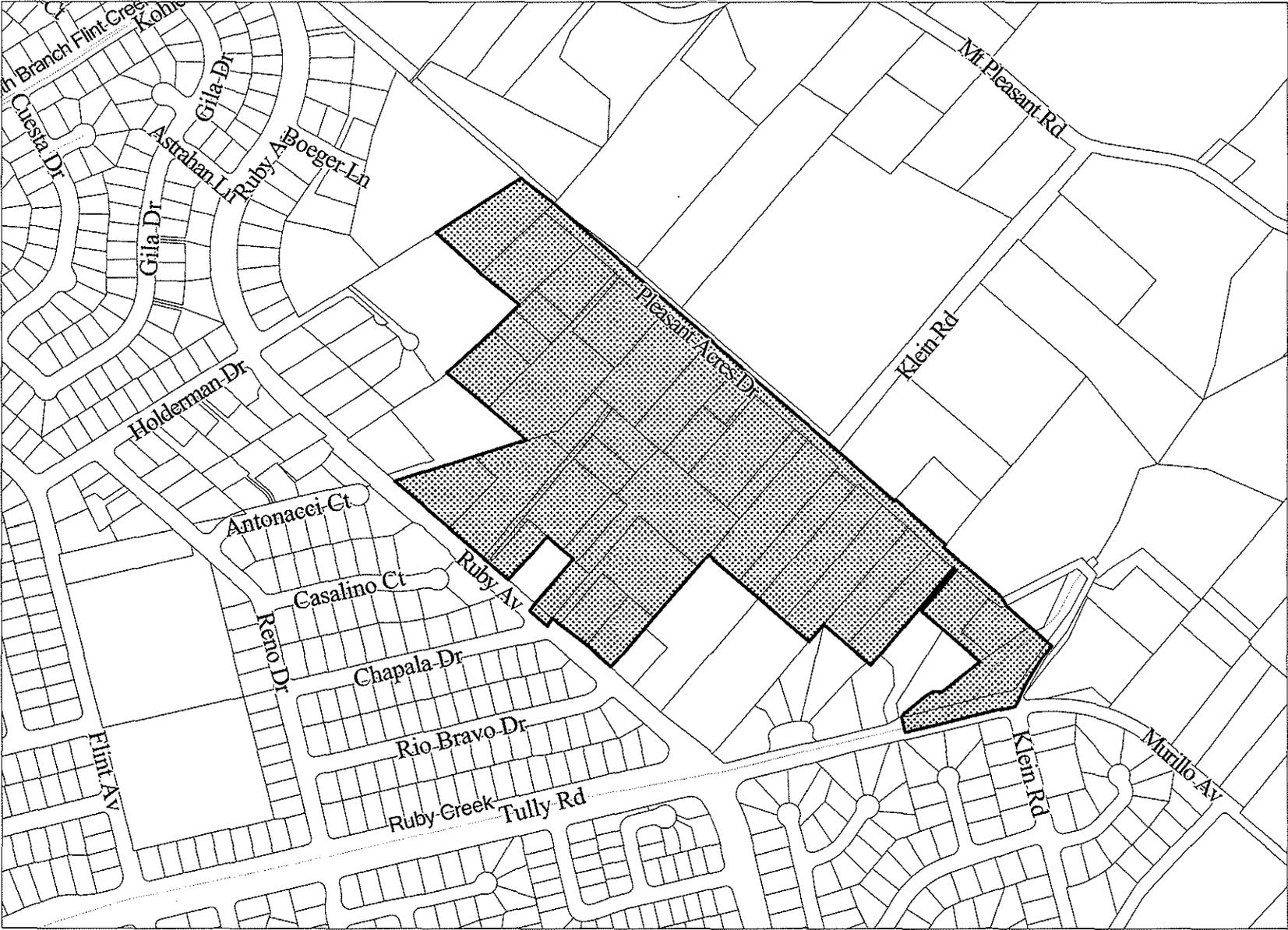
This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney . Staff from the relevant Departments meets on a regular basis regarding issues related to the County Island Annexation program. The City provides regular updates to the County of Santa Clara on the status of the program.

RECOMMENDATION

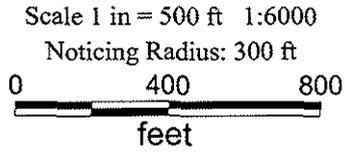
Planning staff recommends approval of the proposed zoning for the following reasons:

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.

Location Map



Map Created On:
7/24/2007



File Number: EVERGREEN 200
District: 8
Quad No: 85

**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

C06-127 / Evergreen No. 200. Planning Director-initiated rezoning to R-1-2 Single Family Residence District on 30 parcels and R-1-RR Single Family Residence District on 7 parcels and reorganization/annexation to the City of San José of an approximately 34.1 gross-acre site referred to as Evergreen No. 200, located between Pleasant Acres Drive and Ruby Avenue, west of Murillo Avenue.

Council District 8

County Assessor's Parcel Numbers: 652-10-001 to -015; 652-11-002 to -005 and -013 to -016; 652-13-003 to -006; -008 to -016

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

Joseph Horwedel

 Deputy

Memorandum

TO: Justin Fried
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: RESPONSE TO GENERAL PLAN
AMENDMENT APPLICATION**

DATE: 12/19/06

PLANNING NO.: C06-127
DESCRIPTION: Planning Director Initiated Prezoning from unincorporated county to R-1-RR and R-1-2 Single-Family Residence Zoning Districts for single family residential purposes of an approximately 34.98 gross acres area consisting of 36 parcels.
LOCATION: Northeast corner of Ruby Avenue and Holderman Drive
P.W. NUMBER: N/A

Public Works received the subject project on 11/28/06 and submits the following comments:

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

Comments:

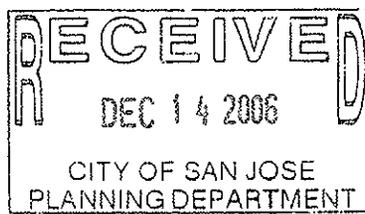
1. The existing sanitary and storm systems will need to be extended to provide services to these parcels.
2. These parcels are within the Evergreen Development Area but do not have traffic allocation.

Please contact the Project Engineer, Ryan Do, at 408-535-6897 if you have any questions.



EBRAHIM SOHRABI
Senior Civil Engineer
Transportation and Development Services Division

KTD
ES:rd:kg



Memorandum

DATE: 12/13/06

TO: Justin Fried

FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: EVERGREEN 200

DESCRIPTION: Planning Director Initiated Annexation from unincorporated county to R-1-RR and R-1-2 Single-Family Residence Zoning Districts for single family residential purposes of an approximately 34.98 gross acres area consisting of 36 parcels.

LOCATION: Northeast corner of Ruby Avenue and Holderman Drive

ADDRESS: Northeast corner of Ruby Avenue and Holderman Drive (2310 PLEASANT ACRES DR)

FOLDER #: 06 034555 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.

Please advise the applicant to submit plans to the Fire Department that provide the following information:

- a) Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like. Every portion of all building exterior walls shall be within 150 feet of an access road. The fire access shall:
 - be at least 20 feet wide;
 - have an unobstructed vertical clearance of not less than 14 feet;
 - be designed and maintained to support the loads of fire apparatus of at least 69,000 pounds;
 - have a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;

- be designed with approved provisions for turning around of fire apparatus if it dead ends and is in excess of 150 feet; and
- have a gradient less than or equal to 15%.
- **Curbs are required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan)**
 - i) **Roads, streets, avenues, and the like that are 20 to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked**
 - ii) **Roads, streets, avenues, and the like that are 26 to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked**
- b) Location of fire hydrants. The average distance between hydrants shall not exceed _____ feet.
- c) Available fire flow. Provide a copy of the letter from the _____ (water utility) that indicates the water flow available.
- d) Every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public street, public alley, yard, or exit court. Such windows or doors shall be in accordance with the adopted Building Code, and accessible for Fire Dept. laddering operation. The maximum angle for laddering is 70deg. from horizontal. Show all pertaining details including landscaping in relation to rescue window operation.

Note: The plans shall be submitted to the Fire Department *by appointment only* (call Nadia Naum-Stoian) as soon as possible.



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

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400



December 15, 2006

Mr. Justin Fried
Project Manager
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113

Subj: Planning Director Initiated Annexation – Evergreen 200 and Evergreen 201
APN: 652 10 001 and 652 14 002

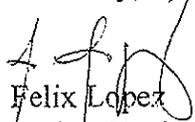
Dear Mr. Fried:

We have received and reviewed your transmittal on the above referenced project. The following are our comments:

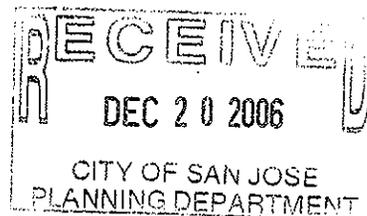
1. The 0.14 mi long northern half street portion of Ruby Avenue, beginning southeasterly from Holderman Drive, should be included in this annexation proposal.
2. County recommends the annexation of the entire block within your proposed annexation area instead of excluding certain lots, thus creating smaller County pockets.

Thank you for the opportunity to review and comment on this project. If you have questions, please call me at (408) 573-2462.

Sincerely,


Felix Lopez
Project Engineer

cc: MA, TP, WRL, RN, file



Fried, Justin

From: Chang, Justina
Sent: Thursday, December 14, 2006 1:34 PM
To: Mathew, Reena; Roche, Jeff; Fried, Justin; Burton, Chris; Davidson, John; Butler, Lee; Buikema, Rich; Nusbaum, Jenny; Early, Dionne; Baty, John
Cc: Walton, Susan; Enderby, Mike
Subject: FW: Comments for Staff Review Meeting Agenda 12/14/06

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

From: Samuel Yung [mailto:SYung@valleywater.org]
Sent: Thursday, December 14, 2006 1:27 PM
To: Chang, Justina
Cc: Sue Tippets
Subject: RE: Final Staff Review Meeting Agenda 12/14/06

Justina,

The following are our comments related to this weeks agenda:

C06-127 & EVERGREEN 200(Manager - Reena Mathew, Justin Fried): We reviewed and have no objections to the rezoning application and annexation. However, it should be noted that the District owns two parcels to the north of the Murillo Ave and Klein Road intersection. The District also has an easement on the west side of Pleasant Acres Drive, north of Klein Rd. Improvements over and adjacent to the District's easement or adjacent to the District owned parcels should be sent to the District for review and permitting.

C06-129 (Manager - Reena Mathew): We reviewed and have no objections to the rezoning application. However, it should be noted that the District owns a parcel on the southeast corner of Ruby Avenue and Mt Pleasant Rd. Improvements adjacent to the District owned parcel should be sent to the District for review.

PD06-068 (Manager - Jeff Roche): The parcel is adjacent to Guadalupe River. If the proposed improvements are within 50 feet of the creek please send plans for our review.

CP06-066 (Manager - Christopher Burton): We received the plans and have no objections to the proposed project since the proposed improvements are greater than 50 feet from Berryessa Creek. However, it should be noted that the Federal Emergency Management Agency maps show that the site is within Zone AO and would be subject to 1 foot of flooding in the event of a 1 percent flood, based on FEMA datum. The project proponent should consider elevating the equipment above the 1 percent water surface elevation.

If you have any questions, please call or email me.

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

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

From: Chang, Justina [mailto:Justina.Chang@sanjoseca.gov]
Sent: Tuesday, December 12, 2006 8:51 AM
To: Adam Burger; Adleson, Bryant; Aguilar, Mirabel; Amato, Julie; Annino, Susan; Barry,