



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** December 7, 2006

---

**COUNCIL DISTRICT:** 4  
**SNI AREA:** Not Applicable

**SUBJECT:** C06-037. DIRECTOR INITIATED PREZONING FROM COUNTY OF SANTA CLARA TO R-1-5 SINGLE FAMILY RESIDENCE ZONING DISTRICT FOR SINGLE FAMILY RESIDENCE PURPOSES ON AN APPROXIMATELY 3.3 GROSS ACRE SITE LOCATED ON THE EAST SIDE OF NOBLE LANE, 200 FEET NORTH OF NOBLE AVENUE (POCKET ANNEXATION FILE NO. PENITENCIA 74).

## RECOMMENDATION

The Planning Commission voted 5-0-1 (Commissioner Platten absent) to recommend the City Council consider and adopt an ordinance rezoning the property located on the east side of Noble Lane, 200 feet north of Noble Avenue from unincorporated County to R-1-5 Single Family Residence Zoning District to allow single family residential uses on a 3.3 gross acre site.

## OUTCOME

Approval of the Director Initiated rezoning from unincorporated County to the R-1-5 Single Family Residence Zoning District would facilitate subsequent annexation to the City of San Jose as part of the citywide county pocket annexation program. No new development is currently anticipated. The site is currently developed with single-family residences.

## BACKGROUND

On December 6, 2006 the Planning Commission held a public hearing to consider the proposed Prezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed prezoning. The item was considered as a consent item on the Planning Commission Agenda. Neither the Planning Commission nor any members of the public requested to discuss the item.

## ANALYSIS

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

designation of Medium Low Density Residential (8 DU/AC) and Urban Hillside, and will allow for subsequent annexation of the site under the citywide county pocket annexation program.

### POLICY ALTERNATIVES

If the City Council chooses to deny the subject rezoning, the property could not be annexed at this time and would continue to remain as unincorporated property, and used for residential uses.

### PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### COORDINATION

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

### FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines as discussed in attached staff report.

### COST SUMMARY/IMPLICATIONS

Not applicable.

### BUDGET REFERENCE

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL

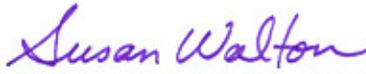
Date: December 7, 2006

**Subject:** File No. C06-037

Page 3

**CEQA**

The environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and was certified on August 16, 1994, by the City of San Jose City Council.

  
for JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Principal Planner, Susan Walton, at 535-7847.



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** November 30, 2006

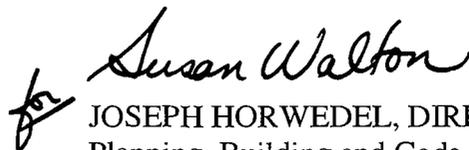
---

**TRANSMITTAL MEMO**

**COUNCIL DISTRICT:** 4  
**SNI:** N/A

**SUBJECT: C06-037. LOCATED ON THE EAST SIDE OF NOBLE LANE, 200 FEET NORTH OF NOBLE AVENUE.**

The Planning Commission will hear this project on December 6, 2006. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

  
for JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Susan Walton at (408) 535-7800.

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  
P.C.12/06/06, *3e*

File Number  
C06-037

Application Type  
Director Initiated Prezoning

Council District  
4

Planning Area  
Berryessa

Assessor's Parcel Number 595-26-045, 595-29-046, 595-29-047 & 595-26-055

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Chris Burton

Location: East side of Noble Lane, 200 feet north of Noble Avenue

Gross Acreage: 3.3

Net Acreage: N/A Net Density: N/A

Existing Zoning: Unincorporated

Existing Use: Single Family Detached Residential

Proposed Zoning R-1-5

Proposed Use: No change

### GENERAL PLAN

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

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

North:	Single Family Residence (8 DU/Acre)	R-1-8
East:	Single Family Residence (8 DU/Acre)	R-1-8
West:	Single Family Residence (5 DU/Acre)	R-1-5
South:	Single Family Residence (8 DU/Acre)	R-1-8

### 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: Penitencia No. 74

Date: pending

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

Date: *November 27, 2006* Approved by: *Susan Walton*  
 Action  
 Recommendation

### OWNER/APPLICANT

Katheryn & Steven Chase  
Tenkasi & Viji Viswanathan  
Jose Medeiros  
Paul Mancias

---

---

**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: Chris Burton

Department of Public Works  
See attached memorandum.

Fire

---

---

**OTHER CORRESPONDENCE**

See attached memorandum from County of Santa Clara.

---

---

**ANALYSIS AND RECOMMENDATIONS**

---

---

## **BACKGROUND**

The subject project is a Planning Director-initiated rezoning which is being done in preparation for the annexation of the 3.3 acre area referred to as Penitencia No. 74 (one of the 58 unincorporated County islands or "pockets" scheduled for annexation). 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.

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 have an appropriate zoning district 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-1-5 Single Family Residence Zoning District to reflect the existing single family uses and the zoning of adjacent parcels fronting on Noble Lane. This is not in strict conformance with Section 20.120.100 of the Zoning Ordinance which identifies the R-1-8, and R-1-RR Single Family Residence Zoning Districts respectively as the conforming zoning districts with the Medium Density Residential (8 du/ac) and Urban Hillside General Plan designations. As such, it is not a "conforming" rezoning, and is heard by both the Planning Commission and the City Council.

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 4 parcels on approximately 3.3 acres, is located on the east side of Noble Lane and is surrounded by single family residences. Three parcels are currently developed with single family residences, and one parcel is undeveloped.

## 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..

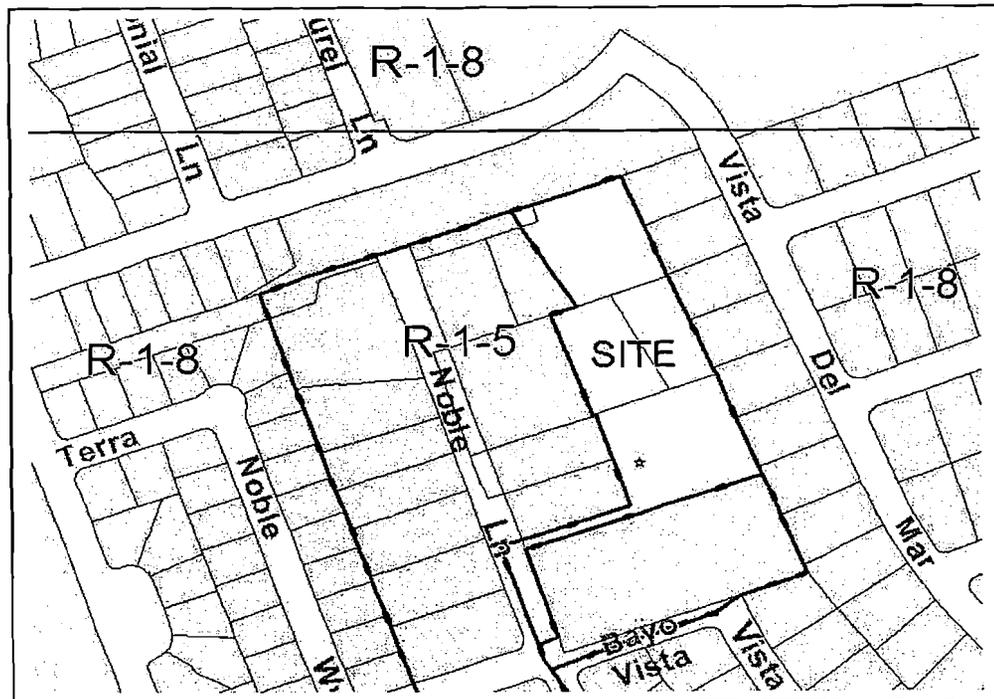
## GENERAL PLAN CONFORMANCE

The San Jose 2020 General Plan Land Use/Transportation Diagram designates one of the parcels and portions of two others as Urban Hillside, with the remainder designated Medium Low Density Residential (8.0 DU/AC). The proposed R-1-5 Single Family Residence Zoning District would allow residential land uses consistent with the General Plan designations on the property and would correspond with the zoning on adjacent properties.

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 Zoning District will allow single family residential uses consistent with the existing neighborhood which is typified by 8,000 – 20,000 square foot lots. The portions above the hill slope and designated as Urban Hillside are already developed, while the remainder of the pocket contains primarily open field and road access to the residences.



As this site is within the active Penitencia Creek Landslide, the City of San Jose Special Geologic Hazard Study Area and the State of California Seismic Hazard Zone for Earthquake Induced Landslides, any new development on the site (including environmental clearance, zoning approval, planning, building or grading permits) will require a Regional Geologic study approved by the City Geologist and an issuance of a Certificate of Geologic Hazard Clearance. These requirements are outlined in the Memorandum from Public Works (attached).

Potential development on the site will likely be more constrained by the geologic hazard clearance than the identified zoning district. Staff believes the R-1-5 Residence district provides the best fit given the multiple General Plan designations and neighboring existing residential densities. Geologic hazard clearance will address any safety concerns about new development in this landslide hazard area.

A City of San Jose 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.

## **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 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 will facilitate the development of this site with a use that is consistent with the General Plan and compatible with the surrounding residential uses.
2. The proposed rezoning is compatible and consistent with that of the adjacent properties that front on Noble Lane.

# Memorandum

**TO:** Christopher Burton  
Planning and Building

**FROM:** Michael Liw  
Public Works

**SUBJECT: REVISED FINAL RESPONSE TO  
DEVELOPMENT APPLICATION**

**DATE:** 11/21/06

---

**PLANNING NO.:** C06-037  
**DESCRIPTION:** Planning Director Initiated Rezoning from unincorporated county to R-1-5 Single-Family Residence Zoning District for single family residential purposes on an approximately 3.3 gross acres area consisting of 4 parcels  
**LOCATION:** East side of Noble Lane  
**P.W. NUMBER:** 3-18068

Public Works received the subject project on 11/21/06 and has no comments related to this Planning Application. The following comments and requirements are related to potential future Planning permit stages and are included for information only.

**Geology:** This site is within the active *Penitencia Creek Landslide*, the City of San Jose *Special Geologic Hazard Study Area* and the State of California *Seismic Hazard Zone for Earthquake Induced Landslides*.

- a) A Regional Geologic study must be reviewed and approved by the City Geologist prior to issuance of a Certificate of Geologic Hazard Clearance. An application for Geologic Hazard Clearance must be submitted to the Public Works Department and an Investigative Study Plan approved, prior to commencing any geologic investigation of the site. Please contact the City Geologist for information regarding the project.
- b) Due to the location of the project site within a large, deep-seated active landslide, the developability of the parcel is a concern.
- c) A Geologic Hazard Clearance is required prior to any environmental clearance, zoning approval, planning, building or grading permit.

Please contact the Project Engineer, Mirabel Aguilar, at (408) 535-6822 if you have any questions.

for   
Michael Liw  
Senior Civil Engineer  
Transportation and Development Services Division

**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**

C06-035. Planning Director-initiated rezoning for a project located on the east side of Noble Lane, 200 feet north of Noble Avenue on a 3.3-gross-acre site referred to as Penitencia No. 74 (one of the 59 unincorporated County islands or "pockets" scheduled for annexation), to be rezoned R-1-5 Single Family Residence.

Council District 4

County Assessor's Parcel Numbers: 595-26-045, 595-29-046, 595-29-047, and 595-26-055

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.

Chris Burton  
Project Manager

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

11/21/06  
Date

Altoni Samickson  
Deputy



**File No: C06-037**  
**District: 04**  
**Quad No: 052**

Scale 1 in = 400 ft 1:4800  
Noticing Radius: 500 ft



Map Created On:  
5/5/2006