COUNCIL AGENDA: 08-12-08
ITEM: 11.5

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: July 21, 2008

COUNCIL DISTRICT: # 6
SNI AREA: N/A

SUBJECT: C08-021 DIRECTOR INITIATED PREZONING FROM COUNTY OF SANTA CLARA TO R-1-5 SINGLE-FAMILY RESIDENCE ZONING DISTRICT AS TO APPROXIMATELY 107.6 GROSS ACRES, R-2 TWO-FAMILY RESIDENCE, ZONING AS TO APPROXIMATELY 5.7 GROSS ACRES, CN COMMERCIAL NEIGHBORHOOD ZONING DISTRICT AS TO APPROXIMATELY 6.1 GROSS ACRES, AND CO COMMERCIAL OFFICE ZONING DISTRICT AS TO APPROXIMATELY 10.6 GROSS ACRES (ALL AS MORE SPECIFICALLY SET FORTH IN THE STAFF REPORT) FOR AN APPROXIMATELY 131 GROSS ACRE COUNTY ISLAND.

RECOMMENDATION

The Planning Commission voted 6-0-1, Commissioner Platten absent, to recommend that the City Council adopt an ordinance prezoning the subject site as recommended by staff.

OUTCOME

Should the City Council approve the Prezoning as recommended by the Planning Commission, the approximately 131 gross acre site will be zoned as described above upon annexation of the County island (Hamilton No. 59) into the City.

BACKGROUND

On July 16, 2008, the Planning Commission held a public hearing to consider the prezoning of the approximately 131 gross acre County island. The Director of Planning, Building, and Code Enforcement recommended approval of the proposed project. Planning Staff gave a brief presentation describing the County Island Annexation Process and staff's recommendation. Staff explained that they had revised their recommendation regarding the proposed zoning of a 107.6 acre portion of the County Island to the R-1-5 Single Family Residence Zoning District instead of R-1-8 Single Family Residence Zoning District, in response to public comment received at the Community Meetings and to reflect the predominant lot sizes in the area.

Four members of the public spoke at the hearing. One raised concern regarding the inability of residents to protest the annexation of pockets as part of the State's streamlined annexation process and stated that there should have been more notification regarding the City's decision to proceed with the proposed annexations, including the settlement with the County of Santa Clara. Another speaker asked for clarification on the densities associated with the R-1-8 and R-1-5 Residential Zoning Districts. Two speakers (the owner, James Campagna, and his representative, Ray Hashimoto) spoke in opposition to the proposed prezoning because it would delay possible approval for the development of the properties at 1711 and 1723 Hamilton Avenue. They indicated that they had intended to proceed with the development of a mixed use (office/residential project), which would not be permitted by the proposed CO Commercial Office Zoning District and that they would be prevented by State law from changing the zoning for two years subsequent to the City's annexation of the area. They sought the Commission's support in finding alternatives to the proposed CO Zoning recommended for their property, including suggesting an overlay district that would allow for residential development of the site. They also suggested removing the properties from the proposed annexation and prezoning in exchange for an agreement to annex at a later date.

Staff responded that although the zoning could not be changed for two years subsequent to the annexation, there is still the ability to apply to the City for zoning changes to have a proposal ready for hearing at the end of the two years. Owners could also still apply for development that complies with the newly established City zoning. Staff reiterated the importance of proceeding with the County Island Annexation program as originally scheduled and stated it was not appropriate to delay the process for a project that was only in its preliminary phase of development. Staff explained that the existing Office General Plan designation prevented staff from recommending a residential or mixed-use zoning district at this time, including an overlay designation. Staff estimated that given the potential size and complexity of the project, it would likely require the issuance of a Negative Declaration as well as an extensive amount of public outreach and design review, and therefore, was likely to take 180 days, given current processing time goals for projects of this type. Staff also emphasized that a number of other people and agencies are in the process of preparing for these annexations and that staff did not support a delay for the benefit of a single project or developer; any further delay to the 'front end' of the process would create additional delay to those property owners targeting the two-year's out window.

Commissioners Do and Kamkar stated that they preferred the R-1-8 Single Family Residence Zoning District to the R-1-5 Single Family Residence Zoning District on the approximately 107.6 acres of the site to allow the range of density provided for in the General Plan Land Use/Transportation Diagram, and to promote infill development on larger lots in support of smart growth principles. Commissioner Kalra concurred that either R-1-5 or R-1-8 Residential Zoning did conform to the General Plan. Commissioner Campos discussed the role the R-1-5 Zoning would play in preserving the character of the existing neighborhood. Staff responded that the proposed R-1-5 Residential zoning district was in response to residents' concerns with additional subdivision within their single-family neighborhood and was in-line with the General Plan Goals and Policies promoting neighborhood preservation. Staff indicated the General Plan Update process could determine where in existing neighborhoods some further intensification would be appropriate.

ANALYSIS

This project would facilitate the annexation of the area as part of the County Island Annexation Program. See original staff report for additional discussion.

EVALUATION AND FOLLOW-UP

City staff provides status updates on the County Island Annexation Program on the website dedicated to the program and in periodic updates to the City Manager's Office.

POLICY ALTERNATIVES

Not Applicable

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1**: Requires Council action on the use of public funds equal to $1 million or greater.
  (Required: Website Posting)
- ☐ **Criterion 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)**
- ☐ **Criterion 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. Staff held community meetings on March 19, March 25, April 2, April 3rd and July 8, 2008 with residents, property owners, and business owners in these areas. The July 8th meeting focused on presenting the staff recommended zoning districts. Staff received comments in opposition to the proposed R-1-8 zoning district, primarily because of concern that the 5,445 minimum lot-size allowed by the zoning district could lead to additional subdivision in an area typified by a number of larger lots. As previously discussed, staff has modified the original recommendation and determined that the R-1-5 Residence zoning district (8,000 square foot minimum lot size) is more reflective of the area's existing character of development which staff has determined has an average lot size of 8,800 square feet. Staff emailed the attendees of the July 8 meeting who provided email addresses notifying them of the change in staff recommendation. Staff received several responses in support of the change (see attached).

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 Division's 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 José. An Answer Book has been distributed to all

residents and property owners within the areas scheduled be annexed in 2008 as a part of Phase 3 of the program.

Staff has received several inquiries regarding the proposed prezoning. A resident of the proposed R-2 Residence Zoning District with an existing single-family house wrote a letter requesting that their ability to build a second unit in the future be preserved. Staff supports the retention of this option, and the R-2 Zoning District recommended for the subject site matches the existing County zoning.

Staff has also reviewed a preliminary application for multi-family residential development behind an existing office building at 1711 and 1723 Hamilton Avenue (identified on the map on Page 7 in the original staff report), where the General Plan designation is Office. Staff has responded that City policies do not support the proposed project, and indicated the applicant could redevelop the site with office uses under the proposed Commercial Office Zoning District. State law precludes changing the General Plan designation or Zoning district for a period of two years after annexation. If the applicant still wishes to pursue a mixed-use project, they could continue to work with staff on this project during this time to prepare it for public hearing once rezoning is permitted.

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.

FISCAL/POLICY ALIGNMENT

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

CEQA

Resolution No. 65459.

Susan Walton
for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Richard Buikema, Senior Planner, at 408-535-7800
cc:

Attachments: Correspondence from public

Fried, Justin

From: Carl [ccilker@gmail.com]
Sent: Tuesday, July 15, 2008 2:35 PM
To: 'Fried, Justin'
Subject: RE: Change to Staff Recommendation for 6-2 / C08-021 / Hamilton No. 59

Thank you, Justin. This approach is much more consistent with the existing residences and lot sizes.

For your information, while I understand that the Planning Department isn't responsible for all of these things, this area does have a significant problem with insufficient capacity in the storm drain facilities. With a modest rainfall comes large lakes that form at many intersections. Given the sensitivity of water contamination and our proximity to Los Gatos Creek, it would seem that the department responsible for storm drains should be advised of the problem.

Regards,

Carl Cilker
ccilker@gmail.com

Sr. VP
Cilker Orchards
1631 Willow St. #225
San Jose, CA
95125
408 264-2534 x201
408 264-2537 fax

From: Fried, Justin [mailto:Justin.Fried@sanjoseca.gov]
Sent: Tuesday, July 15, 2008 2:14 PM
To: Fried, Justin
Subject: Change to Staff Recommendation for 6-2 / C08-021 / Hamilton No. 59

Hi all,

Thank you for attending the community meeting on July 8 and for your questions and comments. I wanted to inform you that following feedback from the meeting and a review of the lot sizes and development pattern in the area, staff is recommending the R-1-5 Single Family Zoning District rather than the R-1-8 Single Family Zoning District initially proposed. If you would like additional information, the staff report can be found on the 7-16-08 Planning Commission agenda under item 4.d (although the description on the agenda remains what was in the hearing notice you received, the staff report reflects the new staff recommendation) available at http://www.sanjoseca.gov/planning/hearings/planning_com.asp.

Justin Fried
Planner
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
(408)535-7871

Fried, Justin

From: Muriel Nourse [AnneNourse@aol.com]
Sent: Wednesday, July 16, 2008 12:38 PM
To: Fried, Justin
Subject: Re: Change to Staff Recommendation for 6-2 / C08-021 / Hamilton No. 59

To Mr. Justin Fried,
Thank you for your prompt attention to the zoning matter in our neighborhood. If we can see the zoning changed to R-1-5 from R-1-8 I think it will make most of the neighbors in "Hamilton No. 59" much happier. All we want to do is maintain the current character of our neighborhood which was developed in the early 50's. I had already spoken to several of the neighbors not present at the meeting and they were ready to sign a petition in support of the R-1-5 zoning.
Thanks again. We really appreciate any assistance you can give us in this matter. If there is anything the neighborhood can do to support this change in zoning, please let us know.
John and Anne Nourse
1734 Dolores Drive

On Jul 15, 2008, at 2:13 PM, Fried, Justin wrote:

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Thank you for attending the community meeting on July 8 and for your questions and comments. I wanted to inform you that following feedback from the meeting and a review of the lot sizes and development pattern in the area, staff is recommending the R-1-5 Single Family Zoning District rather than the R-1-8 Single Family Zoning District initially proposed. If you would like additional information, the staff report can be found on the 7-16-08 Planning Commission agenda under item 4.d (although the description on the agenda remains what was in the hearing notice you received, the staff report reflects the new staff recommendation) available at http://www.sanjoseca.gov/planning/hearings/planning_com.asp.

Justin Fried
Planner
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
(408)535-7871

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Fried, Justin

From: krisgk@a-link.net
Sent: Wednesday, July 16, 2008 3:28 PM
To: Fried, Justin
Subject: RE: Change to Staff Recommendation for 6-2 / C08-021 / Hamilton No. 59

Hello Justin

Thank you and the rest of the planning staff for really hearing the concerns of the neighborhood and revising your recommendation. Your attention is most appreciated.

Hope it's a great summer,

Kris Kelly
San Gabriel Way

-----Original Message-----
From: "Fried, Justin" <Justin.Fried@sanjoseca.gov>
Sent: Tuesday, July 15, 2008 5:13pm
To: "Fried, Justin" <Justin.Fried@sanjoseca.gov>
Subject: Change to Staff Recommendation for 6-2 / C08-021 / Hamilton No. 59

Hi all,

Thank you for attending the community meeting on July 8 and for your questions and comments. I wanted to inform you that following feedback from the meeting and a review of the lot sizes and development pattern in the area, staff is recommending the R-1-5 Single Family Zoning District rather than the R-1-8 Single Family Zoning District initially proposed. If you would like additional information, the staff report can be found on the 7-16-08 Planning Commission agenda under item 4.d (although the description on the agenda remains what was in the hearing notice you received, the staff report reflects the new staff recommendation) available at
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Justin Fried

Planner

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