

STAFF REPORT
PLANNING COMMISSION

FILE NO.: C08-021

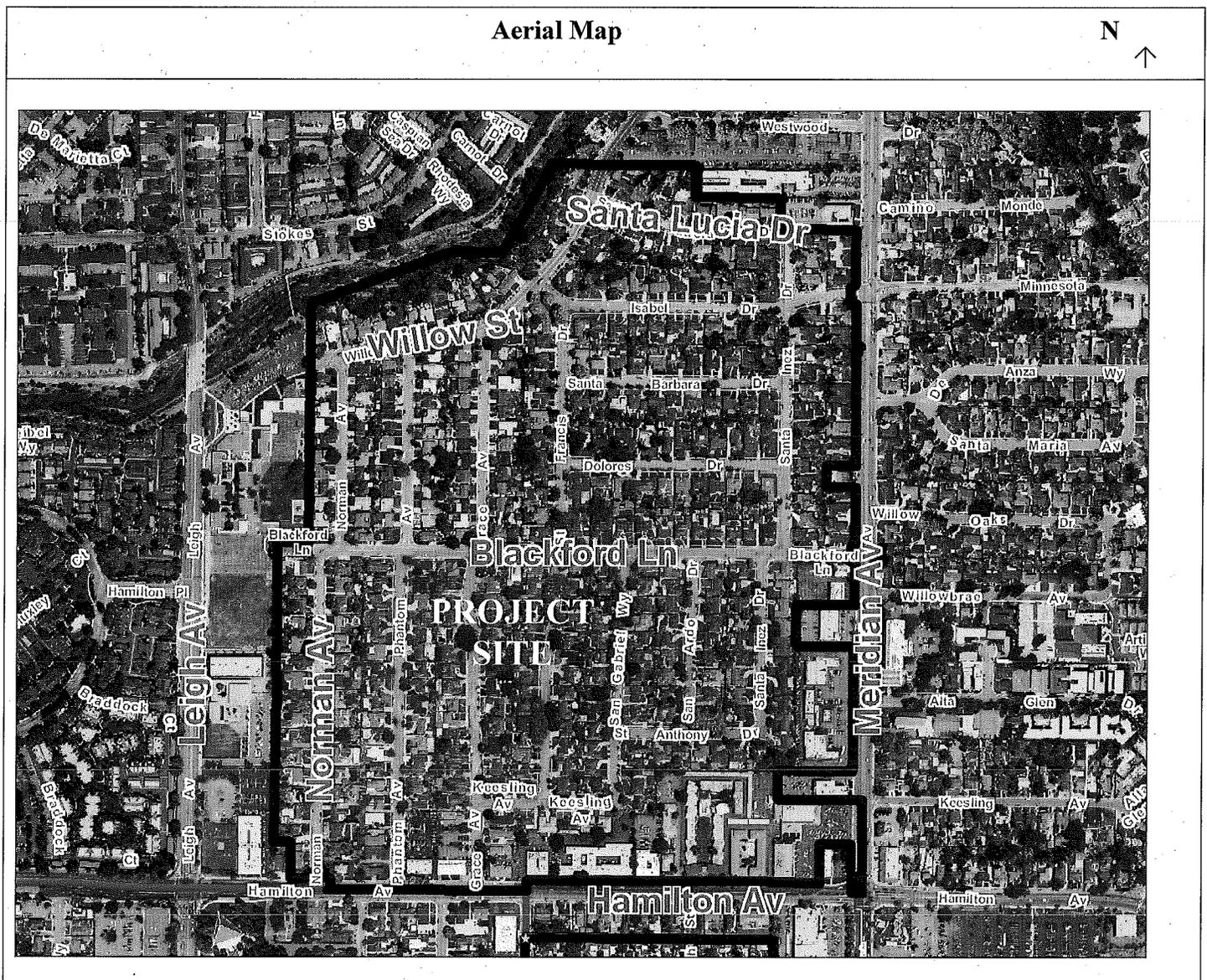
Submitted: Director-Initiated

PROJECT DESCRIPTION:

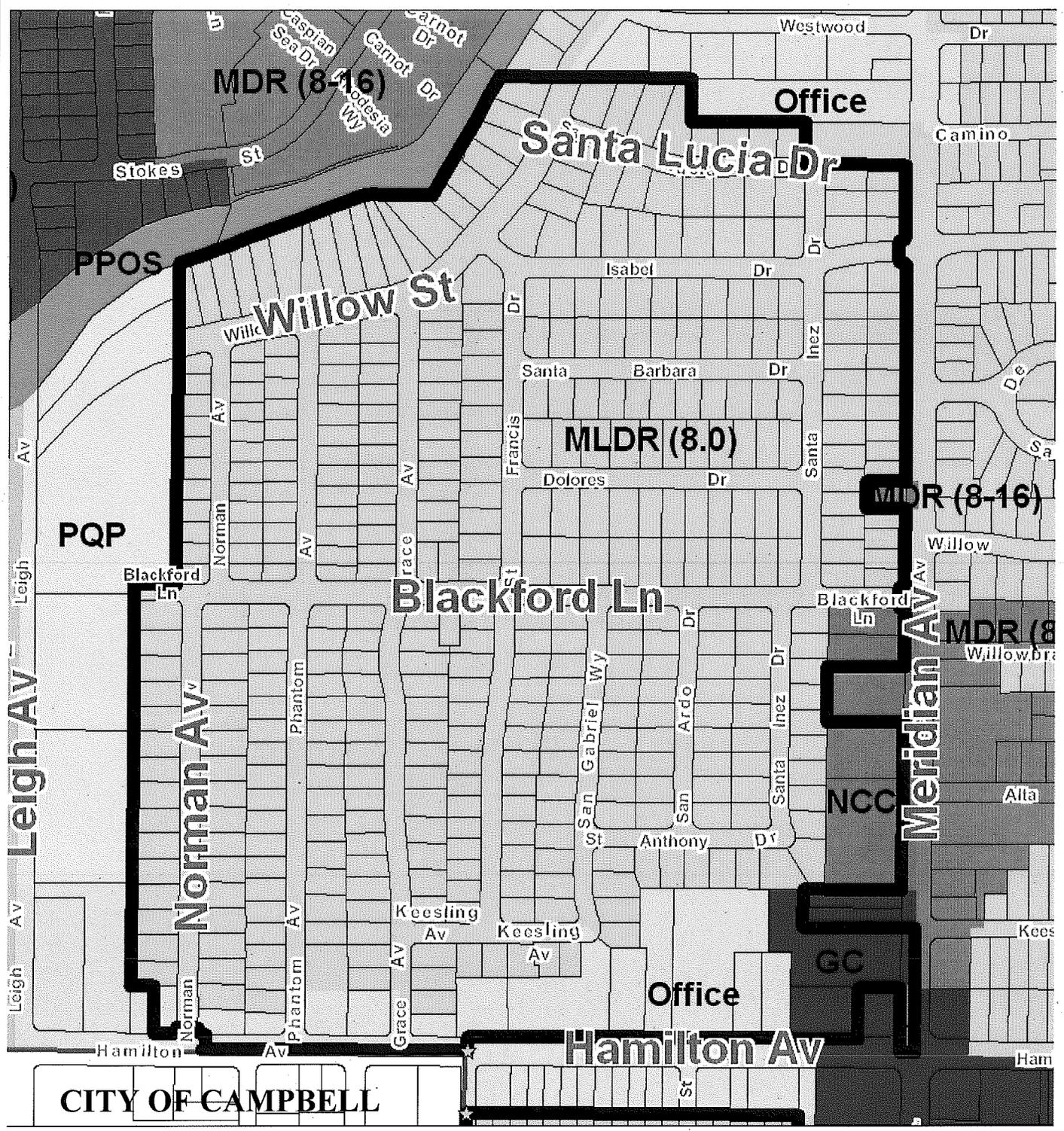
Director-initiated Prezoning from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District (107.6 acres), R-2 Two-Family Residence Zoning District (5.7 acres), CN Commercial Neighborhood Zoning District (6.1 acres), and CO Commercial Office Zoning District (10.6 acres) for an approximately 131 gross acre County island consisting of 449 parcels.

LOCATION: Unincorporated area generally bounded by Hamilton Avenue to the south, Norman Avenue to the west, Willow Street and Santa Lucia Drive to the north and Meridian Avenue to the east.

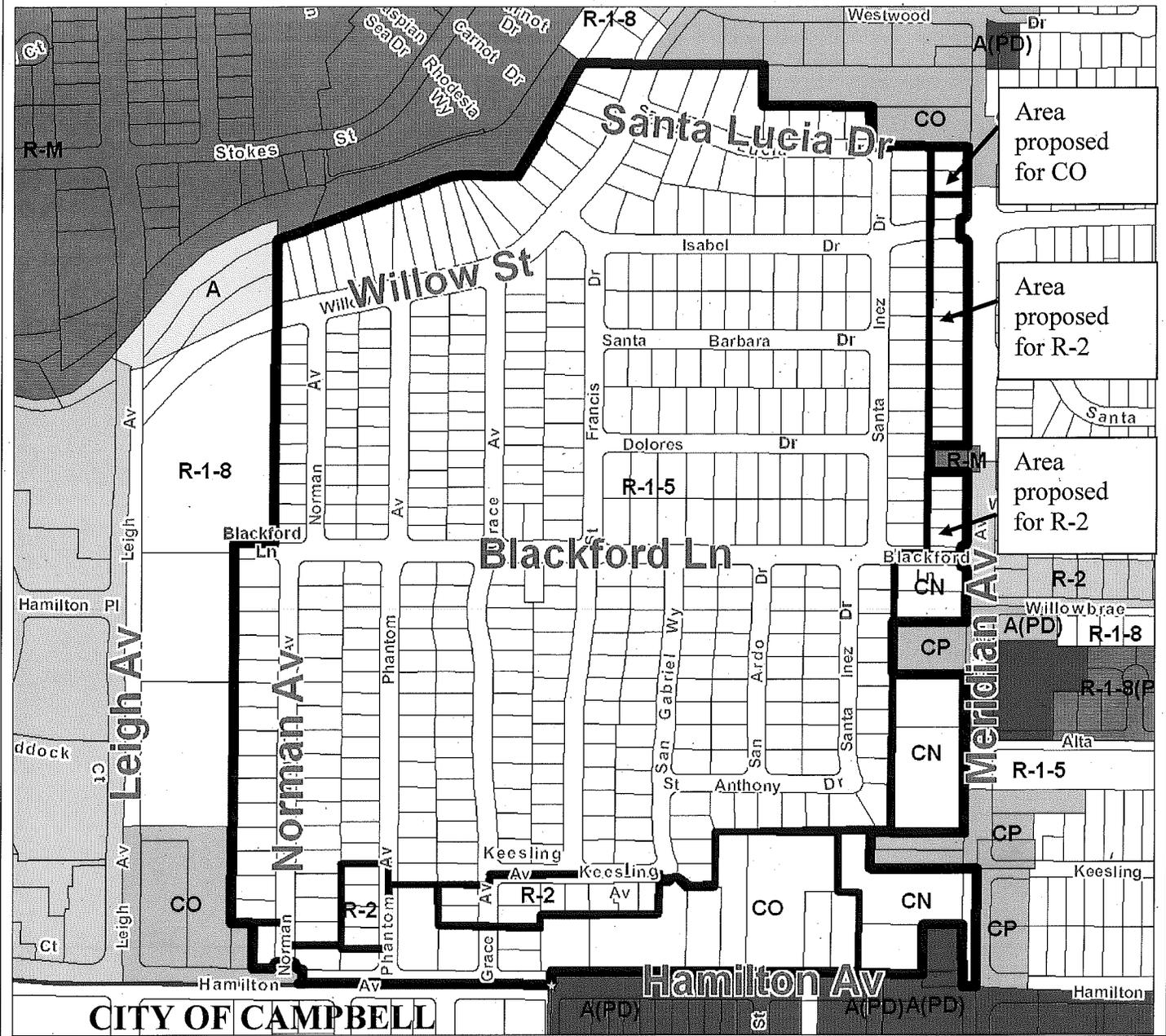
Council District: 6



GENERAL PLAN



ZONING (Existing and Proposed)



RECOMMENDATION

Planning staff recommends approval of the proposed Director-Initiated Prezoning from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District (107.6 acres), R-2 Two-Family Residence Zoning District (5.7 acres), CN Commercial Neighborhood Zoning District (6.1 acres), and CO Commercial Office Zoning District (10.6 acres) for the following reasons:

1. The proposed prezoning is in conformance with the San José 2020 General Plan Goals and Policies and Land Use/Transportation Diagram designation.
2. The proposed prezoning will provide development standards that are consistent with the existing uses and facilitate any future development to be consistent with surrounding uses.
3. The proposed prezoning will facilitate the elimination of a County island as directed by the City Council's initiation of the County Island Annexation Program.

BACKGROUND

This Planning Director-initiated prezoning is proposed in conjunction with the pending annexation of a County Island generally bounded by Hamilton Avenue, Norman Avenue, Willow Street, and Santa Lucia Drive; referred to as Hamilton No. 59. The initiation of the annexation of this island will be considered by the City Council on August 19, 2008. The area is one of the 49 unincorporated County islands or "pockets" scheduled for annexation as part of the San José 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 José is initiating the annexation of the subject area as part of Phase 3 of this program which includes 14 islands in total. Phase 1 and 2 of this program resulted in the annexation of 32 County islands (covering 230 acres).

This prezoning proposal does not address the issue of whether the City should annex the subject County Island. Prezoning is the process of assigning City of San José zoning districts to a property in advance of annexation so that the property will have an appropriate zoning designation once the annexation is effective, if it is approved. All of the unincorporated island sites are within the City of San José's Sphere of Influence, and thus currently have a General Plan Land Use/Transportation Diagram designation. The Director's recommendation for a proposed zoning district is determined based on consideration of a site's General Plan designation, the existing Santa Clara County zoning districts, and the existing, legally-established uses on the site and in the surrounding area.

No changes are proposed to the existing uses of the properties. Legally-established uses that would no longer be in conformance with the Zoning Ordinance after annexation to the City of San José and after the new zoning district is adopted, shall become legal nonconforming (with the exception of adult uses, which are subject to amortization pursuant to Section 20.80.040 of the San José Municipal Code). Any future changes to the legal nonconforming aspects of any of the properties would be subject to the provisions of Chapter 20.150 of the San José Municipal Code.

Site and Surrounding Uses

The 131 acre area consists of 449 individual parcels which are primarily developed with single-family residences. General business office, medical office, and multi-family residential uses predominate along Hamilton Avenue. Bordering these uses to the north are a number of duplexes (attached two-family residences). A range of commercial uses including retail, restaurant, and office exist along the west side of Meridian Avenue, between Blackford Lane and Hamilton Avenue. Duplex uses continue north along Meridian Avenue from Blackford Lane. The site is surrounded by a mix of residential and commercial uses, with the commercial uses concentrated along Hamilton and Meridian Avenues.

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.

ANALYSIS

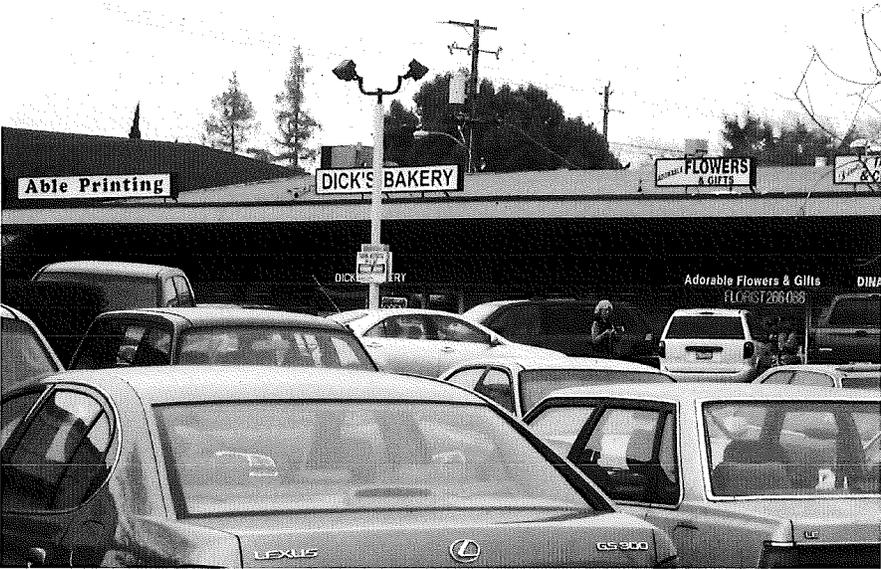
The proposed zoning districts are based on a consideration of a site's General Plan designation, the existing, legally-established uses on the site and surrounding area as well as the existing Santa Clara County zoning district.

A. Land Use/Transportation Diagram

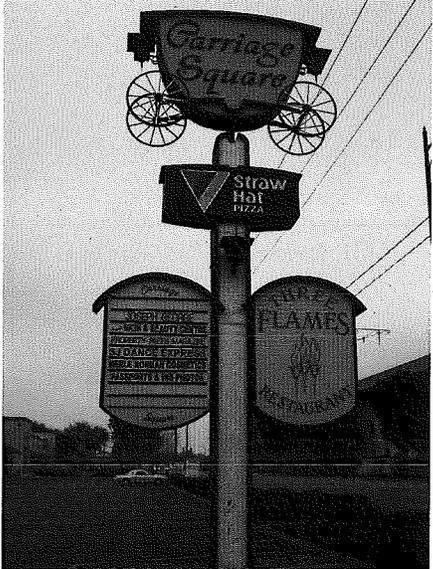
In most cases, properties within the County Island are proposed to be zoned in the City of San José in accordance with how the property is designated on the San José 2020 General Plan Land Use/Transportation Diagram. The following table (a portion of Table 20-270 contained in the Zoning Ordinance) demonstrates the proposed zoning districts which correspond with a particular General Plan designation:

San José 2020 General Plan Designation	Proposed City of San José Prezoning
Medium Low Density Residential (8 Du/Acre)	R-1-8 Single Family Residence District
Office	CO Commercial Office
General Commercial	CN Commercial Neighborhood District*
Neighborhood/Community Commercial	CN Commercial Neighborhood District*

* These General Plan designations have multiple conforming zoning districts identified in Table 20-270 of the Zoning Ordinance. The recommendation for CN Commercial Neighborhood Zoning District in this case allows for neighborhood-serving commercial uses reflective of the existing multi-tenant commercial development in the subject site along Meridian Avenue (see photographs below).



1579-1595 Meridian Avenue

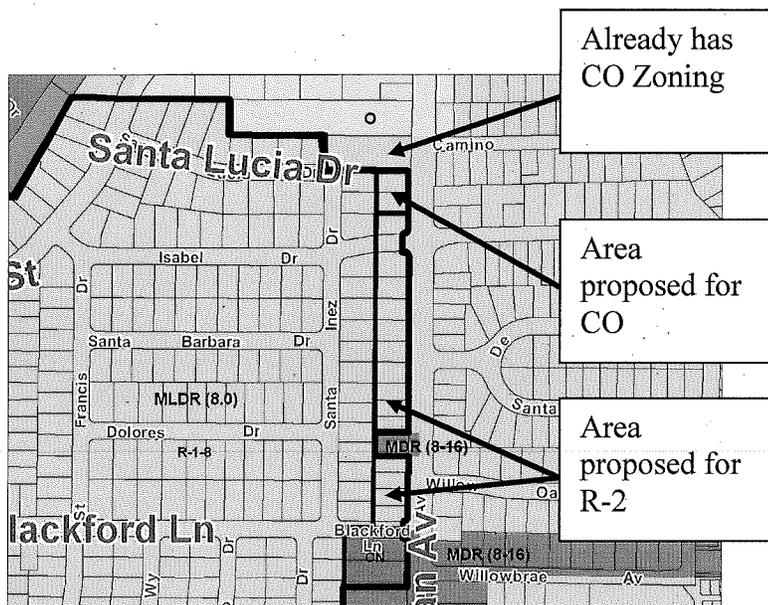


1535-1559 Meridian Avenue

B. Existing Uses

In some cases, the proposed San José zoning district has been selected to reflect the existing, legally-established use of the property. The General Plan stipulates that any developed parcel of two acres or less is deemed to be in conformance with the General Plan regardless of how it is designated.

In this particular County Island, properties along Meridian Avenue are proposed to be zoned CO Commercial Office and R-2 Two-Family Residence Zoning Districts rather than R-1-8 Single Family Residence District (which would otherwise conform to the Medium Low Density Residence (8 DU/AC) General Plan Land Use designation) to reflect the existing office and duplex uses and equivalent County zoning. These properties front along Meridian Avenue, a major street, border uses of similar intensities, and serve as a buffer between Meridian Avenue and the neighborhood behind.



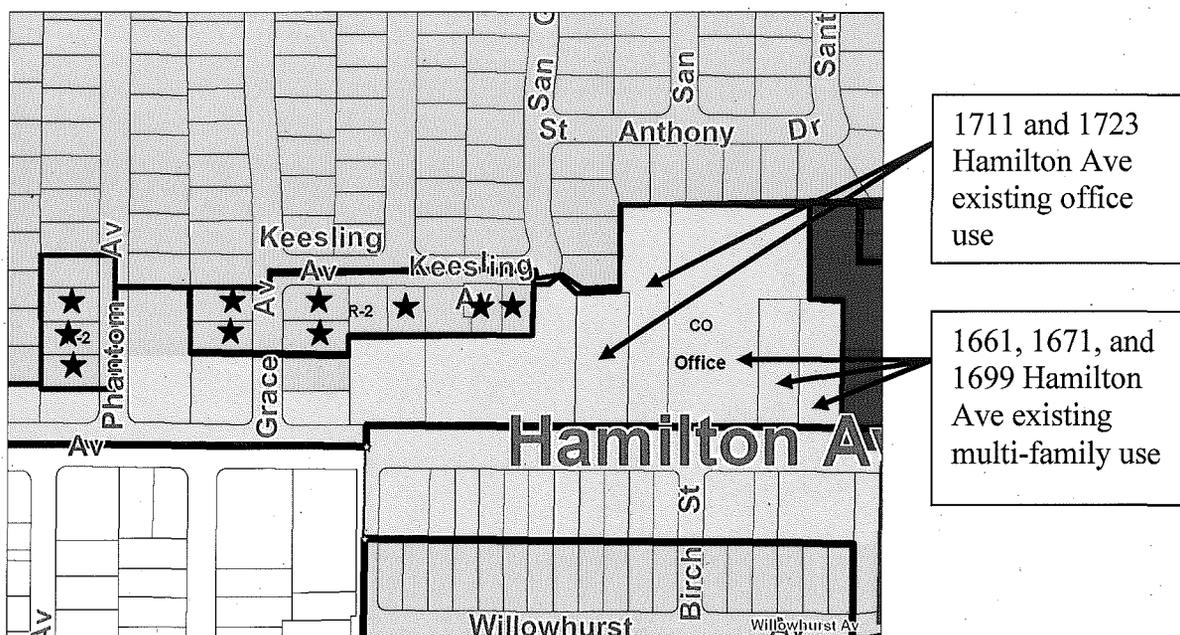
General Plan and Proposed Zoning

Similarly, one parcel on Grace Avenue and a portion of a parcel on Phantom Avenue with the Medium Low Density Residential (8 DU/AC) Land Use designation are proposed to be zoned CO Commercial Office Zoning to match existing uses and the existing County zoning (these parcels can be seen on the map on the next page).

C. Existing Zoning and General Character

In certain instances, the proposed zoning reflects the existing zoning in the County of Santa Clara if the uses allowed by that zoning are reflective of the general character of an area and adjacent to existing uses consistent with that zoning district. Zoning districts proposed for parcels of two acres or less that are determined to be consistent with the general character of the area can be considered in conformance with the General Plan.

In this particular County Island, thirteen parcels are proposed to be rezoned with the R-2 Two-Family Residence Zoning District to match the existing R-2 zoning in the County. Although the General Plan designation is Medium Low Density Residential (8 DU/AC), the R-2 Residential Zoning District is recommended instead of R-1-8 Single Family Residence District, in recognition of the duplexes that exist on ten of the thirteen parcels, in accordance with the current County zoning district. The map on the next page shows the existing duplexes on the south side of Keesling Avenue and west side of Phantom Avenue.



Proposed R-2 Zoning Districts with stars showing existing duplexes

D. Creation of Nonconforming Uses

General Plan policies and the general character of an area do not always support the rezoning of property with a Zoning district that permits the existing uses. In these cases, legally-established uses will be regulated as Nonconforming Uses under Chapter 20.150 of the Zoning Ordinance. Uses that require special or conditional use permits will also be regulated as Nonconforming Uses unless a special or conditional use permit is obtained. (Note that Adult uses are amortized after 2 years pursuant to Section 20.80.040 of the Zoning Ordinance)

In this particular County Island, at 1661, 1671, and 1699 Hamilton Avenue, there are several multi-family apartment buildings (the sites are identified on the map above). The existing County zoning in this area allows commercial and office uses. Staff considers these properties to be viable for office uses in the future and recommends rezoning the site to the CO Commercial Office Zoning District, which conforms to the San José's General Plan land use designation of Office. Under this zoning district, existing multiple family uses that were permitted in the County would be able to continue as legal nonconforming uses.

CONCLUSION

Staff believes it is appropriate that 107.6 acres of the approximately 131 acres be rezoned to R-1-8 Single-Family Residence District which allows single-family homes on individual lots generally reflecting the existing development pattern. Staff recommends that 5.7 acres be rezoned to R-2 Two-Family Residence Zoning District which allows duplexes as well as single-family homes. Staff is recommending CO Commercial Office Zoning District on 10.6 acres and CN Commercial Neighborhood Zoning District on 6.1 acres to reflect existing commercial uses and/or the existing commercial General Plan land use designations.

This rezoning is not associated with any proposals for specific development or redevelopment. Any future redevelopment requiring planning permits will require conformance with the General Plan.

Rezoning the properties within this County island 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. A recommendation on appropriate zoning districts

recommends that 5.7 acres be rezoned to R-2 Two-Family Residence Zoning District which allows duplexes as well as single-family homes. Staff recommends CO Commercial Office Zoning District on 10.6 acres and CN Commercial Neighborhood Zoning District on 6.1 acres to reflect existing commercial uses and/or the existing commercial General Plan land use designations.

This rezoning is not associated with any proposals for specific development or redevelopment. Any future redevelopment requiring planning permits will require conformance with the General Plan. Rezoning the properties within this County island 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. A recommendation on appropriate zoning districts for this rezoning proposal is a separate process from and does not speak to the merits of annexation of this County island.

PUBLIC OUTREACH/INTEREST

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.

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 rezoning. A resident of the proposed R-2 Residence Zoning District with an existing single-family house wrote a letter (see attached) 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), where the General Plan designation is Office. Staff has responded that City policies do not support the proposed mixed-use project, and indicated the applicant could redevelop the site with office uses under the proposed 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 despite lack of staff support, they could continue to work with staff on this project during this time to prepare it for public hearing, once a rezoning could permit.

Project Manager: Justin Fried **Approved by:** Susan Walton **Date:** 07/09/2008

Owner/Applicant: Director-Initiated	Attachments: June 3, 2008 Letter from Colin Clancy
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June 3, 2008

RECEIVED

JUN - 4 2008

CITY OF SAN JOSE
DEVELOPMENT SERVICES

To:
Joseph Horwedel
Director Planning, Building and Code Enforcement
City of San Jose

Val Alexeeff
Director Department of Planning
and Development Count of Santa Clara

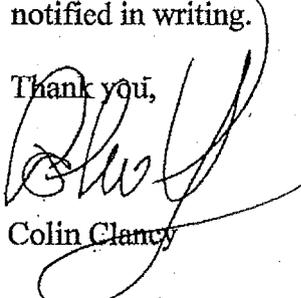
From:
Colin Clancy and Lydia Terrill
1607 Phantom Ave.
San Jose CA, 95125
Property Id 284-21-032-00

Dear Sirs,

We are writing to you to express our desire to remain zoned as R-2 when the annexation of property occurs from the County of Santa Clara to the City of San Jose. We purchased our home in 2000 and selected this property because of the potential to build a duplex on it. Having the property remain zoned as R-2 is critical to building a duplex and is factored into our retirement plans.

If for some reason the property will be changing from R-2 to R-1 we would like to be notified in writing.

Thank you,


Colin Clancy