



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: September 10, 2009

COUNCIL DISTRICT: 6
SNI AREA: Burbank/Del Monte

SUBJECT

FILE NO. C08-023, Director-initiated prezoning from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District (14.31 acres), R-M Multiple Residence Zoning District (1.07 acres), CP Commercial Pedestrian Zoning District (18.19 acres), and CIC Combined Industrial/Commercial Zoning District (8.24 acres) on an approximately 42 gross acre County Island consisting of 275 parcels and located in an area generally bounded by the south side of Park Avenue, west side of McEvoy Street, north and south sides of West San Carlos Street, and the east side of Meridian Avenue.

RECOMMENDATION

The Planning Commission voted 6-0-1 (Commissioner Cahan absent) to recommend that the City Council approve the Prezoning on a 42 gross acre County Island, consisting of 275 parcels located in an area generally bounded by the south side of Park Avenue, west side of McEvoy Street, north and south sides of West San Carlos Street, and the east side of Meridian Avenue, from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District (14.31 acres), R-M Multiple Residence Zoning District (1.07 acres), CP Commercial Pedestrian Zoning District (18.19 acres), and CIC Combined Industrial/Commercial Zoning District (8.24 acres).

OUTCOME

Should the City Council approve the Prezoning, the approximately 42 gross acre site will be zoned as described above upon annexation of the County Island (Sunol No. 82) into the City.

BACKGROUND

On September 9, 2009, 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 project was on the evening's public hearing calendar. One member of the public spoke in favor of the prezoning stating that it would contribute to the redevelopment of the area.

The Planning Commission then closed the public hearing. There was no discussion of the item.

The Planning Commission then voted 6-0-1 (Commissioner Cahan absent) to recommend that the City Council approve the Rezoning as recommended by staff on a 42 gross acre County Island, consisting of 275 parcels located in an area generally bounded by the south side of Park Avenue, west side of McEvoy Street, north and south sides of West San Carlos Street, and the east side of Meridian Avenue.

ANALYSIS

A complete analysis of the project, including General Plan conformance, is contained in the attached staff report. This project would facilitate the annexation of the area as part of the County Island Annexation Program.

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

- 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 1000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

A community meeting was conducted on July 22, 2009 at the Rose Garden Branch Library. Approximately 25 people were in attendance including District 6 Councilmember Oliverio. A couple of community members expressed concerns with the proposed CP zoning district in that limited uses are allowed.

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.

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COORDINATION

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

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

The environmental impacts of this project were addressed by the San Jose 2020 Environmental Impact Report, Resolution No. 65459.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Lesley Xavier, Project Manager at 408-535-7852.

Attachments:

Prezoning Staff Report

STAFF REPORT
PLANNING COMMISSION

FILE NO.: C08-023

Submitted: April 12, 2008

PROJECT DESCRIPTION:

Director-initiated rezoning from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District (14.31 acres), R-M Multiple Residence Zoning District (1.07 acres), CP Commercial Pedestrian Zoning District (18.19 acres), and CIC Combined Industrial/Commercial Zoning District (8.24 acres) on an approximately 42 gross acre County Island consisting of 275 parcels.

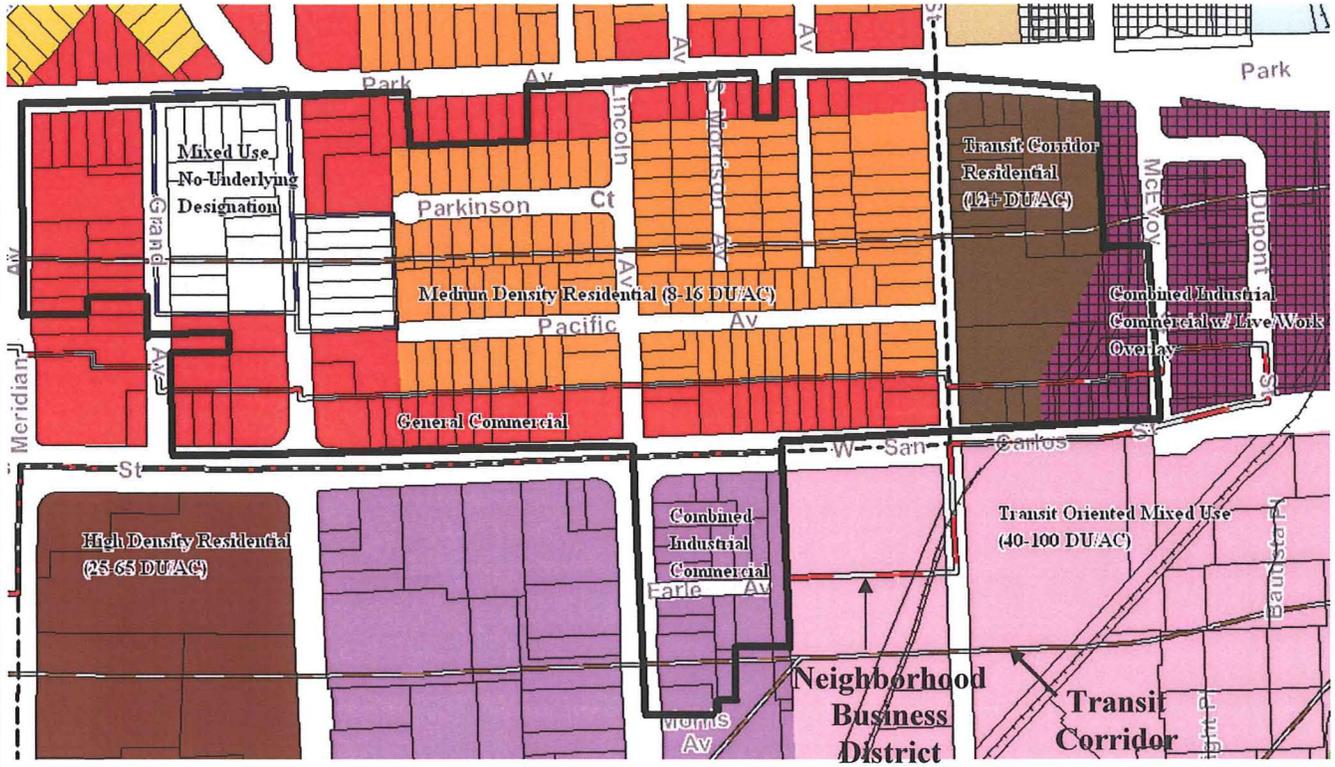
LOCATION: Unincorporated Area generally bounded by the south side of Park Avenue, west side of McEvoy Street, north and south sides of West San Carlos Street, and the east side of Meridian Avenue.

Council District: 6

Aerial Map



GENERAL PLAN



ZONING (Proposed)



RECOMMENDATION

Planning staff recommends approval of the proposed Director-initiated rezoning on the subject properties from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District (on 14.3 acres), RM (on 1.07 acres) CP Commercial Pedestrian Zoning District (on 18.19 acres), and CIC Combined Industrial/Commercial Zoning District (on 8.24 acres) for the following reasons:

1. The proposed rezoning is in conformance with the San José 2020 General Plan Goals and Policies and Land Use/Transportation Diagram designations.
2. The proposed rezoning 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 rezoning will facilitate the elimination of a County island as directed by the City Council's initiation of the County Island Annexation Program.

And with the following condition:

1. Should the privately initiated rezoning, File No. PDC08-034, from unincorporated County of Santa Clara to A(PD) Planned Development Zoning District for a site located on the east side of Sunol Street, approximately 120 feet north of W. San Carlos Street not be approved by the City Council as of the date that the Council first considers approval of this subject rezoning, Planning staff recommends that this area be designated R-M Multiple Residence District on the 1.07 acres fronting on Sunol Street and CP Commercial Pedestrian District on the 0.15 acres fronting onto West San Carlos Street. Should the City Council have approved the privately initiated rezoning, File No. PDC08-034, as of the date that the Council first considers approval of this subject rezoning, then Planning staff recommends that the portion of the subject property that is the subject of the privately initiated rezoning under File No. PDC08-034 not be included in this rezoning action and that the Council's approval actions on File No. PDC08-034 shall govern the rezoning of that portion of the subject site.

BACKGROUND

County Island Annexation

This Planning Director-initiated rezoning is proposed in conjunction with the pending annexation of a County Island generally bounded by the south side of Park Avenue, west side of McEvoy Street, north and south sides of West San Carlos Street, and the east side of Meridian Avenue, referred to as Sunol No. 82. The initiation of the annexation of this island will be considered by the City Council on October 6, 2009.

The subject annexation area is one of the 14 remaining unincorporated County islands or "pockets" scheduled for annexation as part of the County Island Annexation program, which was initiated by the City Council in April 2006. The Program provides for the annexation of all 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 total. Phase 1 and Phase 2 of the program resulted in the annexation of 32 County islands thus far. Once a site is annexed, changes in the zoning or general plan land use designations are restricted by State law for two years.

This rezoning proposal does not address the issue of whether the City should annex the subject County Island. Rezoning 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 on 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 provision of Chapter 20.150, Nonconforming Uses of the San José Municipal Code.

Additional Prezonings

Parallel with this Director initiated effort, there is a privately initiated pre zoning, File No. PDC08-034, on a parcel located on the east side of Sunol Street, approximately 120 feet north of W. San Carlos Street. The privately initiated pre zoning is for the A(PD) Planned Development Zoning District to allow for the development of a 117 multi-family affordable residential studio units above a podium garage, and up to 2,600 square feet of commercial on a 1.32 gross acre site. Should this pre zoning not be approved, the Director initiated conventional pre zoning proposes a zoning designation of R-M Multiple Residence District on the majority of the property and CP Commercial Pedestrian District on the portion of the site abutting West San Carlos Street. The R-M designation is proposed in conformance with the site's Transit Corridor Residential (12+ DU/AC) (Midtown Planned Community) General Plan land use designation and the CP Commercial Pedestrian zoning district is consistent with the Combined Industrial/Commercial with Live Work Overlay (Midtown Planned Community) General Plan land use designation.

Another privately initiated pre zoning, File No. PDC07-017, was approved by the City Council on May 19, 2009. This Planned Development Pre zoning is located within the Sunol No. 82 County Island on the north side of San Carlos Street, approximately 150 feet westerly of Lincoln Avenue, and extending to the southwest corner of Lincoln Avenue and Pacific Avenue, and will allow for the development of up to 47 single-family attached residential units, 6 live/work lofts, and a minimum of 1,000 square feet of commercial space on a 1.16 gross acre.

Site and Surrounding Uses

The approximately 42 acre area consists of 275 individual parcels which are developed with a variety of uses including single-family and duplex residences, multi-family apartments, commercial and industrial uses. Some of the commercial uses include restaurants such as the Burger King at the corner of Race and W. San Carlos Streets, Race Street Fish and Poultry, and Pizza Jack's at the corner of Sunol and W. San Carlos Streets, retail uses such as Sam's Downtown Feed and Pet Supply and a used car dealership, and many personal service uses such as beauty salons.

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 the consideration of the properties' General Plan designations, the existing, legally-established uses on the site and surrounding area, as well as the existing Santa Clara County zoning districts.

General Plan Land Use Designations

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 adjacent table is Table 20-270 from the Zoning Ordinance. This table demonstrates the zoning district that conforms to a particular General Plan land use designation.

General Plan Designation	Conforming District
All Designations	OS, A
Rural Residential (.2 du/ac), Urban Hillside (1 du/5 ac)	R-1-RR
Very Low Density Residential (2 du/ac)	R-1-2
Estate Residential (1 du/ac)	R-1-1
Low Density Residential (5 du/ac)	R-1-5
Medium Low Density Residential (8 du/ac)	R-1-8
Medium Density Residential (8-16 du/ac)	R-2, R-M
Medium High Density Residential (12-25 du/ac)	R-M
Office	CO
Neighborhood/Community Commercial	CP, CN
General Commercial	CP, CN, CG
Regional Commercial	CG
Industrial Park	IP
Light Industrial	LI
Heavy Industrial	HI
Combined Industrial/Commercial	CIC

As shown on page 2 of this report, the General Plan land use designations with in the area to be rezoned include General Commercial, Medium Density Residential (8-16 DU/AC), Mixed Use with No Underlying Designation, Combined Industrial/Commercial, Transit Corridor Residential (12+ DU/AC) (Midtown Planned Community) and Combined Industrial/Commercial with Live Work Overlay (Midtown Planned Community). A large portion of this area is also with in the W. San Carlos Neighborhood Business District and the W. San Carlos Street/Stevens Creek Boulevard Transit Oriented Development Corridor.

The General Commercial General Plan land use designation has multiple conforming zoning districts as identified in the above table. The recommendation for CP Commercial Pedestrian Zoning District on all of the parcels with this designation is due to the fact it will allow only those commercial uses which are neighborhood-serving, any new development would have a maximum setback so that design is oriented to the pedestrian, and the CP designation is reflective of not only existing commercial development, but in keeping with the goals of the W. San Carlos Neighborhood Business District and the W. San Carlos Street/Stevens Creek Boulevard Transit Oriented Development Corridor.

Existing Uses and General Character

In some cases, the proposed San José zoning districts have 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, a large area with a General Plan land use designation of Medium Low Density Residence (8 DU/AC) is proposed to be zoned R-1-8 Single-Family Residence District. While the conforming zoning district per Table 20-70 would be R-2 Two Family Residence or R-M Multiple Residence Districts, a majority of the uses in this area are single-family detached, with a few of the parcels developed as duplexes. The R-1-8 Zoning District was determined to be the most appropriate because a majority of the parcels have lot sizes between 4,000 and 5,000 square feet and are narrow rectangular lots. The minimum lot size for the R-2 Zoning District is 5,445 square feet.

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, the area generally bounded by the south side of Park Avenue between Sunol Street and McEvoy Street is proposed to be zoned as Combined Industrial/Commercial. A majority of the area has a General Plan land use designation of Transit Corridor Residential (12+ DU/AC) (Midtown Planned Community) and two of the parcels have a General Plan land use designation of Combined Industrial/Commercial with Live Work Overlay (Midtown Planned Community). The County zoning designation for this area is MH Heavy Industrial. The existing uses in the area include two industrial manufacturing buildings, a vacant lot, four small homes that have auto oriented industrial uses, and the Foundry Community Day School. Given the County zoning designation, the existing industrial businesses, and the Combined Industrial/Commercial with Live Work Overlay General Plan designation on a portion of the area, the most appropriate designation for this area is CIC Combined Industrial Commercial.

Creation of Nonconforming Uses

General Plan policies and the general character of an area do not always support the rezoning of property to a designation that permits an existing use. In these cases, legally-established uses will be regulated as Legal Nonconforming Uses under Chapter 20.150 of the Zoning Ordinance. Uses that require special or conditional use permits will also be regulated as Legal 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).

CONCLUSION

The proposed rezoning districts are appropriate because, as discussed above, the designations generally reflect the existing development pattern and are in conformance with their General Plan land use designations or reflect existing uses and/or existing County zoning.

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 the actual annexation of this County Island.

PUBLIC OUTREACH/INTEREST

A community meeting was conducted on July 22, 2009 at the Rose Garden Branch Library. Approximately 25 people were in attendance including District 6 Councilmember Oliverio. The audience was generally not opposed to annexation. The major concern expressed at the meeting was the existing lack of stormwater and sewer facilities in the neighborhood. The neighborhood experiences street flooding during rain events and wanted to know when the City would install storm drains. There was also a concern about the lack of street lights in the neighborhood. Staff responded that would likely be added to

the list of potential projects and prioritized with other needed projects. A couple of people expressed concerns with the proposed CP zoning and the limited uses that were allowed.

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 also been available to discuss the proposal with members of the public.

Project Manager: Lesley Xavier **Approved by:** Laurel Benth **Date:** 09/01/2009

Owner/Applicant:	Attachments:
Director-Initiated	