

STAFF REPORT

CITY COUNCIL

FILE NO.: C10-012

Application Type: Director-Initiated Prezoning

PROJECT DESCRIPTION:

Director-Initiated Conforming Prezoning from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District (106.3 acres) and A-Agricultural Zoning District (13.2 acres) on an approximately 119 gross acre County island.

LOCATION: Unincorporated area generally bounded by Golf Drive to the south, Toyon Avenue to the east, Penitencia Creek Road to the north and Gridley Street to the west.

Existing Zoning	Unincorporated
Proposed Zoning	R-1-8 Single-family Residence, A-Agricultural
General Plan	Medium Low Density Residentail (8.0 du/ac) and Public Park and Open Space
Council Districts	5 and 4
Redevelopment Area	No
Specific Plan	No
CEQA	Reuse of SJ 2020 EIR

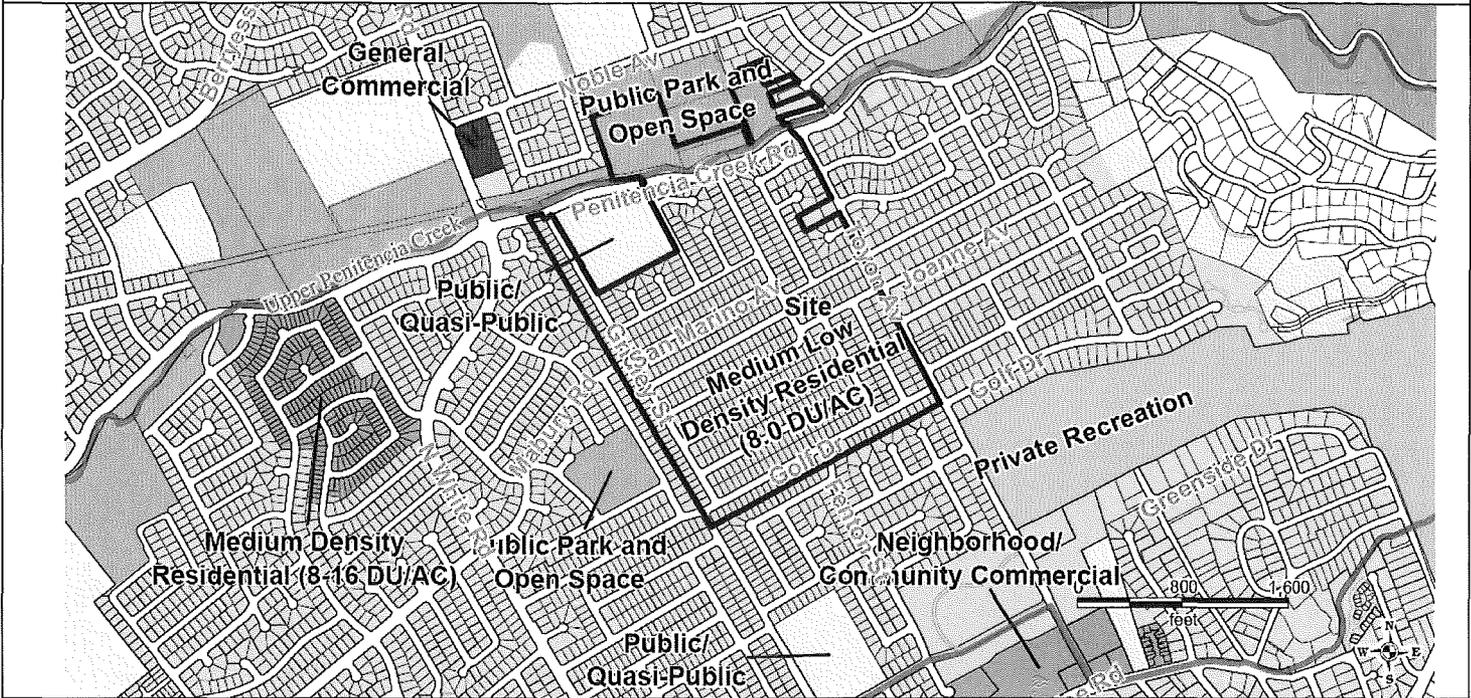
Aerial Map

N

8



GENERAL PLAN



ZONING (Existing and 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 (106.3 acres) and A-Agricultural Zoning District (13.2 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.

BACKGROUND

County Island Annexation Program

This Planning Director Initiated rezoning is proposed in conjunction with the annexation of the Penitencia No. 77 County island, generally bounded by Golf Drive to the south, Toyon Avenue to the east, Penitencia Creek Road to the north and Gridley Street to the west. The initiation of the annexation of this island is scheduled to be considered by the City Council on October 5, 2010 (see separate report).

The subject 119-acre area is one of the five remaining unincorporated County islands or "pockets" planned to be annexed 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 within the City's Urban Service Area that are less than 150 acres in area. Unincorporated islands are governed by and receive services from the County even though they are completely or substantially surrounded by incorporated, or City, lands. The City of San José is initiating the annexation of the subject area as the final portion of Phase 3 of this program, which includes a total of approximately 445 acres and 7,500 residents. The program has resulted in the annexation of 42 County islands comprising approximately 900 acres and 9,000 residents thus far. Approximately 1,400 acres will be annexed including 17,000 residents if all the proposed annexations within the County Island Annexation Program are approved.

Rezoning

This Planning Director Initiated Rezoning is proposed in conjunction with the pending annexation of a County Pocket, known as Penitencia No. 77. In accordance with State law, the assignment of zoning designations is separate from the decision regarding whether or not the City should annex the subject County Island. All properties are required to have an appropriate City of San José zoning district designation in advance of being considered for annexation. The zoning and general plan designations that exist on a property at the time an annexation is approved cannot be changed for two years unless the City Council finds at a public hearing that a change is necessary as a result of a substantial shift in circumstances in accordance with State law.

The recommendation for the proposed zoning districts is based upon consideration of the existing City of San José General Plan designations; the existing Santa Clara County zoning districts; and the existing, legally-established uses on the sites and in the surrounding area. As with the other unincorporated islands in this program, the subject island is within the City of San José's Sphere of Influence, and thus currently has San José General Plan Land Use/Transportation Diagram designations.

Site and Surrounding Uses

The 119-acre area consists of 624 individual parcels which are primarily developed with single-family residences. Other uses in the pocket include the Penitencia Creek Trail and Santa Clara Valley Water District property north of Penitencia Creek Road. The site is surrounded with single-family residences to the east, south and west, and with single-family residences, a school and open space owned by the City of San José to the north.

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 San José General Plan designation, 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. Below is an excerpt from Table 20-270 from the San José Zoning Ordinance. This table demonstrates that San Jose's OS-Open Space and A- Agricultural zoning districts conform with all San Jose General Plan designations. Further the R-1-8 Single-Family Residence zoning district conforms to the existing General Plan land use designations of Public Park & Open Space and Medium Low Density Residential (8 DU/AC).

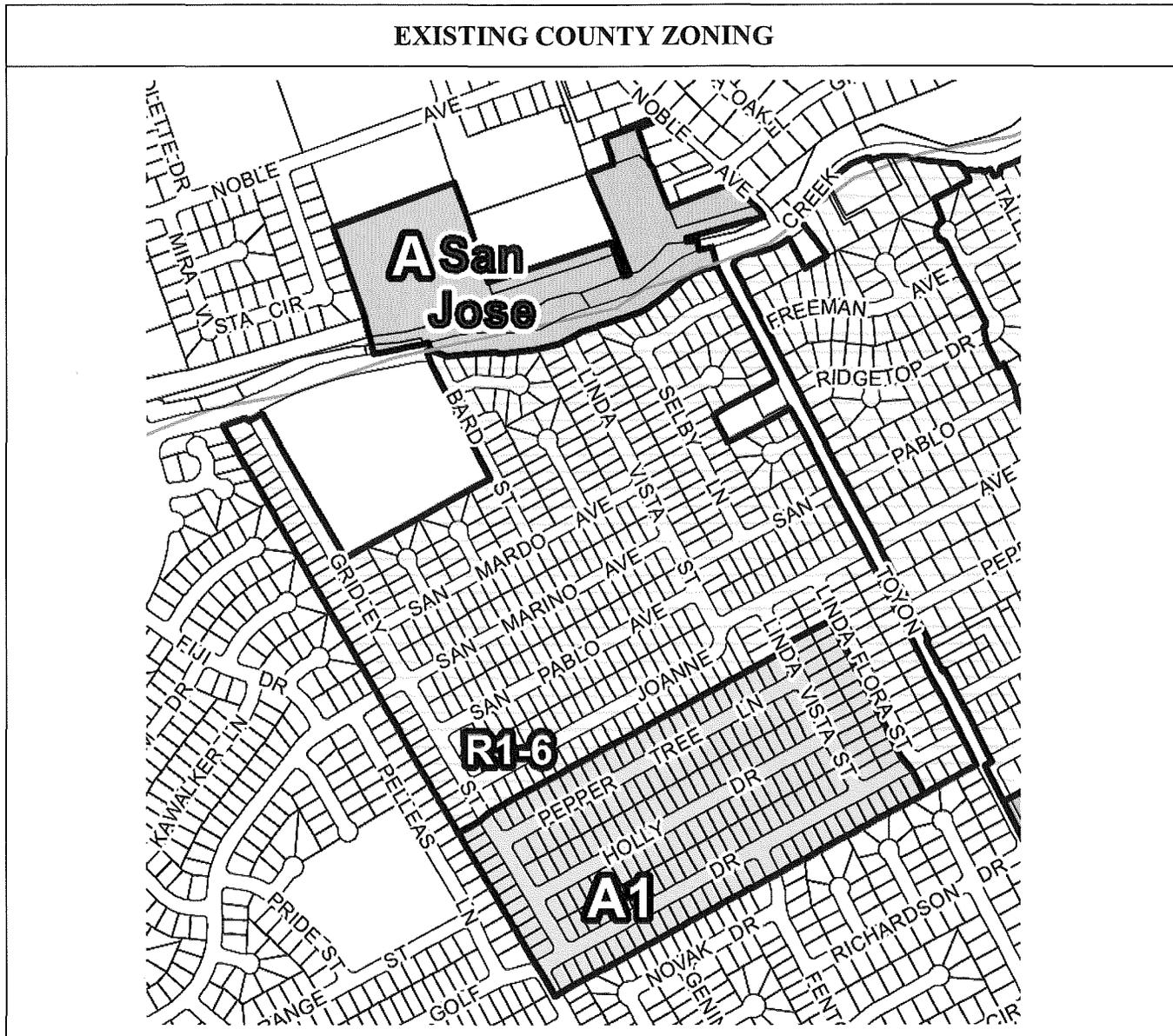
Table 20-270	
San José 2020 General Plan Designation	Conforming District
All Designations	OS – Open Space A - Agricultural
Medium Low Density Residential (8 du/ac)	R-1-8 Single-Family Residence

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 have existing uses consistent with the general character of the area can be considered in conformance with the San José General Plan.

In this particular County Island, the majority of the properties have a County of Santa Clara residential zoning designation of R1-6. The other County residential zoning designation in this island is A1 General Use district which allows general residential and agricultural uses, and provides opportunities through the use permit process for other uses and developments that are appropriate for a particular location, consistent with the objectives, goals and policies of the County's General Plan. The proposed R-1-8 zoning is similar to the current county designations of R1-6 and A1 in that it allows the existing single-family residential uses.

The Penitencia Creek Trail and Santa Clara Valley Water District property north of Penitencia Creek Road has a county designation of A Exclusive Agriculture district. That area is proposed to be zoned A-Agricultural in the City of San José with the exception of the 3 parcels near Noble Avenue(northeast portion of the pocket) to the north with a City of San José General Plan land use designation of Medium Low Density Residential (8 DU/AC). Since there are existing single-family uses on these parcels, they are proposed to be zoned R-1-8 Residence District. The A- Agricultural zoning matches that of the adjacent publicly owned land along Upper Penitencia Creek.



Creation of Nonconforming Uses

No changes are proposed to the existing uses on the properties. Uses that were legally established in the County prior to annexation that do not conform with the City of San José Zoning Ordinance after annexation, 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.

Home Occupation standards are similar in the County and in the City except that the County has an Expanded Home Occupation use that requires a permit in the County, but would not be permitted in the City. If such a use existed in this pocket, it would become a legal non-conforming use following annexation.

CONCLUSION

Staff recommends that 106.3 acres be rezoned R-1-8 Single-Family Residence District and 13.2 acres be rezoned A-Agricultural Zoning District. These proposed designations conform to the General Plan Land Use/Transportation Diagram and reflect the general development pattern and existing uses in this County island.

This rezoning is not associated with any proposals for specific development or redevelopment. If annexed to San Jose, any future development would need to meet the San José General Plan, Municipal Code, and other policies.

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 two community meetings on April 29, 2010 and May 6, 2010 with residents, property owners, and business owners of this county pocket (Penitencia No. 77), as well as of the pockets referred to as McKee No. 135, McKee No. 136 and Capitol 57. There were approximately 30 people in attendance at each meeting. While there were many concerns expressed regarding the potential annexations of the pocket by San Jose (service changes, participation by residents in the process, and increased costs) no specific comments were raised about the proposed zoning designations.

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 describing 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. The County Island Annexation Answer Book was sent to all residents and property owners within the areas scheduled be annexed in 2010 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: Lori Moniz **Approved by:** _____/s/ _____ **Date:** 09/13/10