COUNCIL AGENDA: 10-05-10
ITEM: 11.1(b)

STAFF REPORT
CITY COUNCIL

FILE NO.: C10-013 **Application Type: Director Initiated Prezoning**

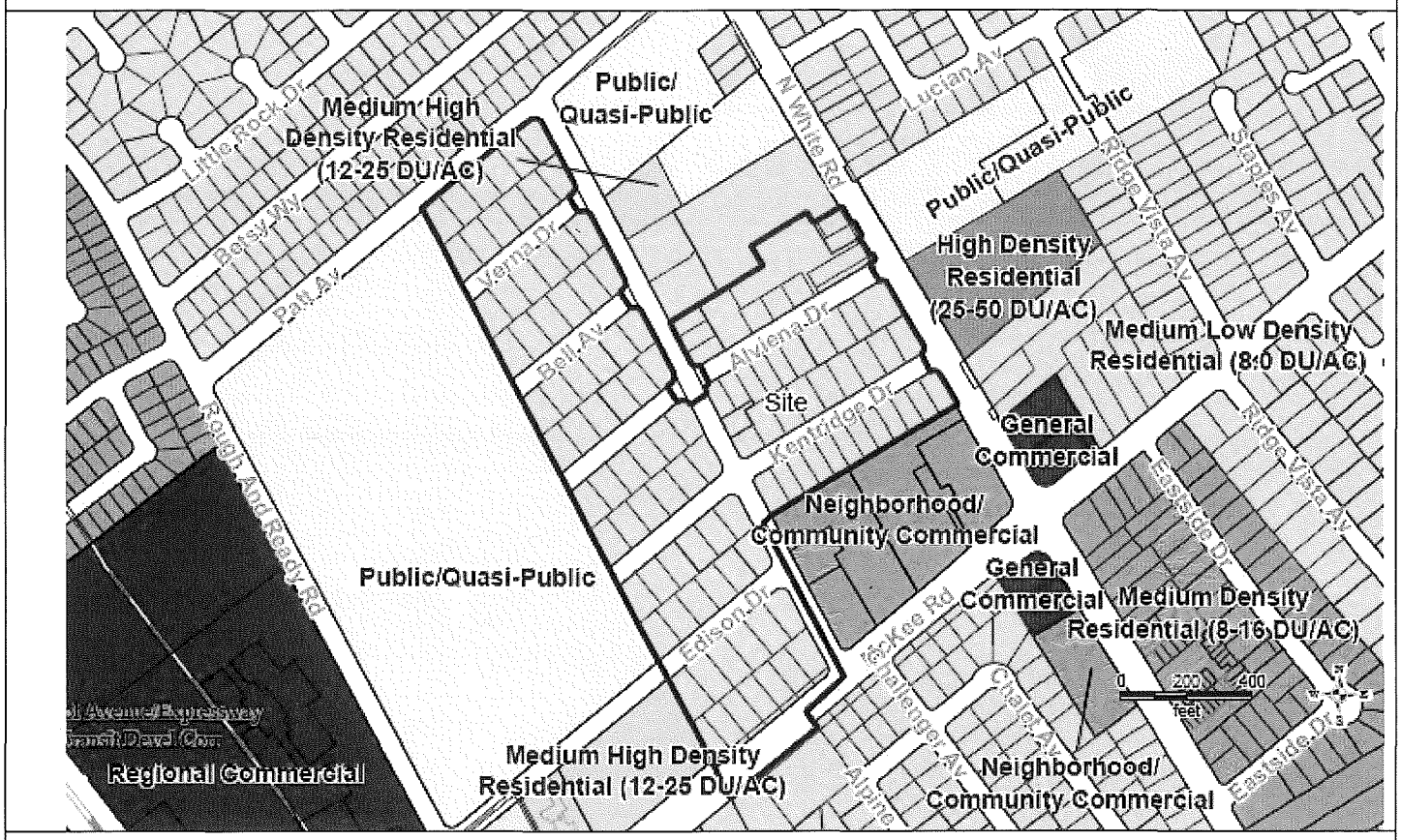
PROJECT DESCRIPTION:
Director-initiated prezoning from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District on an approximately 31 gross acre County island consisting of 115 parcels.

LOCATION: Unincorporated area generally bounded by Patt Avenue, McKee Road, North White Road, and a line 150 feet westerly of Francis Drive.

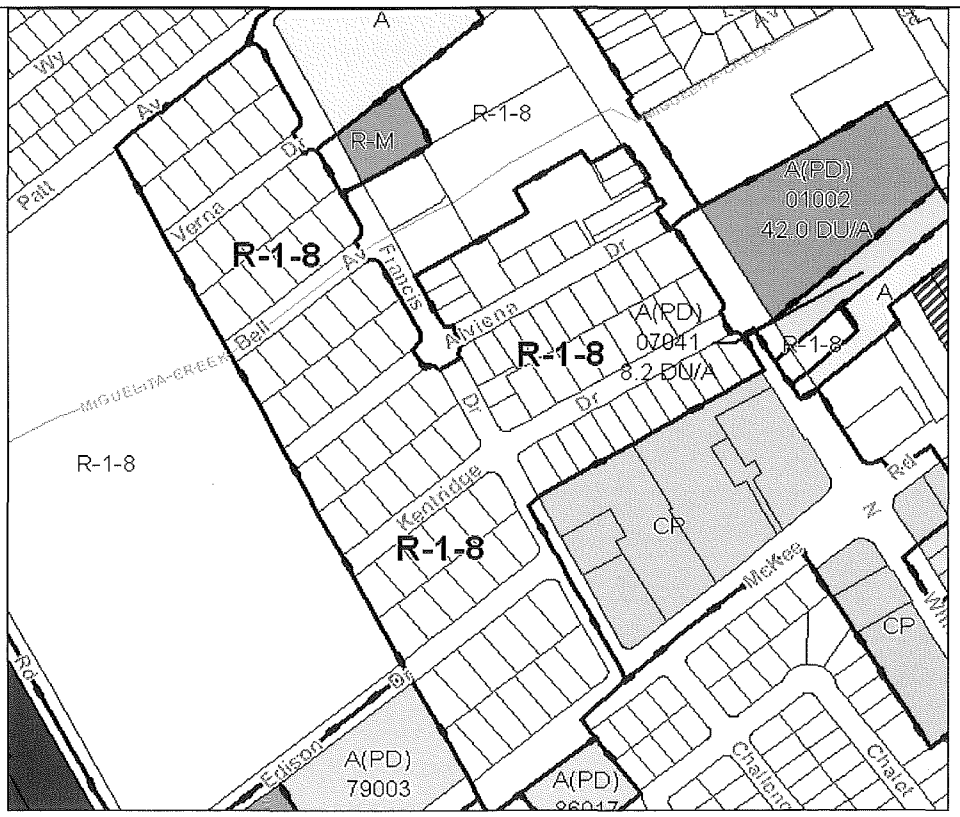
Existing Zoning	Unincorporated A1,R1, R1-6, OA
Proposed Zoning	R-1-8 Single-family Residence
General Plan	Medium Low Density Residentail (8.0 du/ac)
Council District	5
Historic Resource	No
Redevelopment Area	No
Specific Plan	No
CEQA	Reuse of SJ 2020 EIR

Aerial Map N

GENERAL PLAN



ZONING (Existing and Proposed)



RECOMMENDATION

Planning staff recommends approval of the proposed Director-initiated prezoning on the subject properties from unincorporated County of Santa Clara to the R-1-8 Single-Family Residence Zoning District 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 of Medium Low Density Residential (8 du/ac).
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

County Island Annexation Program

This Planning Director-initiated prezoning is proposed in conjunction with the annexation of the McKee No. 136 County Island generally bounded by Patt Avenue, McKee Road, North White Road, and a line 150 feet westerly of Francis Drive. 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 31-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.

Prezoning

This Planning Director-Initiated Prezoning is proposed in conjunction with the pending annexation of a County Pocket, known as McKee No. 136. 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 <u>in advance</u> 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 district 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 approximately 31-acre pocket consists of 115 individual parcels which are primarily developed with single-family residences. Other uses in the pocket consist of multi-family residences on both sides of Alviena Drive, between Francis Drive and N. White Road, including four four-plexes on the south side and two apartment complexes on the north side of the street.

The pocket is surrounded primarily with single-family residences to the north; multi-family residences, commercial, office, and school uses to the east; a school and multi-family residences to the west; and commercial and assembly uses to the south.

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 the zoning district R-1-8 Single-Family Residence District conforms to the existing General Plan land use designation of Medium Low Density Residential (8 DU/AC).

Table 20-270	
San José 2020 General Plan Designation	**Conforming District**
Medium Low Density Residential (8 du/ac)	R-1-8 Single-Family Residence District

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 zoning of A1 General Use district that 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 of Santa Clara's General Plan. The proposed R-1-8 zoning is similar to the current county designations in that it allows single-family residential uses. The other existing County zoning designations in this pocket are R1, R1-6 and OA. The R1 and R1-6 designations are equivalent to the R-1-8 district. The OA Administrative/Professional Office designation is on one lot with an existing single-family house.

EXISTING COUNTY ZONING

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 that 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.

In this particular County island, the proposed zoning generally matches the existing uses in the area and there are not anticipated to be many legal non-conforming uses created as a result of the annexation of this pocket. The area to be zoned R-1-8 Single-Family Residence Zoning District is entirely developed with single-family residential uses with the exception of the multi-family development on the both sides

of Alviena Drive. The R-1-8 zoning is proposed instead of multi-family zoning given the Medium Low Density Residential (8 du/ac) designation and the single-family residential character of the surrounding development along Alviena Drive. The existing multi-family uses will become legal nonconforming upon annexation to the City, if they were legally permitted in the County of Santa Clara.

CONCLUSION

Staff recommends that the pocket be prezoned as R-1-8 Single-Family Residence District in its entirety to conform with the San José Medium Low Density Residential (8 du/ac) General Plan Land Use/Transportation Diagram designation and to reflect the predominant single family residential character of the area.

This prezoning is not associated with any proposals for specific development. If annexed to San José, any future development requiring planning permits will require conformance with the San José General Plan, Municipal Code, and other policies.

Prezoning 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 prezoning 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 (McKee No. 136), as well as of the pockets referred to as McKee No. 135, Capitol No. 57 and Penitencia No. 77. There were approximately 30 people in attendance at each meeting. While there were many concerns expressed regarding the potential annexation of the pockets 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:** 9/13/10