

STAFF REPORT
CITY COUNCIL

FILE NO.: C10-015

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 (126 acres) and CN Commercial Neighborhood District (1 acre), on an approximately 127 gross acre County island.

LOCATION: Unincorporated area generally bounded by Rose Avenue to the north, South Capitol Avenue to the west, Story Road to the south and South White Road to the east.

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|--------------------|--|
| Existing Zoning | Unincorporated R-1, CN |
| 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
8



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 (126 acres) and CN Commercial Neighborhood District (1 acre) 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 designation.
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 Capitol No. 57 County Island, generally bounded by Rose Avenue to the north, South Capitol Avenue to the west, Story Road to the south and South White Road to the east. 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 127-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 size. 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 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 Capitol No. 57. 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 subject 127-acre pocket is developed entirely with single-family residences on individual lots. There is a pond supply store and an insurance office on the west side of White, south of Westboro Drive.

The pocket is adjacent to residential uses and the Alum Rock Light Rail line to the west on South Capitol Avenue, commercial uses on the south side of Alum Rock Avenue, a mixture of commercial and residential uses to the east on White Road and commercial uses to the south on Story Road. Some of the homes on the north side of Story Road are being utilized for commercial purposes. This is being done in violation of the R-1 County zoning that presently is in effect.

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 uses in the pocket and the surrounding area, as well as the existing Santa Clara County zoning districts.

General Plan Land Use Designations

As shown on page 2 of this report, the San José General Plan land use designation within the area is exclusively Medium Low Density Residential (8 DU/AC). All of the parcels within the County island are proposed to be zoned in conformance with Medium Low Density Residential (8 DU/AC) General Plan designation or to reflect the existing uses. The adjacent table is Table 20-270 from the San José Zoning Ordinance. This table demonstrates the zoning districts that conform to a particular General Plan land use designation for the purposes of defining a "Conforming" zoning that does not require Planning Commission review.

| 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 |

Determination of Appropriate City Zoning Districts

A proposed zoning of a County pocket should reflect 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 San Jose General Plan.

In this particular County island, the proposed San José zoning districts were selected to reflect the existing County zoning of the majority of the properties. In some cases, San José zoning districts were selected to reflect existing uses. San José's CN Commercial Neighborhood Zoning is proposed on approximately one acre on the west side of South White Road in recognition of the existing commercial (pond supply use) and office use and consistent with the current County of Santa Clara's CN commercial designation.

The property on the northeast corner of Story Road and Stonehedge Way has a County zoning designation of CN. The use appears to be a single-family use with an expanded home occupation. Other properties along Story Road, currently zoned R1 in the County, appear to have expanded home occupations as well. 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. The north side of Story Road is proposed to be rezoned R-1-8 to reflect the Medium Low Density Residential (8 du/ac) General Plan designation.

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 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. There are not anticipated to be many non-conforming uses created as a result of the annexation of this pocket.

CONCLUSION

Staff recommends 126 acres be rezoned R-1-8 Single-Family Residence District and one acre be rezoned CN Commercial Neighborhood. These proposed designations conform to the San José 2020 General Plan Land Use/Transportation Diagram, reflect existing uses of the property and respect the general development pattern in this County island.

This rezoning is not associated with any proposals for specific development. Any future development requiring planning permits will require conformance with 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 (Capitol No. 57), as well as of the pockets referred to as McKee No. 135, McKee No. 136 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), the only specific comment raised about the proposed zoning designations was from the owner of a single-family house, zoned CN in the county, who was pleased that her property is proposed to have a conforming zoning of R-1-8 in the City of San José.

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:** 9/13/2010