

STAFF REPORT
PLANNING COMMISSION

FILE NO.: C10-010

Application Type: Director Initiated Prezoning

PROJECT DESCRIPTION:

Director Initiated Prezoning from unincorporated County of Santa Clara to the R-1-5 Single-Family Residence Zoning District (approx. 94.5 acres) and CN Commercial Neighborhood Zoning District (approx. 8.5 acres), for an approximately 103 gross acre County pocket.

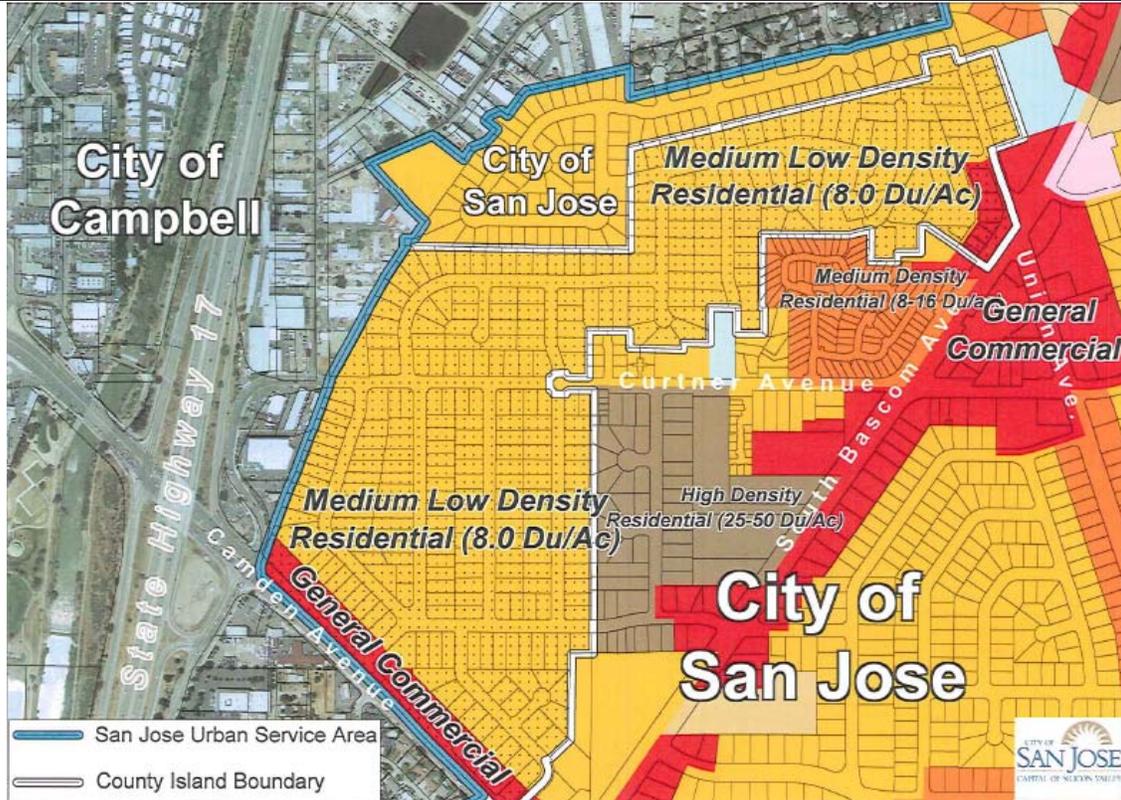
Existing Zoning	County of Santa Clara R1-8, CN, A1
Proposed Zoning	R-1-5 Single-Family Residence & CN Commercial Neighborhood
General Plan	Medium Low Density Residential (8.0 du/ac) and General Commercial
Council District	9
Redevelopment Area	No
Specific Plan	No
CEQA	Reuse of SJ 2020 EIR

LOCATION: Unincorporated area generally bounded by Central Park Drive, Union Avenue, and Camden Avenue.

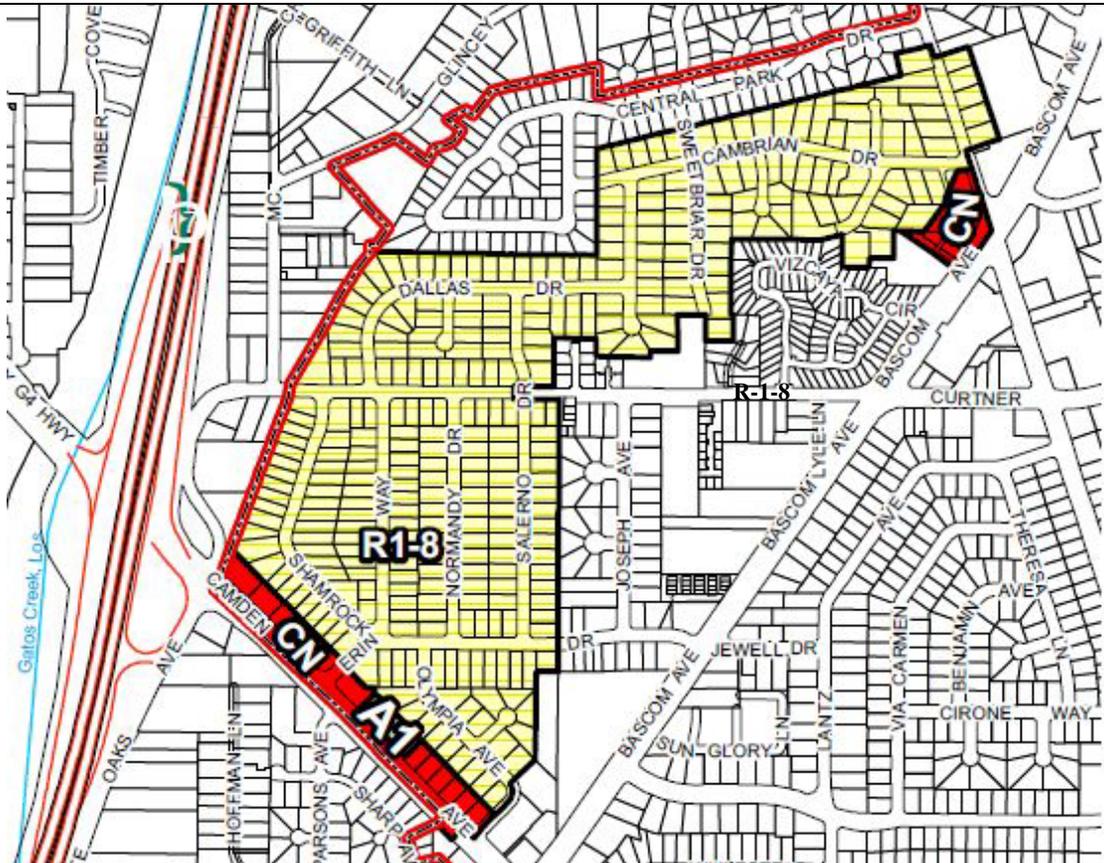
Aerial Map



SAN JOSE 2020 GENERAL PLAN DESIGNATIONS



EXISTING SANTA CLARA COUNTY ZONING



RECOMMENDATION

Planning staff recommends approval of the proposed Director-initiated rezoning on the subject properties from unincorporated County of Santa Clara to the R-1-5 Single-Family Residence Zoning District (94.5 acres) and CN Commercial Neighborhood Zoning District (8.5 acres) on an approximately 103 gross acre County pocket 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 annexation of a County island as directed by the City Council's initiation of the County Island Annexation Program.

BACKGROUND

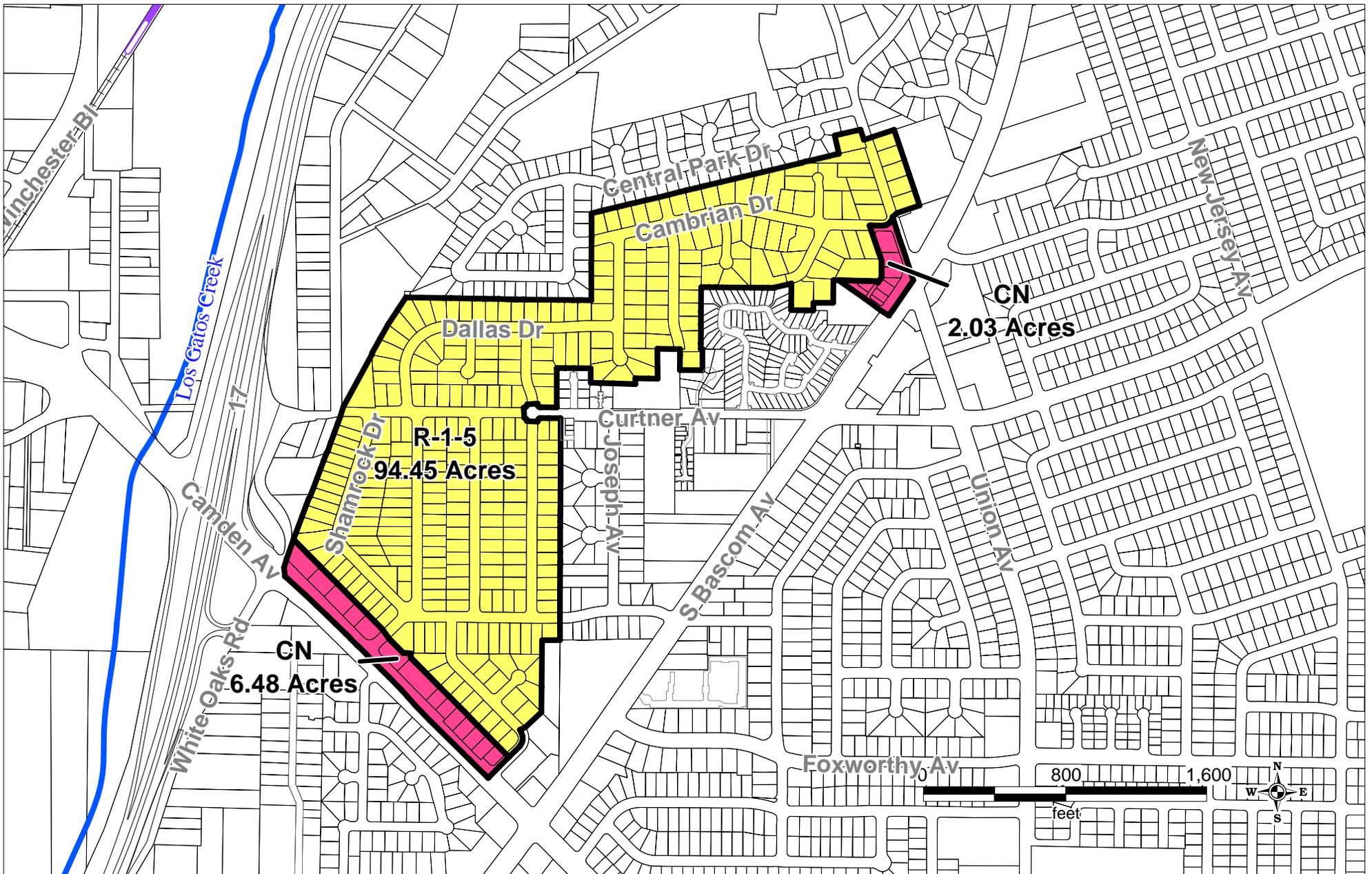
County Island Annexation Program

This Planning Director-initiated rezoning is proposed in conjunction with the annexation of the Cambrian No. 36 County Island, generally bounded by Central Park Drive to the north, Camden Avenue to the south and Union Avenue and Salerno Drive to the east. The initiation of the annexation of this island will be considered by the City Council on September 21, 2010.

The subject 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.

This Planning Director-initiated Rezoning is proposed in conjunction with the pending annexation of a County Pocket. 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 Jose General Plan Land Use/Transportation Diagram designations.



File No: C10-010
 District: 9

Proposed Zoning



Prepared by the Department of Planning,
 Building, and Code Enforcement
 8/18/2010

Site and Surrounding Uses

The 103 gross acre County island is within the City of San Jose's Sphere of Influence and Urban Service Area and predominantly surrounded by San Jose annexed territory, with approximately 75% of the Island's boundary adjacent to San Jose.

The unincorporated area is developed primarily with single-family residences on lots ranging in size from approximately 8,000 to 16,000 square feet. There is a day care center located on the southeast corner of Erin Way and Shamrock Drive. There are also two separate retail commercial areas that are proposed for annexation that include:

- An approximately 2 acre area comprised of 9 parcels at the northwesterly corner of Union and South Bascom Avenues. There is a single-story strip commercial building directly on the corner with parking in front and at the rear. Existing tenants include a cigar shop, barber shop, billiard supply, dry cleaner, and video rentals. There is a separate medical office use on the most northerly property on Union Avenue. (see photos below).



*Existing Commercial and Professional Office Uses
on the Northwest Corner of Union and Bascom Avenues*

- An approximately 6.4 acre area comprised of 14 parcels fronting the northerly side of Camden Avenue between Curtner Avenue and Olympia Avenue. The area contains a mixture of primarily automobile oriented commercial uses including fast-food restaurants, a 38-room hotel, gas station/convenience store, travel agency, and gun/tackle shop. Some of the commercial uses are within former residences that have been converted into commercial uses (see photos on next page).



Existing Commercial Uses on the North Side of Camden Avenue

The pocket is predominantly surrounded by residential uses in the City of San José consisting of single-family residences to the north on Central Park Drive; and single-family and multi-family residences, senior apartments, religious assembly, commercial uses, and a public utility to the east and southeast. A portion of the pocket is adjacent to the City of Campbell to the west and southwest. Those land uses include a motel, self storage facility, animal hospital, a few residential lots, auto uses, and industrial uses.

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

Staff's recommended zoning districts for the unincorporated pocket are based on a consideration of the area's San Jose General Plan designations, the existing uses and lot sizes within and surrounding the area, as well as the existing Santa Clara County zoning districts.

General Plan Conformance

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
General Commercial	CN Commercial Neighborhood District CG Commercial General CP Commercial Pedestrian

Proposed R-1-5 Single Family Residence District

Staff is recommending that a majority of the area be zoned with the R-1-5 Single Family Residence zoning designation. The R-1-5 zoning includes an 8,000 square foot minimum lot size standard that is consistent with the existing character of the neighborhood that is developed with single-family residences on large lots that generally range in size from 8,000-16,000 square feet. The R-1-5 zoning designation is recommended instead of the R-1-8 (that specifically conforms to the General Plan designation in accordance with Table 20-270 from Title 20 of the San José Municipal Code) that would potentially allow for the subdivision of lots within the neighborhood to as small as 5,445 square feet that would be contrary to the scale of the neighborhood.

This recommendation is supportive of the Urban Conservation/Preservation Major Strategy of the San Jose General Plan that emphasizes the importance of protecting and enhancing neighborhoods. Additionally the proposal supports the General Plan Residential Land Use Goal of providing a high quality living environment in residential neighborhoods, by limiting the potential for the subdivision of property that would not be in keeping with the existing pattern and character of development in the area.

Proposed CN Commercial Neighborhood District

Staff is recommending the CN Commercial Neighborhood zoning district for the two commercial areas located on the northerly side of Camden Avenue and at the northwesterly side of Bascom and Union Avenues. The CN Commercial Neighborhood District and the CP Commercial Pedestrian and CG Commercial General conform to the General Commercial General Plan designation in accordance with Table 20-270 from Title 20 of the San José Municipal Code.

The CN Commercial Neighborhood District is a district intended for neighborhood serving commercial uses. The type of development supported by this district includes neighborhood centers, multi-tenant commercial development along major arterials, and small corner commercial establishments, which is consistent with the existing commercial uses in the area. In particular, most auto-related uses are “Permitted” uses in the CG Commercial General designation and “Conditional” uses in the CN Commercial Neighborhood district.

The table below compares the development standards of the proposed CN district with the other commercial zoning designations. The CN zoning is recommended for the two commercial areas as the required setback (15 feet) and minimum lot area standards (6,000 square feet) are more reflective of the existing character and pattern of development than the CP- Commercial Pedestrian and CG- Commercial General zoning districts. Given that Camden and Bascom Avenues are heavily traveled streets, the 10-foot maximum setback of the CP Commercial Pedestrian Zoning district is too restrictive as it would preclude parking in the front of buildings. The CN district is preferable to the CG Commercial General district as it limits land uses to those more appropriate adjacent to residential property and has a minimum lot size more in keeping with that of existing lots.

Table 20-100 (portion)			
Commercial Zoning Districts			
Development Standards			
<i>Regulations</i>	Zoning District		
	CP	CN	CG
Minimum Setback (feet)			
Front	no minimum, 10 feet maximum	15	25
Rear	25	none	none
Maximum Height (feet)			
	50	50	65
Maximum Number of stories			
	4	4	8
Maximum Individual Occupant Square Footage (square feet)			
	2,500/Personal service shop 5,000/Eating, drinking or entertainment establishment 15,000/all other uses		
Minimum Lot Area			
	6,000 square feet	6,000 square feet	1 acre
Maximum Individual Occupant Square footage			
	2,500 Personal Service Shop 5,000 Eating, Drinking or entertainment establishment. 15,000/all other uses	none	none

Existing County of Santa Clara Zoning

The proposed zoning reflects the existing zoning in the County of Santa Clara. The proposed R-1-5 zoning designation is very similar to the predominant R1-8 Santa Clara County Zoning district including the same minimum lot size standard (8,000 square feet) and front building setback requirements (25 feet). The 5-foot side and 20-foot rear setback standards of the City's R-1-5 zoning district are less than those required by the current County zoning (8-foot side and 25-foot rear building setback.)

The proposed CN Commercial Neighborhood zoning also corresponds to the existing CN Neighborhood Commercial in the County of Santa Clara on the strip commercial areas along Camden Avenue and on the corner of Bascom and Union Avenues, with the exception of two parcels on Camden with a County zoning of A1 General Use district. The County's A1 General Use district allows general residential and agricultural uses, and provides opportunities through a County 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. There is an existing drive-through restaurant on the parcels designated with the A1 General Use zoning district in the County of Santa Clara.

Creation of Nonconforming Uses

General Plan policies and the general character of an area do not always support the rezoning of a property to a zoning district that permits existing uses of a pocket. In these cases, legally-established uses are regulated as Legal Nonconforming Uses under Chapter 20.150 of the San Jose Zoning Ordinance once annexed. Uses that require special or conditional use permits will also be regulated as Nonconforming Uses unless a special or conditional use permit is obtained. Based on the analysis of existing uses, staff has identified at least two business (a gas station and a day care center) that would become legal non-conforming uses upon annexation to San Jose.

CONCLUSION

Planning staff recommends approval of the proposed Director-initiated rezoning on the subject properties from unincorporated County of Santa Clara to the R-1-5 Single-Family Residence Zoning District (95 acres) and CN Commercial Neighborhood Zoning District (8 acres). These proposed districts are consistent with the Goals and Policies of the San José 2020 General Plan and reflect the general development pattern in this County Island.

This rezoning is not associated with any proposals for specific development or redevelopment. After annexation this fall, any future development requiring planning permits must conform to the San Jose General Plan and Zoning Ordinance.

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. A report on the annexation will be prepared and available in advance of the September 21, 2010 City Council hearing regarding the initiation of the annexation.

PUBLIC OUTREACH/INTEREST

Staff held a community meeting on May 19, 2010 with residents, property owners, and business owners of this County pocket to discuss the annexation and rezoning process. Staff had originally proposed the R-1-8 Single Family Residence District. As discussed, upon further analysis the recommendation was changed to R-1-5 to reflect the existing large lots that are more consistent with the standards of the R-1-5 district. There were approximately 150 people in attendance, most of whom were opposed to annexation into the City of San José and would prefer that the area remain unincorporated or be annexed by the City of Campbell. The latter is not a feasible option because the territory in the San Jose Sphere of Influence. A second community meeting, on August 18, 2010, is scheduled to provide additional information and answer questions. (Staff will provide any public comments related to the subject Rezoning in a verbal report to the Commission.)

There were no specific concerns expressed regarding the proposed zoning. Concerns were primarily in opposition the annexation including the resultant changes in services, adequate fire and police response times, increased costs, neighborhood identity as being part of Campbell and the limited ability to protest the annexation as part of the streamlined annexation process.

Attached is a letter written regarding the proposed CN Commercial Neighborhood zoning district along Camden Avenue. Mr. Bommarito believes that CG Commercial General is more appropriate for the commercial parcels along Camden Avenue. He is specifically concerned about is the existing gas station at the northerly corner of Camden Avenue and Erin Way (1370 Camden Avenue) He is requesting that the site be zoned CG since gas stations require a Conditional Use Permit in the CN district and are permitted in the CG district. A Use Permit is currently required for service stations under the current CN zone in Santa Clara County.

If the site is zoned CN Commercial Neighborhood as proposed, the existing service station would become a legal nonconforming use and may be expanded only upon issuance of and in compliance with a Conditional Use Permit from the Planning Commission. Expansion includes, but is not limited to, the intensification of a use with or without an increase in floor area.

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 500 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. An Answer Book was mailed to all residents and property owners within the subject area. Staff has also been available to discuss the proposal with members of the public.

Project Manager: Richard Buikema **Approved by:** Samuel P. [Signature] **Date:** 8/18/2010

Owner/Applicant:	Attachments:
Director-Initiated	Letter from Thomas S. Bommarito, May 19, 2010



USE OF A PROGRAM EIR
SAN JOSE 2020 GENERAL PLAN FINAL EIR

Pursuant to Section 15168 of the CEQA Guidelines, the City of San Jose has determined that the project described below is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the San Jose 2020 General Plan and does not involve new significant effects beyond those analyzed in this Final EIR.

PROJECT DESCRIPTION AND LOCATION

C10-010 & Cambrian No. 36. Director Initiated Rezoning from County of Santa Clara to R-1-5 Single Family Residence on approximately 94.5 acres and CN Commercial Neighborhood on approximately 8.5 acres and a Reorganization/Annexation to the City of San José (City) of an approximately 103 gross acre unincorporated County of Santa Clara (County) pocket referred to as Cambrian No. 36, generally bounded by Central Park Way, Union Avenue, and Camden Avenue.

Council District 9.

The environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and findings were adopted by City Council Resolution No. 65459 on August 16, 1994. The Program EIR was prepared for the comprehensive update and revision of all elements of the City of San Jose General Plan, including an extension of the planning timeframe to the year 2020.

- Traffic and Circulation
Cultural Resources
Urban Services
Energy
Open Space
Vegetation and Wildlife
Soils and Geology
Hazardous Materials
Air Quality
Facilities and Services
Schools
Noise
Land Use
Aesthetics
Water Quality/Resources
Drainage and Flooding

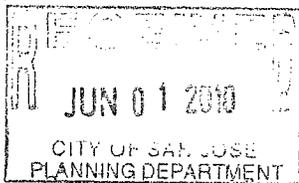
The City of San Jose may take action on the proposed project as being within the scope of the General Plan and the Uses of the Program EIR in that (1) the Final EIR is a Program EIR pursuant to CEQA and CEQA Guidelines Section 15168; and (2) it is determined that no new significant impacts will occur from this proposed project, and no new mitigation measures would be required beyond those contained in the General Plan and Final EIR pursuant to CEQA Guidelines 15162.

Rich Buikema
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

8/18/2010
Date

John Paritson
Deputy



May 19, 2010

Richard Buikema, Senior Planner
County Island Annexation Program
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113

Dear Richard

Based on the information we have received regarding the possible annexation of the unincorporated pocket of land named Cambrian 36, San Jose city staff has visited the existing site and the surrounding areas of the neighborhood. They must certainly have noted the following:

- Existing zoning and actual uses are not consistent – from Bascom Ave. to the freeway and including surrounding properties on Curtner Ave. and those a few hundred feet away on White Oaks Road near Camden Ave. – there are approximately 49 businesses on 37 properties. These include retail shops, restaurants, service stations, auto repair shops, a convalescent hospital, an animal hospital, self storage units, a hotel and a motel.
- Many of these uses are not actually permitted in the existing zoning.
- Camden Avenue is a very busy 6 lane thoroughfare that does not lend itself to a neighborhood type commercial zone friendly to pedestrian shopping – too dangerous to walk and in fact some areas have no sidewalk and the walking path is immediately adjacent to moving traffic. I think CN is not really an appropriate zoning for all the existing uses as most businesses in the area are more vehicle accessible and vehicle related.
- I believe CG, General Commercial, is a much better fit. This should apply either totally for all properties concerned or spot zoning for selected properties.
- **The CG zone and CN zone are both included in the general plan commercial zoning, so a CG designation would fit into the general plan.**

Our concern is the existing USA service station, which has been a valuable asset to the community, providing low cost gasoline since 1964 (On the day of the community meeting on May 19, 2010, there was an 18 cent difference in the cost of gasoline compared to the Chevron station on Bascom Ave.) It has been the same use and the same family ownership of land since 1964. It originally had a C-1 zoning which allowed for uses more consistent with a CG zoning.

Our concern with the CN zoning is if our existing tenant wants to make a change of some kind or there is a tenant change, even with the same use, and they want to remodel or rebuild, it may take several months to plan, process and execute the changes. In the old days, permits, etc., would take only days – today maybe years to accomplish. As you know, there is much more red tape, time and money spent. If the use authorized by the conditional use permit or special use permit is discontinued for a period of 12 months for any reason and the permit expires, the renewal process initiated could be devastating to the tenant that wants to “upgrade” their business. If the proper zoning of CG is applied the wasteful and costly permit procedure is eliminated.

(408) 248-0344
P.O. Box 474
Santa Clara, CA
95052-0174

We have 46 years of committed ownership of this property and provide a valuable business service to the community and would like to see it continued without interruptions and unnecessary costs and prolonged procedures. **This is not a new area to be developed. This is a 46 year old business and use which is being annexed into the City of San Jose.** As a service station is the highest and best use for this property, it is our intent for us to continue with this use. I believe, and hope you will agree, that the zoning should be consistent with its historical use.

Please zone this property, and possibly all properties on Camden Avenue, to CG – General Commercial.

Sincerely,



Thomas S. Bommarito
Manager, A&M Ferrari Camden Property LLC

(408) 248-0344
P.O. Box 474
Santa Clara, CA
95052-0474

ZONING AND USES

DANFORD AVE. AREA FROM FREEWAY 17 TO BASCOM AVE.

49 USES ON 37 PROPERTIES

12 OF 37 PROPERTIES HAVE USES REQUIRING USE PERMITS

7 OF 37 PROPERTIES HAVE NONE PERMITTED USES

Prepared By: Initials: Date: 5/19/10

ZONE	USE	CITY OF SAN JOSE		CITY OF CAMPBELL		COUNTY OF SANTA CLARA	
		PERMITTED	USE PERMIT REQ'D	PERMITTED	USE PERMIT REQ'D	PERMITTED	USE PERMIT REQ'D
1	CP						
2	CP						
3	R1-8						
4	CP						
5	CN						
6	CP						
7	A-PD						
8							
9	C2PD						
10	C2						
11	C2						
12	C2						
13	C2						
14	C2						
15	M1						
16	M1						
17	C2PD						
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OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

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