



**CITY COUNCIL STAFF REPORT**

<b>File No.</b>	C22-122
<b>Applicant:</b>	Brian Capsey Design
<b>Location</b>	South side of Poppy Lane, approximately 580 feet south of the intersection of Dorel Drive and Penitencia Creek Road (APN 599-24-008)
<b>Existing Zoning</b>	A (PD), File No. PDC87-095
<b>Council District</b>	4
<b>Historic Resource</b>	No
<b>Annexation Date:</b>	November 17, 1988 (Penitencia No. 68)
<b>CEQA:</b>	Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto

**APPLICATION SUMMARY:**

Conforming Rezoning of an approximately 2.02-gross-acre site from the A(PD) Planned Development Zoning District to the R-1-RR Rural Residential Residence Zoning District.

**RECOMMENDATION:**

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto; and
2. Approve an Ordinance rezoning the approximately 2.02-gross-acre site located on the south side of Poppy Lane, approximately 580 feet south of the intersection of Dorel Drive and Penitencia Creek Road (0 Poppy Lane, APN 599-24-008) from the A(PD) Planned Development Zoning District to the R-1-RR Rural Residential Residence Zoning District.

**PROJECT DATA**

<b>GENERAL PLAN CONSISTENCY</b>	
<b>General Plan Designation</b>	<b>Transit Employment Center</b> <input checked="" type="checkbox"/> <b>Consistent</b> <input type="checkbox"/> <b>Inconsistent</b>
<b>Consistent Policies</b>	<b>Implementation Policies IP-1.1, IP-1.7, IP-1.8, and IP-8.2</b>

<b>SURROUNDING USES</b>			
	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	LH Lower Hillside	Unincorporated	Single Family Residential
<b>South</b>	LH Lower Hillside	Unincorporated	Single Family Residential
<b>East</b>	RN Residential Neighborhood	Unincorporated	Single Family Residential
<b>West</b>	RN Residential Neighborhood	A(PD), File No. PDC87-095	Single Family Residential

<b>RELATED APPROVALS</b>	
<b>Date</b>	<b>Action</b>
<b>11/1/1988</b>	Pre-zoning (File No. PDC87-095) from County to the A(PD) Planned Development Zoning District.

## **PROJECT DESCRIPTION**

### **Site Description and Surrounding Uses**

The subject site is located on the south side of Poppy Lane, approximately 580 feet south of the intersection of Dorel Drive and Penitencia Creek Road (see Figure 1). The subject site is vacant and is accessed by a driveway easement extending south from the terminus of Poppy Lane. The site is surrounded by detached single-family residences to the north, south, east, and west. No other active planning development permit applications are on file for the subject site.

The subject site is currently within the Planned Development Zoning District, File No. PDC87-095. The subject site was annexed to the City of San José in 1988, and PDC87-095 was approved with the annexation. The site is designated open space within this planned development zoning district.

### **Background**

On October 13, 2022, the applicant, Brian Capsey from Brian Capsey Design, filed an application to rezone an approximately 2.02-gross-acre site from the A(PD) Planned Development Zoning District to the R-1-RR Rural Residence Zoning District. The intent of the rezoning is to build a single-family residence with an accessory dwelling unit (ADU) in the future, which would require a Building Permit. The Building Permit would be reviewed for consistency with the height and setback limitations of the Zoning Ordinance, as described further below.

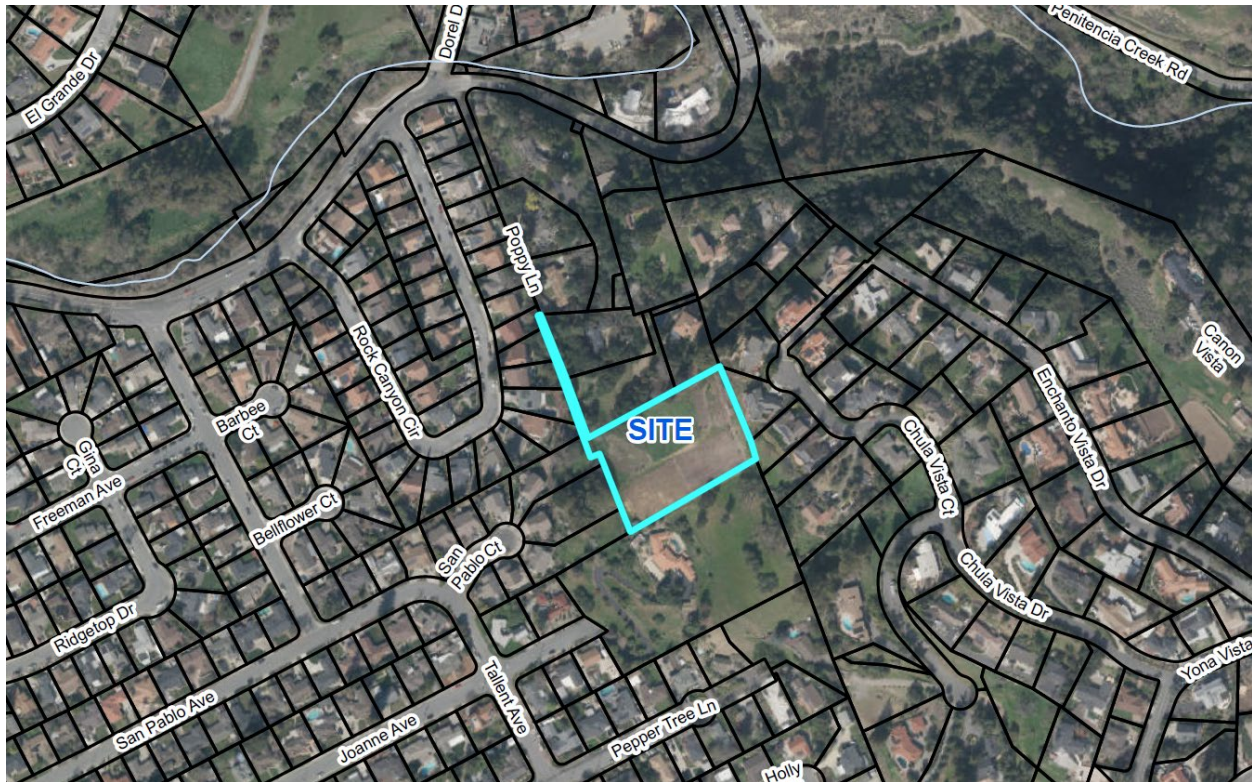


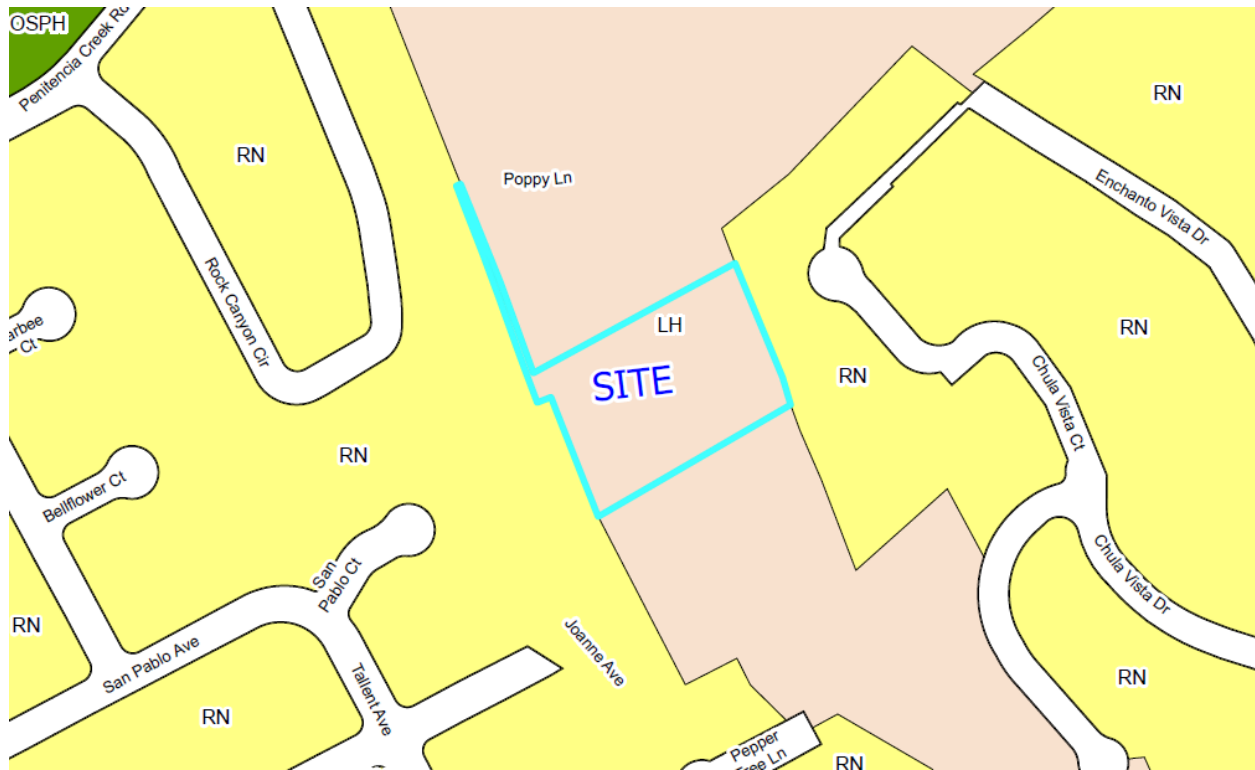
Figure 1: Aerial image of the subject site

## ANALYSIS

The project was analyzed for conformance with the following: 1) the *Envision San José 2040 General Plan*, 2) the Zoning Ordinance, 3) Senate Bill 330 Compliance, and 4) the California Environmental Quality Act (CEQA).

### Envision San José 2040 General Plan Conformance

The subject site has an [Envision San José 2040 General Plan](#) Land Use/Transportation Diagram land use designation of LH Lower Hillside (see Figure 2).



**Figure 2: General Plan Land Use/Transportation Diagram**

This designation is applied to properties at the edge of the developed City, just inside its Urban Growth Boundary (UGB) and at the limit of the Urban Service Area (USA), but where urbanization has already partially occurred and where urban infrastructure and services (streets, utilities, etc.) are already available. This designation is applied to properties located downhill from the UGB, but that typically have hillside characteristics and which typically have a higher cost for the provision of public services. Development of Lower Hillside properties is not intended to expand the City or create new areas of development, but rather to allow for limited infill that completes the existing pattern of development at its edge. New residential development is limited to one dwelling unit per existing lot, with new subdivisions not to exceed one dwelling unit per five acres (1 DU/5 AC).

*The proposed rezoning to the R-1-RR Rural Residential Residence Zoning District would conform with the Lower Hillside General Plan land use designation, pursuant to Table 20-270 in [Section 20.120.110](#). The applicant has indicated that the potential development for the site is a single-family house with an ADU, which will be consistent with this Lower Hillside General Plan land use designation.*

The rezoning is consistent with the following General Plan policies:

1. Implementation Policy IP-1.1 Land Use/Transportation Diagram: Use the *Envision General Plan* Land Use/Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities, and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the *Envision General Plan*. Use the Zoning designation to indicate the appropriate type, form, and height of development for particular properties.

*Analysis: The subject site's land use designation of Lower Hillside allows one single family residence on one existing lot. The proposed Zoning District of R-1-RR would determine the form and height of any future single-family residence proposals and is most appropriate for the this general plan land use designation.*

2. Implementation Policy IP-1.7 Land Use/Transportation Diagram: Ensure that proposals to rezone and pre-zone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* vision, goals and policies.

*Analysis: The R-1-RR Rural Residential Residence Zoning District is a conforming district to the Residential Neighborhood land use designation, pursuant to [Section 20.120.110](#) of the San José Municipal Code.*

3. Implementation Policy IP-1.8 Land Use/Transportation Diagram: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit the use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

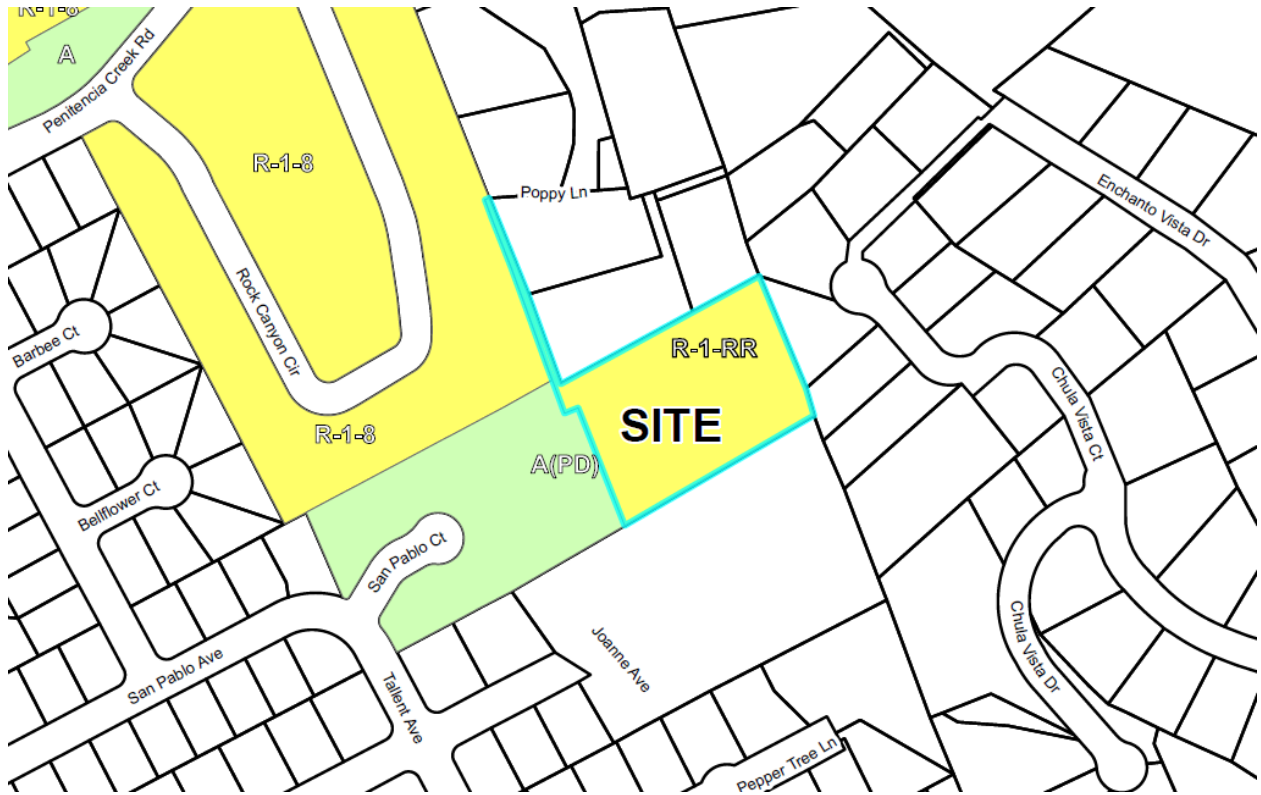
*Analysis: The subject site would be rezoned to R-1-RR, which is a standard Zoning District. The rezoning would allow for a single-family residential development consisting with the surrounded sites.*

4. Implementation Policy IP-8.2 - Zoning: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the *Envision General Plan* Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed use and development intensity correspond generally to the respective *Envision General Plan* land use designations, while providing greater detail as to the appropriate land uses and form of development.

*Analysis: Any future development at the subject site would be required to conform with the development standards of the R-1-RR Rural Residential Residence Zoning District. The allowed uses and development standards of the R-1-RR Zoning District correspond to the Lower Hillside land use designation and would implement the *Envision General Plan* Land Use/Transportation Diagram.*

### **Zoning Ordinance Conformance**

The rezoning conforms with [Table 20-270](#), [Section 20.120.110](#) of the San José Municipal Code, which identifies the R-1-RR Rural Residential Residence Zoning District as a conforming district to the General Plan Land Use/Transportation Diagram land use designation of Lower Hillside.



**Figure 3: Proposed Zoning Map**

The R-1-RR Rural Residential Residence Zoning District would allow the property to be used and developed in accordance with the allowable uses in [Table 20-50](#). This rezoning would facilitate the future redevelopment of the site as a single-family residence with an accessory dwelling unit (ADU), which would conform and be consistent with the General Plan land use designation.

Setbacks and Heights

Any future development would be required to adhere to the following development standards set forth in [Table 20-60](#) in [Section 20.30.200](#) of the San José Municipal Code.

<b>Standard</b>	<b>R-1-RR Zoning District</b>
Minimum Front Setback (to the Northern Property Line)	50 feet
Minimum Side, Interior Setback (to the western and eastern property lines)	20 feet
Minimum Rear, Interior Setback (to the southern Property Line)	30 feet
Minimum Driveway Length	18 feet
Maximum Building Height	35 feet
Maximum Number of Stories	2.5 stories

### Allowed Uses

Any future use of the site must be consistent with those listed in [Table 20-50](#) of the San José Municipal Zoning Code .

### **Senate Bill 330 Compliance**

The Housing Crisis Act of 2019 (SB 330, 2019) limits the manner in which local governments may reduce the capacity for residential units that can be built on within the local agency's jurisdiction, including actions such as downzoning, changing general or specific plan land use designations to a less intensive use, reductions in height, density or floor area ratio, or other types of increased requirements that work to reduce the amount of housing capacity in the jurisdiction. An exception to this limitation is that a property may be allowed to reduce intensity of residential uses if changes in land use designations or zoning elsewhere in the jurisdiction ensure there is no net loss in residential capacity within the jurisdiction.

The subject site is currently designated open space within the Planned Development Zoning District, File No. PDC87-095. The rezoning (File No. C22-122) does not reduce the intensity of residential uses because the rezoning allows for one single-family residence. The rezoning would increase the residential capacity of the approximately 2.02-gross-acre site by one unit.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the project is pursuant to, in furtherance of, and within the scope of the Envision San José 2040 General Plan program, the impacts of which were analyzed and disclosed in the Final Environmental Impact Report for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, and Supplemental EIR adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The FEIR, SEIR, and Addenda were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040.

No new or more significant environmental impacts beyond those identified in the Envision San José 2040 General Plan Final Program Environmental Impact Report (FPEIR), Supplemental EIR (SEIR), and Addenda have been identified, nor have any new mitigation measures or alternatives that are considerably different from those analyzed in the FPEIR, SEIR, and Addenda been identified.

## **PUBLIC HEARING NOTIFICATION**

Staff followed Council Policy 6-30: Public Outreach Policy. An on-site sign has been posted since January 16, 2023. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 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.

/s/

CHRISTOPHER BURTON, Director  
Planning, Building and Code Enforcement

For questions, please contact Robert Manford, Deputy Director, at (408) 535-7900.