



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	<b>C17-055</b>
<b>Applicant:</b>	<b>San Jose Water Company</b>
<b>Location</b>	<b>12329 Mabury Road</b>
<b>Existing Zoning</b>	<b>A Agricultural</b>
<b>Proposed Zoning</b>	<b>PQP Public/Quasi-Public</b>
<b>Council District</b>	<b>4</b>
<b>Historic Resource</b>	<b>No</b>
<b>Annexation Date:</b>	<b>July 25, 1973</b>
<b>CEQA:</b>	<b>Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto</b>

**APPLICATION SUMMARY:** Conforming Rezoning from the A Agricultural Zoning District to the PQP Public/Quasi-Public Zoning District on a 15.12-gross acre site.

**RECOMMENDATION:**

Staff recommends that the City Council Approve the Conforming Rezoning based upon the facts and findings in this staff report.

### PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Public/Quasi-Public <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		Implementation Policies IP-1.6 and IP-8.2	
Inconsistent Policies		None	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Open Space, Parkland and Habitat	A(PD) Planned Development	Penitencia Creek
South	Residential Neighborhood	R-1-8(PD) Planned Development	Single-family residences
East	Residential Neighborhood	A(PD) Planned Development	Duplex residential development

<b>West</b>	Mixed Use Neighborhood	A(PD) Planned Development	Multi-family residential development
<b>RELATED APPROVALS</b>			
<b>Date</b>	<b>Action</b>		
<b>7/25/1973</b>	Site annexed into the City of San José (Berryessa No. 24).		

## PROJECT DESCRIPTION

On December 7, 2017, the applicant, San Jose Water Company, applied for a Conforming Rezoning of the subject property from the A Agricultural Zoning District to the PQP Public/Quasi-Public Zoning District on a 15.12-gross acre site.

### Site Description and Surrounding Uses

The project site is located behind the residential developments fronting the north side of Mabury Road, approximately 350 feet east of N. King Road, with driveway easement access from Mabury Road, at 12329 Mabury Road (see Figure 1).

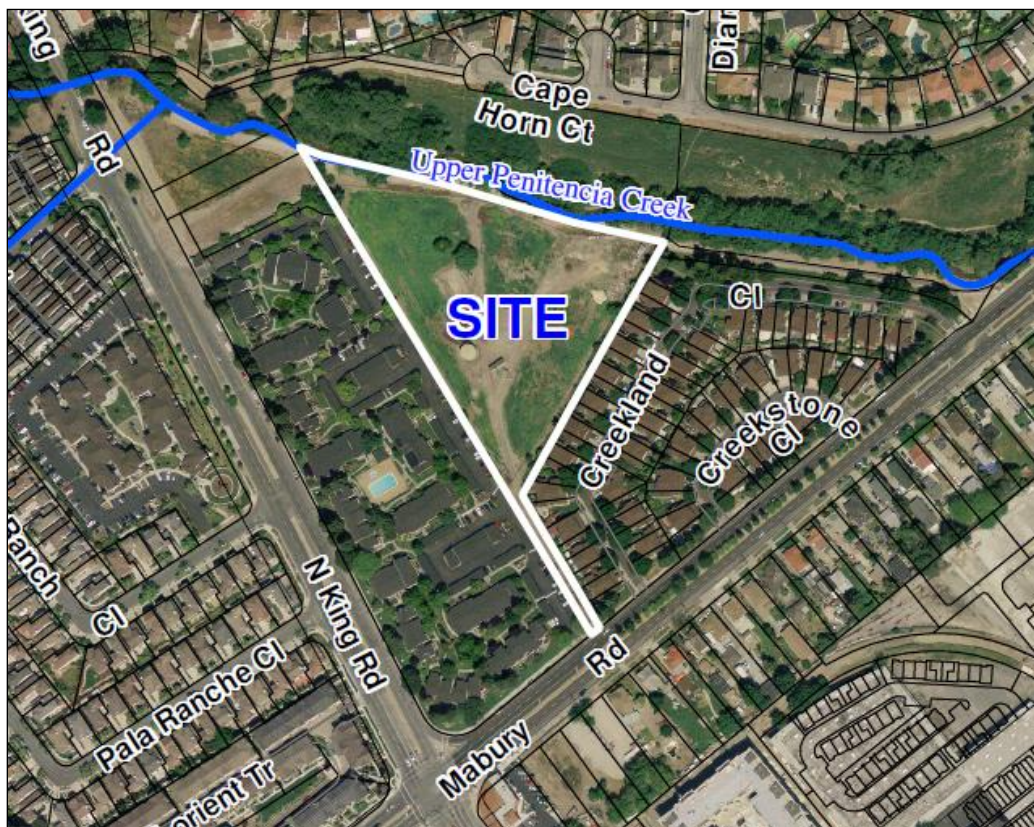


Figure 1: Location Map

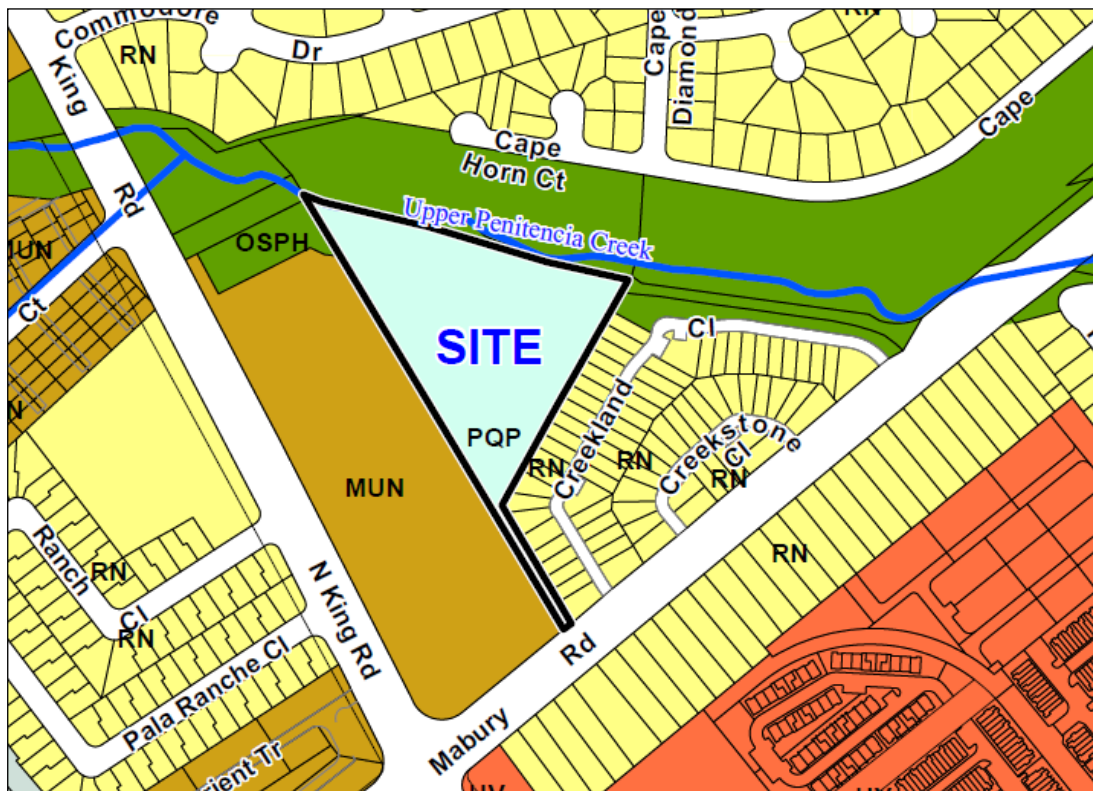
The site is currently occupied with a water utility facility consisting of a storage tank and utility structures, which is owned by San Jose Water Company. The site is bounded by Penitencia Creek to the north, a duplex residential development to the east, a multi-family residential development to the west and single-family residences to the south across from Mabury Road.

## ANALYSIS

The proposed Conforming Rezoning was analyzed with respect to conformance with: 1) the Envision San José 2040 General Plan; 2) the Zoning Ordinance; and 3) the California Environmental Quality Act (CEQA).

## Envision San José 2040 General Plan Conformance

The subject site has a land use designation of Public/Quasi-Public on the Envision San José 2040 General Plan Land Use/Transportation Diagram (see Figure 2).



**Figure 2: General Plan Map**

The Public/Quasi-Public land use designation is used to designate public land uses, including municipal and utility facilities such as corporation yards, fire stations, water treatment facilities, as well as for private entities involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses.

No formal development or land use applications have been filed for this property. The expansion of an existing water utility facility would require a Conditional Use Permit in the Public/Quasi-Public Zoning District. The existing use will continue to be in conformance with the General Plan land use designation.



The conforming rezoning proposal is also consistent with the following General Plan policies:

1. Implementation Policy IP-1.6: 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.
2. Implementation Policy IP-8.2: 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 uses 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: The PQP Public/Quasi-Public Zoning District is the conforming zoning district for the Envision San José 2040 General Plan Land Use/Transportation Diagram's designation of Public/Quasi-Public, as indicated in Section 20.120.110 of the Zoning Ordinance. The proposed Conforming Rezoning to the Public/Quasi-Public Zoning District will allow a conforming zoning district that is consistent with the General Plan goals intended for this property.*

### Zoning Ordinance Conformance

The subject site is currently in the A Agricultural Zoning District (see Figure 3).

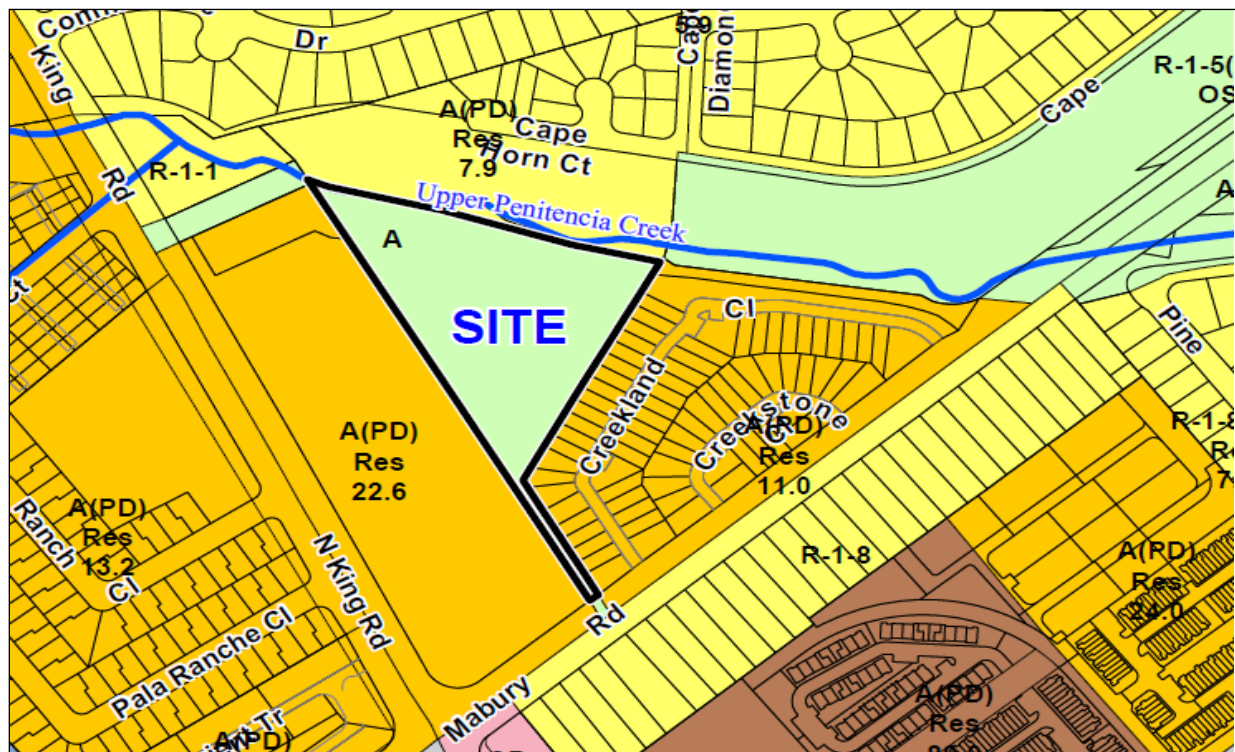


Figure 3: Zoning Map

The proposed Conforming Rezoning conforms with Table 20-270 of Section 20.120.110 of the Zoning Ordinance, which identifies the PQP Public/Quasi-Public Zoning District as the conforming zoning district for the Public/Quasi-Public General Plan land use designation.

Pursuant to Section 20.40.100 and Table 20-90 of the Zoning Ordinance, Utility facilities located within the PQP Public/Quasi-Public Zoning District require a Conditional Use Permit. The site has been continually used as a water utility facility since before it was annexed into the City in 1973. Therefore, the existing use will be a legal non-conforming use if Council approves the proposed rezoning and any future expansion of the site will require a Conditional Use Permit.

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

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the proposed rezoning 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 Program Environmental Impact Report (EIR) and Supplemental EIR for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, and Resolution No. 77617 on December 15, 2015, respectively, and all Addenda thereto. The 2011 Program EIR and a supplemental EIR 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. The proposed rezoning does not involve new significant effects beyond those analyzed in the Program EIRs, supplemental EIR, and Addendum thereto. A Determination of Consistency with these documents was prepared for this rezoning.

#### **PUBLIC HEARING NOTIFICATION**

To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy. 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/

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

For questions, please contact Steve McHarris, Planning Official, at (408) 535-7819.

Attachment: Legal Description and Plat map

EXHIBIT 'A'  
LEGAL DESCRIPTION

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, being all of that certain 3.980 acre parcel shown on the Record of Survey map filed on February 9, 1984 in Book 524 of Maps at Page 33, Santa Clara County records, more particularly described as follows:

**BEGINNING** at the most southerly corner of said 3.980 acre parcel; thence along the southwesterly line of said 3.980 acre parcel, North 31° 47' 06" West, 700.75 feet to the general southerly line of Parcel A, as shown on said Record of Survey map; thence along said general southerly line of Parcel A the following five (5) courses: 1) South 85° 07' 05" East, 268.38 feet, 2) South 77° 42' 48" East, 73.25 feet, 3) South 68° 07' 44" East, 138.37 feet, 4) North 89° 02' 23" East, 91.84 feet and 5) South 81° 18' 10" East, 75.88 feet to the southeasterly corner of said Parcel A; thence leaving said general southerly line, along the southeasterly line of said 3.980 acre parcel, South 28° 08' 14" West, 562.19 feet to the **POINT OF BEGINNING**.

Containing an area of 3.980 acres, more or less.

TOGETHER WITH any and all interest acquired by right of user, in and to a strip of land 22 feet wide, lying Northeasterly of the Northeasterly line of that certain 10.83 acre tract of land conveyed by George C. Geissmann and Jennie Geissmann, his wife, to Rudolph Geissmann, by Deed dated November 29, 1913 and recorded December 1, 1913 in the office of the County Recorder of the County of Santa Clara, State of California, in Book 411 of Deeds, page 261, records of said County, and running from the most Southerly corner of the land hereinabove described to the Northwesternly line of the Mabury Road, as granted in the Deed from Nazareno Tassi, et ux, to Ralph DeKruif, et ux, dated April 30, 1948, recorded May 3, 1948 in Book 1608 Official Records, page 138, Santa Clara County Records.

As shown on Exhibit B, attached hereto and made a part hereof.

END OF DESCRIPTION

This description was prepared by me or under my direction in conformance with the requirements of the Professional Land Surveyor's Act.

Kristina D. Comer  
Kristina D. Comerer, PLS 6766

Date: March 23, 2018





**EXHIBIT B  
REZONING PLAT MAP  
MABURY ROAD STATION  
12329 MABURY ROAD  
SAN JOSE, CALIFORNIA**

SCALE: 1" = 100'

REFERENCES USED

1. R/S 524 M. 33
2. R/S 143 M. 19

