

**PROJECT DESCRIPTION & REASONING FOR GENERAL PLAN AMENDMENT
FOR APN 708-40-004 & 708-40-005**

PROJECT DESCRIPTION

Option # 1: Rural Residential Option with Future Clustered Subdivision¹

1. Merge APN 708-40-004 (“Parcel 004”) and APN 708-40-005 (“Parcel 005,” collectively “Parcels” or “Property”) to create one 49.28 acre parcel.²
2. Amend the General Plan to change the designation from Open Space Reserve to Rural Residential
3. Amend the zoning from Agriculture (A-20ac-d1) to Rural Residential with no change to the -d1 (Design Review) designation.

Planned Use: If the General Plan Amendment application is allowed to move forward, Applicant would submit an application for a subdivision to be processed concurrently with the General Plan Amendment. The proposed subdivision would be clustered to reduce visual impacts and would consist of up to 8 new 2-acre lots. The remaining 34 acres of the Eastern portion of the Property would be preserved with an open space or conservation easement. A rough rendering of the proposed clustered subdivision concept is attached as Exhibit 1.

Option #2: Hillside Option with Future Conditional Use Permit for a Commercial Horse Stable³

1. Amend the General Plan to change the designation from Open Space Reserve to Hillside.
2. Amend the zoning from Agriculture (A-20ac-d1) to Hillside with no change to the -d1 (Design Review) designation.

Planned Use: If allowed to move forward, Applicant would apply concurrently for a conditional use permit to use the Property as a horse stable, which is consistent with its use since at least 1993.

REASONING

- I. **A GENERAL PLAN AMENDMENT IS APPROPRIATE BECAUSE THE PROPERTIES DESIGNATION AS OPEN SPACE RESERVE IS INCONSISTENT WITH HOW “OPEN SPACE RESERVE” IS DEFINED IN THE GENERAL PLAN.**

The designation of the Property as Open Space Reserve does not meet the County’s definition of Open Space Reserve nor does it further any policies underlying that designation. Under the General Plan, “Open Space Reserve” is defined as “rural unincorporated areas contiguous to a city Urban Service Area...” (General Plan R-LU 56 [emphasis added].) The purpose of this

¹ Previously proposed in PRE19-181 but without a lot merger and without a description of the planned use.

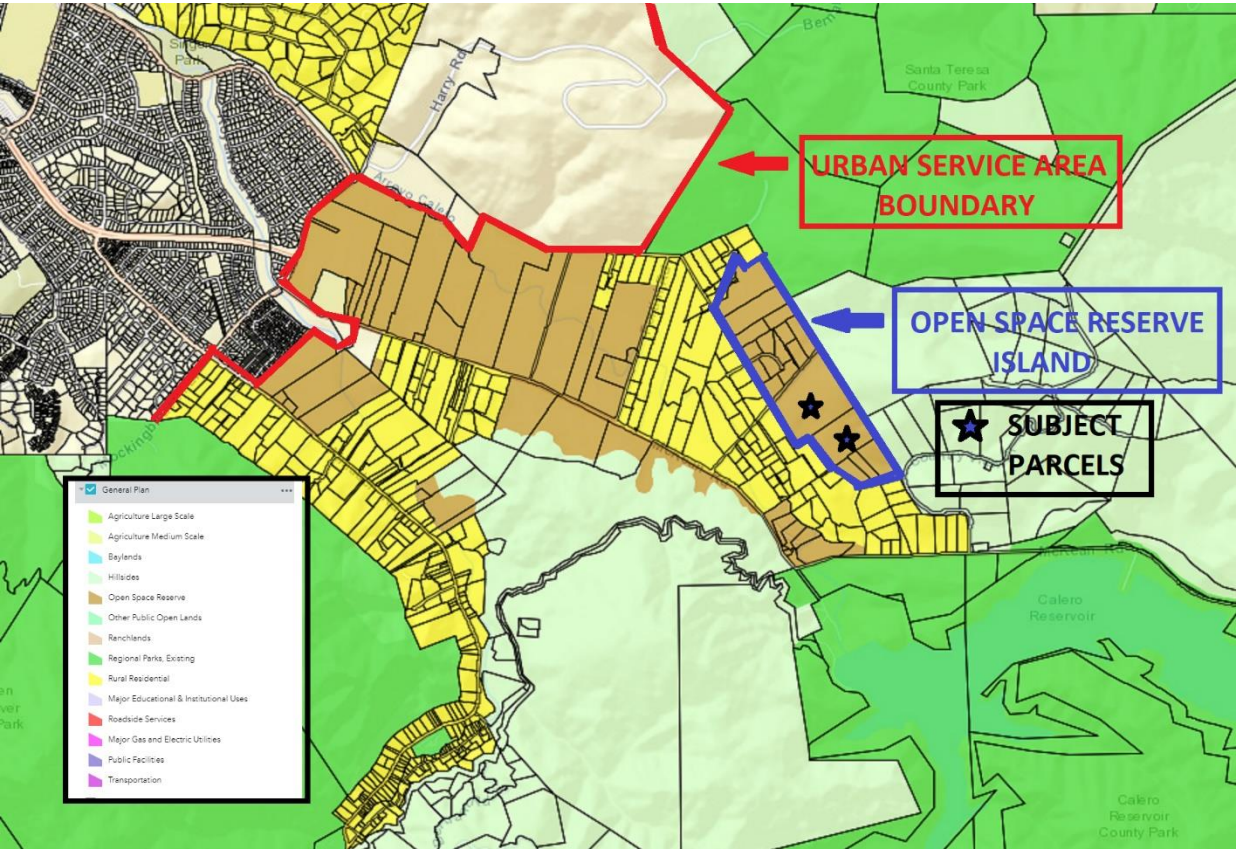
² Currently, the total lot size of Parcel 004 and Parcel 005 but there is a pending application to adjust the lot line of Parcel 004 and a contiguous parcel which would reduce that Parcel size by approximately 0.38 acres.

³ This option was proposed by Planning Staff.

designation is to create a placeholder for future expansion of the City of San Jose (“City”) and to ensure that future development does not occur at an intensity or scale that would be incompatible with the City’s intentions for that land. (See General Plan, K-1, Strategy #1 [“In allowing only non-urban uses and densities outside USAs, the County...prevents unwanted or premature development that would preclude efficient conversion to urban uses and densities in areas suitable and intended for future annexation”].)

As depicted in Figure 1 below, Parcel 004 and Parcel 005, along with the adjoining parcels (collectively “the Open Space Reserve Island”) are **not** contiguous to the Urban Service Area boundary, nor are they contiguous to any other property designated as Open Space Reserve that is contiguous to an Urban Service Area boundary. (See Exhibit 2, Santa Clara County Boundaries Map & Urban Service Area boundary.)

FIGURE 1 PARCELS IN RELATION TO URBAN SERVICE AREA & DEPICTION OF “OPEN SPACE RESERVE ISLAND”

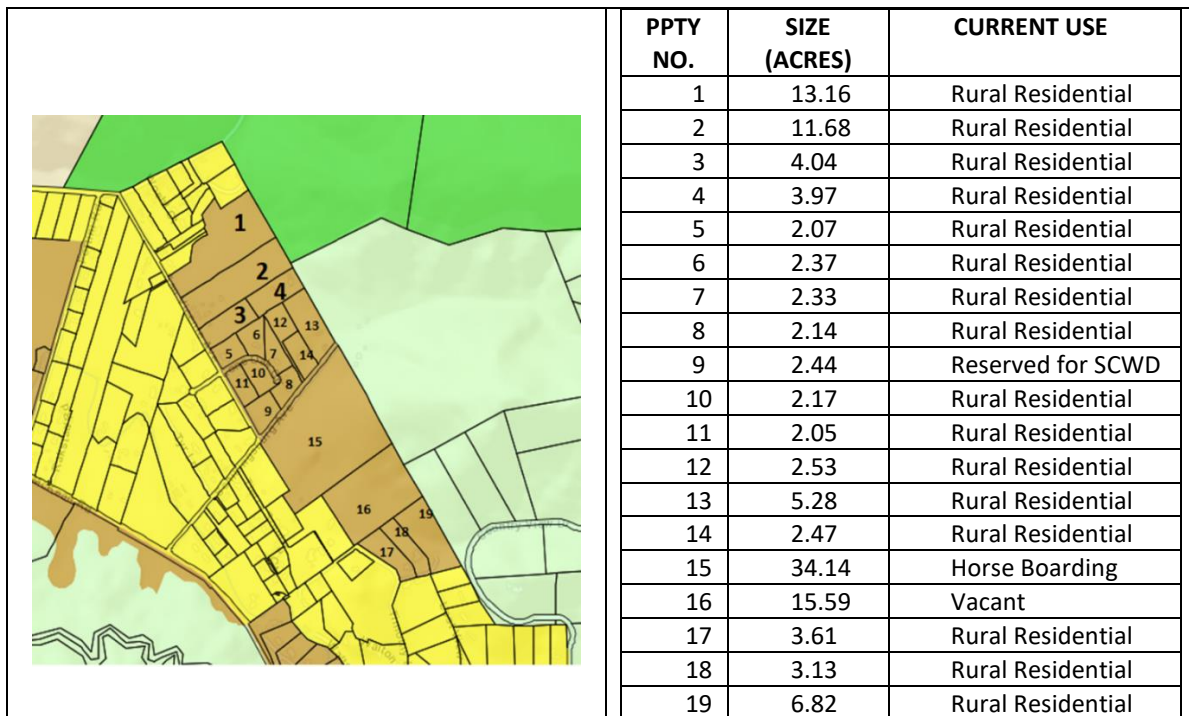


II. THE OPEN SPACE RESERVE DESIGNATION IS NON-CONFORMING AND UNNECESSARY BECAUSE THE SURROUNDING LAND HAS ALREADY BEEN DEVELOPED AND IS, IN FACT, RURAL RESIDENTIAL LANDS.

Here, there is no need for any Open Space Reserve placeholder because the areas surrounding the Property are already largely developed at a higher intensity than that which would be permitted – even under a Rural Residential designation. As set forth in Figure 2 below, all of the lots in the Open Space Reserve Island other than one property owned by the Santa Clara Valley Water District and the subject Property, are in fact functioning as low-density, Rural Residential properties.

Notably, **none** of the 19 lots in the Open Space Reserve Island except for Parcel 005 meets the minimum lot acreage of 20 acres for Open Space Reserve (or the minimum lot acreage of 20 acres for Agriculture or Hillside lots either). 15 of the 19 lots do not even meet the minimum 5-acre lot size for a non-clustered Rural Residential property.⁴ (See Figure 2.) As such, there is no reasonable possibility that the County will be inundated by a domino of residential redevelopment requests should the present Application be granted.⁵

FIGURE 2 | USAGE AND SIZE OF LOTS WITHIN THE OPEN SPACE RESERVE ISLAND



⁴ The average lot size in the Open Space Reserve Island is only 4.25 acres when one excludes the subject Property. If one excludes the next two largest properties, the average lot size of the remaining 15 parcels is only 3.16 acres.

⁵ Other than the subject Property, only 2 other properties could subdivide and they each could add a maximum of 1 lot each.

III. A RURAL RESIDENTIAL DESIGNATION IS THE MOST APPROPRIATE GENERAL PLAN DESIGNATION IN THAT IT REFLECTS THE TRUE STATE OF THE SURROUNDINGS AND WILL BEST FURTHER THE GOALS OF CONSERVATION.

The County should grant Applicant's request to amend the General Plan designation to Rural Residential because the Property it would allow for limited infill development that is appropriately located within existing Rural Residential areas. By allowing a clustered subdivision, the County would also ensure the continued preservation open space and conservation of approximately 34 acres of land.

A. The Requested Re-Designation Meets the Requirements for Infill Development under General Plan Policy R-LU 62.

1. The parcels are substantially surrounded on three sides by existing rural residential areas.

Regardless of what is shown on the map, the property is in reality surrounded on all three sides by existing Rural Residential properties and this is unlikely to change because there is no reasonable possibility that the multiple landowners within the Open Space Reserve Island would agree to downzone their properties, merge their lots and create conforming 20 acre Open Space Reserve properties.⁶ As set forth in Figure 2, all of the lots in the Open Space Reserve Island other than one property owned by the Santa Clara Valley Water District which is vacant and the subject Property, are in fact functioning as low-density, Rural Residential properties.

Perhaps it was simply overlooked, but there does not appear to be any logical reason why the 1994 General Plan created (or maintained) an Open Space Reserve Island of properties that are not contiguous to the Urban Service Area boundary, that do not conform to the minimum lot area requirements of the Open Space Reserve designation and, are sized, developed and functioning as Rural Residential lots.

Given the non-contiguity of the Open Space Reserve Island properties with the Urban Service Area boundary and the fact that those properties are in fact existing Rural Residential areas, the analysis of whether the Property is surrounded on three sides by existing Rural Residential uses should be based on what is, in fact, located on the surrounding properties. Perpetuating a fiction that ignores the meaning and policies underlying the Open Space Reserve designation

⁶ As Figure 1 illustrates, the Open Space Reserve Island is itself also surrounded on the North, South and West by parcels designated as Rural Residential under the General Plan. As such, within that block of land, all of the properties are surrounded on three sides by existing Rural Residential areas.

would unfairly prohibit in-fill development that is appropriate in scale and intensity and that is expressly permitted by General Plan policy R-LU 62.

2. There is minimal long-term agricultural viability.

Re-designating the Property to Rural Residential will not deprive the County of prime agricultural land. On the Storie soil quality index, the Parcels have a rating of Grade 4 (Poor) and Grade 5 (Very Poor).⁷ As such, neither Parcel is suitable for row crops or planting. Moreover, given the rising cost of water and the expense associated with implementing on-site irrigation, agricultural growing operations are not financially feasible.

3. The area is suitable for development on septic.

A letter from a licensed contractor has been provided in connection with this Application that confirms that the Property is suitable for development on septic. (See Exhibit 3.)

4. The parcels are reasonably free from natural or constructed hazards, or valuable environmental resources.⁸

There are no on-site constructed hazards and the natural hazards are either typical to Santa Clara County (e.g., seismic) or implicate only a small portion of the Property.

The majority of the land is considered to be at very low risk of liquefaction with a small portion of the land deemed a moderate risk.⁹ The fire hazard severity is mostly considered moderate and the majority of the land poses no risk of rainfall induced landslides. The Property is located outside the 100-year floodplain and thus have a minimal risk of flooding.

The Property does not appear to encroach on any particularly sensitive animal or plant habitat, nor is it located within or near any wetlands or riparian waters. The Habitat Conservation Plan (“HCP”) deemed both Parcels “fragmented” with respect to the Conservation Lands Network. Although, wildlife surveys documented in the HCP indicate that the tricolored blackbird may be present in a small portion of the Property, no other wildlife issues are noted. Further, while the Property is considered under the HCP to be “very valuable habitat” for T&E vertebrates, a resource study provided with this Application found no evidence that red-legged frogs inhabit the Property.¹⁰

⁷ The Parcels are located within the Santa Clara Valley Habitat Conservation Plan. Unless otherwise stated, the information provided herein comes from the Santa Clara Valley Habitat Agency. (See <https://www.bayareagreenprint.org>.)

⁸ The information contained herein is taken from the Habitat Conservation Plan and the County GIS system.

⁹ While the land is located within an area of high seismic hazard, this is true for much of the Bay Area.

¹⁰ See Exhibit 3, Red-Legged Frog Study dated If additional environmental information is needed, Applicant will conduct further studies as directed by the County.

B. A General Plan Amendment to Rural Residential Creates an Opportunity for a 34-Acre Conservation or Open Space Easement.

Because the Application for a General Plan Amendment will be accompanied by a proposal for a clustered subdivision, the County has an opportunity prior to granting any change to the General Plan to obtain a conservation or open space easement. This easement would exist in perpetuity to preserve approximately 34 acres of land. If this easement were put into place, the County can be confident that, even if the political winds change and the City decides to resume its outward expansion, a significant portion of the Property that will forever remain in its natural state. Between Option #1 and Option #2, as proposed, re-designation best promotes conservation.

C. Re-designation to Rural Residential Conforms to the City of San Jose' General Plan Policies Covering the Subject Property.

In its preliminary review feedback, the County provided an email from the City of San Jose that indicates that it would support the proposed change to Rural Residential if the County finds that the Rural Residential designation is consistent with the City's designation the Property as Lower Hillside.¹¹

The County can make this finding because the City's Lower Hillside designation "allow[s] for limited infill that completes the existing pattern of development at its edge." (Envision 2040, Chapter 5, page 16.) Under the Lower Hillside designation, new residential development is permitted so long as it does not exceed 1 DU/5 AC. (See id.) Because the Property is already surrounded by Rural Residential development, the proposed clustered subdivision would only result in a density of 1 DU/6.25 AC, and the majority of the property would be preserved in a natural state. As such, the proposed General Plan amendment and clustered subdivision is consistent with the City's Lower Hillside policies.

IV. A GENERAL PLAN AMENDMENT TO HILLSIDE IS SOUGHT IF A RE-DESIGNATION TO RURAL RESIDENTIAL IS NOT SUPPORTED.

While Applicant's preferred route would be to proceed with Option #1, should this Option fail to garner support, Applicant would like to seek a General Plan amendment to Hillside, as suggested by staff. As previously mentioned, Applicant would seek a Conditional Use Permit to operate a commercial horse boarding facility, which is consistent with the Property's historical use.

¹¹ See Exhibit 4, City of San Jose Email from Kieulan Pham, dated February 11, 2020.