

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street  
San José, California 95113

Hearing Date/Agenda Number  
CC 3-20-2007 11-1(d)

File Number  
C07-016

Application Type  
Planning Director Initiated  
Conforming Conventional Rezoning

Council District  
6

Planning Area  
Central

Assessor's Parcel Number(s)  
230-41-024

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Erin Morris

Location: Northeasterly corner of Elm Street and McKendrie Street

Gross Acreage: 0.23 Net Acreage: 0.23 Net Density: 4.34 DU/AC

Existing Zoning: A(PD) Planned Development Existing Use: One single-family residence

Proposed Zoning: R-1-8 Residence District Proposed Use: One single-family residence

### GENERAL PLAN

Land Use/Transportation Diagram Designation  
Medium Low Density Residential (8 DU/AC)

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

North: Single-family detached residences A(PD) Planned Development Zoning District

East: Single-family detached residences R-1-8 Single Family Residence District

South: Single-family detached residences R-1-8 Single Family Residence District

West: Single-family detached residences R-1-8 Single Family Residence District

### ENVIRONMENTAL STATUS

Environmental Impact Report (GP2020 EIR certified 8-16-94)  
 Negative Declaration circulated on  
 Negative Declaration adopted on

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Annexation Title: College Park/ Burbank Sunol

Date: December 8, 1925

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

Date: 2-27-07

Approved by: *Susan Walton*  
 Action  
 Recommendation

#### OWNER

Brenton J. Gregory  
Jennifer A. Moore  
960 Elm Street  
San Jose, CA 95126

#### APPLICANT

Director of Planning, City of San Jose

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**PUBLIC AGENCY COMMENTS RECEIVED.**

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Completed by: Erin Morris

Department of Public Works

None received.

Other Departments and Agencies

None received.

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**GENERAL CORRESPONDENCE**

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None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The Director of Planning is requesting a Conforming Conventional Rezoning of the subject 0.23 gross acre site from A(PD) Planned Development Zoning District to R-1-8 Single-Family Residence District to allow one single-family residence. The subject site is rectangular in shape and surrounded by single-family detached residential uses. A single-family home, built c. 1925, exists on the subject site. An illegal structure, a historic residence that was relocated from a downtown San Jose site and placed on the site without benefit of permit, also presently exists on the site. This relocated historic residence was previously approved for demolition at its original location on Viola Street and instead has twice been relocated.

**Rezoning History**

In 2004, the Director of Planning initiated a Planned Development Rezoning (File No. PDC04-050) of the subject site to facilitate relocation of an existing historic house (W.G. Jones Residence) to the subject site. The City Council approved the rezoning in July 2004, and the Director of Planning subsequently approved a Planned Development Permit (File No. PD04-050) on July 30, 2004, allowing relocation of the residence subject to: 1) the completion of the subdivision of the subject 0.23 gross acre site into two lots, and 2) obtainment of a building permit to allow construction of a foundation on one of the lots to "receive" the relocated residence. The property owners relocated the historic residence to the site prior to obtaining approval of the subdivision. On January 30, 2007, the Planned Development Permit allowing the relocation of the house to this site expired.

**Code Enforcement/Recent Site History**

The site became the subject of a Code Enforcement case in June 2005 when a complaint was filed that a house had been relocated to the subject site without City permits. At the same time, Code Enforcement and Planning staff were receiving many complaints about the poor maintenance of the property, with reports that vegetation around the relocated house (and the main residence) was overgrown and that litter had piled up at the site. The relocated historic house was not protected from the elements, so that deterioration significantly advanced as the house remained exposed to the elements for more than two years. A Compliance Order was

issued by the Code Enforcement Division on June 22, 2005 requesting that the subdivision of the lot be pursued so that building permits to allow restoration of the house pursuant to the approved Planned Development Permit could be issued and actual rehabilitation commence. A second Compliance Order was mailed in May 2006 after inspections indicated that the property owners had failed to correct the violations. On November 9, 2006, the Code Enforcement case was heard by the Appeals Hearing Board, which levied fines against the property owners and ordered that they complete the subdivision process or remove the building from the site. On January 30, 2007, the Planned Development Permit allowing implementation of the approved Planned Development Zoning, including the subdivision of the parcel into two lots, expired.

Recently, the site has been minimally cleaned up and the illegal structure is in the process of being dismantled. The property owners have indicated that they will be offering the property for sale.

### **PUBLIC OUTREACH**

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site, and a notice was published in a local newspaper, the Post Record. The staff report has been posted on the City's web site and staff has been available to discuss the project with members of the public.

### **ENVIRONMENTAL REVIEW**

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR." On August 16, 1994, the City Council adopted Resolution Number: 65459 making findings for adoption of the San Jose 2020 General Plan.

The City of San Jose may take action on the proposed project as being within the scope of the General Plan and uses of the Program EIR in that (1) the Final EIR is a Program EIR pursuant to CEQA and CEQA Guidelines Section 15168, (2) it is determined that no new significant impacts will occur from this proposed project, and (3) no new mitigation measures would be required beyond those contained in the General Plan and Final EIR pursuant to CEQA Guidelines 15162.

The demolition of the relocated historic residence was approved through an EIR that was approved by the City of San Jose in 1999, which allowed the residence to be relocated from its original location on Viola Street to a surface parking lot near the Convention Center downtown.

### **GENERAL PLAN CONFORMANCE**

The subject site is designated Medium Low Density Residential (8 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. The existing single-family residence on the 0.23 gross acre property results in a density of 4.34 DU/AC, consistent with the General Plan.

### **ANALYSIS**

The proposed rezoning to R-1-8 Single Family Residence District will allow one single family detached residence on the property, consistent with the development pattern along Elm Street and compatible with the surrounding neighborhood. While in 2004 the Director of Planning

initiated and the City Council approved a Planned Development Zoning to allow subdivision of the existing lot, and a second “historic” house to be placed on the site, the preservation of the house which was the catalyst for that effort no longer appears possible. Absent the particular benefits of saving an historic resource, which was staff’s basis for recommending approval of the rezoning to allow a second residential lot at this location, staff believes the zoning should return to the R-1-8 Residence District. Given the site’s General Plan designation of Medium Low Density Residential (8 DU/AC) and its size of just under a quarter acre, only one single-family house would be permitted under the R-1-8 District and no further subdivision would be permitted.

## **COORDINATION**

This project was coordinated with the Code Enforcement Division and the City Attorney.

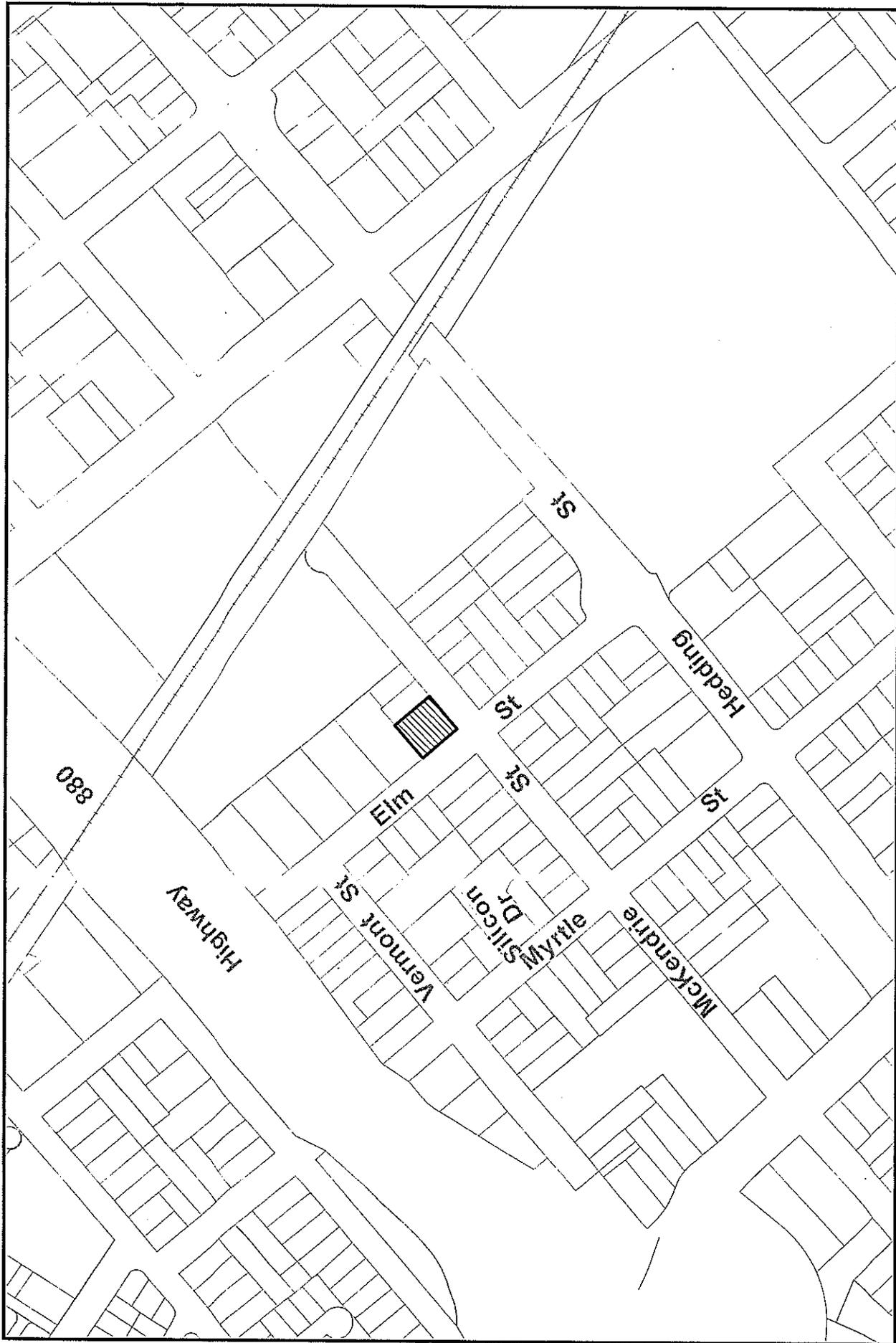
## **RECOMMENDATION**

Planning staff recommends that the City Council approve the subject rezoning for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC).
2. The proposed rezoning is compatible with existing and proposed uses on the adjacent and neighboring properties.

Attachments:

Location Map



File No: C07-016

Council District: 6

Quad No: 66

Scale: 1"= 300'  
Noticing Radius: 500 feet

