

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
C.C. 9/13/05

11.1(c)

## STAFF REPORT

File Number  
C05-054

Application Type  
Conforming Rezoning

Council District  
7

Planning Area  
Alum Rock

Assessor's Parcel Number(s)  
49124102

### PROJECT DESCRIPTION

Completed by: RVM

Location: North side of Tully Road, approximately 90 feet easterly of Lanai Avenue

Gross Acreage: 0.28

Net Acreage:  
N/A

Net Density: N/A

Existing Zoning: CO Commercial Office

Existing Use: Office

Proposed Zoning: CN Commercial Neighborhood

Proposed Use: no change

### GENERAL PLAN

Completed by: RVM

Land Use/Transportation Diagram Designation  
General Commercial

Project Conformance:

Yes  No

See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: RVM

North: Single family residential

R-1-8 Residence

East: Medical offices

A(PD) Planned Development

South: Fast food restaurant and gas station

CG Commercial General

West: Retail

LI-Light Industrial

### ENVIRONMENTAL STATUS

Completed by: RVM

Environmental Impact Report found complete August 16, 1994  
(Resolution number #65459)

Negative Declaration circulated on

Negative Declaration adopted on

Exempt

Environmental Review Incomplete

### FILE HISTORY

Completed by: RVM

Annexation Title: Hillview No 1

Date: 6/29/1956

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

Uphold Director's Decision

Date: August 24, 2005

Approved by:

Action

Recommendation



### APPLICANT/OWNER/DEVELOPER

### PUBLIC AGENCY COMMENTS RECEIVED

Completed by: RVM

Department of Public Works

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None

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**Other Departments and Agencies**

None

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**GENERAL CORRESPONDENCE**

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None

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant is requesting a conforming rezoning of the subject 0.14 gross-acre site from CO Commercial Office Zoning District to CN Commercial Neighborhood Zoning District to allow office uses and development standards associated with the CN District.

The subject site is currently used as a dental office. The site is rectangular in shape. The site is bordered by Tully Road to the south, single-family residences to the north, medical offices to the east, and a convenient store to the west.

A Code Enforcement case was opened on this site on August 13, 2004 for non-compliance with landscape requirements noted with approved Site Development Permit (File H90-031) for the dental office. The applicant submitted a preliminary review application on November 11, 2004 to the Planning Department in response to the Code Enforcement citation. The applicant's preliminary review application proposal also included adding handicap accessible parking stalls as well as façade upgrades. Upon reviewing the applicant's preliminary application, Planning Staff noted a building addition to the dental office that had not received building permits and was within the required rear setback of 25 feet in the Commercial Office Zoning District. The addition has a rear setback of 9 feet.

The proposed rezoning of the site to the CN Commercial Neighborhood will enable the dental office, including the building addition in the rear, to be brought into conformance with the Zoning Ordinance since the CN Zoning District has no rear setback requirement. However, the Commercial Design Guidelines include setback recommendations for development adjacent to residential uses. If this proposed rezoning is approved, a subsequent Site Development Permit and Building permits will still be required in order to legalize the addition.

The applicant intends to file a Site Development Permit application to provide the site upgrades proposed in their preliminary application. Staff will review the land use and design issues for any new development through the Site Development permit to ensure that proposed changes are compatible with both the residential and commercial neighbors.

## **ENVIRONMENTAL REVIEW**

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR," which was certified on August 16, 1994, by the City of San José City Council.

## **GENERAL PLAN CONFORMANCE**

The proposed rezoning to CN Commercial Neighborhood Zoning District is consistent with the San Jose General Plan Land Use/Transportation Diagram designation of General Commercial which allows office uses as proposed.

## **ANALYSIS**

The proposed rezoning to CN Commercial Neighborhood will bring the site's zoning into conformance with the General Plan and facilitate implementation of uses on the site that are consistent with the General Plan designation.

The rezoning will also enable the site and existing development to be brought into conformance with development standards of the CN Commercial Neighborhood Zoning District, which has a less stringent rear setback requirement. As mentioned earlier in this staff report, the existing dental office has a rear unpermitted addition with a rear setback of 9 feet that infringes on the Commercial Office Zoning District's required rear setback of 25 feet.

## **PUBLIC OUTREACH**

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site as well as published in the San José Post Record. The City Council Agenda, which is posted on the City of San José website, includes a copy of the staff report and City Council Memo for this project. This request is being processed as a conforming rezoning, therefore no public hearing was held by the Planning Commission on this item.

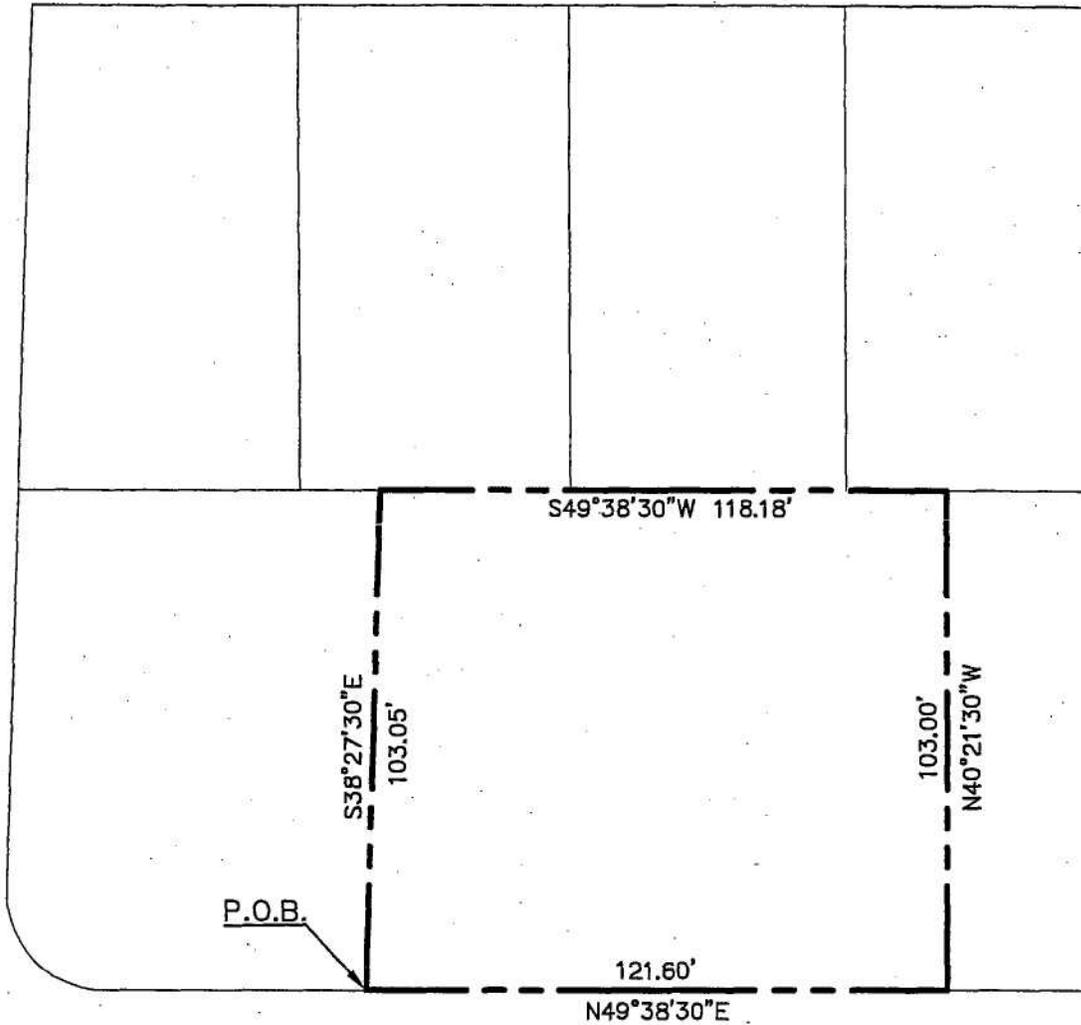
## **RECOMMENDATION**

Planning staff recommends approval of the proposed Conforming Rezoning for the following reason:

1. The proposed rezoning is consistent with the San Jose 2020 General Plan Land Use/Transportation designation of General Commercial.
2. The proposed rezoning is consistent with the surrounding mixed commercial and residential neighborhood.

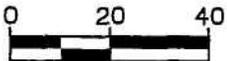
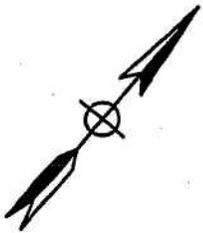
DIXIE DRIVE

LANAI AVENUE



P.O.B.

TULLY ROAD



GRAPHIC SCALE  
1 INCH = 40 FT.

SHEET 1 OF 1

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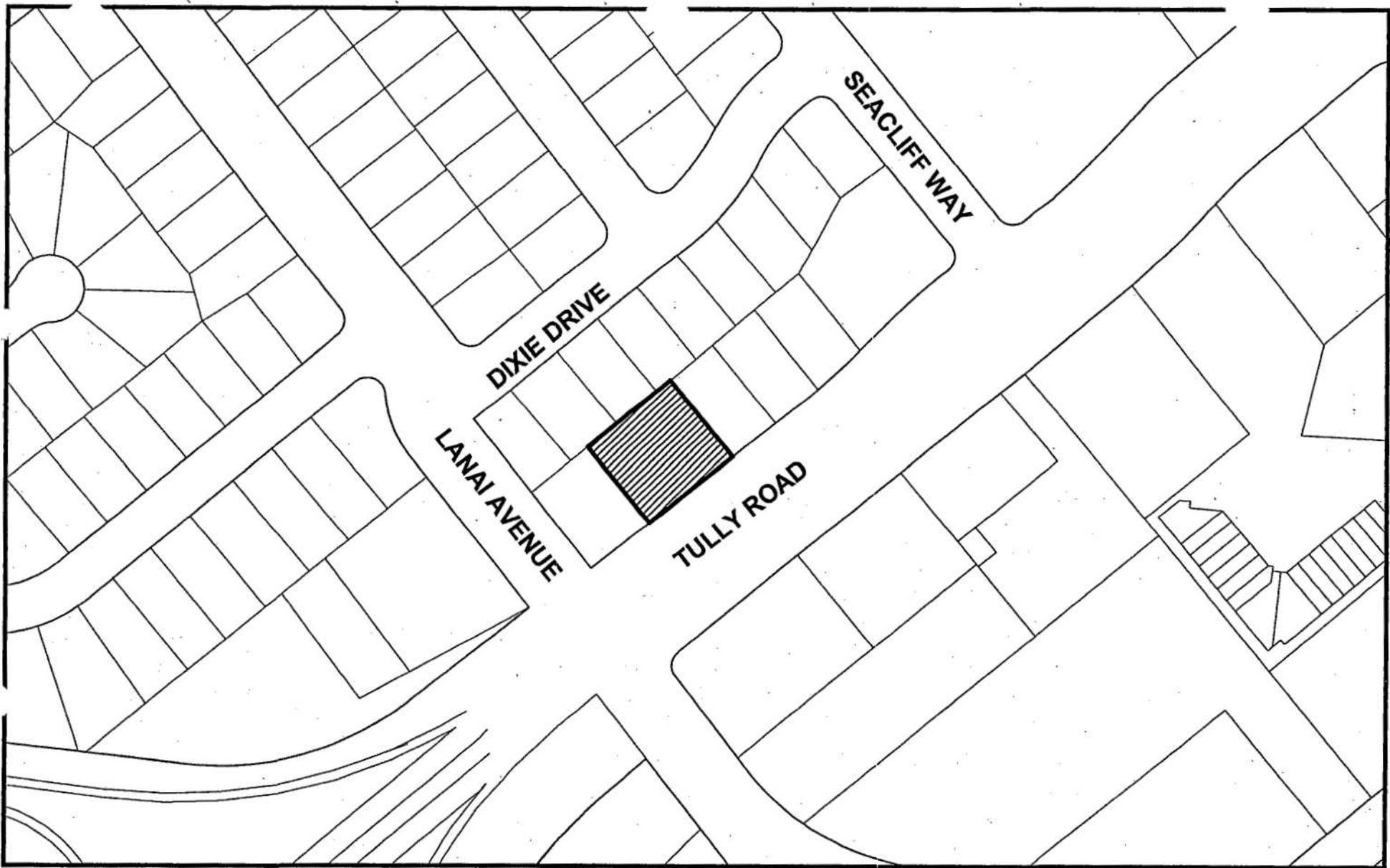
Date:	05-10-05
Scale:	1" = 40'
Designed:	-
Drawn:	JM
Checked:	SD
Proj. Engr.:	-
Dwg Name:	3419PL01



San Jose  
(408) 487-2200  
Gilroy  
(408) 846-0707  
www.hmh-engineers.com

Plat to accompany description:  
FOR REZONING PURPOSES

SAN JOSE, S A CLARA COUNTY, CALIFORNIA



Scale: 1"=150'



Map Created On:  
05/13/2005

**File No: C05-054**

**District: 07**

**Quad No: 84**