

STAFF REPORT
PLANNING COMMISSION

FILE NO.: C08-027

Submitted: 04/22/08

PROJECT DESCRIPTION:

Conventional Rezoning from LI Light Industrial Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on a 0.61 gross acre site.

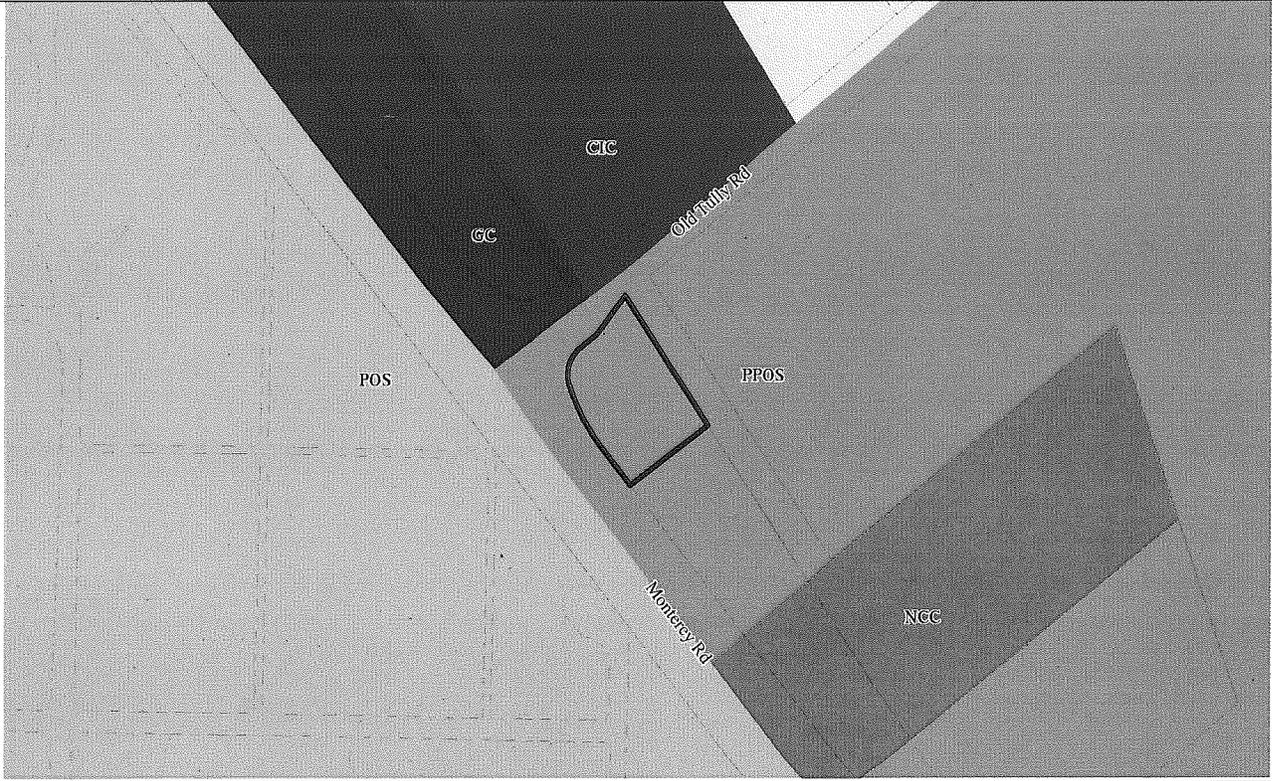
Existing Zoning	LI Light Industrial
Proposed Zoning	CN Commercial Neighborhood
General Plan	Public Park and Open Space
Council District	7
Annexation Date	8/15/1963
SNI	None
Historic Resource	No
Redevelopment Area	No
Specific Plan	N/A

LOCATION: Southeast corner of Monterey Road and Old Tully Road (2400 Monterey Road).

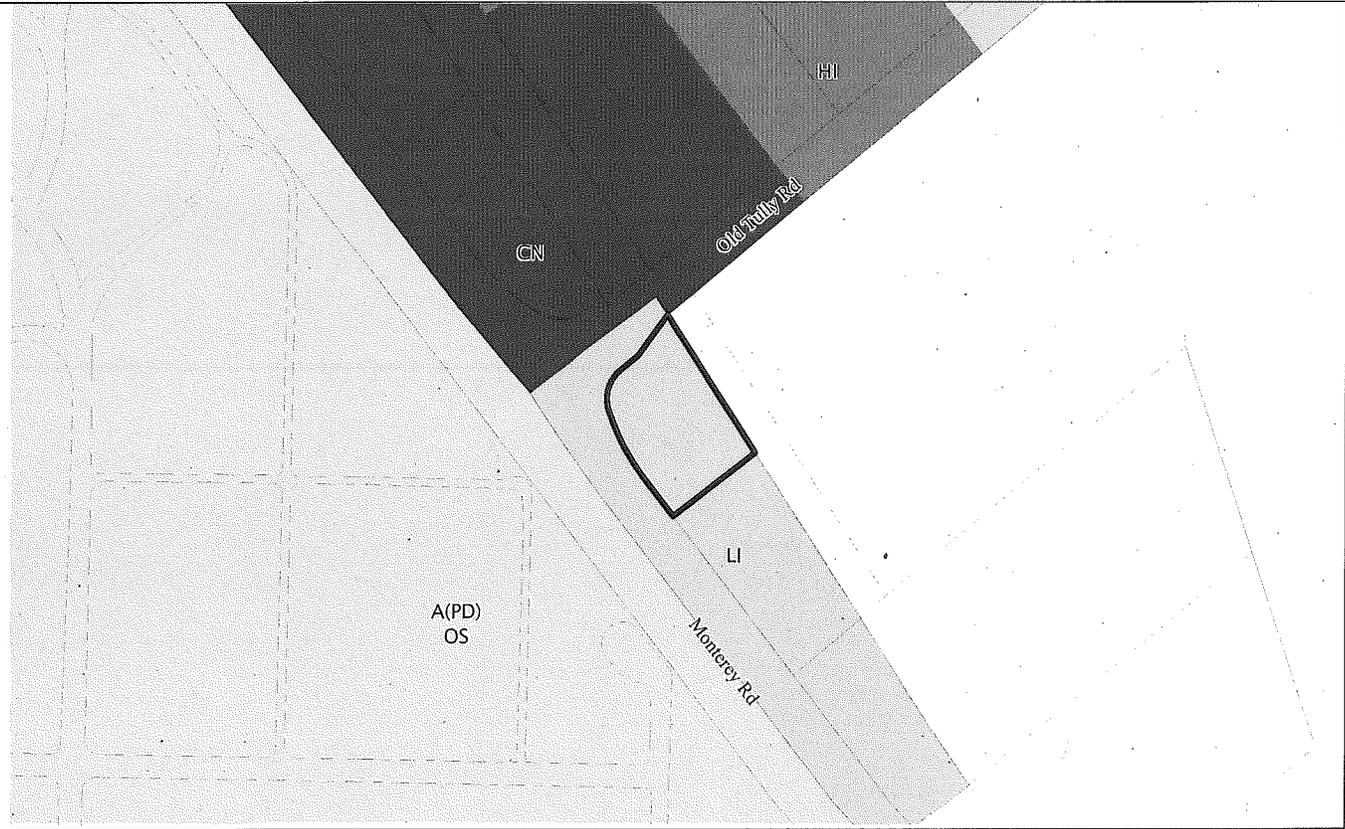
Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends approval of the proposed Rezoning for the following reasons:

1. The proposed rezoning is in conformance with the General Plan Land Use/ Transportation Diagram designation of Public Park and Open Space because the subject property is privately owned and the effective land use designation is that of the adjacent property to the north, which is designated General Commercial.
2. The proposed rezoning would allow commercial uses on this site which are compatible with the existing commercial buildings on the site, and with surrounding commercial and residential uses.

BACKGROUND & DESCRIPTION

On the April 22, 2008, the applicant, Angie Ceraolo, requested a conventional rezoning of the subject property from the LI Light Industrial Zoning District to the CN Commercial Neighborhood Zoning District to allow commercial uses. While this rezoning does not approve a specific development, the applicant has indicated their intent to re-establish a restaurant in the existing, vacant commercial building.

The 0.61 gross-acre site is one parcel and is developed with a restaurant building and an auto repair service in separate buildings. The restaurant, which had been in operation as a legal nonconforming use in the LI Light Industrial Zoning District, lost its legal nonconforming status, as explained below, and is no longer in operation.

The subject property was incorporated into the City of San José on December 5, 1966 and was zoned M-1 Manufacturing Zoning District at the time of annexation, a district that has since been replaced with the LI Light Industrial Zoning District. Prior to January 18, 1971, commercial uses, such as a public eating establishment, were permitted in the M-1 Manufacturing Zoning District. In a Legal Nonconforming Status Letter, dated July 30, 2007, staff determined that the public eating establishment was legally established prior to annexation into the City of San José; however, as the public eating establishment had ceased operation for more than 18 continuous months since 1966, the legal nonconforming status was lost and could not be re-established under the Zoning Code. Staff further determined that the existing commercial building has unpermitted additions, which must be legalized through a permit or removed to comply with the development regulations of the Zoning Ordinance.

The site is rectangular, with approximately 191 feet of frontage along Monterey Road and approximately 119 feet of frontage along Tully Road. A commercial use (a Grocery Outlet) is currently under construction to the north across Old Tully Road, the Santa Clara County Fairground corporation yard to the east, a commercial use to the south, and a cemetery to the west, across Monterey Road.

Any future physical alterations to the site would require a subsequent Site Development or Conditional Use Permit.

GENERAL PLAN CONFORMANCE

The subject site's General Plan Land Use/Transportation Diagram Designation is Public Park and Open Space; however, the site is privately owned. The General Plan states that it is intended that the Public Park and Open Space designation be applied only to lands owned by public agencies or programmed for public acquisition, although facilities and activities developed and operated wholly or partially by concessionaires and other private entities are also considered appropriate under this designation. This designation can also be applied to privately-owned property that is potentially suitable for park development and for which there is a high likelihood that a funding source will be identified to allow the City to purchase the property. Prior to the public purchase of a site designated Public Park and Open Space, the General Plan land use designation of the site is the land use designation of the adjacent property.

Although Old Tully Road immediately abuts the subject site to the north, the General Plan designation of any site is considered to extend to the center line of a public street. The General Plan also provides that any developed parcel of two acres or less is deemed in conformance with the General Plan, and the site is already developed with commercial buildings. The land use designation of the property to the north fronting on Monterey Road is General Commercial, extending to the centerline of Old Tully Road. Therefore, the rezoning of the subject site to CN Commercial Neighborhood conforms to the effective land use designation of General Commercial, which is the land use designation of the "adjacent" site to the north.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR." Resolution Number: 65459. The City of San José 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.

ANALYSIS

If the rezoning from LI Light Industrial to CN Commercial Neighborhood is approved, a commercial use could be re-established in the vacant commercial building and the existing industrial use, an auto repair shop, would be allowed to continue as a legal nonconforming use. Located at the intersection of Monterey Road and Old Tully Road and along VTA bus routes 66 and 68, commercial uses at the subject property will facilitate convenient shopping and easy access to professional services that generate jobs and contribute to the economic base of the City. Future conversion of the existing structures to more appropriate commercial uses would likely include improvements and upgrades to the structures and the entire site.

PUBLIC OUTREACH

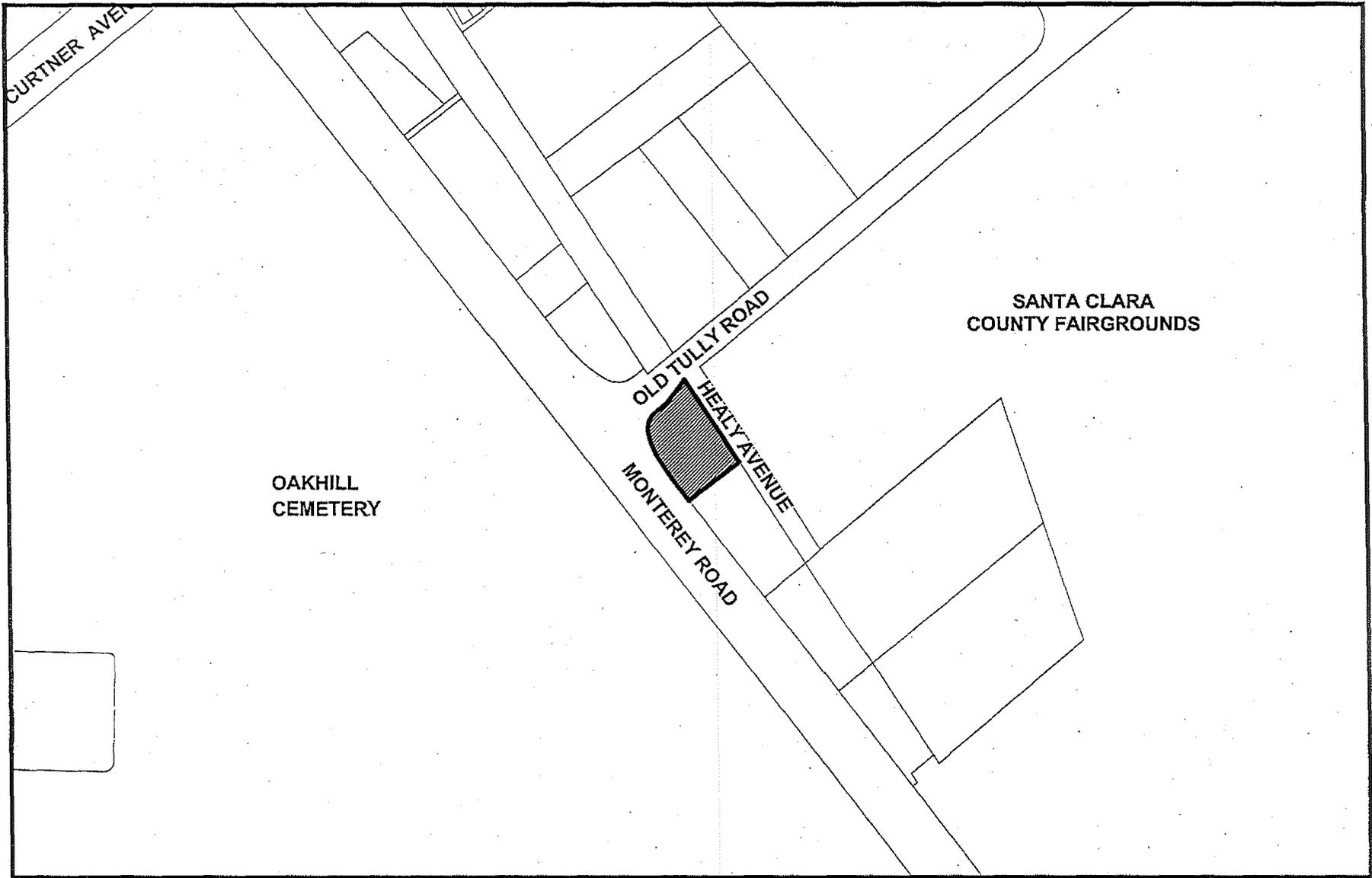
The property owners and occupants within a 500-foot radius were sent public hearing notices for the City Council hearing. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

CONCLUSION

Based on the above analysis, staff concludes that the proposed CN Commercial Neighborhood Zoning District is in conformance with the General Plan for a site development with and adjacent to commercial uses, and designated for commercial uses in the General Plan, and will facilitate improvements and upgrades to the site.

Project Manager: Bill Roth **Approved by:** Susan Walton **Date:** 07/08/2008

Owner	Applicant:	Attachments:
Local Motive Development, LLC 5752 Country Club Parkway San José, CA 95138	Angie Ceraolo 5752 Country Club Parkway San José, CA 95138	Location Map Plans



Approx. Scale: 1" = 300'
Map Created On: 04/22/2008
Noticing Radius: 500 feet

File No: C08-027
District: 7
Quad No: 100