

**STAFF REPORT**  
**CITY COUNCIL**

**FILE NO.: C09-031**

**Submitted: Dec. 21, 2009**

**PROJECT DESCRIPTION:**

Conventional Conforming Rezoning from the R-1-8 Residential Zoning District to the CG Commercial General Zoning District on a 0.17 gross acre site.

Existing Zoning	R-1-8 Single Family
Proposed Zoning	CG Commercial General
General Plan	General Commercial
Council District	7
Annexation Date	August 27, 1984
SNI	Tully-Senter
Historic Resource	No
Redevelopment Area	SNI

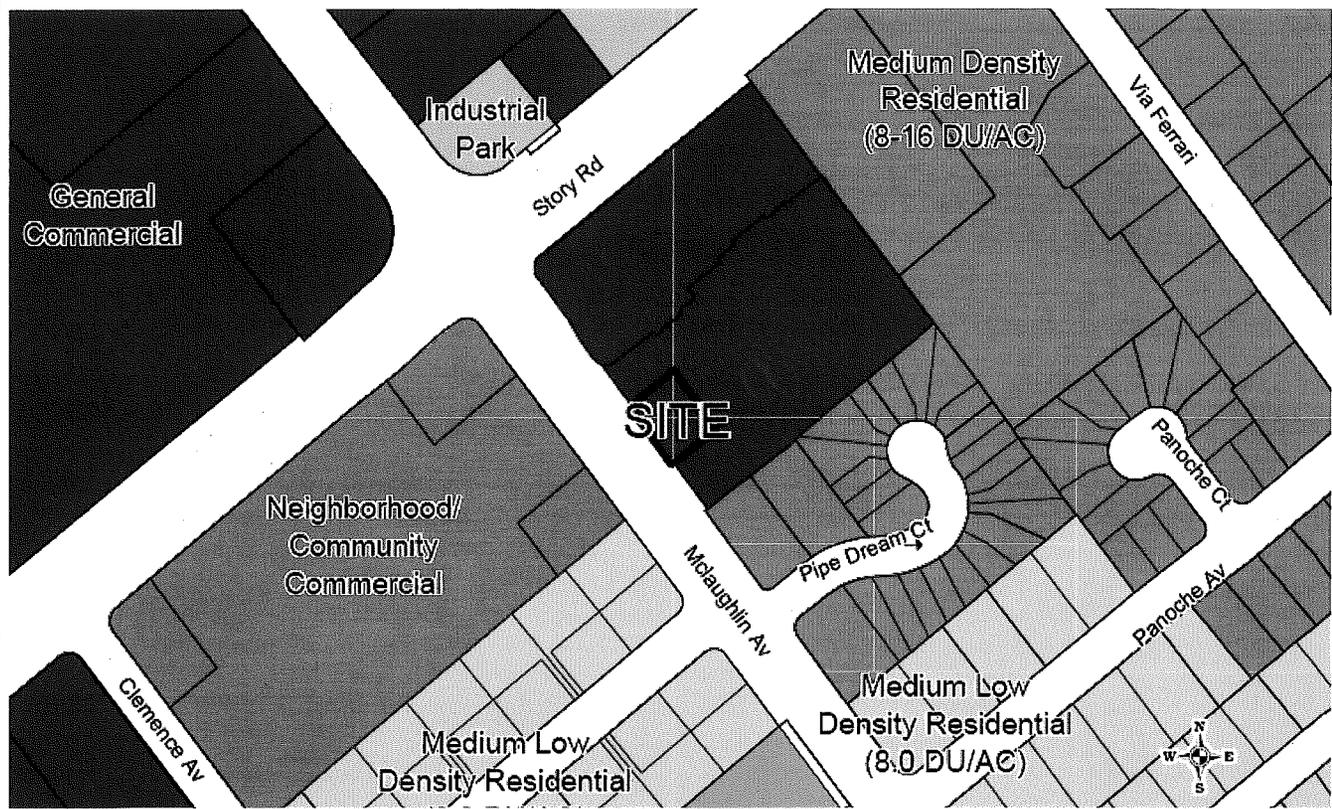
**LOCATION: 1164 McLaughlin Avenue**

**Aerial Map**

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### GENERAL PLAN



### EXISTING ZONING



## **RECOMMENDATION**

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

1. The proposed rezoning is in conformance with the San José 2020 General Plan Goals and Policies and Land Use/Transportation Diagram designation.
2. The proposed rezoning would allow commercial uses on this site that are compatible with the surrounding uses.

## **BACKGROUND & DESCRIPTION**

On November 13, 2009, Elizabeth Vo submitted a Rezoning application to change the zoning of the subject property from the R-1-8 Single Family Residence Zoning District to the CG Commercial General Zoning District, to allow commercial uses in an existing structure. The site is adjacent to a multi-family residential development and across the street from commercial uses on a 0.17 gross acre site. The property is currently developed with a single-family residence. In order to convert the residence to a non-residential use, and should the property be rezoned as proposed, the issuance of a subsequent Special Use Permit is required.

## **ANALYSIS**

As this is an application for a rezoning to allow commercial uses, project analysis included evaluation of conformance with the 1) San Jose 2020 General Plan, 2) Title 20 of the San Jose Municipal Code, and 3) the requirements of the California Environmental Quality Act (CEQA).

### ***General Plan Conformance***

The San Jose 2020 General Plan designation for the site is General Commercial. The proposed rezoning to the CG Commercial General Zoning District would be consistent with the site's General Plan Land Use/Transportation Diagram designation of General Commercial in that this designation supports a variety of commercial uses. Additionally, the rezoning furthers Economic Development Goals and Policies in that the proposed project would result in the creation of new commercial jobs and additional sales tax revenue.

### ***Title 20 Conformance***

The location of the existing building would conform to the setbacks of the CG Commercial General Zoning District because the building is more than 25 feet from the front property line and there is no side or rear setback requirements.

As previously stated, a Special Use Permit will be required for the conversion of the residence to a non-residential use. The review of a Special Use Permit will include review of a parking analysis and zoning conformance for any site modifications. The existing residence is approximately 1,600 square feet, which, as an office use, would require six on-site parking spaces. In order to provide these parking spaces, modifications will be required to the subject property. The application has stated that they are aware that alternations may be necessary in order for the property to conform to Title 20, as well as applicable Building and Fire Codes. There is currently no Special Use Permit on file with the City of San Jose.

***Environmental Review***

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR," Resolution No. 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.

**PUBLIC OUTREACH/INTEREST**

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.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, 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 rezoning was also published in a local newspaper. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

**Project Manager:** Avril Baty      **Approved by:** \_\_\_\_\_/s/ \_\_\_\_\_      **Date:** \_\_\_\_\_

Owner/Applicant: Elizabeth Vo 1164 McLaughlin Avenue San Jose, CA 95111	Attachments:
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