

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
P.C. 01-26-05 Item No. 3.c.
C.C. 02-15-05

File Number
C04-038

Application Type
Conventional Rezoning

Council District 5

Planning Area
Alum Rock

Assessor's Parcel Number(s)
599-37-068

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Mike Mena

Location: North side of McKee Road approximately 380 feet easterly of Toyon Avenue.

Gross Acreage: 4.79

Net Acreage: n/a

Net Density: n/a

Existing Zoning: Unincorporated County

Existing Use: Religious Assembly/ Detached Single Family Residence

Proposed Zoning: R-1-8 Residence District (4.17 acres)
and CP Pedestrian Commercial District (0.62 acres)

Proposed Use: Religious Assembly/ Detached Single Family Residence

GENERAL PLAN

Completed by: MM

Land Use/Transportation Diagram Designation
Public/Quasi-Public and Neighborhood/Community Commercial

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: MM

North: Single Family Attached Dwellings

Planned Development Zoning District and Unincorporated County

East: Single Family Attached and Detached Dwellings

Planned Development Zoning District and Unincorporated County

South: Single Family Dwellings

County

West: Single Family dwelling and Commercial Uses

CP Pedestrian Commercial District and County

ENVIRONMENTAL STATUS

Completed by: MM

Environmental Impact Report Use of 2020 General Plan EIR
 Negative Declaration circulated on _____

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: MM

Annexation Title: Unincorporated

Date:

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions

Date: _____

Approved by: _____
 Action
 Recommendation

OWNER	DEVELOPER	APPLICANT
Foothill Presbyterian Church Attn: Harvey LeValley 5301 McKee Road San Jose, CA 95127	Mr. and Mrs. Reek 5299 McKee Road San Jose, CA 95127	Cal Com Systems, Inc. (Verison) Attn: Timothy Richardson 2001 Omega Road, Suite 201 San Ramon, CA 94583
		Cal Com Systems, Inc. (Verison) Attn: Timothy Richardson 2001 Omega Road, Suite 201 San Ramon, CA 94583

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: MM

Department of Public Works

None received.

Other Departments and Agencies

City of San Jose Fire Department

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

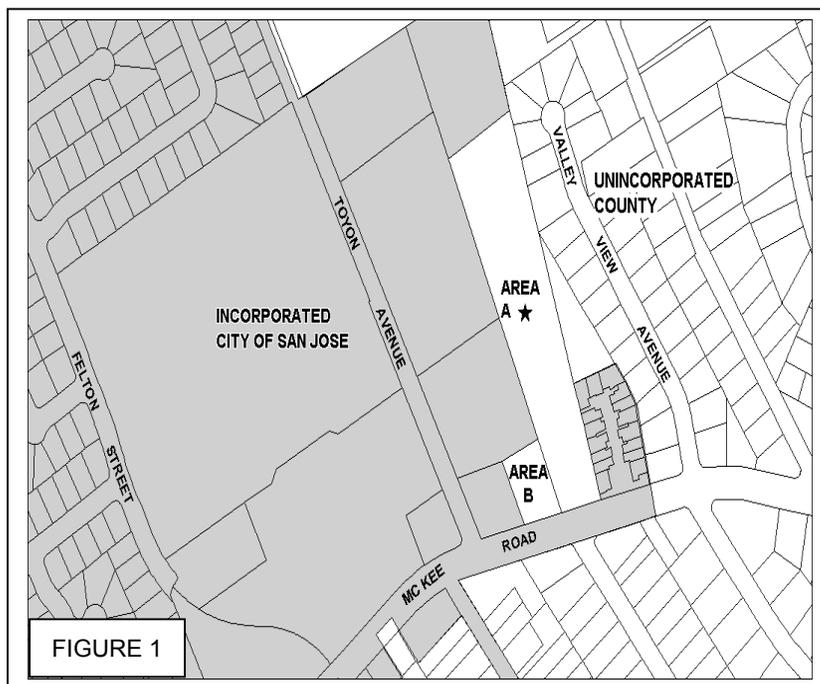
The applicant, Cal Com Systems, Inc. (Verison), is requesting a Conventional Rezoning of a 4.17 gross-acre site from Unincorporated County to R-1-8 Residence District in conjunction with the pending annexation (Area A in Figure 1). Planning staff is additionally proposing that the rezoning include an adjacent 0.62 acre parcel to CP Pedestrian Commercial District (Area B) as part of the pending and associated annexation application (see figure 1). The expanded boundary of the CP Pedestrian Commercial District is necessary to comply with the Local Agency Formation Commission (LAFCO) policy to avoid the creation of an unincorporated "island".

The applicant has expressed interest in the future construction/installation of a wireless communication antenna/monopole on the subject site in conjunction with the existing church.

The site is surrounded by single-family detached residential uses to the north, east and south. An existing single-family residence and commercial uses are located westerly of the subject property. The property is at the easterly edge of the existing City limit line, separated by a single unincorporated property (Area B).

GENERAL PLAN CONFORMANCE

The site is currently developed with a Church/Religious Assembly use and is designated Public/Quasi-Public on the General Plan Land Use/Transportation Diagram. The existing use is allowed under the proposed R-1-8 Residence District and is consistent with this designation. The ultimate annexation of this property furthers the Growth Management Goals and Policies of the General Plan by limiting the incorporation of land to within the City's Greenline/Urban Growth Boundary and Urban Service Area.



The adjacent property to the west of the site, also unincorporated County, is developed with an existing single-family detached residence and is designated Neighborhood/Community Commercial on the General Plan Land Use/Transportation Diagram. The proposed CP Pedestrian Commercial Zoning District for Area B is consistent with the Neighborhood/Community Commercial land use designation. See analysis below for additional discussion regarding General Plan conformance.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and findings were adopted by City Council Resolution No. 65459 on August 16, 1994. The Program EIR was prepared for the comprehensive update and revision of all elements of the City of San Jose General Plan, including an extension of the planning timeframe to the year 2020.

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 no new mitigation measures would be required beyond those contained in the General Plan and Final EIR pursuant to CEQA Guidelines 15162. The proposed Rezoning District are consistent with the existing General Plan Land Use Designations on the San Jose 2020 General Plan Land Use/Transportation Diagram and no new construction is proposed as part of the subject application.

ANALYSIS

AREA A

The proposed rezoning of the easterly 4.17 acre site conforms with the Public/Quasi-Public General Plan land use designation and with the annexation policies of the City of San Jose and LAFCO Policy, in that public/quasi-public uses, such as churches, are quasi-public uses allowed in the R-1-8 Residence District with a discretionary permit. The uses allowed by right in the R-1-8 Residence District are either residential in nature or considered to be compatible with single-family neighborhoods. Other uses may be allowed as an independent use upon the issuance of and in compliance with a Conditional or Special Use Permit (i.e., religious assembly/church uses). This rezoning does not include any approval of physical changes to the existing structures on-site or allow any new construction.

The applicant has expressed interest in constructing/installing a wireless communication antenna (monopole) and associated equipment on the church site. The existing church would remain on site. Any change in use or physical changes to the site will require the appropriate land use permits and environmental clearance and include noticed public hearings.

AREA B

The proposed rezoning and annexation of Area A, necessitates the annexation of the adjacent smaller property to the west, described as Area B. This is in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. (Section 56757) which indicates that any proposal for reorganization/annexation in Santa Clara County must not create "islands" or areas in which it would be difficult to provide municipal services. In this case, the annexation of Area A to the City of San Jose without annexation and rezoning Area B, would result in Area B becoming an unincorporated pocket or island.. Therefore, staff has recommended the inclusion of Area B as part of this proposal.

The annexation and rezoning of Area B to the CP-Pedestrian Commercial Zoning District would result in the existing single-family residence on the property becoming a legal non-conforming use. Pursuant to the City's Zoning Ordinance, legal non-conforming residential uses in a non-residential district are permitted to remain indefinitely. Development standards for such uses shall maintain the minimum side and front setbacks as if it were located in the R-1-8 Residence Zoning District and shall, in addition comply with all other applicable regulations and development standards for lots with a one-family dwelling. Furthermore, any legal non-conforming use may be expanded upon the issuance of and in conformance with a Special Use Permit or Conditional Use Permit.

The CP Pedestrian Commercial Zoning District allows for a variety of pedestrian-oriented commercial activity. Future development of the site would be subject to review by the City through the appropriate permit process. Anything other than modifications to the existing single-family residence would be reviewed for conformance with the development regulations of the CP Commercial Pedestrian zoning district, including setback and height requirements, as well as the Commercial Design Guidelines. A future commercial development would also need to provide parking in accordance with the Zoning Ordinance requirements. Any future conversion from the existing single-family residence to a commercial use consistent with the proposed zoning district will require additional permit and environmental review.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1000 feet of the project site. Staff has been available to discuss the proposal with members of the public.

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 designations of Public/ Quasi-Public and Neighborhood/Community Commercial and will facilitate development that is in conformance with the General Plan.
2. The proposed rezoning is compatible with surrounding land uses.
3. The proposed rezoning will facilitate annexation of the property in conformance with City of San Jose and LAFCO policy.