

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

12/4/07

11.1(b)

File Number

C06-134

Application Type

Conforming Rezoning

Council District

4

Planning Area

Berryessa

Assessor's Parcel Number(s)

245-42-030

STAFF REPORT

PROJECT DESCRIPTION

Completed by: John Davidson

Location: northeast corner of Berryessa Road and Lundy Avenue

Gross Acreage: 0.64

Net Acreage: 0.64

Net Density: N/A

Existing Zoning: CP – Pedestrian Commercial

Existing Use: Gas Station

Proposed Zoning: CN – Neighborhood Commercial

Proposed Use: Gas Station/Mini-mart/Car Wash

GENERAL PLAN

Completed by: JED

Land Use/Transportation Diagram Designation

Neighborhood/Community Commercial

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by:

North: Neighborhood Shopping Center

CP Pedestrian Commercial

East: Neighborhood Shopping Center

CP Pedestrian Commercial

South: Neighborhood Shopping Center and Gas Station

CP Pedestrian Commercial

West: Gas Station and Single Family Housing

A(PD) Planned Development Zoning

ENVIRONMENTAL STATUS

Completed by: JED

Environmental Impact Report found complete

Negative Declaration circulated on

Negative Declaration adopted on

Exempt

Environmental Review Incomplete

FILE HISTORY

Completed by: JED

Annexation Title: Berryessa No. 3

Date: 1/12/65

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

Uphold Director's Decision

Date: November 13, 2007

Approved by: *Susan Walton*

Action

Recommendation

APPLICANT/OWNER/DEVELOPER

Thoung Van Lam
1715 Berryessa Road
San Jose, CA 95133

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: JED

Department of Public Works

See attached memorandum

Other Departments and Agencies

See attached memos

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The property owner, Thoung Van Lam, is requesting a conforming rezoning of the subject 0.64 gross-acre site from the CP Pedestrian Commercial Zoning District to the CN Neighborhood Commercial Zoning District in order to allow a mini-mart and car wash use with a new gas station. The site is currently developed with a gas station.

This rezoning is being submitted directly to Council per Section 20.120.100 of the Zoning Ordinance pertaining to ordinances conforming to the General Plan, as the CN Neighborhood Commercial Zoning District is in conformance with the Neighborhood/Community Commercial General Plan designation. The applicant is requesting the rezoning in order to rebuild their gas station, and add a mini-mart and car wash to the site. The development proposal is also on file with the Department of Planning, Building, and Code Enforcement (Conditional Use Permit File No. CP06-071). A car wash is not permitted in the CP Pedestrian Commercial Zoning District. Off-sale of alcohol is not being proposed at this time.

ENVIRONMENTAL REVIEW

This project was found to be exempt from the California Environmental Quality Act, given that the proposal is for the construction of a relatively small new commercial structure consistent with CEQA Guidelines Section 15303 (c), which covers new construction of small commercial structures.

GENERAL PLAN CONFORMANCE

The site is designated Neighborhood/Community Commercial on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed CN Neighborhood Commercial Zoning District allows neighborhood commercial uses consistent with the Neighborhood/Community Commercial General Plan land use designation.

ANALYSIS

The proposed CN Neighborhood Commercial Zoning District will allow neighborhood commercial uses consistent with the Zoning Code and the existing neighborhood. The proposed rezoning to the CN Neighborhood Commercial Zoning will bring the zoning into conformance with the General Plan and will facilitate implementation of re-development that is consistent with the General Plan Land Use/Transportation Diagram and compatible with surrounding uses.

The current uses and building forms on the site are consistent with the CN Neighborhood Commercial Zoning District, as is the future development proposal currently on file with the Department of Planning, Building, and Code Enforcement. The uses surrounding the site are also commercial uses, with residential development farther away from the corner of Berryessa Road and Lundy Avenue. The General Plan designation for the site is Neighborhood/Community Commercial. The proposed use is the same as the existing use on site, and is therefore not considered a conversion of employment lands.

PUBLIC OUTREACH

A notice of the public hearing was published, posted on the City's web site and distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the proposal with members of the public.

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney.

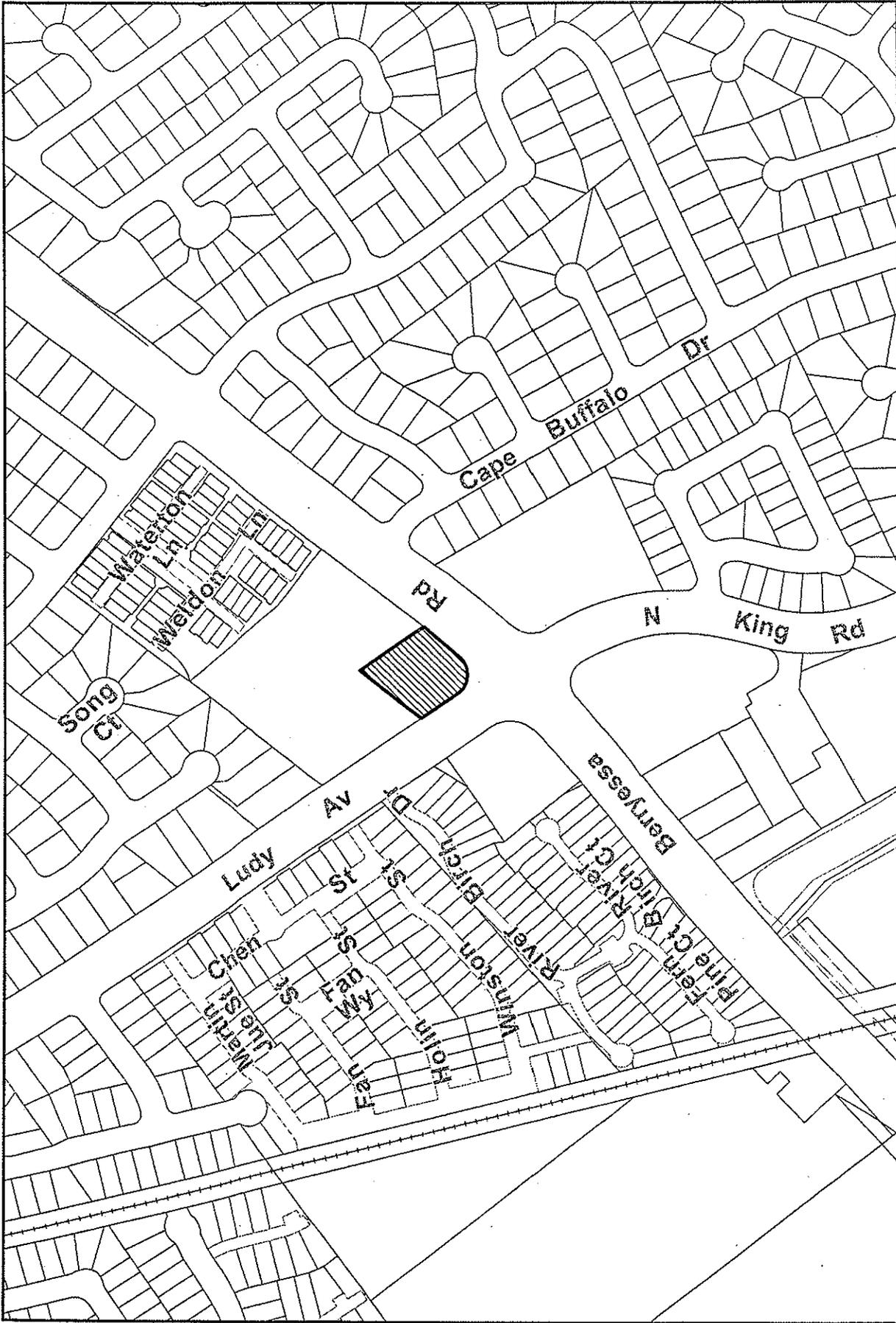
RECOMMENDATION

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

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial.
2. The proposed rezoning will facilitate the re-development of this site with a use that is consistent with the General Plan and compatible with the surrounding uses.

Attachments: Location Maps, Environmental Exemption and memoranda from Public Works, Environmental Services and Fire Departments.

cc: Herman Hairer, RHL Design Group, 1137 N. McDowell Blvd., Petaluma, CA 94594



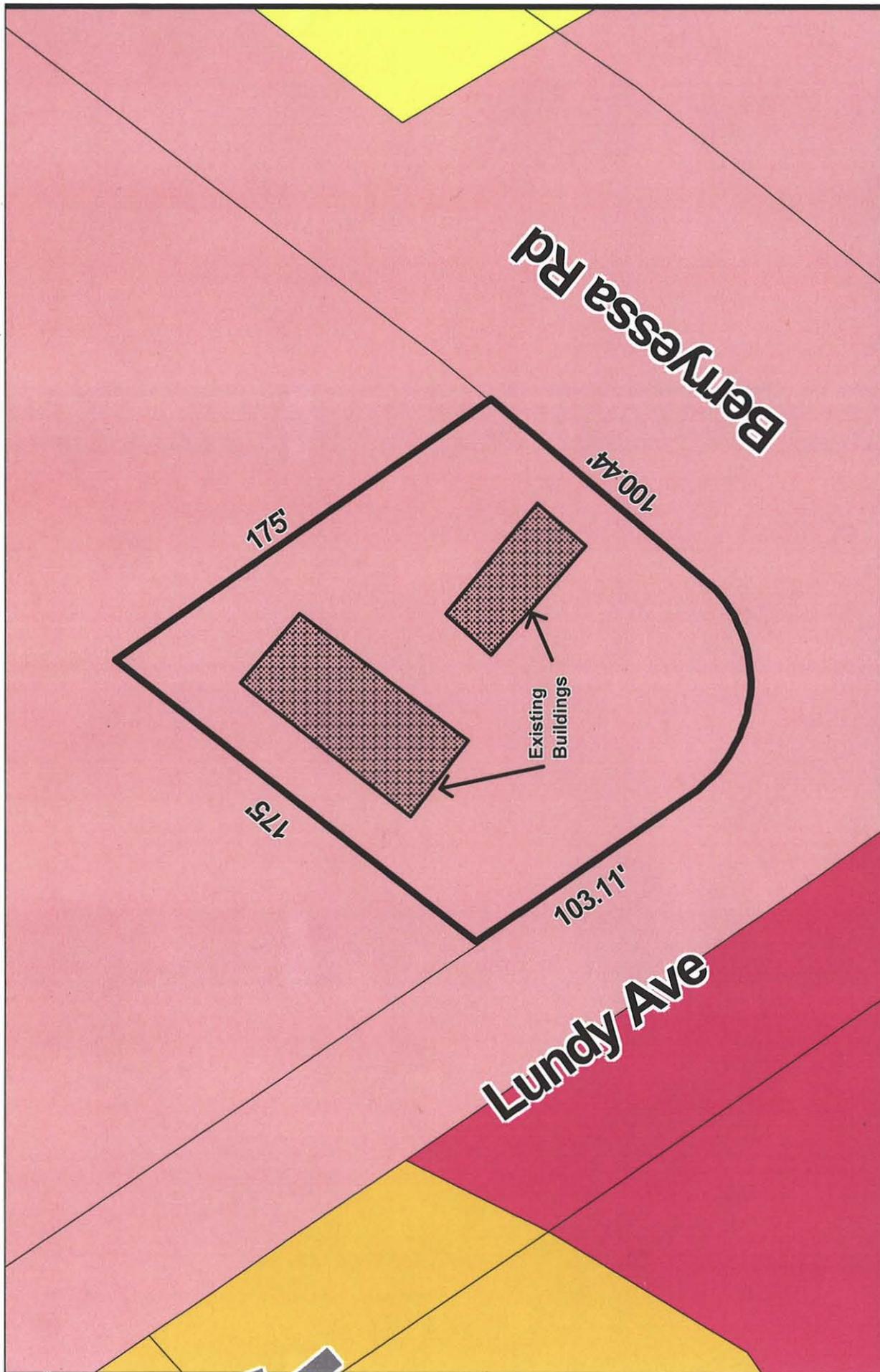
File No: C06-134

Council District: 4

Quad No: 51

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





File No: C06-134

District: 4

Quad No: 51

Exhibit B
Owner: Thoung Van Lam

Scale: 1" = 50'
Noticing Radius: 500 feet



11/09/2007



STATEMENT OF EXEMPTION

FILE NO. C06-134 and CP06-071
LOCATION OF PROPERTY northeast corner of Berryessa Road and Lundy Avenue (1715 BERRYESSA RD)
PROJECT DESCRIPTION Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District and Conditional Use Permit to allow a car wash use and mini-mart at an existing gas station on a 0.64 gross acre site.
ASSESSOR'S PARCEL NUMBER 245-42-030

CERTIFICATION

Under the provisions of Section 15303(c) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 3 consists of the construction and location of limited numbers of new, small facilities. Examples of this exemption include but are not limited to:

A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

Joseph Horwedel, Director
Planning, Building and Code Enforcement


Deputy

Date: November 13, 2007

Project Manager: John Davidson

Memorandum

TO: John Davidson
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 01/30/07

PLANNING NO.: C06-134
DESCRIPTION: Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow car wash use at an existing gas station on a 0.64 gross acre site
LOCATION: northeast corner of Berryessa Road and Lundy Avenue
P.W. NUMBER: 3-01181

Public Works received the subject project on 12/21/06 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
2. **Transportation:** The projected traffic for this project was reviewed and found to be minimal, therefore no further traffic analysis is required.
3. **Grading/Geology:**
 - a) If the proposed project requires any grading activities, a grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - b) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a

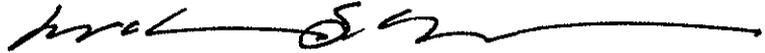
grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.
5. **Flood: Zone X** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for zone X.
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Undergrounding:**
 - a) The In Lieu Undergrounding Fee shall be paid to the City for all frontages adjacent to Berryessa Road and Lundy Avenue prior to issuance of a Public Works clearance. 100 percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)
 - b) The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Berryessa Road and Lundy Avenue. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
8. **Street Improvements:**
 - a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - b) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - c) Reduce driveway ramp along Lundy Avenue near Berryessa Road to 26' width.
 - d) Re-construct handicap ramp at the corner of Berryessa and Lundy Avenue to current City standard.
9. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and based on established criteria, the public improvements associated with this project

have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.

10. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
11. **Street Trees:** Install street trees within public right-of-way along entire project street frontages per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb.

Please contact the Project Engineer, Vivian Tom, at (408) 535- 6819 if you have any questions.



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division



ES:VT:jw

6000_5251815038.DOC



Memorandum

ENVIRONMENTAL SERVICES (ESD)

TO:	Christopher Burton Department of Planning, Building, & Code Enforcement	FROM:	Matt Krupp Environmental Services
SUBJECT:	Response to Development Application	DATE:	Staff Review Agenda January 4, 2007

APPROVED:	DATE:
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PLANNING NO. :	C06-134
LOCATION:	Northeast corner of Berryessa Road and Lundy Avenue
DESCRIPTION:	Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow car wash use at an existing gas station on a 0.64 gross acre site
APN:	24542030

ESD received the subject project and is submitting the following additional conditions and comments. Questions regarding these comments may be directed to the program contact given or to me at (408) 975-2578.

Source Control

Commercial

The proposed development must conform to the City of San Jose (City) industrial waste discharge regulations¹. Any non-domestic wastewater discharge into the sanitary sewer system will require Source Control staff to review and approve the final plans. An Industrial Wastewater Discharge Permit may also be required. Implementation of Best Management Practices (BMPs) adopted by the City for specific commercial groups may also be required.

The inclusion of any of the following commercial uses requires Source Control staff to review and approve the final plans:

¹ In accordance with the San Jose Municipal Code, Chapter 15.14 - Industrial Waste Discharge Regulations

- Restaurant
- Dry Cleaner
- Laundry
- Photoprocessor
- Analytical Lab
- Dentist
- Medical Clinic
- x-ray Clinic
- Pathological Lab

Contact Source Control staff at (408) 945-3000, if you have questions.

Municipal Code 15.10.255 Commercial car washes

No owner, manager or employee of a commercial car wash facility shall use any water to wash, or allow or permit the use of any water to wash, any car, truck, boat, trailer, bus, recreation vehicle, camper or any other vehicle, or any portion thereof, except if such person can demonstrate that such washing is exclusively by one of the following methods:

- A. Use of mechanical automatic car wash facilities utilizing water recycling equipment.
 - B. Use of a bucket and handwashing.
 - C. Use of a hose equipped with an automatic positive self-closing valve.
- (Ord. 24600.)



RECEIVED
JAN 11 2007
CITY OF SAN JOSE
PLANNING DEPARTMENT
Memorandum

DATE: 01/11/07

REVISED

TO: Christopher Burton
FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: C06-134

DESCRIPTION: Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow car wash use at an existing gas station on a 0.64 gross acre site

LOCATION: northeast corner of Berryessa Road and Lundy Avenue

ADDRESS: northeast corner of Berryessa Road and Lundy Avenue (1715 BERRYESSA RD)

FOLDER #: 06 035996 ZN

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.

Fire Apparatus Access and Fire Flow requirements are not impacted by the scope of work.

Nadia Naum-Stoian
Fire Protection Engineer
Bureau of Fire Prevention
Fire Department
(408) 535-7699