



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** May 27, 2008

Approved

*Paul Krutz*

Date

*5/29/08*

**COUNCIL DISTRICT:** 8  
**SNI AREA:** N/A

**SUBJECT: C08-026. Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on a 0.75 gross acre site.**

## RECOMMENDATION

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

1. The proposed rezoning is consistent with the San José 2020 General Plan Land Use/Transportation designation of Neighborhood/Community Commercial.
2. The proposed land use is compatible with existing uses on the adjacent and neighboring properties.

## BACKGROUND & DESCRIPTION

This is a Conforming Rezoning of the subject site from CP Commercial Pedestrian to CN Commercial Neighborhood on a 0.75 gross acre site. The applicant, Alex Gaviola, has initiated this rezoning to allow for the potential to redevelop the existing gas station, including the addition of a car wash on the site. A car wash is not a permitted use in the CP Commercial Pedestrian Zoning District. In the CN Commercial Neighborhood Zoning District, a car wash can be permitted through the Conditional Use process.

The site is surrounded by commercial shopping centers to the west and south, both of which have cross-access with the subject site. Across Aborn Road to the north is another gas station and retail shopping center. To the east, across San Felipe Road, is the Mount Hamilton Grange a private club/community center.

## ANALYSIS

The subject site consists of an existing Valero Gas Station on a parcel of approximately 0.75 gross acres. The existing General Plan land use designation for the entire site is Neighborhood/Community Commercial. A Conditional Use Permit, File No. CP08-032, is currently on file for the car wash and other site related modifications.

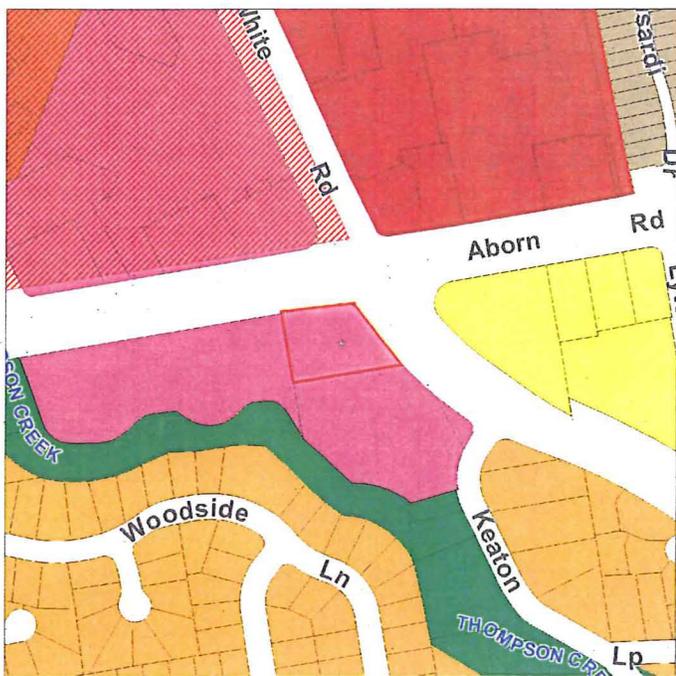
**AERIAL MAP**



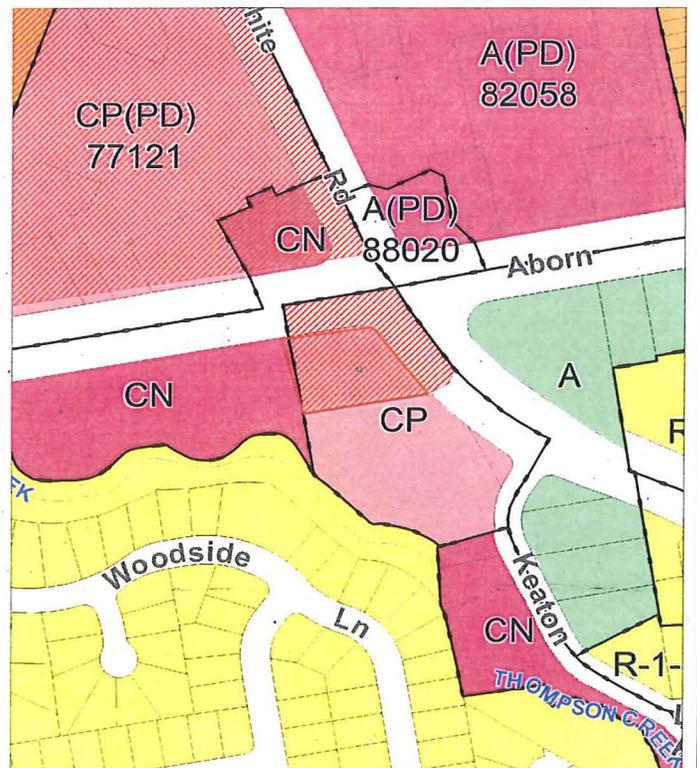
**SITE INFORMATION**

Existing Zoning	CP Commercial Pedestrian
Proposed Zoning	CN Commercial Neighborhood
General Plan	Neighborhood/Community Commercial
Council District	8
Annexation Date	April 22, 1960
SNI	None
Historic Resource	No

**GENERAL PLAN**



**ZONING**



The proposed rezoning to CN Commercial Neighborhood Zoning district for the site will allow implementation of Commercial policies of the *San Jose 2020 General Plan*. The CN Commercial Neighborhood Residential Zoning district is a conforming zoning district to the Neighborhood/Community Commercial General Plan land use designation. As a Conforming Rezoning, this application does not require review or recommendation by the Planning Commission.

#### *Environmental Review*

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

#### *General Plan Conformance*

The site is designated Neighborhood/Community Commercial on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed CN Commercial Neighborhood is consistent with this designation because it would allow commercial uses consistent with the General Plan designation.

### **POLICY ALTERNATIVES**

Not Applicable.

### **PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 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)**
- Criteria 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 sign has been posted on the project site. 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, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### **COORDINATION**

This project was coordinated with the City Attorney.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan goals and policies as further discussed in attached staff report.

**COST SUMMARY/IMPLICATIONS**

Not applicable.

**BUDGET REFERENCE**

Not applicable.

**Project Manager:** Ed Schreiner **Approved by:** Susan Walton **Date:** 5/28/08

<b>Applicant:</b> Alex Gaviola 3303 San Felipe Road San Jose, CA 95135	<b>Attachments:</b> Location map Re-Use of 2020 EIR
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File No: C08-026

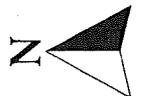
District: 8

Quad No: 101

Approx. Scale: 1" = 300'

Map Created On: 04/08/2008

Noticing Radius: 500 feet



**USE OF A PROGRAM EIR  
 SAN JOSE 2020 GENERAL PLAN FINAL EIR**

Pursuant to Section 15168 of the CEQA Guidelines, the City of San Jose has determined that the project described below is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the San Jose 2020 General Plan and does not involve new significant effects beyond those analyzed in this Final EIR. Therefore, the City of San Jose may take action on the project as being within the scope of the Final EIR.

**PROJECT DESCRIPTION AND LOCATION**

C08-026. Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses for a project located at southwest corner of San Felipe Road and Aborn Road (3303 San Felipe Road) on a 0.75-gross-acre site.

Council District 8.

County Assessor's Parcel Number 676-20-093

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 following impacts were reviewed and found to be adequately considered by the EIR:

Traffic and Circulation	Soils and Geology	Noise
Cultural Resources	Hazardous Materials	Land Use
Urban Services	Air Quality	Aesthetics
Energy	Facilities and Services	Water Quality/Resources
Open Space	Schools	Drainage and Flooding
Vegetation and Wildlife		

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.

Ed Schreiner  
 Project Manager

Joseph Horwedel, Director  
 Planning, Building and Code Enforcement

6/23/08  
 Date  
 Document 7

*Michael...*  
 Deputy