

STAFF REPORT
CITY COUNCIL

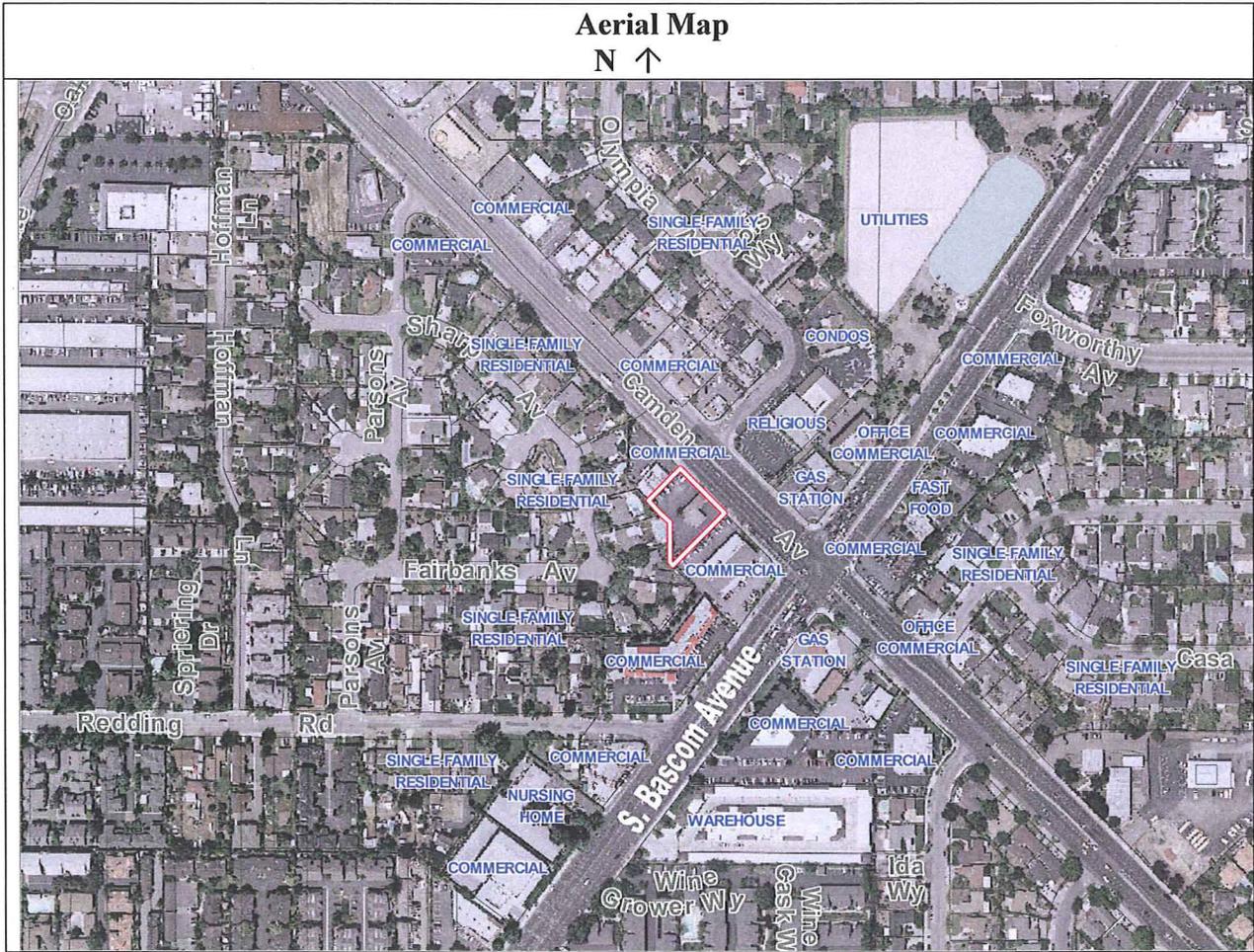
FILE NO.: C09-012

Submitted: 02/24/09

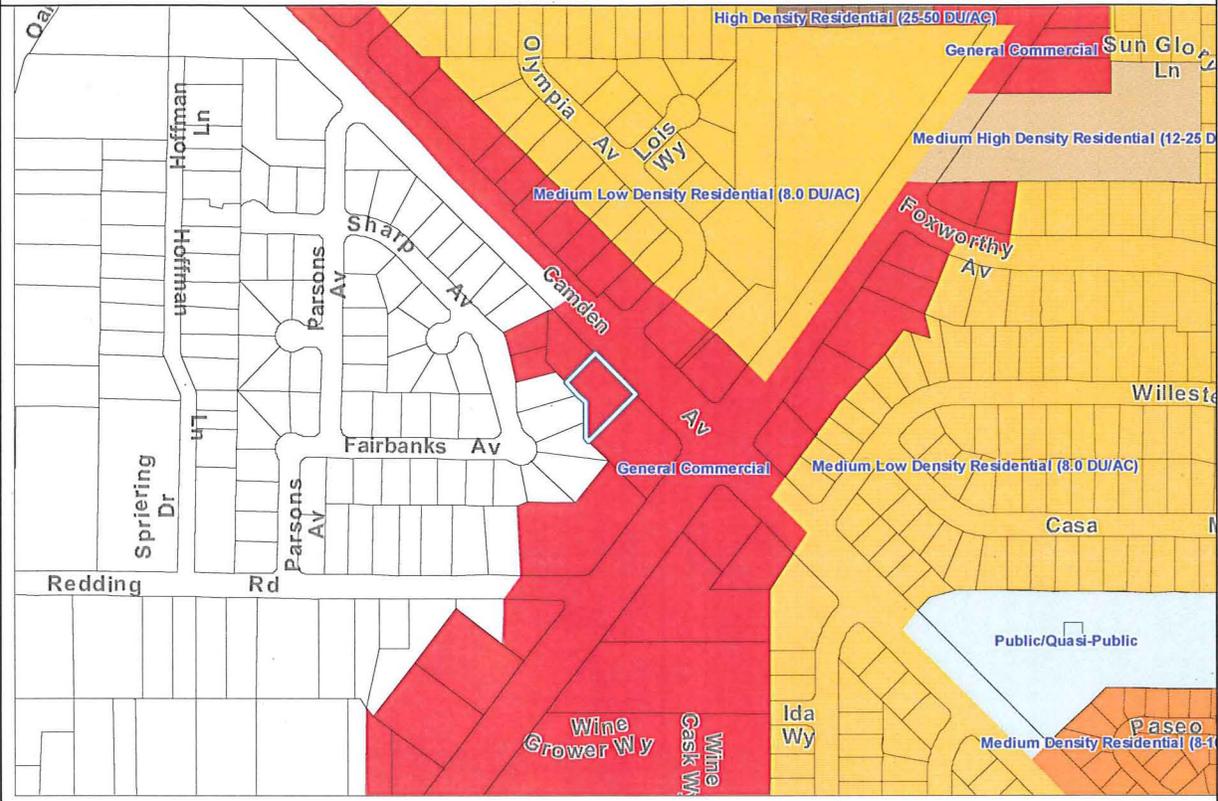
PROJECT DESCRIPTION:
 Conforming rezoning from the CP Commercial Pedestrian to the CN Commercial Neighborhood Zoning District to allow commercial uses on a 0.4 gross acre site.

Existing Zoning	CP Commercial Pedestrian
Proposed Zoning	CN Commercial Neighborhood
General Plan	General Commercial
Council District	9
Annexation Date	06/29/1956
SNI	N/A
Historic Resource	N/A
Redevelopment Area	N/A
Specific Plan	N/A

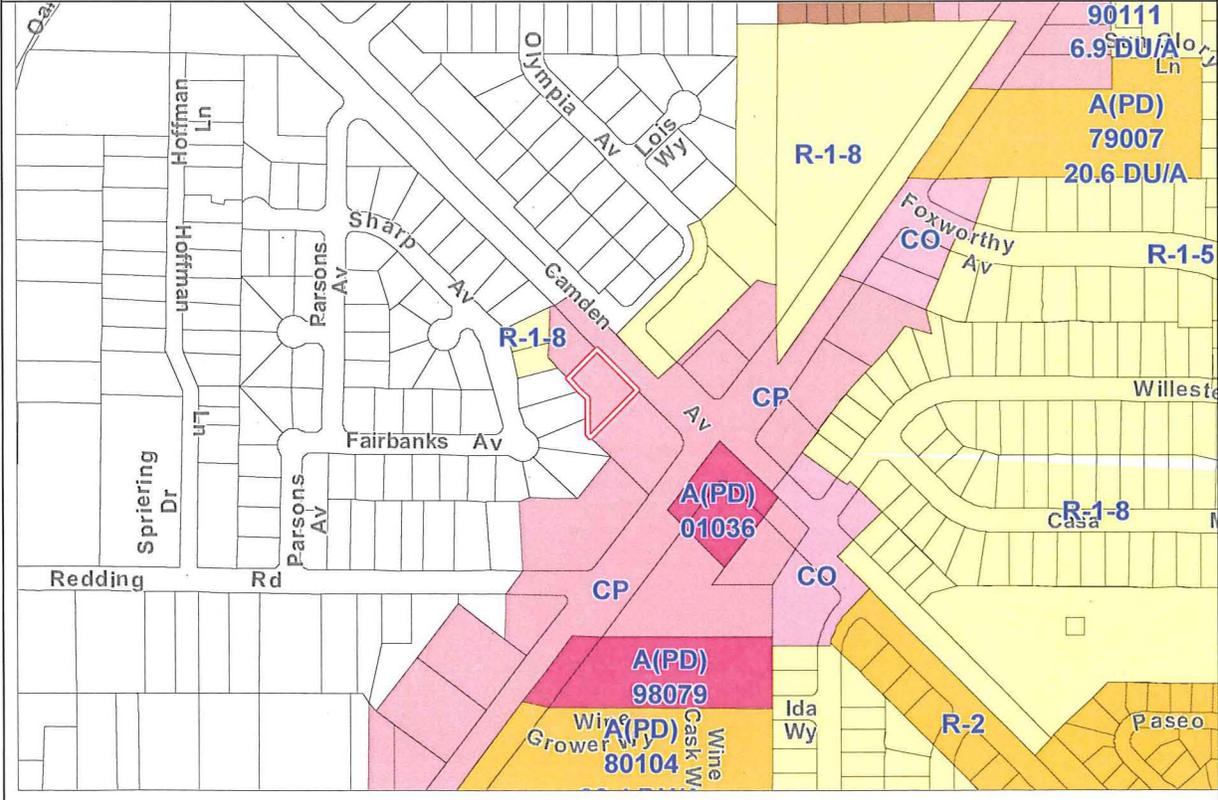
LOCATION: Southwest side of Camden Avenue, approximately 180 feet northwest of S. Bascom Avenue (2270 Camden Avenue)



GENERAL PLAN



ZONING



RECOMMENDATION

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

1. The proposed rezoning is in conformance with the San José 2020 General Plan Land Use/Transportation Diagram's designation of General Commercial given the building type and the uses proposed for the building, and given the uses within the surrounding area.
2. The proposed rezoning would allow commercial uses on this site that are compatible with the surrounding uses.

BACKGROUND & DESCRIPTION

The applicant, Bill Behbahani, on behalf of property owner Akbar and Mary Nazemian, is requesting a conforming rezoning of the subject property from the CP Commercial Pedestrian to the CN Commercial Neighborhood Zoning District to allow commercial uses. The site has approximately 145 feet of frontage along Camden Avenue, and is surrounded by commercial retail in the CP Commercial Pedestrian Zoning District to the north and south, single-family detached residences to the west, and a church to the east.

The 0.4 gross acre site is currently developed with a smog check station, which was constructed in 1962 under the C-1 Commercial Zoning District. The CP Commercial Pedestrian Zoning District replaced the C-1 Commercial District citywide in February 2001. The current CP Commercial Pedestrian Zoning District would require minimal, pedestrian-oriented front setbacks with substantial rear setbacks, and does not allow drive-through and minor vehicle-related repair and installation uses. Rezoning the subject property to the CN Commercial Neighborhood Zoning District would require substantial, suburban front setbacks and minimal rear setbacks, and would allow consideration of drive-through and minor vehicle-related repair and installation uses upon approval of a Conditional Use Permit.

GENERAL PLAN CONFORMANCE

The San José 2020 General Plan designation for the site is General Commercial. The proposed rezoning to the CN Commercial Neighborhood 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.

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.

ANALYSIS

The proposed rezoning to the CN Commercial Neighborhood Zoning District would facilitate commercial uses consistent with the enumerated uses noted in the Zoning Ordinance and General Plan land use designation, including drive-through and minor vehicle-related repair and installation uses. Existing commercial properties along Camden Avenue and S. Bascom Avenue are located in the CP Commercial Pedestrian Zoning District. The proposed rezoning for the subject property would create the only CN Commercial Neighborhood Zoning District within an otherwise larger area of the CP Commercial Pedestrian Zoning District. However, a majority of the existing commercial developments have considerable, suburban front setbacks similar to that of the proposed CN Commercial Neighborhood Zoning District.

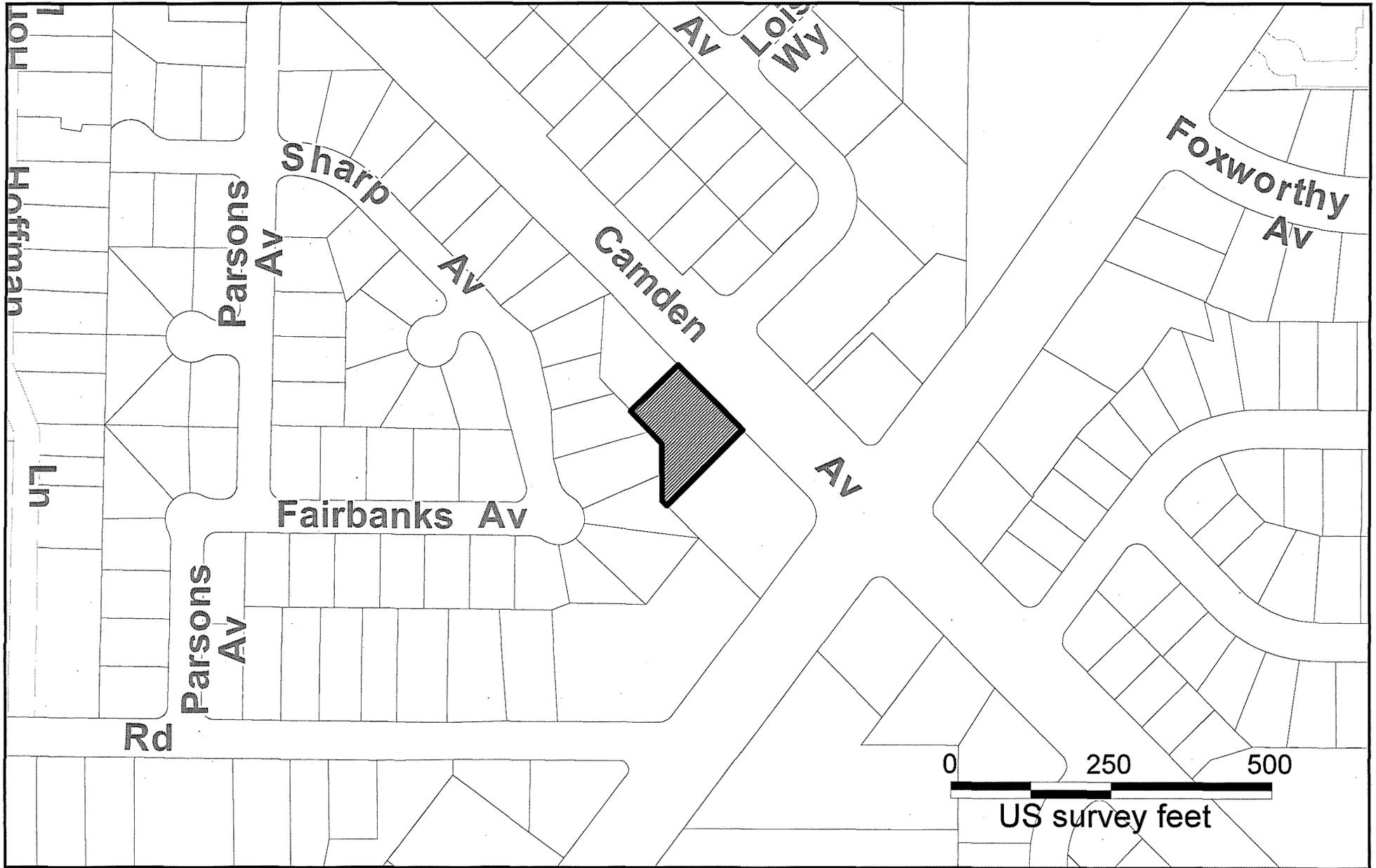
Proposals for permitted and conditional uses will be evaluated at the applicable permit review stage to ensure that the project conforms to City ordinances, policies, and guidelines. Drive-through uses, which are conditional uses in the CN Commercial Neighborhood Zoning District, would be reviewed for conformance with the City Council's Policy on the Criteria for the Review of Drive-Through Uses (Council Policy 6-10). A car wash proposal would not comply with City Council Policy 6-10 in that the policy indicates that new drive-through uses, such as a car wash, should be located at least 200 feet from residential uses in order to limit residents from direct noise impacts. In this particular case, the single-family residential uses are located directly behind the subject property. The rezoning of the subject property to the CN Commercial Neighborhood Zoning District would allow the Planning Commission to consider drive-through via a Conditional Use Permit.

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.

Project Manager: Sylvia Do**Approved by:****Date:** 05-12-09

Owner/Applicant:	Attachments:
Bill Behbahani (applicant) 2270 Camden Avenue Campbell, CA 95008	- Location map - Letter to Councilmember Chirco from Bill Behbahani (applicant) - Letter to Bill Behbahani from City of San José Department of Planning, Building and Code Enforcement.
Akbar Nazemian (owner) 12055 Covina Court Saratoga, CA 95070	- Plans



02/24/2009

Noticing Radius: 500 feet

File No: C09-012

District: 9

Quad No: 113

September 11, 2008

Honorable Judy Chirco
City of San Jose
Council District 9
200 East Santa Clara Street
San Jose, CA 95113

RECEIVED

SEP 18 2008

CITY OF SAN JOSE
DEVELOPMENT SERVICES

Re: Car Wash - 2270 Camden Avenue

Dear Councilmember Chirco:

I write to ask for your assistance and guidance on a land use issue because I feel like I have reached a dead end with City Planning. I have operated my business at its current location for eighteen years. In December of 2006, I decided to add a car wash operation to my business. I hired an architect who is very experienced in the design and construction of car washes around the Bay Area, James M.T. Chao.

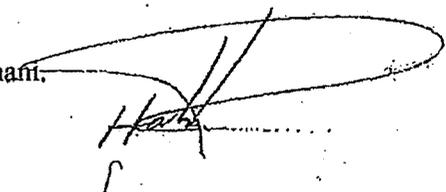
The plan Mr. Chao designed was submitted to Planning for review. His plan was actually reviewed with little comment on the actual design, but Planning determined that my property was not large enough to meet the 200' setback requirement from a residential zone. Planning Staff said they could not support a variance for my car wash and so I write to you.

I have a petition signed by the neighbors that adjoin my property saying they support my application. I have been a good neighbor to them over the years and they are confident that I will construct and operate a car wash in a way that does not disturb the neighborhood. The car wash would be state-of-the-art in controlling noise and recycling water. I am at a loss to understand why Planning would not support an application that would create jobs, generate tax revenue on a commercial property that has had a drive through-type use on it for over 45 years.

I would very much appreciate any thoughts you may have on how I could succeed in improving my little part of Camden Avenue and to provide a service that would be appreciated by a lot of people. Please feel free to contact me at: Smog Doctor, 2270 Camden Avenue, Campbell, CA 95008, 408.559.3127

Sincerely,

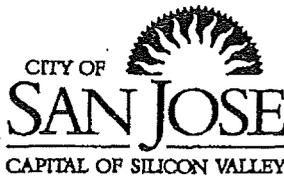
Bill Behbahan.



CC: Joseph Horwedel, Director of Planning
Debra Figone, City Manager
Honorable Chuck Reed, Mayor

W. Tel (408) 559 3127

Bill. BEHBAHANI 6



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

07-016141

September 25, 2008

Bill Behbahani
The Smog Doctor
2270 Camden Avenue
Campbell, CA 95008

RE: Carwash Proposal @ 2270 Camden Avenue (File PRE07-166)

Dear Mr. Behbahani:

Our staff reviewed the preliminary proposal for a new carwash facility that you filed on May 22, 2007. As we previously indicated, there were two basic problems with the proposal. First, the subject property is zoned CP-Commercial Pedestrian, which does not allow carwash facilities. Although a rezoning to change the designation to another zoning district, such as CN-Commercial Neighborhood could most likely be approved, a subsequent Conditional Use Permit would also be required.

Secondly, a carwash proposal would not comply with City Council Policy 6-10 (Drive-Through Uses). An analysis of a proposal's conformance with policies, such as this, occurs as part of the Conditional Use Permit review process. One of the key purposes of the policy is to protect nearby residential uses from noise impacts of drive-through uses, such as carwashes. More specifically, the policy indicates that new drive through uses should be located at least 200 feet from residential uses. In this case there are residential uses located directly behind the subject property. Since the commercial property is small, it would not be possible to place a new carwash on the site in a location that would conform to the City Council Policy. The 200-foot separation recommendation from residential uses generally reflects the distance whereby the mechanical equipment would not likely cause noise impacts that exceed that City's noise standards. For these reasons, staff had indicated that a carwash would probably not be an appropriate use for this site. Other uses, such as retail sales would be a more appropriate alternative.

Although you have indicated that your proposal would include state-of-the art equipment that is relatively quiet, specific noise specifications of your carwash equipment were not provided as part of the preliminary review proposal. In the event that you were to file a formal Conditional Use Permit application that included a noise report, prepared by a qualified consultant, that noted that the due to special considerations with respect to the proposed building orientation/design, hours of operation and proposed quiet equipment

Mr. Bill Behbahani

Re: Carwash Proposal @ 2270 Camden Avenue (File PRE07-166)

September 25, 2008

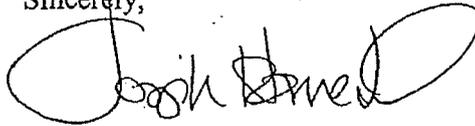
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that a carwash proposal could meet the "intent" of the policy and meet the City's noise standards, staff would be willing to reconsider our position.

By way of history, there was a similar recent proposal in this area for a new carwash facility at the Chevron station at the corner of Bascom and Camden. There was considerable controversy with area residents about potential noise issues. Interestingly, that project site was not directly adjacent to residential uses as is the case with your property.

If you have any questions, feel free to contact Mike Enderby, Senior Planner at (408) 535-7843.

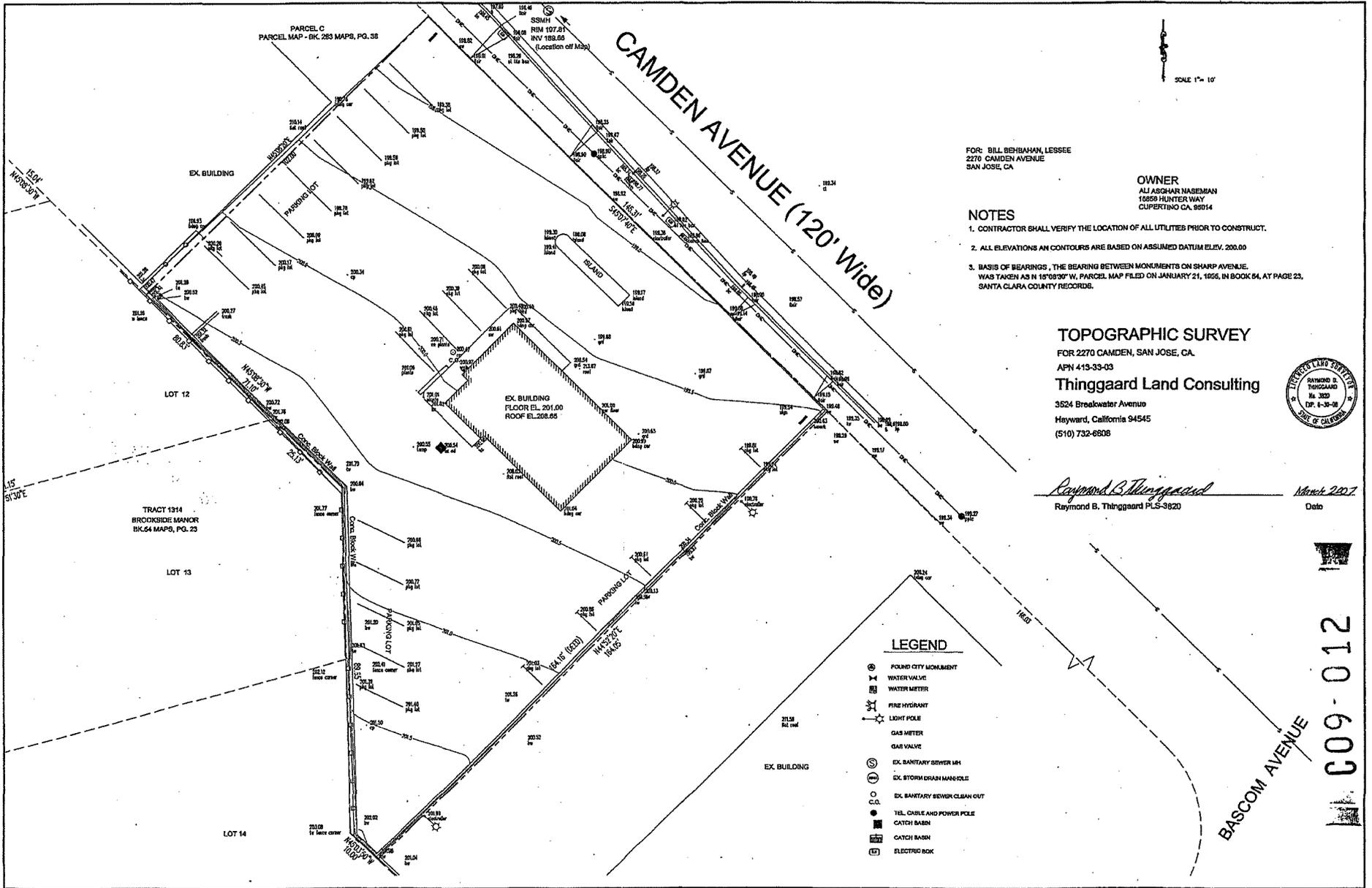
Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Horwedel". The signature is fluid and cursive, with a large initial "J" and "H".

Joseph Horwedel, Director
Planning, Building & Code Enforcement

C: Honorable Mayor Chuck Reed
Honorable Judy Chirco, Council District 9
Debra Figone, City Manager

PRE07-166.ltr



FOR: BILL BEHRAHAN, LESSEE
 2270 CAMDEN AVENUE
 SAN JOSE, CA

OWNER
 ALI ASGHAR NASEMAN
 10856 HUNTER WAY
 CUPERTINO CA, 95014

- NOTES**
1. CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCT.
 2. ALL ELEVATIONS AND CONTOURS ARE BASED ON ASSUMED DATUM EL.EV. 200.00
 3. BASIS OF BEARINGS, THE BEARING BETWEEN MONUMENTS ON SHARP AVENUE WAS TAKEN AS IN 10°08'30" W, PARCEL MAP FILED ON JANUARY 21, 1955, IN BOOK 64, AT PAGE 23, SANTA CLARA COUNTY RECORDS.

TOPOGRAPHIC SURVEY
 FOR 2270 CAMDEN, SAN JOSE, CA.
 APN 413-33-03
Thinggaard Land Consulting
 3524 Breakwater Avenue
 Hayward, California 94545
 (510) 732-6808



Raymond B. Thinggaard
 Raymond B. Thinggaard PLS-3920
 March 2007
 Date

- LEGEND**
- ⊕ FOUND CITY MONUMENT
 - ⊕ WATER VALVE
 - ⊕ WATER METER
 - ⊕ FIRE HYDRANT
 - ⊕ LIGHT POLE
 - ⊕ GAS METER
 - ⊕ GAS VALVE
 - ⊕ EX. SANITARY SEWER IM
 - ⊕ EX. STORM DRAIN MANHOLE
 - ⊕ EX. SANITARY SEWER CLEAN OUT
 - ⊕ TEL. CABLE AND POWER POLE
 - ⊕ CATCH BASIN
 - ⊕ CATCH BASIN
 - ⊕ ELECTRIC BOX

BASCOM AVENUE
 C09-012