

STAFF REPORT
CITY COUNCIL

FILE NO.: C08-044

Submitted: 08/14/08

PROJECT DESCRIPTION: Conforming Rezoning from the CP Commercial Pedestrian District to the CN Commercial Neighborhood District to allow commercial uses on a 0.22 gross acre site.

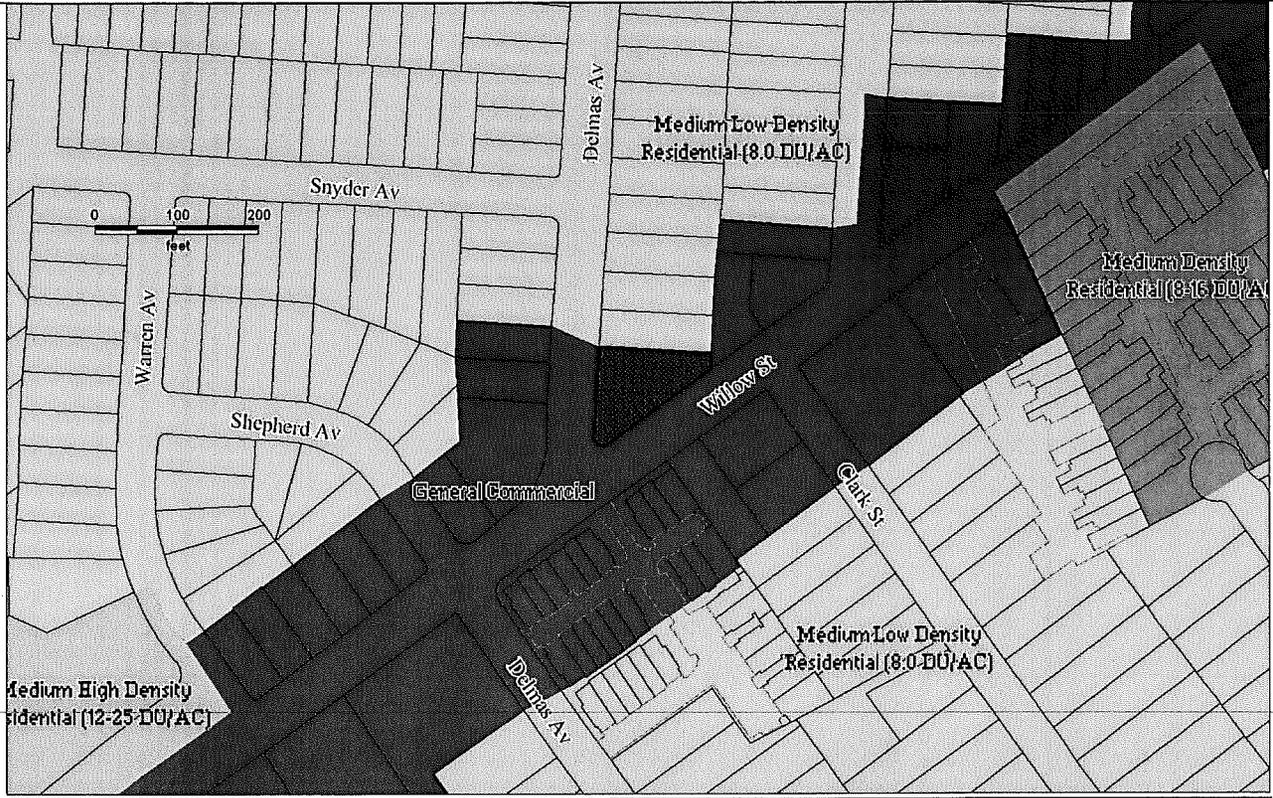
Existing Zoning	CP Commercial Pedestrian
Proposed Zoning	CN Commercial Neighborhood
General Plan	Commercial General
Council District	6
Annexation Date	04/07/1960
SNI	Greater Gardner
Historic Resource	N/A
Redevelopment Area	Yes
Specific Plan	N/A

LOCATION: Northeast corner between Willow Street and Delmas Avenue (661 Willow Street).

Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends approval of the proposed conforming conventional 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 Neighborhood/Community 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, Barton Hechtman, on behalf of the property owner, Bernard De La O, 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 is triangular in shape, with approximately 152 feet of frontage along Willow Street and 105 feet along Delmas Avenue. The site is surrounded by single-family residential uses to the north, multi-family residential and commercial uses to the south, single-family residential uses to the east, and single-family residential and commercial retail uses to the west.

The property owner would like to facilitate the legalization of an existing tire sales and installation store. The current CP Commercial Pedestrian Zoning District does not allow tire retail sales and installation as a permitted use. On April 9, 2008, Planning staff determined that the existing tire retail sales and installation use on the 0.22 gross acre site is not a legal nonconforming use. Rezoning the subject property to the CN Commercial Neighborhood Zoning District would allow tire retail sales by right and would allow tire installation as a permitted use upon the issuance of a Conditional Use Permit. Conditional Use Permit File Number CP08-092 was filed on December 15, 2008 to allow auto tire retail, repair, and installation at an existing commercial building, and to allow site improvements on a 0.23 gross acre site. If the subject conforming rezoning is approved by the City Council, the Conditional Use Permit would then be considered by the Planning Commission.

ANALYSIS

The proposed rezoning to CN Commercial Neighborhood Zoning District would facilitate commercial uses consistent with the enumerated uses noted in the Zoning Ordinance and the Neighborhood/Community Commercial General Plan land use designation.

The proposed rezoning to the CN Commercial Neighborhood Zoning District would facilitate the legalization of the existing tire installation use. The rezoning will allow for tire installation uses on the site with a Conditional Use Permit that would not otherwise be permitted under the existing CP Commercial Pedestrian Zoning District. The recommendation for approval of the subject rezoning does not constitute approval of the tire store use. The review process for the Conditional Use Permit will need to evaluate the site-specific land compatibility issues that would be associated with the applicant's proposed use.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR," Resolution number 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.

GENERAL PLAN CONFORMANCE

The General Plan designation for the site is Neighborhood/Community 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 Neighborhood/Community Commercial in that this designation supports a variety of commercial uses.

PUBLIC OUTREACH/INTEREST

This project was presented at the Greater Gardner Neighborhood Action Coalition (NAC) on October 7, 2009. Members of the Greater Gardner NAC supported the subject conforming rezoning and Conditional Use Permit on file to allow auto tire retail, repair, and installation at an existing commercial building, and to allow site improvements on a 0.23 gross acre site.

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:** 10/26/09

Owner/Applicant: Bernardo De La O (owner) P.O. Box 111843 Campbell, CA 95008 Barton Hechtman (applicant) Matteoni, O'Laughlin, and Hechtman 848 The Alameda San Jose, CA 95126	Attachments: - Location map - Plans
--	--

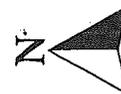


File No: C08-044

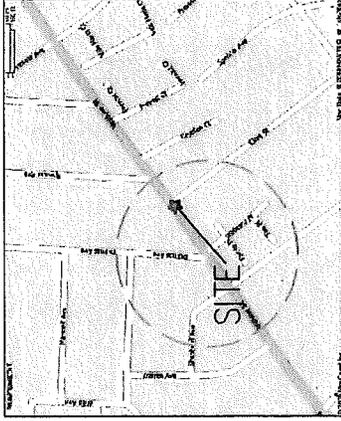
District: 6

Quad No: 99

Scale: 1"= 200'
Noticing Radius: 500 feet



08/14/2008



LEGEND
 ———— PROPERTY LINE
 ———— CENTER LINE

CURVE DATA

MARK	ANGLE	RADIUS	TO	CL
⊙	128° 50' 00"	11.15'	23.92'	25.75'

REFERENCES.
 1. "MAP OF THE SUBDIVISION OF THE MRS. WIENSCHE TRACT"
 2. "P.M. 707-N-42"



LEE ENGINEERS, INC.
 1211 PARK AVENUE, SUITE 112
 SAN ANTONIO, TEXAS 78204 (817)273-3303
 www.leeengineers.com

EXHIBIT B

NO.	DATE	BY	REVISIONS
1			ISSUED FOR PERMITS

OWNER: BERNARDO DE LA O
 (609) 235-3516
 LOCATION: 881 WILLOW STREET
 SAN ANTONIO, TEXAS 78204
 DRAWN BY: J. LEE
 CHECKED BY: M. LEE
 DATE: 5/23/09

DUBRESON MARC & CAROLINE R.
 BASES OF BEARING
 S33°29'41" E 119.65' BK. 107 PG. 43)

WALLACE DAVID B.
 137.50 S87°47'00"E

(E) TIRE SHOP

WILLOW STREET

DELMAS AVENUE



50.00 N2°13'00"E