

STAFF REPORT
PLANNING COMMISSION

FILE NO.: C10-024

Submitted: October 21, 2010

PROJECT DESCRIPTION:

Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses and facilitate the reconstruction of a fast food restaurant and drive-through use on a 0.37 gross acre site.

Zoning	CP Commercial Pedestrian
Proposed Zoning	CN Commercial Neighborhood
General Plan	General Commercial
Council District	6
Annexation Date	September 24, 1954 (Maypark No. 4)
SNI	Burbank/Del Monte
Historic Resource	NA
Redevelopment Area	Burbank/Del Monte SNI
Specific Plan	NA

LOCATION:

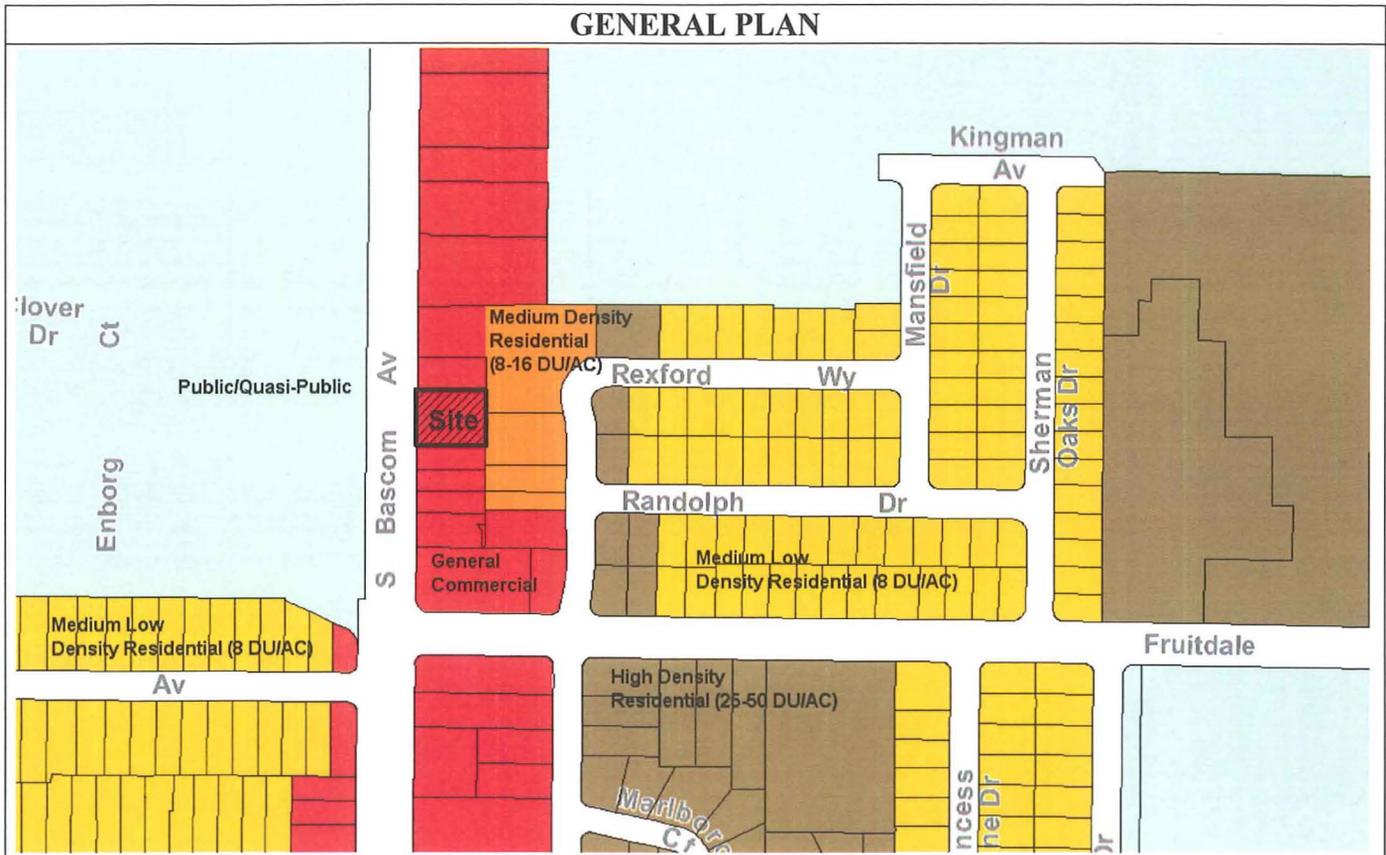
East side of S. Bascom Avenue, approximately 450 feet northerly of Fruitdale Avenue.

Aerial Map

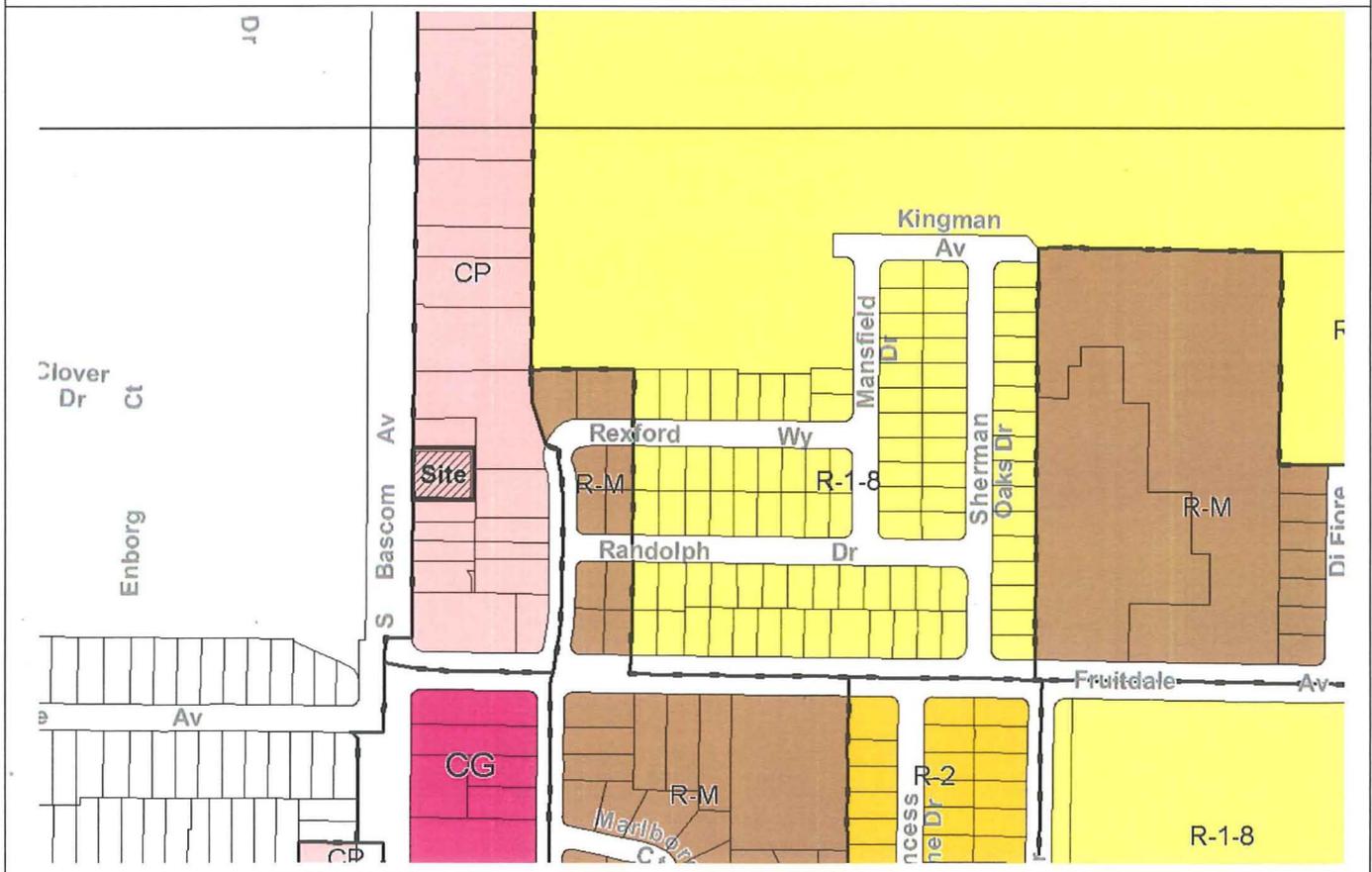
N
8



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the City Council find that the project is in conformance with the California Environmental Quality Act (CEQA) and approve the proposed Conforming Rezoning for the following reasons:

1. The proposed rezoning is in conformance with the San Jose 2020 General Plan Land Use/Transportation Diagram's land use designation of General Commercial for the subject site.
2. The proposed rezoning would allow for commercial uses on the site which is compatible in scale and character with the surrounding uses.

BACKGROUND & DESCRIPTION

On October 21, 2010, Eldrick Alexander of VMI Architecture, on behalf of the applicant, Taco Bell Corp., requested a conforming rezoning of the subject property from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District to facilitate a future drive-through restaurant on the subject site.

An associated Conditional Use Permit application, File No. CP10-060, was filed on a larger 0.79 acre development site to allow for the reconstruction of the existing drive-through restaurant, Taco Bell. A drive-through restaurant is a conditional use in the CN Commercial Neighborhood Zoning District. The existing facility is legal non-conforming and could not be demolished and reconstructed within the existing CP Commercial Pedestrian Zoning District unless the drive-through component was eliminated.

Site and Surrounding Uses

The subject site is flat, developed land that is 0.37 gross acres in size. The site is bounded by a professional office building to the north, a residential neighborhood to the east, commercial uses to the south, and the Santa Clara Valley Medical Center to the west across S. Bascom Avenue.

ANALYSIS

The proposed conforming rezoning was analyzed with respect to conformance with the San Jose 2020 General Plan.

The proposed rezoning of the subject site to the CN Commercial Neighborhood Zoning District conforms to the San Jose 2020 General Plan Land Use/Transportation Diagram's land use designation of General Commercial. The General Commercial land use designation is a non-specialized commercial designation intended to a wide variety of commercial uses. It includes both strip commercial areas along major thoroughfares as well as freestanding commercial establishments. Business and professional office uses are allowed within this category as well.

The subject site is located on a major arterial, S. Bascom Avenue, which is lined with commercial uses along the block in which the site is located. The proposed CN Commercial Neighborhood Zoning District is intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. Therefore, the CN Commercial Neighborhood Zoning District is an appropriate district on the subject site as it is consistent with the General Plan General Commercial land use designation because the major arterial street is lined with commercial uses.

If the subject rezoning is approved, the pending Conditional Use Permit could move forward for consideration by the Planning Commission. Staff has been working with the applicant to ensure that the subsequent development proposal will conform to the development standards of the CN District and City Council Policy 6-10: Drive-Through Uses.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to Section 15168 of the CEQA Guidelines, the City of San Jose has determined that the proposed rezoning is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the San Jose 2020 General Plan, which 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, and does not involve new significant effects beyond those analyzed in this Final EIR.

The proposed conforming rezoning, is not in an environmentally sensitive area, is less than 10,000 square feet, and is in conformance with its San Jose 2020 General Plan Land Use/Transportation Diagram land use designation. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

PUBLIC OUTREACH/INTEREST

In addition to the community meeting, the property owners and occupants within a 500-foot radius were sent public hearing notices for the Planning Commission and City Council hearings. 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: Lesley Xavier **Approved by:** _____ /s/ _____ **Date:** _____

Owner/Applicant:	Attachments:
<u>Owner:</u> Jetco Properties, LLC P.O. Box 35370 Luisville, KY 40232-5370 <u>Applicant:</u> Taco Bell Corp. 1 Glen Bell Way MD 534 Irvine, CA 92618	



File No: C10-024

District: 6

LOCATION



Prepared by the Department of Planning,
 Building and Code Enforcement
 11/01/2010