

**STAFF REPORT**

**FILE NO.:** C12-002

**Submitted:** January 12, 2012

**PROJECT DESCRIPTION:**

Conforming Rezoning from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses and facilitate the reconstruction and expansion of a fast-food restaurant and drive-through use on an approximately 0.72-acre site.

**LOCATION:**

The northeast corner of South Bascom Avenue and Fruitdale Avenue (898 South Bascom Avenue).

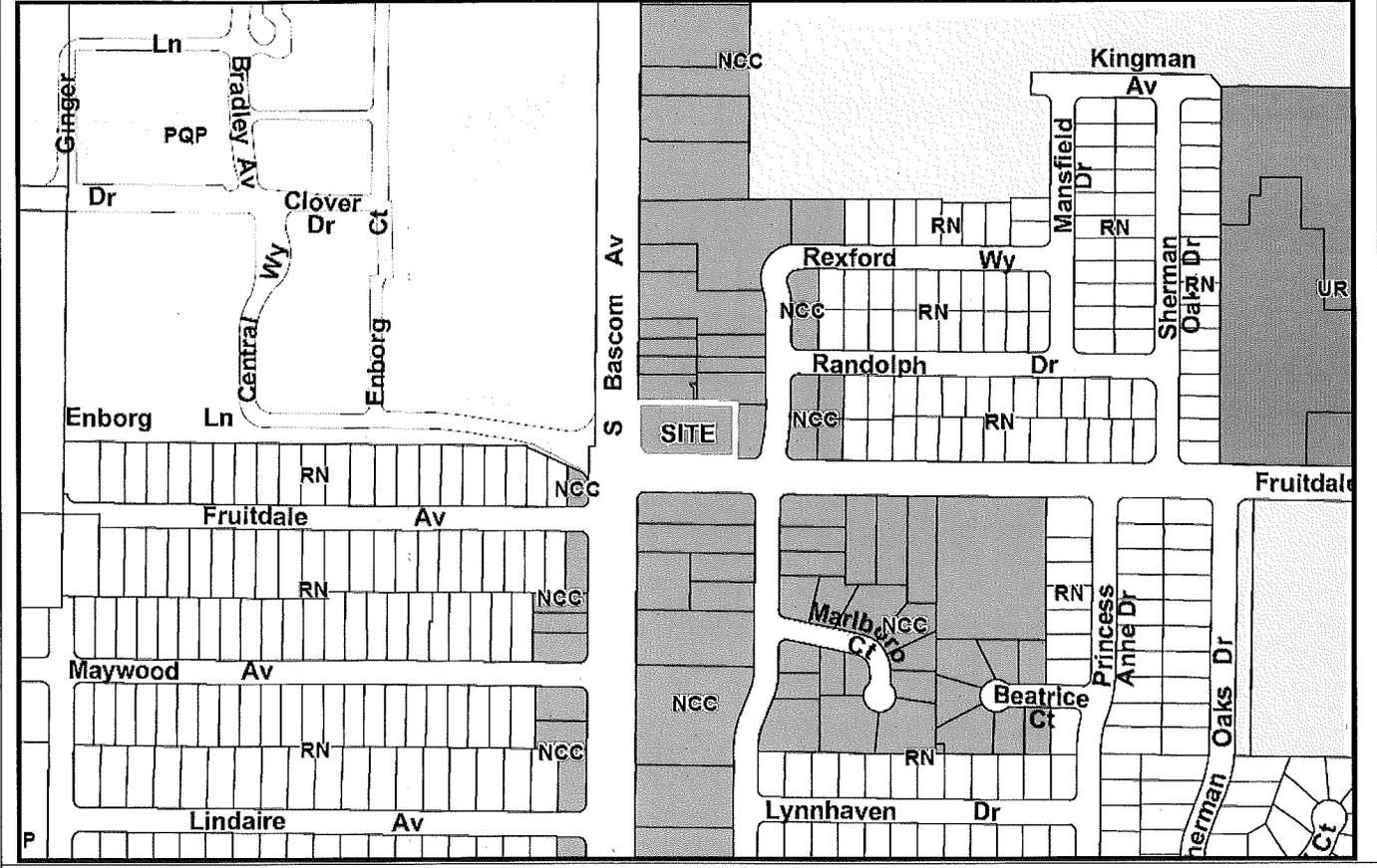
Zoning	CP Commercial Pedestrian
Proposed Zoning	CN Commercial Neighborhood
General Plan	Neighborhood/Community Commercial within South Bascom Avenue North Urban Village
Council District	6
Annexation Date	September 24, 1954 (Maypark No. 4)
SNI	Burbank/Del Monte
Historic Resource	NA
Redevelopment Area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

**Aerial Map**

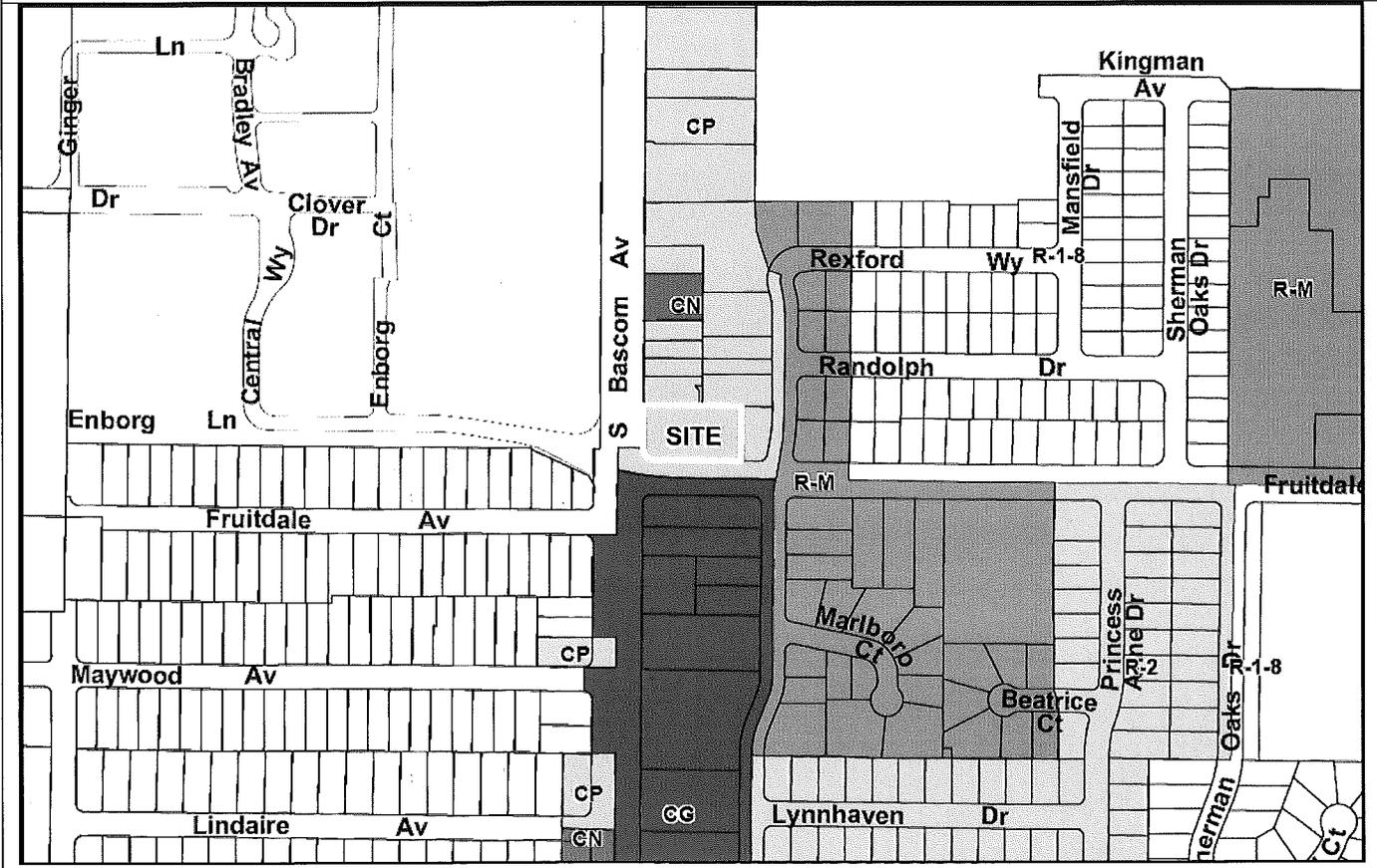
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### GENERAL PLAN



### 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 Conventional Conforming Rezoning for the following reasons:

1. The proposed project is consistent with several of the Envision San José 2040 General Plan Major Strategies, Goals, and Policies related to economic development, fiscal sustainability, and commercial land uses, specifically:
  - a. The project conforms to the land use designation of Neighborhood/Community Commercial within a Commercial Center Urban Village (the South Bascom Avenue North Urban Village).
  - b. The proposed project supports the intent of Envision San José 2040 General Plan Policies for a Diverse and Innovative Economy for business growth and retention in San José and to address the need to provide broad economic prosperity by creating revenue growth for the City that enables the delivery of needed infrastructure and urban services.
2. The proposed rezoning would allow for consideration of drive-through uses as conditional uses on the site that are compatible in scale and character with the surrounding uses.

## **BACKGROUND AND DESCRIPTION**

On January 12, 2012, McDonald's USA LLC requested a conforming rezoning of the subject property from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District to facilitate future reconstruction and expansion of a drive-through restaurant (McDonald's) on the subject site.

An associated Conditional Use Permit application, File No. CP12-002, was filed for the 0.72-acre site to allow for the reconstruction and expansion of the existing drive-through restaurant. 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, reconstructed, and expanded within the existing CP Commercial Pedestrian Zoning District unless the drive-through component is eliminated.

### **Site and Surrounding Uses**

The subject site is flat, developed land that is 0.72 gross acres in size. The site is bounded by commercial and residential uses, including a tax preparation services office, a trucking school, and a residence to the north, a commercial retail use (Fruitdale Liquors) and a residential neighborhood to the east, commercial uses to the south, and the Santa Clara Valley Medical Center to the west across South Bascom Avenue.

## **ANALYSIS**

The proposed project, as recommended by staff, is consistent with the Land Use/Transportation diagram designation on the site and several of the Envision San José 2040 General Plan Major Strategies, Goals, and Policies related to economic development, fiscal sustainability, and commercial land uses, including but not limited to the following:

- a. The project conforms to the land use designation of Neighborhood/Community Commercial within a Commercial Center Urban Village. Commercial Centers are generally located in areas with a high degree of accessibility that are advantageous for intensified commercial development. Urban Villages are intended to accommodate commercial development and uses prior to the adoption of an Urban Village Plan for the area.

- b. The project supports maximizing fiscal resources through Envision San José 2040 General Plan Fiscal Sustainability Action 2.8, which encourages the City to work with existing businesses operating within San José to ensure that San José is designated as the point of sale for all taxable transactions. The subject site already contains McDonald's and the chain is proposing to rebuild and expand the use on the subject site upon issuance of an associated Conditional Use Permit for the drive-through use if the rezoning is approved.
- c. The Project supports Commercial Land Use Goal LU-4 – to establish commercial uses that maximize revenue to the City to achieve fiscal sustainability.

The subject site is located on the corner of two major arterials, South Bascom Avenue, which is lined with commercial uses along the block in which the site is located, and Fruitdale Avenue. 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 for the subject site as it is consistent with the General Plan Neighborhood/Community Commercial land use designation because the major arterial street is lined with commercial uses.

The rezoning allows the associated Conditional Use Permit application to be considered, which proposes to demolish the existing drive-through building on the site and rebuild and expand it with new better designed architecture and public-serving amenities.

If the subject rezoning is approved, the pending Conditional Use Permit could move forward for consideration by the Planning Commission. Staff is working with the applicant to ensure that the subsequent development proposal will conform to the development standards of the CN-Commercial Neighborhood 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 José has determined that the project is in furtherance of the Final Environmental Impact Report (EIR) for the Envision San José 2040 General Plan entitled, "Envision San José 2040 General Plan," and findings were adopted by City Council Resolution No. 76041 on November 1, 2011. The project does not involve new significant effects beyond those analyzed in this Final EIR. Therefore, the City of San José may take action on the project as being within the scope of the Final EIR.

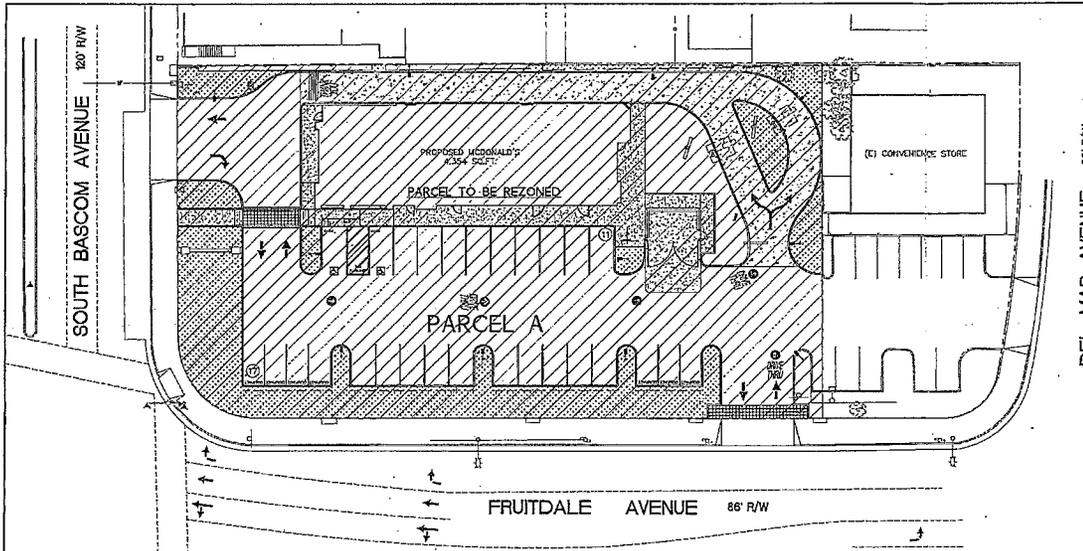
**PUBLIC OUTREACH/INTEREST**

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:** Jenny Nusbaum      **Approved by:** /s/ Laurel Prevetti      **Date:** 04-11-12

<b>Owner/Applicant:</b> Efrain Corona McDonald's USA, LLC 2999 Oak Road, Suite 900 Walnut Creek, CA 94597	<b>Attachments:</b> Exhibit "B" Legal Description
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# EXHIBIT B



### LEGAL DESCRIPTION

ALL THAT CERTAIN PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA BEING ALL OF PARCEL ONE, AS SHOWN ON THE PARCEL MAP FILED FOR RECORD IN BOOK 611 OF PARCEL MAPS, PAGES 44 AND 45, SANTA CLARA COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL ONE, SAID POINT BEING IN THE EASTERLY RIGHT OF WAY OF SOUTH BASCOM AVENUE, THENCE LEAVING SAID RIGHT OF WAY AND RUNNING ALONG THE NORTH LINE OF SAID PARCEL ONE SOUTH 84° 22' 54" EAST, 142.71 FEET, THENCE SOUTH 84° 14' 10" EAST, 89.45 FEET, THENCE LEAVING SAID NORTHERLY LINE AND RUNNING SOUTH 00° 49' 50" WEST, 192.42 FEET TO THE NORTHERLY RIGHT OF WAY OF FRUITDALE AVENUE, THENCE ALONG SAID LINE NORTH 84° 14' 10" WEST, 207.64 FEET TO A TANGENT 30.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, THENCE 46.41 FEET NORTHEASTERLY ALONG AN ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 84° 42' 31" TO SAID EASTERLY RIGHT OF WAY OF SOUTH BASCOM AVENUE, THENCE ALONG SAID LINE NORTH 00° 29' 21" EAST, 101.80 FEET TO THE POINT OF BEGINNING.

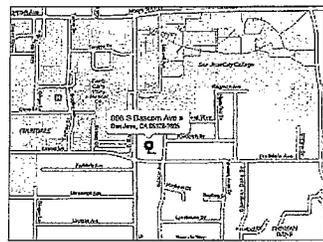
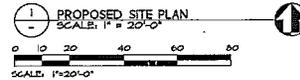
### PARCEL B:

AN EASEMENT FOR PARKING, INGRESS AND EGRESS AND LANDSCAPE MAINTENANCE PURPOSES AS SET FORTH IN THE OWNERS STATEMENT SHOWN ON THE PARCEL MAP FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON AUGUST 28, 1990 IN BOOK 611 OF MAPS, PAGE(S) 44 AND 45

APN: 282-42-042

### SITE INFORMATION

EXISTING USE:	RESTAURANT
PROPOSED USE:	4,984 S.F. RESTAURANT
ZONE:	CP
HOURS OF OPERATION:	LOBBY: 5:00am - 1:00am DRIVE THRU: 24 HOURS
APN:	282-42-042 (PARCEL 'A')
ACRE:	.72 ACRE
SITE AREA:	3,248 S.F.
EXISTING LANDSCAPE:	7866 S.F.
PROPOSED LANDSCAPE:	7804 S.F.
LANDSCAPE %:	28.4%
BUILDING %:	19.6%
PALKS AND PATIOS %:	10.6%
DRIVEWAYS AND PARKING %:	52.4%
9' X 18' PARKING STALLS:	9 STALLS
9' X 15' PARKING STALLS: 1/2 FT OVERHANGS	10 STALLS
COMPACT PARKING PROVIDED:	7 STALLS
H.C. PARKING PROVIDED:	2 STALLS
TOTAL PARKING PROVIDED:	28 STALLS
PARKING STALL REQUIRED:	28 STALLS
28 STALLS @ 11.25 SEATS = 315 SEATS MAXIMUM.	
PARKING BASED ON 1:40 S.F. FOR DINING ROOM AREA OR 11.25 SEATS WHICH EVER IS GREATER.	



VICINITY MAP



CONSULTANT

**McDonald's USA LLC**

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### REVISIONS

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DRAWING TITLE  
**PROPOSED SITE PLAN**

PROJECT NO.	DATE
1117	11-09-11
FILE NO.	
SUBJECT	
DRAWN BY	1
CHECKED BY	
MEM	

STORE #004-0182

C12-002

888 SOUTH BASCOM AVENUE, SAN JOSE, CA. 95128

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