

**STAFF REPORT**

**CITY COUNCIL**

**FILE NO.: C12-008**

**Submitted: April 3, 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 of a fast food restaurant and drive-through use on a 0.73 gross acre site.

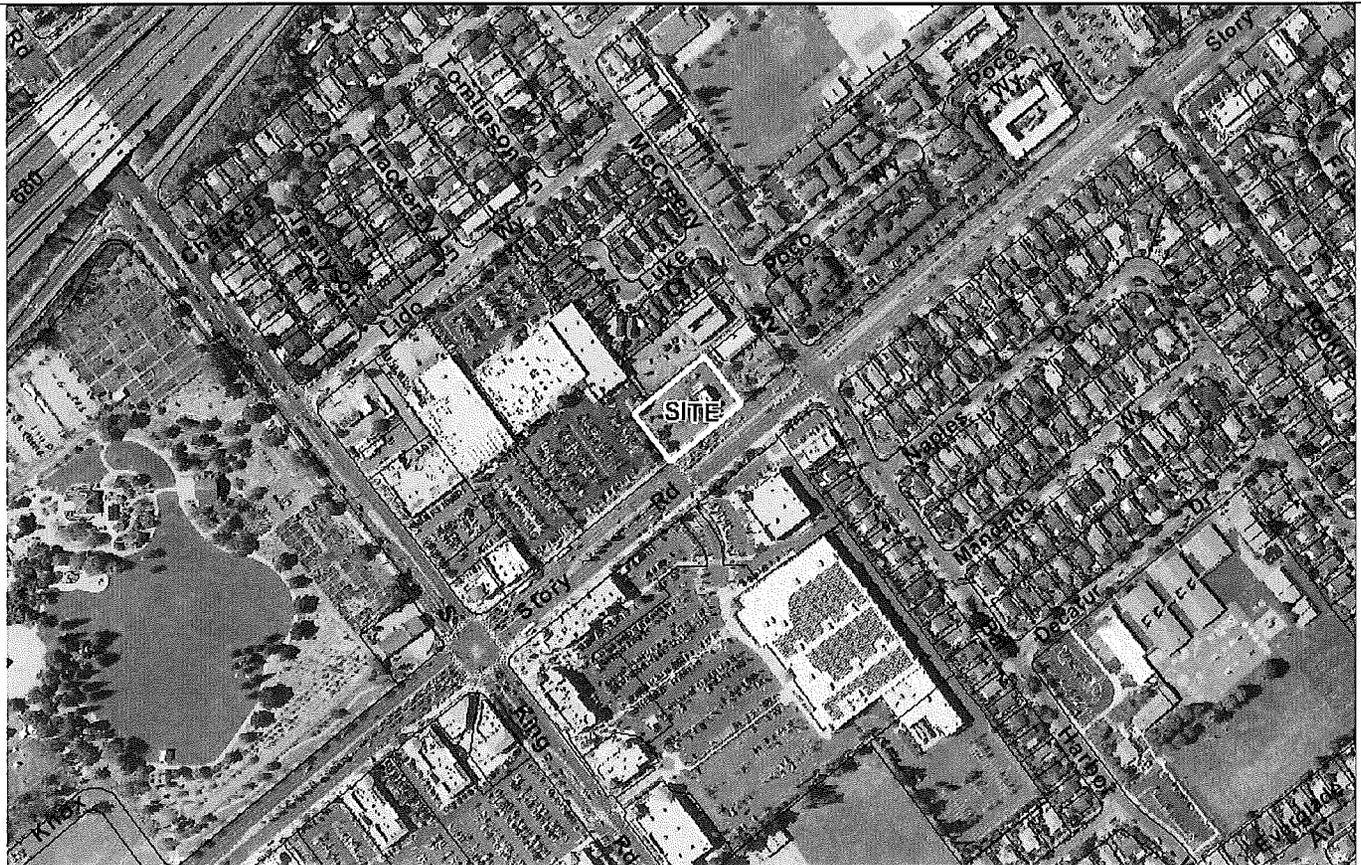
**LOCATION:**

North side of Story Road, approximately 150 feet westerly of McCreery Avenue (1841 Story Road)

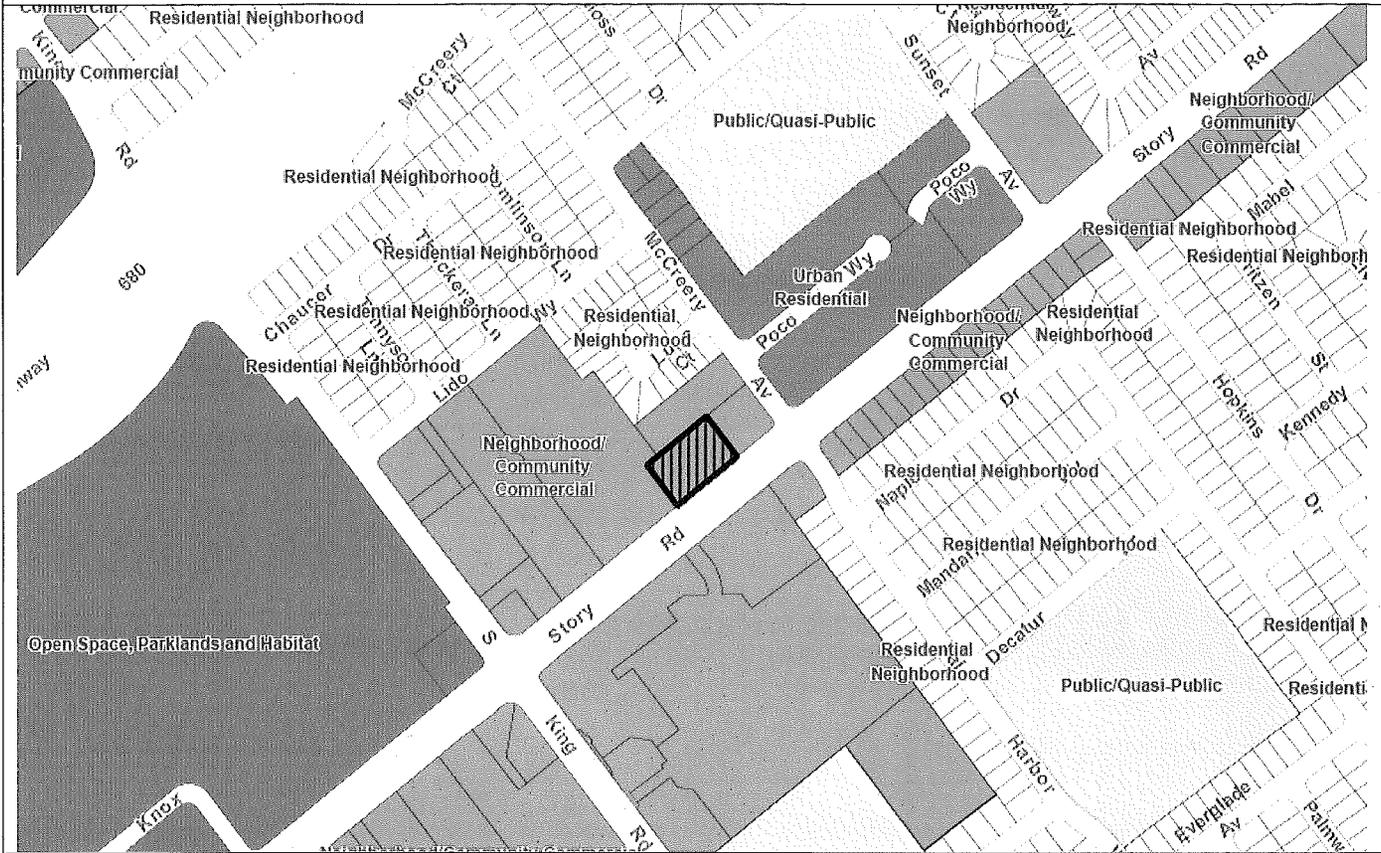
Zoning	CP Commercial Pedestrian
Proposed Zoning	CN Commercial Neighborhood
General Plan	Neighborhood/Community Commercial & Story Road NBD
Council District	5
Annexation Date	February 9, 1960 (Hillview No. 22)
SNI	East Valley/680 Communities
Historic Resource	N/A
Redevelopment Area	Story Road
Specific Plan	N/A

**Aerial Map**

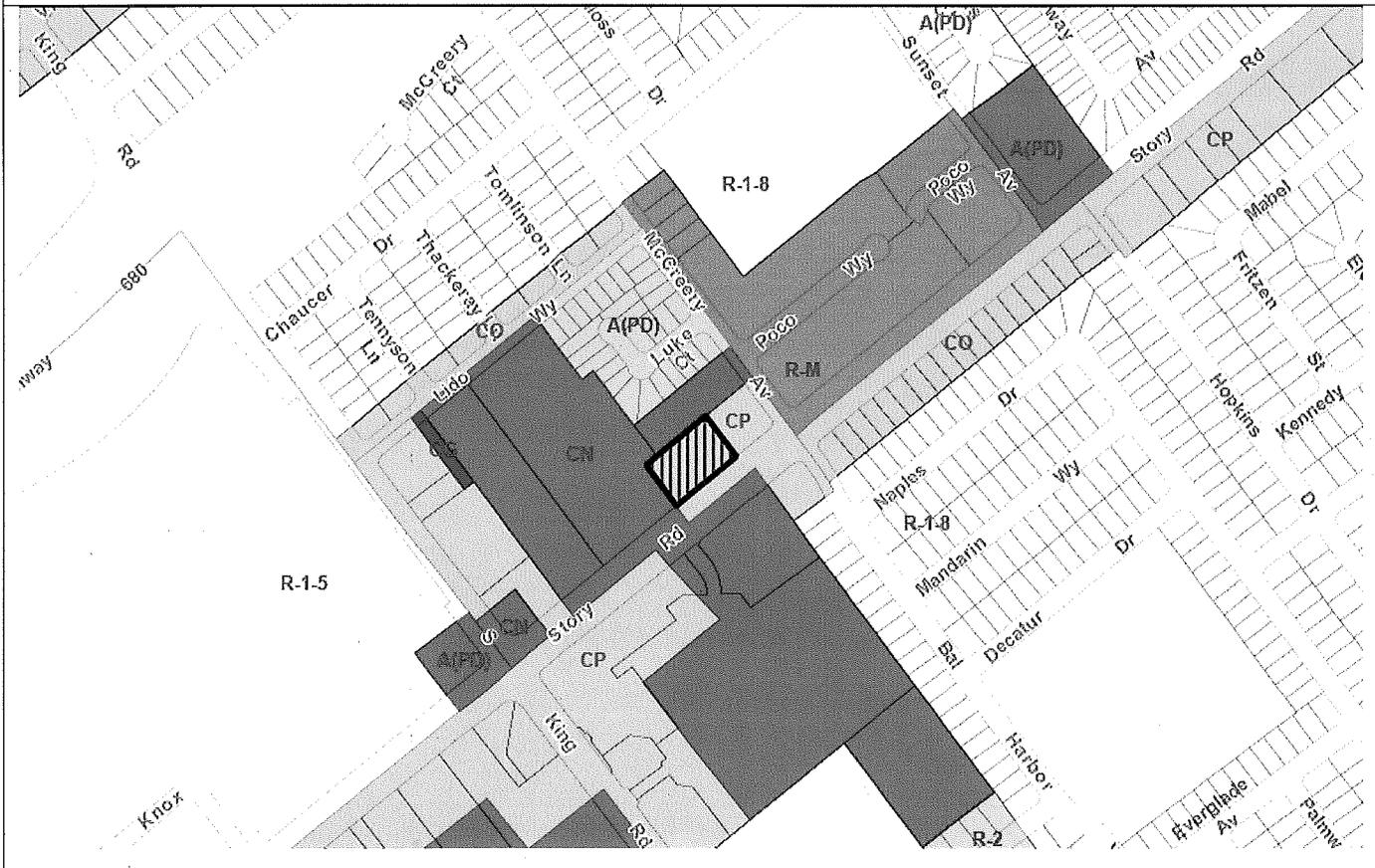
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### GENERAL PLAN



### 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 Conforming Rezoning for the following reasons:

1. The proposed rezoning is in conformance with the Envision San Jose 2040 General Plan Land Use/Transportation Diagram's land use designation of Neighborhood/Community Commercial for the subject site.
2. The proposed rezoning is in conformance with the East Valley/680 Communities Strong Neighborhoods Initiative neighborhood improvement plan.
3. 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 April 3, 2012, David Lundy of PM Design Group, on behalf of the applicant, Jack in the Box, requested a conforming rezoning of the subject property from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District to facilitate the reconstruction of a drive-through restaurant on the subject site.

A drive-through restaurant is a conditional use in the CN Commercial Neighborhood Zoning District. The existing drive-through restaurant 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 a flat, developed land that is 0.73 gross acres in size. The site was developed in 1967 with a 1,400 square-foot drive-through restaurant (Jack in the Box) and associated site, circulation, and landscape improvements. A Conditional Use Permit (File No. CP04-002) was approved in 2004 to allow 24-hour operations at the drive-through restaurant. The site is surrounded by commercial uses on all sides.

### **Preliminary Review Proposal**

On November 3, 2011, the applicant filed a Preliminary Review (File No. PRE11-092) to propose the demolition and reconstruction of the drive-through restaurant. The applicant proposed a new building located in the center of the subject site. Staff recommended that the building be located near the easterly property line so as to improve the project's conformance to City Council Policy 6-10: Drive-Through Uses in terms of on-site circulation and dedicated stacking lanes for drive-through vehicles. Redevelopment of the site would also provide an opportunity to integrate the site with the larger shopping center (Mi Pueblo) located immediately west and allow access from the shopping center driveway. Subsequent to receiving staff's Preliminary Review comments, the applicant proposed to continue operation of the existing restaurant until construction of the new drive-through restaurant was complete. Staff expressed serious concern with this scenario as it would lead to inadequate parking to sustain the existing restaurant operation and a less ideal site layout for the new building.

## **ANALYSIS**

The proposed conforming rezoning was analyzed with respect to conformance with the Envision San Jose 2040 General Plan, East Valley/680 Communities Strong Neighborhoods Initiative neighborhood improvement plan, and the Santa Clara County Airport Land Use Commission's Reid-Hillview Comprehensive Land Use Plan.

### **Envision San Jose 2040 General Plan**

The proposed rezoning of the subject site to the CN Commercial Neighborhood Zoning District conforms to the Envision San Jose 2040 General Plan Land Use/Transportation Diagram's land use designation of Neighborhood/Community Commercial and Story Road Neighborhood Business District (NBD). The Neighborhood/Community Commercial and NBD designations support a broad range of commercial uses that serve the community in neighboring areas, including neighborhood-serving retail, services, and amenities. The site is located on a major arterial street, Story Road, and is immediately adjacent to other automobile-friendly commercial uses at the intersection of King and Story Roads. 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 Neighborhood/Community Commercial land use designation because the major arterial street is lined with commercial uses.

### **East Valley/680 Communities Strong Neighborhoods Initiative (SNI) Neighborhood Improvement Plan**

The site is located in the Arbuckle neighborhood of the East Valley/680 Communities SNI area. The neighborhood improvement plan identifies the north side of Story Road located between King Road and McCreery Avenue, including the subject site, as an area in need of façade improvements. This rezoning will help facilitate the redevelopment of this property and provide the opportunity for site and landscape improvements.

If the subject rezoning is approved, a Conditional Use Permit could be filed for a drive-through use and considered by the Planning Commission. The subsequent development proposal would be evaluated with respect to the requirements of the CN Commercial Neighborhood Zoning District and City Council Policy 6-10: Drive-Through Uses.

### **Santa Clara County Airport Land Use Commission's Reid Hillview Comprehensive Land Use Plan**

The site is located in the airport influence area (AIA) for the Reid Hillview Airport. The proposed rezoning was referred to the Santa Clara County Airport Land Use Commission (ALUC) for review. The ALUC determined at their meeting on May 23, 2012 that the rezoning is consistent with the Reid Hillview Comprehensive Land Use Plan.

## **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 Envision San Jose 2040 General Plan, which findings were adopted by City Council Resolution No. 76041 on November 1, 2011. The Program EIR was prepared for the comprehensive update and revision

