

STAFF REPORT
CITY COUNCIL

FILE NO.: C12-021

SUBMITTED: July 23,2012

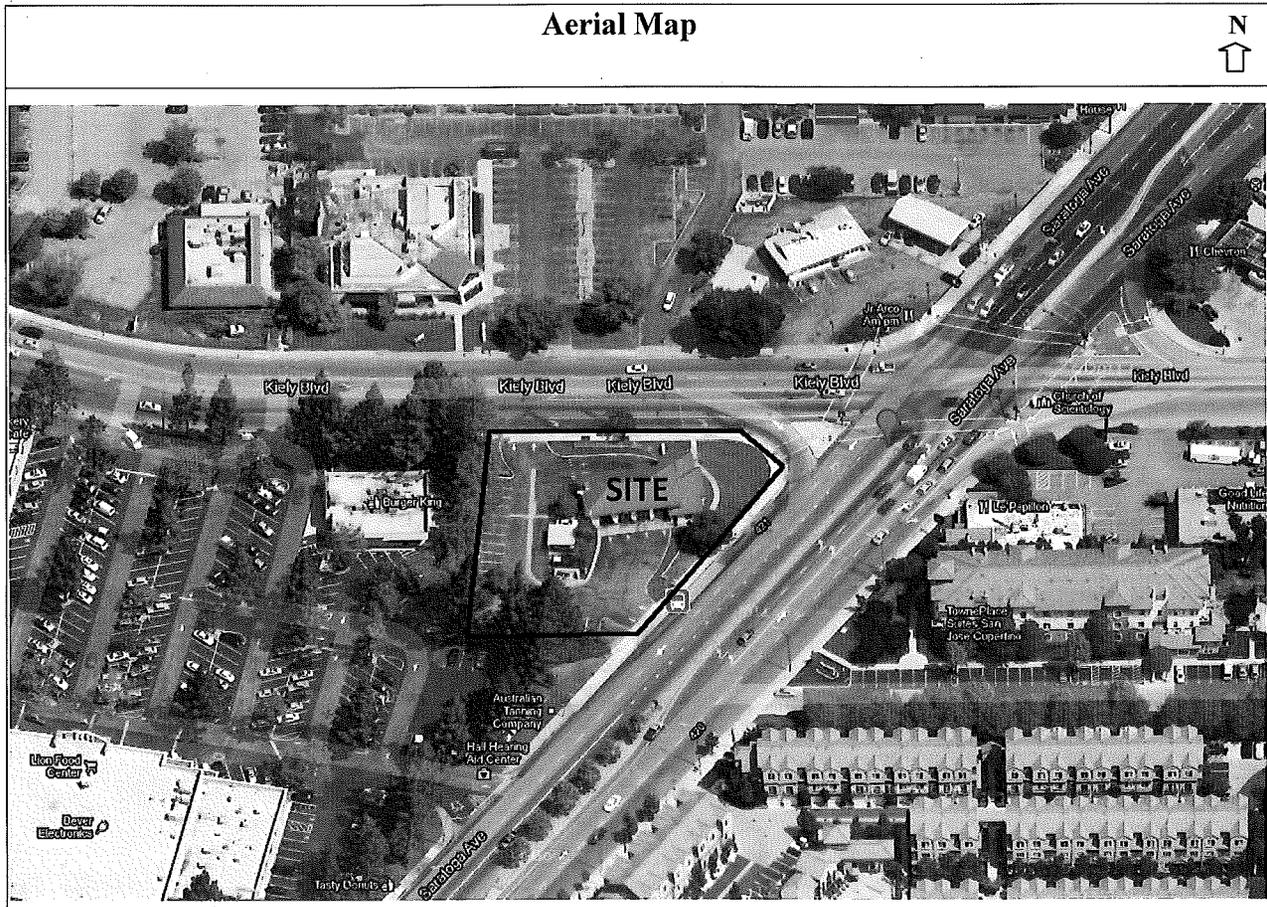
PROJECT DESCRIPTION:

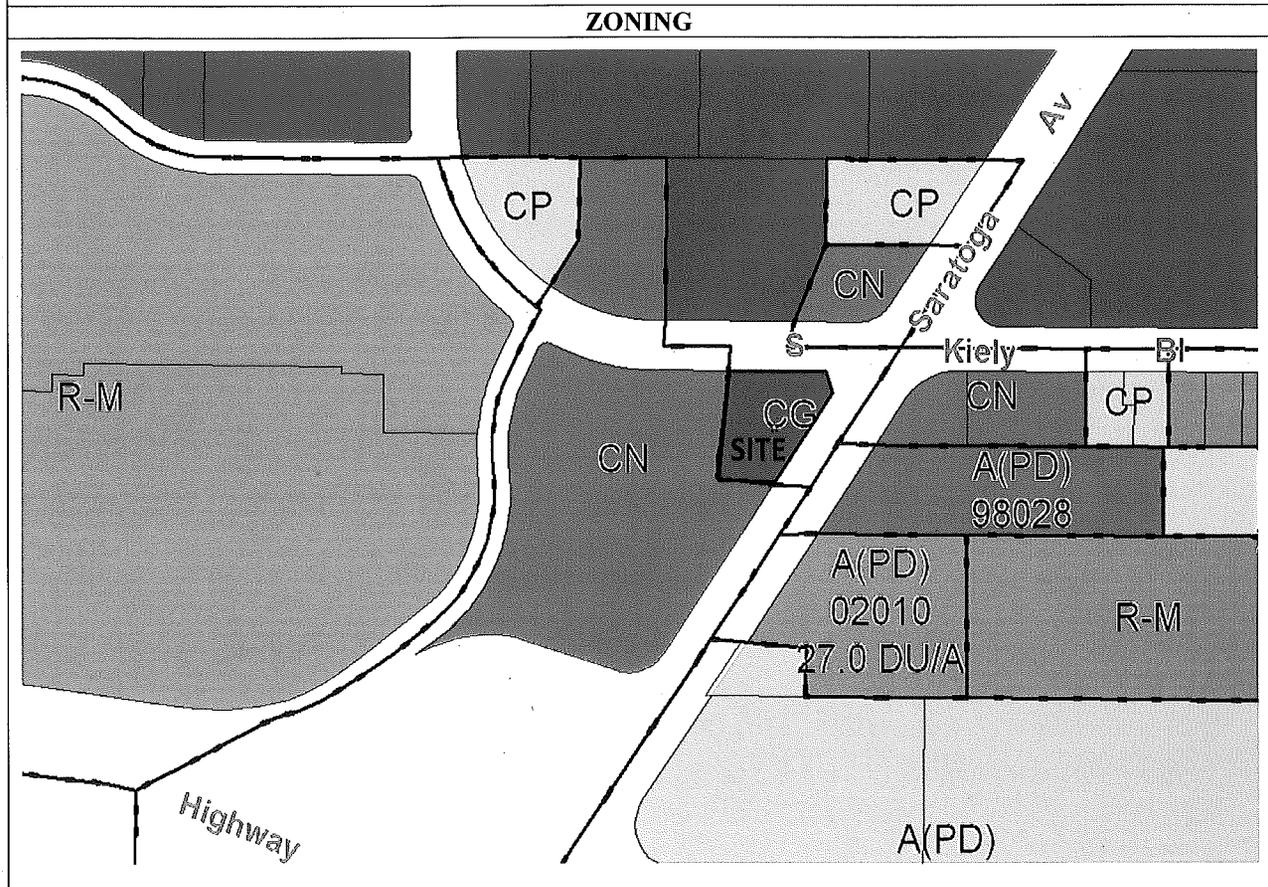
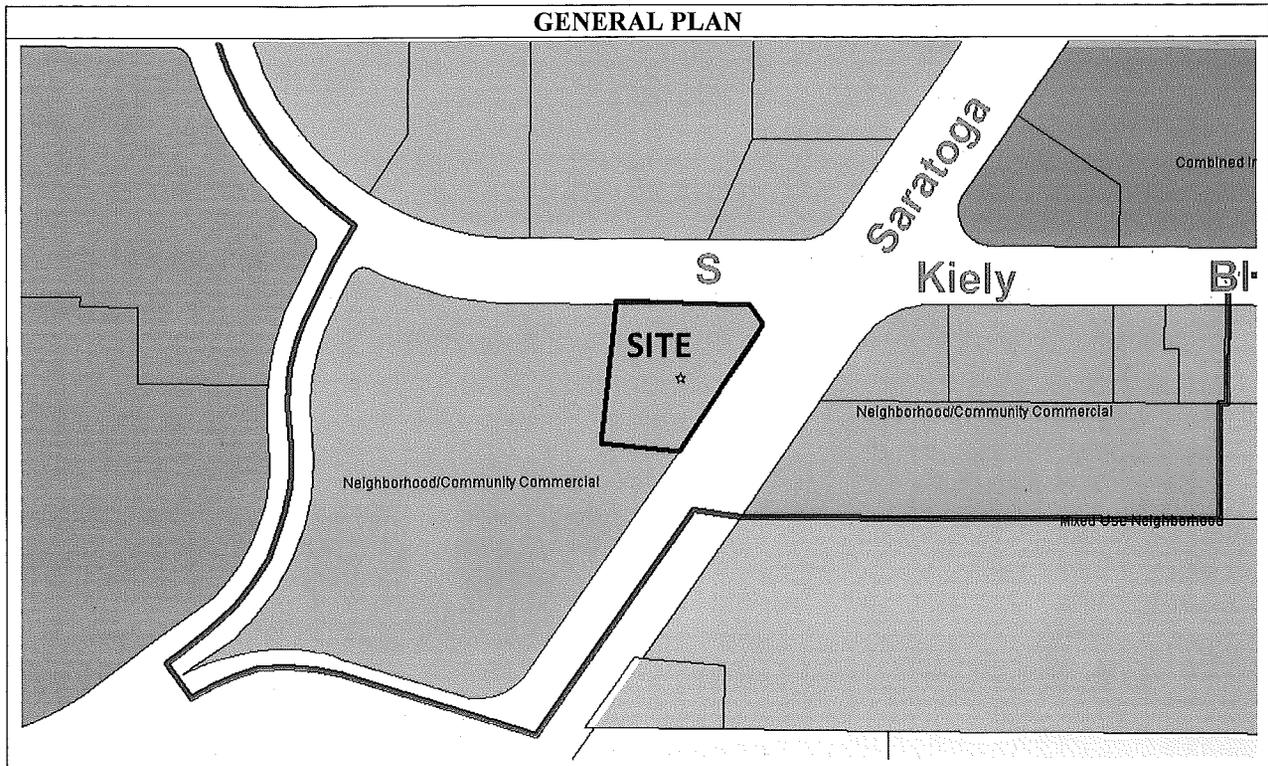
Conforming Rezoning from CG Commercial General Zoning District to CN Commercial Neighborhood Zoning District.

LOCATION:

Southwest corner of Saratoga Avenue and Kiely Boulevard. (403 Saratoga Ave)

Zoning	CG
Proposed Zoning	CN
General Plan	Neighborhood/Community Commercial (NCC)
Council District	1
Annexation Date	June 3,1968 (Casa View No.7)
SNI	NA
Historic Resource	NA
Redevelopment Area	NA
Development Policy Area	NA





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 on the subject site for the following reasons:

1. There is no substantial evidence that the project on the subject site will have a significant impact on the environment. Pursuant to Section 15168 of the CEQA guidelines, the proposed project is pursuant to or in furtherance of the Final Environmental Impact Report (EIR) for the Envision San Jose 2040 General Plan and does not involve new significant effects beyond those analyzed in this final EIR.
2. The proposed Conforming Rezoning is consistent with the goals and policies of the Envision San Jose 2040 General Plan, specifically:
 - a. The zoning will comply with the site's Land Use/Transportation Diagram land use designation of Neighborhood/Community Commercial (NCC)
 - b. The proposed rezoning would allow commercial uses that are in character and compatible with the existing surrounding uses and greater context of the subject site.

BACKGROUND & DESCRIPTION

On July 23, 2012, the applicant, Don Imwalle (Imwalle Properties) representing the property owner Michael A. Lopina Trustee & et al. applied for a Conforming Rezoning on the subject 0.69 gross acre site from the CG-Commercial General Zoning District to the CN-Commercial Neighborhood Zoning District to facilitate the future demolition of the existing automotive body, paint and interior repair building (Jiffy Lube) and construction of a 7,772 square foot retail structure. General retail is a permitted use within the CN-Commercial Neighborhood Zoning District. Should the subject site be rezoned, a Site Development Permit will be required for the development of the proposed retail use. The applicant is proposing the rezoning on the subject site to facilitate a smaller 15-foot front setback to take better advantage of the development opportunity on this small site. Under the current CG-Commercial General Zoning District, a 25-foot front setback for both street frontages would be required resulting in a smaller building and/or less parking.

Site and Surrounding Uses

The subject site at the major intersection of Saratoga Avenue and Kiely Boulevard and is currently occupied by a one story oil change facility, which was built in 1990. The subject site is immediately adjacent to the Lion Food Center and across from a number of mixed retail and automobile related land uses. The surrounding land uses include the La Terraza townhouse community to the east across Saratoga Avenue, an Arco AM/PM gas station to the north and a Burger King directly to the west. Access to the site is available from both Kiely Boulevard and Saratoga Avenue.



Analysis

The proposed conforming rezoning was analyzed with respect to: 1) conformance with the Envision San Jose 2040 General Plan and 2) the California Environmental Quality Act (CEQA).

Envision San Jose 2040 General Plan Conformance

The Neighborhood/Community Commercial (NCC) designation allows for a wide variety of commercial activities. They can include commercial uses that are neighborhood serving in scale and scope, such as retail, miscellaneous commercial services and commercial/professional office development. General office uses, hospitals and private community gathering facilities are also allowed in this designation.

A change in zoning on the subject site from the CG-Commercial General Zoning District to the CN-Commercial Neighborhood Zoning District will allow for a small scale retail use. The proposed conforming rezoning and the proposed future 7,772 square foot building will be consistent with the surrounding uses and be compatible with the existing character of the area given the location, proximity and extent of similar and larger scale retail in the larger context of the Kiely Boulevard and Saratoga Avenue intersection. Staff has worked with the applicant on a preliminary design which includes a new building placed near the corner with parking areas wrapping behind. Staff will be looking for opportunities to provide cross-connections for both vehicle and pedestrian access with the adjacent shopping center.

The shorter 15-foot setback will be compatible with the surrounding neighborhood facilities and provide a greater physical presence on a highly visible intersection. Optimal visibility is a key success factor for retail development of any size and a deep setback will reduce the visibility of

the future retail development. The 15-foot setback will also help facilitate a more pedestrian oriented built form with a frontage that is not dominated by automobile oriented space but rather promotes higher probabilities of walk-in business.

The CN-Commercial Neighborhood Zoning District is a conforming district to the subject site's Envision San Jose 2040 General Plan land use designation of Neighborhood Community Commercial, per the Zoning Ordinance, Section 20.120.110, of the San Jose Municipal Code. (See attached Table 20-270 from the Zoning Ordinance).

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 76041.

PUBLIC OUTREACH/INTEREST

In addition to the development proposal notification signage posted at the site, the property owners and occupants within a 500-foot radius were sent a public hearing notice for the City Council hearing. This staff report has been posted on the City's web site. Staff has been available to discuss the proposal with interested members of the public. Additional public noticing and involvement will occur as part of the subsequent Site Development Permit process.

Project Manager: Mark Sim

Approved by:

Date: 11-6-12

Owner/Applicant	Attachments:
Lopina, Michael A Trustee & Et al 360 Kiely Boulevard, Suite 220 San Jose, CA 95129	• Zoning Ordinance Table 20-270
Imwalle Properties (Don Imwalle) 115 South Market Street, Suite 190 San Jose, CA 95113	

A. For the purposes of Section 20.120.100 only, the determination of conformance of zoning or rezonings to the general plan, shall be made in the manner set forth in Table 20-270:

Table 20-270	
General Plan Designation	Conforming District
All designations	OS, A
Open hillside	OS
Lower hillside (1 du/5 ac)	R-1-RR
Rural residential (2 du/ac)	R-1-1, R-1-2
Residential neighborhood	R-1-8, R-1-5
Urban residential, transit residential	R-M
Neighborhood/community commercial, urban village	CP, CN, CG
Transit employment center	IP
Regional commercial	CG
Industrial park	IP
Light industrial	LI
Heavy industrial	HI
Combined industrial/commercial	CIC

B. A Planned Development (PD) Combining District conforms to the general plan designation where the uses permitted by the general development plan for such proposed district conform to general plan designation and where the base zone thereof conforms to said designation in accordance with the foregoing table.

C. Each portion of the property to be zoned or rezoned must conform to the general plan designation for each such portion.

(Ords. 26248, 28460, 29012.)