

STAFF REPORT
CITY COUNCIL

FILE NO.: PDC12-023

SUBMITTED: 9/13/12

PROJECT DESCRIPTION:

Conforming Planned Development Rezoning from CG(PD) Planned Development to CG(PD) Planned Development to allow a third drive-through use (carwash at a gas station) to a previously approved 257,296 square foot shopping center (Sun Garden)

Zoning	CG(PD)
Proposed Zoning	CG(PD)
General Plan	Combined Industrial Commercial
Council District	7
Annexation Date	July,14 1956 (Monterey Park No.9)
SNI	NA
Historic Resource	NA
Redevelopment Area	NA
Development Policy Area	NA

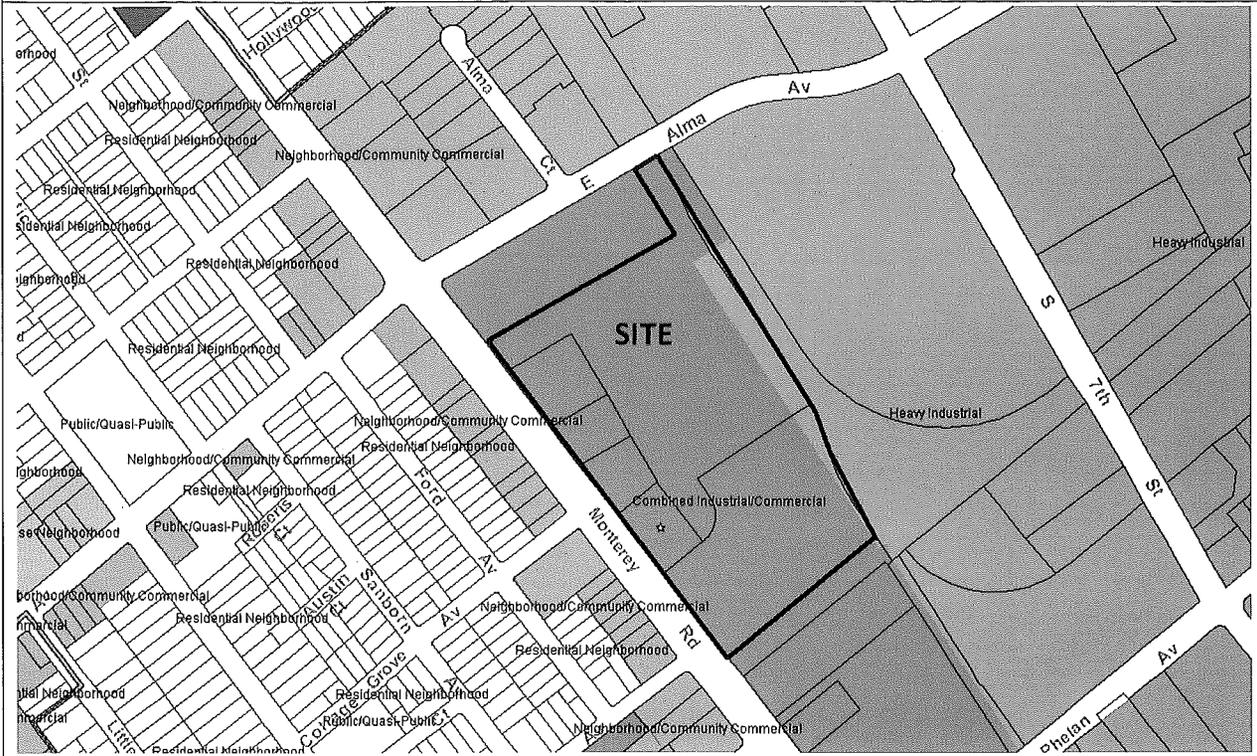
LOCATION:

East side of Monterey Road, approximately 300 feet south of East Alma Avenue.

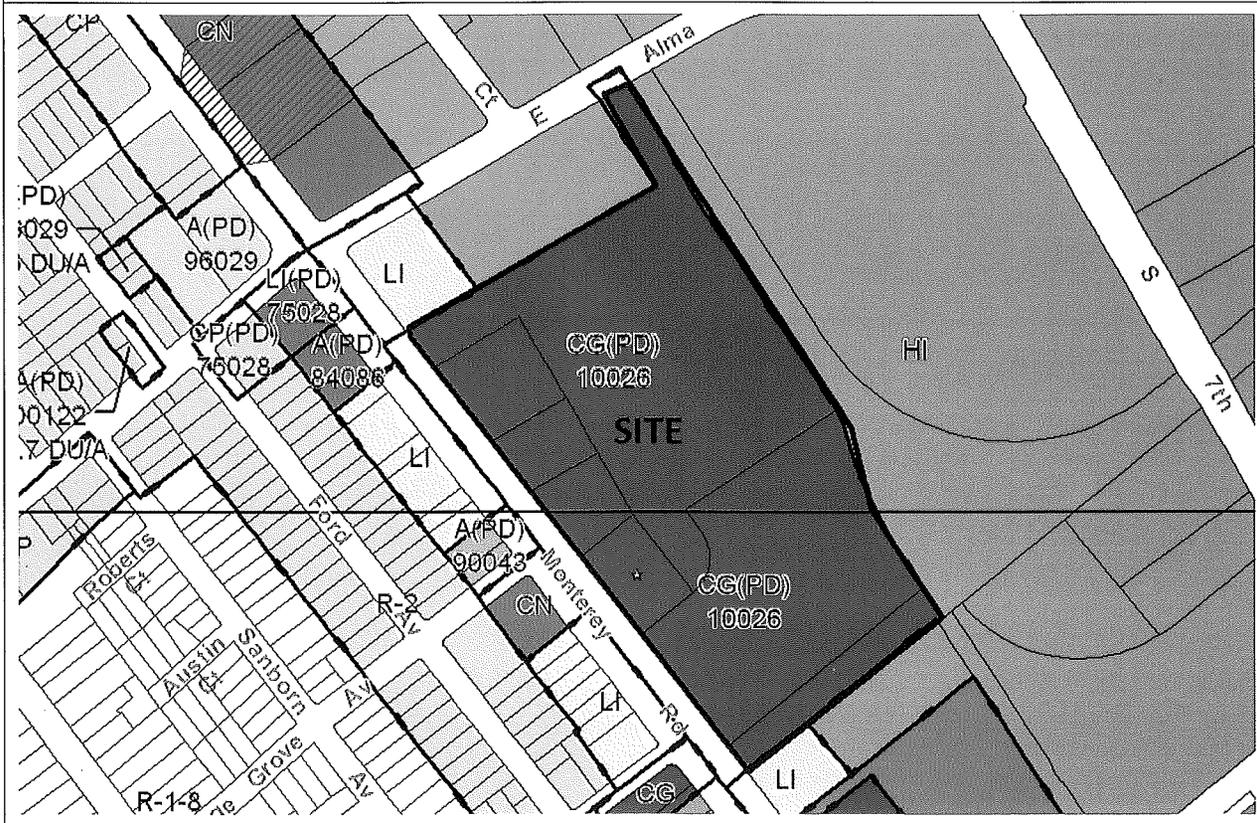
Aerial Map



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 Planned Development Zoning 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 Planned Development 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 Combined Industrial/Commercial (CIC).
 - 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.
3. The proposed changes to include an additional drive through use will not substantially affect the previously approved site plans.
4. The proposed is in substantial conformance to City Council Policy 6-10: Drive Through Uses.

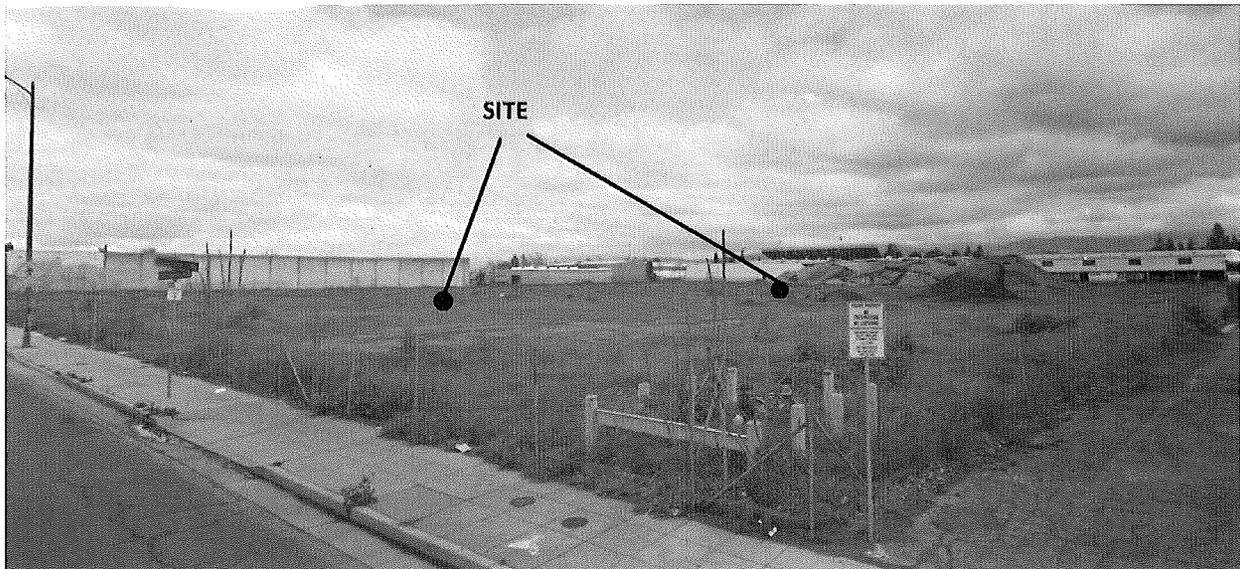
BACKGROUND & DESCRIPTION

On June 21, 2011, a Planned Development Rezoning (File No. PDC10-026) was approved by the City Council to allow the demolition of existing buildings and construction of a new 257,296-square foot shopping center (Sun Garden). One of the key limitations approved as part of the overall development standards was a restriction for no more than two drive-through uses on the subject site. A Planned Development Permit was subsequently approved to implement the rezoning and facilitate construction (File No. PD11-027). Under this permit a drive-through pharmacy was approved, as well as a drive-through fast food restaurant. The permit also included a gas station, which per section 20.200.310 of the Zoning Ordinance is not considered or defined as a drive-through use.

On September 13, 2012, the applicant, Henry Cord (Cord Associates), representing the proper owner and developer, Sun Garden TIC, submitted a Planned Development Rezoning application for the inclusion of a third drive-through use at the shopping center. This third drive-through use consists of a carwash facility located behind the approved gas station building. The gas station and proposed carwash is located near the northwest corner of the subject site behind the adjacent Southern Lumber store. Aside from the carwash for the gas station, no other changes to the size or design of the shopping center are proposed.

Site and Surrounding Uses

The subject site is just south of the major intersection of East Alma Avenue and Monterey Road on a 19.74 gross acre property. The site is occupied by a small restaurant use and a warehouse. The subject site is located adjacent to the planned Three Creeks Trail and is bounded by a number of retail, industrial and neighborhood serving businesses. To the southwest of the subject site is a corridor of mixed retail and commercial uses which are backed up against existing single family homes. To the north along Alma Avenue and directly adjoining the subject site is Southern Lumber along with other commercial and industrial uses further north. Many of the parcels to the south and southeast consist of commercial, automotive and mixed industrial land uses. There are no residential uses adjoining the subject site. The closest such residential land use is 250 feet away from the subject site across Monterey Road.



ANALYSIS

The analysis section of this report focuses on the following key issues: 1) Conformance to the General Plan, 2) Conformance to City Council Policy 6-10: Drive Through Uses, and 3) California Environmental Quality Act (CEQA).

Envision San Jose 2040 General Plan Conformance

The subject site's Combined Industrial/Commercial (CIC) land use designation is applied to areas that have predominantly industrial related land uses. The CIC designation is intended for and allows for a mix of commercial uses which can be both local and regional serving, with a narrower range of industrial uses. Additional uses such as religious assembly and daycare are also permitted as long as they do not impose constraints upon the existing industrial uses.

Conformance to the City Council Policy 6-10: Drive-Through Uses

The proposed change to the original Planned Development Zoning is a minor change in the scope of the overall development standards as prescribed under the originally approved Planned Development Zoning (File No. PDC10-026). The previous approval only allowed two drive-through uses. A key intent of the original Planned Development Zoning was to establish a more urban streetscape along Monterey Road and as such, there was a significant effort to maximize building placement along the edge of the front setback for a more pedestrian friendly scale. Drive-through uses typically accentuate auto oriented uses and can take away from the intended urban design to promote pedestrian scale uses. In this case, the addition of a third drive through use should not detract from the previously approved site designs since the additional drive through use is placed behind a building.

Conformance to the policy was thoroughly discussed as part of the previous rezoning approval in terms of separation from residential uses, separation from other drive-through uses and vehicle stacking. The subject drive-through use is approximately 390 feet from the closest residential use on Ford Avenue which is almost twice the recommended separation. These residential uses are buffered from the proposed carwash by existing commercial buildings located across Monterey Road and the large arterial street itself.

The proposed drive-through carwash is separated from the approved, and not yet built, drive-through restaurant by almost 400 feet. While the policy recommends a 500-foot separation between drive-through uses, this separation requirement was intended to address potential air quality issues which are now addressed more effectively and stringently through other regional regulations that were not in place at the time the Drive-Through Policy was developed in 1990.

The new carwash provides six (6) vehicle stacking lane spaces leading up to the entrance of the carwash building which is slightly greater than the five (5) stacking spaces required.

California Environmental Quality Act (CEQA)

An Environmental Impact Report (EIR) was prepared for the original zoning (PDC10-026), providing environmental clearance for the development of the shopping center. The City Council adopted a resolution of findings when it approved the original zoning in June 2011 (Resolution No. 75929). The EIR is available for review on the Planning website at: <http://sanjoseca.gov/planning/eir/EIR.asp>.

Conclusion

The intent of the original Planned Development Zoning was to establish a successful shopping center with a more urban streetscape along Monterey Road. As such, there was a significant effort to maximize building placement along the Monterey frontage for a more pedestrian friendly scale. Often drive-through uses accentuate auto oriented uses and can take away from the intended urban design to promote pedestrian uses. In this case, however, the addition of a third drive-through use does not detract from the previously approved site designs. By orienting the proposed carwash to the rear of the retail structure, the carwash will be oriented away from the main pedestrian and bicycle pathways and will help maintain a contiguous building frontage along Monterey Road. Further, the drive-through use will not generally be visible from the street.

The previously approved project also includes a drive-through pharmacy window for the building at the opposite end of the site (900 feet away from the carwash). The drive-through is also placed behind the building and is not visible from the public right-of-way. As a result, the shopping center will have three drive-through uses, but only one drive-through use (a future fast food restaurant) will have a drive-through lane visible from the street which is consistent with the previously approved Planned Development Rezoning.

PUBLIC OUTREACH/INTEREST

The property owners and occupants within a 1000-foot radius were sent public hearing notices 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.

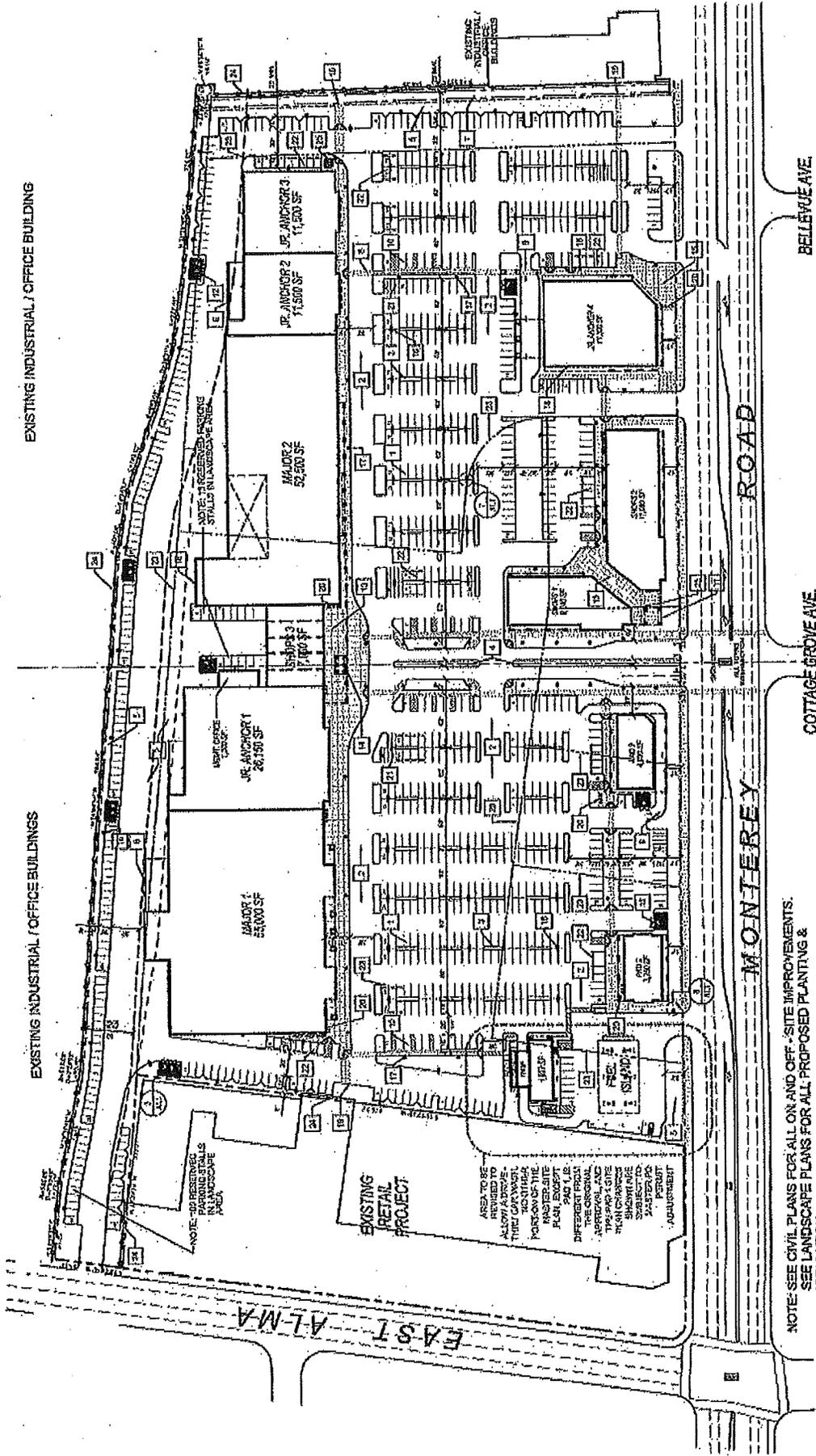
On January 26, 2011, a community meeting was held at the Alma Community Center as a part of the public outreach and noticing for the previous Planned Development Rezoning (PDC10-026). The meeting had 17 community members present with all in general support of the project due to the job creation, removal of blighted structures and provision of needed neighborhood servicing

activities. Given the relatively small change to the previously approved project, another community meeting was not warranted.

Project Manager: Mark Sim

Approved by: /s/ Laurel Prevetti **Date:** 11-6-12

Owner/Applicant	Attachments:
<p>Sun Garden TIC 1122 Willow Street, Suite 201 San Jose, CA 95125</p> <p>Cord Associates (Henry Cord) 42 South 1st Street, Suite D San Jose, CA 95113</p>	<ul style="list-style-type: none">• Site Plan (Outlined area represents proposed additional drive through use)• Draft Development Standards



EXISTING INDUSTRIAL / OFFICE BUILDINGS

EXISTING INDUSTRIAL / OFFICE BUILDINGS

EAST ALMA

MONTEREY ROAD

BELLEVUE AVE

COTTAGE GROVE AVE

NOTE - ALL EXISTING PARADISE STALLS IN LANDSCAPE AREA

EXISTING RETAIL PROJECT

AREA TO BE REVISED TO ALLOW ABOVE. THIS IS A NATURAL PORTION OF THE MASTER SITE PLAN, EXCEPT WHERE SHOWN OTHERWISE. THE ORIGINAL APPROVAL AND TRIPAD SITE PLAN CHANGES IN CHARGE OF THE SUBMITTED MASTER PLAN PERMIT APPLICATION

NOTE: SEE CIVIL PLANS FOR ALL ON AND OFF-SITE IMPROVEMENTS. SEE LANDSCAPE PLANS FOR ALL PROPOSED PLANTING & IRRIGATION.

PDC12-023
SUN GARDEN RETAIL CENTER PROJECT
GENERAL DEVELOPMENT PLAN NOTES
Revised 11/5/12

The following notes are to be incorporated on the final General Development Plan upon recommendation by the Planning Commission and City Council Approval.

** In any cases where the graphic plans and text may differ, the text takes precedence*

DEVELOPMENT LIMITATIONS

Up to 257,296 square feet, including any existing buildings that are not demolished

ALLOWED USES

Permitted, Conditional and Special uses in the CG-Commercial General Zoning District of Title 20 of the San Jose Municipal Code, as amended. Conditional and Special uses as identified in the CG-Commercial General Zoning District shall be subject to approval by the Planning Director with a Planned Development Permit or Amendment.

Additional allowed uses for the large existing building at the rear of the site:

1. Permitted, Conditional and Special uses in the LI-Light Industrial Zoning District of Title 20 of the San Jose Municipal Code, as amended. Conditional and Special uses as identified in the LI-Light Industrial Zoning District shall be subject to approval by the Planning Director with a Planned Development Permit or Amendment. Such uses and buildings will be subject to site, landscape and sidewalks upgrades to ensure compatibility with the planned commercial development.

Use Limitations:

1. This project may contain no more than three (3) drive-through uses. No more than one of these drive-through uses may be used fro a restaurant.

DEVELOPMENT STANDARDS

Perimeter Setbacks:

Along Monterey Road and Alma Avenue - 17 feet for parking and/or structures, which includes a 2 foot public sidewalk easement.

Exception to front setback: The Director of Planning may allow patios to encroach into the front setback with approval of a Development Permit.

All Other Property Lines Along Exterior of Project Site - 6 feet for parking and/or structures.

Exception to side setback: If the parcel on the corner of Monterey Road and Alma Avenue (APN 477-07-012) is redeveloped with a parking lot that is integrated with that of the subject shopping center, the side setback may be reduced to 0 feet provided that there are at least two points of cross vehicular connection.

Maximum Building Height - 50 feet.

PARKING REQUIREMENTS

All land uses shall provide on-site parking, including automobile, bicycle, motorcycle and clean air vehicle parking, in accordance with Chapter 20.90 (Parking and Loading) of the City of San Jose Municipal Code, as amended.

PROJECT DESIGN REQUIREMENTS

1. This project shall conform to the City's Commercial Design Guidelines.
2. No more than one of the drive-through uses allowed for this project may include a drive-through lane adjacent and parallel to Monterey Road and between the building and street.
3. Provide as much and well distributed building presence as feasible along Monterey Road by providing a minimum linear frontage of 35% for building footprints within 25 feet of the front property line. Buildings shall have a prominent presence along the street, be well articulated to avoid a linear appearance of facades and shall integrate a variety of building heights that include some elements with a two story appearance for the above buildings along the Monterey Road frontage.
4. Provide screening or internalization of loading courts to minimize visibility from Monterey Road.
5. Create pedestrian and bicycle connections from Monterey Road and Alma Avenue to the retail stores on-site to encourage pedestrian and bicycle traffic.

SIGNAGE

All signs shall conform to the City of San Jose sign regulations (Title 23), as amended, and shall be approved under a separate Planned Development Adjustment Permit to the satisfaction of the Director of Planning.

DEVELOPMENT PHASING

1. Separate Planned Development Permits are allowed for the phased build-out of the project.
2. Phasing of the development is permitted to allow the continued use of the existing warehouse per allowed uses of this PD Zoning and continued use of the existing restaurant building, both at the southwesterly portion of the project site, or their demolition when new construction is planned by the submittal of a PD Permit application.

THREE CREEKS TRAIL SYSTEM

Property owner will cooperate with the City's Director of Parks, Recreation and Neighborhood Services in a manner consistent with the City's 2009 Greenprint to utilize a portion of the southerly section of the site as a public trail to the satisfaction of the Director of Planning. Such future trail development shall not preclude the applicant's ability to landscape the same area with bio-swales to serve the project.

As a part of the Planned Development Permit that would require landscaping and bio-swale development in the general area that the public trail is planned, the property owner shall:

1. Grade the area to accommodate a minimum 10 foot continuous right of way suitable for future trail development including trees on both sides of the trail.
2. Prior to trail development, the area may be landscaped by the property owner understanding that it is subject to future replacement by a paved trail.
3. Provide the City of San Jose the right to construct and operate a paved trail for use by the public on a 24/7 basis, provided adequate easement documentation, including owner indemnification provision, is completed.
4. Future trail improvements shall include a paved section within the designated right of way, gateway element (such as decorative pavement and/or vertical stone column(s)), signage and striping, mileage markers, public art and seating. The City of San Jose would deliver each of these elements as part of the work it would fund at some future date.
5. Provide two pedestrian connections from the project's parking lot into the trail corridor, as shown on the conceptual site plan.
6. Following trail construction by the City of San Jose, the City will be responsible for trail pavement, preventive and long-term maintenance, and all other trail improvements.
7. Permit the City of San Jose to construct the trail under separate agreement in the event that property owner's work at the trail area is deferred for any reason.
8. Design the bio-swales with sufficient volume to accommodate future storm water run off from the paved trail improvements.
9. Provide the City and its consultants with full access to the site for purposes related to master planning, design and all other pre-construction activities.
10. Participate in future master planning of the trail and consider easement adjustments to accommodate a meandering trail alignment along the area east of the bio-swales if such space exists after final parking and driveway layouts are developed.

ACCESS TO THE PROPERTY

Access shall not be allowed in between railroad gates along Alma Avenue as they currently exist. The proposed driveway on Alma Avenue requires relocation of existing gates and is subject to further City and Public Utilities Commission review at the PD Permit stage.

Full access including left turns at Alma Avenue is subject to the City and Public Utilities Commission approval. At the PD Permit stage, the developer shall demonstrate that a safe and sufficient left turn pocket can be accommodated from Alma Avenue to the site.

A maximum of five driveways including the signalized entrance along Monterey Road can be allowed.

PUBLIC INFRASTRUCTURE AND OFF-SITE IMPROVEMENTS

Prior to the issuance of PD Permit and/or Building permits, the applicant will be required to have satisfied all of the following Public Works conditions:

1. **Grading/Geology:** The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

2. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's PD permit Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
- a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
 - b) Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.
3. **Street Improvements:**
- a) Construct new traffic signal at Monterey and main project entrance. Interconnect this signal to existing signals on Monterey Road. Install crosswalk on all four approaches at the intersection.
 - b) Remove railroad tracks on Monterey Road and construct median island to conform to the existing median island on both sides of the railroad tracks.
 - c) Relocate existing bus stop south of the abandoned railroad on Monterey. The new bus stop should be located just south of the new signalized project entrance. At PD Permit stage, indicate the relocated bus stop with pavement pad on plan.

ENVIRONMENTAL MITIGATION MEASURES:

A. AIR QUALITY

As recommended by BAAQMD, the following mitigation measure has been included in the project to avoid or reduce construction related air quality impacts:

- The painting phase of construction will occur over a minimum of three months or at least 20 percent of all building materials that would normally be painted would use pre-coated or colored materials.

To control temporary dust generation from construction activities:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day or apply (non-toxic) soil stabilizers.
- All haul trucks transporting soil, sand, or other loose material shall be covered or required to maintain at least two feet of freeboard.
- Water all construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff related impacts to water quality.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry powered sweeping is prohibited.

- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water at least twice daily, or apply non-toxic soil binders to expose stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.
- Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas.
- Suspend excavation and grading activities when instantaneous wind gusts exceed 25 mph.
- Limit the area subject to excavation, grading, and other construction activity at any one time.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and name of construction contact person to report complaints to the Lead Agency regarding dust complaints. This person shall be respond and take corrective action within 49 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

B. BIOLOGICAL RESOURCES

To avoid abandonment of active raptor nests or destruction of other migratory bird nests, the following shall be implemented during construction:

- Construction shall be schedules to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay Area extends from February through August.
- If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas

to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet for raptors and 50-100 feet for other birds, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

To mitigate the loss of 28 trees on the project site.

- All trees that are to be removed shall be replaced at the following ratios.

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12 - 18 inches	3:1	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio

Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

- It is estimated, based on the site plan, that landscaping proposed by the project will include a sufficient number of trees to offset the loss of trees removed by the project. The species and exact number of trees to be planted on the site and on the street as part of the project will be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement at the development permit stage. In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
 - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
 - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjoining properties for screening purposes to the satisfaction of the Director of Planning, Building and Code Enforcement.
 - A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.
- The project proponent will prepare the final landscape plan and submit it to the Director of Planning, Building, and Code Enforcement for approval prior to issuance of a Planned Development permit.

To avoid damage to the existing street trees which are proposed to be retained.

Pre-construction:

- The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.

- Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing, or grading. Fences shall be six-foot chain link or equivalent as approved by the consulting arborist. Fences will remain in place until all grading and construction is complete.
- Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arborists.

During Construction

- A certified arborist will establish a tree protection zone for each of the street trees prior to start of construction. No grading, construction, demolition or other work shall occur within the tree protection zone. Any modification to the tree protection zone must be approved and monitored by the consulting arborist.
- Any root pruning or canopy pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
- Any additional tree pruning needed for clearance during construction must be performed by or supervised by the consulting arborist and not by construction personnel.
- Supplemental irrigation shall be applied as determined by the consulting arborist.
- If injury should occur to any tree during construction, work will stop in the area around the tree and the damage shall be evaluated by the consulting arborist or that appropriate treatments can be applied.
- No materials or liquids of any kind can be dumped or stored within the designated tree protection zones.
- As trees withdraw water from the soil, expansive soils may shrink within the root area. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement.

C. CULTURAL RESOURCES

To avoid disturbance of previously unknown prehistoric or historic artifacts and/or human remains the following mitigation measures shall be implemented during construction:

- A qualified archaeologist will be on-site to monitor the initial excavation of native soil once all pavement and engineered soil is removed from the project site. After monitoring the initial excavation, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on-site, no additional monitoring will be required.
- In the event that prehistoric or historic resources are encountered during monitoring of the excavation and/or grading of the site, all activity within a 150-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting investigative procedures and any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.
- In the event that human remains are discovered during excavation and/or graphing of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause

of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

D GREENHOUSE GAS EMISSIONS

To reduce GHG emissions associated with retail development the project shall include:

- Bicycle amenities will be provided for the project, including one or more of the following:
 - Secure bicycle parking for retail employees
 - Bicycle racks for retail customers
 - Bike lane connections to the site
- Pedestrian facilities will include easy access and signage to bus stops and roadways that serve the major site uses (e.g., retail and office uses).
- Project site employers may be required to promote transit use by providing transit information and incentives to employees.
- Provide exterior electrical outlets to encourage use of electrical landscape.
- Provide 110- and 220-volt electrical outlets at loading docks for trucks with refrigeration units.
- Prohibit idling of trucks at loading docks for more than five minutes per State law and include signage indicating such a prohibition.
- Implement a landscape plan that provides drought tolerant shade trees along pedestrian pathways.
- Install programmable thermostat and lighting timers that maximize and maintain energy-efficient heating and cooling systems.
- During final design, the applicant shall develop Green Building standards that would reduce energy-related GHG emissions beyond 20 percent from those that would occur under current Title 24 Building Code requirements. The applicant shall present these to the City prior to issuance of a building permit.

E HAZARDS AND HAZARDOUS MATERIALS

Development of the project site could expose known arsenic contaminated soil and undocumented contamination. To reduce exposure of construction workers to residual contamination in the soil from previous land uses the following shall be implemented:

- A Site Management Plan (SMP) and a Health and Safety Plan (HSP) will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include but are not limited to:
 - Site control procedures to control the flow of personnel, vehicles, and materials in and out of the site
 - Measures to minimize dust generation, stormwater runoff, and tracking of soil off-site as well as to reduce the possibility of the creation of preferential pathways for chemicals of potential concern detected in groundwater beneath the site
 - Geotechnical recommendations to excavate and re-compact loose fill that may have been placed into the UST excavations. If pockets of suspected contaminated soil are encountered in these areas, protocols will be provided to segregate "clean" soil from contaminated soil.

- Protocols for dewatering (if required)
- Protocols for conducting earthwork activities in areas where impacted soil, soil vapor, and/or groundwater are present or suspected. Worker training requirements, health and safety measures, and soil handling procedures will be described.
- Protocols for addressing buried structures, wells, debris, or unidentified areas of impacted soil encountered during site development activities
- Protocols to evaluate the quality of soil suspected of being contaminated so that appropriate mitigation, disposal or reuse of the soil can be determined
- Methods to monitor excavations and trenches for the presence of petroleum hydrocarbon vapors
- Methods to evaluate and, if necessary, mitigate for vapor intrusion of petroleum hydrocarbons into proposed structures near the former service station area at 1600 Monterey Road
- Procedures for handling and mitigating (i.e., capping on-site or off-site disposal) of impacted soil identified along the eastern and southern railroad tracks
- Land use covenants and site operation and maintenance protocols to minimize the possibility of future disturbance and exposure of remaining residential contaminants.

Prior to issuance of grading permits, a copy of the SMP and HSP will be provided to the appropriate regulatory agencies including DTSC, the Santa Clara County Environmental Health Department, and the Director of the City's Environmental Services Department for review and approval.

F. HYDROLOGY AND WATER QUALITY

The following mitigation measures, based on RWQCB BMPs, are included in the project to reduce construction-related water quality impacts. All mitigation will be implemented prior to the start of earthmoving activities on site and will continue until the construction is complete.

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the winds shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- A Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file a "Notice of Intent"

(NOI) to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff.

- The project proponent will submit a copy of the NOI and draft SWPPP to the City of San José for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.
- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site.

The following mitigation measures, based on RWQCB BMPs, are included in the project to reduce post-construction water quality impacts:

- As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities (i.e., sweeping, maintaining vegetative swales, litter control, and other activities as specified by the City) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Storm water catch basins will be stenciled to discourage illegal dumping.

The following additional mitigation measures are included in the project to reduce storm water impacts:

- The proposed project will be required to ensure continued maintenance and performance of all post-construction treatment control measures per City Council Policy 6-29.
- Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific Best Management Practices (BMPs), including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled "No Dumping – Flows to Bay" to the satisfaction of the Director of Planning, Building, and Code Enforcement.
- The project shall comply with provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater of new development.
- The project shall comply with applicable provisions of the following City Policies: 1) Post-Construction Urban Runoff Management Policy (6-29) which establishes guidelines and minimum BMPs for all projects and 2) Post-Construction Hydromodification Management Policy (8-14) which provides for numerically sized (or hydraulically sized) TCMs.

G. NOISE

Construction of the proposed project will temporarily increase ambient noise levels at nearby sensitive land uses, therefore the following mitigation measures shall be implemented:

- Construction will be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9:00 am and 5:00 pm. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors, and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, Building and Code Enforcement, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.
- The contractor shall use "new technology" power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Unnecessary idling of internal combustion engines shall be prohibited.
- The contractor shall prepare a detailed construction plan, to be approved by the Director of Planning, Building and Code Enforcement, indentifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.