



REPLACEMENT

CITY COUNCIL STAFF REPORT

File No.	C17-029
Applicant:	Demetrios Barrous
Location	222 W. Capitol Expressway
Existing Zoning	LI Light Industrial
Council District	10
Historic Resource	No
Annexation Date:	March 21, 1957
CEQA:	Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution 77617) and Addenda thereto.

REASON FOR REPLACEMENT:

Revised CEQA designation.

APPLICATION SUMMARY:

Conforming Rezoning from the LI Light Industrial Zoning District to the CG Commercial General Zoning District on a 0.97 gross acre site.

RECOMMENDATION:

Staff recommends that City Council approve the proposed Conventional Conforming Rezoning for the reasons stated in this staff report.

PROJECT DATA			
GENERAL PLAN CONSISTENCY			
General Plan Designation	Neighborhood/Community Commercial <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent		
Consistent Policies	IP-1.1; IP-8.2		
Inconsistent Policies	None		
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Combined Industrial/Commercial	A(PD) Planned Development	Public Storage Facility

South	Neighborhood/Community Commercial	CP Commercial Pedestrian and R-M Multiple Family	Retail establishment and Multi-Family Residential
East	Neighborhood/Community Commercial	LI Light Industrial	Gasoline Service Station
West	Neighborhood/Community Commercial	A(PD) Planned Development	Public Storage Facility and Multi-Family Residential
RELATED APPROVALS			
Date	Action		
03/21/57	Site annexed into the City of San José (Monterey Park No. 18).		
3/28/73	Site Development Permit to build a restaurant (File No. H73-10-318).		
PROJECT DESCRIPTION			

On July 11, 2017, a rezoning application was filed to rezone the property located on the south side of West Capitol Expressway, approximately 140 feet west of Snell Avenue at 222 West Capitol Expressway, from the LI Light Industrial Zoning District to the CG Commercial General Zoning District. If the rezoning is approved by the City Council, the CG Commercial General Zoning District will allow the applicant to pursue uses that are consistent with the site's Neighborhood/Community Commercial General Plan designation. Currently, a burned-out structure (a former restaurant) occupies the site. The applicant could rebuild the restaurant exactly as it existed before the fire as a legal non-conforming use. However, the applicant could not change the restaurant and build a larger restaurant or a different type of commercial use, as these uses would be inconsistent with the existing LI Light Industrial Zoning District.

Site Description

The site is currently occupied by a single-story, approximately 2,700 square foot burned-out structure (formerly Jimmy's Restaurant) (see Figure 1). The restaurant was developed through a Site Development Permit, creating a legal non-conforming use, as a stand-alone restaurant is not permitted in the LI Light Industrial Zoning District. By rezoning the site, the existing business becomes a legal use, should the owner choose to rebuild the restaurant exactly as it previously existed. The project site is south of Capitol Expressway and a large public storage and gasoline service station, west of a second gasoline service station, north of a retail building and single-family and multi-family residential uses, and west of a second public storage facility.

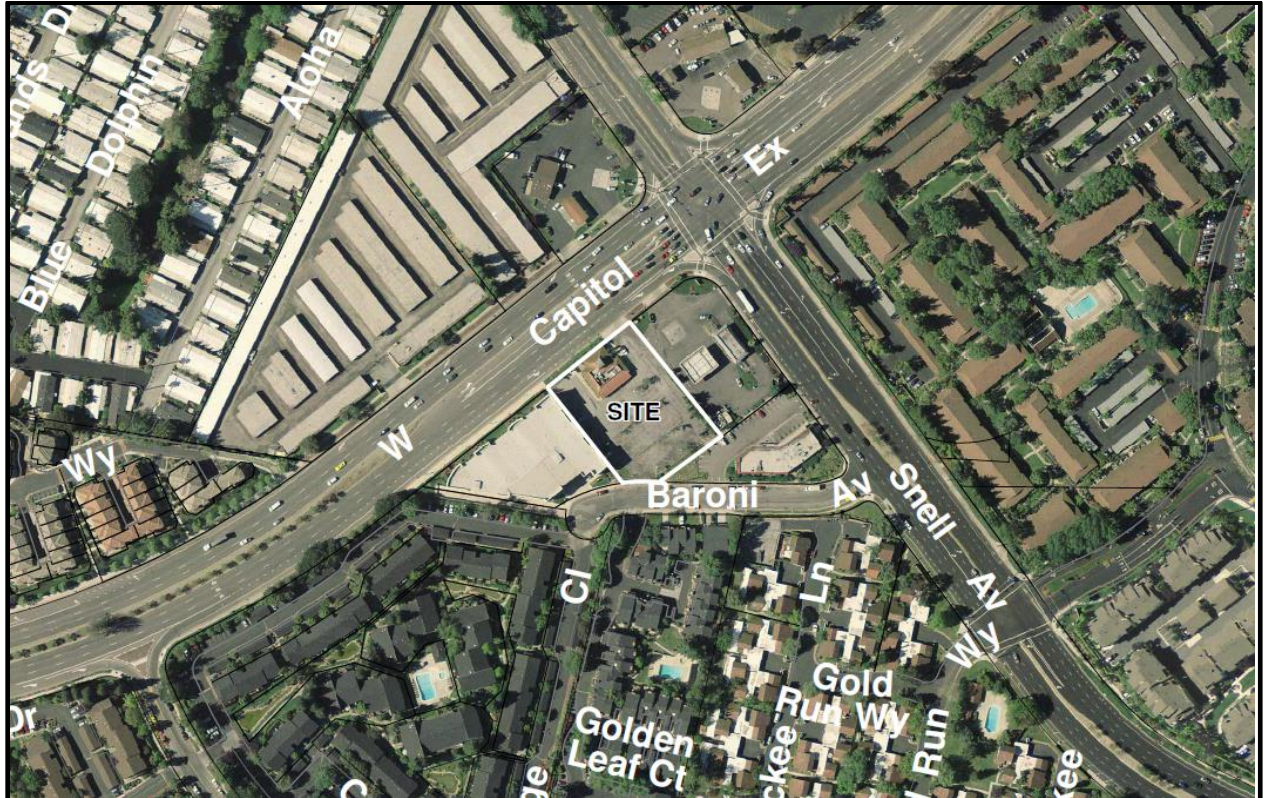


Figure 1: Project Site

ANALYSIS

The proposed Conventional Conforming Rezoning was analyzed for conformance with: 1) the Envision San José 2040 General Plan; 2) the Zoning Ordinance, and 3) the California Environmental Quality Act (CEQA).

Envision San José 2040 General Plan Conformance

The subject property is designated as Neighborhood/Community Commercial on the General Plan Land Use/Transportation Diagram (see Figure 2).

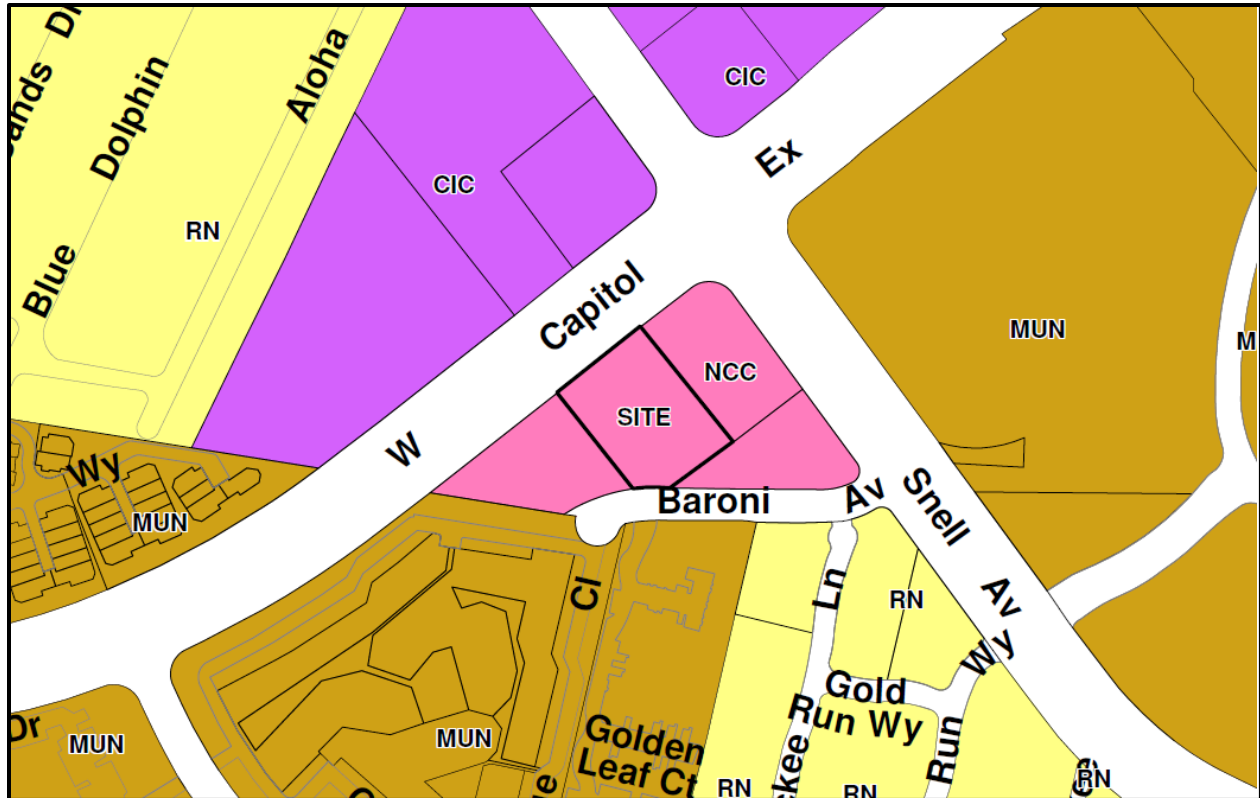


Figure 2: General Plan Land Use/Transportation Diagram

Properties with this designation support a very broad range of commercial activity, including commercial uses that serve the communities in the neighboring area. Neighborhood/Community Commercial uses typically have a strong connection to provide services and amenities for the nearby community and should be designed to promote that connection. The proposed rezoning supports the goals of this designation as it would allow the site to develop with the uses anticipated for the Neighborhood/Community Commercial land use designation. For example, the property owner of the burned-out structure cannot apply for a new Site Development Permit for a restaurant, as a restaurant is not permitted in the LI Light Industrial Zoning District. However, a restaurant is a permitted use in the CG Commercial General Zoning District. The rezoning of the site will allow a variety of uses that will serve the adjacent residential uses, and will provide a more active street frontage. Given the site's location adjacent to multiple residential uses, the entire corner was designed Neighborhood/Community Commercial as part of the 2040 General Plan Update to provide commercial and retail services to these residences. It is acknowledged that the site is adjacent to an expressway, which makes it more difficult to support solely pedestrian oriented uses. The design standards and allowable uses of the CG Commercial General Zoning are slightly more auto-oriented, but still have an emphasis on providing necessary neighborhood amenities. As such, the zoning district is more appropriate for the land use designation.

The conventional conforming rezoning is also consistent with the following General Plan policies:

1. Implementation Policy IP-1.1: Use the Envision General Plan Land Use/Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of

neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the zoning designation to indicate the appropriate type, form and height of development for particular properties.

Analysis: The proposed rezoning would conform to the Neighborhood/Community Commercial land use designation and would allow the existing use and a wide range of potential future commercial land uses that would promote an urban and pedestrian-friendly environment. With the CG Zoning District, the existing use and other community amenities can be provided to the surrounding residential uses. The proposed zoning district identifies a zero front setback, which is less than the existing zoning district's setback of 15 feet, which will allow a new project to have a more visible street presence. The height allowance in the CG Commercial General Zoning District is also taller at 65 feet rather than the 50 feet of the LI Light Industrial Zoning District. The added height provides more development flexibility for future uses.

2. Implementation Policy IP-8.2: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed use and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

Analysis: The proposed rezoning would utilize a conventional zoning district to implement the land use designation of Neighborhood/Community Commercial by increasing the allowable uses and amenities on site for the surrounding neighborhood. The current site was developed with a restaurant through a Site Development Permit, creating a legal non-conforming use, as a stand-alone restaurant is not permitted in the LI Light Industrial Zoning District. By rezoning the site, the existing business becomes a legal use, should the owner choose to redevelop the site and rehabilitate the existing restaurant.

Zoning Ordinance Conformance

The project site has a current zoning designation of LI Light Industrial (see Figure 3).

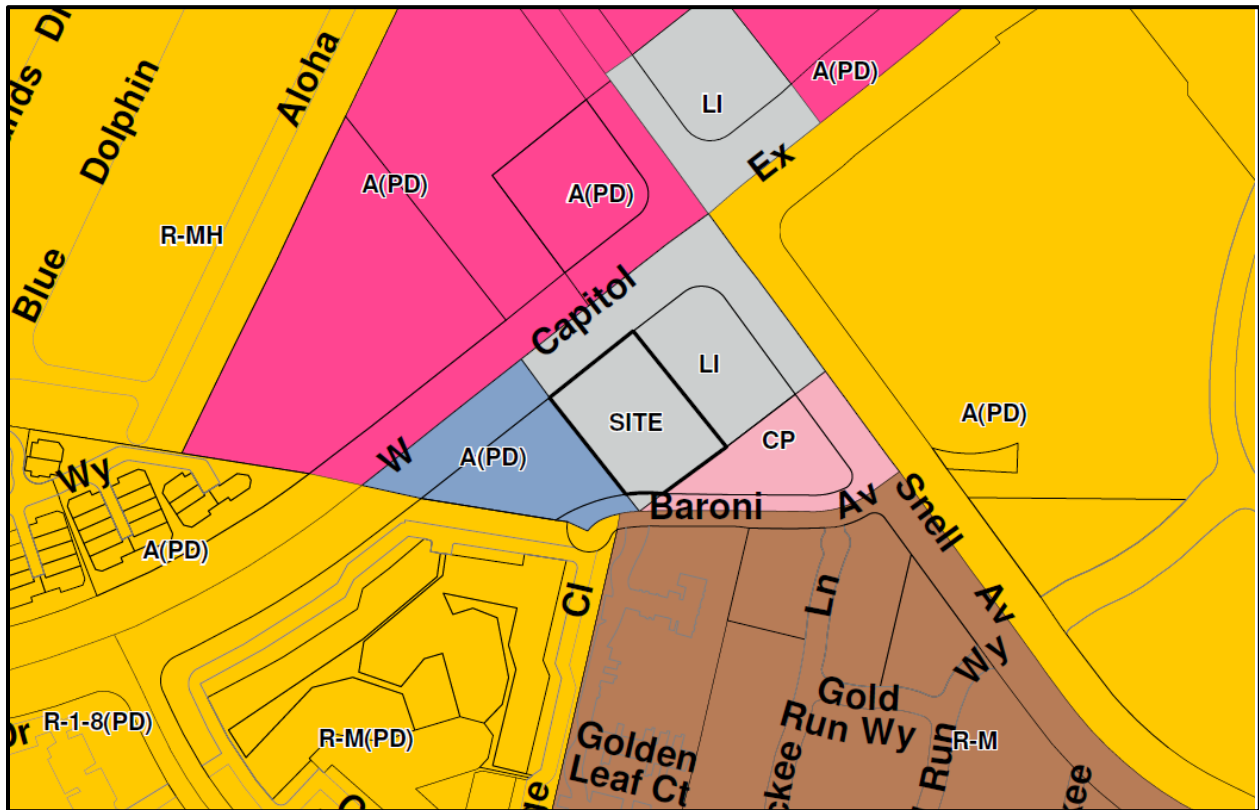


Figure 3: Zoning District Designation

The CG Commercial General Zoning District is intended to serve the needs of the general population. The district allows a full range of retail and commercial uses with a local or regional market. Importantly, the zoning district will allow the existing legal non-conforming restaurant to be a permitted uses. The applicant does not have a specific project on file with the city, but the CG Commercial General Zoning District does allow the restaurant use, along with other community-serving uses that the LI Zoning District does not permit. There are large residential developments in close proximity to the site, and the uses under the CG Zoning district will provide more amenities to these residences, which is consistent with the General Plan's goals for the NCC land use designation.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the proposed rezoning is pursuant to, in furtherance of and within the scope of the Envision San José 2040 General Plan program, the impacts of which were analyzed and disclosed in the Final Program Environmental Impact Report (EIR) and Supplemental EIR for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, Resolution No. 77617 on December 15, 2015, and Addenda thereto. The 2011 Program EIR and a supplemental EIR were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040. The proposed rezoning does not involve new significant

effects beyond those analyzed in the Program EIR and supplemental EIR. A Determination of Consistency with these two documents was prepared for this rezoning.

PUBLIC HEARING NOTIFICATION

To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Approved by: */s/*
Rosalynn Hughey, Interim Director
Planning, Building and Code Enforcement

For questions, please contact Planning Official, Steve McHarris, at (408)535-7819

Attachment: Legal Description

EXHIBIT 'A'

LEGAL DESCRIPTION

REZONE PARCEL

ALL OF PARCEL 1, AS SHOWN ON PARCEL MAP FILED MARCH 2, 1973 IN BOOK 317 OF MAPS, AT PAGE 46, SANTA CLARA COUNTY RECORDS, BEING ALSO DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID PARCEL 1, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LIN OF CAPITOL EXPRESSWAY AS SHOWN ON SAID MAP;

THENCE ALONG SAID RIGHT-OF-WAY LINE, NORTH 51°41'00" EAST, A DISTANCE OF 178.00 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 1;

THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 1, SOUTH 38°19'00" EAST, A DISTANCE OF 245.89 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL 1;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 1, SOUTH 53°41'39" WEST, A DISTANCE OF 127.17 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF BARONI AVENUE;

THENCE ALONG SAID RIGHT-OF-WAY LINE, NORTH 89°33'12" WEST, A DISTANCE OF 20.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 330.00 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°24'50", AND A ARC DISTANCE OF 42.70 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 1;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 1, NORTH 38°19'00" WEST, A DISTANCE OF 204.09 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS 0.97 ACRES, MORE OR LESS.

PREPARED BY: BASE CONSULTING GROUP, INC.



6/30/2017

NEIL E. THONESEN
P.L.S. 8656
LIC. EXP. 12/31/2017

DATE



EXHIBIT 'B'

CAPITOL EXPRESSWAY

79'

N51°41'00"E 178.00'

10'

67.1'

64.2'

59.5'

54.2'

APN: 462-43-005
NOT A PART
PARCEL A
314-MAPS-15
ZONING: A(PD)

APN: 462-43-018
NOT A PART
PARCEL 2
317-MAPS-46
ZONING: A(PD)
FILE NO. 98001

APN: 462-43-009
PARCEL 1
317-MAPS-46
ZONING: LI

N38°19'00"W 204.09'

S38°19'00"E 245.89'

Δ=7°24'50"
R=330.00'
L=42.70'

N89°33'12"W 20.49'

S53°41'39"W 127.17'

BARONI AVENUE

APN: 462-43-010
NOT A PART
PARCEL 3
317-MAPS-46
ZONING: CP
FILE NO. 73119



LEGEND

LOT LINE

CENTERLINE



PREPARED BY:



16453 E. MANNING AVE.
REEDLEY, CA 93654
PH: (559) 637-1544

PLOT PLAN

PARCEL 1, AS SHOWN ON PARCEL MAP FILED MARCH 2, 1973 IN BOOK 317 OF MAPS, AT PAGE 46, SANTA CLARA COUNTY RECORDS.

DATE: 06/26/2017

DRAWN BY: NET

JOB NO.: 17100

PAGE 1 OF 1