



CITY COUNCIL STAFF REPORT

File No.	C19-021
Applicant	Mark Feldman, American Motors Corporation
Owner	Michael A Lopina Trustee & et al
Location	West side of Saratoga Avenue, approximately 250 feet southerly of South Kiely Avenue (397 Saratoga Avenue)
Existing Zoning	CP Commercial Pedestrian Zoning District
General Plan Land Use Designation	Urban Village
Council District	1
Historic Resource	No
Annexation Date	November 6, 1972 (Casa View No. 16)
CEQA	Exempt pursuant to CEQA Guidelines Section 15301 for Existing Facilities.

APPLICATION SUMMARY:

Conforming Rezoning from CP Commercial Pedestrian Zoning District to CG Commercial General Zoning District on an approximately 0.90-gross acre site at 397 Saratoga Avenue.

RECOMMENDATION:

Staff recommends that the City Council:

1. Consider the Categorical Exemption in accordance with CEQA; and
2. Approve an ordinance rezoning an approximately 0.90-gross acre site, located at the west side of Saratoga Avenue, approximately 250 feet southerly of South Kiely Avenue (397 Saratoga Avenue), from the CP Commercial Pedestrian Zoning District to the CG Commercial General Zoning District.

PROJECT DATA

GENERAL PLAN CONSISTENCY	
General Plan Designation	Urban Village <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent
Consistent Policies	Implementation Policies IP-1.1, IP-1.7, and IP-8.2

SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Urban Village	CG – Commercial General Zoning District	Commercial shopping center
South	Urban Village	CN – Commercial Neighborhood Zoning District	Gas station, commercial shopping center
East	Urban Village	CG – Commercial General Zoning District	Gas station, commercial shopping center
West	Urban Village Commercial	CG – Commercial General Zoning District	Commercial car sales lot with onsite storage

PROJECT DESCRIPTION

On May 16, 2019, the applicant, Mark Feldman, applied for a Conforming Rezoning from the CP Commercial Pedestrian Zoning District to the CG Commercial General Zoning on an approximately 0.90-gross acre site.

Site Description and Surrounding Uses

The subject site is located on the west side of Saratoga Avenue, approximately 250 feet southerly of South Kiely Avenue, and is in the Stevens Creek Urban Village. The project site is adjacent to commercial shopping centers along the north, south, and east. South and southeast of the site are two gas stations, one on each side of Saratoga Avenue at the intersection of Saratoga Avenue and South Kiely Avenue. The associated car dealership as described below operates directly west of the site.



Figure 1: Aerial image of the subject site

Background

The subject project involves rezoning the property and demolishing the existing 2,670-square-foot structure for the purpose of creating a paved car sales lot in association with the adjacent car dealership (Stevens Creek Toyota). Automotive dealerships are recognized as large contributors to the commercial corridor that provide employment growth for the area. The existing structure on-site is a former restaurant (Happi House), which is currently not in operation.

A Special Use Permit (File No. SP19-017) is currently on file that proposes the demolition of the existing approximately 2,670-square-foot, one-story commercial building, without rebuilding any structure, and installing additional paving surfaces to allow the use for automotive sales. This Special Use Permit is currently under review and would be considered at a Planning Director's Hearing if the rezoning is approved and when the Special Use Permit project review has been completed.

ANALYSIS

The proposed project was analyzed for conformance with the following: 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 site has an *Envision San José 2040 General Plan* Land Use/Transportation Diagram land use designation of Urban Village (see Figure 2).

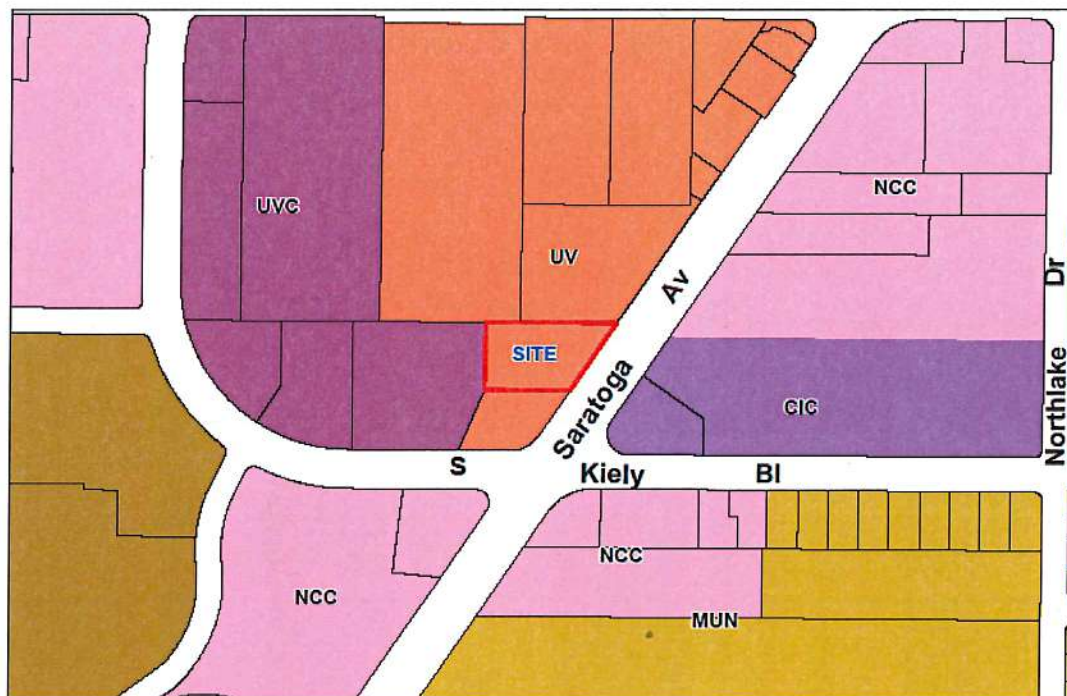


Figure 2: General Plan Land Use/Transportation Diagram

The Urban Village designation supports a wide variety of commercial, residential, institutional or other land uses with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept. The proposed rezoning is consistent with the following General Plan policies:

1. Implementation Policy IP-1.1 Land Use/Transportation Diagram: 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.
2. Implementation Policy IP-1.7 Land Use/Transportation Diagram: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* Vision, goals and policies.
3. Implementation Policy IP-8.2- Zoning: 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: Pursuant to Table 20-270 of the Zoning Ordinance, the CG Commercial General Zoning District is listed as a conforming district for the General Plan Land Use Designation of Urban Village. The proposed rezoning allows for a full range of retail and commercial uses within a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls. The conforming rezoning to the CG Commercial General Zoning District would retain conformance with the Urban Village General Plan Land Use/Transportation Diagram land use designation and maintain consistency with the block as most of the existing block is in the CG Commercial General Zoning District.

Zoning Ordinance Conformance

The proposed rezoning conforms with Table 20-270, Section 20.120.110 of the San José Municipal Code, which identifies the CG Commercial General Zoning District as a conforming district to the Urban Village General Plan Land Use/Transportation Diagram land use designation.

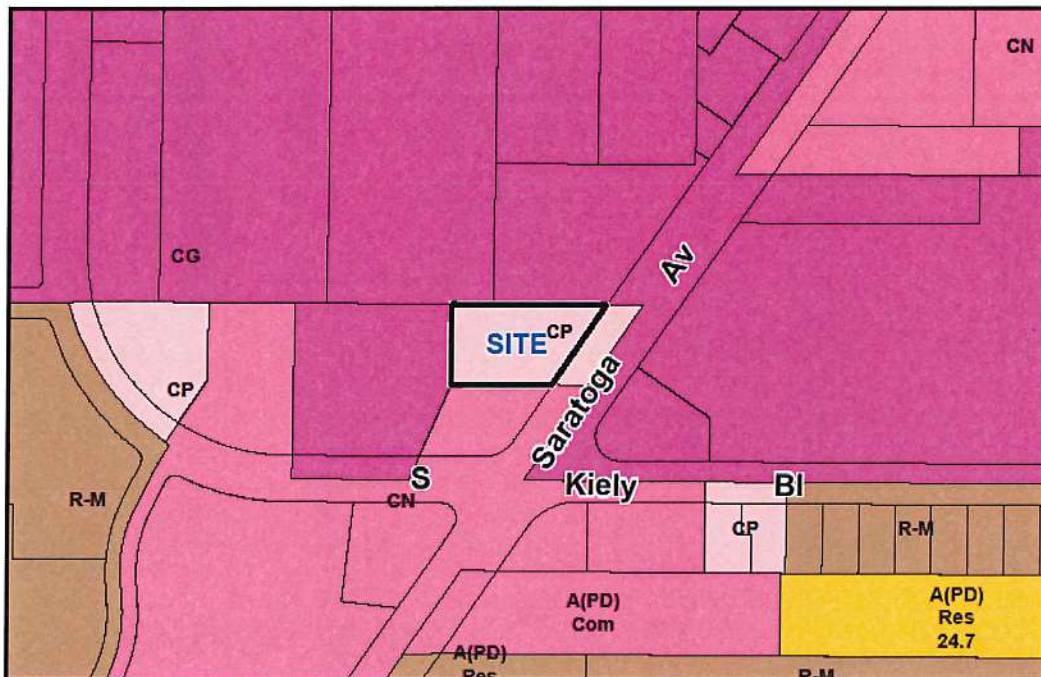


Figure 3: Zoning Map

The CG Commercial General Zoning District would allow the property to be developed in accordance with the allowable uses in Table 20-90, including car sales, retail sales, private instruction, personal services, public eating establishments, and offices. This rezoning would facilitate the current application for a special use permit to allow the demolition of an existing

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vacant building and authorize the paving of remaining surfaces to allow the expansion of an existing car sales use adjacent to the site.

Setbacks and Heights

The development standards for the CG Commercial General Zoning District require a 15-foot front setback, with zero side and rear setbacks. The maximum height allowed is 65 feet. Therefore, future development would be evaluated for conformance to these development standards, all other municipal code regulations, and City policies and guidelines.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended, as an existing facility.

The project site is in an urbanized area, as commercial uses surround the site, and the proposed work is located within an existing and disturbed area. The project scope is limited to paving the site and does not include the construction of any new structures. Additionally, this project involves negligible or no expansion.

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.

/s/

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

For questions, please contact Robert Manford, Deputy Director, at (408) 535-7900.

Attachment: Legal Description
Plat Map
Environmental Exemption

LEGAL DESCRIPTION

All that certain real property situates in the City of San Jose, County of Santa Clara, State of California more particularly described as follows:

Parcel "A" of the Parcel Map filed for record on the 2nd Day of February, 1972 in Book 296 of Maps at Page 15 described as follows:

Beginning at the northeasterly most point of Parcel A as shown on said map, said point being known as the true point of beginning, thence, South 34° 18' 30" West a distance of 188.18 feet along the westerly right of way of Saratoga Avenue; Thence, South 89° 59' 30" West, a distance of 200.00 feet; Thence, North 0° 00' 30" West, a distance of 155.42 feet; Thence, North 89° 59' 30" East, a distance of 306.09 feet to the true point of beginning.

Contains: 0.903± Acres



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Property Owner:
 Michael Lopina
 360 Kiely Blvd, #220
 San Jose, CA 95129

Leasehold:
 American Motor Corporation



THOMAS J. OWENS
 R.L.S. 8262



THOMAS J. OWENS
 R.C.E. 53530

N 89° 59' 30"E 306.09'

Parcel "A" of the Parcel Map
 filed for record on the 2nd Day
 of February, 1972 in Book 296 of
 Maps at Page 15

EX. BLDG TO BE
 REMOVED

EX. CURB TO
 REMAIN (TYP)

N 00° 00' 30"W 155.42'

N 89° 59' 30"E 200'

N 34° 18' 30"E 188.18'

SARATOGA AVENUE

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Note: No active
 wells on site.

SCALE 1" = 50'

KIELY BOULEVARD



Owens Design Consultants
 4604 California Avenue
 Oakdale, CA. 95361

(209) 522-8031 - fax: (209) 522-4738 - www.odoengr.com

Drawn By: TO
 Checked By: TO
 Scale: 1"=50'
 Job No. 2018003
 Date: 3/26/2019
 CAD File Name: 2018003

Project: REZONE OF PARCEL "A", 296 MAPS 15

Title: EXHIBIT "B"

CITY OF SAN JOSE STATE OF CALIFORNIA

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STATEMENT OF EXEMPTION

FILE NO.	C19-021 & SP19-017
LOCATION OF PROPERTY	West of Saratoga Avenue and 250 feet southerly of South Kiely Avenue, at 397 Saratoga Avenue
PROJECT DESCRIPTION	Conforming Rezoning to rezone from CP to CG Zoning District and Special Use Permit to allow demolition of existing structures and paving surfaces to allow a car sales lot on a 0.903-gross acre site.
ASSESSOR'S PARCEL NUMBER	294-42-001

CERTIFICATION

Under the provisions of Sections 15301 and 15061 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

15301. EXISTING FACILITIES

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion.

and

15061. REVIEW FOR EXEMPTION

(b) A project is exempt from CEQA if:

- (3) The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

ANALYSIS

The subject project involves rezoning the property and demolishing the existing structures on the project site to create a car sales lot in associated with the neighboring car dealership (Stevens Creek Toyota). The existing structure on-site is a restaurant (Happi House), which is currently not in operation. The project site is in an urbanized area, as commercial uses surround the site, and the proposed work is located within an existing and disturbed area. The project scope is limited to paving the site and does not include the construction of any new structures. The physical impact would be limited to demolition of the building and new asphalt paving for surface parking spaces. The purpose of this project is to support an existing use and involves negligible or no expansion.

CEQA Guidelines Section 15300.2 provides exceptions to the use of Categorical Exemptions where the use of a Categorical Exemption is prohibited under certain circumstances. The City has

considered the projects applicability to all of the exceptions under Section 15300.2. An analysis of each of these exceptions in reference to this specific project is provided below.

- (a) Location. Section 15300.2(a) does not apply to the Class Category 1 of exemptions.
- (b) Cumulative Impact. Based on the above analysis, there is no evidence of a potential significant cumulative impact on the environment from the proposed project. The proposed project will demolish an existing structure for a new car sales lot. The project is consistent with the Envision San José 2040 General Plan as evaluated in the Envision San José 2040 General Plan Environmental Impact Report, as supplemented.
- (c) Significant Effect. The proposed project site is a standard lot located within an urbanized area and does not have any unusual circumstances that would negatively impact the environment and would not result in any significant effects on the environment.
- (d) Scenic Highways. The project site will not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. Therefore the project is not subject to 15300.2(d).
- (e) Hazardous Waste Sites. The proposed project is not located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. Therefore the project is not subject to 15300.2(e).
- (f) Historical Resources. There are no historical resources located on the proposed project site; therefore Section 15300.2(f) does not apply.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement



Deputy

Date: 6/28/19

Environmental Project Manager: Krinjal Mathur