



CITY COUNCIL STAFF REPORT

File Nos.	C23-089 & ER23-082
Applicant	Iman Mostafavi
Location	Southeast corner of the intersection of South Winchester Boulevard and Fruitdale Avenue (950 South Winchester Boulevard)
Existing Zoning	R-1-5 Single-Family Residence
Proposed Zoning	CP Commercial Pedestrian
Council District	1
Historic Resource	No
Annexation Date	June 10, 1980
CEQA	Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto

APPLICATION SUMMARY:

Conforming Rezoning from the R-1-5 Single-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District on an approximately 0.21-gross-acre site located on the southeast corner of the intersection of South Winchester Boulevard and Fruitdale Avenue (950 South Winchester Boulevard).

RECOMMENDATION:

Staff recommends that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto, in accordance with CEQA; and
2. Approve an ordinance rezoning the approximately 0.21-gross-acre site located on the southeast corner of the intersection of South Winchester Boulevard and Fruitdale Avenue (950 South Winchester Boulevard) from the R-1-5 Single-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Neighborhood/Community Commercial <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		Implementation Policies IP-1.1, IP-1.7, IP-1.8, and IP-8.2	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Neighborhood/Community Commercial	CO Commercial Office	Detached Single-Family Residence
South	Neighborhood/Community Commercial	CO Commercial Office	Detached Single-Family Residence
East	Residential Neighborhood	R-1-5 Single-Family Residence	Detached Single-Family Residence
West	Urban Residential	R-M(PD) Planned Development	Multifamily Residences

RELATED APPROVALS	
Date	Action
N/A	No previous approvals.

PROJECT DESCRIPTION

Site Description and Surrounding Uses

As shown on the aerial map, the subject site is located on the southeast corner of the intersection of South Winchester Boulevard and Fruitdale Avenue (Exhibit A). A single-family residence exists on the site. The site is surrounded by detached single-family residences to the north, south, and east, and a multifamily residence to the west. There is currently no application on file for the development of the site.

Background

On March 13, 2023, the applicant, Iman Mostafavi, filed an application to rezone an approximately 0.21-gross-acre site from the R-1-5 Single-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District. The rezoning to the CP Commercial Pedestrian Zoning District would further bring the site into conformance with the General Plan Land Use/Transportation Diagram land use designation of Neighborhood/Community Commercial.

ANALYSIS

The project was analyzed for conformance with the following: 1) the *Envision San José 2040 General Plan* and the *Winchester Boulevard Urban Village Plan*, 2) the Zoning Ordinance, 3) Senate Bill 330 Compliance, and 4) the California Environmental Quality Act (CEQA).

Envision San José 2040 General Plan and Winchester Boulevard Urban Village Plan Conformance

The subject site is designated Neighborhood/Community Commercial on the Land Use/Transportation Diagram of the [Envision San José 2040 General Plan](#) (Exhibit B), as well as on the Land Use Map of the [Winchester Boulevard Urban Village Plan](#) (Exhibit C). Within the Winchester Boulevard Urban Village Plan Land Use Map, the site is located in an area where ground-floor commercial development is required.

The Neighborhood/Community Commercial land use designation supports a broad range of commercial uses such as neighborhood-serving retail stores and services, commercial and professional offices, and private community gathering facilities. New residential uses are not supported by this land use designation.

This designation is applied to smaller, shallow parcels fronting Winchester Boulevard and abutting single-family residences. Given the size of the parcels, parking requirements in the zoning code and the urban design step down policies, these properties are appropriate for the location of smaller commercial businesses. Neighborhood/Community Commercial uses should have a strong connection to, and provide services and amenities for, the community. These uses should be designed to promote this connection with an appropriate urban form that supports walking, transit use and public interaction. Also, this designation supports the neighborhood servicing retail and small businesses along Winchester Boulevard.

The 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.

Analysis: The subject site's land use designation of Neighborhood/Community Commercial is intended for neighborhood-serving commercial uses and services. Future development would be subject to the development standards outlined in the Winchester Boulevard Urban Village Plan, as well as the San José Zoning Code for the CP Commercial Pedestrian Zone, where the Urban Village Plan is silent.

2. **Implementation Policy IP-1.7 Land Use/Transportation Diagram:** Ensure that proposals to rezone and pre-zone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* vision, goals and policies.

Analysis: The CP Commercial Pedestrian Zoning District is a conforming district to the Neighborhood/Community Commercial land use designation, pursuant to [Section 20.120.110](#) of the San José Zoning Code.

3. **Implementation Policy IP-1.8 Land Use/Transportation Diagram:** Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning

Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

Analysis: The subject site would be rezoned to CP Commercial Pedestrian, which is a standard Zoning District. The rezoning would allow for consistent development patterns with other sites having a Neighborhood Community/Commercial designation within the Winchester Boulevard Urban Village boundary.

4. **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: Any future development at the subject site would be required to conform with the development standards of the Winchester Boulevard Urban Village Plan as well as the CP Commercial Pedestrian Zoning District, where the Urban Village Plan is silent. The allowed uses and development standards of the Winchester Boulevard Urban Village Plan and the CP Commercial Pedestrian Zoning District generally correspond to the Neighborhood/Community Commercial land use designation and would implement the goals and policies of the Envision General Plan.

The rezoning is consistent with the following Winchester Boulevard Urban Village policies:

1. **Policy 3-4:** Support a variety of commercial space to accommodate the needs of small, medium, and large companies.

Analysis: The allowable uses for the CP Commercial Pedestrian Zoning District outlined in [Table 20-90](#) of the San José Zoning Code include a variety of commercial uses. In addition, the site's location requires new development to have ground-floor commercial uses.

2. **Policy 3-9:** Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use Plan. Because the Land Use Plan identifies the City's long-term planned land use for a property, non-conforming uses should transition to the planned use over time. Allow improvements or minor expansion of existing, non-conforming land uses provided that such development will contribute to San José's and this Plan's employment growth goals or advance a significant number of other goals of this Plan.

Analysis: A single-family residence currently exists on the site. New residential uses are not supported by the Neighborhood/Community Commercial land use designation. This rezoning would allow the site to transition from a use that does not conform to its land use designation to a use that does.

Future development of the site would be evaluated for consistency with other applicable land use policies within Section 3.4 of the Winchester Boulevard Urban Village Plan.

Table 5-1 in Section 5.3-3.2 of the Winchester Boulevard Urban Village Plan establishes the following development standards for the subject site.

Regulation	Development Standard
Front setback, non-residential ground floor use (along South Winchester Boulevard)	0-10 feet
Front setback, residential ground floor use (along South Winchester Boulevard)	5-12 feet
Street side setback (along Fruitdale Avenue)	0-10 feet
Side setback (adjacent to 954 South Winchester Boulevard)	0 feet
Rear setback	10 feet minimum (where adjacent to residential, see Figure 5-3 of the Winchester Boulevard Urban Village Plan)
Street wall along Winchester Boulevard	The fifth story and above must be stepped back a minimum of 5 feet from the ground-level façade
Maximum height	65 feet (5-6 stories typical)

Any future development would be required to adhere to the development standards set forth in the Winchester Boulevard Urban Village Plan. Any development standards established within the CP Commercial Pedestrian Zoning District in [Table 20-100](#) that are not included in the Urban Village Plan would also be applied. All future development would be evaluated for conformance with the above development standards, Winchester Boulevard Urban Village Plan design standards, and all other Municipal Code regulations. All future development may also need to be evaluated under CEQA.

Zoning Ordinance Conformance

The rezoning to the CP Commercial Pedestrian Zoning District (Exhibit D) conforms with [Table 20-270](#), [Section 20.120.110](#) of the San José Zoning Code, which identifies the CP Commercial Pedestrian Zoning District as a conforming district to the General Plan Land Use/Transportation Diagram land use designation of Neighborhood/ Community Commercial.

Use Regulations

The CP Commercial Pedestrian Zoning District would allow the property to be used and developed in accordance with the allowable uses in [Table 20-90](#), which includes a range of general retail, education, training, entertainment, and recreation uses, as well as food, health, and financial services. This rezoning would facilitate the future redevelopment of the site to be consistent with the General Plan land use designation.

Development Standards

As previously discussed, any future development would be evaluated against the development standards outlined in Table 5-1 in Section 5.3-3.2 of the Winchester Boulevard Urban Village Plan. Where the Winchester Boulevard Urban Village Plan is silent, development standards within the San José Municipal Code would apply. These standards include late night and outdoor use regulations, lighting and screening standards, and performance standards, outlined in [Parts 5](#) and [6](#) of the San José Municipal Code.

Senate Bill 330 Compliance

The Housing Crisis Act of 2019 (SB 330, 2019) limits the manner in which local governments may reduce the capacity for residential units that can be built within the local agency's jurisdiction, including actions such as downzoning, changing general or specific plan land use designations to a less intensive use, reductions in height, density or floor area ratio, or other types of increased requirements that work to reduce the amount of housing capacity in the jurisdiction. An exception to this limitation is that a property may be allowed to reduce the intensity of residential uses if changes in land use designations or zoning elsewhere in the jurisdiction ensure there is no net loss in residential capacity within the jurisdiction.

The rezoning (File No. C23-089) does not reduce the intensity of residential uses because the rezoning allows for greater residential density than the existing R-1-5 Single-Family Residence Zoning District. The CP Commercial Pedestrian Zoning District allows up to 111 dwelling units per acre; the R-1-5 Single-Family Residence Zoning District allows up to five dwelling units per acre.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the project 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 Environmental Impact Report for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011 and Supplemental EIR adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The FEIR, SEIR, and Addenda 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.

No new or more significant environmental impacts beyond those identified in the Envision San José 2040 General Plan Final Program Environmental Impact Report (FPEIR), Supplemental EIR (SEIR), and Addenda have been identified, nor have any new mitigation measures or alternatives that are considerably different from those analyzed in the FPEIR, SIER, and Addenda been identified.

PUBLIC HEARING NOTIFICATION

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/

CHRISTOPHER BURTON

Director, Planning, Building and Code Enforcement

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

Attachments: Exhibit A - Aerial Map

Exhibit B – General Plan Land Use/Transportation Diagram

Exhibit C – Winchester Boulevard Urban Village Plan Land Use Map

Exhibit D – Proposed Zoning Map

Exhibit A: Aerial Map

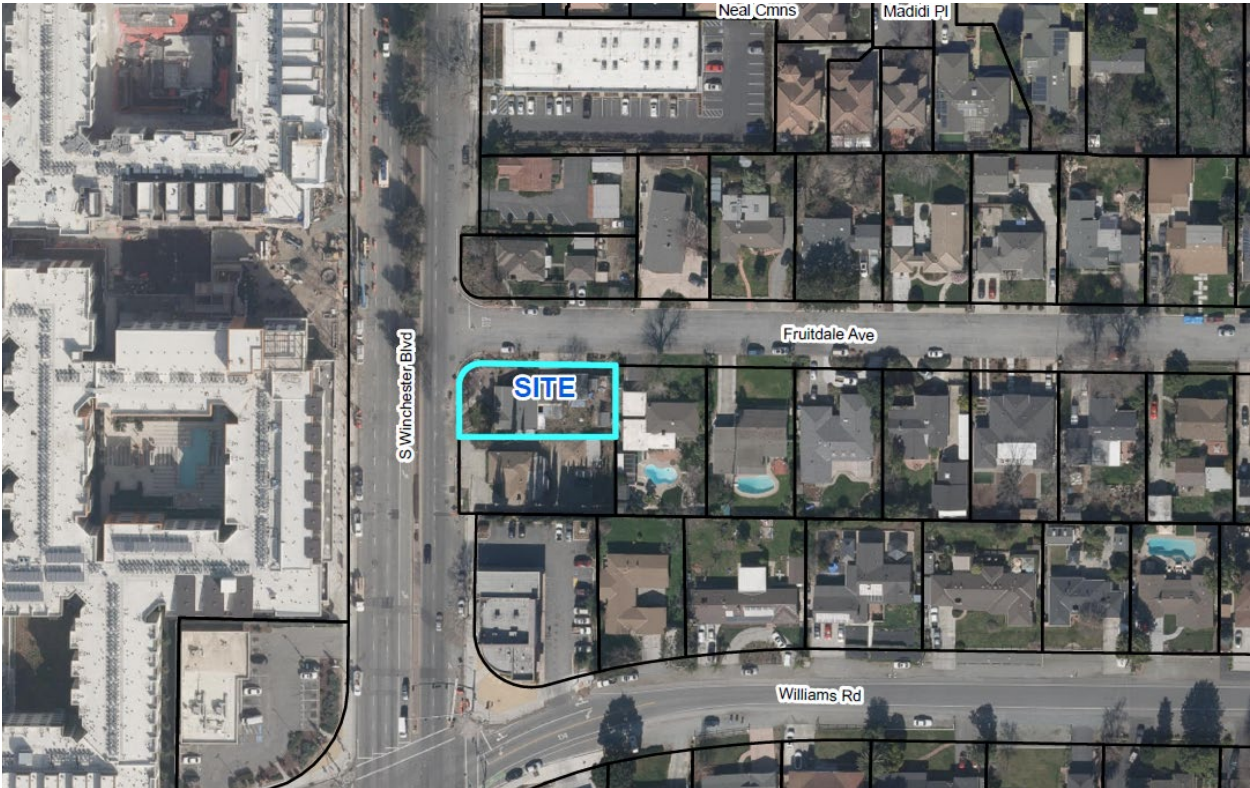


Exhibit B: General Plan Land Use/Transportation Diagram

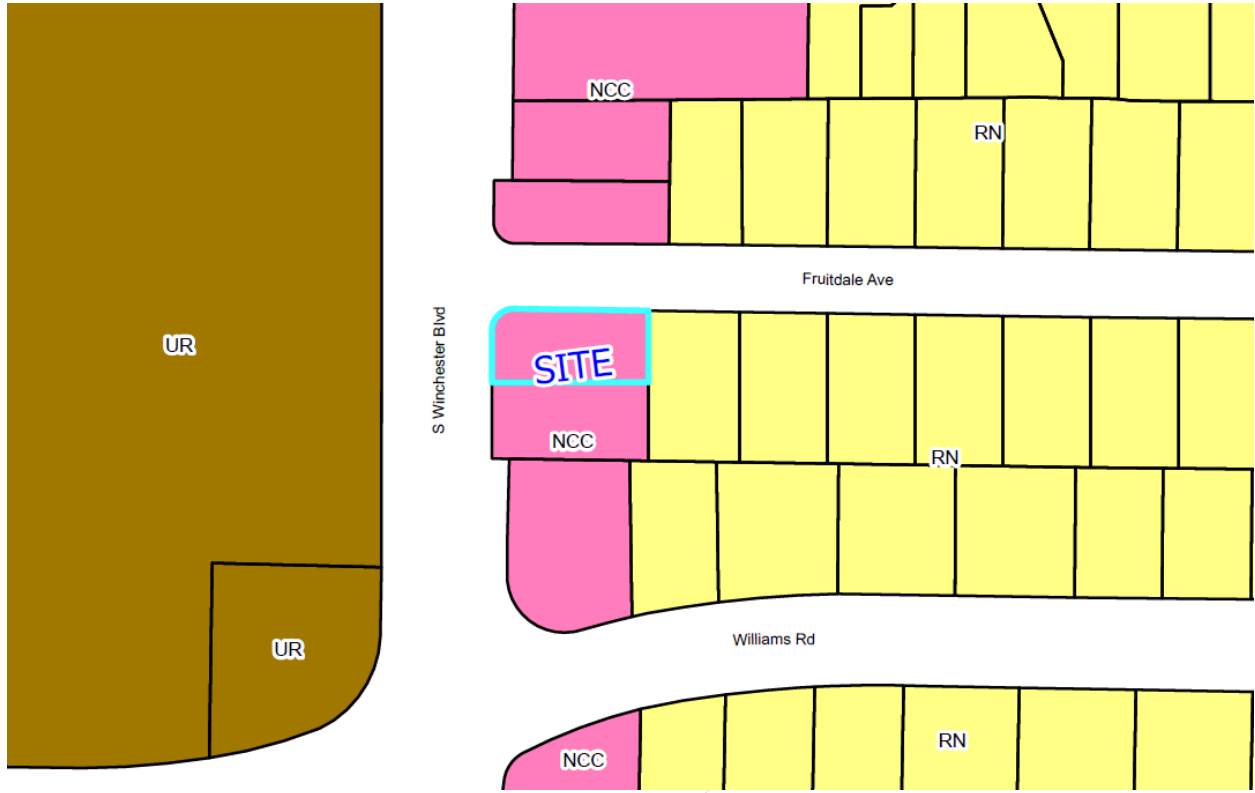


Exhibit C: Winchester Boulevard Urban Village Plan Land Use Map

FIGURE 3-1: LAND USE MAP

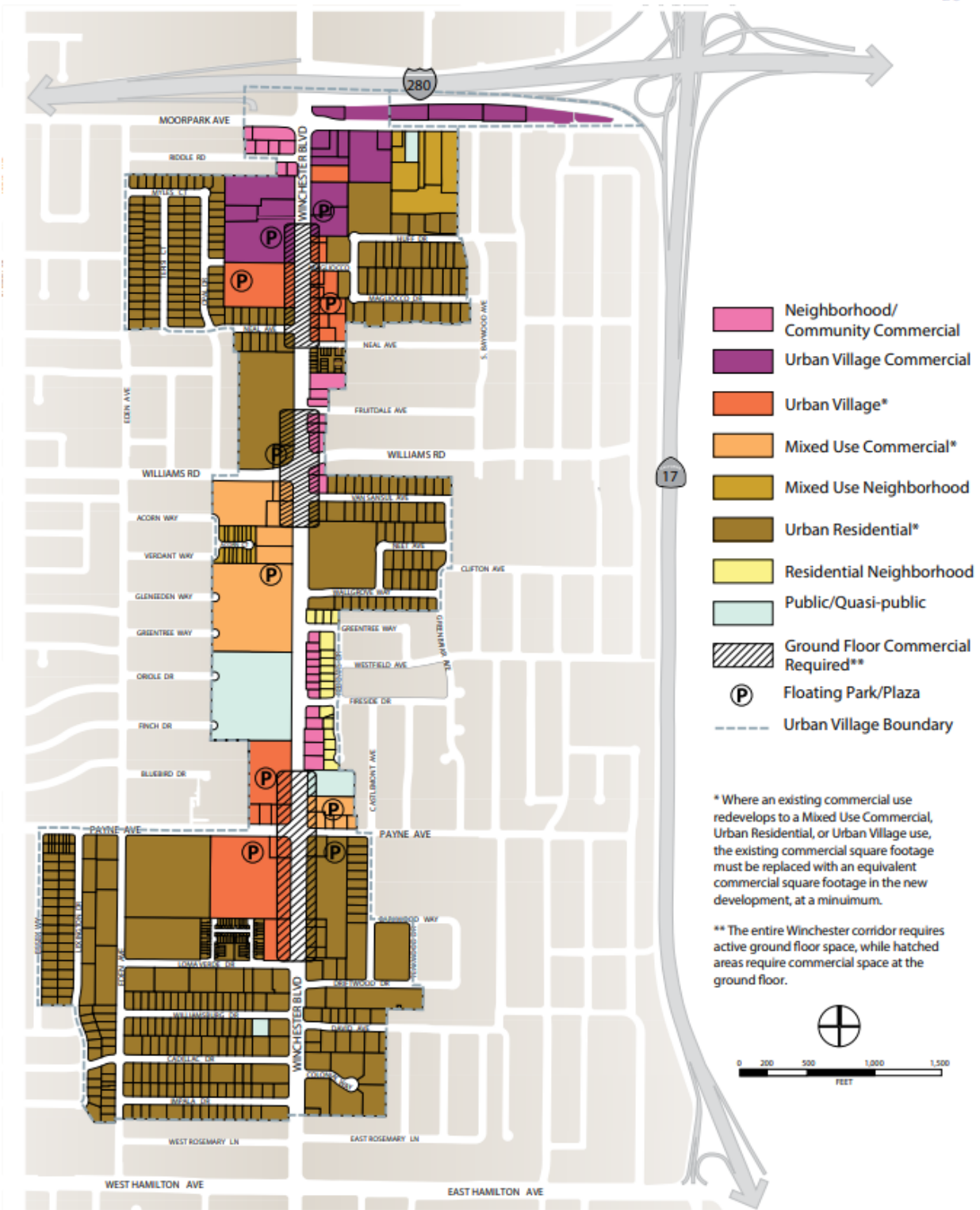


Exhibit D: Proposed Zoning Map

