



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

SUBJECT: SEE BELOW

FROM: Planning Commission

DATE: January 25, 2022

COUNCIL DISTRICT: 8

SUBJECT: FILE NO. GP21-003 & C21-036: GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM LAND USE DESIGNATION FROM RESIDENTIAL NEIGHBORHOOD TO NEIGHBORHOOD/COMMUNITY COMMERCIAL AND A REZONING FROM THE A AGRICULTURE ZONING DISTRICT TO THE CP COMMERCIAL PEDESTRIAN ZONING DISTRICT ON AN APPROXIMATELY 0.66-GROSS ACRE SITE LOCATED AT 3354 KEATON LOOP (ASSESSOR PARCEL NUMBERS: 659-05-039, 659-05-021)

RECOMMENDATION

The Planning Commission voted 8-2-1 (Garcia and Montañez opposed; Cantrell absent) to recommend that the City Council take the following actions:

1. Consider the Negative Declaration in accordance with CEQA;
2. Adopt a resolution approving the General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Residential Neighborhood to Neighborhood/Community Commercial; and
3. Approve an ordinance approving the Conforming Rezoning from the A Agriculture Zoning District to the CP Commercial Pedestrian Zoning District.

BACKGROUND

The Planning Commission held a public hearing on January 12, 2022, to consider the proposed General Plan Amendments and Rezoning. Planning staff recommended approval to amend the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Residential Neighborhood to Neighborhood/Community Commercial and to change the

Zoning District from A Agriculture to CP Commercial Pedestrian on an approximately 0.66-gross acre site. The Planning Commission made a recommendation to the City Council to consider the Negative Declaration in accordance with CEQA and adopt a resolution and an ordinance to approve the applicant's proposed General Plan Amendment and Rezoning.

Staff Presentation

Staff presented a summary of the applicant's General Plan Amendment and Rezoning including a description of the proposed project and details of the public engagement process and analysis, which is explained in detail in the attached report to the Planning Commission.

Public Testimony

The applicant representative, Sal Caruso, gave a brief presentation about the proposed project and stated that his client's intent is to develop a commercial office on the project site. The Neighborhood/Community Commercial land use designation would facilitate the commercial office use on this site and would be contiguous to similar commercial uses on Keaton Loop and San Felipe Road.

One member of the public, Keith Gaxiola, spoke in opposition to the proposed project because he believes the site is not suitable for commercial development because of the proximity to residential homes, including his home next door to the project site. He stated that commercial development would result in less privacy, an increase in noise and congestion and that there is no other commercial on that side of the street.

Mr. Caruso responded to the public comment and committed to working with the neighbors and neighborhood in the future to ensure that future development would be compatible with the existing neighborhood. He emphasized the General Plan Amendment and rezoning does not approve of any specific development proposal and any future development would adhere to all City policies related to noise attenuation.

Planning Commission Discussion

Commissioner Oliverio asked the applicant to clarify that they're not planning for a liquor store or a drive-thru and would be developing an office. The applicant responded that no liquor store or drive-thru is being planned and a low-impact project would be developed.

Commissioner Garcia asked the applicant if their office on Story Road would be moving to this location and if the applicant considered a mixed-use project. The applicant responded that the location would be a second office and a mixed-use project was considered; however, it was determined that a mixed-use project would be challenging given the small size of the site and limited access to the site.

Commissioner Montañez stated that she opposed the project because she felt that housing should be preserved considering the housing crisis and disagreed with the placement of commercial at this location.

Commissioner Oliverio made a motion to approve the staff's recommendations and Commissioner Torrens seconded the motion.

The Planning Commission voted 8-2-1 (Garcia and Montañez opposed; Cantrell absent) to recommend to the City Council to consider the Negative Declaration and adopt a resolution approving the applicant's General Plan Amendment to amend the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Residential Neighborhood to Neighborhood/Community Commercial and approve an ordinance approving the conforming rezoning of certain real property located at the southeast corner of Keaton Loop and San Felipe Road (3354 Keaton Loop) from the A Agriculture Zoning District to CP Commercial Pedestrian Zoning District on an approximately 0.66-gross acre site.

OUTCOME

If the City Council adopts a resolution approving the General Plan Amendment, the Envision San José 2040 General Plan Land Use/Transportation Diagram would be amended to reflect the land use designation changes from Residential Neighborhood to Neighborhood/Community Commercial, and the site would be rezoned from A Agriculture to CP Commercial Pedestrian Zoning District.

ANALYSIS

For a complete analysis, please see the Planning Commission staff report (attached).

CONCLUSION

The Planning Commission voted 8-2-1 (Garcia and Montañez opposed; Cantrell absent) to recommend that the City Council approve the staff's recommendations.

EVALUATION AND FOLLOW UP

If the application for General Plan Amendment is approved as recommended by the Planning Commission, the Envision San José 2040 General Plan Land Use/Transportation Diagram would be amended to reflect the land use designation change from Residential Neighborhood to Neighborhood/Community Commercial and the Zoning District would be changed from A Agriculture to CP Commercial Pedestrian on an approximately 0.66-gross acre site located at

3354 Keaton Loop. A subsequent permit would need to be submitted and approved for the project to obtain a Building and Public Works permit to begin construction.

CLIMATE SMART SAN JOSE

The proposed General Plan Amendment and Rezoning align with Climate Smart San José's overall goals by locating commercial uses near existing residential land use to reduce vehicle miles traveled and incentivize walking.

PUBLIC OUTREACH/INTEREST

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 1,000 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.

A community meeting was held on September 27, 2021, for File Nos. GP21-003 and C21-036 and approximately nine community members attended the meeting. The community members were neighbors to the site and concerned about the compatibility of a new commercial building with their adjacent residencies, including an increase in noise and parking. The neighbors felt that the residential land use designation should be kept on the site because it is better suited for the neighborhood and any commercial development would reduce privacy and negatively impact the neighborhood. The applicant stated that they intended to develop the site as an office in the future. Staff noted that the proposal did not include a development proposal and any future development proposals would require a permit with further community outreach.

COORDINATION

The preparation of this memorandum has been coordinated with the City Attorney's Office.

CEQA

An Initial Study (IS) and Negative Declaration (ND) were prepared by the Director of Planning, Building, and Code Enforcement for the subject General Plan Amendment. The documents were circulated for public review from November 3, 2021, through November 23, 2021. No public comments were received.

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The ND determined that the proposed General Plan Amendment will have a less than significant effect on the environment. No impacts were identified; therefore, no mitigation is required. The entire ND, Initial Study, technical reports, public comments, and responses are available at:

<http://www.sanjoseca.gov/negativedeclarations>

/s/

Christopher Burton, Secretary
Planning Commission

For questions please contact Michael Brilliot, Deputy Director, at 408-535-7831.

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION

FROM: Chris Burton

SUBJECT: GP21-003, C21-036

DATE: January 12, 2022

COUNCIL DISTRICT: 8

Type of Permit	General Plan Amendment (GP21-003) Conforming Rezoning (C21-036)
Project Planner	Robert Rivera
CEQA Clearance	Negative Declaration, 3354 Keaton Loop General Plan Amendment
CEQA Planner	Cassandra van der Zweep

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council that it takes all of the following actions:

1. Consider the Negative Declaration in accordance with CEQA; and
2. Adopt a resolution approving the General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Residential Neighborhood to Neighborhood/Community Commercial (Exhibit B).
3. Adopt an ordinance approving the Conforming Rezoning from the Agriculture Zoning District to the Commercial Pedestrian Zoning District (Exhibit C).

PROPERTY INFORMATION

Location	Southeast corner of Keaton Loop and San Felipe Road (3354 Keaton Loop)
Assessor Parcel Nos.	659-05-039 and 659-05-021
Existing General Plan Land Use Designation	Residential Neighborhood
Proposed General Plan Land Use Designation	Neighborhood/Community Commercial
Existing Zoning District	Agriculture
Proposed Zoning District	Commercial Pedestrian
Growth Area	n/a
Demolition	n/a
Historic Resource	n/a
Annexation Date	4/22/1960 (Evergreen No _1-B)

Council District	8
Acreage	0.66 acres
Floor Area Ratio	n/a
Proposed Density	n/a

PROJECT SETTING AND BACKGROUND

On March 5, 2021 the applicant submitted the following applications related to the approximately 0.66-gross acre subject site located on the southeast corner of Keaton Loop and San Felipe Road intersection:

1. General Plan Amendment request to change the General Plan Land Use/Transportation Diagram land use designation from Residential Neighborhood to Neighborhood/Community Commercial; and
2. Conforming Rezoning from the Agriculture Zoning District to the Commercial Pedestrian Zoning District.

Changing the General Plan land use designation to Neighborhood/Community Commercial and the Zoning District to Commercial Pedestrian would allow a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such a neighborhood serving retail and services and commercial/professional office development.

As shown on the attached [aerial map](#) (Exhibit A), the site is located at the southeast corner of Keaton Loop and San Felipe Road (3354 Keaton Loop) and is just outside of the Aborn Road/San Felipe Road Urban Village Boundary Growth Area. The site is currently developed with an existing single-family residence and associated accessory structures.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Neighborhood/Community Commercial	Agriculture	Community Center, Childcare facility
South	Residential Neighborhood	Agriculture	Vacant
East	Residential Neighborhood	Agriculture	Single-family residential
West	Neighborhood/Community Commercial; Open Space, Parklands and Habitat	Commercial Pedestrian; Commercial Neighborhood	Small commercial shopping center

ANALYSIS

The proposed General Plan Amendment and Conforming Rezoning are analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. Zoning District Consistency with the Proposed General Plan Amendment (Senate Bill 1333)
3. Senate Bill 330

4. City Council Policies
5. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Conformance

Existing Land Use Designation

As shown in the attached **General Plan Map** (Exhibit B), the project site, which is comprised of two parcels, has Envision San José 2040 General Plan designations of:

Residential Neighborhood

Density: Typically, 8 DU/AC (Match existing neighborhood character); FAR up to 0.7 (1 to 2.5 stories)

This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. New infill development should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood. New infill development should be integrated into the existing neighborhood pattern, continuing and, where applicable, extending or completing the existing street network. The average lot size, orientation, and form of new structures for any new infill development must therefore generally match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

Existing development within this designation will typically have a density of approximately 8 DU/AC, but in some cases this designation may be applied to areas already developed at slightly higher or slightly lower densities. New infill development should conform to the General Plan design guidelines for Residential Neighborhoods and be limited to a density of 8 DU/AC or the prevailing neighborhood density, whichever is lower.

Proposed General Plan Land Use Designation

As shown in the attached Proposed General Plan Map (Exhibit C), the proposed land use designation is:

Neighborhood/Community Commercial

Density: None, FAR Up to 3.5 (1 to 5 stories)

This designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Neighborhood / Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction. General office uses, hospitals and private community gathering facilities are also allowed in this designation. This designation also supports one hundred percent (100%) deed restricted affordable housing developments that are consistent with General Plan Policy H-2.9 and Policy IP-5.12. This designation allows for up to a 3.5 floor area ratio (FAR).

General Plan Goals and Policies

The proposed General Plan Amendment and Conforming Rezoning are **consistent** with the following General Plan goals and policies:

1. General Land Use Policy LU-1.1: Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.
2. Fiscally Sustainable Land Use Framework Policy FS-3.3: Promote land use policy and implementation actions that increase the ratio of Jobs to Employed Residents to improve our City's fiscal condition, consistent with economic development and land use goals and policies. Maintain or enhance the City's net total employment capacity collectively through amendments made to this General Plan in each Annual Review process.
3. Community Health, Safety and Wellness Goal CD-5.2: Foster a culture of walking by designing walkable urban spaces; strategically locating jobs, residences and commercial amenities; providing incentives for alternative commute modes; and partnering with community groups and health services organizations to promote healthful life-styles for San José residents.

Analysis: The proposed project would convert a residential land use designation to a commercial land use designation and therefore increase the overall employment land in the City. An increase in employment land would increase the number jobs within the City and further the City's goals of fiscal sustainability. Further, the project is located near residential land use designations and near other neighborhood serving commercial uses and the development of commercial office or commercial uses would foster a culture of walking by providing additional jobs and amenities to the nearby neighborhood.

The project is **inconsistent** with the following Envision San José 2040 General Plan policy.

1. Major Strategy #3: Focused Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified "Growth Areas" (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods. While the Focused Growth strategy directs and promotes growth within identified Growth Areas, it also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City's Urban Growth Boundary.
2. Growth Areas Policy LU-2.3: To support the intensification of identified Growth Areas, and to achieve various goals related to their development throughout the City, restrict new development on properties in non-Growth Areas.

Analysis: The project site is located outside a growth area and Envision San José 2040 General Plan discourages intensification of development outside of growth areas. However, the project site is adjacent to the Aborn Rd/ San Felipe Rd Urban Village's boundary and would allow for typical neighborhood serving commercial uses found throughout the City of San Jose. The intensity of commercial development would be limited to the maximum 3.5 FAR allowed in Neighborhood/Community Commercial designation.

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

1. Implementation Policy IP-1.7: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan vision, goals, and policies.
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.
3. Implementation Policy IP-8.3 – Zoning: For the review of privately or publicly initiated rezoning applications, consider the appropriateness of the proposed zoning district in terms of how it will further the Envision General Plan goals and policies as follows:
 - a. Align with the Envision General Plan Land Use/Transportation Diagram.
 - b. Retain or expand existing employment capacity.
 - c. Preserve existing retail activity.
 - d. Avoid adverse land use incompatibilities.
 - e. Implement the Envision General Plan goals and policies including those for Urban Design.
 - f. Support higher density land uses consistent with the City's transition to a more urban environment.
 - g. Facilitate the intensification of Villages and other growth areas consistent with the goal of creating walkable, mixed-use communities
 - h. Address height limits, setbacks, land use interfaces and other design standards so as to provide for the intensification of land uses adjacent to already developed areas.

Analysis: An application for a conforming rezoning is required for consistency with the proposed General Plan Amendment, per SB 1333. Planning staff has received a conforming rezoning application from Agriculture to Commercial Pedestrian, which is the conforming Zoning District for the proposed Neighborhood/Community Commercial General Plan land use designation.

For the reasons outlined above, staff recommends approval of the proposed General Plan Amendment request and the proposed Conforming Rezoning. The conversion of a residential land use designation to a commercial land use designation would increase the total employment lands within the City of San Jose and would allow for more commercial development which would support more jobs consistent with the fiscal sustainability goals of the City. Further, the new employment land would be located near existing residential homes and encourage walking, bicycling, and transit uses which would result in a reduction of greenhouse gases from less driving.

Zoning Ordinance Conformance

The proposed project is located in the Agriculture Neighborhood Zoning District, [see attached Zoning District Map](#) (Exhibit D). The proposed rezoning from Agriculture Zoning District to Commercial Pedestrian Zoning District (Exhibit E) conforms with Table 20-270, [Section 20.120.110](#) of the San José Municipal Code, which identifies the Commercial Pedestrian Zoning District as a conforming district to the Neighborhood/Community Commercial General Plan land use designation.

The proposed rezoning would allow the properties to be used and developed in accordance with the allowable uses in Table 20-90, [Section 20.40.100](#), and consistent with the Neighborhood/Community Commercial General Plan land use designation and consistent with Senate Bill 1333 mandate that zoning be consistent with the general plan designation.

Senate Bill 330 Compliance

The Housing Crisis Act of 2019 (SB 330) limits the manner in which local governments may reduce the capacity for residential units that can be built on properties that allow housing, including actions such as down-zoning, 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. An exception to this is that a property may be allowed to reduce intensity of residential uses if changes in land use designations or zoning elsewhere ensure “no net loss” (down-zoning) in residential capacity within the jurisdiction. Additionally, SB 940 authorizes the City of San José to proactively change a zoning to a more intensive use (up-zoning) and to use the added capacity to subsequently change the zoning to a less intensive use.

Approval of this proposed General Plan Amendment (File No. G21-003) would change the land use designation of the subject site from Residential Neighborhood (8 du/acre) to Neighborhood/Community Commercial (0 du/acre) and result in a decrease of residential capacity by 5 units. The decrease in residential capacity would be offset by an increase of residential capacity from General Plan Amendment (File no. GP21-007) which is increasing residential capacity by 57 units. Therefore, there would be no net loss of residential capacity associated with the General Plan Amendment.

Approval of the proposed conforming rezoning (C21-036) would change the Zoning District from A Agriculture (1 du/20 acres) to CP Commercial Pedestrian (111 du/acre) and would result in an increase of residential capacity by 72 units. Therefore, consistent with the provisions of SB940, there would be no net loss of residential capacity in the city resulting from this proposed rezoning action satisfying the no net loss of residential capacity requirements of Senate Bill 330 and Senate Bill 940.

City Council Policy Conformance

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the project is considered a Significant Community interest proposal. Following City Council Policy 6-30, the applicant has posted the on-site sign to inform the neighborhood of the proposed project. A community meeting was held in coordination with the Council District 8 office to discuss the project on September 27, 2021. Comments received during the community meeting and project review are further discussed later in this report, in the Public Outreach section.

Staff contact information have also been available on the community meeting notices and project site. The staff report is also posted on the City’s website. Staff has been available to respond to questions from the public.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

An Initial Study (IS) and Negative Declaration (ND) were prepared by the Director of Planning, Building and Code Enforcement for the subject General Plan Amendment. The documents were circulated for public review from November 3, 2021 through November 23, 2021. No public comments were received.

The ND determined that the proposed General Plan Amendment will have a less than significant effect on the environment. No impacts were identified; therefore, no mitigation is required. The entire ND, Initial Study, technical reports, public comments and responses are available at:

<http://www.sanjoseca.gov/negativedeclarations>

PUBLIC OUTREACH

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 1,000 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.

A community meeting was held on September 27th, 2021 for File Nos. GP21-003 and C21-036 and approximately nine community members attended the meeting. The community members were neighbors to the site and concerned about the commercial building or retail compatibly with the neighborhood, along with the increase in noise and parking. The neighbors felt that the residential land use designation should be kept on the site because it is better suited for the neighborhood and any commercial development would reduce privacy and negatively impact the neighborhood. The applicant stated that they intended to develop the site as office in the future. Staff noted that the proposal did not include a development proposal and any future development proposals would require a permit with further community outreach.

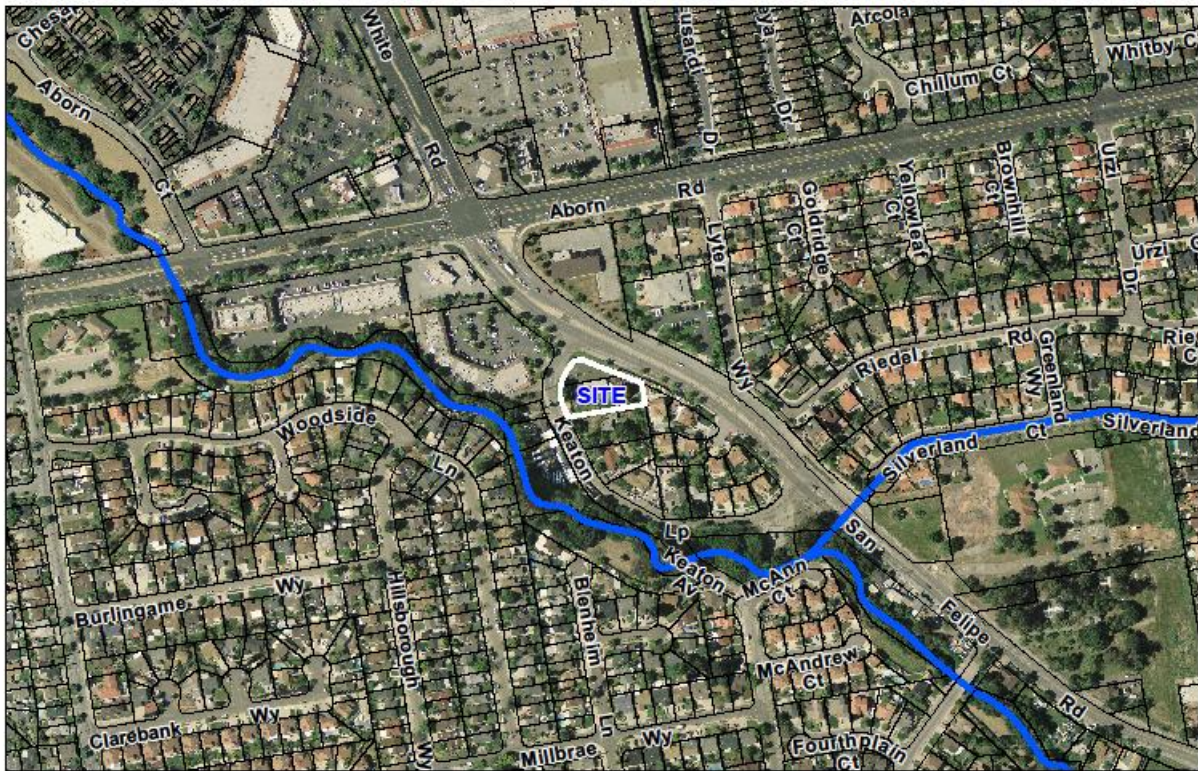
Project Manager: Robert Rivera

Approved by: /s/ Michael Brilliot, Deputy Director for Chris Burton, Planning Director

ATTACHMENTS:
Exhibit A: Vicinity Map
Exhibit B: General Plan Map
Exhibit C: Existing General Plan Map
Exhibit D: Proposed General Plan Map
Exhibit E: Existing Zoning Map
Exhibit F: General Plan Resolution
Exhibit G: Rezoning Ordinance
Exhibit H: CEQA Resolution
Exhibit I: Initial Study Negative Declaration

Owner:	Applicant:
Rigoberto and Delfina Bracamontes 5323 Ligurian Drive San Jose, CA 95138	Rigo Bracamontes 5323 Ligurian Drive San Jose, CA 95138

Exhibit A: Aerial of Site

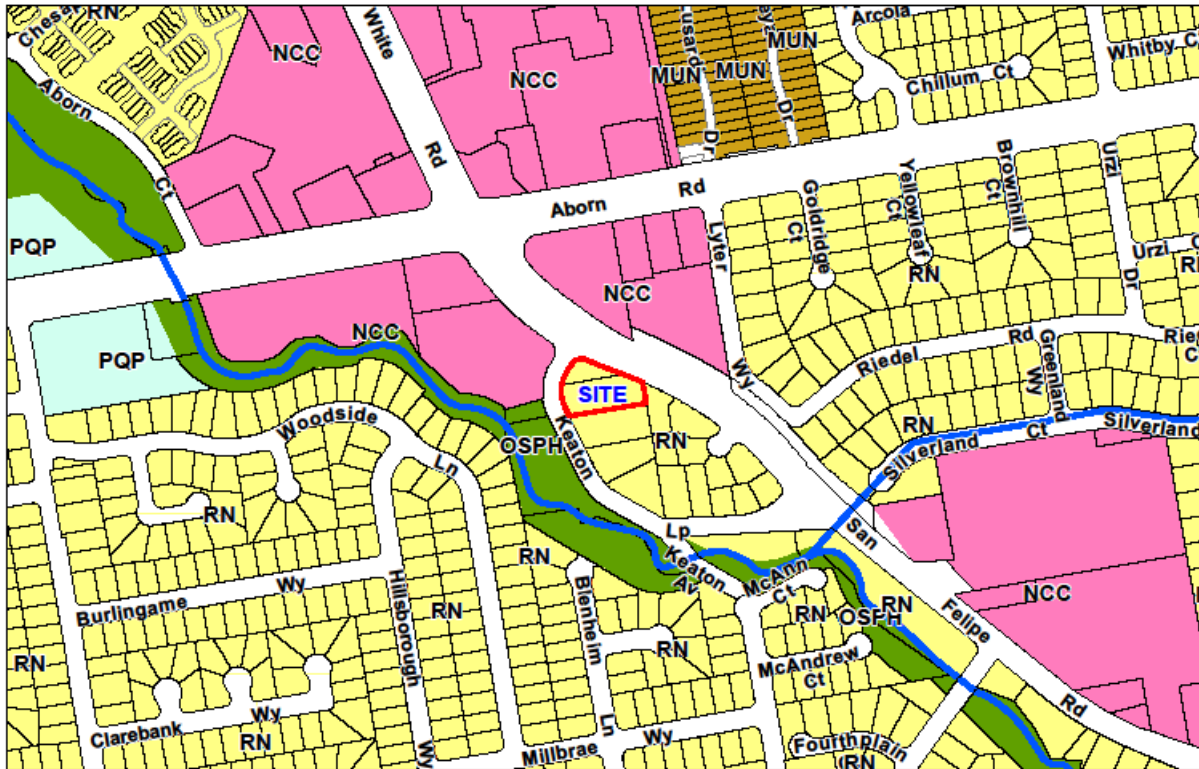


File No: GP21-003

District: 8

AERIAL

Exhibit B: Existing General Plan



File No: GP21-003

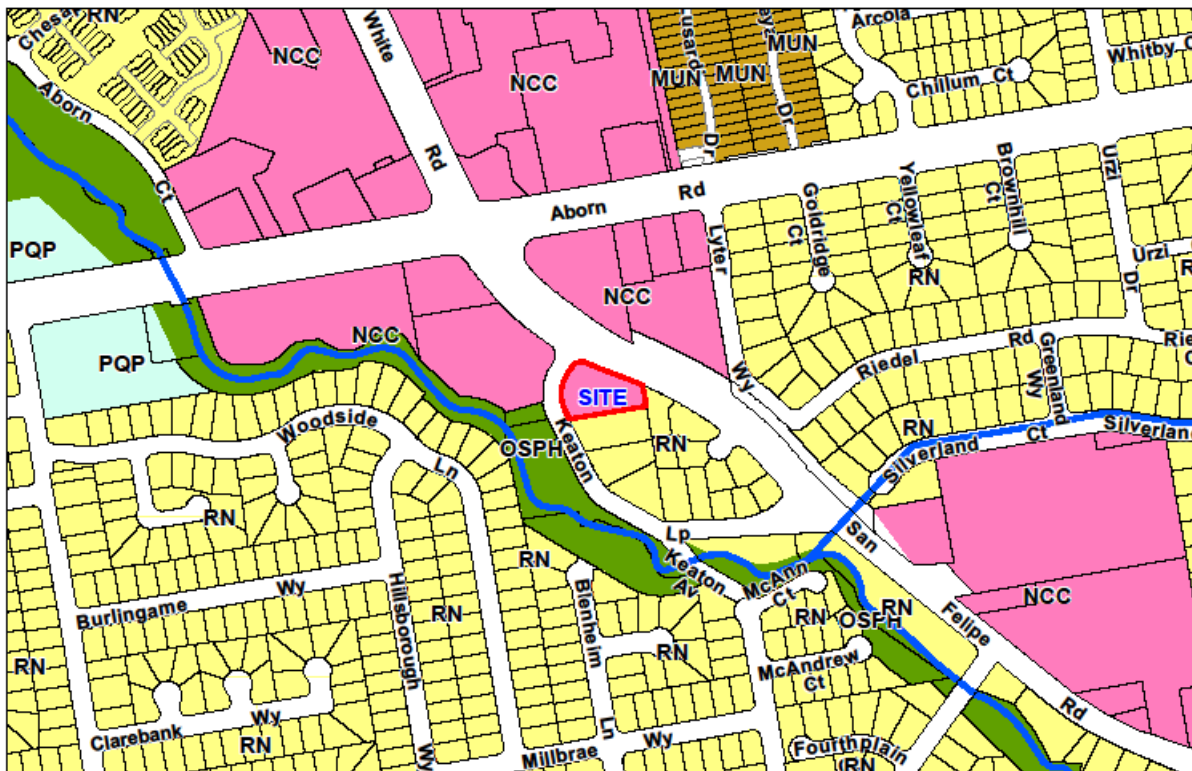
District: 8

EXISTING GENERAL PLAN



Prepared by the Department of Planning,
Building and Code Enforcement
03/05/2021

Exhibit C: Proposed General Plan

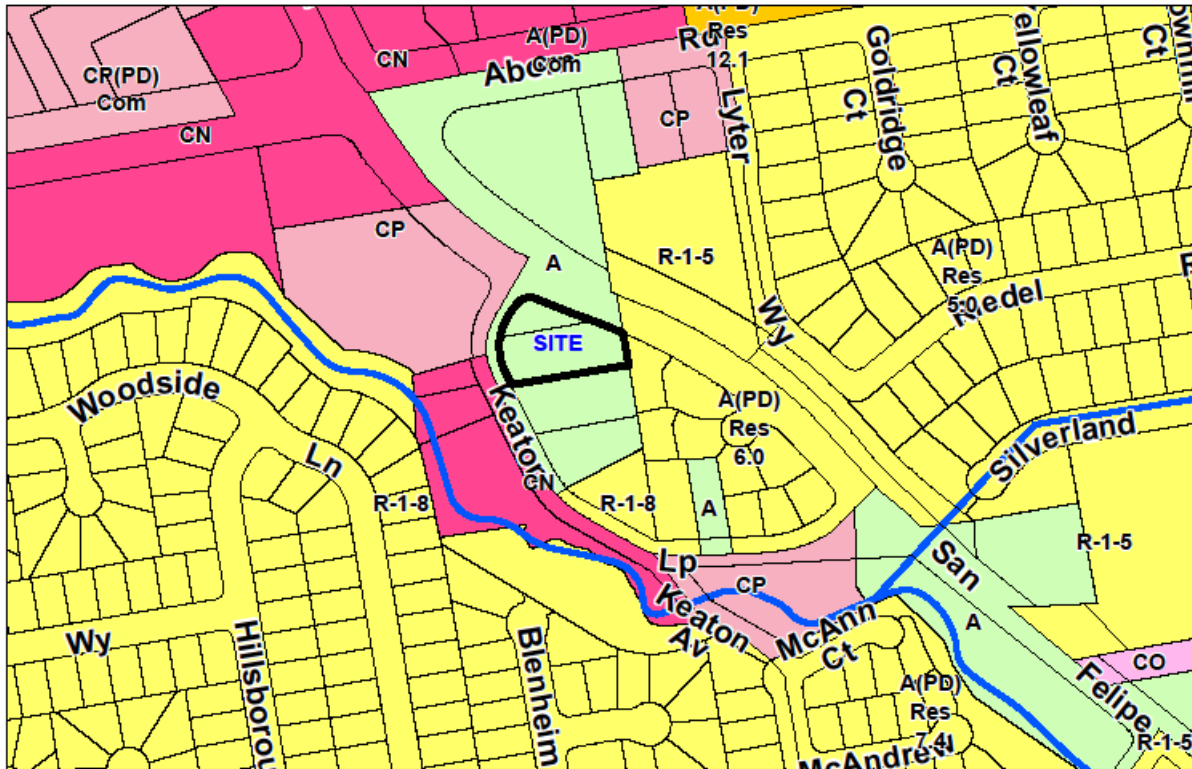


File No: GP21-003

District: 8

PROPOSED GENERAL PLAN

Exhibit D: Existing Zoning Map

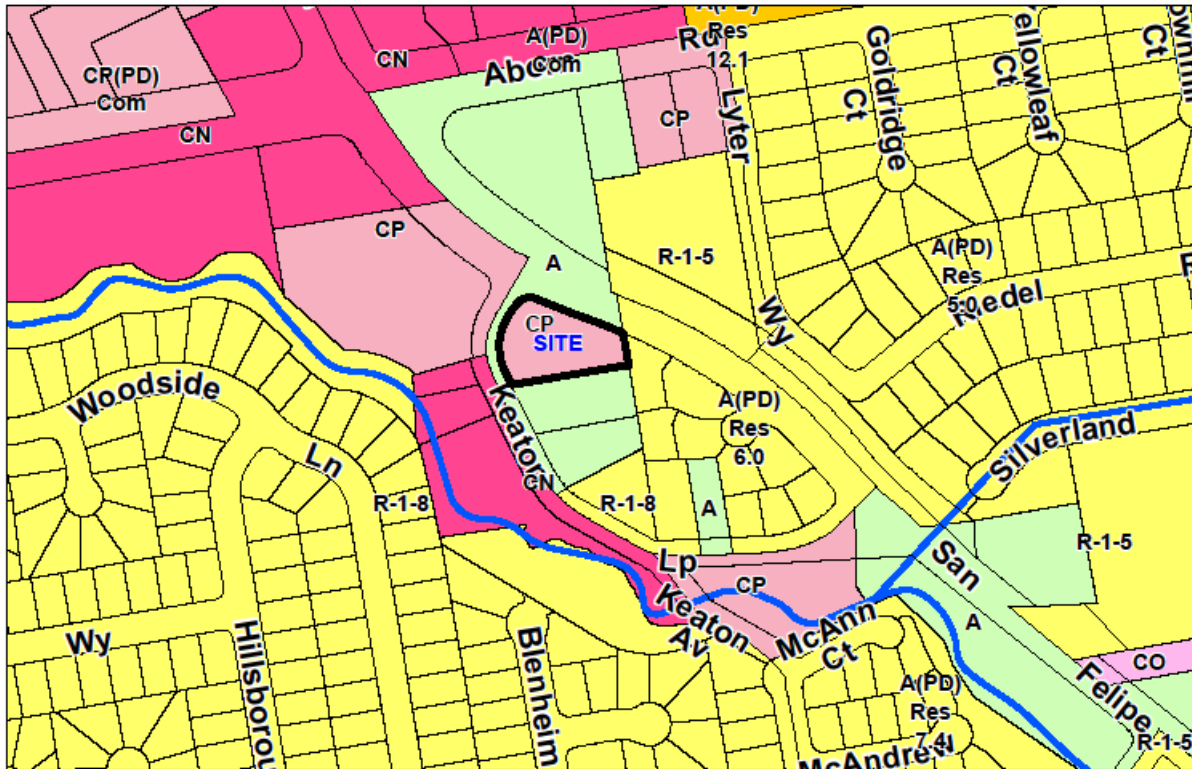


File No: C21-036

District: 8

Zoning

Exhibit E: Proposed Zoning District



File No: C21-036

District: 8

Proposed Zoning

GP21-003 & C21-036

Links to Attachments F-I

Click on the title to view document

Exhibit F: General Plan Resolution
Exhibit G: Rezoning Ordinance
Exhibit H: CEQA Resolution
Exhibit I: Initial Study Negative Declaration