



CITY COUNCIL STAFF REPORT

File No.	C22-124
Applicant	Deborah Sunderman, Excite Credit Union
Location	Northern corner of Bernal Road and Realm Drive (151 Bernal Road)
Existing Zoning	IP Industrial Park
Proposed Zoning	CN Commercial Neighborhood
Council District	10
Historic Resource	No
Annexation Date	July 17, 1968 (Oak Grove No. 25)
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 IP Industrial Park Zoning District to the CN Commercial Neighborhood Zoning District on an approximately 1.37-gross acre site.

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.
2. Approve an ordinance rezoning the certain real property of approximately 1.37-gross acres located on the northwestern corner of Bernal Road and Realm Drive (151 Bernal Road) from the IP Industrial Park Zoning District to the CN Commercial Neighborhood 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	
Inconsistent Policies		N/A	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Neighborhood/Community Commercial	IP Industrial Park	Church
South	Neighborhood/Community Commercial	CG Commercial General and IP Industrial Park	Retail bank and private instruction facility
East	Public/Quasi-Public	R-1-8(PD) Planned Development	Church
West	Neighborhood/Community Commercial	IP Industrial Park	Medical office

RELATED APPROVALS	
Date	Action
6/15/78	Site Development Permit (File No. H78-084) to allow the construction of a 16,158-square foot office building.
1/13/21	Site Development Permit (File No. H20-027) to allow the demolition of a 1,010-square foot portion of a commercial building, the construction of a 1,359-square foot addition, a solar panel canopy over parking structures, exterior modifications, and site improvements.

PROJECT DESCRIPTION**Site Description and Surrounding Uses**

The subject site is located on the northern corner of Bernal Road and Realm Drive (see Figure 1). The subject site is an approximately 1.37-gross acre lot currently occupied by offices for the applicant, Excite Credit Union. The site is surrounded by churches to the north and east, a retail bank and private instruction facility to the south, and a medical office to the west. There are no other active planning development permit applications on file for the subject site.

Background

On November 8, 2022, the applicant, Deborah Sunderman, for Excite Credit Union, filed an application to rezone an approximately 1.37-gross acre site from the IP Industrial Park Zoning District to the CN Commercial Neighborhood Zoning District. The applicant requested a conforming rezoning to the CN Commercial Neighborhood Zoning District. The approval of this rezoning request allows the applicant to establish a retail bank use within the existing office building. Both the existing office use and the retail bank use are allowed in the CN Zoning District. Additionally, the rezoning would further bring the site into conformance with the

General Plan Land Use/Transportation Diagram land use designation of Neighborhood/
Community Commercial.

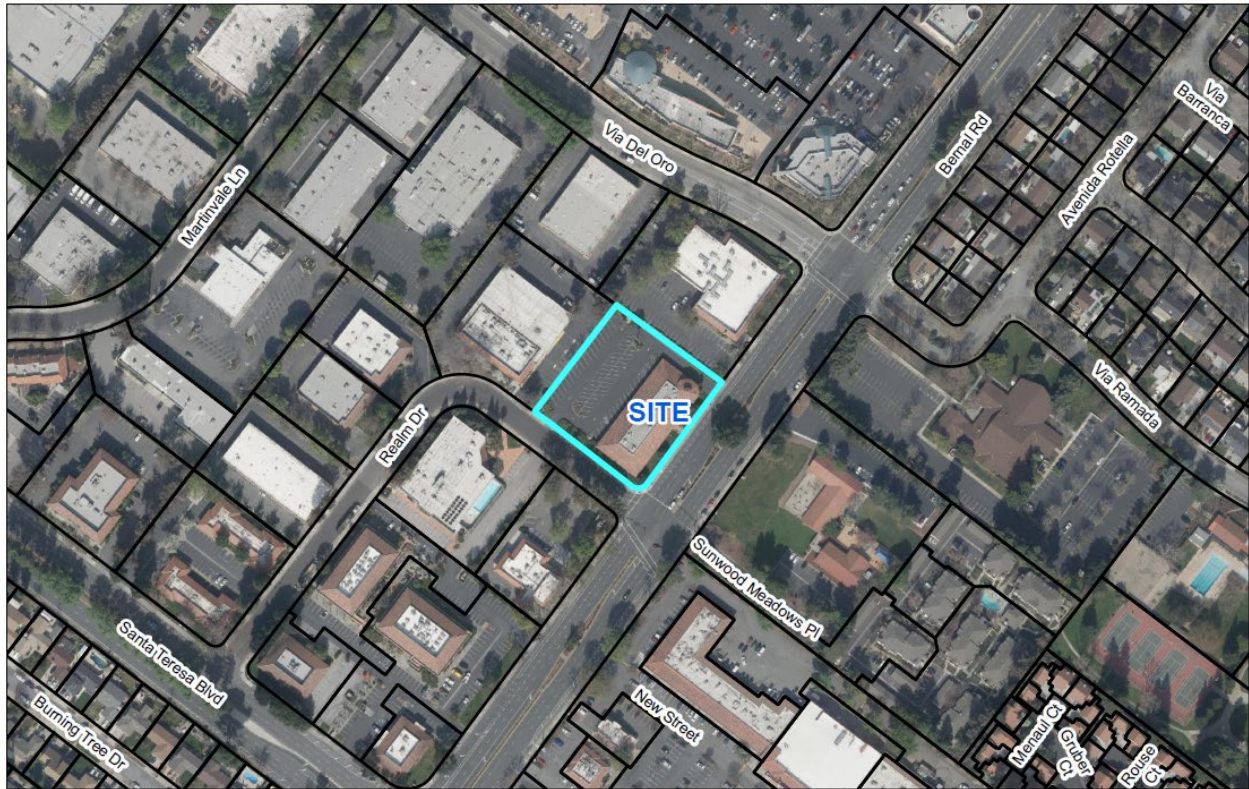


Figure 1: Aerial image of the subject site

ANALYSIS

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 Neighborhood/Community Commercial (see Figure 2).



Figure 2: General Plan Land Use/Transportation Diagram

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.

The rezoning is consistent with the following General Plan policies:

1. Implementation (Land Use/Transportation Diagram) Policy IP-1.7: 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 CN Commercial Neighborhood Zoning District is a conforming district to the Neighborhood/Community Commercial land use designation, pursuant to [Section 20.120.110](#) of the San José Municipal Code.

2. Implementation (Zoning) 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: Any future uses and development at the subject site would be required to conform with the development standards of the CN Commercial Neighborhood Zoning District. The allowed uses and development standards of the CN Commercial Neighborhood Zoning District generally correspond to the Neighborhood/Community Commercial land use designation and would implement the Envision General Plan Land Use/Transportation Diagram.

Zoning Ordinance Conformance

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



Figure 3: Proposed Zoning Map

The CN Commercial Neighborhood Zoning District would allow the property to be used and developed in accordance with the allowable uses in [Table 20-90](#) (Section 20.40.100), which include but are not limited to general retail; education and training; entertainment and recreation; food, health, financial, and general services; offices; and residential uses. This rezoning would allow the establishment of a retail bank use and facilitate any future redevelopment of the site to be consistent with the General Plan land use designation.

Setbacks and Heights

[Table 20-100](#) (Section 20.40.200) of the San José Municipal Code establishes the following development standards for the CN Commercial Neighborhood Zoning District. This site is in the Santa Teresa/Bernal Urban Village, which does not have an approved Urban Village Plan.

Standard	CN Commercial Neighborhood
Front Setback	10' minimum
Side, Interior Setback	No required setback
Side, Corner Setback	12.5' minimum
Rear, Corner Setback	No required setback
Building Height	120 feet (Section 20.85.020.E)

Any future development would be required to adhere to the development standards set forth in [Section 20.40.200](#) of the San José Municipal Zoning Code. All future development would be evaluated for conformance with the above development standards and all other San José Municipal Code regulations. All future development may also need to be evaluated under CEQA.

Allowed Uses

Any future use of the site would be required to adhere to the allowed uses established in the CN Commercial Neighborhood Zoning District pursuant to [Table 20-90](#) (Section 20.40.100), of the San José Municipal Zoning Code.

Senate Bill 330 Compliance

The Housing Crisis Act of 2019 (Senate Bill 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 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. C22-124) does not reduce the intensity of residential uses because the rezoning allows for greater residential density than the existing IP Industrial Park Zoning District. The rezoning would increase the residential capacity of the approximately 1.37 gross acre site by approximately 152 units.

CONCLUSION

Should the rezoning be approved by the City Council, the property would be rezoned from the IP Industrial Park Zoning District to the CN Commercial Neighborhood Zoning District, and the applicant would be able to apply for the development of the site consistent with the allowed uses of the Neighborhood/Community Commercial General Plan Land Use Designation and CN Commercial Neighborhood Zoning District. There is currently no development project associated with this proposed rezoning.

CLIMATE SMART SAN JOSÉ

The recommendation in this staff report has no effect on Climate Smart San José energy, water, or mobility goals.

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 (EIR) 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 Final EIR, Supplemental EIR, 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, Supplemental EIR, and addenda have been identified, nor have any new mitigation measures or alternatives that are considerably different from those analyzed in the Final Program EIR, Supplemental EIR, and addenda been identified.

PUBLIC HEARING NOTIFICATION

Staff followed City [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: Legal Description
Plat Map



EXHIBIT "A"
FOR REZONING PURPOSES

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of that parcel of land described in the Grant Deed recorded May 19, 2020, in Document No. 24482494 of Official Records, Santa Clara County Records:

BEGINNING at the West corner of said parcel;
Thence South 52°26'19" East, 222.86 feet;
Thence along a tangent curve to the left, having a radius of 20.00 feet, through a central angle of 91°12'44" for an arc length of 31.84 feet;
Thence North 36°20'57" East, 230.48 feet;
Thence North 53°39'03" West, 238.04 feet;
Thence South 37°33'41" West, 245.82 feet, to the POINT OF BEGINNING.

Containing 1.37 acres, more or less.


As shown on Exhibit "B" attached hereto and made a part hereof.

END OF DESCRIPTION

For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 10-26-22


Tracy L. Giorgetti, LS 8720

