



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	<b>C18-033</b>
<b>Applicant</b>	<b>Troy Pham</b>
<b>Location</b>	<b>5260 Monterey Road</b>
<b>Existing Zoning</b>	<b>CN Commercial Neighborhood</b>
<b>Proposed Zoning</b>	<b>CP Commercial Pedestrian</b>
<b>Council District</b>	<b>2</b>
<b>Historic Resource</b>	<b>No</b>
<b>Annexation Date:</b>	<b>July 19, 1959</b>
<b>CEQA:</b>	<b>Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto</b>

**APPLICATION SUMMARY:** Conforming Rezoning from the CN Commercial Neighborhood Zoning District to the CP Commercial Pedestrian Zoning District on a 0.54-gross acre site.

**RECOMMENDATION:** Staff recommends that the City Council approve the Conforming Rezoning based upon the facts and findings 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		Implementation Policies IP-1.1, IP-1.6 and IP-8.2	
Inconsistent Policies		None	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Neighborhood/Community Commercial	CP Commercial Pedestrian	Retail market and businesses
South	Residential Neighborhood	R-1-8 Single Family Residence	Single-family residences
East	Mixed Use Neighborhood	R-M Multiple Residence and CN Commercial Neighborhood	Gas station and multi-family residences

<b>West</b>	Neighborhood/Community Commercial	R-M(PD) Planned Development	Parking lot for apartments
<b>RELATED APPROVALS</b>			
<b>Date</b>	<b>Action</b>		
<b>7/19//1959</b>	Site Annexed into the City; Monterey Park, # 19		
<b>5/23/1988</b>	File No. H88-027: Site Development Permit for water treatment at an existing gas station		
<b>1/22/1992</b>	File No. CP91-040: Conditional Use Permit to demolish and expand existing gas service station on a 0.54-gross acre site		
<b>2/4/2009</b>	File No. AD08-1101: Permit Adjustment to allow installation of Phase II Enhanced Vapor Recovery System with Veeder-Root Carbon Canister		

## PROJECT DESCRIPTION

On October 10, 2018, the applicant applied for a Conforming Rezoning of the subject property from the CN Commercial Neighborhood Zoning District to the CP Commercial Pedestrian Zoning District on a 0.54-gross acre site. There is no permit application on file.

**Site Description:** The project site is located on the northwest corner of Monterey Road and Roeder Road, at 5260 Monterey Road (see Figure 1).

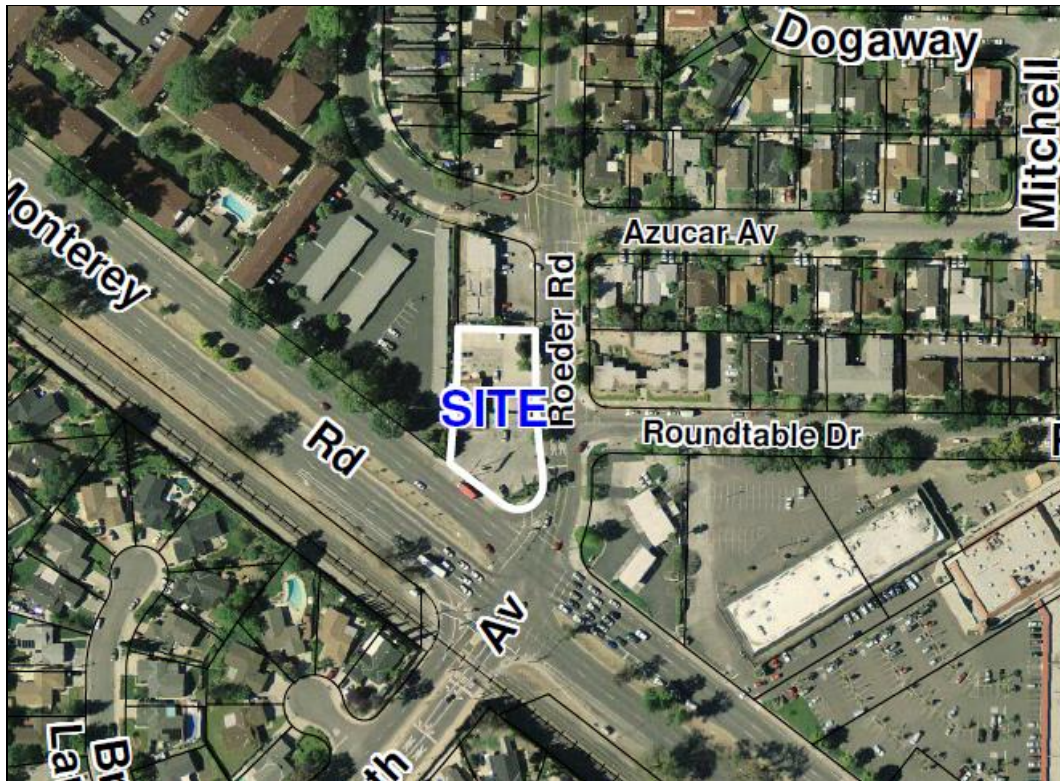


Figure 1: Location Map

The 0.54-gross acre site is currently developed with a 1,715-square foot gas station building with three service bays, and a 977-square foot fuel canopy over four dual gas dispensers. The site has driveway access from both Roeder Drive and Monterey Road.

The site is surrounded by a retail market and other businesses to the north, single-family residences to the south across Monterey Road, a gas station and multi-family residences to the east across Roeder Road, and a parking lot to the west.

## ANALYSIS

The proposed Conforming Rezoning was analyzed with respect to 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 site has a land use designation of Neighborhood/Community Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram (see Figure 2).

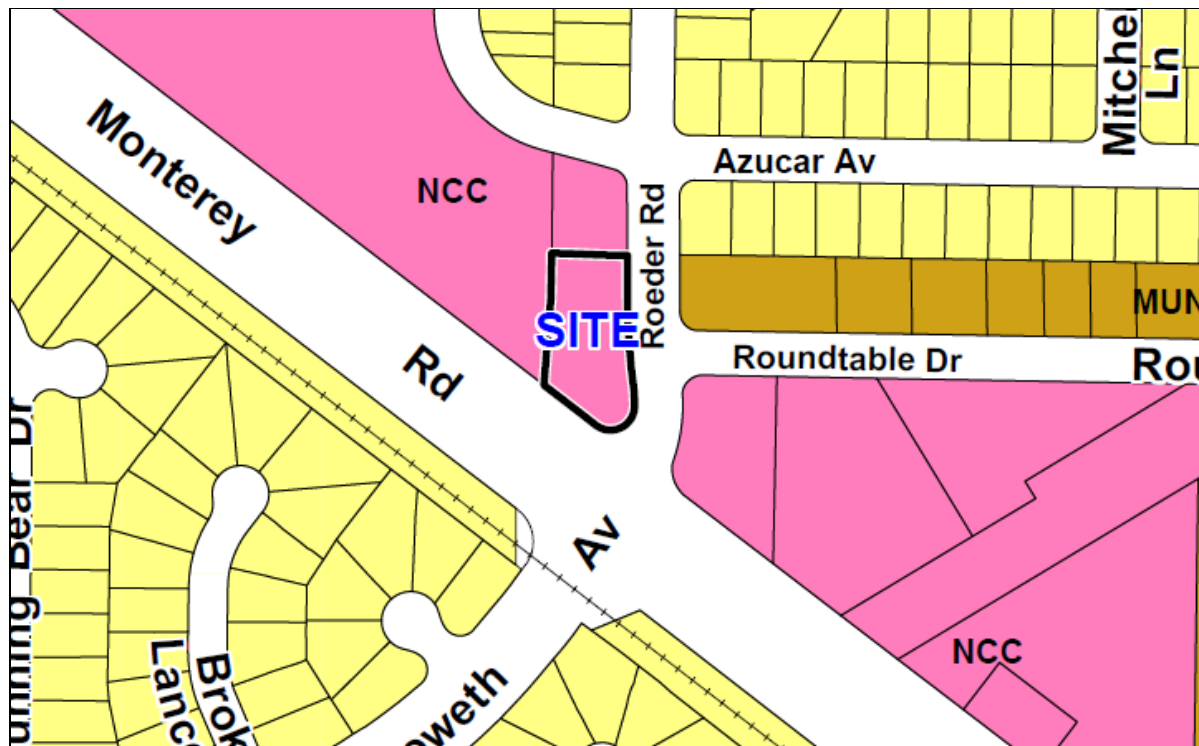


Figure 2: General Plan Map

This designation supports a very broad range of commercial activity that typically has a strong connection to and provide services and amenities for the nearby community.

Additionally, the subject site is located within the Monterey Road/Chynoweth Avenue Urban Village Boundary. This Urban Village is one of the several Commercial Center Urban Villages which are planned to take advantage of the redevelopment potential for existing, underutilized commercial sites. The General Plan establishes the Urban Villages concept to create a policy framework to direct new job and housing growth to occur within walkable and bike-friendly Urban Villages. Monterey Road/Chynoweth Avenue has been allocated by the General Plan as a Horizon 3 Urban Village, which means that new development will occur at a future date when the City commences the Horizons-phased development strategy. There is no approved Urban Village plan

adopted for this area and no identified timeline for drafting the plan. Currently, the General Plan supports commercial or other non-residential uses at this site, including an existing gas station.

The proposed conforming rezoning from the CN Commercial Neighborhood Zoning District to the CP Commercial Pedestrian Zoning District is 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.
2. Implementation Policy IP-1.6: 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.
3. 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 uses and development intensity correspond generally to the 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, CP Commercial Pedestrian, CN Commercial Neighborhood and CG Commercial General Zoning Districts all conform to the General Plan Land Use Designation of Neighborhood/ Community Commercial. Both CP Commercial Pedestrian and CN Commercial Neighborhood Zoning Districts require a Conditional Use Permit (CUP) for the operation of a gas station and are more neighborhood oriented than the CG Commercial General Zoning District.*

*Based on preliminary discussions, the property owner may propose to expand the existing convenience store and intensify the existing use by adding additional gas fueling dispensers under a larger fuel canopy. The expansion would result in situating the future gas canopy closer to the street corner which would result in an encroachment into the minimum front (10 feet) and street side (12.5 feet) setbacks, pursuant to the regulations of the current CN Commercial Neighborhood Zoning District and the comparison Table 1 below. Since CP Commercial Pedestrian Zoning District is less restrictive and has no minimum setbacks along the front and sides, it would be more appropriate to rezone the site from the CN Commercial Neighborhood Zoning District to the CP Commercial Pedestrian Zoning District. The CP Commercial Pedestrian Zoning District will allow for the creation of a pedestrian-friendly environment, which is one of the goals of the Urban Village concept.*

*Therefore, the rezoning request to the CP Commercial Pedestrian Zoning District supports General Plan goals by providing a conforming zoning district which would facilitate possible future expansion of the gas station with a retail convenience store and would allow development closer to the street corner at Monterey Road and Roeder Road.*

## Zoning Ordinance Conformance

The subject site is currently in the CN Commercial Neighborhood Zoning District (see Figure 3).

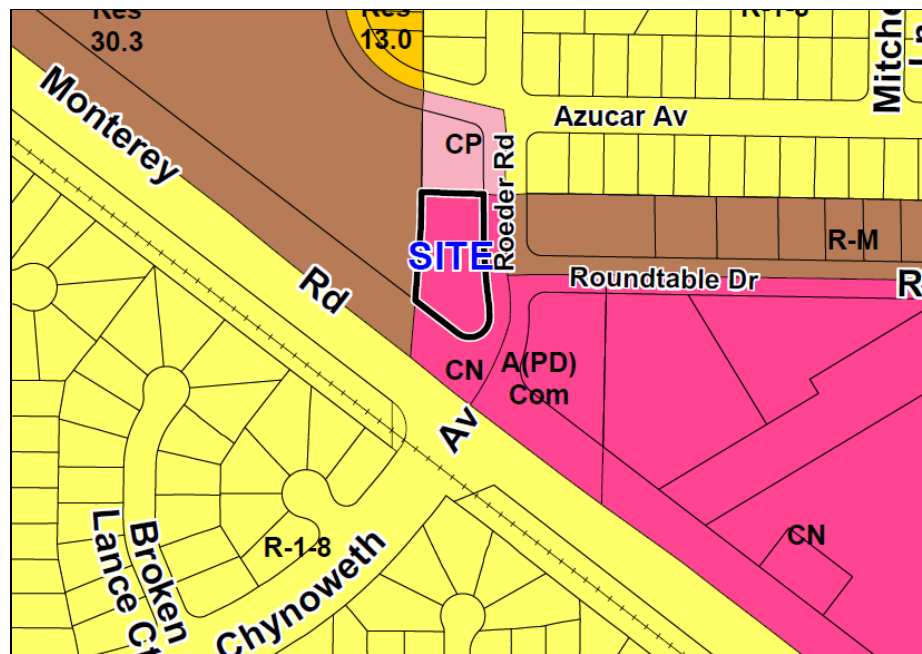


Figure 3: Zoning Map

The proposed Conforming Rezoning conforms to Table 20-270 of Section 20.120.110 of the Zoning Ordinance, which identifies CP Commercial Pedestrian Zoning District as a conforming zoning district for the Neighborhood/Community Commercial General Plan land use designation. The development regulations are as follows:

**Land Use:** The gas station use requires a CUP in the CP Commercial Pedestrian Zoning District. Any future expansion of the site will require a new CUP.

**Setbacks and Height:** The following Table 1 compares the setbacks and height requirements between the proposed CP Commercial Pedestrian Zoning District and the current CN Commercial Neighborhood Zoning District:

Setbacks	CN	CP
Front (Monterey Road)	10 feet Minimum	10 feet Maximum
Side, Interior	none	none
Side, Corner (Roeder Road)	12.5 feet	none
Rear	None	25 feet
Rear, Corner	None	25 feet
Height	50 feet	50 feet

Table 1: Setbacks and Height

Any intensification of the gas station use would require a submittal of a Planning application. Currently, there is no permit application on file.



## **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, and Resolution No. 77617 on December 15, 2015, respectively, and all 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 EIRs, supplemental EIR, and Addendum thereto. A Determination of Consistency with these 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.

/s/

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

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

Attachment: Legal Description and Plat Map

330-810

APN: 684-29-005

**NET AREA=23,349 ± SF. (0.54 ACRES)**

APN: 684-29-004

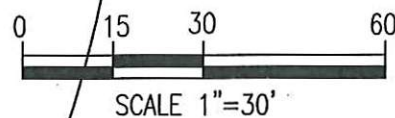
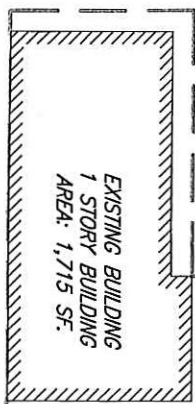
APN: 684-29-011

**NOTE:**

THIS EXHIBIT IS PREPARED FROM  
RECORD DATA. IT IS NOT BASED  
ON A SURVEY.

**REDMOND AVE.**

**MONTEREY RD.**



**STUKAM CONSULTING  
ENGINEERS, INC.**  
11344 Coloma Road, Suite 235C  
GOLD RIVER CA 95870  
(916) 835 5791 (916) 888-8316 FAX

**EXHIBIT 'B'**  
**5260 MONTEREY RD.**  
APN: 684-29-004

CALIFORNIA

SCALE: 1"=40'  
DATE: 9-10-18  
SHEET: 1 OF 2  
JOB# 2016-023

**EXHIBIT "A"**  
**REZONE FOR**  
**LANDS OF LAM & TRI MINH PHAM**

**PARCEL "A"**

REAL PROPERTY IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

All that portion of Lot 9 of the partition of Rancho Santa Teresa, described as follows in the deed by Texaco Refining and Marketing Inc. to Exxon Corporation recorded October 31, 1988 in Book K737, page 215 Official Records:

Beginning at the Southwesterly corner of Lot 111, so designated and delineated on the Map of Tract No. 2456 Unit One Great Oaks, recorded August 13, 1959 in Book 110 of Maps, pages 44 and 45, Santa Clara County Records, distant North  $00^{\circ}14'12''$  East 273.21 feet (called 273.12 feet on said Map of Tract No. 2456) from point "A" on the Northeasterly line of Monterey Road; thence South  $89^{\circ}45'48''$  East 100.00 feet along the Southerly line of said Lot 111, to the Westerly line of Roeder Road; thence Southerly along said Westerly line, along the arc of a curve to the left with a radius of 1370.00 feet, from a tangent bearing South  $00^{\circ}14'12''$  West, through a central angle of  $07^{\circ}40'58''$ , 183.70 feet, and continuing, along the arc of a reverse curve with a radius of 152.00 feet, through a central angle of  $06^{\circ}50'41''$ , 18.16 feet; thence along the arc of a compound curve to the right, having a radius of 33.00 feet, through a central angle of  $127^{\circ}32'29''$ , 73.46 feet to the Northeasterly line of Monterey Road, as established according to deed by Texaco Inc. to the State of California recorded September 11, 1963 in Book 6183, page 718, Official Records; thence along said line, North  $53^{\circ}03'35''$  West 75.96 feet to a point on the Southerly prolongation of the Westerly line of said Tract No. 2456, distant thereon North  $00^{\circ}14'12''$  East 90.44 feet from said point "A"; thence continuing along said line of Monterey Road, established according to deed by Texaco Inc. to the State of California recorded November 28, 1962 in Book 5808, page 36, Official Records, North  $53^{\circ}03'35''$  West 10.00 feet; thence North  $40^{\circ}09'43''$  East 117.07 feet to a point in said Southerly prolongation; thence North  $00^{\circ}14'12''$  East, along said prolongation, 60.00 feet to the point of beginning.

APN: 684-29-004