



# Memorandum

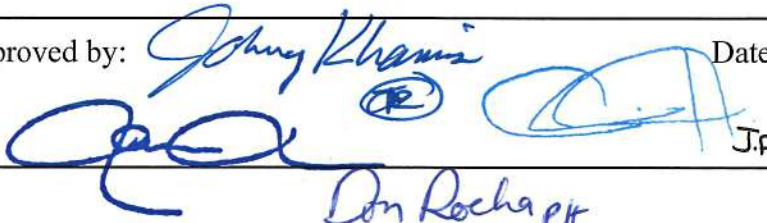
**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Raul Peralez  
Councilmember Chappie Jones  
Councilmember Don Rocha  
Councilmember Johnny Khamis

**SUBJECT:** SEE BELOW

**DATE:** December 8, 2017

Approved by:

  
Date: 12/8/17  
J.F.

**SUBJECT:** General Plan Amendment, Conforming Rezoning, and Conditional Use Permit for Real Property Located at 1202 Oakland Road

## RECOMMENDATION

Deny the planning commission's recommendation, approve the General Plan Amendment, Conforming Rezoning and Conditional Use Permit at 1202 Oakland Road and

1. Direct staff to return with
  - a. A resolution *approving* the Initial Study (IS) and Mitigated Negative Declaration (MND) for the project (including the General Plan Amendment, Conforming Rezoning, and CUP),
  - b. A resolution *approving* the amendment to the General Plan land use designation from Heavy Industrial (HI) to Combined Industrial/Commercial (CIC) (GP16-011),
  - c. An ordinance *approving* the rezoning of the subject site from HI to the CIC Zoning District (C17-008),
  - d. A resolution *approving* the Conditional Use Permit for a 3,750-square foot convenience store with retail, a gas station with cardlock fuel dispensers, and 24-hour uses (CP17-005), and,
2. Defer the approval for permitting the off-sale of alcoholic beverages to no later than January 2018 and direct staff to return with a report that includes an analysis of the specific findings required for off-sale of alcoholic beverages and a determination of public convenience and need with regard to proximity to other off-sale outlets and sensitive land uses, as well as for overconcentration of off-sale outlets within the census tract.

## BACKGROUND

The existing gas station on the subject site was originally constructed by Shell in 1965 and was acquired by the applicant three and a half years ago. The previous tenant, Flyers Energy, operated the gas station as a commercial fueling facility with their lease expiring this past July. The existing fueling station can continue to operate but cannot be modernized or upgraded because it is an existing non-conforming use. As mentioned in the staff memorandum, this property sits across from an existing Chevron gas station which too has a convenience store.

## ANALYSIS

While we understand the sensitivities around discussing conversions of industrial zoned land, there are occasionally nuanced moments that call for thought and consideration rather than immediate denial. In this case, we are not discussing an extreme conversion such as from industrial to residential but rather allowing a use that has historically worked for the area. Surrounded by other industrial uses along with an existing mix of residential and commercial in the area, the applicant offers to develop a potentially significant tax-generating CIC use that would be complementary to both the community and for future growth.

It is also critical to understand the industry need for diesel refueling sites around industrial sites. There are few to none fueling stations in San Jose that caters specifically to trucks and there are few sites in the area that would be able to properly support such a business. The subject site, which has existed as a fueling station for the past 52 years, would continue that use and provide a much needed amenity to trucks servicing the surrounding industrial properties.



Fig. 1 - 4200 Williams Rd. San José, CA



Fig. 2 - 3471 Lafayette St. Santa Clara, CA

Furthermore, a 3,750 sq. ft. convenience store would be a positive amenity for the neighborhood providing food and retail necessities. Similar examples to this proposed project can be found at the recently built 3,200 sq. ft. project on 4200 Williams Road in San José (Fig. 1) and at the 3,250 sq. ft. convenience store at 3471 Lafayette St. in Santa Clara (Fig. 2). As seen in the images above, the sites are well-kept, aesthetically pleasing and improves the quality of the surrounding community.

Meanwhile, the subject site sits partially vacant and outdated along a vital corridor that bridges Downtown to North San José with great risk of attracting blight and negatively impacting its neighbors. The proposed project would transform the overall aesthetics of this high traffic, high visibility corner. Furthermore, a 24-hour business presence would be a welcome change by the community with more eyes in the area, a deterrence to blight and an opportunity to improve public safety. This has been affirmed by the support that we have heard for this project from both businesses and residents alike.

### **CONCLUSION**

While the general plan provides our government and community a roadmap on how to fruitfully grow, it is simply a roadmap and like on any journey, the path to our destination may not always be how we planned. It is important that we look at each parcel not only from the lens of the general plan but from also how the socioeconomic history and landscape has shaped that area. Hence why we as elected representatives have the jurisdictional authority to make amendments to our general plan based on the deep understanding of our respective districts and bring further context that may not be found within our 508-page roadmap.