

<b>STATEMENT OF EXEMPTION</b>
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<b>FILE NO.</b>	CPA16-035-01
<b>LOCATION OF PROPERTY</b>	3702 S. Bascom Avenue, San Jose
<b>PROJECT DESCRIPTION</b>	Conditional Use Permit Amendment to amend the previously approved permit (CP16-035 for a gas station) to allow the addition of an approximately 1,600 square foot car wash and related site improvements on a 0.80-gross acre site.

**CERTIFICATION**

Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA; Public Resources Code 21000–21189) as stated below, this proposed project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

**15332. In-fill Development Projects**

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare, or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

**ANALYSIS**

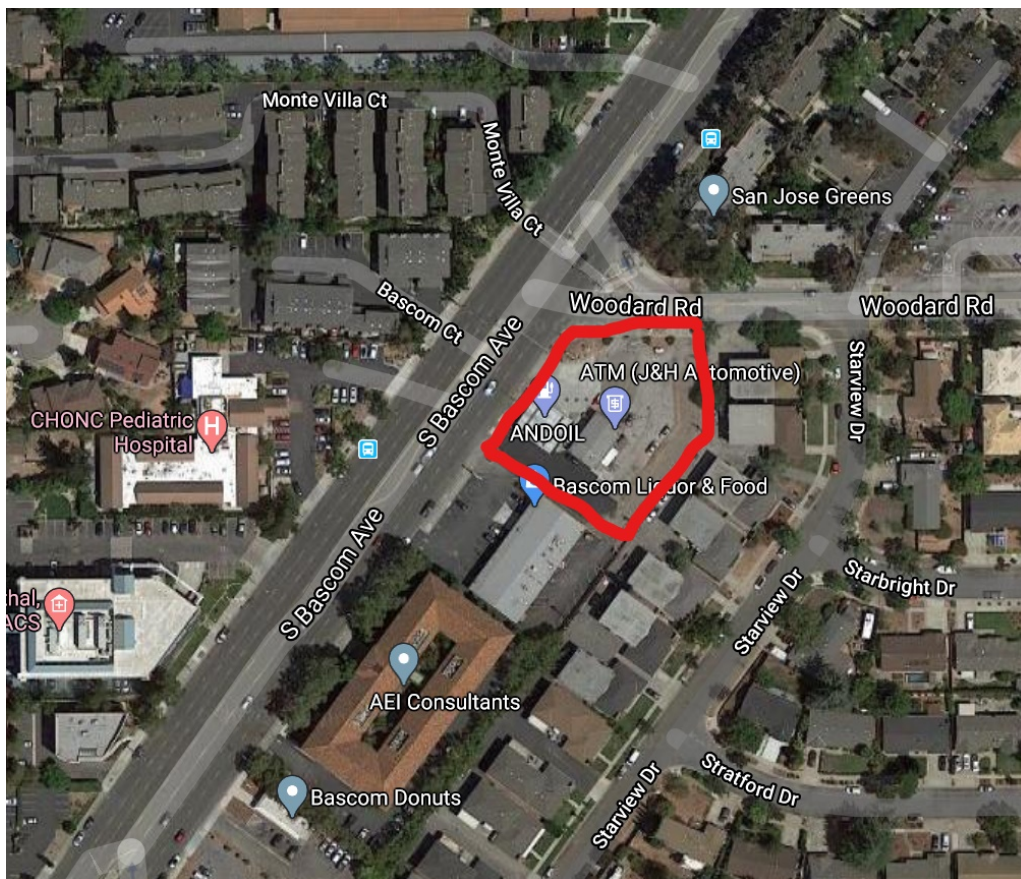
**Background**

A Conditional Use Permit and Site Development Permit (CP16-035) was approved by City Council on January 23, 2018 allowing demolition of the existing service station and mini-mart, and the construction of a two-story building with an approximately 2,500-square-foot convenience store on the first floor and an approximately 1,000-square-foot owner's office on the second floor. The existing gas pumps and canopy would remain.

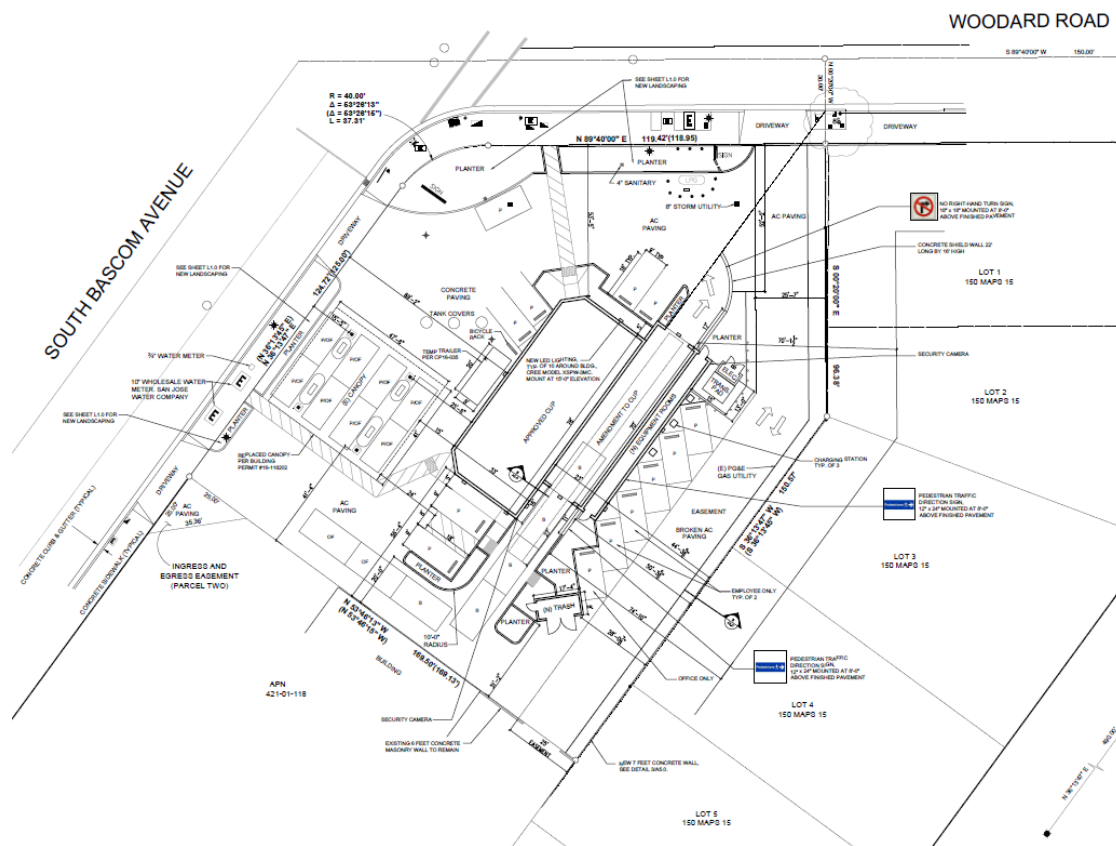
Construction of the previously approved project has not yet begun, and current site conditions contain an existing gas station with eight fueling positions and a fueling canopy fronting South Bascom Avenue.

**Proposed Project**

The proposed project requires a Conditional Use Permit Amendment to amend the previously approved permit for the gas station and allow the addition of an approximately 1,600 square foot car wash to the back of the previously-approved two story building. The site would be accessible from a main driveway entrance on South Bascom Avenue and additional driveway on Woodard Road. Another drive-way access on South Bascom Road is shared with the adjacent commercial property to the south. Cars would enter the carwash from the south side and exit on the north side near Woodard Road. The car wash includes a masonry 33-foot-long, curved wall which would extend from the car wash exit on the north side of the property and curve exiting vehicles toward South Bascom Avenue. The wall would be 16 feet in height, and its design would be integrated into the design of the overall new building. The car wash entrance would also include a 12-foot-foot-tall masonry wall extending approximately 11 feet to the south of the entrance. The 16-foot-tall and 12-foot-tall walls extending from the car wash tunnel would help reduce noise generated by the car wash use and would also eliminate a direct line of site from the adjacent multi-family residences. Pedestrian access to the site would be provided via sidewalks along South Bascom Avenue and Woodard Road. The hours of operation for the proposed car wash are 8:30AM to 9:00PM. Figures 1 and 2, below, show project location and the proposed site layout.



**Figure 1: Site Location**



- (a) *The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.***

The project site is designated as Neighborhood/Community Commercial in the City's General Plan. This designation allows commercial uses that serve communities such as neighborhood serving retail and services. The site is currently developed with a gas/service station and a convenience store. The car wash proposed under this project provides a neighborhood serving retail and services function, and thus conforms to the Neighborhood/Community Commercial land use designation.

The site is zoned CN - Neighborhood Commercial. Residential properties are located to the north across Woodard Road and adjacent to the east of the project site. Therefore, a conditional use permit is required to ensure that the proposed project would conform to the General Regulations and the Performance Standards required for this zoning district. The proposed project will include project components such as noise barriers to ensure compliance with the applicable general plan designation, policies, and zoning code designation and regulations, and limit impacts to neighboring residences.

- (b) *The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.***

The project site is located on an approximately 0.80-gross acre site within City limits. The site is a corner lot bounded by South Bascom Avenue to the west and Woodard Road to the

north. Residential lots are located adjacent to the site on the east, and commercial uses are located to the south. The opposite side of South Bascom Avenue is in an unincorporated area of the City that is also densely developed with commercial and residential uses.

**(c) *The project site has no value as habitat for endangered, rare, or threatened species.***

The project site is developed and nearly entirely paved with impervious surfaces. The surrounding area is developed with commercial and residential uses. Los Gatos Creek is approximately 2,000 feet northwest of the project site. The area between the creek and the project site is densely developed with urban uses. The project is classified as urban-suburban land cover within the Santa Clara Valley Habitat Conservation Plan area, and does not identify habitat for endangered, rare, or threatened species.

**(d) *Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.***

**Traffic:** The City of San José adopted a new Transportation Analysis Policy (City Council Policy 5-1) in response to Senate Bill 743, which establishes the thresholds for transportation impacts under CEQA based on vehicle miles traveled (VMT) instead of intersection level of service (LOS).

A Local Transportation Analysis (LTA) was prepared for the project by Hexagon Transportation Consultants, Inc. in March 2020 (Attachment B). Consistent with the City Council Policy 5-1, a transportation study would include analysis of a project's VMT for the purposes of CEQA and additional operational analysis for conformance to applicable city policies. Therefore, consistent with this policy, the LTA includes analysis on the project's VMT impact and operational components such as pedestrian access, vehicle circulation, trip generation, and intersection level of service at South Bascom Avenue and Woodard Road. The following analysis and section discusses traffic impacts related the CEQA threshold of VMT. However, additional operational information pertaining to the non-CEQA impacts can be found in the Categorical Exemption Memo, Public Works Traffic Memo, and the Local Transportation Analysis (Attachments A, E, and B).

City council Policy 5-1 includes screening criteria for projects that are expected to result in less than significant VMT impacts. The proposed project is a car wash addition to an existing gas/service station and convenience store. Since the City has not established thresholds of significance for car washes, the project cannot be evaluated directly using the City's VMT Tool ("sketch" tool). For the purpose of VMT evaluation, the trip estimates for the proposed car wash were converted to trip estimates equivalent to local-serving retail land use. Local-serving retail land use is defined as retail projects below 100,000 square feet. Based on the conversion process, a gas station with convenience market with eight gas pumps, a car wash of 1,610 square feet, and a single tenant office building with 1,082 square feet would generate daily trips equivalent to 44,600 square feet of retail space, which is under the 100,000 square feet threshold. It is presumed that local-serving retail projects below the threshold size will have a less than significant VMT impact and will not require a detailed VMT analysis. Thus, the proposed car wash meets the screening criteria set forth in Council Policy 5-1, and the project can be found to have a less-than-significant VMT traffic impact.

**Noise:** A noise report was prepared for the project by Dudek in February 2020 and appended in June 2020 (Attachment C). To determine noise impacts to the adjacent residential

properties from the addition of the mechanical car wash, the noise study prepared for the proposed project analyzed the ambient, construction, and operational noise levels against General Plan policies EC-1.2 and EC-1.3. The results of the noise report show that the average day-night (DNL) noise level measured during the long-term noise measurements ranged from 60 to 63 dBA DNL.

General Plan Policy EC-1.2 states that the noise impact of new land developments on adjacent residential land uses is considered significant if the proposed project would cause the day-night average noise level (DNL) at noise sensitive receptors to increase by three (3) dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level (60 dBA DNL). Taking into consideration the baseline ambient noise, existing traffic levels, new traffic expected to result from the car wash, and the concrete noise barrier located at the car wash exit, the maximum effect of the proposed project on the existing ambient noise environment would be a less than one dBA DNL increase. Thus, the project would not result in an increase of three dBA DNL and would be consistent with General Plan Policy EC-1.2.

General Plan Policy EC-1.3 of the General Plan also limits noise generation for new non-residential land uses which are adjacent to residential land uses, to 55 dBA DNL at the residential property line. Automated car wash equipment and facilities have several potential noise generating sources associated with their general operation; including pumps, compressors, high-pressure applicators and spray nozzles, scrubbers, and dryers. The car wash mechanical equipment (pumps, compressors, etc.) can generate a substantial amount of noise; however, the majority of the mechanical equipment is proposed to be fully enclosed within a mechanical equipment room, inside the car wash tunnel. According to the noise report, operational noise levels are predicted to range from 42 to 51 dBA DNL. Thus, the proposed project would comply with General Plan Policy EC-1.3 by not exceeding 55 dBA DNL at the adjacent residential property lines. Additionally, the project would not exceed 55 dBA at the adjacent residential receptors and therefore would also comply with non-CEQA noise standards from the Municipal Code. The breakdown of estimated noise generation to adjacent sensitive receptors are further provided in Attachment C of this document.

Construction of the car wash is estimated to last five months and would not require extended periods of heavy equipment use. Noise impacts from construction activities would be temporary and lessened through adherence to the City’s standard permit conditions, therefore the noise impact of the proposed project would be less than significant.

*Air Quality:* The BAAQMD’s CEQA Air Quality Guidelines do not use quantified thresholds for projects that are in a jurisdiction with a qualified GHG reductions plan (i.e., a Climate Action Plan). The plan has to address emissions associated with the period that the project would operate (e.g., beyond year 2020). For quantified emissions, the guidelines recommended a GHG threshold of 1,100 metric tons of carbon dioxide equivalent (CO<sub>2</sub>e) or 4.6 metric tons (MT) per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed Assembly Bill 32. Development of the project may occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not published a quantified threshold for 2030 yet, this Categorical Exemption utilizes an efficiency metric of 2.8 MT CO<sub>2</sub>e/year/service population and a bright-line threshold of 660 MT CO<sub>2</sub>e/year based on the GHG reduction goals of Senate Bill 32.



The existing convenience store and service station currently generate approximately 616 CO<sub>2</sub>e/year. Operation of the proposed car wash, convenience store, and office space, would generate approximately 755 MT CO<sub>2</sub>e/year (see Attachment D), resulting in a net increase of 139 MT CO<sub>2</sub>e/year which would be below the 2020 bright-line threshold of 1,100 MT CO<sub>2</sub>e/year and the 2030 adjusted bright-line threshold of 660 MT CO<sub>2</sub>e/year. The project therefore, would not contribute to a significant GHG impact.

Project construction and operations would generate regional criteria pollutants that would contribute to cumulative regional air quality impacts. The City has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with toxic air contaminants (TACs) and fine particulate matter (PM<sub>2.5</sub>). According to the CalEEMod outputs modeled for the project (Attachment C), the project would not exceed the BAAQMD thresholds for construction or operational period emissions, therefore, the project would not contribute to a significant cumulative impact to regional criteria pollutants.

Consistent with the City's General Plan policies MS-10.1 and MS-13.2, the proposed project would be developed in conformance with all basic BAAQMD Best Management Practices (BMPs) and dust control measures during all phases of construction on the project site to reduce dust-fall emissions. The air quality impact of the proposed project would be less than significant.

**Water Quality:** The National Pollutant Discharge Elimination System (NPDES) Municipal Regional Stormwater Permit (MRP) requires fuel service facilities that create or replace greater than 5,000 square feet of impervious surface to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. The MRP defines LID treatment measures as harvesting and re-use, infiltration, evapotranspiration, or biotreatment. The proposed project would replace over 5,000 square feet of impervious surface, so LID requirements would apply. Additionally, a car wash is a Land Use of Concern, which require pollutant control measures regardless of project size. The project proposes to install a biofiltration planter on the site as a LID control measure.

The project would decrease the amount of impervious surfaces due to the replacement of existing paved surfaces with landscaped areas. The project would be required to implement specific requirements to minimize and treat stormwater runoff from new and redevelopment projects, per the MRP and City Council Policy 6-29. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with C.3 of the MRP will be included in the project design, to the satisfaction of the Director of Planning, Building, and Code Enforcement. The proposed project would be designed to collect all water used in the car wash operations and direct any flows not to be re-used (approximately 20 percent) in the car wash to the sanitary sewer system. For these reasons, the project would not result in substantial additional sources of polluted runoff; nor would it create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems.

***(e) The site can be adequately served by all required utilities and public services.***

The proposed project is located in an urbanized area with adequate sewer, water, and electric power service. No new utilities would be needed to serve the proposed project. The demand for fire and police protection would not change from existing levels.

## CONCLUSION

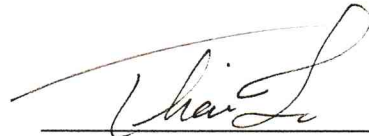
The proposed project is adding a car wash to an existing gas station operation within an urbanized environment. Based on the above analysis, the proposed project would not result in a significant environmental impact and qualifies for an exemption to further review under Section 15332 of the CEQA Guidelines.

CEQA Guidelines Section 15300.2 provides exceptions to the use of Categorical Exemptions where the use of a Categorical Exemption is prohibited under certain circumstances. The City has considered the project's applicability to all of the exceptions under Section 15300.2. An analysis of each of these exceptions in reference to this specific project is provided below.

- (a) **Location:** This exception only applies to Class 3, 4, 5, 6, and 11 exemptions. The proposed project is categorically exempt under Class 32, therefore the exception under CEQA Guidelines Section 15300.2(a) is inapplicable.
- (b) **Cumulative Impact:** The project proposes to construct a new car wash to an existing gas station and convenience store. Construction of the proposed project would have temporary impacts on the environment. Operation of the proposed project would have a less than significant impact on traffic, noise, and air quality. The proposed project's contribution to the cumulative impact on the environment would be less than significant. Additionally, there are no approved or under construction projects within 1,000 feet of the project site. Thus, the project is unlikely to contribute to a cumulative impact.
- (c) **Significant Effect.** The proposed project would not result in any significant effects on the environment due to unusual circumstances. The proposed project and project site do not contain any features that are unique or that would constitute 'unusual' circumstances for a service station car wash project in the San José Area. The site is in an urbanized area and is developed with an existing service station. The proposed car wash, together with the previously approved two-story convenience store, would not be larger or taller than adjacent development, the 0.8-acre site is a typical lot size for the area, and the land use is consistent with the existing and surrounding uses in the project area.
- (d) **Scenic Highways.** SR 17, from SR 1 in Santa Cruz to SR 9 in Los Gatos, is an eligible state scenic highway in the project area; however, the project site is about three miles north of SR-17 and not visible from the highway. Thus, the proposed project would not result in damage to scenic resources within a highway officially designated as a state scenic highway.
- (e) **Hazardous Waste Sites.** The proposed project is not located on any hazardous waste sites included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) **Historical Resources.** There are no historical resources located on the project site. The proposed project would not cause a substantial adverse change in the significance of a historical resource.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

Date: 06/11/2020

  
Deputy

Project Manager: Kara Hawkins

**Attachments**

Attachment A: *Memorandum for Qualification, by David J. Powers & Associates, dated March 16, 2020*

Attachment B: *Local Transportation Analysis, by Hexagon Transportation Consultants, dated March 17, 2020*

Attachment C: *Noise and Vibration Assessment, by Dudek, dated February 2020 and appended June 2020*

Attachment D: *Air Quality and GHG CalEEMod Calculations, by David J. Powers & Associates, dated March 16, 2020*

Attachment E: *Public Works Final Transportation Memo, dated May 18, 2020*