

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/21/18

**ITEM NO. 4A: REZONING FROM CN2 & PCD TO CN2; 3900 MONTEREY WAY
(MKM)**

Z-17-00688: Consider a request to rezone approximately 1.33 acres located at 3900 Monterey Way from CN2 and PCD-[Monterey Center] (Planned Commercial Development) District to CN2 (Neighborhood Commercial Center District. Submitted by Wild Pines Ventures for Lawrence Monterey Investors, LLC, property owner of record.

STAFF RECOMMENDATION:

Staff recommends approval of the rezoning request for approximately 1.33 acres from CN2 and PCD-[Monterey Center] (Planned Commercial Development) District to CN2 (Neighborhood Commercial Center) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

REASON FOR REQUEST

Applicant's Response:

"We were informed during our planning meeting of the needed change."

KEY POINTS

- The subject property is part of the Monterey Center Planned Commercial Development which was zoned PCD-1 prior to development. This zoning designation converted to the PCD-[Monterey Center] zoning designation with the adoption of the 2006 Development Code.
- While the subject property is part of the Monterey Center Planned Commercial Development Zoning District, it is separated from other PCD zoned property in the development by a lot that was rezoned to the CN2 District in 2011. The subject property is bounded on the west, north, and east by CN2 Zoning.
- This rezoning will remove the property from the Planned Development District; however, the property is not needed to meet any density or open space requirements of the Planned Development.
- A single-bay car wash is permitted in the PCD-1 District when accessory to a convenience store; however, a stand-alone car wash is not permitted; therefore rezoning is necessary for the proposed use. The CN2 District permits *Cleaning (Car Wash)* with the approval of a Special Use Permit (SUP). A SUP application has been submitted and is being considered at the February Planning Commission with this rezoning request.
- A variance from the 50 ft setback requirement in Section 20-814 of the Subdivision Regulations was approved by the Board of Zoning Appeals at their February 1, 2018 meeting, contingent upon the approval of the Special Use Permit.

ASSOCIATED CASES

B-17-00687; Variance request from the 50 ft setback from W 6th Street standard provided in Section 20-814 of the Subdivision Regulations. The variance was approved by the Board of Zoning Appeals to allow a reduction of the setback to 40 ft at their February 1, 2017 meeting. The variance approval is contingent upon the approval of the Special Use Permit application for the proposed car wash.

MS-17-00692; Monterey Addition No. 8 Minor Subdivision, reconfiguring the lot lines between the subject property and the adjacent lot, currently zoned CN2. Minor Subdivisions are processed administratively but a variance request from the Subdivision Design Standard regarding minimum right-of-way width for W 6th Street, a Principal Arterial, is scheduled for consideration at the February Planning Commission meeting.

SUP-17-00690; Special Use Permit for an automated car wash, classified as a *Cleaning (Car Wash)* use in the Development Code. The Special Use Permit is being considered at the February Planning Commission meeting in conjunction with the other development applications for this project.

Z-12-19-10; Rezoning of adjacent parcel from PCD-[Monterey Center] to CN2, a portion of which is included in this development proposal. Approved by City Commission on March 29, 2011 with adoption of Ordinance 8618.

OTHER ACTION REQUIRED

Other action required on this rezoning:

- City Commission action on the rezoning request and, if approved, the publication of the rezoning ordinance following adoption on second reading.

Other cases and action required for the development:

SUP-17-00690: Special Use Permit for the *Cleaning (Car Wash)* use.

- This item is also being considered by the Planning Commission at their February 21st meeting. The Planning Commission will forward a recommendation to the City Commission. City Commission action on the SUP and, if approved, the publication of the SUP ordinance following adoption on second reading.

MS-17-00692: Minor Subdivision to expand the lot area to accommodate the proposed use.

- Planning Commission action on variance request from the Subdivision Regulations Design Standards requiring 150 ft of right-of-way width for W 6th Street, a principal arterial. The variance is being considered by the Planning Commission at their February meeting concurrently with the rezoning and Special Use Permit.
- Administrative review and, if approved, the recording of the Minor Subdivision at the Register of Deeds Office.

Permits:

- Building and Demolition Permits must be obtained prior to commencement of development or demolition activity on the site. Sign permits must be obtained for any proposed signage.

PUBLIC COMMENT

Two emails were provided to the Mayor expressing opposition to the project and one email was received with concerns about the impact of the project on the waste water system and traffic at this intersection. These communications are included in the Planning Commission agenda packet. The Special Use Permit staff report discusses the concerns raised about the impact of the project noted in the email, as it will look at the specific design and nature of the proposed use.

Project Summary

The subject property is currently a part of the Monterey Center Planned Commercial Development. Approval of this rezoning request will remove this property from the Planned Development. This removal will provide uniform zoning in this area (Figure 1) and should not impact the Planned Development as the property does not provide any required open space for the planned development. The Planned Development was designed with shared parking, and parking will continue to be shared throughout the development.

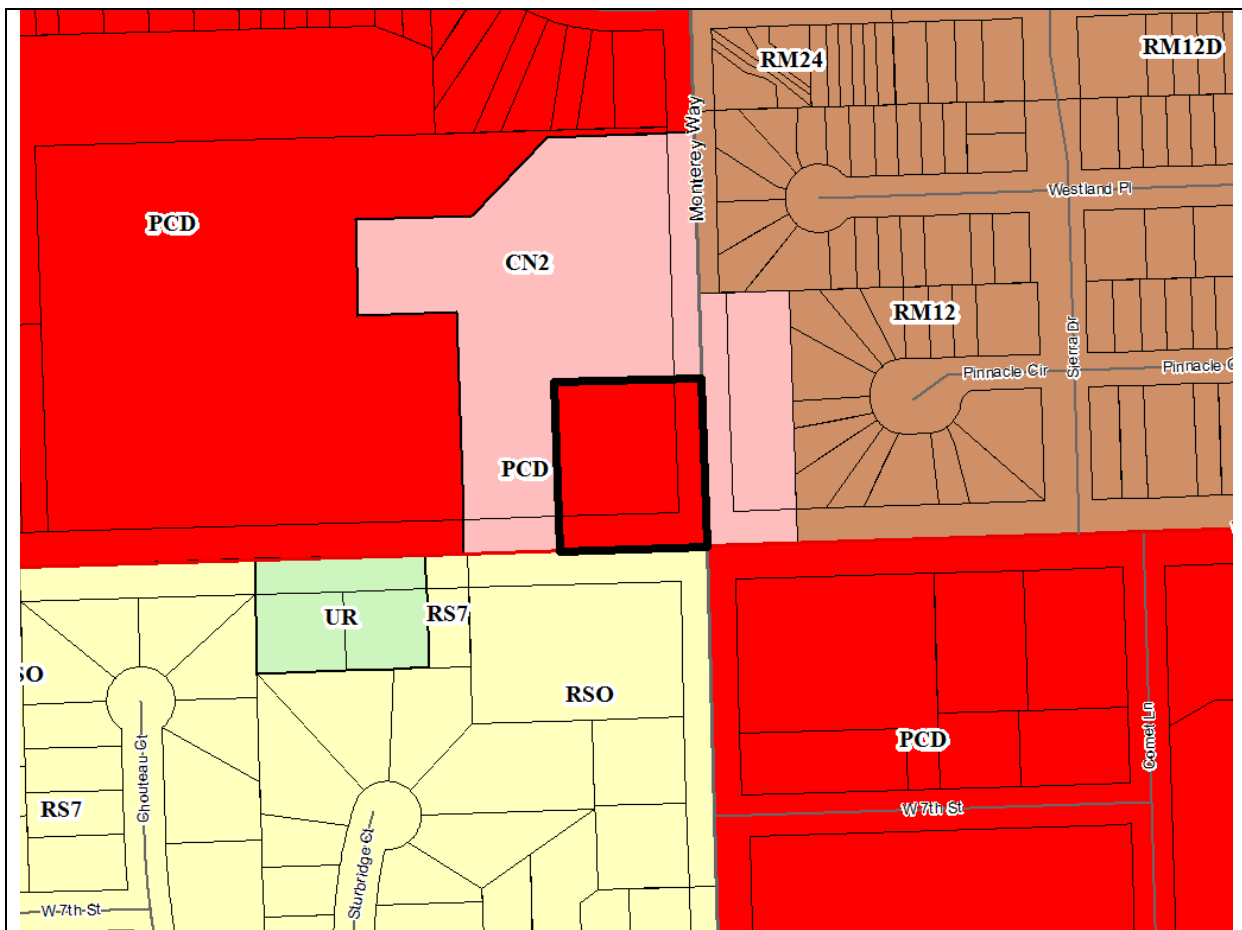


Figure 1. Current zoning in the area. The subject property is outlined in bold.

The rezoning will accommodate the development of the property with a car wash, which is classified in the Development Code as a *Cleaning, Car Wash* use. This use is not permitted in the PCD-[Monterey Center] zoning, but is permitted in the CN2 District when approved with a Special Use Permit. A comparison of the uses permitted in each district is provided with this report as Attachment A.

Other applications that were submitted concurrently with this rezoning request to accommodate this development include a Minor Subdivision to enlarge the lot to accommodate the proposed use and a Special Use Permit to permit the proposed *Cleaning (Car Wash)* use.

The proposed layout is shown on the concept plan shown in Figure 2. The proposed location of the new building is shown overlain on the existing development.



Figure 2. Proposed use –concept plan

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"We believe that this redevelopment project is in keeping with the comprehensive plan."

Recommendations in *Horizon 2020* are discussed below, with staff comments in red.

"Encourage infill development and/or redevelopment of existing commercial areas with an emphasis on Downtown Lawrence and existing commercial gateways." (Page 6-1, Horizon 2020)

The rezoning would accommodate the redevelopment of an existing commercial area on W 6th Street, which is identified in *Horizon 2020* as a gateway.

"The intersection of W. 6th Street and Monterey Way is an existing Neighborhood Commercial Center with a nodal development pattern. The Comprehensive Plan does not recommend expanding the commercial uses beyond the existing commercially zoned property." (Page 6-17, Horizon 2020)

The area is identified for commercial zoning and land uses in the comprehensive plan and is currently zoned and developed with commercial uses. The request is to update the zoning to a current commercial zoning district, the Neighborhood Commercial Center District, so it can develop under the standards of the 2006 Development Code with the proposed use. The rezoning request does not expand the land area for commercial uses at this location.

"No one commercial use in a Neighborhood Commercial Center shall occupy an area larger than 40,000 gross square feet. The only exception is a grocery store, which may occupy an area up to 80,000 gross square feet." (Policy 3.6, E; Page 6-33, Horizon 2020)

The building proposed for the car wash is approximately 5,165 sq ft.

Staff Finding – The 6th and Monterey intersection is listed as an existing Neighborhood Commercial Center in Chapter 6 of the comprehensive plan. The rezoning to the Neighborhood Commercial Center District and proposed redevelopment is in conformance with the comprehensive plan.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"Generally a retail/commercial corridor with some residential housing uses along 6th Street."

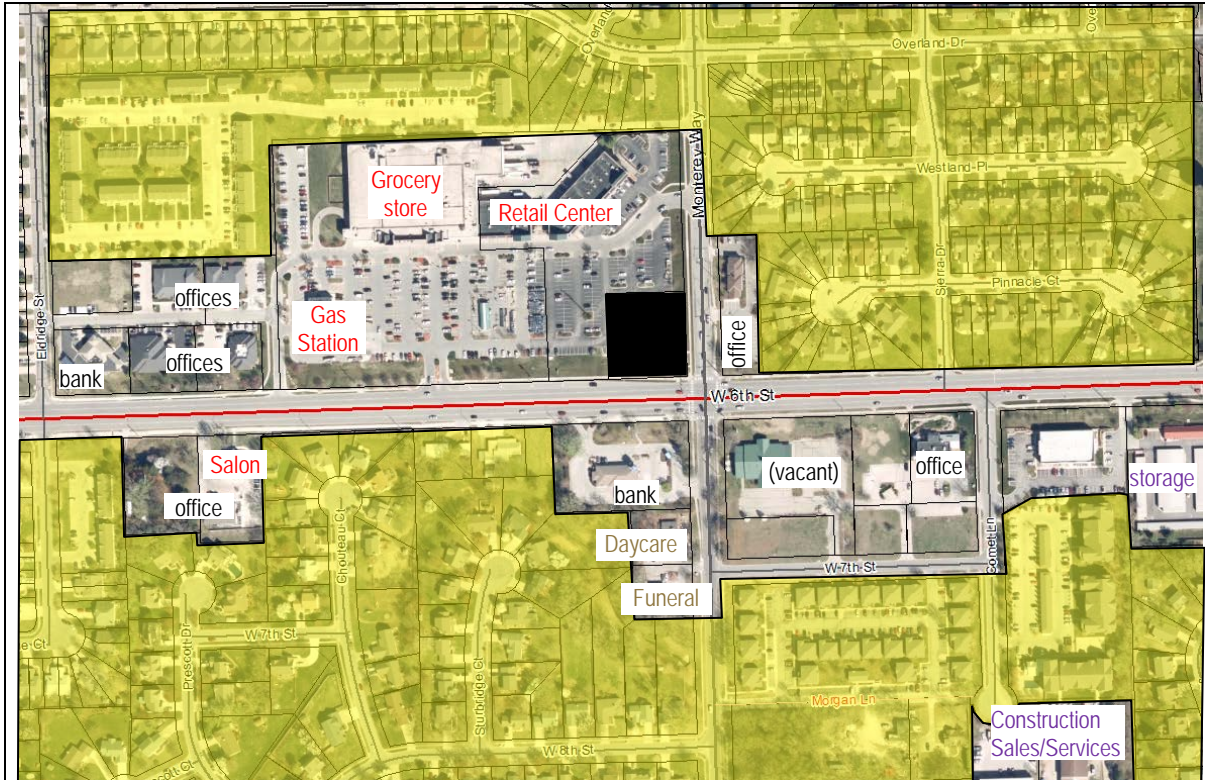


Figure 3. Neighborhood Area with the subject property shown in black. Residential land uses are highlighted in yellow. Commercial uses are labeled in red, office uses in black, industrial in purple and public or civic in brown.

The term 'neighborhood' refers to the area surrounding the subject property. The neighborhood is located on both sides of W 6th Street. The subject property is adjacent to and surrounded by commercial and office uses but the neighborhood contains a mix of uses. The neighborhood is primarily residential with the exception of portions of the W 6th Street Corridor, the north side of W 6th west of Monterey Way and the south side east of Monterey Way. (Figure 3)

The north side of W 6th Street from Monterey Way to Eldridge Street contains retail and office uses with apartments and duplexes further to the north. The south side of this portion of W 6th Street contains primarily residential uses with office uses, including a dentist office which is currently under construction. The north side is characterized by retail while the south side is predominately residential. This trend is reversed to the east of Monterey Way: the north side of W 6th Street to the east of Monterey Way is predominately residential with limited office uses (located at the corner), while the south side contains a vacant funeral home, offices and beauty salon/spa and a mini-storage.

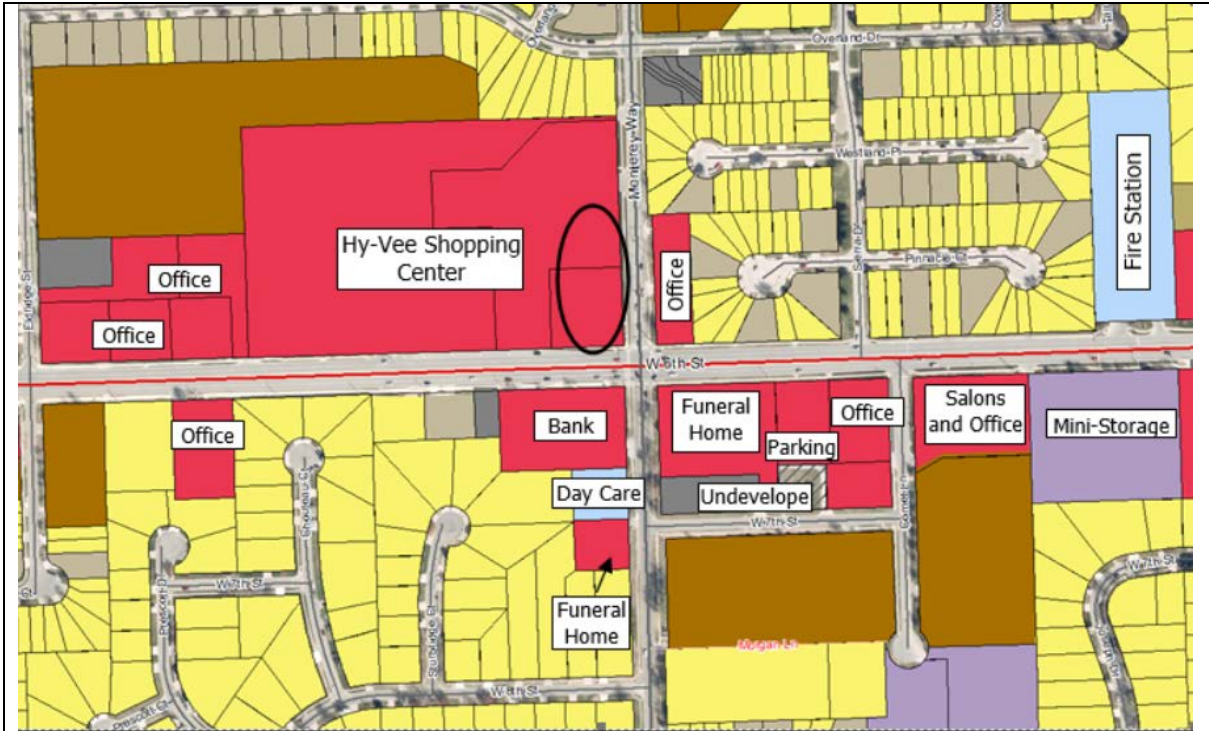


Figure x. Land use categories in the area.
 Red-Commercial Brown-Multi-Family
 Blue Institutional Tan-Duplex
 Purpose-Industrial Yellow-Single Family

The neighborhood is dissected by higher classification roads with W 6th Street, a principal arterial, dividing the neighborhood north and south and Monterey Way, a collector, dividing the neighborhood east and west.

Staff Finding – This is a mixed use neighborhood with the higher intensity uses, offices and retail, being located on or near the 6th Street corridor. The remainder of the neighborhood is predominately residential. The proposed use would be located on the corner of W 6th Street, a principal arterial, and Monterey Way, a collector street. The proposed use would be compatible with the character of the neighborhood.



Figure 4. Major thoroughfares in the area: red-principal arterial; gold- collector.

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

Staff Finding – The property is not located within any formal neighborhood boundaries. There are no adopted plans for this area beyond the future land use recommendations provided in the comprehensive plan, which was discussed in Item 1 of this report.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response:

"The unification of two existing zoning classifications (CN2 / PCD) to just (CN2)."

The list of permitted uses in the PCD-[Monterey Center] and CN2 District are very similar. The property is suitable, and has been developed, under the existing zoning regulations of the PCD District. The CN2 Zoning District varies from the PCD District, in relation to the proposed car wash use, in that a single bay automatic car wash was permitted in conjunction with a convenience store in the PCD zoning. The CN2 District permits *Gas and Fuel Sales*, which can include a convenience store, when approved with a Special Use Permit and also permits a car wash, with no limit on the number of bays, when approved with a Special Use Permit. There are other differences in uses allowed within the two districts. These are listed in Attachment A, and are summarized below:

The following uses, permitted in the PCD District, are not permitted in the CN2 District:

- Halfway house/rehabilitation
- Institution for children and aged
- Hospital
- Laboratory, medical or dental

The following uses are permitted in the CN2 District, but not the PCD District:

- Public Safety, which includes Police Stations and Fire Stations.
- Mixed Media Store: defined in the Development Code as an establishment or business offering goods for sale or rent that is not a *Sexually Oriented Media Store* but where more than 10% of the gross public floor area is devoted to sexually oriented media or more than 10% of the stock in trade consists of sexually oriented media.

And the following uses which were recently added to the Development Code:

- Event Center, Small
- Maker Space, Limited
- Maker Space, Intensive—with approval of a SUP

With the removal of the use restrictions provided by the PCD zoning, the proposed car wash could be developed on the site, with approval of a Special Use Permit. A *Cleaning (Car Wash)* use requires approval of a Special Use Permit in the CN2 District to insure compatibility with adjacent uses. Section 20-1306(a), of the Development Code provides the following information on the review procedures for a Special Use:

"The process entails a public review and evaluation of the use's operating characteristic and site development features and is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at large."

The subject property is in close proximity to the major transportation network, with direct access to Monterey Way, a Major Collector, and frontage on W 6th Street, a Principal Arterial. Access to the property is provided through two driveways serving the existing shopping center. These higher classification roads should be able to accommodate the traffic generated by the proposed use based on a 7-Step Traffic Impact Study which was submitted with the Special Use Permit. This will be discussed further in the Special Use Permit staff report.

Staff Finding – The subject property is well suited to the uses to which it is restricted with the current zoning and to the following additional uses which would be permitted with the rezoning to the CN2 District: *Public Safety, Mixed Media Store, Event Center, Small, Maker Space, Limited, and Maker Space, Intensive* when approved with a SUP. The additional uses permitted in the CN2 District are low intensity uses which are not expected to have an impact on nearby properties. Uses which could have an impact on lower intensity uses require approval as a Special Use Permit.

The rezoning should have no negative impact upon nearby properties due to the similarity of permitted uses between the current and proposed zoning districts and the fact that a car wash and other uses which could potentially impact nearby properties, will be reviewed, and mitigated if necessary, through the Special Use Permit process.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

"Greater than 6 months."

Staff Finding – The property is not vacant but was developed with an Applebee's, a *Quality Restaurant* use. The restaurant has been vacant since it closed in 2017.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicants Response:

"There should be no detrimental effect to nearby properties."

The proposed CN2 zoning of the subject property would match the zoning of the adjacent properties to the west, north, and east. As noted in Item 5, a limited number of additional uses would be permitted with the CN2 Zoning, in addition to the car wash use. These are primarily low intensity uses, with the possible exception of *Maker Space, Intensive* and the proposed use *Cleaning (Car Wash)*. The CN2 District requires this use to be approved with a Special Use Permit so that any negative impacts can be considered and mitigated, if the SUP is approved.

With the adoption of the 2006 Development Code, new base districts were created to accommodate the former Planned Unit Developments. The only uses which could occur were those that were permitted with the zoning. The standards of the pre-2006 Code apply to these hold-over zoning districts. This rezoning will place the property in a current base district which matches the recommendation of the comprehensive plan for this area. With this rezoning, the site would then be subject to the current Development Code standards.

Staff Finding –The removal of the restrictions will allow the property to be developed with site plan approval in compliance with the design standards of the 2006 Development Code and would permit a few additional uses, as noted in the previous section. The design standards and other requirements in the Development Code, implemented through the site plan review or Special Use Permit process should result in compatible development which would not detrimentally affect nearby properties.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicants Response:

"None noted."

When determining the benefit to the health, safety, and welfare of the public by the denial of a rezoning request the negative impacts that would be avoided are evaluated. As discussed in Section 7 of this report, this development is not expected to negatively impact the area. If the application were denied, the business would remain vacant until a subsequent development proposal was initiated. The rezoning will allow a simpler approval process of a site plan rather than the two-step development plan which includes a public hearing before the Planning Commission, City Commission approval, and recording of the approved plan with the Register of Deeds. Rezoning to the CN2 District will provide a more direct approval process and will also allow the property to be developed under the same standards as the other property in this area.

Denial of the request would require the site to be developed with a different use which is permitted in the PCD District but not with a car wash. The denial would not provide any benefit to the public health, safety, or welfare as the Development Code provides design standards which, when implemented with site plan review, result in compatible development.

Staff Finding – Denial of the rezoning request would have no public benefit as the proposed uses should be compatible with nearby properties, that are currently zoned CN2. Denial would deter the project. Development of this property would be on hold pending the initiation of another development proposal.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, adopted plans for the area, the Golden Factors, and compatibility with surrounding development.

Staff recommends approval of the rezoning request for approximately 1.37 acres from the PD-[Monterey Center] (Planned Commercial Development) District to the CN2 (Neighborhood Commercial Center) District based on the findings of fact listed in this report.

Table 1. Comparison of permitted uses under current and proposed zoning districts.	
PCD-[Monterey Center] Pre-2006 Zoning Designation PCD-1	CN2
SIMILAR USES PERMITTED IN BOTH DISTRICTS	
Residential dwelling units (attached, detached or mixed)	Residential Multi-Dwelling Structures Non-Ground Floor Dwelling; Work/Live Unit Group Home General (SUP)
Adaptive reuse (SUP)	Adaptive reuse (SUP)
Communication towers (SUP) Radio or Television Transmitter or Tower	Amateur and Receive-Only Antennas (A) Wireless Facility-Antenna (A) Wireless Support Structure (SUP) Satellite Dish (A)
Art Gallery , Library, museum	Cultural Center/Library
Cemetery, Mausoleum , Mortuary, Funeral Parlor, or Undertaking Establishment	Cemetery, Funeral and interment (Active and Passive)
Child care	Day Care
Church or Other Place of Worship Monastery, Convent, or Similar Institution of Religious Training Parish House or Nunnery (SUP)	Religious Assembly, Campus or Community and Neighborhood Institutions
Club or Lodge (SUP)	Lodge, Fraternal & Civic Assembly (SUP)
School	College/School
Public Utilities (SUP) Electrical Substation Gas Regulator Station Sewage Disposal Plant Water Filtration Telephone Exchange	Minor Utility, Major Utility (SUP)
Health center, government (SUP) Medical Offices Outpatient Center Nursing or Rest Home (SUP) Sanitarium (SUP)	Health Care Office (SUP) Outpatient Care Facility Extended Care, General (SUP) Extended Care, Limited
Professional and Governmental Offices Financial Institutions, Loan Office, Photographic Studio (Accounting and Architecture Offices, Motion Picture Studios (Enclosed) Bank, and similar establishments	Administrative and Professional Offices Financial ,Insurance, and Real Estate Offices; Payday Advance, Car Title Loan Business Other Offices
ATM	(included in the use "Financial Office)
Veterinarian office and incidental boarding	Pet Sales and Grooming, Veterinarian Office
Post Office Branch	Postal and Parcel service
Studio for professional work or teaching of fine arts	Personal Improvement
Food store, not including 24 hr convenience store	Food and Beverage
Hair Care Establishment, Dry Cleaning , Laundry-Self Serve	Personal Convenience
Restaurant, not including one with drive-up facilities or service to automobiles	Fast Order Food Private Dining Establishment, Quality Restaurant
Shoe Repair, Bicycle Sales, rental, repair	Repair Service, Consumer

Table 1. Comparison of permitted uses under current and proposed zoning districts.	
PCD-[Monterey Center] Pre-2006 Zoning Designation PCD-1	CN2
SIMILAR USES PERMITTED IN BOTH DISTRICTS	
Reverse Vending Machine (recycling) Small Collection Facilities (recycling)	Small Collection (Recycling)
Retail stores and service establishment General Retail Sales including Department Store, Drug Store, Pawn Shop, Variety Store and Retail Baker, Copy Center	Retail Sales, General Retail Establishment, Medium Retail Establishment, Specialty
Licensed premises Liquor, wine and beer sales, for consumption off the premises	Accessory Bar Brewpub Bar or Lounge
Radio and Television or Recording Studio	Communication Service Establishment
Professional cleaning services	Building Maintenance, Business Equipment
Secretarial Service , Personnel Services Telephone answering service Commercial or Trade School	Business Support
Theatre, live Bowling Alley Community Building Golf Course Playfield (public) Swimming Pool, Accessory	Entertainment and Spectator Sports, Lmtd; Indoor Participant Sports/Recreation Active Recreation
Park, Playground, (public)	Passive Recreation Nature Preserve; Undeveloped
Private Recreation Facility	Private Recreation
Automobile service stations Food convenience store, including gasoline sales and single-bay auto wash	Cleaning/ car wash (SUP) Gas and Fuel Sales (SUP) Light Equipment Repair (SUP) Light Equipment Sales/Rental
DIFFERENT USES PERMITTED IN EACH DISTRICT	
Halfway house/rehabilitation (SUP)	---
Institution for children and aged (SUP)	
Hospital, General (not animal) (SUP)	---
Laboratory, medical or dental	
---	Fast Order Food with Drive-In (SUP)
Student Center---(classified as Social Service Agency in Development Code)	Temporary Shelter (SUP/A) Social Service Agency Community Meal Program (SUP/A)
---	Public Safety
---	Mixed Media Store
---	Crop Agriculture Agriculture, Small Animal (A) Farmer's Market On-Site Agricultural Sales (A)
	Event Center, Small
	Maker Space, Limited Maker Space, Intensive (SUP)