



Manira Sandhir  
Planning Manager  
City of San Mateo  
330 West 20th Avenue  
San Mateo, CA 94403



Dear Ms. Sandhir:

DTSM Donut Delite Venture, LLC ("Applicant") requests that 31-57 B Street (APN 034-15-4030) ("Property") be rezoned from the C1-2/R5 (Neighborhood Commercial) zoning district to the CBD (Central Business District) zoning district. The reclassification would result in the Property having the same zoning and development rights as properties located immediately to the Property's south and west that are in the same Downtown Area Plan Sub-Area and that have the same General Plan, Downtown Area Plan, FAR, and Required Retail Frontage Zone designations.

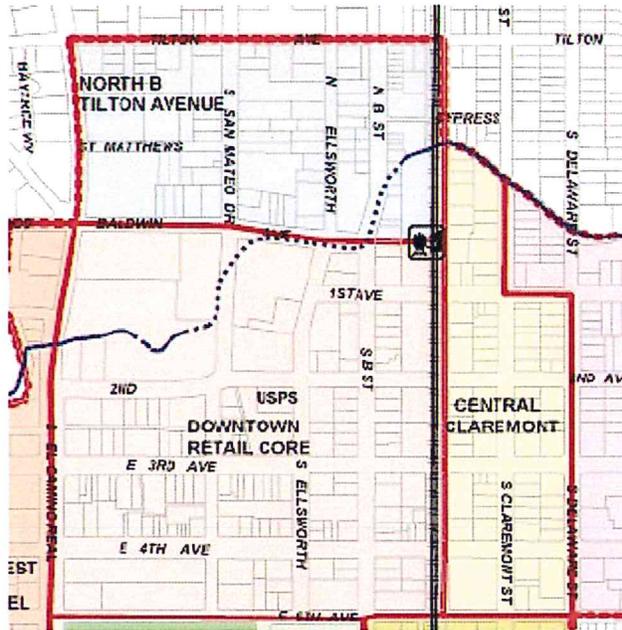
Pursuant to Municipal Code Section 27.80.010(b), the owner of the area proposed to be reclassified has the right initiate a reclassification.<sup>1</sup> The Applicant owns all of the property requested to be reclassified and therefore requests initiation of the processing of a reclassification of the Property. In the event the City determines it appropriate to also reclassify additional parcels within the Downtown Retail Core fronting B Street (or if other property owners request to be added to the reclassification), the Applicant owns 50% or more in area of all the property similarly situated south of Baldwin Ave and would therefore be authorized to request reclassification of such additional property under Municipal Code Section 27.80.010(a) (see Exhibit A.)

As explained further below, it appears that within the Downtown Area Plan, neighborhood commercial uses and the C-1 neighborhood commercial zoning designation were intended to be limited to the area north of Baldwin Avenue in the North B Tilton Avenue Sub-Area and not in the Downtown Retail Core Sub-Area where the Property is located. It appears that the current neighborhood commercial zoning designation on the property is contrary to the intent of the Downtown Area Plan and may have been the result of an inadvertent error or a delay in rezoning the property to be consistent with the Downtown Area Plan.

As shown on Downtown Area Plan Figure 2 and 4, the Downtown Area Plan Area is divided into several Sub-Areas. The Property is located within the Downtown Retail Core Sub-Area. This Sub-Area is located approximately 3 parcels south of the boundary of the North B Tilton Avenue Sub-Area to the north. Baldwin Avenue serves as the boundary between those two sub areas.

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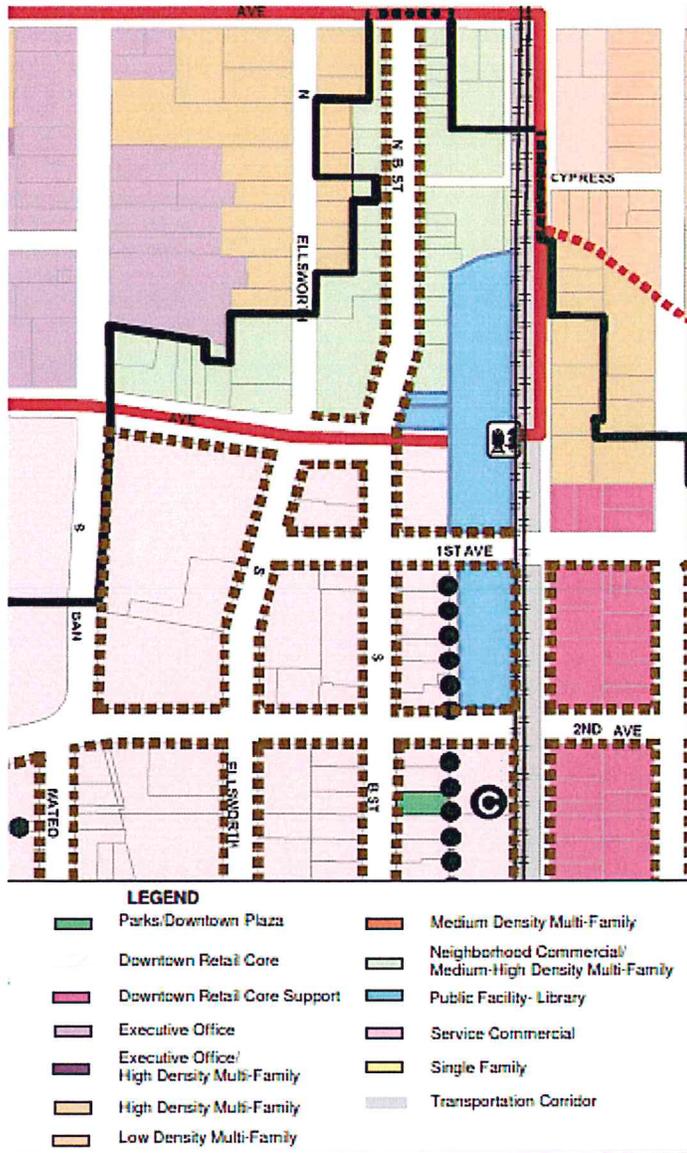
<sup>1</sup> Because the Property is surrounded on three sides with properties that share the requested CBD zoning district, such a rezoning would be well supported under the caselaw that analyzes the rezoning of a limited number of parcels of land. See, e.g., *Arcadia Development Co. v. City of Morgan Hill* (2011) 197 Cal.App.4th 1526, 1536.



Excerpt from Downtown Area Plan Figure 2

***Downtown Area Plan Neighborhood Commercial Policies***

The Downtown Area Plan explains that the future condition of the North B Tilton Avenue Sub-Area is to support existing uses “including ***neighborhood commercial*** uses along B Street.” Consistent with this intent, the General Plan and Downtown Area Plan designates the private parcels along B Street “Neighborhood Commercial/Medium-High Density Multi-Family” (the green parcels in the figure below).



#### Excerpt from Downtown Area Plan Figure 4

Those same green Neighborhood Commercial parcels have a FAR limitation of 2.0/3.0 which matches the intensity limitation of the C1-2/R5 zoning designation – 2.0 FAR of commercial uses but an additional 1.0 of FAR is permitted for residential uses. (§ 27.30.050(d); Zoning Code § 27.29.110(c).)

Neighborhood Commercial is defined by the General Plan as “shopping centers *servicing the immediate neighborhood* and including off-street parking, or, clusters of street facing storefronts. These areas often include uses such as supermarkets, bakeries, drugstores, restaurants, delicatessens, barber shops, hair salons, laundromats, hardware stores, dry cleaners, small offices and other personal services. Characterized by a low to medium FARs of 0.5 to 1.0 and heights 25 feet to 45 feet.” This definition



## HARVEST PROPERTIES

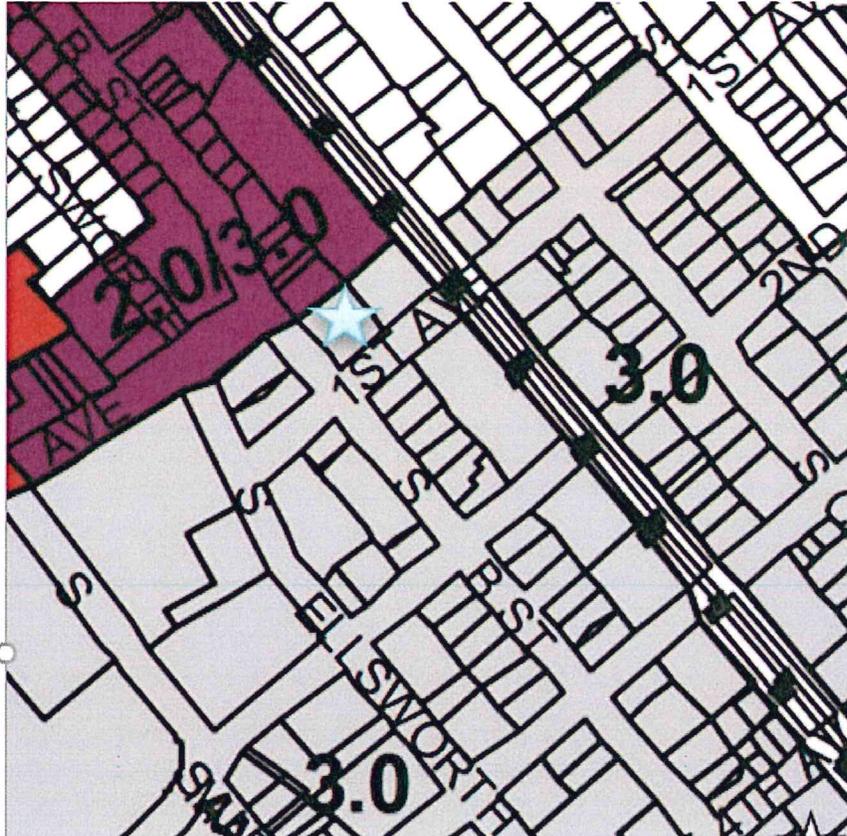
flows down to the zoning for those parcels with a Neighborhood Commercial/High Density Zoning designation (C1-2/R). The intent of that district is “to create and maintain neighborhood shopping areas under standards that provide for compatibility with surrounding residential areas. Uses include retail sales *servicing the immediate neighborhood*, limited office space, and personal services.” (Mun Code 27.30.005.)

However, the Property has General Plan and Downtown Area Plan Sub-Area Downtown Retail Core designations that are not intended for neighborhood commercial uses servicing the immediate neighborhood. General Plan LU 2.10 states that the City should “[e]nsure that developments optimize the development potential of property in *major commercial areas such as the Downtown Retail Core* and along South El Camino Real.” The Downtown Area Plan envisions this area to “continue to support the *retail core shopping* area. . . This will require a good mix of ground floor retail uses that will contribute to foster retail vitality . . .” The Plan includes the policy to “encourage the establishment of offices with the Downtown Retail Core and commercially designated areas” (Downtown Area Plan Policy II.8.) Downtown Area Plan Policy II.8 notes that the Downtown Retail Core permits FAR of 3.0 to encourage the development of offices, but that this is reduced “east of the railroad tracks.” The Property is west of the railroad tracks.

The General Plan’s Building Intensity designation supports Policy II.8 by giving the Property a 3.0 FAR designation while the properties designated Neighborhood Commercial by the Downtown Area Plan are designated 2.0/3.0 (which appears to only permit a 2.0 FAR of commercial uses). This is evidence of the zoning of the Property not matching its General Plan designations because C1-2/R5 only permits 2.0 FAR by right but an additional 1.0 of FAR is permitted for residential uses. (§ 27.30.050(d); Zoning Code § 27.29.110(c)). Thus, the FAR limitation of 2.0/3.0 is the natural fit for C1-2/R5 properties. By contrast, the CBD district permits 3.0 FARs by right (§ 27.38.060(a)) which matches the Property’s 3.0 FAR designation.

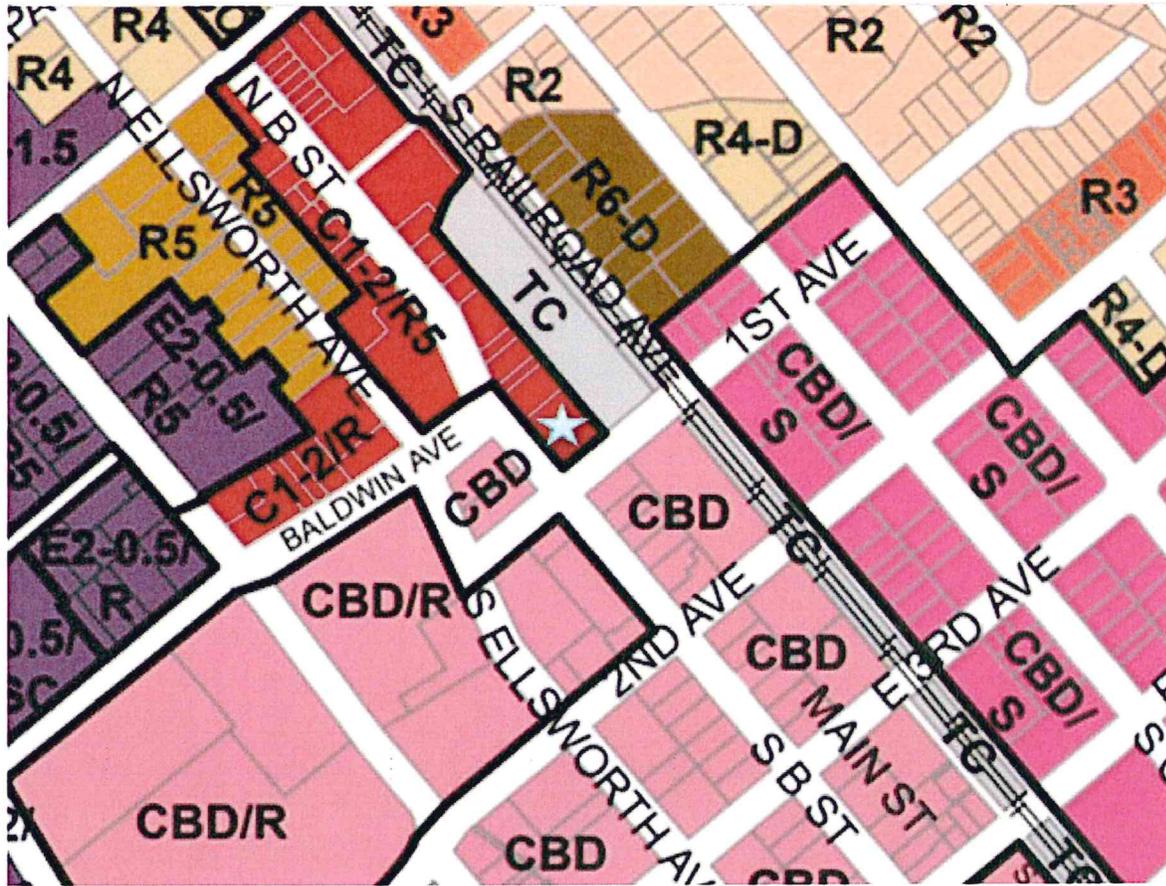


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PROPERTIES



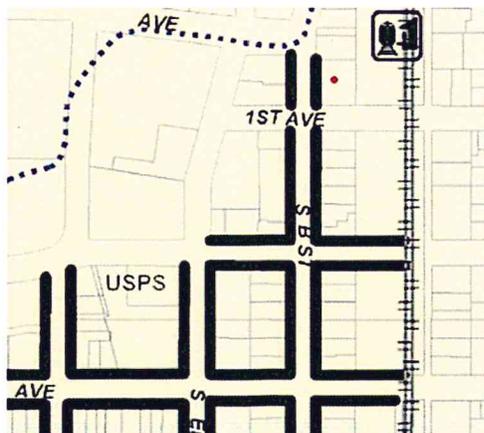
**Excerpt from General Plan Map LU-5**

Rezoning the Property CBD would also be consistent with the zoning of surrounding properties. All properties with the Downtown Retail Core designation and 3.0 FAR designation are zoned CBD on the south side of First Avenue. There are also properties to the west of Property with those designations with the CBD zoning that are located even closer to existing residential uses than the Property:

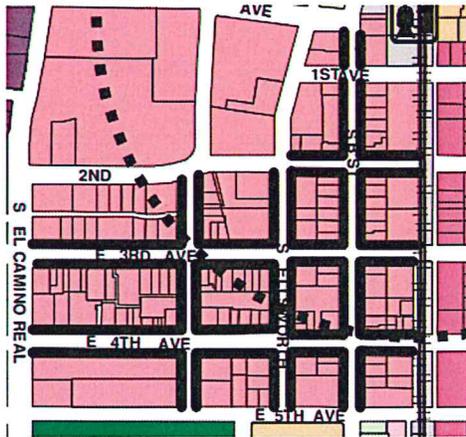


Excerpt from Zoning Map

Also, the Property is the only Property with a C1-2/R5 designation that is in the Required Retail Frontage Zone. All other properties within the Required Retail Frontage Zone have a Downtown Retail Core designation and are zoned CBD:



Excerpt from Downtown Area Plan Figure 11



**Excerpt from Downtown Area Plan Figure 10**

The Downtown Area Plan explains that this zone is intended to “maintain downtown’s commercial vitality and continuity within the *retail core*.” As further evidence that it appears the Property’s current zoning was an oversight, the implementing ordinance for the Required Retail Frontage Zone is found in the CBD District regulations and no other zoning district. (See Mun. Code §§ 27.38.010(c); 27.38.110.) This is strong evidence that all properties within the Required Retail Frontage Zone were intended to be zoned CBD. It is unclear how the City would apply the detailed Required Retail Frontage standards in Section 27.38.110, such as the uses considered consistent with the zone and minimum dimensions, if the Property is not rezoned CBD.

In summary, there is no indication that neighborhood commercial uses were intended to be prioritized within the Downtown Retail Core Sub Area or on properties with the Downtown Retail Core General Plan designation. Neighborhood commercial zoning instead appears to be intended to be located north of the terminus of Baldwin Avenue in the North B Street Tilton Avenue Sub-Area that are designated neighborhood commercial by both the General Plan and Downtown Area Plan and that have a FAR designation of 2.0/3.0. The intent of the Downtown Area Plan appears to be to provide the Property the same development rights as other properties located immediately to its south and west that are in the same Sub-Area and have the same General Plan, Downtown Area Plan, FAR designations, and are in the Required Retail Frontage Zone.

Thank you for your consideration and please feel free to reach out with any questions.

Sincerely,

A handwritten signature in black ink that reads "P O'Connell".

Preston O'Connell

DTSM Donut Delite Venture, LLC

### Exhibit A

