



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	C19-023
<b>Applicant</b>	Lorena Vidrio
<b>Owner</b>	Vidro Carmen
<b>Location</b>	Northwest corner of E Williams Road & S 24th Street (399 South 24 <sup>th</sup> Street)
<b>Existing Zoning</b>	LI Light Industrial Zoning District
<b>General Plan Land Use Designation</b>	CIC Combined Industrial/Commercial
<b>Council District</b>	3
<b>Historic Resource</b>	No
<b>Annexation Date</b>	December 1, 1911 (East San Jose)
<b>CEQA</b>	Exempt pursuant to CEQA Guidelines Section 15301 Existing Facilities.

### APPLICATION SUMMARY:

Conforming Rezoning from LI Light Industrial Zoning District to CIC Combined Industrial/Commercial Zoning District on an approximately 0.28-gross acre site at 399 South 24<sup>th</sup> Street.

### RECOMMENDATION:

Staff recommends that the City Council:

1. Consider the Categorical Exemption in accordance with CEQA; and
2. Approve an ordinance approving the Conforming Rezoning to the CIC Combined Industrial/Commercial Zoning District on an approximately 0.90-gross acre site at 399 South 24<sup>th</sup> Street.

### PROJECT DATA

GENERAL PLAN CONSISTENCY	
<b>General Plan Designation</b>	<b>Combined Industrial/Commercial</b> <input checked="" type="checkbox"/> <b>Consistent</b> <input type="checkbox"/> <b>Inconsistent</b>
<b>Consistent Policies</b>	<b>Implementation Policies IP-1.1, IP-1.7, and IP-8.2</b>

SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Combined Industrial/Commercial	LI Light Industrial	Single-family residential; small auto-oriented retail
South	Neighborhood/Community Commercial	CP Commercial Pedestrian	Small commercial center
East	Neighborhood/Community Commercial	CP Commercial Pedestrian	Small commercial center
West	Combined Industrial/Commercial	LI Light Industrial	Commercial auto care

**PROJECT DESCRIPTION**

On June 4, 2019, the applicant, Lorena Vidrio, applied for a Conforming Rezoning from the LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District on an approximately 0.28-gross acre site at 399 South 24<sup>th</sup> Street.

**Site Description and Surrounding Uses**

The subject site is located on the northwest corner of East Williams Road & South 24<sup>th</sup> Street.

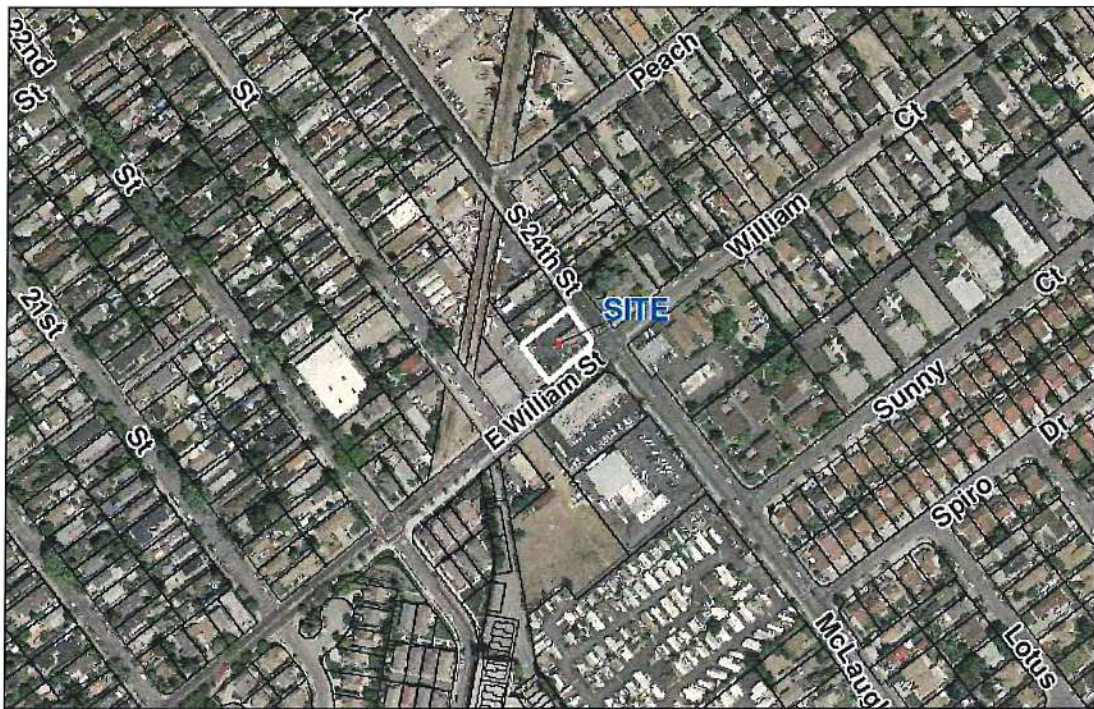


Figure 1: Aerial image of the subject site

**Background**

The subject site has direct access from East William Street and South 24<sup>th</sup> Street. This parcel is located in the 24<sup>th</sup> and William Urban Village, and the applicant has requested a conforming

rezoning to the CIC Combined Industrial/Commercial Zoning District in order to bring their legal nonconforming restaurant into conformance with both the General Plan and the Zoning District. The conforming rezoning to the CIC Combined Industrial/Commercial Zoning District would bring the site into conformance with the Combined Industrial/Commercial General Plan Land Use/Transportation Diagram land use designation.

A Site Development Permit (File No. H19-026) is currently on file to allow a 284-square foot addition and interior renovation for a restaurant. This Site Development Permit is under review and would be considered at a Planning Director's Hearing if the rezoning is approved and when the project review has been completed.

## ANALYSIS

The proposed project was analyzed for conformance with the following: 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 an *Envision San José 2040 General Plan* Land Use/Transportation Diagram land use designation of Combined Industrial/Commercial (see Figure 2).

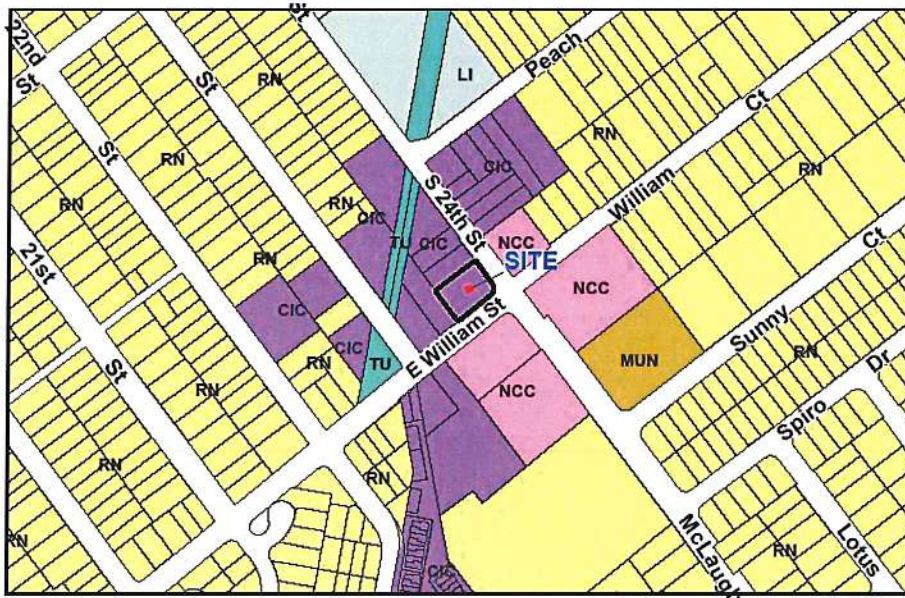


Figure 2: General Plan Land Use/Transportation Diagram

The Combined Industrial/Commercial designation allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. Properties with this designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. This designation occurs in areas where the existing development pattern exhibits a mix of

commercial and industrial land uses or in areas on the boundary between commercial and industrial uses. The proposed rezoning is consistent with the following General Plan policies:

1. Implementation Policy IP-1.1 Land Use/Transportation Diagram: 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-1.7 Land Use/Transportation Diagram: Ensure that proposals to rezone and prezone properties conform to the Land Use / Transportation Diagram, and advance *Envision General Plan* Vision, goals, and policies.
3. Implementation Policy IP-8.2- Zoning: 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 use and development intensity correspond generally to the respective *Envision General Plan* land use designations, while providing greater detail as to the appropriate land uses and form of development.

*Analysis: The immediate area has a mix of small shopping centers and auto-oriented retail warehouses or service shops. Pursuant to Table 20-270 of the Zoning Ordinance, the CIC Combined Industrial/Commercial is listed as a conforming district for the General Plan Land Use Designation of Combined Industrial/Commercial. The proposed rezoning allows a mix of industrial and commercial type uses, including warehouses, manufacturing and assembly, retail sales, and public eating establishments.*

### **Zoning Ordinance Conformance**

The proposed rezoning conforms with Table 20-270, Section 20.120.110 of the San José Municipal Code, which identifies the CIC Combined Industrial Commercial Zoning District as a conforming district to the Combined Industrial/Commercial General Plan Land Use/Transportation Diagram land use designation.

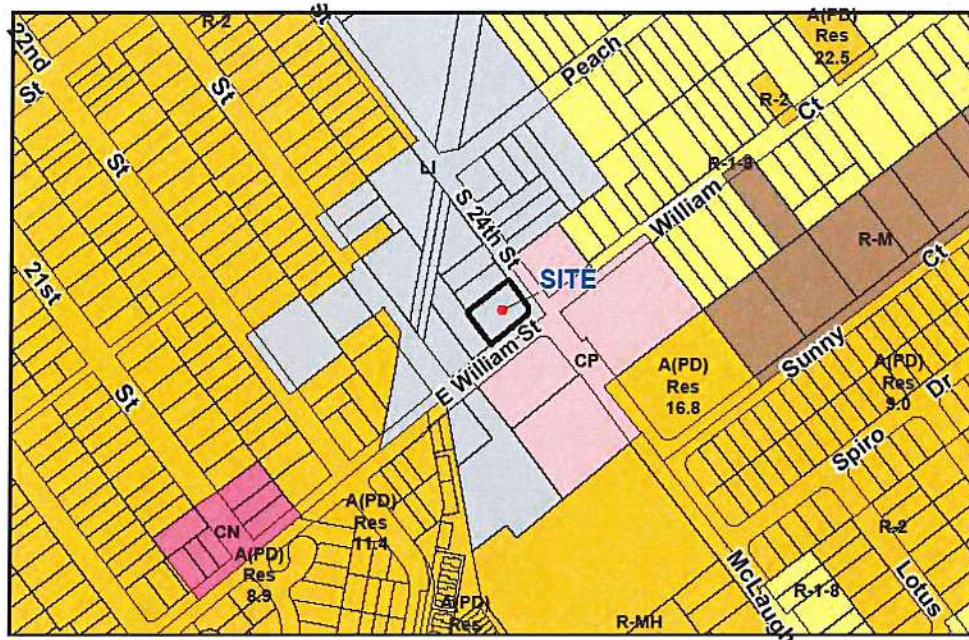


Figure 3: Zoning Map

The CIC Combined Industrial/Commercial Zoning District would allow the property to be developed in accordance with the allowable uses in Table 20-110, including warehousing, manufacturing, retail sales, public eating establishments, and offices. The rezoning would facilitate a Site Development Permit to allow a 284-square foot addition and interior renovation of an existing restaurant, on an approximately 0.28-gross acre site.

#### Setbacks and Heights

The development standards for the CIC Combined Industrial/Commercial Zoning District require a 15-foot building front setback, with zero side and rear setbacks. The maximum height allowed is 50 feet. Therefore, future development would be evaluated for conformance to these development standards, all other municipal code regulations, and City policies and guidelines. The existing building maintains a 15-foot front setback and has a greater than zero side and rear setback, and therefore conforms to the development standards of CIC Combined Industrial/Commercial Zoning District.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this 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.

The subject project involves rezoning the property. An application is currently on file for a site development permit for a 284-square-foot addition to an existing restaurant space and reconfiguration of landscaping and parking spaces. The project site is in an urbanized area, as commercial and industrial uses are adjacent to the site; the proposed work is located within an

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existing and disturbed area. The project scope is an existing restaurant with no change in use and would primarily provide interior access to bathroom facilities.

### **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.

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Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

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

Attachments: Legal Description  
Plat Map  
Environmental Exemption

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**REZONING**  
**PARCEL B: APN 467-36-100**


**REAL PROPERTY** IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING ALL OF PARCEL B AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD ON DECEMBER 15, 1987, BOOK 581 OF MAPS, PAGES 25 AND 26, SANTA CLARA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE MOST SOUTHERLY CORNER OF SAID PARCEL B;

1. THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL B NORTH 38°07'25" WEST, 100.74 FEET TO THE NORTHWESTERLY LINE OF SAID PARCEL B;
2. THENCE ALONG SAID NORTHWESTERLY LINE NORTH 51°53'09" EAST, 126.87 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL B;
3. THENCE ALONG SAID NORTHEASTERLY LINE SOUTH 38°06'51" EAST, 76.31 TO THE BEGINNING OF A 20.00 FOOT RADIUS CURVE CONCAVE WESTERLY;
4. THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 87°41'02" A DISTANCE OF 30.61 FEET;
5. THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL B SOUTH 49°34'11" WEST, 107.73 FEET TO THE **POINT OF BEGINNING**.

THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 12,373 SQUARE FEET MORE OR LESS.

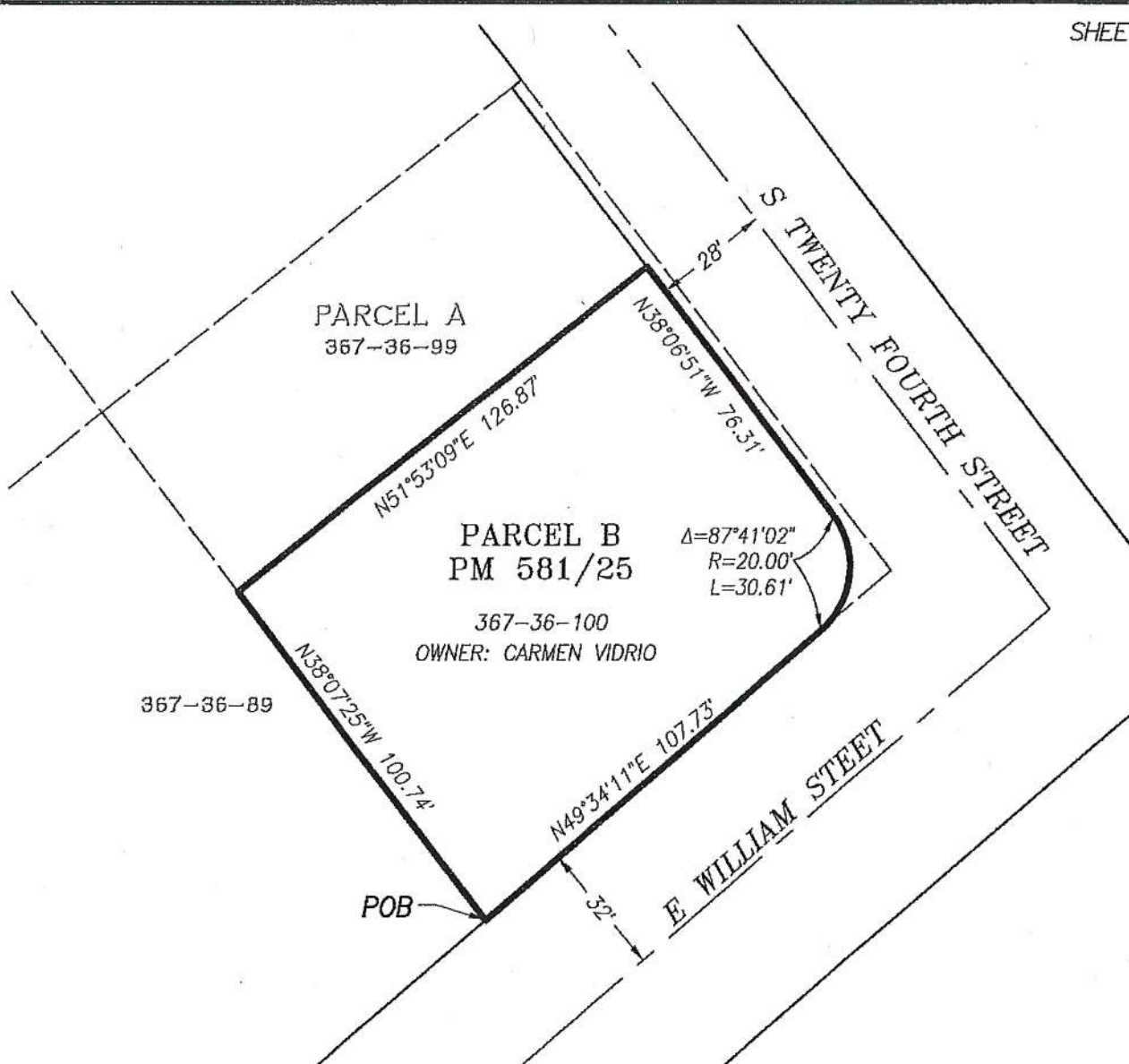
*FOR ASSESSMENT OF ZONING PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR AN OFFER FOR SALE OF THE LAND DESCRIBED.*

  
DOUGLAS B. STROUP


5/24/19  
P.L.S. 8553

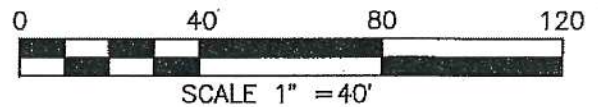
HUNSAKER & ASSOCIATES SAN DIEGO, INC.





**LEGEND**

-  PROPERTY BOUNDARY  
AREA = 12,373 SQ.FT.
- POB** POINT OF BEGINNING



*Douglas B. Stroup* 5/24/19  
 DOUGLAS B. STROUP L.S. 8553



R:\1581\&Map\Exhibits\1581 EX Rezoning Plat SHT 01.dwg[] May-23-2019 W.O. 9999-2160

**H&A** HUNSAKER & ASSOCIATES  
 SAN DIEGO, INC.  
 9707 Waples Street (858)558-4500  
 San Diego, CA 92121

**EXHIBIT "B"**  
**REZONING PLAT**  
**APN 467-36-100**  
**CITY OF SAN JOSE, COUNTY OF SANTA CLARA**



**STATEMENT OF EXEMPTION**

<b>FILE NO.</b>	C19-023 & H19-026
<b>LOCATION OF PROPERTY</b>	Northwest corner of E Williams Road & S 24th Street, at 399 South 24 <sup>th</sup> Street
<b>PROJECT DESCRIPTION</b>	Conforming Rezoning to rezone from LI Light Industrial Zoning District to the CIC Combined Industrial Zoning District and a Site Development Permit to allow a 284-square foot addition to an existing restaurant with landscape and parking reconfiguration on approximately 0.28-gross acre site.
<b>ASSESSOR'S PARCEL NUMBER</b>	467-36-100

**CERTIFICATION**

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this 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.

**15301. EXISTING FACILITIES**

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion.

**ANALYSIS**

The subject project involves rezoning the property, a 284 square foot addition to an existing restaurant space, and reconfiguration of landscaping and parking spaces. The project site is in an urbanized area, as commercial and industrial uses are adjacent the site, and the proposed work is located within an existing and disturbed area. The project scope is an existing restaurant with no change in use and would primarily provide interior access to bathroom facilities.


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 projects 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. Section 15300.2(a) does not apply to the Class Category 1 of exemptions.
- (b) Cumulative Impact. Based on the above analysis, there is no evidence of a potential significant cumulative impact on the environment from the proposed project. The proposed project will include an addition approximately 284 square feet to an existing restaurant. The project is consistent with the Envision San José 2040 General Plan as evaluated in the Envision San José 2040 General Plan Environmental Impact Report, as supplemented.

- (c) Significant Effect. The proposed project site is a standard lot located within an urbanized area and does not have any unusual circumstances that would negatively impact the environment and would not result in any significant effects on the environment.
- (d) Scenic Highways. The project site will not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. Therefore the project is not subject to 15300.2(d).
- (e) Hazardous Waste Sites. The proposed project is not located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. Therefore the project is not subject to 15300.2(e).
- (f) Historical Resources. There are no historical resources located on the proposed project site; therefore Section 15300.2(f) does not apply.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

Date: 6/26/19

  
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Deputy

Environmental Project Manager: Stefanie Farmer