



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	<b>C18-008</b>
<b>Applicant</b>	<b>David Evans</b>
<b>Location</b>	<b>510 North 3<sup>rd</sup> Street</b>
<b>Existing Zoning</b>	<b>CO Commercial Office</b>
<b>Proposed Zoning</b>	<b>CP Commercial Pedestrian</b>
<b>Council District</b>	<b>3</b>
<b>Historic Resource</b>	<b>No</b>
<b>Annexation Date:</b>	<b>Original City</b>
<b>CEQA:</b>	<b>Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto</b>

**APPLICATION SUMMARY:** Conforming Rezoning from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District on a 0.43-gross acre site.

**RECOMMENDATION:** Staff recommends that the City Council approve the Conforming Rezoning based upon the facts and findings in this staff report.

### PROJECT DATA

GENERAL PLAN CONSISTENCY			
<b>General Plan Designation</b>	<b>Neighborhood/Community 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-1.6 and IP-8.2</b>		
<b>Inconsistent Policies</b>	<b>None</b>		
SURROUNDING USES			
	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Residential Neighborhood	R-M Multiple Residence	Multi-family residences
<b>South</b>	Residential Neighborhood	R-M Multiple Residence	Multi-family residences
<b>East</b>	Residential Neighborhood	R-M Multiple Residence	Duplex residences

<b>West</b>	Residential Neighborhood	R-M Multiple Residence	Single-family Residence
<b>RELATED APPROVALS</b>			
<b>Date</b>	<b>Action</b>		
	None		

**PROJECT DESCRIPTION**

On February 15, 2018, the applicant applied for a Conforming Rezoning of the subject property from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District on a 0.43-gross acre site. The applicant intends to use a portion of the existing building as an instructional arts studio, which is a permitted use in the proposed zoning district.

**Site Description:** The project site is located on the northeast corner of North 3rd Street and East Empire Street, at 510 North. 3rd Street (see Figure 1).



**Figure 1: Location Map**

The site consists of three parcels, but is currently developed as a single property, with a 6,228-square foot office building, an ingress driveway from North 3rd Street, an egress driveway onto East Empire street and a surface parking lot with 16 parking spaces.

The site is surrounded by multi-family residences to the north and south, a duplex residence to the east, and a single-family residence to the west. There is a small mini-market on the corner property, diagonally opposite the site, across the intersection of East Empire Street and North 4th Street.

## ANALYSIS

The proposed Conforming Rezoning was analyzed with respect to conformance with: 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 a land use designation of Neighborhood/Community Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram (see Figure 2).

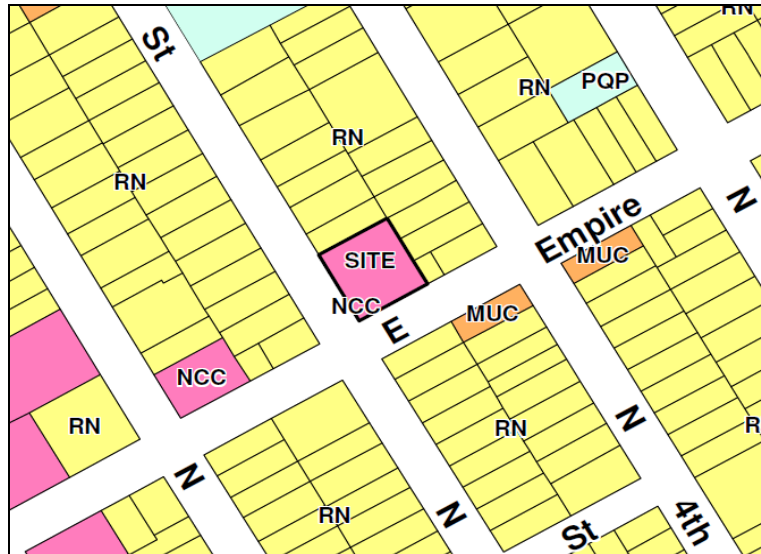


Figure 2: General Plan Map

Properties with this General Plan land use designation support a broad range of commercial activity, including commercial uses that serve the communities in the neighboring areas. Neighborhood/Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection.

This conforming rezoning is also consistent with the following General Plan policies:

1. Implementation Policy IP-1.1: 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-1.6: Ensure that proposals to rezone and pre-zone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan Vision, goals and policies.
3. Implementation Policy IP-8.2: 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 uses and development intensity correspond generally to the respective Envision 2040 General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

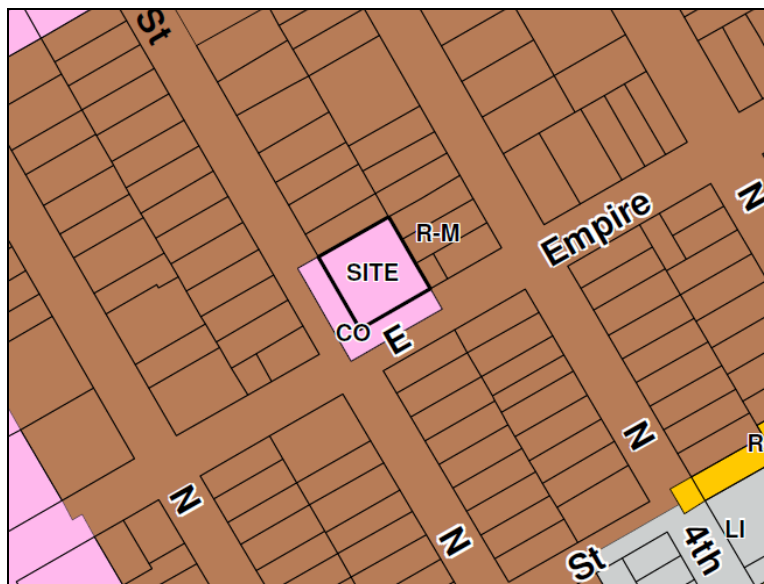
*Analysis: The CP Commercial Pedestrian Zoning District is a conforming zoning district for the Envision San José 2040 General Plan Land Use/Transportation Diagram’s designation of Neighborhood/Community Commercial, as indicated in Section 20.120.110 of the Zoning Ordinance.*

*Land Uses: The CP Commercial Pedestrian and CN Commercial Neighborhood Zoning Districts are more neighborhood oriented than the CG Commercial General Zoning District. In the CP Commercial Pedestrian Zoning District, most of the auto-oriented uses, such as drive-through and car wash uses, are either not permitted or heavily regulated.*

*Form: The CP Commercial Pedestrian Zoning District require a zero-foot front setback and a minimum 25-foot rear setback from the property lines. The project site’s rear property line is shared with residential uses, and any new development would have to conform to the required 25-foot rear setback. The other two conforming zoning districts, which are CN Commercial Neighborhood and CG Commercial General Zoning Districts, would not be appropriate because any future development on the project site would allow zero rear setbacks in those districts, immediately adjacent to residential uses, and result in an inappropriate land use and form of development pursuant to the General Plan goals and policies. The proposed Conforming Rezoning to the CP Commercial Pedestrian Zoning District will allow a conforming zoning district that is consistent with the General Plan goals and policies, intended for this property.*

### **Zoning Ordinance Conformance**

The subject site is currently in the CO Commercial Office Zoning District (see Figure 3).



**Figure 3: Zoning Map**

The proposed Conforming Rezoning conforms to Table 20-270 of Section 20.120.110 of the Zoning Ordinance, which identifies the CP Commercial Pedestrian Zoning District as a conforming zoning district for the Neighborhood/Community Commercial General Plan land use designation. The site has an existing building with a law office, which will continue to operate in one-half of the building. The applicant intends to use the other half of the building as an Instructional Arts Studio, which is a permitted use in the CP Commercial Pedestrian Zoning District. An “Instructional Arts Studio” is an establishment that offers instruction involving physical or artistic skills and techniques, including but not limited to dance, music, martial arts and fine arts.

The conforming zoning district, such as CP Commercial Pedestrian Zoning District, generally allows a greater flexibility in development in terms of various permitted and conditionally permitted commercial uses and development regulations when compared to CO Commercial Office Zoning District, as follows:

Land Use: The CO Commercial Office does not allow an instructional arts studio, whereas it is a permitted use in the CP Commercial Pedestrian Zoning District.

Setbacks and Height: The CO Commercial Office Zoning District has a minimum 10-foot front, a 12.5-foot corner, a five-foot interior side, and a 25-foot rear setback requirement from the property lines, and has a maximum height requirement of 35 feet; whereas, the CP Commercial Pedestrian Zoning District has zero feet front, corner and side setback requirements and a rear setback requirement of 25 feet from property lines. This district has a maximum height requirement of 50 feet.

Even though an instructional arts studio is a permitted use in the CP Commercial Pedestrian Zoning District, the use will have to be contained completely indoors as the site is within 150-feet of residential uses. Additionally, any exterior building modifications or site improvements, such as the parking lot, etc., would require review by the Planning Division. There are no development applications on file at this time.

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

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the proposed rezoning is pursuant to, in furtherance of and within the scope of the Envision San José 2040 General Plan program, the impacts of which were analyzed and disclosed in the Final Program Environmental Impact Report (EIR) and Supplemental EIR for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, and Resolution No. 77617 on December 15, 2015, respectively, and all Addenda thereto. The 2011 Program EIR and a supplemental EIR were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040. The proposed rezoning does not involve new significant effects beyond those analyzed in the Program EIRs, supplemental EIR, and Addendum thereto. A Determination of Consistency with these documents was prepared for this rezoning.

## **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.

/s/

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

For questions, please contact Steve McHarris, Planning Official, at (408) 535-7819.

Attachment: Legal Description and Plat map

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**FOR**  
**LANDS OF EVES**  
**510 NORTH THIRD STREET, CA**  
**APN 249-40-055**

CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEING ALL OF PARCEL 1, 2, AND 3 DESCRIBED IN THE DEED OF TRUST TO FIRST SANTA CLARA CORPORATION, RECORDED AUGUST 21, 2012, AS DOCUMENT NUMBER 21806670, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF E EMPIRE STREET WITH THE EASTERLY LINE OF NORTH THIRD STREET, ALSO BEING THE MOST SOUTHERLY CORNER OF SAID PARCEL 3;

THENCE NORTH 30°39'00" WEST 137.93 FEET ALONG THE EASTERLY LINE OF NORTH THIRD STREET TO THE MOST WESTERLY CORNER OF SAID PARCEL 3;

THENCE NORTH 59°19'00" EAST 137.50 FEET PARALLEL WITH THE NORTHERLY LINE OF E EMPIRE STREET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 1;

THENCE ALONG THE NORTHEASTERLY LINE OF SAID LOT, SOUTH 30°39'00" EAST 137.93 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL 1;

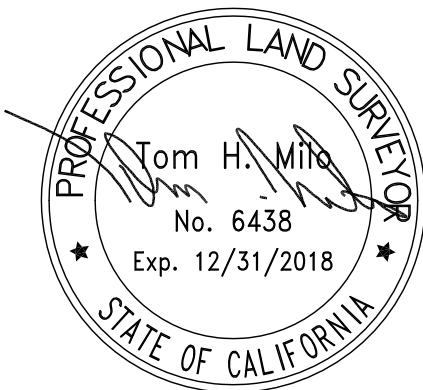
THENCE ALONG THE NORTHERLY LINE OF E EMPIRE STREET, SOUTH 59°19'00" WEST 137.50 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 18,965 SQUARE FEET, MORE OR LESS.

SEE EXHIBIT B FOR THE ACCOMPANYING PLAT, ATTACHED HERETO AND MADE A PART HEREOF.

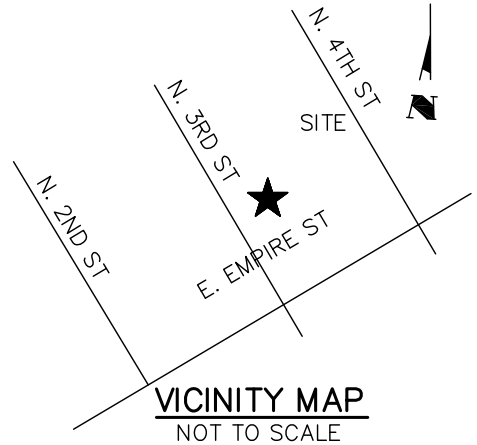
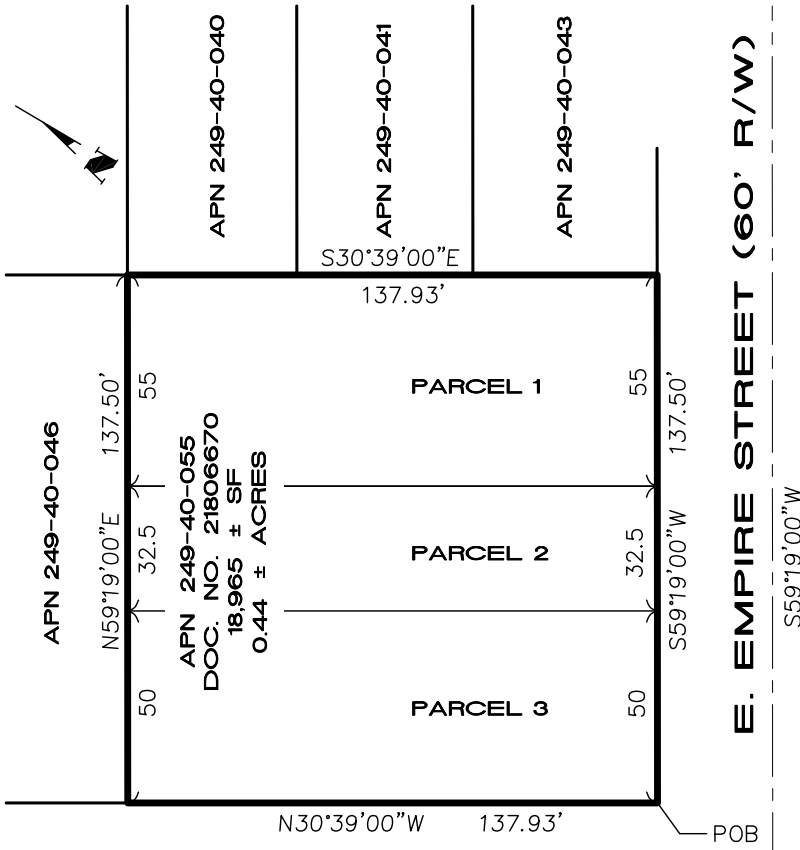
BASIS OF BEARINGS: THE BEARINGS DESCRIBED IN THIS DESCRIPTION ARE BASED ON THE BEARING NORTH 30°39'00" WEST OF THE CENTERLINE OF NORTH THIRD STREET, AS SHOWN IN BOOK 140 OF MAPS AT PAGE 50, RECORDED NOVEMBER 30, 1961, SANTA CLARA COUNTY RECORDS.

PREPARED ON JANUARY 12, 2018  
**LC ENGINEERING**



TOM H. MILO LS NO. 6438  
EXPIRATION DATE 12/31/2018

# EXHIBIT "B"



**VICINITY MAP**  
NOT TO SCALE

PARCEL SQUARE FOOTAGE	
PARCEL 1	7,586.15
PARCEL 2	4482.72
PARCEL 3	6896.50
<b>TOTAL</b>	<b>18,965.37</b>

## N. THIRD STREET (80' R/W)

N30°39'00"W

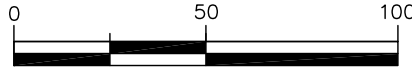
## BASIS OF BEARINGS

THE BEARING N30°39'00"W OF THE CENTERLINE OF NORTH THIRD STREET AS SHOWN IN BOOK 140 OF MAPS AT PAGE 50, RECORDED NOVEMBER 30, 1961, SANTA CLARA COUNTY RECORDS.

### LEGEND

- LOT LINE
- PARCEL LINE
- PROPERTY LINE
- CENTERLINE
- POB POINT OF BEGINNING

### GRAPHIC SCALE



( IN FEET )  
1 inch = 50 ft.



**PLAT**  
LANDS OF EVES  
510 NORTH THIRD STREET  
APN 249-40-055

**ENGINEERING**  
598 E Santa Clara St, #270  
San Jose, CA 9512  
Phone: (408) 806-7187  
Fax: (408) 583-4006

San Jose

California

SCALE: 1" = 50'

DATE: 01/12/18

DRWG. NAME:

PROJECT NO.

SHEET 1 OF 1