



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: February 20, 2018

COUNCIL DISTRICT: 3

SUBJECT: C17-041: CONVENTIONAL REZONING FROM THE LI LIGHT INDUSTRIAL ZONING DISTRICT TO THE R-2 TWO FAMILY RESIDENCE ZONING DISTRICT FOR AN APPROXIMATELY 0.3 ACRE PORTION OF A 0.46-GROSS ACRE SITE LOCATED ON THE SOUTHEAST CORNER OF LICK AVENUE AND GOODYEAR STREET (APN: 434-05-086)

RECOMMENDATION

The Planning Commission voted 6-0-1 (Commissioner Vora absent) to recommend that the City Council consider the determination of consistency with Envision San José 2040 General Plan EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Program EIR (Resolution 77517), and addenda thereto, in accordance with the California Environmental Quality Act and recommend approval of the Conventional Rezoning, as described in the attached staff report.

OUTCOME

If the City Council approves the Rezoning, the R-2 Two Family Residence Zoning District would allow continuation of the existing residential uses on site, including the possibility of the subdivision and the construction of an accessory dwelling unit in conformance with the site's General Plan land use designation of Residential Neighborhood.

BACKGROUND

On February 7, 2018, the Planning Commission held a public hearing to consider the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Supplemental Environmental Impact Report (Resolution No. 77617), and addenda thereto, and the proposed Rezoning. The project was on the Consent Calendar. There was no public comment, and the Commissioners made no comments on the item. The Planning Commission recommended that the City Council approve the proposed Rezoning by a vote of 6-0-1, with Commissioner Vora absent.

ANALYSIS

A complete analysis of the issues regarding this project, including Envision San José 2040 General Plan conformance, is contained in the attached Planning Commission staff report.

EVALUATION AND FOLLOW UP

If the Rezoning is approved, the R-2 Two-Family Zoning District would allow continuation of the existing residential uses on site, including the possibility of the subdivision and the construction of an accessory dwelling unit in conformance with the site's General Plan land use designation of Residential Neighborhood.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public about this project. The public hearings notices for the project were mailed to the owners and tenants of all properties located within 500 feet of the project site.

An electronic version of this memorandum has been available online, accessible from the City Council Agenda for the March 13, 2018, hearing. Staff has been available to discuss the proposal with members of the public.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office.

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 Environmental Impact Report (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 Supplemental Environmental Impact Report (the "SEIR"), through Resolution No. 77617, adopted by City Council on

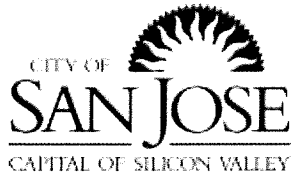
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December 15, 2015, and Addenda thereto. The Program EIR was prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040. The proposed rezoning does not involve new significant effects beyond those analyzed in the Program EIR.

/s/
ROSALYNN HUGHEY, SECRETARY
Planning Commission

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

Attachments: Planning Commission Staff Report



PLANNING COMMISSION STAFF REPORT

File No.	C17-041
Applicant:	Jose Garcia
Location	Southeast corner of Lick Avenue and Goodyear Street (1102 Lick Avenue)
Existing Zoning	LI Light Industrial and R-2 Two-Family Residence
Council District	3
Historic Resource	No
Annexation Date:	March 27, 1850
CEQA:	Determination of consistency with Envision San José 2040 General Plan EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Program EIR (Resolution No. 77517) and Addenda thereto.

APPLICATION SUMMARY:

Conventional Rezoning from the LI Light Industrial Zoning District to the R-2 Two Family Residence Zoning District for an approximately 0.3 acre portion of a 0.46-gross acre site.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend **approval** of the proposed rezoning to the City Council.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Residential Neighborhood <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		H-2.5, LU-11.8, IP-1.1, 1.6 & 8.2	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Residential Neighborhood	R-2 Two-Family Residence	Single-Family Detached Residential
South	Residential Neighborhood	LI Light Industrial/R-2 Two-Family Residence	Single-Family Detached Residential
East	Residential Neighborhood	R-2 Two-Family Residence	Single-Family Detached Residential
West	Residential Neighborhood	A(PD) Planned Development	Single-Family Detached Residential

PROJECT DESCRIPTION

On September 12, 2017, the applicant applied for a Conventional Rezoning on the approximately 0.3 acre western portion of the 0.46-gross acre site from the LI Light Industrial Zoning District to the R-2 Two Family Residence Zoning District. The proposed rezoning will bring the property entirely under the R-2 Two-Family Residence Zoning District, which is more consistent with the existing residential rather than the light industrial use.

Site Location and Surrounding uses:

The subject site is developed with an existing single-family residence fronting Lick Avenue, two duplexes along Goodyear Street and a detached garage located between the two duplexes. The site is surrounded by mostly single-family residences on all sides, with a small number of two-family residences as well (see Figure 1).

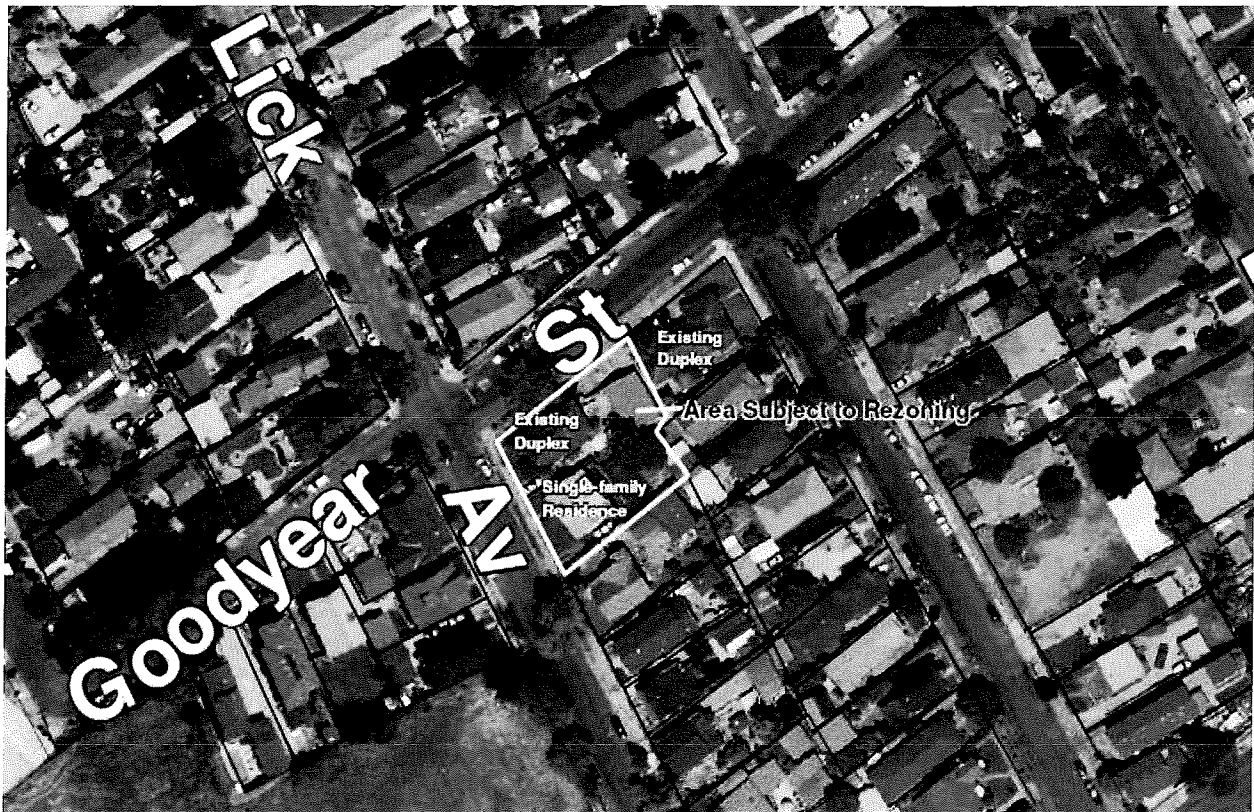


Figure 1: Aerial image of the subject site and surrounding uses

ANALYSIS

Background

The existing configuration of the site is legal non-conforming, as single-family residences must always occupy their own parcel, and not share the parcel with other residences (except for secondary dwelling units).

The proposed zone change will allow the parcel to be subdivided so that the single-family house may reside on one separate parcel and the duplexes on the other separate parcel, thus eliminating the non-conforming uses. The applicant desires the lot to be subdivided; however, a subdivision

is not currently possible because the lot would not meet the minimum square footage required by the LI Light Industrial Zoning District. The subdivision will be possible after the site is rezoned and will allow the potential for a secondary dwelling unit on the future single-family house parcel.

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 Residential Neighborhood (see Figure 2).



Figure 2: General Plan Land Use/Transportation Diagram

This designation allows residential development (typically at a density of eight dwelling units per acre) that matches the existing residential character. This rezoning is consistent with the Residential Neighborhood land use designation, as it matches the existing residential character and development density, and with the following General Plan goals and policies:

1. Housing Policy H-2.5- Affordable Housing: Facilitate second units on single-family residential lots, in conformance with our City's Secondary Unit Ordinance, to take advantage of a potential source of affordable housing and to assist our City in meeting its needs as identified in its Consolidated Plan.

Analysis: The subject site is 0.46 gross acres in size and could facilitate the development of a second unit for a conforming single-family lot that would be created by a future subdivision from one parcel to two parcels.

2. Land Use Policy LU-11.8- Action – Residential Neighborhoods: Rezone Residential Neighborhood areas with existing nonconforming zoning designations to align with the *Envision General Plan*, taking existing uses into consideration. For areas where the Residential

Neighborhood designation supports the development of duplexes or commercial uses, a corresponding residential zoning designation that supports duplexes and/or commercial uses is appropriate. For areas where the Residential Neighborhood designation supports the development of single-family residences, a corresponding residential zoning designation that supports single-family use is appropriate. Give priority for such rezoning actions to areas with an existing neighborhood or community plan that identifies rezoning as a community goal.

Analysis: The subject rezoning site is 0.46 gross acres in size with three existing residential buildings. The proposed rezoning to R-2, Two-Family Residence will be consistent with the Envision General Plan designation of Residential Neighborhood, thus implementing Policy LU-11.8. The rezoning will also result in the residences conforming to the allowed uses of a zoning district, as single-family residences and duplexes are allowed uses in the R-2 district, but not in the existing LI district.

3. 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.
4. Implementation Policy IP-1.6 – 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.
5. 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 R-2 Two Family Zoning District conforms to the Envision San Jose 2040 General Plan Land Use/Transportation Diagram's designation of Residential Neighborhood, as it matches the existing residential character and development density of the surrounding neighborhood. The proposed Conventional Rezoning to the R-2 Two Family Zoning District will allow a conventional zoning district that is consistent with the General Plan goals intended for this property. Furthermore, the continued use of the property as residences conforms to the Residential Neighborhood land use designation as this is a permitted use.

Zoning Ordinance Conformance

The existing setbacks will conform to the R-2 Two Family Residence Zoning District's required setbacks of 15 feet in the front, 5 feet on the side and 10 feet on the street side. The property would remain as a legal non-conforming use under this rezoning because the single-family house would normally require its own lot, separate from the duplexes. Unlike single-family houses, there can be more than one duplex on a lot. The legal non-conforming use could continue and the rezoning does not trigger the requirement for a new lot for the residence to be created. The larger land use issue is making the property zoning conform to its General Plan designation, which this rezoning will accomplish. The existing residences are also not permitted uses in the existing LI Light Industrial zoning.

In any case, a subsequent subdivision of the property is intended, and could result in up to three fully-conforming lots. No subdivision application is on file. Any future subdivision application would be analyzed for conformance with the Zoning District's minimum lot size and setbacks, as well as the Subdivision Ordinance. The R-2 Two Family Residence Zoning District will also currently permit an attached secondary unit (as per Section 20.30.150 of the San José Municipal Code) on the planned single-family residence parcel, as well as allow the property owner more flexibility to use the site. Under the current R-2 Two Family Residence and LI Light Industrial split zoning district, any expansion of the current legal non-conforming residences on the site would require a Special Use Permit.

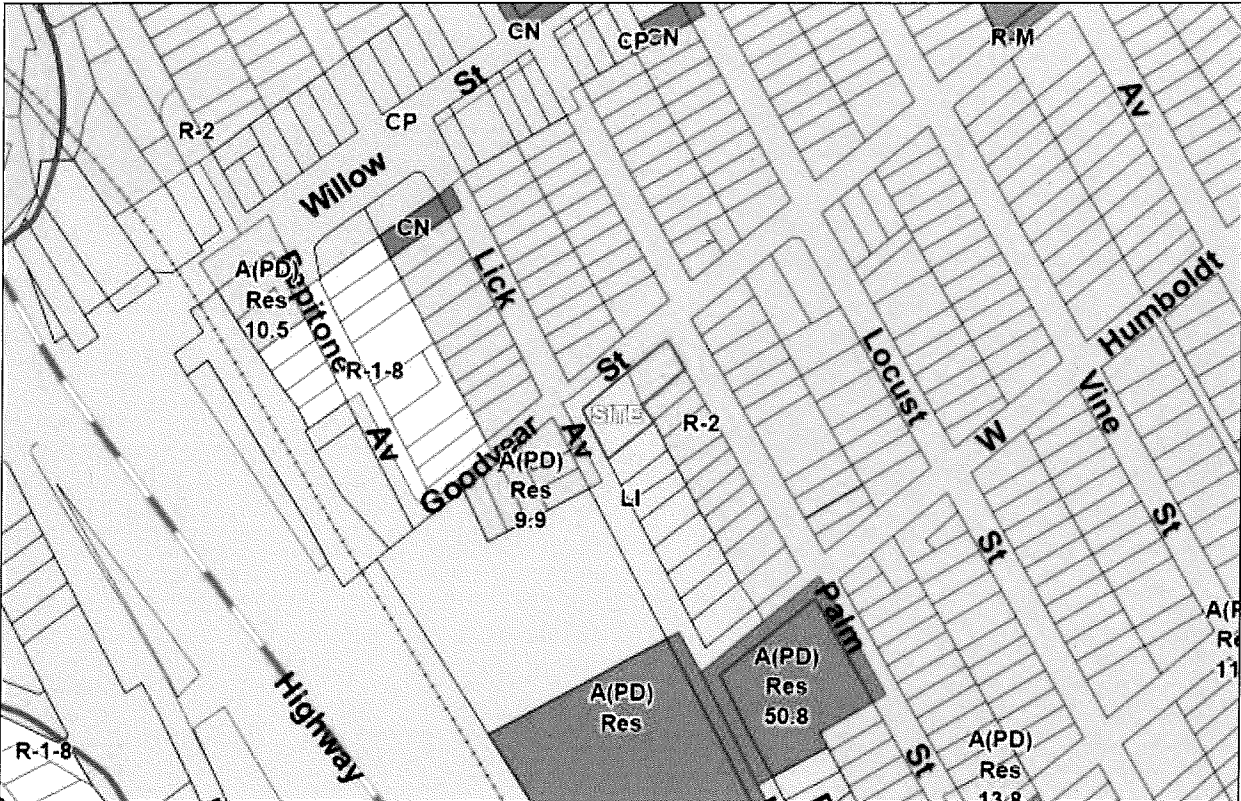


Figure 3: Zoning Map

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed Conventional Rezoning will change the current LI Light Industrial and R-2 Two Family Residence split District on this site to R-2 Two Family Residence Zoning District. It will allow the property to potentially subdivide into three separate residential lots and eliminate the non-conforming use on the site.

No new or more significant environmental impacts beyond those identified in the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (FEIR) have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the FEIR been identified.

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 Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, for

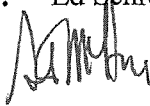
which findings were adopted by City Council Resolution No. 76041 on November 1, 2011 and Supplemental Environmental Impact Report (the "SEIR"), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. The Program EIR was prepared for the comprehensive update and 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 EIR.

PUBLIC HEARING NOTIFICATION

In order 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.

Project Manager: Ed Schreiner

Approved by:

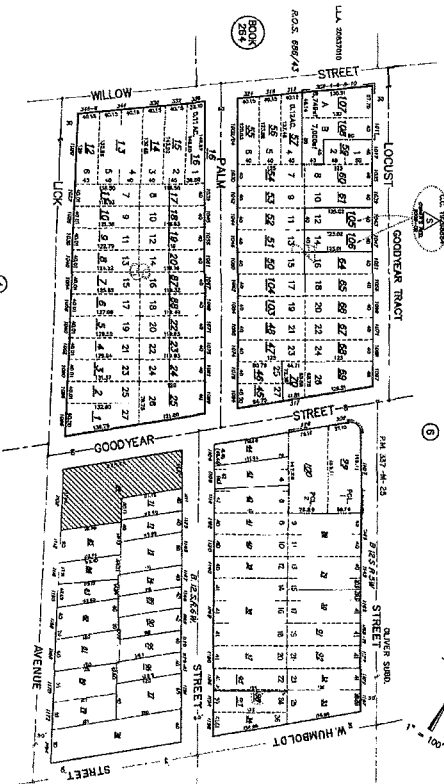


Planning Official for Rosalynn Hughey,
Acting Director of Planning, Building and Code Enforcement

Date: 1/29/18

Attachments:
Attachment A: Plat Map
Attachment B: Draft Ordinance

Owner/Applicant:
Jose Garcia 1102 Lick Avenue San Jose, CA 95110

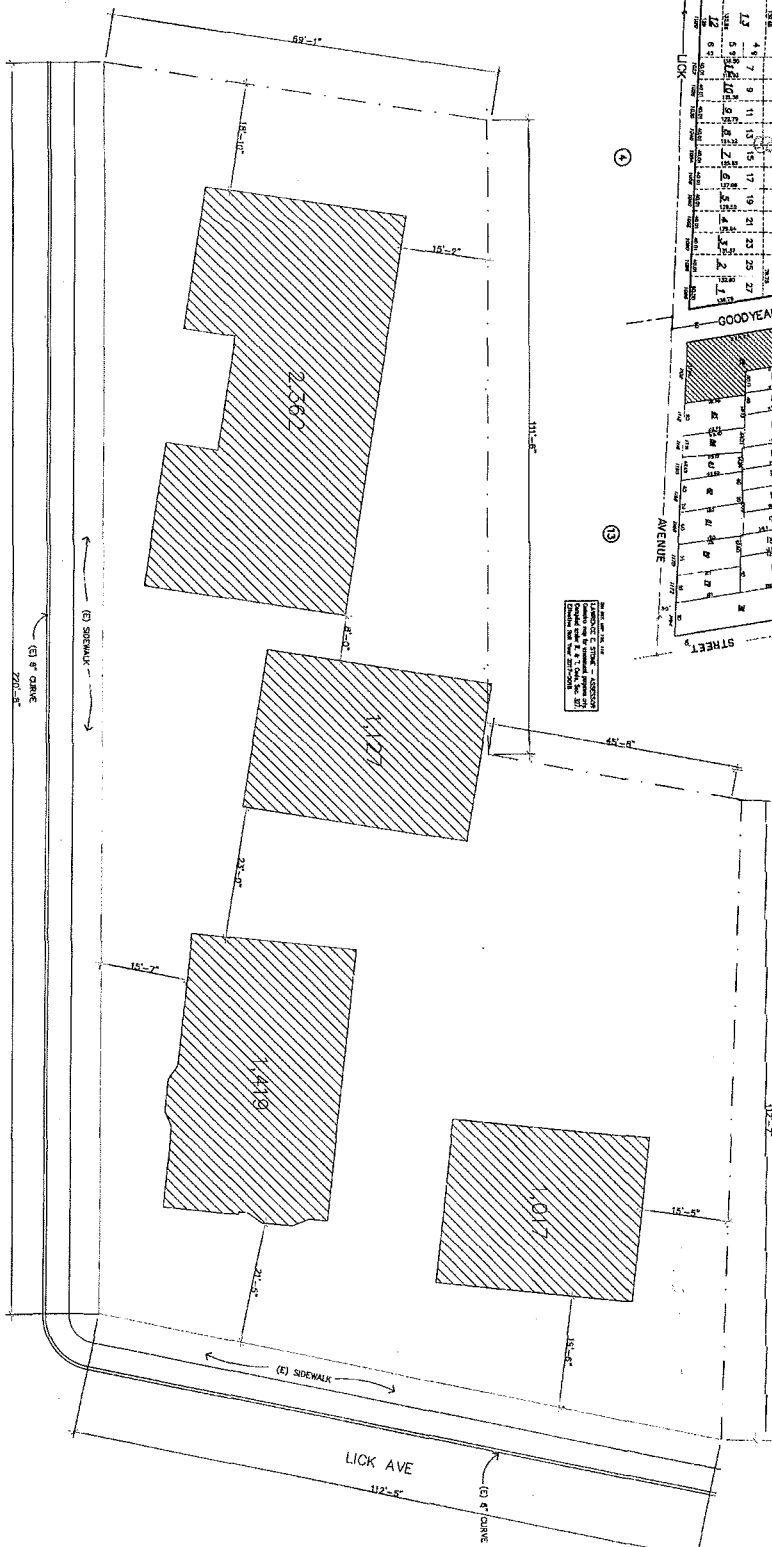


EXISTING SITE PLAN



1"=10'-0"

GOODYEAR ST



SITE ANALYSIS

NAME	TYPE OF CONST.	TYPE OF CONST.	TYPE OF CONST.
(1) NET HOUSE FLOOR AREA	2,362 SQ.FT.	1,122 SQ.FT.	1,410 SQ.FT.
(2) NET GARAGE AREA	1,017 SQ.FT.	1,410 SQ.FT.	1,017 SQ.FT.
(3) NET HOUSE FLOOR AREA	1,410 SQ.FT.	1,410 SQ.FT.	1,017 SQ.FT.
(4) NET GARAGE AREA	1,017 SQ.FT.	1,410 SQ.FT.	1,017 SQ.FT.
(5) TOTAL LIVING AREA	5,825 SQ.FT.	5,825 SQ.FT.	5,825 SQ.FT.
(6) TOTAL AREA BOUND	5,825 SQ.FT.	5,825 SQ.FT.	5,825 SQ.FT.

DATE	9-16-2017
SCALE	1"=10'-0"
DRAWN	MB
BY	777

GARCIA RESIDENCE
1102 LICK AVENUE
SAN JOSE, CA

EXISTING SITE PLAN

ARCHITEX BUILDERS
126 W. Ahrens Ave. Sunnyvale CA 94087 408.561.7493



ARCHITEX BUILDERS
126 W. Ahrens Ave. Sunnyvale CA 94087 408.561.7493

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF AN APPROXIMATELY 0.3 ACRE PORTION OF A 0.46 ACRE PROPERTY LOCATED ON THE SOUTHEAST CORNER OF LICK AVENUE AND GOODYEAR STREET (1102 LICK AVENUE), FROM THE LI LIGHT INDUSTRIAL ZONING DISTRICT TO THE R-2 TWO-FAMILY RESIDENCE NEIGHBORHOOD ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, 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 previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the "FEIR"), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011 and Supplemental Environmental Impact Report (the "SEIR"), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR, SEIR, and Addenda; and

WHEREAS, on February 7, 2018, the Planning Commission conducted a duly noticed public hearing, considered the previous approved FEIR, SEIR, and Addenda, and the Rezoning of the Subject Property, and recommends approval of the rezoning of the Subject Property to the City Council; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the R-2 Two Family Residence Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR and related City Council Resolution No. 76041, the SEIR and related City Council Resolution No. 77617, addenda thereto, and the determination of consistency therewith prior to acting upon or approving the subject rezoning;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The recitals above are incorporated herein.

SECTION 2. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as R-2 Two Family Residence Zoning District.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 3. The district map of the City is hereby amended accordingly.

SECTION 4. The land development approval that is the subject of City File No. C17-041 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such

land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this ____ day of _____, 2018 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk