



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	C18-015
<b>Applicant:</b>	Wise Consultant Group representing property owners Teresa Fernandez and Jesus Montañez
<b>Location</b>	Northwest corner of Michigan Avenue and Archer Street (1298 Michigan Avenue)
<b>Existing Zoning</b>	CN Commercial Neighborhood
<b>General Plan Land Use Designation</b>	Residential Neighborhood
<b>Council District</b>	4
<b>Historic Resource</b>	No
<b>Annexation Date:</b>	March 12, 1968 (Alviso Consolidation)
<b>CEQA:</b>	Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto

**APPLICATION SUMMARY:**

Conforming Rezoning from the CN Commercial Neighborhood Zoning District to the R-1-8 Single-Family Residential Zoning District on a 0.13-gross acre site.

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto.
2. Adopt an ordinance rezoning an approximately 0.13-gross acre site, located at the northwest corner of Michigan Avenue and Archer Street (1298 Michigan Avenue), from the CN Commercial Neighborhood Zoning District to the R-1-8 Single-Family Residence Zoning District.

**PROJECT DATA**

GENERAL PLAN CONSISTENCY	
<b>General Plan Designation</b>	<b>Residential Neighborhood</b> <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent
<b>Consistent Policies</b>	<b>Implementation Policies IP-1.1, IP-1.6, and IP-8.2</b>

<b>SURROUNDING USES</b>			
	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Residential Neighborhood	CN Commercial Neighborhood	Single-family Residence
<b>South</b>	Residential Neighborhood	A(PD) Planned Development (File No. PDC98-057)	Single-family Residence
<b>East</b>	Residential Neighborhood	R-M Multiple Residence	Single-family Residence
<b>West</b>	Residential Neighborhood	CN Commercial Neighborhood	Single-family Residence

**PROJECT DESCRIPTION**

On April 24, 2018, the applicant, Sylvia Ornelas-Wise from Wise Consultant Group representing property owners Teresa Fernandez and Jesus Montañez, submitted a Conforming Rezoning application to rezone a 0.13-gross acre site located at 1298 Michigan Avenue from the CN Commercial Neighborhood Zoning District to the R-1-8 Single-Family Residential Zoning District on a 0.13-gross acre site.

**Site Description and Surrounding Uses**

The subject site is located on the northwest corner of Michigan Avenue and Archer Street (see Figure 1). The subject site has an existing single-family residence and is surrounded by single-family residential developments. The existing single-family residence on the subject site has been damaged by a fire and is currently unoccupied. There are no other active planning development permit applications on file for the subject site at this time.

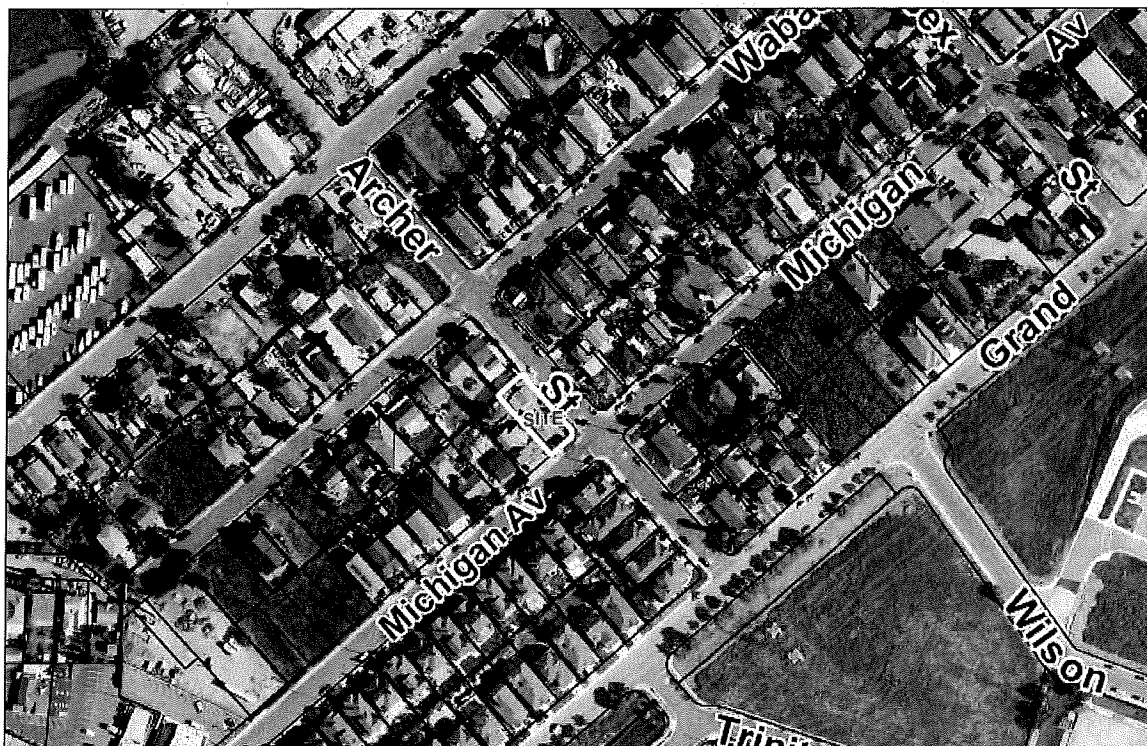


Figure 1: Aerial image of the subject site

### Background

The subject property is currently located in the CN Commercial Neighborhood Zoning District. The applicant has requested a conforming rezoning to the R-1-8 Single Family Residence Zoning District, which would bring the site into conformance with the Residential Neighborhood General Plan Land Use/Transportation Diagram land use designation. The existing damaged residential structure is a non-conforming use under the current CN Zoning District. Single-family residences are not allowed in the CN Commercial Neighborhood Zoning District. The rezoning is required for the site to be redeveloped with a single-family residence.

### 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 Residential Neighborhood (see Figure 2).



Figure 2: General Plan Land Use/Transportation Diagram

The Residential Neighborhood category is applied broadly throughout the city to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to

strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing, and neighborhood form and pattern. The proposed rezoning would allow the subject site to be developed with uses that are consistent with the General Plan land use designation of Residential Neighborhood.

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-1.6 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.
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: Pursuant to Table 20-270 of the Zoning Ordinance, the R-1-8 Single Family Residence Zoning District is listed as a conforming district for the General Plan Land Use Designation of Residential Neighborhood. The Conforming Rezoning to the R-1-8 Single-Family Residence Zoning District would align the zoning district to be consistent with the goals of the General Plan and facilitate future developments that are consistent with the General Plan land.*

### **Zoning Ordinance Conformance**

The proposed rezoning conforms with Table 20-270 in Section 20.120.110 of the San José Municipal Code, which identifies the R-1-8 Single-Family Residence Zoning District and R-1-5 Single-Family Residence Zoning District as conforming districts to the Residential Neighborhood General Plan Land Use/Transportation Diagram land use designation. The subject site is approximately 5,990 square feet. The minimum lot size for the R-1-5 Single-Family Residence Zoning District is 8,000 square feet. The subject site does not meet the minimum lot size in order to rezone to the R-1-5 Single-Family Zoning District. The R-1-8 Single-Family Residence Zoning District requires a minimum 5,445-square foot lot size. Therefore, the R-1-8 Single-Family Residence Zoning District is appropriate for this site.

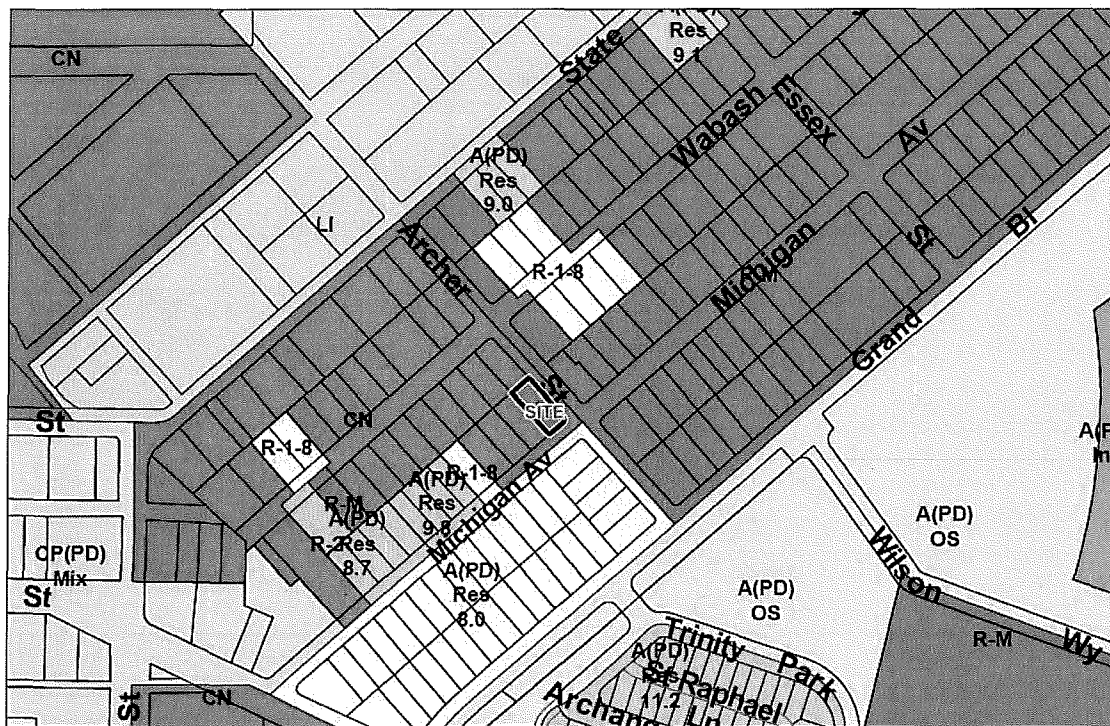


Figure 3: Zoning Map

The R-1-8 Single Family Residential Zoning District would allow the property to be used and developed in accordance with the allowable uses in Table 20-50, including One-family Dwelling, Secondary Dwelling, Residential Care Facility with six or fewer persons and Daycare Center. The subject site has an existing single-family residence which is an allowed use in the R-1-8 Single-Family Residence Zoning District.

#### Setbacks and Heights

The subject site is required to maintain a 20-foot front setback, 5-foot interior side setback, 12.5-foot corner side setback, and a 20-foot rear setback. The existing single-family home has a 25-foot front setback, a greater than 10-foot side setback on both sides of the structure, and a greater than 40-foot setback to the rear of the property. The maximum height allowed is 35 feet. The existing structure is approximately 28 feet in height. Therefore, the existing single-family home conforms to the development standards of the R-1-8 Single-Family Residence Zoning District.

### **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 project 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 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 EIR adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The Envision San José 2040 General Plan Final Program Environmental Impact Report (FREIR), Supplemental Environmental Impact Report (SEIR), and Addenda 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.

No new or more significant environmental impacts beyond those identified in the Envision San Jose 2040 General Plan FPEIR, SEIR, and Addenda have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the FPEIR, SEIR and Addenda been identified.

#### **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. No public comment letters have been received to date.

/s/

ROSALYNN HUGHEY, Director  
Planning, Building and Code Enforcement

For questions, please contact Interim Deputy Director, Sylvia Do, at (408)535-7907.

Attachment: Legal Description and Plat map

OSUNA ENGINEERING, Inc.

Job No. 1572

August 10, 2018

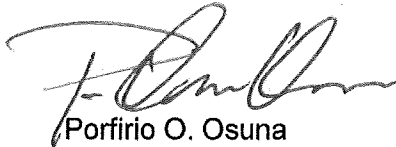
**EXHIBIT A**  
Legal Description

The land referred to in this description is situated in the State of California, City of San Jose, County of Santa Clara, and is described as follows:

Lot 30 and 31, in Block 2 as laid down, designated and delineated upon that certain Map entitled, "Map of New Chicago at Port of Alviso", Santa Clara County, California, of record in the Office of the County Recorder of the County of Santa Clara, State of California, in Book "D" of maps, at pages 184 and 185.

Containing 5,990 S.F., more or less.

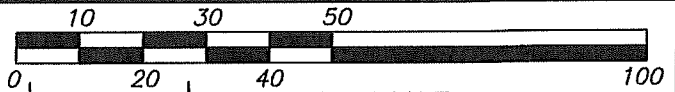
This description was prepared by me or under my direction in conformance with the Land Surveyor's Act.



Porfirio O. Osuna  
PLS 8921

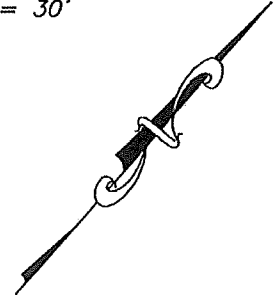


8-10-18



GRAPHIC SCALE

1" = 30'



B L O C K 2

RESIDENTIAL LAND USE

N48°12'34"E 50.00' R2

RESIDENTIAL LAND USE

N43°17'53"W 119.85' R2

LOT

31  
R1

30  
R1

N43°17'53"W 119.85' R2

LANDS OF MONTANEZ

LOT GROSS AREA:

5,990± SF

APN: 015-05-049

N48°12'34"E 50.00' R2

N43°17'53"W 289.71'

ARCHER ST.

N48°12'34"E

MICHIGAN AVE.

REFERENCES:

- R1 SUBDIVISION MAP D-M-184&185
- R2 PARCEL MAP 867-M-26&27
- R3 RECORD OF SURVEY 814-M-49

LEGEND

- — — — — BOUNDARY OF SUBJECT PROPERTY
- - - - - LOT LINES PER ORIGINAL MAP R1

PROPERTY OWNER(S): JESUS AND TERESA MONTANEZ



EXHIBIT B - PLAT MAP  
LANDS OF MONTANEZ  
1298 MICHIGAN AVE

ALVISO, CALIFORNIA

DATE: 8/10/18  
SCALE: 1"=30'  
DRAWN BY: O.O.  
CHECKED BY: O.O.  
JOB NO.: 1517

OSUNA ENGINEERING, INC.

117 BERNAL RD., #70-336  
SAN JOSE, CALIFORNIA 95119  
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*Porfirio Oscar Osuna*  
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PORFIRO OSCAR OSUNA