



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** October 12, 2018

---

**COUNCIL DISTRICT: 3**

**SUBJECT: FILE NO. GP18-009. CITY-INITIATED GENERAL PLAN AMENDMENT ASSOCIATED WITH THE ADOPTION OF THE EAST SANTA CLARA STREET (WEST OF 17<sup>TH</sup> STREET) URBAN VILLAGE PLAN, INCLUDING MODIFICATIONS TO THE URBAN VILLAGE BOUNDARY, CHANGES TO GENERAL PLAN LAND USE DESIGNATIONS ON PROPERTIES WITHIN THE BOUNDARIES OF THE URBAN VILLAGE PLAN AS SHOWN ON THE PROPOSED URBAN VILLAGE LAND USE PLAN, AND ADOPTION OF THE EAST SANTA CLARA (WEST OF 17<sup>TH</sup> STREET) URBAN VILLAGE PLAN.**

## **RECOMMENDATION**

The Planning Commission voted 5-2-0 (Commissioners Leyba and Marquez opposed) to recommend that the City Council:

- a. Consider the Determination of Consistency with the Final Program Environmental Impact Report (FEIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR to Envision San José General Plan EIR (SEIR) (Resolution No. 77617), and Addendum thereto, in accordance with CEQA, and
- b. Adopt a resolution approving the General Plan Amendment to modify the East Santa Clara Street (West of 17th Street) Urban Village boundary, change the General Plan land use designations on properties within the boundary of the Urban Village Plan area as shown on the land use diagram, and adopt the East Santa Clara Street (West of 17th Street) Urban Village Plan as described in the attached staff report and as modified by the Planning Commission to change (a) the Urban Village boundary to include the entirety of the East Santa Clara Street bridge (which crosses Coyote Creek), and (b) allow the City Attorney's Office to review the changes prior to the City Council hearing.

## **OUTCOME**

If the City Council approves the Urban Village Plan as recommended by the Planning Commission and staff, any proposed new development within the East Santa Clara Street (West of 17<sup>th</sup> Street) Urban Village boundary would be analyzed for conformance with the goals, policies, standards, and guidelines of the Urban Village Plan.

## **EXECUTIVE SUMMARY**

On September 12, 2018, the Planning Commission held a public hearing for this Urban Village where concerns from 20 members of the public were shared, including: height, setbacks, traffic, vehicle traffic diverter placement, good neighbor policy, Senate Bill 35, prior General Plan Policy CD-7.9 changes, impending development proposals, adequate bicycle storage, architecture of new buildings, projects providing adequate parking, affordable housing, and issues with resident and small business displacement. Prior to the hearing, over 40 public letters were received expressing similar concerns. The Planning Commission then voted 5-2-0 (Commissioners Leyba and Marquez opposed) to recommend to the City Council approval of the proposed East Santa Clara Street (West of 17<sup>th</sup> Street) Urban Village Plan.

## **BACKGROUND**

On September 12, 2018, the Planning Commission held a public hearing to consider the Determination of Consistency and approve the General Plan Amendment, including the modification of the East Santa Clara Street (West of 17<sup>th</sup> Street) Urban Village boundary and changes to the General Plan Land Use designations within the boundary. The Director of Planning, Building, and Code Enforcement recommended approval of the proposed Plan and General Plan Amendment.

### **Staff Presentation**

Staff gave a brief presentation that included a description of the Urban Village and the planning process, including details of the public engagement process. Staff also provided an overview of the contents of each Chapter, and the purpose and intended outcome of the proposed Plan.

### **Public Testimony and Staff Response**

Twenty members of the public spoke on the project, all of whom live in the surrounding neighborhood. Concerns were expressed about height, setbacks, traffic, vehicle traffic diverter placement, good neighbor policy, Senate Bill 35, prior General Plan Policy CD-7.9 changes, impending development proposals, adequate bicycle storage, architecture of new buildings, projects providing adequate parking, affordable housing, and issues with resident and small business displacement. Some speakers supported higher-density development if it was contextually sensitive. More specifically, the following comments and concerns were shared:

*Affordable Housing and Resident and Business Displacement:*

- The Plan needs further consideration for requiring 25 percent affordable housing for individual project. Instead, the City should rely on existing policies.
- Don't let the developer get out of affordable housing requirements.
- Don't let the City tear down my house.
- Wants to know what happens to the existing tenants?

*Staff Response: The Urban Village Plan has a goal that 25 percent of the housing built in an urban village be affordable units, which is a policy mandated by the General Plan.*

*Implementation of this goal occurs in tandem with policies developed by the Department of Housing. The City's Inclusionary Housing Ordinance already requires 15% affordable housing for both for-sale and rental projects of 20 units or more, while the Affordable Housing Impact Fee (AHIF) requires payment of a fee for projects of less than 20 units.*

*The Urban Village Plan is a long-term policy document and does not directly result in demolition or construction. If a private property owner pursued redevelopment of a site that is currently occupied by housing, the project will be required to comply with the Department of Housing's Inclusionary Housing and Ellis Act ordinances. The city does not use eminent domain as a way to complete the Urban Village vision for the benefit of private development. The City generally uses eminent domain to acquire required public right-of-way for improvement, as well as other public improvements.*

*In order to address the displacement of small businesses, staff designated older, usually historic buildings as the Neighborhood/Community Commercial land use/transportation diagram designation, which does not allow residential uses (except as 100 percent deed restricted affordable units). The Plan also supports the retention of the street parking along East Santa Clara Street, which is important for the viability of businesses. Additionally, the Urban Village Implementation and Amenities Framework identifies the preservation of small "mom and pop" businesses as an amenity that a residential or mixed-use residential project can provide.*

*Senate Bill 35:*

- Senate Bill 35 might remove outreach requirements
- Senate Bill 35 is a streamline process for affordable housing

*Staff Response: Senate Bill 35 (SB 35) amends Government Code Section 65913.4 to require local governments to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis and clearance, and removing the requirement for conditional use authorization or other similar discretionary entitlements. In order for a project to use SB 35, the project must build a specific number of affordable units and follow a specific checklist of action items particularly with regard to the use of skilled labor. Staff is still addressing how SB 35 impacts certain processes, like public noticing.*

*Height, setbacks and previous change to General Plan Community Development Policy CD-7.9:*

- Plan should respect the Naglee Park Conservation Area with heights and setbacks
- Understood that the maximum height near Naglee Park was 2-3 stories
- Plan has potentially destructive height limits
- Appreciates the setbacks and setbacks
- General Plan Community Development Policy CD-7.9 used to protect Naglee Park, but it was changed
- The Plan ignores Naglee Park by not providing privacy through height and setback requirements
- Heights and setbacks should be reduced to a maximum height of 30 feet adjacent to the single-family homes in Naglee Park
- Plan should be amended to changed maximum heights adjacent to Naglee Park to 2-3 stories, with no development allowed to exceed 35 feet
- General Plan Policy CD-7.9 should be “put back” into the Urban Village Plan

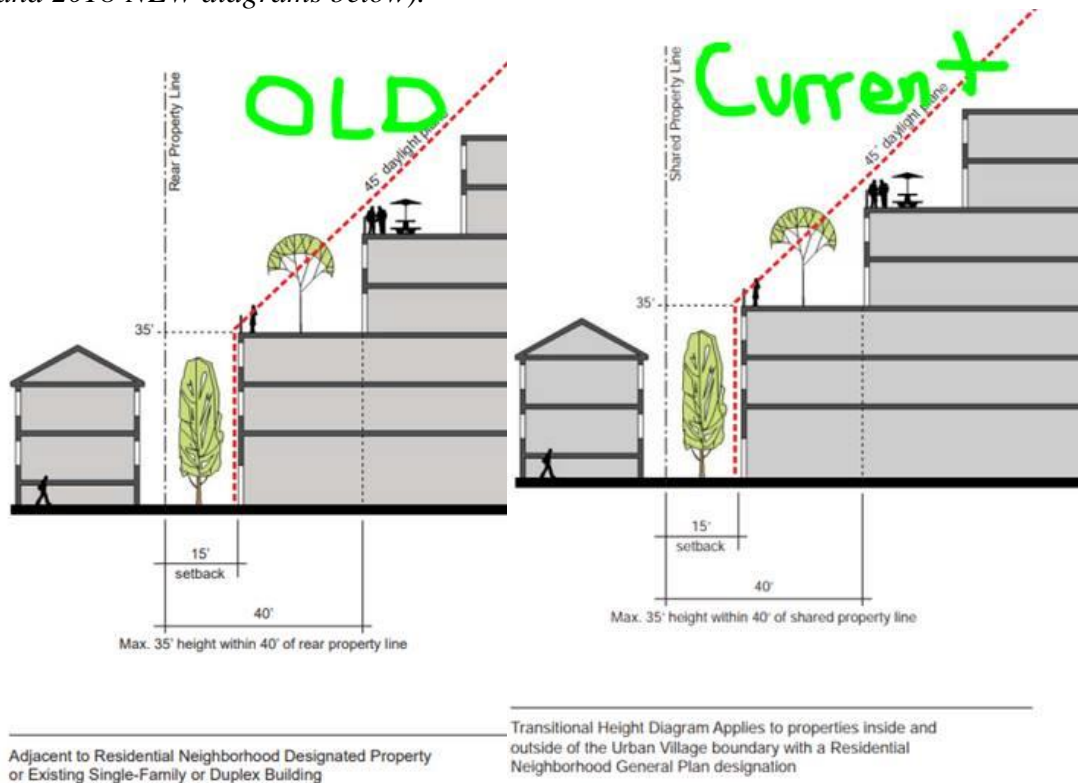
*Staff Response: The area next to Naglee Park has had an Urban Village land use designation since 2011 when the Envision San José 2040 General Plan was adopted and a height allowance of 120 feet since 2012 when the Zoning Ordinance was updated to conform to the Urban Village vision of the General Plan. The East Santa Clara Street Urban Village Plan area under the Envision San José 2040 General Plan did not have a height limitation of 2-3 stories adjacent to single-family homes within Naglee Park. There was concern expressed by the public in the beginning of the planning process for this Urban Village Plan regarding heights next to Naglee Park, with a desire to have heights limited to 3 stories; however, there was more public support in favor of taller heights in the Urban Village. There was confusion regarding General Plan Community Development Policy CD-7.9 and what it required of developments adjacent to Urban Villages. The policy adopted with the General Plan in 2011 required that a “single row of 2 to 3 story development should be used when building new residential development immediately adjacent to single-family residential sites that have a Residential Neighborhood designation.” This policy did not state that the entire area is limited to 2-3 stories in height, rather it specified that the rest of the site must be occupied by a minimum of 4 stories of development.*

*In 2016, staff brought forward a change to General Plan Policy CD-7.9 at the direction of the City Council (General Plan Amendment File No. GPT16-007) with the following changes. The City Council specifically requested that text be changed/incorporated into the policy that specifies that Urban Village design guidelines for building height and setbacks adjacent to single-family properties should be deferred to Urban Village plans.*

***CD-7.9*** *Build new residential development within Urban Village areas at a minimum of four stories in height with ~~the exception that a single row of 2-3 story development, such as townhouses, should be used~~ a step down in height when building new residential development immediately adjacent to single-family residential sites that have a Residential Neighborhood designation. Individual Urban Village Plans may establish*

*more specific policies or guidelines to ensure compatibility with adjacent single family neighborhoods, and development should be consistent with these policies and guidelines, established in approved Urban Village Plans.*

*The East Santa Clara Street Urban Village Plan complies with both the former and current versions of Policy CD-7.9 by limiting the height of development within 40 feet of the property line shared with Residential Neighborhood designated properties by limiting the height to 35 feet (which allows 2-3 stories of height). Since the second Urban Village workshop (where heights were discussed), the heights next to Naglee Park were shown at 65 feet maximum (back in 2015). The draft Plan has always included a daylight plane with setback requirements (see both 2016-OLD and 2018-NEW diagrams below).*



**Good Neighbor Policy:**

The Plan should include a good neighbor policy.

*Staff Response: We were unable to confirm the nature of the “good neighbor” policy or agreement referred to by the public. The good neighbor policy may not be an appropriate or lawful option if it would require a property owner to agree to settle disputes between the owner and a neighbor. If a private property owner would desire to voluntarily enter into such an agreement or impose such conditions upon their project, they may do so with their neighbors or with their tenants or other property owners in the same project. A more appropriate regulatory solution would be to require publicly-visible contact information for a property manager to be available for projects of a certain size that the public can contact if they encounter issues.*

*The specific conditions of approval for a project are not established by the Urban Village Plan, but would be determined as part of an individual project's entitlement process. As part of this process, any new development that requires a planning permit that goes to hearing will conform to the City Council Outreach Policy 6-30: Public Outreach Policy.*

*Arroyo Way and Vehicle Traffic Diverters:*

- Vehicle traffic diverter should be removed at Arroyo Way
- Arroyo Way should not be opened to traffic

*Staff Response: The vehicle traffic diverters are suggestions for how to promote a safe biking and pedestrian environment and do not indicate direction of travel and turns. Diverters would not be implemented until: (1) there is funding, either provided by the city or a private development project, and (2) they are deemed safe and advisable through a traffic or similar study. The Urban Village Plan shows concepts that would allow staff to ask developers for improvements or allow the city to seek grants to fund projects. The designs are not solidified at this point. Before any improvement is implemented, more studies would be done. In response to the concerns, staff removed the vehicle traffic diverter at the intersection of Arroyo Way and 17<sup>th</sup> Street.*

*Other Comments:*

- Wants urban vitality
- Supports densification and sustainability
- Is a big fan of the Plan and is in favor of density and housing
- Excited to turn the medical site into a vibrant space
- Pro density, housing, and mass transit
- Supports smart growth and transit-oriented development
- Concerned about inadequate parking in projects
- Require bicycle storage and vehicle sharing in buildings
- Development should be a gateway to the area and respect the neighborhood
- Plan should recognize the Clara Shortridge Foltz house at 165 N. 15th Street
- Bus Rapid Transit should have a dedicated lane on this part of East Santa Clara Street
- Prevent one person from owning too many buildings in the Village
- The architecture of new buildings should match the style of historic buildings
- Traffic at North 10<sup>th</sup> Street is bad and dangerous
- There is already too much traffic in the neighborhood
- Hasn't heard from the developer who's submitted a project next door to his residence (at 14<sup>th</sup> and East Santa Clara Streets)
- City needs to require community outreach for projects

*Staff Responses:*

*Parking: The Urban Village Plan does not control parking; rather parking is provided in conformance with the Zoning Ordinance. The Zoning Ordinance authorizes a 20 percent reduction with the issuance of a development permit for projects located within an urban village. A parking reduction of no more than 50 percent can be pursued through approval of a Transportation Demand Management (TDM) program for a project, which includes incentives to residents and/or tenants to reduce car usage such as ecopasses or on-site monitoring of parking activity. The East Santa Clara Street Urban Village Plan and most other urban village plans encourage a reduction in parking as allowed by the Zoning Ordinance.*

*Common Ownership prohibition: The City cannot lawfully prevent the ownership of multiple private properties by a single owner.*

*Architectural Style: Staff does not recommend new architecture to “match” the style of existing historic buildings because this creates an appearance of “phony” or faux historic architecture. By incorporating elements from historic buildings in proximity to the project, new architecture can complement the historic resources.*

*Preliminary Review at 14<sup>th</sup> & East Santa Clara: At 14<sup>th</sup> and East Santa Clara Streets, there is a preliminary review request, which is only an inquiry and not a formal planning development application. Through this inquiry, developers may ask staff for comments and advice on any speculative development. With any project proposal, staff highly encourages that developers work closely with the community before submitting any formal project applications. If a formal planning application is submitted for the site at 14<sup>th</sup> and East Santa Clara Streets, an on-site sign will be posted with project and contact information. In addition, the required public hearings and community meetings will be held in conformance with City Council Policy 6-30: Public Outreach Policy.*

*Bicycle Storage: The Zoning Ordinance governs the requirement for bike storage. An urban village plan can encourage an increase in bike parking and other related facilities. The East Santa Clara Street Urban Village Plan includes Policy CS-3.5: Where applicable, require new development to provide in-unit bike storage, BikeLink card (regional locker and bike station network), an on-site bike share station, and bike share memberships.*

The Commission then closed the public hearing.

Planning Commission Discussion and Staff Responses

Commissioner Yesney expressed that she'd like to see the entirety of the East Santa Clara Street Bridge included in the Plan boundary. She also wanted clarification regarding the minimum required commercial floor area ratio (FAR) for the former hospital site. Commissioner Yesney expressed concern that the vehicle traffic diverters along East San Fernando Street appeared to prevent cars from driving down the street, which may not be appropriate. She also questioned the

historic value of the Walgreens, which was demolished and rebuilt to resemble the original historic building.

*Staff Response: Staff stated that they would include the entirety of the East Santa Clara Street Bridge within the Urban Village Plan boundary. Separately, the Department of Transportation is pursuing a grant to repair the bridge in light of the Bay Area Rapid Transit (BART) Phase II extension to Downtown San José. Vehicle traffic diverters along East San Fernando Street are presented as a concept only, and the design and installation would be based upon future study. Staff is looking into possibility of a higher quality bike route and to redesign existing diverters.*

*The hospital site is current vacant and the East Santa Clara Street Urban Village Plan designates the site as Mixed-Use Commercial, which has a minimum commercial floor area ratio of 0.5.*

*The City's historic surveys are often outdated and are presently in the process of being updated. The Walgreens building is not historic and will be removed from the historic figure in the Plan.*

Commissioner Leyba asked if there are a maximum number of units the former hospital site could accommodate and, if not, how could the city distribute the growth evenly throughout the Urban Village. He was unsure if there was too much growth planned near Naglee Park, and expressed that the Urban Village Plan should base future growth compatibility on existing uses, not their long-term growth designations. Commissioner Leyba had concerns with the proposed stepback and setbacks as they relate to Naglee Park, stating they may not be enough. He also had concerns with how the City addresses unsavory businesses. He suggested that an increase in code enforcement staff might be the answer.

*Staff Response: The former hospital site is designated Mixed-Use Commercial in the East Santa Clara Street Urban Village, which is a primarily commercial designation and allows residential uses in a secondary role at a maximum density of 250 dwellings units per acre. The existing planned residential unit and job growth allocations are what the General Plan anticipated the area could accommodate through the year 2040. If the total residential unit capacity planned for the Urban Village were built, then a General Plan Amendment would be required to add additional residential unit capacity. The only information staff has regarding the former hospital site's potential development is that the Housing Authority purchased a portion of the former hospital site and have a preliminarily plan to locate their offices and housing at the site.*

*In order to determine where residential units can be built within the Urban Village, staff conducted a test fit analysis as part of the Urban Village planning process; however, staff did not analyze the maximum number of units that could be accommodated on the former hospital site other than through the land use designation. City Attorney Todorov added that it is difficult to accurately predict the demand for housing at each project site, particularly with the density increases allowed through the state and local density bonus laws.*



Commissioner Vora expressed concern about housing affordability.

*Staff Response: The Urban Village Plan contains a goal and policies which encourage that at least 25 percent of the housing built within the Urban Village be affordable. The goal was included as part of the Envision San José 2040 General Plan at the recommendation of the four-year review General Plan Task Force. The goal and policies work in tandem with the city's Inclusionary Housing Ordinance, which requires 15% affordable units in both rental and for-sale housing projects of 20 units or more, while the AHIF ordinance requires payment of a fee for projects of less than 20 units.*

Commissioner Ballard was pleased with the overall Plan, particularly the inclusion of the Vision Zero project and the extensive Urban Village outreach efforts. She wanted clarification on whether East Santa Clara Street would be redesigned to accommodate bicycles or if they would be routed onto East St. John and East San Fernando Streets. Commissioner Ballard wanted to know how the City could prevent the displacement of small businesses.

*Staff Response: This vision is for East Santa Clara Street to serve as the main east-west connector from Downtown San José to East San José. Since it is a Grand Boulevard, transit service takes first priority, but the General Plan does not prioritize the other modes of travel. Staff explored how East Santa Clara Street could accommodate the bicycle lanes, but determined that there was not enough right-of-way to accommodate on-street parking for businesses, bus rapid transit, cars, and bicycles. The Plan, therefore, envisions that bicyclists would use East St. John and East San Fernando Streets as the primary bicycle boulevards.*

*In order to address the displacement of small businesses, staff designated older, usually historic buildings as Neighborhood/Community Commercial, which does not allow the residential uses that more commonly result in displacement. Many of the small businesses currently in the Urban Village are located in these buildings. The Plan also supports the retention of the street parking along East Santa Clara Street, which is important for the viability of businesses. Additionally, the Urban Village Implementation and Amenities Framework identifies the preservation of small "mom and pop" businesses as an amenity that a residential or mixed-use residential project can provide.*

Commissioner Griswold stated that the densification of this Village allows for the preservation of existing single-family residences. She said that the proposed stepbacks are appropriate.

Commissioner Allen wanted clarification on how many attended the Spanish Urban Village workshops. He also wanted a justification for the current daylight plane proposal. Commissioner Allen expressed that the City should look into creating a small business displacement policy.

*Staff Response: Staff did not have the exact numbers of attendees at the Spanish workshops, but estimated that approximately 20-30 people attended. The daylight planes vary between urban villages, with some providing less of a setback and stepback requirement in more urban areas like The Alameda and East Santa Clara Street and more of a setback and stepback requirement in more suburban areas like South Bascom or West San Carlos.*

Commissioner Marquez expressed concerns about Senate Bill 35 and the City Council adopted Urban Village Implementation and Amenities Framework. She said that the unknowns of how these would affect development in the area give her pause. She wanted to achieve sustainability and good architecture in the Urban Village.

*Staff Response: Staff is evaluating how Senate Bill 35 (SB 35) will impact certain processes, like public noticing. Given that an SB 35 project is ministerial, staff is not certain at this point whether SB 35 requires noticing or public outreach. If projects are exempt from noticing or public outreach under SB 35, then city staff cannot require it to take place. To be clear, in order for a project to use SB 35, the project must build a specific number of affordable units and follow a specific checklist of action items. It is unclear at this time whether an Urban Village plan could prevent the use of SB 35 or change the streamlining process for an SB 35 project. Staff maintains that this specific Urban Village Plan would not be the appropriate mechanism to address effects of SB35 as it has citywide implications.*

*The City Council adopted Urban Village Implementation and Amenities Framework which was incorporated into the Urban Village Plan through policy and general guidance. Once a development project is under review, the Framework would be applied if required.*

*The Urban Village Plan contains a robust Urban Design chapter with policies, standards, and guidelines to shape projects in the Urban Village. If a development project were submitted, substantial conformance with the policies, standards, and guidelines would be required. If a project were inconsistent with a policy, an amendment to the Urban Village Plan would be necessary to remove that requirement. The City Council would decide if such an amendment was appropriate.*

Planning Commissioner Yesney made a motion, seconded by Commissioner Ballard, to recommend that the City Council:

1. Consider the Determination of Consistency with the Final Program Environmental Impact Report (FEIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR to Envision San José General Plan EIR (SEIR) (Resolution No. 77617), and Addendum thereto, in accordance with CEQA, and
2. Adopt a resolution approving the General Plan Amendment to modify the East Santa Clara Street (West of 17th Street) Urban Village boundary, change the General Plan land use designations on properties within the boundary of the Urban Village Plan area as shown on the land use diagram, and adopt the East Santa Clara Street (West of 17th Street) Urban Village Plan

as described in the attached staff report and as modified by the Planning Commission to change (a) the Urban Village boundary to include the entirety of the East Santa Clara Street bridge (which crosses Coyote Creek), and (b) allow the City Attorney's Office to review the changes prior to the City Council hearing. (5-2-0, Commissioners Leyba and Marquez opposed).

### **ANALYSIS**

A complete analysis of the East Santa Clara Street (West of 17<sup>th</sup> Street) Urban Village Plan, including the General Plan conformance, is contained in the staff report, which is attached for reference.

### **EVALUATION AND FOLLOW UP**

If the proposed resolution is adopted by Council, the land use designations depicted on the Plan's Land Use Diagram and the modifications to the Village boundaries will be incorporated into the Envision San José 2040 General Plan Land Use/Transportation Diagram, and the East Santa Clara Street (West of 17<sup>th</sup> Street) Urban Village Plan will be approved.

### **PUBLIC OUTREACH**

Public engagement included five community workshops with approximately 50-150 participants at each meeting and one online survey. 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 urban village boundary and posted on the City website. The notice was also published in a local newspaper, the Post Record. This transmittal is also posted on the City's website. Staff has been available to respond to questions from the public.

### **COORDINATION**

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

HONORABLE MAYOR AND CITY COUNCIL

October 12, 2018

**Subject: File No. GP18-009 East Santa Clara Street Urban Village**

Page 12

**CEQA**

Consider the Determination of Consistency with the Final Program Environmental Impact Report (FEIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR to Envision San José General Plan EIR (SEIR) (Resolution No. 77617), and Addendum thereto, in accordance with CEQA.

/s/

Rosalynn Hughey, Secretary  
Planning Commission

For questions please contact Michael Brilliot, Deputy Director, at (408) 535-7831.

Attachments:

1. Planning Commission Staff Report and Attachments and Correspondence
2. [Draft East Santa Clara Street \(West of 17<sup>th</sup> Street\) Urban Village Plan \(as of Planning Commission Hearing\)](#)