



CITY COUNCIL STAFF REPORT

File No.	C18-020
Applicant	Leroy Joseph Gatto
Location	South side of Viewpoint Lane approximately 400 feet west of Almaden Road (10080 Viewpoint Lane)
Existing Zoning	A Agriculture Zoning District
Council District	10
Historic Resource	No
Annexation Date	April 17, 1979 (Ryder No. 26-B)
CEQA	Determination of Consistency with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617), and Addenda thereto.

APPLICATION SUMMARY:

Conforming Rezoning from the A Agriculture Zoning District to the R-1-5 Single-Family Residence Zoning District on a 0.27-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 0.27-gross acre site, located on the south side of Viewpoint Lane approximately 400 feet west of Almaden Road (10080 Viewpoint Lane), from the A Agriculture Zoning District to the R-1-5 Single-Family Residence Zoning District.

PROJECT DATA

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

SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
West	Residential Neighborhood	R-1-5 Single-Family Residence and A(PD) Planned Development Zoning	Single-Family Residential
South	Residential Neighborhood	A(PD) Planned Development Zoning	Single-Family Residential
East	Residential Neighborhood	R-1-5 Single-Family Residence and A(PD) Planned Development Zoning	Single-Family Residential
North	Residential Neighborhood	R-1-5 Single-Family Residence	Vacant

RELATED APPROVALS	
Date	Action
04/17/79	Site annexed into the City of San José

PROJECT DESCRIPTION

On March 29, 2018, the applicant, Leroy Joseph Gatto, filed an application to rezone an approximately 0.27-gross acre site from the A Agriculture Zoning District to the R-1-5 Single-Family Residence Zoning District.

Site Location and Description:

The 0.27-gross acre site is located at the south side of Viewpoint Lane, approximately 400 feet west of Almaden Road (10080 Viewpoint Lane) (see Figure 1). The subject site consists of a single family residence and several accessory buildings/structures that include a detached garage, laundry, and storage. There are single-family residential uses to the south, west, and east, and a vacant lot to the north.

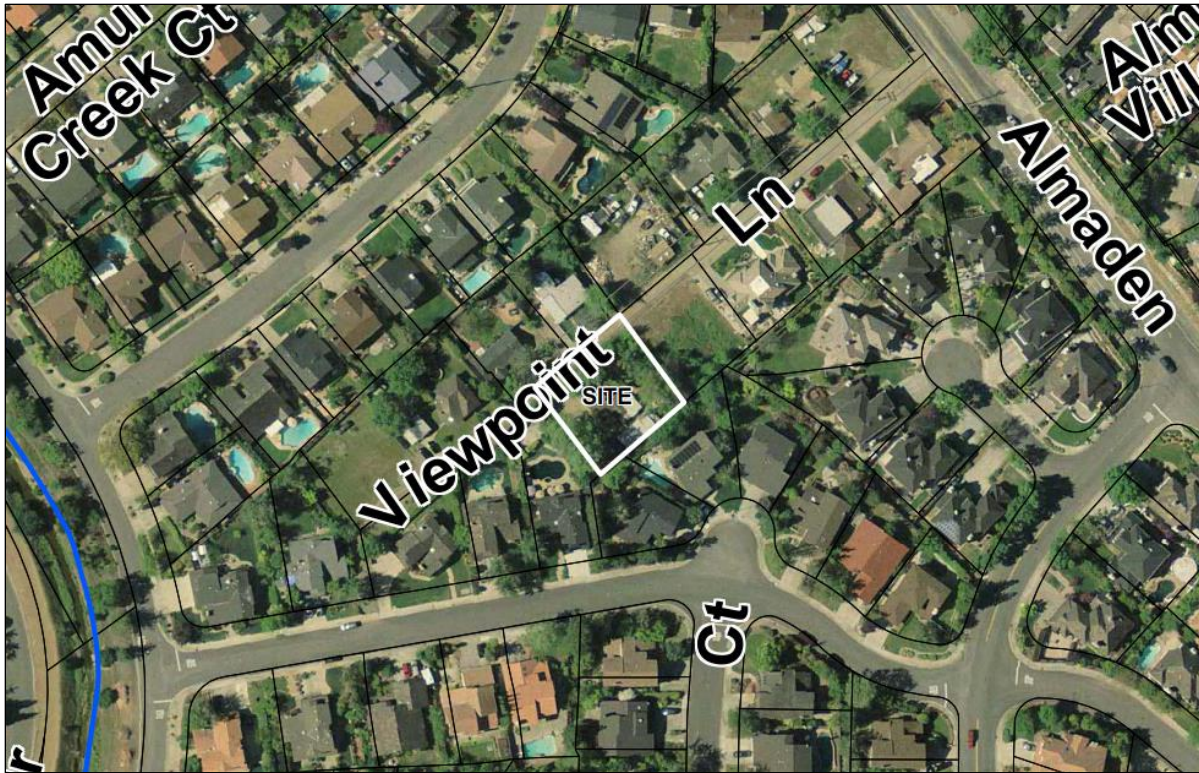


Figure 1: Aerial Image of the Subject Site and Surrounding Area

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 General Plan Land Use/Transportation Diagram designation for the subject site is Residential Neighborhood (see Figure 2). The intent of this designation is to preserve the existing character of single-family 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 typically density is 8 DU/AC (Match existing neighborhood character); with an FAR of up to 0.7 (1 to 2.5 stories).

The proposed single-family rezoning would conform to the Residential Neighborhood General Plan land use designation for the property, in that the R-1-5 Single-Family Residence Zoning District (R-1-5) is more consistent with the surrounding zonings of R-1-5 and approved A(PD) Planned Development Zoning District, File No. PDC78-100 (which allows for single-family residential uses).

The existing house is presumed to be legal nonconforming, and this rezoning will allow the house to be conforming.

By rezoning the property, the owner would be able to modify or demolish, and rebuild the house with building permits only. If the property were to remain zoned A Agriculture Zoning District, the property would be subject to Section 20.150, and a Conditional Use Permit would be required for an expansion in addition to a building permit.

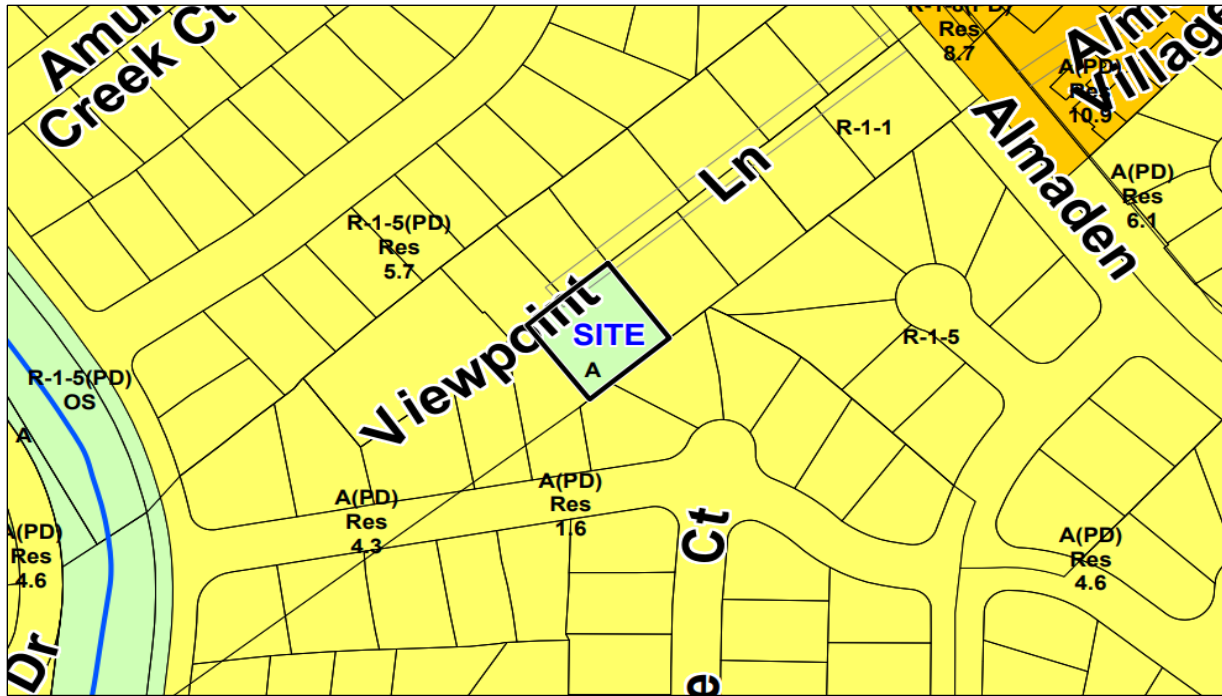


Figure 2: General Plan Land Use/Transportation Diagram

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

1. 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.
2. 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 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-1-5 Single-Family Residence Zoning District is a conforming zoning district for the Envision San Jose 2040 General Plan Land Use/Transportation Diagram's designation of Residential Neighborhood, as indicated in Section 20.120.110 of the Zoning Ordinance. The proposed Conforming Rezoning to the R-1-5 Single-Family Residence Zoning District would facilitate a development that is consistent with the surrounding residential development.

Zoning Ordinance Conformance

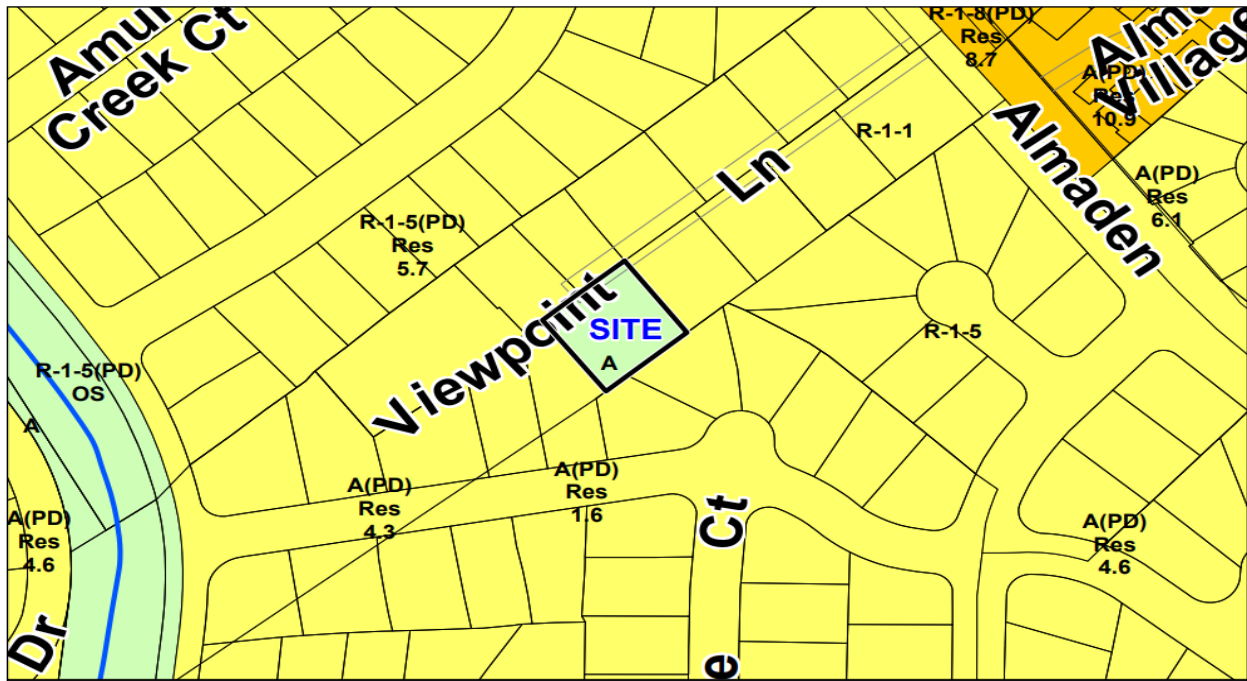


Figure 3: Existing Zoning Designation

The proposed rezoning conforms with Table 20-270, Section 20.120.110 of the San José Municipal Code, which identifies the R-1-5 Single-Family Residence Zoning District as a conforming district in the Residential Neighborhood General Plan Land Use/Transportation Diagram designation.

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.

As noted above, there are several existing accessory buildings on the site, including a detached garage, laundry, and storage. If the accessory buildings/structures are legal nonconforming, in that they were legally established and have been in continuous operation, any future expansion or modifications would require a review and approval in accordance with Sections 20.150.

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 FPEIR, 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 José 2040 General Plan Final Program Environmental Impact Report (FPEIR), Supplemental EIR (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. Staff has received two public inquiries on the proposed project to date, and has responded to the inquiries.

/s/

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

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

Attachments: Legal Description and Plat map

EXHIBIT 'A'

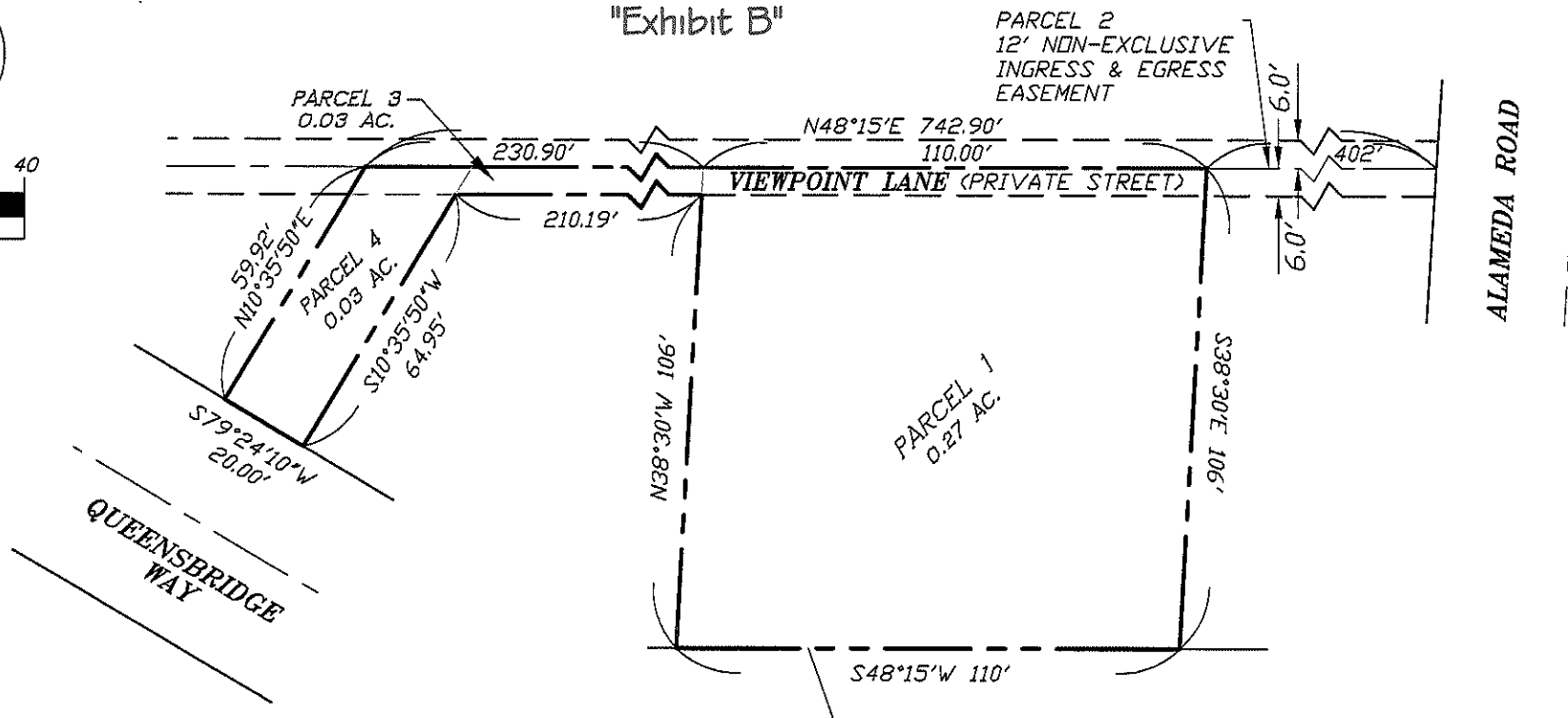
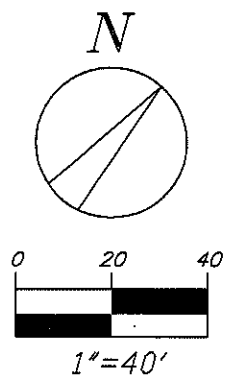
Beginning at a point in the Southeasterly line of that certain 232.56 acre tract of land deeded by the Commissioner's of the Funded Debt of the City of San Jose to H.H. Kooser by Deed dated December 4, 1867 and recorded in Book U of Deeds, at page 420, distant thereon S.48°15' W. 402 feet from a stake "KS" set at the intersection of said Southeasterly line with the Southwesterly line of Almaden Road; thence running along said Southeasterly line of said 232.56 acre tract, S.48°15' W. 110 feet; thence parallel with said Southwesterly line of Almaden Road, N.38°30' W. 106 feet to the center line of the right of way hereinafter described; thence along said line and parallel with the said Southeasterly line of said 232.56 acre tract, N.48°15' E. 110 feet; thence parallel with said line of Almaden Road, S.38°30' E. 106 feet to the point of beginning and being a portion of Pueblo Tract No. 2, San Jose City Lands.

Together with a non-exclusive right of way for ingress and egress over a strip of land 12 feet wide, the center line of which is described as follows:

Beginning at a point on the Southwesterly line of the Almaden Road distant thereon N.38°30' W. 106 feet from a stake "KS" set

at the most Easterly corner of that certain 232.56 acre tract of land deeded by the Commissioners of the Funded Debt of the City of San Jose to H.H. Kooser by Deed dated December 4, 1867 and recorded in Book U of Deeds, at page 420, and running thence S.48°15' W. 1148.40 feet.

**ZONING PLAT
10080 VIEWPOINT LN.
SAN JOSE, CA 95120
"Exhibit B"**



REFERENCES:

OLD REPUBLIC TITLE REPORT 0614003579-LC

Leroy Gatto, a single man

July 28, 2009

August 7, 2009 in Official Records under Recorder's Serial Number
20391605



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