



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 3, 2019

COUNCIL DISTRICT: 3

SUBJECT: FILE NO. C18-028: CONVENTIONAL REZONING FROM THE CG COMMERCIAL GENERAL ZONING DISTRICT TO THE R-M MULTIPLE RESIDENCE ZONING DISTRICT ON A 0.15-GROSS ACRE SITE LOCATED ON THE EAST SIDE OF SOUTH ELEVENTH STREET, APPROXIMATELY 170 FEET SOUTHERLY OF EAST SANTA CLARA STREET (12 SOUTH ELEVENTH STREET).

RECOMMENDATION

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

1. Adopt a resolution approving the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto; and
2. Adopt an ordinance rezoning certain real property located at on the east side of S. 11th Street, approximately 170 feet southerly E. Santa Clara Street (12 South 11th Street) from the CG Commercial General Zoning District to the R-M Multiple Residence Zoning District on an approximately 0.15-gross acre site.

OUTCOME

Should the City Council approve the rezoning, it would allow the continued use of the duplex at this site as well as other residential uses.

BACKGROUND

On April 24, 2019, the Planning Commission held a public hearing to consider the proposed Conventional Rezoning, which appeared on the Consent Calendar of the Agenda. The item was on the consent calendar and no members of the public spoke on the proposed project.

The Planning Commission voted 5-0-2 (Commissioners Leyba and Vora absent) to recommend approval, as was recommended by staff, to the City Council as part of the consent calendar with no separate discussion.

ANALYSIS

A complete analysis of the issues regarding the proposed Conventional Rezoning, including the General Plan conformance, is contained in the attached Planning Commission Staff Report.

EVALUATION AND FOLLOW-UP

If the rezoning is approved, it would allow the continued use of the duplex at this site. The appropriate entitlement application could be submitted to implement uses consistent with the development standards of the R-M Multiple Residence Zoning District. There is currently no development project application on file with the City.

PUBLIC OUTREACH

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's website. The rezoning was also published in a local newspaper, the Post Record. The Staff Report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

An Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Supplemental Environmental Impact Report (Resolution No. 77617) was prepared for the project under the provisions of the environmental review requirements, the California Environmental Quality Act of 1970, as amended, including the state and local implementing regulations. A complete analysis is contained in the attached staff report.

/s/

ROSALYNN HUGHEY

Secretary, Planning Commission

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

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION
SUBJECT: File No. C18-028

FROM: Rosalynn Hughey
DATE: April 4, 2019

COUNCIL DISTRICT: 3

Type of Permit	Conventional Rezoning
Project Planner	Ruth Cueto
CEQA Clearance	Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto.
CEQA Planner	Thai-Chau Le

PROPERTY INFORMATION

Location	East side of S. 11th Street, approximately 170 feet southerly E. Santa Clara Street (12 South 11 th Street)
Assessor Parcel No.	467-26-034
General Plan	Residential Neighborhood
Growth Area	N/A
Existing Zoning	CG Commercial General
Historic Resource	Naglee Park Conservation Area
Annexation Date	March 27, 1850 (Original City)
Council District	3
Acreage	0.15

RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council to:

1. Adopt a resolution approving the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto; and
2. Adopt an ordinance rezoning certain real property located at on the east side of S. 11th Street, approximately 170 feet southerly E. Santa Clara Street (12 South 11th Street) from the CG Commercial General Zoning District to the R-M Multiple Residence Zoning District on an approximately 0.15-gross acre site.

PROJECT BACKGROUND

As shown on the attached [vicinity map \(Figure 1\)](#), the project site is located on the east side of South 11th Street, approximately 170 feet southerly E. Santa Clara Street. The 0.15-gross acre site is currently developed with a duplex and detached garage with a studio unit above. To the rear of the site is a single-family home, a multi-family development to the south, a surface parking lot which serves an adjacent commercial building and a single-family home to the west, and a gas station with a service station to the north.

The proposed conventional rezoning is from the CG Commercial General Development Zoning District to the R-M Multiple Residence Zoning District. There is currently no development project application on file with the City.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Urban Village	CG Commercial General	Gas Station
South	Residential Neighborhood	R-M Multiple Residence	Multi-family, Single-family, Campus support organization (Hillel House)
East	Residential Neighborhood	CG Commercial General	Single-Family Home
West	Urban Village and Residential Neighborhood	CG Commercial General, R-M Multiple Residence	Commercial building, parking lot, and single-family home

RELATED APPROVALS	
Date	Action
03/27/1850	Site annexed into the City of San José (Original City)

ANALYSIS

The proposed rezoning application is analyzed with respect to conformance with:

- 1) Envision San José 2040 General Plan
- 2) Title 20 of the Municipal Code (Zoning Ordinance)
- 3) California Environmental Quality Act (CEQA)

[Envision San José 2040 General Plan](#) Conformance

Land Use Designation

As shown in the attached [General Plan map \(Figure 2\)](#), the proposed project site has an Envision San José 2040 General Plan designation of Residential Neighborhood. This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods. 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. Existing development within this designation will typically have a density of approximately 8 DU/AC, but in some cases this designation may be applied to areas already developed at slightly higher or slightly lower densities. For example, some areas currently developed with a mix of single-family and duplex uses are designated as Residential Neighborhood—such as the subject site—to discourage their further intensification. The rezoning would permit the existing use and allow future redevelopment with uses and intensity consistent with the land use designation of Residential Neighborhood.

General Plan Policies

The project conforms to the following key 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 enhance Envision General Plan Vision, goals, and policies.

Analysis: The Residential Neighborhood Land Use Designation allows for single-family homes and, in some areas, duplex uses. This designation occurs throughout the City in most established, single-family neighborhoods. The existing duplex on the subject site is surrounded by a gas station to the north, a commercial building and residential uses to the west across S. 11th Street, and residential uses to the south and east. The CG Commercial General Zoning District does not allow duplexes or studio apartments. Rezoning to the R-M Multiple Residence Zoning District would allow the continued use of the duplex at this site.

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 uses 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-M Multiple Residence Zoning District is consistent with the Residential Neighborhood General Plan land use designation. The R-M Multiple Residence would allow the existing duplex use to remain. The CG Commercial General Zoning District does not allow residential uses, however, since the existing uses has been on the site since 1915 (Sanborn Map), the existing residential buildings currently are considered legal nonconforming. The rezoning would bring the zoning district in conformance with the general plan land use designation.

Zoning Ordinance Conformance

The R-M Multiple Residence Zoning District is intended for duplexes, single-family homes, and multi-family developments. The existing duplex appears to have been built in 1924 and is listed on the City's Historic Resources Inventory. Once the site is rezoned to R-M Multiple Residence Zoning District, the duplex use would remain as an allowable use. As shown in the attached [Zoning Map \(Figure 3\)](#), the site is surrounded by other R-M Multiple Residence Zoning Districts to the south and west, and R-1-8 Residential Zoning District to the east.

Below is a comparison of the existing Zoning District development standards and the development standards of the proposed R-M Multiple Residence Zoning District.

Zoning Setback Requirements		
	CG Commercial General (Existing)	R-M Multiple Residence (Proposed)
Front	15 feet	10 feet
Side	None	5 feet
Rear	None	25 feet

The existing duplex has a front setback of approximately 20 feet, a side setback of approximately 6-ft to the south (adjacent to multi-family) and 0-ft to the north (adjacent to gas station), and a 34-foot setback to the rear.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

An Addendum to 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, was prepared for the project under the provisions of the environmental review requirements, the California Environmental Quality Act of 1970, as amended, including the state and local implementing regulations. The CEQA Guidelines Section 15162 states that when an EIR has been certified, no subsequent EIR shall be prepared for that project unless the lead agency determines that either substantial changes are proposed to the project which would require major revisions to the previous EIR, or new information of substantial importance is available.

As the project is a Conventional Rezoning that is beyond the specifications of the Municipal Code Section 20.120.110 without physical changes to the site, the project is a change to the future allowable changes on the site. However, the proposed rezoning would not result in physical changes to the site and would not result in any new or substantially increased significant impacts beyond those previously identified in the Envision San José 2040 General Plan EIR, as supplemented.

Given the proposed project description and knowledge of the project area, the City has concluded that the proposed project would not result in any new impacts beyond those previously identified certified EIRs. Additionally, the proposed rezoning would not result in new physical changes and would not be a substantial increase in the magnitude of any significant environmental impacts previously identified in the previously certified EIRs; nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the EIRs been identified. For these reasons, a supplemental or subsequent EIR is not required and an addendum to the EIRs has been prepared and the City of San José may take action on the proposed project as being within the scope of the Final Program EIR.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. 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: Ruth Cueto

Approved by:  Deputy Director for Rosalynn Hughey, Planning Director

ATTACHMENTS:
Exhibit A: Legal Description & Plat Map
Exhibit B: Draft Ordinance
Exhibit C: Draft Resolution

Owner:	Applicant:
Rosanne Mayhew 160 S. 15 th Street San José, California, 95112	Ray Carrillo 160 S. 15 th Street San José, California, 95112

Figure 1: Aerial of Site

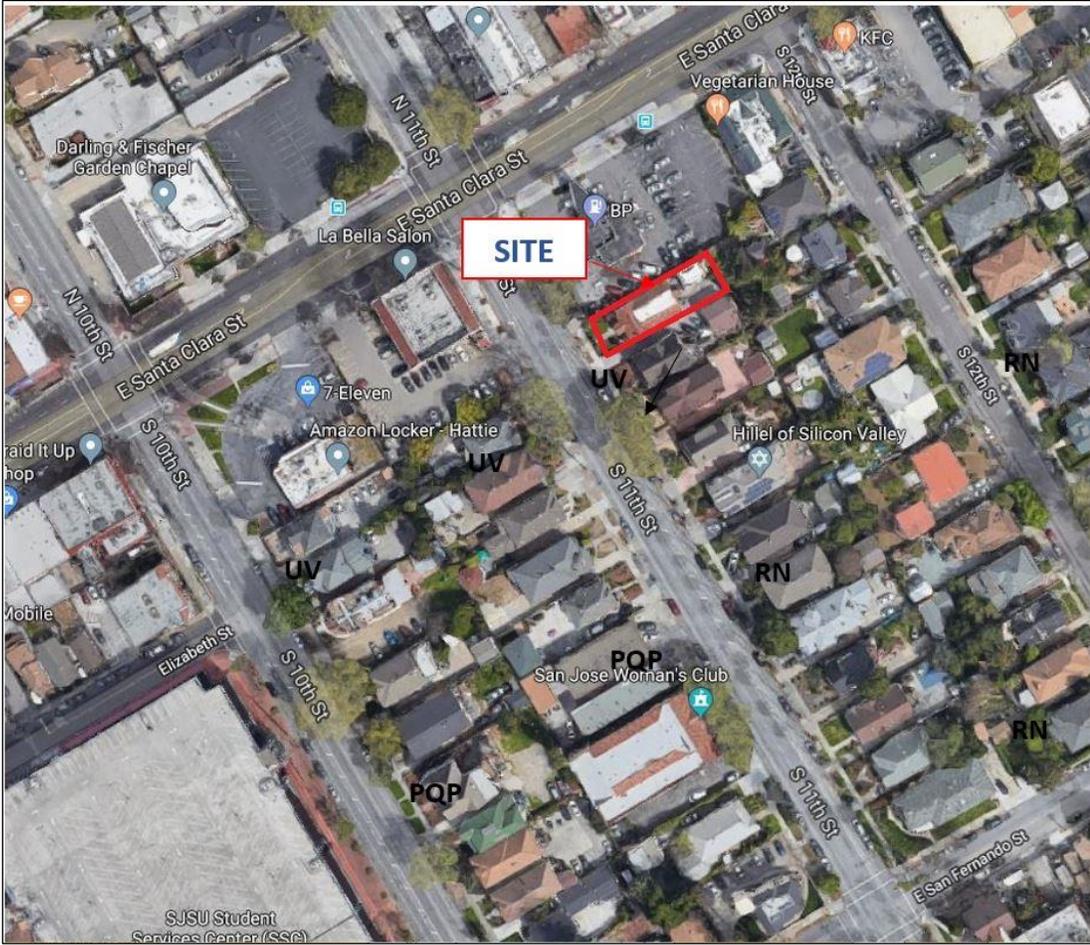


Figure 2: General Plan Land Use/Transportation Diagram Designation Map

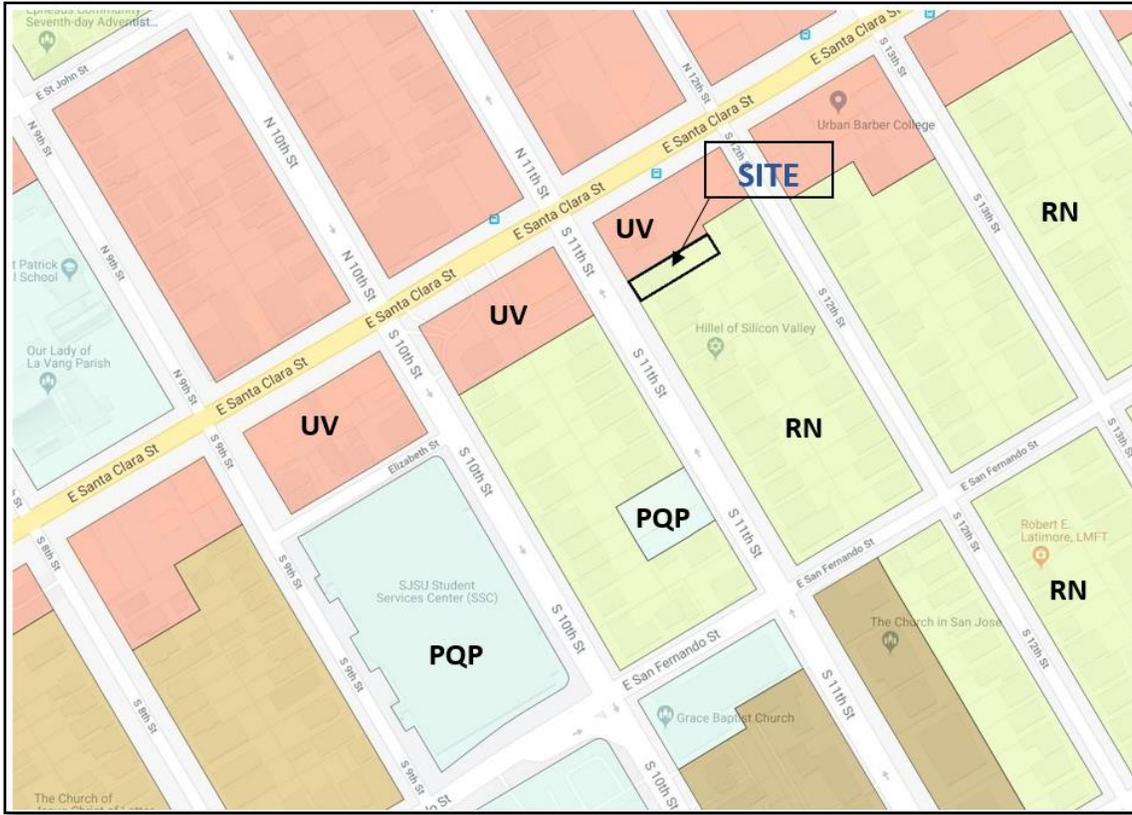


Figure 3: Zoning District Map

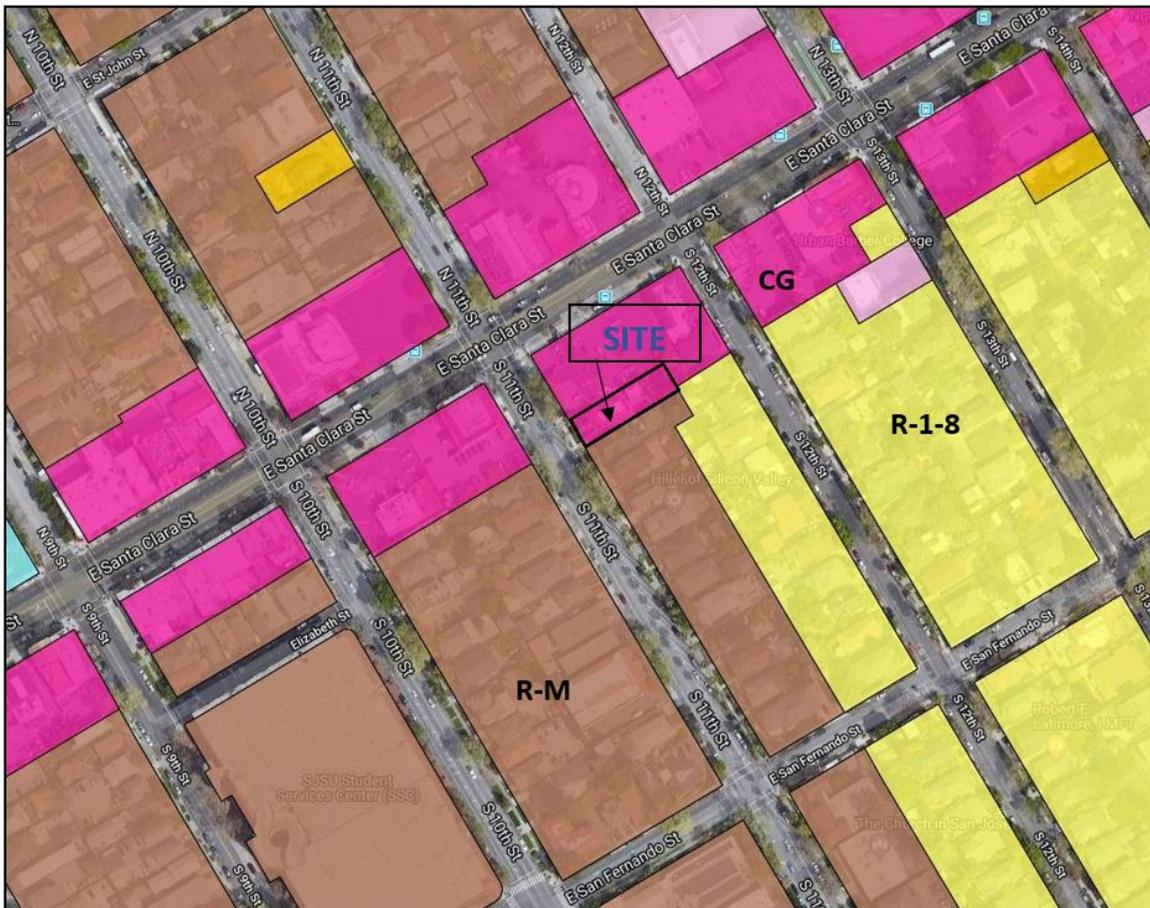


Exhibit "A"

Legal Description

That portion of Block 27 of the Naglee Park Tract in the City of San Jose, County of Santa Clara, State of California, as shown on the map recorded April 15, 1902 in Book F2 of Maps, Page 15, Official Records of said county and state, described as follows:

Beginning at the most westerly corner of the parcel of land described in the deed granted to Rosanne Mayhew, as Trustee of the Rosanne Mayhew Family Trust Dated August 8, 2013, recorded as Document# 22417196 of Official Records of said county and state on October 17, 2013, said Point of Beginning being on the northeasterly line of South Eleventh Street distant southeasterly 120 feet from the point of intersection of the northeasterly line of South Eleventh street with the southeasterly line of Santa Clara Street;

Thence along the northwesterly line of said Mayhew parcel North 59°20'20" East 159.96' to the most northerly corner of said Mayhew parcel;

Thence along the northeasterly line of said Mayhew parcel South 30°40'07" East 39.98';

Thence southwesterly along a line parallel to the northwesterly line of said Mayhew parcel a distance of 159.96' to a point on the northeasterly right of way of South Eleventh Street;

Thence along said right of way North 30°40'07" West 39.98' to the Point of Beginning.

The attached map labeled "Exhibit B" is to be used to assist in retracing the lines of this description.

This legal description is based on field survey performed by Wilson Land Surveys, Inc, as shown on map recorded October 4, 2018 at Book 917 of Maps Page 52, Official Records of said county and state.

Total Area: .15 acres (6,395 sq ft)

Koen Wilson

Wilson Land Surveys, Inc.



DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 0.15-GROSS ACRE SITUATED ON THE EAST SIDE OF SOUTH 11TH STREET, APPROXIMATELY 170 FEET SOUTHERLY OF EAST SANTA CLARA STREET (12 SOUTH 11TH STREET) FROM THE CG COMMERCIAL GENERAL ZONING DISTRICT TO THE R-M MULTIPLE RESIDENCE 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, an Addendum to 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, all in conformance with the California Environmental Quality Act, was prepared and approved by the Planning Director for the subject rezoning; and

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

WHEREAS, this Council of the City of San José has considered and approves the application and use of said Addendum as the appropriate environmental clearance for this proposed project prior to taking any approval actions on the project;

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 site," is hereby rezoned as R-M Multiple 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" and depicted in Exhibit "B" 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. C18-028 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.

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PASSED FOR PUBLICATION of title this ____ day of _____ 2019 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 12 SOUTH 11TH STREET REZONING PROJECT ADDENDUM TO THE ENVISION SAN JOSE 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT AND SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, AS ADDENDED THERETO, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED

WHEREAS, the City of San José (“City”) acting as lead agency under the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”), prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (“General Plan Update FPEIR”), which analyzed the environmental impacts set forth from the land use and development assumptions of the Envision San José 2040 General Plan; and

WHEREAS, the Planning Commission of the City certified said General Plan Update FPEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Envision San José 2040 General Plan (Planning File No. PP09-011), the City Council adopted Resolution No. 76041 on November 1, 2011, setting forth certain findings pertaining to the General Plan Update FPEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, subsequent to said actions on the General Plan Update FPEIR, the City prepared, completed, and adopted in accordance with CEQA the Supplemental EIR

“SEIR”) to the Envision San José 2040 General Plan, Greenhouse Gas Reduction Strategy (Planning File No. PP15-060); and

WHEREAS, the Planning Commission of the City certified said SEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said SEIR to the Envision San José 2040 General Plan Greenhouse Gas Reduction Strategy (Planning File No. PP15-060), the City Council adopted Resolution No. 77617 on December 15, 2015 setting forth certain findings pertaining to the SEIR, all pursuant to the provisions of CEQA; and

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared and approved an Addendum to the General Plan Update FPEIR and SEIR for the 12 South 11th Street Rezoning Project under Planning File No. C18-028 (the “Addendum”), all in accordance with CEQA; and

WHEREAS, the 12 South 11th Street Rezoning Project (the “Project”) analyzed under the Addendum consists of a conventional rezoning from the CG Commercial General Zoning District to the R-M Multiple Residence Zoning District on a 0.15 gross acre site located on the east side of South 11th Street, approximately 170 feet southerly of East Santa Clara Street (12 South 11th Street), in San José, California; and

WHEREAS, as further described in the Addendum, the implementation of the Project would not result in new significant effects on the environment beyond those already identified in the previously approved General Plan Update FPEIR and SEIR, as addended, nor will the Project result in an increase in the severity of significant effects identified in the General Plan Update FPEIR and SEIR, as addended; and

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the General Plan Update FPEIR and SEIR, as addended, and the Addendum and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the General Plan Update FPEIR and SEIR, as addended, and the Addendum for the Project are on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

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

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the General Plan Update FPEIR and SEIR, as addended, as all modified by the Addendum, as well as other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Addendum modifying General Plan Update FPEIR and SEIR, as addended, prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Addendum modifying the General Plan Update FPEIR and SEIR, as addended, represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Addendum prepared for the Project (Planning File No. C18-028). The General Plan Update FPEIR and SEIR, as addended, and the Addendum are: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and (2) available for inspection by any interested person.

ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk