



COUNCIL AGENDA: 3/24/2020

FILE: 20-323

ITEM: 10.1 (b)

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** March 2, 2020

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**COUNCIL DISTRICT:** 2

**SUBJECT: FILE NO. C19-030: CONVENTIONAL REZONING OF A 0.41-ACRE SITE  
FROM THE R-1-1 SINGLE FAMILY RESIDENCE ZONING DISTRICT TO  
THE R-2 TWO-FAMILY RESIDENCE ZONING DISTRICT**

## **RECOMMENDATION**

The Planning Commission voted 7-0-0 to recommend that the City Council:

1. Consider an exemption in accordance with CEQA Guidelines Section 15303 for New Construction or Conversion of Small Structures; and
2. Approve an ordinance rezoning certain real property located on the southwest corner of Hayes Avenue and Lean Avenue, from the R-1-1 Single Family Residence Zoning District to the R-2 Two-Family Residence Zoning District on an approximately 0.41-gross acre site.

## **OUTCOME**

Should the City Council approve the Rezoning, the project applicant may continue the Tentative Map application (File No. T19-029) process with the City. This Tentative Map application is to allow the subdivision of the site into three lots.

Should the City Council decide to deny the proposed Rezoning, the Tentative Map application (File No. T19-029) for three-lot subdivision would not comply with the development standards under current zoning district.

## **BACKGROUND**

On February 26, 2020, the Planning Commission held a public hearing to consider the proposed Conventional Rezoning, which was included on the Consent Calendar of the Agenda. No members of the public spoke on this item.

## **ANALYSIS**

A complete analysis of the Conventional Rezoning is contained in the attached Planning Commission Staff Report.

## **CONCLUSION**

The Planning Commission's motion to recommend the City Council to approve the Rezoning was approved (7-0-0).

## **EVALUATION AND FOLLOW UP**

If the rezoning is approved, the project applicant may continue the Tentative Map application process with the City.

## **CLIMATE SMART SAN JOSÉ**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

## **PUBLIC OUTREACH**

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. A sign describing the proposed rezoning has been posted since September 30, 2019. 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.

## **COORDINATION**

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

HONORABLE MAYOR AND CITY COUNCIL

March 2, 2020

**Subject: File No. C19-030**

Page 3

**CEQA**

The project is exempt from CEQA per CEQA Guidelines Section 15303(a) for the construction of up to three single-family residences in urbanized area.

/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

**FROM:** Rosalynn Hughey

**SUBJECT:** C19-030

**DATE:** February 26, 2020

**COUNCIL DISTRICT: 2**

<b>Type of Permit</b>	Conventional Rezoning
<b>Project Planner</b>	Angela Wang
<b>CEQA Clearance</b>	Exempt per CEQA Guidelines Section 15303 (a)
<b>CEQA Planner</b>	Angela Wang

## RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council to take all of the following actions:

1. Consider an exemption in accordance with CEQA Guidelines Section 15303 for New Construction or Conversion of Small Structures; and
2. Approve an ordinance rezoning certain real property located on the southwest corner of Hayes Avenue and Lean Avenue, from the R-1-1 Single Family Residence Zoning District to the R-2 Two-Family Residence Zoning District on an approximately 0.413-gross acre site.

## PROPERTY INFORMATION

<b>Location</b>	Southwest Corner of Hayes Avenue and Lean Avenue
<b>Assessor Parcel No.</b>	690-29-001
<b>General Plan</b>	Mixed Use Neighborhood
<b>Growth Area</b>	N/A
<b>Zoning</b>	R-1-1 Single Family Residence
<b>Historic Resource</b>	No
<b>Annexation Date</b>	February 28, 1969
<b>Council District</b>	2
<b>Acreage (Gross)</b>	0.413

## PROJECT BACKGROUND

On August 8, 2019, the applicant, Henry Cord on behalf the property owner Sharon Xu, applied for a Rezoning of the 0.413-gross acre site from the R-1-1 Single Family Residence District to R-2 Two-Family Residence District. Rezoning of the site is required to allow consideration of future subdivision of the site into three lots because the current R-1-1 Single Family Residence District requires a minimum lot size of 1 acre. A Tentative Map application, File No. T19-029, was filed with this Rezoning application. The Tentative Map application is currently under review and the decision to approve or deny the proposed tentative

map application will occur at a Director's Hearing.

As shown on the attached Aerial Map (Exhibit A), the subject site is located on the southwest corner of Hayes Street and Lean Street. The site is surrounded by single-family residential to the north across Hayes Avenue, two-family residential to the south, multi-family residential to the east across Lean Ave and Oak Grove High School to the west.

The site is currently occupied by a one-story, 1,638-square foot single-family house. The access to the site is from Hayes Avenue.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Residential Neighborhood	R-1-8 (PD)	Single Family Residence
South	Mixed Use Neighborhood	R-2 Two-Family Residence	Duplex
East	Mixed Use Neighborhood	R-M Multiple-Family Residence	Apartment
West	Public/Quasi-Public	R-1-1 Single Family Residence	High School

## ANALYSIS

The proposed rezoning is analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. Municipal Code
3. California Environmental Quality Act (CEQA)

### Envision San José 2040 General Plan Conformance

#### *Land Use Designation*

As shown in the attached General Plan Map (Exhibit B), the proposed project site has an Envision San José 2040 General Plan designation of Mixed Use Neighborhood. This designation is applied to areas intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. This designation is also intended to provide a transition between higher-density and lower-density neighborhoods. The allowed density of this land use designation is up to 30 dwelling units per acre; however, a transitional density would be similar to the density of the surrounding developments (10.7 dwelling units per acre at the development to the south and 9 dwelling units per acre to the north of the development across Hayes Avenue) and any future subdivision would be required to approximate this density.

The existing R-1-1 Single Family Residence District does not conform with the land use designation of Mixed Use Neighborhood for this parcel, because the R-1-1 Single Family Residence District only allows very low-density residential development (one dwelling unit per acre), whereas the aforementioned transitional density for the parcel would be similar to the density of the surrounding development. The proposed R-2 Two-family Residence District would allow duplexes and single-family residences at a density that transitions from the duplexes to the south and single-family residential development to the north across Hayes Avenue. The lot configuration will be reviewed for consistency with the General Plan land use designation.

### General Plan Policies

The project conforms to the following key 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: The 0.413-gross acre site is currently in the R-1-1 Single-Family Residence District, which does not allow the intensity of the development that is consistent with the Mixed Use Neighborhood Land Use Designation. The Mixed Use Neighborhood land use designation is intended to provide a transition between higher-density and lower-density neighborhoods. The proposed rezoning of the site from R-1-1 Single-Family Residence District to the R-2 Two-Family Residence District would allow duplexes and single-family residences at a density that transitions from the duplexes to the south and single-family residential development to the north across Hayes Avenue.*

### Zoning Ordinance Conformance

As discussed above, the proposed rezoning is consistent with the Mixed Use Neighborhood land use designation. The R-2 Two-Family Residence District will facilitate development of the site that is compatible with the existing neighborhood character and consistent with the Mixed Use Neighborhood land use designation.

The current site/house would meet the following development standards of the R-2 Two-Family Residence District:

Development Standards	R-2	Existing Site/House
Lot Size (Minimum)	5,445 square feet	17,991 square feet
Front Setback (Minimum)	15 feet	56 feet
Interior Side Setback (Minimum)	5 feet	21 feet
Street Side Setback (Minimum)	10 feet	54 feet
Rear Setback (Minimum)	25 feet	29 feet
Height (Maximum)	35 feet	+/- 18 feet
Maximum number of stories	2.5	1

There will be a separate public hearing before the Planning Director to review the pending tentative map application for conformance to lot size of the R-2 development standards for the future three-lot subdivision (T19-029).

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

A Tentative Map application, File No. T19-029, to subdivide this lot into three lots is currently on file and under review. The demolition of the existing house is necessary to allow this subdivision. The intent of the rezoning and subdivision is to allow the construction of one single family house on each new lot in the future. Therefore, to determine the level of CEQA analysis, the project scope should include not only the rezoning but also the subdivision, demolition and the construction of three single-family houses in the future.


The existing house on site was built in 1957. A report entitled “Historical and Architectural Evaluation of the Residential Building Located at 200 Hayes Avenue” and DPR series A & B prepared by Bonnie Bamburg of Urban Programmers dated November 25, 2019 were submitted and reviewed by the City’s Historic Preservation Officer (HPO). The HPO determined that the demolition of the existing single-family house on site will not result in an environmental impact because there is no historic significance for the project site or the existing structure.

Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303 (Class 3 Categorical Exemption - New Construction or Conversion of Small Structures) (a) applies to the construction of up to three single-family residences in urbanized areas. The project site is within an urbanized area. Therefore, this exemption applies to this project.

**PUBLIC OUTREACH**

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. A sign describing the proposed rezoning has been posted since September 30, 2019. 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.

**Project Manager:** Angela Wang

**Approved by:** , Deputy Director for Rosalynn Hughey, Planning Director

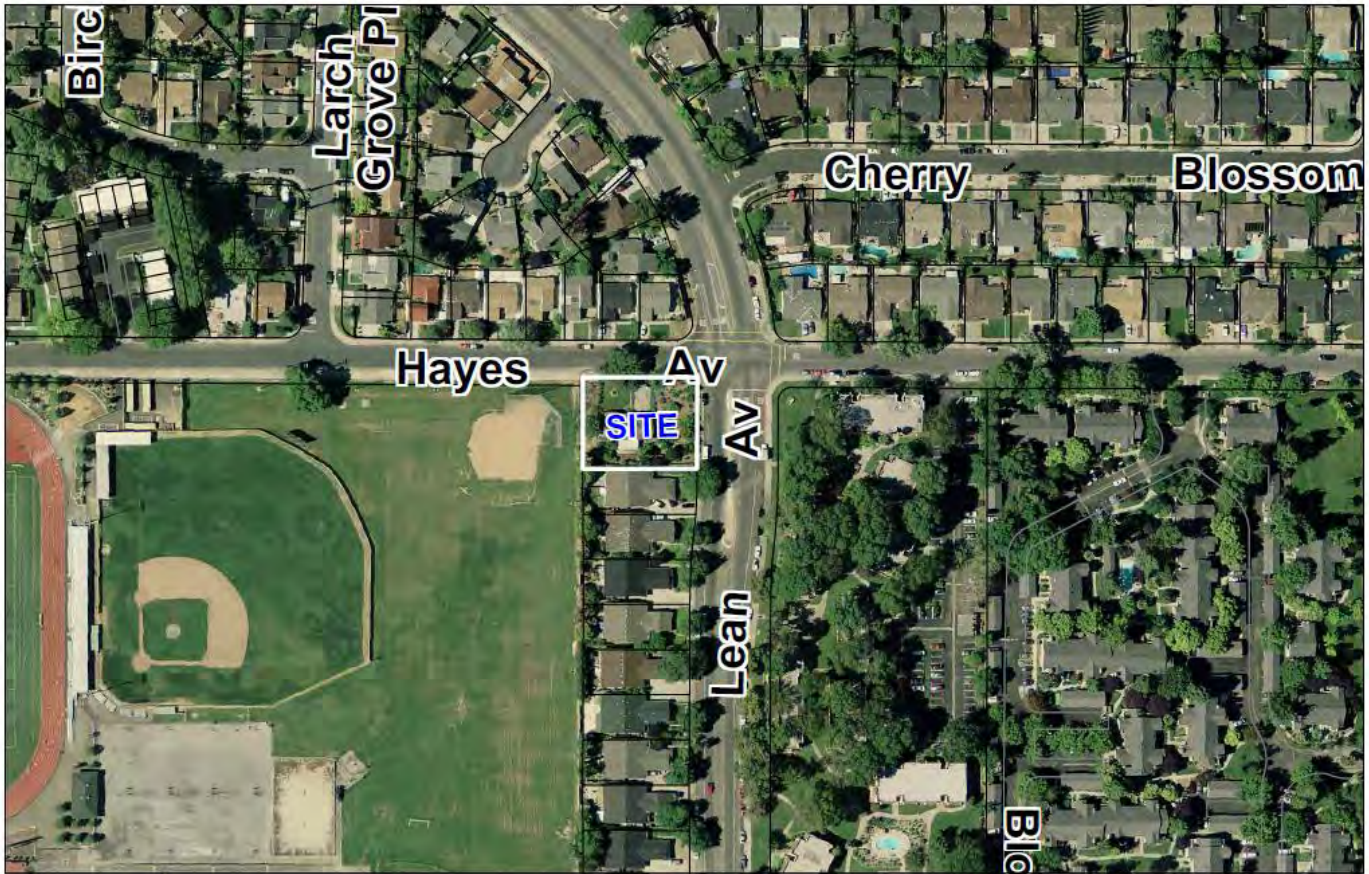
**ATTACHMENTS:**

Exhibit A:	Aerial Map
Exhibit B:	General Plan Land Use Transportation Diagram Designation Map
Exhibit C:	Existing Zoning Map
Exhibit D:	Proposed Zoning Map
Exhibit E:	Legal Description & Plat Map
Exhibit F:	Draft Ordinance
Exhibit G:	Statement of Exemption

<b>Owner:</b>	<b>Applicant</b>
Sharon Xu 2051 Junction Avenue San Jose, CA 95131	Henry Cord 401 Fieldcrest Drive San Jose, CA 95123



Exhibit A



File No: C19-030 & T19-029  
District: 2

Aerial

**Exhibit B**



File No: C19-030 & T19-029

District: 2

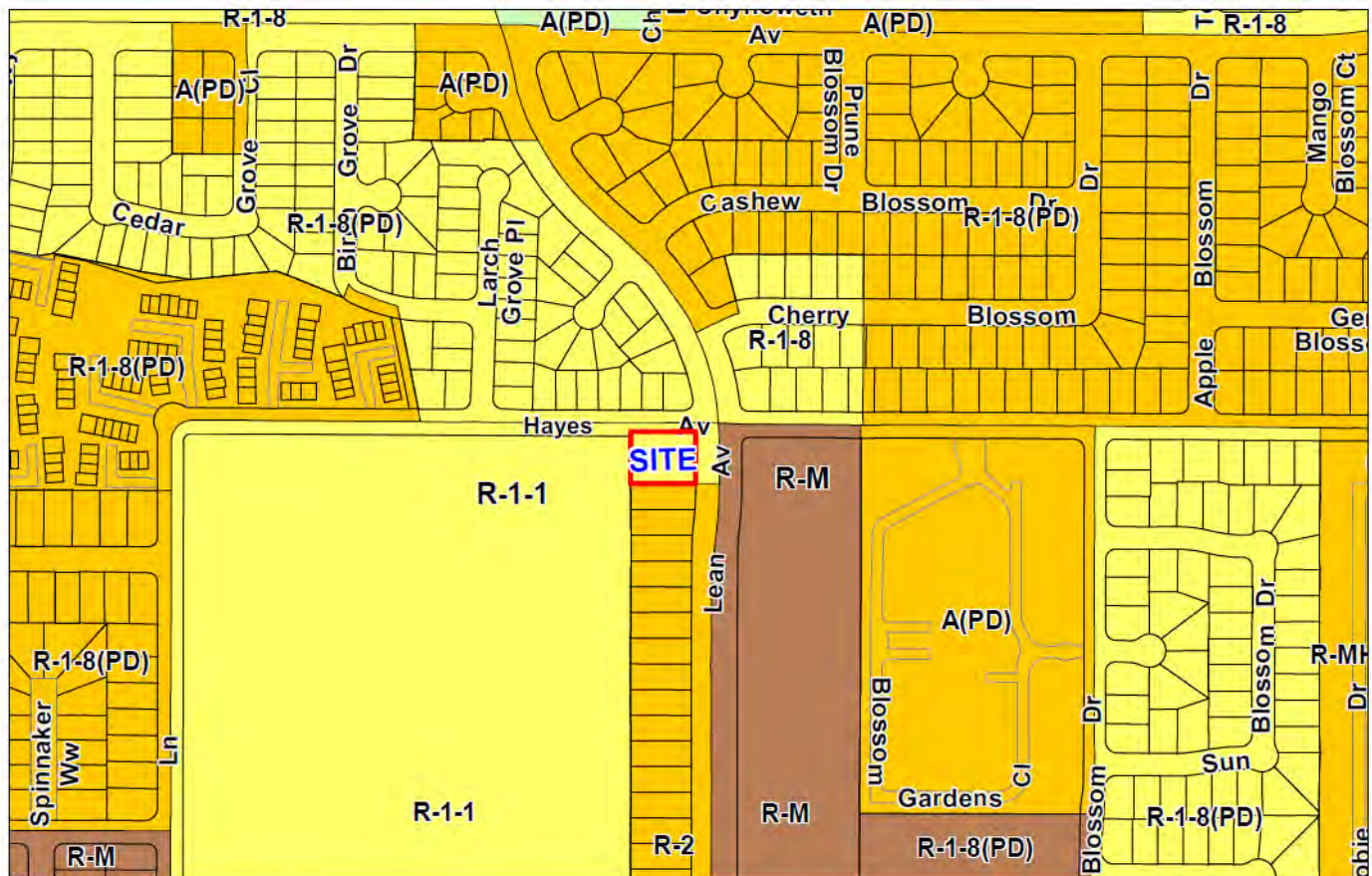
**General Plan**



Prepared by the Department of Planning,  
Building and Code Enforcement  
8/21/2019



## Exhibit C



File No: C19-030 &amp; T19-029

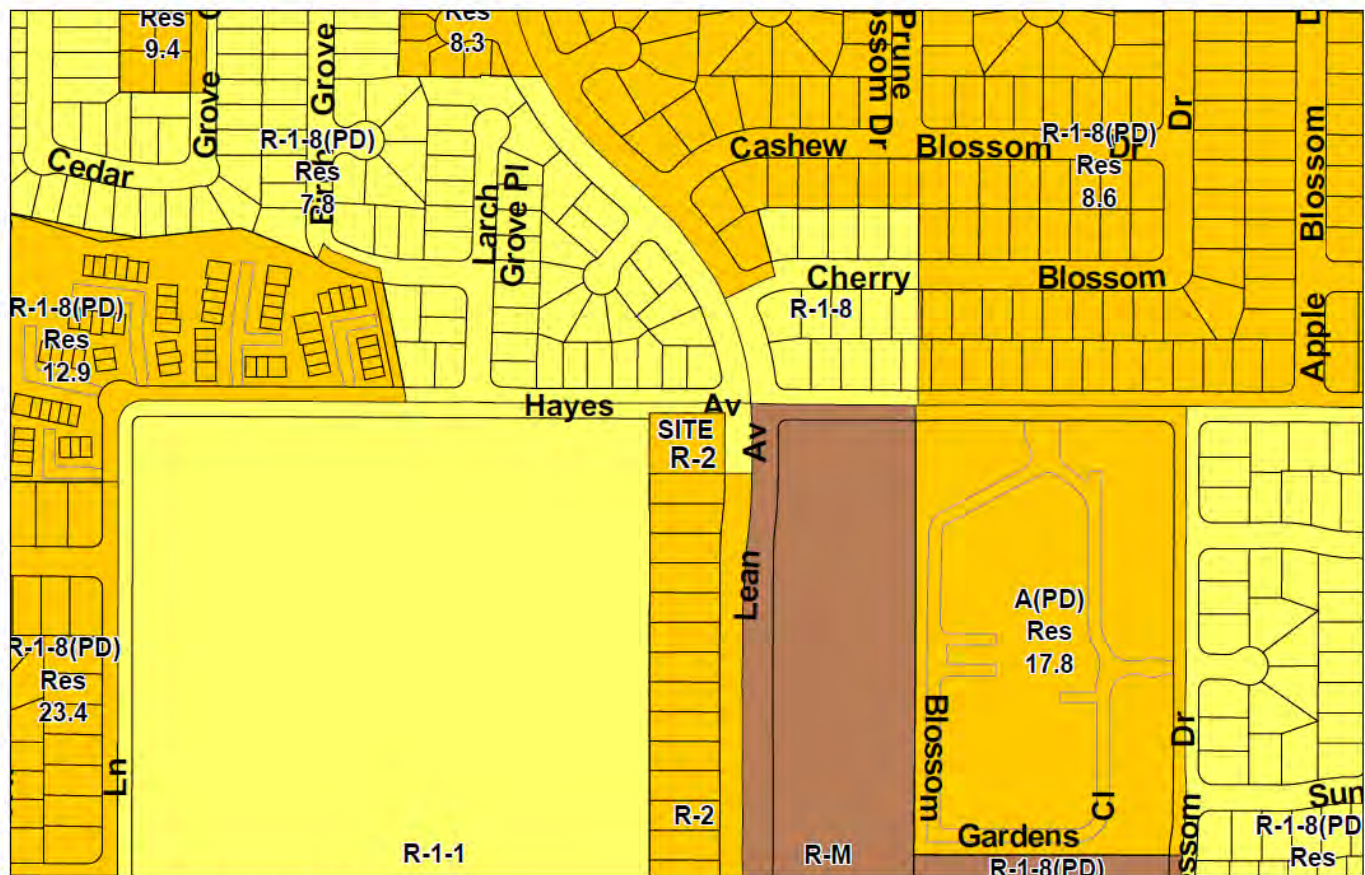
District: 2

## Existing Zoning



Prepared by the Department of Planning,  
Building and Code Enforcement  
8/21/2019

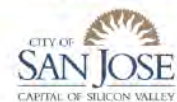
## Exhibit D



File No: C19-030 &amp; T19-029

District: 2

## PROPOSED ZONING



Prepared by the Department of Planning,  
Building and Code Enforcement  
10/07/2019

**EXHIBIT "A"**  
Legal Description

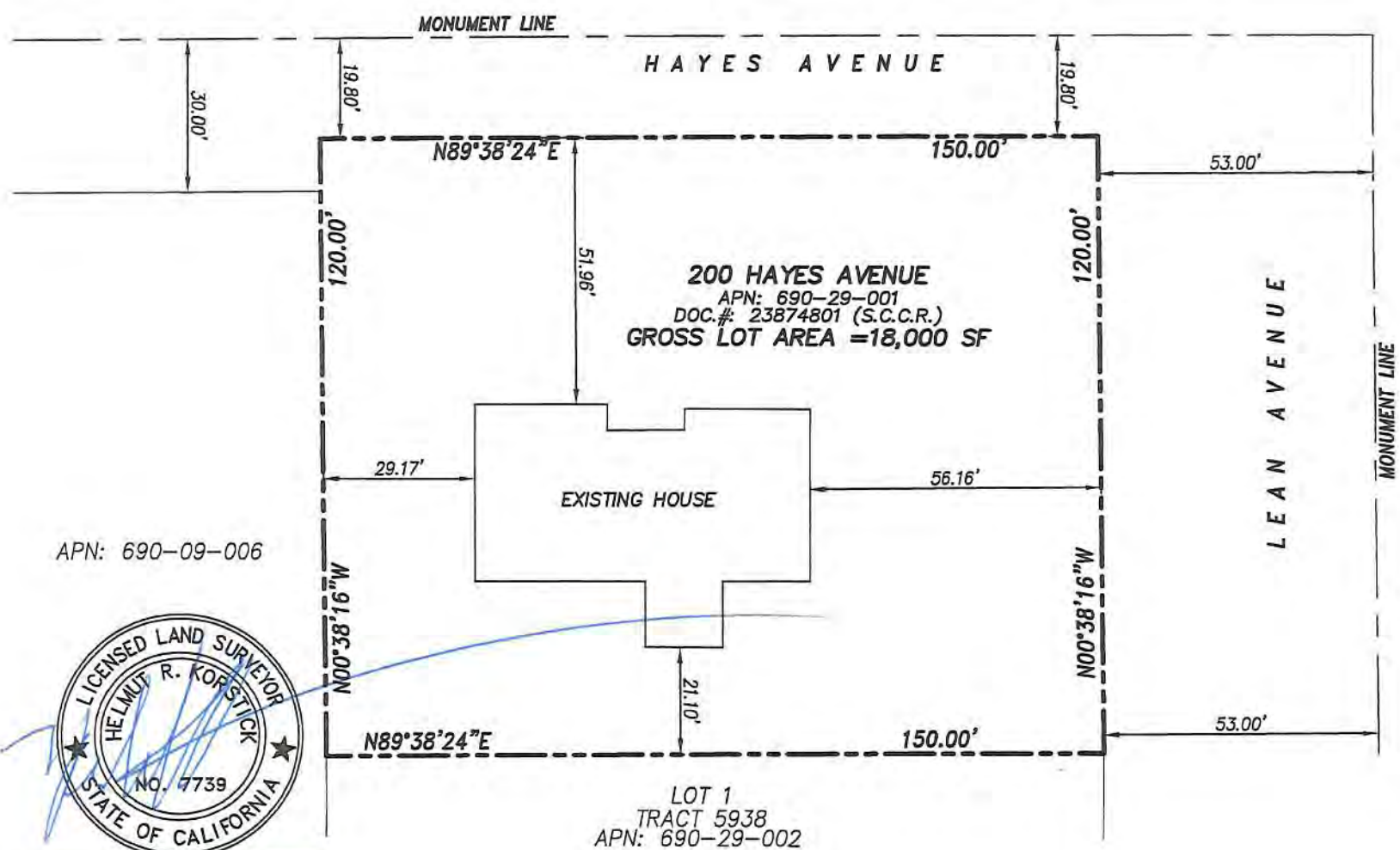
For [APN/Parcel ID\(s\): 690-29-001](#)

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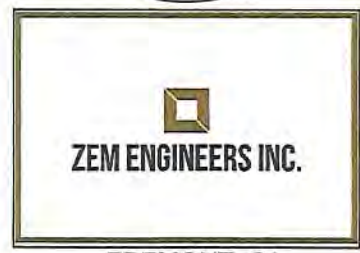
THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 11 IN THE SOUTHERLY LINE OF HAYES AVENUE, AS SAID LOT AND AVENUE ARE SHOWN UPON THE MAP OF THE SUBDIVISION OF THE TRACT IN SANTA TERESA RANCHO, WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA IN [BOOK "H" OF MAPS, AT PAGE 121](#), SANTA CLARA COUNTY RECORDS; RUNNING THENCE ALONG THE SOUTHERLY LINE OF HAYES AVENUE S.89°, 30' E. 150.00 FEET; THENCE LEAVING SAID LINE AND RUNNING PARALLEL TO THE WESTERLY LINE OF SAID LOT 11 S. 0°. 37' E. 120.00 FEET; THENCE RUNNING PARALLEL TO SAID SOUTHERLY LINE OF HAYES AVENUE N. 89°. 30' W. 150.00 FEET TO A POINT IN SAID WESTERLY LINE OF LOT 11; THENCE RUNNING ALONG SAID LAST NAMED LINE N. 0°. 37' W. 120.00 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 11, HEREIN REFERRED TO.





APN: 690-09-006

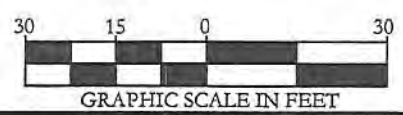


FREMONT, CA

info@zemengineers.com 510-513-7795

### LEGEND

- PROPERTY LINE
- EXISTING PARCEL LINES



## REZONING EXHIBIT

200 HAYES AVENUE - APN 690-29-001

CITY OF SAN JOSE

STATE OF CALIFORNIA

SCALE: 1"=30'

JULY 16, 2019

SHEET 1 of 1

**DRAFT**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 0.413-GROSS ACRE SITUATED ON THE SOUTHWEST CORNER OF HAYES AVENUE AND LEAN AVENUE (APN: 690-29-001), FROM THE R-1-1 SINGLE FAMILY RESIDENCE ZONING DISTRICT TO THE R-2 TWO-FAMILY 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**, a Statement of Exemption was prepared for a rezoning under File No. C19-030, and said Statement of Exemption (CEQA Categorical Exemption Section 15303 for New Construction or Conversion of Small Structures that applies to the construction of up to three single-family residences in an urbanized area) was adopted on February 12, 2020; 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 Statement of Exemption as the appropriate environmental clearance for the proposed project prior to acting upon or approving the subject rezoning; and

**WHEREAS**, the proposed rezoning is consistent with the designation of the site in the applicable General Plan.

**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 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" 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.** Any land development approval that is the subject of City File No. C19-030 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 \_\_\_\_\_, 2020 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

DRAFT

**STATEMENT OF EXEMPTION**

<b>FILE NO.</b>	C19-030 & T19-029
<b>LOCATION OF PROPERTY</b>	200 Hayes Avenue, San Jose, CA 95123
<b>PROJECT DESCRIPTION</b>	Rezoning (File No. C19-030) of the 0.41-gross acre site from the R-1-1 Single Family Residence Zoning District to the R-2 Two-Family Residence Zoning District; A Tentative Map application (File No. T19-029) to subdivide this lot into three lots.

**CERTIFICATION**

Under the provisions of Section 15303 (a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

**15303. NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES**

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

**ANALYSIS**

The demolition of the existing house is necessary to allow the proposed subdivision. The intent of the rezoning and subdivision is to allow the construction of one single family house on each new lot in the future.

The existing house on site was built in 1957. A report entitled "Historical and Architectural Evaluation of the Residential Building Located at 200 Hayes Avenue" and DPR series A & B prepared by Bonnie Bamberg of Urban Programmers dated November 25, 2019 were submitted and reviewed by the City's Historic Preservation Officer (HPO). The HPO determined that the demolition of the existing single-family house on site will not result in an environmental impact because there is no historic significance for the project site or the existing structure.

Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303 (Class 3 Categorical Exemption - New Construction or Conversion of Small Structures) (a) applies to the construction of up to three single-

family residences in urbanized areas. The project site is within an urbanized area. Therefore, this exemption applies to this project.

ROSALYNN HUGHEY, Interim Director  
Planning, Building and Code Enforcement

A handwritten signature in dark ink, appearing to read 'R. Hughey', is written over a horizontal line.

Deputy

Date 2/12/2020

Environmental Project Manager: Angela Wang