



CITY COUNCIL STAFF REPORT

File Nos.	C21-005
Applicant:	Erik Hayden, UC Chevron Owner, LLC.
Location	Northeast side of North Third Street approximately 170 feet southeasterly of East Saint John Street (60 North Third Street)
Existing Zoning	CG Commercial General
Proposed Zoning	DC Downtown Primary Commercial
Council District	3
Historic Resource	No
Annexation Date:	Original City
CEQA:	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 CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District on an approximately 0.806-gross acre site.

RECOMMENDATION:

1. Approve an Ordinance rezoning the approximately 0.81-gross acre site located on the Northeast side of North Third Street approximately 170 feet southeasterly of East Saint John Street (60 North Third Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Downtown <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		Implementation Policies IP-1.1, IP-1.7, IP-1.8, and IP-8.2	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Downtown	CG Commercial General	Office Building
South	Downtown	DC Downtown Primary Commercial	Gym
East	Downtown	DC Downtown Primary Commercial	Parking Garage, Multi-family residential (under construction)
West	Downtown	DC Downtown Primary Commercial	Parking Garage

RELATED APPROVALS	
Date	Action
1/8/1971	Site Development Permit (File No. H70-620) to allow the construction of a 10-story approximately 120,129-square-foot senior care housing development consisting of 216 units and 24 parking spaces on an approximately 0.806-gross acre site.

PROJECT DESCRIPTION

On February 9, 2021, the applicant, Erik Hayden, filed an application to rezone an approximately 0.81-gross acre site from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District.

Background

The subject site is located on the northeast side of North Third Street approximately 170 feet southeasterly of East Saint John Street (See Figure 1). The site consists of an existing 10-story senior care apartment building (Town Park Towers) on an approximately 0.81-gross acre site. The site is surrounded by commercial uses to the north and south, a parking garage and multi-family apartments to the east, and a parking garage to the west. There are no other active planning permit applications on file for the subject site.

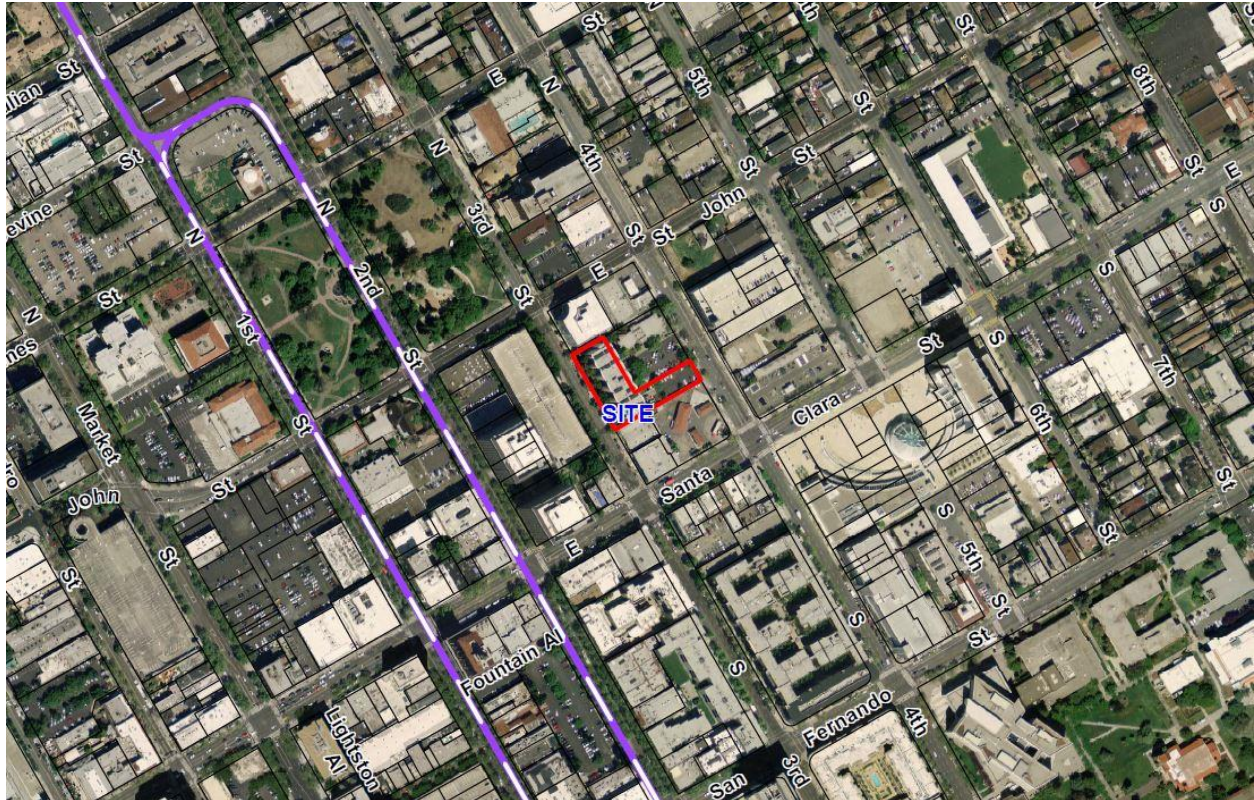


Figure 1: Aerial image of the subject site

The subject property is currently located in the CG Commercial General Zoning District. The applicant has requested a Conforming Rezoning to rezone the site to the DC Downtown Primary Commercial Zoning District, which would further bring the site into conformance with the General Plan Land Use/Transportation Diagram land use designation of Downtown.

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) Senate Bill 330 “no net less” requirements. The project was also evaluated under the California Environmental Quality Act (CEQA).

Envision San José 2040 General Plan Conformance

The subject site has an [*Envision San José 2040 General Plan*](#) (General Plan) Land Use/Transportation Diagram land use designation of Downtown (see Figure 2).



Figure 2: General Plan Land Use/Transportation Diagram

This designation includes office, retail, service, residential, and entertainment uses in the Downtown. Redevelopment should be at very high intensities, unless incompatibility with other major policies within the General Plan (such as Historic Preservation Policies) indicates otherwise. Where single-family detached homes are adjacent to the perimeter of the area designated as Downtown, new development should serve as a transition to the lower-intensity use while still achieving urban densities appropriate for the perimeter of downtown in a major metropolitan city. All development within this designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The 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-1.7 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 project consists of a Conforming Rezoning of the property from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District. This would correspond to the existing General Plan land use designation of Downtown. The new zoning designation would bring the site and existing use into conformance with the allowed uses and development standards of the Downtown Primary Commercial Zoning District.

Zoning Ordinance Conformance

The proposed rezoning conforms with [Table 20-270, Section 20.120.110](#) of the San José Municipal Code, which identifies the DC Downtown Primary Commercial Zoning District as a conforming district to the General Plan Land Use/Transportation Diagram land use designation of Downtown.

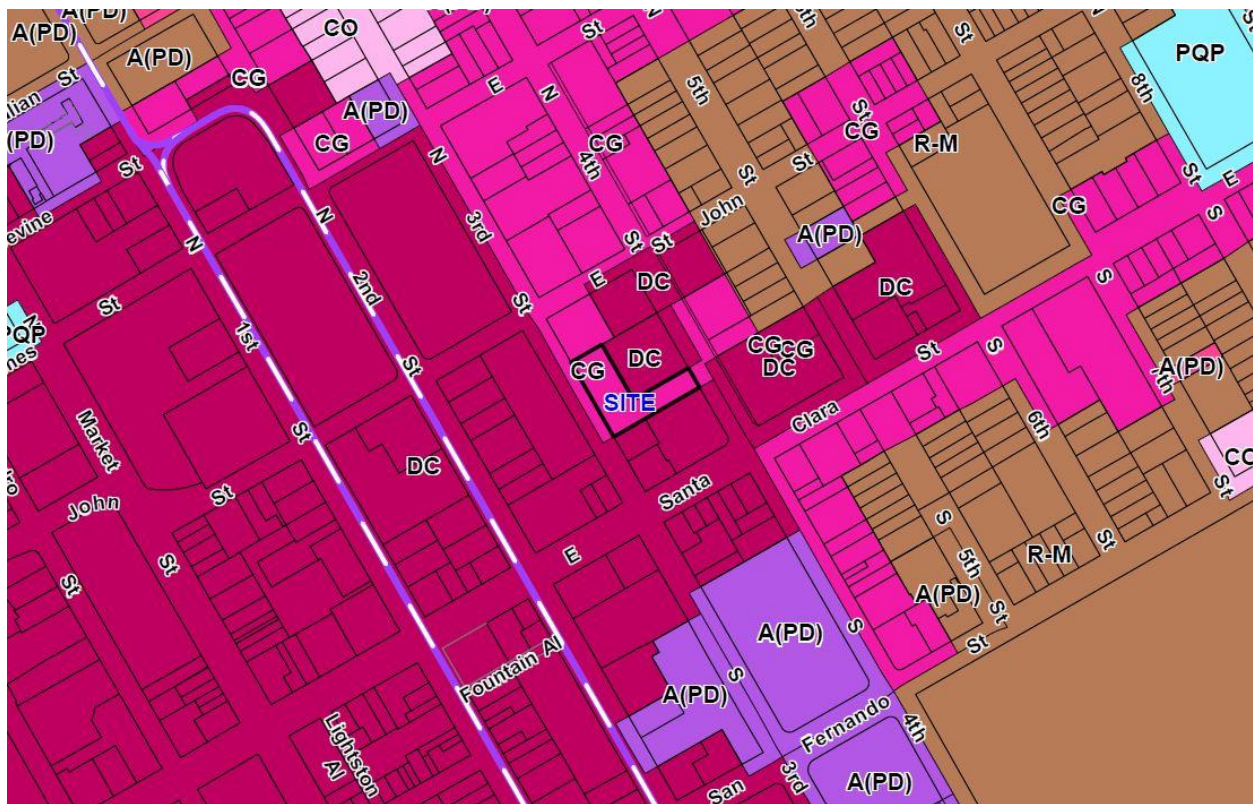


Figure 3: Existing Zoning Map

The DC Downtown Primary Commercial Zoning District would allow the property to be used and developed in accordance with the allowable uses in [Table 20-110](#), which includes a range of commercial, retail, office, residential, and entertainment uses. This rezoning would bring the site into conformance with the both the allowed uses and development standards of the DC Zoning District. This rezoning would also facilitate the future redevelopment of the site to be consistent with the General Plan land use designation.

Setbacks and Heights

The existing building on site, Town Park Towers, does not conform to the development standards of the CG Zoning District with respect to setbacks or height. The rezoning of the property from the CG Commercial General to the DC Downtown Primary Commercial Zoning District would bring the existing building into conformance with the development standards of the DC Downtown Primary Zoning District. There are no setback requirements in the DC Downtown Primary Commercial Zoning District, and for the downtown zoning area defined in [Section 20.70.010](#) of the Zoning Code, the maximum allowable height for new buildings and structures shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration. Any future development would be required to adhere to the development standards set forth in [Section 20.70.200](#) of the San José Municipal Zoning Code and would be evaluated under CEQA.

Allowed Uses

Any future use of the site would be required to adhere to the allowed uses established in the Downtown Primary Commercial Zoning District pursuant to [Table 20-140](#) of the San José Municipal Zoning Code.

Senate Bill 330 Compliance

The Housing Crisis Act of 2019 (SB 330, 2019) limits the manner in which local governments may reduce the capacity for residential units that can be built within the local agency's jurisdiction, including actions such as downzoning, changing general or specific plan land use designations to a less intensive use, reductions in height, density or floor area ratio, or other types of increased requirements that reduce the amount of housing capacity in the jurisdiction. An exception to this limitation is that a property may be allowed to reduce intensity of residential uses if changes in land use designations or zoning elsewhere in the jurisdiction ensure there is no net loss in residential capacity within the jurisdiction.

The proposed rezoning (File No. C21-005) does not reduce the intensity of residential uses because the proposed rezoning allows greater residential density than the existing Zoning District of CG Commercial General. The rezoning would increase the residential capacity by 644 units. Further, this rezoning, if approved concurrently with File No. C21-006 would offset reduced intensity of residential capacity for proposed project File No. C21-006, resulting in no net loss of residential capacity. The approval of both rezoning applications would result in a net increase in capacity of 69 units.

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 FEIR, 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, SIER and Addenda been identified.

CLIMATE SMART SAN JOSÉ

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

CONCLUSION

Should the rezoning be approved by the City Council, the property would be rezoned from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District. Should the rezoning be approved by City Council, the applicant would be able to apply for development of the site consistent with the allowed uses of the Downtown General Plan Land Use Designation and the DC Downtown Primary Commercial Zoning District. There is currently no development project associated with this proposed rezoning.

PUBLIC HEARING NOTIFICATION

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.

/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
Draft Rezoning Ordinance

FEBRUARY 3, 2021

JOB NO. 20-131

EXHIBIT "A"
LEGAL DESCRIPTION
LOT 1 PORTION OF APN 467-20-080

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOTS 3, 5 AND 6 IN BLOCK 2 OF RANGE 4 NORTH, AS SHOWN ON THAT CERTAIN MAP ENTITLED "CITY OF SAN JOSE, COPIED FROM THE ORIGINAL MAP DRAWN BY SHERMAN DAY, CIVIL ENGINEER", WHICH MAP WAS FILED FOR RECORD IN BOOK A OF MAPS, AT PAGES 72-73 OF SAID SANTA CLARA COUNTY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY BOUNDARY OF E. SANTA CLARA STREET (PUBLIC STREET) AND THE SOUTHWESTERLY BOUNDARY OF N. FOURTH STREET (PUBLIC STREET) AND ALSO BEING THE MOST EASTERLY CORNER OF LOT 8, AS LOT 8 IS ALSO SHOWN ON SAID MAP;

THENCE NORTHERLY ALONG SAID SOUTHWESTERLY BOUNDARY OF N. FOURTH STREET, NORTH 29° 56' 46" WEST, A DISTANCE OF 172.92 FEET TO **THE TRUE POINT OF BEGINNING**;

THENCE DEPARTING FROM SAID SOUTHWESTERLY BOUNDARY, SOUTH 60° 06' 16" WEST, A DISTANCE OF 175.52 FEET;

THENCE NORTH 30° 05' 38" WEST, A DISTANCE OF 62.00 FEET;

THENCE NORTH 60° 06' 16" EAST, A DISTANCE OF 175.68 FEET TO A POINT ON SAID SOUTHWESTERLY BOUNDARY OF N. FOURTH STREET;


THENCE SOUTHERLY ALONG SAID SOUTHWESTERLY BOUNDARY, SOUTH 29° 56' 46" EAST, A DISTANCE OF 62.00 FEET TO **THE TRUE POINT OF BEGINNING**.

CONTAINING 10,887 SQUARE FEET (0.25 ACRES) OF LAND, MORE OR LESS

BASIS OF BEARINGS: THE BEARING NORTH 29°56'46" WEST AS FOUND MONUMENTED ON N. FOURTH STREET AND AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED IN BOOK 821 OF MAPS AT PAGES 39-51, SANTA CLARA COUNTY RECORDS, WAS USED AS THE BASIS OF ALL BEARINGS SHOWN.

A PLAT ENTITLED "EXHIBIT B" IS ATTACHED HERETO AND MADE A PART HEREOF.

THIS DESCRIPTION AND THE ACCOMPANYING PLAT WERE PREPARED BY ME OR PREPARED UNDER MY DIRECTION.



ANDREW TURNER
P.L.S. 9104
CIVIL ENGINEERING ASSOCIATES, INC.



02/03/2021

DATE

=====	DISTINCTIVE BOUNDARY
-----	RIGHT-OF-WAY LINE
_____	EXISTING LOT LINE
- - - - -	HISTORIC LOT LINE
=====	CENTER LINE
- - - - -	EXISTING EASEMENT LINE
POC	POINT OF COMMENCEMENT
TPOB	TRUE POINT OF BEGINNING

THIS SITE PLAN WAS PREPARED
BY ME OR UNDER MY DIRECTION.

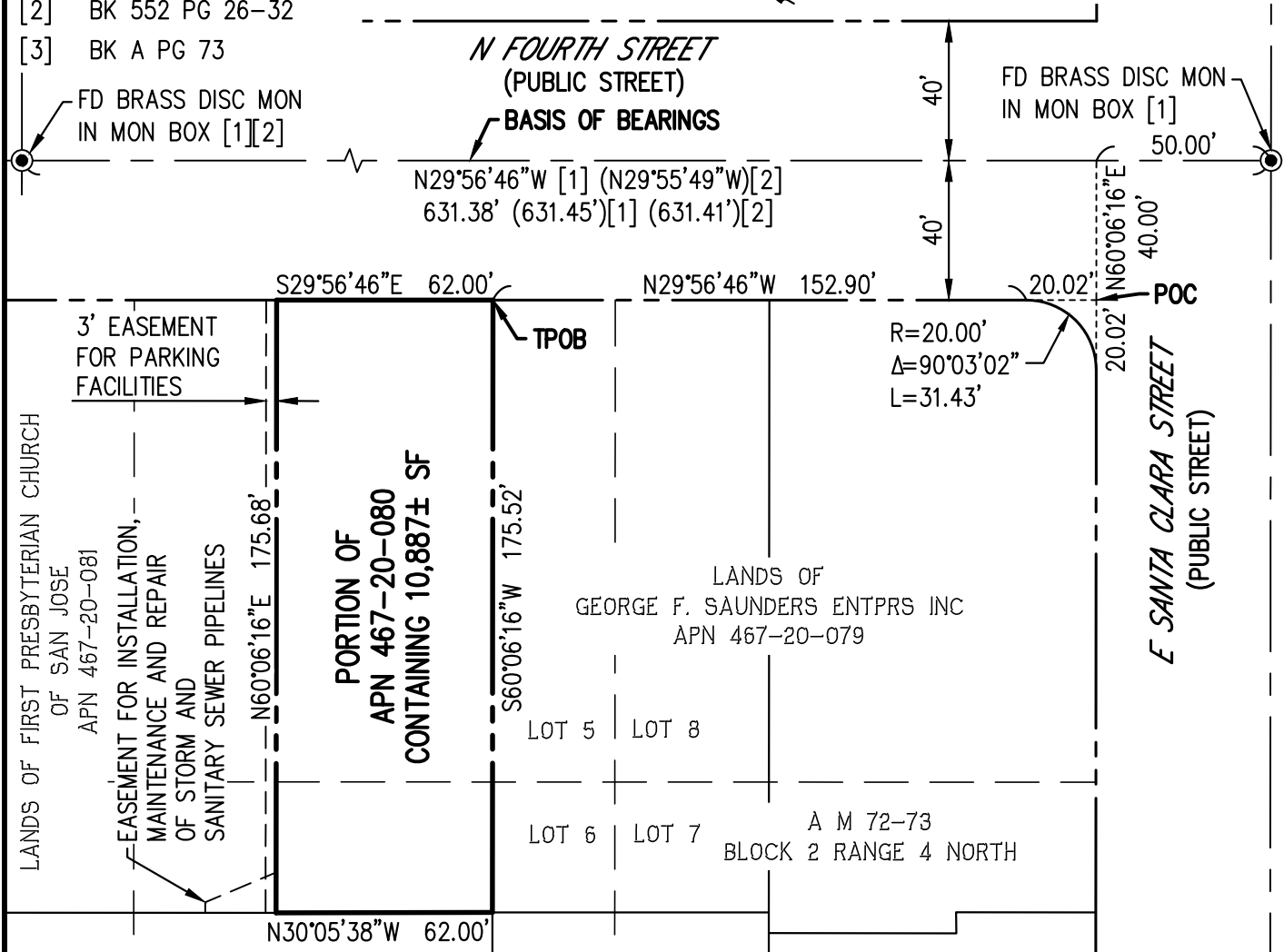
ANDREW TURNER, P.L.S.

02/03/2021

DATED



[1] BK 821 PG 1-51
[2] BK 552 PG 26-32
[3] BK A PG 73



THE BEARING NORTH 29°56'46" WEST AS FOUND MONUMENTED ON N. FOURTH STREET AND AS SHOWN OF THAT CERTAIN RECORD OF SURVEY FILED IN BOOK 821 AT PAGES 39-51, SANTA CLARA COUNTY RECORDS WAS USED AS THE BASIS OF ALL BEARINGS SHOWN.

Civil Engineering Associates

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550
San Jose, CA 95110
T: (408) 453-1066

BY: _____ CH _____

DATE: 2/3/2021

SCALE: 1"=50'

JOB NO. 20-131

1 OF 1
SHT.NO.

FEBRUARY 3, 2021

JOB NO. 20-131

EXHIBIT "A"
LEGAL DESCRIPTION
LOT 2 PORTION OF APN 467-20-080

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOTS 3 AND 6 IN BLOCK 2 OF RANGE 4 NORTH, AS SHOWN ON THAT CERTAIN MAP ENTITLED "CITY OF SAN JOSE, COPIED FROM THE ORIGINAL MAP DRAWN BY SHERMAN DAY, CIVIL ENGINEER", WHICH MAP WAS FILED FOR RECORD IN BOOK A OF MAPS, AT PAGES 72-73 OF SAID SANTA CLARA COUNTY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY BOUNDARY OF E. SANTA CLARA STREET (PUBLIC STREET) AND THE SOUTHWESTERLY BOUNDARY OF S. FOURTH STREET (PUBLIC STREET) AND ALSO BEING THE MOST EASTERLY CORNER OF LOT 8, AS LOT 8 IS ALSO SHOWN ON SAID MAP;

THENCE NORTHERLY ALONG SAID SOUTHWESTERLY BOUNDARY OF N. FOURTH STREET, NORTH 29° 56' 46" WEST, A DISTANCE OF 172.92 FEET;

THENCE DEPARTING FROM SAID SOUTHWESTERLY BOUNDARY OF N. FOURTH STREET, SOUTH 60° 06' 16" WEST, A DISTANCE OF 175.52 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE SOUTH 60° 06' 16" WEST, A DISTANCE OF 100.77 FEET TO A POINT ON THE NORTHEASTERLY BOUNDARY OF N. THIRD STREET;

THENCE HEADING NORTHERLY ALONG SAID NORTHEASTERLY BOUNDARY, NORTH 29° 53' 43" WEST, A DISTANCE OF 240.67 FEET TO THE INTERSECTION OF THE NORTHWESTERLY BOUNDARY OF SAID LOT 3 AND NORTHEASTERLY BOUNDARY OF N. THIRD STREET;

THENCE DEPARTING FROM SAID NORTHEASTERLY BOUNDARY OF N. THIRD STREET ALONG SAID NORTHWESTERLY BOUNDARY OF LOT 3, NORTH 60° 06' 57" EAST, A DISTANCE OF 100.56 FEET;

THENCE SOUTH 29° 53' 43" EAST, A DISTANCE OF 178.65 FEET;

THENCE SOUTH 30° 05' 38" EAST, A DISTANCE OF 62.00 FEET TO THE **TRUE POINT OF BEGINNING.**

CONTAINING 24,207 SQUARE FEET (0.556 ACRES) OF LAND, MORE OR LESS

BASIS OF BEARINGS: THE BEARING NORTH 29°56'46" WEST AS FOUND MONUMENTED ON N. FOURTH STREET AND AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED IN BOOK 821 OF MAPS AT PAGES 39-51, SANTA CLARA COUNTY RECORDS, WAS USED AS THE BASIS OF ALL BEARINGS SHOWN.

A PLAT ENTITLED "EXHIBIT B" IS ATTACHED HERETO AND MADE A PART HEREOF.

THIS DESCRIPTION AND THE ACCOMPANYING PLAT WERE PREPARED BY ME OR PREPARED UNDER MY DIRECTION.



ANDREW TURNER
P.L.S. 9104
CIVIL ENGINEERING ASSOCIATES, INC.



02/03/2021

DATE

LEGEND

— — — — —	DISTINCTIVE BOUNDARY
— — — — —	RIGHT-OF-WAY LINE
— — — — —	EXISTING LOT LINE
— — — — —	HISTORIC LOT LINE
— — — — —	CENTER LINE
— — — — —	EXISTING EASEMENT LINE
POC	POINT OF COMMENCEMENT
TPOB	TRUE POINT OF BEGINNING

SURVEYOR'S STATEMENT

THIS SITE PLAN WAS PREPARED
BY ME OR UNDER MY DIRECTION.

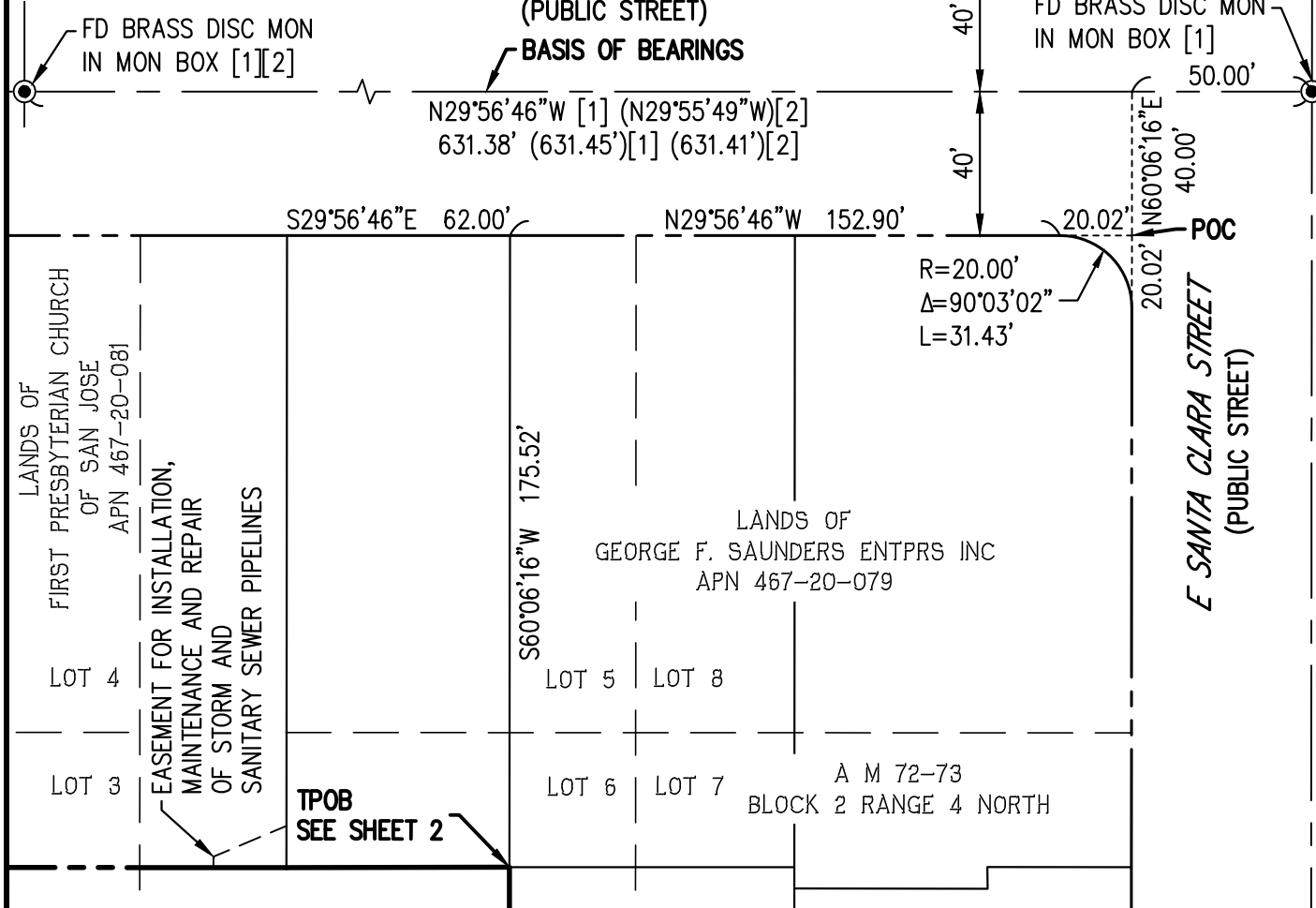
ANDREW TURNER, P.L.S.

02/03/2021

DATED

**REFERENCES**

- [1] BK 821 PG 1-51
[2] BK 552 PG 26-32
[3] BK A PG 73

**BASIS OF BEARINGS**

THE BEARING NORTH 29°56'46" WEST AS FOUND MONUMENTED ON N. FOURTH STREET AND AS SHOWN OF THAT CERTAIN RECORD OF SURVEY FILED IN BOOK 821 AT PAGES 39-51, SANTA CLARA COUNTY RECORDS WAS USED AS THE BASIS OF ALL BEARINGS SHOWN.

EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL DESCRIPTION



**Civil
Engineering
Associates**

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550
San Jose, CA 95110
T: (408) 453-1066

BY: CH
DATE: 2/3/2021
SCALE: 1"=50'
JOB NO. 20-131

1 OF 2
SHT.NO.

LEGEND

	DISTINCTIVE BOUNDARY
	RIGHT-OF-WAY LINE
	EXISTING LOT LINE
	HISTORIC LOT LINE
	CENTER LINE
	EXISTING EASEMENT LINE
POC	POINT OF COMMENCEMENT
TPOB	TRUE POINT OF BEGINNING

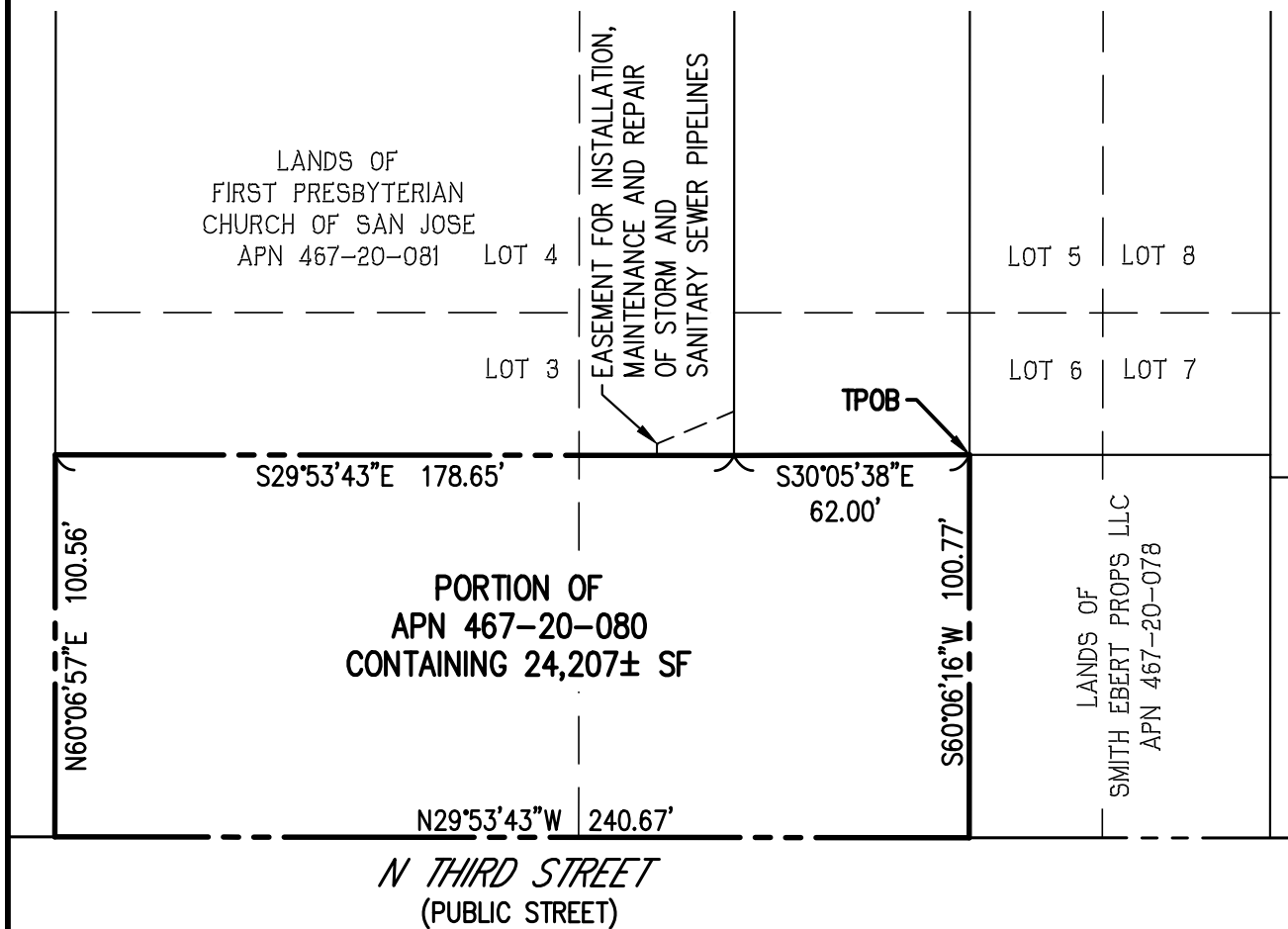


EXHIBIT "B" **PLAT TO ACCOMPANY LEGAL DESCRIPTION**



**Civil
Engineering
Associates**

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550
San Jose, CA 95110
T: (408) 453-1066

BY: CH
DATE: 2/3/2021
SCALE: 1"=50'
JOB NO. 20-131

2 OF 2
SHT.NO.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 0.81-GROSS ACRE SITUATED ON THE NORTHEAST SIDE OF NORTH THIRD STREET, APPROXIMATELY 170 FEET SOUTHEASTERLY OF EAST SAINT JOHN STREET (APN: 467-20-080) FROM THE CG COMMERCIAL GENERAL ZONING DISTRICT TO THE DC DOWNTOWN PRIMARY COMMERCIAL 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, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the proposed rezoning is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in 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, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the DC Downtown Primary Commercial Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR and related City Council Resolution No. 76041 and the SEIR and related City Council Resolution No. 77617, and Addenda thereto, and the

determination of consistency therewith 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; and

WHEREAS, pursuant to Senate Bill 330, the proposed rezoning (File No. C21-005) does not reduce the intensity of residential uses because the proposed rezoning allows for greater residential density than the existing Zoning District of CG Commercial General; the rezoning would increase the residential capacity by 555 units, and further, this rezoning, if approved concurrently with File No. C21-006 would offset reduced intensity of residential capacity for proposed project File No. C21-005, resulting in no net loss of residential capacity. Approval of both rezonings would result in a net increase in residential capacity of 69 units.

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 to the DC Downtown Primary Commercial 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 "A1" and Exhibit "A2" and depicted in Exhibit "B1" and Exhibit "B2" 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. C21-005 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 _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk