



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: See Below

DATE: July 22, 2024

COUNCIL DISTRICT: 4

SUBJECT: PDC21-035, PT22-003, PD22-002 & ER21-284 - Planned Development Rezoning, a Vesting Tentative Map, and a Planned Development Permit on Certain Real Property Located at 0 Seely Avenue

RECOMMENDATION

On June 26, 2024, the Planning Commission voted 10-1-0 (with Garcia opposed) to recommend that the City Council take all of the following actions:

1. Adopt a resolution certifying the 0 Seely Avenue Mixed-Use Project Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and a related mitigation monitoring and reporting plan, in accordance with the California Environmental Quality Act, as amended; and
2. Approve an Ordinance rezoning certain real property of an approximately 22.88-gross-acre site situated at the northeasterly corner of Montague Expressway and Seely Avenue (APNs 097-15-033 & 034 & 097-66-004) from the IP Industrial Park Zoning District to an IP(PD) Planned Development Zoning District.
3. Adopt a Resolution, approving, subject to conditions, a Vesting Tentative Map to subdivide three lots into 48 lots, including 32 buildable lots and 16 common lots, and to allow up to 154 residential condominium units and up to six commercial condominium units on an approximately 22.88-gross-acre site.
4. Adopt a Resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of two unoccupied residences, a fruit stand, and ancillary structures totaling approximately 19,820 square feet and the removal of 584 trees (261 ordinance-size, 323 non-ordinance-size, and 1,085 replacement trees) for the construction of a mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, a 2.5-acre public park, up to six commercial condominium units, and

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Saturday construction hours from 8:00 AM to 5:00 PM on an approximately 22.88-gross acre site.

SUMMARY AND OUTCOME

If the City Council approves all the actions listed above as recommended by the Planning Commission, the applicant would be allowed to demolish two residences, a fruit stand, and ancillary buildings totaling approximately 19,820 square feet and remove 584 trees, including 261 ordinance-size trees and 323 non-ordinance-size trees, with 1,085 replacement trees, and construct 1,472 multifamily residential units, including 154 townhomes and 178 units affordable to households earning up to 70% of the area median income (AMI) and 57 units for households earning up to 100% of the AMI; approximately 18,965 square feet of commercial space; a 2.5-acre public park; and a private street network on the approximately 22.88-gross-acre subject site.

BACKGROUND

On June 26, 2024, the Planning Commission held a public hearing to consider the Final Environmental Impact Report (FEIR), Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit. An overview of the public hearing is provided below. Commissioner Bickford made a motion to approve the recommendation. Commissioner Tordillos seconded the motion. The motion passed 10-1 (Garcia opposed). The Planning Commission recommended that the City Council certify the Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) and approve the Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit.

ANALYSIS

Analysis of the proposed CEQA clearance, Planned Development Zoning, Planned Development Permit, and Vesting Tentative Map, including conformance with the General Plan, Municipal Code, North San José Design Guidelines, Citywide Design Standards and Guidelines, and City Council Policies, are contained in the attached staff report (**Attachment 1**).

Climate Smart San José Analysis

The recommendation in this memorandum aligns with one or more Climate Smart San José goals. It provides housing at a density of 81 dwelling units per acre and facilitates

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job creation within City limits by providing approximately 18,965 square feet of commercial space.

EVALUATION AND FOLLOW-UP

Should the City Council adopt the resolution certifying the FEIR, approve the ordinance approving the Planned Development Zoning, and adopt the resolutions approving the Vesting Tentative Map and Planned Development Permit, the applicant would be allowed to develop the project as described above.

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the August 13, 2024 City Council meeting.

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. The required onsite sign has been posted on the project frontage since November 30, 2021. A Joint EIR Scoping/Community Meeting was held on March 7, 2022, via Zoom webinar to introduce the proposed project to the community and gather community input. Approximately 40 members of the public were in attendance at the meeting. Eleven members of the community expressed concerns about the height of the buildings, increased traffic, potential flooding from Coyote Creek, site access for fire trucks, and application of the City's Riparian Policy.

Staff received emails from eight members of the public and organizations with concerns about the project. The concerns shared include traffic capacity on Seely Avenue and Epic Way, the buildings' proximity to Coyote Creek and impacts on bird habitat in the area, the size of the park, air quality, the importance of preserving farmland and the existing farmhouse, and improvements to surrounding streets.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on June 4, 2024. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COMMISSION RECOMMENDATION AND INPUT

The project was heard at the Planning Commission hearing on June 26, 2024, on the Public Hearing portion of the agenda, as follows:

Staff Presentation

Kora McNaughton, Staff Planner, provided an oral presentation on the proposed project, filling in for Project Manager Alec Atienza, who is on leave. The presentation included an overview of the project and construction phases and conformance with the General Plan, Titles 13, 19, and 20 of the San José Municipal Code, the North San José Design Guidelines, the Citywide Design Standards and Guidelines, and City Council Development Policies. Bethelhem Telahun, Environmental Project Manager, provided an oral presentation on the environmental review process, public outreach, and project compliance with CEQA.

Applicant Presentation

The applicant's representative, Erik Schoennauer, first noted that the site is adjacent to Coyote Creek, but the project is consistent with the City Council's Riparian Corridor Policy, and there are no structures within the 100-foot riparian buffer zone. He then described the project components, including the water well site that will be dedicated to San José Municipal Water and will provide water for the area. The new public park will be the focal point of the project. It is adjacent to the public street Seely Avenue and is shown clearly as a public space for the surrounding community. Mr. Schoennauer also presented a master plan for the new park, which includes seating areas, a dog park, a playground, a hardcourt play area, and a historic commemoration area. In addition, he stated that 20% of the rental units will be affordable at some level, and the developer will pay an in-lieu affordable housing fee for the for-sale townhome units.

Public Hearing

Chair Lardinois opened the public comment portion of the agenda. Nine members of the public spoke on the proposed project. The comments of the speakers are summarized below:

- A representative of the Carpenters Union stated that the project developer has not committed to ensuring that labor standards are part of the development, including hiring from apprenticeship programs and healthcare. He added that it is important for these projects to contribute to the well-being of the people of San José.
- The vice president of the River Oaks Neighborhood Association stated that the project's Vehicle Miles Traveled impacts will be significant and the required traffic mitigations are inadequate. Without a stoplight at the intersection of Seely Avenue and Montague Expressway, residents of the project will use River Oaks

Parkway to access the project site. He opposes the project unless those issues are addressed and believes that more mass transit is needed in the area.

- A private citizen stated that he is a resident of San José and recently graduated from a construction apprenticeship program. He is concerned that the developer is not required to hire from accredited apprenticeship programs and will instead hire unqualified labor, undermining the quality of construction and depriving skilled workers of job opportunities. He urged the developer to commit to hiring from apprenticeship programs to enhance the quality of life for San José residents.
- A Silicon Valley Residents for Responsible Development representative said the organization opposes the project. He stated that the FEIR fails to respond to detailed comments from noise and wildlife experts on the Draft Environmental Impact Report. In addition, the required eight-foot-high plywood fence during construction will not protect residents of neighboring properties who live on upper floors and will not protect residents in the first project phase from construction impacts during later phases.
- A representative of the Sierra Club Loma Prieta Chapter requested that the Planning Commission withhold approval of FEIR because the mitigation measures for the protection of nesting birds are inadequate. He urged the City to require the project to employ a qualified avian biologist to screen for nesting birds, specifically for burrowing owls, seven days before starting construction instead of 14 days.
- A Preservation Action Council San Jose (PAC SJ) representative stated that the property is associated with Eiichi (Edward) Sakaue who was in an internment camp from 1942 to 1945 and was a prominent horticulturalist and leading figure in San José. She stated that General Plan policies require incorporating historic resources into the project, which has been successfully done with previous projects. She noted that the Historic Landmarks Commission (HLC) and the Department of Parks, Recreation and Neighborhood Services (PRNS) have recommended acknowledging the importance of carrying forward historic elements of the place. She urged the Planning Commission to recommend certification of Alternative 5 of the FEIR.
- A representative of PAC SJ stated his support for incorporating existing historic resources into the development and adherence to General Plan Policy LU-13.3 to retain the Sakaue farmhouse and provide Edward Sakaue with appropriate recognition.
- A representative of PAC SJ stated that there is a solution that does not involve destroying the Sakaue House and requested that the Planning Commission defer the issue until there is a full understanding of the value of the site and structures.

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- A representative of PAC SJ urged the Commissioners to recommend preserving the Sakauye House, stating it is one of the last chances for the City to have a physical reminder of events during World War II. She noted that young Japanese-American men fought on behalf of the United States, and many were forced to sell land or give it away because of internment.

Chair Lardinois closed the public comment portion of the agenda and invited the applicant team to respond to comments or provide any closing statements.

Erik Schoennauer of the applicant team responded that the levee along Coyote Creek will provide a buffer between the project and the creek and that there are no trees in the levee area. Regarding the pre-construction screening for migratory birds, he said the City requires 14-day or 30-day surveys, with which the applicant will comply. He also noted that there is no reason to believe that traffic from project residents will circulate through the River Oaks neighborhood and a project condition requires the developer to conduct a traffic study upon full occupancy and fund up to an additional \$450,000 of roadway improvements if necessary.

Concerning the Sakauye house, Mr. Schoennauer referred to the letter from the attorney representing the family, which was read by staff earlier in the hearing and expressed the family's support for demolishing the house. He explained that the developer is working closely with the family on the historic interpretation area, where there will be information about the life of Edward Sakauye, his role in farming, his experience in internment camps during World War II, and his leadership in San José. Finally, Mr. Schoennauer summarized the project components, highlighting 20% affordable housing onsite, the 2.5-acre park, over 18,000 square feet of neighborhood retail space, a diverse mix of rental and for-sale housing, and improvements to the onsite and off-site pedestrian realm.

Commissioner Discussion

Commissioner Oliverio began the discussion by asking whether staff would like to respond to the public comments. Staff responded that all comments were addressed in the FEIR and no new issues were brought up. Commissioner Oliverio asked staff if the property was a designated City Landmark or a candidate for landmark status. Staff responded that it could qualify as a landmark but has not been officially designated.

Commissioner Oliverio asked whether Cadence employees exited the parking lot onto Seely Avenue. Staff responded that they do and clarified that there is a stop sign at the intersection of Seely Avenue and Montague Expressway and a stoplight at the intersection of Seely Avenue and River Oaks Parkway.

Commissioner Oliverio asked when the public park would be delivered. Mr. Schoennauer responded that the park area will be used for construction staging in the

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early phases. Scott Youdall, representing Hanover (developer), stated that the parkland agreement is still in draft form but what has been discussed is a commitment to complete the park within five years of obtaining the first building permit for the project. Even if only one building is constructed, the park will be there within five years. The developer intends to construct the park halfway through the completion of the second building, so it is delivered when the first building is open for occupancy.

Commissioner Oliverio asked staff to clarify which streets would be studied in the post-occupancy traffic study. Staff responded that the study would include Seely Avenue, River Oaks Parkway, and Epic Way. Mr. Schoennauer added that the traffic study scope and adequacy would be overseen by the Public Works Department.

Commissioner Oliverio asked Mr. Schoennauer if he was aware of any birds nesting at the site currently, to which Mr. Schoennauer responded that he was not.

Commissioner Oliverio asked whether the Sakauye family has said that they do not want the house to be preserved, to which Mr. Schoennauer responded that his only knowledge of their position is the letter read by staff from the attorney representing the family, indicating that the family does not wish the house to be preserved.

Commissioner Young asked whether the project was presented to the HLC and what the results were. Staff responded that the project was presented to the HLC twice (see attached minutes for both meetings; **Attachment 2 and Attachment 3**). On June 7, 2023, the HLC received public comment and provided recommendations on information to be included in the project analysis. On April 3, 2024, the HLC provided comments on the Cultural Resources and Alternatives Sections of the Draft EIR. The HLC recommended serious consideration of Alternatives 4 and 5. Commissioners expressed concern about the proposed demolition of historic structures and encouraged the reuse of several buildings in the public park or incorporation into another part of the project. These comments were incorporated as part of the EIR analysis.

Commissioner Young asked whether anyone from PRNS attended to speak to the department's stance on incorporating the house into the project and budgetary concerns. Staff responded that PRNS representatives were unavailable but that PRNS informed PAC SJ that the City would not accept ownership of the historic resources as part of the public park and would not reduce the park's size to accommodate the historic resources. Commissioner Young stated that he understands why PRNS would not want to accept a house that would have to be restored and maintained considering the unfunded infrastructure in the City's parks. He agreed that everyone would like to preserve as many historic buildings as possible, and he supports the proposed feature to be incorporated into the park that will recognize Mr. Sakauye's contributions and include descriptions of the internment camps.

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Commissioner Young asked whether the project traffic study was conducted with the idea that a new traffic signal would be installed at Seely Avenue and Montague Expressway. Staff responded that both alternatives (with and without the signal) were studied, but that the County of Santa Clara has not been in support of the signal from the beginning of the project because of proximity to signals at the intersections of Montague Expressway and Trimble Road and O'Toole Avenue and McCarthy Boulevard. Commissioner Young asked if drivers going northbound on Montague Expressway would turn on River Oaks Parkway to access the project site, to which staff responded that they would.

Commissioner Cantrell asked if there is a list of bird species in the area. Staff responded that according to the Biological Resources Evaluation (dated December 2022, with field surveys conducted in February 2021 and October 2021), no unique status birds were onsite. However, the site was considered a suitable habitat for passerines, woodpeckers, hummingbirds, the white-tailed kit, and barn owls. The February 2021 survey was conducted during the nesting season. Commissioner Cantrell commented that out of 584 trees, it seems like there would be at least one nest and asked staff if they would be amenable to requiring screening for birds within 10 days of starting construction rather than the 14 days required by the City during the nesting season. Deputy Director Manford stated that under CEQA, there has to be a nexus to require the 10-day survey period, and if there is no nexus, then it would be voluntary on the part of the applicant. Staff stated that 10 days is a short window to review the survey results and start construction. Typically, a survey just before construction is required if the site is a habitat for an identified species, but this site is not within a burrowing owl habitat area. The standard requirement of 14 days before construction starts is based on hundreds of environmental reports conducted for previous projects, including Downtown West, bordered by two creeks and the Berryessa BART Transit Village. Commissioner Cantrell added that nature should be given the best possible survivability humans can afford.

Commissioner Cantrell asked about the timeframe for the start of construction. Scott Youdall of Hanover responded that the anticipated start date is the first half of 2025.

Commissioner Cantrell asked the developer if they would consider maintaining the historic house somewhere on the site. Mr. Youdall responded that the City has already stated that it does not want the house within the park, and a location outside the park is not feasible, although they are open to further discussion. Commissioner Cantrell asked whether any of the HLC recommendations were accepted as part of the project. Staff responded that the one recommendation included is the installation of the historic commemoration area in the park.

Commissioner Cantrell asked if there is any outdoor private space in the affordable building, adding that he found it deficient compared to the other buildings and hoped

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people were not being disadvantaged based on their income. Mr. Youdall responded that there are two outdoor courtyards for the affordable building. Staff added that there is also a 1,500-square-foot amenities room in the building, but no private open space. Nevertheless, the project is consistent with overall private open space requirements.

Commissioner Tordillos stated that there is much to appreciate in the project, including the dedication of a new park, nearly 1,500 new homes, several hundred deed-restricted homes, new pedestrian access, and bike lanes on Seely Avenue. However, he wanted to see less parking, although he noted that the project application was submitted prior to the elimination of parking minimums. He also praised the design of the buildings, in which structured parking is hidden from view.

Commissioner Tordillos asked how the permit's two-year expiration period would affect the project phasing. Staff responded that the two-year period for submitting a Building permit application is a standard condition, and the applicant may obtain two one-year extensions for a total of four years. Suppose at any point the developer believes that they will not be able to submit a Building permit application. In that case, they may submit a permit application to go to a Director's Hearing and extend the permit further.

Commissioner Tordillos asked what assurance the City has that later project phases will be built since the first phase (townhomes) is the lowest-density component and how that would affect the required minimum density for the remainder of the site. Staff responded that this is a valid concern but that given the current real estate market, the decision was made to provide the applicant with flexibility for project phasing. The Planned Development Zoning is based on the specific number of units, so if any of the phases are not constructed, any subsequent development would still need to meet the required density. Mr. Schoennauer stated that the developer intends to begin building the for-sale townhomes and the first multifamily building simultaneously. In addition, he noted that the entire site will require grading before any construction. Finally, he stated that the affordable housing developer wants to start construction as soon as possible but is constrained by the need to apply for tax credits, which can take several rounds before funding is awarded.

Commissioner Tordillos asked the applicant whether they have engaged with apprenticeship programs and responsible contractors. Mr. Schoennauer responded that they have had discussions with the carpenters' union and will continue the dialog with them, but that concerns an agreement between two private parties and is not part of the decision to be made by the Planning Commission.

Commissioner Tordillos commented that he grew up 15 minutes away from the location of an internment camp in Washington, and he learned about it in school and met people who had been interned in camps. He stated that it is important to commemorate the person and their legacy, and the memorial park shown on the site plan could do a better

job of educating the public and informing them of some of the flaws in our history than the preservation of a single structure.

Commissioner Bickford stated that she hadn't heard from anyone that the project was bad for San José or would have a negative impact on San José. She would like the developer to preserve the house but is not in favor of putting a house in a city park. She also stated that she is not concerned about burrowing owls in this area, although she supports maintaining the waterway.

Commissioner Bickford made a motion to accept staff's recommendation that the Planning Commission recommend that the City Council approve the project. Commissioner Tordillos seconded the motion.

Vice Chair Ornelas-Wise said the project and the landscape plan are great and suggested allowing a farmer's market on site, given the rich history of agriculture in the area.

Vice Chair Ornelas-Wise asked when the site was designated with the Transit Employment Residential Overlay and asked that staff be sensitive to the need to retain industrial land. Deputy Director Robert Manford explained that the Transit Employment Residential Overlay was initially applied in 2005. Vice Chair Ornelas-Wise stated that the need for housing outweighs many concerns and said she was pleased to see that the project has some commercial space. Given the need for higher-density housing, this is a perfect example of the City of San José growing up and not out.

Vice Chair Ornelas-Wise stated that the Sakauye house is not just historic because of the structure but because of the person who lived there. She asked staff if there had been any outreach to the Japanese-American community. Staff responded that there had not been specifically targeted outreach to that community but that the FEIR includes a mitigation measure for the potential relocation of the house. Vice Chair Ornelas-Wise recommended that the developer reach out to the local Japanese-American community to see if they would be willing to take the house and also encouraged the developer to work with unionized labor.

Commissioner Rosario asked how many city landmarks are related to World War II and the Japanese-American community and mentioned the Japanese American Museum of San José, the Japanese Friendship Garden in Kelley Park, as well as San José's sister city agreement with a city in Japan. He asked staff if any comments had been received from the Japantown Community Congress or other groups. Staff responded that no comments had been received. Commissioner Rosario stated that the need to preserve the house would resonate with him if there was a community push from Asian and Pacific Islander organizations, but the need for housing is so dire that it outweighs

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concerns about this particular structure. He stated his support for Commissioner Bickford's motion.

Commissioner Oliverio stated that the situation was similar to that of the Yuki family property in Los Gatos, where they were prevented from developing by others in the area. He noted that there has been a lot of development near the Seely Avenue project and if the family does not support keeping the historic structures, they should not be penalized by a decision that could affect the value of the land. He also recalled that PRNS turned down an offer for the Century movie theater because the department's priority is providing open space as opposed to maintaining structures.

Commissioner Cantrell stated that overall, he agreed with the other commissioners' comments, with some exceptions. He said that it is important not to erase historical figures from their homes and put up a new representation of who they are, especially in the case of interned Japanese families. He also advised against ignoring the course of nature and stated that when we can make small accommodations to ensure a better outcome, we should. Finally, he stated that while he understands that it is hard to build affordable housing, people with lower incomes also deserve some private space.

Commissioner Ornelas-Wise stated that she appreciates the park's dedication and the children's playground, which should include a big play structure.

Chair Lardinois called for a vote on the motion made by Commissioner Bickford and seconded by Commissioner Tordillos. The motion passed 10-1 (Garcia opposed).

CEQA

The City of San José, as the Lead Agency, prepared an Environmental Impact Report ("EIR") (State Clearinghouse No. 2022020565) for the Planned Development Rezoning, Vesting Tentative Map, and a Planned Development Permit, File Nos. PDC21-035, PD22-002, PT22-003 & ER21-284, in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California. The EIR evaluated the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project. The Notice of Preparation was circulated from February 23, 2022 to April 5, 2022. The EIR was originally circulated from January 18, 2024 through March 11, 2024, and then recirculated from March 19, 2024 to May 3, 2024, not because of the need for additional analysis, but to address online posting requirements of the Governor's Office of Planning and Research (State Clearinghouse).

Summary of Environmental Impacts Reduced to Less than Significant with Mitigation

The Draft EIR identified potential environmental impacts related to air quality during operations, nesting birds and roosting bats, archaeological resources, hazards and hazardous materials from past uses on the site, construction-related noise, and vehicle miles traveled. With the implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program (“MMRP”) prepared for the project, these impacts are reduced to less than significant levels. As part of the certification of the Final EIR, the City Council will need to approve the associated Mitigation Monitoring and Reporting Program for the project.

Summary of Environmental Impacts Determined to be Significant and Unavoidable

The Draft EIR found that the project would result in significant and unavoidable impacts to Cultural Resources due to the demolition of Sakauye House and other structures and site features that are collectively and individually eligible for listing under the California Register of Historical Resources and the San José Historic Resources Inventory as a Candidate City Landmark.

If the City Council were to approve the project as proposed, in compliance with CEQA Guidelines Section 15093, a Statement of Overriding Considerations must be adopted with findings that the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects if an environmentally superior alternative is not chosen. The Statement of Overriding Consideration found that the economic and social benefits of the proposed project, as listed in the CEQA Resolution, outweigh its significant environmental impacts.

Project Alternatives

The Draft EIR analyzed five project alternatives: (1) No Project – No Development Alternative, (2) No Project – Development Consistent with Existing Land Use and Zoning Alternative, (3) Historical Resource Avoidance Alternative, (4) On-Site Relocation of Historical Resources Alternative, and (5) On-Site Relocation of Individual Historical Resources Alternative. Alternatives that were considered but rejected include the Location Alternative and the Park Location Alternative. The five design alternatives were crafted based on their ability to reduce the impacts summarized above and to identify an environmentally superior proposal. The analysis of the five design alternatives in the Draft EIR includes discussion of the potential impacts of alternative site layouts for the purpose of decision-making.

Beyond the No Project – No Development Alternative, the Historical Resource Avoidance Alternative and the On-Site Relocation of Historical Resources Alternative would be the environmentally superior alternatives because they would preserve the existing historical structures either in their existing locations or moved somewhere else

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on-site. This would result in a less than significant impact to the eligible Historical Landmark.

Summary of Comments Received

The City received 19 written comment letters during the public circulation period. Comments were submitted by eight agencies and organizations, including the County of Santa Clara Roads and Airports Department, Pacific Gas and Electric Company, State Water Resources Control Board, Santa Clara Valley Transportation Authority, Santa Clara Unified School District, Preservation Action Council San José, River Oaks Neighborhood Association, and Adams Broadwell Joseph & Cardozo. Two individuals also sent comment letters. The main concerns raised by commenters are as follows:

- Installation of a traffic signal at the intersection of Seely Avenue and Montague Expressway.
- Increased traffic and vehicle miles travelled.
- Questions on baselines conditions for analysis.
- Impacts to Coyote Creek and water quality due to the proposed well.
- Impacts to special status species.
- Impacts to City historical resources.
- Construction noise impacts

The City responded to all comments received on the Draft EIR and incorporated them into the First Amendment to the Draft EIR. None of the comments received address an issue of adequacy of the Draft EIR and no new mitigation measures are required. The EIR text revisions were included in the First Amendment to address clarifications to text of the Draft EIR and other suggested text revisions from commenters.

The First Amendment, taken together with the Draft EIR, and the Mitigation Monitoring and Reporting Program constitutes the Final EIR. The Draft EIR and First Amendment to the Draft EIR are available for review on the project page on the City's Active EIR website at: [PDC21-035 0 Seely Avenue Mixed-Use Project \(SCH# 2022020565\) | City of San José \(sanjoseca.gov\)](https://www.sanjoseca.gov/projects/PDC21-035-0-Seely-Avenue-Mixed-Use-Project). [PDC21-035 0 Seely Avenue Mixed-Use Project \(SCH# 2022020565\) | City of San José \(sanjoseca.gov\)](https://www.sanjoseca.gov/projects/PDC21-035-0-Seely-Avenue-Mixed-Use-Project). A copy of the signed Mitigation Monitoring and Reporting Program is attached to the proposed CEQA resolution.

EIR Recirculation Unnecessary

The comments received do not identify substantive issues of concern, inadequacies in the Draft EIR, or new, previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or

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environmental setting as well as additional data or other information. New information added to a Draft EIR is not “significant” unless the Draft EIR is changed in a way that deprives the public of a meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the Draft EIR for the project includes written responses to all comments received during the public review period for the Draft EIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the Draft EIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the Draft EIR and, in some cases, correct or update information in the Draft EIR. No significant new information has been added to the EIR since the publication of the Draft EIR; therefore, the Draft EIR does not need to be recirculated.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City’s Open Government Resolution.

/s/

CHRIS BURTON

Secretary, Planning Commission

For questions, please contact John Tu, Planning Division Manager, at john.tu@sanjoseca.gov or (408) 535-6818.

ATTACHMENTS

Attachment 1 - Staff Report

Attachment 2 - Historic Landmark Commission Minutes, June 7, 2023

Attachment 3 - Historic Landmark Commission Minutes, April 3, 2024



Memorandum

TO: PLANNING COMMISSION

SUBJECT: File Nos. PDC21-035, PD22-002,
PT22-003 & ER21-284

FROM: Christopher Burton

DATE: June 26, 2024

COUNCIL DISTRICT: 4

Type of Permit	Planned Development Rezoning (File No. PDC21-035), Vesting Tentative Map (File No. PT22-003), and Planned Development Permit (File No. PD22-002)
Proposed Land Use	Mixed-Use Residential and Commercial
New Residential Units	1,472 units
New Commercial Square Footage	Approximately 18,965 square feet
Additional Policy Review Items	Riparian Corridor Policy
Demolition	Approximately 19,820 square feet
Tree Removals	584 trees (261 ordinance-size, 323 non-ordinance-size, 1,085 replacement trees)
Project Planner	Alec Atienza
CEQA Clearance	0 Seely Avenue Mixed-Use Project Environmental Impact Report
CEQA Planner	Bethelhem Telahun

RECOMMENDATION

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

1. Adopt a resolution certifying the 0 Seely Avenue Mixed-Use Project Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and a related mitigation monitoring and reporting plan, in accordance with the California Environmental Quality Act, as amended; and
2. Approve an Ordinance rezoning an approximately 22.88-gross-acre site from the IP Industrial Park Zoning District to an IP(PD) Planned Development Zoning District.
3. Adopt a Resolution, approving, subject to conditions, a Vesting Tentative Map to subdivide three lots into 48 lots (32 buildable lots, 16 common lots) and to allow up to 154 residential condominium units and up to six commercial condominium units on an approximately 22.88-gross-acre site.

4. Adopt a Resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of two unoccupied residences, a fruit stand, and ancillary structures totaling approximately 19,820 square feet and the removal of 584 trees (261 ordinance-size, and 323 non-ordinance-size, 1,085 replacement trees) for the construction of mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, a 2.5-acre public park, up to six commercial condominium units, and Saturday construction hour from 8:00 am to 5:00 pm on an approximately 22.88-gross-acre site.

PROPERTY INFORMATION

Location	Northeast corner of Montague Expressway and Seely Avenue
Assessor Parcel No. (APN)	097-15-033, -034 & 097-66-0084
Existing General Plan	Industrial Park
Overlay	Transit Employment Residential Overlay (TERO)
Growth Area	North San José
Existing Zoning	IP Industrial Park
Proposed Zoning	IP(PD) Planned Development
Historic Resource	Yes
Annexation Date	April 19, 2007 (Orchard No. 148)
Council District	4
Acreage	Approximately 22.88 gross acres (18.12 net acres)
Proposed Density	81 dwelling units per acre (net density)

PROJECT SETTING AND BACKGROUND

As shown on the Aerial Map below (Figure 1), the subject site is located at the northeast corner of Montague Expressway and Seely Avenue. The site is comprised of three parcels (APNS: 097-15-033, 097-15-034, and 097-66-0084). The project site contains two unoccupied residential structures, barns and other storage structures, a fruit stand, and agricultural land (orchards, fruits, and vegetables). The project site is bounded by an office building and multifamily residential uses to the north, Coyote Creek to the east, general industrial uses across Montague Expressway to the south, and an office park across Seely Avenue to the west.



Figure 1 - Aerial Map

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Industrial Park	IP Industrial Park & A(PD) Planned Development	Office Building & Multifamily Residential
South	Industrial Park	IP Industrial Park	Industrial Park
East	Open Space, Parklands & Habitat	OS Open Space	Coyote Creek
West	Industrial Park	IP Industrial Park	Office Park

On October 6, 2021, the applicant, Scott Youdall, on behalf of property owners David Triasco, Jenny Chan-Sakauye, and Alice Karolewski, submitted an application for a Planned Development Rezoning (File No. PDC21-035) to rezone the approximately 22.88-gross-acre site from the IP Industrial Park Zoning District to the IP(PD) Planned Development Zoning District.

Subsequently, on January 21, 2022, the same applicant submitted the following applications:

- Vesting Tentative Map (File No. PT22-003) to subdivide three lots into 48 lots (32 buildable lots, 16 common lots) and to allow up to 154 residential condominium units and up to six commercial condominium units on an approximately 22.88-gross-acre site.
- Planned Development Permit (File No. PD22-002) to allow the demolition of two unoccupied residences, an existing fruit stand, and other ancillary structures totaling approximately 19,820 square feet and the removal of 584 trees (261 ordinance-size, and 323 non-ordinance-size, 1,085 replacement trees) for the construction of mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, a 2.5-acre public park, up to 154 residential condominiums, up to six commercial condominium units, and Saturday construction hours from 8:00 a.m. to 5:00 p.m. on an approximately 22.88-gross-acre site.

PROJECT DESCRIPTION

As shown on the site plan below (See Figure 2), the project consists of the redevelopment of a site with two unoccupied residences, an existing fruit stand, and other ancillary structures for the development of a mixed-use project, including up to 1,472 multifamily residential units and approximately 18,965 square feet of commercial space.

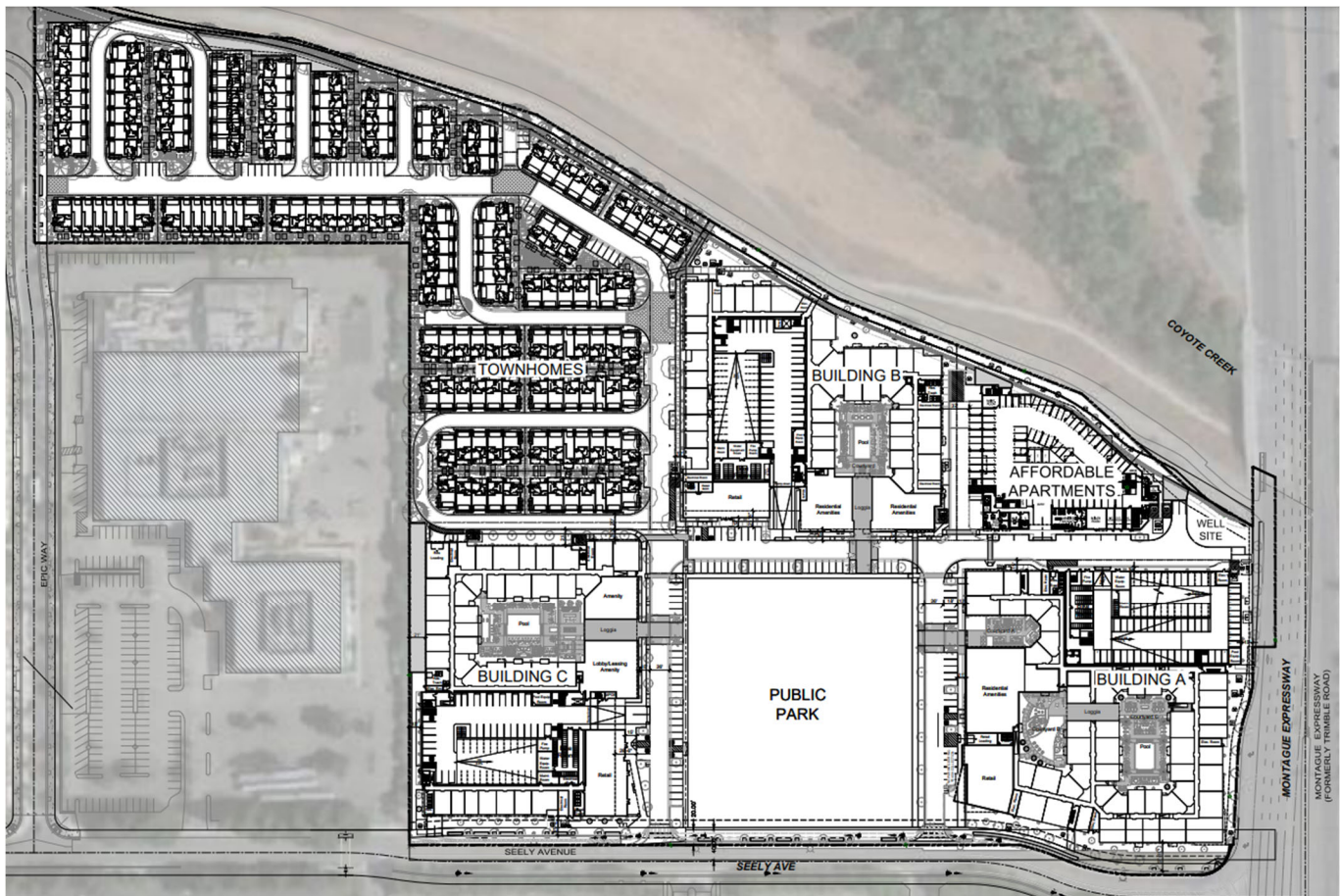


Figure 2 - Site Plan

The project would be constructed in the following independent phases:

- For-Sale Townhouses
- Mixed-Use Building A
- Mixed-Use Building B
- Affordable Rental Building
- Mixed Use Building C

The southern portion of the project includes the construction of four multifamily residential buildings oriented around a future 2.5-acre public park. Three of the four multifamily buildings include ground floor commercial space. Building A, located at the northeast corner of Montague Expressway and Seely Avenue, is a six-story building consisting of 397 multifamily residential units and approximately 6,427 square feet of ground-floor commercial space. Building B, located directly east of the park, is a seven-story building consisting of 372 multifamily residential units and approximately 5,578 square feet of ground-floor commercial space. Building C, located directly north of the park opposite Building A, is a seven-story building consisting of 371 multifamily residential units and approximately 6,960 square feet of ground-floor commercial space. In compliance with the City's Inclusionary Housing Ordinance (IHO), 57 moderate-income units with incomes not to exceed 100% of the Area Median Income (AMI) will be provided in Buildings A, B, and C. These units will be distributed as follows: 20 units in Building A, 19 units in Building B, and 18 units in Building C, representing 5% of each market-rate multifamily building. The Affordable Apartment building, located east of Building A and south of Building C, is a six-story building consisting of 178 multifamily residential units. The income-eligibility breakdown of those affordable units is as follows:

Affordability	Unit Count
100% AMI	2 manager's units
70% AMI	93
60% AMI	25
50% AMI	40
30% AMI	18
Total	178

Each of the mixed-use/multifamily buildings include structured aboveground parking, lobby/leasing space, courtyards, and other indoor and outdoor amenities. Buildings A, B, and C include a pool area within the central courtyards.

The northern portion of the site would be developed with 154 for-sale townhouse units configured in 26 three-story buildings. The buildings range from 8-plexes to 3-plexes. Each of the units includes a private garage that is accessible from a private street or alleyway. An approximately 2,500-square foot dog park is provided at the far northeastern portion of the site. The townhouses also have direct access to the existing Iris Chang Park to the north.

The table below provides a breakdown of each component of the project:

Land Use	No. of Units	Commercial Space	Parking
Building A	397 units	6,427 square feet	526 spaces
Building B	372 units	5,578 square feet	501 spaces
Building C	371 units	6,960 square feet	503 spaces
Affordable Apartments	178 units	None	89 spaces
For-Sale Townhouses	154 units	None	348 spaces
Total	1,472 units	18,965 square feet	1,967 spaces

The project also includes the development of a 2.5-acre (109,549 square feet) public park located roughly in the center of the site along Seely Avenue. The exact features, amenities, and landscaping of the public park will be determined based on the feedback of the San José Parks Recreation and Neighborhood Services (PRNS) Department and community members. At a minimum, the park is expected to include a dog park, active open space, and a historic interpretive area dedicated to the history of the project site.

Approximately 56,964 square feet of the existing site would be dedicated to the newly constructed private street network serving the project site. The private street network is accessible from two entrances on Seely Avenue and one entrance on Epic Way at the northern end of the site. Street names were selected based on the history of the site.

The project requires the dedication of an approximately 0.11-acre area at the southeastern corner of the site for the construction of a domestic water supply well. The well would be dedicated to San José Municipal Water (Muni Water) to be used to meet the project's water demand and future planned growth within Muni Water's service area. The well would pump ground water supply directly into the distribution system. The well would tie directly into the potable water distribution system transmission mains on ~~Montague Expressway and Epic Way~~ Seely Avenue. Above ground features would not exceed one-story (15-feet) in height and would include a motor control center, above ground piping and control valves, emergency backup generator, transformer appurtenances, storm drainage utilities, and control equipment.

To facilitate the project's construction and associated public improvements, the project includes an application for a Vesting Tentative Map to subdivide the three existing parcels into 48 lots. Of the 48 new lots, 32 would be buildable lots and 16 would be common lots. The Vesting Tentative Map also authorizes the subdivision of up to 154 residential condominium units and up to six commercial condominium units.

ANALYSIS

The proposed Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit, are analyzed with respect to conformance with:

1. Envision San José 2040 General Plan Conformance
2. San José Municipal Code Conformance
3. Riparian Corridor Policies Consistency
4. Design Guidelines Consistency

5. Permit Findings
6. California Environmental Quality Act (CEQA)

1. Envision San José 2040 General Plan Land Use Conformance

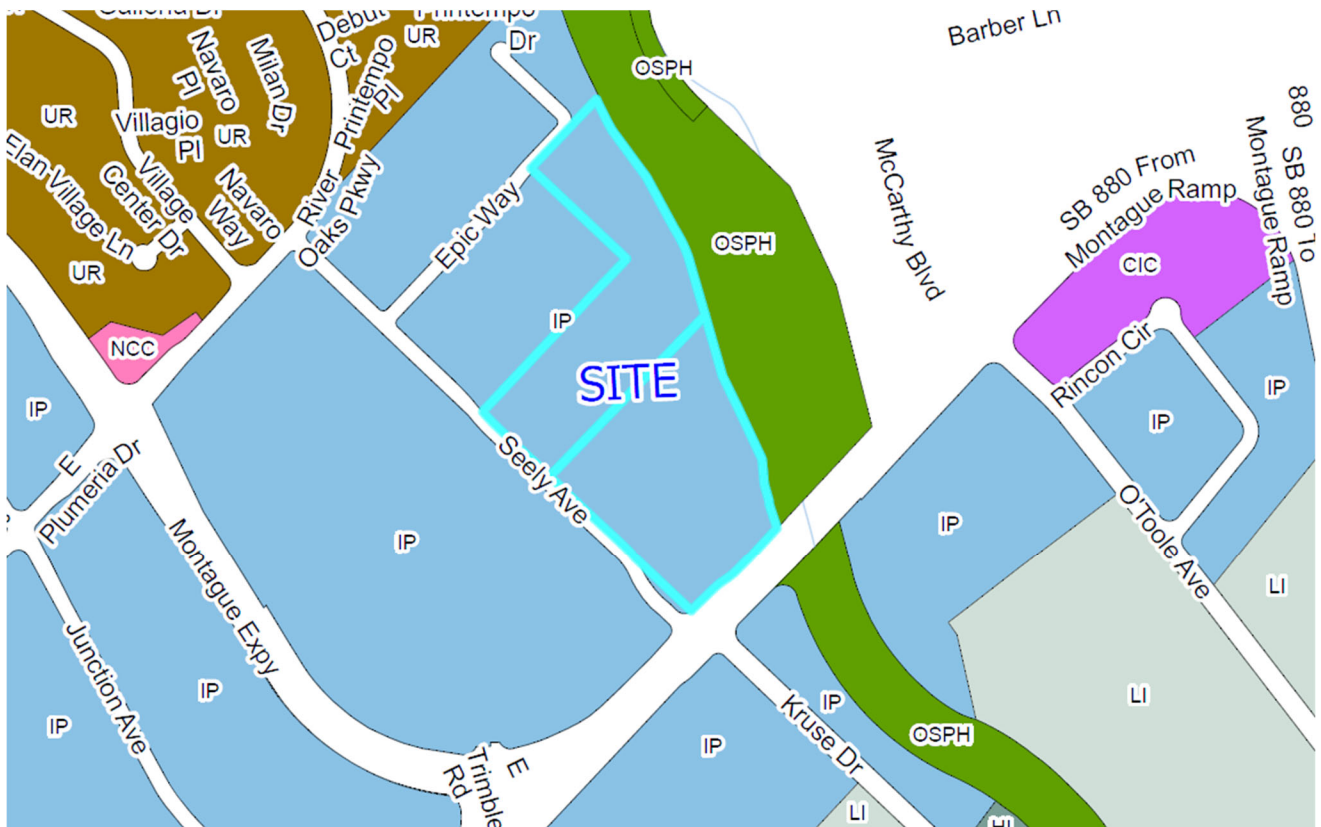


Figure 3 - General Plan Land Use Map

General Plan Land Use Designation

As shown in Figure 3 above, the project site, which is comprised of three parcels, has an [Envision San José 2040 General Plan](#) Land Use/Transportation Diagram designation of Industrial Park. However, the subject site has an overlay of Transit Employment Residential, which allows for the construction of a mixed-use residential project.

Transit Employment Residential Overlay

Density: 75 to 250 DU/AC (minimum average)

This overlay identifies sites within the North San José Employment Center that may be appropriate for residential development. Sites with this overlay may also be developed with uses consistent with the underlying designation. This designation permits development with commercial uses on the first two floors and residential use on upper floors, as well as wholly residential projects. Development within this category is intended to make efficient use of land to provide residential units in support of nearby industrial employment centers. Site-specific land use issues and compatibility with adjacent uses should be addressed through the development permit process. Land within this overlay area may also be converted for the

development of new schools and parks as needed to support residential development.

Analysis: The project is located within North San José and within the Transit Employment Residential Overlay (TERO). Any residential development within the TERO must meet a minimum residential density of 75 DU/AC. The combined project area proposes a residential density of approximately 81 DU/AC, in conformance with this requirement.

General Plan Conformance

The proposed Planned Development Zoning of IP(PD) and the associated Planned Development Permit and Vesting Tentative Map are **consistent** with the following Envision San José 2040 General Plan policies:

- Implementation Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development standards and other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

Analysis: The Planned Development Zoning allows for specifically tailored development standards to facilitate a project that is consistent with the Transit Employment Residential Overlay General Plan land use designation. At the time the project was submitted in October 2021, the TERO Zoning District had not been created. Therefore, the creation of a Planned Development Zoning District was the appropriate path forward for facilitating residential development at this site. The IP(PD) Planned Development Zoning District allows the permitted uses of the UR Urban Residential (mixed-use area) and MUN Mixed-Use Neighborhood (townhouses) Zoning Districts to facilitate the development of the project at the required minimum residential density of 75 DU/AC.

- Major Strategy #3 – Focus Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified “Growth Areas” (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods. While the Focused Growth strategy directs and promotes growth within identified Growth Areas, it also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City’s Urban Growth Boundary.
- Efficient Use of Residential and Mixed-Use Lands Policy LU-10.2: Distribute higher residential densities throughout the City in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.
- Land Use and Employment Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, childcare, restaurants, and retail goods and services that serve employees of these businesses and nearby businesses.

- Housing Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.
- Housing Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Envision General Plan.
- Land Use Policy LU-9.1: Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas.

Analysis: The project allows for a high-density mixed-use residential project in a Growth Area (North San José). The project maintains a minimum residential density of 81 DU/AC with the provision of 1,472 multifamily residential units. The project also provides approximately 18,965 square feet of commercial space in the form of ground-floor retail space, which would serve the new development and existing surrounding residences and businesses. The new retail space would provide employment and retail options as well as tax revenue for the City. The project provides a diverse mix of housing types including market-rate rental apartments, for-sale townhouses, and affordable rental apartments. The project incorporates a 2.5-acre public park, which would be dedicated to the City. The park would serve both the project residents and the general public. The park would be connected to the existing residential neighborhood to the north via public and private streets and sidewalks. Connections to Coyote Creek Trail are available from the sidewalk along Montague Expressway and through Iris Chang Park, directly to the north of the site.

2. Municipal Code Conformance

General Development Plan

If the proposed rezoning to the IP(PD) Planned Development Zoning District (File No. PDC21-035) is approved by the City Council, the newly established IP(PD) Planned Development Zoning District would allow for the development of the mixed-use project as described above. The project would be subject to the applicable Development Standards (Exhibit K) that would be approved upon adoption of the rezoning ordinance.

The Planned Development Zoning District divides the site into two areas, as shown in Figure 4 below. Area A, highlighted in blue below, includes the portion of the site developed with the mixed-use residential buildings, affordable housing building, and the well site. Area A is proposed to be in compliance with the allowed uses and development standards of the UR Urban Residential Zoning District. Area B, highlighted in purple below, includes the portion of the site developed with townhouses and is proposed to be in compliance with the allowed uses and development standards of the MUN Mixed Use Neighborhood Zoning District. Note, the 2.5-acre gray-shaded area in the middle of the site is the area that is proposed to be dedicated as a public park.

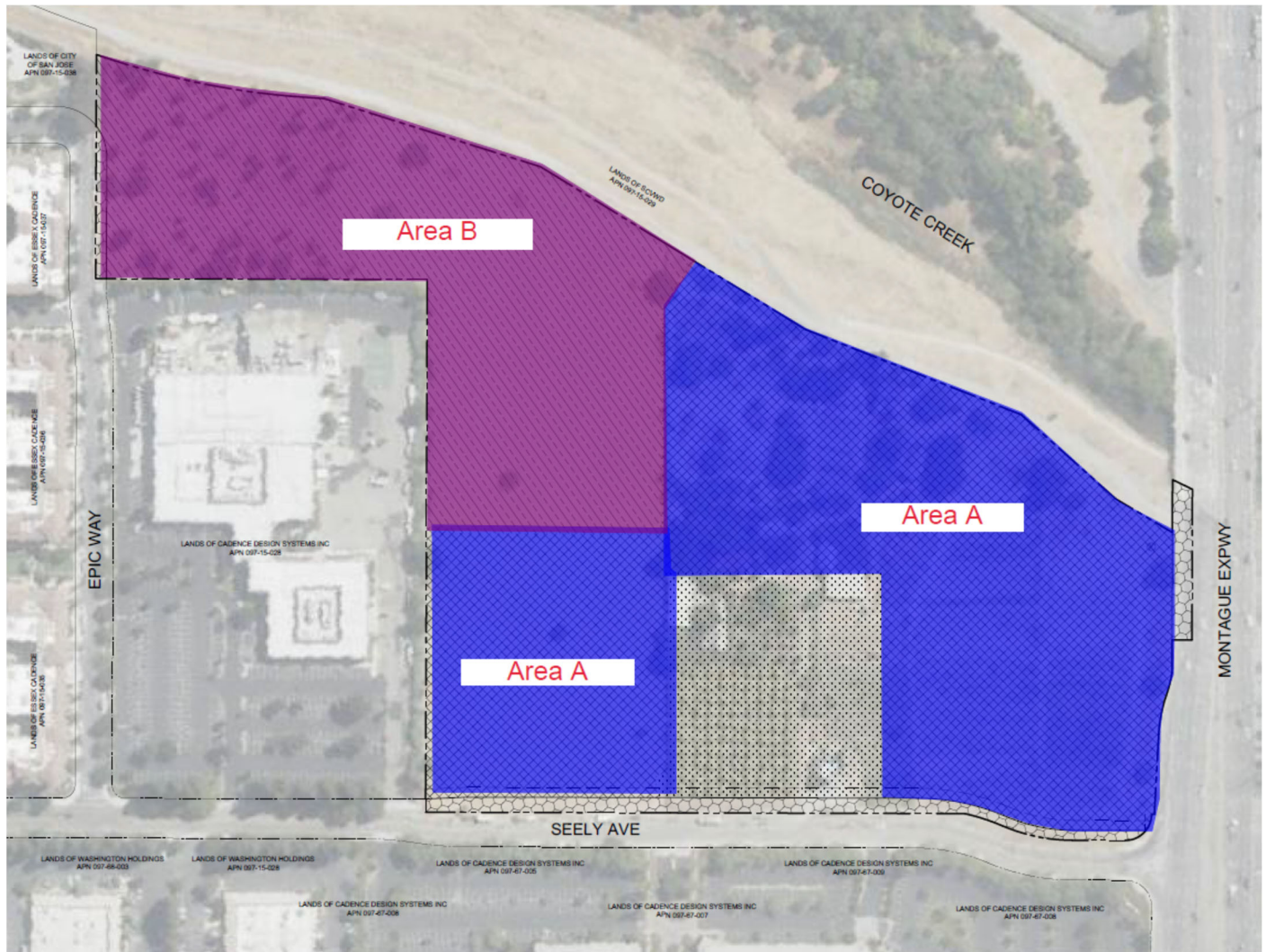


Figure 4 – Proposed Zoning Areas Map

Development Standards – Area A

Area A is subject to and conforms with the development standards of the UR Urban Residential Zoning District pursuant to [Section 20.55.100](#) of the Zoning Code, as amended, with the following exceptions:

Development Standard	UR Requirement	Proposed Requirement
Minimum Lot Area	6,000 square feet	6,000 square feet (no minimum for common lots)
Maximum FAR	Max 4.0	Max 6.0
Maximum Building Height	120 feet (Section 20.85.020.C.e)	120 feet
Front Setback (Montague Expressway)	Maximum 10 feet	0-25 feet

Side Setback (Seely Avenue & Coyote Creek)	Maximum 10 feet	0-25 feet
Rear Setback (North)	Minimum 10 feet	0-25 feet

Development Standards – Area B

Area B is subject to and conforms with the development standards of the MUN Mixed Use Neighborhood Zoning District pursuant to [Section 20.55.104](#) of the Zoning Code, as amended, with the following exceptions:

Development Standard	MUN Requirement	Requirement
Maximum Building Height	40 feet	45 feet
Setback to property line within project boundary covered by the same development permit	15 feet	Minimum 7 feet
Minimum Private Open Space	300 square feet per unit	120 square feet per unit
Minimum width for Private Open Space	15 feet	5 feet

As shown on the Planned Development Permit plan set (Exhibit J), the project conforms with all required lot sizes, FAR requirements, height, and setback standards pursuant to the General Development Plan of the proposed Planned Development Zoning District.

Common Open Space

Pursuant to [Section 20.55.102.B](#) of the Zoning Code, the UR and MUN Zoning Districts require 75 square feet of common open space per residential unit in mixed-use projects and 100 square feet of common open space per residential unit in 100% residential projects. For Area A, the total requirement, based on 1,140 units in Buildings A, B, and C (mixed-use) and 178 units in the Affordable Building (100% residential), is 103,300 square feet of common open space. For Area B, with 154 residential units, the common open space requirement is 15,400 square feet. The total common open space requirement for the project site is 118,700 square feet of common open space.

The common open space required and provided for the project is shown in the table below.

Project Component	Required	Provided
Building A (mixed-use)	29,775 square feet	21,577 square feet
Building B (mixed-use)	27,900 square feet	9,548 square feet
Building C (mixed-use)	27,825 square feet	13,752 square feet
Affordable Building (100% residential)	17,800 square feet	6,565 square feet

Townhomes (100% residential)	15,400 square feet	21,714 square feet
Total	118,700 square feet	73,156 square feet (Section 20.55.102.D.4)

The construction of the 2.5-acre public park (approximately 109,853 square feet), that is proposed to be dedicated to the City, allows the project to provide less common open space than required by the Zoning Code, pursuant to [Section 20.55.102.D.4](#). According to this Code section, on site development of public open space, that is dedicated to the City pursuant to the Parkland Dedication Ordinance (PDO) and/or the Park Impact Ordinance (PIO) shall serve to fulfill common open space requirements based on the following ratio: every 1 square foot of public open space included in a development shall fulfill 2 square feet towards the total common open space requirement. Therefore, including the public park (109,853 square feet) and common open space (73,156), the project provides the equivalent of approximately 292,862 square feet of common open space, consistent with the common open space requirement.

Private Open Space

In addition to common open space, the project is required to provide a total of 88,110 square feet of private open space for the entire project. The project provides approximately 67,725 square feet of private open space in the form of private patios, decks, and balconies. Pursuant to [Section 20.55.102.D.2](#) of the Zoning Code, the project may satisfy up to 50% of its private open space requirement (approximately 44,055 square feet) by providing an equivalent amount of common open space. The project provides the equivalent of approximately 292,862 square feet of common open space, which exceeds 50% of the required private open space. Therefore, the project conforms with the Private Open Space requirements.

Vehicle Parking

Use	Number of Units/Floor Area	Ratio	Required
Studio/1 BR (Apartment)	896 units	1.25 per unit	1,120 spaces
2 BR (Apartment)	368 units	1.7 per unit	626 spaces
3 BR (Apartment)	54 units	2 per unit	108 spaces
3 BR (Townhouse)	57 units	2.6 per unit	149 spaces
4 BR (Townhouse)	97 units	2.75 per unit	267 spaces
Retail	16,120 sf	1 per 200 sf of floor area	81 spaces
Total Parking Required			2,351 spaces
Total Parking Provided			1,967 spaces

Parking Reduction	16.3%
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The project was submitted on October 6, 2021, prior to the adoption of the updated vehicle parking requirements, which became effective on April 10, 2023. Therefore, pursuant to [Chapter 20.90](#) of the Zoning Code, the entire project is required to provide 2,351 vehicle parking spaces. Based on the project plans, the project would provide 1,967 vehicle parking spaces on-site, parking reduction of approximately 16.3%. Pursuant to [Section 20.90.220](#) of the Zoning Code, a project is eligible for up to a 20% parking reduction without requiring the implementation of a Transportation Demand Management (TDM) plan if the use is located in a Growth Area, and the project provides bicycle parking in conformance with Table 20-190 of the Zoning Code. The subject site is located in North San José, a designated Growth Area. As discussed below, the project provides greater than the required number of bicycle parking spaces. Therefore, a parking reduction of 16.3% is permitted.

Motorcycle Parking

Parking Provided	Motorcycle Parking Ratio	Required
1,967 vehicle parking spaces	2.5% of total vehicle parking spaces provided	50 spaces
Total Provided		330 spaces

Pursuant to the General Development Plan of the Planned Development Zoning District, the project requires a total of 50 motorcycle parking spaces. The project provides 330 motorcycle parking spaces, 280 more spaces than what is required by the General Development Plan.

Bicycle Parking

Use	Number of Units/Floor Area	Ratio	Required
Multifamily residential	1,472 units	1 per 4 living units	368 spaces
Retail	16,120 square feet	1 per 4,000 square feet of floor area	5 spaces
Total Required			373 spaces
Total Provided			944 spaces

The project is also required to provide 373 bicycle parking spaces pursuant to the General Development Plan and Table 29-190, Section 20.90.060 of the Zoning Code. A total of 944 bicycle parking spaces are provided in conformance with this requirement.

Riparian Corridor Policy

City Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design

Since portions of the project are within 300 feet of either the top of the bank or the edge of vegetation at Coyote Creek, the [City Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design](#) applies to the project. This policy requires any new buildings to be set back a minimum of 100 feet from the edge of the top of bank of the riparian corridor. Based on the Biological Resources Evaluation (Exhibit M) prepared by

Johnson Marigot Consulting, LLC, dated November 2021, the riparian edge of Coyote Creek ranges between 90 and 350 feet east of the northeastern property boundary of the subject site. A small portion of the project site overlaps with the 100-foot setback boundary of the top of the bank of the Coyote Creek Riparian Corridor to the east of the Affordable Housing Building.

The sliver of the project that overlaps within the 100-foot setback area contains undeveloped land and a chain link fence separating the project site from Coyote Creek Trail. As part of the project, the existing chain link fence would be replaced with a new four-foot-high wood and wire mesh fence. No other development would occur within this area. The remaining portion of the project is located outside of the 100-foot riparian setback. The development has been designed so that no new buildings will be placed within the 100-foot setback area, and so no exceptions to the riparian policy would be required. The project would comply with relevant requirements of the City's Riparian Corridor Protection and Bird Safe Design Policy, which would be enforced through conditions in the Planned Development Permit Resolution. Project conditions include use of materials and lighting designed and constructed to reduce light and glare impacts to riparian corridors. The project would also be required to avoid the use of mirrors and large areas of reflective glass. Therefore, the project is consistent with the requirements of City Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design.

Design Guidelines Consistency

The project was analyzed for consistency with the [North San José Design Guidelines](#) and [Citywide Design Standards and Guidelines](#). Under State Law Senate Bill 330 (SB 330), California cities cannot deny a project based on subjective standards (Government Code Section 65589.5(j)(1)) and may only review a project using objective general plan, zoning, and policy standards. As the North San José Design Guidelines are subjective, they cannot be applied as a basis for denying the project; however, the project has been evaluated for consistency with the relevant and applicable objective key guidelines presented below. Additionally, in areas where the North San José Design Guidelines is silent, the project is found to be consistent with the following objective criteria of the Citywide Design Standards and Guidelines.

North San José Design Guidelines

The project is consistent with the following North San José Design Guidelines:

- Street Frontages
 - At least 75% of a building's street-oriented façade (measured by length) must meet the defined build-to line (where applicable) or main façade line. Permitted recesses and encroachments may be counted toward this requirement.
 - Build-to lines are established along the following streets (also see Guidelines for the Streetscape: Street Hierarchies and Typologies):
 - New Mixed-Use Retail streets - Buildings should be placed parallel to the street in order to form a continuous street edge.
 - New Residential streets - The build-to line for residential buildings is 15 feet from the street facing property line

Analysis: The project includes the construction of both mixed-use buildings and residential buildings. All of the mixed-use buildings are placed parallel to the newly constructed streets, with

retail space facing the street and public park. The townhouses are placed directly on the frontage along the newly constructed street frontages with minimal setbacks. No townhouse building is greater than 15 feet from the property line.

- **Building Design**

- Encourage horizontal and vertical building articulation through changes in building volume, recesses, balconies, awnings, textures, materials, and colors.

Analysis: The mixed-use building and affordable building include changes in colors and materials throughout all facades. The buildings are broken up with recesses and projections consisting of individual vertical volumes. Some of these vertical volumes rise above the roof line to provide variation at the upper levels of the building. Window patterns that align with the vertical volumes provide further visual interest. Balconies are also provided throughout to further break up the façade. Awnings are provided on the ground floor to distinguish individual store frontages and active spaces such as lobbies and leasing offices. Similarly, the townhouse buildings are designed with a mix of materials and colors to provide variety in each of the buildings, while maintaining a unified design. Articulation of the townhouse buildings include changes in wall plane, roof line, façade texture, and the addition of balconies. The buildings are broken up into smaller forms so that each unit is identifiable from the street or interior lot frontage.

- Office and mixed-use buildings should have a clearly articulated ground floor and roof zone. Buildings over 65 feet in height should have a distinguishable base, middle, and top zone.

Analysis: Each of the apartment buildings are greater than 65 feet in height. Each of the apartment buildings are designed with a distinguishable base, middle, and top. The base of each building is highlighted by the ground floor active space on the street frontage, of which three of the buildings include ground floor retail. The middle portion of the buildings are defined by well-articulated facades which include changes in materials, colors, window patterns, and the provision of balconies. The upper portions of the buildings are defined by architectural elements that rise above the roof line at building corners, to create more visual interest as well as screen the view of mechanical equipment.

- Residential units located at grade (for example, those that open onto mid-block pathways) should have a carefully designed transition zone that can accommodate front yards, porches, steps, patios, or stoops when facing public spaces such as streets, paseos, plazas, or courtyards.

Analysis: All townhouse unit entrances are at grade and include a minimum 6-foot-deep transition zone at each entrance, which can accommodate seating areas along the street frontage.

- At least 60% of the ground-floor façade should be glazed with clear, untinted glass. If double-paned glazing is used, it should be anti-reflective.

Analysis: Each of the mixed-use buildings include a minimum of 60% clear, untinted glass at both the ground floor retail spaces and active frontages. Building A includes approximately 68% clear glazing on the ground-floor façade. Building B includes approximately 66% clear glazing on the ground-floor façade. Building C includes approximately 63% clear glazing on the ground-floor façade. The affordable building does not include retail space but does include active ground-floor space with clear windows.

- The minimum ground-floor height is 15 feet from floor to floor.

Analysis: All three of the mixed-use buildings have a minimum 15-foot floor to floor height on the ground floor. While the Affordable Building does not include retail, the floor-to-floor height on the ground floor is 16 feet.

- Retail Spaces

- The minimum depth is 45 feet. Where possible 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants.
- The minimum floor-to-floor height is 15 feet. Where possible, 18-foot floor-to-floor heights are encouraged.

Analysis: The Building A retail depth is approximately 60 feet. Building B retail depth is approximately 48 feet. Building C retail depth is approximately 55 feet. As discussed above, the mixed-use buildings all have floor-to-floor heights of 15 feet.

- Parking

- Locate parking structures at the side/and or rear of the buildings away from the street edge, or provide a high-quality, multi-layered architectural façade that integrate the parking structure into its adjacent street frontage.

Analysis: Structured parking is provided in each of the mixed-use buildings and the affordable building. Buildings A and C are the only buildings with structured parking that would be exposed to the street edge along secondary streets. All buildings are designed with primary entrances facing the street and wrapped with active space. No structured parking is visible from the newly constructed street network or the public park. All townhouses include two covered parking spaces in private garages, which are provided in the rear of the buildings.

- Provide a generous amount of designated motorcycle and bicycle parking stalls on the ground level, closest to building entrances and street edges.

Analysis: Motorcycle and bicycle parking are provided in accordance with Chapter 20.90 of the Zoning Code. Both short-term and long-term bicycle parking is provided on the ground floor for ease of access. Motorcycle parking is also provided on the ground floor.

Citywide Design Standards Guidelines Consistency

The project is subject to the following applicable provisions of the [Citywide Design Standards and Guidelines](#):

- Section 2.2.1 – Pedestrian and Bicycle Access Location

- Standard 5 – Place primary building entrance such that it can be accessed from a street, public open space, semi-private open space, or POPOS.
- Guideline 1 – Provide frequent entrances and openings in building facades to connect buildings to the public realm.

Analysis: The primary building entrances are all located with direct access to the newly constructed private streets serving the development. Additionally, each of the mixed-use buildings, which include ground floor retail space, are oriented towards the new public park.

- Section 2.2.2 – Driveways and Vehicle Drop-offs

- Standard 4 – Do not locate individual residence garages and driveways along primary streets. Where provided, locate them along secondary streets, alleys, or private streets.

Analysis: Individual residence garages for the townhouses are provided along internal private streets at the rear of each townhouse building.

- Section 2.3.1 Building Placement

- Standard 1 - To create a continuous streetwall, place at least 75 percent of the ground floor primary street-, paseo-, or public open space- facing (except riparian corridor) façades of buildings with the primary commercial or residential use within five feet of the setback or easement line (whichever is more restrictive). When there are multiple buildings on the site, 75 percent of the sum of all primary street-, paseo-, and public open space-facing ground floor building façades must be considered in the calculation above.

Analysis: All buildings on site are placed within five feet of the minimum 25-foot building setback line for the entirety of the building frontages along each of the newly constructed private streets. Therefore, each of the buildings in the project, that have street frontage, create a continuous streetwall that exceeds the 75 percent requirement for ground floor building placement.

- Section 3.2.2 – Vehicular Entrances and Driveways

- Standard 4 – Recess parking garage entrances at least two feet and not more than five feet when the building façade is at the street-facing property line.

Analysis: All townhouse buildings include private street-facing garages that are recessed at least two-feet from the building façade.

- Section 3.2.3 - Services and Utilities Entrances and Design

- Standard 1 - Screen solid waste, utilities, and service areas from residential and commercial uses, and on-site and off-site views to limit visual impact on the public realm using fences, walls, or landscaping that:
 - Use durable and weather-resistant materials.
 - Are four to five feet tall.
 - Do not interrupt the line-of-sight of drivers entering or exiting the site.

Analysis: All solid waste and utilities are located at the interior to each of the buildings.

Permit Findings

For this application to be approved, the City Council must be able to make all required findings for a Vesting Tentative Map, Planned Development Permit, Parking Reduction, Commercial Common Interest Development, Demolition Permit, and Tree Removal Permit.

Vesting Tentative Map Findings

In accordance with Section 66474 of the Government Code of the State of California, the City Council of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if it makes any of the following findings.

1. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
2. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: To facilitate the potential future financing and sale of portions of the subject property, the Vesting Tentative Subdivision Map is the preliminary step of conditional approval to reconfigure three lots into 48 lots and allow up to 154 residential condominium units and six commercial condominium units. As discussed in the General Plan Conformance section above, the project is consistent with the applicable General Plan goals, policies, and land use designation, including the minimum residential density of 75 DU/AC for the Transit Employment Residential Overlay. The multifamily residential and retail uses are all permitted uses of the proposed IP(PD) Planned Development Zoning District (File No. PDC21-035). The proposed lot sizes exceed the minimum required lot size of 6,000 square feet for Area A of the Planned Development Zoning District. There are no minimum lot sizes for the Area B portion of the Zoning District, in alignment with the zoning requirements of the MUN Zoning District. The minimum commercial condominium size is not less than 750 square feet. The project would redevelop an existing orchard in an area surrounded by urban land uses and already served by all necessary public and private utilities. All buildings within the project area maintain a minimum 100-foot riparian setback in accordance with City Council Policy 6-34. Therefore, the project and associated improvements would not cause environmental damage or substantially injure fish or wildlife or their habitat. Please see the discussion on the California Environmental Quality Act below for additional information.

The permittee will be required to prepare a declaration of Covenants, Conditions, and Restrictions ("CC&Rs") as part of the project. The CC&Rs would include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the private streets and common areas within the development continue to be adequately and safely maintained and repaired for the life of the common interest development. Additionally, the applicant, at its sole cost, shall prepare grant deeds for all mutual or reciprocal easement right, which shall be reviewed by the City for compliance with the terms of Chapter 20.175 of the Zoning Code and Chapter 19 of Subdivision Code. Similarly, the

townhouse portion of the project will include the establishment of a Homeowner's Association to ensure the maintenance and upkeep of all common areas. Additionally, the project is required to record a covenant of easement in favor of the City for emergency vehicle access, ingress/egress, pedestrian access, private sewer, private storm drain and private surface drainage release purposes in accordance with Chapter 20.110 of the Zoning Code. Therefore, based on the review of the Vesting Tentative Map, the Director of Planning, Building and Code Enforcement of the City of San José (Director) is recommending approval of the Vesting Tentative Subdivision Map, because none of the above findings can be made for the denial of the proposed subdivision.

Subdivision Ordinance Findings

In accordance with San José Municipal Code [Section 19.12.130](#), the Director may approve the Tentative Map if the City Council makes any of the findings for denial in Government Code section 66474 and the City Council has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the project if the City Council does not make any of the findings for denial in San José Municipal Code Section 19.12.220. Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein and also adds the additional requirement that the project obtain CEQA clearance.

Analysis: Based on review of the proposed subdivision, the Director of Planning, Building and Code Enforcement is recommending approval of the Vesting Tentative Map. The map and the development's design are consistent with the San José Envision 2040 General Plan designation of Transit Employment Residential Overlay and the IP(PD) Planned Development Zoning District (PDC21-035), as discussed above. The site is physically suitable for the proposed development in that the proposed residential density, FAR, and lot sizes are in conformance with the Transit Employment Residential Overlay.

In accordance with the California Environmental Quality Act (CEQA), a final environmental impact report (FEIR) has been prepared for the project (Seely Avenue Mixed-Use Project EIR). The FEIR identifies potential project impacts related to air quality, migratory bird nesting, roosting bat habitat, archaeological deposits, hazardous materials and vapors, noise, and vehicle miles traveled (VMT), which can be reduced to less than significant with mitigation measures. The City of San José shall adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures identified in the FEIR. The FEIR also identifies a significant and unavoidable impact on structures and site features that are collectively and individually eligible for listing in the California Register of Historical Resources and the San José Historic Resource Inventory as a Candidate City Landmark, for which a Statement of Overriding Considerations has been prepared. The project site, as well as the surrounding area, are currently developed with an orchard and associated structures and do not provide a natural habitat for either fish or wildlife. The subdivision and subsequent improvements are not likely to cause serious public health problems.

Planned Development Permit Findings

To make the Planned Development Permit findings pursuant to San José Municipal Code [Section 20.100.940](#), and recommend approval to the City Council, the Planning Commission must determine that:

1. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan; and

Analysis: The project is located within North San José and has a Transit Employment Residential Overlay (TERO). Any residential development within the TERO must meet a minimum residential density of 75 dwelling units per acre (DU/AC). The project maintains a minimum residential density of 81 DU/AC with the provision of 1,472 multifamily residential units. The project is consistent with general plan policies for focused growth, mixed-use development, housing, and provision of park space. The project allows for a high density mixed-use residential project in a Growth Area (North San José). project also provides approximately 18,965 square feet of commercial space in the form of ground floor retail space, which would serve the new development and existing surrounding residences and businesses. The project provides a diverse mix of housing types including market rate rental apartments, for-sale townhouses, and affordable rental apartments. The project also includes the construction of a 2.5-acre public park, which would be dedicated to the City.

2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property; and

Analysis: The project conforms with the Development Standards of the General Development Plan for the Planned Development Zoning District established for the site (File No. PDC21-035). The newly created IP(PD) Zoning District would allow for the construction of the mixed-use development as well as uses that conform with the UR Urban Residential and MUN Mixed-Use Neighborhood Zoning Districts, as amended. Special and Conditional Uses would be subject to the approval of a Planned Development Permit. As discussed in the Municipal Code Conformance section above, the project conforms with all required lot sizes, setbacks, heights, open space, and parking requirements of the Planned Development Zoning District. Additionally, as discussed above, the project is consistent with all tree removal replacement requirements.

3. The Planned Development Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project is consistent with the City's Riparian Corridor Policy, which requires all buildings to be set back a minimum of 100 feet from the edge of the riparian corridor. No buildings within the development are proposed within 100 feet of the edge of Coyote Creek, in conformance with this requirement. Additionally, this Planned Development Permit includes conditions for implementation of bird-safe design and lighting. Staff also implemented City Council Policy 6-30: Public Outreach Policy to inform the public of the project. An on-site sign has been posted on the project frontage since November 30, 2021. A formally noticed Community Meeting was held on March 7, 2022, to introduce the project to the community. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on June 4, 2024. Staff has also been available to respond to questions from the public.

4. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures, and other uses on-site are appropriate, compatible and aesthetically harmonious; and

Analysis: The interrelationship between the orientation, location, mass and scale of the building volumes and elevations of the project buildings and other uses on-site are appropriate, compatible, and aesthetically harmonious. The three mixed-use buildings and affordable apartment building are oriented around the 2.5-acre public park, the focal point of the development. The buildings include similar

massing, articulation, materials, and colors, while each maintaining a unique identity. The retail uses are compatible with the development as they are located on the ground floor with frontage directly on the newly constructed private streets and public park, further activating the streetscape. The intensity of development steps down towards the north of the site as the site transitions from six to seven-story buildings to three-story townhouses. The townhouses are oriented around a private street network and are separated by fully landscaped walkways between the buildings. As previously noted, the proposed project is consistent with applicable city-wide and area-wide design guidelines. Further, additional open space is provided in the form of common open space throughout the development.

5. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: Environmental impacts related to noise, vibration, dust, drainage, erosion, storm water runoff, and odor would be temporary and may only occur during construction. The project is required to conform with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharge. The project also includes standard environmental permit conditions to reduce and mitigate impacts regarding air quality, dust and emissions control, water quality, and noise. Additionally, the project is required to adhere to the Mitigation Monitoring and Reporting Program (MMRP) prepared for the project in association with the Seely Avenue Mixed-Use Project Environmental Impact Report. Additional information on the Environmental Impact Report is provided below. The project does include extended construction hours on Saturdays from 8:00 am to 5:00 pm. The Planned Development Permit Resolution includes a condition of approval for the appointment of a Construction Disturbance Coordinator to address any constructed related complaints or concerns. Therefore, the project would not have an unacceptable impact on adjacent properties.

Parking Reduction Findings

To make the findings for a Reduction in the Required Off-Street Parking Spaces pursuant to San José Municipal Code [Section 20.90.220](#), and recommend approval to the City Council, the Planning Commission must determine that:

1. The structure or use is located within 2,000 feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a Neighborhood Business District, or as an Urban Village, or as an area subject to an area development policy in the City's General Plan or the use is listed in Section 20.90.220G; and
2. The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

Analysis: Pursuant to [Chapter 20.90](#) of the Zoning Code, the entire project is required to provide 2,351 vehicle parking spaces. Based on the project plans, the project would provide 1,967 vehicle parking spaces on-site, parking reduction of approximately 16.3%. Pursuant to [Section 20.90.220](#) of the Zoning Code, a project is eligible for up to a 20% parking reduction without requiring the implementation of a Transportation Demand Management (TDM) plan if the use is located in a Growth Area, and the project

provides bicycle in conformance with Table 20-190 of the Zoning Code. The subject site is located within North San José, a designated Growth Area. As discussed previously under Municipal Code Conformance, the project provides greater than the required number of bicycle parking spaces (373 bicycle spaces required, 944 bicycle spaces provided). Therefore, a parking reduction of 16.3% is permitted.

Commercial Common Interest Development Findings.

[Section 20.175.050](#) of the San José Municipal Code specifies the required findings for Commercial Common Interest Development.

1. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole;

Analysis: The project's common interest development would not adversely impact the economic viability of the surrounding residential, commercial, or industrial uses in the vicinity in that the size of the commercial units adequately accommodates a variety of potential uses, and the anticipated uses, including general retail. The retail uses would add to the economic viability of the area by providing general services to the surrounding neighborhood, creating jobs, and increasing tax revenue for the City.

2. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

Analysis: A Declaration of Covenants, Conditions, and Restrictions (CC&Rs) is required, and when approved by the City in accordance with the Zoning Ordinance prior to the relevant final map approval, would include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development.

3. The proposed common interest development includes sufficient provisions for the retention of such common areas for the use of all owners of separate interests therein.

Analysis: The CC&Rs, required for review when the relevant Final Map is approved by the City in accordance with the Zoning Ordinance, would state that each commercial owner shall have, as appurtenant to their unit, an undivided interest in the common areas. This would ensure that each common interest development has sufficient retention of common areas for use by all owners as noted in the conditions of approval. The CC&Rs would also include provisions for ingress, egress, parking, emergency access, utilities, landscaping, and the like.

Demolition Permit Findings

[Chapter 20.80](#) of the Municipal Code establishes evaluation criteria for the issuance of a permit to allow for demolition. These criteria are made for the project based on the above stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the Resolution:

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
2. The failure to approve the permit would jeopardize public health, safety or welfare;

3. The approval of the permit should facilitate a project that is compatible with the surrounding neighborhood;
4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
6. Rehabilitation or reuse of the existing building would not be feasible; and
7. The demolition, removal, or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The project includes the demolition of an existing orchard and associated structures totaling approximately 19,820 square feet. The approval of the demolition permit would not result in the creation or continued existence of a nuisance, blight or dangerous condition nor would it jeopardize public health, safety or welfare, as it would allow for the improvement and redevelopment of the site with mixed-use residential and commercial uses that are consistent with the allowable uses and development standards of the TERO General Plan overlay and IP(PD) Planned Development Zoning District. The demolition permit would facilitate a redevelopment project that is compatible with the surrounding neighborhood, which consists of a mix of multifamily residential, office, and industrial park uses. As previously discussed, the project is consistent with all applicable General Plan goals and policies, Planned Development Zoning requirements, applicable city council policies, and design guidelines. The project would not demolish any existing housing. Based on the Senate Bill 330 Replacement Unit Determination conducted by the Housing Department, the two existing residences on site have been unoccupied for at least five years.

As discussed in the Environmental Impact Report, the project site is partially developed with two unoccupied residences, utility poles, a fruit stand, agricultural land and supporting structures, and an existing orchard, all of which would be demolished as part of the project. The structures and orchard are associated with late 19th-century and early 20th-century agricultural history and events associated with Japanese-American agriculture, and are collectively and individually eligible for listing on the California Register of Historical Resources and listing in the City of San José Historic Resources Inventory as a Candidate City Landmark District and a Candidate City Landmark. However, given the scope of the project, the rehabilitation or reuse of any of the existing buildings on-site would not be feasible as the proposed project requires the complete redevelopment of the site to support the new mixed-use development, including park space and the private street network. The new park will include a historic interpretative display dedicated to the history of the site.

Tree Removal Permit Findings

Table: Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multifamily residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box replacement tree = two 15-gallon replacement trees

In order to make the Tree Removal findings pursuant to [Section 13.32.100](#) of the San José Municipal Code and recommend approval to the City Council, Planning Commission must determine that:

1. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
2. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or

Analysis: The project includes the removal of 584 trees. Of the trees to be removed, 261 are ordinance-size and 323 are non-ordinance-size. Based on the arborist report prepared by HortScience & Bartlett Consulting (Exhibit N), dated October 29, 2021, the trees to be removed are located within the footprint of the proposed project buildings, the path of the newly construct streets, or in an area that is required to be graded for soil remediation. A total of 129 trees are native species. 293 trees require replacement, while 291 trees are orchard trees, which do not meet the threshold for replacement. 52 trees require replacement at a 5:1 ratio, 40 trees require replacement at 4:1 ratio, 70 trees require replacement at a 3:1 ratio, 42 trees require replacement at 2:1 ratio, and 89 trees require replacement at a 1:1 ratio. Therefore, the removal of the 584 trees on-site requires the replacement of either 803 15-gallon trees or 402 24-inch box trees on site. The total number of replacement trees to be planted on site is 1,085 trees, which includes 884 24-inch box trees and 201 15-gallon trees, exceeding the tree removal replacement requirement.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San José, as the Lead Agency, prepared an Environmental Impact Report ("EIR") (State Clearinghouse No. 2022020565) for the Planned Development Rezoning, Vesting Tentative Map, and a Planned Development Permit (PDC21-035, PD22-002, and PT22-003), for the Seely Avenue Mixed Use

Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City San José, California. The EIR evaluated the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project. The Notice of Preparation was circulated from February 23, 2022 to April 5, 2022. The EIR was originally circulated from January 18, 2024, through March 11, 2024, and then recirculated from March 19, 2024 to May 3, 2024, not because of the need for additional analysis, but to address online posting requirements of the Governor's Office of Planning and Research (State Clearinghouse).

Summary of Environmental Impacts Reduced to Less than Significant with Mitigation

The Draft EIR identified potential environmental impacts related to air quality during operations, nesting birds and roosting bats, archaeological resources, hazards and hazardous materials from past uses on the site, construction-related noise, and vehicle miles travelled. With implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program ("MMRP") prepared for the project, these impacts are reduced to less than significant levels. As part of the certification of the Final EIR, the City Council will need to approve the associated MMRP for the project.

Summary of Environmental Impacts Determined to be Significant and Unavoidable

The Draft EIR found that the project would result in a significant and unavoidable impacts to Cultural Resources due to the demolition of Sakauye House and other structures and site features that are collectively and individually eligible for listing under the California Register of Historical Resources and the San José Historic Resources Inventory as a Candidate City Landmark.

If City Council were to approve the project as proposed, in compliance with CEQA Guidelines Section 15093, a Statement of Overriding Considerations must be adopted with findings that the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects if an environmentally superior alternative is not chosen. The Statement of Overriding Consideration found that the economic and social benefits of the proposed project, as listed in the CEQA Resolution (Exhibit D) outweigh its significant environmental impacts.

Project Alternatives

The Draft EIR analyzed five project alternatives: (1) No Project – No Development Alternative, (2) No Project – Development Consistent with Existing Land Use and Zoning Alternative, (3) Historical Resource Avoidance Alternative, (4) On-Site Relocation of Historical Resources Alternative, and (5) On-Site Relocation of Individual Historical Resources Alternative. Alternatives that were considered but rejected include Location Alternative and Park Location Alternative. The five design alternatives were crafted based on their ability to reduce the impacts summarized above and to identify an environmentally superior proposal. The analysis of the five design alternatives in the Draft EIR includes discussion of the potential impacts of alternative site layouts for the purpose of decision-making.

Beyond the No Project – No Development Alternative, the Historical Resource Avoidance Alternative and the On-Site Relocation of Historical Resources Alternative would be the environmentally superior alternatives because they would preserve the existing historical structures either in their existing locations or moved somewhere else on-site. This would result in a less than significant impact to the eligible Historical landmark.

Summary of Comments Received

The City received 16 written comment letters during the public circulation period. Comments were submitted by eight agencies and organizations, which were the County of Santa Clara Roads and Airports Department, Pacific Gas and Electric Company, State Water Resources Control Board, Santa Clara Valley Transportation Authority, Santa Clara Unified School District, Preservation Action Council San José, River Oaks Neighborhood Association, and Adams Broadwell Joseph & Cardozo. Two individuals also sent comment letters. The main concerns raised by commenters are as follows:

- Installation of a traffic signal at Seely Avenue and Montague Expressway
- Increased traffic and vehicle miles travelled
- Questions on baselines conditions for analysis
- Impacts to Coyote Creek and water quality due to the proposed well
- Impacts to special status species
- Impacts to City historical resources
- Construction noise impacts

The City responded to all comments received on the Draft EIR and incorporated them into the First Amendment to the Draft EIR. None of the comments received address an issue of adequacy of the Draft EIR and no new mitigation measures are required. EIR text revisions were included in the First Amendment to address clarifications to text of the Draft EIR and other suggested text revisions from commenters.

The First Amendment, taken together with the Draft SEIR, and the Mitigation Monitoring and Reporting Program (MMRP) constitutes the Final EIR. The Draft EIR and First Amendment to the Draft EIR are available for review on the project page on the City's Active EIR website at: [PDC21-035 0 Seely Avenue Mixed-Use Project \(SCH# 2022020565\) | City of San José \(sanjoseca.gov\)](#). A copy of the signed MMRP is attached to the proposed CEQA resolution (Exhibit D).

EIR Recirculation Unnecessary

The comments received do not identify substantive issues of concern, inadequacies in the Draft EIR, or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to a Draft EIR is not "significant" unless the Draft EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the Draft EIR for the project includes written responses to all comments received during the public review period for the Draft EIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the Draft EIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the Draft EIR and, in some cases, correct or update information in the Draft EIR. No significant new information has been added to the EIR

since publication of the Draft EIR; therefore, the Draft EIR does not need to be recirculated.

PUBLIC OUTREACH

City Council Policy 6-30

Staff followed [Council Policy 6-30: Public Outreach Policy](#) in order to inform the public of the proposed project. An on-site sign has been posted on the project frontage since November 30, 2021. A Joint EIR Scoping/Community Meeting was held on March 7, 2022, to introduce the proposed project to the community. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on June 4, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

Historic Landmarks Commission

The project was referred to the Historic Landmarks Commission. The project was heard at the Historic Landmarks Commission twice on June 6, 2023 ([Meeting Minutes](#)) and April 4, 2024 ([Meeting Minutes](#)) as part of the preparation and notice of availability of the Environmental Impact Report. Comments and concerns raised at the Historic Landmarks Commission included the following:

- The demolition of the Saukaye House and associated structures.
- The possibility of rehabilitating, re-using, or relocating any existing structures.
- The possibility of redesigning the park or project in order to preserve any structures, and/or incorporating them into the park.
- The possibility of preserving any of the orchard trees and incorporating them as part of the park.
- Inclusion of a historic interpretive display in the park

The Historic Resource Evaluation that was prepared as part of the Draft Environmental Impact Report is attached (see Exhibit O).

Project Manager: Alec Atienza

Approved by: /s/ Robert Manford, Deputy Director for Christopher Burton, Planning Director

ATTACHMENTS:	
Exhibit A:	Aerial Map
Exhibit B:	General Plan Map
Exhibit C:	Zoning Map
Exhibit D:	Draft CEQA Resolution and MMRP
Exhibit E:	Draft Planned Development Zoning Ordinance
Exhibit F:	Draft Vesting Tentative Map Resolution
Exhibit G:	Draft Planned Development Permit Resolution
Exhibit H:	Planned Development Zoning Plan Set
Exhibit I:	Vesting Tentative Map Plan Set
Exhibit J:	Planned Development Permit Plan Set

Exhibit K:	Draft Development Standards
Exhibit L:	Legal Description and Plat Map
Exhibit M:	Biological Resources Evaluation
Exhibit N:	Arborist Report
Exhibit O:	Historic Resources Evaluation

Applicant:	Owner
Scott Youdall Hanover Company 156 Diablo Road, Suite 220 Danville, CA 94526	David Triasco Vice President Workplace Resources Cadence Design Systems, Inc. 2655 Seely Avenue San José, CA 95134
	Robert T Sakauye Family Trust Jenny Chan-Sakauye 620AC San Bruno Avenue Morgan Hill, CA 95037
	Robert T Sakauye Marital Trust Jenny Chan-Sakauye 620AC San Bruno Avenue Morgan Hill, CA 95037
	2011 Irrevocable Trust FBO Children Robert Sakauye Jenny Chan-Sakauye 620AC San Bruno Avenue Morgan Hill, CA 95037
	Alice Karolewski Separate Property Revocable Tust Alic Karolewski 4019 Vista Way Davis, CA 95618
	2011 Irrevocable Trust FBO Jennifer Karolewski Alice Karolewski 4019 Vista Way Davis, CA 95618
	Sakauye Marital Trust/Family Trust Alice Karolewski 4019 Vista Way Davis, CA 95618

Exhibit A – Aerial Map



Exhibit B – General Plan Map

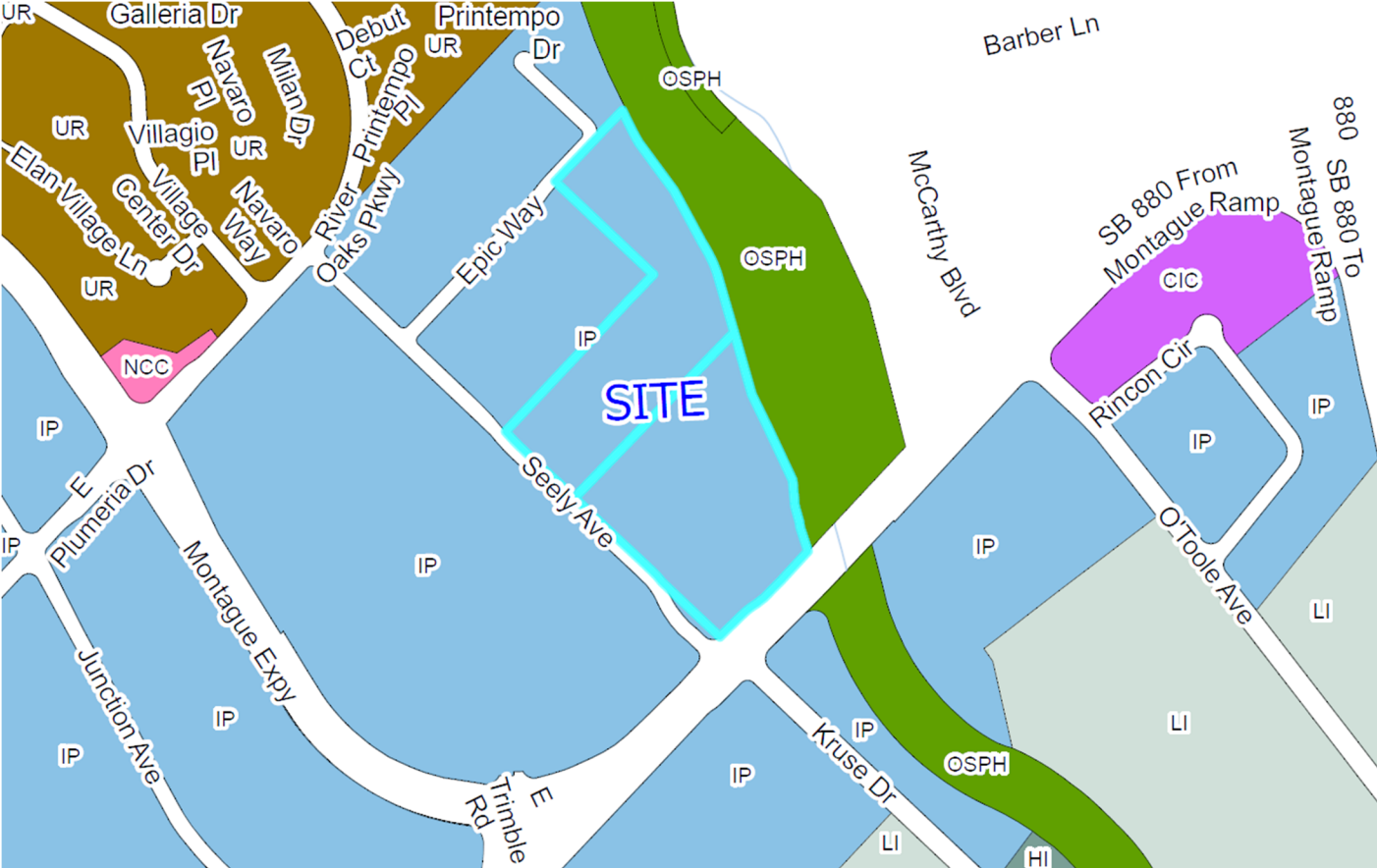
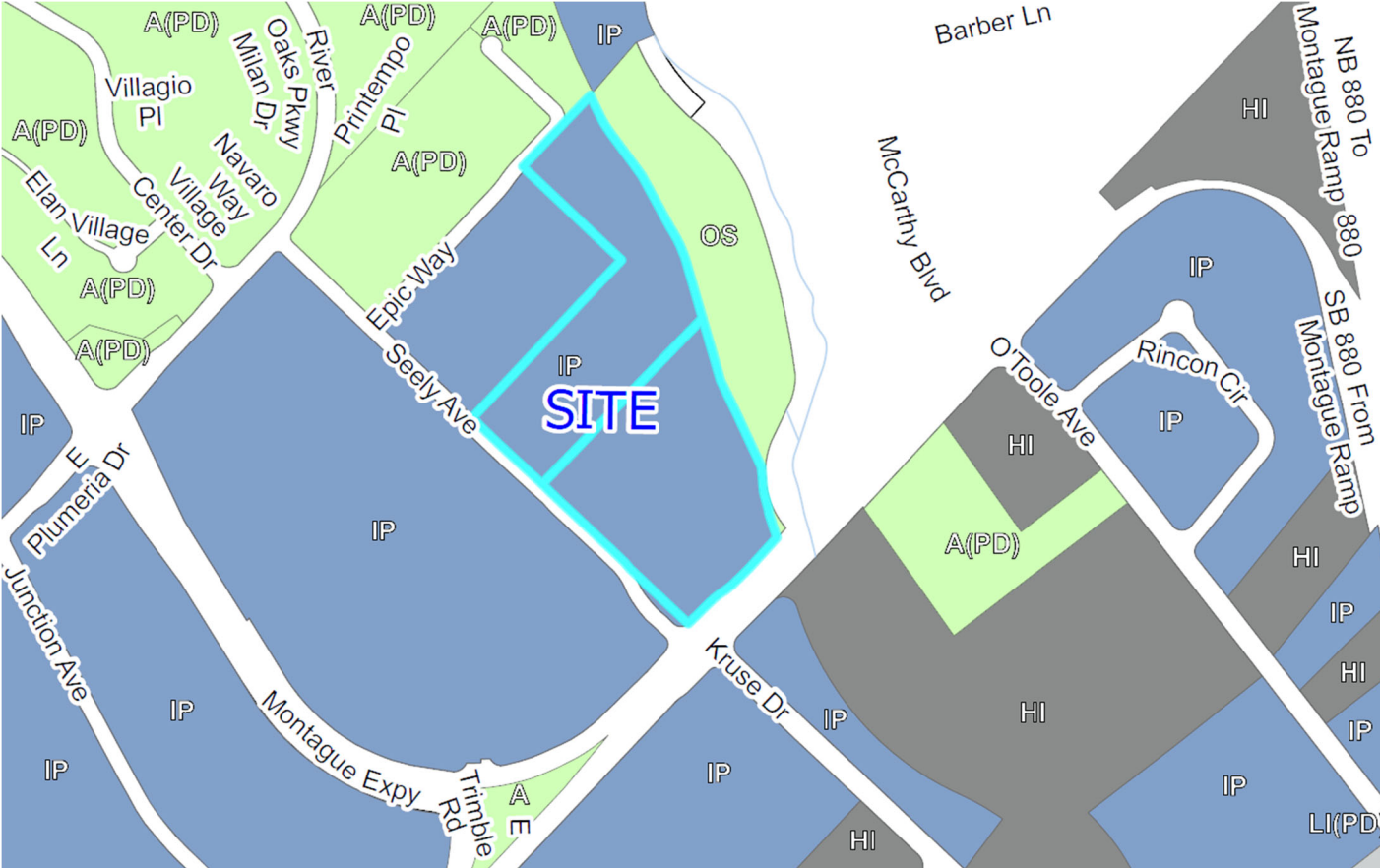


Exhibit C – Zoning Map





HISTORIC LANDMARKS COMMISSION

Action Minutes

Wednesday, June 7, 2023

Regular Meeting
Commencing at 6:30 p.m.
Hybrid Meeting – City Hall Tower and Virtually –
Conference Room: T-332
Third Floor, City Hall Tower
200 East Santa Clara Street
San José, CA 95113

<https://sanjoseca.zoom.us/j/83676017189>

Commission Members

Paul Boehm, Chair
Anthony Raynsford, Vice Chair
Harriett Arnold
Adriana Ayala
Lawrence Camuso
Edward Janke
Rachel Royer

Christopher Burton, Director
Department of Planning, Building & Code Enforcement

Access the video, agenda, and related reports for this meeting by visiting the City's website at:
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/historic-landmarks-commission>

AGENDA
ORDER OF BUSINESS

WELCOME

Meeting called to order at 6:30 p.m.

ROLL CALL

**RECOGNITION OF ANTHONY RAYNSFORD FOR HIS SERVICE
TO THE CITY OF SAN JOSE AND HISTORIC LANDMARKS
COMMISSION**

The Historic Landmarks Commission presented Commissioner Raynsford with a certificate of commendation. Commissioners and City staff expressed appreciation, made remarks on his contributions and thanked him for his eight years of service on the commission.

PRESENT: Commissioners Boehm, Raynsford, Ayala (*joined by video teleconference*), Camuso and Royer

ABSENT: Commissioners Arnold and Janke

1. DEFERRALS

No Items

2. CONSENT CALENDAR

No Items

3. PUBLIC HEARINGS

No Items

4. PLANNING REFERRALS

- a. **PDC21-035, PD22-002, PT22-003 & ER21-284**: The Seely Avenue Mixed-Use Project on a 22.88-gross-acre site on Seely Avenue includes applications for Planned Development Zoning, Planned Development Permit and Vesting Tentative Map to rezone the site from the IP Industrial Park Zoning District to a Planned Development Zoning District, allow the demolition of all structures on site and the construction of up to 1,443 residential units, approximately 55,534 gross square-feet of ground-floor retail space, a 2.51-acre public park, the dedication of a 0.11-acre parcel for a municipal well, and the reconfiguration of two parcels into 48 parcels with up to 154 residential condominiums located at the Northeast corner of Montague Expressway and Seely Avenue (0 Seely Avenue, APN(s): 097-15-033 & 034), (CMS Investments LLC Etal, Owner). Council District: 4.

DEVELOPMENT REVIEW PROJECT MANAGER, ALEC ATIENZA

ENVIRONMENTAL REVIEW PROJECT MANAGER, BETHELHEM TELAHUN

STAFF RECOMMENDATION: RECEIVE PUBLIC COMMENT AND PROVIDE RECOMMENDATIONS REGARDING INFORMATION TO BE INCLUDED IN THE ANALYSIS OF THE SEELY AVENUE MIXED-USE PROJECT LOCATED ON A 22.88 GROSS ACRE SITE (APN 097-15-033, 097-15-034, AND A PORTION OF 097-66-004) ON SEELY AVENUE (FILE NOS. PDC21-035, PD22-002 & PT22-003) UNDER THE CITY COUNCIL POLICY ON THE PRESERVATION OF HISTORIC LANDMARKS.

Chairman Boehm introduced the item. Alec Atienza, Development Review Project Manager, provided a brief overview of the staff report. The project consultant, Eric Schoennauer, introduced himself and provided the history, details and vision for the housing project. He pointed out the planned City park on the project site and the proposed location of a historic interpretive display about the Sakaue family. Mr. Schoennauer noted that the project team and the City are working with the Sakaues on the family history to highlight.

Commissioners asked questions about the project. Vice Chairman inquired whether the applicant explored the possibility of moving one or two of the existing buildings (like the Sakaue house) into the planned park or designing the park around the existing structures. The applicant, Scott Youdall, commented that the Draft Environmental Impact Report will be studying project alternatives that include relocation and the process for the design of the planned park includes community input. Commissioner Royer inquired about the location of the proposed park in relation to the existing historic structures. Mr. Schoennauer commented that the Parks Department requires parks that are part of private developments to be visible from the street (rather than internal in a development) and that criteria informed the proposed location of the park. It was noted that the fruit stand is the closest existing building to the proposed park. Chairman Boehm inquired when the property was last used for agriculture. Mr. Youdall responded that the front half of the property with the fruit stand is still in agricultural use. Chairman Boehm inquired why all the buildings are being proposed for demolition.

Ben Leech, Preservation Action Council San José (Executive Director, stated that the project is before the Historic Landmarks Commission as an Early Referral and in the spirit of the policy there is significant opportunity to explore the project design through a cultural lens. He noted that it would be helpful if the historic report could include a clear

site plan that outlines the development chronology and additional research on the property's association with the Seely era and relationship to the Sakauye family to clarify the justification of the property's historic significance exclusively based on the Sakauye family. This would help to clarify what is and what is not a historical resource. Mr. Leech commented that the EIR should present a good faith effort to avoid significant impacts to historic resources which may include redesigning the project to incorporate the historic resources and/or relocating them to the park. He noted there is no question the property is a historical resource, but he questioned that the period of significance and Seely association with the property is less significant. Mr. Leech encouraged the applicant to offer a site visit to enhance understanding of the historic district, its contributing resources and context, and historic integrity. He encouraged the preservation of the collection of historic buildings and their agricultural open space context.

Lilian commented on the older trees on the site and expressed disappointment that their preservation is not considered part of the historic resource discussion. She noted that the site contains many older trees, and the proposed development should be designed to retain some of the trees.

Sally Zarnowitz concurred with many of the comments made by Ben Leech, appreciated being able to review the historic report and supported the significance of the property with its association with Japanese farming in the Santa Clara Valley and the Sakauye family. She commented that Appendix B of the historic report addresses some of the significance issues that are harder to find in the body of the report, but clarification is still needed on which are the contributing and noncontributing resources. Ms. Zarnowitz noted that Ed Sakauye donated farm equipment to the Japanese American Museum and that equipment would be important to the context of the history in the report. She agreed that the site visit would be a great idea.

Commissioner Ayala inquired whether the 1920s cottage could be reused in some manner. She noted the orchards and inquired whether they could be part of the proposed park. Commissioner Ayala inquired whether the Historic Landmarks Commission could review the wording of the historic interpretive display prior to it being formalized. Mr. Schoennauer responded that the design of City parks goes through a public review process and suggested that the Parks Department might confer with the Historic Landmarks Commission as part of the process.

Commissioner Royer encouraged the redesign/reconfiguration of the park to interpret and capture the former use of the site by including some of the historic structures and a garden element.

Vice Chairman Raynsford echoed some of the previous comments and commented that there could be additional information about the trees as part of the historic nature of the site. He commented that he had questions about the report and the Seely association and significance of the older Seely barn should be reexamined. Vice Chairman Raynsford commented that a conflict between developers and preservationist is often perceived and suggested that the consideration and incorporation of the historic resources could enhance the development and the different layers could make it distinctive, like the Peralta adobe enhanced the vibrancy of San Pedro Square. He suggested that preservation of original features on the site could change its whole atmosphere. Vice Chairman Raynsford asked for creative thought on keeping the traces of the farm.

Chairman Boehm commented that a mural would significantly add to the development – something that would incorporate a flavor of the property’s history. He commented that the property is one of the few remaining farms that represent the Valley of the Heart’s Delight and the area’s history for over a hundred years. Chairman Boehm commented that the historic resources and/or site interpretation could be blended into the development and the history could add a richness to the layered story of the project site and the Santa Clara Valley. The story of the Seely family’s support of the Sakauye family during internment is good story to tell and this story could be told through the historic houses that still remain. Chairman Boehm commented on the trees, which made the property what it is today. He concurred with the conclusion of the report that stated that the property qualifies for listing in the California Register of Historical Resources under criteria 1 and 2, and criteria 3 for the Sakauye house.

Comments were received and no action was taken by the Historic Landmarks Commission.

5. GENERAL BUSINESS

a. Additions to the Historic Resource Inventory.

Deferred from 5/3/23

PROJECT MANAGER, DANA PEAK EDWARDS

STAFF RECOMMENDATION: STAFF RECOMMENDS THAT THE HISTORIC LANDMARKS COMMISSION ADD THE FOLLOWING PROPERTIES TO THE CITY OF SAN JOSÉ HISTORIC RESOURCES INVENTORY:

1. ELIGIBLE FOR THE NATIONAL REGISTER, CALIFORNIA REGISTER AND CANDIDATE CITY LANDMARK (ENR, ECR, CCL)

2. 85 EAST HUMBOLDT STREET (APN 477-01-071)

3. 160 EAST VIRGINIA STREET (APN 472-18-059)

4. 1010 SOUTH 1ST STREET (APN 472-16-061)

5. 942 SOUTH 2ND STREET (APN 472-16-037)

6. 956 SOUTH 6TH STREET (APN 472-14-038)

CANDIDATE CITY LANDMARK (CCL)

7. 195 EAST VIRGINIA STREET (APN 472-18-062)

8. 702 SOUTH 1ST STREET (APN 472-17-019)

9. 1098 SOUTH 3RD STREET (APN 472-15-023)

ELIGIBLE NATIONAL REGISTER DISTRICT, CALIFORNIA REGISTER DISTRICT AND CANDIDATE CITY LANDMARK DISTRICT (ENRD, ECRD, CCLD)

10. 85 EAST HUMBOLDT STREET (APN 477-01-071)

11. 143 EAST VIRGINIA STREET (APN 472-18-007)

12. 146 EAST VIRGINIA STREET (APN 472-18-025)

13. 160 EAST VIRGINIA STREET (APN 472-18-059)

- 14. 828 SOUTH 3RD STREET (APN 472-18-014)**
- 15. 1102 SOUTH 3RD STREET (APN 477-01-078)**
- 16. 831 SOUTH 5TH STREET (APN 472-18-060)**
- 17. 1065 SOUTH 5TH STREET (APN 472-15-001)**
- 18. NO ADDRESS (APN 472-15-022)**
- 19. NO ADDRESS (APN 472-15-029)**
- 20. NO ADDRESS (APN 472-18-056)**
- 21. NO ADDRESS (APN 477-02-065)**

STRUCTURE OF MERIT (SM)

- 21. 1102 SOUTH 3RD STREET (APN 477-01-078)**
- 22. 718 SOUTH 1ST STREET (APN 472-17-018)**
- 23. 724 SOUTH 1ST STREET (APN 472-17-017)**
- 24. 734 SOUTH 1ST STREET (APN 472-17-015)**
- 25. 802 SOUTH 1ST STREET (APN 472-17-006)**
- 26. 950 SOUTH 1ST STREET (APN 472-16-053)**
- 27. 900 SOUTH 2ND STREET (APN 472-16-039)**
- 28. 944 SOUTH 2ND STREET (APN 472-16-036)**
- 29. 982 SOUTH 2ND STREET (APN 472-16-033)**
- 30. 1200 SOUTH 2ND STREET (APN 477-01-081)**
- 31. 1230 SOUTH 2ND STREET (APN 477-01-038)**
- 32. 1236 SOUTH 2ND STREET (APN 477-01-037)**
- 33. 1009 SOUTH 3RD STREET (APN 472-16-011)**
- 34. 750 SOUTH 5TH STREET (APN 472-25-094)**
- 35. 904 SOUTH 6TH STREET (APN 472-14-043)**
- 36. 984 SOUTH 6TH STREET (APN 472-14-058)**
- 37. 1141 SOUTH 6TH STREET (APN 477-02-009)**
- 38. 72 HOLLYWOOD AVENUE (APN 477-01-004)**
- 39. 82 HOLLYWOOD AVENUE (APN 477-01-005)**
- 40. 92 HOLLYWOOD AVENUE (APN 477-01-006)**
- 41. 104 HOLLYWOOD AVENUE (APN 477-01-008)**
- 42. 178 HOLLYWOOD AVENUE (APN 477-01-016)**
- 43. 125 EAST HUMBOLDT STREET (APN 477-01-064)**
- 44. 127 EAST HUMBOLDT STREET (APN 477-01-063)**
- 45. 165 EAST HUMBOLDT STREET (APN 477-01-057)**

46. 140 EAST VIRGINIA STREET (APN 472-18-024)

STAFF RECOMMENDATION: STAFF RECOMMENDS THAT THE HISTORIC LANDMARKS COMMISSION REMOVE THE FOLLOWING PROPERTIES LISTED AS AN IDENTIFIED STRUCTURE (IS) FROM THE CITY OF SAN JOSÉ HISTORIC RESOURCES INVENTORY:

- 1. 1220 SOUTH 2ND STREET (APN 477-01-039)**
- 2. 1248 SOUTH 2ND STREET (APN 477-01-036)**
- 3. 1115 SOUTH 6TH STREET (APN 477-02-006)**
- 4. 1129 SOUTH 6TH STREET (APN 477-02-007)**
- 5. 1133 SOUTH 6TH STREET (APN 477-02-008)**
- 6. 137 EAST HUMBOLDT STREET (APN 477-01-062)**
- 7. 143 EAST HUMBOLDT STREET (APN 477-01-061)**
- 8. 149 EAST HUMBOLDT STREET (APN 477-01-060)**
- 9. 157 EAST HUMBOLDT STREET (APN 477-01-059)**
- 10. 163 EAST HUMBOLDT STREET (APN 477-01-058)**

This item was heard out of order after Item 5.a. to allow project consultant, Page & Turnbull to present the findings of the Martha Gardens Historic Resources Survey prior to Historic Landmarks Commission consideration of this item.

A representative of the 950 South 1st Street property owner inquired about the implications of listing on the Historic Resources Inventory. Chairman Boehm responded that a plan for proposed work would need to be submitted to the City and reviewed. Ms. Peak Edwards commented that commercial buildings go through a Planning process called an Adjustment and proposed changes would be reviewed to ensure that the work would be compatible with the building. She noted that if demolition were proposed that the building has been determined not to be a historical resource as defined by the state environmental laws so listing in the Historic Resources Inventory would not be a barrier to demolition and the listing would be considered as part of the general Planning process. Ms. Peak Edwards stated that the purpose of the listing is to inform the community of the property's historic status, so it is known in advance of any development proposals. The property owner's representative inquired about the possibility of altering the interior of the building and Ms. Peak Edwards responded that interior changes are not part of the historic review. Ben Leech commented that he was familiar with the building and one of the reasons it was identified as a Structure of Merit is the commercials signs.

Vice Chairman Raynsford made a motion to approve the listing of the properties eligible for the National Register, California Register and Candidate City Landmark (ENR, ECR, CCL), Candidate City Landmark (CCL), eligible National Register District, California Register District and Candidate City Landmark District (ENRD, ECRD, CCLD), and Structure of Merit (SM), with the exception of #27 (900 South 2nd Street APN 472-16-039), #30 (1200 South 2nd Street APN 477-01-081) and #46 (140 East Virginia Street APN 472-18-024) which were deferred for consideration to the August 2, 2023 Historic Landmarks Commission meeting. The motion was seconded by Commissioner Camuso and approved 5-0-2 (Commissioners Arnold and Janke absent).

Commissioner Royer made a motion to defer the consideration of the proposed removal of properties listed as an Identified Structure (IS) from the City of San José Historic Resources Inventory to the August 2, 2023 Historic Landmarks Commission meeting. The motion was seconded by Vice Chairman Raynsford and approved 5-0-2 (Commissioners Arnold and Janke absent).

b. **Martha Gardens Historic Resources Survey**

PROJECT MANAGER, DANA PEAK EDWARDS

STAFF RECOMMENDATION: RECEIVE PRESENTATION BY PAGE& TURNBULL ON THE FINDINGS OF THE MARTHA GARDENS HISTORIC RESOURCE SURVEY.

This item was heard out of order and before Item 5.a. Ms. Peak Edwards introduced introduced Christina Dikas and Hannah Simpson with Page & Turnbull and the project consultants presented the findings of the Martha Gardens Historic Resources Survey.

Chairman Boehm inquired how many properties are proposed to be added to the Historic Resources Inventory in August. Ms. Peak responded that noticing occurred in May 2023 based on the draft report and the properties identified in the final survey report would be on the August 2, 2023 agenda. Chairman Boehm noted that he would look forward to DPR forms being completed for the buildings in the final draft where the classification was changed. He noted that 970 South 1st Street was identified in the final draft as a Structure of Merit. Chairman Boehm expressed excitement about the identification of the Eligible Martha Gardens Packing and Packaging Historic District. He recognized the changes that were made to the draft survey report following HLC review. Chairmain Boehm noted that his comments on the draft report in April were intended to recommend reevaluation of the identified properties as potential Candidate City Landmarks and not Structures of Merit, but he deferred to the professional opinion of the consultants.

Ben Leech, PACSJ Executive Director, commented that PACSJ reviewed the report and strongly concurs with the findings. He noted that the nature of a comprehensive survey is that there will be a difference of opinion on a small number of properties, but PACSJ was impressed with the level of archival research that was part of the windshield survey which enhanced the organization's understanding of the neighborhood.

Vice Chairman Raynsford commented that survey work is an ongoing, iterative process and the survey is a great step. He commented that it is wise to be more inclusive of Structures of Merit.

Commissioner Camuso commented that he is familiar with the area and many of the properties. He commented that the canning industry was very important and has major historical significance. Commissioner Camuso supported the recognition of the properties.

Commissioner Royer echoed previous comments and commented that it is exciting to see an eligible district coming out of the process. She expressed appreciation for considering Commissioner comments in the draft review process and incorporating them into the final report.

Commissioner Ayala commented that taking a deep dive into the neighborhood and Historic Resources Inventory helps the Commission to enhance its understanding and inquired which neighborhood would be surveyed next. Ms. Peak Edwards responded that

the Five Wounds Historic Resources Survey is in progress and the Alum Rock East neighborhood is forthcoming.

The presentation of findings was received and no action was taken by the Historic Landmarks Commission.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

No Items

7. OPEN FORUM

Members of the public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. The Commission cannot engage in any substantive discussion or take any formal action in response to the public comment. The Commission can only ask questions or respond to statements to the extent necessary to determine whether to: (1) refer the matter to staff for follow-up; (2) request staff to report back on a matter at a subsequent meeting; or (3) direct staff to place the item on a future agenda. Each member of the public may fill out a speaker's card and has up to two minutes to address the Commission. If you have joined by teleconference and wish to speak on one of these items, please use the 'raise hand' feature in Zoom or press *9 from a touch tone phone to raise a hand to speak.

Ben Leech, PACSJ Executive Director, commented that PACSJ will be circulating a petition to City Council to initiate the designation of the Burbank Theater as a City Landmark following its annexation into the City of San José. He reported that the building is vacant and for sale again. Mr. Leech commented that some of the wood frame outbuildings around Diridon Station that are part of the National Register Historic District, including the car cleaning shack, were recently removed and PACSJ is investigating that action. Mr. Leech commented that as Historic Landmarks Commissioners cycle off the commission, they are encouraged to join PACSJ as a member or subcommittee member.

Chairman Boehm reported on the success of the Santa Clara County Preservation Alliance Awards Night held on May 19, 2023. He noted that the City of San José hosted a table at the event and Chairman Boehm and Commissioner Camuso presented an award to the owners of 865 The Alameda. Chairman Boehm expressed hope that the Historic Landmarks Commission would participate in the event in 2024 and reported that Mayor Mahan delivered the introductory remarks and spoke positively about the importance of history to the community. Chairman Boehm noted comments from PACSJ member Gayle Frank (not present at the meeting) who remarked that the person on the Historic Landmarks Commission that she most respects for their professionalism is Vice Chairman Raynsford and again thanked him for his service.

8. GOOD AND WELFARE

a. Report from Secretary, Planning Commission, and City Council

- i. Verbal update on the status of Planning approvals by the City Council, Planning Commission and Planning Director of projects with a historic resource component.

- No update.*
- ii. Summary of communications received by the Historic Landmarks Commission.
No communications received.
 - iii. There will be no Historic Landmarks Committee meeting in July 2023. Next Meeting is August 2, 2023 in San Jose City Hall, Wing Rooms 118-120.
- b. **Election of Chairman and Vice Chairman**
The Historic Landmarks Commission voted to reelect Commissioner Boehm as Chairman and to elect Commissioner Royer as Vice Chairman.
- c. **Election of Design Review Subcommittee members**
The Historic Landmarks Commission appointed Commissioners Boehm and Royer to serve on the Design Review Subcommittee. One open position remains on this subcommittee.
- d. **Report from Committees**
 - i. Design Review Subcommittee: No meeting held on Thursday, May 18, 2023. Next meeting on Thursday, June 15, 2023 at 11:00 a.m.
- e. **Status Updates**
 - i. Verbal update on First Christ Scientist Church
Ms. Peak Edwards reported that the City issued a compliance order on February 28, 2023 under Section 17.38.200 of the Municipal Code - Vacant or Abandoned Building and the owner failed to comply so a hearing was held before the appeals hearing board on April 27, 2023. She stated that staff recommended that the Appeals Hearing Board uphold the Director of Planning, Building and Code Enforcement's determination that compliance with the Compliance Order was not achieved by the Compliance Date and the property owner testified at the hearing. Ms. Peak Edwards reported the Board voted to approve the proposed order with one revision to hold the \$5,000 administrative penalty in abeyance until June 30, 2023, and only impose the penalty if the property owner fails to comply. She commented that her understanding is that the City would need a court order to do the necessary work and get reimbursed.
 - ii. Verbal update on proposed demolition by neglect provisions
Ms. Peak Edwards reported that the Planning, Building and Code Enforcement Department submitted a budget request for resources to add additional staff to shore up the historic preservation program. She noted that the status of the request would not be determined until City Council adopts the fiscal year budget, so staff is waiting to determine whether it would be feasible to move forward with more comprehensive ordinance amendments that would include the demolition by neglect provisions. Ms. Peak Edwards commented that a path forward would be determined following the adoption of the budget by the City Council. Chairman Boehm commented that the item is a high priority.
- f. **Approval of Action Minutes**
 - i. **Recommendation: Approval of Action Minutes for the Historic Landmarks Commission Meeting of April 5, 2023. No meeting was held on May 3, 2023.**

Commissioner Royer made a motion to approve the Action Minutes for the April 5, 2023, meeting. The motion was seconded by Commissioner Camuso and approved 5-0-2 (Commissioners Arnold and Janke absent).

g. Status of Circulating Environmental Documents

No items

ADJOURNMENT

Meeting adjourned at 8:51 p.m.



HISTORIC LANDMARKS COMMISSION

Action Minutes

Wednesday, April 3, 2024

Regular Meeting
Commencing at 6:30 p.m.
City Hall Wing
Wing Rooms 118, 119 & 120
200 East Santa Clara Street
San José, CA 95113

Commission Members

Paul Boehm, Chair
Rachel Royer, Vice Chair
Harriett Arnold
Lawrence Camuso
Sara Ghalandari
Edward Janke

Christopher Burton, Director
Department of Planning, Building & Code Enforcement

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AGENDA

ORDER OF BUSINESS

WELCOME

Meeting called to order at 6:35 p.m.

ROLL CALL

PRESENT: Commissioners Boehm, Royer, Arnold, Camuso and Ghalandari

ABSENT: Commissioner Janke

1. DEFERRALS

- a. **Additions to the San José Historic Resource Inventory.** *Deferred from 2/7/24.*
PROJECT MANAGER, DANA PEAK EDWARDS

Identified Structure (IS)

1. 98 North 17th Street (APN 467-13-005)
2. 1280 Wabash Street (APN 015-12-068)

Recommendation: Defer to the May 1, 2024, Historic Landmarks Commission meeting per Staff request.

Staff informed the Commission the reason for the deferral is one of the properties is part of the Five Wounds Historic Survey which needs to be completed before the item is brought before the Commission.

No action was taken.

2. CONSENT CALENDAR

No Items

3. PUBLIC HEARINGS

No Items

4. PLANNING REFERRALS

- a. [Notice of Availability of a Draft Environmental Impact Report \(EIR\) and Public Comment Period for the Seeley Avenue Mixed Use Project \(March 19, 2024 - May 3, 2024\)](#)

PROJECT MANAGER, BETHELHEM TELAHUN

Recommendation: Staff recommends that the Historic Landmarks Commission provide comments on the Cultural Resources and Alternatives Sections of the Seely Avenue Mixed-Use Project Draft Environmental Impact Report under the City Council Policy on the Preservation of Historic Landmarks.

Chairman Boehm introduced the item. Environmental project manager Bethlehem Telahun gave an update on the status of the Draft Environmental Impact Report (DEIR), stating there were no changes to the project description, technical analysis or mitigation measures which have occurred since the previous circulation in January. The current review period for the DEIR is March 19th through May 3rd. Ms. Telahun gave an overview of Project Alternatives 3-5 and their expected impact on historic resources within the project site and eligible district. Scott Youdall, Regional Development Partner for the Hanover Company (applicant) provided a presentation showing the project plans, architectural renderings, and park design with an overview and images of the proposed historic interpretation part of the public park.

Chairman Boehm called for questions from the Commission.

Vice Chairman Royer inquired if the applicant has considered incorporating public park uses that would preserve the orchard and historic buildings as shown in Alternative 4. Ms. Telahun responded the area was determined to be inadequate for the programming needs of the public park. Vice Chairman Royer commented there seemed to be adequate space for some of the park uses, but it would require reconsideration of park programming.

Commissioner Ghalandari inquired what studies have been done on the feasibility of reuse of structures on the project site rather than moving or demolishing the historic structures. Mr. Youdall responded that they discussed with Preservation Action Council San Jose (PAC SJ) the feasibility of relocating the Sakauye House and determined it would be possible. The other structures were not necessarily found infeasible to relocate but those alternatives were rejected for other reasons.*

Commissioner Arnold expressed appreciation for the project and was concerned about the demolition of buildings. She inquired if there were alternatives which could connect the Sakauye House relocation to the interpretation area in the proposed public park rather than moving the building elsewhere on the site. Mr. Youdall responded they had considered moving the Sakauye House to a location which would be adjacent to the park interpretation area, but the Parks, Recreation and Neighborhood Services Department (PRNS) would not accept the relocation of the structure to the public park.

Chairman Boehm inquired if PRNS is concerned about ongoing maintenance. Ms. Telahun responded, yes, that is the concern. Chairman Boehm inquired if the applicant had considered moving the Sakauye House and keeping the orchard as a mix of

Alternatives 4 and 5. Mr. Youdall responded the concern would be a smaller parcel for the public park and loss of space for new housing.

Commissioner Camuso inquired whether sites were researched where the historic buildings might be relocated. Mr. Youdall responded they looked into relocating the structures within the project site but didn't study the option of moving them offsite because that would still result in a significant impact to historical resources, but History San Jose or any other party could provide a site for the structures, including the Sakauye House.

Chairman Boehm opened public comment.

*Mike Sodergren, PAC*SJ, commented that the organization spent a lot of time with Hanover Company discussing the feasibility of alternatives and expressed support for Alternative 5. Mr. Sodergren commented that public parks should be organized in a way that can accommodate structures for preservation. He noted that PAC*SJ spoke to the City Council member who represents the district and suggested that maintenance funds for the relocated structure could be collected from homeowner association fees. Mr. Sodergren also commented that PAC*SJ would like to see some of the trees on site preserved and expressed a desire for collaborative efforts to support the relocation of the historic structures to the public park.*

*Sally Zarnowitz commented that PAC*SJ had submitted a DEIR comment letter that included several other mitigation measures, like collaborating with the Japanese Museum to relocate the Sakauye House.*

Kai Wilson expressed concern that there may be a possibility that the Sakauye House could be damaged if relocated and inquired what the Hanover Company would do in response to such an outcome.

Chairman Boehm called for Commissioner comments.

Vice Chairman Royer commented the PRNS requirements seem like a stumbling block for the project. He noted that it would be helpful to hear from that department as the project plans develop to ensure collaboration and the inclusion of historic elements into the design and amenities of the public park. Vice Chairman Royer suggested there may be a way to reuse some of the buildings as maintenance buildings in the public park or finding some other way to incorporate the historic structures into the public park instead of clearing them to make way for a new design.

Commissioner Ghalandari expressed agreement with Vice Chairman Royer's comments and expressed appreciation for the project, noting the City's need to meet its Regional Housing Needs Allocation for housing. She suggested relocating the Sakauye House to the public park could be a good alternative, especially if the homeowner association could fund the ongoing maintenance of the building. Commissioner Ghalandari suggested this alternative be explored for the purposes of creating housing while retaining the historic fabric of the site.

Commissioner Arnold expressed agreement with the previous commissioners' comments and emphasized PRNS should be a part of the discussion and emphasized the importance of preserving cultural resources.

Chairman Boehm commented on the magnitude of the project, noting that converting 22 acres of existing orchard land to build approximately 1500 housing units was a large change in character. He noted that San Jose was once known as the Valley of Heart's Delight. Chairman Boehm suggested a remnant of the orchard be saved to show the history of the site as a working orchard. He suggested that a mural could also communicate the history, noting the Ohlone once lived there. Chairman Boehm affirmed earlier Commissioner comments, suggesting the design possibilities for the public park could be revisited and perhaps a community garden could be incorporated. Chairman Boehm encouraged serious consideration of Alternatives 4 and 5. He also recommended serious thought about retaining some of the orchard trees and expressed appreciation to the applicants for their attendance and presentation.

Chairman Boehm provided a summary of Commissioner comments that expressed concern about the proposed demolition of historic structures, the desire for collaboration with PRNS and support for using homeowner association funds to maintain and preserve the Sakauye House.

Comments on the Seely Avenue Mixed-Use Project Draft EIR were received, no action was taken.

5. GENERAL BUSINESS

- a. [Clarify San José Historic Resources Inventory Listing for 675 East St. John Street/IBM Building 800 \(APN 467-14-087\)](#)

PROJECT MANAGER, DANA PEAK EDWARDS

Recommendation: Staff recommends that the Historic Landmarks Commission refine the Temple Laundry/IBM Building 800 (APN 467-14-087) Historic Resources Inventory listing by clarifying that the 1928 addition to the 1919 building does not contribute to the significance of the original building as concluded in the San Jose Hospital Historic Resources Evaluation Report prepared by Carey and Company in 2008 and the San Jose Medical Center Demolition Project Final Environmental Impact Report.

Chairman Boehm introduced the item.

Project manager Dana Peak Edwards gave a brief overview of the staff report and project application received under SB 35 for low-income housing on a 3.10-acre site that would result in the demolition of the 1928 addition to the Temple Laundry/IBM Building which prior adopted analysis concluded does not contribute to the historic significance of the building.

*Erik Schoennauer, Eden Housing representative, presented the project scope, and plan to retain and reuse the original 1919 building as a community space. He emphasized the timeline constraint imposed by potential public funding sources. Samantha Myer, Eden Housing, addressed points raised in discussion with PAC*SJ including laser scanning the 1928 addition before any demolition, securing the site ahead of construction, the timeline for partial demolition, the feasibility of reusing on site parts of the 1928 addition, and the possible designation of the original building as a City Landmark after the project is constructed.*

Chairman Boehm called for Commissioner questions.

Vice Chairman Royer inquired about separating the two portions of the building, and if more recent reports on the structure have been done. Ms. Myer responded the buildings were built separately with different walls, and Eden Housing is working with structural engineers to ensure the original building is protected during demolition and construction.

Commissioner Camuso requested clarification about which portions of the building would be demolished or retained. Mr. Schoennauer responded that the project proposal is to retain the 1919 building and what is left of the 1920 addition and would demolish the 1928 addition based on the documentation in the historic reports. He reported that Eden Housing intends to save the most significant portion of the resource as outlined in the report.

Commissioner Ghalandari inquired if the California Environmental Quality Act (CEQA) would apply to the SB 35 project and would the permit process be used to ensure the building stays safe during construction. Maira Blanco, SB35 application Project Manager, responded that the permit would include non-standard language that would require retention of the historic structure.

Chairman Boehm inquired if consideration had been made to remove alterations to restore the 1928 addition to an earlier period of significance. Ms. Peak Edwards responded that might not be possible based on the changes to the windows as outlined in the staff report.

Commissioner Camuso inquired if there were photos of the building and its additions. Mr. Schoennauer responded the report stated the 1919 and 1920 portions of the building are historically significant but the 1928 portion was reported not eligible due to alterations. He noted that this information guided the development plans on the site and the proposed preservation of the structure for resident and public use.

Chairman Boehm called for public comment.

*Mike Sodergren, PAC*SJ, reported meeting with Eden Housing and expressed appreciation that Eden Housing has been responsive to PAC*SJ, which advocates for saving all the buildings on the site. Mr. Sodergren commented on the significance of the IBM Building and the importance of the project to enhance the significance of the building. He noted the commitment of the applicant to submit a demolition permit after project funding is secured, to submit an application for City Landmark designation, to file existing Historic American Building Survey documentation with the Library of Congress, to integrate portions of the 1928 Art Deco addition into the project, and to 3D laser scan and model the building prior to demolition.*

Chairman Boehm invited the applicant to deliver final comments.

Mr. Schoennauer thanked the Commission and staff and provided assurance of the applicant's intent to pursue items brought up in the comments and asked the Commission to support the Historic Resources Inventory clarification request so Eden Housing could secure financing for the housing project.

Chairman Boehm called for Commissioner comments.

Vice Chairman Royer expressed appreciation to the applicant for celebrating the historic structure and making it open for public access. She suggested incorporating façade materials from the 1928 addition into the new construction.

Commissioner Camuso commented the project is appropriate and expressed appreciation for the plan to preserve the 1919 building. He echoed Vice Chairman Royer's suggestion to incorporate elements of the Art Deco 1928 addition wherever feasible.

Commissioner Ghalandari echoed Commissioner comments. She expressed appreciation for the project and the way it would bring housing to the City while preserving the historic resource on the site.

Chairman Boehm expressed appreciation for the plan to open the 1919 building to the public and to residents. He requested the applicant consider preserving elements of the 1928 building addition. Chairman Boehm inquired if the parking lots around the structures were considered as sites for the new construction instead of demolishing the IBM building addition. Mr. Schoennauer responded the parking lots are owned by the County of Santa Clara and there is a limit on how much of the site the applicant can use for the development. Chairman Boehm commented he would like the building designated as a City Landmark and asked for clarification on the ownership of the IBM building. Mr. Schoennauer responded the County of Santa Clara will retain fee-title ownership and Eden Housing will secure a long-term land lease because it is the County's preference to retain public lands.

Vice Chairman Royer made a motion to approve the staff recommendation of item 5a, which was seconded by Commissioner Arnold. The Commission voted 5-0-1 (Commissioner Janke absent) to approve the motion.

b. **City of San José Certified Local Government Report for 2022-2023.**
PROJECT MANAGER, DANA PEAK EDWARDS

Recommendation: Staff recommends the Historic Landmarks Commission review and accept the Certified Local Government Program annual report for the October 1, 2022 to September 30, 2023 reporting period.

Chairman Boehm introduced the item and Dana Peak Edwards provided a brief overview of the responsibilities under the Certified Local Government Program and the contents of the annual report.

Chairman Boehm noted the Commission added 144 properties to the Historic Resources Inventory during the reporting period and made a motion to accept the annual report. The motion was seconded by Vice Chairman Royer and the Commission voted 5-0-1 (Commissioner Janke absent) to approve the motion.

c. **2024 Santa Clara County Preservation Alliance Awards Night**

Recommendation: Staff recommends that the Historic Landmarks Commission receive a report and recommendations from the Historic Preservation Month/Preservation Awards Night Standing Committee on nominations for the 2024 San Jose Preservation Achievement Awards and select award recipient/s.

Chairman Boehm introduced the item and provided a brief presentation of the Historic Preservation Month/Preservation Awards Night Standing Committee report. He announced the two candidate award recipients: 1) Smith House (San Filipe Road); and 2) Fairglens Additions National Register Historic District. Photographs of the candidate award recipients were displayed.

Chairman Boehm gave an overview of the Smith House property which was recently restored thanks to efforts by Bill Mabry (project development) and John Frolli (project architect). Chairman Boehm noted the plaque on the Smith House which denotes the history of the postmaster of Evergreen who lived in the house, and the accessory structures which have also been restored.

Chairman Boehm gave an overview of the Fairglen Additions, which was developed in 1959 and listed on the National Register of Historic Places. Chairman Boehm acknowledged Sally Zarnowitz and Peter Hurd for their efforts in that designation process. He commented on the attention to preservation of the properties in the district that has ensured none have fallen into disrepair.

Chairman Boehm presented additional properties also considered for the Preservation Award including the Dora House on Martin Avenue, which was restored, and the Yoell House on Schiele Avenue which was designated a City Landmark late last year. Chairman Boehm informed the Commission the Standing Committee has recommended the Smith House and Fairglen Additions, either one or both of the properties, for the award.

Chairman Boehm opened public comment.

John Frolli commented he would like to see both projects receive an award, if possible, and that both projects represent different kinds of historic structures in San José. Mr. Frolli commented on the efforts made to restore the tank house and aviary as part of the Smith House rehabilitation.

Sally Zarnowitz expressed appreciation to the Commission for acknowledging the efforts of the Fairglen Additions neighborhood to preserve the district.

Vice Chairman Royer commented that both projects have merits; the Smith House shows it is possible to retain historic structures while building new structures, and Fairglen Additions shows the public being part of a historic district will not cause undue burden on property owners.

Chairman Boehm commented the Smith House was recommended first because it is a classic example of historic preservation and adaptive reuse of a building. He commented that to his knowledge a whole district has not been previously nominated.

Commissioner Camuso echoed earlier comments that the Smith House is an excellent example of preservation and expressed hesitation to select only one project. He noted the importance of Fairglen Additions because its significance has not been acknowledged until recently and the historic district highlights not just a single building but many excellent houses.

Chairman Boehm acknowledged the members of the subcommittee who participated in the recommendation for the award: Franklin Maggi, Ramon Martinez, Krista Van Laan, Ben Leach, and Commissioners Janke and Camuso.

Commissioner Arnold commented on the difficulty of selecting just one award recipient. She noted the importance of the Smith House to the Evergreen community which has few remaining historic resources compared to other parts of San José. Commissioner Arnold noted that Fairglen Additions is important in the cultural history of the African American community because Eichler developments were welcoming whereas other midcentury subdivision developments were not. Commissioner Arnold expressed appreciation for both nominees and reiterated the difficulty in selecting just one.

Commissioner Ghalandari inquired if both nominees could be recommended for the award under equal merit.

Commissioner Ghalandari made a motion to approve the recommendation of the subcommittee by nominating both the Smith House and Fairglen Additions for the Preservation Award. The motion was seconded by Commissioner Arnold.

Chairman Boehm clarified the wording of the motion. He stated that the Commission approves the recommendation of the Subcommittee by nominating the following for Preservation Awards in 2024: Sally Zarnowitz and Peter Hurd, co-chairs of the Fairglen Additions Preservation Committee, for their successful campaign to place the Fairglen Additions on the National Registry of Historic Places, and Bill Mabry, Oakmont Assisted Living and Memory Care Partner, Project Development and John Frolli, consultant in historic preservation for their work in restoring the Smith House. These two nominations are to be considered as equal in merit and both well-deserving of their award.

The Commission voted 5-0-1 (Commissioner Janke, absent) to approve the motion.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

No Items

7. OPEN FORUM

Members of the public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. The Commission cannot engage in any substantive discussion or take any formal action in response to the public comment. The Commission can only ask questions or respond to statements to the extent necessary to determine whether to: (1) refer the matter to staff for follow-up; (2) request staff to report back on a matter at a subsequent meeting; or (3) direct staff to place the item on a future agenda. Each member of the public may fill out a speaker's card and has up to two minutes to address the Commission. If you have joined by teleconference and wish to speak on one of these items, please use the 'raise hand' feature in Zoom or press *9 from a touch tone phone to raise a hand to speak.

*Mike Sodergren, PAC*SJ, reported that a historic house on 4th Street and St. John Street burned down on March 27th. He requested the Commission follow up on the "demolition by neglect" ordinance with City Council. Mr. Sodergren commented that PAC*SJ would like to see incentives to keep buildings occupied because security measures do not keep buildings safe from fires. Mr. Sodergren commented on the First Church of Christ Scientist and, expressed a desire to have the building used for activities by the end of the year. Mr. Sodergren commented on the relocation of structures from the Ban family farmstead on South Winchester Boulevard and suggested a task force be established to liaise with PRNS to find out how the City might be receptive to receiving historic structures in its public parks.*

Chairman Boehm requested the "demolition by neglect" ordinance be placed on the agenda of a future Commission meeting.

John Frolli echoed Mike Sodergren's comment about keeping historic structures occupied and stated that the Smith House was vacant for two months during construction and during that time people broke-in and caused damage, and the onsite security costs added greatly to the preservation project costs. Mr. Frolli commented there should be incentives for owners to protect buildings and he would like to see a policy which supports that.

Chairman Boehm responded to Mr. Sodergren's comment on the "demolition by neglect" ordinance, saying there would be action by the City to move that forward in the next fiscal year.

8. GOOD AND WELFARE

a. Report from Secretary, Planning Commission, and City Council

- i. Verbal update on the status of Planning approvals by the City Council, Planning Commission and Planning Director of projects with a historic resource component.

No updates

- ii. Summary of communications received by the Historic Landmarks Commission.

*Ms. Peak Edwards reported an email was received from Mike Sodergren, PAC*SJ,, about the Temple Laundry/IBM Building 800 property.*

- iii. Verbal update on the status of the First Christ Scientist Church

Ms. Peak Edwards reported she contacted the Mayor's Office and Office of Economic Development about the status of the First Church of Christ Scientist and was informed that the City is encouraging the owner to properly protect and maintain the building and the property owner is being fined for being out of compliance with municipal codes. She also reported that the City is in discussion with the owner to sell the property and there are a couple of potential buyers, but it is not known if a transaction will result.

- iv. Next Meeting is May 1, 2024, in San Jose City Hall, Wing Rooms 118, 119, 120.

No comments

b. Report from Committees

- i. Design Review Subcommittee: No meeting was held on March 21, 2024. The next meeting is scheduled for Thursday, April 18, 2024, at 11:00 a.m.

No comments

c. Approval of Action Minutes

- i. **Recommendation:** [Approval of Action Minutes for the Historic Landmarks Commission Meeting of March 6, 2024.](#)

Vice Chairman Royer made a motion to approve the Action Minutes for the March 6, 2024, Historic Landmarks Commission meeting. The motion was seconded by Commissioner Camuso and the Commission voted 5-0-1 (Commissioner Janke, absent) to approve the minutes as written.

d. Status of Circulating Environmental Documents

No updates

ADJOURNMENT

Meeting adjourned at 8:26 p.m.