

# Item 10.3

## **1334 & 1348 Miller Avenue Residential Project**

(File Nos. PDC21-032, PD21-017, PT21-039, ER21-148)

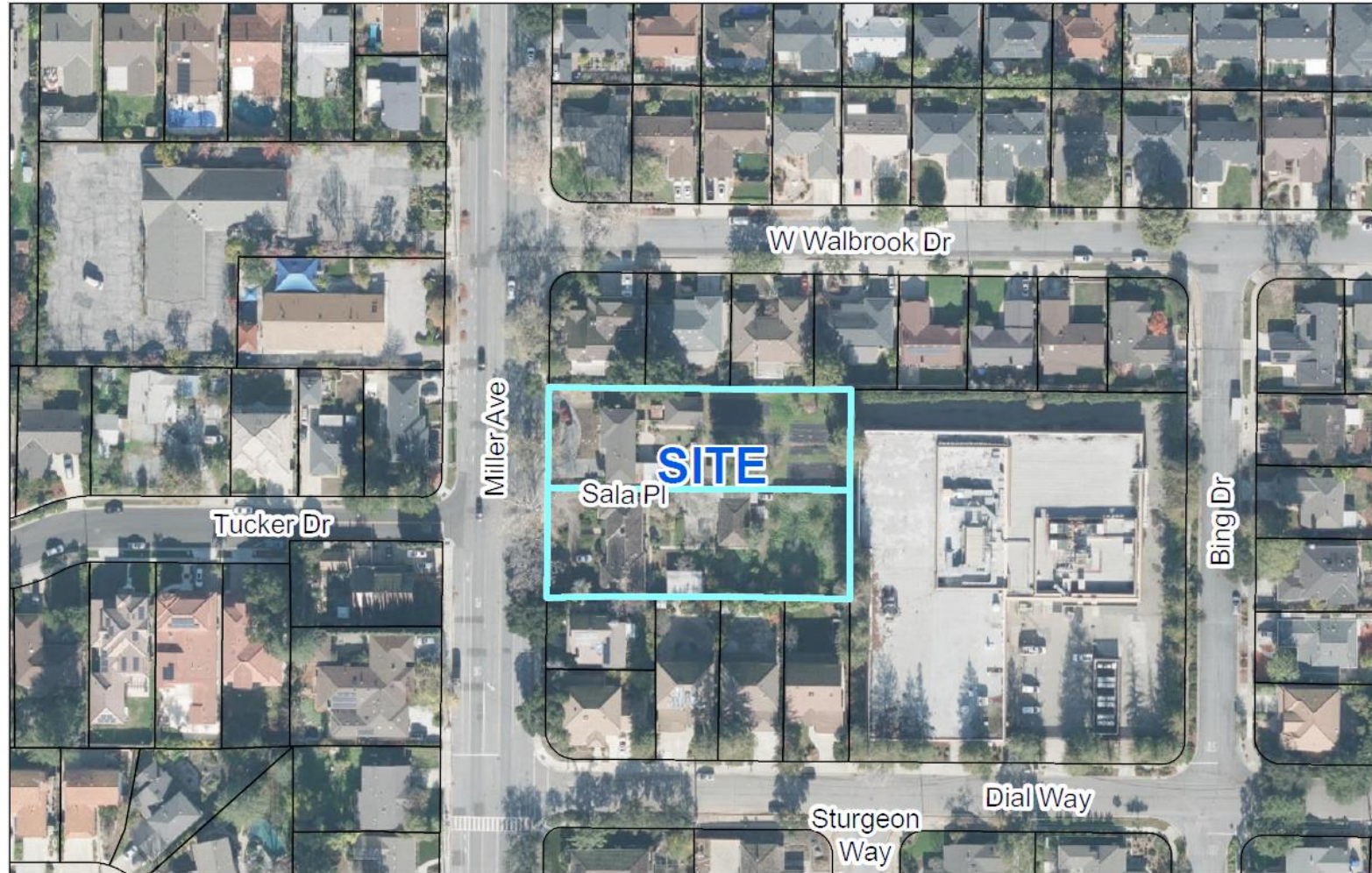
September 27, 2024

Presenter: Christopher Burton

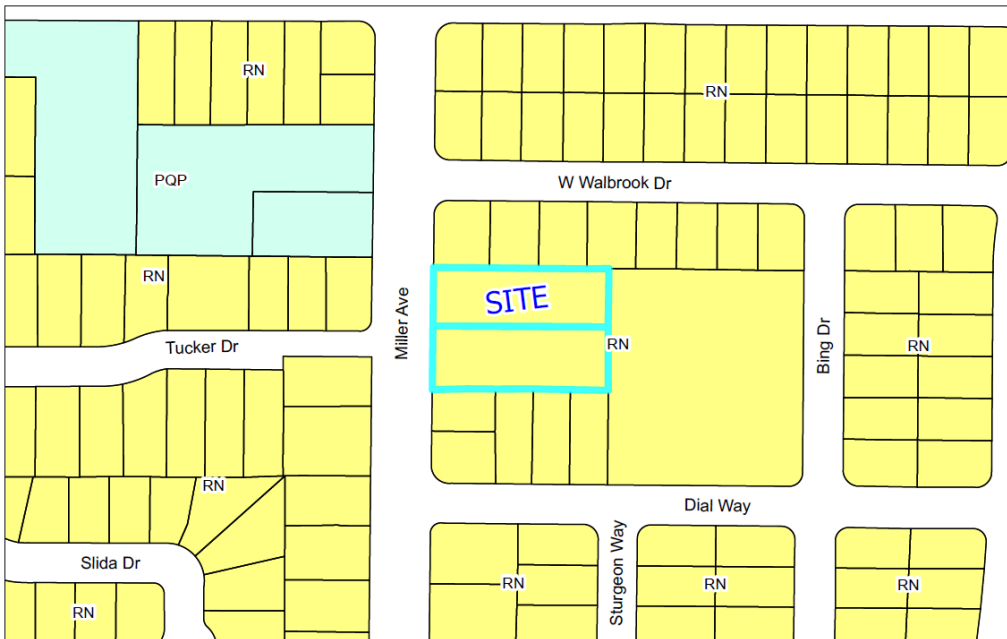


# Project Location

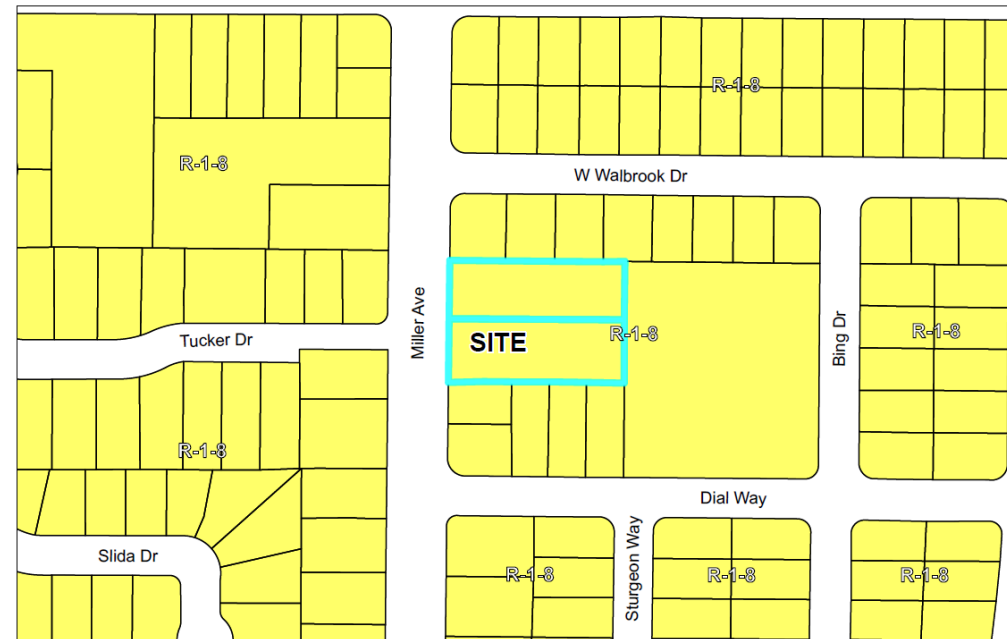
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# General Plan and Zoning Map



General Plan: **Residential Neighborhood (RN)**



Existing Zoning: **R-1-8 Single-Family Residence**  
Proposed Zoning: **R-1-8(PD) Planned Development**

*Color of map does not change*

# Project Review

## Project Reviewed for Conformance with:

- Envision San José 2040 General Plan
- Municipal Code (Tree Removals, Subdivision, Zoning)
- Citywide Design Standards and Guidelines
- City Council Policy 6-30: Public Outreach
- **State Density Bonus Law**
- California Environmental Quality Act (CEQA)

## Provided for Context:

- Single-Family Design Guidelines



# Density Bonus Law

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- Density Bonus Law allows waivers or reductions of any local development standards that would physically prevent a project from being built at the permitted density.
  - Under Density Bonus Law, development standards include all local City conditions, laws, policies, resolutions, or regulations.
  - This includes all local policies, such as the Citywide Design Standards, and local programs, such as the Inclusionary Housing Ordinance.
- Waivers and concessions must be approved if the findings for disapproval laid out in State law cannot be made. Specifically, to make the findings for denial, a waiver must be found to:
  - Have a specific, adverse impact upon the health and safety;
  - Have an adverse impact on property listed in the California Register of Historic Resources; or
  - Be contrary to state or federal law.

# Density Bonus Law

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- This project includes waiver requests for four standards in the IHO.
- Staff objects to these waivers from a fair housing perspective; however, after conversations with and guidance from the State Department of Housing and Community Development (HCD), staff is still recommending approval of the project because HCD's opinion was that the findings to disapprove the waivers would be difficult to make.
- HCD has stated that the requests are not contrary to state and federal law, as the concerns and requirements in the IHO are a local program and are not found in state and federal law.
- The Planned Development Zoning request is a remnant of the original 2021 submittal of the project; should Council not approve the Planned Development Zoning for this project, the project could be resubmitted in its identical form as a Site Development Permit with Density Bonus concessions and waivers for approval at Director's Hearing.

# Environmental Review

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- Initial Study/Mitigated Negative Declaration (IS/MND) – circulated October 27 to November 16, 2023
- Two clarifying comments received from Valley Water and PG&E. This did not result in any substantial changes to the IS/MND and were addressed by staff in a formal Response to Comments document on August 2, 2024
- IS/MND found impacts related to Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, and Noise. With the implementation of identified mitigation measures (including those presented in the Mitigation Monitoring and Reporting Program), all identified impacts would be reduced to a less than significant level



# Staff Recommendation

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1. Adopt a Resolution adopting the 1334 and 1348 Miller Avenue Residential Subdivision Project Mitigated Negative Declaration, for which an initial study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program.
2. Approve an Ordinance rezoning the Project Site from the R-1-8 Single Family Residence District to the R-1-8(PD) Planned Development Zoning District on an approximately 1.07-gross-acre site.
3. Adopt a Resolution approving, subject to conditions, a Vesting Tentative Map to subdivide two existing parcels into nine lots, including seven single-family lots, one multifamily lot, and one lot for a private street on an approximately 1.07-gross-acre site.
4. Adopt a Resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of two single-family residences and two accessory buildings, the removal of 11 ordinance-size and seven non-ordinance-size trees, the construction of five detached-single-family residences, two attached single-family residences, and a stacked duplex reserved as affordable to lower-income households, and the granting of State Density Bonus Law waivers (private open space, minimum distance from street to parking, geographic concentration of affordable units, unit size of affordable units, parking equivalence for affordable units, and affordable unit types) on an approximately 1.07-gross-acre site.