



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

SUBJECT: SEE BELOW

FROM: Planning Commission

DATE: February 26, 2024

COUNCIL DISTRICT: 3

SUBJECT: FILE NOS. H17-004 & ER20-262. SITE DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND 30-UNIT MULTIFAMILY APARTMENT BUILDING (SUBJECT TO ELLIS ACT ORDINANCE) AND THE REMOVAL OF 10 TREES (3 ORDINANCE-SIZE, 7 NON-ORDINANCE-SIZE, 11 REPLACEMENT TREES) FOR THE CONSTRUCTION OF A 25-STORY, 210-UNIT MULTIFAMILY RESIDENTIAL BUILDING WITH A 20% PARKING REDUCTION AND AN ALTERNATIVE PARKING ARRANGEMENT (MECHANICAL LIFTS) ON AN APPROXIMATELY 0.52-GROSS-ACRE SITE ON THE WEST SIDE OF SOUTH 4TH STREET, APPROXIMATELY 170 FEET SOUTH OF EAST SAN SALVADOR STREET (439-451 SOUTH 4TH STREET).

REASON FOR REPLACEMENT

A replacement memorandum is required because a late comment letter needs to be included for the record.

RECOMMENDATION

The Planning Commission voted 11-0-0 to recommend that the City Council take the following action:

1. Adopt a resolution certifying the South Fourth Street Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopt a statement of overriding considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA); and
2. Adopt resolution approving, subject to conditions, a Site Development Permit to allow the demolition of an existing single-family residence and 30-unit multifamily apartment building totaling approximately 21,792 square feet and the removal of 10 trees (3 ordinance-size, 7

non-ordinance-size, 11 replacement trees) for the construction of a 25-story, 210-unit multifamily residential building with a 20% parking reduction and an alternative parking arrangement (mechanical lifts) on an approximately 0.52-gross-acre site.

SUMMARY AND OUTCOME

If the City Council approves the actions listed above as recommended by the Planning Commission, the applicant would be able to apply for building permits to demolish an existing single-family residence and 30-unit multifamily apartment building totaling approximately 21,792 square feet and the removal of 10 trees (3 ordinance-size, 7 non-ordinance-size, 11 replacement trees) for the construction of a 25-story, 210-unit multifamily residential building with a 20% parking reduction and an alternative parking arrangement (mechanical lifts) on an approximately 0.52-gross-acre site. Prior to the issuance of building permits for demolition or construction, the project will be required to conform with the City's Ellis Act Ordinance found in Title 17, Chapter 23, Part 11 of the San José Municipal Code. The ordinance requires owners to follow a standardized process for issuing notices to tenants, providing relocation benefits, and restricting the future use of the property by requiring former tenants the right to return to the same unit if brought back to the rental market or if recontrolled new apartments are built on site. Pursuant to the Ellis Act Ordinance, the project will require the re-control of 50% (105) of the new units built. Alternatively, the applicant may provide 20% (42) of the newly constructed units as on-site restricted affordable rental housing pursuant to the City's Inclusionary Housing Ordinance (IHO).

BACKGROUND

On February 14, 2024, the Planning Commission held a Public Hearing to consider the CEQA determination and Site Development Permit. Commissioner Cantrell made a motion to approve the recommendation. Commissioner Oliverio seconded the motion. The motion passed unanimously 11-0-0. The Planning Commission recommended that the City Council approve the adoption of the CEQA resolution and Site Development Permit.

ANALYSIS

Analysis of project impacts pursuant to CEQA, and analysis of the Site Development Permit, including conformance with the General Plan, Municipal Code, and City Council policies, is contained in the attached staff report.

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals. The project would increase the density of new residential development within the City limits by providing 210 new multifamily residential units.

EVALUATION AND FOLLOW-UP

The City Council is the final decision-making body for this project. Following a decision by the City Council, no additional evaluation would be conducted. The City Council has the option to approve, deny, or defer the project to a later City Council meeting. If denied, the project would not be able to proceed. If approved, the applicant would be able to proceed with applications for grading and building permits to construct the project.

COORDINATION

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

PUBLIC OUTREACH

This memorandum is posted on the City's Council Agenda website for the March 12, 2024, City Council meeting. Staff followed City Council Policy 6-30 Public Outreach Policy in order to inform the public of the proposed project. Three community meetings were held for the project. A Community Meeting was held on April 3, 2017, at Lowell Elementary School. A joint EIR Scoping and Community Meeting was held on Thursday, July 11, 2019, at Horace Mann Elementary School. A joint EIR Scoping and Community Meeting was held via Zoom on Monday, March 21, 2022. Community concerns included neighborhood compatibility, building height, building setbacks, parking impacts on the surrounding neighborhood, trash pick-up operations, sewage capacity, the need for on-site guest parking, the unit mix, the projected rental cost, and shade impacts on surrounding properties. An on-site sign was posted on the project frontage on January 9, 2019. 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. The notice was also published in a newspaper of record (San Jose Post Record) on January 22, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

COMMISSION RECOMMENDATION AND INPUT

As discussed in the Background section above, the Planning Commission unanimously approved the project (11-0-0) as a public hearing calendar item at the February 14, 2024 meeting. The Planning Division Staff provided a brief presentation on the project which included the site description, project components, conformance with applicable standards and policies, and the environmental review process in accordance with CEQA. The applicant's representative, Sal Caruso, spoke briefly, requesting that the Planning Commission support the project. There were no public comments.

Commissioner Discussion

Commissioner Bickford expressed concern over the height of the proposed building in the surrounding area. The applicant responded that there are numerous high-rise buildings that were recently approved in the immediate area. Staff also confirmed that there is another high-rise building, “The Mark,” which was approved directly adjacent to the project site to the south.

Commissioner Cantrell asked the applicant why the project took so long. The applicant noted that there was a constant turnover in staff that slowed the project review process down.

Commissioner Ornelas-Wise asked if there was any proposed fencing around the occupied roof deck and pool area. She also asked if there was any proposed play area for children. The applicant responded that there would be glass fencing around the rooftop, and Commissioner Oliverio stated there is a new park nearby that the residents could utilize.

Commissioner Tordillos asked if the project is intended for student housing. The applicant confirmed that the project is marketed towards students. Commissioner Tordillos asked if there were any design requirements for high-rise window placement. Staff responded that there are not any requirements for window placement. The Commissioner also requested additional bicycle parking as the design is finalized.

Commissioner Oliverio expressed his support for the project, noting that this type of development in this part of Downtown San Jose is long overdue.

Commissioner Cantrell made a motion to recommend that City Council approve the project. Commissioner Oliverio seconded the motion. The motion passed unanimously 11-0-0.

CEQA

The City of San José, as the lead agency for the project, prepared a Draft Supplemental Environmental Impact Report (Draft SEIR) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). The Notice of Preparation (NOP) for the SEIR was circulated from April 1, 2022, to March 25, 2022, and the Draft SEIR was circulated for public review and comment from May 30, 2023, to July 14, 2023. An environmental scoping meeting for the SEIR was also held on March 21, 2022, via a virtual conference meeting.

Summary of Environmental Impacts Reduced to Less than Significant with Mitigation

The Draft SEIR identified potential environmental impacts related to construction air quality, migratory nesting birds, and vibration from construction activities on fragile historic buildings. With the implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program and prepared for the project, these impacts are reduced to less than significant levels. As part of the certification of the Final SEIR, the City Council will need to approve the associated Mitigation Monitoring and Reporting Program for the project.

Significant and Unavoidable Impacts and Statement of Overriding Considerations

The Draft SEIR also found that the project would result in a significant and unavoidable impact from construction noise which would exceed the exterior threshold of 80 dBA at adjacent residential land uses. The mitigation measures to be adopted for the proposed project would not reduce this impact to below the significance threshold.

If the City Council were to approve the proposed 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 Considerations found that the economic and social benefits of construction of the proposed project which consists of providing 210 housing units, some of which would be affordable, to address the City's current housing shortage, all of which are downtown and accessible to jobs, retail and entertainment, and has access to various modes of public transit reducing vehicle miles traveled, would outweigh the temporary construction noise impact that would occur for a period that may potentially exceed 12 months.

Project Alternatives

The Draft SEIR analyzed two project alternatives, including a No Project – No Development Alternative, and a Preservation Alternative/Reduced Development Redesign. The environmentally superior alternative would be the No Project/No Development Alternative, which would avoid the identified significant impacts of the proposed project; however, CEQA requires that another alternative be chosen when the No Project Alternative is environmentally superior. The Preservation Alternative/Reduced Development Redesign is therefore the environmentally superior alternative. This alternative would reduce the height of the building from 25 stories to six stories, and result in a reduction of 176 units compared to the proposed project. With the reduction in building height, the project would be constructed in a shorter timeframe, and pile driving, which is the primary cause of the significant and unavoidable impact of the proposed project, would not be required. Therefore, this alternative would avoid the significant and unavoidable noise impact.

Summary of Comments Received

The City received one comment letter during the public circulation period of the Draft SEIR. The comment letter was submitted by Santa Clara Valley Water District. The main concerns raised by commenters are as follows:

- The Municipal Regional Permit was re-issued in May 2022 and becomes effective in July 2023, the discussion in the Draft SEIR needs to be consistent with the new Municipal Regional Permit.
- The site-specific Geotechnical Report that would be prepared for the project should discuss recommendations for waterproofing for the subgrade parking structure.

- Clarify flood hazard zones.
- If any wells are found on the project site, they must be properly destroyed under a permit from Santa Clara Valley Water District or registered with Santa Clara Valley Water District and protected from damage.

None of the comments received address an issue of deficiency or adequacy of the Draft SEIR, or the mitigation measures to be adopted as part of the Final SEIR.

The City responded to all comments received on the Draft SEIR and incorporated them into the First Amendment to the Draft SEIR. The SEIR text revisions were included in the First Amendment to address clarifications to the text of the Draft SEIR and other suggested text revisions from the commenter. The First Amendment, taken together with the Draft SEIR, and the Mitigation Monitoring and Reporting Program constitutes the Final SEIR. The Draft SEIR and First Amendment to the Draft SEIR (Final SEIR) are available for review on the project page on the City's Active EIR website at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/south-fourth-mixed-use-project>. A copy of the Mitigation Monitoring and Reporting Program is included in the proposed CEQA resolution.

The City received a letter from Lozeau-Drury, LLP representing Laborers International Union of North America, Local Union 270 and its members living in the City of San Jose the day of the Planning Commission. While the letter raised numerous concerns, those concerns were either unfounded, incorrect, or otherwise addressed by the City's responses. There were no new significant impacts revealed in the letter, and recirculation of the SEIR is not required. The letter and responses are posted on the City's website at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/south-fourth-mixed-use-project>.

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the Draft SEIR or present 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, including a feasible project alternative that the project's proponents have declined to implement (CEQA Guidelines Section 15088.5). No such conditions have occurred. Therefore, the Draft SEIR does not need to be recirculated.

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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 Deputy Director for Planning, Robert Manford, at (408) 535-7900.

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton

SUBJECT: File Nos. H17-004 & ER20-262

DATE: February 14, 2024

COUNCIL DISTRICT: 3

| | |
|---|---|
| Type of Permit | Site Development Permit |
| Proposed Land Use | Multifamily Residential |
| New Residential Units | 210 units |
| New Non-residential Square Footage | Not applicable |
| Demolition | 31 residential units |
| Tree Removals | 10 trees (3 ordinance-size, 7 non-ordinance-size, 11 replacement trees) |
| Project Planner | Alec Atienza |
| CEQA Clearance | South Fourth Street Project Environmental Impact Report |
| CEQA Planner | Reema Mahmood |

RECOMMENDATION

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

1. Adopt a Resolution certifying the South Fourth Street 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 (CEQA).
2. Adopt a Resolution approving, subject to conditions, a Site Development Permit to allow the demolition of an existing single-family residence and 30-unit multifamily apartment building totaling approximately 21,792 square feet and the removal of 10 trees (3 ordinance-size, 7 non-ordinance-size, 11 replacement trees) for the construction of a 25-story, 210-unit multifamily residential building with a 20% parking reduction and an alternative parking arrangement ("puzzle lifts") on an approximately 0.52-gross-acre site.

PROPERTY INFORMATION

| | |
|----------------------------|---|
| Location | Westerly of South 4 th Street, approximately 170 feet south of East San Salvador Street (439-451 South 4 th Street) |
| Assessor Parcel No. | 467-47-058 & 467-47-096 |
| General Plan | Downtown |
| Growth Area | Downtown |
| Zoning | DC Downtown Primary Commercial |
| Historic Resources | N/A |

| | |
|-------------------------|--------------------------------|
| Annexation Date | Original City (March 27, 1850) |
| Council District | 3 |
| Acreage | 0.52 gross acres |
| Allowed Density | 800 DU/AC |
| Proposed Density | 403 DU/AC |
| Allowed FAR | 12.0 |
| Proposed FAR | 4.31 |

PROJECT SETTING AND BACKGROUND

As shown on the attached Aerial Map (Exhibit A and Figure 1 below), the subject site is comprised of two parcels located on the west side of South 4th Street approximately 170 feet south of the intersection with East San Salvador Street. The site is currently developed with a 30-unit, three-story apartment building on the northern parcel and a two-story single-family residence on the southern parcel. Vehicular access to the site is provided by four driveways along South 4th Street. The site is bordered by multifamily residential uses on all sides. To facilitate the construction of the project, a Lot Line Adjustment is required to be approved to merge the two existing parcels into one parcel. The recordation of a Lot Line Adjustment is included as a condition of approval in the draft Site Development Permit Resolution.

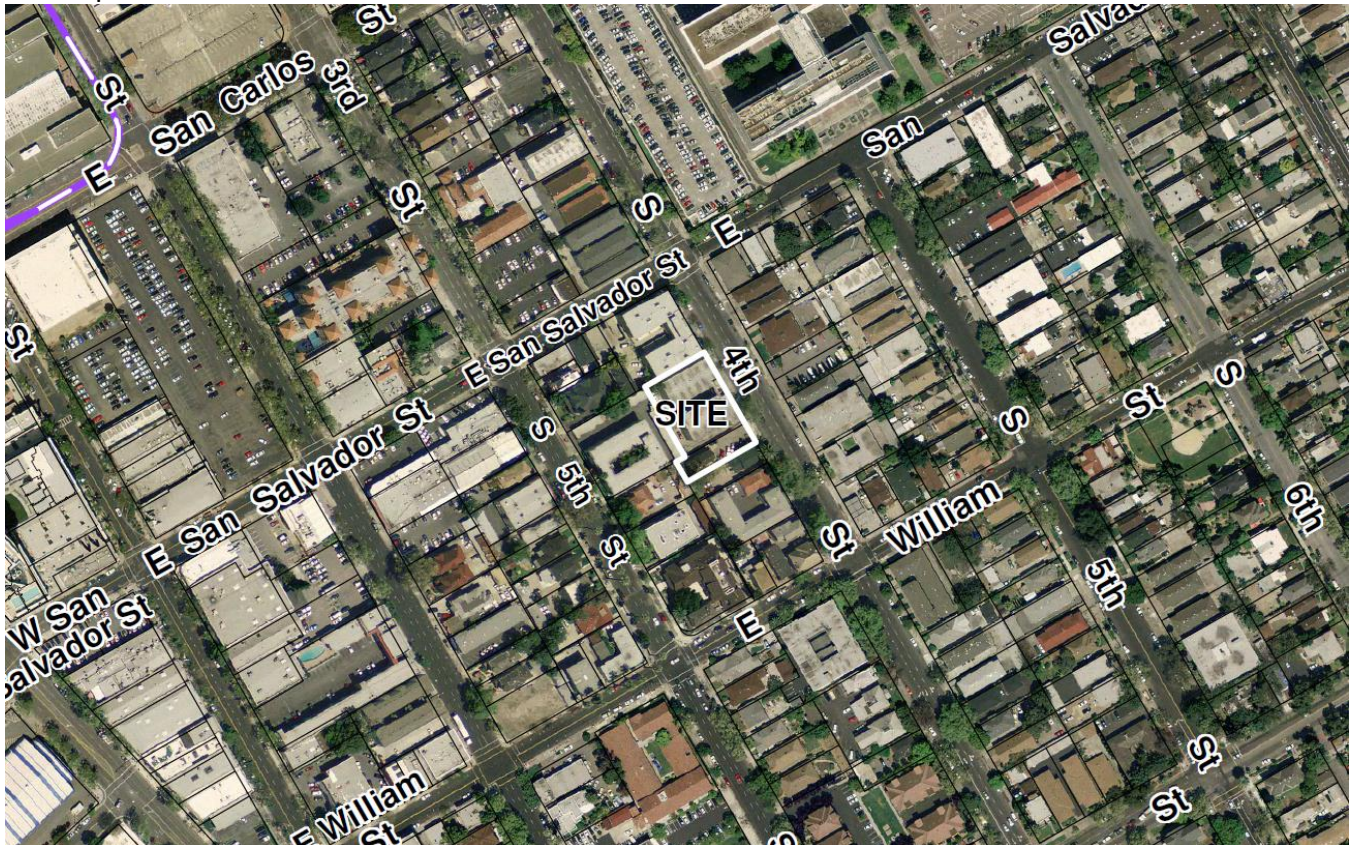


Figure 1 Aerial Map

| SURROUNDING USES | | | |
|------------------|-------------------|--------------------------------|-------------------------|
| | General Plan | Zoning District | Existing Use |
| North | Downtown | DC Downtown Primary Commercial | Multifamily Residential |
| South | Downtown | DC Downtown Primary Commercial | Multifamily Residential |
| East | Urban Residential | UR Urban Residential | Multifamily Residential |
| West | Downtown | DC Downtown Primary Commercial | Multifamily Residential |

On January 18, 2017, property owner and applicant Nelly Amas, submitted an application for a Site Development Permit to allow the demolition of an existing single-family residence and 30-unit rent-stabilized multifamily building for the construction of a 12-story, 138-foot-high, 101-unit multifamily residential building.

On October 15, 2018, the applicant resubmitted the project with an updated design consisting of an 18-story, 207-foot-high, mixed-use building consisting of 1,345 square feet of retail and 218 multifamily residential units.

On November 8, 2019, the applicant resubmitted the project with another updated design consisting of a 19-story, 215-foot-high, mixed-use building consisting of 11,157 square feet of commercial space and 218 multifamily residential units.

On October 4, 2021, the applicant resubmitted the project with the currently proposed design consisting of a 25-story, 210-unit multifamily residential building totaling approximately 430,738 square feet. As the project includes an alternative parking arrangement (“puzzle lifts”), the Municipal Code Conformance section below provides an alternative parking arrangement analysis.

In the plan's final version, the building's ground floor consists of a lobby, mail room, office space, bicycle storage, and utility rooms. Floors two through four consist of structured parking. The fifth through 25th floors consist of residential units, associated study rooms, common open space, and utility rooms. The project includes a mix of two-bedroom (63), three-bedroom (21), four-bedroom (84), and five-bedroom (42) units. The roof level consists of a rooftop patio/lounge, community room, gym, dog park, bathroom, utility rooms, and mechanical equipment.

The site is accessible from two 26-foot-wide vehicle driveways and a newly constructed 12-foot-wide sidewalk along South 4th Street. Vehicle parking is provided on one underground level and four levels of above-ground structured parking. A total of 168 vehicle parking spaces are provided, including a mix of puzzle lifts, tandem spaces, and standard vehicle parking spaces.

This project is subject to the requirements of the City’s Ellis Act Ordinance 29902, adopted April 25, 2017 (Ellis Act Ordinance), as it involves the demolition or repurposing of existing multifamily residential units built before September 7, 1979. The ordinance requires owners to follow a standardized process for issuing notices to tenants, providing relocation benefits, and restricting future use of the property by requiring former tenants the right to return to the same unit if brought back to the rental market or if recontrolled new apartments are built on site. The right to return is governed by [Section 17.23.1170](#) of the Municipal Code. The Site Development Permit Resolution (Exhibit E) includes

conditions requiring compliance with the Ellis Act Ordinance including the following requirements for all 30 tenant households at 439 South 4th Street:

- **Noticing Requirements.** The owner must serve to the City of San Jose and to all residents a minimum 120 days' notice of intent to withdraw for every rent stabilized unit in the building. The notice must contain specific information as set forth in San Jose Municipal Code subsection C. of [Section 17.23.1140](#). For qualifying tenants, an owner must provide a minimum one years' notice to tenants of the owner's intent to withdraw the rental unit pursuant to subsection B of [Section 17.23.1160](#); and
- **Relocation Assistance.** Tenant Households are entitled to relocation assistance at the time they receive notice that their unit is intended to be withdrawn from the rental market. The amount of relocation assistance is based upon the number of bedrooms in the rent stabilized unit and is adjusted and set by the City Council via resolution each year. The relocation assistance fee schedule for fiscal year 2023-2024 is:

| | Studio | 1-Bedroom | 2-Bedroom | 3-Bedroom |
|--|---------|-----------|-----------|-----------|
| Base Assistance | \$6,925 | \$8,400 | \$10,353 | \$12,414 |
| Qualified Assistance | \$2,770 | \$3,360 | \$4,141 | \$4,966 |
| Total Base + Qualified Assistance | \$9,696 | \$11,760 | \$14,494 | \$17,380 |

- **Record a Memorandum in Official Records of Santa Clara County.** An owner must record a memorandum on a City approved form in the official records of Santa Clara County within ten days of delivery of the notice of intent to withdraw, or at least one day prior to sale or transfer of any property on which a building containing a covered unit to be withdrawn is located.
- **Filing Fee.** No less than one hundred twenty (120) days prior to the date upon which the building is intended to be withdrawn from the rental market, the owner shall pay to the City the fee set pursuant to [Section 17.23.1130](#). For 2023-2024, the filing fee is \$2,833 for the first 10 units and \$951 per additional unit after 10 units.

Additionally, the Ellis Act Ordinance requires the recontrol of half of the new units built where prior rent-controlled units existed. The Ellis Act Ordinance provides that if a building containing a rent stabilized unit is demolished and new units are built on the same property and offered for rent or lease within five (5) years of the effective date of withdrawal of the building with rent stabilized units, the number of newly constructed rental units equal to or greater of (i) the number of Covered Units or (ii) fifty percent (50%) of all newly constructed rental units located on the property where the Covered Unit was demolished shall be deemed Rent Stabilized Units subject to the Apartment Rent Ordinance (ARO). If the project requires the demolition of the 30 rent stabilized units, then of the 210 residential units built, one-half of those units (105 units) will be re-controlled and subject to the ARO, unless the owner chooses to provide onsite affordable rental units.

The recontrol requirements discussed above are waived if the owner chooses to provide 20% (42 units) of the newly constructed units as on-site as restricted affordable rental housing, under the standards consistent with the requirements of the City's Inclusionary Housing Ordinance (IHO).



Figure 2 – Proposed 4th Street Elevation

ANALYSIS

The Site Development Permit is analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. San José Municipal Code
3. Downtown Design Guidelines
4. Permit Findings
5. California Environmental Quality Act (CEQA)
6. City Council Policies

Envision San José 2040 General Plan Conformance



Figure 3 - General Plan Land Use Map

Land Use Designation

As shown in the attached General Plan Map (Exhibit B and Figure 3 above), the project site has an [Envision San José 2040 General Plan](#) Land Use/Transportation Diagram designation of **Downtown**. The Downtown designation supports office, retail, service, residential, and entertainment uses that enhance the "complete community" in Downtown. The designation supports increased transit ridership and promotes bicycle circulation. Residential projects within the Downtown designation should incorporate ground-floor commercial uses.

Analysis: The maximum allowable Floor Area Ratio (FAR) for projects with the Downtown land use designation is 30. The project has a FAR of approximately 19.5, in conformance with this requirement. The maximum allowed residential density is 800 Dwelling Units per Acre (DU/AC). The proposed project has a density of approximately 403 DU/AC, in conformance with this requirement. The project site is located along South 4th Street, a major Downtown thoroughfare providing transit services via VTA Bus Routes 66 and 68. The project site is also approximately 1,500 feet from the San Antonio VTA Light Rail Station, which further supports transit use of future residents.

The proposed project is consistent with the following General Plan Policies:

General Plan Goals and Policies

1. **Major Strategy #9 – Destination Downtown:** Support continued growth in the Downtown as the City's cultural center and as a unique and important employment and residential neighborhood. Focusing growth within the Downtown will support the Plan's economic, fiscal, environmental, and urban design/ placemaking goals.

2. Land Use Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.
3. Land Use Policy LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.
4. Land Use Policy LU-10.3 Develop residentially designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.
5. Community Design Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
6. High Quality Facilities and Programs Policy PR-2.6: Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

Analysis: The proposed project provides a high-density residential development in an area planned for intensive residential and commercial growth. To promote walking and transit use, the project provides 168 vehicle parking spaces, less than the minimum required 210 spaces. The proposed project also provides 70 bicycle parking spaces, greater than the 53 spaces required. Bicycle parking is provided in a secure bicycle room that is accessible from the pedestrian-only entrance along South 4th Street.

The project site is located along South 4th Street, a major Downtown thoroughfare providing transit services via VTA Bus Routes 66 and 68. The project site is also approximately 1,500 feet from the San Antonio VTA Light Rail Station. The ground floor of the building has a clear glass storefront, glass garage door entries, and granite walls. While the project does not include commercial space, office space and lobby space with clear windows are provided at the ground level along South 4th Street. The building entry is highlighted with a canopy and a self-illuminated glass wall flanks the building entry in order to create an active and inviting street frontage. The project is located approximately one-half block from the San Jose State University Campus, that are open for recreational purposes after normal school hours and includes several parks and paseos.

Municipal Code Conformance

Land Use

The attached Zoning District Map (Exhibit C and Figure 4 below) shows that the project is located within the **DC Downtown Primary Commercial** Zoning District. Pursuant to [Section 20.70.100](#) of the Zoning Code, multifamily residential uses are permitted in the DC Zoning District. Pursuant to [Section 20.100.600](#) of the San José Municipal Zoning Code, a Site Development Permit is required for the erection or construction of a building. An alternative parking arrangement (puzzle lifts) is also permitted in the DC Downtown Primary Commercial Zoning District. Additional findings to allow an

alternative parking arrangement are made below pursuant to Section 20.90.220 of the Zoning Code.

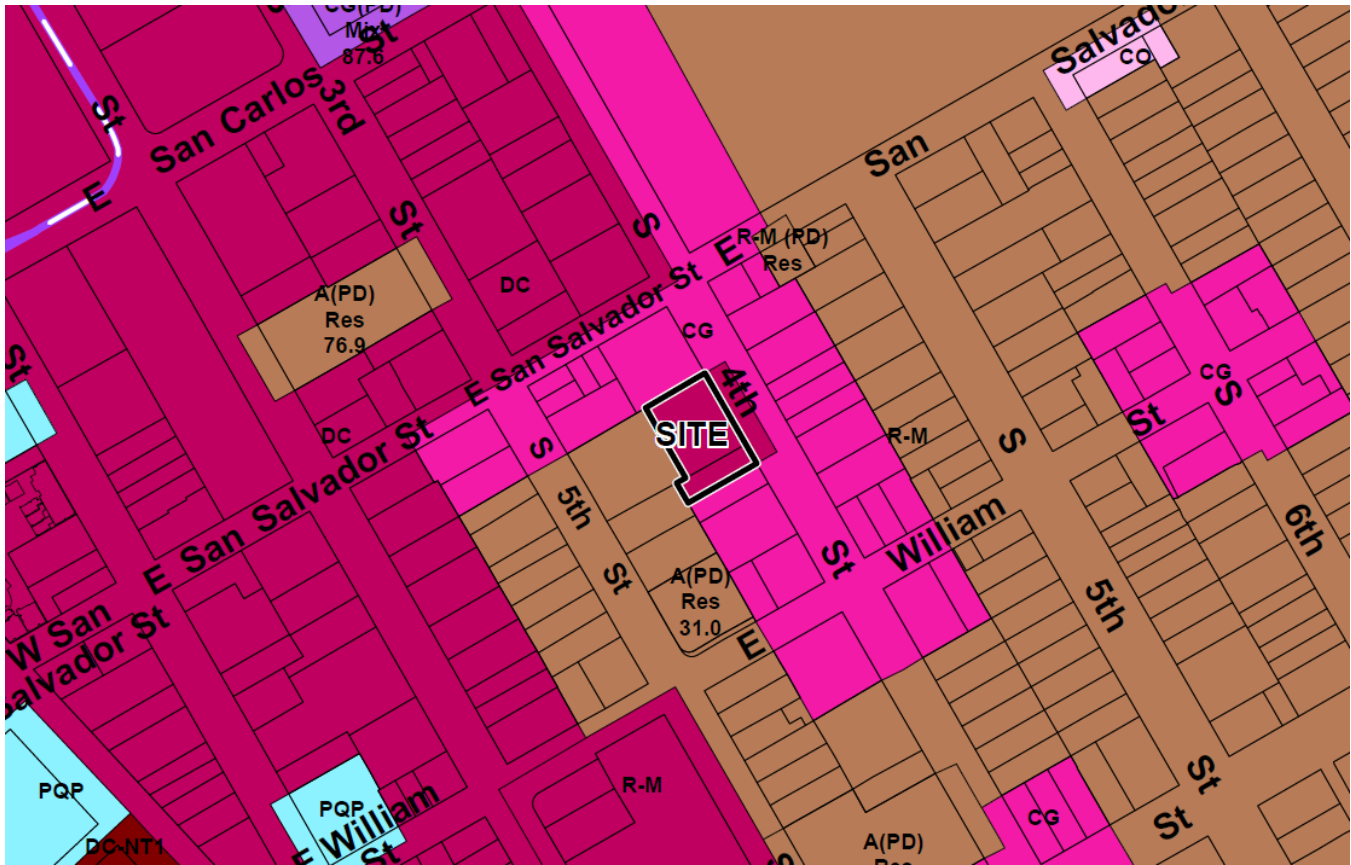


Figure 4 Zoning Map

Setbacks and Height

| Development Standard | Requirement | Proposed |
|----------------------|--|---|
| Front setback | None | None |
| Side setback | None | 9 feet 2 inches (south), 10 feet 3 inches (north) |
| Rear setback | None | 7 feet, 2 inches |
| Maximum height | 295 feet per Federal Aviation Administration (FAA) | 274 feet |

[Section 20.70.210](#) of the Municipal Code does not establish minimum setback requirements for developments in the DC Downtown Primary Commercial Zoning District. The height of development in the Zoning District is only limited to the height limitations necessary for the safe operation of the San José International Airport and Federal Aviation Regulations Part 77. As shown on the project plans, the project's height is 274 feet. The maximum allowed height for the subject property per the Federal Aviation Administration is 295 feet. Conditions of approval would require the applicant to secure appropriate FAA and aviation clearances for the building's height before construction.

Vehicle Parking

| Use | Ratio | Number of Units |
|--------------------------|------------|-----------------|
| Multifamily Residential | 1 per unit | 210 units |
| Total Required | | 210 spaces |
| Total Provided | | 168 spaces |
| Parking Reduction | | 20% |

The project was submitted on January 18, 2017. Therefore, the project is subject to the previously adopted parking requirements in effect prior to April 10, 2023. Pursuant to [Chapter 20.70](#) of the Zoning Code, one vehicle parking space per unit is required for multifamily residential uses in the DC Zoning District. Therefore, a total of 210 vehicle parking spaces are required. A total of 168 vehicle parking spaces are provided, resulting in an approximately 20% parking reduction. [Section 20.90.220](#) of the Zoning Code authorizes a parking reduction of up to 20% of the required parking spaces for sites within a Growth Area without the implementation of a Transportation Demand Management (TDM) Plan if the project provides the code required number of bicycle spaces. The subject property is located within Downtown, a growth area, and provides the required bicycle parking spaces, as shown below. Therefore, the project is eligible for a 20% vehicle parking reduction. Vehicle parking is provided in standard vehicle parking spaces, tandem spaces, and puzzle lifts. Tandem and puzzle lift parking is considered an alternative parking arrangement permitted by right in the DC Downtown Primary Commercial Zoning District pursuant to [Section 20.70.100](#) of the Zoning Code.

Bicycle Parking

| Use | Ratio | Number of Units |
|-------------------------|---------------|-----------------|
| Multifamily Residential | 1 per 4 units | 210 units |
| Total Required | | 53 spaces |
| Total Provided | | 70 spaces |

Pursuant to [Section 20.90.060](#) of the Zoning Code, multifamily residential are required to provide one bicycle parking space per four residential units. Therefore, the project is required to provide 53 bicycle parking spaces. A total of 70 bicycle parking spaces are provided, exceeding the requirement, and further supporting Land Use Policy LU-3.5.

Loading Spaces

| Use | Ratio | Required |
|-------------------------|---|-------------------------|
| Multifamily Residential | Multiple dwelling residential uses of 200 units or greater and less than 500 units shall provide at least 2 off-street loading spaces | 2 loading spaces |
| Total Provided | | 2 loading spaces |

Pursuant to [Section 20.70.435](#) of the Zoning Code, multifamily residential uses with 200-500 units are required to provide two off-street loading spaces. The project provides two 10-foot by 30-foot loading

spaces on the ground floor of the parking garage in conformance with this requirement.

Downtown San Jose Design Guidelines (2004) Conformance

The project was submitted on January 18, 2017, before adopting the Downtown Design Guidelines, which became effective on April 23, 2019. Therefore, the project was reviewed for conformance with the original Downtown Design Guidelines, adopted by the City Council on July 1, 2004. While residential projects only require conformance with objective, quantifiable standards pursuant to Senate Bill 330 (SB330), the project is consistent with the following key design guidelines as analyzed below:

- **Building Height and Massing**

- Skyline Height:

- Specify and compose a palette of materials with distinctive texture, pattern, transparency or light reflectivity or color
- Provide or enhance a specific architectural rooftop element

- Massing and Scale:

- Buildings that are over 150 feet, tall or more than 9 stories, should have a discernible treatment that distinguishes the base, middle and top of each building on all facades.

Analysis: The building includes a variety of colors and materials that are arranged in a cohesive design. The 25-story building includes a discernible base, middle, and top. The ground floor has a clear glass storefront, glass garage door entries, and granite walls. The lower levels of the building also include garage screening elements, including perforated metal paneling and illuminated opaque glass. The middle level of the building is dominated by the residential units, with the façade broken up through minimum two-foot-deep breaks in the wall plane, materials, colors, and window shape. The middle portion of the building includes a mix of white, gray, and black stucco, wood-colored accent panels, and clear glass windows. The middle portion of the building is dominated by two painted stucco panels that wrap around the front façade to the north and south. The north panel extends 13 feet beyond the roof line, creating a rooftop architectural element that distinguishes the upper level of the building from the base and middle. The rooftop includes a patio/lounge, community room, gym, dog park, bathroom, utility rooms, and mechanical equipment.

- **Architectural Elements**

- Buildings taller than 75 feet must have at least two vertical breaks or reveals greater than 2 feet in depth to divide the bulkiness of the mass.
- Avoid continuous massing longer than 100 feet that is not articulated with shadow relief, projections, and recesses. If massing extends beyond this length, it should be made permeable and visibly articulated as several smaller masses using different materials, vertical breaks, such as expressing bay widths, or with other architectural elements.

Analysis: Above the second floor to the roof, the materials on the exterior emphasize verticality. Two painted stucco panels wrap around the front façade to the north and south. The vertical elements break up the long rows of windows in the middle portion of the building. Minimum two-foot-deep breaks in the wall plane coincide with the changes in color and material.

- **Facades**

- For street wall continuity below 50 feet, 80% of the building facade must be within 2 feet of the property line or building face line established by the Streetscape Master Plan

Analysis: The entirety of the building is placed at the lot line along South 4th Street in compliance with this requirement.

- **Building Elements**

- Reinforce the building's entry with one or more of the following architectural treatments:
 - extra-height lobby space;
 - distinctive doorways;
 - decorative lighting;
 - distinctive entry canopy;
 - projected or recessed entry bay;

Analysis: The building entry includes a self-illuminated glass wall flanking the main entry doors. The building entry is recessed, and a canopy is incorporated into the entry areas to create a distinctive building entry canopy.

- **Parking Facilities**

- Recess the garage entry portion of the façade or extend portions of the structure over the garage entry to help subordinate its impact;
- Emphasize other facade elements to reduce the visual prominence of the garage entry;
- Incorporate pedestrian-oriented uses at street level to reduce the visual impact of parking structures;
- Visually integrate the parking structure with building volumes above, below, and adjacent.

Analysis: The ground floor and above-ground garage levels are screened with perforated metal paneling and decorative glass garage doors. While the project does not include commercial space, office space and lobby space with clear windows are provided at the ground level along South 4th Street, between the garage entries. The building entry is highlighted with a canopy and a self-illuminated glass wall flanks the building entry in order to create an active and inviting street frontage..

Permit Findings

In order for this application to be approved, the City Council must be able to make all required findings for a Site Development Permit, Tree Removal Permit, and Demolition Permit.

Site Development Permit Findings

To make the Site Development Permit findings pursuant to San José Municipal Code [Section 20.100.630](#), and recommend approval to the City Council, the Planning Commission must determine that:

1. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans and area development policies; and

Analysis: Multifamily residential uses are consistent with the Downtown General Plan land use designation. The project is consistent with the Major Strategy for supporting the continued growth of

Downtown as a residential neighborhood. The project provides a high-density residential development in an area planned for intensive residential and commercial growth. The maximum allowable Floor Area Ratio (FAR) for projects with the Downtown land use designation is 30. The project has a FAR of approximately 19.5, in conformance with this requirement. The maximum allowed residential density is 800 Dwelling Units per Acre (DU/AC). The project has a density of approximately 403 DU/AC, in conformance with this requirement.

2. The Site Development Permit, as approved, conforms with the Zoning Code and all other Provisions of the San José Municipal Code applicable to the project; and

Analysis: Multifamily residential uses are permitted in the DC Downtown Primary Zoning District. The project is consistent with all applicable setback, height, and parking standards of the DC Zoning District. Additionally, the project is consistent with all applicable tree removal and tree replacement requirements of the Municipal Code, as discussed below in the Tree Removal Findings.

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

Analysis: Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. Three community meetings were held for the project. A Community Meeting was held on April 3, 2017 at Lowell Elementary School. A joint EIR Scoping and Community Meeting was held on Thursday July 11, 2019 at Horace Mann Elementary School. A joint EIR Scoping and Community Meeting was held via Zoom on Monday March 21, 2022. An on-site sign has been posted on the project frontage since January 9, 2019. 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. The notice was also published in a newspaper of record on January 22, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

4. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
5. *Analysis: The project consists of a single 25-story building with a single use of multifamily residential. In addition to the residential units, the project includes lobby and office space, a mailroom, structured parking, rooftop amenities, utility and mechanical equipment, stormwater control improvements, and a new 12-foot-wide sidewalk along the project frontage. The uses within the building are organized in a coherent manner with lobby, office, mailroom, and utility space located on the ground floor. Structured parking is well screened and provided in both subterranean and upper levels. The primary recreation facilities for residents are provided on the rooftop and include a pool and lounge area. Therefore, the orientation, location, and elevation of the uses on-site are mutually compatible and aesthetically harmonious. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.*

Analysis: The subject site is surrounded entirely by multifamily residential uses. The project design is consistent with the 2004 Downtown Design Guidelines and the surrounding Downtown neighborhood, which includes similar existing and proposed high rise multifamily buildings. The site is surrounded by multifamily residential uses to the north, south, east, and west. The project includes modern contemporary architecture including glass, granite, stucco, metal panels and variations in massing and pattern.

6. 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: The project is located within an urbanized area and is served by all necessary public and private utilities. The project will be required to adhere to standard building and grading permit conditions as well as standard cultural and tribal cultural resources conditions and mitigation measures during the construction phase, which will minimize related impacts during the project phase. The operation of the project is entirely residential and therefore would not be a generating source for excessive noise or odor. Additionally, the project construction hours are limited to Monday through Friday 7:00 am to 7:00 pm. The project is conditioned to appoint a Construction Disturbance Coordinator to address any construction related concerns from surrounding neighbors and businesses. Therefore, the project would not contribute any significant adverse effects to the surrounding environment.

7. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: Landscaping is provided along the sidewalk, 5th floor podium level courtyard at the rear of the building, and rooftop deck. Utilities associated with the building are located inside of the building and fully shielded from view. The trash room is also interior to the building. Based on the existing condition of the site, this would be an upgrade to the appearance of the neighborhood.

8. Traffic access, pedestrian access and parking are adequate.

Analysis: Vehicular access to the site is provided from two 26-foot-wide driveways along South 4th Street. To facilitate the construction of the multifamily residential building, the project is conditioned to construct public improvements including a 12-foot-wide sidewalk along South 4th Street. The project is served by multiple transit lines including VTA Bus Routes 66 and 68. The project site is also approximately 1,500 feet from the San Antonio VTA Light Rail Station. The project provides all required vehicle, bicycle, and loading spaces in conformance with Chapter 20.90 of the Zoning Code.

Alternative Parking Arrangement Findings

[Section 20.90.200.B](#) of the Municipal Code establishes the required findings for the provision of alternative parking arrangements for off-street parking facilities.

1. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in [Chapter 20.90](#) of this title;
2. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use; and
3. The parking facility is reasonably convenient and accessible to the buildings or uses to be served.

Analysis: A total of 168 vehicle parking spaces are provided on site, which entails approximately 20% vehicle parking reduction, as permitted by [Sections 20.70.100](#) and [20.90.200](#) of the Zoning Code. The project includes 87 puzzle lift spaces, 20 tandem spaces, and 61 standard vehicle parking spaces. The spaces are accessible from one of the four parking levels accessible to residents from the interior of the building. The property owner is responsible for providing and

maintaining all portions of the building, including the operation of the puzzle lifts and assignment of vehicle parking spaces to tenants.

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 proposed project includes the demolition of all buildings and structures on site. As discussed in Site Development Permit Findings 4 and 5, the project is compatible with the surrounding neighborhood and would not have an adverse impact. The demolition would facilitate a multifamily residential project planned for high-density residential growth in a downtown area. Reusing the buildings would not be feasible to implement the project's goals. The existing housing supply would be maintained by providing a greater number of residential units than the current housing on the site provides.

A [City Landmarks Evaluation Review](#) was prepared by Treanor HL, dated March 1, 2023. The 439 South Fourth Street apartment building was found ineligible for listing in the California Register of Historical Resources (CRHR) and ineligible as a Candidate City Landmark. The house at 451 South Fourth Street is listed in the Historic Resources Inventory as a Structure of Merit as a rare vernacular residence associated with early San José industrial development (San José brewery) and would continue to be listed as a Structure of Merit. However, the house was found ineligible for listing in the California Register of Historical Resources (CRHR) and ineligible as a Candidate City Landmark because it was relocated and remodeled and no longer represents its historical era. Therefore, the demolition of the buildings would not result in the destruction of a historic resource. The demolition of any existing buildings on-site would not be approved until a grading or building permit application is filed, whichever comes first, as conditioned in this Site Development Permit Resolution.

Tree Removal Permit Findings

| Tree Replacement Ratios | | |
|-----------------------------|----------------------------|----------------------|
| Circumference of Tree to be | Type of Tree to be Removed | Minimum Size of Each |

| Removed | Native | Non-Native | Orchard | Replacement Tree |
|---------------------|--------|------------|---------|------------------|
| 38 inches or more | 5:1 | 4:1 | 3:1 | 15-gallon |
| 19 up 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 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 tree = two 15-gallon 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: Based on the South Fourth Street Project Environmental Impact Report, the project includes the removal of 10 trees. Of the trees to be removed three are ordinance-size, and seven are non-ordinance-size. None of the trees are native species and two of the trees are identified as orchard trees. The trees were identified as part of a tree survey completed by David J. Powers & Associates, Inc. in September 2015. The trees proposed to be removed are located within the proposed building footprint or within the excavation area for the project. The preservation of the trees to be removed would restrict the development of the project at the intensity allowed by the General Plan and Zoning Code.

The trees to be removed would be replaced at the required ratios based on the tree mitigation table above. The trees to be removed include three English Laurel trees, two Mt. Fuji Flowering Cherry trees, one Locust, one Canary Island Date Palm, one Plum, one Lemon, and one Variegated Pittosporum tree. There are three non-native trees to be removed that are 38 inches or greater in circumference, requiring a replacement ratio of 4 to 1. There are two non-native trees to be removed that are 19 to 38 inches in circumference, requiring a replacement ratio of 2 to 1. There are three non-native trees to be removed that are less than 19 inches in circumference, requiring a replacement ratio of 1 to 1. Two orchard trees less than 19 inches in circumference do not require replacement. Therefore, the proposed project requires the replacement of either 19 (15-gallon) or 10 (24-inch box) trees on site. Based on the landscaping plan provided, the project includes planting 11 (24-inch box) trees on site, exceeding the mitigation requirement. Trees to be planted on-site include a mix of Dwarf Strawberry, Crape Myrtle, and Swan Hill Fruitless Olive trees.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San José, as the lead agency for the project, prepared a Draft Supplemental Environmental Impact Report (Draft SEIR) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). The Notice of Preparation (NOP) for the SEIR was circulated from April 1, 2022 to March

25, 2022, and the Draft SEIR was circulated for public review and comment from May 30, 2023 to July 14, 2023. An environmental scoping meeting for the SEIR was also held on March 21, 2022 via virtual conference meeting.

Summary of Environmental Impacts Reduced to Less than Significant with Mitigation

The Draft SEIR identified potential environmental impacts related to construction air quality, migratory nesting birds, and vibration from construction activities on fragile historic buildings. With implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program (MMRP) and prepared for the project, these impacts are reduced to less than significant levels. As part of the certification of the Final SEIR, the City Council will need to approve the associated MMRP for the project.

Significant and Unavoidable Impacts and Statement of Overriding Considerations

The Draft SEIR also found that the project would result in a significant and unavoidable impact from construction noise which would exceed the exterior threshold of 80 dBA at adjacent residential land uses. The mitigation measures to be adopted for the proposed project would not reduce this impact to below the significance threshold.

If City Council were to approve the proposed 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 Considerations found that the economic and social benefits of construction of the proposed project which consists of providing 210 housing units, some of which would be affordable, to address the City's current housing shortage, all of which are downtown and accessible to jobs, retail and entertainment, and has access to various modes of public transit reducing vehicle miles traveled, would outweigh the temporary construction noise impact that would occur for a period that may potentially exceed 12 months.

Project Alternatives

The Draft SEIR analyzed two project alternatives, including a No Project – No Development Alternative, Preservation Alternative/Reduced Development Redesign. The environmentally superior alternative would be the No Project/No Development Alternative, which would avoid the identified significant impacts of the proposed project; however, CEQA requires that another alternative be chosen when the No Project Alternative is environmentally superior. The Preservation Alternative/Reduced Development Redesign is therefore the environmentally superior alternative. This alternative would reduce the height of the building from 25 stories to six stories, and result in a reduction of 176 units compared to the proposed project. With the reduction in building height, the project would be constructed in a shorter timeframe and pile driving, which is the primary cause of the significant and unavoidable impact under the proposed project, would not be required. Therefore, this alternative would avoid the significant and unavoidable noise impact.

Summary of Comments Received

The City received one comment letter during the public circulation period of the Draft SEIR. The comment letter was submitted by Valley Water. The main concerns raised by commenter are as follows:

- The Municipal Regional Permit (MRP) was re-issued in May 2022 and becomes effective in July 2023, the discussion in the Draft SEIR needs to be consistent with the new MRP.
- The site-specific Geotechnical Report that would be prepared for the project should discuss recommendation of waterproofing for the subgrade parking structure.
- Clarify flood hazard zones.
- If any wells are found on the project site, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage.

None of the comments received address an issue of deficiency or adequacy of the Draft SEIR, or the mitigation measures to be adopted as part of the Final SEIR.

The City responded to all comments received on the Draft SEIR and incorporated them into the First Amendment to the Draft SEIR. SEIR text revisions were included in the First Amendment to address clarifications to the text of the Draft SEIR and other suggested text revisions from the commenter. The First Amendment, taken together with the Draft SEIR, and the Mitigation Monitoring and Reporting Program (MMRP) constitutes the Final SEIR. The Draft SEIR and First Amendment to the Draft SEIR (Final SEIR) are available for review on the project page on the City's Active EIR website at:

<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/south-fourth-mixed-use-project>. A copy of the MMRP is included in the proposed CEQA resolution.

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the Draft SEIR or present 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, including a feasible project alternative that the project's proponents have declined to implement (CEQA Guidelines Section 15088.5). No such conditions have occurred.. Therefore, the Draft SEIR does not need to be recirculated.

PUBLIC OUTREACH

Staff followed [Council Policy 6-30: Public Outreach Policy](#) in order to inform the public of the proposed project. Three community meetings were held for the project. A Community Meeting was held on April 3, 2017 at Lowell Elementary School. A joint EIR Scoping and Community Meeting was held on Thursday July 11, 2019 at Horace Mann Elementary School. A joint EIR Scoping and Community Meeting was held via Zoom on Monday March 21, 2022. Community concerns included neighborhood compatibility, building height, building setbacks, parking impacts on the surrounding neighborhood, trash pick-up operations, sewage capacity, the need for on-site guest parking, the unit mix, the projected rental cost, and shade impacts on surrounding properties. An on-site sign was posted on the project frontage on January 9, 2019. 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. The notice was also published in a newspaper of record (San Jose Post Record) on January 22, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

Project Manager: Alec Atienza

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

| ATTACHMENTS: | |
|---------------------|--|
| Exhibit A: | Aerial Map |
| Exhibit B: | General Plan Map |
| Exhibit C: | Zoning Map |
| Exhibit D: | Draft EIR Resolution and MMRP |
| Exhibit E: | Draft Site Development Permit Resolution |
| Exhibit F: | Site Development Permit Plan Set |
| Exhibit G: | Public Comments |

| Owner/Applicant: | Applicant's Representative |
|---|--|
| Nelly Amas 439 S. 4 th Street, LLC P.O Box Z | Salvatore Caruso Caruso Design 980 El Camino Real, Unit 200 Santa Clara, CA 95050 |

EXHIBIT A: Aerial Map

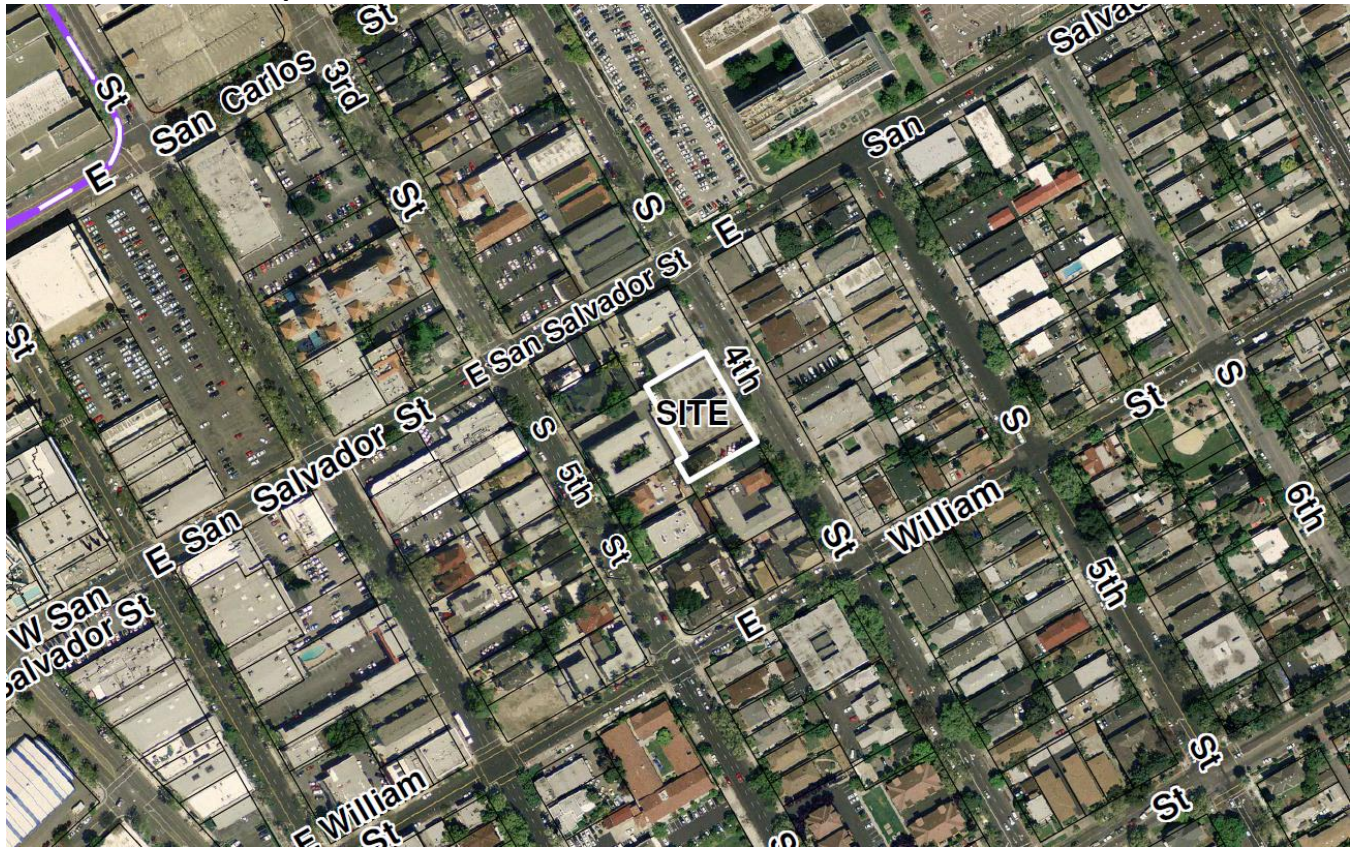


EXHIBIT B: General Plan Map

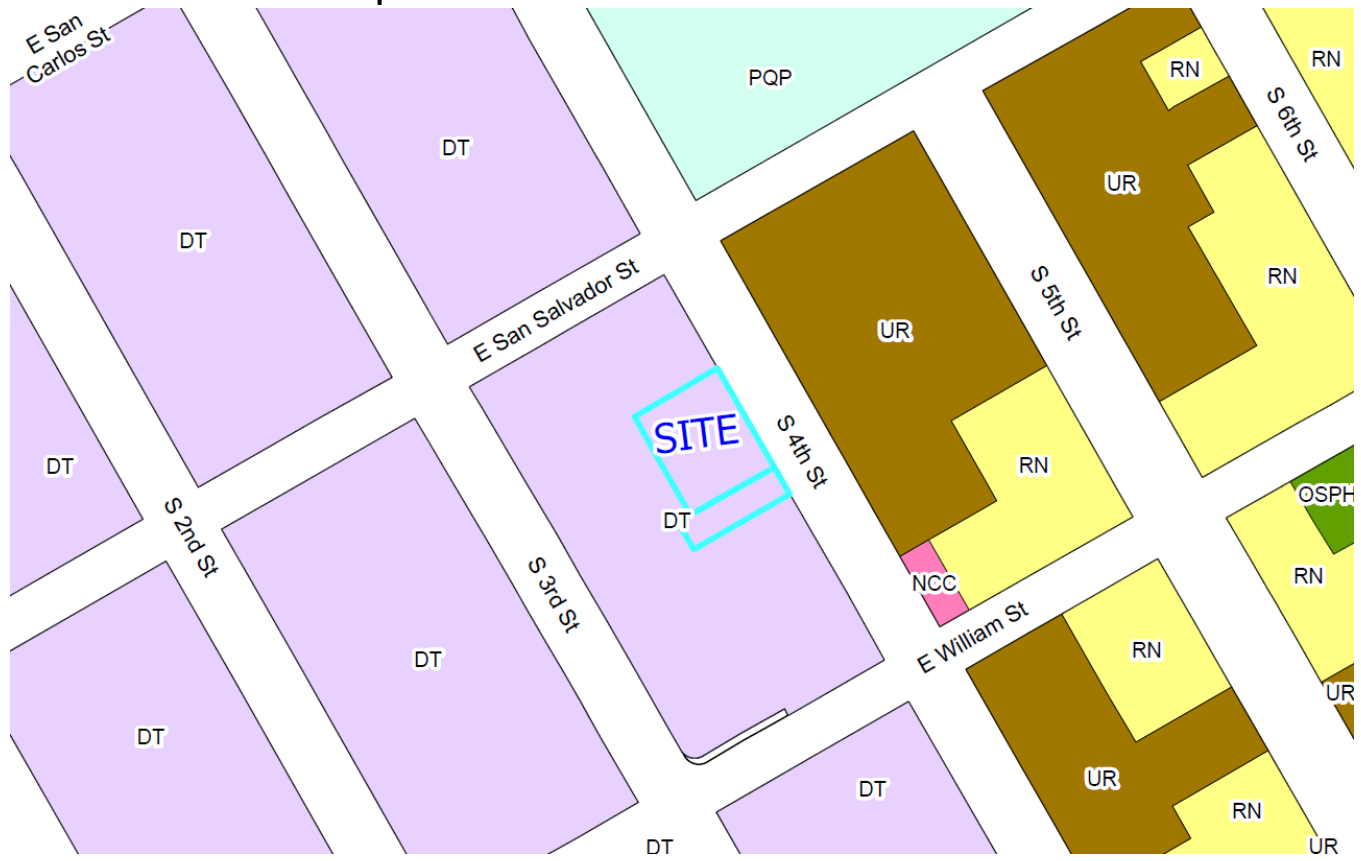
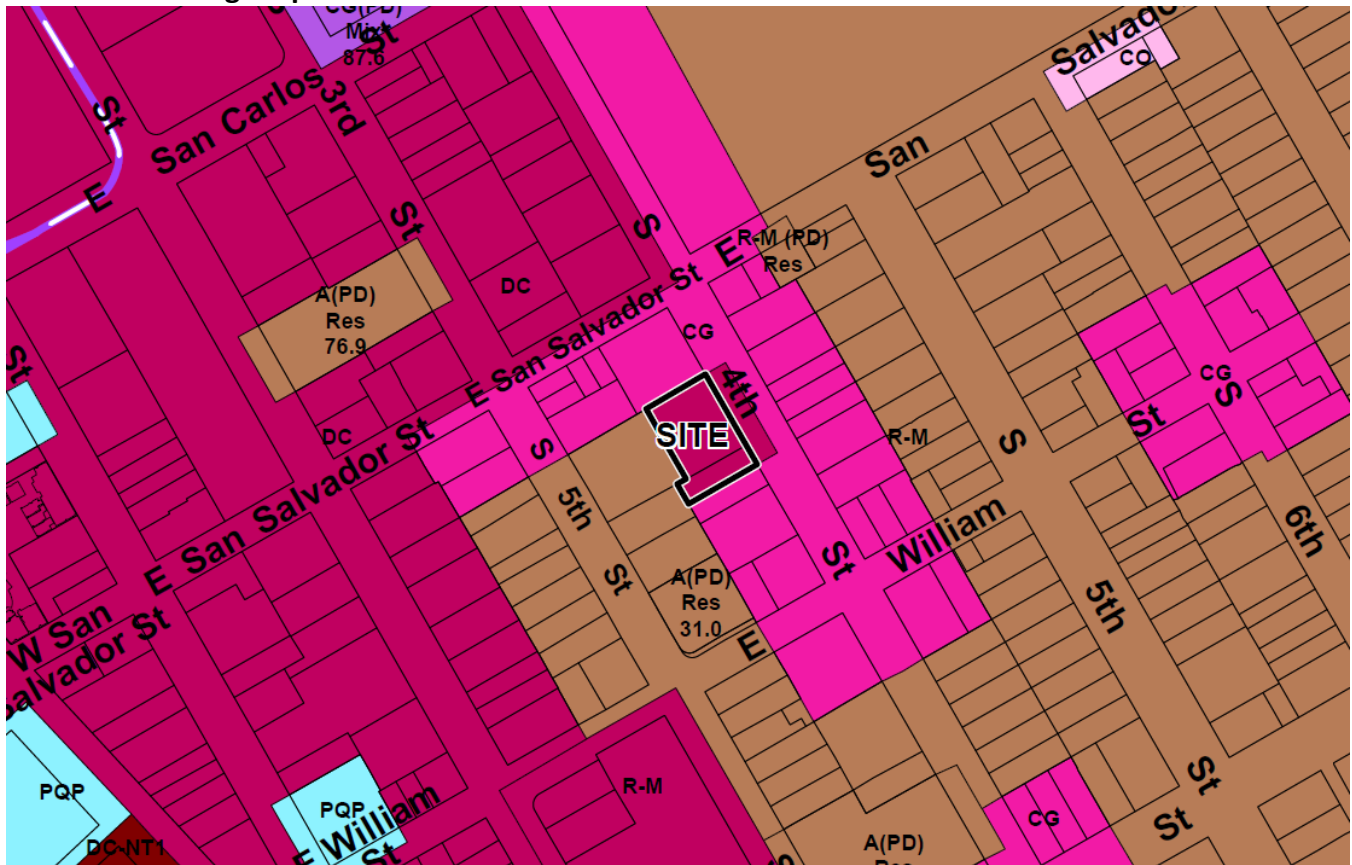


EXHIBIT C: Zoning Map



H17-004 & ER20-262

Links to Attachment D - G

Click on the title to view document.

| |
|--|
| <u>Exhibit D: Draft EIR Resolution and MMRP</u> |
| <u>Exhibit E: Draft Site Development Permit Resolution</u> |
| <u>Exhibit F: Site Development Permit Plan Set</u> |
| <u>Exhibit G: Public Comments</u> |

[Correspondence Received After 2/7/24](#)