



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT: SEE BELOW**

**DATE:** September 23, 2024

**COUNCIL DISTRICT: 8**

**SUBJECT: PDC22-008, T22-034, PD22-021 & ER22-237 - Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit for Certain Real Property Located at 3464 Ambum Avenue**

## **RECOMMENDATION**

The Planning Commission voted 9-0 to recommend that the City Council take the following actions:

1. Adopt a resolution adopting the 3464 Ambum 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-1-5 Single Family Residence District to the R-1-5(PD) Planned Development Zoning District on an approximately 2.59-gross-acre site to establish development standards.
3. Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to merge two existing parcels into one lot and subdivide into four single-family residential lots on an approximately 2.59-gross-acre site.
4. Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of one single-family residence, one accessory dwelling unit, and five accessory buildings, the removal of 23 ordinance-size and 16 non-ordinance-size trees, and the construction of four detached-single-family residences on an approximately 2.59-gross-acre site.

## **SUMMARY AND OUTCOME**

If the City Council approves the actions listed above as recommended by the Planning Commission, the approximately 2.59-gross-acre site on the south side of Ambum Avenue, approximately 250 feet westerly from Mitton Drive (3464 Ambum Avenue),

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would be rezoned from its current R-1-5 Single-Family Residence Zoning District to the R-1-5(PD) Planned Development Zoning District. Additionally, the project applicant could move forward with subdividing the Project Site into four single-family residential lots and constructing four single-family residences.

## **BACKGROUND**

On September 11, 2024, the Planning Commission held a Public Hearing to consider the Mitigated Negative Declaration (MND) for 3464 Ambum Avenue Residential Subdivision Project, Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit.

This item was heard during the public hearing portion of the agenda. The Planning Commission, by 9-0, voted to recommend that the City Council adopt the MND and the related Mitigated Monitoring and Reporting Program (MMRP) and approve the Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit.

## **ANALYSIS**

The attached staff report contains an analysis of project impacts pursuant to CEQA, the Planned Development Rezoning, the Vesting Tentative Map, and the Planned Development Permit, including conformance with the General Plan, Municipal Code, and City Council policies.

The recommendation in this memo does not affect any Climate Smart San José energy, water, or mobility goals.

## **EVALUATION AND FOLLOW-UP**

The City Council is the final decision-making body for this Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit application. The City Council has the option to approve, deny, or defer the project to a later City Council meeting. If denied, the parcel will keep its current R-1-5 Single-Family Residence Zoning, and the applicant will not be able to proceed with subdividing the Project Site and constructing four new single-family residences. If approved, the subject site would be rezoned to the R-1-5(PD) Planned Development Zoning District, and the applicant could proceed with the proposed project. The rezoning would become effective 30 days after a second reading of the rezoning ordinance at a subsequent City Council meeting.

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## **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 October 8, 2024 City Council meeting.

Additionally, staff followed [Council Policy 6-30: Public Outreach Policy](#) in order to inform the public of the proposed project. An on-site sign was posted at the project frontage on November 2, 2022. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on August 21, 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**

The project was heard during the Public Hearing agenda of the September 11, 2024, Planning Commission meeting, which proceeded as follows:

### *Staff Presentation*

Planning staff provided a brief oral presentation of the proposed project, including an overview of the project and the project's conformance with the General Plan, the proposed Planned Development Zoning District regulations, and Single-Family Design Guidelines. Staff summarized the comments received during the project review, how the project addresses those comments and the project's compliance with the California Environmental Quality Act (CEQA). Staff also read into the record a correction of a typo on the labels of the square footage of the proposed houses on the Proposed Site Plan Figure on Page 9 of the Initial Study/Mitigated Negative Declaration (IS/MND) and stated the analysis included in the IS/MND are based on the correct house sizes and this textural error does not result in any new impacts under CEQA that haven't been analyzed in the IS/MND.

### *Applicant Presentation*

The applicant, Ryan Do, representing Viam Capital LLC, stated staff has provided a thorough staff report and he was ready to answer questions from Planning Commissioners.

### *Public Hearing*

Chair Tordillos opened the public comment portion of the agenda. No members of the public spoke regarding the project.

### *Commissioner Discussion*

Commissioner Lardinois made a motion to approve the staff recommendation.

Commissioner Bickford seconded the motion.

Commissioner Bhandal stated he received comments from some neighbors concerning privacy due to the proposed balconies on Lot 1 and the elevation of these lots (on top of a hill) and asked if the project could incorporate some mitigation measures to reduce the privacy impact. He also stated that the neighbors are also concerned about the house size. The proposed house sizes range from 5,000 square feet to 6,200 square feet; however, the houses in this neighborhood are around 2,400 square feet.

Commissioner Cantrel asked about the potential impact on the housing values in the area due to these significant large houses and plots.

Staff responded that the City reviews housing projects based on objective standards. The applicable objective standards for this project are density (maximum 8 DU/AC) and floor area ratio (maximum 0.7). The proposed density is 1.54 DU/AC, and the proposed floor area ratios (FAR) are from 0.15 to 0.3. The project meets these objective standards. In addition, the project design includes massing changes, recessions and projections, and varying materials to provide visual interest.

Commissioner Cantrel stated the project seems to miss the opportunity for a higher-density development.

The applicant responded that they felt this project would work for them.

Commissioner Young asked how Senate Bill 330 affects the City's ability to review this type of project.

Staff explained that the City is limited to applying objective standards to housing projects, objective means measurable and quantifiable, and nothing involves any subjective analysis. For example, suppose the General Plan requires new development to be consistent with the neighborhood character. In that case, that is a subjective requirement, and the City, under SB330, is not allowed to apply this subjective standard to deny a housing project. The objective standards for this project are a maximum

density of 8 DU/AC and a maximum FAR of 0.7 and the project meets these two objective standards.

Staff also stated that the project design reduces the privacy impact by including trees with large canopies along the proposed street around Lot 1 and providing substantial setbacks (approximately 70 feet) from the house on Lot 1 to the property lines. Staff also stated that the developer can work with the adjacent property owners to implement more features if they want.

Commissioner Oliverio said he would vote for the project per the State law.

Chair Tordillos called for a roll call vote on Commissioner Lardinois' motion to approve staff's recommendation.

Commissioner Cantrell voted yes for the project aside from the lot size.

Commissioner Bickford voted yes for the project with the caveat that the house size should be considered.

The motion was approved with a vote of 9-0.

## **CEQA**

The City of San José, as the Lead Agency, prepared an Initial Study supporting a Mitigated Negative Declaration (IS/MND) (State Clearinghouse No. 2024060080), for the 3464 Ambum Avenue Residential Project in compliance with the California Environmental Quality Act ("CEQA") Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José. The IS/MND was circulated from June 3, 2024, to June 24, 2024, and four comment letters were received during the public review period. All comments have been fully responded to in the Responses to Comments (RTC). A summary of the public comments received on the IS/MND is provided in the Planning Commission staff report, as well as information on responses to the comments.

The IS/MND, Response to Comments, and other related environmental documents are available on the Planning website at: [3464 Ambum Avenue Residential Project | City of San José \(sanjoseca.gov\)](https://www.sanjoseca.gov/3464-Ambum-Avenue-Residential-Project).

## **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.

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CHRIS BURTON

Secretary, Planning Commission

For questions, please contact the Division Manager of the Planning Division's Development Review Team, John Tu, at (408) 535-6818.

Attachment: Planning Commission Staff Report



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Christopher Burton

**SUBJECT:** PDC22-008, PD22-021, T22-034  
& ER22-237

**DATE:** September 11, 2024

**COUNCIL DISTRICT: 8**

Type of Applications	Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit
Demolition	One single-family residence, one accessory dwelling unit, and five accessory buildings
Proposed Land Uses	Single-family detached residences
New Residential Units	Four
New Non-Residential Square Footage	N/A
Additional Policy Review Items	N/A
Tree Removals	23 ordinance-size trees, 16 non-ordinance-size trees
<b>Project Planner</b>	Angela Wang
<b>CEQA Clearance</b>	Mitigated Negative Declaration for 3464 Ambum Avenue Residential Subdivision Project
<b>CEQA Planner</b>	Nhu Nguyen

## RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council to take all of the following actions regarding the project site located on the south side of Ambum Avenue, approximately 250 feet westerly from Mitton Dr (3464 Ambum Avenue) ("Project Site"):

1. Adopt a Resolution adopting the 3464 Ambum 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-1-5 Single Family Residence District to the R-1-5(PD) Planned Development Zoning District on an approximately 2.59-gross-acre site to establish development standards.
3. Adopt a Resolution approving, subject to conditions, a Vesting Tentative Map to merge two existing parcels into one lot and subdivide into four single-family residential lots on an approximately 2.59-gross-acre site.
4. Adopt a Resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of one single-family residence, one accessory dwelling unit, and five accessory buildings,

the removal of 23 ordinance-size and 16 non-ordinance-size trees, and the construction of four detached-single-family residences on an approximately 2.59-gross-acre site.

#### PROPERTY INFORMATION

<b>Location</b>	South side of Ambum Avenue, approximately 250 feet westerly of Mitton Drive (3464 Ambum Avenue)
<b>Assessor Parcel Nos.</b>	654-55-015
<b>General Plan Designation</b>	Residential Neighborhood
<b>Growth Area</b>	N/A
<b>Zoning – Existing</b>	R-1-5 Single-Family Residential Zoning District
<b>Zoning – Proposed</b>	R-1-5(PD) Planned Development Zoning District
<b>Historic Resource</b>	N/A
<b>Annexation Date</b>	April 21, 1960 (Evergreen No.1-B)
<b>Council District</b>	8
<b>Project Acreage</b>	2.59

#### PROJECT BACKGROUND

As shown on the attached [Vicinity Map \(Exhibit A\)](#), the Project Site is located on the south side of Ambum Avenue, approximately 250 feet westerly of Mitton Drive (3464 Ambum Avenue). The approximately 2.59-gross-acre site is a small hill/knoll, and is developed with a detached single-family residence, one accessory dwelling unit and five accessory buildings on top of the hill/knoll. The Project Site is accessed by a private driveway from Ambum Avenue, and surrounded by single-family residences on all sides on the lower hill slopes, with rear yards backing onto the project site.

On August 6, 2022, concurrent applications for a Planned Development Zoning, File No. PDC22-008, a Planned Development Permit, File No. PD22-021, and a Vesting Tentative Map, File No. T22-034, were filed with the City by applicant Viam Capital on behalf of the owner, Viam Ambum Partners. The Planned Development Zoning would rezone the site from the R-1-5 Single-Family Residence Zoning District to the R-1-5(PD) Planned Development Zoning District. The Planned Development Permit would allow the demolition of all existing buildings and structures on site including one single-family residence, one accessory dwelling unit and five accessory buildings, the removal of 23 ordinance-size and 16 non-ordinance-size trees, and the construction of four two-story, detached-single-family residences. The Vesting Tentative Map is to subdivide the Project Site into four lots. A private street would be constructed off Ambum Avenue along the northern, eastern and southern boundaries of the site.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Residential Neighborhood	R-1-5(PD) Single-Family Residence, Planned Development	Single-family residences
East	Residential Neighborhood	R-1-5(PD) Single-Family Residence, Planned Development	Single-family residences
South	Residential Neighborhood	R-1-5(PD) Single-Family Residence, Planned Development	Single-family residences
West	Residential Neighborhood	R-1-5(PD) Single-Family Residence, Planned Development	Single-family residences
Northwest	Residential Neighborhood	R-1-5(PD) Single-Family Residence, Planned Development	Single-family residences

**ANALYSIS**

The proposed **Planned Development Rezoning, Planned Development Permit, and Vesting Tentative Map** have been analyzed with respect to consistency with:

1. Envision San José 2040 General Plan
2. Municipal Code – Zoning Ordinance
3. Single-Family Design Guidelines
4. California Environmental Quality Act (CEQA)

**Envision San José 2040 General Plan**

As shown in the attached **General Plan Map (Exhibit B)**, the project is within the **Residential Neighborhood** land use designation in the Envision San José 2040 General Plan Land Use/Transportation Diagram Map. The land use designation is applied to established, single-family residential neighborhoods. This designation typically allows a density of up to 8 dwelling units per acre (du/ac), but also allows projects to match the existing neighborhood density if it is greater than 8 du/ac.

New infill development within the Residential Neighborhood land use designation should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood. New infill development should be integrated into the existing neighborhood pattern, continuing and, where applicable, extending or completing the existing street network. The average lot size, orientation, and form of new structures for any new infill development must therefore generally match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

*Analysis: Senate Bill (SB) 330 limits a local jurisdiction’s ability to disapprove a housing development project that complies with the applicable objective general plan, and zoning standards and criteria that were in effect at the time the development application was deemed to be complete. The objective allowed density standard for the Residential Neighborhood land use designation is up to 8 du/ac if the*

*prevailing average density is less than 8 du/ac. The prevailing average density for the neighborhood is 3.43 DU/AC, which is less than 8 DU/AC; therefore, the project is allowed a maximum density of 8 DU/AC. The project has a density of 1.54 DU/AC; therefore, the project meets the criteria of a maximum 8 DU/AC objective standard. The other criteria within this designation are subjective; however, the project is consistent with the following criteria, as described:*

*The average lot size of the surrounding single-family residential lots is approximately 12,700 square feet (ranging from 8,000 to 20,400 square feet), and the lot width ranges from 68 to 110 feet. The proposed lot sizes are 18,713 to 39,432 square feet, larger than the average lot size. The proposed lot widths range from 87 feet to 112 feet, similar to the lots surrounding the area. Therefore, the proposed lot size and lot width are consistent with the existing neighborhood. Although the proposed two-story houses will be located on the knoll and are larger than the surrounding houses, they are more than 200 feet from the front property line along Ambum Avenue. Three of the four proposed houses will be behind the surrounding houses. The architectural design incorporates articulations to reduce the building massing. The new residences would therefore be consistent with the overall existing neighborhood character. Therefore, the project is consistent with the RN General Plan land use designation.*

The project is also consistent with the following key General Plan policy:

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.

*Analysis: The site is a small hill/knoll with a narrow street frontage and irregular shape. The buildable areas are located on top of the hill in the rear portion of the site and accessed by an existing driveway meandering along the northern and eastern property lines. To minimize the site grading, the proposed site layout utilizes this existing driveway corridor for the new private street to access the new houses in these buildable areas from the rear side. This form differs from a conventional subdivision layout.*

*The Planned Development Zoning aims to establish a set of development standards to regulate future development on this unique site. Specifically, the new standards include much larger setback requirements to the project boundaries and larger minimum lot size requirements than that of the conventional R-1-5 Zoning District to ensure future development occurs within the buildable areas, minimizes site grading, and better complies with Planning regulations, Fire Department and Public Works Department's requirements.*

### **Zoning Ordinance Consistency**

The project includes a rezoning from the R-1-5 Single-Family Residence Zoning District to the **R-1-5(PD) Planned Development** Zoning District.

### **Land Use**

Chapter 20.60 of the Zoning Ordinance allows a Planned Development Zoning District to be established through ordinance, including regulations for allowed uses and development standards. The Planned Development zoning can be effectuated through a valid Tentative Map or Planned Development Permit. Per [Section 20.60.040.B](#) of the Zoning Code, when a PD permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property.

The development standards of the proposed Planned Development Zoning District allow permitted, special, and conditional uses of the R-1-5 Single-Family Residence Zoning District for each of the lots. The project includes four detached single-family residences, consistent with the allowed uses of the proposed district.

**Development Regulations**

The R-1-5 Single-Family Residence Zoning District in [Section 20.30.200](#) of the Zoning Code and the proposed R-1-5(PD) Planned Development Zoning District development standards are compared in the table below, including proposed project compliance with the Planned Development Zoning standards.

Development Standard	R-1-5 Zoning District	Proposed R-1-5(PD) Planned Development Zoning District	Project Compliance with PD Standards
Minimum Lot Area	8,000 square feet	18,700 square feet	18,713 to 39,432 square feet
Minimum Lot Width	55 feet per <a href="#">Section 19.26.170</a> .	85 feet	87 feet to 112 feet
Minimum Front Setback	20 feet	The minimum building setbacks refer to setbacks to the PD Zoning boundary and the proposed lot lines. The detailed requirements are listed in the next table.	See the next table.
Minimum Rear Setback	20 feet		
Minimum Side Setback (interior)	5 feet		
Maximum Height	35 feet	35 feet	Building on Lot 1: 29.33 feet Building on Lot 2: 33.83 feet Building on Lot 3: 31.83 feet Building on Lot 4: 29.83 feet
Maximum # of Stories	2.5	2.5	2

**Proposed R-1-5(PD) Planned Development Zoning District Building Setback Standards**

Setback Standards	Minimum Building Setback in feet	Proposed 1st Floor Building Setback in Feet	Proposed 2nd Floor Building Setback in Feet
Front: Ambum Avenue	190	Lot 2: 203 Lots 1, Lots 3 & 4: N/A	Lot 2: 203 Lots 1, Lots 3 & 4: N/A
Side: the western property line abutting APNs 654-55-	15	Lot 4: 18 Lots 1 to 3: N/A	Lot 4: 18 Lots 1 to 3: N/A

002 & 003			
Side: the northern property line abutting APNs 654-55-005 & 057	45	Lot 4: 48 Lot 3: 70 Lots 1 & 2: N/A	Lot 4: 48 Lot 3: 67 Lots 1 & 2: N/A
Side: the northern property line abutting APN 654-55-016)	70	Lot 1: 72 Lot 2: 132 Lots 3 & 4: N/A	Lot 1: 72 Lot 2: 132 Lots 3 & 4: N/A
Side: the eastern property line abutting APNs 654-55-018 & 019	100	Lot 1: 106 Lots 2 to 4: N/A	Lot 1: 106 Lots 2 to 4: N/A
Side: the eastern property line abutting APNs 654-55-022, 023 & 024	65	Lot 1: 69 Lots 2 & 4: N/A	Lot 1: 68 Lots 2 & 4: N/A
Rear: the southern property line	40	Lot 1: 68 Lot 2: 61 Lot 3: 52 Lot 4: 40 with a 2-foot architectural projection which is allowed per Section 20.30.400.C	Lot 1: 68 Lot 2: 63 Lot 3: 44 Lot 4: 40
Side: the proposed lot lines	5	Lot 1: 6 Lot 2: 18/28 Lot 3: 10/21 Lot 4: 7	Lot 1: 6 Lot 2: 18/22 Lot 3: 10/12 Lot 4: 6
Balcony/deck setback to side property lines/internal lot lines	10	N/A	Lot 1: N/A Lot 2: 18/22 Lot 3: 12 Lot 4: 18

*Analysis: As shown on the Planned Development Permit PD22-021 Plan Set, the project conforms with all required setback standards pursuant to the General Development Plan of the R-1-5(PD) Planned Development Zoning District.*

**Vehicle Parking:**

Under Section 20.90.900.B, this project is exempt from Transportation Demand Management (TDM) plan requirements because it comprises fewer than 16 single-family detached housing units. Under the City code, no parking is required, and therefore, no parking requirements were included in the General Development Standards for the proposed Planned Development Zoning standards.

*Analysis: While there are no parking requirements, this project provides two garage parking spaces for each detached single-family residence.*

### **Single-Family Design Guidelines Consistency**

The project was analyzed for consistency with the 1999 [Single-Family Design Guidelines](#). As mentioned above, SB 330 limits a jurisdiction's ability to disapprove a qualified housing development project that complies with applicable objective general plan, and zoning standards and other criteria that were in effect when the development application was deemed complete. The Single-Family Design Guidelines were adopted in 1999, and contain only subjective guidelines.

While housing development projects cannot be required to meet subjective design standards, the project does meet subjective criteria of the design guidelines. For example, the site design minimizes grading to avoid significant changes to the topography. The new private street follows the existing driveway alignment, and the proposed residences are located in the areas on the hill requiring the least amount of grading. Each house is custom-designed based on each lot's condition but with a consistent modern architectural style. Although the proposed houses are larger than the surrounding houses, the architectural design incorporates porches, balconies, decks, projections and recessions, stepbacks, and varying colors and high-quality materials to articulate the building massing and provide visual interest. To avoid privacy and visual impact on the surrounding residents, the site design includes trees along the new private street or along the project boundaries where surrounding buildings are closer, and the 2nd-floor balconies and decks have greater setbacks to the sides.

## **FINDINGS**

### ***Vesting Tentative Map Findings***

In accordance with San José Municipal Code (SJMC) [Sections 19.12.130](#) and [19.12.220](#) and California Government Code Section 66474, the Director of Planning 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 the Director 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: Based on review of the subdivision, a Vesting Tentative Map to subdivide 2.59 gross acres from two existing residential lots to four single-family residential lots, the Director of Planning of the*

*City of San José does not make any such findings to deny the subject subdivision. As analyzed in the General Plan Consistency section, the project is consistent with the General Plan goals, policies, and the Residential Neighborhood land use designation. The project site is physically suitable for the project, and the proposed intensity in that residential development is allowed by the General Plan, so the proposed development would not change the existing neighborhood character. Furthermore, the project site does not contain historic resources, sensitive habitats, or wildlife. The site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plain. The project site and the surrounding area are currently developed with structures that do not provide a natural habitat for either fish or wildlife. The subdivision is to allow the development of four single-family houses, which would not cause serious public health problems. The design includes a private street easement to allow access from the public street to each proposed lot.*

### **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 Planning Commission, staff must determine that:

1. The planned development permit, as issued, is consistent with and furthers the policies of the general plan; and

*Analysis: As analyzed in the General Plan conformance section above, this four-unit single-family residential project is consistent with the Residential Neighborhood land use designation per the General Plan, including relevant goals and policies. The uses are allowed within the Residential Neighborhood designation, and the project is providing 1.54 du/ac, allowable under RN land use designation. The proposed lot size and width are consistent with the existing neighborhood and the project would not change the neighborhood character given that the proposed houses are located at the rear of the project site with substantial distance from the public street.*

2. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property; and

*Analysis: As analyzed in the Zoning Ordinance Consistency section above, the project is consistent with the proposed R-1-5 (PD) Planned Development Zoning District Development Standards. The project is consistent with the use, setback, and height requirements of the Planned Development Standards and the General Development Plan.*

3. The planned development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: As discussed in the City Council Policy Consistency section below, the project is subject to and conforms to the Public Outreach Policy for Pending Land Use and Development Proposals. The project was noticed at a 500-foot radius and the required on-site sign has been posted at the site since November 2, 2022, to inform the neighborhood of the project. No community meeting was required or held for this project because the project is considered a Standard Development Proposal, as it includes less than 50 dwelling units. Staff has been available to answer 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 subject project provides four detached single-family houses which is compatible and appropriate uses within the proposed residential neighborhood. As discussed in the Design Guideline section, although each residence is custom-designed based on each lot's site condition, the same architectural theme, design treatments, and color and materials are applied to all four houses. All houses are two-stories and the sizes are similar. They are all located on the areas fronting on the new private street. Therefore, all these houses are compatible and aesthetically harmonious.*

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: As discussed in the CEQA section below, the project incorporates measures to address noise, stormwater runoff, drainage, and erosion. The project would be required to adhere to all applicable standard permit conditions and mitigation measures related to reducing temporary and operational sources of noise and vibration, dust, and erosion. Residential buildings are not a source of significant odor and would not impact adjacent properties. The project will be required to comply with all City permits and policies related to erosion and storm water runoff. For these reasons, the project is not anticipated to have an unacceptable negative impact on adjacent properties.*

### **Demolition Findings**

Per Section 20.80.460 of the Municipal Code, prior to the issuance of any Development Permit which allows for the demolition, removal or relocation of a Building, the approval authority shall determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation. In making such a determination, the following factors shall be considered. Staff recommends the Planning Commission adopt the considerations below for each factor, based on the above stated findings related to General Plan, Zoning and CEQA conformance and other 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;

*Analysis: The property contains no nuisance, blight, or dangerous conditions. Therefore, failure to approve the permit would not conclusively result in the creation of nuisance, blight, or dangerous conditions or jeopardize the public health, safety, or welfare.*

3. The approval of the permit should facilitate a project that is compatible with the surrounding neighborhood;

*Analysis: The approval of the permit facilitates a project that is compatible with the surrounding neighborhood in that it is a four-unit single-family residential project. This project is compatible with the Residential Neighborhood designation in that it is consistent with the existing single-family neighborhood character.*

4. The approval of the permit should maintain the supply of existing housing stock in the City of San José

*Analysis: Approval of the permit increases the supply of housing stock in the City of San José. One single-family residential unit and one ADU would be demolished, and four single-family residential units would be constructed.*

5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;

*Analysis: No buildings, sites, or districts of historical significance are being demolished. The project site is not located within a Historic Area or District, and there are no historic resources adjacent to the project site. As discussed in the Historic Resources Evaluation prepared by AHC dated May 2024, and analyzed in the Initial Study/Mitigated Negative Declaration prepared for the project, the existing single-family residence on the project site was constructed in 1956; therefore, it was evaluated for historical significance against the California Register of Historic Resources (CRHR) criteria. The evaluation found that the building at 3464 Ambum Avenue does not appear to be a historical resource under CEQA because no significant events, patterns of history, or important figures in history are associated with the site. In addition, the evaluation found that the structures on-site are not associated with significant themes of its period such as postwar residential development and suburbanization, do not exemplify distinct aspects of San José's cultural, economic, social, or historic heritage during the postwar period, nor do they portray the environment of a group of people through a distinctive architectural style. Therefore, structures on-site are not eligible for listing as a City of San José Landmark on the City's Historic Resources Inventory because they do not possess sufficient historical, architectural, cultural, aesthetic, or engineering interest or value to be designated as a City Landmark.*

6. Rehabilitation or reuse of the existing building would not be feasible; and

*Analysis: The rehabilitation or reuse of the existing buildings would not be feasible should the new project be constructed, as the demolition of the existing buildings is required to construct the new buildings and circulation, and the project is intended to replace the existing buildings. Additionally, reusing these buildings is also not economically feasible; retaining the existing buildings would mean that the project could not be built to the density allowed by the General Plan land use designation.*

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: Replacement buildings would be approved in this application, and the existing buildings could not be demolished prior to submittal of a building or grading permit for the replacement buildings.*

### **Tree Removal Findings**

[Chapter 13.32](#) of the San José Municipal Code establishes that at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the resolution.

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.

*Analysis: As discussed above, 23 ordinance-size trees and 16 non-ordinance-size trees will be removed to accommodate the project. The trees to be removed are within the proposed building footprints, the new private street, stormwater treatment areas or site grading area.*

*All removed trees are to be replaced per the City’s Tree Replacement ratios in the table below. To replace the removed trees, 131 15-gallon trees (5x5+18x4+2x3+14x2) will be required to be planted on this site, including five native ordinance-size trees replaced at a 5:1 ratio, twelve non-native ordinance-size trees replaced at a 4:1 ratio, two native ordinance-size trees replaced at a 3:1 ratio, 14 non-native ordinance-size trees replaced at a 2:1 ratio. According to the landscape plans, 47 24-inch box trees will be planted on this site, equivalent to 94 15-gallon trees. The applicant will pay the off-site planting fee for the remaining 37 15-gallon trees prior to the issuance of building permits in accordance with the City Council’s approved fee resolution, which is in effect at the time of payment.*

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 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				

**City Council Policy Consistency**

[City Council Policy 6-30](#): Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the Project is a standard development. Following this Policy, the project was noticed at a 500-foot radius and the required on-site sign has been posted at the site since November 2, 2022, to inform the neighborhood of the project. No community meeting was required or held for this project because the project is considered a Standard Development Proposal, as it includes less than 50 dwelling units. Staff has been available to answer questions from the public. Comments received are discussed in the Public Outreach section below.

## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San José, as the Lead Agency, prepared an Initial Study supporting a Mitigated Negative Declaration (IS/MND) (State Clearinghouse No. 2024060080), for the 3464 Ambum Avenue Residential Project in compliance with the California Environmental Quality Act (“CEQA”) Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José. The IS/MND evaluated the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

The IS/MND was circulated from June 3, 2024 to June 24, 2024, and four comment letters were received during the public review period:

1. A member of the public is concerned with additional single family residences being constructed and futhering car dependency in the city.
2. A neighbor identified concerns regarding the proposed development’s setbacks and heights impacting the views and privacy of the neighborhood and the removal of ordinance-size trees impacting birds.
3. The Amah Mutsun Tribal Band of San Juan Bautista & A.M.T.B. Inc. recommended cultural sensitivity training and having qualified archaeological and tribal monitors on-site if there is positive cultural or historic sensitivity within 1 mile of the project area.
4. Pacific Gas and Electric Company (PG&E) stated that the project does not directly interfere with existing PG&E facilities or impact easement rights.

The IS/MND, including responses to comments received during the public review period, can be found at the following link: [3464 Ambum Avenue Residential Project | City of San José \(sanjoseca.gov\)](https://www.sanjoseca.gov/3464-Ambum-Avenue-Residential-Project).

The IS/MND identified relevant mitigation measures for potential impacts to nesting birds, hazards from the project site’s past agricultural history, and mechanical equipment noise. In addition, environmental standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for construction related air quality impacts, removal of existing trees on the site, compliance with the Santa Clara Valley Habitat Plan, compliance with the California Building Code for seismic safety of the proposed building, erosion control during construction activities, protection of unknown subsurface cultural resources and human remains, protection of construction workers from hazards related to contaminated soils, water quality impacts during construction and operation periods, and best management practices to control noise during construction and achieving an interior noise level of less than 45 dBA DNL after construction. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (“MMRP”) and both the mitigation measures and standard permit conditions are made a part of this permit. The Initial Study concluded that the proposed project would not result in any significant and unavoidable environmental impacts, with implementation of identified mitigation measures. Therefore, an Environmental Impact Report is not required, and a Mitigated Negative Declaration is the appropriate level of CEQA clearance for the project.

## PUBLIC OUTREACH

Staff followed [Council Policy 6-30: Public Outreach Policy](#) to inform the public of the proposed projects. An on-site sign has been posted on site since November 2, 2022. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

During the review process, staff received comments from two community members who live adjacent to or near the project site. One community member is concerned about the noise and the geographic conditions and one member who lives to the east of the project site is mainly concerned about privacy. After the hearing notice was sent out, staff received comments from another community member whose property is located to the southeast of the project site. This community member also expressed the privacy concern.

Single-family residential is a compatible use in this residential neighborhood and is not a source of noise generators. The project has been reviewed by the Department of Public Works and has obtained the Geo Hazard Clearance to ensure the proposed site grading meets Public Works' requirements. The proposed house closest to the eastern property line has substantial setbacks to the eastern (approximately 106 feet) and southern property lines (approximately 72 feet) and is separate from those properties to the east and the south by the proposed private street. In addition, trees will be planted along this private street which would provide screening to the surrounding properties. The project design minimizes the privacy impact to the surroundings.

**Project Manager:** Angela Wang

**Approved by:** /s/ John Tu, Division Manager for Christopher Burton, Director of Planning,  
Building & Code Enforcement

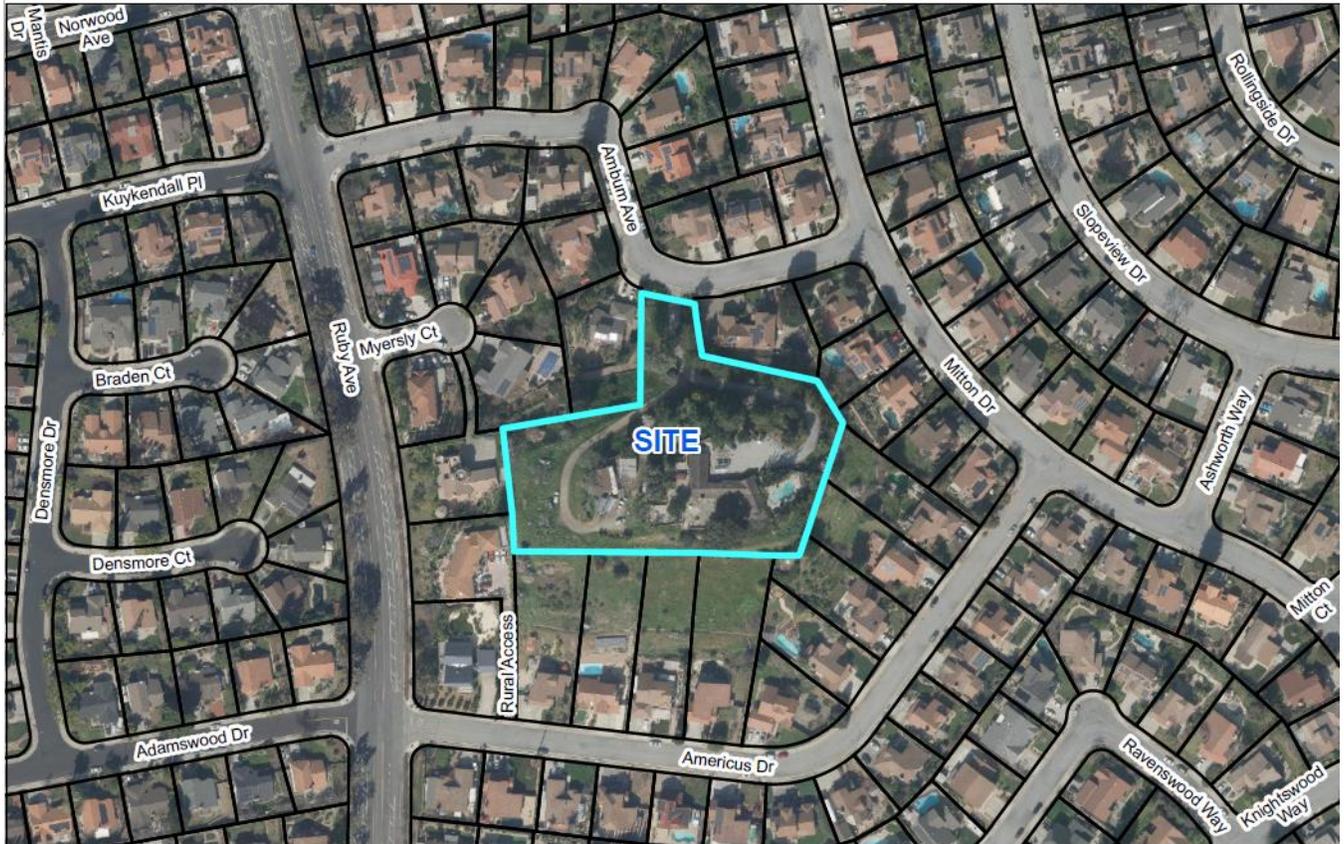
**Please click on the title of each exhibit to view the document:**

<b>ATTACHMENTS:</b>	
Exhibit A:	Vicinity Map, Aerial (Page 15)
Exhibit B:	General Plan Land Use Designation Map (Page 16)
Exhibit C:	Existing Zoning District Map (Page 17)
Exhibit D:	Proposed Zoning District Map (Page 18)
Exhibit E:	<a href="#">Draft CEQA Resolution and MMRP</a>
Exhibit F:	<a href="#">Draft Planned Development Zoning PDC22-008 Ordinance</a>
Exhibit G:	<a href="#">PDC22-008 Draft Development Standards</a>
Exhibit H:	<a href="#">Draft Planned Development Permit PD22-021 Resolution</a>
Exhibit I:	<a href="#">Draft Vesting Tentative Map T22-034 Resolution</a>
Exhibit J:	<a href="#">Planned Development Zoning PDC22-008 Plan Set</a>
Exhibit K:	<a href="#">Planned Development Permit PD22-021 Plan Set</a>
Exhibit L:	<a href="#">Vesting Tentative Map T22-034 Plan Set</a>

<b>Development Review Project Manager</b>	<b>Environmental Project Manager</b>
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<b>Owner and Applicant</b>
Ryan Do, Viam Capital LLC 2189 Moterey Road, Suite 260 San Jose, CA 95125

Exhibit A: Vicinity Map/Aerial



**Exhibit B: General Plan Land Use Designation**



**RN: RESIDENTIAL NEIGHBORHOOD**

**Exhibit C: Existing Zoning District Map**

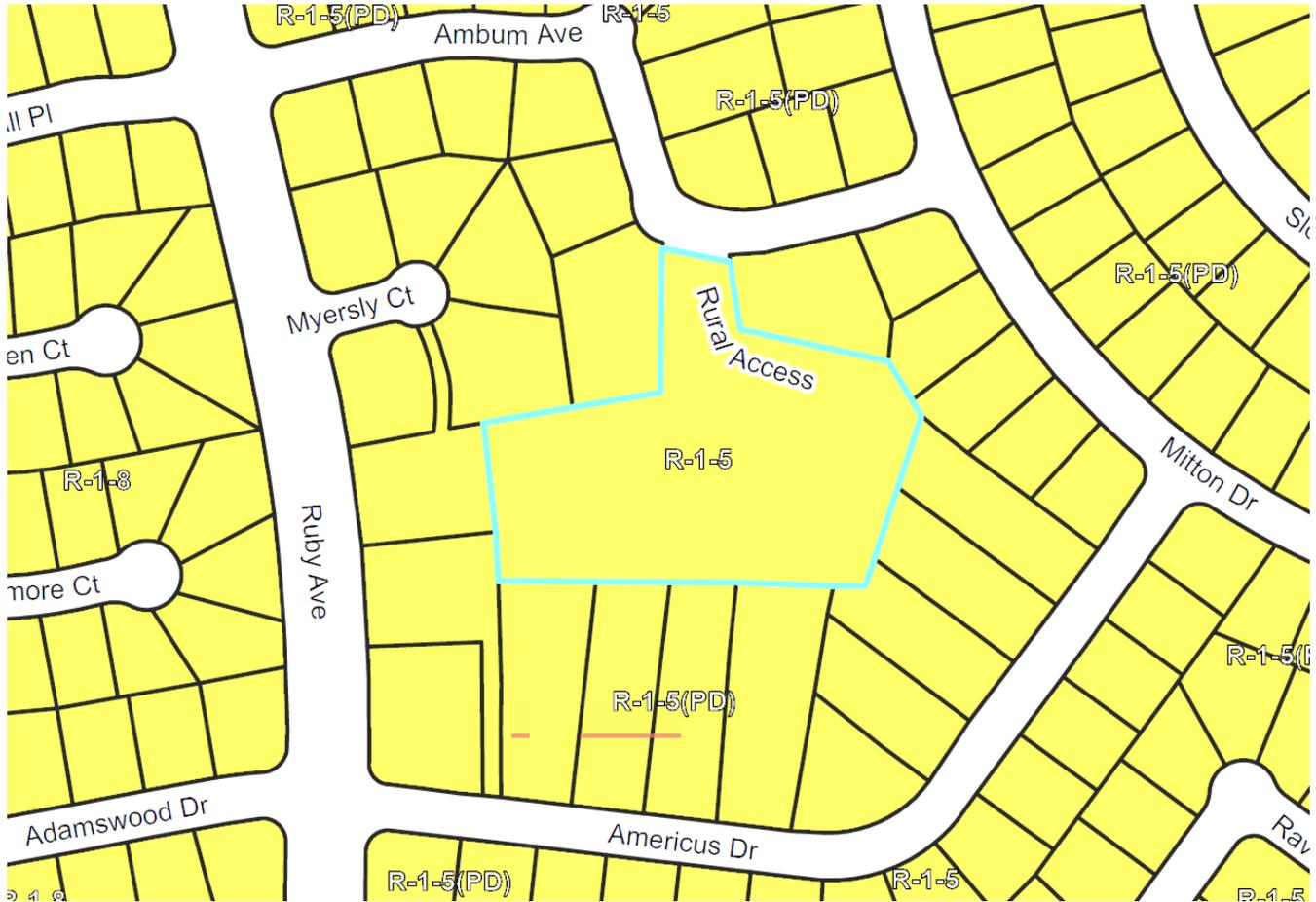
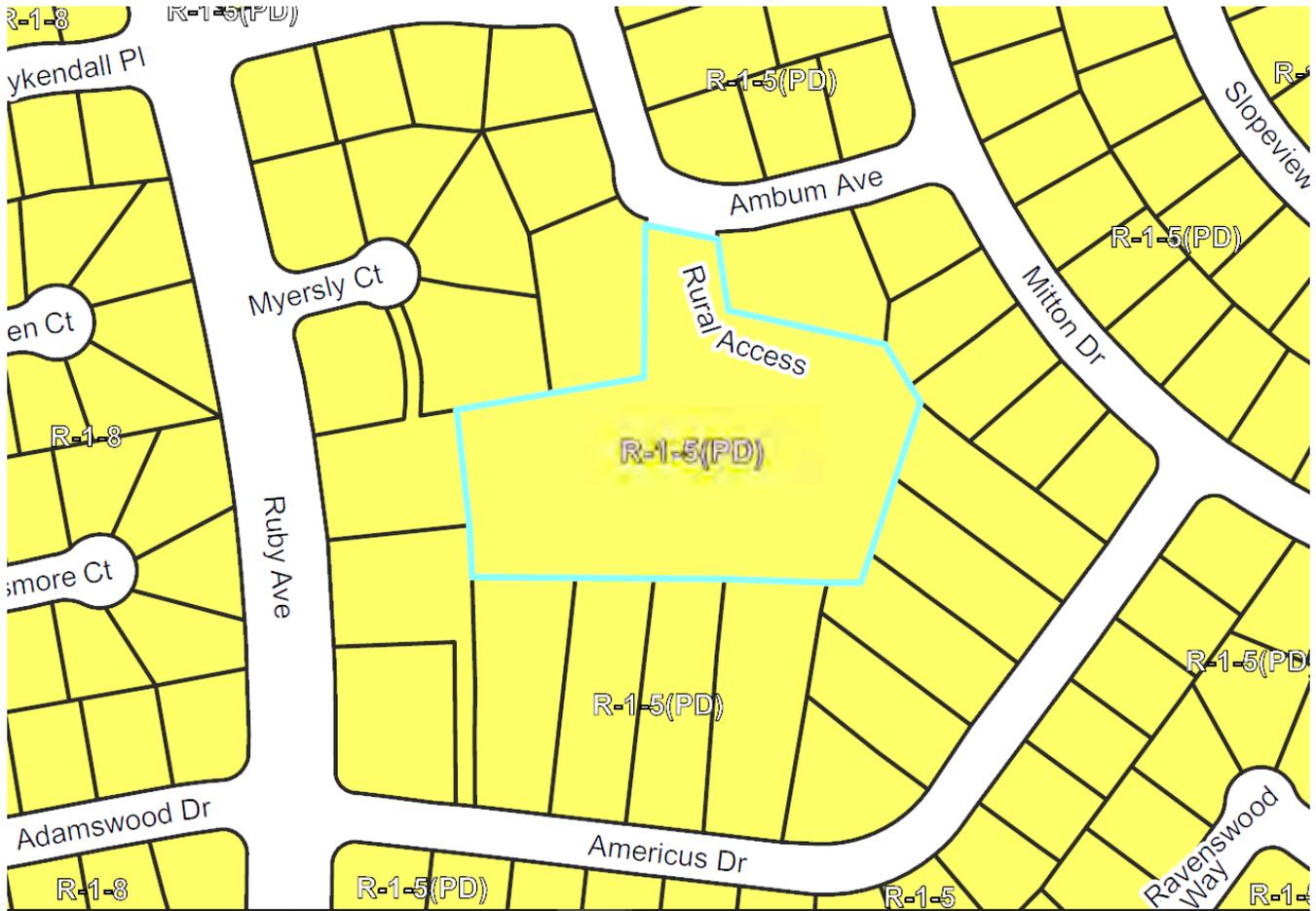


Exhibit D: Proposed Zoning District Map



# **PDC22-008, PD22-021, T22-034 & ER22-237**

Click on the title to view document.

[Correspondence Received AFTER 9/4/24](#)