



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: July 18, 2022

COUNCIL DISTRICT: 5

SUBJECT: FILE NOS. C19-027, T19-028 & H19-031 -- CONVENTIONAL REZONING FROM THE R-1-8 SINGLE-FAMILY RESIDENCE ZONING DISTRICT TO THE MUN MIXED USE NEIGHBORHOOD ZONING DISTRICT, A VESTING TENTATIVE MAP TO SUBDIVIDE ONE LOT INTO 16 LOTS (14 RESIDENTIAL LOTS, TWO COMMON LOTS), AND A SITE DEVELOPMENT PERMIT TO ALLOW THE REMOVAL OF TWO ORDINANCE-SIZE TREES FOR THE CONSTRUCTION OF 14 TOWNHOUSES WITH STATE DENSITY BONUS CONCESSIONS FOR A REDUCTION IN THE SIDE SETBACK, AND SETBACK TO THE PUBLIC RIGHT-OF-WAY, AND A WAIVER FOR A REDUCTION IN PRIVATE OPEN SPACE ON AN APPROXIMATELY 0.86-GROSS ACRE SITE LOCATED ON THE WEST SIDE OF SOUTH JACKSON AVENUE BETWEEN WOODSET LANE AND PORTICO COURT (101 SOUTH JACKSON AVENUE).

RECOMMENDATION

The Planning Commission voted 8-0-3 (Caballero, Garcia, and Ornelas-Wise Absent) to recommend that the City Council take the following action:

1. Adopt a Resolution adopting the Initial Study/Mitigated Negative Declaration for the 101 South Jackson Avenue Townhomes Project and the associated Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act.
2. Approve an Ordinance rezoning an approximately 0.86-gross acre site from the R-1-8 Zoning District to the MUN Mixed Use Neighborhood Zoning District.
3. Adopt a Resolution approving, subject to conditions, a Vesting Tentative Map to subdivide one parcel to up to 16 parcels (14 residential parcels, 2 common parcels), on an approximately 0.86-gross acre site.
4. Adopt a Resolution approving, subject to conditions, a Site Development Permit to allow the removal of two ordinance-size trees for the construction of 14 townhouses with State Density Bonus concessions for a reduction in the side setback, and setback to the public

right-of-way, and a waiver for a reduction in private open space on an approximately 0.86-gross acre site.

OUTCOME

If the City Council approves the actions listed above as recommended by the Planning Commission, the applicant will be able to move forward with the land subdivision and building permit processes to construct 14 townhouses on an approximately 0.86-gross acre site.

BACKGROUND

On June 22, 2022, the Planning Commission held a Public Hearing to consider the Initial Study/Mitigated Negative Declaration in accordance with CEQA, Rezoning, Vesting Tentative Map, and Site Development Permit.

The project consists of the development of 14 townhomes configured in four buildings on an approximately 0.86-gross acre vacant site. The project includes the construction of a 100% affordable housing project. The applicant would provide two low-income units (households earning less than 80% of the Area Median Income) and 12 moderate-income units (households earning less than 120% of the Area Median Income). All of the units would be covered by a deed restriction recorded against the property, which has already been completed and recorded in connection with the site acquisition funds the City of San José provided to Habitat for Humanity in September 2020. As the project is providing 100% of the units at low-income levels, the project is eligible for the provisions of the State Density Bonus Law pursuant to Government Code Section 65915(b)(1)(A). The project includes concessions for the reduction of the side setback, reduction in the setback from the public right-of-way, a reduction in parking (pursuant to Section 20.190.060 of the Zoning Code), and a waiver for the reduction of required private open space. As conditioned in the Site Development Permit, prior to the issuance of any Building Permits or Grading Permits, whichever comes first, the applicant would be required to record a Regulatory Agreement with the City of San José. In addition, a 52-foot-wide public street connecting the north and south segments of Woodset Lane would include 9-foot-wide sidewalks on either side of the newly dedicated street that must be constructed. Building A, consisting of two units, would be accessible from two driveways along the west side of Woodset Drive. Building B would be accessible from a single driveway along the east side of Woodset Drive. Buildings C and D would be accessible from a single driveway along South Jackson Avenue.

This item remained on the Planning Commission's Consent Calendar. No members of the public requested to speak on this item and there was no discussion by the Commissioners. Commissioner Lardinois made a motion to approve the recommendation. Commissioner Oliverio seconded the motion. The motion passed unanimously 8-0-3 (Caballero, Garcia, and Ornelas-Wise absent). The Planning Commission recommended that the City Council adopt the Initial

Study/Mitigated Negative Declaration and approve the Rezoning, Vesting Tentative Map, and Site Development Permit.

ANALYSIS

The analysis of the project impacts pursuant to CEQA, the Rezoning, a Vesting Tentative Map, and a Site Development Permit including conformance with the General Plan, the State Density Bonus Law, the Municipal Code, the Residential Design Guidelines, and the City Council Policies are contained in the attached staff report.

CONCLUSION

In summary, the project was heard at the June 22, 2022 Planning Commission Meeting. The motion to recommend Council approval of the project passed (8-0-3). Commissioners Caballero, Garcia, and Ornelas-Wise were absent. As discussed in the attached staff report, the project is consistent with the Envision San José 2040 General Plan, State Density Bonus Law, the Zoning Code, Residential Design Guidelines, City Council policies for public outreach, and the requirements of CEQA. Should the City Council approve the Rezoning, Vesting Tentative Map, and Site Development Permit, the applicant would be allowed to subdivide the site into up to 16 lots, remove two ordinance-size trees, and construct 14 townhouses and associated site improvements on an approximately 0.86-gross acre site.

EVALUATION AND FOLLOW-UP

Should the City Council approve the Rezoning, Vesting Tentative Map, and Site Development Permit, the applicant would be allowed to move forward with the subdivision and building permit processes to construct 14 townhouses and associated site improvements on an approximately 0.86-gross acre site.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. An on-site sign has been posted on the project frontage since March 20, 2021. 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 also been available to respond to questions from the public.

COORDINATION

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

CLIMATE SMART SAN JOSÉ

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 development in persons per acre. The project would allow the construction of 14 townhouses on an existing vacant approximately 0.86-gross acre lot.

CEQA

A Mitigated Negative Declaration (MND) supported by an Initial Study was prepared for the 101 South Jackson Avenue Townhomes Project in compliance with the California Environmental Quality Act (CEQA) and its implementing Guidelines.

Mitigation measures were developed to lessen the following impacts to less than significant levels: exposure of sensitive receptors to toxic air contaminants during construction, and disturbance and/or destruction of nesting migratory birds during construction.

Standard Permit Conditions are also required to ensure no impacts occur during the construction and operation of the project. These Standard Permit Conditions include best management practices for construction-related air quality impacts, protection of nesting migratory birds, compliance with the Santa Clara Valley Habitat Plan, protection of unknown subsurface cultural resources and human remains, compliance with the California Building Code for seismic safety of the proposed building, erosion control during construction activities, water quality impacts during construction, and best management practices to control noise during construction.

The MND was circulated for public review and comment from April 15, 2022 through May 5, 2022. One comment letter was received from Pacific Gas and Electric Company (PG&E). PG&E commented that the applicant should contact PG&E prior to ground disturbance to identify any underground utilities on the project site. Identifying underground utilities is standard construction practice and does not change the analysis or the findings of the MND for the project.

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The MND and supporting Initial Study, technical reports, and the comment letter are available on the City's website at www.sanjoseca.gov/negativedeclarations.

/s/
Christopher Burton, Secretary
Planning Commission

For questions, please contact Deputy Director for Planning, Robert Manford, at (408) 535-7900.

Attachments: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION
SUBJECT: File Nos. C19-027, T19-028, and H19-031

FROM: Christopher Burton
DATE: June 22, 2022

COUNCIL DISTRICT: 5

Type of Permit	Conventional Rezoning (File No. C19-027), Vesting Tentative Map (File No. T19-028) & Site Development Permit (File No. H19-031)
Proposed Land Use	Residential Townhouses
New Residential Units	14
Additional Policy Review Items	None
Demolition	None
Tree Removals	Two Ordinance-Size Trees
Project Planner	Alec Atienza
CEQA Clearance	101 South Jackson Avenue Townhomes Project Initial Study Mitigated Negative Declaration
CEQA Planner	Reema Mahamood

RECOMMENDATION

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

1. Adopt a Resolution adopting the Initial Study/Mitigated Negative Declaration for the 101 South Jackson Avenue Townhomes Project and the associated Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act.
2. Approve an Ordinance rezoning an approximately 0.86-gross acre site from the R-1-8 Zoning District to the MUN Mixed Use Neighborhood Zoning District.
3. Adopt a Resolution approving, subject to conditions, a Vesting Tentative Map to subdivide one lot to up to 16 lots (14 residential lots, 2 common lots), on an approximately 0.86-gross acre site.
4. Adopt a Resolution approving, subject to conditions, a Site Development Permit to allow the removal of two ordinance-size trees for the construction of 14 townhouses with State Density Bonus concessions for a reduction in the side setback, and setback to the public right-of-way, and a waiver for a reduction in private open space on an approximately 0.86-gross acre site.

PROPERTY INFORMATION

Location	Westside of South Jackson Avenue between Woodset Lane and Portico Court (101 South Jackson Street)
Assessor Parcel No.	481-22-067
General Plan	Residential Neighborhood
Growth Area	None
Existing Zoning	R-1-8 Single-Family Residence
Proposed Zoning	MUN Mixed Use Neighborhood
Historic Resource	No
Annexation Date	October 30, 1958 (Alum Rock No_3-A)
Council District	5
Acreage	0.86 gross acres
Proposed Density	16.21 DU/AC

PROJECT SETTING AND BACKGROUND

As shown on the attached Aerial Map (Figure 1), the subject site is located on the westside of South Jackson Avenue between Woodset Lane to the north and Portico Court to the south. The project site is bounded by a middle school (Rocketship Fuerza Community Prep) across South Jackson Avenue to the east, single-family residences to the south and west, and a church (Cosmopolitan Evangelical Church) to the north. The site is currently a flat, vacant lot.

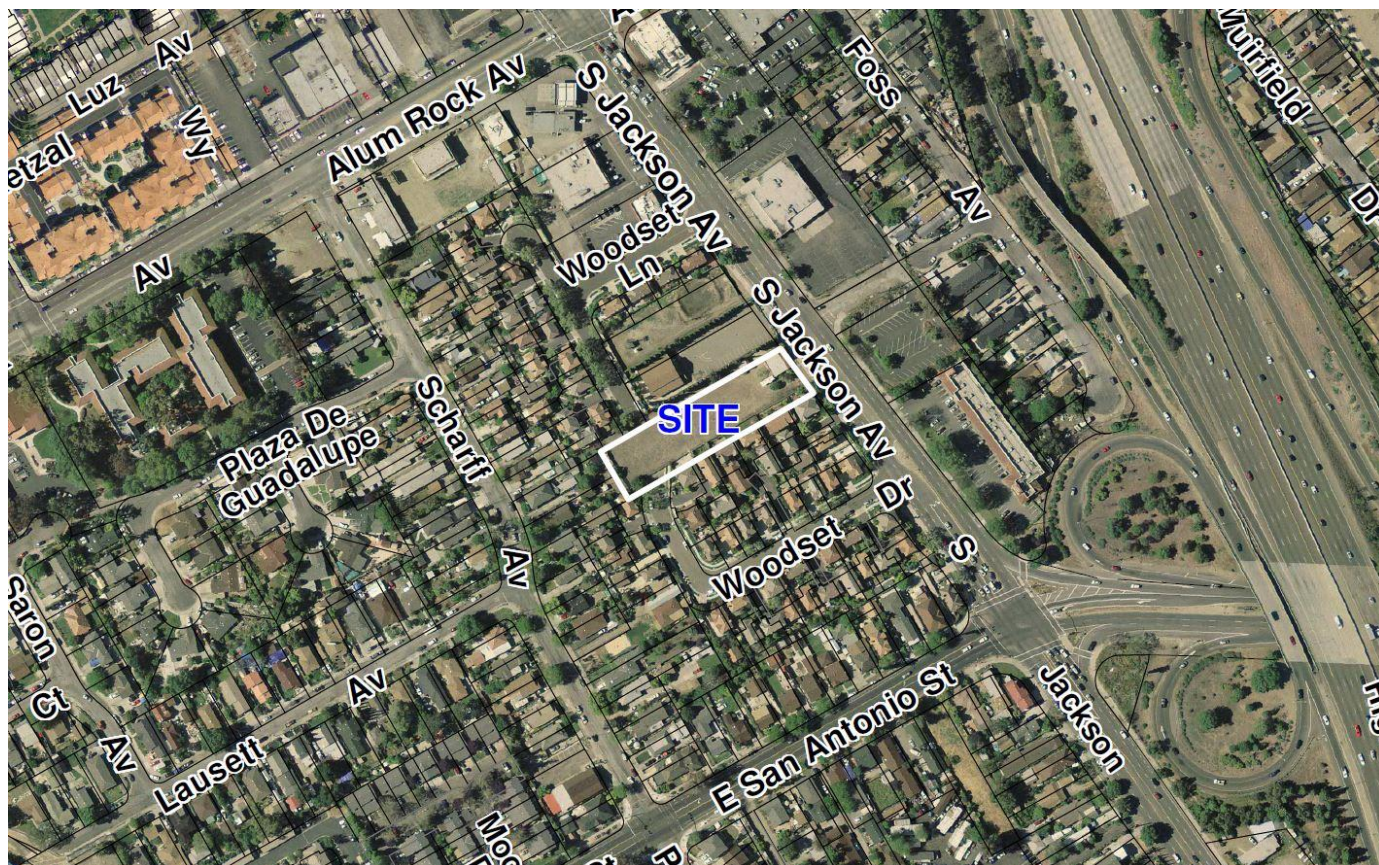


Figure 1 Aerial Map

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Public/Quasi-Public	R-1-8 Single-Family Residence	Church
South	Residential Neighborhood	A(PD) Planned Development Zoning (File No. PDC99-021)	Single-Family Residences
East	Neighborhood/Community Commercial and Public/Quasi-Public	R-1-8(PD) (File No. PDC74-012) and CP Commercial Pedestrian	Middle School
West	Residential Neighborhood	R-1-8 Single-Family Residence	Single-Family Residences

On July 11, 2019, the applicant, Habitat for Humanity East Bay/Silicon Valley, submitted the following applications to be reviewed concurrently:

- Conventional Rezoning to rezone the property from the R-1-8 Single-Family Residence Zoning District to the MUN Mixed Use Neighborhood Zoning District.
- Vesting Tentative Map to subdivide one lot to up to 16 lots (14 residential lots and 2 common lots)
- Site Development Permit to allow the removal of two ordinance-size trees for the construction of 14 townhouses with State Density Bonus concessions for a reduction in the side setback and setback to the public right-of-way, and a waiver for a reduction in private open space on an approximately 0.86-gross acre site.

The project consists of the development of 14 townhomes configured in four buildings on an approximately 0.86-gross acre vacant site. The project is a 100% affordable housing development. The applicant would provide two moderate-income units (households earning less than 80% AMI) and 12 low-income units (households earning less than 120% AMI). All of the units would be covered by a deed restriction recorded against the property, which has already been completed and recorded in connection with the site acquisition funds the City of San Jose provided to Habitat for Humanity in September 2020. As the project is providing 100% of the units at low-income levels, it is eligible for concessions under the provisions of the State Density Bonus Law pursuant to Government Code [Section 65915\(b\)\(1\)\(A\)](#).

The project includes concessions for the reduction of the side setback, reduction in the setback from the public right-of-way, a reduction in parking (pursuant to [Section 20.190.060](#) of the Zoning Code), and a waiver for the reduction of required private open space. See the Density Bonus Discussion below for more information. As conditioned in this Site Development Permit, prior to the issuance of Building Permits or Grading Permits, whichever comes first, the applicant would be required to record a Regulatory Agreement with the City of San Jose.

As a condition of the associated Vesting Tentative Map, a 52-foot-wide public street connecting the north and south segments of Woodset Lane and would include 9-foot-wide sidewalks on either side of the newly dedicated street is to be constructed. Building A, consisting of two units, would be accessible from two driveways along the west side of Woodset Drive. Building B would be accessible from a single driveway along the east side of Woodset Drive. Building C and D would be accessible from a single driveway along South Jackson Avenue.

Pursuant to [Section 20.190.060](#) of the Zoning Code, a parking ratio of 0.5 spaces per bedroom may be applied as the project provides at least 20% of the units for lower income households, and is within ½ mile of a major transit stop (Alum Rock and Jackson 522 BRT Station). A total of 22 spaces would be required. A total of 26 surface parking spaces would be provided on site and would be accessible via private driveways. The associated Vesting Tentative Map includes easements to allow ingress/egress and emergency vehicle access throughout the site.

The project includes an associated Vesting Tentative Map to allow the subdivision of one lot to up to 16 lots. Two of the lots would be for common areas and would include parking, landscaping, and a trash/recycling area. The remaining 14 lots would be residential lots ranging from 787 square feet to 1,574 square feet.

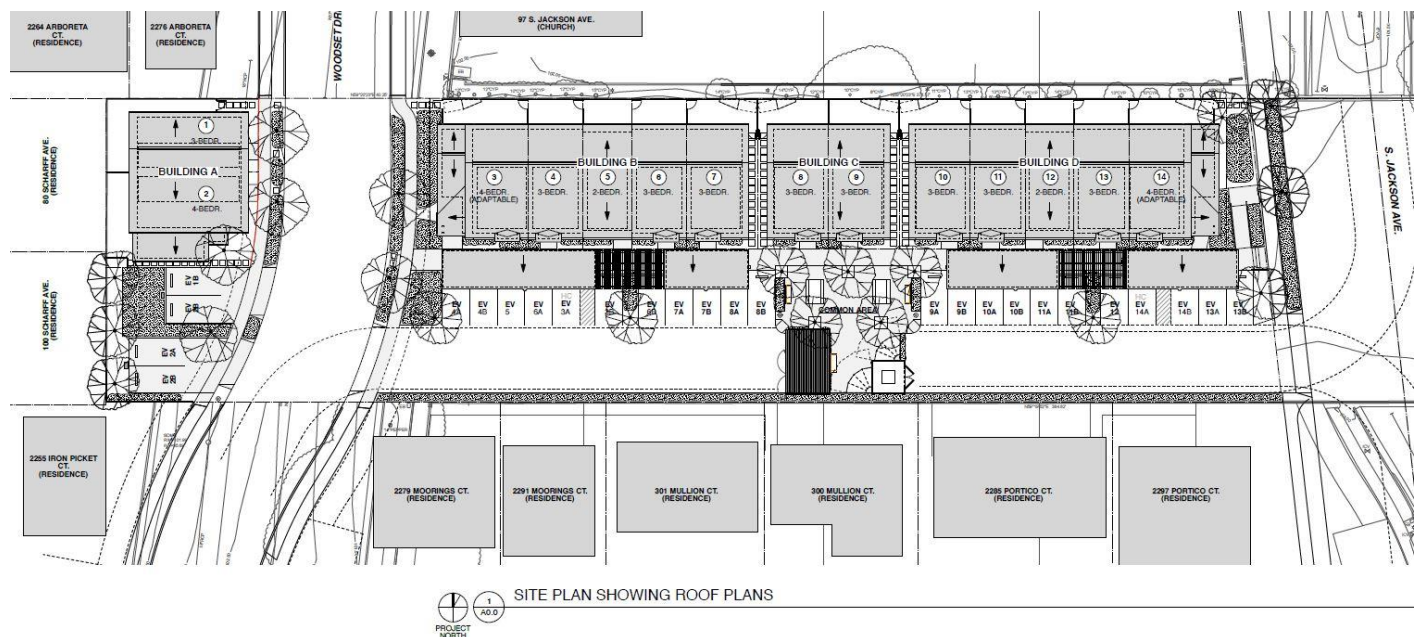


Figure 2 Project Site Plan

ANALYSIS

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

1. Envision San José 2040 General Plan
2. California State Density Bonus Law (Government Code Section 65915)
3. San José Municipal Code
4. Residential Design Guidelines
5. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Conformance

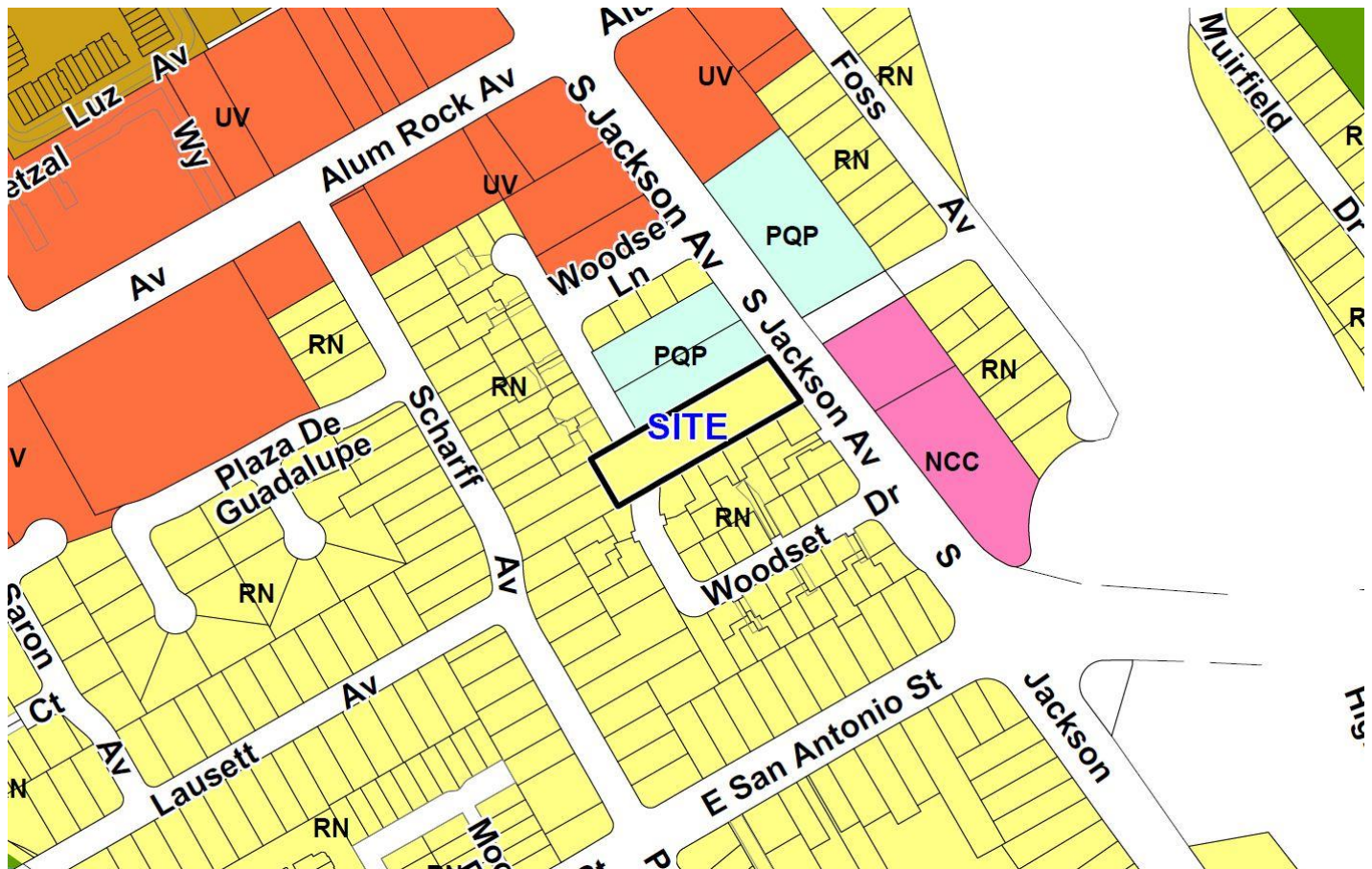


Figure 3 General Plan Land Use Map

Land Use Designation

As shown in the attached General Plan Map (Figure 3), the site is designated Residential Neighborhood on the Land Use/Transportation Diagram of the [Envision San José 2040 General Plan](#). This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. New infill development 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.

For infill projects where 50% or more of the development on the same block (both sides of the street) is developed at a density greater than 8 DU/AC, new development can match the prevailing density. For any new project to exceed 8 DU/AC, it is necessary that: (1) other policies in this Plan are met, (2) applicable design guidelines are met, and (3) development does not exceed 16 DU/AC. For example, on a site bordered by development with a prevailing average density of 12 DU/AC, new development should include the number of units that would most closely match this density, provided that it would also meet the applicable design guidelines and other Envision General Plan policies.

Analysis: The Residential Neighborhood Land Use Designation allows a residential density of up to 8 DU/AC or up to 16 DU/AC if the project matches the prevailing density of the surrounding neighborhood. However, the project includes an application for and qualifies under the State Density Bonus Law, which would allow the construction of up to 18 units on site or a residential density of approximately 20.9 DU/AC. The proposed project includes a residential density of approximately 16.27 DU/AC. Therefore, the construction of 14 units on site would conform with the land use designation of Residential Neighborhood with the implementation of the State Density Bonus Law.

General Plan Goal and Policies

1. Implementation Policy IP-1.8: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.
2. Implementation Policy IP-8.2: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use / Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed use and open space. The various ranges of allowed use and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

Analysis: The project includes a Conventional Rezoning from the R-1-8 Single-Family Residence Zoning District to the MUN Mixed Use Neighborhood Zoning District. While the R-1-8 Single-Family Residence Zoning District and General Plan land use designation align (Residential Neighborhood), the R-1-8 Zoning District would not support multifamily (townhouse development) at more than 16 dwelling units per acre. However, the project includes an application under the State Density Bonus Law, which would allow the construction of the project at the density proposed (16.27 DU/AC). Therefore, a Conventional Rezoning to the MUN Mixed Use Neighborhood is included in the application. The MUN Mixed Use Neighborhood Zoning District allows the development of the project at the allowable density under the Residential Neighborhood land use designation.

3. Housing Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.
4. Housing Policy H-2.1: Facilitate the production of extremely low-, very low-, low-, and moderate income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.

5. Housing Policy H-2.4: Allow affordable residential development at densities beyond the maximum density allowed under an existing Land Use/Transportation Diagram designation, consistent with the minimum requirements of the State Density Bonus Law (Government Code Section 65915) and local ordinances.

Analysis: The project includes the construction of a 100% affordable housing project. The applicant would provide two moderate-income units (households earning less than 80% AMI) and 12 low-income units (households earning less than 120% AMI). All of the units would be covered by a deed restriction recorded against the property. As discussed below, the project would utilize the State Density Bonus Law to allow for the construction of the affordable project at the density proposed.

California State Density Bonus Law (Government Code Section 65915)

The project consists of the construction of 14 townhomes configured in four buildings on an approximately 0.86-gross acre vacant site. The project is a 100% affordable housing project. The applicant would provide two moderate-income units (households earning less than 80% AMI) and 12 low-income units (households earning less than 120% AMI). All of the units would be covered by a deed restriction recorded against the property, which has already been completed and recorded in connection with the site acquisition funds the City of San Jose provided to Habitat for Humanity in September 2020. As the project is providing 100% of the units at low-income levels, the project is eligible for concessions under the provisions of the State Density Bonus Law pursuant to Government Code [Section 65915\(b\)\(1\)\(A\)](#).

The Residential Neighborhood Land Use Designation allows up to 16 DU/AC if 50% or more of the development on the same block (both sides of the street) is developed at a density greater than 8 DU/AC. The surrounding neighborhood has a residential density of approximately 13 DU/AC, which would allow for the development of up to 10 units. With the level of affordability (100% low-income), the project is eligible for a Density Bonus of up to 80% or 18 total units. However, the applicant is only pursuing an approximate 42% density bonus or 4 units. In accordance with the State Density Bonus Law, the project has requested two land use incentives/concessions in addition to a parking reduction, and one waiver as follows:

Incentives/Concessions:

- Reduction of Side Yard Setback from 10 feet to 6 feet (Lot 1 only)
- Reduction of Setback to Public Right-of-Way from 10 feet to 5 feet (Lots 1 and 2 only)

Analysis: The need to connect the current terminus of Woodset Drive and Woodset Court, both public streets, across the project site limits the developable area of the property. The site plan shows two units on the western portion of the property (Units 1 and 2). Only these two units require the granting of concessions to setback requirements – Units 3-14 meet all required setbacks.

For Lots 1 and 2, if the typical MUN side yard and right of way setbacks were required, the building footprint for the two units would need to be reduced 4 feet on one side and by 5 feet along the length of the building's frontage. This would reduce the building footprint so that the three-bedroom and four-bedroom units could not be accommodated, and instead replaced by two-bedroom units. This would remove one of the accessible units from the project (Unit 2) and reduce the number of people being served by this affordable neighborhood (smaller units = smaller households). Alternatively, if a unit layout were to be designed that could meet the setback requirements, an additional story would need to be added to the building to achieve the same unit sizes (3-bedroom and 4-bedroom units) and similar square footage. Adding a third story to the units would increase the structural and framing costs for the building and could also impact the design of foundation.

Costs would include both hard costs such as material and labor expenses involved in the construction of three-story units (that are not being used elsewhere and out of context with the neighborhood) as well as soft costs including architectural and engineering consultant time and materials to create new floor plans and unit layouts. The consultant costs would be incurred at the entitlement stage (new drawings and designs for the Planning submittal) and at the Building Permit stage (additional construction drawings for another unit type being utilized in the project). New structural assessments would need to be completed as well. A conservative estimate of these additional project costs would be \$40,000 for technical consultant time and materials as well as labor and material costs associated with a three-story building.

Parking Reduction ([Section 20.190.060](#) of the San Jose Municipal Zoning Code)

- Reduction in Code Required Parking Spaces

Analysis: Pursuant to [Section 20.190.060](#) of the Zoning Code, a parking ratio of 0.5 spaces per bedroom may be applied as the project provides at least 20% of the units for lower income households, and is within ½ mile of a major transit stop (Alum Rock and Jackson 522 BRT Station). A total of 22 spaces would be required. A total of 26 surface parking spaces would be provided on site.

Waiver:

- Reduction in required private open space (170 square feet) per unit ([Section 20.55.104](#) of the San Jose Municipal Zoning Code)

Analysis: With the incentives/concessions granted in accordance with State Density Bonus Law, the private open space areas for each of the units are 10-11 feet deep and range based on the width of the townhouse unit/lot from 176 square feet to 282 square feet. In order to provide 300 square feet of private open space for each unit, the depth of the private open space areas would need to increase (by 7.75 additional feet for the narrowest townhome unit). If the depth of the private open space area needed to increase, this would have physical implications on the layout of the rest of the site – resulting in the provision of fewer housing units, encroachment into parking and circulation areas, reduced number of parking spaces, and modifications to the common open space amenities that are currently designed to be equally accessible to all residents. The total amount of private open space required for 14 units at 300 square feet per unit is 4,200 square feet. The proposed project has a total of 3,088 SF of private open space plus common open space areas shared by all residents. This is 1,112 SF less than the minimum standard. In order to provide this additional private open space square footage, at least one housing unit would need to be removed from the project, thus physically precluding the development of the proposed project at the density allowed with the requested incentives.

As conditioned in the associated Site Development Permit, prior to the issuance of Building Permits, the applicant would be required to record a Regulatory Agreement with the City.

Municipal Code Conformance

Land Use

The project is in the R-1-8 Single-Family Residence Zoning District. The project includes a Conventional Rezoning to the MUN Mixed Use Neighborhood Zoning District to allow for the proposed development to proceed at the allowable density under the State Density Bonus Law. The MUN Mixed Use Neighborhood Zoning District allows for the construction of multifamily developments as a permitted use with the issuance of a Site Development Permit.

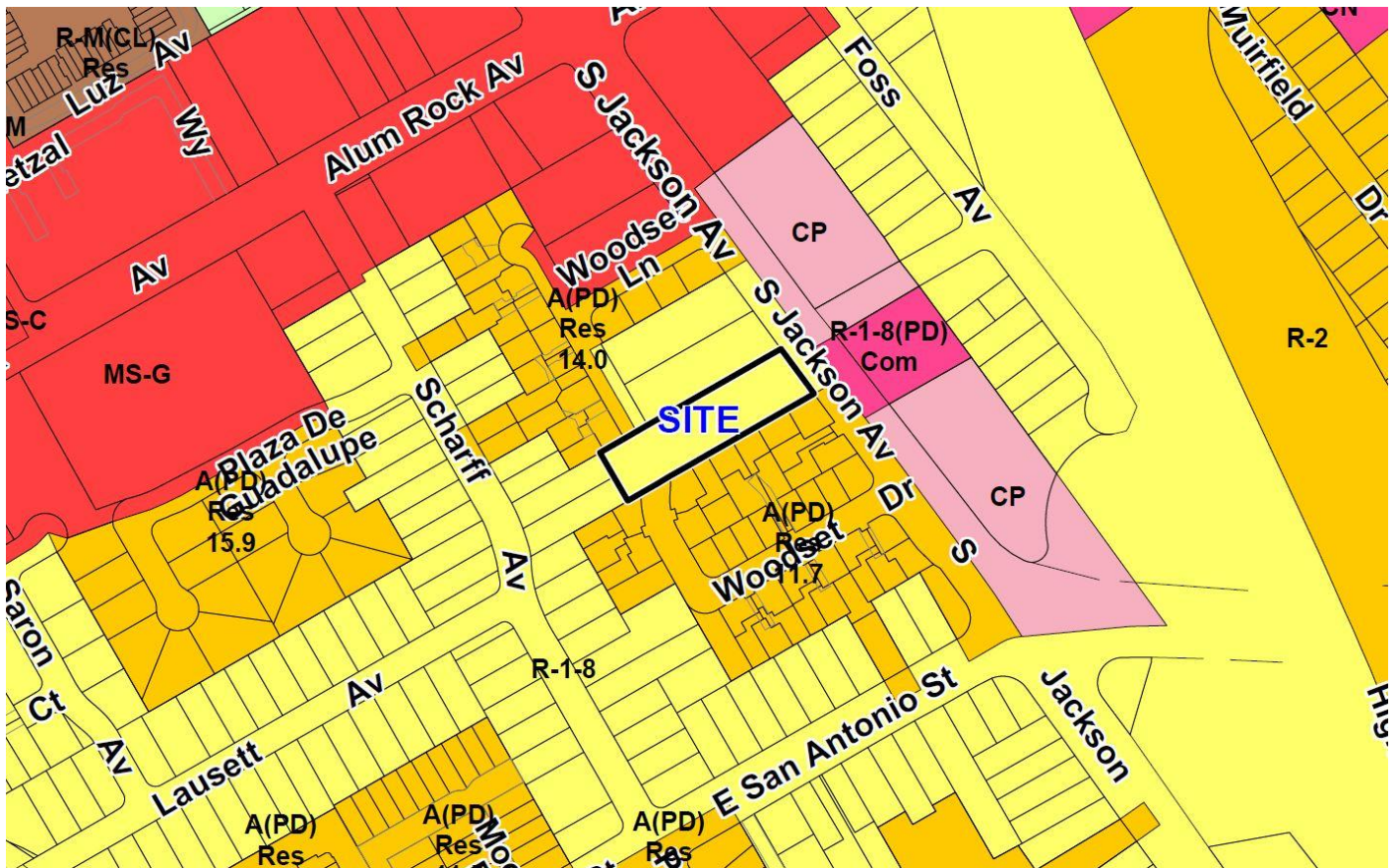


Figure 4 Existing Zoning Map

Setbacks and Height

The table below highlights the project's conformance with the applicable development standards as outlined in Table 20-137 of [Section 20.55.104](#) of the Zoning Code. As the project entails the development of townhouses, the "Alternate Setback Regulations" of the MUN Zoning District apply to the project.

Table 20-137 Mixed Use Neighborhood Development Standards (Alternate Setback Regulations)

Development Standard	Required	Proposed
Minimum Lot Area	No Minimum (Entire project must be covered by a single development permit. Cannot exceed 30 DU/AC)	787 sf
Lot Frontage Requirements to Public Right-of-Way	None required, provided all lots have access from a public right-of-way provided by easement	Access provided from Woodset Drive and Private Street with easement
Residential Density (DU/AC)	Maximum 30 DU/AC	16.21 DU/AC
Setback to Public Right-of-Way	Minimum 10 feet	5 feet with density bonus concession (see Density Bonus discussion above)
Setback to property line within project boundary covered by same development permit	No side setback required, subject to compliance with Building and Fire Codes	None
Setback to property line of property not covered by same development permit	Minimum 5 feet side setback for development up to 2.5 stories	5 feet
	Minimum 10 feet side setback for properties adjacent to property designated as Residential Neighborhood	6 feet with density bonus concession (Lot 1 only – see Density Bonus discussion above)
Maximum Height (Townhouse/Rowhouse)	40 feet	25 feet, 9 inches
Maximum Number of Stories	3 stories	2 stories
Private Open Space Requirement	300 sf	170 sf with density bonus waiver (see Density Bonus discussion above)

As shown above, the project conforms with the development standards of the MUN Mixed Use Neighborhood Zoning District, with the exception of the two concessions and one waiver requested pursuant to the State Density Bonus Law.

Parking

As discussed in the State Density Bonus Law Section above and shown in the table below, the project has requested a parking reduction in accordance with [Section 20.190.060](#) of the Zoning Code.

Vehicle Parking – [Table 20-290](#)

Number of Units	Parking Ratio
14	0.5 spaces per bedroom
Total Parking Required	22 spaces
Total Parking Provided	26 spaces

Pursuant to [Section 20.190.060](#) of the Zoning Code, a parking ratio of 0.5 spaces per bedroom may be applied as the project provides at least 20% of the units for lower income households, and is within ½ mile of a major transit stop (Alum Rock and Jackson 522 BRT Station). A total of 22 spaces would be required. A total of 26 surface parking spaces would be provided on site.

Additionally, the project would be required to provide 4 bicycle parking spaces in accordance with [Chapter 20.90](#) of the Zoning Code. A total of 14 bicycle parking spaces would be provided.

Noise

Pursuant to [Section 20.55.202](#) of the Zoning Code, there are no minimum noise thresholds for properties in the MUN Zoning District. The project includes standard permit conditions to reduce construction noise impacts to surrounding uses. Permit conditions include construction of solid plywood fences around the ground level construction site, equipping all internal combustion engine-driven equipment with intake and exhaust mufflers, locating stationary noise-generating equipment as far away from sensitive noise receptors as possible, utilizing quiet air compressors, notifying all adjacent businesses and residences of the construction schedule in writing, and appointing a construction disturbance coordinator who would be responsible for responding to any noise complaints. Additionally, pursuant to [Section 20.100.450](#) of the Zoning Code, the project is within 500 feet of a residence, therefore construction hours are limited to 7:00 am to 7:00 pm Monday through Friday.

Tree Removals

The project is subject to the following tree replacement ratios as shown in the table below.

Tree Replacement Ratios				
Circumference of Tree to be Removed¹	Type of Tree to be Removed²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more ³	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

*x:x = tree replacement to tree loss ratio
Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
** A 24-inch box replacement tree = two 15-gallon replacement trees
Single Family and Two-dwelling properties may replace trees at a ratio of 1:1.

The project includes the removal of two ordinance-size trees. The trees to be removed are located within the proposed project building footprint. The trees to be removed are a Palm (75 inches in circumference) and Oak (101 inches in circumference). The removal of the two trees requires the replacement of eight (15-gallon) or four (24-inch box) trees on site. The project includes the planting of 15 trees on site. The trees to be planted include six Coast live oak, five Chinese pistache, and five Shumared red oak trees. All trees to be planted would be 24-inch box size.

Residential Design Guidelines Consistency

The project application was submitted to the Department of Planning, Building and Code Enforcement in July 2019, prior to the adoption of the Citywide Design Standards and Guidelines in March 2021. Therefore, the project was reviewed for consistency with the [Residential Design Guidelines, which were approved by City Council in February 1997](#). The project is consistent with the following provisions of Residential Design Guidelines for townhouse projects.

- Street Frontage
 - Building Orientation – The major orientation of buildings nearest the street should be parallel to that street or to the prevailing pattern of existing property lines. This guideline is not intended to limit either the inclusion of architectural elements, articulation, or embellishments that may not align with the street or the inclusion in large projects of minor buildings that do not align with the street.

Analysis: The project would continue the pattern of building orientation based on the surrounding development. The buildings with frontage on Woodset Drive would face the street and would continue the pattern of building orientation with the existing residences to the north, south, and west. The buildings at the eastern portion of the site would continue the orientation of the existing residences to the south. The street facing unit at the eastern end of the project site would be oriented towards Woodset Drive and would have the primary entrance facing the street.

- Building Design
 - At least one architectural projection per unit. Such a projection must project no less than 2 feet 6 inches from the major wall plane, must be between 4 feet 6 inches and 15 feet wide, and must extend the full height of a one-story building, at least one-half the height of a two-story building.
 - A change in wall plane of at least 3 feet for at least 12 feet every 2 units.
 - Both vertical and horizontal articulation is encouraged for sloped roofs. Rooflines should be representative of the units under them and no more than two units should be covered by a single, unarticulated roof. Roof articulation may be achieved by changes in plane of no less than 2 feet 6 inches and/or the use of traditional roof forms such as gables, hips, and dormers. Hipped or gabled roofs covering the entire mass of a building are preferable to mansard roofs or segments of pitched roof applied at the building's edge.

Analysis: As shown on the project plans (Exhibit E), the building facades include variations in plane, window projections, highlighted building entrances, changes in roof plane, and an articulated façade throughout. Building articulation and changes in minor architectural details occur throughout the development so that no two buildings are the same.

- Perimeters, Walls, and Fences

- Height - Fences and walls should be no more than 7 feet high, except when adjacent to freeways, expressways, railroads, incompatible uses, or when they are required for sound attenuation.

Analysis: As shown on the landscape plan, the project includes the construction of a 6-foot-high wood fence at the perimeter of the site and between private yards.

- Landscaping

- Landscaping should be provided by the developer in all setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. This landscaping should be generous and should include trees and/or shrubs as well as groundcover. Tall shrubs or vines should be planted to help screen walls and fences and provide protection from graffiti.
- The developer should plant street trees of an approved species and size along all public and private streets. There should be at least one tree for approximately every 25 feet of street frontage, depending on species, or at least one tree for each lot abutting the street. The City's street tree planting standards should be used.

Analysis: The project includes an extensive landscaping plan (see Exhibit E). All areas not covered by buildings, walkways, and driveways would be landscaped with a mix of trees, shrubs, and ground cover. The perimeter of the site would be landscaped to screen the development from adjacent uses and streets. The project provides a conceptual street tree planting plan, which would be finalized by the Department of Transportation at the construction stage.

- Bicycle Parking

- Attached unit projects, which do not include enclosed garages, should provide secure parking facilities (one bicycle space per two units) to encourage the use of bicycles instead of automobiles.

Analysis: The project would include a secure bicycle locker in the common area as well as bicycle lockers in the rear yards of each unit. In conformance with the Zoning Code, a total of 14 spaces would be provided.

- Trash Enclosures should be:

- Adequately sized for recycling bins (newspaper, glass, aluminum cans, compostable material, etc.) in addition to appropriately sized garbage bins.
- Located away from existing adjacent residences and new unit entries and windows.
- Convenient to dwelling units.
- Designed to provide screening of storage containers inside the enclosure.
- Designed with pedestrian access that doesn't require the opening of gates.
- Designed to foster personal security.
- Located for convenient access by garbage trucks.

Analysis: The project includes the construction of a trash enclosure at the central portion of the site. The enclosure would be approximately 19 feet by 11 feet and would include adequate space for both recycling and trash bins. The enclosure would be fully covered to avoid any nuisance effects to the residences and would connect to the storm drain, as required by the Environmental Services Division.

The enclosure would be located away from both the proposed residences and screened from the existing residences to the south. The enclosure would be conveniently accessible to the future residents via the primary walkway through the site. The enclosure would be accessible to garbage trucks from the primary driveway serving the site.

Permit Findings

In order for this application to be approved, the Planning Commission must be able to make all required findings for a Vesting Tentative Subdivision Map, Site Development Permit, Tree Removal Permit, and Demolition Permit.

Vesting Tentative Map Findings

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

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

Analysis: Based on the review of the proposed reconfiguration of three lots into six lots, the Director of Planning, Building and Code Enforcement of the City of San José (the Director) is recommending approval of the Vesting Tentative Map, because none of the above findings can be made for the denial of the proposed subdivision. As discussed above, the project is consistent with the General Plan goals, policies, and land use designation. The project complies with the General Plan goals and policies related to housing, land use, and implementation. The project site is physically suitable for the proposed buildings and the proposed residential density consistent with the surrounding neighborhood. Furthermore, the project site does not contain historic resources or sensitive habitats or wildlife. The project includes the extension of a public street (Woodset Drive) with curb, gutter, and sidewalk and would be accessible from Woodset Drive and South Jackson Avenue. The map provides the necessary easements for access for emergency vehicles, ingress/egress, utilities, and drainage. Additionally, as explained above, the project will be consistent with the MUN Mixed Use Neighborhood Zoning District.

Subdivision Ordinance Findings

1. In accordance with San José Municipal Code (SJMC) [Section 19.12.130](#), the Director may approve the Tentative Map if the Director cannot make any of the findings for denial in Government Code section

66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San José Municipal Code Section 19.12.220. Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

Analysis: As described above, based on review of the proposed subdivision, the Director of Planning, Building and Code Enforcement of the City of San José is recommending approval of the Vesting Tentative Map. The proposed map and the development's design are consistent with the San José Envision 2040 General Plan and the MUN Zoning District, as discussed above. The site is physically suitable for the proposed development in that the proposed density is in conformance with the Residential Neighborhood land use designation. The site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plan. The project site, as well as the surrounding area, are currently developed with structures and do not provide a natural habitat for either fish or wildlife. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems.

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 and applicable specific plans and area development policies.

Analysis: The project is consistent with the General Plan land use designation of Residential Neighborhood. The project allows for the construction of 14 units on site (16.27 DU/AC), which would conform with the allowable density of the Residential Neighborhood land use designation with the implementation of the State Density Bonus Law. The project is consistent with General Plan Housing policies regarding the provision of affordable housing and the implementation of the State Density Bonus Law. The project is consistent with General Plan Housing policies regarding the provision of affordable housing and the implementation of the State Density Bonus Law. The project includes the construction of a 100% affordable housing project. The applicant would provide two moderate-income units (households earning less than 80% AMI) and 12 low-income units (households earning less than 120% AMI). All of the units would be covered by a deed restriction recorded against the property. As discussed below, the project would utilize the State Density Bonus Law to allow for the construction of the affordable project at the density proposed.

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.

Analysis: As discussed above, the project conforms with all requirements of the MUN Mixed Use Neighborhood Zoning District. With the exception of the concessions and waivers under the State Density Bonus Law, as discussed above, the project conforms with all required setbacks, heights, lot sizes, and parking requirements of the MUN Zoning District.

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

Analysis: The project is consistent with City Council Policy 6:30 for Public Outreach. The project hearing was noticed at a radius of 500 feet. An on-site sign has been posted on the project frontage since March 20, 2021

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.

Analysis: The 12 units on the eastern end of the property would be oriented in the same manner, facing the private driveway to the south of the site. The two units to the west of Woodset Drive would be oriented towards the street. All of the units would be two-stories and would include adequate space for all walkways, driveways, and landscaping. As discussed in the Residential Design Guidelines section above, the buildings would maintain a similar architectural style while providing variation in building plane and minor architectural details.

5. 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 project would continue the pattern of building orientation based on the surrounding development. The buildings with frontage on Woodset Drive would face the street and would continue the pattern of building orientation with the existing residences to the north, south, and west. The buildings at the eastern portion of the site would continue the orientation of the existing residences to the south. The street facing unit at the eastern end of the project site would be oriented towards Woodset Drive and would have the primary entrance facing the street. The townhouses would all be two stories, similar to the existing two-story residences located directly to the north and south of the subject site.

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 affect on adjacent property or properties.

Analysis: The draft Site Development Permit Resolution (Exhibit D) includes standard environmental permit conditions to reduce construction impacts. The conditions would reduce impacts related to air quality, biological resources, cultural resources, geological resources, hazards and hazardous materials, water quality, and noise. All construction activity would be temporary and would be limited between the hours 7:00 am to 7:00 pm Monday through Friday. The project is also conditioned to appoint a construction disturbance coordinator to respond to any construction related complaints. Therefore, given the implementation of the standard permit conditions, the project would not have an unacceptable negative affect on adjacent properties.

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: The project includes a detailed landscaping plan which provide details for proposed trees, plants, groundcover, walls, and fences. Landscaping would be provided throughout the site to ensure the new residences are adequately screened from the adjacent residential and public assembly uses. The project also includes a trash enclosure which is located away from the adjacent residences to the south and would conform with the requirements of the Residential Design Guidelines and requirements of the City's Environmental Services Division.

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

Analysis: The project is accessible to pedestrians and vehicles from both Woodset Drive and South Jackson Avenue. All parking would be provided in a surface parking lot on both the east and west sides of Woodset Drive. The project conforms with the parking requirements as discussed in the Density Bonus and Zoning conformance sections above.

City Affordable Housing Density Bonuses and Incentives Findings

Chapter 20.190.090 of the San José Municipal Code requires that any project with a Density Bonus, or an Incentive must make the following findings.

1. The Housing Development is eligible for a Density Bonus and any Incentives, waivers or modifications requested.

Analysis The project consists of the construction of 14 townhomes configured in four buildings on an approximately 0.86-gross acre vacant site. The project would include the construction of a 100% affordable housing project. The applicant would provide two moderate-income units (households earning less than 80% AMI) and 12 low-income units (households earning less than 120% AMI). All of the units would be covered by a deed restriction recorded against the property, which has already been completed and recorded in connection with the site acquisition funds the City of San Jose provided to Habitat for Humanity in September 2020. As the project is providing 100% of the units at low-income levels, the project the project is eligible for the provisions of the State Density Bonus Law pursuant to Government Code Section 65915(b)(1)(A).

2. If the Density Bonus is based on all or in part on donation of land, a finding that all the requirements for a land transfer Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project does not include a land donation.

3. If the Density Bonus or Incentive request is based all or in part on the inclusion of a Child Care Facility, a finding that all of the requirements for a Child Care Facility Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project does not include a Child Care Facility.

4. If the Incentive request is for a Mixed-Use development, a finding that all the requirements for a Mixed-Use Incentive development approval that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project is not mixed use. Only residential uses are proposed.

5. If the Incentive includes a request for approval of condominium conversion, a finding that all the requirements for a condominium conversion Incentive that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project does not include a request for condominium conversions.

Tree Removal Permit Findings

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

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

Analysis: The project includes the removal of two ordinance-size trees. The trees to be removed are located within the proposed project building footprint. The trees to be removed are a Palm (75 inches in circumference) and Oak (101 inches in circumference). The removal of the two trees requires the replacement of 8 (15-gallon) or 4 (24-inch box) trees on site. The project includes the planting of 15 trees on site. The trees to be planted include 6 Coast live oak, 5 Chinese pistache, and 5 Shumared red oak trees. All trees to be planted would be 24-inch box size.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Mitigated Negative Declaration (MND) supported by an Initial Study was prepared for the 101 South Jackson Avenue Townhomes Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

Mitigation measures were developed to lessen the following impacts to less than significant levels: exposure of sensitive receptors to toxic air contaminants during construction, and disturbance and/or destruction of nesting migratory birds during construction.

Standard Permit Conditions are also required to ensure no impacts occur during construction and operation of the project. These Standard Permit Conditions include best management practices for construction related air quality impacts, protection of nesting migratory birds, compliance with the Santa Clara Valley Habitat Plan, protection of unknown subsurface cultural resources and human remains, compliance with the California Building Code for seismic safety of the proposed building, erosion control during construction activities, water quality impacts during construction, and best management practices to control noise during construction.

The MND was circulated for public review and comment from April 15, 2022 through May 5, 2022. One comment letter was received from Pacific Gas and Electric Company (PG&E). PG&E commented that the applicant should contact PG&E prior to ground disturbance to identify any underground utilities on the project site. Identifying underground utilities is standard construction practice and does not change the analysis or the findings of the MND for the project.

The MND and supporting Initial Study, technical reports, and comment letter are available on the City's website at www.sanjoseca.gov/negativedeclarations.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. An on-site sign has been posted on the project frontage since March 20, 2021. 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 also been available to respond to questions from the public.

Project Manager: Alec Atienza

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

ATTACHMENTS:	
Exhibit A:	Draft CEQA Resolution
Exhibit B:	Draft Conventional Rezoning Ordinance
Exhibit C:	Draft Vesting Tentative Map Resolution
Exhibit D:	Draft Site Development Permit Resolution
Exhibit E:	Site Development Permit Plan Set
Exhibit F:	Vesting Tentative Map
Exhibit G:	Legal Description and Plat Map
Exhibit H:	Signed MMRP

Owner/Applicant:	Applicant's Representative:
Habitat for Humanity, East Bay/Silicon Valley 2619 Broadway Oakland, CA 94612	Cameron Delaney Project Manager Habitat for Humanity, East Bay/Silicon Valley 2619 Broadway Oakland, CA 94612

H19-031, C19-027 & T19-028

Links to Attachments A-H

Click on the title to view document

Exhibit A: Draft CEQA Resolution
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