



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** See Below

**DATE:** June 2, 2025

**COUNCIL DISTRICT:** 6

**SUBJECT: GP23-011: Early Consideration for Denial for a Privately-Initiated General Plan Amendment to Change the Envision San José 2040 General Plan Land Use/Transportation Diagram from Neighborhood/Community Commercial to Transit Residential for Property Located at 826 North Winchester Boulevard**

## **RECOMMENDATION**

Since the following motions failed to sustain a majority vote, there is no recommendation from the Planning Commission (4-4-1; Bickford absent):

- (a) Staff recommend: Adopt a resolution denying the request to amend the Envision San José 2040 Land Use/Transportation Diagram designation from Neighborhood/Community Commercial to Transit Residential on an approximately 0.61-gross-acre site located at 826 North Winchester Boulevard.
- (b) In the alternative, direct staff to continue processing the application to amend the Envision San José 2040 General Plan Land Use/ Transportation Diagram designation from Neighborhood/Community Commercial to Transit Residential on an approximately 0.61 gross acre site located at 826 North Winchester Boulevard, consider input from the City Council, complete the CEQA analysis, and return to the City Council with a complete development application for consideration.

## **SUMMARY AND OUTCOME**

Policy IP-3.3 of Envision San José 2040 General Plan (General Plan) provides for early consideration of a privately initiated General Plan Land Use diagram amendment request involving the conversion of employment land to non-employment uses or other projects that are fundamentally inconsistent with the Major Strategies, goals, and policies of the General Plan for continued processing or denial by the Planning Commission and the City Council. The process allows for a General Plan Amendment to be heard by City Council for early feedback before the full review of the application.

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City Council can approve one of the following actions: (1) approve staff recommendation and deny the proposed General Plan Amendment; (2) deny staff recommendation and direct staff to continue processing the General Plan Amendment and any other associated applications as proposed. If Council directs staff to continue processing the General Plan Amendment, Council can also provide feedback on the proposed application and suggest the applicant to modify the proposal, such as with a different land use designation that is consistent with the General Plan.

If the City Council denies the proposed privately-initiated General Plan Amendment during this Early Consideration process, the site would retain its current land use designation of Neighborhood/Community Commercial.

If the City Council directs staff to continue processing the application for future consideration, staff would complete the review of the General Plan Amendment and other required permits, including environmental analysis of the proposed land use change and development proposal. City Council may also suggest the applicant to consider an alternative land use designation. Staff would bring a recommendation for approval or denial of those applications to the 2026 General Plan Annual Review hearing at the end of 2026.

### **Additional Options for Council Consideration**

Based on the Planning Commission's discussion detailed below, and the two failed motions, Staff looked at other potential General Plan land use designations that may be more appropriate for this site. Based on a preliminary review, and potential desire to see some housing on this site, Council could consider the following option that is better suited for the site and may be consistent with the General Plan:

1. Urban Residential land use designation - This designation allows a density of 30 to 95 DU/AC which will yield a maximum of 58 units on the subject site, with a maximum height of 135 feet. While no commercial is required, this land use designation does support mixed uses.

### **BACKGROUND**

On May 14, 2025, the Planning Commission held a public hearing for Early Consideration to consider the proposed privately-initiated General Plan Amendment.

Commissioner Oliverio made a motion to approve staff recommendation. Commissioner Young seconded the motion. Commissioner Rosario made a substitute motion to deny staff recommendation. Commissioner Lardinois seconded the motion. The substitute

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motion failed 4-4-1, with Commissioners Rosario and Lardinois, Vice Chair Cantrell, and Chair Tordillos in support (Bickford absent). The underlying motion also failed 4-4-1 with Commissioners Oliverio, Young, Bhandal and Barocio in support of staff recommendation (Bickford absent).

## **ANALYSIS**

For a complete analysis, please see the attached Planning Commission staff report.

## **EVALUATION AND FOLLOW-UP**

If the City Council denies staff recommendation to deny the proposed General Plan Amendment, the City Council would need to direct staff to continue processing the proposed General Plan Amendment and any associated applications, to be reheard by the City Council after full review.

## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

## **PUBLIC OUTREACH**

A notice of the Planning Commission and City Council public hearings was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Over 52 individual emails have been received since the first project sign had been posted. 59 additional emails have been received since the hearing notices had been sent. Comments from these emails are similar to those received during the community meeting. Approximately a third of the emails were in support of the project.

This memorandum will be posted on the City's Council Agenda website for the June 10, 2025 City Council meeting.

## **COMMISSION RECOMMENDATION AND INPUT**

On May 14, 2025, the Planning Commission held a public hearing for Early Consideration to consider the proposed privately-initiated General Plan Amendment (“Amendment”).

Prior to the public hearing, Commissioners disclosed affiliations and ex parte communications with neighborhood and stakeholder groups.

### *Staff Presentation*

Planner David Fong, provided a presentation on the proposed Amendment, including the site context, project review and analysis, public comments, and staff’s recommendations. Staff highlighted the fundamental inconsistency with the General Plan and many of its major strategies, goals, and policies. The project was determined to be unsuitable for this site because of inconsistencies with Major Strategy #3 which strictly limits new residential development outside of identified Growth Areas, Major Strategy #4 which promotes the preservation of existing employment lands, vibrant and complete neighborhoods policies which addresses compatibility with existing neighborhoods, and vehicle miles reduction policies which focuses new high-density development near major transit.

### *Applicant Presentation*

The applicant’s representative, Kelly Erardi, Director of Entitlements for Valuable Capital Investments, Inc. (VCI), provided a presentation and stated that the proposed project would replace a vacant, underutilized commercial building that currently generates no economic activity or jobs with a project that could generate up to \$240 million in tax revenue over 10 years while also creating new housing and employment opportunities. He stated that the proposal aligns with San José’s smart growth and climate goals, highlighting the use of sustainable building technologies such as solar glass and mass timber to support environmental performance and long-term resilience. He clarified that the Early Consideration hearing was initiated by staff, and the applicant is requesting continued processing to allow full evaluation of the project’s impacts and benefits. VCI has begun preparing an Environmental Impact Report and initiated outreach efforts. Mr. Erardi concluded by reaffirming the company’s willingness to collaborate and requested the opportunity to complete the review process.

### *Public Hearing*

Twenty-three members of the public spoke on the proposed amendment. Ten members of the public spoke against the proposed amendment and 13 spoke in support.

Those who spoke in opposition raised concerns about the project's height, safety, traffic, and neighborhood compatibility. Several felt that the proposed 17-story tower was too tall for the area and recommended limiting the height to four stories to match nearby developments. They also cited traffic and pedestrian safety risks, especially near senior centers, as well as inadequate driveway access and parking. Environmental concerns included the site's location in a liquefaction zone, potential soil contamination from a former gas station, and risks to groundwater from deep excavation. Several speakers questioned the adequacy of the environmental review and urged further studies. Some expressed distrust in the developer due to past project issues and legal history. Commenters urged adherence to the General Plan and called for a scaled-down, community-sensitive alternative that better fits the residential character and infrastructure capacity of the Cory Neighborhood.

Those who spoke in support of the project emphasized the project's alignment with San José's housing and climate goals, highlighting the urgent need for high-density, affordable housing near jobs and transit. They identified the development as a smart reuse of a long-vacant site, conveniently located near Santana Row and Valley Fair. Sustainability features such as solar panels and green design were noted as climate-conscious benefits. They highlighted economic gains, including tax revenue, job creation, and commercial activity potentially gained from this redevelopment of a site. One speaker representing a trade union highlighted the opportunity for fair wages and union jobs.

### *Applicant Rebuttal*

Kelly Erardi responded to the public comments. In response to concerns about traffic, noise, and potential soil contamination, he explained that these issues will be addressed through the Environmental Impact Report (EIR) process, which is still in its early stages. Regarding jobs-to-housing balance, the applicant noted that the site currently contains 12,000 square feet of commercial space and the proposal includes 15,000 square feet. He emphasized a willingness to compromise on the community concerns raised and expressed a goal of delivering 135 residential units, including 20 affordable units. He expressed a commitment to continuing community dialogue and working collaboratively throughout the review process, with the intent to provide updates as the project advances.

### *Planning Commission Discussion*

Commissioner Oliverio thanked the applicant and public speakers for their input. He explained that the City's early denial process is intended to provide applicants with timely feedback, avoiding costly planning efforts for projects unlikely to be approved. Reflecting on his experience with the Envision San José 2040 General Plan Task Force, he noted that the General Plan identifies areas appropriate for increased density and that the City Council and Planning Commission have approved high-density projects,

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even amid community concerns, because long-range planning ensures predictability and consistency. He contrasted this with the subject project which does not match with the long-range plan for the site but noted the parcel will likely be reviewed in the next General Plan 2040 update, ensuring a transparent public process with opportunities for community input and discussion of future development options. He emphasized that high-density development in San José has typically occurred in designated Growth Areas and that the proposed 17-story building next to single-family homes was out of scale. He concluded by stating his support for planning staff's recommendation to deny the amendment and made a motion to that effect, while noting the applicant could still appeal to the City Council. Commissioner Young seconded the motion.

Commissioner Rosario asked staff what the distance is between the site and the closest Growth Area and how staff approached the review of the application. Staff responded that the nearest Growth Area (Valley Fair/Santana Row Urban Village) is approximately a quarter mile away and staff analyzed General Plan policies to consider whether the amendment can be supported. Staff then provided a brief history of different project proposals on the subject site prior to the current submittal. Commissioner Rosario asked staff how the General Plan inconsistencies could be mitigated. Staff replied that the site's location outside a Growth Area and the proposed density were significant issues.

Commissioner Rosario asked staff what would happen hypothetically if the Amendment was not approved. Staff responded that the site would remain designated as Neighborhood/Community Commercial and continue to allow neighborhood-serving uses like retail, dry cleaners, banks, or a pharmacy continuing the commercial corridor along that section of Winchester Boulevard. Commissioner Rosario concluded by stating that the city needs more housing to support current and future residents so that young people, including his children, are able to afford to live in San José. He then made a substitute motion to deny staff's recommendation and allow the application review process to continue. Commissioner Lardinois seconded the substitute motion. Staff subsequently added that the site qualifies for 100% affordable housing under General Plan Policy H-2.9 and such a project will not require a General Plan Amendment.

Commissioner Lardinois thanked everyone who spoke and wrote letters about the project and emphasized the importance of hearing different opinions. Commissioner Lardinois expressed his disagreement with the staff report, particularly that the proposal will result in the loss of commercial space. He pointed out the Santana West office project located nearby, with nearly a million square feet of office space has remained vacant for nearly five years.

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Commissioner Lardinois disagreed with the notion that tall buildings inherently impact a community negatively. He noted several tall buildings within a half mile radius of the site and some proposed buildings along Winchester Boulevard. Commissioner Lardinois stated that 20 years ago, many thought Santana Row was too big, but communities grow and change, and the status quo doesn't always serve a community well. He addressed transit, pointing out that Winchester Boulevard is a commercial arterial roadway and emphasized the proximity of the site to the Valley Fair Growth Area. He stated that a bus line with 15-minute headways is relatively strong service by VTA standards and added that transit investment is expected to follow new development. He added that several designated Growth Areas in the city also lack current VTA coverage and referenced prior Commission discussions that supported the idea that transit investment is expected to follow new development.

The Planning Director clarified that the Early Consideration hearing process is not limited to voting in support or opposition of staff's recommendation. He explained that the Transit Residential designation is intended for areas with comprehensive transit infrastructure, and that other land use designations could also support housing development and may be more compatible with surrounding uses.

Vice Chair Cantrell asked if there had been a previous application for the site, and what land use designation they requested. Staff responded that there had been a preliminary review application by a former owner proposing a 5-story 100% affordable development with no General Plan amendment. He expressed his appreciation for the public turnout and thanked everyone for attending.

Commissioner Young asked the Planning Director if the Early Consideration process was meant to benefit the applicant so they would not have to over-invest early on. The Planning Director responded that was the intent, however, some developers may not see it as beneficial for them. He added more background of the Early Consideration process and details of multiple options available for staff-initiated or applicant initiated Early Consideration. Commissioner Young asked if any written comments were received from the City of Santa Clara. Staff responded that they received correspondence from Santa Clara residents who sent comment letters to City of Santa Clara staff, which were then forwarded to the City of San José. However, no City official or Planning Commissioner from Santa Clara has provided written correspondence on the project.

Commissioner Young stated he acknowledges the need for more housing in the City, noting that he has never voted against a housing project. He expressed his support for staff's recommendation, stating that the project was not appropriate for the site. He emphasized the urgent need for affordable housing and the fact that affordable housing can be ministerially approved on this site.

Commissioner Bhandal asked the applicant the rationale behind the proposed height and whether the applicant engaged with the community. In response, the applicant stated that the original proposal for an 11-story building was redesigned to increase the setback from adjacent residences due to community feedback. This adjustment resulted in an increase in the building's overall height. The applicant emphasized that the project is still in progress, with a goal of 135 units, including 20 affordable units. They requested to continue the review process and expressed openness to exploring alternative options. He expressed frustration with the Early Consideration hearing after a year of working on the initial application and commented that this should have occurred at the beginning of the General Plan Amendment review process. He emphasized their willingness to explore alternative designs, including adjustments to building height, and requested the opportunity to continue refining the project. He mentioned that he is not interested in pursuing a ministerial permit.

Chair Tordillos thanked all the speakers and acknowledged the complexity of the issue, especially for neighbors concerned about a 17-story building near their homes. He highlighted the site's proximity to multiple bus lines and noted that the building could promote a low-carbon lifestyle. He also referenced to project's potential to generate significant tax revenue. He said that given the current housing and fiscal climate, he found it difficult to vote against a project offering 135 units, 20 affordable units along with jobs and tax revenue. He indicated interest in seeing a revised version with a lower height, such as 8- or 12-stories.

Commissioner Young thanked Chair Tordillos for his comments and echoed Commissioner Cantrell's appreciation for the high level of public participation in the hearing. He expressed skepticism over the applicant's suggestion that the project might return as a five-story building if the amendment were approved. He questioned the sincerity of that claim, arguing that given the economic realities and comments by Commissioner Oliverio, many entitled housing projects are not being built because they are financially infeasible. He was therefore doubtful when a developer claimed to be open to smaller-scale designs in collaboration with the community.

Vice Chair Cantrell stated his belief that the project would ultimately proceed in some form. He shared that the continuation of the project should be viewed as an opportunity to collaboratively work with staff and the community. He expressed the desire for a future outcome where the community is comfortable with the development proposal while still allowing housing.

Commissioner Oliverio agreed with Commissioners Young and Bhandal, characterizing the site as a small lot with limited flexibility thus leaving upward development as the only option. He reiterated the importance of honoring commitments to neighborhoods. He stated that while the State often overrides local decision-making and the engagement



with the community, it is particularly damaging when the city itself allows projects disregarding planning processes laid out in the General Plan or specific plans, and that it risks breaking public trust.

Chair Tordillos then called a vote on the substitute motion introduced by Commissioner Rosario and seconded by Commissioner Lardinois. The motion failed with a 4-4-1 vote (Bickford absent).

Commissioner Oliverio inquired whether an alternative land use designation could be proposed. The Planning Director responded that the Planning Commission's role was to forward its recommendation and insights and that the City Council could choose to consider an amendment to a different land use designation such as Urban Residential.

Chair Tordillos called a vote on the underlying motion, which failed with a 4-4-1 vote (Bickford absent).

## **CEQA**

Under the provisions of Section 15270 of the State Guidelines for Implementation of the California Environmental Quality Act, the General Plan Amendment is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended (CEQA), if the public agency disapproves of the project. Section 15270 allows for an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for their project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.

Should the City Council determine that the proposed or a modified General Plan Amendment should be further processed for future consideration, such action would not constitute an approval of a project under CEQA.

## **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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/s/

CHRIS BURTON

Secretary, Planning Commission

For questions, please contact Ruth Cueto, Principal Planner, Planning, Building and Code Enforcement Department at [ruth.cueto@sanjoseca.gov](mailto:ruth.cueto@sanjoseca.gov) or (408) 535-7886.

**ATTACHMENT**

Planning Commission Staff Report from May 14, 2025



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Christopher Burton

**SUBJECT:** File No. GP23-011

**DATE:** May 15, 2025

**COUNCIL DISTRICT: 6**

<b>Type of Permit</b>	General Plan Amendment
<b>Project Planner</b>	David Fong
<b>CEQA Clearance</b>	Statutorily Exempt pursuant to CEQA Guidelines section 15270: Projects Which are Disapproved.
<b>CEQA Planner</b>	Cort Hitchens

## RECOMMENDATION

Staff recommends that the Planning Commission make a recommendation to the City Council to **deny** the request to amend the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Neighborhood/Community Commercial to Transit Residential Neighborhood on an approximately 0.61 gross acre site.

## EARLY CONSIDERATION PROCESS

Policy IP-3.3 of Envision San José 2040 General Plan (“General Plan”) provides for early consideration of a privately initiated General Plan Land Use diagram amendment request involving the conversion of employment land to non-employment uses or other projects that are fundamentally inconsistent with the Major Strategies, goals, and policies of the General Plan for continued processing or denial by the Planning Commission and the City Council. The policy allows that early consideration may be considered outside of the General Plan Annual Review process.

Staff recommends that the Planning Commission recommend the City Council deny the General Plan Amendment request because the proposal is fundamentally inconsistent with the Major Strategies, goals, and policies of the General Plan. These inconsistencies are explained in more detail in the General Plan Conformance section of this report. If the General Plan Amendment is denied by the City Council, the submitted Rezoning and Site Development Permit applications would need to be withdrawn by the applicant and partial refunds could be issued.

If the General Plan amendment is allowed to continue processing either under the Transit Residential density or an alternative density—as directed by the City Council—the earliest this project could be brought to a Planning Commission and City Council hearing would be the Fall of 2026.

## PROPERTY INFORMATION

<b>Location</b>	826 North Winchester Boulevard
<b>Assessor Parcel No.</b>	275-50-061
<b>Existing General Plan</b>	Neighborhood/Community Commercial
<b>Proposed General Plan</b>	Transit Residential

<b>Zoning</b>	CP Commercial Pedestrian and R-1-8 Single-Family Residence
<b>Historic Resource</b>	No
<b>Annexation Date</b>	June 29, 1950 (Bascom No 4-A)
<b>Council District</b>	6
<b>Acreage</b>	0.61-gross acres

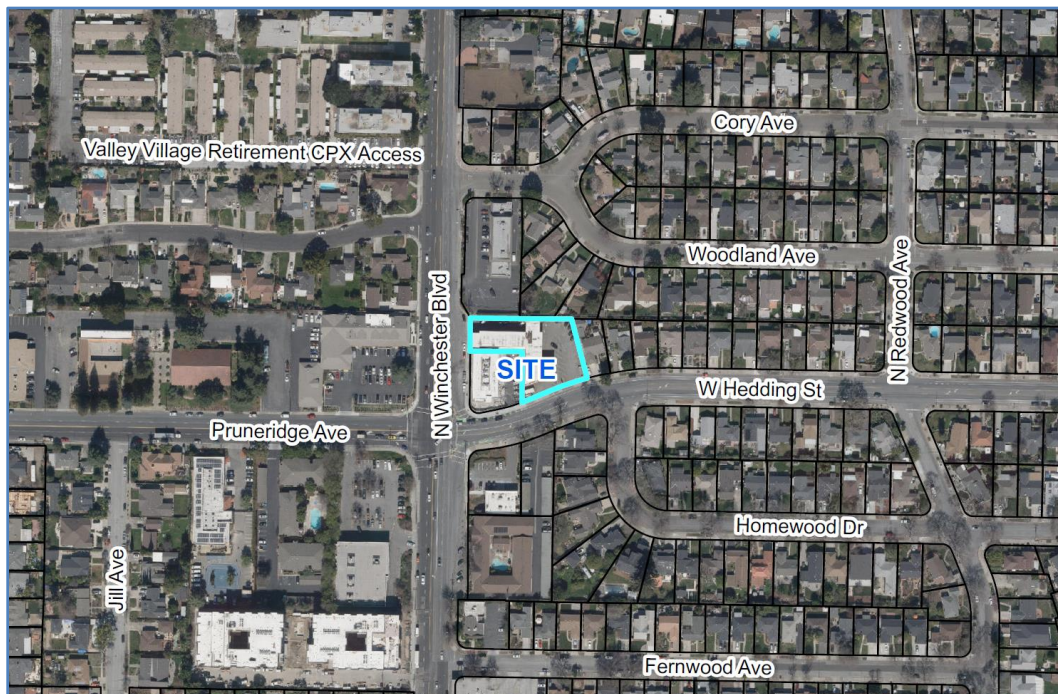
## PROJECT BACKGROUND

On November 21, 2023, the applicant Vincent Yan of Winchester Estate, LLC, submitted an application for a General Plan Amendment (GPA) to modify the General Plan Land Use/Transportation Diagram designation from Neighborhood Community Commercial to Transit Residential on an approximately 0.61 gross-acre subject site located at 826 North Winchester Boulevard (the “subject site”).

On September 17, 2024, the applicant submitted a Rezoning application (File No. C24-062) and a Site Development Permit application (File No. H24-052) for concurrent review and processing with the GPA application. The Rezoning application is proposing to rezone the site from the CP Commercial Pedestrian Zoning District and the R-1-8 Single-Family Residence District to the TR-Transit Residential Zoning District.

The Site Development permit application proposes a 17-story mixed-use development with 135-residential units and 15,000 square feet of commercial space. Twenty of the units are proposed to be affordable housing units for very low-income households which would qualify the project for density bonus under state law. The proposed project has a density of 226 du/ac, which is consistent with the proposed zoning district and proposed General Plan designation (50 du/ac to 250 du/ac required).

### Site Location



*Figure 1: Aerial Map of Existing Site*

As shown on the aerial map (see Figure 1), the site is located near the northeast corner of the intersection of Winchester Boulevard and West Hedding Street. The site has frontage on both Winchester Boulevard and West Hedding Street but does not occupy the corner. The site is developed with one office building, currently vacant, and a surface parking lot. The site is adjacent to commercial shopping centers and single-family residences to the north and south, and single-family residences to east. The City of San José’s city

boundary line with the City of Santa Clara runs along the western side of North Winchester Boulevard with a commercial shopping center located across the street.

This area is characterized as a low-density neighborhood with mixed residential and commercial uses. All the single-family residences adjacent to the subject site are 1-story tall. All the adjacent commercial properties are 1- to 2-stories in height. Most buildings in the vicinity are 2 to 4 stories tall. The tallest building within a 500-foot radius is 4 stories tall. As detailed further below, the subject site is not located in a designated Growth Area. The closest Growth Area is approximately 1,200 feet to the south at the Westfield Valley Fair shopping mall. The closest regional transit station is approximately 1.5 miles to the north at the Santa Clara Caltrain Station. The closest bus stop is 200 feet north of the site which is serviced by one bus route (VTA bus route 60) with 15-minute headway.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Neighborhood/Community Commercial & Residential Neighborhood	CP Commercial Pedestrian & R-1-8 Single Family Residence	Commercial Shopping Center and Single Family Residential
South	Neighborhood/Community Commercial & Residential Neighborhood	CP Commercial Pedestrian & R-1-8 Single Family Residence	Veterinary Hospital, Convenience Store and Single Family Residential across W Hedding St.
East	Residential Neighborhood	R-1-8 Single Family Residence	Single Family Residential
West	Neighborhood/Community Commercial & City of Santa Clara	CP Commercial Pedestrian & City of Santa Clara	Veterinary Hospital and Commercial Shopping Center across N Winchester Blvd.

### Site Background

The existing site is currently developed with a 11,742 square-foot, 2-story office building with an associated surface parking lot, built in the 1950's. The building was last known to be occupied in 2020 right before the COVID-19 pandemic. An unresolved code case on this site has been active since 2018 for unpermitted interior and exterior building modifications. There was an attempt to correct the code violations and bring the property into compliance with a Site Development permit application and Conforming Rezoning application filed in 2019. However, both of those applications were subsequently withdrawn. From 2020 to 2023, there were inquiries to redevelop the site with different project proposals, but no actual application submittals were received by the City.

### General Plan Background

Through Major Strategies, goals, and policies, the Envision San José 2040 General Plan strives to support San José's growth as an innovation and regional employment center and focus new residential and commercial growth in specifically identified Growth Areas. San José is the only U.S. city with a population over 500,000 that is a "bedroom community," meaning that the City acts as a net exporter of workers within the region. Since 1980, approximately 2,300 acres of employment lands have been converted to non-employment uses, resulting in an estimated loss in job capacity between 52,000 and 110,000 jobs. The imbalance between residents and jobs in San José has led to significant fiscal, environmental and

quality of life impacts for San José. Additionally, through multiple General Plan updates, San José has identified improvement of the City's jobs/housing balance or Jobs/Employed Residents Ratio (J/ER) as a critical objective to address multiple City goals. The General Plan establishes achievement of a J/ER ratio of 1.1 to 1 by the year 2040 as a core objective of the Plan informing its policies and Land Use/Transportation Diagram designations.

Employment lands are those land uses aimed at creating and sustaining employment opportunities, upon which commercial businesses generate critical revenue for the City to fund essential services for its residents. The conversion of employment lands to residential uses leads to a significant loss of revenue for the City, diminishing the funds needed to support the very residential uses that would replace a commercial or industrial use. To address the preservation and creation of employment lands, the General Plan established the Innovation/Regional Employment Center and the Focused Growth Major Strategy. These Major Strategies and their objectives inform the City's land use policies and designations. The Innovation/Regional Employment Center Major Strategy focuses employment growth in Downtown, other designated Growth Areas, as well as on currently designated employment lands citywide, while also encouraging the development of neighborhood-serving commercial uses throughout the community and close to the residents they serve. The General Plan recognizes the value of existing employment lands to the City overall and therefore establishes goals and policies to preserve these employment lands.

The Focused Growth Major Strategy concentrates new growth in defined areas, such as Downtown, Specific Plan areas, and Urban Village areas, while strictly limiting new residential development outside of these Growth Areas to preserve the quality of established neighborhoods, to reduce environmental impacts, and to support transit ridership. Focusing new residential into Growth Areas supports the quality of existing neighborhoods and enables the development of new Urban Villages and other Growth Areas to accommodate the City's projected growth. Infill development within neighborhoods outside of designated Growth Areas, often at a density and form inconsistent with the existing neighborhood pattern, has been disruptive to the development of a positive neighborhood character.

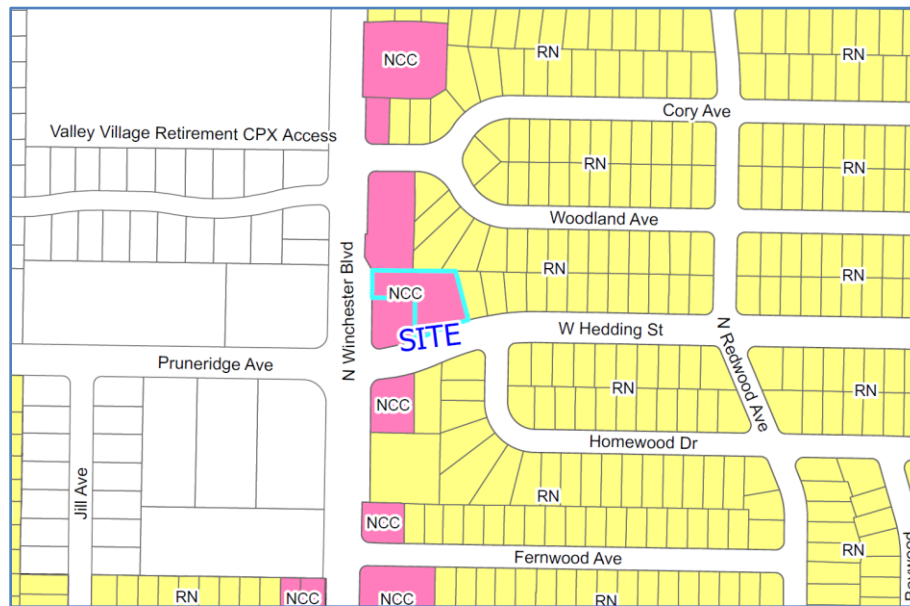
## **ANALYSIS**

The proposed General Plan Amendment application is analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. Title 20 of the Municipal Code (Zoning Ordinance)
3. California Environmental Quality Act (CEQA)

## ENVISION SAN JOSE 2040 GENERAL PLAN CONFORMANCE

### Existing Land Use Designation

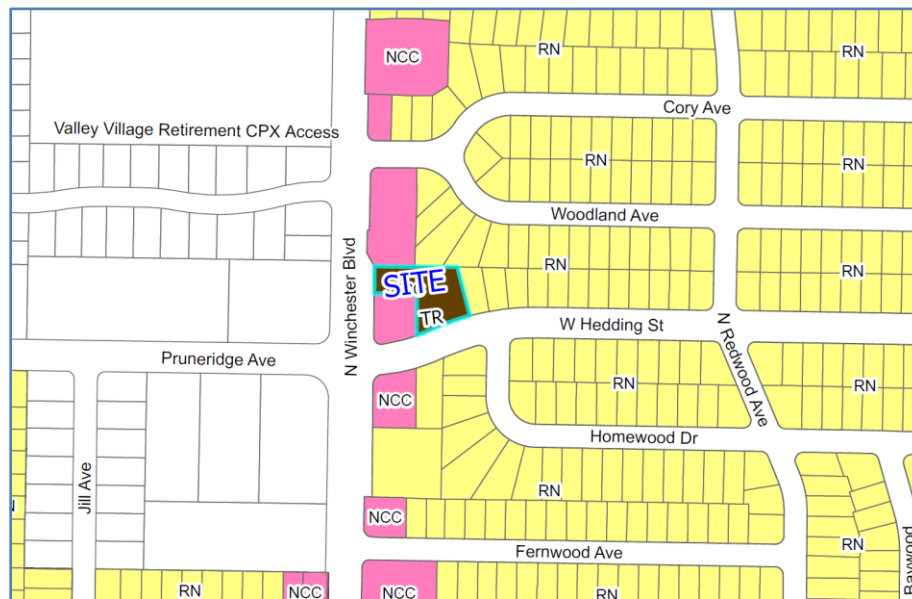


*Figure 2: Existing General Plan Land Use Designation Map*

The existing Envision San José 2040 General Plan land use designation of the subject site is **Neighborhood/Community Commercial**. The Neighborhood/Community Commercial designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Neighborhood/Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction. General office uses, hospitals and private community gathering facilities are also allowed in this designation. The Neighborhood/Community Commercial land use designation allows a floor area ratio (FAR) up to 3.5 (1 to 5 stories).

### Proposed Land Use Designation





*Figure 3: Proposed General Plan land use designation map*

The proposed Envision San José 2040 General Plan land use designation of the subject site is **Transit Residential**. This is the primary designation for new high-density, mixed-use residential development sites that are located in close proximity to transit, jobs, amenities, and services. This designation also supports intensive commercial employment uses, such as office, retail, hotels, hospitals, and private community gathering facilities. To help contribute to “complete communities,” commercial uses should be included with new residential development in an amount consistent with achievement of the planned job growth and Urban Village Plan for the relevant Urban Village area. The allowable density/intensity for commercial projects is a FAR of 2.0 to 12.0 with a minimum FAR of 2.0. Residential/commercial mixed-use development shall require a minimum of 50 DU/AC with a maximum of FAR of 12.0. The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or other policy document. The Transit Residential land use designation requires a density of 50-250 Dwelling Units/Acre (DU/AC) and/or commercial FAR of 2.0 to 12.0 (5 to 25 stories), and Residential/ Commercial Mixed-Use minimum of 50 DU/AC with maximum FAR of 12.0

#### General Plan Conformance

The proposed General Plan Amendment is **inconsistent** with the following General Plan strategies and policies:

**Major Strategy #3 - Focused Growth:** The Focused Growth Major Strategy focuses new growth into areas of San José that will enable achievement of City goals for economic growth, fiscal sustainability, and environmental stewardship. The Plan focuses new growth capacity in specifically identified Growth Areas, while much of the city is not planned for additional growth or intensification. This Major Strategy also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City’s Urban Growth Boundary.

**Land Use Policy LU-2.3:** To support the intensification of identified Growth Areas, and to achieve various goals related to their development throughout the City, restrict new development on properties in non-Growth Areas.

*Analysis: The General Plan sets capacity for ambitious job and housing growth over the lifetime of the Plan, the vast majority of which is planned within identified Growth Areas. The subject site is located on a*



*commercial arterial roadway but is not located within a Growth Area. The Transit Residential land use designation should only be applied to areas adjacent to regional transit stations, identified Urban Villages, or in other areas of the city that have existing residential development built at this density. The subject site does not meet any of those qualifications. If approved, the proposed Transit Residential land use designation would allow dense, infill residential development surrounded by single-family residential neighborhoods located outside of the Growth Areas. This land use designation would also allow new residential development at up to 250 dwelling units per acre density, which would be out of scale with the existing neighborhood. Thus, the proposed General Plan Amendment is inconsistent with the Focused Growth Major Strategy and LU-2.3.*

**Major Strategy #4 - Innovation/Regional Employment Center:** Emphasize economic development within the City to support San José's growth as center of innovation and regional employment. Growing San José's role as an employment center will enhance the City's leadership role in North America, increase utilization of the regional transit systems, and support the City's fiscal health. The Plan recognizes that all existing employment lands add value to the City overall and therefore preserves those employment lands and promotes the addition of new employment lands when opportunities arise.

**Fiscally Sustainable Land Use Framework Policy FS-3.3:** Promote land use policy and implementation actions that increase the ratio of Jobs to Employed Residents to improve our City's fiscal condition, consistent with economic development and land use goals and policies. Maintain or enhance the City's net total employment capacity collectively through amendments made to this General Plan in each Annual Review process.

**Land Use Policy LU-1.1:** Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.

**Fiscally Sustainable Land Use Framework Policy FS-4.1:** Preserve and enhance employment land acreage and building floor area capacity for various employment activities because they provide revenue, near-term jobs, contribute to our City's long-term achievement of economic development and job growth goals, and provide opportunities for the development of retail to serve individual neighborhoods, larger community areas, and the Bay Area.

*Analysis: The current Neighborhood/Community Commercial land use designation is an employment-generating land use designation. Redevelopment of the site under this designation could allow a commercial development of up to approximately 95,000 square feet (3.5 FAR). The proposed Transit Residential land use designation requires a commercial component for a mixed-use project, but no minimum commercial space is required. Thus, the proposed General Plan Amendment would convert employment-only land to predominantly residential land with optional commercial use. The conversion would reduce the inventory of employment land and jobs in the City, while increasing the number of residents. Such a change from a revenue-generating land use to one which would require service expansions severely inhibits the City from achieving the desired J/ER ratio and results in a negative fiscal impact to the City. Therefore, the proposed General Plan Amendment is inconsistent with Major Strategy #4 and the above-mentioned General Plan policies.*

**Vibrant, Attractive, and Complete Neighborhoods Policy VN-1.11** Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.

**Land Use Policy LU-11.3:** Direct all significant new residential growth to identified Growth Areas to further the environmental, transit, healthy community, and other Envision General Plan objectives. Limit infill development within areas designated as Residential Neighborhood on the Land Use / Transportation

Diagram to projects that maintain the prevailing neighborhood form and density as it exists on adjoining properties, with particular emphasis upon establishing and/or maintaining a consistent streetscape form between new and existing development.

**Land Use Policy LU-11.6:** For new infill development, 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. As an exception, for parcels already developed with more than one dwelling unit, new development may include up to the same number of dwelling units as the existing condition. The form of such new development should be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern.

**Land Use Policy LU-11.7:** Permit new development to establish a unique character as defined by density, lot size and shape only in cases where the new development is completely separated from existing neighborhoods by freeways, major expressways, or a riparian corridor or other similar barrier.

**Community Design Policy CD-4.3:** Promote consistent development patterns along streets, particularly in how buildings relate to the street, to promote a sense of visual order, and to provide attractive streetscapes.

**Community Design Policy CD-4.4:** In Non-Growth areas, design new development and subdivisions to reflect the character of predominant existing development of the same type in the surrounding area through the regulation of lot size, street frontage, height, building scale, siting/setbacks, and building orientation.

*Analysis: The subject site is adjacent to multiple single-story single-family residences, and the adjacent commercial properties are no more than two-stories in height. This area is characterized as a low-density mixed neighborhood. The proposed 17-story high-density mixed-use or residential tower directly adjacent to these properties would be incompatible with the existing residential neighborhood and the prevailing neighborhood form, highly contrasting in scale and form to adjacent properties. There are no major expressways, riparian corridors, or other barrier to separate the proposed structure, the tallest within a 2-mile radius, from the existing neighborhood. Therefore, the proposed General Plan Amendment is inconsistent with these above-mentioned land use policies.*

**Land Use Policy LU-10.3:** Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.

**Housing Policy H-4.2:** Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency.

*Analysis: While the subject site is located within half of a mile of a local bus line, it is not near a regional transit facility, that provides access to major transit services such as BART, High-Speed Rail, and Caltrain. The nearest regional transit station is around 1.5-miles north of the site. The proposed 135-unit residential project reliant on a single bus route with a 15-minute headway would unlikely reduce reliance on single occupancy vehicle trips.*

The proposed General Plan Amendment is **consistent** with the following General Plan policy:

**Housing Policy H-1.9:** Facilitate the development, preservation, and rehabilitation of housing to meet San José's fair share of the County's and region's housing needs.

*Analysis: The proposed General Plan Amendment land use designation of Transit Residential could allow up to 153 multi-family residences on the site. These potential new residential units could help to address the*

*housing shortage that contributes to the ongoing housing crisis. While the General Plan Amendment is consistent with General Plan Policy H-1.9, additional density on the subject site is not necessary because this policy is already being implemented through the General Plan's focused growth strategy and affordable housing policies to meet this Housing Element cycle's Regional Housing Needs Allocation (RHNA). For example, an 100% affordable residential project is allowed on the site under the current General Plan designation through the use of Housing Policy H-2.9, and such a project can take advantage of state ministerial, streamlining laws.*

## ZONING ORDINANCE CONFORMANCE

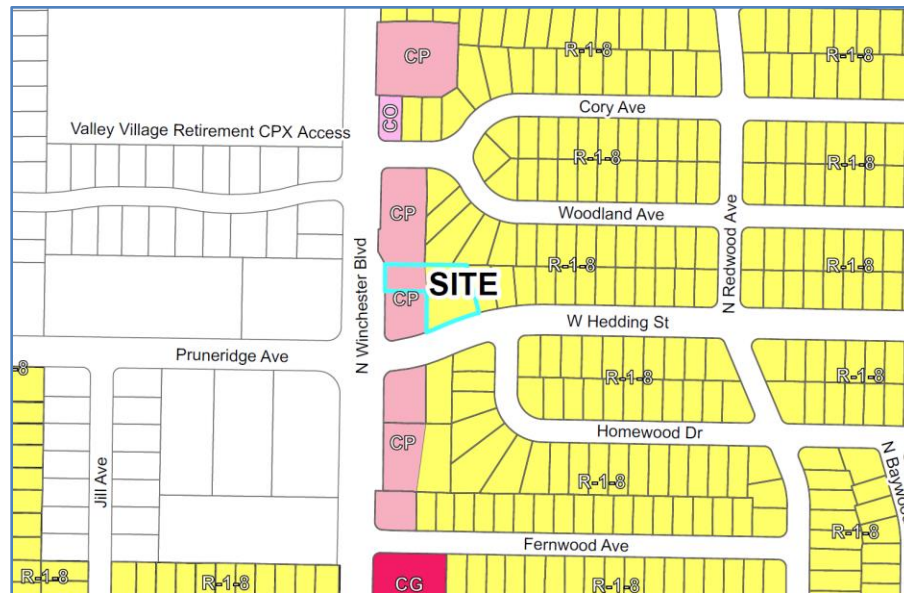


Figure 4: Existing zoning districts map

The subject site is currently zoned as CP Commercial Pedestrian and R-1-8 Single-Family Residence zoning district. The proposed Zoning District would be consistent with the proposed Transit Residential General Plan land use designation if the General Plan Amendment is approved. If the proposed amendment is denied, the portion of the site currently designated R-1-8 would be required to be rezoned by the City in the future to the CP Commercial Pedestrian District to fulfill the requirements of Senate Bill 1333, which requires the Zoning District to conform with the General Plan land use designation.

## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CONFORMANCE

Under the provisions of Section 15270 of the State Guidelines for Implementation of the California Environmental Quality Act, the General Plan Amendment is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended (CEQA), if the public agency disapproves of the project. Section 15270 is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.

## PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. The project is considered a Significant Community Interest Proposal, so the applicant posted a 4'x 6' on-site sign to inform the neighborhood of the proposed project. Since the public notification sign has

been posted and prior to the December 16, 2024, community meeting, staff received 37 emails and letters from 32 parties taking a position on the project. Eleven emails were in support and 21 emails were in opposition to the project.

On December 16, 2024, a joint EIR scoping, and community meeting was held virtually via Zoom to present the project details to the community and inform them about the EIR process. This meeting was noticed at a radius of 1,000 feet, with e-mails sent to all those who had previously contacted staff about the project. Approximately 169 members of the public were in attendance in addition to City Staff from the Planning Division and Public Works Department.

After staff and applicant presentations, 54 members of the public spoke on the project. Forty-Nine comments were issued against the project, with 20 or more comments touching on the themes of traffic and parking, height and density, and General Plan policies on neighborhood compatibility and the Transit Residential designation description; 10 commenters spoke about shadowing and loss of sunlight and bike and pedestrian safety. Other topics brought up less frequently included impacts to privacy, property values, and aesthetics. There were also environmental concerns regarding liquefaction, chemicals from the prior use of the property, and bird safety. Four comments were made in favor the project, focusing mainly on the provision of new housing and new commercial space. One comment was for the use of local labor standards and wages.

Staff responded to many of the concerns and answered questions regarding parking, grading, traffic analysis, vehicle queuing, and past use studies. After the community meeting, staff received 18 emails from neighbors objecting to the project.

A notice of this public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public. Since the notice was distributed, two emails from neighbors stating their objection to the project have been received at the time of this staff report being posted.

**Project Manager:** David Fong

**Approved by:** /s/

Ruth Cueto, Principal Planner for  
Christopher Burton, Planning, Building & Code Enforcement  
Director

<b>ATTACHMENTS:</b>
<b>Exhibit A:</b> <a href="#">Draft Denial Resolution</a>
<b>Exhibit B:</b> <a href="#">Public Comment Letters</a>

Owner/ Applicant:	Applicant Representative:
Winchester Estate LLC 798 N. First St. San José, CA 95112 <a href="mailto:carl@vcicompanies.com">carl@vcicompanies.com</a>	Tianxing Wang VCI Companies 798 N. First St. San Jose, CA 95112 <a href="mailto:carl@vcicompanies.com">carl@vcicompanies.com</a>

# GP23-011

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[Correspondence received AFTER 5/7/2025](#)