



HISTORIC LANDMARKS COMMISSION STAFF REPORT

File No.	HP19-008
Application Type	Historic Preservation Permit
Applicant	City of San José
Location	Downtown
APN	467-21-014 & 467-21-001
General Plan	Open Space, Parklands and Habitat
Existing Zoning	DC Downtown Commercial
Council District	3
Historic Area	Historic District
Historic Classification	City Landmark District (St. James Park, HD84-36)
Annexation Date	Original City
CEQA	Environmental Impact Report for the St. James Park Capital Vision and Levitt Pavilion

APPLICATION SUMMARY:

Historic Preservation Permit for the St. James Park Capital Vision and Levitt Pavilion Project to allow for a comprehensive renovation of St. James Park, a contributing property to the St. James Square City Landmark Historic District (HD84-036, Resolution No. 57147) and National Register Historic District. The park is approximately 7.6-acres in size and consists of two parcels bordered by East St. James Street to the north, East St. John Street to the south, North 1st Street to the west, and North 3rd Street to the east, in Downtown San José.

RECOMMENDATION:

Staff recommends the Historic Landmarks Commission find the proposed St. James Park Capital Vision and Levitt Pavilion Project consistent with the purposes of the Historic Preservation Ordinance and recommend **approval** of the Historic Preservation Permit to the Director of Planning, Building and Code Enforcement.

PROJECT DATA			
GENERAL PLAN CONSISTENCY			
General Plan Designation	Open Space, Parklands and Habitat <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent		
Consistent Policies	LU-13.1; LU-13.4; LU-13.7; LU-13.15		
Inconsistent Policies	None		
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Downtown	A(PD) Planned Development, CG Commercial General, DC Downtown Commercial	First Church of Christ Scientist, St. Claire Club, mixed-use office building, parking lot
South	Downtown	DC Downtown Commercial	Parking garage, restaurant, Trinity Organ church and apartment building
East	Downtown	CG Commercial General	San Jose Athletic Club, First Unitarian Church, Eagles Temple and offices
West	Public/Quasi Public	Downtown	US Post Office and Superior Court Buildings

RELATED APPROVALS	
Date	Action
3/27/1850	Original City
3/10/1984	Resolution No. 57147: St. James Square historic district designated (HD84-036)
3/22/2005	File No. HP00-012: Historic Preservation Permit to add furniture to the Park
12/17/2008	File No. HP08-006: Historic Preservation Permit for St. James Park to allow rehabilitation of the west side of St. James Park and installation of pedestrian lighting along the perimeter of the east side of the Park

PROJECT DESCRIPTION

On April 20, 2016, the applicant (City of San Jose, Department of Parks, Recreation and Neighborhood Services -PRNS) applied for a public project analysis (File No. PP16-037) and on October 9, 2019 the applicant applied for a Historic Preservation Permit (File No. HP19-008) for the St. James Park Capital Vision and Levitt Pavilion Project, a comprehensive renovation of St. James Park including landscape improvements, and new site structures and monuments. Please refer to **Exhibit A**. The proposed project was taken to Design Review Committee (DRC) on October 16, 2019 for comments on the proposed park design and taken to Historic Landmarks Commission (HLC), under the City's Early Referral Policy, on June 3, 2020, for feedback regarding the Draft Environmental Impact Report (DEIR) for the project, pursuant to the California Environmental Quality Act (CEQA).

The project centers around the following three design concepts:

- **Historic Edge:** The historic edge would maintain the established heritage trees (including the palm trees aligning the street) and would include a planting scheme around the edge of the park to recall the history of the park's development from initial dense and assorted tree planting to the Victorian-era gardens. The edge would act as a buffer, shielding the park core from surrounding streets. Two heritage bur oaks trees, one near the fountain and one in the garden walk, would also be maintained.
- **Contemporary Core:** The contemporary core would include passive and active uses, including a playground, picnic grove, café, two dog parks, and performing arts pavilion.
- **Monument Walk:** The monument walk would include meandering paths connecting existing historic monuments within the park with the proposed performing arts pavilion. The path would organize the layout of the park by connecting and integrating the contemporary core with the historic edge, as well as providing access throughout the park.

The proposed project would implement both physical and programmatic changes.

Physical changes would include the removal of existing components on the site such as benches, trees, lawn areas, and other similar structures. There are 248 trees on site and 96 trees are proposed to be removed. Please refer to **Figure 1** below for the existing layout of St. James Park.

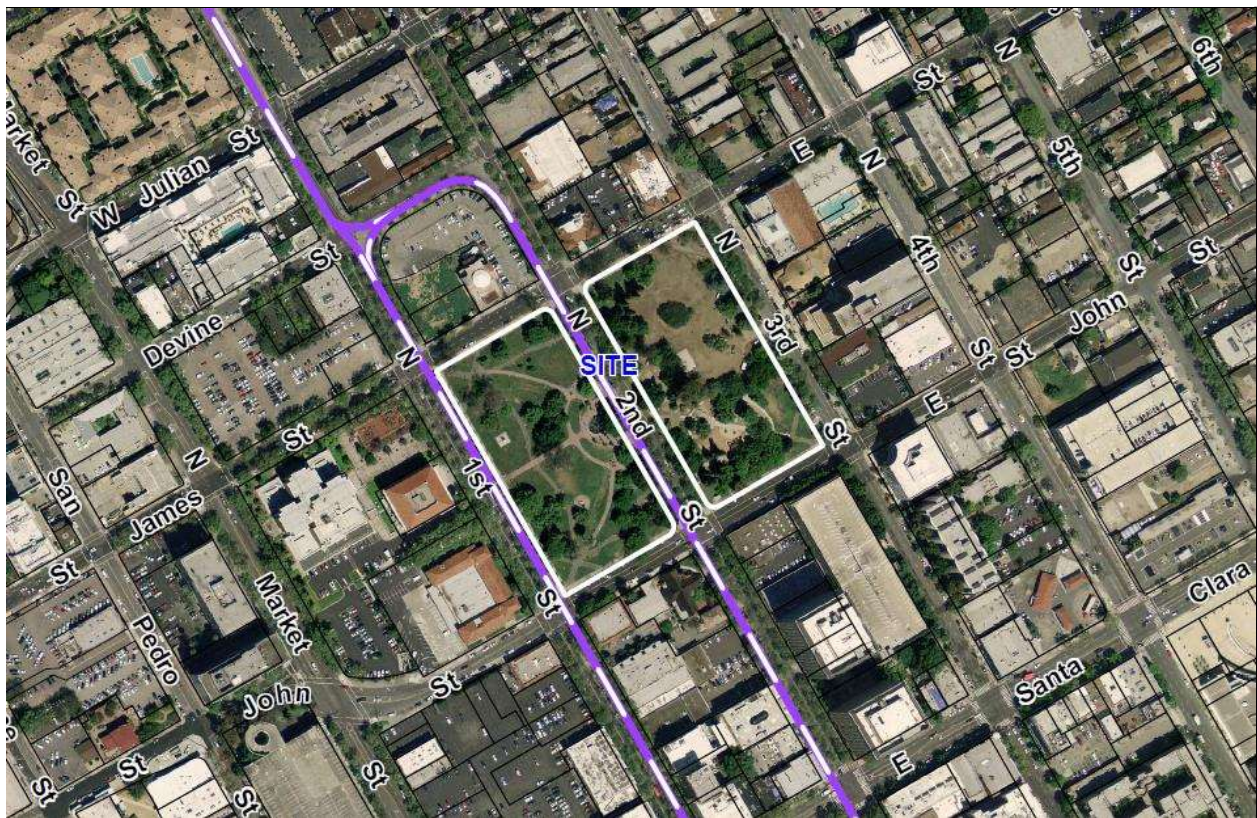


Figure 1: Aerial photograph of existing layout of St. James Park

The proposed project includes the construction of the following site improvements:

- Approximately 4,000-square foot stage for the Performing Arts Pavilion with approximately 1,800-square foot single-story support building
- Approximately 1,250-square foot café and restroom building
- Open air picnic pavilion and picnic grove
- Two dog parks totaling up to approximately 7,000 square feet
- Plaza playground
- New fountain
- McKinley Meadow
- Approximately 1,750-square foot park office building
- Security lighting along the perimeter of the park and pedestrian pathway
- Perimeter garden fencing
- Transportation network modifications for safety and pedestrian circulation
- Pedestrian improvements, including Monument Walk, a paved walkway along the edge of the park
- Utility Improvements
- Onsite relocation of five trees and planting of 199 replacement trees (a combination of native and non-native trees - 24-inch box)

Please refer to **Figure 2** below for the proposed St. James Park Capital Vision and Levitt Pavilion Project (St. James Park Master Plan).



Figure 2: Proposed St. James Park Master Plan

Historic Resource Assessment

St. James Park is a contributing property to the National Register St. James Square Historic District and the St. James Square City Landmark District. As part of the project, the Historic Resource Project Assessment was prepared by Archives and Architecture (dated August 12, 2019) to update documentation of the historic resource designated more than 30 years ago. Please refer to **Exhibit B**.

The report found that St. James Park is also an individually significant historic resource because it is the central and key component of the historic district, without which the district would lose its essence.

The report defines the period of significance for the park as 1867, when improvements were first made, up to 1968, the year that Robert Kennedy spoke at the park during his campaign for the President of the United States. That year was the last time the park was host to a significant event within local history.

The report concludes that the St. James Park has lost much of its historic integrity and quality that had once been associated with the park during most of the years of its period of historic significance. Removal without replacement of significant trees, the elimination of the tree canopy that had characterized the park for a century, insertion of North 2nd Street, the light rail and Saint James Station within the park, disruption of the perimeter walkway, haphazard mixture of textures such as paving, removal of the formal center and radial walkways as well as fountain, loss of most of the perimeter granite curbs, and recent additions such as permanent exercise equipment, children's playground, picnic area, dog park, and a storage structure have all led to a park setting that only partially recalls the role that the park once had as a center of community life in San José.

Historic Landmarks Commission Review

A public project status update for the Saint James Park Capital Vision and Levitt Pavilion Project was provided to the Historic Landmarks Commission by staff on October 16, 2019.

The Historic Landmarks Commission also reviewed the project under the City Council's Early Referral Policy on June 3, 2020. The minutes are attached as **Exhibit C**.

PROJECT CONFORMANCE ANALYSIS

The Historic Preservation Permit application is analyzed with respect to conformance with the: 1) Envision San Jose 2040 General Plan; the 2) Historic Preservation Ordinance; and the California Environmental Quality Act (CEQA).

Envision San Jose 2040 General Plan Conformance

The site has a General Plan Land Use/Transportation Diagram designation of Open Space, Parklands and Habitat in the Downtown growth area. These lands are publicly- or privately-owned areas that are intended for low intensity uses. Lands in this designation are typically devoted to open space, parks, recreation areas, trails, habitat buffers, nature preserves and other permanent open space areas. This designation is applied within the Urban Growth Boundary to lands that are owned by nonprofits or public agencies that intend their permanent use as open space, including lands adjacent to various creeks throughout the City.

The proposed project retains the parklands use and conforms with the envisaged uses for the land use designation under the General Plan.

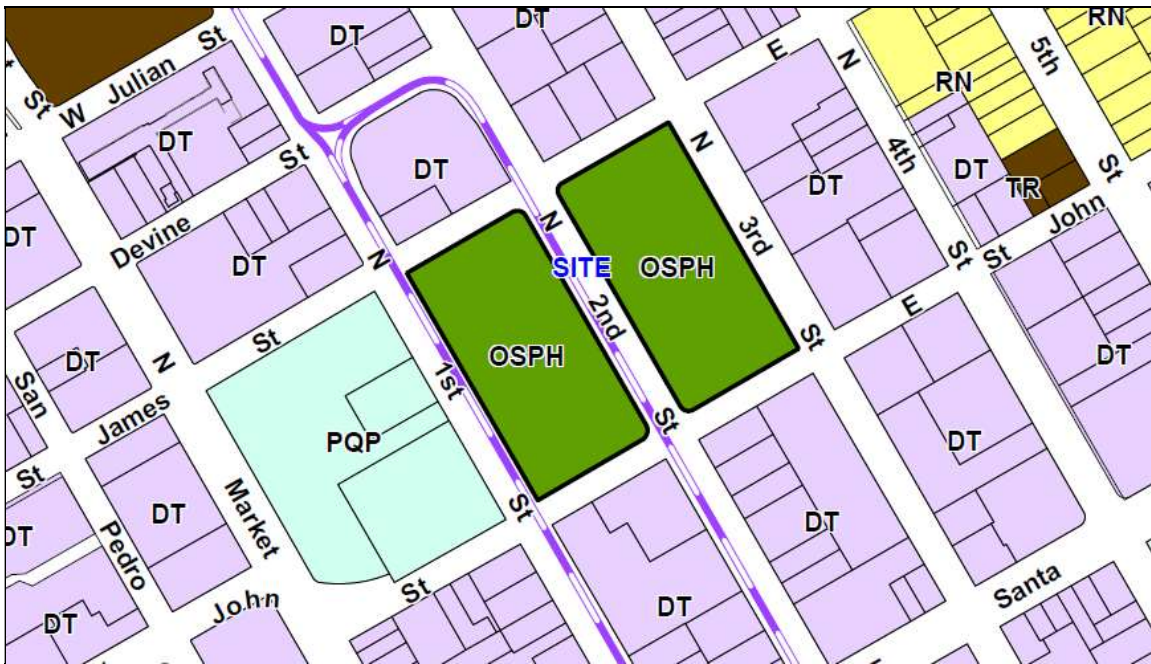


Figure 3: General Plan Map

Additionally, the proposed project generally supports the following goals and policies of the General Plan with respect to designated historic districts. St. James Park would continue to represent important patterns of early San José based on its use, location, and interpretive elements and the project preserves the essential form and integrity of the park's history.

Historic Preservation Policy LU-13.1: Preserve the integrity and fabric of candidate or designated Historic Districts.

Historic Preservation Policy LU-13.4: Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

Historic Preservation Policy LU-13.7: Design new development, alterations, and rehabilitation/remodels within a designated or candidate historic district to be compatible with the character of the historic district and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California Requirements regarding historic buildings and/or structures (including the State Historical Building Code) and to applicable design guidelines adopted by the City Council.

Historic Preservation Policy LU-13.15: Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Historic Preservation Ordinance

Historic Preservation Ordinance Section 13.48.210 outlines the following criteria for consideration in taking action on an application for a Historic Preservation Permit:

- comments of the Historic Landmarks Commission;
- purposes of the Historic Preservation Ordinance, including the preservation of historic landmarks and historic districts, and compatible design of new construction (Municipal Code Section 13.48.010);
- historic architectural value and significance of the landmark or district;

- texture and materials of the building in question, and the relationship of such features to similar features of other buildings within an historic district;
- position of such buildings within an historic district;
- position of such buildings in relation to the public right of way and other buildings on the site.

The Council shall find that, subject to such conditions as they may impose:

- the work will not be detrimental to a historic district or to a structure or feature of significant architectural, cultural, historical, aesthetic, or engineering interest or value; and
- the work is consistent with the spirit and purposes of the Historic Preservation Ordinance.

Section 13.48.250 states that in making the determination, the application shall be reviewed in accordance with approved standards and guidelines.

The proposed Historic Preservation Permit application has been reviewed in light of the above criteria. The Rehabilitation Project Review prepared by Archives and Architecture (please refer to **Exhibit D**) and the Historic Resource Project Assessment provide the framework for the design compatibility analysis.

As discussed in the Historic Resource Project Assessment, St. James Park has already lost much of its historic integrity and quality that was associated with the park during most of the years of its period of historic significance. The proposed project preserves most of the character-defining features that remain a part of St. James Park, but the alteration of the meandering perimeter path, the loss of the diagonal paths, the lack of restoration of the tree canopy, the modernist design of the park buildings potentially promoting a false sense of historical development in the park and historic district, the treatment of the granite curbs, the relocation or removal of some monument elements, and the color and design of new structures that are not fully compatible are not in full compliance with the St. James Square Historic District Design Guidelines (1989) and the Secretary of the Interior's Standards for Rehabilitation. For the reasons described above, the project was found to be partially consistent under the cultural resources' category of the Draft Environmental Impact Report (please refer to the California Environmental Quality Act section).

Despite the alterations the project proposes, the report also conclude that the proposed project maintains the park as the focus of the historic district through the diagonal pathways and rich plantings and preserves the landscaped character and spatial understanding of St. James Park. Therefore, staff has determined that the proposed project is consistent with the purposes of the Historic Preservation Ordinance because it:

- Preserves the park's location within the historic district and Downtown San Jose.
- Preserves and continues the historic use as a community park, while some of the individual uses within the park will be new or altered. Restored, altered, or reinterpreted historic uses include the tall shade canopy, border walkways, botanical plantings, and a fountain focal point. Existing non-original uses that will be relocated and altered or altered within their existing settings are the playground, the monuments, and the transit station. New elements include the concert stage and pavilion, two dog parks, and the support buildings. The new uses require some alteration to original fabric. They are generally supportive of the continued and improved use of the square as a public open space in downtown San José. Because the use of the park will continue to preserve the open space and public use of the center focal point of the historic district, the project is compatible with rehabilitation standards for use.

- Preserves most of the significant character-defining features of St. James Park. The historic focal point of the St. James Square Historic District is the landscaped character and spatial understanding of the park. The project maintains the park as the focus of the historic district through the diagonal pathways and rich plantings and provides continuity for repetitive plant materials.
- Relates to the historic design intent as a reinterpretation of St. James Park, with a botanically organized understory, many new trees which may restore the tree canopy that has been mostly lost, and diagonal walkways. The proposed design provides large-scale pathways and organizing motifs that are compatible with the bulk and scale of the historic district proportions.
- Differentiates the design from the original design and represents modern materials and designs. There are no proposed new landscaping elements that might be mistaken for original features. The pathway paving, the pavilion, dog parks, playground, fountain, and other park elements, such as site furniture, are all proposed to be differentiated.
- Preserves the essential form and integrity of the property history and the design is reversible.

Please refer to **Exhibit E** for the Draft Historic Preservation Permit, findings and conditions.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

St. James Park is a contributor to a nationally and locally significant historic district. The historic reports concluded that St. James Park is also an individually significant historic resource both on the national and local levels. As such, the proposed project would have different impacts on the significance of the resource in accordance with its designation level.

The historic report concluded that the St. James St. James Park Capital Vision and Performing Arts Pavilion Project would affect the historic significance of the resource in the following manner:

- St. James Park would no longer qualify as a contributing property to the National Register St. James Square Historic District.
- St. James Park would not be eligible as an individually significant property in the National Register St. James Square Historic District.
- Although the park has lost integrity in materials and design, it has retained sufficient integrity in location, setting, feeling, and association to qualify as a local City Landmark. However, the park would not qualify individually for the National Register of Historic Places or the California Register of Historical Resources due to substantial loss of the landscape design quality and planting materials from the period of significance.

The historic report also concluded that:

- St. James Park would continue to qualify as a contributing property to the locally designated St. James Square City Landmark District.
- St. James Park would also be eligible as Candidate City Landmark.

The proposed project will have a significant and unavoidable impact on the **National** significance of the historic resource under the California Environmental Quality Act (CEQA) due to substantial loss of the landscape design quality and planting materials from the period of significance. The project, as designed, does not fully comply with the *1989 St. James Square Historic District Guidelines* and the *Secretary of Interior's Standards (SOI) for the Treatment of Historic Properties Rehabilitation Standards*. As a result, the City of San José, as the lead agency, prepared a Draft Environmental Impact Report (DEIR) for the St. James Park Capital Vision and Performing Arts Pavilion Project. The project was found to be partially consistent, as discussed before, under the cultural resources category of the DEIR, since the addition of the Pavilion would result in a modern cultural landscape concept, different from what was envisioned by William O'Donnell in 1867, but would encourage cultural events which would facilitate visitors to the park, maintain the central civic focus and retain the sense of purpose within the St. James Square City Landmark Historic District.

While the DEIR deemed the impacts to be significantly unavoidable under Cultural Resources, the design of St. James Park has continued to evolve as a center of civic life, and the programming of public events (and their related structures such as the proposed performing arts pavilion) are viewed as evolutionary changes within the cultural landscape that are consistent with the sense of historic place and consistent with the historic ordinance, as discussed above.

The City circulated the DEIR for public review from May 19, 2020 to July 6, 2020. The DEIR provides environmental clearance under CEQA for the project. The DEIR analyzed the environmental impacts and discussed alternatives to the proposed project. The proposed project would achieve the objectives such as:

1. Increase everyday use and enjoyment of St. James Park by making it a prime destination spot for downtown residents and the larger community;
2. Make the park a safe, fun, and family friendly destination that compliments the surrounding historic district;
3. Incorporate the historic monuments in the park to celebrate and respect San José's history and future;
4. Work in partnership with non-profits and other organizations to construct a performing arts pavilion and build upon these private-public partnerships to ensure quality park stewardship; St. James Park Capital Vision and Performing Arts Pavilion 14 Draft EIR City of San José May 2020
5. Develop a cultural asset conducive to creating a thriving destination and building community through music;
6. Improve maintenance, operations, security services, and other public services in order to ensure a well maintained, clean and safe facility;
7. Transform an underutilized neighborhood park into a prime destination where music concerts and other activities invigorate community life;
8. Integrate arts and culture into the community to spark economic growth, drive community engagement, and enhance overall quality of life;
9. Provide infrastructure to support and facilitate music concerts, community festivals, and other park programs;

10. Provide vibrant play spaces that are engaging, all-inclusive, and accessible;
11. Encourage, engage, and enable the community to participate in the visioning and implementation process; and
12. Reinforce a vibrant, dynamic downtown by building on existing assets including previous plans and proposals based on community input.

A First Amendment to the DEIR has been prepared that provides responses to public comments submitted during the public circulation period and revisions to the text of the DEIR. The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project. These documents can be viewed on the City's website at:

<http://www.sanjoseca.gov/ActiveEIRs>

The San José City Council will need to adopt a Statement of Overriding Considerations for this project for the identified significant and unavoidable impacts stated in the DEIR, which includes historic resources. The draft CEQA resolution includes a Statement of Overriding Considerations and sets forth how the benefits of the project outweigh its significant adverse environmental impacts. These matters are supported by evidence in the record that includes, but is not limited to, consistency with the Envision San José 2040 General Plan, the 2015 Saint James Revitalization Strategy, and Activate SJ Strategic Plan. The project would achieve Envision San José 2040 General Plan Strategies, Goals, and Policies such as Major Strategy #9, Destination Downtown and #11 Design for a Healthful Community, General Plan Policy for High Quality Facilities and Program, PR-1.6 through 1.8, General Plan Goal for Interconnected Parks System, PR-7.3 and 7.4, and General Plan Goal for Fiscal Management of Parks and Recreational Resources PR-8.1. The project would also align with the 2015 Saint James Park Revitalization Strategy, activate SJ Strategic Plan and provide potential economic benefits to the city through increase in property values, direct tax revenue, tourism, and rental events.

Pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA)

the attached Mitigation and Monitoring and Reporting Plan (MMRP) addresses mitigation measures in terms of how and when they will be implemented (see **Exhibit F**). The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

PUBLIC HEARING NOTIFICATION

A notice of the public hearing was distributed to the owners and tenants of all properties (residential and business) located within 500 feet of the project site and posted on the City website. The staff report, and the Historic Landmarks Commission and Planning Director Hearing agendas are posted on the City's website. Staff has been available to respond to questions from the public.

Project Manager: Rina Shah

Approved by: /s/ , Deputy Director for Rosalynn Hughey, Planning Director

Date: 9-29-2020

HISTORIC PRESERVATION PERMIT

FILE NO.	HP19-008
LOCATION OF PROPERTY	North First Street to the west and North Third Street to the east, and between East St. James Street to the north and East St. John Street to the south in Downtown
ZONING DISTRICT	DC Downtown Commercial
GENERAL PLAN DESIGNATION	Open Space, Parklands and Habitat
PROPOSED DESCRIPTION	Historic Preservation Permit for the St. James Park Capital Vision and Levitt Pavilion Project, to allow for a comprehensive renovation of St. James Park including landscape improvements, and new site structures and monuments
ENVIRONMENTAL STATUS	Environmental Impact Report for the St. James Park Capital Vision and Levitt Pavilion
HISTORIC SITE DESIGNATION	City Landmark District
OWNER/ADDRESS	City of San José 200 East Santa Clara Street San Jose, CA 95112

FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This Historic Preservation Permit is for the St. James Park Capital Vision and Levitt Pavilion Project to allow a comprehensive renovation of St. James Park including an approximately 4,000-square foot stage for the Performing Arts Pavilion with approximately 1,800-square foot single-story support building; approximately 1,250-square foot café and restroom building; open air picnic pavilion and Naglee Picnic Grove; approximately 1,750-square foot park office building; two dog parks totaling up to approximately 7,000 square feet; McKinley Meadow; Plaza Playground; new fountain; security lighting along the perimeter of the park and pedestrian pathway; perimeter garden fencing; transportation network modifications; pedestrian improvements and Monument Walk; and utility improvements. The project also includes the removal of 96 trees, transplanting of 5 trees and the replacement of 199 24-inch box native and non-native trees.
2. St. James Park is approximately 7.6-gross acres in size and consists of two parcels. The site is bordered by East St. James Street to the north, East St. John Street to the south, North 1st Street to the west, and North 3rd Street to the east, in Downtown San Jose.

3. St. James Park is listed on the National Register of Historic Places as a contributing property (#79000546) to the St. James Square Historic District and is listed on the City's Historic Resources Inventory as a contributing site/structure to the St. James Square City Landmark Historic District (HD84-036, Resolution No. 57147).
4. St. James Park has lost much of its historic integrity and quality that was once associated with the park during most of the years of its period of historic significance from 1867 to 1968. Removal without replacement of significant trees, the elimination of the tree canopy that characterized the park for a century, insertion of North 2nd Street, the light rail and Saint James Station within the park, disruption of the perimeter walkway, haphazard mixture of textures such as paving, removal of the formal center and radial walkways as well as the fountain, loss of most of the perimeter granite curbs, and recent additions such as permanent exercise equipment, children's playground, picnic area, dog park, and a storage structure have all led to a park setting that only partially recalls the role that the park once had as a center of community life in San José.
5. A public project status update for the Saint James Park Capital Vision and Levitt Pavilion Project was provided to the Design Review Committee (three members of the Historic Landmarks Commission) on October 16, 2019.
6. The Historic Preservation Permit was referred to the Historic Landmarks Commission for comment on June 3, 2020.
7. The public hearing for the Historic Preservation Permit was held on October 7, 2020.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The project is consistent with the Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Open Space, Parkland and Habitat in the Downtown growth area because it retains the parklands use and conforms with the envisaged uses.
2. The project is consistent with the General Plan Historic Preservation Land Use policies LU-13.1; LU-13.4; LU-13.7 and LU-13.15 in that St. James Park will continue to represent important patterns of early San José based on its use, location, and interpretive elements and the project preserves the essential form and integrity of the park's history.
3. Subject to conditions, the work will not be detrimental to the significant architectural, cultural, historical and aesthetic interest or value of St. James Park and is consistent with the purposes of Chapter 13.48 of the San Jose Municipal Code because it:
 - Preserves the park's location within the St. James Square City Landmark Historic District and the downtown.
 - Preserves and continues the historic use as a community park, while some of the individual uses within the park will be new or altered. Restored, altered, or reinterpreted historic uses include the tall shade canopy, border walkways, botanical plantings, and a fountain focal point. Existing non-original uses that will be relocated and altered or altered within their existing settings are the playground, the monuments, and the transit station. New elements include the concert stage and pavilion, two dog parks, and the support buildings. The new uses require some alteration to original fabric. They are generally supportive of the continued and improved use of the square as a public open

space in downtown San José. Because the use of the park will continue to preserve the open space and public use of the center focal point of the historic district, the project is compatible with rehabilitation standards for use.

- Preserves most of the significant character-defining features of St. James Park. The historic focal point of the St. James Square City Landmark Historic District is the landscaped character and spatial understanding of the park. The project maintains the park as the focus of the historic district through the diagonal pathways and rich plantings and provides continuity for repetitive plant materials.
 - Relates to the historic design intent as a reinterpretation of St. James Park, with a botanically organized understory, many new trees which may restore the tree canopy that has been mostly lost, and diagonal walkways. The proposed design provides large-scale pathways and organizing motifs that are compatible with the bulk and scale of the historic district proportions.
 - Differentiates the design from the original design and represents modern materials and designs. There are no proposed new landscaping elements that might be mistaken for original features. The pathway paving, the pavilion, dog parks, playground, fountain, and other park elements, such as site furniture, are all proposed to be differentiated.
 - Preserves the essential form and integrity of the property history and the design is reversible.
4. The project will have a significant and unavoidable impact on the **National** significance of St. James Park under the California Environmental Quality Act. The project does not fully comply with the *1989 St. James Square Historic District Guidelines* and the *Secretary of Interior's Standards (SOI) for the Treatment of Historic Properties Rehabilitation Standards*. The City of San José prepared a Draft Environmental Impact Report (DEIR) for the project. While the DEIR concluded that impacts to Cultural Resources are significant and unavoidable, the design of St. James Park has continued to evolve as a center of civic life, and the programming of public events (and their related structures such as the proposed performing arts pavilion) are viewed as evolutionary changes within the cultural landscape of the locally significant historic resource that are consistent with its historic sense of place and with the purposes of the Historic Preservation Ordinance.
5. St. James Park will continue to qualify as a contributing property to the locally designated St. James Square City Landmark District and is also be eligible for designation as a Candidate City Landmark.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Conformance with Plans.** Construction and development shall conform to the approved Historic Preservation Permit preliminary plans, entitled "St. James Park, Schematic Design, San Jose, CA 95112", dated May 27, 2020, on file with the Department of Planning Building, and Code Enforcement.
2. **Deadline for Commencing Construction.** This Historic Preservation Permit shall automatically expire four years from and after the date of issuance hereof by said Director if within such period construction in accordance with the provisions of this Historic Preservation Permit, has not commenced. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to

extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration date of this Permit.

3. **Heritage Tree Assessment.** Prior to the start of construction, a qualified arborist shall undertake a detailed assessment of the row of heritage palm trees (along North 1st Street) and other heritage trees to establish the baseline condition of the trees. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics. The documentation shall be submitted for review and approval by the City of San José's Historic Preservation Officer and the Director of Planning or Director's designee.
4. **Historic Resource Baseline Conditions.** Prior to the start of construction, the project proponent shall retain a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. The qualified historic architect shall formalize the existing conditions through a visual study of the historic resources on-site, which would include preparation of preconstruction documentation of the historic resources that could be at risk from construction of the project, including the McKinley Statue and Monument, Kennedy Podium, and Naglee Monument. The purpose of the study is to establish the baseline condition of the resources prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics of each resource that convey its historic significance and justify its eligibility as a contributing feature of the site. The documentation shall be reviewed and approved by the City of San José's Historic Preservation Officer prior to issuance of grading permits.
5. **Historic Resources Protection Plan.** The historic architect shall prepare and implement a Historic Resources Protection Plan to protect the historic resources determined to be at risk from direct or indirect impacts during construction activities (i.e. due to damage from operation of construction equipment, staging, and material storage). The City shall ensure the contractor follows the Historic Resources Protection Plan, to be prepared by a consultant, while working near these historic resources. At a minimum, the Historic Resources Protection Plan shall include:
 - Guidelines for operation of construction equipment adjacent to historical resources;
 - Requirements for monitoring and documenting compliance with the plan; and
 - Education/training of construction workers about the significance of the historical resources around which they would be working.

The Historic Resources Protection Plan must be reviewed and approved by the City's Historic Preservation Officer prior to issuance of any permits.

Utilizing the Historic Resource Baseline Conditions, the historic architect shall make periodic site visits to monitor the condition of the historic resources identified in the Historical Resources Protection Plan. The timing of the visits shall be specified in the Historic Resources Protection Plan.

6. **Repairs.** In the event of damage to contributing features during construction, repair work would be completed in full compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and would restore the character-defining features of the park.

7. **Cultural Resources.** Prior to any ground disturbance, the project shall implement the following measures:
- A qualified archaeologist shall be on-site to monitor the initial excavation. After monitoring the initial excavation, the archaeologist shall make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring shall be required. If no resources are discovered, the consulting archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
 - If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. In the event that human remains are found, the project shall comply with the procedures set forth by Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California.
 - The archaeologist shall submit a report(s) describing the testing program and subsequent results, to the satisfaction of the City's Principal Environmental Planner. The report(s) shall identify any program mitigation that the City shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).
 - A final report verifying completion of the mitigation program shall be submitted to the City's Supervising Environmental Planner for review and approval prior to release of the project acceptance. This report shall contain a description of the mitigation programs and results of the mitigation, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.
8. **Noise.** Amplified music events at the performing arts pavilion shall end by 10:00 p.m.
9. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
- a. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - b. The MLD identified fails to make a recommendation; or

- c. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
10. **Interpretive Signage.** The City shall install and maintain interpretive signs/markers to inform the public of the history of the St. James Park site, as applicable.
11. **Tree Removals.** No tree larger than 38 inches in circumference, at a height of 54 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning. Existing inventory of trees include a total of 248 trees, of which 147 trees will remain, five trees will be transplanted, 96 trees will be removed, and 199 trees will be added as new replacement trees. The new 24-inch box trees will be a combination of native and non-native trees.
12. **Conformance with Municipal Code.** No part of this approval shall be construed to permit violation of any part of the San José Municipal Code.
13. **Construction Hours.** Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday.
14. **Recycling.** Scrap construction and demolition material shall be recycled and potential historic resources to be demolished shall be salvaged at a nearby salvaging facility (no salvaging of potential are demolished??). Integrated Waste Management staff can aid on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
15. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the California Fire Code.
16. **Public Works.** Prior to the issuance of building permits, the applicant will be required to have satisfied all of the following Public Works conditions. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.
17. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, *HP19-008*, shall be printed on all construction plans submitted to the Building Division, as applicable.

APPROVED and issued this **28th day of October 2020.**

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

Deputy