



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT: SEE BELOW**

**DATE:** November 25, 2024

**COUNCIL DISTRICT: 1**

**SUBJECT: PDA20-006-02, T24-010 & ER23-267 – Planned Development Permit Amendment and Vesting Tentative Map for Certain Real Property Located at 1312 El Paseo de Saratoga and 1777 Saratoga Avenue.**

## **RECOMMENDATION**

The Planning Commission voted 8-0-1 (Cantrell absent) to recommend that the City Council take the following action:

1. Adopt a resolution approving an Addendum to the 1312 El Paseo & 1777 Saratoga Avenue Mixed-Use Village Final Environmental Impact Report, in accordance with the California Environmental Quality Act, as amended; and
2. Adopt a resolution, approving, subject to conditions, a Vesting Tentative Map to reconfigure six lots into four lots and to allow up to 20 commercial condominium units on an approximately 10.76-gross acre site
3. Adopt a resolution approving, subject to conditions, a Planned Development Permit Amendment to amend the Affordable Housing Compliance Plan in accordance with the Inclusionary Housing Ordinance and allow modifications to Buildings 1, 2, and 4 within the previously approved El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project, including the construction of two mixed-use buildings consisting of 772 multifamily residential units (with 39 deed-restricted affordable) and approximately 31,586 square feet of commercial retail space and the construction of a seven-story, approximately 230,305-square foot, 263-bed residential care facility with up to 20 commercial condominium units on an approximately 10.76-gross-acre site.

## **SUMMARY AND OUTCOME**

If the City Council approves the actions listed above as recommended by the Planning Commission, the project applicant will be able to move forward with the process to reconfigure six lots into four lots and construct two mixed-use buildings consisting of 772 multifamily residential units and approximately 31,586 square feet of commercial

retail space and construct a seven-story, approximately 230,305-square foot, 263-bed residential care facility on the approximately 10.76-gross-acre site located at 1312 El Paseo de Saratoga and 1777 Saratoga Avenue.

## **BACKGROUND**

On November 20, 2024, the Planning Commission held a Public Hearing to consider the CEQA exemption, Planned Development Rezoning, and Planned Development Permit.

This item was heard on the public hearing portion of the agenda. Commissioner Oliverio made a motion to approve the recommendation. Commissioner Young seconded the motion. The motion passed 8-0-1 (Cantrell absent). The Planning Commission recommended that the City Council approve the adoption of the CEQA Addendum, Vesting Tentative Map, and Planned Development Permit Amendment.

## **ANALYSIS**

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

The recommendation in this memo aligns with one or more Climate Smart San José goals. It provides housing at a density of 71 dwelling units per acre. It facilitates job creation within City limits by providing approximately 31,586 square feet of commercial retail space in addition to an approximately 230,305-square-foot residential care facility.

## **EVALUATION AND FOLLOW-UP**

No additional follow-up is anticipated at this time.

## **COORDINATION**

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

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the December 10, 2024 City Council meeting. Additionally, staff followed [Council Policy 6-30: Public Outreach Policy](#) to inform the public of the proposed project. On-site signs

have been posted on the project frontage since January 22, 2024. A Community Meeting to discuss the proposed Amendment was held via Zoom on May 6, 2024. Community concerns raised at the meeting included the size of the publicly accessible open space, traffic impacts, residential density, building setbacks, and building heights. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The [project webpage](#) has also been updated with each proposed Amendment.

Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on November 5, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

## **COMMISSION RECOMMENDATION AND INPUT**

### *Staff Presentation*

Alec Atienza, staff planner, provided a brief presentation on the proposed project. The presentation included a description of the project site, background on the originally approved project (File Nos. PDC19-049 & PD20-006), an overview of the proposed modifications, the project review process, and project compliance with the CEQA.

### *Applicant Presentation*

The applicant, Steve Lynch, and the project architect, Ken Rodrigues, provided a brief overview of the proposed project modifications as well as the key features of the project. Their presentation highlighted the project design, including building setbacks and stepbacks towards the single-family neighborhood to the south, the "Main Street" paseo and retail portion of the project, the park area, and the proposed senior care facility.

### *Public Hearing*

Chair Tordillos opened the public comment portion of the agenda.

There were no public speakers on this item.

### *Commissioner Discussion*

Commissioner Barocio asked the applicant why they were reducing the total percentage of affordable residential units from 15% to 5%. The applicant responded that 39 affordable units (5% of the project total) is the maximum they believe they can provide to finance the project. Commissioner Barocio requested that a barrier or some form of protection be placed at the park space along Quito Road.

Commissioner Young asked the applicant to speak about the economic situation and how it affected the changes that they made to the project. The applicant explained that the cost of construction has remained the same while rents have gone down. As a

result, they have reduced the number of residential units and eliminated the originally approved 60,000 square feet of office space to finance the project. Commissioner Young also asked the applicant if interest rates affected the applicant's decision to modify the project. The applicant agreed that higher interest rates have definitely affected the ability of projects to receive a construction loan.

Commissioner Lardinois asked staff to clarify the timing of approval of the Affordable Housing Compliance Plan (AHCP). Staff explained that before June 2023, as a practice, AHCP was not required to be approved prior to Planning entitlement. Now an AHCP is required to be approved prior to the first Planning approval. Erik Soliván, the director of the Housing Department, also provided that clarification. They are working with applicants to provide on-site affordable units and using the in-lieu fee to finance affordable housing projects elsewhere in the City. Commissioner Lardinois asked if the 150 affordable units were approved with the original project. Division Manager John Tu clarified that the original project considered 150 affordable on-site units; therefore, this Amendment is required to be heard by the hearing bodies that initially considered and approved the project. Commissioner Lardinois noted that he is disappointed that the project is being reduced; however, he understands the economic situation and supports the Amendment.

Commissioner Oliverio stated that the project complies with the Inclusionary Housing Ordinance. Commissioner Oliverio asked for confirmation that if a project complies with the City's policies, the Planning Commission does not have any right to reject the project. Daniel Zazueta, Senior Deputy City Attorney, confirmed this statement. Commissioner Oliverio noted that he was surprised there were no public speakers on the item, considering how controversial the original project was. Commissioner Oliverio also noted that 47% of adults under 50 don't intend to have children, which is a factor for developers when designing projects. Commissioner Oliverio made a motion to approve the staff recommendation. Commissioner Young seconded the motion.

Commissioner Rosario asked if there would be a playground in the park. The applicant responded that they do intend to have a small playground within the park space. The applicant clarified that they are trying to keep the park programming flexible. Commissioner Rosario also asked about the proposed lighting of the park and paseo. The applicant responded that they have not finalized their lighting plan yet but intend to provide a lot of ambient lighting.

Commissioner Bhandal commented that he was supportive of the futuristic and modern design. Commissioner Bhandal asked the applicant to provide the unit mix for the affordable units. The applicant responded that all of the affordable units would be one-bedroom units.

Commissioner Bickford asked the applicant to consider providing more two-bedroom units within the development.

Chair Tordillos asked if anything within the AHCP would require the deed-restricted units to be less expensive than the other units within the development. Erik Soliván responded that the deed-restricted units would be for households earning up to 100% Area Median Income (AMI), which do not qualify as market-rate units. Chair Tordillos asked if it is possible for any of the deed-restricted units to be rented at the same cost as the market-rate units within the development. Erik Soliván responded that it is possible, but the market rate units do not have a deed restriction. Chair Tordillos noted that this project, even with the reductions, will maintain an urban form, provide a sense of place on an underutilized parcel, provide privately-public space, and provide the same public improvements required with the previous project approval.

Commissioner Oliverio made a motion to approve staff recommendations. Commissioner Young seconded the motion. The motion passed 8-0-1 (Cantrell absent) to recommend that the City Council adopt the resolution and approve the Vesting Tentative Map and Planned Development Permit Amendment.

## **CEQA**

The City of San José, as the Lead Agency, prepared an Addendum to the 1312 El Paseo & 1777 Saratoga Avenue Mixed-Use Village Project Final Environmental Impact Report (2022 FEIR) (Planning File No. PDC19-049), and addenda thereto. The proposed project is eligible for an addendum pursuant to CEQA Guidelines Section 15164, which states that A lead agency or responsible agency shall prepare an addendum to a previously certified EIR or Negative Declaration if some changes or additions are necessary but none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR or Negative Declaration have occurred.

The environmental impacts of the proposed project were addressed by the 2022 FEIR certified by City Council Resolution No. 80605 on June 21, 2022. In 2023, changes to Building 3 of the original project were proposed, and an Addendum to the 2022 FEIR (dated November 2023) was prepared and concluded that the modifications would not result in any new or substantially more severe significant impacts than previously disclosed in the 2022 FEIR.

The current proposed project would involve alterations to Buildings 1, 2, and 4, resulting in a reduced development size (i.e., residential units and building size) and similar land uses as the previously approved project. No substantive revisions to the 2022 FEIR are needed because the proposed project would not result in new or significant effects on resources beyond those previously studied and disclosed. Since the approval of the 2022 FEIR, there have been no significant changes to the circumstances under which the project would be undertaken, and no new significant environmental effects have been identified.

HONORABLE MAYOR AND CITY COUNCIL

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**Subject: File Nos. PDA20-006-02, T24-010 & ER23-267**

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**PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

CHRIS BURTON

Secretary, Planning Commission

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

Attachments: Planning Commission Staff Report



# Memorandum

**TO:** PLANNING COMMISSION  
**SUBJECT:** File Nos. PDA20-006-02, T24-010 & ER23-267

**FROM:** Christopher Burton  
**DATE:** November 20, 2024

**COUNCIL DISTRICT: 1**

<b>Type of Permit</b>	Planned Development Amendment (File No. PDA20-006-02) and Vesting Tentative Map (File No. T24-010)
<b>Proposed Land Use</b>	Mixed-Use Residential and Commercial
<b>New Residential Units</b>	772
<b>New Commercial Square Footage</b>	31,586 square feet (retail), 230,305 square feet (residential care facility)
<b>Demolition</b>	N/A (previously approved per File No. PD20-006)
<b>Tree Removals</b>	N/A (previously approved per File No. PD20-006)
<b>Project Planner</b>	Alec Atienza
<b>CEQA Clearance</b>	Addendum to the 1312 El Paseo & 1777 Saratoga Avenue Mixed-Use Village Final Environmental Impact Report
<b>CEQA Planner</b>	Nhu Nguyen

## RECOMMENDATION

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

1. Adopt a resolution approving an Addendum to the 1312 El Paseo & 1777 Saratoga Avenue Mixed-Use Village Final Environmental Impact Report, in accordance with the California Environmental Quality Act, as amended; and
2. Adopt a Resolution, approving, subject to conditions, a Vesting Tentative Map to reconfigure six lots into four lots and to allow up to 20 commercial condominium units on an approximately 10.76-gross acre site.
3. Adopt a Resolution approving, subject to conditions, a Planned Development Permit Amendment to amend the Affordable Housing Compliance Plan in accordance with the Inclusionary Housing Ordinance and allow changes to Buildings 1, 2, and 4 within the previously approved El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project, including the construction of two mixed-use buildings consisting of 772 multifamily residential units (with 39 deed-restricted affordable) and approximately 31,586 square feet of commercial retail space and the construction of a seven-story, approximately 230,305-square foot, 263-bed residential care facility with up to 20 commercial condominium units on an approximately 10.76-gross-acre site.

**PROPERTY INFORMATION**

<b>Location</b>	East of the intersection of Saratoga Avenue and Quito Road (1312 El Paseo de Saratoga) and north of the intersection of Saratoga Avenue and Lawrence Expressway (1777 Saratoga Avenue)
<b>Assessor Parcel No. (APN)</b>	403-33-014 & 386-10-033, -036, -044, -045, -046
<b>Existing General Plan</b>	Regional Commercial and Neighborhood/Community Commercial
<b>Growth Area</b>	Paseo De Saratoga Urban Village
<b>Existing Zoning</b>	CG(PD) Planned Development Zoning (File No. PDC19-049)
<b>Historic Resource</b>	No
<b>Annexation Date</b>	February 7, 1957 (El Quito Park No_4) & June 8, 1956 (El Quito Park No_1)
<b>Council District</b>	1
<b>Acreage</b>	10.76-gross acres
<b>Proposed Density</b>	71 dwelling units per acre

**PROJECT SETTING**

As shown on the attached Aerial Map (Figure 1), the subject site is located on two sites, separated by Saratoga Avenue. The El Paseo site is located east of the intersection of Saratoga Avenue and Quito Road, at the southwestern end of the El Paseo de Saratoga Shopping Center. The 1777 Saratoga site is located north of the intersection of Saratoga Avenue and Lawrence Expressway. The El Paseo site is bounded by Quito Road to the west, Saratoga Avenue to the northwest, the remainder of the existing El Paseo shopping center to the north and east, and single-family residences to the south. The El Paseo site is currently developed with a vacant commercial tenant space that would be demolished for the construction of the project (demolition was previously approved by PD20-006). The 1777 Saratoga area is bounded by Lawrence Expressway to the southwest, a church (WestGate Church) to the north and west, and Saratoga Avenue to the southeast. The 1777 Saratoga area was developed with four existing single-story commercial structures that would also be demolished for the construction of the project (demolition was previously approved by PD20-006).



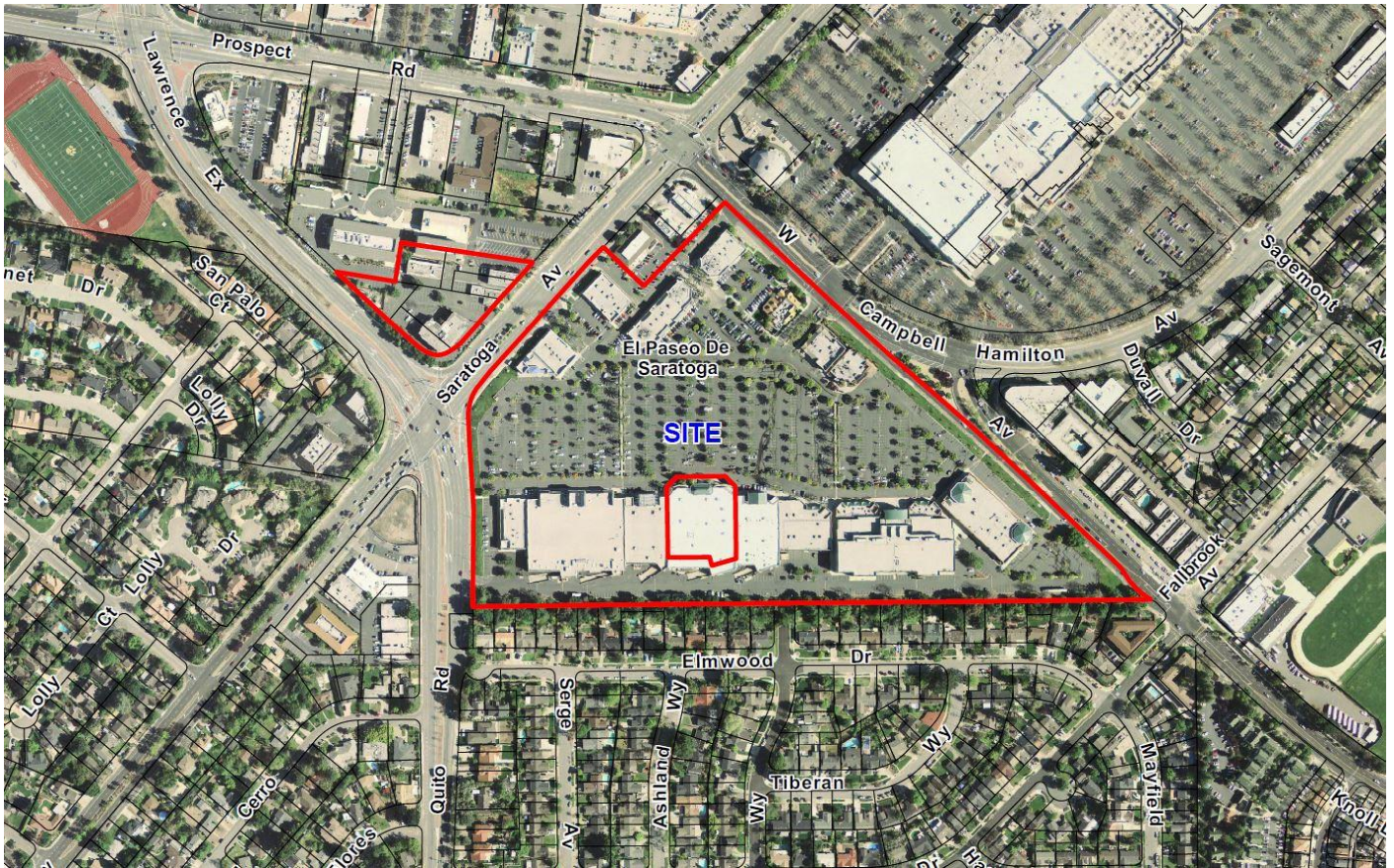


Figure 1 - Aerial Map

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Neighborhood/Community Commercial	CP Commercial Pedestrian	Commercial Retail
South	Residential Neighborhood	R-1-8 Single Family Residence	Single-Family Residences
East	Regional Commercial	CG Commercial General	Commercial Retail
West	Neighborhood/Community Commercial	CP Commercial Pedestrian	Commercial Retail

**PROJECT BACKGROUND**

On June 21, 2022, the City Council approved a Planned Development Zoning (File No. PDC19-049) and Planned Development Permit (PD20-006) to allow the development of a mixed-use project at the subject site in accordance with General Plan Implementation Policy IP-5.12 for the development of Signature Projects. Per the criteria of IP-5.12, in effect at the time the project was submitted, the project was required to provide a minimum of 164,928 square feet of commercial space and achieve a minimum residential density of 55 dwelling units per acre. Since the approval of the project, the criteria of IP-5.12 have been updated with objective quantifiable criteria, in alignment with state laws governing housing development, including Senate Bill 330 ([SB 330](#)). Therefore, all current and future projects within the Planned Development Zoning District are reviewed for consistency with the General Development Plan of the approved Planned Development Zoning District.

The previously approved project consisted of the following:

- Planned Development Zoning (File No. PDC19-049) to rezone the 10.76-gross acre subject site from the CG Commercial General and CP Commercial Pedestrian Zoning Districts to a CG(PD) Planned Development Zoning District.
- Planned Development Permit (File No. PD20-006) to allow the demolition of approximately 126,345 square feet of existing commercial buildings, the removal of 120 trees (20 ordinance-size, 100 non-ordinance-size) for the construction of four mixed-use buildings consisting of 994 residential units and 165,949 square feet of commercial space, extended construction hours (15-hour concrete pours between 6:00 AM to 9:00 PM daily over a 15-day period), and a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale alcohol (Type 21 ABC License) at a future grocery store in an approximately 40,000-square foot tenant space on an approximately 10.76-gross acre site

The project proposed the construction of four mixed-use buildings arranged in a village-type design with the following components, as listed in the table below.

<b>Previously Approved Project Data (File No. PD20-006)</b>				
<b>Project Information</b>	<b>Building 1</b>	<b>Building 2</b>	<b>Building 3</b>	<b>Building 4</b>
<b>Proposed Use</b>	Mixed Use Commercial/Residential			
<b>Commercial Square Footage</b>	64,176 SF	29,699 SF	66,838 SF	5,236 SF
<b>Residential Units</b>	267 units	273 units	206 units	248 units
<b>Max Height</b>	127 feet, 6 inches	99 feet	130 feet	132 feet
<b>Max No. of Stories</b>	11 stories	9 stories	11 stories	12 stories

In addition to the mixed-use buildings, the approved project included an approximately 1.1-gross acre privately-owned publicly-accessible park, a flexible vehicle/pedestrian paseo identified as “Main Street” on the project plans, multiple outdoor seating areas, landscaping, fountains, garden terraces, a dog park, and lawn areas. The project included both structured and subterranean parking and motorcycle and bicycle parking dispersed throughout the site. Project approvals also included off-sale alcohol in conjunction with a Type 21 California Department of Alcoholic Beverage Control (ABC) License for a future grocery store in Building 3, the removal of 120 trees, and extended construction hours for a 15-day period to allow up to 15 concrete pours between 6:00 AM and 9:00 PM. The previously approved site plan is shown in Figure 2 below for reference.

At the City Council Hearing on June 21, 2022, the applicant, stated that the project would provide 150 affordable on-site units for the proposed project. The affordable units were tentatively proposed to be located in Building 4. The 150 on-site affordable units constituted 15% of the 994 total units that were originally proposed, in compliance with the On-Site Inclusionary Requirement pursuant to [Section 5.08.400](#) of the Municipal Code.

On November 29, 2023, the Director of Planning approved a Planned Development Permit Amendment (File No. PDA20-006-01) for modifications to Building 3. The Planned Development Permit Amendment included a reduction in the height of Building 3 from 11 stories to one story. Building 3 is now approved for 58,370 square feet of commercial retail space, anchored by an approximately 40,000 square-foot grocery store

(Whole Foods). The Planned Development Permit Amendment also allowed for reducing and reconfiguring the previously approved underground parking garage. The previously approved Planned Development Permit (File No. PD20-006) authorized off-sale alcohol (Type 21 ABC License) within the future grocery store Building 3.

The project scope, permit history, previously approved plans, and general information are also available on the [Project Webpage](#) on the City's website.



**Figure 2 – Previously Approved Site Plan**

## PROPOSED PROJECT DESCRIPTION

On December 6, 2023, the applicant submitted a Planned Development Permit Amendment (File No. PDA20-006-02) to allow modifications to the Affordable Housing Compliance Plan under the City's Inclusionary Housing Ordinance (IHO) and changes to Buildings 1, 2, and 4.

This Planned Development Permit Amendment includes changes to the project's Affordable Housing Compliance Plan in accordance with the IHO. Pursuant to [Section 5.08.610.E](#) of the San Jose Municipal Code, the City Manager may grant a request for a minor modification of an approved Affordable Housing Plan if the modification is substantially in compliance with the original Affordable Housing Plan and conditions of approval. Other modifications to the Affordable Housing Plan shall be processed in the same manner as the original plan.

The previously approved Planned Development Permit (File No. PD20-006) included 150 affordable housing units, or 15% of the 994 total units originally proposed. This amendment proposes providing 39 affordable units to be restricted for 99 years under IHO, or 5% of the 772 total units proposed. The 39 units would be provided at an affordable housing cost to households earning up to 100% of Area Median Income (AMI). The applicant would also pay an adjusted in-lieu fee, estimated at approximately \$13,935,731. Therefore, this proposed change is not considered a minor modification, and this Planned Development Permit Amendment must be processed in the same manner as the original proposal. Therefore, the Planning Commission must be the recommending body, and the City Council must be the final decision-making body.

In addition to amending the Affordable Housing Compliance Plan, the project also includes physical changes to Buildings 1, 2, and 4. Buildings 1 and 2 would be placed in the same location and oriented in the roughly the same manner as the previously approved project. Building 1 would decrease in height by one foot and increase from 11 to 12 stories. Building 2 would increase in height by three feet and would increase from nine to 10 stories.

Building 2 would maintain a stepback so as not to intercept the 45-degree daylight plane, and would maintain an 84-foot setback from the single-family residences to the south. Vehicular access is provided from multiple driveways along Saratoga Avenue and West Campbell Avenue. Two levels of subterranean parking are provided below buildings 1 and 2, and the garage is accessible from two internal drive aisles. Building 2 also includes two levels of above-ground parking. The location and orientation of the previously approved "Main Street" and park space would not change.

Building 4 includes a change from the previously approved 12-story, 248-unit mixed-use building to a seven-story, 230,305-square foot, 263-bed, residential care and memory care facility. The ground level consists of a lobby/reception area, dining room and kitchen, lounge, offices, storage space, and eight resident units. Floors two through seven consist of resident units and associated amenity space. A central courtyard is provided on the ground floor, and vehicular access is provided from one driveway along Saratoga Avenue. A vehicle pick-up/drop off circle is provided at the entrance to the building. The project also includes one level of subterranean parking. Based on the Operations Plan (Exhibit I) provided, the facility would be fully licensed as a Registered Care for the Elderly (RCFE) and would provide 24-hour care for elderly persons. Services provided include personalized elderly care, supportive 24-hour assistance with the Activities of Daily Living (ADLs), Alzheimer's and memory care, food and restaurant-quality dining, housekeeping and laundry, transportation, programs and activities for daily fitness, creative, social, learning and spiritual opportunities, and medication coordination. The facility would be staffed by approximately 100 full-time employees spanning three shifts. A nurse would be available on-site or on-call 24 hours per day.

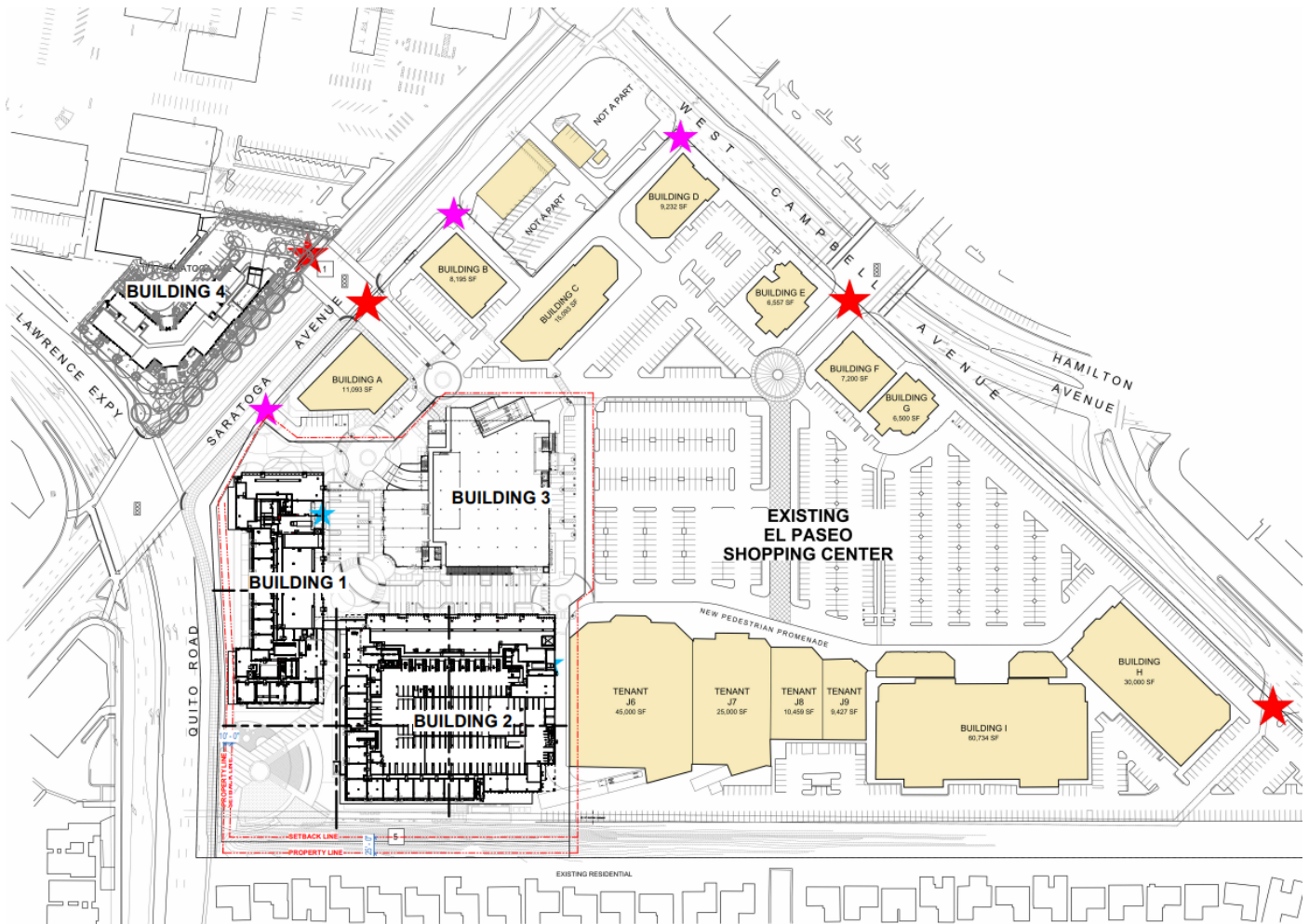


Figure 3 – Proposed Site Plan

Proposed Project Data (File No. PDA20-006-02)				
Project Information	Building 1	Building 2	Building 3 (previously approved)	Building 4
Proposed Use	Mixed Use Residential/ Commercial	Mixed-Use Residential/ Commercial	Commercial Retail	Residential Care Facility
Commercial Square Footage	14,139 SF	17,447 SF	58,370 SF	230,305 SF
Residential Units	398 units	374	None	None
Maximum Height	126 feet	103 feet	25 feet	80 feet
Maximum No. of Stories	12 stories	10 stories	1 story	7 stories

To facilitate the project's construction and associated public improvements, the project includes an application for a Vesting Tentative Map reconfigure six lots into four lots and to allow up to 20 commercial condominium units on an approximately 10.6-gross acre site.

There are no changes to previous approvals for demolition, tree removals, off-sale alcohol, or construction hours with this Planned Development Permit Amendment.

## ANALYSIS

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

1. Envision San José 2040 General Plan Conformance
  2. General Development Plan Conformance
  3. Citywide Design Guidelines Consistency
  4. Permit Findings
  5. California Environmental Quality Act (CEQA)
1. **Envision San José 2040 General Plan Land Use Conformance**

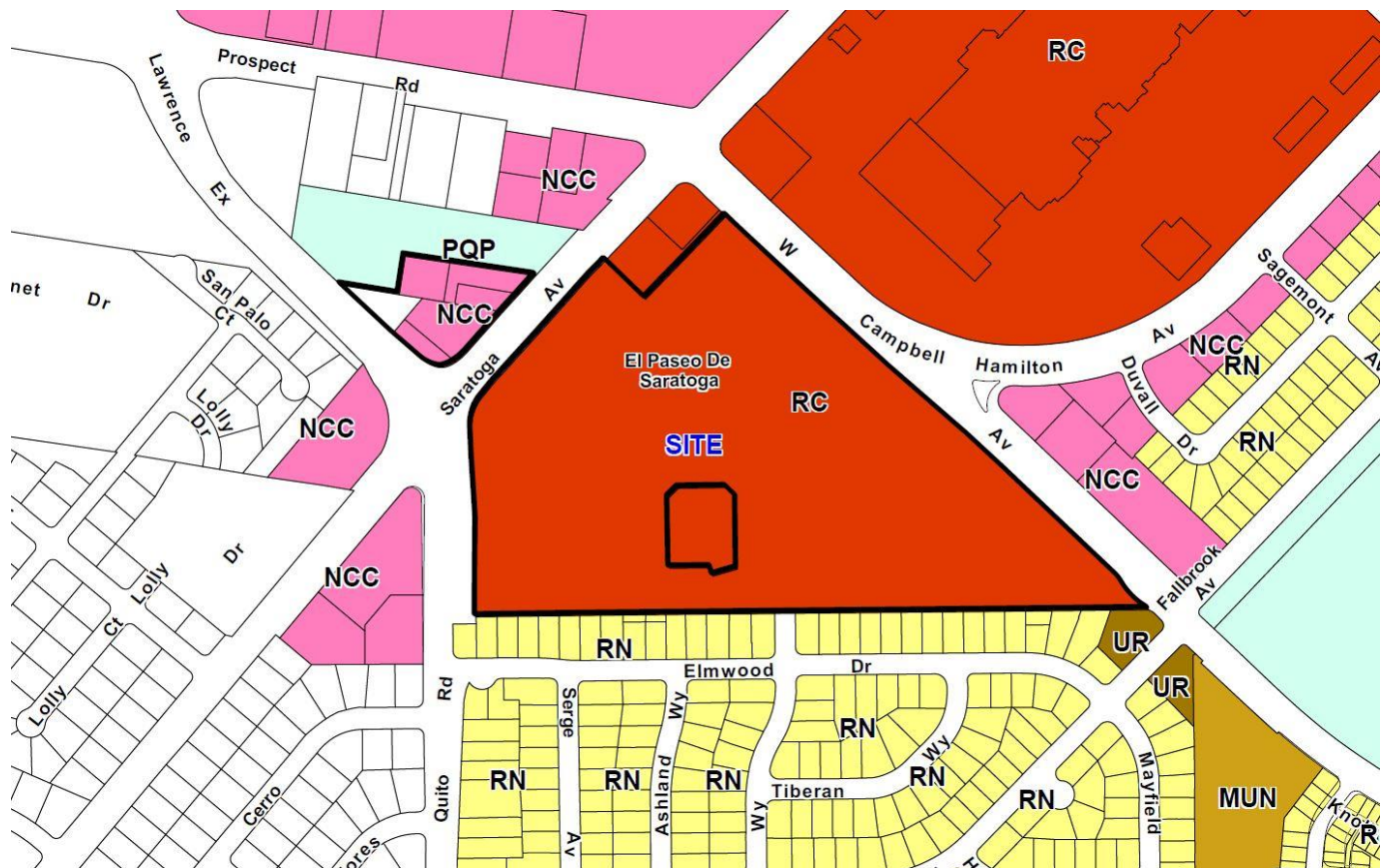


Figure 4 - General Plan Land Use Map

### General Plan Land Use Designation

As shown in the attached General Plan Map (Figure 3), the site is designated **Regional Commercial** and **Neighborhood/Community Commercial** on the Land Use/Transportation Diagram of the [Envision San José 2040 General Plan](#). The subject site is also located in the Paseo de Saratoga Urban Village, which does not have an approved Urban Village Plan. The existing Planned Development Zoning and previously approved Planned Development Permit were reviewed and approved through the Signature Project Process (Implementation Policy IP-5.12) that was in effect prior to December 2021. With the proposed amendment,

the project would result in a combined Floor Area Ratio of approximately 2.27, in conformance with both the allowable FAR of both Regional Commercial (maximum FAR of 12.0) and Neighborhood/ Community Commercial (maximum FAR of 3.5) designations.

### General Plan Conformance

The proposed Planned Development Permit Amendment and Vesting Tentative Map are **consistent** with the following Envision San José 2040 General Plan policies:

- Major Strategy #3 – Focus Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified “Growth Areas” (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods. While the Focused Growth strategy directs and promotes growth within identified Growth Areas, it 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.
- Efficient Use of Residential and Mixed-Use Lands Policy LU-10.2: Distribute higher residential densities throughout the City in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.
- Land Use and Employment Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, childcare, restaurants, and retail goods and services that serve employees of these businesses and nearby businesses.
- Housing Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.
- Housing Policy H-1.3: Create new housing opportunities and preserve and rehabilitate the City’s existing housing stock to allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

*Analysis: This Planned Development Permit Amendment allows for a high-density mixed-use project in an unapproved Urban Village (Paseo de Saratoga Urban Village). The project maintains a residential density of 71 DU/AC and provides 772 multifamily residential units. The project also provides approximately 89,956 square feet of commercial retail space in Buildings 1, 2, and 3, which would serve the new development and existing surrounding residences and businesses. The new retail space would provide employment, retail options, and tax revenue for the City. The project also provides 772 multifamily residential units, resulting in a density of approximately 71 dwelling units per acre (DU/AC) in accordance with the density requirements of the approved Planned Development Zoning District for the site. Additionally, the project provides a 230,305-square-foot, 263-bed Senior Care Facility. The facility will provide housing and services for seniors to age in place within the community.*

## 2. Municipal Code Conformance

### Inclusionary Housing Ordinance

This Planned Development Permit Amendment includes changes to the project's Affordable Housing Compliance Plan in accordance with the IHO. Pursuant to [Section 5.08.610.E](#) of the San Jose Municipal Code, a request for a minor modification of an approved Affordable Housing Plan may be granted by the City Manager if the modification is substantially in compliance with the original Affordable Housing Plan and conditions of approval. Other modifications to the Affordable Housing Plan shall be processed in the same manner as the original plan.

The previously approved Planned Development Permit (File No. PD20-006) proposed 150 affordable housing units, or 15% of the 994 total units originally proposed. This amendment proposes providing 39 deed-restricted affordable units to be restricted for 99 years under IHO, or 5% of the 772 total units proposed. The 39 units would be provided at an affordable housing cost to households earning up to 100% of Area Median Income (AMI). The applicant would also pay an adjusted in-lieu fee, estimated at approximately \$13,935,731. Therefore, this proposed change is not considered a minor modification, and this Planned Development Permit Amendment must be processed in the same manner as the original proposal. Therefore, the Planning Commission must be the recommending body, and the City Council must be the final decision-making body.

### Commercial Linkage Fee

The Permittee has completed a CLF Satisfaction Plan Application (Plan) related to the Project's obligations under the Commercial Linkage Fee Ordinance, Chapter 5.11 of the San Jose Municipal Code. The estimated Commercial Linkage Fee is \$1,631,348.72, subject to annual adjustment, based on the proposed floor area of 227,842 square feet. The Commercial Linkage Fee will be due by First Building Final Inspection (SJMC 5.11.030). If paid by Building Permit Issuance, a 20% reduction will apply to the total current fee.

### General Development Plan

The subject site is located within a **CG(PD) Planned Development** Zoning District (File No. PDC19-049). This Planned Development Zoning District is subject to the permitted, special, and conditional uses of the UV Urban Village Zoning District pursuant to [Section 20.55.203](#) of the Zoning Code. Mixed-use developments are permitted uses. Additionally, per [Section 20.60.070](#) of the Zoning Code, residential care facilities serving seven or more persons are permitted in any Planned Development Zoning District with the issuance of a Planned Development Permit. As the project includes modifications to the existing approved Planned Development Permit, a Planned Development Permit Amendment is required to be issued. Planned Development Permit Amendments are typically heard at a Planning Director's Hearing. However, as the project includes a substantial modification to the Affordable Housing Compliance Plan, the project must be heard by the Planning Commission for a recommendation and the City Council for a final decision.

### Development Standards

Development Standard	Required	Provided
Minimum Lot Size	6,000 square feet	74,923 square feet (Block B)
Minimum Residential Density	55 DU/AC	71.7 DU/AC
Minimum Commercial Square Footage	127,500 square feet	320,261 square feet



Maximum Height	145 feet (top of roof)	126 feet (Building 1), 103 feet (Building 2), 80 feet (Building 4)
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Pursuant to the General Development Plan, the project complies with all minimum density, minimum commercial square footage, and maximum height requirements.

#### Setbacks – El Paseo Site

Setback	Required	Provided
North setback	0 feet minimum	57 feet, 1 inch
West setback	10 feet minimum	10 feet, 3 inches
South setback	25 feet minimum	84 feet
East setback	0 feet minimum	35 feet, 4 inches

Pursuant to the General Development Plan, and as shown on the project setback diagram (Sheet B1-2 A0.06) the project complies with all minimum setbacks for the El Paseo site.

#### Setbacks – 1777 Saratoga Site

Setback	Required	Provided
North setback	5 feet minimum	5 feet
West setback	4 feet minimum	4 feet
South setback	17 feet minimum	17 feet
East setback	10 feet minimum	10 feet

Pursuant to the General Development Plan, and as shown on the architectural site plan (Sheet B4 A3.0), the project complies with all minimum setbacks for the 1777 Saratoga site.

#### Open Space

Standard	Ratio	Required	Provided
Common Open Space	75 square feet per unit	58,125 square feet	58,574 square feet
Private Open Space	Studio/1 bedroom = 30 sf per unit	4,162 square feet	19,117 square feet
	2 bedroom = 45 sf per unit	2,441 square feet	7,177 square feet

The project is subject to the open space requirements of the UV Zoning District pursuant to [Section 20.55.102](#) of the Zoning Code. The project is required to provide 58,125 square feet of common open space and 6,603 square feet of private open space. The project provides 58,574 square feet of common open space and 26,294 square feet of private open space in excess of this requirement.

#### Vehicle Parking and Transportation Demand Management

Effective April 10, 2023, there are no longer any minimum parking requirements in the City of San Jose. Instead, pursuant to [Section 20.90.900](#) of the Zoning Code, the project is subject to the Transportation

Demand Management (TDM) requirements of [Section 20.90, Part 9](#). Projects including a TDM Plan are required to implement the selected TDM measures for the life of the project and fulfill ongoing compliance and/or monitoring requirements. The project shall implement two separate Transportation Demand Management Plans, one for the mixed-use portion of the property (Buildings 1 & 2) and one for the residential care facility (Building 4) as described below.

Buildings 1 and 2 – Pursuant to [Section 20.90.060](#) of the Zoning Code, the residential portion of Buildings 1 & 2 is defined as a Home End Use (HEU). The commercial retail portion of the project is classified as a Visit-End Use (VEU). However, pursuant to [Section 20.90.900.B.2.d](#), the project consists of less than 100,000 square feet of retail space (VEU). Therefore, the commercial portion of Buildings 1 & 2 is exempt from TDM requirements, and a TDM plan is only required for the project's residential portion.

The multifamily residential use is classified as a Level 2 project under [Section 20.90.910, Table 20-250](#) and requires 25 TDM points per [Table 20-255](#) of the same section. A TDM Plan was prepared by Hexagon Transportation Consultants, Inc., entitled “El Paseo Mixed-Use Development Modified Project Residential Transportation Demand Management (TDM) Plan”, dated August 1, 2024 (See Exhibit J). The project achieves 25 points through the following methods.

TDM Measure	Description	Points
Provide pedestrian network improvements	The project shall fund or perform the design and/or construction of pedestrian street improvements beyond and within 1 mile of the project’s frontage for a total cost equivalent to \$3 per square feet for the assisted living facility.	3 points
Right-size off-site vehicle parking supply	The project will provide parking at a ratio of 1.30 spaces per dwelling unit. This project is located in “high-quality transit areas” of the City, which is defined as projects located within ½ miles of an existing major transit stop or an existing stop along a high-quality transit corridor. The project is located within ½ miles of an existing major transit stop.	18 points
Provide education, marketing, and outreach	Welcome packets will be provided to all new residents with information about nearby amenities (e.g., bus stops, parks and multi-use trails, schools, nearby retail uses, etc.), travel options (e.g., transit services, bike facilities/maps, walking routes, VTA’s Guaranteed Ride Home program, etc.), and transit schedules (e.g., VTA, Caltrain, BART, etc.). . In addition, the project will organize educational programs to raise awareness of travel options.	2 points
Unbundle parking costs from property costs	The project will provide 100 percent unbundled parking for residents for the life of the project.	2 points
<b>Total</b>		<b>25 points</b>

Building 4 – Pursuant to [Section 20.90.060](#) of the Zoning Code, a Residential Care Facility is defined as a Commute End Use (CEU). The Residential Care Facility is classified as a Level 2 project under [Section 20.90.910, Table 20-250](#), and requires 25 TDM points per [Table 20-255](#) of the same section. A TDM Plan was

prepared by Hexagon Transportation Consultants, Inc., entitled “El Paseo Mixed-Use Development Modified Project Assisted Living Facility Transportation Demand Management (TDM) Plan”, dated August 1, 2024 (see Exhibit K). The project achieves 25 points through the following methods:

TDM Measure	Description	Points
Provide pedestrian network improvements	The project shall fund or perform the design and/or construction of pedestrian street improvements beyond and within 1 mile of the project’s frontage for a total cost equivalent to \$3 per square feet for the assisted living facility.	3 points
Right-size off-site vehicle parking supply	The project will provide parking at a ratio of 1.59 spaces per s.f. of assisted living. This project is located in “high-quality transit areas” of the City, which is defined as projects located within ½ miles of an existing major transit stop or an existing stop along a high-quality transit corridor. The project is located within ½ miles of an existing major transit stop.	18 points
Provide education, marketing and outreach	Welcome packets will be provided to all new employees with, information about nearby amenities (e.g., bus stops, parks and multi-use trails, schools, nearby retail uses, etc.), travel options (e.g., transit services, bike facilities/maps, walking routes, VTA’s Guaranteed Ride Home program, etc.), and transit schedules (e.g., VTA, Caltrain, BART, etc.). . In addition, the project will organize educational programs to raise awareness of travel options.	2 points
Provide ride-share programs	The project shall enroll all project employees in the MTC’s Bay Area Carpool and Vanpool Programs (Merge) or other online ride-matching services that connect them through a secure network to post and search for shared rides.	1 point
Provide voluntary travel behavior change program	All employees would qualify as participants in this TDM program. The designated TDM/Transportation Coordinator would implement the voluntary travel behavior change program, including an annual employee travel survey and year-round communications. The TDM coordinator will ensure that all employees know the transportation options available to them through mass communication campaigns	1 point
<b>Total</b>		<b>25 points</b>

The project shall implement both TDM Plans for the life of the project. Conditions for implementation, monitoring, and any future modifications to the TDM plans are included in the Planned Development Permit Amendment resolution (see Exhibit F).

Motorcycle Parking

Building	Parking Provided	Motorcycle Parking Ratio	Required
Buildings 1 & 2	995 spaces	2.5% of total vehicle parking spaces provided	25 spaces
Building 4	118 spaces		3 spaces
<b>Total Required</b>			<b>28 spaces</b>
<b>Total Provided</b>			<b>68 spaces</b>

Pursuant to [Section 20.90.350](#) of the Zoning Code, the project is required to provide 28 motorcycle parking spaces. A total of 68 spaces are provided, in excess of this requirement.

Bicycle Parking

Use	Number of Units/Floor Area	Ratio	Required
Multifamily residential	772 units	1 per 4 living units	193 spaces
Retail	26,849 sf	1 per 4,000 square feet of floor area	7 spaces
Residential Care Facility	44 employees in largest shift	1 per 10 full-time employees	5 spaces
<b>Total Required</b>			<b>205 spaces</b>
<b>Total Provided</b>			<b>326 spaces</b>

The project is also required to provide 205 bicycle parking spaces pursuant to the General Development Plan and [Table 20-190](#), [Section 20.90.060](#) of the Zoning Code. A total of 326 bicycle parking spaces are provided, in conformance with this requirement.

**Design Guidelines Consistency**

The project was analyzed for consistency with the [Citywide Design Standards and Guidelines](#). The project is subject to the following applicable provisions of the Citywide Design Standards and Guidelines:

- Section 2.2.1 – Pedestrian and Bicycle Access Location
  - Standard 5 – Place primary building entrance such that it can be accessed from a street, public open space, semi-private open space, or POPOS.
  - Guideline 1 – Provide frequent entrances and openings in building facades to connect buildings to the public realm.

*Analysis: The primary building entrances are all located with direct access to public or private streets. The orientation of Buildings 1 and 2 remains the same as the previously approved Planned Development Permit. Primary retail entrances for Buildings 1 and 2 are provided along “Main Street”, with multiple secondary residential entrances provided throughout each building. The primary entrance for Building 4 has direct access from a walkway along Saratoga Avenue.*

- Section 2.3.8 – Site Lighting

- Standard 1 - Orient all site lighting directly downwards to prevent light pollution and excess glare in the public realm.
- Standard 6 - All site lighting fixtures must be fully shielded (full cut-off) to prevent light from aiming skyward and light spillage and glare that can be seen from above.
- Standard 7 - Keep the maximum color temperature for outdoor lighting below 2700 Kelvin, except for outdoor decorative lighting from November 15 to January 15.

*Analysis: As shown on the project lighting plans (Sheet L11.01), the maximum color temperature for outdoor lighting is 2700K. All outdoor lighting fixtures shall be downward-facing and fully cut-off.*

- Section 2.3.1 Building Placement

- Standard 1 - To create a continuous streetwall, place at least 75 percent of the ground floor primary street-, paseo-, or public open space-facing (except riparian corridor) façades of buildings with the primary commercial or residential use within five feet of the setback or easement line (whichever is more restrictive). When there are multiple buildings on the site, 75 percent of the sum of all primary street-, paseo-, and public open space-facing ground floor building façades must be considered in the calculation above.

*Analysis: The entirety of the ground floor commercial frontages for Buildings 1 and 2 are placed directly along Main Street and the primary paseo connecting to the park. Similarly, the entirety of Building 4 is placed along the Saratoga Avenue and Lawrence Expressway frontages within five feet of the setback line of the Planned Development Zoning District.*

- Section 3.1.2 – Form, Proportion, and Scale

- Standard 1 - Buildings at street intersections with traffic signals, terminus points, and open spaces must include at least two of the following architectural features for a minimum of 20 percent of each building frontage along the street:
  - Corner plaza.
  - Articulated corner with vertical or horizontal projections.
  - Taller massing or exaggerated roof elements.
  - Building entrances with a minimum recess of three feet.
  - Different façade treatments such as variations in materials and color.

*Analysis: Buildings 1 and 4 are located at the signalized intersection of Saratoga Avenue and Quito Road/Lawrence Expressway. Building 1 incorporates a corner retail plaza at the northwest corner of the building, adjacent to the intersection. Building 1 also includes a fully articulated corner with balconies provided at the corner of the building. Building 4 incorporates an articulated corner with vertical and horizontal projections as well as changes in color and material at the signalized intersection of Saratoga Avenue and Lawrence Expressway.*

- Standard 2 – For street walls more than 200 feet in length, provide at least one recess or projection in the façade that is at least 15 feet wide and 10 feet deep for residential, commercial, and mixed-use developments.

*Analysis: Building 1, adjacent to Quito Road, provides an approximately 109-foot long and 27-foot deep recess in the central portion of the building, consistent with the requirement.*

- Section 3.2.3 - Services and Utilities Entrances and Design

- Standard 1 - Screen solid waste, utilities, and service areas from residential and commercial uses, and on-site and off-site views to limit visual impact on the public realm using fences, walls, or landscaping that:
  - Use durable and weather-resistant materials.
  - Are four to five feet tall.
  - Do not interrupt the line-of-sight of drivers entering or exiting the site.

*Analysis: The majority of utilities are located interior to the buildings and are not visible from the public realm. The generator, trash rooms, loading docks, fire control, and electrical rooms are all located interior to the Buildings 1, 2, and 4. The transformer yard, located outside of the Building 1 footprint are screened from the public right-of-way with fencing and trees.*

- Section 3.3.1 – Façade Design and Articulation

- Standard 1 - Articulate all building façades facing a street or public open space for at least 80 percent of each façade length. Articulate all other building façades for at least 60 percent of each façade length. Façade articulation can be achieved by providing material and plane changes or by providing a rhythmic pattern of bays, columns, balconies, and other architectural elements to break up the building mass.

*Analysis: As shown on the plan elevations, Building 1 is fully articulated with approximately 85% of the façade articulated on the east elevation, 97% of the façade articulated on the north elevation, 91% of the façade articulated on the south elevation, and 83% of the façade articulated on the west elevation. Building 2 is also fully articulated with approximately 82% of the façade articulated on the east elevation, 96% of the façade articulated on the north elevation, 91% of the façade articulated on the south elevation, and 81% of the façade articulated on the west elevation. Building 4 also complies with the standard with 82% articulation on the south elevation, 85% articulation on the northeast elevation, 80% articulation on the southeast elevation, and 80% articulation on the southwest elevation.*

- Section 3.3.3 – Decks and Balconies

- Standard 2 - Occupied decks and balconies must be at least six feet wide and four feet deep to encourage outdoor seating.

*Analysis: All private decks and balconies range in width from nine feet to 13 feet. All balconies and decks have a minimum six-foot depth.*

- Section 3.3.6 – Bird Safety

- Standard 5 - Do not use mirrored glass or glazing with a reflective index above 20 percent.

*Analysis: As conditioned in this Planned Development Permit Amendment Resolution, the project shall not use mirrored glass or glazing with a reflective index above 20 percent.*

- Section 3.3.7 – Materials and Color
  - Standard 3 - For buildings taller than four stories, limit the use of stucco to a maximum of 60 percent of any façade that faces a street, open space, or paseo in General Plan growth areas.

*Analysis: As shown on the plan elevations, the use of stucco on Building 4 is limited to as low as 11% and no higher than 30%. Stucco is not utilized in Buildings 1 and 2.*
- Section 4.2.1 – Privately-Owned (and Maintained) Public Open Space Design
  - Standard 1 - When adjacent to retail spaces and mixed-use buildings, designate five percent of the total POPOS area for seating. If there are food service businesses adjacent to it, designate 10 percent of the total POPOS area for seating. This seating could be a combination of built-in or movable furniture.
  - Standard 2 - The length and width of POPOS must each be at least 25 feet long when any building on its perimeter is 30 feet or taller.

*Analysis: As shown on the project landscape plans (Sheet L10.15C), a total of 6% of the area designated as a POPOS is utilized for seating. Additional adjustments may be made depending on the tenants that occupy the retail spaces adjacent to the open space.*

#### Exceptions Requests

- Section 2.3.8, Standard 1 – The project includes an exception request for Section 2.3.8, Standard 1 which requires applicants to select trees at maturity which create a tree canopy cover that shades a minimum 50% of each common open space and POPOS.

*Analysis: The applicant has requested an exception for both the park area for Buildings 1 and 2, as well as the common open space area in Building 4.*

The decision-maker shall only grant an exception if all of the following findings are made:

1. There is a physical constraint or unique situation that:
  - a. Is not created by the project applicant or property owner; and
  - b. Is not caused by financial or economic considerations.
2. Approving the exception will not create a safety hazard or impair the integrity and character of the neighborhood in which the subject property is located.
3. The proposed project meets the intent of the design standard to the extent feasible.

*Analysis: While the park space was originally approved with a Planned Development Permit (File No. PD20-006), the applicant has provided justification for why this standard cannot be met. The park includes youth play space, an open grand lawn and pet park area that will remain tree-free. Planting additional trees in these areas would result in the loss of useable active park space. Nevertheless, the project still meets the intent of the design standard by providing a variety of trees that shade approximately 35% of the total park space. For Building 4, the location of trees to be planted in the common open space area is constrained by the underground parking garage and necessary areas for pedestrian circulation between the two wings of the building. However, the applicant will provide shading for approximately 47.7% of the total common open space area, meeting the design standard's intent.*

- Section 4.1.2, Standard 1 - The project includes an exception request for Section 4.1.2, Standard 1 which requires projects to include a minimum three-foot-deep frontage zone at the building entrances for residential and mixed-use developments. This transition space is useful for any doors opening out to the sidewalk and for providing stoops for raised residential units.

*Analysis: Building 1 includes ground-level residential units that face Quito Road. Therefore, those units are subject to this standard.*

The decision-maker shall only grant an exception if all of the following findings are made:

1. There is a physical constraint or unique situation that:
  - a. Is not created by the project applicant or property owner; and
  - b. Is not caused by financial or economic considerations.
2. Approving the exception will not create a safety hazard or impair the integrity and character of the neighborhood in which the subject property is located.
3. The proposed project meets the intent of the design standard to the extent feasible.

*Analysis: In some areas, the grade change between Quito Road and the ground-level residential units varies from four feet to more than six feet. The space between the building and the street is required to accommodate the overland release from the park in the south to the site's north side. Adding frontage zones would disrupt this connection. The previously approved plans did not include any direct access from residential units to Quito Road, and would not create a safety hazard or impair the integrity or character of the neighborhood. While the primary entrance to these ground-floor units will be provided from the main building lobby, a visual connection is still provided to Quito Road with the provision of large windows, which maintain eyes on the street.*

### **Permit Findings**

For this application to be approved, the City Council must be able to make all required findings for a Vesting Tentative Map, Planned Development Permit Amendment, and Commercial Common Interest Development.

#### Vesting Tentative Map Findings

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

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



7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

*Analysis: To facilitate the potential future financing and sale of portions of the subject property, the Vesting Tentative Subdivision Map is the preliminary step of conditional approval to reconfigure six lots into four lots and allow up to 20 commercial condominium units. As discussed in the General Plan Conformance section above, the project is consistent with the applicable General Plan goals, policies, and land use designation. The mixed-use and residential care facility uses are all permitted uses of the existing CG(PD) Planned Development Zoning District (File No. PDC19-049). The proposed lot sizes exceed the minimum required lot size of 6,000 square feet of the Planned Development Zoning District. The minimum commercial condominium size shall not less than 750 square feet as conditioned in the Planned Development Permit Amendment and Vesting Tentative Map resolution. The project is already served by all necessary public and private utilities. Therefore, the project and associated improvements would not cause environmental damage or substantially injure fish, wildlife, or their habitat. Please see the California Environmental Quality Act discussion below for additional information.*

*The permittee will be required to prepare a declaration of Covenants, Conditions, and Restrictions ("CC&Rs") as part of the project. The CC&Rs shall include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common areas within the development continue to be adequately and safely maintained and repaired for the life of the common interest development. Additionally, at its sole cost, the applicant shall prepare grant deeds for all mutual or reciprocal easement rights, which the City shall review for compliance with the terms of Chapter 20.175 of the Zoning Code and Chapter 19 of Subdivision Code. Additionally, the project is required to record a covenant of easement in favor of the City for emergency vehicle access, ingress/egress, and stormwater treatment purposes in accordance with Chapter 20.110 of the Zoning Code. Therefore, based on the review of the Vesting Tentative Map, the Director of Planning, Building and Code Enforcement of the City of San José (Director) is recommending approval of the Vesting Tentative Subdivision Map, because none of the above findings can be made for the denial of the proposed subdivision.*

### Subdivision Ordinance Findings

In accordance with San José Municipal Code [Section 19.12.130](#), the Director may approve the Tentative Map if the City Council makes any of the findings for denial in Government Code section 66474 and the City Council has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the project if the City Council does not make any of the findings for denial in San José Municipal Code Section 19.12.220. Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein and also adds the additional requirement that the project obtain CEQA clearance.

*Analysis: Based on review of the proposed subdivision, the Director of Planning, Building and Code Enforcement is recommending approval of the Vesting Tentative Map. The map and the development's design are consistent with the San José Envision 2040 General Plan designation of Regional Commercial and Neighborhood/Community Commercial (with the previous approval of the project under the Signature Project Policy) and with the existing CG(PD) Planned Development Zoning District (PDC19-049), as discussed above. The site is physically suitable for the proposed development in that the proposed residential density and FAR are in conformance with the General Development Plan of the Planned Development Zoning District.*

*In accordance with the California Environmental Quality Act (CEQA), an addendum has been prepared for the proposed amendment. No substantive revisions to the 2022 FEIR are needed because the proposed project*

would not result in new or significant effects to resources beyond those previously studied and disclosed. Since approval of the 2022 FEIR, there have been no significant changes to the circumstances under which the project would be undertaken, and no new significant environmental effects have been identified. Therefore, the subdivision and subsequent improvements are not likely to cause serious public health problems.

#### Planned Development Permit Amendment Findings

To make the Planned Development Permit Amendment findings pursuant to San José Municipal Code [Section 20.100.940](#), and recommend approval to the City Council, the Planning Commission must determine that:

1. The Planned Development Permit Amendment, as issued, is consistent with and furthers the policies of the General Plan; and

*Analysis: This Planned Development Permit Amendment allows for a high-density mixed-use project in an unapproved Urban Village (Paseo de Saratoga Urban Village) by implementing the Planned Development Zoning District (File No. PDC19-049) that was approved under General Plan Policy IP-5.12 for the development of Signature Projects. The project maintains a residential density of 71 DU/AC with the provision of 772 multifamily residential units. The project also provides approximately 89,956 square feet commercial retail space between Buildings 1, 2, and 3, which would serve the new development and existing surrounding residences and businesses. The new retail space would provide employment and retail options as well as tax revenue for the City. Additionally, the project provides a 230,305-square foot, 263-bed Senior Care Facility. The facility will provide housing and services for seniors to age in place within the community.*

2. The Planned Development Permit Amendment, as issued, conforms in all respects to the Planned Development Zoning of the property; and

*Analysis: The project conforms with the Development Standards of the General Development Plan for the Planned Development Zoning District established for the site (File No. PDC19-049). As discussed in the Municipal Code Conformance section above, the project conforms with all required setbacks, heights, open space, and TDM requirements, bicycle parking, and motorcycle parking requirements of the Planned Development Zoning District.*

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

*Analysis: Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. An on-site sign has been posted on the project frontage since January 22, 2024. A Community Meeting to discuss the proposed amendment was held on May 6, 2024 via Zoom. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The project webpage has also been updated with each proposed amendment. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on November 5, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.*

4. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures, and other uses on-site are appropriate, compatible and aesthetically harmonious; and

*Analysis: The project anchors the north and southeast corners of the Saratoga Avenue and Lawrence Expressway/Quito Road intersection. Buildings 1 and 2, located at the El Paseo site, are oriented around the primary pedestrian Paseo (Main Street), the focal point of the development. The buildings include similar massing, articulation, materials, and colors, while each maintaining a unique identity. The retail uses are compatible with the development as they are located on the ground floor with frontage directly on either the primary paseo, further activating the streetscape. Open space is provided in the form of a privately-owned publicly-accessible park at the southern end of Buildings 1 and 2. Building 4, located at the 1777 Saratoga Site, maintains a distinct architectural style while remaining oriented towards the Saratoga Avenue/Lawrence Expressway intersection. The interrelationship between the orientation, location, mass and scale of the building volumes and elevations of the project buildings and other uses on-site are appropriate, compatible, and aesthetically harmonious.*

5. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

*Analysis: Environmental impacts related to noise, vibration, dust, drainage, erosion, storm water runoff, and odor would be temporary and may only occur during construction. The project is required to conform with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) including site design measures, source controls, and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharge. The project also includes standard environmental permit conditions (per File No. PD20-006) to reduce and mitigate impacts regarding air quality, dust and emissions control, water quality, and noise. Additionally, the project is required to adhere to the Mitigation Monitoring and Reporting Program (MMRP) prepared for the project in association with the associated Environmental Impact Report and Addendum. The project does include extended construction hours on Saturdays from 8:00 AM to 5:00 PM. The project requires the appointment of a Construction Disturbance Coordinator to address any constructed related complaints or concerns. Therefore, the project would not have an unacceptable impact on adjacent properties.*

#### Commercial Common Interest Development Findings.

[Section 20.175.050](#) of the San José Municipal Code specifies the required findings for Commercial Common Interest Development.

1. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole;

*Analysis: The project's common interest development would not adversely impact the economic viability of the surrounding residential, commercial, or industrial uses in the vicinity in that the size of the commercial units adequately accommodates a variety of potential uses, and the anticipated uses, including general retail. The retail uses would add to the economic viability of the area by providing general services to the surrounding neighborhood, creating jobs, and increasing tax revenue for the City.*

2. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

*Analysis: A Declaration of Covenants, Conditions, and Restrictions (CC&Rs) is required, and when approved by the City in accordance with the Zoning Ordinance prior to the relevant final map approval, would include*

*sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development.*

3. The proposed common interest development includes sufficient provisions for the retention of such common areas for the use of all owners of separate interests therein.

*Analysis: The CC&Rs, required for review when the relevant Final Map is approved by the City in accordance with the Zoning Ordinance, would state that each commercial owner shall have, as appurtenant to their unit, an undivided interest in the common areas. This would ensure that each common interest development has sufficient retention of common areas for use by all owners as noted in the conditions of approval. The CC&Rs would also include provisions for ingress, egress, parking, emergency access, utilities, landscaping, and the like.*

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The City of San José, as the Lead Agency, prepared an Addendum to the 1312 El Paseo & 1777 Saratoga Avenue Mixed-Use Village Project Final Environmental Impact Report (2022 FEIR) (Planning File No. PDC19-049), and addenda thereto. The proposed project is eligible for an addendum pursuant to CEQA Guidelines Section 15164, which states that A lead agency or responsible agency shall prepare an addendum to a previously certified EIR or Negative Declaration if some changes or additions are necessary but none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR or Negative Declaration have occurred.

The environmental impacts of the proposed project were addressed by the 2022 FEIR certified by City Council Resolution No. 80605 on June 21, 2022. In 2023, changes to Building 3 of the original project were proposed, and an Addendum to the 2022 FEIR (dated November 2023) was prepared and concluded that the modifications would not result in any new or substantially more severe significant impacts than previously disclosed in the 2022 FEIR.

The current proposed project would involve alterations to Building 1, 2, and 4, resulting in a reduced development size (i.e., residential units and building size) and similar land uses as the previously approved project. No substantive revisions to the 2022 FEIR are needed because the proposed project would not result in new or significant effects to resources beyond those previously studied and disclosed. Since approval of the 2022 FEIR, there have been no significant changes to the circumstances under which the project would be undertaken, and no new significant environmental effects have been identified.

### **PUBLIC OUTREACH**

Staff followed [Council Policy 6-30: Public Outreach Policy](#) in order to inform the public of the proposed project. An on-site sign has been posted on the project frontage since January 22, 2024. A Community Meeting to discuss the proposed amendment was held on May 6, 2024 via Zoom. Community concerns raised at the meeting included the size of the publicly accessible open space, traffic impacts, residential density, building setbacks, and building heights. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The [project webpage](#) has also been updated with each proposed amendment. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on November 5, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

**Project Manager:** Alec Atienza

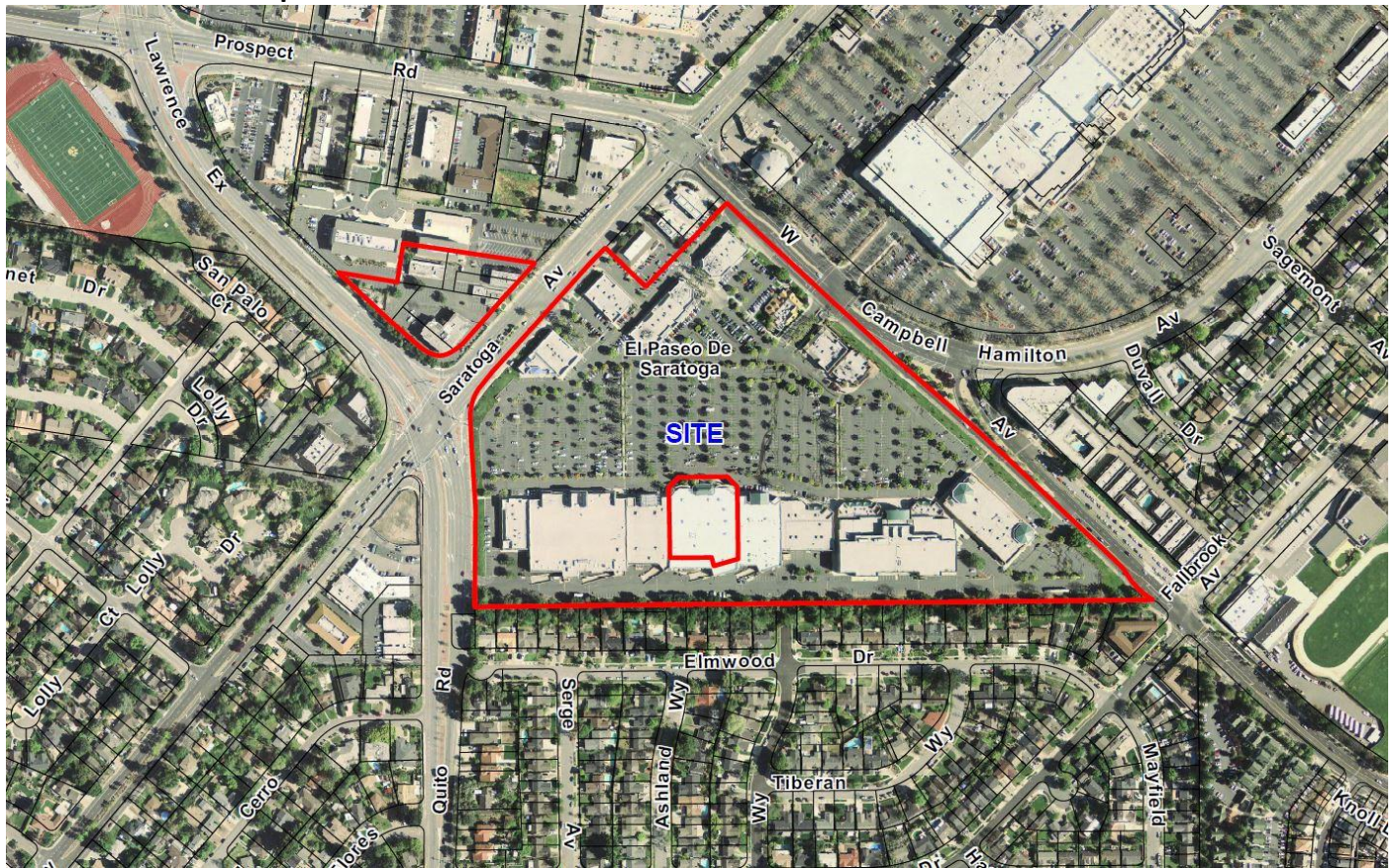
**Approved by:** /s/ John Tu, Division Manager for Christopher Burton, Director of Planning,  
Building & Code Enforcement

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

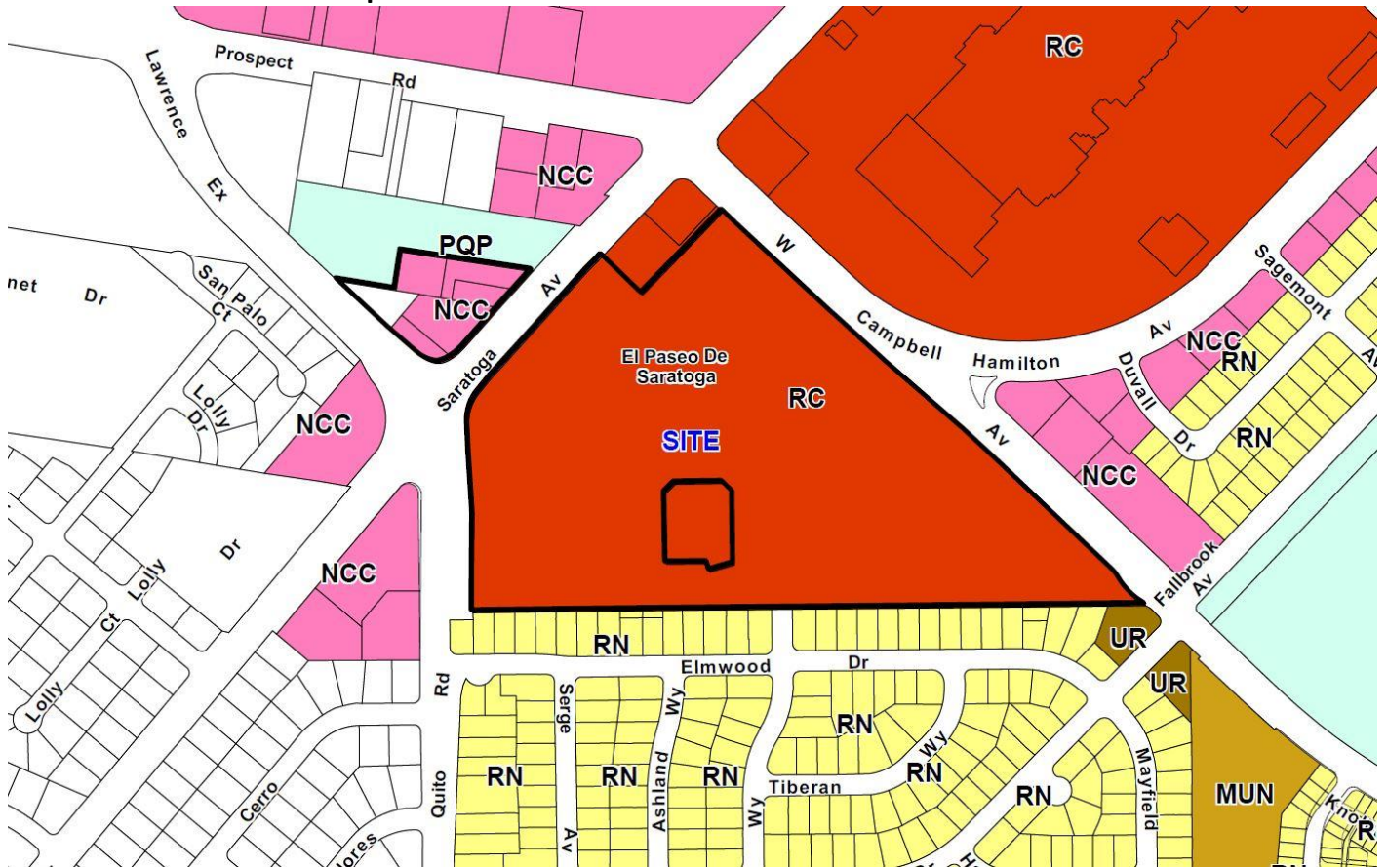
<b>ATTACHMENTS:</b>	
Exhibit A:	Aerial Map (Page 24)
Exhibit B:	General Plan Map (Page 25)
Exhibit C:	Zoning Map (Page 26)
Exhibit D:	<a href="#">Draft CEQA Resolution</a>
Exhibit E:	<a href="#">Draft Vesting Tentative Map Resolution</a>
Exhibit F:	<a href="#">Draft Planned Development Permit Amendment Resolution</a>
Exhibit G:	<a href="#">Vesting Tentative Map</a>
Exhibit H:	Planned Development Permit Plan Set: <a href="#">Building 1 &amp; 2</a> <a href="#">Building 4</a>
Exhibit I:	<a href="#">Residential Care Facility Operations Plan</a>
Exhibit J:	<a href="#">Buildings 1 &amp; 2 TDM Plan</a>
Exhibit K:	<a href="#">Building 4 TDM Plan</a>
Exhibit L:	<a href="#">Public Comments</a>

<b>Applicant's Representative</b>	<b>Applicant</b>	<b>Owner</b>
Erik Schoennauer 2600 El Camino Real, Suite 410 Palo Alto, CA 94306	Steve Lynch El Paseo Property Owner, LLC 2600 El Camino Real, Suite 410 Palo Alto, CA 94306	Peter Pau Manager El Paseo Property Owner, LLC 2600 El Camino Real, Suite 410 Palo Alto, CA 94306

**Exhibit A – Aerial Map**



**Exhibit B – General Plan Map**



### Exhibit C – Zoning Map

