



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Historic Landmarks
Commission

SUBJECT: SEE BELOW

DATE: November 14, 2023

COUNCIL DISTRICT: 6

**SUBJECT: CITY LANDMARK DESIGNATION (FILE NO. HL23-001) AND
HISTORICAL PROPERTY (MILLS ACT) CONTRACT (FILE NO.
MA23-001) FOR 909 SCHIELE AVENUE**

RECOMMENDATION

The Historic Landmarks Commission voted 6-0-1 (Commissioner Royer absent) to recommend that the City Council take all of the following actions:

- a. Adopt a resolution designating 909 Schiele Avenue (Yoell House) as a City Landmark of special historical, architectural, aesthetic, or engineering interest, or value of a historic nature; and
- b. Adopt a resolution approving the Historical Property Contract (Mills Act Contract) between the City of San José and property owners Yah Yah Cason and Wendy Needham.

SUMMARY AND OUTCOME

Landmark designation and Mills Act contract for 909 Schiele Avenue would conform with the Envision San José 2040 General Plan and Chapter 13.48 of the San José Municipal Code (Historic Preservation Ordinance) by preserving the historic features and materials of a distinctive Queen Anne-style house with Stick style characteristics constructed in 1892 and recognizing its historical and architectural value. The house was designed by locally prominent master architect Theodore Lenzen who actively practiced in San José from 1862 to 1912 and was built by Frank Delos Wolfe, who between 1899 and 1926 became San José's most prolific and arguably most important architect. Approval of the Mills Act Contract would facilitate the preservation, restoration, and rehabilitation of the City Landmark by providing a reduced property tax rate over a minimum 10-year period where the property owner would be required to reinvest at least 10 percent of the property tax savings into its upkeep.

BACKGROUND

Landmark Designation

Landmark designation may be initiated by the City Council, property owner, or the Historic Landmarks Commission (HLC). The application for 909 Schiele Avenue was initiated by the property owner.

The City Council should consider, among other relevant factors, the following eight criteria in making the findings that a proposed landmark has special historical, architectural, cultural, aesthetic, or engineering interest or value of a historical nature:

1. Its character, interest, or value as part of the local, regional, state or national history, heritage or culture;
2. Its location is a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state, or national culture and history;
4. Its exemplification of the cultural, economic, social, or historic heritage of the city of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José; and
8. Its embodiment of elements of architectural or engineering design, detail, materials, or craftsmanship which represents a significant architectural innovation.

Mills Act Contract

The Mills Act is an important long-term incentive for the restoration, rehabilitation, and preservation of historic buildings that obligates current and future owners to the maintenance and care of the property. It is state legislation that grants cities and counties the authority to enter into contracts with the owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving Santa Clara County property tax relief. In the City of San José, qualified historic properties are those that have been designated a City Landmark. Property taxes are recalculated by the Santa Clara County Assessor's Office using a formula in the Mills Act and Revenue and Taxation Code.

The minimum duration for a Mills Act Contract is 10 years. Mills Act contracts renew automatically every year after the initial 10-year period unless the property owner or City opts to end the contract. Mills Act contracts include a schedule of proposed maintenance and improvements that the owner agrees to complete. Such proposed maintenance and improvements are typically spread over a 10-year period. All work is required to comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and "*Your Old House* Guide for Preserving San José Homes."

ANALYSIS

The HLC made the following findings that 909 Schiele Avenue meets Criterion 6 and Criterion 7 of the landmark significance criteria set forth in Section 13.48.110(H) of the San José Municipal Code and the Historical Property Contract findings of Section 13.48.540 of the San José Municipal Code. The complete analysis is contained in the HLC staff report included as **Attachment 1** of this memorandum.

Landmark Designation

The property was documented and evaluated by a qualified historic resources consultant, Krista Van Laan of Archives and Architecture. Based on the documentation and evaluation of the property against the significance criteria for landmark designation, the house was determined to be eligible under two of the eight significance criteria - specifically Criterion 6 and Criterion 7 in Section 13.48.110(H) of the San José Municipal Code.

Criterion 6: Its embodiment of distinguishing characteristics of an architectural type or specimen.

Analysis: The house at 909 Schiele Avenue is a distinctive example of a residential architectural type important to San José in the late 1800s. It is an excellent example of an architect-designed Victorian Queen Anne-style residence with some Stick characteristics including complex roof forms and projecting gables, walls, and bays. The house exhibits character-defining features such as a highly decorative projecting gable, angled and box bay windows, an ornate front porch with ball-and-dowel spandrels and a pedimented portico, and textural variety including V-groove wood siding and fish scale shingles. It has exceptional details such as the elaborate trim and bargeboards, the flared belly band sheathed in fish scale shingles, and the cantilevered second-story balcony on the western elevation.

Criterion 7: Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José.

Analysis: The house at 909 Schiele Avenue contributes to the historical significance of the Schiele Subdivision/Alameda Park neighborhood as the work of a master San José architect, Theodore Lenzen, who was active in San José from 1862 to 1912. He is believed to have designed between 500 and 600 buildings, many of them important to early San José history, such as the first City Hall. Newspaper articles and books show that Lenzen was the most prolific architect in San José in the late nineteenth century, and his buildings were often used to promote San José as a progressive city with elegant architecture. There are few remaining houses of Lenzen's work because it largely consisted of civic buildings and oversized mansions. The subject property is an excellent example of Lenzen's more modest residential Victorian architecture.

The house is also associated with Frank Delos Wolfe, who, between 1899 and 1926, was San José's most prolific and arguably most important architect. The house adds to the knowledge of Frank Wolfe's body of work and possible influences by the architects he worked with before establishing his long-lived career as a master architect.

Mills Act Contract

Part 4 of the Historic Preservation Ordinance establishes a procedure for the administration of Mills Act contracts pursuant to Section 50280 et seq. of the California Government Code, as amended, known as the California Mills Act of 1972. Section 13.48.540 of the San José Municipal Code sets forth the findings the City Council must make to approve a historical property contract. Conformance with the required findings is outlined below. In the City of San José, only designated City Landmarks are eligible for a Mills Act contract.

The proposed contract is consistent with the General Plan.

Analysis: Preservation and rehabilitation of City Landmarks advance the goals of the Envision San José 2040 General Plan, specifically Historic Preservation Goal 13 and Policies LU-13.13 and LU-13.15. The Mills Act contract, in conjunction with the City Landmark designation, would advance Historic Preservation Goal 13 by preserving the sense of place and historic integrity of the Victorian Queen Anne architectural style house with Stick characteristics and promoting awareness of its historic architecture. The Mills Act contract would require the property owner to commit to a 10-year work plan to invest in the maintenance and rehabilitation of the house. In conjunction with the City Landmark designation, the work would be required to conform with the Historic Preservation Ordinance, the Secretary of the Interior's Standards for the Treatment of Historic Properties, and "Your Old House Guide for Preserving San José Homes." These requirements would support Historic Preservation Policy LU-13.15. The Mills Act contract would implement Historic Preservation Policy LU-13.13 by utilizing a property tax incentive to foster the preservation and rehabilitation of the house which is architecturally significant.

The proposed contract would provide greater protection for the landmark property than is otherwise provided by the provisions of Municipal Code Chapter 13.48.

Analysis: The Mills Act contract would provide greater protection for the City Landmark because the Historical Property Contract includes a schedule of maintenance and improvements the owner would be required to complete over a 10-year period. The Mills Act contract would require the following work which is included in the resolution.

Year 1: Restore the original front door and windows. Install bronze plaque to display in front of the house.

Year 2: Repair and restore original wood windows.

Year 3: Restore the original rear door and carry out foundation repairs as necessary.

Year 4: Repair/replace composition shingle roofing, repair/replace downspouts, as necessary.

Year 5: Fumigate the house for termites.

Year 6: Upgrade electrical wiring.

Year 7: Upgrade plumbing

Year 8: Repair the second-floor exterior door, and repair concrete at the front porch and back stairs.

Year 9: Repaint the exterior of the house.

Year 10: Fumigate the house for termites.

The proposed contract complies with the required provisions of the Historical Property Contracts listed above.

Analysis: The proposed Historical Property Contract includes a description of the landmark property; a minimum contract period of 10 years; specific conditions requiring preservation of the landmark property including the required 10-year work plan as outlined above and conformance with the Secretary of the Interior Standards for Rehabilitation, the California State Historical Building Code, and the requirements of the City; provision for the periodic examination of the interior and exterior of the landmark property for least five years by the City of San José and the County of Santa Clara to determine the owner's compliance with the contract; a requirement that the property owner(s) annually expend an amount equal to a minimum of 10 percent of the tax savings attributed to the contract to the preservation and maintenance of the landmark property, and make this documentation available to the City of San José at the time of the periodic examination; a provision that the contract is binding and applies to all successors in interest to the owner(s) who entered into the contract; and a provision requiring recordation of the contract with the Santa Clara County recorder's office within six months of the effective date of the contract.

Policy Alternatives

The City Council could deny the landmark designation of 909 Schiele Avenue. If the property was not designated a City Landmark, the property would remain listed on the Historic Resources Inventory as a Contributing Structure to the Schiele/Alameda Park Candidate City Landmark District, but the property owners would not be eligible for a Mills Act contract.

The City Council could deny the Mills Act contract for 909 Schiele Avenue. If the contract was not approved, the property owners would not be required to reinvest at least 10 percent of the property tax savings into the preservation and maintenance of the house.

Climate Smart San José

The recommendation to approve the City Landmark designation and Mills Act contract for 909 Schiele Avenue would support Climate Smart San José goals for reaching the targets of the international Paris Agreement. Cities should use every tool available to reduce carbon emissions. One of those tools is building reuse. Reuse avoids the upfront embodied carbon emissions that occur when materials are mined, harvested, manufactured, transported, and assembled to create a new structure. Published research shows that it can take from 10 to 80 years to pay back the carbon debt that is incurred when an existing building is replaced with a new structure, even if the new building is highly energy efficient. Building construction and operations are responsible for approximately forty percent of human-produced carbon emissions worldwide. Although low-carbon construction techniques are becoming more viable, decarbonization of the construction industry is still years away. Currently, the best way to avoid embodied carbon emissions is to preserve and reuse as many existing buildings as possible.

EVALUATION AND FOLLOW UP

If the application for landmark designation is approved, 909 Schiele Avenue would be designated a City Landmark and this classification of the property in the Historic Resources Inventory would be added to its existing classification – Contributing Structure to the Schiele/Alameda Park Candidate City Landmark District. Future work on the exterior of the building and ancillary construction on the lot would require a Historic Preservation Permit. The work would be required to conform with the requirements of the Historic Preservation Ordinance and the Secretary of the Interior’s Standards for the Treatment of Historic Properties. With the property’s current status, exterior changes require a Single-Family House permit and conformance with the *Your Old House* Guide for Preserving San José Homes.”

If the Mills Act Contract is approved, the property owner would be required to invest a minimum of 10 percent of the property tax savings in the maintenance and rehabilitation of the house in accordance with the approved 10-Year Preservation Plan included in the Historical Property Agreement. In addition, the County Assessor would recalculate the property taxes using a formula in the Mills Act and Revenue and Taxation Code.

COORDINATION

This memorandum was coordinated with the City Attorney’s Office.

PUBLIC OUTREACH

This memorandum will be posted on the City’s Council Agenda website for the November 28, 2023, City Council meeting.

Staff followed the public notification requirements of Section 13.48.110 of the San José Municipal Code. A public hearing notice for the project was published in a local newspaper and posted at the site. Information about the applications for landmark designation and Mills Act contract and the associated public hearings has been made available through the Planning Division website, and staff has been available to answer questions.

The HLC held a public hearing on November 1, 2023, and the following public comment was received.

- Preservation Action Council San Jose (Mike Sodergren) expressed appreciation that California offers the Mills Act which incentivizes people to preserve houses that tell the story of San José and provides a way for property owners to underwrite that preservation work for the preservation of the house and suggested underwriting the 10-year preservation work plan. Preservation Action Council San Jose robustly supported the applications and recommended approval by the City Council.

COMMISSION RECOMMENDATION AND INPUT

On November 1, 2023, the HLC held a public hearing on the applications for the landmark designation and Mills Act contract for 909 Schiele Avenue.

The HLC referred to the proposed 10-Year Preservation Plan and inquired why the house would need to be fumigated every five years. The property owner responded that termite damage was identified in the home inspection report when the property was purchased, and it was included as a precaution. The HLC recommended to the City Council that flexibility be provided to the property owners in Year 5 or Year 10 of the Plan to substitute a different work item if the fumigation is not needed on a five-year basis.

The Historic Landmarks Commission voted 6-0-1 (Commissioner Royer absent) to recommend that the City Council adopt the following resolutions:

- a. Adopt a resolution designating 909 Schiele Avenue (Yoell House) as a City Landmark of special historical, architectural, cultural, aesthetic, or engineering interest or value of a historic nature; and
- b. Adopt a resolution approving the Historical Property (Mills Act) Contract for 909 Schiele Avenue between the City of San Jose and property owners Yah Yah Cason and Wendy Needham.

CEQA

The environmental impacts of the project will not have a negative effect on the subject property or adjacent property in that the project has been determined exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15331. The project is limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

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/
Christopher Burton, Director
Planning, Building and Code Enforcement

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

ATTACHMENT: November 1, 2023, Historic Landmarks Commission Staff Report with Attachments



HISTORIC LANDMARKS COMMISSION STAFF REPORT

File Nos.	HL23-001 and MA23-001
Application Type	City Landmark Designation and Historical Property (Mills Act) Contract
Applicants	Yah Yah Cason and Wendy Needham
Location	909 Schiele Avenue
APN	261-07-017
Zoning District	R-1-8 Single Family Residence
Council District	6
Historic Area	Schiele Subdivision/Alameda Park, Candidate Conservation Area
Historic Resource Inventory	Contributing Structure
Annexation Date	December 8, 1925
CEQA	Exempt per CEQA Guidelines Section 15331 for Historical Resources and Rehabilitation

APPLICATION SUMMARY:

File No. HL23-001: Application for designation of 909 Schiele Avenue (Yoell House) as a City Landmark of special historical, architectural, cultural, aesthetic, or engineering interest or value of a historic nature; and

File No. MA23-001: Application for Historical Property (Mills Act) Contract for 909 Schiele Avenue between the City of San José and the property owners.

RECOMMENDATION:

Staff recommends the Historic Landmarks Commission recommend to the City Council approval of the following actions:

1. Adopt a resolution designating 909 Schiele Avenue (Yoell House) as a City Landmark of special historical, architectural, cultural, aesthetic, or engineering interest or value of a historic nature; and
2. Adopt a resolution approving the Historical Property (Mills Act) Contract for 909 Schiele Avenue between the City of San Jose and property owners Yah Yah Cason and Wendy Needham.

PROJECT DATA**GENERAL PLAN CONSISTENCY**

General Plan Designation	Residential Neighborhood <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent
Consistent Policies	LU-13.13, LU-13.15
Inconsistent Policies	None

SURROUNDING USES

	General Plan Land Use	Zoning	Existing Use
North	Residential Neighborhood	R-M Multiple Residence	Single-family residence
South	Residential Neighborhood	R-1-8 Single Family Residence	Single-family residence
East	Residential Neighborhood	R-1-8 Single Family Residence	Single-family residence
West	Residential Neighborhood	R-1-8 Single Family Residence	Single-family residence

RELATED APPROVALS

12/8/1925	College Park/Burbank Sunol
7/31/1996	Building Permit No. 1996-70968 for a basement addition and remodel of the entire existing house
2/10/2006	City Council Initiated - Conventional Rezoning from R-2 Two Family Residence Zoning District to R-1-8 Single-Family Residence Zoning District to allow residential uses on 0.20 gross acre site
6/6/2008	File No. SP08-024: Special Use Permit to demolish one existing detached garage for a single-family residence listed as a contributing structure on the Historic Resources Inventory and replace it with one detached garage in excess of the 650 square feet allowed (1,129 sf) on a 0.20 gross acre site
9/4/2008	File No. AD08-1049: Permit Adjustment to allow modifications to a previously approved Special Use Permit (File No. SP 08-024).

PROJECT LOCATION AND DESCRIPTION

The subject 0.32-gross acre property is located at 909 Schiele Avenue on the north side of Schiele Avenue, approximately 60 feet west of Hoover Avenue (see Figure 1). The property is surrounded by single-family houses on all sides. The subject property is part of the Schiele Subdivision/Alameda Park neighborhood, an area listed in the San José Historic Resources Inventory as a Candidate Conservation Area.

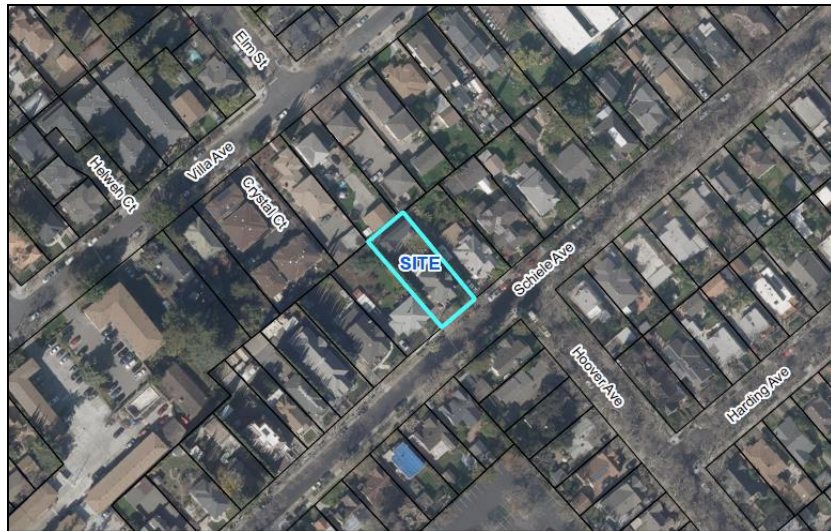


Figure 1: Location Map

On August 11, 2023, the property owners, Yah Yah Cason and Wendy Needham, submitted applications to designate the house at 909 Schiele Avenue as a City Landmark (Yoell House) and to enter into a Historical Property (Mills Act) Contract to restore, rehabilitate and maintain the property for a minimum of 10 years.

The house is a distinctive example of residential Queen Anne style architecture, designed in 1891 by the locally prominent master architect Theodore Lenzen and built in 1892 by Frank Delos Wolfe, who later became San José's most successful and prolific architect. The house was built for attorney John Hampden Yoell and his wife May. The Yoells lived at this address until 1899.



Figure 2: Front (South) Façade of 909 Schiele Avenue



Figure 3: Southeast Façade



Figure 4: Southwest Façade



Figure 5: Rear (North) Façade

The property was documented and evaluated by a qualified historic resources consultant, Krista Van Laan of Archives and Architecture. The Department of Parks and Recreation (DPR) 523 series forms are included in Attachment 1 of this report. The following is a summary of the architectural description, character-defining features, and history of the house.

Architectural Description

The two-story house is on a concrete block raised foundation above a fully finished basement. The building has a mostly rectangular main mass with a moderately pitched hipped roof with a central roof ridge and cross gables on each of the east and west facades and deeply overhanging boxed eaves. The house is clad primarily in seven-inch wide horizontal V-groove wood siding boards and the roof is clad in composition shingles laid in alternating bands of scalloped and straight shingles. The front (south) façade features a distinctively ornate dominant front gable with a two-story angled bay and a front porch with round classical columns. The front center window in the first story bay is a large single pane topped with a striking arched leaded stained-glass transom consisting of a central flower design surrounded by beveled squares and rondelles. A wide flared band clad in fishscale shingles wraps the house between the first and second level; shingles also cover part of the front-facing gable. A water table with a coved apron wraps around the house at the first-floor level. Fenestration consists primarily of 1/1 double-hung windows with flat-board casings installed individually and in pairs, with ogee-curve brackets extending below a flat-silled apron. Horizontal fixed-pane windows are regularly spaced around the house at the basement level. A high brick chimney with a flared stepped crown and a pair of flue pipes extends from the top of the roof ridge.

Character-Defining Features

The house is a distinctive example of Queen Anne architecture with Stick characteristics and maintains the following character-defining features:

- Prominent angled and box bay windows.
- Ornate front porch with ball-and-dowel spandrels and round classical columns.
- Pedimented portico and steps.

- Arched leaded stained-glass transom consisting of a central flower design at the front bay window.
- Exterior cladding of textural variety including V-groove horizontal wood siding and fishscale shingles.
- Water table with a coved apron that wraps around the house at the first-floor level.
- Original wood-frame 1/1 double-hung windows with flat-board casings installed individually and in pairs, with ogee-curve brackets extending below a flat-sill apron.
- Horizontal fixed-pane windows are regularly spaced around the house at the basement level.
- Central roof ridge and cross gables on each of the east and west facades and deeply overhanging boxed eaves.
- Tall brick chimney with a flared stepped crown and a pair of flue pipes.

The immediate setting consists of a shallow front yard with a low concrete retaining wall along the sidewalk. A concrete path extends from the front sidewalk to the porch steps and to the paved driveway on the western side of the yard. The front yard is a drought-tolerant landscape, covered with mulch with minimal plantings. Two large sycamore trees are on the verge between the street and sidewalk. Solid-board fencing extends from the house on both the east and west sides to enclose the backyard. High thick rows of cypress trees enclose the property by lining the east and west boundaries of the lot.

The east side of the property has a very narrow setback while the west side of the property is the width of the driveway, which extends to the rear yard. The rear yard extends about sixty-four feet behind the house. A large detached three-car garage, permitted and built in 2008, is on the property to the rear.

History of Property

The house at 909 Schiele Avenue was built for John and Mary Yoell in 1892, designed by local master architect Theodore Lenzen, and built by Frank Delos Wolfe. The house is on Lot 12 of the Schiele Subdivision, a tract developed in 1888 by City Councilmember and real estate developer Charles Schiele. The Schiele Sub-division was part of the suburban wave of development within San José's period of Horticultural Expansion (1870-1918). On December 8, 1925, the neighborhood became part of the City of San José with the College Park, Burbank, and Sunol Annexation. The Yoells and their two sons lived in the house until 1899, when the property was transferred to the San Jose Safe Deposit Bank and the family moved to John Yoell's mother's house on The Alameda.

From 1904 to 1935, the property had many owners and tenants, most living there no more than one or two years. In 1904, the San Jose Safe Deposit Bank sold the property to Wilber J. Thorp, who occupied the house with his wife Mattie and brother Burt. In August 1911, Thorp sold the property to William T. and Catherine Harrity. The Harritys sold the house two months after purchasing it to W.A. Whitmer and Walter P. Brown. Subsequent owners were Anton and Louise Matthiessen and James H. Havens. From then until the early 1920s, the house appears to have been rented. Tenants included Joseph and Mary Casaletto and J. J. Stamp. Purl and Ethel Doyle owned the property around 1922-1927. The house appears to have been a rental property through the early 1930s. In 1935, Gaetano and Jennie Milia sold the property to Ruth Marie Bailey of San José (1901-1995), who owned and lived in the house until her death in 1995 at age 94. In 1996, the house was purchased by Todd Brewer, who lived there until 2023.

Build History and Exterior Alterations:

- **Built 1892:** *San Jose Daily Mercury*, May 5, 1892.
- **Date unknown** (prior to 1988): The front porch stair railing changed to a low-stepped solid wall from an original angled banister with latticework under the steps.
- **ca 1945:** Original barn/garage demolished.
- Exterior work after 1996 was primarily done to repair the building and restore it to its original state. Exterior changes include:
 - **1996:** House raised eight inches for a stem wall, foundation work, rear porch, and stairs rebuilt, northeast rear addition. Rear upper-story windows restored. Two chimneys were added, one to replace the original damaged chimney. Basement remodel including replacement of basement windows.
 - **2008:** Nonoriginal garage demolished and new 1,129-square-foot garage built. Tree removal.
 - **2013:** Addition of solar panels.

ANALYSIS

The applications for City Landmark designation and a Mills Act contract were analyzed with respect to conformance with: 1) the Envision San José 2040 General Plan; and 2) the Historic Preservation Ordinance.

Envision San José 2040 General Plan Conformance

The proposed City Landmark designation and Mills Act contract would promote the following goal and policies of the General Plan with respect to historic preservation:

Historic Preservation Goal LU-13 - Landmarks and Districts: Preserve and enhance historic landmarks and districts in order to promote a greater sense of historic awareness and community identity and contribute toward a sense of place.

Analysis: The proposed City Landmark designation and Mills Act contract for 909 Schiele Avenue would maintain the property's sense of place and preserve the historic integrity of the Queen Anne-style house. The proposal would also promote awareness of the property's historic architecture and associations with San Jose residents from different walks of life who lived in and maintained the house for 131 years. John Hampden Yoell who first purchased Lot 12 of the Schiele Subdivision was a successful lawyer with an office in downtown San Jose. Yoell hired prolific architect Theodore Lenzen to design the house for his new lot as Lenzen had designed most of the homes on Schiele Avenue, and the subject building with its Queen Anne architectural style promotes a greater sense of historic awareness and community identity and contributes towards the historical significance of the Schiele Subdivision/Alameda Park neighborhood.

Historic Preservation Policy LU -13.13: Foster the rehabilitation of buildings, structures, areas, places, and districts of historic significance. Utilize incentives permitting flexibility as to their uses; transfer of development rights; tax relief for designated landmarks and districts; easements; alternative building code provisions for the reuse of historic structures; and financial incentives.

Analysis: A Mills Act contract for 909 Schiele Avenue would implement Historic Preservation Policy LU -13.13 by utilizing a property tax incentive to foster the preservation and rehabilitation of the house which is historically significant for its Queen Anne style Victorian architecture with Stick influences.

Historic Preservation Policy LU -13.13: Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Analysis: The property would be designated a City Landmark and the Mills Act contract would be executed in accordance with Part 2 and Part 4 of the Historic Preservation Ordinance (Municipal Code Chapter 13.48) and any future exterior changes to the house and ancillary construction on the lot would require a Historic Preservation (HP) Permit in accordance with Part 3 of the Historic Preservation Ordinance and conformance with the requirements of the Secretary of the Interior's Standards for the Treatment of Historic Properties, and "Your Old House Guide for Preserving San José Homes." The Mills Act contract would implement state legislation that grants cities and counties the authority to enter into contracts with the owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. These actions would also support the City of San José's obligations under its Certified Local Government Agreement to enforce local legislation for the designation and protection of historic properties.

Historic Preservation Ordinance Conformance for City Landmark Designation

In accordance with the Section 13.48.110(H) of the Historic Preservation Ordinance, the Historic Landmarks Commission should consider, among other relevant factors, the following eight criteria in making the findings that a proposed Landmark has special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature:

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the city of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the city of San José; and
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

The property was documented and evaluated by a qualified historic resources consultant, Krista Van Laan of Archives and Architecture. Based on the documentation and evaluation of the property against the significance criteria for landmark designation, the house at 909 Schiele Avenue is eligible under two of the eight significance criteria - specifically Criterion 6 and 7. The draft resolution to designate the property is included in Attachment 2 of this report.

Criterion 6: Its embodiment of distinguishing characteristics of an architectural type or specimen.

Analysis: The house at 909 Schiele Avenue is a distinctive example of a residential architectural type important to San José in the late 1800s. It is an excellent example of an architect-designed Victorian Queen Anne-style residence with some Stick characteristics including complex roof forms and projecting gables, walls, and bays. The house exhibits character-defining features

such as a highly decorative projecting gable, angled and box bay windows, an ornate front porch with ball-and-dowel spandrels and a pedimented portico, and textural variety including V-groove wood siding and fish scale shingles. It has exceptional details such as the elaborate trim and barge-boards, the flared belly band sheathed in fish scale shingles, and the cantilevered second-story balcony on the western elevation.

Criterion 7: Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José.

Analysis: The house at 909 Schiele Avenue contributes to the historical significance of the Schiele Subdivision/Alameda Park neighborhood as the work of a master San José architect, Theodore Lenzen, who was active in San José from 1862 to 1912. He is believed to have designed between 500 and 600 buildings, many of them important to early San José history, such as the first City Hall. Newspaper articles and books show that Lenzen was considered to be the most prolific architect in San José in the late nineteenth century, and his buildings were often used to promote San José as a progressive city with elegant architecture. There are few remaining houses of Lenzen's work because it largely consisted of civic buildings and oversized mansions. The subject property is an excellent example of Lenzen's more modest residential Victorian architecture.

The house is also associated with Frank Delos Wolfe, who, between 1899 and 1926, was San José's most prolific and arguably most important architect. The house adds to the knowledge of Frank Wolfe's body of work and possible influences by the architects he worked with before establishing his own long-lived career as a master architect.

Historic Preservation Ordinance Conformance for Mills Act Contract

The Mills Act is state legislation that grants cities and counties the authority to enter into contracts with the owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. In the City of San Jose, qualified historic properties are those that have been designated as City Landmark. Property taxes are recalculated using a formula in the Mills Act and Revenue and Taxation Code.

The minimum duration for a Mills Act Contract is ten years. Mills Act contracts renew automatically every year after the initial ten-year period unless the property owner or City opts to end the contract. Mills Act contracts include a schedule of proposed maintenance and improvements that the owner agrees to complete. Such proposed maintenance and improvements are typically spread over a ten-year period. All work is required to comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and "Your Old House Guide for Preserving San José Homes." The purpose of the Mills Act is to provide a long-term incentive for the restoration, rehabilitation, and preservation of historic buildings that obligates current and future owners to the maintenance and care of the property.

Required Findings of Mills Act Contract (Historical Property Contract)

Part 4 of the Historic Preservation Ordinance establishes a procedure for the administration of Mills Act (Historical Property) contracts pursuant to Section 50280 et seq. of the California Government Code, as amended, known as the California Mills Act of 1972.

Section 13.48.540 sets forth the findings the City Council must make to approve a historical property contract. Outlined below are the required findings followed by staff analysis. The draft resolution to approve the Historical Property Contract is included in Attachment 3 of this report.

1. The proposed contract is consistent with the General Plan

Analysis: Preservation and rehabilitation of City Landmarks advance the goals of the Envision San José 2040 General Plan, specifically Historic Preservation Goal 13 and Policies LU-13.13 and LU-13.15. The Mills Act contract, in conjunction with the City Landmark designation, would advance Historic Preservation Goal 13 by preserving the sense of place and historic integrity of the Victorian Queen Anne architectural style house with Stick characteristics and promoting awareness of its historic architecture. The Mills Act contract would require the property owner to commit to a ten-year work plan to invest in the maintenance and rehabilitation of the house. In conjunction with the City Landmark designation, the work would be required to conform with the Historic Preservation Ordinance, the Secretary of the Interior's Standards for the Treatment of Historic Properties, and "Your Old House Guide for Preserving San José Homes." These requirements would support Historic Preservation Policy LU-13.15. The Mills Act contract would implement Historic Preservation Policy LU -13.13 by utilizing a property tax incentive to foster the preservation and rehabilitation of the house which is architecturally significant.

2. The proposed contract would provide greater protection for the landmark property than is otherwise provided by the provisions of Municipal Code Chapter 13.48.

Analysis: The Mills Act contract would provide greater protection for the City Landmark because the Historical Property Contract includes a schedule of maintenance and improvements the owner would be required to complete over a ten-year period. The Mills Act contract would require the following work which is included in Attachment 4 of this report:

Year 1: Restore the original front door and windows. Install bronze plaque to display in front of the house.

Year 2: Repair and restore original wood windows.

Year 3: Restore the original rear door and carry out foundation repairs as necessary

Year 4: Repair/replace composition shingle roofing, repair/replace downspouts, as necessary.

Year 5: Fumigate house for termites

Year 6: Upgrade electrical wiring

Year 7: Upgrade plumbing

Year 8: Repair the second-floor exterior door, and repair concrete at the front porch and back stairs.

Year 9: Repaint the exterior of the house

Year 10: Fumigate house for termites

3. The proposed contract complies with the required provisions of the Historical Property Contracts listed above.

Analysis: The proposed Historical Property Contract includes a description of the landmark property; a minimum contract period of ten years; specific conditions requiring preservation of the landmark property including the required 10-year work plan as outlined above and conformance with the Secretary of the Interior Standards for Rehabilitation, the California State Historical Building Code, and the requirements of the City; provision for the periodic examination of the interior and exterior of the landmark property for least five

years by the City of San José and the County of Santa Clara to determine the owner's compliance with the contract; a requirement that the property owner(s) annually expend an amount equal to a minimum of ten percent of the tax savings attributed to the contract to the preservation and maintenance of the landmark property, and make this documentation available to the City of San José at the time of the periodic examination; a provision that the contract is binding and applies to all successors in interest to the owner(s) who entered into the contract; and a provision requiring recordation of the contract with the Santa Clara County recorder's office within six months of the effective date of the contract.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The project has been determined to be exempt from the provisions of the California Environmental Quality Act per Section 15331 for the preservation of historical resources. The project is limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

PUBLIC HEARING NOTIFICATION

Staff followed the public notification requirements of Section 13.48.110(F) of the Historic Preservation Ordinance. A notice of this hearing appeared in a newspaper of general record at least 10 days prior to the hearing, a mailing of the notice to the property owner and occupants and posting the notification of the hearing along the frontage of the site. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Project Manager: Rina Shah, Planner

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

Attachments:

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| 1. | State Department of Parks and Recreation forms (DPR 523A & B), prepared by Krista Van Laan of Archives and Architecture, July 18, 2023 |
| 2. | Draft Resolution for HL23-001 |
| 3. | Draft Resolution for MA23-001 |
| 4. | 10-Year Preservation Plan for MA23-001 |

Owner/Applicant Address:

Yah Yah Cason and Wendy Needham 909 Schiele Avenue San Jose, CA 95126

HL23-001 & MA23-001

Links to the Attachment 1 - 4

Click on the title to view document

<u>Attachment 1: 1.State Department of Parks and Recreation forms (DPR 523A & B), prepared by Krista Van Laan of Archives and Architecture, July 18, 2023</u>
<u>Attachment 2: Draft Resolution for HL23-001</u>
<u>Attachment 3: Draft Resolution for MA23-001</u>
<u>Attachment 4: 10-Year Preservation Plan for MA23-001</u>