



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: December 19, 2019

COUNCIL DISTRICT: 1

SUBJECT: FILE NO. GP18-014, GPT19-004, PDC18-037, PD19-019, & PT19-023. GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION FROM RESIDENTIAL NEIGHBORHOOD TO URBAN RESIDENTIAL; A GENERAL PLAN TEXT AMENDMENT TO AMEND THE SANTANA ROW/VALLEY FAIR URBAN VILLAGE PLAN; A PLANNED DEVELOPMENT ZONING FROM THE A(PD) ZONING DISTRICT TO THE RM(PD) PLANNED DEVELOPMENT ZONING DISTRICT; A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONVERSION OF A MOBILEHOME PARK TO ANOTHER USE, THE DEMOLITION OF 111 MOBILEHOMES, RECREATION BUILDING (APPROXIMATELY 3,600 SQUARE FEET) A POOL (APPROXIMATELY 820 SQUARE FEET), 36 SHEDS (RANGING FROM 120 SQUARE FEET TO 400 SQUARE FEET), THE REMOVAL OF 144 ORDINANCE SIZE TREES, AND THE CONSTRUCTION OF 687 RESIDENTIAL UNITS (24 ROW HOME BUILDINGS, 6 FLAT BUILDINGS, AND ONE APARTMENT PODIUM BUILDING); AND A VESTING TENTATIVE MAP TO SUBDIVIDE ONE LOT TO UP TO 64 LOTS AND ALLOW UP TO 320 RESIDENTIAL CONDOMINIUMS ON AN APPROXIMATELY 15.7-GROSS ACRE SITE, LOCATED AT THE SOUTHWEST CORNER OF PRUNE WAY AND MAPLEWOOD AVENUE, APN: 303-38-001.

RECOMMENDATION

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

1. Adopt a resolution certifying the Winchester Ranch Residential Project Environmental Impact Report and make certain findings concerning significant impacts, mitigation measures and alternatives, and adopting a statement of overriding considerations and a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act (CEQA), as amended.

2. Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Residential Neighborhood to Urban Residential for 555 South Winchester Boulevard on an approximately 15.7-gross acre site.
3. Adopt a resolution amending the Santana Row/Valley Fair Urban Village Plan to remove references to Winchester Mobile Home Park, update the Building Height Diagram to increase the allowable height to 55 feet and 85 feet to accommodate the proposed project, update the transition areas to reflect step downs for adjacent residential properties, include public park land use figures, and include public paseo and circulation updates.
4. Approve an ordinance rezoning an approximately 15.7-gross acre site generally bounded by Prune Way to the north; Highway 280 to the south; South Winchester to the east and single-family homes along Papac Way to the west, from the A(PD) Planned Development Zoning District to the R-M(PD) Planned Development Zoning District to allow up to 687 multi-family residential units.
5. Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the conversion of a mobilehome park to multi-family residential use, the demolition of 111 mobilehomes, recreation building (approximately 3,600 square feet), a pool (approximately 820 square feet), 36 sheds (ranging from 120 square feet to 400 square feet), the removal of 144 ordinance size trees, the construction of an approximately 2-acre neighborhood park and 687 residential units (24 row home buildings, 6 flat buildings, and one apartment podium building) on an approximately 15.7-gross acre site.
6. Adopt a resolution approving, subject to conditions, the Vesting Tentative Map to subdivide one parcel to up to 64 parcels and allow up to 320 residential condominiums on an approximately 15.7-gross acre site.

OUTCOME

Should the City Council adopt the resolution adopting the Environmental Impact Report and approve the General Plan Diagram and Text Amendments, Planned Development Rezoning, Planned Development Permit, and Vesting Tentative Map, the applicant will be allowed to demolish and convert an existing mobilehome park into a multifamily residential development with for-sale and for-rent units and file for subsequent Public Works clearances and Building Permits.

Should the City Council decide not to adopt the resolution adopting the Environmental Impact report and deny the General Plan Diagram and Text Amendments, Planned Development Rezoning, Planned Development Permit, and Vesting Tentative Map, the applicant will not be able to move forward in filing for subsequent Public Works clearances and Building Permits, resulting in the existing mobilehome park not being converted and the project not being constructed.

EXECUTIVE SUMMARY

On December 4, 2019, the Planning Commission voted 6-0-1 (Commissioner Bonilla absent) to recommend that the City Council:

- 1) Adopt a resolution adopting the Winchester Ranch Residential Project Environmental Impact Report (EIR) and making certain findings concerning significant impacts, mitigation and measures and alternatives, and adopting a statement of overriding considerations and a mitigation monitoring and reporting program, all in accordance with CEQA;
- 2) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Residential Neighborhood to Urban Residential;
- 3) Adopt a resolution amending the Santana Row/Valley Fair Urban Village Plan to remove references to the Winchester Mobile Home Park, update the Building Height Diagram (Figure 5-2) to increase the allowable height to 55 feet and 85 feet to accommodate the proposed project, update the transition areas to reflect step downs for adjacent residential properties, include public park land use figures, and include public paseo and circulation updates;
- 4) Approve an ordinance rezoning an approximately 15.7-gross acre site generally bounded by Prune Way to the north; Highway 280 to the south; South Winchester to the east and single-family homes along Papac Way to the west, from the A(PD) Planned Development Zoning District to the R-M(PD) Planned Development Zoning District to allow up to 687 multifamily residential units; adopt a Resolution approving, subject to conditions, a Planned Development Permit to allow the conversion of a mobilehome park to multifamily residential use, the demolition of 111 mobilehomes, a recreation building (approximately 3,600 square feet), a pool (approximately 820 square feet), and 36 sheds (ranging from 120 square feet to 400 square feet), the removal of 144 ordinance size trees, the construction of an approximately two-acre neighborhood park and 687 residential units (24 row home buildings, six flat buildings, and one apartment podium building); and
- 5) Adopt a resolution approving, subject to conditions, the Vesting Tentative Map to subdivide one parcel to up to 64 parcels and allow up to 320 residential condominiums on an approximately 15.7-gross acre site.

BACKGROUND

On December 4, 2019, the Planning Commission held a Public Hearing to consider the adequacy of the Environmental Impact Report (EIR), the General Plan Diagram and Text Amendments, the Planned Development Rezoning, Planned Development Permit, and the Vesting Tentative Map.

Staff Presentation

Staff provided an overview of the proposed project and its conformance to the General Plan designation, the Santana Row/Valley Fair Urban Village, and the San José Municipal Code, including Chapter 20.180 Mobilehome Park Conversions to Resident Ownership or to Any Other Use. Staff provided highlights of project details, replacement housing available to each mobilehome resident, community outreach, public comments, and the environmental impact report, and provided responses to one email from the Commission and 55 public comment letters.

Applicant Presentation

The applicant gave a brief presentation about the project, their coordination with the mobilehome residents and the surrounding neighborhood, and details of replacement housing available. The applicant also discussed the phasing of construction and the logistics of on-site relocation, the apartment podium building related to sensitivity to the Winchester Mystery House, and the public neighborhood park.

Public Hearing

Chair Ballard opened up the public comment portion of the agenda.

Mary Jo Pokviots, a resident and board member of the homeowners' association, stated that the flat units are a direct result of negotiation with the applicant where the residents would be able to live onsite for the rest of their lives. She indicated that each resident who attended the meeting on the agreement voted for approval.

Brian Darby, a mobilehome resident, stated that living in this area would not be possible without the agreement in place and that the project would honor many individuals, and this project is a good example for future developments.

Alex Shoor, Executive Director of Catalyze SV, discussed the Catalyze SV workshop held in September 2019 to engage the community further on this development. He stated that there were approximately 55 community members in attendance of this meeting and expressed that the results of this meeting are just as important as other community outreach efforts and that the Commission should consider them.

Rose McDonald, a mobilehome resident, requested clarifications to the applicability of replacement housing for residents and appraisals, including additional improvements.

Sue Norris, a homeowner on Rosewood Avenue, discussed a lack of parking and a concern for parking spillover on nearby neighborhood streets. She requested that the existing fences remain in place at the dead-end streets and for the nearby Sequoia trees to remain.

Mike Sodergren, the Vice President of the Preservation Action Council of San José (PACSJ), provided a letter to the Commission regarding the project and shared concern on the amount of the parking with accommodation of two car garages for many units behind national landmarks. He expressed appreciation that the height of the apartment podium building was reduced.

Carlin Black referred to General Plan goals, associated Urban Village efforts, and the effects of this growth on the surrounding areas off Stevens Creek Boulevard. He further noted that the project should contribute to “the capping of Interstate I-280” which is an amenity described in the Santana Row/Valley Fair Urban Village Plan Implementation Chapter. He shared that the amenity would provide more land to build housing, jobs, and public amenities and noted that the height of adjacent development and the potential for taller buildings on the project site to allow for additional housing units.

Nadia Aziz, the Association’s representative from the Law Foundation of Silicon Valley, highlighted three aspects of the project: equity, rent protection, and the ability for residents to remain on-site for as long as they choose. She expressed recognition for the hard work the residents accomplished over the last six years and encouraged approval of the project.

Kirk Vartan requested the project be denied based on the intent of the Santana Row/Valley Fair Urban Village, due to no inclusion of commercial and no affordable housing onsite. He expressed gratitude that the residents have a legal contract for project but shared that the development should be exceptional and demanded better for the community.

Chris Giangreco, a member of the Winchester Orchard Neighborhood Association, expressed gratitude that their neighbors would be retained onsite and that the dead-end streets would remain closed. He expressed that all objections about the project are from outside of the neighborhood and that all his neighbors are in full support of the project.

The applicant responded to the comments from the speakers by reiterating that the residents of the mobilehome park and the Winchester Orchard Neighborhood Association around the development support this project. He confirmed the dead-end streets will remain closed to vehicular access, but would open for pedestrians and emergency access vehicles. The applicant clarified that legitimate residents of the park are eligible for housing assistance, that the rents would remain the same as their current rents with no more than three percent increases annually, and that rents are subject to the mobilehome ordinance rent controls. He stated the project does not involve a parking reduction and the development is providing more parking than required and that the project includes the preservation of the Sequoia trees mentioned. In response to PACSJ’s letter, the applicant noted that the comments were made on the previous design and that the new design presented to the Commission reflects the updated design with less height and bulk adjacent to the Winchester Mystery House.

Planning Commission Discussion and Staff Response

The Commission asked clarifying questions to the applicant regarding the pedestrian and bicycle connections related to larger Department of Transportation circulation plans, if the flats occupied

by the mobilehome residents remain affordable housing after the residents leave the flat units, barriers to on-site affordable units, phasing of construction, safety access, and public transit goals. Additional clarifications requested from the Commission included the number of residents wanting to stay on site, density and height compared to adjacent development, the ability to provide additional housing, and the minimum density allowed. The applicant responded to the pedestrian and bicycle connections by noting the greenway and maintaining the existing character of the neighborhood streets. Staff supplemented this comment by discussing nearby bicycle connections and future improvements related to the Urban Village and Complete Streets process. The applicant also noted that 60 residents have elected to stay onsite, and that after a resident leaves a unit, the unit would become market rate. He also indicated that in addition to the onsite replacement housing, the project would utilize the in-lieu fee option under the Inclusionary Housing Ordinance by providing over \$21 million to induce affordable housing in other projects. Barriers to providing affordable housing on site include providing on-site replacement housing and phasing of the project with interim housing for the residents, which would delay the development of the project's market-rate units. The applicant clarified that there are two entrances to the site as opposed to one. In terms of public transit goals, City Staff discussed coordination with VTA and complete street improvements with new developments. Lastly, Staff clarified that the Santana West development, which is adjacent to the proposed project and the Winchester Mystery House, has the potential to be from 120 to 150 feet in height but would require an amendment to the Master Planned Development Permit. The applicant responded to the comment about providing more housing density, explaining that maintaining sensitivity to the Winchester Mystery House and placing additional housing within the rear of the site is limited by the necessary project construction phasing (to avoid displacement of the mobilehome park residents) and economic feasibility. Staff provided further comments on the minimum density allowed in the Urban Residential designation to be between 30 and 90 dwelling units per acre.

Letter from Preservation Action Council of San José (PACSJ)

A letter from PACSJ, dated December 4, 2019, was provided to the Commission. The letter reiterated the analysis in the Draft EIR related to impacts to the Winchester Mystery House and requests that the Planning Commission recommend a redesign of the podium apartment building that relocates the building to the west as discussed in the Relocation of Podium Building – West Preservation Alternative. The letter also requests that the City work with the developer to define a plan ensuring the protection of the Winchester Mystery House from physical damage and operational viability, and for the coordination and synchronization of development efforts between Santana West and the Winchester Ranch Pulte Homes projects with regards to traffic and unintended damage to the Winchester Mystery House gardens and landscaping.

Staff responded to the letter from PACSJ by stating that the Draft EIR contains mitigation measures for the protection of the Winchester Mystery House during construction. Staff also discussed the redesign of the podium apartment building to be consistent with the Reduced Height of Podium Building Preservation Alternative in the Draft EIR, which was determined sufficient to reduce impacts to the setting of the Winchester Mystery House to a less than

significant level.

Letter from City of Santa Clara and Thomas Law Group

The City of Santa Clara and the Thomas Law Group, representing the City of Santa Clara, submitted two letters on December 4, 2019 prior to the Planning Commission hearing (attached). These letters reiterated comments from the City of Santa Clara's October 15, 2019 letter on the Draft EIR related to coordination with the City of Santa Clara during preparation of the Local Transportation Analysis and consistency with the Santana West Settlement Agreement. The letter also claims that the City's response to a request for an analysis of impacts on residential neighborhoods in Santa Clara is inadequate; however, the letter does not provide examples beyond previous comments on coordination and the Santana West Settlement Agreement.

Commissioner Yesney asked for further clarification and applicability on the letters from Santa Clara. Staff and the City Attorney confirmed that the Santana West Settlement Agreement referenced in the letters were made prior to the adoption of City Council Policy 5-1, which uses Vehicle Miles Traveled instead of Level of Service (City Council Policy 5-3) for determining a project's traffic environmental impact under CEQA, consistent with state law (SB 743) and the updated 2019 CEQA Guidelines Section 15064.3. Furthermore, the December 4, 2019 letters reference issues raised in the City of Santa Clara's October 15, 2019 comment letter, which the City responded on pages 14 to 18 in the First Amendment to the Draft EIR, posted at <https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/winchester-ranch-residential-project>.

Regarding comment #4 of the December 4, 2019 Planning Commission hearing, staff shared that the condition provides flexibility for the traffic improvements which will be coordinated with the City of Santa Clara prior to implementation. Additionally, the proposed improvements identified are located within the City of San Jose limits.

Motion and Closing Comments

Commissioner Oliverio made a motion (Commissioner Griswold seconded) to recommend approval of the project to the City Council and commended staff on community outreach efforts. Commissioner Oliverio further noted that the residents and surrounding neighborhood do not oppose the project. Commissioner Griswold's closing statements included noting that it was unusual for residents displaced to support the development. She indicated support of the level of outreach involved with this project and supported the efforts made to the design based on issues raised. Commissioner Griswold further noted that the applicant is doing more than their fair share for helping with the housing crisis by providing rental rates at 30% Area Media Income (AMI) and below. Commissioner Ballard provided closing comments as well by giving credit to everyone involved, including the Law Foundation of Silicon Valley, the willingness of the applicant to work with the residents, and the residents. The motion passed 6-0-1 (Commissioner Bonilla absent).

Staff Report Clarifications

After the December 4, 2019 Planning Commission hearing, the applicant informed staff on December 9, 2019, that there are two clarifications regarding height and common open space. These clarifications are the result of the recent change identified within the EIR, as described in more detail below within the CEQA section. The apartment podium building had a height of approximately 82 feet and is now approximately 78 feet. Additionally, the common open space provided within the apartment podium building was 49,082 square feet and was changed to 29,052 square feet.

ANALYSIS

Analysis of the proposed CEQA clearance, General Plan Amendment, General Plan Text Amendment, the Planned Development Rezoning, Planned Development Permit, and the Vesting Tentative Map, including conformance with the General Plan, and City Council policies are contained in the attached staff report.

EVALUATION AND FOLLOW-UP

Should the City Council adopt the resolution adopting the Environmental Impact Report and approve the General Plan Diagram and Text Amendments, Planned Development Rezoning, Planned Development Permit, and Vesting Tentative Map, the applicant will be allowed to demolish and convert an existing mobilehome park into a multifamily residential development with for-sale and for-rent units and file for subsequent Public Works clearances and Building Permits.

Should the City Council decide not to adopt the resolution adopting the Environmental Impact report and deny the General Plan Diagram and Text Amendments, Planned Development Rezoning, Planned Development Permit, and Vesting Tentative Map, the applicant will not be able to move forward in filing for subsequent Public Works clearances and Building Permits, resulting in the existing mobilehome park not being converted and the project not being constructed.

CLIMATE SMART SAN JOSÉ

The recommendation in this memorandum aligns with one or more Climate Smart San José energy and water goals. The project would increase the density of the site and connects pedestrian and bicycle connections by providing a public paseo adjacent to a public neighborhood park across the entire northern perimeter of the site, thereby connecting and providing non-vehicle direct access from existing neighborhoods to the Santana Row and Valley Fair Urban Village.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. 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 staff report is also posted on the City's website. Two community meetings were held to discuss the project on March 21, 2019 and August 26, 2019. Comments received during the community meeting and project review are further discussed in the attached Planning Commission Staff Report. Both community meetings were coordinated with Council District Office 1 and Council District staff attended both community meetings.

Staff contact information have also been available on the community meeting notices and on the project webpage. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

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

CEQA

The City of San José, as the lead agency for the proposed project, prepared a Draft Environmental Impact Report (DEIR), which was circulated for public review and comment from August 30, 2019 to October 15, 2019. A First Amendment to the DEIR was prepared that provided responses to public comments submitted during the public circulation period and revisions to the text of the DEIR. The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project. The following discussion outlines the environmental impacts discussed in the DEIR.

Identified Significant Unavoidable Impacts – Impacts to the Winchester House Setting and Construction Noise

The DEIR found that the project would result in significant and unavoidable impacts due to changes in the historic setting of the adjacent Winchester House and construction noise impacts on adjacent residences.

The project evaluated in the DEIR includes an apartment building with five levels of residences over two stories of podium parking at the eastern portion of the project site, immediately south of the Winchester House and grounds. This apartment building includes six "fingers" above the podium parking that reach within 15.5 feet of the northern property line adjoining the shared property line with the Winchester House. A Historic Resources Project Assessment (Appendix D) found that although the project would not have a direct physical impact on the Winchester

House, the design of the project would have a significant impact on the setting of the Winchester House for the following reasons:

1. Setting: The project does not provide a compatible setting to the Winchester House and grounds, as the proximity, massing, and dimensions of the project, coupled with the lack of open space and landscaping, would diminish the sense of space that currently exists on the Winchester House grounds. The project is at least twice as tall as the Winchester House and will block views of the mountains from the Winchester House grounds.
2. Design: The scale of the project may overwhelm the Winchester House by overshadowing it, and no landscaped open space buffer is proposed to make the building compatible with the design and setting of historic resource.
3. Feeling: The feeling of surrounding open space on the Winchester House grounds, which gives the feeling of the historic resource being part of a larger property, would be lost with development of the project.
4. Association: The project would significantly impact the integrity of association of the Winchester House with the agricultural past of its surroundings due to the reduction in open space and landscaping.

In addition, the DEIR identified a significant impact as the project would conflict with General Plan Policy LU-13.8, which requires new development adjacent to a designated landmark to be designed to be sensitive to the character of the landmark. The project would conflict with this policy because the project would shade portions of the Winchester House and outbuildings (including a greenhouse) during the winter months.

No feasible mitigation would reduce these impacts to a less than significant level absent a redesign of the project. The applicant proposes to retain seven trees adjacent to the Winchester House property and along the project's frontage with Winchester Boulevard; however, this is not sufficient to reduce the impact of the project on the setting of the Winchester House. The DEIR evaluated six alternatives to the project, including three preservation alternatives that would reduce identified impacts to the Winchester House setting. These alternatives would either relocate the podium apartment building approximately 380 feet to the west, relocate the podium building approximately ten feet to the south (closer to the I-280 on-ramp), or reduce the height of the three easternmost "fingers" of the podium building to four stories.

The DEIR also identified a significant and unavoidable impact as major noise-generating construction activities consisting of demolition, site preparation, grading, and excavation will exceed 12 months in close proximity to adjacent residents. Because the project will be constructed in two phases, the length of residents' exposure to construction noise will be approximately three and half years.

A Statement of Overriding Considerations will need to be adopted by City Council for this project for these identified significant and unavoidable impacts. The draft CEQA resolution includes a Statement of Overriding Considerations and sets forth how the benefits of the project outweigh its significant adverse environmental impact. Specifically, it finds that the significant, unavoidable impacts of the project are acceptable because: 1) the project will be phased to allow existing mobilehome park residents to remain on site during and after project construction; 2) the

project will provide an approximately two-acre neighborhood-serving park in a neighborhood with limited parks; 3) the project will support General Plan Major Strategies #3 to promote focused growth in City-designated growth areas such as the Santana Row/Valley Fair Urban Village; 4) the project will support General Plan policies to focus high-density residential development in locations in proximity to high-frequency transit, such as the existing bus service and the proposed Bus Rapid Transit (BRT) service along Stevens Creek Boulevard; and 5) the project will advance Envision San Jose 2040 General Plan goals for complete communities, with high-density residential in close proximity to existing and future commercial/retail uses.

Environmental Impacts and Mitigation Measures

As part of the certification of the Final EIR, the City Council would need to approve a related Mitigation Monitoring and Reporting Program (MMRP) for the proposed project. A copy of the signed MMRP is attached to the proposed CEQA resolution. The following mitigation measures apply to the proposed project as further explained in the DEIR and MMRP:

Air Quality – The applicant must prepare a construction operations plan demonstrating that all diesel-powered off-road equipment operating on site for more than two days will meet U.S. Environmental Protection Agency (EPA) Tier 4 standards or equivalent. Implementation of these measures would reduce the temporary community health impact to a less than significant level.

Noise – Limitation on types and use of construction equipment and preparation of a construction vibration monitoring plan would reduce vibration-related construction impacts to adjacent structures (including the Winchester House and outbuildings) to a less than significant level. A construction noise logistics plan will be required to address construction noise impacts to neighboring residents. However, due to the length of major noise-generating construction activities, this impact is significant and unavoidable.

Biological Resources – If construction activities start during the migratory bird breeding season (February through August, inclusive), pre-construction surveys for nesting raptors or other migratory birds are required to reduce the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment impacts to less than significant levels. Tree protection measures are required to protect the eleven ordinance-sized trees from damage or removal during construction, including the cork oak along the project's Winchester Boulevard frontage.

Hazardous Materials – Due to the potential for residual agricultural chemicals, a Site Management Plan and worker Health and Safety Plan must be approved by the appropriate regulatory agency prior to the issuance of grading permits.

CEQA Alternatives

As required under CEQA, the DEIR evaluated two No-Project alternatives and two Reduced Development alternatives. These alternatives are summarized as follows:

No Project – No Development Alternative: The No Project – No Development Alternative assumes no redevelopment of the project site and would result in the retention of the existing mobilehome park.

No Project – Existing Residential Neighborhood Land Use Designation Alternative: The No Project – Existing Residential Neighborhood Land Use Designation Alternative assumes a project is built consistent with the site’s Residential Neighborhood General Plan Land Use/Transportation Diagram designation. Assuming an overall maximum density of eight dwelling units per acre, such a development would result in approximately 126 units (a net increase of 15 units over the existing mobilehome park).

Single Phase Construction Alternative: The Single-Phase Construction Alternative would not change the project design but would construct the entire project in one phase instead of two phases to reduce the length of time residents are exposed to construction noise. This alternative would reduce total construction time by approximately half of the three and half years anticipated for the current project.

The DEIR evaluated three preservation alternatives to reduce impacts to the Winchester House, as follows:

Relocation of Podium Building to the West: This preservation alternative would relocate the seven-story podium apartment building approximately 380 feet west of the proposed location and locate four of the four-story “flat” buildings to the eastern portion of the site to the south of the Winchester House. Such an alternative would place reduced height buildings adjacent to the Winchester House grounds and would provide a landscaped buffer between the buildings and the northern property line to reduce impacts to the setting of the Winchester House.

Relocation of Podium Building to the South: This preservation alternative would shift the seven-story podium apartment building approximately ten feet south from its proposed location, which would increase the distance between the Winchester House and podium building to approximately 25 feet. This would increase distance between the building and Winchester House grounds, reducing some of the identified impacts.

Reduced Height of Podium Building: This preservation alternative would reduce the height of the three easternmost “fingers” of the podium apartment building to four stories. This alternative would reduce the massing of the building at the locations adjacent to the Winchester House, which would reduce impacts to the setting of the Winchester House to a less than significant level.

The environmentally superior alternative is the No Project – Existing Residential Neighborhood Land Use Designation Alternative. This alternative would have a shorter construction timeframe and would not result in cancer risk and annual PM2.5 in excess of BAAQMD thresholds during construction. In addition, impacts to biological resources, hazardous materials, and cosmetic damage to the Winchester House and to the adjacent residences would be the same or less than the proposed project assuming demolition of the existing structures and removal of all trees on-

site would still occur. Finally, as development under this alternative would occur at a lower density, any new buildings would likely be no more than two stories, avoiding the significant and unavoidable impacts to the setting of the Winchester House. However, this alternative would not meet any of the Project objectives as it would result in a low-density residential development of a similar density to the existing mobilehome park.

Circulation and Public Comments

The DEIR was circulated for a 45-day period from August 30, 2019 to October 15, 2019. The City received 18 written comment letters during the public comment period. Comments were submitted by 12 individuals and the following agencies and organizations: San Jose Historic Landmarks Commission, California Department of Transportation (Caltrans), California Department of Toxic Substances Control (DTSC), Santa Clara Valley Transportation Authority, City of Santa Clara, and the Stevens Creek Advisory Group/Winchester Neighborhood Action Coalition. Issues raised in these comment letters include, but are not limited to the following:

1. Impacts to the Winchester House setting due to size and massing of development and removal of trees;
2. Adequacy of soil testing in the Phase I, II, and updated Phase II Environmental Site Assessment;
3. Traffic congestion on Winchester Boulevard and Stevens Creek Boulevard;
4. Affordable housing;
5. Size and use of the proposed park;
6. Vehicle access to and from the site onto Winchester Boulevard;
7. Pedestrian and bicyclist safety;
8. Overflow parking in adjacent residential neighborhoods;
9. Height and massing of the proposed development;
10. Construction noise and air quality impacts to adjacent residents;
11. Coordination of Traffic Study with City of Santa Clara;
12. Emergency access to the site, especially during peak hours:

Revised Project Design Consistent with the Reduced Height of Podium Building Alternative

In response to comments on impacts to the setting of the Winchester House, the applicant elected to revise the project design consistent with the Reduced Height of Podium Building preservation alternative. Specifically, the revised design would remove two of the three seven-story “fingers” adjacent to the Winchester House grounds, reduce the height of one finger from seven to four-stories, extend the seven-story portion of the podium building towards Winchester Boulevard, and increase the massing of the building on the western portion of the building to the south of the Santana West site. This design reduces the bulk and massing of the podium building at locations adjacent to the Winchester House grounds. The podium building will still be seven stories along the southern portion of the site facing I-280, but the distance between the seven-story portion of the building and the Winchester House grounds would increase by approximately 40 to 70 feet. As evaluated in the Reduced Height of Podium Building preservation alternative, the increase in distance between the tallest portions of the podium building and the Winchester House grounds would reduce the identified impacts to the setting of the Winchester House to a less than significant level. Consistent with the revised project plans dated November 18, 2019, staff

recommends City Council adopt the Reduced Height of Podium Building preservation alternative to reduce impacts to the Winchester Mystery House setting to a less than significant level.

The City responded to all comments received on the DEIR and incorporated them into the First Amendment to the DEIR. The First Amendment, taken together with the Draft SEIR, constitutes the Final EIR. The DEIR and First Amendment to the DEIR are available for review on the project page on the City's Active EIRs website at: <http://sanjoseca.gov/activeeirs>.

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the DEIR or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an DEIR is not "significant" unless the DEIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

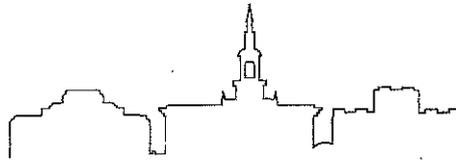
In accordance with CEQA Guidelines Section 15088, the First Amendment to the DEIR for the project includes written responses to all comments received during the public review period for the DEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the DEIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the DEIR and, in some cases, correct or update information in the DEIR. No significant new information has been added to the EIR since publication of the DEIR; therefore, the EIR does not need to be recirculated.

/s/

ROSALYNN HUGHEY, SECRETARY
Planning Commission

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

Attachments: Planning Commission Staff Report and associated attachments
Letter from the Preservation Action Council of San Jose, dated December 4, 2019
Letter from City of Santa Clara, December 4, 2019
Letter from Thomas Law Group, representing the City of Santa Clara, dated December 4, 2019



PRESERVATION ACTION COUNCIL OF SAN JOSE

Dedicated to Preserving San Jose's Architectural Heritage

December 4, 2019

Planning Commissioners

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City of San Jose

200 E Santa Clara Street

San Jose CA 95113

Regular and General Plan Hearing Item 8a – GP18-014, GPT19-004, PDC18-037, PD19-019, PT19-023

Dear Planning Commissioners and Director,

The Preservation Action Council of San Jose (PAC**SJ*) has reviewed documents pertinent to this project in specific, and in the context of its contribution to the cumulative impact to San Jose's historical buildings and the stories associated with our dwindling inventory of historical places. Based on this review, we strongly recommend that the Planning Commission ask the developer to redesign the portion of the project immediately next to/adjacent to the Landmark Winchester Mystery House.

Per the EIR, the project will "result in significant..... impact due to changes in the historic setting of the adjacent Winchester House..." In quoting the EIR, we have left out the word's "unavoidable impacts" as we believe the developer, by relocating the podium apartment building 380 feet to the west, and moving low profile elements of the project in the core of the project to the Eastern end of the project, these negative "impacts" are in fact "avoidable."

Specifically, the EIR states that the project includes an apartment building with five levels of residences over two stories of podium parking at the eastern portion of the project site, immediately south of the Winchester House and grounds. This apartment building includes six "finger" above the podium parking that reach with 15.5 feet of the norther property line adjoining the shared property line with the Winchester House. The Historic Resource Project Assessment (Appendix D) found that the project would have a significant impact f the setting of the Winchester House due for a number of reasons it details:

- 1) The project does not provide a compatible setting to the Winchester House and grounds as the proximity, massing, and dimensions of the project, coupled with the lack of open space and landscaping, would diminish the sense of space that currently exists on the Winchester House grounds. The project is at least twice as tall and the Winchester House and will block views of the Mountains from the Winchester House grounds.
- 2) The scale of the project may overwhelm the Winchester House by overshadowing it, and no landscape buffer is proposed to make the building compatible with the design and setting of this historic resource.
- 3) The feeling of surro8nding open space on the Winchester House grounds, which gives the feeling of the historic resource being part of a larger property, would be lost with development of the project.

- 4) The project would significantly impact the integrity of association of the Winchester House with the agricultural past of its surroundings due to the reduction in open space and landscaping.

The DEIR also identified a significant impact as the project would conflict with General Plan Policy LU-13.8, which requires new development adjacent to a designated landmark to be designate to be sensitive to the character of the landmark. It also notes that the project would shade portions of the Winchester House and outbuilding (including a greenhouse) during winter months.

Finally, PAC*SJ respectfully requests that the Planning Commission work with the developer on the following two items:

Define a plan that ensures the protection of the Winchester Mystery House from physical damage and operational viability. We believe that this National, State and City landmark should be treated as a treasure and must be protected not only from encroaching development, and with the intent of guaranteeing operational and financial viability for all generations to come. We agree with staff that parking also needs to be provided to ensure reasonable public access to this historical landmark.

Coordinate and synchronize development efforts between the Santana West and Winchester Ranch Pulte Homes projects. We are concerned that given the increase load of traffic associated the cumulative traffic that is expected from the combination of Santana West and Winchester Ranch projects not overwhelm the ability of Olsen drive on site and to and from traffic relative to Winchester Blvd. We are concerned that additional use by Winchester Ranch residents wanting to avoid likely congestion on Olsen Drive on Charles Cali Drive will result in unintended damage to the Winchester Mystery Houses garden area which includes trees and other plants that are attributed to plantings by Sarah Winchester. We are concerned that heavy traffic around this historic resource will damage the viability of the Winchester Mystery House's current prominence and business viability.

In addition to the above items, we are keenly interested that these projects comply with the letter and spirit of the City's Historical Design Guidelines relative to massing, street walls, and respect for historical structures.

Thank you for the opportunity to comment on this project

Sincerely,

J. Michael Sodergren
Vice President of the Board



December 4, 2019

City of San Jose, Department of Planning, Building, and Code Enforcement
Attn: David Keyon, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San Jose CA 95113-1905

Via UPSP and email: david.keyon@sanjoseca.gov

Re: Winchester Ranch Residential Project First Amendment to the Draft EIR and General Plan Amendment, General Plan Text Amendment Planned Development Zoning, Planned Development Permit, and Tentative Map (Project File Nos. GP18-014, GPT19-004, PDC18-037, PD19-019, and PT19-023)

Dear Mr. Keyon:

Thank you for including the City of Santa Clara (Santa Clara) in the environmental review process for the Winchester Ranch Residential Project (Project) and for informing Santa Clara that the Draft Environmental Impact Report (DEIR), First Amendment to the EIR, and the corresponding General Plan Amendments, Planned Development Zoning, Planned Development Permit, and Tentative Map are scheduled for consideration at the December 4, 2019 City of San Jose (San Jose) Planning Commission Hearing.

Santa Clara has reviewed these documents and concerns remain regarding the Project's conformance to the Santana West Settlement Agreement (Settlement Agreement). As you know, the Settlement Agreement, which was approved by both San Jose and Santa Clara in January 2018, includes provisions that: (1) "San Jose agrees to collect transportation impact funds pursuant to all applicable programs for development in the Stevens Creek Corridor" (Settlement Agreement, ¶ 6), and that (2) "San Jose agrees to collect fees pursuant to its Protected Intersection Policy for intersections that will also impact traffic in the City of Santa Clara." (Settlement Agreement, ¶ 7.). Upon review of the latest information on the Project, Santa Clara finds no direct evidence of San Jose's commitment to these Settlement Agreement provisions in relation to the Project. Additionally, several of the written comments that Santa Clara provided (via letter on October 15, 2019) during the public comment period for the DEIR for the Project remain unanswered. Santa Clara requests that any Planning Commission or City Council discussion of the Project be postponed until this matter can be resolved.

Below is more specific information regarding Santa Clara's concerns regarding the Project:

1. **Coordination of Project Traffic Study Work Scope with Santa Clara:** This request was made by Santa Clara during the Notice of Preparation (NOP) for the Project. Additionally, in Santa Clara's October 15, 2019 letter regarding the DEIR for the Project, Santa Clara commented that this request was not responded to or completed by San Jose. Santa Clara stated that, although a meeting was held with San Jose on August 16, 2019 to discuss potential transportation improvements within the vicinity of the Project, this meeting was after San Jose had determined that there may be adverse transportation effects at the intersection of Winchester Boulevard and Stevens Creek Boulevard. Simply stated, the scope of work for the Traffic Study was completed prior to meeting with Santa Clara and the October 15, 2019 comment was a reasonable attempt by Santa Clara to coordinate. Additionally, no decision by Santa Clara has been made relative to any improvements proposed within Santa Clara's jurisdiction at the intersection of Winchester Boulevard and Stevens Creek Boulevard.

The First Amendment responds to Santa Clara's October 15, 2019 comment regarding coordination by stating that "*The City does not formally respond to comments during the scoping process to gather input for the traffic scope of work to provide to the environmental traffic consultant.*" While this may be the standard response for San Jose, this response does not take into consideration the need for close coordination due to the Settlement Agreement. Additionally, this response is inconsistent with San Jose's published 2018 Transportation Analysis Handbook, which states on page 39 that study intersections "outside the City limits with the potential to be effected by the project" should be included "per the transportation standards of the corresponding external jurisdiction". Without early and thorough coordination between San Jose and Santa Clara prior to completion of the traffic study scope of work and traffic study, Santa Clara cannot confirm that the traffic study meets the standards of Santa Clara.

2. **Local Transportation Analysis (LTA) to include an analysis of the Project's impacts on residential neighborhoods within Santa Clara:** As stated in Santa Clara's October 15, 2019 letter, the Draft EIR did not include any mention of the Project's potential for transportation impacts on residential neighborhoods within Santa Clara. Additionally, Santa Clara requested an explanation as to how the Project's traffic study intersections were chosen by San Jose. The First Amendment provides a response to this comment that is inadequate and as stated above, the lack of proper coordination with Santa Clara on the traffic work scope and traffic study does not provide Santa Clara with assurances that the traffic study was scoped based on Santa Clara standards or is compliant with the Settlement Agreement.
3. **Compliance with Santana West Settlement Agreement:** As stated in Santa Clara's October 15, 2019 letter, the DEIR and LTA do not recognize that San Jose and Santa

Clara entered into the above referenced Settlement Agreement. A key provision of the Settlement Agreement is San Jose's commitment to continue to administer and collect transportation impact funds which includes the analysis of impacts to Protected Intersections. The First Amendment to the Draft EIR and the accompanying San Jose Project staff report do not provide the additional clarity that Santa Clara requires to ensure compliance with the Settlement Agreement.

In fact, Santa Clara has sent three letters dated, February 14, 2018, March 1, 2018, and November 17, 2018, requesting information as to how San Jose will comply with the terms of the Santana West Settlement Agreement. Santa Clara has received no response on these three letters. While stated previously, it important to restate that of significant concern to Santa Clara is that in April 2018 San Jose adopted San Jose Council Policy 5-1, which eliminates the Protected Intersection provisions within San Jose's previous Council policy regarding transportation impacts (5-3) and replaces Level of Service with Vehicle Miles Travelled as the mechanism by which California Environmental Quality Act (CEQA) impacts are identified and mitigated.

In the spirit of cooperation, Santa Clara has completed a rough calculation of the Protected Intersection funding to be provided by the Project in compliance with the Settlement Agreement. Based on available information from the Project documents, Santa Clara estimates that San Jose should provide Protected Intersection funding in the amount of \$1,199,432 to San Jose. This is based on Project net PM peak hour trips of 247 peak hour trips (per the Winchester Ranch Residential Development Transportation Analysis, page 29) multiplied by the Protected Intersection rate of \$4,856 per net peak hour trips for projects with multiple intersection impacts. Please confirm these calculations.

4. **Specific Traffic Improvements at Winchester Boulevard and Stevens Creek Boulevard:** The intersection of Winchester Boulevard and Stevens Creek Boulevard resides with the jurisdictions of both Santa Clara and San Jose. Currently, San Jose operates and maintains this signal through an agreement between both jurisdictions. Any improvements to this intersection require the approval of both jurisdictions. The Project staff report to the San Jose Planning Commission includes the following condition of approval which proposes to modify the intersection (Page 56, condition 45b1). The condition reads as follows:

"1. Construct or provide an equivalent voluntary contribution towards the improvements at the following intersections which include but are not limited to the following:

- a) Stevens Creek Boulevard and Winchester Boulevard*
 - i. Remove existing pedestrian islands on the southeast and southwest corners of Stevens Creek Boulevard.*
 - ii. Reduce the curb radius on the southeast and southwest corners.*

This will require re-grading of the existing pavement and modification/relocation of existing storm drain system.

- iii. *Perform a major signal modification which may include but is not limited to:*
- a) *Removal of existing poles and installation of two (2) new signal poles with mast arms at both corners*
 - b) *Installation of two (2) new 1-B poles at both corners.*
 - c) *New street lights pending lighting calculation.*
 - d) *Installation of two (2) Iteris Next video detection cameras.*
 - e) *Associated equipment for deployment of adaptive signal timing.”*

Santa Clara has not approved the above-mentioned improvements and requests that these improvements be removed from the conditions of approval until proper and complete coordination has been completed between San Jose and Santa Clara.

In summary, Santa Clara has reviewed the Project documents and finds no direct evidence of San Jose's commitment to complying with the Settlement Agreement provisions in relation to the Project. Additionally, Santa Clara has concerns regarding the adequacy of the LTA as stated above. Santa Clara requests that any Planning Commission or City Council discussion of the Project be postponed until these matters can be resolved. Should you have any questions regarding this letter, please contact Reena Brilliot, Planning Manager via email at rbrilliot@santaclaraca.gov or phone 408-615-2452.

Best Regards,



FOR Andrew Crabtree

Director of Community Development

Cc: Rosalynn Hughey, Director of Planning, Building and Code Enforcement, City of San Jose

John Ristow, Director of Transportation, City of San Jose

Manuel Pineda, Assistant City Manager, City of Santa Clara

Brian Doyle, City Attorney, City of Santa Clara

Craig Mobeck, Director of Public Works, City of Santa Clara

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December 4, 2019

City of San Jose, Department of Planning, Building, and Code Enforcement
Attn: David Keyon, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San Jose CA 95113-1905

Via USPS and email: david.keyon@sanjoseca.gov

Re: December 4, 2019 Planning Commission Agenda Item #8 Winchester Ranch Residential Project (GP18-014, GPT19-004, PDC18-037, PD19-019, & PT19-023)

Dear Mr. Keyon:

We understand that tonight the Planning Commission will consider a recommendation to the City Council to adopt a resolution certifying the Winchester Ranch Residential Project Environmental Impact Report (EIR) and other approvals necessary for the Project. On behalf of our client, the City of Santa Clara, we urge the Planning Commission to recommend denial until the issues described herein, and in the letter submitted concurrently by Santa Clara staff, have been resolved.

On April 8, 2019, in response to the Notice of Preparation, and on October 14, 2019 following review of the EIR, Santa Clara submitted comment letters to San Jose highlighting several areas of concern, including the consistency of approval of the Winchester Ranch Project with the terms of the Santana West Settlement Agreement entered into in January, 2018. As stated in Santa Clara's October 14, 2019 comment letter, the Santana West Settlement Agreement specifies that "San Jose agrees to collect transportation impact funds pursuant to all applicable programs for development in the Stevens Creek Corridor" (Settlement Agreement, ¶ 6), and that "San Jose agrees to collect fees pursuant to its Protected Intersection Policy for intersections that will also impact traffic in the City of Santa Clara." (Settlement Agreement, ¶ 7.) The Settlement Agreement further requires that San Jose meet and confer with Santa Clara to determine how collected traffic impact funds will be used to address impacts at Protected Intersections. (*Ibid.*)

Per the terms of the Settlement Agreement, any adverse effects found at protected intersections, including Winchester Boulevard / Stevens Creek Boulevard that will also impact traffic in the City of Santa Clara, will require payment of fees to be used for transportation system improvements to alleviate the increased traffic congestion in Santa Clara. A clear explanation of how fees are calculated should be provided, and offsetting improvements should be identified with specificity. Further, the secondary impacts of implementing these improvements should be identified. Neither the Draft EIR, nor the First Amendment to the Draft EIR include a clear explanation of how the Project will satisfy these obligations.

In addition to the comment letters on the Winchester Ranch Project, Santa Clara has sent three letters dated, February 14, 2018, March 1, 2018, and November 17, 2018, requesting information as to how San Jose will comply with the terms of the Santana West Settlement Agreement. Santa Clara has received no response on these three letters. Santa Clara has repeatedly expressed concern about adoption of San Jose Council Policy 5-1, which eliminates the Protected Intersection provisions within San Jose's previous Council policy regarding transportation impacts (5-3) and replaces Level of Service with Vehicle Miles Travelled as the mechanism by which California Environmental Quality Act (CEQA) impacts are identified and mitigated. A key provision of the Santana West Settlement Agreement is San Jose's commitment to continue to administer and collect transportation impact funds to address traffic at Protected Intersections. As stated in Santa Clara's October 14, 2019 comment letter, the Draft EIR and LTA for the Winchester Ranch Project make no relevant mention of Protected Intersections and it is unclear to Santa Clara how San Jose will comply with the Santana West Settlement Agreement. Without any written response to Santa Clara's repeated requests for clarification from San Jose on Protected Intersections and, due to the lack of information in the Project documents regarding compliance with the Settlement Agreement, Santa Clara has no alternative other than to believe San Jose does not intend to comply with the terms of the Settlement Agreement.

The response to these comments in the First Amendment to the Draft EIR acknowledges that the Winchester Ranch Project will have a significant adverse effect within the City of Santa Clara at the signalized intersection of Winchester Boulevard and Stevens Creek Boulevard. However, no further details regarding the specific manner in which that impact will be addressed, consistent with the terms of the Settlement Agreement, has been provided. The First Amendment merely states that the City of San Jose is "committed to coordinating" with Santa Clara on potential improvements at the impacted intersection, and states that conditions will require that the Winchester Ranch Project provide or contribute toward intersection improvements to improve pedestrian connectivity and support multimodal goals for both cities. No specific information is provided about the fees that will be required or the adequacy of those fees to fund necessary improvements.

The conditions of approval included in the staff report for tonight's meeting include Condition 45.b.1, which requires the Project applicant to construct or provide "equivalent voluntary contribution" toward certain listed transportation improvements at the Stevens Creek Boulevard and Winchester Boulevard intersection. While Santa Clara appreciates that San Jose has made some effort to identify potential improvements, the Settlement Agreement requires that these be developed in consultation with Santa Clara to ensure that any impacts will be adequately addressed. Given the lack of coordination, Santa Clara is requesting that the condition be removed until the required consultation has been completed. In addition, no information about the amount of fees necessary to fund the improvements has been provided. Nor has an analysis been provided showing that the improvements, if implemented, would address the identified impacts at this intersection. This information is necessary for Santa Clara to assess whether impacts will be adequately addressed. Santa Clara remains committed to working with San Jose to ensure that adequate improvements are implemented. To that end, Santa Clara requests that the Planning Commission recommend denial and that City Council discussion of the Winchester Ranch Project be postponed until this matter can be resolved.

Sincerely,



Tina A. Thomas

cc: Rosalynn Hughey, Director of Planning, Building and Code Enforcement, City of San Jose
John Ristow, Director of Transportation, City of San Jose
Manuel Pineda, Assistant City Manager, City of Santa Clara
Brian Doyle, City Attorney, City of Santa Clara
Craig Mobeck, Director of Public Works, City of Santa Clara