



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: June 2, 2022

COUNCIL DISTRICT: 1

SUBJECT: FILE NOS PDC19-049 & PD20-006 - PLANNED DEVELOPMENT ZONING DISTRICT AND A PLANNED DEVELOPMENT PERMIT LOCATED AT 1312 EL PASEO AND 1777 SARATOGA AVENUE

RECOMMENDATION

The Planning Commission voted 9-1-1 (Garcia opposed, Cantrell absent) to recommend that the City Council take all of the following actions:

- (a) Adopt a resolution certifying the 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project Environmental Impact Report, and adopting a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).
- (b) Approve an ordinance rezoning an approximately 10.76-gross acre site, from the CG Commercial General and CP Commercial Pedestrian Zoning Districts to a CG(PD) Planned Development Zoning District.
- (c) Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of approximately 126,345 square feet of existing commercial buildings, the removal of 120 trees (20 ordinance-size, 100 non-ordinance-size) for the construction of four mixed-use buildings consisting of 994 residential units and 165,949 square feet of commercial space, extended construction hours (15-hour concrete pours between 6:00 am to 9:00 pm daily over a 15-day period), and a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale alcohol (Type 21 ABC License) at a future grocery store (expected to be a Whole Foods Market), in an approximately 40,000-square foot tenant space on an approximately 10.76-gross acre site; and as a friendly amendment to staff recommendation.
- (d) Consider the addition of the Saratoga Avenue corridor into the West San Jose Multimodal Transportation Improvement Plan. (a separate supplemental memo to address).

OUTCOME

If the City Council approves all the actions (except for item #4) listed above as recommended by the Planning Commission, the applicant will be able to demolish approximately 126,345 square feet of existing commercial buildings, remove 120 trees, and construct four mixed use buildings

consisting of 994 residential units and 165,949 square feet of commercial space, with extended construction hours (15-hour concrete pours between 6:00 am to 9:00 pm daily over a 15-day period) and sell off-sale alcohol at a future grocery store (expected to be a Whole Foods Market) in approximately 40,000-square foot tenant space in conjunction with a Type 21 ABC License on an approximately 10.76-gross acre site. With regards, to item 4 a separate supplemental memo will be provided.

BACKGROUND

On May 25, 2022, the Planning Commission held a Public Hearing to consider the Environmental Impact Report (EIR), Rezoning, and Planned Development Permit. The Planning Commission recommended that the City Council adopt the resolution certifying the 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project and related Mitigation Monitoring and Reporting Plan and approve the subject Rezoning and Planned Development Permit.

Staff Presentation

Alec Atienza, Planning Project Manager, provided a brief oral presentation of the proposed project. Staff presentation included an overview of the project's conformance with the General Plan, Signature Project Criteria, San José Municipal Zoning Code and City Council Policy 6-30: Public Outreach. Maira Blanco, Environmental Planning Project Manager, provided a brief oral presentation regarding the environmental review process and project conformance with the California Environmental Quality Act (CEQA).

Applicant Presentation

The applicant's representatives, Allison Koo, Erik Schoennauer, and Ken Rodrigues provided a presentation covering the details of the project, including the site layout and project design, the grocery store anchor, affordable housing, public open space, and public improvements.

Public Hearing

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

Thirty-six members of the public spoke on the proposed project. Of the 36 public speakers, 22 spoke in opposition of the project and 14 spoke in favor of the project. The comments of the speakers are summarized below:

- Amy Cody, President of the Moreland West Neighborhood Association expressed concerns regarding the traffic impacts of the project, the lack of available information on the City's website, and the need for detailed renderings showing all four buildings at once.

- Mark Grimse also stated that the traffic mitigation for project is insufficient for 900 new residential units and requested denial of the project.
- John Oberstar questioned the validity of the metrics used to prepare the Transportation Analysis.
- Mike Thompson requested that the residential units be rented to people at 50% Area Median Income (AMI) or lower so that retail employees could afford to live close to the area
- Barbara Gaylord noted that the site should be looked at as the entire 30-acre shopping center, not the smaller 10-acre site proposed for redevelopment.
- Luann Abrahams stated that the project is out of scale with the existing neighborhood, requested more affordable housing, and asked what the impact would be on school enrollment in the surrounding area.
- Gary Cunningham stated that the project does not compare to the Vallco redevelopment project in Cupertino or the Fortbay project on Stevens Creek Boulevard in San Jose. The project is providing a higher ratio of housing to commercial space compared to those two projects.
- Bob Levy stated the project is an auto oriented development that would place 11- and 12-story buildings next to existing buildings that are only one- and two-stories.
- Roberta Witte stated that the project is out of character with the surrounding neighborhood
- Matt Regan, representing the Bay Area Council, expressed support for the project as a good example of Smart Growth and provided the example of a large development in Lathrop, California as a reason to build higher density housing in San Jose.
- Five members of Catalyze SV, including Executive Director Alex Shoor, spoke in support of the project. Catalyze SV urged the commissioners to recommend approval of the project while requesting improvements including using more sustainable materials, increasing the height, and better emphasize biking and walking.
- Sarah Cardona, representing Green Alliance, endorsed the project and highlighted the 3.5 acres of public open space and walkability.
- Peng Jiang questioned how the public open space was calculated.
- Donna Yuen argued that the traffic mitigation was not sufficient, that the project does not consider additional impacts related to the nearby Costco project and City of Saratoga housing projects, questioned the validity of the staff report, and requested coordination between the City of San Jose, Santa Clara County, and the City of Saratoga for the preparation of a transportation study.
- Gary Smith, Paul, Elisa, and Alan asked that building heights be limited to eight stories. Elisa requested that the residential units be owner occupied and stated that there was not enough transit serving the area.

- Alex Melendrez and Ali Sapirman supported the project and requested that building heights be increased.
- Stephen Jamieson spoke on behalf of Whole Foods in support of the project.
- Eric D questioned if the existing schools and infrastructure could support the number of new residents in the area. Eric also noted that the parking provided is insufficient.
- Phil, Vinmal, and Kathy, residents of the Baker West neighborhood, expressed concerns over traffic and the lack of parking proposed. Kathy also argued that the project was not affordable given only 150 units would be reserved for affordable housing. Kathy also noted that this type of development is more suited to Downtown where more services would be available.
- Vince Rocha and Jordan Grimes spoke in support of the project and noted that the project would provide much needed jobs and housing in the right place.
- Mohan Mahal offered his services in constructing all electric housing with sustainable materials.
- Terry Montelibano, a former resident of the neighborhood, spoke in support of the project. Terry stated that when Santana Row was first proposed, there was significant opposition in the neighborhood, but now people are used to it and what it has added to the area.

After the public comment, the applicant's representative, Erik Schoennauer, responded to the public comments. Mr. Schoennauer provided a table outlining how the proposed building heights are similar to the height limits in existing approved Urban Villages and approved plans and existing development within the neighboring City of Saratoga. Mr. Schoennauer also discussed the building setbacks and step-backs as well as the project proximity to VTA transit.

Commissioner Discussion

Commissioner Lardinois asked staff how much public parkland the project is required to provide. Zacharias Mendez, from the City's Department of Parks, Recreation and Neighborhood Services (PRNS), responded that a total of 6.9 acres, or \$18 million in fees, would be required, and so far plans show approximately 3.5 acres of open space. Mr. Mendez further indicated that PRNS staff is still working on the specifics of the project with the applicant, regarding public versus private space and details regarding exact fees to be paid to the City. Commissioner Lardinois also asked the applicant to provide additional information on the berm separating the residences to the south from the project site. Mr. Schoennauer and Mr. Rodrigues confirmed that the height of the berm is approximately 15 to 20 feet in height and that the exiting mature trees are approximately 30 to 35 feet high and would remain. Commissioner Lardinois also asked if the residential capacity of the urban village would be affected by the project. Deputy Director Michael Brilliot stated the City has in the past moved the development capacity around different growth areas, and that residential capacity may be adjusted as needed in the future. Michael noted that if a developer wanted to go above the current development capacity, it would require additional evaluation under CEQA. Commissioner Lardinois requested that Saratoga Avenue be included in the West San Jose Multimodal Transportation Improvement Plan.

Commissioner Torrens asked about the distance between the site and existing green space. Planning staff Maria Blanco stated that there were multiple parks within a one-mile radius, including El Quito Park (located in Saratoga) and the Saratoga Creek Dog Park (located in San Jose). Staff also noted that the EIR estimated the project would generate approximately 393 new elementary school students and 99 new high school students, and concluded there would be sufficient capacity for the students in the school system. Erik Schoennauer also noted that 1.1 acres of land would be publicly dedicated for a park on-site. Commissioner Torrens was supportive of the amount of affordable housing and excited about the number of new students the project could provide for the schools.

Commissioner Ornelas-Wise was impressed with all stakeholder's passion for the project. Commissioner Ornelas-Wise requested that there some sort of condition added to allow for shared parking between the project and the existing shopping center. Commissioner Ornelas-Wise also requested that the applicant provide transit and VTA passes as an incentive to get residents and employees to take transit.

Commissioner Young disclosed that he met with multiple neighborhood groups as well as the applicant via Zoom prior to the hearing. Commissioner Young asked the applicant what work would be done to improve traffic and safety. Allison Koo responded that the project would include a large amount of voluntary off-site improvements including widening of sidewalks and crosswalks, removal of pork chop islands, addition of raised bike pathways, and improvements to the intersection of Campbell Avenue and Hamilton Avenue. Commissioner Young also commented that it is often challenging to place tall buildings in established neighborhoods in San Jose because so many major boulevards abut single-family residences. Erik Schoennauer highlighted how the project goes above and beyond the step-back regulations of the Residential Design Guidelines with the incorporation of both stepbacks and an approximately 100-foot setback from the adjacent residences.

Commissioner Montanez asked what the distance was from the project site to California State Route 85. Staff responded that it was approximately one mile from the entrance ramp of the freeway. Commissioner Montanez also asked staff if there was any mitigation for cut through traffic. Staff responded that the Transportation Analysis looked at cut through traffic on Northlawn Drive and that both the capacity and speed were within an acceptable range. Staff noted that additional coordination with DOT may occur in the future if traffic calming measures are warranted.

Commissioner Oliverio stated that the Planning Commission has approved a variety of high-density projects recently in order to meet the City's goals, and with the understanding that there is a limited amount of developable land. Commissioner Oliverio noted that the project is fitting with what the City has laid out for the development community. Commissioner Oliverio made a motion to approve the project. Commissioner Montanez seconded the motion.

Commissioner Caballero expressed support for the project and believes that similar high-density projects in other cities help to create affordable housing and vibrant areas where people can congregate.

Commissioner Lardinois formally requested that a friendly amendment be made to the motion to recommend that City Council consider adding Saratoga Avenue to the West San Jose Multimodal Transportation Improvement Plan. Commissioner Oliverio agreed to the amendment.

Chair Bonilla also disclosed that he met with the neighbors and the applicant. Chair Bonilla noted that San Jose is the largest city in the Bay Area and opportunities for development are limited. After concluding his remarks, Chair Bonilla put the motion to a vote.

The motion to recommend Council approval of the project with the friendly amendment by Commissioner Lardinois, was approved (9-1-1). Commissioner Garcia voted no. Commissioner Cantrell was absent.

ANALYSIS

Analysis of the proposed CEQA clearance, Rezoning, and Planned Development Permit, including conformance with the General Plan, Zoning Ordinance, Design Guidelines, and City Council Policies is contained in the attached staff report.

CONCLUSION

In summary, the project was heard at the May 25, 2022 Planning Commission meeting. The motion to recommend Council approval of the project passed (9-1-1). Commissioner Garcia opposed, and Commissioner Cantrell was absent. As discussed in the attached staff report, the project is consistent with the Envision San José 2040 General Plan, the Zoning Code, Residential Design Guidelines, City Council policies for public outreach, and the requirements of CEQA. Should the City Council adopt the resolution certifying the Environmental Impact Report, and approve the Rezoning and Planned Development Permit, the applicant would be allowed to demolish approximately 126,345 square feet of existing commercial buildings, remove 120 trees, and construct four mixed use buildings consisting of 994 residential units and 165,949 square feet of commercial space, with extended construction hours (15-hour concrete pours between 6:00 am to 9:00 pm daily over a 15-day period) and sell off-sale alcohol at a future grocery store (expected to be Whole Foods Market) in approximately 40,000-square foot tenant space in conjunction with a Type 21 ABC License on an approximately 10.76-gross acre site. The applicant could proceed with an application for Building Permits.

EVALUATION AND FOLLOW-UP

Should the City Council adopt the resolution certifying the EIR, and approve the Rezoning and Planned Development Permit, the applicant would be allowed to demolish approximately 126,345 square feet of existing commercial buildings, remove 120 trees, and construct four mixed use buildings consisting of 994 residential units and 165,949 square feet of commercial space, with extended construction hours (15-hour concrete pours between 6:00 am to 9:00 pm daily over a 15-day period) and sell off-sale alcohol at a future grocery store (expected to be Whole Foods Market) in approximately 40,000-square foot tenant space in conjunction with a Type 21 ABC License on an approximately 10.76-gross acre site. The applicant could proceed with an application for Building Permits.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the project. On-site signs were posted on the project frontages on March 11, 2021. 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](#). Staff has also been available to respond to questions from the public.

Two formally noticed, City sponsored, community meetings were held on October 5, 2020 and January 20, 2022. Both meetings were held via Zoom in accordance with the Santa Clara County Health Officer's, March 16, 2020 Shelter in Place order. The October 5, 2020 meeting was attended by approximately 125 members of the public. The January 20, 2022 meeting was attended by approximately 126 members of the public. Additionally, the applicant has held over 40 meetings with various stakeholder groups throughout the planning process. Concerns raised by members of the public include the high project density, building heights, neighborhood compatibility, traffic impacts, pedestrian and bicyclist safety, school impacts, the lack of affordable housing, potentially historic resources, construction impacts, air quality impacts, and noise. Some of the community members also complained about inadequate community outreach.

COORDINATION

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

CLIMATE SMART SAN JOSÉ

The recommendation in this memorandum aligns with one or more Climate Smart San José mobility goals. The project would facilitate mobility choices other than single-occupancy gas-powered vehicles, increase the density of new development (persons/jobs/acre), and facilitate job creation within City limits by providing high density mixed use residential development with

commercial retail and office in a central location within an identified growth area (El Paseo de Saratoga Urban Village).

CEQA

On December 17, 2019, the applicant, Allison Koo, on behalf of the property owner, El Paseo Property Owner LLC, submitted a Planned Development Rezoning and Planned Development Permit to be reviewed concurrently. The City of San José, as the lead agency for the proposed project, prepared a Draft Environmental Impact Report, State Clearinghouse No. 2020090521 (DEIR), which was circulated for public review and comment from October 15, 2021 to November 29, 2021. 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 and errata constitute the Final Environmental Impact Report (FEIR) for the proposed project.

The EIR identified potential environmental impacts to Air Quality, Biological Resources, Hazardous Materials, Noise, and Transportation/Traffic and these impacts would be reduced to less than significant levels with the implementation of the identified mitigations. The EIR determined there would be no significant and unavoidable impacts due to implementation of the project. Therefore, the proposed project does not require a Statement of Overriding Consideration from the City Council.

DEIR Circulation Comments

Seventy-four comments were received during public circulation including four from regional and local agencies and seventy from members of the public. Many of the comments received during public circulation raised similar concerns and questions; therefore, topic responses were prepared to respond to those common concerns/questions. The topic responses address the following topics:

- Vehicle Miles Traveled
- Below-Market Housing
- Utilities (Water and Sewer)
- Parking
- Schools
- Aesthetics and Visual Impacts
- General Plan Consistency, Project Density and Scale

DEIR Recirculation Unnecessary

Staff responded to the comments and questions in the First Amendment and none of the comments raised represent new significant information that would warrant recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5(a). 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 a Draft EIR is not “significant” unless the Draft EIR 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).

The First Amendment was posted on the City’s website on May 6, 2022 and all commenters were notified via email of the document’s availability. In addition, an errata memorandum was also posted on the City’s website regarding minor revisions to the mitigation measures under the Transportation/Traffic impact. All commenters were notified of its availability by email notification. The Draft Environmental Impact Report (DEIR), First Amendment and errata memorandum are available for public review on the City’s website:

<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs>.

/s/

CHRISTOPHER BURTON, Secretary
Planning Commission

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

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION
SUBJECT: File Nos. PDC19-049 & PD20-006

FROM: Christopher Burton
DATE: May 25, 2022

COUNCIL DISTRICT: 1

Type of Permit	Planned Development Rezoning (File No. PDC19-049), Planned Development Permit (File No. PD20-006)
Proposed Land Use	Mixed-Use Commercial/Residential
New Residential Units	994 units
New Commercial Square Footage	165,949 square feet
Additional Policy Review Items	Off-Sale Alcohol, Determination of Public Convenience or Necessity
Demolition	126,345 square feet
Tree Removals	120 trees (20 ordinance-size, 100 non-ordinance-size)
Project Planner	Alec Atienza
CEQA Clearance	El Paseo and 1777 Saratoga Avenue Mixed-Use Project Environmental Impact Report, State Clearinghouse No. 2020090521
CEQA Planner	Maira Blanco

RECOMMENDATION

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

1. Adopt a resolution certifying the 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project Environmental Impact Report, and adopting a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA)
2. Approve an Ordinance rezoning an approximately 10.76-gross acre site, from the CG Commercial General and CP Commercial Pedestrian Zoning Districts to a CG(PD) Planned Development Zoning District.

3. Adopt a Resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of approximately 126,345 square feet of existing commercial buildings, the removal of 120 trees (20 ordinance-size, 100 non-ordinance-size) for the construction of four mixed-use buildings consisting of 994 residential units and 165,949 square feet of commercial space, extended construction hours (15-hour concrete pours between 6:00 am to 9:00 pm daily over a 15-day period), and a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale alcohol (Type 21 ABC License) at a future grocery store, in an approximately 40,000-square foot tenant space on an approximately 10.76-gross acre site.

PROPERTY INFORMATION

Location	East of the intersection of Saratoga Avenue and Quito Road (1312 El Paseo de Saratoga) and north of the intersection of Saratoga Avenue and Lawrence Expressway (1777 Saratoga Avenue)
Assessor Parcel No.	403-33-014 & 386-10-033, -036, -044, -045, -046
General Plan	Regional Commercial and Neighborhood/Community Commercial
Growth Area	Paseo De Saratoga Urban Village
Existing Zoning	CG Commercial General and CP Commercial Pedestrian
Proposed Zoning	CG(PD) Planned Development Zoning
Historic Resource	No
Annexation Date	February 7, 1957 (El Quito Park No_4) & June 8, 1956 (El Quito Park No_1)
Council District	1
Acreage	10.76 gross acres
Proposed Density	92 Dwelling Units per Acre (DU/AC)

PROJECT SETTING AND BACKGROUND

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

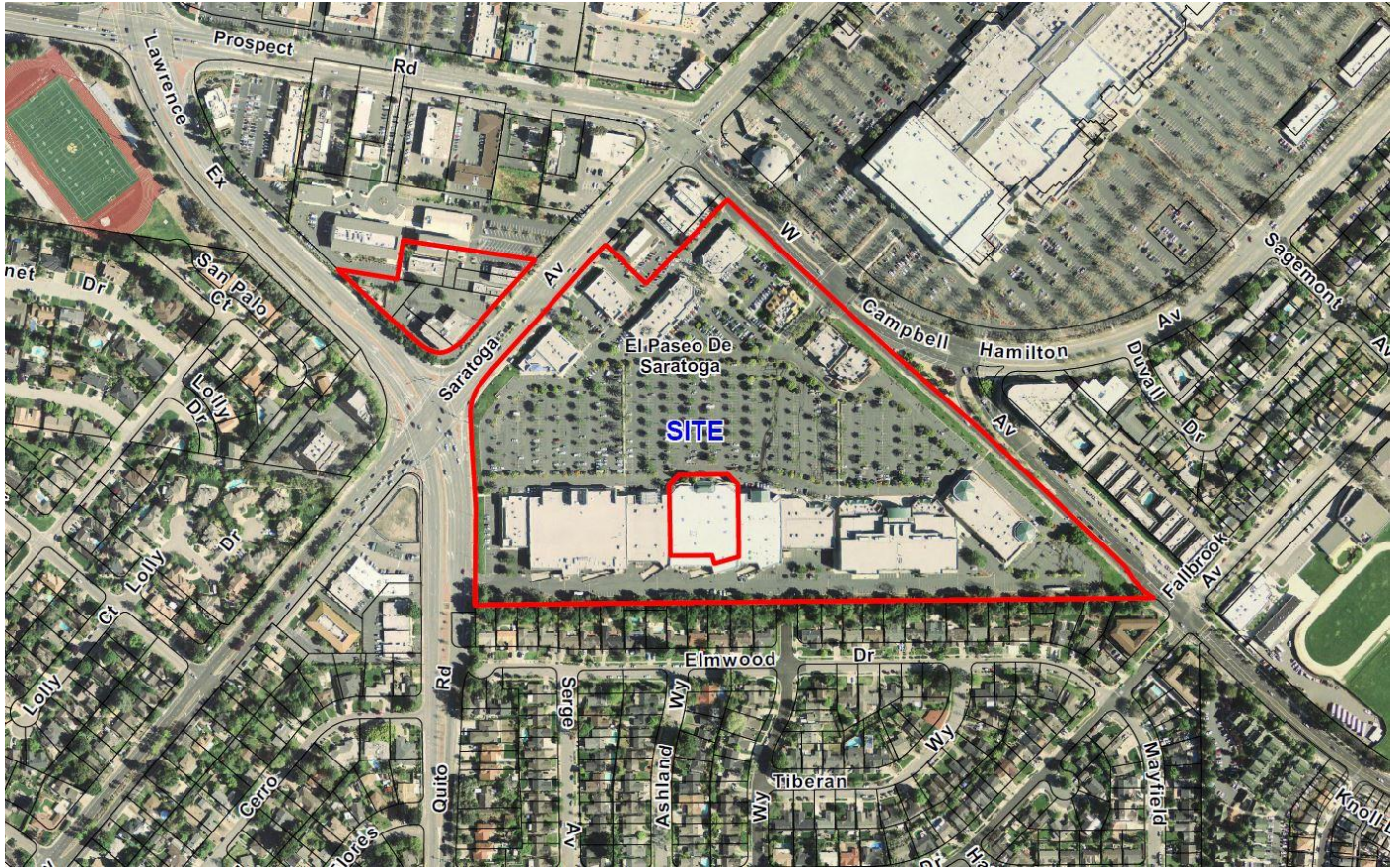


Figure 1 Aerial Map

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

On December 17, 2019, the applicant, Allison Koo, on behalf of the property owner, El Paseo Property Owner LLC, submitted the following applications to be reviewed concurrently:

- Planned Development Rezoning to rezone the property from the CG Commercial General and CP Commercial Pedestrian Zoning Districts to a CG(PD) Planned Development Zoning District.
- Planned Development Permit to allow the demolition of approximately 126,345 square feet of existing commercial buildings, the removal of 120 trees (20 ordinance-size, 100 non-ordinance-size) for the construction of four mixed use buildings consisting of 994 residential units and 165,949 square feet of commercial space, extended construction hours (15-hour concrete pours between 6:00 am to 9:00 pm daily over a 15-day period), and a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale alcohol (Type 21 ABC License) at a future grocery store in an approximately 40,000-square foot tenant space on an approximately 10.76-gross acre site.

As shown on the project Site Plan (Figure 2), the project consists of a high-density development that would incorporate housing, retail, and office space in a vertical mixed-use format. To facilitate the project, approximately 126,345 square feet of existing commercial buildings and associated surface parking lots would be demolished, and 120 trees would be removed. In total, the project would consist of the construction of 994 residential units and 165,949 square feet of commercial space.

Development at the 1312 El Paseo de Saratoga area would consist of the demolition of a portion of the westernmost existing retail building within the El Paseo de Saratoga Shopping Center for the construction of three mixed use buildings (Buildings 1, 2, and 3) centered around a primary paseo, referred to by the development plans as “Main Street”. Development at the 1777 El Paseo de Saratoga area would consist of the demolition of four existing single-story commercial structures for the construction of one mixed-use building (Building 4) located north of the intersection of Saratoga Avenue and Lawrence Expressway.

The four buildings would consist of multi-story glass, concrete, wood, and steel structures arranged in a village-type design. Approximately 109,676 square feet of ground floor retail would be provided throughout the project site, with the primary retail space being located along Main Street. Approximately 56,273 of square feet office space would also be provided throughout the site on both the ground floor and upper floors of the buildings at the 1312 El Paseo de Saratoga site. The residential units would be located on the upper levels of each building and would include a mix of common and private open space. The number of stories would range from 9 (Building 2) to 12 (Building 4). Maximum building heights would range from 99 feet (Building 2) to 132 feet (Building 4). See the table below for information on the commercial square footage, number of residential units, and heights of each proposed building.

Project Information	Building 1 (El Paseo)	Building 2 (El Paseo)	Building 3 (El Paseo)	Building 4 (Saratoga)
Commercial Square Footage	64,176 SF	29,699 SF	66,838 SF	5,236 SF
Residential Units	267 units	273 units	206 units	248 units
Maximum Height	127 feet, 6 inches	99 feet	130 feet	132 feet
Maximum No. of Stories	11 stories	9 stories	11 stories	12 stories

Approximately 3.5 acres of publicly accessible outdoor space would be provided throughout the project site. A 1.1-gross acre public park would be constructed at the southwest corner of the subject site along Quito Road. A pedestrian paseo (Main Street) would serve as the focal point of the development. The outdoor areas and public park would include amenities including landscaping, a fountain, seating, garden terraces, a dog park, and lawn areas.

The project site is accessible to pedestrians and bicyclists from Saratoga Avenue, Quito Road, and Lawrence Expressway. Vehicles would access the site from driveways along Quito Road, Saratoga Avenue, and from internal driveways within the El Paseo de Saratoga Shopping Center.

Subterranean and structured parking would be provided throughout each of the two areas. A two-level subterranean garage would be constructed below Buildings 1 and 3, and a portion of Building 2. Building 2 would include three levels of above ground structured parking in a podium configuration. Ground floor parking and a two-level subterranean garage would be provided in the building at 1777 Saratoga Avenue (Building 4). Pursuant to Chapter 20.90 of the Zoning Code, a total of 2,071 vehicle parking spaces is required. A total of 1,944 vehicle parking spaces would be provided for the project, representing an approximately 6.1 percent vehicle parking reduction in accordance with [Section 20.90.220](#) of the Zoning Code, as outlined in the Zoning Code Compliance section below. Motorcycle and bicycle parking are provided throughout the project site in conformance with the Zoning Code.

To facilitate the construction of the project, this Planned Development Permit includes extended construction hours outside of the permitted construction hours of 7:00 am to 7:00 pm Monday through Friday. The project includes nighttime construction for a 15-day period to allow for the construction of the parking garage at the El Paseo site. This would involve 15-hour concrete pours between 6:00 a.m. and 9:00 p.m. daily over a 15-day period. The extended construction hours were analyzed in the associated 1312 El Paseo and 1777 Saratoga Avenue Mixed Use Village Project Environmental Impact Report that was prepared for the project.

The project includes a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale alcohol (Type 21 ABC License – Full Range of Alcoholic Beverages) at a future grocery store (expected to be a Whole Foods Market) in an approximately 40,000-square foot tenant space on the ground floor of Building 3. The findings for the issuance of a Conditional Use Permit and Determination of Public Convenience or Necessity are outlined below.



Figure 2 Project Site Plan (Stars highlight vehicular and pedestrian access points)

ANALYSIS

The proposed Planned Development Rezoning and Planned Development Permit are analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. San José Municipal Code
3. Residential Design Guidelines
4. Permit Findings
5. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Conformance

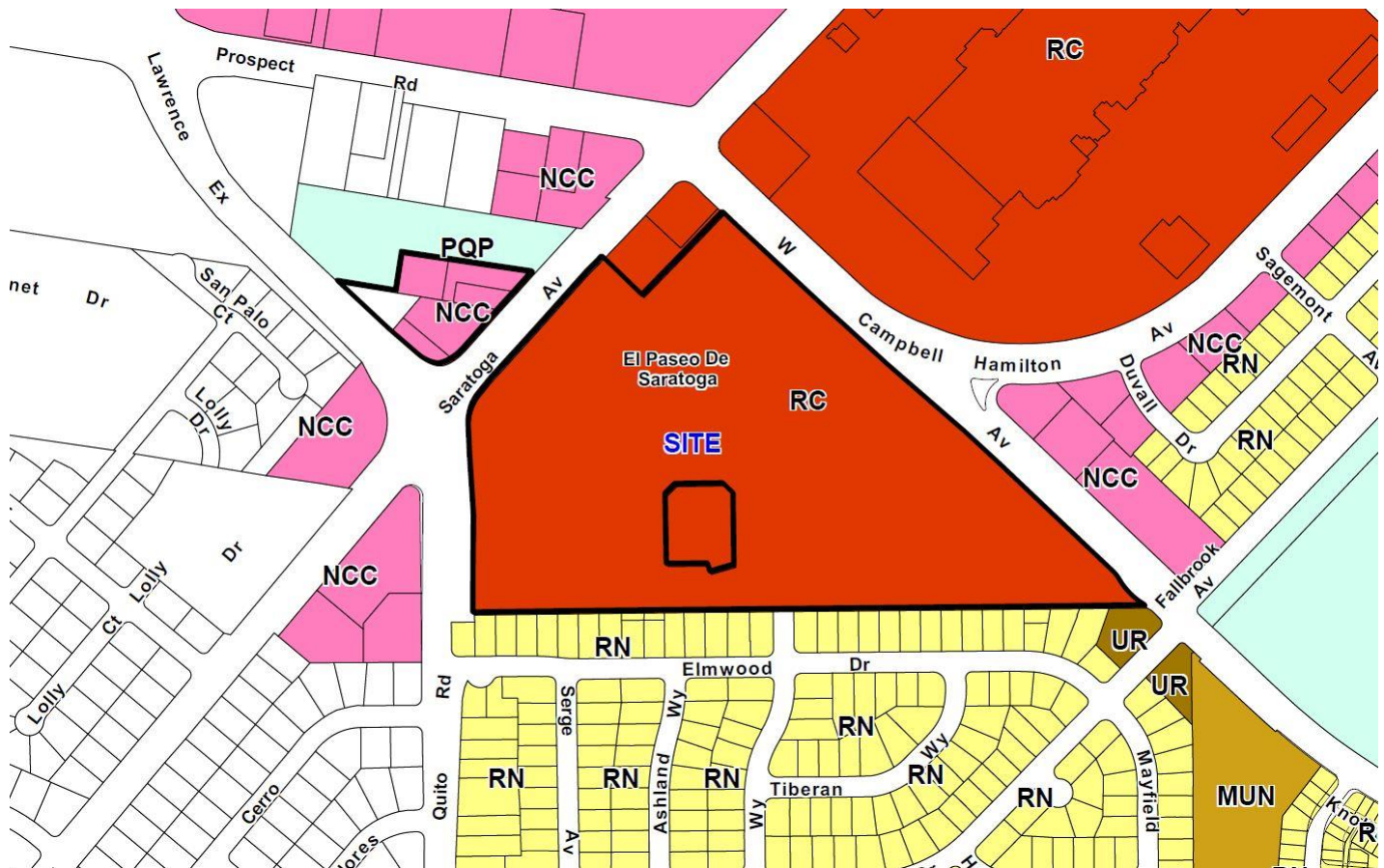


Figure 3 General Plan Land Use Map

Land Use Designation

As shown in the attached General Plan Map (Figure 3), the site is designated Regional Commercial and Neighborhood/Community Commercial on the Land Use/Transportation Diagram of the [Envision San José 2040 General Plan](#). The subject site is also located in the Paseo de Saratoga Urban Village, which does not have an approved Urban Village Plan. The Regional Commercial designation is applied primarily to existing regional shopping centers, though sometimes it may reflect the cumulative attraction of a regional center and one or more nearby community or specialty commercial centers, or two or more community or specialty centers in close proximity whose combined drawing power is of a regional scale. This designation supports a very wide range of commercial uses, which may develop at a wide range of densities. Large shopping malls, and large or specialty commercial centers that draw customers from the greater regional area are appropriate in this designation along with office uses ranging in intensity up to a 12.0 Floor to Area Ratio (FAR). The Neighborhood/Community Commercial designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Neighborhood/Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction. The project would result in a FAR of approximately 3.69, in conformance with

both the allowable FAR of both Commercial General and Neighborhood/Community Commercial designations. As the project includes mixed-use residential/commercial in an Urban Village without an approved plan, it is reviewed for conformance with the Signature Project Policy and additional General Plan goals and policies as outlined below.

General Plan Goal and Policies

1. Implementation Policy 5-10 (Signature Project Policy): Allow non-residential and mixed-use (with residential) development to proceed within Urban Village areas prior to the adoption of an Urban Village Plan as a "Signature Project". The Signature Project shall act as a catalyst for future development within the Urban Village, as prescribed in General Plan Major Strategy #5 Urban Villages. Pending Signature Projects that have submitted an application prior to December 7, 2021 are not subject to the updated Signature Project Policy:

Analysis: The project application was submitted on December 17, 2019. Therefore, it is not subject to the updated Signature Project criteria, adopted by City Council on December 21, 2021. Instead, the subject project is required to conform with the following criteria.

- a. Within the Urban Village areas, Signature projects are appropriate on sites with an Urban Village, residential, or commercial Land Use/Transportation Diagram designation.

Analysis: The project is located in the Paseo De Saratoga Urban Village on a site with two commercial land use designations (Neighborhood/Community Commercial and Regional Commercial). Therefore, the project meets this requirement.

- b. Incorporates job growth capacity above the average density of jobs/ acre planned for the developable portions of the entire Village Planning area and, for portions of a Signature project that include housing, those portions incorporate housing density at or above the average density of dwelling units per acre planned for the entire Village Planning area. The commercial/office component of the Signature project must be constructed before or concurrently with the residential component.

Analysis: The project is required to provide 164,928 square feet of commercial space and achieve a minimum residential density of 55 dwelling units per acre (DU/AC). The project would provide approximately 165,949 square feet of commercial space. Of the total commercial space, approximately 109,676 square feet of ground floor retail would be provided throughout the project site, with the primary retail space being located along the primary pedestrian paseo. Approximately 56,273 square feet office space would also be provided throughout the site on both the ground floor and upper floors of the buildings at the 1312 El Paseo de Saratoga site. The project would allow the construction of 994 residential units on an approximately 10.76-gross acre site, resulting in a residential density of approximately 92 DU/AC. As described in the Development Phasing section of the Development Standards, the residential and commercial components would be constructed at the same time.

- c. Is located at a visible, prominent location within the Village so that it can be an example for, but not impose obstacles to, subsequent other development within the Village area.

Analysis: The project is located on two large corner lots, fronting two major thoroughfares (Saratoga Avenue and Quito Road/Lawrence Expressway). Saratoga Avenue is a Grand Boulevard as identified on the Land Use/Transportation Diagram of the Envisions San Jose 2040 General Plan. Therefore, this site is considered to be in a visible, prominent location within the Urban Village. The design of

the project, particularly at the El Paseo site, would create a walkable, accessible urban environment which could easily be connected to future development within the larger urban village area. Additionally, the project includes significant public improvements, including the construction of 20-foot-wide sidewalks along Saratoga Avenue, 15-foot-wide sidewalks along Lawrence Expressway, and 17-foot-wide sidewalks along Quito Road. The project would also include the removal and replacement of the existing bus shelters along Saratoga Avenue and Campbell Avenue to improve transit and pedestrian connections within the urban village and larger area.

- d. Includes public parklands and/or privately maintained, publicly-accessible plazas or open space areas.

Analysis: The project includes both a public park as well as a large amount of publicly-accessible plazas, paseos, and open space. The project includes a 1.1-gross acre Public Park at the southwest corner of the subject site along Quito Road. Approximately 2.4-gross acres of publicly accessible open space are incorporated throughout the remainder of the development.

- e. Achieves the pedestrian friendly design guideline objectives identified within this General Plan.

Analysis: The project consists of a high-density development that incorporates housing, retail, and office space in a vertical mixed-use format. The project uses a pedestrian oriented design, with the construction of four mixed-use buildings that are fully accessible from pedestrian oriented open space. The portion of the project at the 1312 El Paseo de Saratoga incorporates a primary pedestrian paseo, referred to as Main Street on the attached Plans (Exhibit E). General retail, restaurants, shops, offices, residences, and open space are all directly accessible from the Main Street paseo. Additionally, the project incorporates pedestrian oriented design on the street facing facades of the buildings fronting Saratoga Avenue and Lawrence Expressway/Quito Road. Building 1, located directly east of the intersection of Saratoga Avenue and Quito Road, incorporates storefronts, entrances, and active spaces which are directly accessible from the street. Building 4, located directly north of the intersection of Saratoga Avenue and Lawrence Expressway also incorporates active uses, ground floor retail, and publicly accessible open space along the street frontage. Parking is located within structured parking garages either below ground or wrapped with active uses or high-quality screening.

- f. Is planned and designed through a process that provided a substantive opportunity for input by interested community members.

Analysis: In addition to the two noticed City-held community meetings, the project applicant has held approximately 40 separate community meetings with various stakeholder groups throughout the planning process. The project has a dedicated webpage on the City's [Website](#), which is consistently updated as new project information is received and project milestones are met.

- g. Demonstrates high-quality architectural, landscape and site design features.

Analysis: As shown on the attached Planned Development Permit plan set (Exhibit E), the project demonstrates a high-quality design for a large mixed-use project. The buildings consist of multi-story glass, concrete, wood, and steel structures arranged in a village-type design. The outdoor areas and public park include a variety of amenities such as landscaping, a fountain, seating, garden terraces, a dog park, and lawn areas. The project incorporates an attractive pedestrian paseo (Main Street) that would serve as the focal point for the development. As shown on the detailed landscape plan, the project includes high-quality landscaping throughout the development, including a variety of California native species.

- h. Is consistent with the recommendations of the City's Urban Design Review process or equivalent recommending process if the project is subject to review by such a process.

Analysis: The project went through an extensive design review process throughout the entire project review. The project included an external urban design review, conducted by the City's Consultant Aedis Architects. Aedis was supportive of the height, density, mass, scale, and uses proposed. Additionally, Aedis was complementary of the overall architecture, massing, articulation, location of vehicle parking underground, and location of retail along the primary paseo. Additionally, the project was reviewed for consistency with the applicable General Plan design policies and Residential Design Guidelines, as discussed below.

2. Implementation Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development standards and other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

Analysis: The project includes a Planned Development Rezoning from the CG and CP Zoning Districts to a CG(PD) Planned Development Zoning District. The Planned Development Zoning is required to allow specifically tailored regulations to achieve the amount of commercial space and residential density as required by the Signature Project Policy. These specifically tailored regulations include permitted uses, setbacks, heights, building orientation and configuration, and pedestrian circulation, and support the development of a mixed-use, dense, vibrant, and walkable urban environment within the Urban Village.

3. Major Strategy #3 – Focus Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified "Growth Areas" (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods. While the Focused Growth strategy directs and promotes growth within identified Growth Areas, it also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City's Urban Growth Boundary.
4. Efficient Use of Residential and Mixed Use Lands Policy LU-10.2: Distribute higher residential densities throughout the City in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.
5. High Quality Facilities and Programs Policy PR-1.9: As Urban Village areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high quality, publicly accessible outdoor spaces provided as part of new development projects; privately or, in limited instances, publicly owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.

6. Land Use and Employment Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, child care, restaurants, and retail goods and services that serve employees of these businesses and nearby businesses.
7. Community Design Policy CD-3.5: Encourage shared and alternative parking arrangements and allow parking reductions when warranted by parking demand.
8. Land Use Policy LU-9.1: Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas.

Analysis: The project allows for a high density mixed-use residential project in a Growth Area (Paseo de Saratoga Urban Village). As discussed above, the project would provide approximately 165,949 square feet of commercial space consisting of a wide range of retail and employment options, including ground floor retail space, a grocery store, and office space. The project would allow the construction of 994 residential units on an approximately 10.76-gross acre site, resulting in a residential density of approximately 92 DU/AC. The project incorporates a range of open space, including private and public open space. The project includes a 1.1-gross acre Public Park at the southwest corner of the subject site along Quito Road. Approximately 2.4-gross acres of publicly accessible open space would be incorporated throughout the remainder of the development. The privately owned-publicly accessible open space includes a central paseo (Main Street) that allows for pedestrian connections through the central portion of the site. As the project is located within an Urban Village, it is eligible for up to a 20% parking reduction without a TDM Plan, if the project provides the required number of bicycle parking spaces. The project includes an approximately 6.1 percent vehicle parking reduction. To encourage, multimodal use, bicycle parking is provided at convenient locations throughout the development in conformance with the requirements of Title 20 of the Zoning Code. Also see the discussion on parking in the San Jose Municipal Code Conformance section below.

9. Land Use Policy LU-5.10: In the review of new locations for the off-sale of alcohol, give preference to establishments that offer a full range of food choices including fresh fruit, vegetables, and meat.

Analysis: The project allows off-sale alcohol (Type 21 ABC License) at a future grocery store (expected to be a Whole Foods Market), which would occupy the ground floor tenant space in Building 3. Whole Foods is a nationwide chain of retail grocery stores that offers a complete shopping experience including a full range of groceries, produce, meat, as well as alcohol. Alcohol sales would be incidental to the larger grocery store use. As conditioned in the Planned Development Permit, the alcohol sales area is limited to no more than five percent of the sales floor area.

Urban Village Design Policies

1. Urban Village Design Policy CD-7.1: Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.
2. Urban Village Design Policy CD-7.3: Review development proposed within an Urban Village Area prior to approval of an Urban Village Plan for consistency with General Plan design policies and any other applicable design policies pertaining to the proposed use. Following adoption of an Urban Village Plan,

review new development for consistency with design goals, policies, standards, and guidelines included within the Urban Village Plan.

3. Urban Village Design Policy CD-7.9: Build new residential development within Urban Village areas at a minimum of four stories in height with a step down in height when building new residential development immediately adjacent to single-family residential sites that have a Residential Neighborhood designation.
4. Urban Village Design CD-8.3: While the height of new development should be regulated to avoid long term land use incompatibilities, ensure proposed Zoning Ordinance changes establish adequate maximum building heights to allow full build-out of the planned job and housing growth capacity within each of the identified Growth Areas.
5. Urban Village Design CD-8.4: For properties subject to a Planned Development Zoning which makes reference to a General Plan height limit and/or which does not specify a height limit, provide that the allowable height is the greater of either 35 feet or the height that was allowed through the General Plan at the time of the adoption of the Planned Development Zoning.

Analysis: The project allows for a high density mixed-use residential project in the Paseo de Saratoga Urban Village, including the construction of 994 residential units and 165,949 square feet of commercial space. As discussed above, the project conforms with the criteria of the Signature Project Policy IP-5.10, including provisions regarding overall project design, pedestrian friendly design, and incorporation of publicly accessible open space. The CG(PD) Planned Development Zoning District would allow for a maximum height of 145 feet. As described in the Development Standards for the project, maximum heights would range from 99 feet (Building 1) to 132 feet (Building 4). The buildings are designed so that the tallest portions of each building are directed away from the single-family residences to the south. Building 1, located east of the intersection of Quito Road and Saratoga Avenue, has a maximum height of 127 feet. Building 1 is setback from the existing single-family residences to the south by 165 feet. Building 1 includes a stepback at the southside of the building beginning at 39 feet and gradually rising to 127 feet at the northernmost portion of the building. Building 2, located closest to the adjacent single-family residences to the south has a maximum height of 99 feet. Additionally, Building 2 incorporates a 100 foot setback from the existing single-family residences to the south. Building 2 also includes a stepback at the southside of the building beginning at 33 feet and gradually rising to 99 feet at the northernmost portion of the building. Building 3, located at the northernmost portion of the El Paseo site, has a maximum height of 130 feet, and is adjacent to other buildings within the development or existing commercial development within the El Paseo de Saratoga shopping center. Building 4, located north of the intersection of Saratoga Avenue and Lawrence Expressway, has a maximum height of 132 feet. The front portion of the building, nearest the single-family residences across Lawrence Expressway to the south, has a maximum height of 110 feet. The rear northernmost portion of the building, adjacent to existing commercial uses, has a maximum height of 132 feet. Given, the location of the project in an Urban Village, the density required by the Signature Project Policy, and the allowable FAR of the General Plan land use designations, the maximum heights are consistent with the policies of the General Plan and are well integrated with the existing lower density development in the surrounding area.

San Jose Municipal Code Conformance

Land Use

The project includes a rezoning to the CG(PD) Planned Development Zoning District. Subject to the project's Development Standards, the newly created CG(PD) Planned Development Zoning District would allow for uses that conform with the UV Urban Village Zoning District. As shown on the General Development Plan (Exhibit F) of the Planned Development Zoning District, the permitted, special, and conditional uses of the UV Urban Village Zoning District are subject to the issuance of a Planned Development Permit or Planned Development Permit Amendment. The project includes a mixed use residential/commercial project and off-sale alcohol. Therefore, a Planned Development Permit is required. This Staff Report and the Planned Development Permit Resolution (Exhibit C) include findings for a Planned Development Permit, Conditional Use Permit, Off-Sale Alcohol, and a Determination of Public Convenience or Necessity.

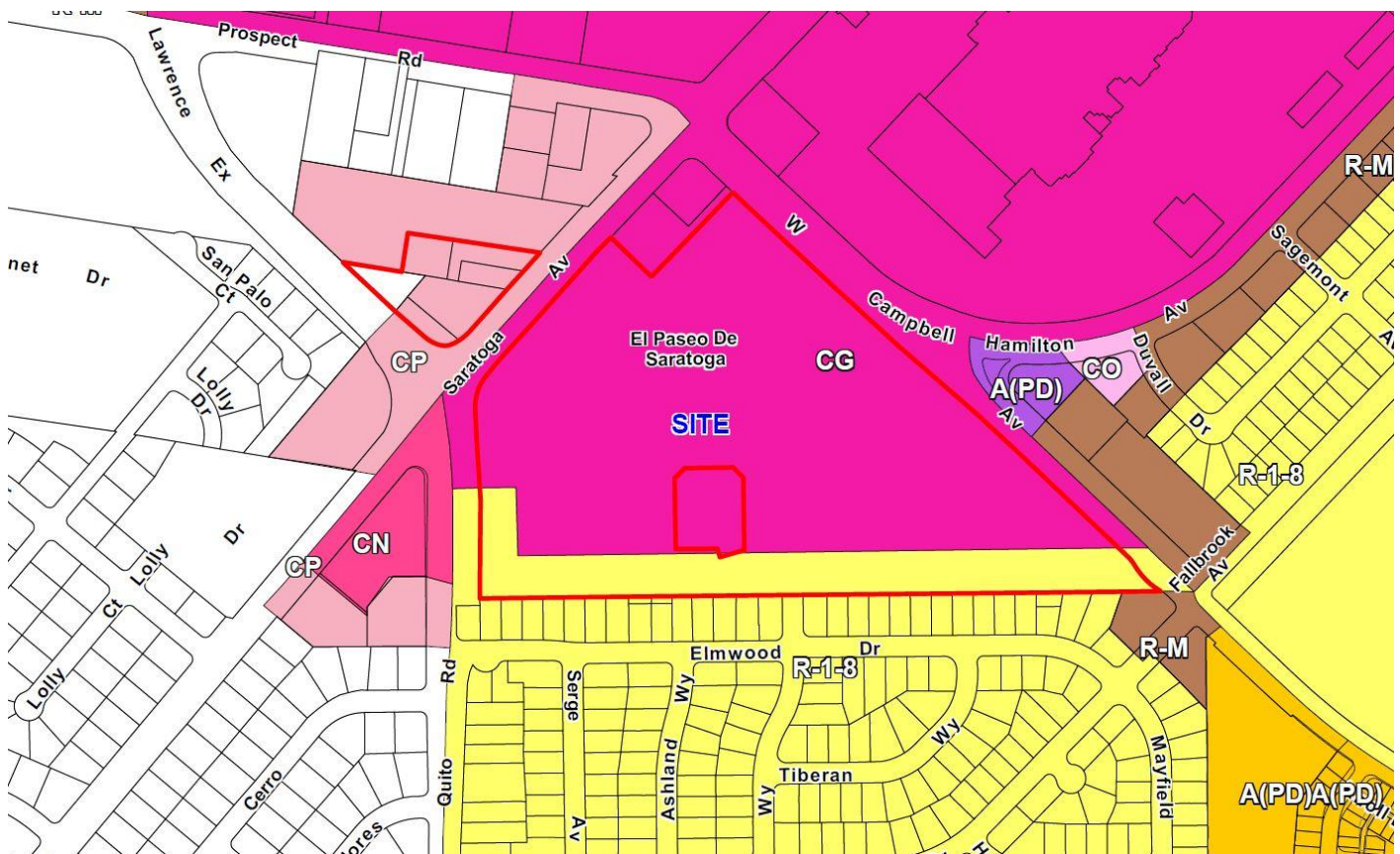


Figure 4 Existing Zoning Map

Setbacks and Height

The table below highlights the Development Standards as outlined in the General Development Plan of the CG(PD) Planned Development Zoning District. See the attached Exhibit F for the full proposed Development Standards.

Development Standard	El Paseo Site	1777 Saratoga Site
North Setback	0 feet minimum from property line	5 feet minimum from property line
West Setback	10 feet minimum from property line	4 feet minimum from property line
South Setback	25 feet minimum from property line	17 feet minimum from property line
East Setback	0 feet minimum from property line	10 feet minimum from property line
Maximum Height	145 feet to top of roof	145 feet to top of roof

As shown on the Planned Development Permit plan set (Exhibit E), the project conforms with all required height and setback standards pursuant to the General Development Plan of the Planned Development Zoning District.

Vehicle Parking

Required Residential Parking ([Table 20-210](#))

Unit Size	Number of Units	Ratio	Required
Studio	99	1.25 spaces per unit	123.75
1 Bedroom	542	1.25 spaces per unit	677.5
2 Bedroom	316	1.7 spaces per unit	537.2
3 Bedroom	37	2 spaces per unit	74
		Total Required	1,413 spaces

Commercial Parking ([Table 20-190](#))

Use	Floor Area	Ratio	Required
Retail	93,225 sf	1 per 200 sf of floor area	466.12
Office	47,832 sf	1 per 250 sf of floor area	191.32
		Total Required	658

Project Totals

Project Total	Required	Provided
Residential	1,413 spaces	1,243 spaces
Commercial (Retail and Office)	658 spaces	701 spaces
	Total Parking Required	2,071 spaces
	Total Parking Provided	1,944 spaces
	Parking Reduction Requested	6.1%

Pursuant to [Chapter 20.90](#) of the Zoning Code, the project is required to provide 2,071 vehicle parking spaces. Based on the project plans, the project would provide 1,944 vehicle parking spaces on-site, parking reduction of approximately 6.1%. Pursuant to [Section 20.90.220](#) of the Zoning Code, a project is eligible for up to a 20% parking reduction without requiring the implementation of a Transportation Demand Management (TDM) plan if the use is located in an Urban Village, and the project provides bicycle in conformance with Table 20-190 of the Zoning Code. The subject site is located in the Paseo De Saratoga Urban Village. As discussed below, the project provides greater than the required number of bicycle parking spaces. Therefore, a parking reduction of 6.1% is permitted.

Bicycle Parking

Use	Ratio	Required
Residential	1 per 4 units	249
Retail	1 per 3,000 sf of floor area	31 spaces
Office	1 per 4,000 sf of floor area	12 spaces
	Total Required	292 spaces
	Total Provided	306 spaces

As shown above, the project exceeds the required number of bicycle parking spaces pursuant to [Table 20-190](#) and [Table 20-210b](#) of the Zoning Code, the project is required to provide 292 bicycle parking spaces. At the El Paseo site, 118 short term spaces and 123 long term spaces would be provided. At the 1777 Saratoga site, 27 short-term spaces and 38 long-term spaces are provided. Overall, a total of 306 bicycle parking spaces are provided for the project.

Motorcycle Parking

Use	Ratio	Required
Residential	1 per 4 units	249
Retail	1 per 20 code required spaces	24
Office	1 per 50 code required spaces	4
	Total Required	277
	Total Provided	285

Pursuant to [Table 20-250](#) of [Section 20.90.350](#) of the Zoning Code, the project is required to provide 277 total motorcycle spaces. 221 motorcycle spaces are provided in the El Paseo site and 64 spaces are provided at the 1777 Saratoga site, for a total of 285 spaces.

Noise

Pursuant to the General Development Plan of the CG(PD) Planned Development Zoning District, the project is subject to the performance standards of the UV Urban Village Zoning District. Pursuant to [Section 20.55.202](#) of the Zoning Code, there are no minimum noise requirements. However, a noise report was prepared by Illingworth and Rodkin, dated September 16, 2021. The report evaluated the project's compatibility with the onsite noise environmental and the project's potential to result in significant noise and vibration impacts with respect to the California Environmental Quality Act (CEQA). Noise measurements were taken from eight separate locations at the boundaries of the project site, near both existing residential and commercial uses to analyze the noise and vibration impacts that may occur during construction. This Planned Development Permit allows nighttime construction for a 15-day period in order to construct the parking garage at the 1312 El Paseo de Saratoga site. This would involve 15-hour concrete pours between 6:00 am and 9:00 pm daily over a 15-day period. This Planned Development Permit includes standard permit conditions to minimize noise during construction. Conditions include constructing solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses, constructing temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Utilizing "quiet" air compressors and other stationary noise sources where technology exists, controlling noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site, and notifying all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. The Planned Development Permit also requires the appointment of a construction disturbance coordinator.

Tree Removals

The project is subject to the following tree replacement ratios as shown in the table below.

Tree Replacement Ratios				
Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more ³	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon
<p>*x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. ** A 24-inch box replacement tree = two 15-gallon replacement trees Single Family and Two-dwelling properties may replace trees at a ratio of 1:1.</p>				

As shown on the landscape plan and discussed in the Arborist Report (Exhibit K) prepared by HortScience and Bartlett Consulting, dated April 22, 2020, the project includes the removal of 20 ordinance-size and 100 non-ordinance-size trees. A total of 19 trees would be preserved on site. The trees to be removed are located either within the project building footprint, or within the newly dedicated streets, sidewalks or necessary driveways. The trees to be removed include a mix of Callery pear, Crape myrtle, Camphor, Date palm, Birsbane box, Atlast cedar, Yew pine, Coast live oak, Evergreen ash, California pepper, Oleander, Southern magnolia, and Hollywood juniper trees. The removal of the 120 trees on-site requires the replacement of 228 (15-gallon) or 114 (24-inch box) trees on-site. Based on the plans provided, 132 24-inch box trees would be planted on-site. The trees to be planted include a mix of Strawberry, Bloodgod Japanese maple, Jacaranda, Orange, Lemon, Fig, Olive, Date palm, Chinese pistache, London plane, Cherry, Pomegranate, Coast live oak, Cork oak, and Water gum trees.

Residential and Commercial Design Guidelines

The project application was submitted to the Department of Planning, Building and Code Enforcement in December 2019, prior to the adoption of the Citywide Design Standards and Guidelines in March 2021. Therefore, the project was reviewed for consistency with the Residential Design Guidelines. The project is consistent with the following provisions of Residential Design Guidelines for mixed use projects.

- **Pedestrian Orientation:** Mixed-use projects should include direct and attractive pedestrian access to all nearby commercial areas, transit stops, and transit stations. Sidewalks and walkways should be wide, separated from conflicting activities and bordered by attractive landscaping, most importantly by street and/or shade trees
- **Mix of Uses:**
 - Retail uses should generally be limited to the ground floor spaces along busy street frontages.
 - Office uses may be located on the first and or upper floors. Consideration should be given to project designs that allow areas of the building to be occupied with either office or residential uses depending on market demand provided such uses do not conflict.

- Commercial uses within mixed use projects should be of the variety that directly serve and support the surrounding neighborhood and/or promotes pedestrian traffic or public transit.
- Uses incompatible with a pleasant residential environment should be avoided.

Analysis: The project is located on two large corner lots, fronting two major thoroughfares (Saratoga Avenue and Quito Road/Lawrence Expressway). Saratoga Avenue is a Grand Boulevard as identified on the Land Use/Transportation Diagram of the Envisions San Jose 2040 General Plan. The project includes approximately 109,676 square feet of retail space and 56,273 square feet of office space. Retail is located on the ground floor of the Main Street paseo as well as the project frontages along Saratoga Avenue, Quito Road, and Lawrence Expressway. Office space is located on portions of the ground floor and upper floors of the buildings on the El Paseo de Saratoga site.

- Interface Between Uses:

- Commercial loading areas, trash facilities and mechanical equipment should be screened from sight from all pedestrian ways and should be located away from residential entries, open space and windows to avoid visual, noise and odor impacts on the residential portion of a project.
- The residential portions of projects and buildings should be self-contained and inappropriate access to them from non-residential spaces should be precluded.
- Commercial hours of operation should be limited to avoid adverse impacts on the residential uses within the project.

Analysis: Commercial loading areas are located away from the residential areas within the project site, as well as the existing residences to the south of the site. The primary truck loading area would be located at the north side of the Building 1, at the furthest point away from adjacent residences. Hours of operation of the retail spaces would be subject to the requirements of Title 20 of the Zoning Code and applicable City Council Policies for late night use.

- Building Setbacks: Mixed use buildings and locations are typically urban in character; setbacks from streets should reflect the urban setting and should be no greater than 15 feet. Smaller setbacks are encouraged. Buildings may be set back further to provide outdoor dining space or courtyards. See Chapter 5, "Perimeter Setbacks" for additional setback information.
- Building Orientation: Buildings should be oriented parallel to the street particularly at corners. Buildings and, in particular, entrances should be oriented toward light rail stations and bus stops for convenient access by public transit passengers.
- Relationship to the Street: Active connections between buildings and the street, for example residential and retail entries, porches, stairs, decks, courtyards, and windows, should be maximized.

Analysis: The street facing buildings (Buildings 1 and 4) are oriented towards the primary streets with minimal setbacks. Both buildings are oriented parallel to the street with entrances directly accessible from the sidewalk. The 1777 Saratoga Avenue site incorporates a privately-owned, publicly accessible plaza at the intersection of Saratoga Avenue and Lawrence Expressway, which allows for recreational space and outdoor seating. As previously discussed, the 1312 El Paseo de Saratoga site incorporates a paseo which also includes ground floor retail, office space, seating, and recreational space.

- Building Design, Vertical Mixed Use:

- The scale of mixed use buildings should reflect the scale of existing or planned surroundings. Larger mixed use buildings or projects may reflect their relatively smaller scaled surroundings through greater building articulation, borrowing of architectural themes and the judicious use of multiple materials.
- Materials should be solid and durable. Stucco with a thinly applied appearance, or rough and/or thin wood siding and trim, for example, is not appropriate.
- Building facades should reflect the uses behind them while maintaining a strong architectural relationship among the parts. For example:
 - Building facades should be articulated vertically or horizontally, both if possible.
 - Commercial windows should be large and of clear glass for retail spaces and residential windows should typically be smaller and often vertical in shape. Materials and detailing may vary to express different uses but should be drawn from the same architectural theme or style.
- Entries to residential and non-residential uses should be separate and designed to reflect their residential or commercial purpose. Entrances to residential units along "commercial" frontages and/or high volume major streets should be via an internal lobby, stairway and/or elevator. Along other streets, "first floor" units should be accessed via private stairs and porches where feasible. Exterior stairways visible from streets should never extend above the one and a half story level.

Analysis: The buildings consist of multi-story glass, concrete, wood, and steel structures arranged in a village-type design. The buildings are designed so that the tallest portions of each building are directed away from the single-family residences to the south. Building 1, located east of the intersection of Quito Road and Saratoga Avenue, has a maximum height of 127 feet. Building 1 is setback from the existing single-family residences to the south by 165 feet. Building 1 includes a stepback at the southside of the building beginning at 39 feet and gradually rising to 127 feet at the northernmost portion of the building. Building 2, located closest to the adjacent single-family residences to the south, has a maximum height of 99 feet. Additionally, Building 2 incorporates a 100-foot setback from the existing single-family residences to the south. Building 2 also includes a stepback at the south side of the building beginning at 33 feet and gradually rising to 99 feet at the northernmost portion of the building. Building 3, located at the northernmost portion of the El Paseo site, has a maximum height of 130 feet, and is adjacent to other buildings within the development or existing commercial development within the El Paseo de Saratoga shopping center. Building 4, located north of the intersection of Saratoga Avenue and Lawrence Expressway, has a maximum height of 132 feet. The front portion of the building, nearest the single-family residences across Lawrence Expressway to the south, has a maximum height of 110 feet. The rear northernmost portion of the building, adjacent to existing commercial uses, has a maximum height of 132 feet. Entries to residential and non-residential spaces are clearly delineated throughout the project site.

- Structured Parking Design:

- The blank walls of parking floors should not be located along streets or major pedestrian ways.
- Entries to parking levels should never be placed in prominent locations in primary building façade:
 - Parking entries should be placed in less visible locations at the sides or rears of buildings or at

least at a far end of a front elevation.

- To further reduce entry visibility along streets, entries should be placed in notched back sections of buildings.

Analysis: Subterranean and structured parking are provided throughout each of the two sites. A two-level subterranean garage is below Buildings 1, 3, and a portion of Building 2. Building 2 includes three levels of above ground structured parking in a podium configuration. Ground floor parking and a two-level subterranean garage are also be provided in the building at 1777 Saratoga Avenue. All structured parking is wrapped with active space or screened from view.

Permit Findings

In order for this application to be approved, the Planning Commission must be able to make all required findings for a Planned Development Permit, Conditional Use Permit, Determination of Public Convenience or Necessity, Tree Removal Permit, and Demolition Permit.

Planned Development Permit Findings

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

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

Analysis: As previously discussed in the General Plan consistency analysis above, the project is consistent with the Signature Project Policy (IP-5.10) criteria for the development of residential projects in an Urban Village ahead of the preparation of an Urban Village Plan. The project is also consistent with the applicable Urban Village Design Policies including increased height limits above what currently exists on site. Additionally, the project is consistent with applicable major strategies for focused growth, high quality facilities, land use and employment, implementation of Planned Development Rezoning, and the review of off-sale alcohol.

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

Analysis: As previously discussed in the Municipal Code consistency analysis above, the project conforms with the Development Standards of the General Development Plan for the Planned Development Zoning District (File No. PDC19-049). The newly created CG(PD) Zoning District would allow for uses that conform with the UV Urban Village Zoning District, as amended, which includes high density mixed-use developments. Special and Conditional Uses would be subject to the approval of a Planned Development Permit.

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

Analysis: Council Policy 6-30: Public Outreach Policy was implemented in order to inform the public of the project. On-site signs were posted on the project frontages on March 11, 2021. Formally noticed public hearings were held on October 5, 2020 and January 20, 2022. Additionally, the applicant has held over 40 meetings with various stakeholder groups throughout the planning process. 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. Staff has also been available to respond to questions from the public.

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

Analysis: The interrelationship between the orientation, location, mass and scale of the building volumes and elevations of the project buildings and other uses on-site are appropriate, compatible, and aesthetically harmonious. The three mixed-use buildings at the El Paseo site are oriented around the primary pedestrian Paseo (Main Street), the focal point of the development. The buildings include similar massing, articulation, materials, and colors, while each maintaining a unique identity. The retail uses are compatible with the development as they are located on the ground floor with frontage directly on either the public streets and primary paseo, further activating the streetscape. Additional open space is provided in the form of a public park at the southern end of Buildings 1 and 2, as well as a publicly accessible paseo at the southern end of Building 4.

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

Analysis: All environmental impacts related to noise, vibration, dust, drainage, erosion, storm water runoff, and odor are temporary and would only occur during construction. Stormwater would be treated in conformance with Public Works requirements as conditioned in the Planned Development Permit. This Planned Development Permit allows nighttime construction for a 15-day period in order to construct the parking garage at the 1312 El Paseo de Saratoga site. This would involve 15-hour concrete pours between 6:00 am and 9:00 pm daily over a 15-day period. This Planned Development Permit includes standard permit conditions regarding construction-related air quality, construction-related noise, construction-related water quality, asbestos and lead-based paint, and seismic hazards. The project applicant is also required to appoint a construction disturbance coordinator as conditioned in the Planned Development Permit resolution.

Conditional Use Permit Findings

In order to make the Conditional Use Permit findings pursuant to San José Municipal Code [Section 20.100.720](#), and recommend approval to the City Council, the Planning Commission must determine that:

1. The Conditional Use Permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans and area development policies; and

Analysis: As explained in detail above, the project use is consistent with and further the policies of the General Plan. The project conforms with General Plan Land Use Policy LU-5-10, which gives preference to off-sale alcohol establishments that offer a full range of food choices. The project allows off-sale alcohol (Type 21 ABC License) at a future grocery store (Whole Foods Market). Whole Foods is a nationwide chain of retail stores that offers a complete shopping experience including a full range of groceries, produce, and meat, as well as alcohol. Alcohol sales would be incidental to the larger retail use. The store provides a retail option for existing and future neighborhood residents in addition to employing 150 employees.

2. The Conditional Use Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: The retail use is a permitted use in the CG(PD) Planned Development Zoning District, and off-sale alcohol use would also be authorized with a Planned Development Permit pursuant to the General Development Plan (File No. PDC19-049). Therefore, the project would be in conformance with the requirements of the CG(PD) Planned Development Zoning District with the issuance of the permit.

3. The Conditional Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: As described above, Council Policy 6-30: Public Outreach Policy was implemented in order to inform the public of the project. On-site signs were posted on the project frontages on March 11th, 2021. Formally noticed public hearings were held on October 5, 2020 and January 20, 2022. Additionally, the applicant has held numerous meetings with various stakeholder groups. 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. Staff has also been available to respond to questions from the public.

4. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and

Analysis: As indicated in the San José Police Department Memorandum dated January 27, 2022, the use is located in an area that is unduly concentrated with alcohol sales but is not in an area of high crime. The allocated number of off-sale establishments in Census Tract 5066.04 is three, and currently there are five off-sale establishments with active licenses. The Police department is neutral regarding this off-sale alcohol establishment. Due to the concentration of alcohol sales within this census tract, a Determination of Public Convenience and Necessity is required. Alcohol sales would be incidental to the primary use as a grocery store. Additionally, the Operations Plan prepared by the applicant and submitted to the Director of Planning, Building and Code Enforcement on September 23, 2021, provides provisions for security and employee training specific to alcohol sales. Video surveillance would also be utilized throughout the store and the exterior of the building. Grocery store employees will be trained in responsible alcohol sales and service and will be responsible for maintaining adequate lighting, and deterring theft, loitering, and vandalism. Hours of alcohol sales would coincide with hours of operation of the store (6:00 am to 12:00 am 7 days per week).

5. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

Analysis: As discussed above, the building conforms to the development regulations, including setbacks, height, and parking for a building in the CG(PD) Planned Development Zoning District.

6. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity

of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and

- b. By other public or private service facilities as are required.

Analysis: The subject site is adequately served by local and regional access routes, and is accessed from Quito Road, Saratoga Avenue, and Campbell Avenue, as indicated above. The subject site is served by VTA bus routes 26 and 57. The site is regionally served by Lawrence Expressway and California State Route 85.

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

Analysis: Off-sale alcohol would be incidental to the larger grocery store use. As conditioned in the Planned Development Permit, alcohol sales would be limited to a maximum of five percent of the total floor area of the retail space that is open and accessible to the general public (i.e. excluding backroom storage and office space). All alcohol sales would be conducted indoors. Therefore, there would be no unacceptable negative environmental impacts related to noise, vibration, fugitive dust, drainage, storm water runoff, or odor, and the project will not have any unacceptable negative environmental effect on adjacent properties with regards to alcohol sales.

Off-Sale Alcohol Findings

A Conditional Use Permit may be issued pursuant to the applicable provisions of this title for the off-sale of any alcoholic beverages only if the decision-making body first makes the following additional findings pursuant to [Section 20.80.900](#) of the Zoning Code, where applicable:

1. For such use at a location closer than five hundred feet from any other such use involving the off-sale of alcoholic beverages, situated either within or outside the city, that the proposed location of the off-sale alcohol use would not result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one-thousand-foot radius from the proposed location.

*Analysis: The use would result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one-thousand-foot radius from the subject site. Given the size of the projects and central location on the street corner, a 1,000 foot radius includes three different shopping centers and Target, BevMo, Sprouts, and CVS all have active off-sale alcohol licenses and are all located within 1,000 feet of the subject site. Therefore, **this finding cannot be made.***

2. For such use at a location closer than five hundred feet from any other use involving the off-sale of alcoholic beverages, situated either within or outside the city, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one-thousand-foot radius from the proposed location, that the resulting excess concentration of such uses will not:
 - a. Adversely affect the peace, health, safety, morals, or welfare of persons residing in or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the area; or

c. Be detrimental to public health, safety or general welfare

*Analysis: As previously stated, the use would result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one-thousand-foot radius from the subject site. As indicated in the San José Police Department Memorandum dated January 27, 2022, the establishment is located in an area that is unduly concentrated with alcohol sales but is not in an area of high crime. The Police department is neutral regarding this off-sale alcohol establishment. As conditioned in the Planned Development Permit, the alcohol sales area is limited to no more than five percent of the sales floor area. Additionally, the Operations Plan provides provisions for security and employee training specific to alcohol sales. Video surveillance would also be utilized throughout the store and the exterior of the building. Staff will be trained in responsible alcohol sales and service and will be responsible for maintaining adequate lighting, and deterring theft, loitering, and vandalism. Hours of alcohol sales would coincide with hours of operation of the store (6:00 am to 12:00 am 7 days per week). Therefore, given the primary use as a grocery store and with the implementation of the applicant's Operation Plan, the use would not adversely affect the surrounding area. Therefore, **this finding can be made.***

3. For such use at a location closer than five hundred feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or one hundred fifty feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.

*Analysis: The subject site is not located within five hundred feet from a child care center, social services, agency, residential care facility, residential service facility, secondary school, college or university. The project is adjacent to residentially zoned properties to the south and includes the construction of a Public Park at the southwest corner of the subject site. However, the use is oriented in a manner that would not be a detriment to the adjacent uses including the residences to the north and school to the east. There is no pedestrian or vehicular access to the site from the residences to the south. Additionally, the sale of alcohol occurs entirely indoors and would be incidental to the larger grocery store use. Whole Foods is a nationwide chain of retail stores that offers a complete shopping experience including a full range of groceries, produce, and meat, as well as alcohol. Alcohol sales would be incidental to the larger retail use. As conditioned in the Planned Development Permit, the alcohol sales area is limited to no more than five percent of the sales floor area. Therefore, **this finding can be made.***

Determination of Public Convenience or Necessity Findings

Under California Business and Professions Code Sections 23958 and 23958.4, the Department of Alcohol Beverage Control (ABC) must deny an application for a liquor license "if issuance of that license would tend to create a law enforcement problem, or if the issuance would result in or add to an undue concentration of liquor licenses in the area," unless the City determines that the public convenience or necessity would be served by the issuance of the license (Determination of Public Convenience or Necessity, or PCN). An "undue concentration" is defined as follows:

1. The premises of the proposed license are located in an area that has 20 percent greater number of reported crimes than the average number of reported crimes for the City as a whole, or
2. The premises of the proposed license are located in a census tract where the ratio of existing retail off-sale licenses to population in the census tract exceeds the ratio in the County as a whole.

Analysis: The project site is located within Census Tract 5066.04. According to the San José Police Department Memorandum January 27, 2022, the establishment is located in an area that is unduly concentrated with alcohol sales but is not in an area of high crime. The neighborhood does not report 20 percent more crimes above the city average. However, the ratio of existing retail off-sale licenses to population in the census tract exceeds the ratio in the County as a whole. The allocated number of off-sale establishments in Census Tract 5066.04 is three, and currently there are five off-sale establishments with active licenses. This permit would be the sixth off-sale alcohol use in the Census tract. Therefore, for the California Department of Alcoholic Beverage Control (ABC) to be able to issue a license for this off-sale use, the City must grant a Determination of Public Convenience or Necessity. The analysis of the proposal is based on the required findings identified in [Title 6](#) of the San José Municipal Code and is described below.

[Chapter 6.84](#) of Title 6 identifies the process and findings related specifically to the off-sale of alcohol and specifies that the Planning Commission may issue a PCN only after first making all of the findings specified below (see San Jose Municipal Code section [6.84.030](#)):

1. The proposed use is not located within a Strong Neighborhoods Initiative or neighborhood revitalization area or other area designated by the city for targeted neighborhood enhancement services or programs, or located within an area in which the chief of police has determined based upon quantifiable information that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would increase the severity of existing law enforcement or public nuisance problems in the area; and
 - a. Would be detrimental to the public health, safety, or welfare of persons located in the area; or
 - b. Would increase the severity of existing law enforcement or public nuisance problems in the area; and

Analysis: The project site is not located within a Strong Neighborhoods Initiative (SNI) area or neighborhood revitalization area or other area designated by the City for targeted neighborhood enhancement services or programs. According to the Police Department Memorandum dated January 27, 2022, The Police Department stated that it is neutral to the issuance of a Conditional Use Permit for the off-sale of alcohol at the subject site. Alcohol sales are incidental to the primary use as a grocery store. As conditioned in this Planned Development Permit, the area in which alcoholic beverages are displayed or otherwise offered for sale shall not exceed 5 percent of the total floor area of the retail area that is open and accessible to the general public (i.e., excluding backroom storage and office spaces). Alcohol product displays shall not be placed outside the retail tenant space. Additionally, the Operations Plan provides provisions for security and employee training specific to alcohol sales. Video surveillance would also be utilized throughout the store and the exterior of the building. Grocery store employees will be trained in responsible alcohol sales and service and will be responsible for maintaining adequate lighting, and deterring theft, loitering, and vandalism. Hours of alcohol sales would coincide with hours of operation of the store (6:00 am to 12:00 am 7 days per

week). Therefore, given the primary use as a grocery store and with the implementation of the applicant's Operation Plan, the use would not be detrimental to public health, safety, or welfare of persons located in the area, or increase the severity of existing law enforcement or public nuisance problems in the area. Therefore, **this finding can be made.**

2. The proposed use would not lead to the grouping of more than four off-premises sale of alcoholic beverage uses within a one-thousand-foot radius from the exterior of the building containing the proposed use; and

*Analysis: As previously discussed, the use results in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one-thousand-foot radius from the subject site. Target, BevMo, Sprouts, and CVS all have active off-sale alcohol license and are all located within 1,000 feet of the subject site. Therefore, **this finding cannot be made.***

3. The proposed use would not be located within five hundred feet of a school, day care center, public park, social services agency, or residential care or service facility, or within one hundred fifty feet of a residence; and

*Analysis: The subject site is located within one hundred fifty feet of a residence and within five hundred feet of public park, which would be constructed as part of the development. Therefore, **this finding cannot be made.***

4. Alcoholic beverage sales would not represent a majority of the proposed use; and

*Analysis: Whole Foods is a nationwide chain of retail stores that offers a complete shopping experience including a full range of groceries, produce, and meat, as well as alcohol. Alcohol sales would be incidental and appurtenant to the larger grocery store use. As conditioned in this Planned Development Permit, the area in which alcoholic beverages are displayed or otherwise offered for sale shall not exceed 5 percent of the total floor area of the retail area that is open and accessible to the general public (i.e., excluding backroom storage and office spaces). Alcohol product displays shall not be placed outside the retail tenant space. Additionally, the Operations Plan provides provisions for security and employee training specific to alcohol sales. Therefore, **this finding can be made.***

5. At least one of the following additional findings:

- a. The census tract in which the proposed outlet for the off-premises sale of alcoholic beverages is located is unusually configured and the proposed outlet would act as a convenience to an underserved portion of the community without presenting a significant adverse impact on public health or safety; or

*Analysis: The census tract is not unusually configured in shape. Therefore, **this finding cannot be made.***

- b. The proposed outlet for the off-premises sale of alcoholic beverages would enhance or facilitate the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety; or

Analysis: The project allows off-sale alcohol (Type 21 ABC License) at a future grocery store (Whole Foods Market). Whole Foods is a nationwide chain of retail stores that offers a complete shopping experience including a full range of groceries, produce, and meat, as well as alcohol. Alcohol sales would be incidental to the larger retail use. The area in which alcoholic beverages are displayed or

*otherwise offered for sale shall not exceed 5 percent of the total floor area of the retail area that is open and accessible to the general public (i.e., excluding backroom storage and office spaces). Alcohol product displays shall not be placed outside the retail tenant space. Additionally, the Operations Plan provides provisions for security and employee training specific to alcohol sales. The store would provide retail option for existing and future neighborhood residents in addition to employing 150 employees. According to the Police Department Memorandum dated January 27, 2022, the Police Department is neutral to the issuance of a Conditional Use Permit for the off-sale of alcohol at the subject site. The subject site is located in San Jose Police Beat N6. The reported crime statistics as defined by B&P Section 23958.4(c) are not over the 20% crime index, thus the location is not considered unduly concentrated per B&P Section 23958.4 (a)(1). Additionally, the Operations Plan provides provisions for security and employee training specific to alcohol sales. Video surveillance would also be utilized throughout the store and the exterior of the building. Staff will be trained in responsible alcohol sales and service and will be responsible for maintaining adequate lighting, and deterring theft, loitering, and vandalism. Hours of alcohol sales would coincide with hours of operation of the store (6:00 am to 12:00 am 7 days per week). Therefore, given the primary use as a grocery and the implementation of the applicant's Operation Plan, the use would not be detrimental to public health, safety, or welfare of persons located in the area. Therefore, **this finding can be made.***

- c. The census tract in which the proposed outlet is located has a low population density in relation to other census tracts in the city, and the proposed outlet would not contribute to an over-concentration in the absolute numbers of outlets for the off-premises sale of alcoholic beverages in the area; or

*Analysis: The census tract in which the proposed outlet is located does not have a low population density in relation to other census tracts in the city. However, the project would result in an overconcentration in the number of outlets for the off-premises sale of alcoholic beverages as explained above. Therefore, **this finding cannot be made.***

- d. The proposed off-premises sale of alcoholic beverages is incidental and appurtenant to a larger retail use and provides for a more complete and convenient shopping experience.

*Analysis: Whole Foods is expected to be the future grocery store at the project site. Whole Foods is a nationwide chain of retail stores that offers a complete shopping experience including a full range of groceries, produce, and meat, as well as alcohol. Alcohol sales would be incidental and appurtenant to the larger grocery store use. As conditioned in the Planned Development Permit, the area in which alcoholic beverages are displayed or otherwise offered for sale shall not exceed 5 percent of the total floor area of the retail area that is open and accessible to the general public (i.e., excluding backroom storage and office spaces). Therefore, **this finding can be made.***

If the Planning Commission cannot make one or more of the first four findings (items 1 through 4) listed above, then the Planning Commission is required by San Jose Municipal Code [Section 6.84.030.D](#) to make a recommendation to the City Council as to whether the Council should make a determination for the proposed use.

Analysis: Given the above-state analysis, the second and third findings for the issuance of a Determination of Public Convenience or Necessity cannot be made for the off-sale of alcohol because the project site is located within 500 feet of a future public park and within 150 feet of a residentially zoned

property. Therefore, City Council approval is required for the proposed use. The Planning Commission must make a recommendation on the proposed use to the City Council and the City Council may issue a determination in connection with an application for a license from the California Department of Alcoholic Beverage Control for the off-premises sale of alcoholic beverages where it can make a determination that not all of the required findings can be made, and when the Council identifies that a significant and overriding public benefit or benefits will be provided by the proposed use. The Council can identify and find that significant and overriding public benefit will be provided by the proposed use.

Notwithstanding the foregoing provisions and requirements contained in Subsection D. above, the City Council may issue a determination in connection with an application for a license from the California Department of Alcoholic Beverage Control for the off-premises sale of alcoholic beverages where the City Council does all of the following:

- a. Makes a determination that not all of the required findings set forth in Subsection B. can be made; and

Analysis: Given the above-stated analysis, the Planning Commission cannot make the second and third findings for the Determination of Public Convenience or Necessity for the off-sale of alcohol because the subject site is located within 500 feet of a future public park and within 150 feet of a residentially zoned property. However, the Planning Commission can make two of the four findings. Moreover, the Commission can make findings 5.b and 5.d of the additional findings.

- b. Identifies and finds that a significant and overriding public benefit or benefits will be provided by the proposed use.

Analysis: While the Planning Commission cannot make all of the required findings for the Determination of Public Convenience or Necessity, there are significant and overriding benefits by the project use. Off-sale alcohol would be appurtenant to a larger grocery use that provides a complete, convenient, and diverse shopping experience for the community. The use would be oriented in a manner that would not be a detriment to the adjacent uses including the residences to the south and proposed public parks. There is no direct pedestrian or vehicular access to the site from the adjacent residences to the south. Additionally, the Operations Plan provides provisions for security and employee training specific to alcohol sales. Video surveillance would also be utilized throughout the store and the exterior of the building. Staff will be trained in responsible alcohol sales and service and will be responsible for maintaining adequate lighting, and deterring theft, loitering, and vandalism. Hours of alcohol sales would coincide with hours of operation of the store (6:00 am to 12:00 am 7 days per week). Alcohol sales would be incidental and appurtenant to the larger grocery store use. As conditioned in this Planned Development Permit, the area in which alcoholic beverages are displayed or otherwise offered for sale shall not exceed 5 percent of the total floor area of the retail area that is open and accessible to the general public (i.e., excluding backroom storage and office spaces). Finally, the proposed off-sale alcohol use would further activate future mixed-use area and would provide additional retail options to the existing and future residents in the surrounding area.

Tree Removal Permit Findings

In order to make the Tree Removal findings pursuant to [Section 13.32.100](#) of the San José Municipal Code and recommend approval to the City Council, Planning Commission must determine that:

1. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
2. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or

Analysis: As shown on the landscape plan and discussed in the Arborist Report (Exhibit K), the project includes the removal of 20 ordinance-size and 101 non-ordinance-size trees. A total of 19 trees would be preserved. The trees to be removed are located either within the project building footprint, or within the newly dedicated streets, sidewalks or necessary driveways. The trees to be removed include a mix of Callery pear, Crape myrtle, Camphor, Date palm, Birdbane box, Atlas cedar, Yew pine, Coast live oak, Evergreen ash, California pepper, Oleander, Southern magnolia, and Hollywood juniper trees. The removal of the 120 trees on-site requires the replacement of 228 (15-gallon) or 114 (24-inch box) trees on site. Based on the plans provided, 132 24-inch box trees would be planted on-site. The trees to be planted include a mix of Strawberry, Bloodgood Japanese maple, Jacaranda, Orange, Lemon, Fig, Olive, Date palm, Chinese pistache, London plane, Cherry, Pomegranate, Coast live oak, Cork oak, and Water gum trees.

Demolition Permit Findings

[Chapter 20.80](#) of the Municipal Code establishes evaluation criteria for the issuance of a permit to allow for demolition. These criteria are made for the project based on the above stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the Resolution:

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
2. The failure to approve the permit would jeopardize public health, safety or welfare;
3. The approval of the permit should facilitate a project that is compatible with the surrounding neighborhood;
4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
6. Rehabilitation or reuse of the existing building would not be feasible; and
7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The project includes the demolition of five buildings totaling approximately 126,345 square feet. The approval of the demolition permit would not result in the creation or continued existence of a nuisance, blight or dangerous condition nor would it jeopardize public health, safety or welfare, as it would allow for the construction of a mixed-use residential development that would provide much needed housing and employment growth to the area. The demolition permit would facilitate a project that is compatible with the surrounding neighborhood. As previously discussed, the project is consistent with all applicable General Plan goals and policies, Planned Development Zoning requirements,

applicable city council policies, and Residential Design Guidelines. Given the scope of the project, the rehabilitation or reuse of any of the existing buildings on-site would not be feasible. As discussed in the associated Environmental Impact Report, none of the buildings on the project site or the adjacent properties are listed on any local, State, or federal lists of historically or architecturally significant structures and/or sites, landmarks, or points of interest. The project site is currently developed with a big box commercial retail center and single-story commercial structures that do not have distinctive architectural features. Therefore, the buildings are not eligible for listing on the National Register of Historic Places, California Register of Historic Resources, or City of San José Historic Resources Inventory. The demolition of any existing buildings on-site would not be approved until the issuance of a grading permit.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San José, as the lead agency for the proposed project, prepared a Draft Environmental Impact Report, State Clearinghouse No. 2020090521 (DEIR), which was circulated for public review and comment from October 15, 2021 to November 29, 2021. 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 and errata constitute the Final Environmental Impact Report (FEIR) for the proposed project.

The EIR identified potential environmental impacts to Air Quality, Biological Resources, Hazardous Materials, Noise, and Transportation/Traffic and these impacts would be reduced to less than significant levels with the implementation of the identified mitigations. The EIR determined there would be no significant and unavoidable impacts due to implementation of the project.

DEIR Circulation Comments

Seventy-four comments were received during public circulation including four from regional and local agencies and seventy from members of the public. Many of the comments received during public circulation raised similar concerns and questions; therefore, topic responses were prepared to respond to those common concerns/questions. The topic responses address the following topics:

- Vehicle Miles Traveled
- Below-Market Housing
- Utilities (Water and Sewer)
- Parking
- Schools
- Aesthetics and Visual Impacts
- General Plan Consistency, Project Density and Scale

DEIR Recirculation Unnecessary

Staff responded to the comments and questions in the First Amendment and none of the comments raised represent new significant information that would warrant recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5(a). 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 a Draft EIR is not "significant" unless the Draft EIR 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).

The First Amendment was posted on the City's website on May 6, 2022 and all commenters were notified via email of the document's availability. In addition, an errata memorandum was also posted on the City's website regarding minor revisions to the mitigation measures under the Transportation/Traffic impact. All commenters were notified of its availability by email notification. The Draft Environmental Impact Report (DEIR), First Amendment and errata memorandum are available for public review on the City's website:

<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs>.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the project. On-site signs were posted on the project frontages on March 11, 2021. 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](#). Staff has also been available to respond to questions from the public.

Two formally noticed, City sponsored, community meetings were held on October 5, 2020 and January 20, 2022. Both meetings were held via Zoom in accordance with the Santa Clara County Health Officer's, March 16, 2020 Shelter in Place order. The October 5, 2020 meeting was attended by approximately 125 members of the public. The January 20, 2022 meeting was attended by approximately 126 members of the public. Additionally, the applicant has held over 40 meetings with various stakeholder groups throughout the planning process. Concerns raised by members of the public include the high project density, building heights, neighborhood compatibility, traffic impacts, pedestrian and bicyclist safety, school impacts, the lack of affordable housing, potentially historic resources, construction impacts, air quality impacts, and noise.

Project Manager: Alec Atienza

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

ATTACHMENTS:	
Exhibit A:	Draft EIR Resolution
Exhibit B:	Draft Rezoning Ordinance
Exhibit C:	Draft Planned Development Permit Resolution
Exhibit D:	Planned Development Zoning Plan Set
Exhibit E:	Planned Development Permit Plan Set
Exhibit F:	Draft Development Standards
Exhibit G:	Legal Description and Plat Map
Exhibit H:	SJPD Memo
Exhibit I:	Whole Foods Operations Plan

Exhibit J:	Noise Study
Exhibit K:	Arborist Report
Exhibit L:	Public Comments
Exhibit M:	Signed MMRP
Exhibit N:	DEIR Errata Memo

Owner/Applicant:	Applicant's Representative:
Allison Koo Sand Hill Property Company (El Paseo Property Owner LLC) 965 Page Mill Road Palo Alto, CA 94304	Erik Schoennauer 90 Hawthorne Way San Jose, CA 95110

PDC19-049 & PD20-006

Links to Attachments A-N

Click on the title to view document

Exhibit A: Draft EIR Resolution
Exhibit B: Draft Rezoning Ordinance
Exhibit C: Draft Planned Development Permit Resolution
Exhibit D: Planned Development Zoning Plan Set
Exhibit E: Planned Development Permit Plan Set
Exhibit F: Draft Development Standards
Exhibit G: Legal Description and Plat Map
Exhibit H: SJPd Memo
Exhibit I: Whole Foods Operations Plan

Exhibit J: Noise Study

Exhibit K: Arborist Report

Exhibit L: Public Comments

Exhibit M: Signed MMRP

Exhibit N: DEIR Errata Memo