

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, AN HISTORIC PRESERVATION PERMIT TO ALLOW THE DEMOLITION OF THE SOUTH AND WEST WALLS, ROOF, AND INTERIOR OF A CITY LANDMARK BUILDING, ALTERATIONS TO WINDOWS AND DOORS ON THE EAST FAÇADE, REMOVAL OF THE EXTERIOR PLASTER CLADDING ON THE NORTH AND EAST FAÇADES, AND CONSTRUCTION OF A RETAIL AND OFFICE BUILDING AT 142-150 EAST SANTA CLARA STREET LOCATED ON THE SOUTHWEST CORNER OF EAST SANTA CLARA STREET AND SOUTH 4TH STREET (APN: 467-23-035)**

**FILE NO. HP21-005**

**WHEREAS**, pursuant to the provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, on May 28, 2021, Matt Conti filed an application with the City of San José on behalf of property owners, Sunstone QOZB, LLC, for an Historic Preservation Permit (File No. HP21-005) to allow the demolition of the south and west walls, roof, and interior of a City Landmark building, alterations to windows and doors on the east facade, removal of the exterior plaster cladding on the north and east facades, and construction of a six-story commercial building, incorporating the existing street-fronting facades (the "Project") at 142-150 East Santa Clara Street on that certain real property located on the southwest corner of East Santa Clara Street and South 4<sup>th</sup> Street (the "subject property"); and

**WHEREAS**, a legal description of the subject property is attached as Exhibit "A" and incorporated by reference; and

**WHEREAS**, at a duly noticed public hearing on October 26, 2022, the Planning Commission considered public comments and all evidence and testimony received at the public hearing regarding the Project and recommended that the City Council approve a Site Development Permit for the Project, certify the Supplemental Environmental Impact

Report, and consider staff's recommendation to approve the Historic Preservation Permit ("HP Permit"); and

**WHEREAS**, at a duly noticed public hearing on November 2, 2022, the Historic Landmarks Commission ("HLC") considered public comments and all evidence and testimony received at the public hearing regarding the Project and recommended that the City Council deny the HP Permit; and

**WHEREAS**, this City Council received and considered the reports and recommendations of the HLC, Planning Commission, and Director of Planning, Building, and Code Enforcement and conducted a duly noticed public hearing on the Project, giving all persons full opportunity to be heard and to present evidence and testimony; and

**WHEREAS**, at said hearing, this City Council received in evidence a plan for the subject property entitled, "SuZaco Mixed Use Project," located at East Santa Clara Street and South 4<sup>th</sup> Street and, San Jose, CA 95113, dated revised March 11, 2022, which is on file in the Department of Planning, Building and Code Enforcement and available for inspection; said plan is incorporated by reference; and

**WHEREAS**, this City Council has heard and considered the testimony presented at the public hearing and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering evidence presented at the public hearing, the City Council finds the following are the relevant facts and findings regarding the application for a HP Permit:

**1. Site Description and Surrounding Uses.**

The subject property is comprised of one parcel located at 142-150 East Santa Clara Street on the southwest corner of East Santa Clara Street and South 4<sup>th</sup> Street. The

two-story building on the site is a contributing structure to the Downtown Commercial National Register Historic District (“Historic District”) and is a designated City Landmark known as the “State Meat Market.” The City Council designated the State Meat Market building a City Landmark in 1992 (HL92-70, Resolution No. 63845) based on its historical, cultural, and architectural significance. The building qualified for landmark designation because it exemplifies the local, regional, state, or national history, heritage or culture within the theme of commerce during the City’s Horticultural Era (1870-1918), it is identified with the work of Frank D. Wolfe, a prominent architect of the firm Wolfe and Higgins and the State Meat Market was the first of a chain of 477 markets established outside of San Francisco by the Kwong-Low Clan. The period of significance for its architectural association is 1915, and the period of significance for its historical association with the State Meat Market is 1934 -1985.

The subject property is surrounded by a gas station and retail uses (including the future Icon-Echo residential/commercial tower building) across East Santa Clara Street to the north, the newly constructed Miro Towers multifamily residential project across North 4<sup>th</sup> Street and East Santa Clara intersection to the northeast, City Hall Plaza to the east across South 4<sup>th</sup> Street, the Hotel Clariana parking lot and multifamily residential uses to the south, and mixed uses to the west along East Santa Clara Street.

## **2. Project Description.**

In addition to the Project’s Site Development permit, the Project requires an Historic Preservation Permit due to major alterations to the City landmark at 142-150 East Santa Clara Street and related new construction on the property. The street-facing historic facades of the City Landmark would be retained and rehabilitated, except for the removal of the original plaster cladding on the retained facades which is a character-defining feature of the building. The new construction would extend four stories above the retained historic façades and would be built with glass, steel, and mass timber and design elements to distinguish the new construction from the historic facades. The façades of the new building are set back from the historic façades by approximately 12 feet along East Santa Clara Street and five feet along South 4th Street. The fourth through sixth stories are set back from the historic façades by approximately five feet along East Santa Clara Street, and two feet along South 4th Street.

## **3. General Plan Conformance.**

The Project conforms or partially conforms with the following Envision San José 2040 General Plan policies:

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

*Analysis: The Project site intersects with the National Register listed Downtown Commercial Historic District and includes a noncontributing building at 130-134 East Santa Clara Street and a district contributor and designated City Landmark at 142-150 East Santa Clara Street. The new building at 130-134 East Santa Clara Street would enliven the street frontage by replacing a heavily altered noncontributing building with a visually interesting commercial building with an appropriate storefront at the street level. Those aspects of the street-facing façades of 142-150 East Santa Clara Street which contribute to the historic district's character – including its storefronts, second-story fenestration patterns and ornamentation, cornice, and parapet, would be substantially retained. The building would retain its eligibility as a contributor to the Downtown Commercial Historic District. Though noticeably different in scale and materials from the retained two-story historic masonry façades of 142-150 East Santa Clara Street, the six-story building would visually bookend the east end of the district's span along East Santa Clara Street, providing a transition between the early twentieth century commercial architecture of nearby district contributors*

- b. Land Use Policy LU-13.3: For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.

*Analysis: The Project would retain the circa 1913-1915 two-story façade of 142-150 East Santa Clara Street and would rehabilitate the three existing commercial storefronts facing East Santa Clara Street for continued retail use. These three pedestrian-focused storefronts would continue the ground-floor commercial use which has characterized the building's primary façade since its construction. Expansive glazing at the historic storefront locations, as well as on the northeast façade and new upper stories would provide transparent interfaces between outdoor and indoor spaces. The upper stories would increase the commercial use capacity of the site, while retaining the distinctive historic façades which include the majority of the building's character-defining features. Through use of contemporary materials and design vocabulary, new elements of the project would be clearly differentiated from the historic building. Nonetheless, the Project would only retain the façades of the original building, with entirely new construction within, behind, and above these two exterior walls. Thus, the Project is considered "façadism" as identified in the City of San Jose's Design Guidelines for Adaptive Reuse.*

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

## Landmarks.

*Analysis: The Project was referred to the Design Review Committee (“DRC”) of the HLC for comment on July 21, 2021, and to the full HLC on September 1, 2021. In response to the comments received at the DRC meeting, the applicant changed the Project design to bring the trellis of the building forward to create a prominent feature at the skyline, and details to that feature were added. No additional changes were made to the Project design in response to comments made by the full HLC at a subsequent meeting. The applicant stated that the U-shaped property presented significant design challenges for the Project and the mass timber building was limited in height to 85 feet to comply with egress and fire safety requirements. The applicant stated that the building program could not be accommodated if the new building were set back a greater distance from the historic building. With regard to the compatibility of materials, the applicant responded that part of the overall façade is glass, but there is a fair amount of line work with the building recesses, balconies, overhangs and setbacks that frame the structure and the support system. The applicant asserted that lines from the neighboring buildings, including canopies and awning lines, were carried over to the new building in the wood and steel and structure lines to create rhythm and strength. In addition, the new materials were selected to avoid false historicism.*

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

*Analysis: The infill façade at 130-134 East Santa Clara Street would be contemporary in its materials and design, while responding to the proportions and alignments of neighboring district contributors. The ground-floor retail storefront would share the composition of neighboring storefronts, with an entry flanked by broad rectangular display windows and topped by a wide transom. Horizontal elements at the second and third stories of the primary façade, including visible floorplates, balconies, sills, and signage, would align with and refer to horizontal elements such as belt courses and cornices of the neighboring two- and three-story buildings. The pedestrian-focused retail storefront, second- and third-story recessed balconies, and visible mass timber framing of the infill façade would enliven the block and provide visual interest that is compatible with the commercial uses which dominate the ground floors of neighboring district contributors. Further, the building at 130-134 East Santa Clara Street is distinctly urban in its massing*

*and details, appropriate to the dense, mixed-use character of the district. The new six-story building at 142-150 East Santa Clara Street would replace the interior structure, roof, and two façades of the historic building and remove all interior elements and two exterior façades of the historic building, resulting in irreversible alteration to the historic building fabric.*

*While its glass exterior and visible timber framing provide contemporary approaches to the use of materials compatible with historic buildings, the new construction would be visibly larger than the original building and would not relate stylistically or materially to the design of the historic building at 142-150 East Santa Clara Street. The additional stories would create a significant change in the overall visual impression of the property and its environment and would not fully conform with the Secretary of the Interior's Standards for the Treatment of Historic Properties.*

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

*Analysis: An application was made for an HP Permit, which has been processed in conformance with Chapter 13.48 (Historic Preservation) of the San José Municipal Code; and a Supplemental Environmental Impact Report ("SEIR") was prepared for the Project, which was analyzed in conformance with the California Environmental Quality Act ("CEQA"). The Project was evaluated for conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, which are federal guidelines implemented on the local level.*

- f. Land Use Policy LU-13.22: Require the submittal of historic reports and surveys prepared as part of the environmental review process.

*Analysis: Historic Resources consultants Page and Turnbull prepared four reports for the Project as part of the historic preservation and environmental review process including historic resource evaluations for 130-134 East Santa Clara Street and 17-19 South 4<sup>th</sup> Street, Treatment Report for 142-150 East Santa Clara Street and Project Analysis.*

The project **does not conform** with the following Envision San José 2040 General Plan policies:

- a. Land Use Policy LU-13.2: Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating

them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.

- b. Land Use Policy LU-13.6: Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.

*Analysis for "a" and "b": Professional evaluation of the Standards and Guidelines by Page and Turnbull and the Historic Preservation Officer concluded that the Project would not conform with five of the ten Standards (Standard 1, 2, 5, 9, and 10) relative to the historic building at 142-150 East Santa Clara Street due to the removal of the building's interior structure, the roof, and southeast and southwest façades, and construction of a six-story heavy timber and glass commercial building within historic building's footprint. The Project would not fully conform with the Guidelines for additions and rehabilitation because the scale of the addition to 142-150 East Santa Clara Street would significantly increase its height and would require the removal of the majority of the original structure, retaining only two historic façades. As a result, the Project would diminish the significance and historic integrity of 142-150 East Santa Clara Street.*

*The Envision San Jose 2040 General Plan includes "Focused Growth" as a major strategy and Downtown is designated as a Growth Area which promotes intensification in this area. The General Plan also includes Destination Downtown as a major strategy and supports focused growth downtown. Ambitious job and housing growth capacity is planned for the Downtown supported by regional transit systems and the development of Downtown as a regional job center. The SEIR for the Envision San Jose 2040 General Plan disclosed that intensification of the Downtown could result in the demolition of historic resources and a cumulative impact was identified and mitigation measures adopted. The significant impact of the Project on the historic district is analyzed in the SEIR to disclose specific project impacts. CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable," and the City Council may adopt a statement of overriding*

*consideration and also approve the HP Permit.*

#### **4. Design Standards and Guidelines**

The Historic Preservation Ordinance (Section 13.48.250) states that in making the required findings, the application shall be reviewed in accordance with the approved standards and guidelines.

##### Secretary of the Interior's Standards for Rehabilitation

Qualified historic resources consultant Page and Turnbull evaluated the Project for consistency with the Secretary of the Interior's Standards for Rehabilitation (Standards) in the Project Analysis report. Page and Turnbull concluded that the Project would conform with five of the ten Standards. The work would conform with Standards 3, 4, 6, 7 and 8 and would not conform with Standards 1, 2, 5, 9, and 10 as outlined below.

**Standard 1: A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.**

*Analysis: The subject property has been continuously used as a commercial and residential building, for which it was originally constructed. Project alterations seek to continue use of the ground-floor commercial storefronts, and to change the upper story use from residential to commercial with the construction of a new six-story commercial space behind the retained façades. The storefronts facing East Santa Clara Street, including the existing recessed entrances and glass tile transom, would be retained for commercial use. The addition of a lobby entrance and broad display windows at the south side of the northeast façade would introduce new elements to the remaining historic portion of the building with a contemporary style compatible with the new construction and differentiated from the historic fabric. A portion of the building to the southeast of the existing historic building would extend the glazed walls to the second floor. While retaining many of the aspects of its historic character related to the ground-floor commercial use at the historic northwest façade, the construction of a new six-story commercial building, and alteration of the retained façades with a ground-floor lobby entrance and display windows facing South 4th Street, would significantly change the appearance of the historic resource and its environment. As designed, the Project would not be in compliance with Rehabilitation Standard 1.*

**Standard 2: The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.**

*Analysis: As noted in discussion of Standard 1, the Project includes the construction of a six-story commercial building within and adjacent to the existing footprint of the historic building at 142-150 East Santa Clara Street. The majority of character-defining features, including storefronts, fenestration patterns, and decorative elements, which are located on the northwest and northeast façades of the building, would be retained as part of the Project. Though additional glazing at the south portion of the northeast façade would not obscure or remove character-defining features, this alteration would change the character of the building as viewed from South 4th Street. Removal of the plaster cladding from the northeast and northwest façades would remove historic material that is a character-defining feature of the property. In addition, the building's two-story massing is a character-defining feature of the historic building, which conveys its early 20th-century design and mixed commercial and residential use. Thus, the increase in height of development at the site from two to six stories would change this aspect of its historic character. Further, removal of the interior structure, roof, and southwest and southeast façades would effectively leave only two original façades, which could no longer be considered to constitute a building. While the interior structure, southwest and southeast façades, and roof do not possess distinctive design elements, they do contribute to the status of 142-150 East Santa Clara Street as a building, which is integral to its historic significance. As designed, the Project would not be in compliance with Rehabilitation Standard 2.*

**Standard 3: Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.**

*Analysis: As designed, the project would not create a false sense of historic development. No conjectural features or elements from other properties are to be added to the historic building at 140-150 East Santa Clara Street. All new construction would be visually distinct in materials and style from the retained portions of the historic building and would be clearly distinguishable from the original. Therefore, the Project would be in compliance with Rehabilitation Standard 3.*

**Standard 4: Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.**

*Analysis: The historic features of the property at 142-150 East Santa Clara Street include the characteristics of the ca. 1913-1915 commercial and residential building, as well as the painted "State Market" sign remnant at the northeast façade, associated with its ground floor use by the State Meat Market between 1934 and the mid-1980s. Aside from this sign, which will be retained and preserved, no previous alterations to the building have gained significance in their own right. Therefore, the Project would*

*be in compliance with Rehabilitation Standard 4.*

**Standard 5: Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.**

*Analysis: As designed, the Project would retain and rehabilitate the most prominent materials, features, finishes and construction techniques on the two street-facing façades of the subject building. These include the ground-floor glazed storefronts with glazed tile bulkhead and glass tile transom, pilasters segmenting the storefront bays, second-story fenestration pattern and window forms, window bay ornamentation, and distinctive cornice and parapet. Alterations to the historic façades would include addition of a new entrance and broad area of glazing at the south portion of the northeast façade. This would replace some original masonry wall and two original punched openings. Removal of the plaster cladding from the northeast and northwest façades would remove a historic finish material that is a character-defining feature of the property. All historic materials constituting the interior structure of the building, as well as its southwest and southeast façades and roof, would be removed as part of the Project. Though lacking in architectural detail or distinction, these rear and side façades and the building's interior structure contribute to its character-defining massing, materials, and historic commercial and residential uses. As designed, the Project would not be in compliance with Standard 5.*

**Standard 6: Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.**

*Analysis: Repairs to distinctive materials and historic features present on the retained northeast and northwest façades would prioritize retention of original materials wherever possible. Limited replacement in-kind would be used only where necessary due to deterioration. The existing storefront systems, including display windows, doors, and individual entry transoms, are not original to the building, as they were installed as part of the 2005 rehabilitation. Thus, replacement of these storefront systems in-kind would not constitute replacement of historic materials. Similarly, only two sets of windows within the second-story window bays at the northwest and northeast façades appear to be original. Replacing the other, non-original windows within the original openings would not constitute replacement of historic materials. Therefore, the Project would be in compliance with Rehabilitation Standard 6.*

**Standard 7: Chemical or physical treatments, such as sandblasting, that cause**

**damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.**

*Analysis: The Treatment Plan prepared by Page and Turnbull recommends that treatments applied to the retained historic northeast and northwest façades should be undertaken using the gentlest means possible to avoid damage to historic materials. The conditions of approval of the HP Permit require that the facades of the City Landmark building shall be preserved and rehabilitated in accordance with the Historic Treatment Report prepared by Page and Turnbull and dated December 3, 2021. Therefore, the Project would be in compliance with Rehabilitation Standard 7.*

**Standard 8: Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.**

*Analysis: The Project will include excavation for site preparation and construction of a partial basement. If archaeological deposits are discovered during demolition or site construction, the Project would be in compliance with Rehabilitation Standard 8 with the implementation of standard discovery procedures and Best Management Practices outlined by the City of San Jose as condition of approval and part of the mitigation monitoring and reporting program are followed.*

**Standard 9: New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.**

*Analysis: As noted in the discussion of Standards 1 and 2, alterations include construction of a six-story mass timber commercial building within the footprint of the existing historic building at 142-150 East Santa Clara Street. The distinctive features of the northwest and northeast façades of the historic building would be preserved. Its interior structure, including all walls, vertical supports, and floor plates, as well as the southwest and southeast façades, would be demolished to accommodate the new construction. The completed new six-story commercial building would rise four stories higher than the retained two-story historic façades. A fully new six-story portion with a vehicle passageway at the ground floor would extend from the south corner of the retained northeast façade.*

*The appearance of the six-story commercial building at the site of 142-150 East Santa Clara Street is a broadly glazed rectilinear structure designed to visually highlight the*

*interior mass timber framing. At its third story, the building would feature an approximately 12-foot-deep recess at its northwest façade and five-foot-deep recess at its northeast façade to provide a visual distinction between the historic and new portions of the building. This recess would be present only at the third story; the building facades would step out again for the fourth through sixth stories, though not fully to the plane of the historic building's northwest and northeast façades. The fourth-through sixth-story façades of the six-story building would be stepped back approximately five feet from the plane of the historic northwest façade, and two feet from the plane of the historic northeast façade. As visually permeable surfaces, the glass curtain walls of the upper four stories would allow the solidity of the historic brick façades at the first and second stories to remain visually prominent when observed from East Santa Clara or South 4th streets. The appearance of regular bays that would be provided by the segmentation of the Project's curtain wall and by the visible interior mass timber framing would provide a reference to the regular, repetitive upper-story bays of the retained façades. Recessed balcony openings at the fourth and fifth stories on each of the northeast and northwest façades would break up the solidity of the curtain walls and are framed with neutral colors to allow the historic façades to remain the visual focus at this corner. New openings and signage would respect the existing ground-floor alignment of the building's historic storefronts.*

*The distinctive northwest and northeast façades of 142-150 East Santa Clara Street will remain predominantly intact. The new construction has been designed to refer to the building's historic character and to allow the retained character-defining features to remain visually prominent. However, the altered building will be distinctly different in overall character from its current and historic appearance. The contemporary design of the new six-story commercial building, four stories of which would be visible at the exterior above the retained historic street façades and would connect to the northeast façade at the ground level, does not relate stylistically or materially to the design of the historic building. The additional stories would create a significant change in the overall visual impression of the property and its environment. Therefore, the Project would not be in compliance with Rehabilitation Standard 9.*

**Standard 10: New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.**

*Analysis: While it is possible that the removal of the six-story building, if it were to occur in the future, would return the retained façades to their original two-story appearance, the essential form and integrity of the building would be compromised by the absence of all interior structural elements and southwest and southeast façades. What would remain after removal of the new construction could no longer function or be identified as a building. Therefore, the Project as designed would not be in*

*compliance with Rehabilitation Standard 10.*

Downtown San José Historic District Design Guidelines

The Project was also evaluated by Page and Turnbull for conformance with the Downtown San José Historic District Design Guidelines (“Guidelines”) in the Project Analysis report. The report concluded that the Project would substantially adhere to the principles and guidelines for infill development within the Downtown Commercial Historic District. The Project would conform with the Guidelines for Building Height, Massing, Openings, Entries, Exterior Materials, Ground Floors, Setbacks and Parking. The Project would partially conform with the Guidelines for Façade and Rear Façade, while the Guidelines for Corner Element, Pedestrian Passageways and Vehicular Access are not applicable. The primary façade of the building would provide an appropriately proportioned commercial storefront and would respect the proportions of neighboring district contributors while providing a visually distinctive addition to the streetscape.

The report concluded that the Project would partially adhere to the Guidelines for additions to historic buildings. It would allow all character-defining features of the retained street-facing northeast and northwest façades to remain largely intact and unobscured, contributing to the street-level visual continuity of the district contributors on the south side of East Santa Clara Street between South 3<sup>rd</sup> and South 4th Streets. However, the new six-story building to be constructed behind the retained facades of 142-150 East Santa Clara Street would dramatically increase the height of the overall building to become the tallest structure on its block frontage and the second tallest in the district overall. The resulting building would be lower only than the 13-story, Bank of Italy building and anchors the district at its west end. Further, as discussed above regarding the Secretary of the Interior’s Standards for Rehabilitation, the new construction would require removal of the roof, interior structure, and two façades of 142-150 East Santa Clara Street. The historic resource would essentially lose its status as an individual building, and its eligibility for continued listing as a City Landmark would be compromised.

The report concluded that the Project would partially meet the City of San Jose’s goals, and partially adheres to the principles and guidelines for rehabilitation and adaptive reuse with respect to the historic building at 142-150 East Santa Clara Street. The Project would retain and rehabilitate the two façades bearing the majority of character defining features at this district contributor and City Landmark. Alterations developed to facilitate the expanded commercial use of the building would not obstruct the features of the historic façades. Preservation and rehabilitation of these features would prioritize the retention and repair of historic materials wherever possible, with in-kind replacement of historic materials when necessary. Non-original features such as the current storefront systems, installed in 2005, would be replaced with compatible

materials and styles. Overall, the Project seeks to retain the visual aspects of 142-150 East Santa Clara Street which contribute to the historic character and visual continuity of the Downtown Commercial Historic District. As with the discussion of the Secretary of the Interior's Standards for Rehabilitation, the areas where the Project does not adhere to the City of San Jose's guidelines for Rehabilitation and Adaptive Reuse in the Downtown Commercial Historic District are in its removal of the interior structure, roof, and southwest and southeast façades of the historic building. These alterations would cause the historic resource to essentially lose its status as an individual building, and its eligibility for continued listing as a City Landmark would be compromised.

## 5. City Council Policy on the Preservation of Historic Landmarks

In accordance with the City Council Policy on the Preservation of Historic Landmarks ("Early Referral"), the Project was reviewed by the HLC at a regular meeting on September 1, 2021. Commissioners inquired about the historic integrity of the building interior and with the first-floor commercial spaces. It was noted that consultant Page and Turnbull completed a review of the interiors, which have been altered, and concluded there are no significant historic interior features remaining. The HLC expressed concern about the demolition of the majority of an individually listed City Landmark building and suggested that the building should be reused. Commissioners commented that the historic first and second floor façades of the City Landmark building would be distinctly different from the new construction of steel and glass infill building to be inserted behind and above the historic facades which creates an incongruous appearance that lacks a harmony of design. The HLC recommended an increase in the setbacks of the new construction from the historic facades, a reconsideration of the scale, materials, color, rhythm of fenestration, and the use of different types of solid textures and materials to bring harmony to the building instead of using solid glass. It was recommended that the new construction should incorporate more compatible materials like brick, stone, cast stone, metal and stucco as seen on the first and second floors of the historic building.

No changes were made to the Project design in response to HLC comments. The applicant stated that the U-shaped property presented significant design challenges for the Project and the mass timber building was limited in height to 85 feet to comply with egress and fire safety requirements. The applicant stated the building program could not be accommodated if the new building were set back a greater distance from the historic building. With regard to the compatibility of materials, the applicant responded that part of the overall façade is glass, but there is a fair amount of line work with the building recesses, balconies, overhangs and setbacks that frame the structure and the support system. Lines from the neighboring buildings, including canopies and awning lines, were carried over to the new building in the wood and

steel and structure lines to create rhythm and strength. In addition, new materials were selected to avoid false historicism.

Prior to the Early Referral, the Project was referred to the Design Review Subcommittee (“DRC”) of the HLC on July 21, 2021. Commissioners questioned whether the two-foot setback along South 4<sup>th</sup> Street for the new construction on the designated City Landmark building was adequate and whether there might be an opportunity to provide a little more relief there with a deeper setback. In response to the comments received at the DRC meeting, the trellis of the building was brought forward to create a prominent feature at the skyline and details to that feature were added. No changes were made to the setback of the new infill building from the historic facades to be retained.

- 6. Historic Preservation Permit Findings.** Section 13.48.240(B) of the Historic Preservation Ordinance requires that the work will not be detrimental to a historic district or to a structure or feature of significant architectural, cultural, historical, aesthetic, or engineering interest or value, and the work is consistent with the spirit and purposes of the Historic Preservation Ordinance.

*Analysis: In making these findings Section 13.48.250 the Historic Preservation Ordinance states the HP Permit application shall be reviewed in accordance with the approved standards and guidelines. The Secretary of the Interior’s Standards for Rehabilitation (“Standards”) and the Downtown San José Historic District Design Guidelines (“Guidelines”) are applicable to the Project. As outlined in the body of this Resolution and the attached reports prepared by Page and Turnbull, the Project would not conform with five of the ten Standards (Standard 1, 2, 5, 9, and 10) relative to the historic building at 142-150 East Santa Clara Street due to the removal of the building’s interior structure, the roof, and southeast and southwest façades, and construction of a six-story heavy timber and glass commercial building within historic building’s footprint. Additionally, the Project would not fully conform with the Guidelines for additions and rehabilitation because the scale of the addition to 142-150 East Santa Clara Street would significantly increase its height, and would require the removal of the majority of the original structure, retaining only two historic façades. As a result, the Project would diminish the significance and historic integrity of 142-150 East Santa Clara Street. The remaining two façades could no longer be considered a building and the Project would compromise its individual listing on the National Register, California Register, and San José Historic Resources Inventory as a City Landmark to the extent that it would lose its eligibility as a City Landmark.*

*As previously analyzed in this Resolution, General Plan historic preservation land use policies LU-13.2 and LU13.6 envisage the preservation and rehabilitation of designated City Landmarks and project conformance with Secretary of the Interior’s*

*Standards for Treatment of Historic Properties when modifications are proposed. Section 13.48.010 of the Historic Preservation Ordinance states that the purposes of the ordinance are to carry out the goals and policies of the city's general plan; increase cultural, economic and aesthetic benefits to the city and its residents; preserve, continue and encourage the development of the city to reflect its historical, architectural, cultural, and aesthetic value or tradition; and to protect and enhance the city's cultural and aesthetic heritage. The Project does not conform with the Standards and Guidelines or General Plan historic preservation land use policies LU-13.2 and LU13.6 and would not protect and enhance the cultural and aesthetic heritage of the City Landmark. Therefore, the required findings in Section 13.48.240(B) cannot be made.*

*The Project would be detrimental to the City Landmark at 142-150 East Santa Clara Street and the work would be inconsistent with the spirit and purposes of the Historic Preservation Ordinance.*

7. **Hardship.** Section 13.48.260 of the Historic Preservation Ordinance states that if the City Council is unable to make the findings required under Section 13.48.240 for issuance of an HP permit (either with or without conditions), the City Council may nevertheless issue an HP permit (either with or without conditions) if it finds that denial of the HP permit would cause immediate and substantial hardship on the applicant because development in accordance with the chapter is infeasible from a technical, mechanical, structural or economic standpoint. Since the required findings required under Section 13.48.240 cannot be made, the applicant submitted an Economic Hardship report - Economic and Technical Viability of Historic Rehabilitation - dated December 3, 2021, to support a claim of structural and economic hardship.

The report analyzes the economic feasibility of fully renovating the City Landmark building, as well as the technical feasibility given the level of expenditure required in light of the potential use. The applicant asserts that current use is constrained by its layout, as well as the Ellis Act and other regulations. The applicant will provide for the preservation and structural reinforcement of the building's façades and an expansion of the total square footage, asserting that the increased square footage generates economies of scale by spreading the cost across a larger building and this generates an economically feasible project.

The report includes a letter from DCI Engineers, who reviewed the existing building and drawings produced from a seismic upgrade by BMP Construction Inc. in 1992. The DCI Engineers letter states the existing building does not meet current building code requirements, including overall seismic stability as well as localized resiliency of elements. The letter further states that the gravity frame of the building is comprised

of wood joists spanning to steel beams supported on interior steel columns and perimeter Unreinforced Masonry (“URM”) brick walls, and these walls also provide the lateral stability on three sides of the building. Additionally, the DCI Engineers letter notes that URM shear walls are not allowed in current building codes and can experience significant damage during a seismic event due to the lack of reinforcing and ductility required in modern codes.

The DCI Engineers letter explains that there is no property line offset between the building and the adjacent building to the south, indicating that the two buildings could experience “pounding” during a major seismic event. The letter points out the seismic upgrade that occurred circa 1992 appears to have addressed the façade stability and soft story along East Santa Clara Street; however, this upgrade did not address the property line and pounding issue and DCI Engineers assert there is no way for a seismic upgrade to resolve the property line offset issue by simply strengthening the existing structure. DCI Engineers argue that the existing URM wall would need to be removed and replaced with a new structure that provides the necessary gap between the buildings. This would require substantial modifications to the roof framing, second floor framing, the existing façade and foundations, essentially rebuilding a large portion of the building.

DCI Engineers further assert that new foundations would be required to support such improvements, which includes underpinning the neighboring property’s foundation and adding substantial cost and complexity to the upgrades. The applicant concluded there are significant technical challenges to a structural renovation of the building, and the net effect of doing so would necessitate changes that are incompatible with the Secretary of the Interior Standards and would incur an unreasonable cost in light of the feasible uses of the property.

Based on the above findings, the City Council is unable to make the findings required under Section 13.48.240 for issuance of an HP Permit that the work will not be detrimental to an historic district or that the work is consistent with the spirit and purposes of the Historic Preservation Ordinance. The City Council, therefore, turns to the hardship provisions of Section 13.48.260. In accordance with the analyses and findings set forth in the body of this Resolution, an **Historic Preservation Permit** to conduct said work specified above, and subject to each and all of the conditions hereinafter set forth, is hereby **granted** under Section 13.48.260 of the Historic Preservation Ordinance. The City Council approves the hardship request and finds that denial of the HP Permit would cause immediate and substantial hardship on the applicant because development or rehabilitation in accordance with San José Municipal Code Chapter 13 is infeasible from a technical, mechanical, or structural standpoint and the economics of development or rehabilitation in accordance with Chapter 13 would require an unreasonable expenditure in light of the feasible uses of the subject property. This City Council expressly declares

that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Historic Preservation Permit Limitations.** This Historic Preservation Permit (“Permit”) does not authorize any land uses. Land uses are separately regulated by Title 20 of the San Jose Municipal Code (Zoning Ordinance).
2. **Acceptance of Permit.** Per Section 13.48.270(D), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
  - a. Acceptance of the Permit by the permittee; and
  - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Chapter 13.48 applicable to such Permit.
3. **Facade Retention.** The design and procedures for shoring, stabilization, and protection of the historic fabric shall be detailed in the Project’s construction documents and provided to the Historic Preservation Officer for review and approval prior to issuance of building permit.
4. **Treatment Plan.** The facades of the City Landmark building shall be preserved and rehabilitated in accordance with the Historic Treatment Report prepared by Page and Turnbull and dated December 3, 2021.
5. **Exterior Plaster Cladding.** The existing cement plaster cladding on the exterior of the building shall only be removed following a condition assessment of the underlying brick and mortar. A plan for assessing the underlying conditions and the feasibility of the wholesale removal of the exterior plaster cladding shall be prepared by a qualified historic architect and reviewed and approved by the Historic Preservation Officer prior to the initiation of any such work.
6. **Conformance to Plans.** Construction and development shall conform to the conditions in this Historic Preservation Permit, and plans, entitled “SuZaco Mixed Use Project,” located at East Santa Clara Street and South 4<sup>th</sup> Street and, San Jose, CA

95113, dated revised March 11, 2022, on file with the Department of Planning Building, and Code Enforcement. If there are inconsistencies among the Permits and the plans, this Permit take precedence.

7. **Timing.** No work on the buildings may be implemented unless and until this Historic Preservation Permit is released to the Building Division.
8. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this Resolution and the applicant's intent to fully comply with said conditions.
9. **Plan and Report Modifications.** Any modifications to the approved plans and Historic Treatment Report will require an Historic Preservation Permit Amendment or Adjustment at the discretion of the Director of Planning, Building and Code Enforcement or their designee (the "Director").
10. **No Signage Approval.** Any signage shown on the Approved Plan Set is conceptual only. Signs are subject to review and approval through the submittal of a Sign Permit application (Permit Adjustment) <https://www.sanjoseca.gov/home/showpublisheddocument?id=15381>.
11. **Permit Expiration.** This Permit shall automatically expire in four years from and after the date of issuance hereof by the Director, if within such time period, a Building Permit has not been obtained, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director. However, the Director may approve an Historic Preservation Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Chapter 13.48 of the Municipal Code (Historic Preservation Ordinance). The Historic Preservation Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
12. **Conformance with Municipal Code.** No part of this approval shall be construed to permit violation of any part of the San José Municipal Code.
13. **Revocation.** This Historic Preservation Permit is subject to revocation for violation of any of its provisions or conditions.
14. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, *HP21-005* shall be printed on all construction plans submitted to the Building Division.

- b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act.
- c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

**15. Conformance Required with Approved Mitigation, Monitoring and Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development by City Council Resolution No. \_\_\_\_\_.

In accordance with the findings set forth above, an Historical Preservation Permit is hereby **approved**.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

#### NOTICE TO PARTIES

*The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.*

**EXHIBIT A**  
**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel One:

Portion of Lot 1, in Block 1 Range 4 North, as shown upon that certain Map entitled, "City of San Jose, copies from the original Map drawn by Sherman Day, Civil Engineer", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, in [Book A of Maps, at Page 72](#) and 73, and more particularly described as follows:

Beginning at the intersection of the Southerly line of Santa Clara Street with the Westerly line of Fourth Street; thence Westerly and along the Southerly line of Santa Clara Street, 60.93 feet to the Northeasterly corner of Parcel conveyed by Emil G. Levy, et al, to A.F. Woodsum, by Deed Recorded May 23, 1905 in [Book 295 of Deeds, page 526](#); thence at right angles Southerly and parallel with the Westerly line of Fourth Street, 97.50 feet; thence at a right angle Easterly and parallel with said line Santa Clara Street, 60.93 feet to the Westerly lie of Fourth Street; thence at right angles Northerly and along said line of Fourth Street, 97.50 feet to the point of beginning.

Parcel Two:

A right of way as and for a roadway over the following described tract of strip of land, to wit;

Commencing at a point on the Westerly line of Fourth Street 97 ½ feet Southerly thereon from where said line intersects the Southerly line of Santa Clara Street; thence Southerly and along said line of Fourth Street 10 feet; thence at right angles Westerly and parallel with said line of Santa Clara Street 102.84 feet to the Easterly line of Lot now or formerly of Louis Henning; thence right angles Northerly and along last named line 10 feet; thence at right angles Easterly and parallel with Santa Clara Street 102.84 feet to the point of commencement, and being a part of Lot 1 Block 1 Range 4 North of the base line, as shown upon Map of said City of San Jose, of record in the Office of the County Recorder of the County of Santa Clara, State of California, in [Book A of Maps, Page 72](#), records of said County.

[APN: 467-23-035](#)