

**FW: City Council 3/28/23 Land Use Agenda Items**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Mon 3/27/2023 5:01 PM

To: Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

-----Original Message-----

From: [REDACTED] &lt;[REDACTED]&gt;

Sent: Monday, March 27, 2023 5:00 PM

To: The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>

Subject: City Council 3/28/23 Land Use Agenda Items

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Honorable Mayor, Vice Mayor and Council Members,

I respectfully ask for your consideration of PAC\*SJ's position on the following items on the Consent & Regular Agenda:

**LAND USE CONSENT CALENDAR:****ITEM 10.1a Annexation of Burbank #47, 560 Bascom Avenue (Burbank Theatre)**

PAC\*SJ recommends approval of Staff's Memo with the added recommendation that the City begin the process of designating the National Register-eligible Burbank Theatre as a City Landmark. The property is currently listed on the County's Heritage Resource Inventory and has been determined eligible for Candidate City Landmark status by the San Jose Historic Landmarks Commission, with strong neighborhood support for its preservation and reactivation (see 3/20/23 District 6 Neighborhood Leaders Group Letter). The parcels proposed for annexation were purchased via auction last year for \$1.6M and are now being listed for resale at \$3.0M.

As this building is a key element of the West San Carlos Urban Village, it is paramount that the development community and City officials acknowledge the building's historic significance and potential for reuse.

**ITEM 10.1b City Historic Landmark Designation and Mills Act Contract for the circa 1907 Craftsman Style Building at 619 N 1st Street**

PAC\*SJ recommends approval of Staff's Memo to (1) Adopt a resolution designating 619 N. First Street (HL22-003) as a City Landmark of special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature. (2) Adopt a resolution approving the Historical Property Contract (Mills Act) between the City of San José and the property owner, Jamila Stanford, for the property located at 619 N.

First Street (APN: 259-18-055) on a 0.18-gross acre site.

#### LAND USE REGULAR AGENDA:

ITEM 10.2 (C20-011 & ER20-146) - Annexation of Santa Clara County Territory at 1883-1887, 1891-1995, 1897-1899 West San Carlos St. & 13 Boston Ave.

PAC\*SJ recommends approval of Staff's recommendation relative to annex the territory designated as Burbank No. 44 which involves the annexation to the City of San José of approximately 0.895-gross acre of land located on the northeast corner of West San Carlos Street and Brooklyn Avenue (APNs: 274-16-050, 052, 053, 069 and 070), and the detachment of the same from the appropriate special districts including County Lighting District, Central Fire Protection District, Burbank Sanitary District, and Santa Clara County Library District.&#8239;

However, PAC\*SJ has concerns with the City's Determination of Consistency with the Environmental Impact Report for the 1881 West San Carlos Project (Burbank 44/C20-011/ CP20- 020/T20-016), (Resolution No. RES2023-49). The City asserts that the proposed mixed-use project on this 0.895-acre-site, which is located within San José's Urban Growth Boundary and Urban Service area, is consistent with Envision San José 2040 General Plan vision, goals, and policies, as well as the West San Carlos Urban Village Plan (the site is within the Plan boundaries). PAC\*SJ is supportive of the City's Land Use Policies and and goals expressed in the Urban Village Plan, but see a disconnect with what is being proposed. The project will demolish three street facing historic buildings housing what many in the community refer to as Antiques Row. These historic buildings are in fact featured on the cover of and within the West San Carlos Urban Village Plan as an example of existing historic structures that should be retained. PAC\*SJ has provided proposed high level design suggestions that would retain key elements of these buildings without compromising the projects objectives. We sincerely hope that the City will challenge our friends in the development community to incorporate as much of the original buildings into their proposed project, and that they will do everything possible to ensure that the buildings are kept fully activated or professionally secured to avoid potential loss due to vandalism and/or arson in the interim.

ITEM 10.3 (SP21-044 & HP21-001) - Special Use Permit and Historic Preservation Permit for Certain Real Property Located at 19 North Second Street.

PAC\*SJ is at a loss as to what to recommend for this project. The project proposes to demolish a truly beautiful City Landmark that PAC\*SJ would prefer be kept intact and adaptively reused as a distinctive historic destination for the growing number of people we all hope to be living and visiting downtown San Jose going forward. It is hard to argue against the provision of Affordable Senior housing on principle, but it is also hard to accept that this project can actually be built without destroying a City Landmark altogether. It is hard for PAC\*SJ's architects to see how the proposed project will actually function. There is no street facing plan for how trash will be stored and picked up. There is no identified location for drop offs and pick ups of parcels and people. It is unclear how emergency vehicles such as ambulances and fire station paramedics (a frequent and critical resource present at any senior facility), will be able to access this project without regularly shutting down

Second Street.

And, it is unclear where construction equipment and materials will be staged for this project in a manner that will not dramatically affect traffic flow on Second Street or Santa Clara Street. PAC\*sj and the Historic Landmarks Commission have gone on record in our opposition to approving this project via a financial hardship application as a misused option for project approval in this case. We concur with the HLC in their desire to accept the project applicant's promise to preserve the entirety of the Second Street façade and a substantial portion of the 1st floor interior and a part of the 2nd floor interior, but would like to hear from builders who are experienced in performing these kinds of overbuilds. In no disrespect to anyone, PAC\*sj recommends that the Council return this project to Planning Buildings and Code Enforcement for validation of how the project can deliver on its promised programming without ruining a City Landmark. We hope that additional research will yield a better confidence in this project.

Sincerely,

Mike Sodergren

Vice-President and Advocacy Committee Chair Preservation Action Council of San Jose

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## Burbank Sanitary District

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[www.burbanksanitary.org](http://www.burbanksanitary.org)

**"Serving the Burbank Community since 1940"**

March 21, 2023

File: BSD#23-004

City Council  
City of San Jose  
200 E. Santa Clara Street  
San Jose, CA 95113

Re: Burbank Annexation 44, 1881 West San Carlos, APNs 274-16-050, 052, 053, 069 & 070  
March 28, 2023 City Council Agenda

Dear City Council:

This letter is submitted on behalf of the Burbank Sanitary District (BSD or District).

In fall 2020, the Burbank Sanitary District was contacted by the project planner for Burbank Annexation 44 and advised of the annexation application and the City's intent to detach the area from the BSD. The letter directed the District to respond promptly if it wanted to protest, and on October 28, 2020 the District responded by letter explaining that it did not object to annexation of the area by the City but did object to detachment from the District because the piecemeal detachment process makes it difficult for the District to provide services to its remaining customers and because the approach is contrary to long-standing recommendations by LAFCO.

Due to the pandemic and other priorities, Burbank Annexation 44 languished until mid-2022. Meanwhile, the District Manager attended a meeting with City and County staff to discuss the technical engineering issues and questions related to sanitary sewer detachment for another proposed annexation, Burbank Annexation 45. These issues and questions were related to anticipated sewer needs and how the development's wastewater would be conveyed to the treatment plant. Prior to that meeting, City staff had not considered let alone evaluated these issues. During the meeting, City staff discussed the potential of using a "layered annexation" approach which would allow sanitary sewer service to continue to be provided by BSD after the area was annexed to the City of San Jose for all other services. BSD indicated it was amenable to this approach.

On November 16, 2022, the Burbank Annexation 44 project planner advised the District Manager that the Planning and Public Works Departments determined detachment of the sanitary sewer would not be requested in conjunction with the Burbank Annexation 44 and the site would remain with the BSD for such services. BSD was pleased when it received this notification.

The San Jose Planning Commission considered this matter on its December 14, 2022, agenda. That staff report, which was part of your February 28, 2023, Council packet, states there will not be detachment from the BSD. Neither the staff report, nor the minutes reflect any discussion of this aspect of the annexation. The annexation process was initiated at the February 28, 2023, City Council meeting.

Burbank Sanitary District

As presented to you at that meeting, in written, verbal and slide projected materials, sanitary sewer services were to remain with the Burbank Sanitary District. Again, these services were not elaborated upon in the materials and were not a topic of discussion other than for the presenter to comment that staff worked with the Special Districts. The project architect stated the proponent was in full agreement with the staff report.

Much to the surprise of the Burbank Sanitary District, on March 6, 2023, the District Manager received the following email message from the project planner:

“I notified you last year that we decided to leave the site within the BSD. But now the decision is changed. After the discussion between our City Attorney, Public Works, DOT, and ESD, we decided to proceed with the detachment from BSD.”

Respectfully, the Burbank Sanitary District is concerned that City staff changed the recommendation at this stage of the proceedings. It is contrary to what was presented to the Planning Commission and to the City Council at the initiation of proceedings. It is not reflective of the representation staff worked with the Special Districts. It is not easily feasible or understood from an engineering standpoint. Specifically, the District needs to know upfront if the lateral sewer connections for the parcels annexed to the City will be connected to and flow through the District's sewer systems, or connected to the City of San Jose's sewer system. If sewage from the new development at this site will flow through BSD's system, the District needs to understand what impact the wastewater will have on BSD's collection system. These technical concerns exist and remain unresolved for Burbank Annexation 44, as well as for proposed Burbank Annexations 45 and 47. City staff ignores the importance of presenting this engineering information for both the City and the District.

It is imperative that the Burbank Sanitary District and the City of San Jose coordinate on the issue of sewer service in this unincorporated area. The need to coordinate has been the position of LAFCO for over a decade. We insist the sanitary sewer services remain with BSD for this and future annexations as City staff originally proposed.

Respectfully,



Rene Prupes  
President, Burbank Sanitary District

C: Santa Clara County LAFCO

March 21, 2023