CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 1, 2023

COUNCIL DISTRICT: 4

SUBJECT: FILE NOS. PDC22-001, PT22-002, PD22-001 & ER22-002. REZONING FROM THE IP INDUSTRIAL PARK ZONING DISTRICT TO A TEC(PD) PLANNED DEVELOPMENT ZONING DISTRICT, A VESTING TENTATIVE MAP TO MERGE TWO PARCELS INTO ONE PARCEL AND SUBDIVIDE THE PARCEL INTO NO MORE THAN 15 COMMERCIAL CONDOMINIUMS, AND A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF TWO BUILDINGS TOTALING APPROXIMATELY 135,000 SQUARE FEET AND THE REMOVAL OF 156 TREES (101 ORDINANCE-SIZE, 55 NON-ORDINANCE-SIZE, AND 47 REPLACEMENT TREES) FOR THE CONSTRUCTION OF TWO DATA CENTERS TOTALING APPROXIMATELY 522,194 SQUARE FEET, ONE APPROXIMATELY 136,573-SQUARE FOOT MANUFACTURING BUILDING, AN APPROXIMATELY 150,000-SQUARE-FOOT, 300-STALL PARKING STRUCTURE, AN ELECTRICAL SUBSTATION, 39 BACKUP GENERATORS, AND 15 COMMERCIAL CONDOMINIUMS WITH AN APPROXIMATELY 32% PARKING REDUCTION ON AN APPROXIMATELY 9.78-GROSS-ACRE SITE

RECOMMENDATION

The Planning Commission voted 10-0-0 to recommend that the City Council take the following action:

1. Adopt a resolution making certain findings regarding the STACK Trade Zone Park Environmental Impact Report prepared by the California Energy Commission and adopting the related mitigation monitoring and reporting plan, as a responsible agency, in accordance with the California Environmental Quality Act, as amended; and
2. Approve an ordinance rezoning an approximately 9.78-gross-acre site from the IP Industrial Park Zoning District to a TEC(PD) Planned Development Zoning District.
3. Adopt a resolution, approving, subject to conditions, a Vesting Tentative Map to merge two parcels into one parcel and subdivide the parcel into no more than 15 commercial condominiums with a common area on an approximately 9.78-gross-acre site.

4. Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of two buildings totaling approximately 135,000 square feet and the removal of 156 trees (101 ordinance-size, 55 non-ordinance-size, and 47 replacement trees) for the construction of two data centers totaling approximately 522,194 square feet, one approximately 136,573-square foot manufacturing building, an approximately 150,000-square-foot, 300-stall parking structure, an electrical substation, 39 backup generators, and 15 commercial condominiums with an approximately 32% parking reduction on an approximately 9.78-gross-acre site.

SUMMARY AND OUTCOME

If the City Council approves the actions listed above as recommended by the Planning Commission, the applicant would be able to demolish two buildings totaling approximately 135,000 square feet and remove 156 trees (101 ordinance-size, 55 non-ordinance-size, and 47 replacement trees) to construct two data centers totaling approximately 522,194 square feet, one approximately 136,573-square-foot manufacturing building, an approximately 150,000-square-foot, 300-stall parking structure, an electrical substation, 39 backup generators, and 15 commercial condominiums with an approximately 32% parking reduction on an approximately 9.78-gross-acre site.

BACKGROUND

On April 26, 2023, the Planning Commission held a Public Hearing to consider the CEQA determination, Rezoning, Vesting Tentative Map, and Planned Development Permit. An overview of the Public Hearing is provided below. Commissioner Cantrell made a motion to approve the recommendation. Commissioner Casey seconded the motion. The motion passed unanimously 10-0-0. The Planning Commission recommended that the City Council approve the adoption of the CEQA resolution, Rezoning, Vesting Tentative Map, and Planned Development Permit.

ANALYSIS

Analysis of the proposed CEQA clearance, Rezoning, Vesting Tentative Map, and Planned Development Permit including conformance with the General Plan, Municipal Code, and City Council Policies is contained in the attached staff report.

Climate Smart San José Analysis
The recommendation in this memorandum aligns with one or more Climate Smart San José goals. The project facilitates job creation within City limits. The project is expected to create approximately 198 jobs.

EVALUATION AND FOLLOW-UP

The City Council is the final decision-making body for this project. Following a decision by the City Council, no additional evaluation would be conducted. The City Council has the option to approve, deny, or defer the project to a later City Council meeting. If denied, the project would not be able to proceed. If approved, the subject site would be rezoned to a TEC(PD) Planned Development Zoning District, to facilitate the construction of the project. The rezoning would become effective 30 days after a second reading of the rezoning at a subsequent City Council meeting. The date that the rezoning becomes effective is the date that the associated Planned Development Permit Resolution and Vesting Tentative Map Resolution also become effective. The applicant would be able to proceed with applications for grading and building permits to construct the project.

COORDINATION

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

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. An on-site sign has been posted on the project frontage since March 5, 2021. A formally noticed Community Meeting was held on Thursday, February 23, 2023, to introduce the proposed project to the community. 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. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on March 30, 2023. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

COMMMISSION RECOMMENDATION AND INPUT

The project was pulled from the consent calendar and heard at the April 26, 2023 Planning Commission Meeting on the public hearing portion of the agenda.

Staff Presentation

Staff provided a brief presentation on the proposed project. Staff presentation included an overview of the project's conformance with the Envision San José 2040 General Plan, the

Municipal Code, Citywide Design Standards and Guidelines, City Council Policy 6-30: Public Outreach, and CEQA.

Public Hearing

The applicant, Miles Kersten, provided a brief introduction and presentation. The presentation included a broad overview of the project components including building design and site layout, project operations, and construction timeline. One member of the public spoke and questioned why such a large project would be placed on the consent calendar.

Commissioner Discussion

Commissioner Cantrell asked why the project was placed on the consent calendar. Staff responded that projects are placed on the consent calendar or public hearing depending on the level of public interest in the specific project. Commissioner Cantrell also asked if the applicant would consider reducing the number of parking spaces. The applicant responded that the project does include an approximately 32% parking reduction and will implement a Transportation Demand Management Plan. Commissioner Cantrell asked how many trees are being replaced on-site. Staff confirmed that 47 trees would be planted and the remaining trees to be removed would be mitigated with the payment of an in-lieu fee of $326,275.

Commissioner Barocio also asked what the criteria are for projects to be placed on consent instead of a public hearing. Deputy Director of Planning, Robert Manford explained that all projects must follow City Council Policy 6-30 for Public Outreach. In this case, the project is categorized as a “large project” per the policy. However, as there was no public interest in the project it was placed on the consent calendar.

Commissioner Lardinois asked if the project was subject to the newly adopted parking ordinance and if it was providing the minimum amount of parking that is required. Staff responded that the project was determined to be complete prior to the adoption of the new parking ordinance, therefore it is subject to the previously effective ordinance. The project does include a 32% parking reduction and is required to implement a Transportation Demand Management Plan which includes the provision of bike lockers, showers, and the provision of transit passes to employees.

Commissioner Tordillos noted that the project was in an area well served by transit, including a bus stop directly in front of the site. The commissioner asked why the parking garage provides approximately 150 more spaces than was necessary for the operation of the site. The applicant responded that the project is adhering to the parking requirements of the previously adopted parking ordinance, which require more parking than would typically be necessary under the existing parking ordinance. Commissioner Tordillos asked if staff knew how much money had been collected in City Council District 4 for in-lieu fees for tree planting. Deputy Director Robert Manford explained that while the Planning Department collects the fees, the Department of

Transportation controls the funds. Staff confirmed that the fees are collected prior to the issuance of Building Permits.

Commissioner Ornelas-Wise asked if there is any daycare childcare proposed. The applicant responded that there was not. Staff confirmed that a daycare would be permitted at the site with the issuance of a Special Use Permit. Commissioner Ornelas-Wise also asked what public improvements would be constructed. The applicant responded that they would enhance their side of the intersection at Ringwood Avenue and Trade Zone Boulevard as well as construct a raised bike lane along the project frontage. Commissioner Ornelas-Wise also asked about traffic impacts. Tina Garg, supervising Environmental Planner, stated that any impacts related to site circulation and design hazards were determined to be less than significant. Staff also confirmed that the project is required to implement a Transportation Demand Management Plan to reduce Vehicle Miles Traveled impacts.

Commissioner Casey asked if there was any consideration given to repurposing the parking garage. The applicant stated that they would consider repurposing the garage moving forward.

Chair Oliverio stated that he would be supporting the project and that it aligns with the City's goals of bringing jobs to North San José.

Commissioner Cantrell made a motion to approve the project. Commissioner Casey seconded the motion. The motion to recommend approval to City Council passed unanimously, 10-0-0.

CEQA

In accordance with the California Environmental Quality Act (CEQA), the California Energy Commission is the lead agency for the project and certified the Final Environmental Impact Report on April 12, 2023. The Final Environmental Impact Report identified potential environmental impacts to air quality, biological resources, cultural and tribal resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, noise, and transportation. These impacts would be reduced to less than significant levels with the implementation of identified mitigation measures. The Final Environmental Impact Report determined there would be no significant and unavoidable impacts due to the implementation of the project.

The City of San José is the Responsible Agency for the Project pursuant to CEQA. Whenever a Responsible Agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a Responsible Agency to make its own findings pursuant to Section 15091. When making the findings, a Responsible Agency should adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during Project implementation. The City of San José reviewed the Draft Environmental Impact Report prior to its certification by the California Energy Commission and concluded that all impacts were adequately addressed, impacts were reduced to a less than significant level, and that a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as the Responsible Agency for the Project (the Mitigation Monitoring and Reporting Program). The Final Environmental Impact Report is available at https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/stack-trade-zone-park-project.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
CHRISTOPHER BURTON
Secretary, Planning Commission

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

ATTACHMENT
Planning Commission Staff Report

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton

SUBJECT: File Nos. PDC22-001, PD22-001, PT22-002 & ER22-002

DATE: April 26, 2023

COUNCIL DISTRICT: 4

Type of Permit	Planned Development Rezoning (File No. PDC22-001), Vesting Tentative Map (File No. PT22-002), and Planned Development Permit (File No. PD22-001)
Proposed Land Use	Data Center and Manufacturing
New Residential Units	N/A
New Industrial Square Footage	Approximately 658,767 square feet
Additional Policy Review Items	None
Demolition	Approximately 135,000 square feet of existing industrial buildings
Tree Removals	156 trees (101 ordinance-size, 55 non-ordinance-size, and 47 replacement trees)
Project Planner	Alec Atienza
CEQA Clearance	STACK Trade Zone Park Environmental Impact Report (FEIR)
CEQA Planner	Tina Garg

RECOMMENDATION

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

1. Adopt a resolution certifying the STACK Trade Zone Park Environmental Impact Report prepared by the California Energy Commission and adopting the related mitigation monitoring and reporting plan, as a responsible agency, in accordance with the California Environmental Quality Act, as amended; and
2. Approve an Ordinance rezoning an approximately 9.78-gross-acre site from the IP Industrial Park Zoning District to a TEC(PD) Planned Development Zoning District.
3. Adopt a Resolution, approving, subject to conditions, a Vesting Tentative Map to merge two parcels into one parcel and subdivide the parcel into no more than 15 commercial condominiums with common area on an approximately 9.78-gross-acre site.

4. Adopt a Resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of two buildings totaling approximately 135,000 square feet and the removal of 156 trees (101 ordinance-size, 55 non-ordinance-size, and 47 replacement trees) for the construction of two data centers totaling approximately 522,194 square feet, one approximately 136,573-square foot manufacturing building, an approximately 150,000-square foot, 300-stall parking structure, an electrical substation, 39 backup generators, and 15 commercial condominiums with an approximately 32% parking reduction on an approximately 9.78-gross-acre site.

PROPERTY INFORMATION

Location	Southeast corner of Trade Zone Boulevard and Ringwood Avenue (2400 Ringwood Avenue and 1849 Fortune Drive)
Assessor Parcel No. (APN)	244-17-009 & 244-17-014
Existing General Plan	Transit Employment Center
Growth Area	Berryessa International Business Park
Existing Zoning	IP Industrial Park
Proposed Zoning	TEC(PD) Planned Development
Historic Resource	No
Annexation Date	May 15, 1974 (Orchard No_62)
Council District	4
Acreage	9.78 gross acres
Proposed Density	N/A

PROJECT SETTING AND BACKGROUND

As shown on the Aerial Map below (Figure 1), the subject site is located at the southeast corner of Trade Zone Boulevard and Ringwood Avenue (2400 Ringwood Avenue and 1849 Fortune Drive). The site is comprised of two parcels (APNS: 244-17-009 & 244-17-014). The project site is bounded by industrial uses to the east, south, and west, and multifamily residential uses in the City of Milpitas across Trade Zone Boulevard to the north. 2400 Ringwood Avenue is currently developed with a vacant approximately 80,000-square foot single-story industrial building and associated surface parking. 1849 Fortune Drive is currently developed with a vacant approximately 55,000-square foot single-story industrial building and associated surface parking.

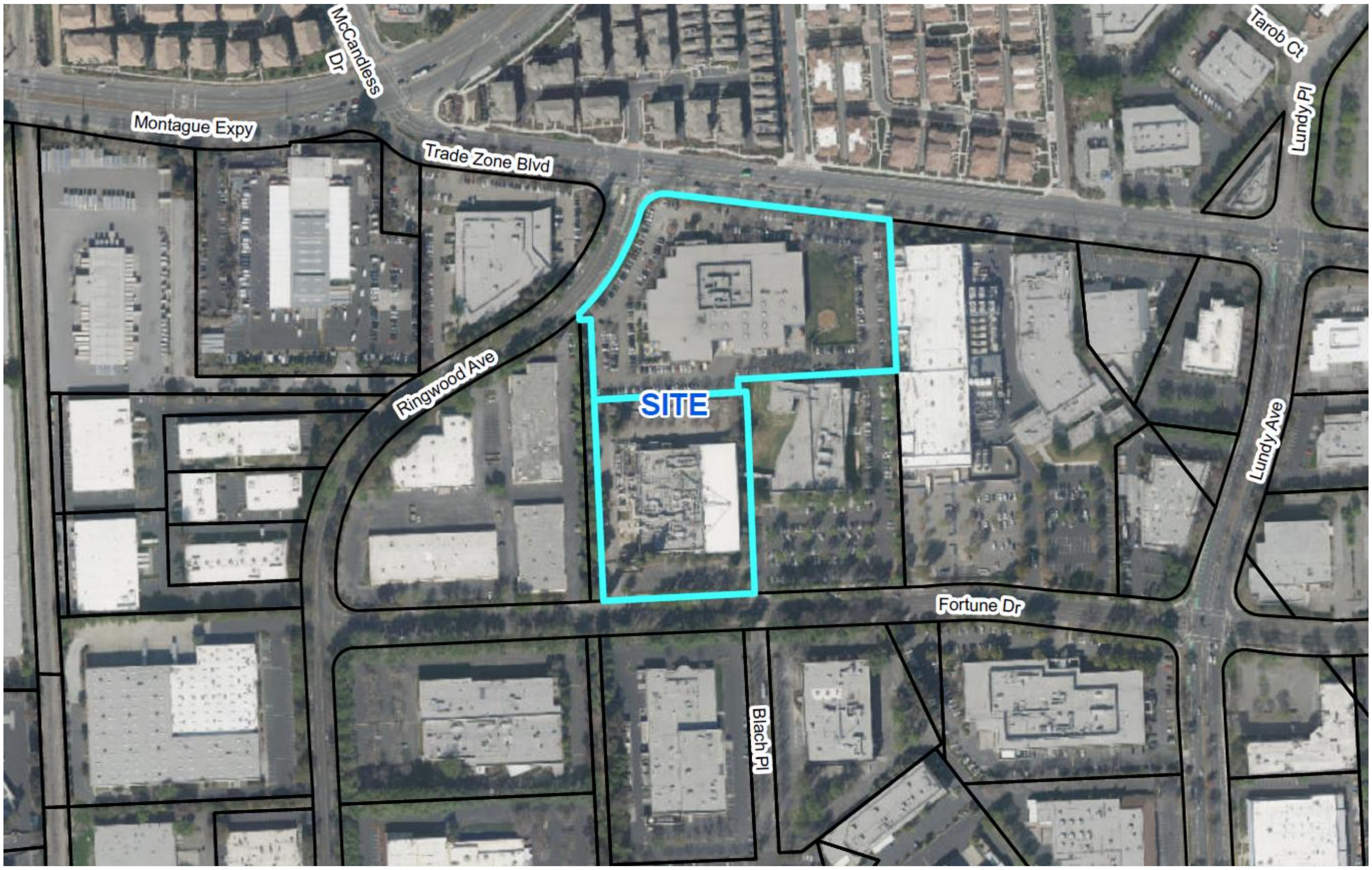

Figure 1 - Aerial Map

SURROUNDING USES			
	General Plan	**Zoning District**	**Existing Use**
North	N/A City of Milpitas	N/A City of Milpitas	Multifamily Residential
South	Transit Employment Center	IP Industrial Park	Industrial Park
East	Transit Employment Center	TEC Transit Employment Center	Data Center
West	Transit Employment Center	IP Industrial Park	Church, Industrial Park

On February 17, 2022, the owner and applicant, Stack Infrastructure, submitted the following applications to be reviewed concurrently:

- Planned Development Rezoning to rezone an approximately 9.78-gross-acre site from the IP Industrial Park Zoning District to a TEC(PD) Planned Development Zoning District.
- Vesting Tentative Map to merge two parcels into one parcel and subdivide the parcel into no more than 15 commercial condominiums and common areas on an approximately 9.78-gross-acre site
- Planned Development Permit to allow the demolition of two buildings totaling approximately 135,000 square feet and the removal of 156 trees (101 ordinance-size, 55 non-ordinance-size, and 94 replacement trees) for the construction of two data centers totaling approximately 522,194 square feet, one approximately 136,573-square foot manufacturing building, an approximately 150,000-square foot 300-stall parking structure, an electrical substation, 39 backup generators, and 15 commercial condominiums with an approximately 32% parking reduction on an approximately 9.78-gross-acre site.

PROJECT DESCRIPTION

As shown on the site plan below (See Figure 2), the project consists of the redevelopment of two existing parcels for the construction of one four-story manufacturing building (approximately 136,573 square feet), two four-story data center buildings (approximately 522,194 square feet), a 300-stall parking garage (150,000 square feet), an associated electrical substation, and 36 backup generators.

The four-story advanced manufacturing building is located at the northernmost portion of the site nearest to the intersection of Trade Zone Boulevard and Ringwood Avenue. The maximum height of manufacturing building is approximately 83 feet.

The two four-story data center buildings are located within the central and southernmost portions of the site. Each data center consists of two main components. The data center suites house the client servers, while the administrative facilities include the building lobbies, conference rooms, restrooms, office space, customer space, loading dock, and storage. The two data centers have a maximum height of approximately 80 feet.

The project also includes the construction of a new 100 MVA (mega volt-ampere) electrical substation at the easternmost portion of the site. The substation would be capable of delivering electricity to the data centers from a new Pacific Gas and Electric ("PG&E") circuit, but would not allow any electricity generated from the backup generation facility to be to be delivered to the transmission grid. To serve the project, PG&E would construct a "looped" transmission interconnection involving two offsite transmission lines. The substation consists of an all-weather asphalt surface, underlain by an aggregate base. A 13-foot-high concrete masonry unit (CMU) wall would be constructed to screen the substation. An additional eight-foot-high chain link fence would be constructed inside the main wall for additional security.

The project also includes a backup generation facility with a capacity of 91 megawatts (MW) to support the needs of the data centers and to provide uninterruptible power supply for the data center tenant's servers. The backup generation facility consists of 36 three-MW and three one-MW diesel-fired backup generators arranged in two generation yards, each designed to serve the two data center buildings. The generator yards are located to the south and north of the two data center buildings, respectively.

Vehicle parking is provided in a five-level structured parking garage located in the north-central portion of the site, to the east of the data center buildings. A total of 339 vehicle parking spaces are provided resulting in an approximately 32% vehicle parking reduction. The vehicle parking reduction is supported with the implementation of a Transportation Demand Management (TDM) Plan.

The site is accessible to vehicles from a primary 32-foot-wide driveway along Trade Zone Boulevard. Secondary vehicular access is provided from a 32-foot-wide driveway along Fortune Drive and a 32-foot-wide driveway along Ringwood Avenue. A fourth, 26-foot-wide, maintenance-only driveway is provided along Trade Zone Boulevard for access to the electrical substation.

Off-site improvements include construction of a Class IV protected bikeway along Trade Zone Boulevard, a 15-foot-wide detached sidewalk along Trade Zone Boulevard, and a ten-foot detached sidewalk along Ringwood Avenue.

To facilitate the construction of the project, and associated public improvements, the project includes an application for a Vesting Tentative Map to merge the two existing parcels into one parcel and subdivide the parcel into no more than 15 commercial condominiums and common area.

The California Energy Commission (CEC) is the lead agency for the Project and Certified the Final Environmental Impact Report ("FEIR") on April 12th, 2023, pursuant to and in accordance with the California Environmental Quality Act (CEQA). The City of San Jose is also required to certify the FEIR and adopt the mitigation, monitoring, and reporting plan for this project as a responsible agency pursuant to CEQA.

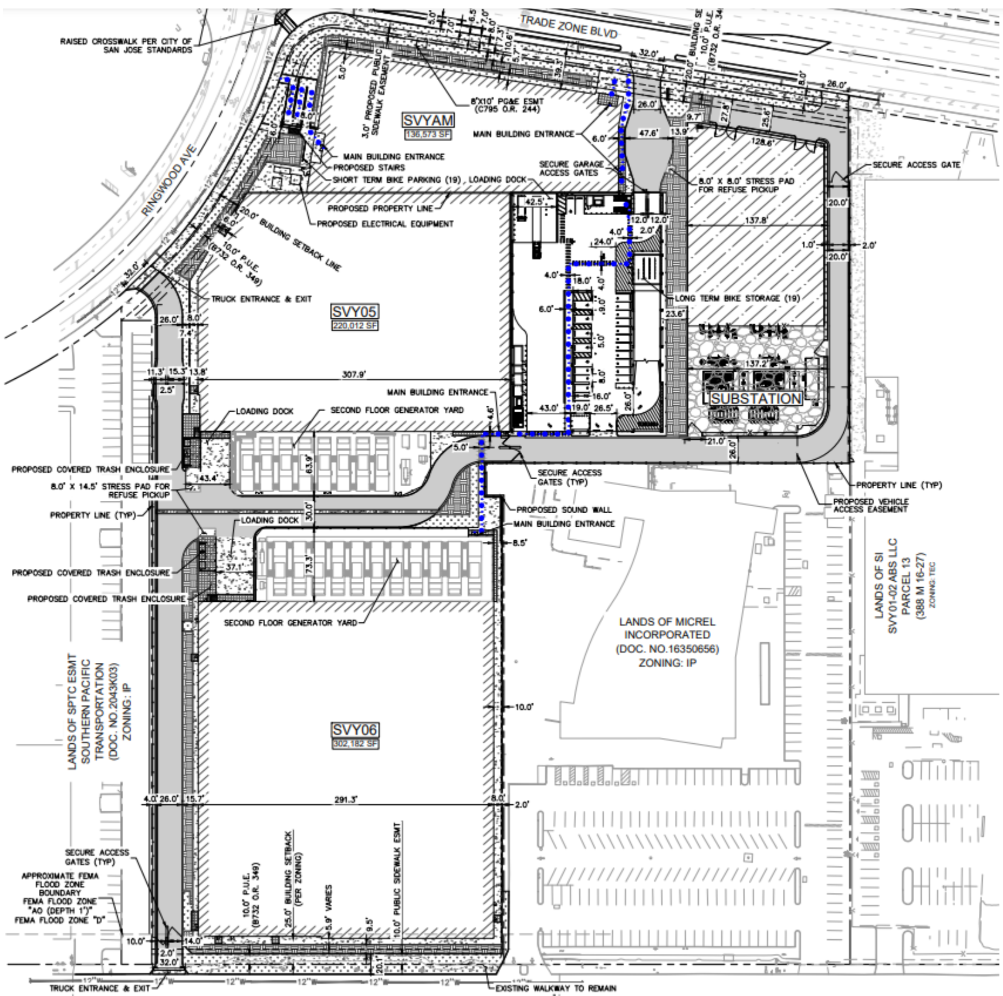

Figure 2 - Site Plan

ANALYSIS

The proposed Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit, are analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. San José Municipal Code
3. Citywide Design Standards and Guidelines
4. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Land Use Conformance

Figure 3 - General Plan Land Use Map

<u>General Plan Land Use Designation</u>

As shown in Figure 3 above, the project site, which is comprised of two parcels, has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of:

Transit Employment Center

Density: FAR Up to 12.0 (4 to 25 stories)

This designation is applied to areas planned for intensive job growth because of their importance as employment districts to the City and high degree of access to transit and other facilities and services. To support San Jose's growth as a Regional Employment Center, it is useful to designate such key Employment Centers along the light rail corridor in North San José, in proximity to the Bay Area Rapid Transit (BART) and light rail facilities in the Berryessa/Milpitas area, and in proximity to light rail in the Old Edenvale area. All of these areas fall within identified Growth Areas and have access to transit and other important infrastructure to support their intensification. Uses allowed in the Industrial Park designation are appropriate in the Transit Employment Center designation, as are supportive commercial uses. The North San José Transit Employment Center also allows limited residential uses, while other Employment Centers should only be developed with industrial and commercial uses.

General Plan Conformance

The proposed Planned Development Zoning of TEC(PD) and the associated Planned Development Permit and Vesting Tentative Map are **consistent** with the following Envision San José 2040 General Plan policies:

1. 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.
2. Land Use and Employment Policy IE-1.5: Promote the intensification of employment activities on sites in close proximity to transit facilities and other existing infrastructure, in particular within the Downtown, North San José, the Berryessa International Business Park and Edenvale.
3. Business Growth and Retention Policy IE-2.8: Encourage business and property development that will provide jobs and generate revenue to support city services and infrastructure.
4. Broad Economic Prosperity Policy IE-6.2: Attract and retain a diverse mix of businesses and industries that can provide jobs for the residents of all skill and education levels to support a thriving community.
5. Land Use Policy LU-6.4: Encourage the development of new industrial areas and the redevelopment of existing older or marginal industrial areas with new industrial uses, particularly in locations which facilitate efficient commute patterns. Use available public financing to provide necessary infrastructure improvements as one means of encouraging this economic development and revitalization.

   Analysis: The Planned Development Zoning rezoning would allow for specifically tailored development standards to facilitate a project that is consistent with the Transit Employment Center General Plan land use designation. The Planned Development Zoning permits the data center and supporting substation uses, as well as the permitted uses of the TEC Transit Employment Zoning District including the proposed manufacturing uses. The project encourages the development of manufacturing and data center uses that will generate jobs and revenue for the City. The subject site is located in the Berryessa International Business Park, an identified growth area, that is intended to be developed with intensive employment activities. Based on a market research report (Exhibit H) prepared by Colliers International, dated November 9, 2022, the manufacturing building is designed to attract businesses focused on "advanced *manufacturing" sectors providing examples such as semiconductor or lithium battery production. These types of advanced manufacturing employers provide well-paying jobs and often require high school level education levels. The project would replace two existing aging vacant industrial buildings with a modern advanced manufacturing building as well as two data centers that will support the infrastructure needs of the surrounding area. The subject site is located approximately 2,300 feet south of the Milpitas BART station. Bus stops serving VTA Routes 60 and 77 are located directly in front of the project site along Trade Zone Boulevard. Additionally, the applicant is required to implement a Transportation Demand Management (TDM) Plan, which includes the implementation of a Transit Use Incentive Program to encourage transit ridership for employees. Therefore, the project will also facilitate efficient commute patterns for future employees.*

Municipal Code Conformance

General Development Plan

If the proposed rezoning to the TEC(PD) Planned Development Zoning District per File No. PDC22-001 is approved by the City Council, the newly created TEC(PD) Planned Development Zoning District would allow for Data Center uses as well as uses that conform with the TEC Transit Employment Center Zoning District, in alignment with the Transit Employment Center General Plan land use designation. The project would be subject to the applicable Development Standards (Exhibit I) that would be approved upon adoption of the rezoning ordinance. The Planned Development Zoning District allows for data centers and manufacturing uses as a permitted uses with the issuance of a Planned Development Permit.

Figure 4 – Proposed Zoning Map

Setbacks and Height

The table below highlights the proposed Development Standards as outlined in the General Development Plan of the TEC(PD) Planned Development Zoning District File No. PDC22-001. See the attached Exhibit I for the full proposed Development Standards. Note, the project proposes compliance with the development standards of the TEC Transit Employment Zoning District pursuant to Section 20.50.200 of the Zoning Code.

Development Standard	Required	Proposed
Minimum Lot Size	6,000 square feet	426,016 square feet
Minimum Front Setback (Building)	15 feet minimum	23 feet (Trade Zone Boulevard) 20 feet (Fortune Drive)
Minimum Side Setback	0 feet	20 feet (Ringwood Avenue), 20 feet (East)
Minimum Rear Setback	0 feet	26 feet (Southeast)
Maximum Building Height	120 feet	83 feet

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

Parking

Use	Square Footage	Ratio	Required
Data Center	31,231 sf of data center office space	1 stall per 250 sf of office/meeting/technician space	125 spaces
	257,175 sf of data hall space	1 stall per 5,000 sf of floor area for computer equipment space	52 spaces
Manufacturing	112,246 sf of floor area	1 per 350 square feet of floor area	321 spaces
Total Required			**498**
Total Provided			339
Parking Reduction			32%

Pursuant to Section 20.90.060 of the Zoning Code, the project is required to provide 498 vehicle parking spaces. A total of 339 vehicle parking spaces are provided, resulting in a parking reduction of approximately 32%. Pursuant to Section 20.90.220 of the Zoning Code, up to 20% of the parking reduction would be allowed as the project is located within the Berryessa International Business Park, a growth area. The additional 12% parking reduction would be allowed with the implementation of a TDM plan. A TDM plan, dated October 20, 2022 (Exhibit M) was prepared by Hexagon Transportation Consultants, Inc., which achieves an additional 12% parking reduction. In addition to providing the required bicycle parking spaces, showers, and lockers, the project would implement additional TDM measures in accordance with Section 20.90.220 of the Municipal Zoning Code including a Transit Use Incentive Program and a Telecommuting and Flexible Work Schedule.

In addition to the approximately 32% parking reduction, the project requires a total of 50 motorcycle parking spaces and 38 bicycle parking spaces. The project would provide 50 motorcycle parking spaces and 39 bicycle parking spaces, in compliance with the Zoning Code requirements.

Noise

Pursuant to the General Development Plan of the TEC(PD) Planned Development Zoning District, the project is subject to the performance standards of the TEC Transit Employment Center Zoning District. Pursuant to Table 20-135, Section 20.50.300 of the Zoning Code, the maximum allowed noise level for industrial uses adjacent to property used or zoned for industrial purposes is 70 decibels for uses adjacent to industrial properties, 60 decibels for industrial uses adjacent to commercial properties, and 55 decibels for industrial uses adjacent to residential properties.

A noise report (Exhibit L) was prepared by Illingworth and Rodkin dated March 30, 2022. The noise report analyzed operational noise impacts of the project included 36 three-MW diesel-fueled generators and two one-MW diesel-fueled house generators, located within generator yards adjacent to the north side of the SVY06 building and the south side of the SVY05 building. Each generator would be enclosed and tested only during daytime hours. Under full load, each 3 MW generator would meet a design goal of 70 dBA at a distance of 23 feet. Heating, ventilation, and air conditioning (HVAC) equipment including a total of 78 chillers would be located on the rooftops of the data center buildings. Noise data provided for the chillers indicated a sound power level of 100 dBA Lw when operating at 100% load. Other mechanical and electrical equipment located inside the buildings would not be anticipated to emit audible noise outside. Proposed fixed sources of noise at the site were modeled using SoundPLAN, a three-dimensional noise modeling software that considers site geometry, the characteristics of the noise sources, and shielding from structures and barriers. The two primary noise scenarios evaluated were operational noise resulting from all chillers running at 100% load, and all chillers running at 100% load with concurrent testing of one generator, also at 100% load. Due to limits on generator testing frequency imposed by the City of San José and the Bay Area Air Quality Management District (BAAQMD) and testing schedules of similar projects, a worst-case scenario of a yearly, hour-long “load bank” test of one generator at the worst-case individual generator location was considered. These two scenarios are representative of what would be the peak-hour noise level resulting from project operations during the daytime when generator testing would occur, and during the nighttime when only HVAC equipment would be running. In both scenarios, the maximum decibel level at the property line of the nearest residential property across Trade Zone Boulevard to the north would be 53 decibels, below the maximum allowed limit of 55 decibels. With the inclusion of a 16-foot-high parapet wall for both data center buildings, the maximum allowed noise level would not exceed 60 decibels at any surrounding commercial or industrial property line.

Therefore, the project conforms with the noise requirements of the TEC(PD) Planned Development Zoning District. The Planned Development Permit includes standard environmental permit conditions to reduce construction noise. Additionally, the project is within 500 feet of a residence, therefore construction hours are limited to 7:00 am to 7:00 pm Monday through Friday. The Planned Development Permit includes a condition for the appointment of a Construction Disturbance Coordinator to address any construction related complaints.

Tree Removals

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

Table: Tree Replacement Ratios				
Circumference of Tree to be Removed	**Type of Tree to be Removed**			**Minimum Size of Each Replacement Tree**
	Native	**Non-Native**	**Orchard**	
38 inches or more	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
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				

The project includes the removal of 156 trees. Of the trees to be removed, 101 are ordinance-size and 55 are non-ordinance-size. Based on the arborist report (Exhibit K) prepared by Anderson Tree Care Specialists, Inc., on behalf of HMH Engineers, dated November 19, 2021, the trees to be removed are located within the project buildings or equipment/infrastructure footprint. 13 of the trees are native species. 26 off-site trees would be preserved. 10 trees require replacement at a 5:1 ratio, 91 trees require replacement at 4:1 ratio, 3 trees require replacement at a 3:1 ratio, 40 trees require replacement at 2:1 ratio, and 12 trees require replacement at a 1:1 ratio. Based on the requirements listed in the table above, the removal of the 156 trees on-site requires the replacement of either 515 15-gallon trees or 258 24-inch box trees on site. The total number of replacement trees to be planted on site is 47 24-inch box trees (equal to 94 15-gallon trees), a deficit of 421 replacement trees. Therefore, the applicant is required to pay in in-lieu fee (currently $775 per tree) for the replacement trees. Based on the current Planning Fee Schedule, the estimated cost for the in-lieu fee for the remaining replacement trees is $326,275. The applicant is required to pay the fees in the amount required at the time of payment prior to issuance of Grading or Building Permits, whichever comes first.

Citywide Design Standards Guidelines Consistency

The project is subject to the following provisions of the Citywide Design Standards and Guidelines:

- Section 2.1.2 – Relationship to Transit
  - When located within 500 feet of a Frequent Network Transit Stop, locate the primary building entrance at the building façade closest to the transit stop.

Analysis: The subject site is adjacent to a VTA bus stop serving Routes 60 and 77 along Trade Zone Boulevard (Trade Zone and Ringwood Stop ID: 63942). The primary building entrance is located so that pedestrians and bicyclists have direct access from the sidewalk to the street along Trade Zone Boulevard nearest the bus stop.

- Section 2.2.1 – Pedestrian and Bicycle Access Location
  - Standard 5 – Place primary building entrance such that it can be accessed from a street, public open space, semi-private open space, or POPOS.
  - Guideline 1 – Provide frequent entrances and openings in building facades to connect buildings to the public realm.

    Analysis: The primary building entrance is located along Trade Zone Boulevard, a public street with a 15-foot-wide detached sidewalk. The northernmost data center building includes three additional pedestrian entrances along the Ringwood Avenue frontage. The southernmost data center building also includes three accessible pedestrian entrances along the Fortune Drive frontage.

- Section 2.3.1 Building Placement
  - Standard 1 - To create a continuous streetwall, place at least 75 percent of the ground floor primary street-, paseo-, or public open space- facing (except riparian corridor) façades of buildings with the primary commercial or residential use within five feet of the setback or easement line (whichever is more restrictive). When there are multiple buildings on the site, 75 percent of the sum of all primary street-, paseo-, and public open space-facing ground floor building façades must be considered in the calculation above.

    Analysis: All buildings on site are placed within five feet of the minimum 15-foot building setback line for the entirety of the building frontages along Trade Zone Boulevard, Ringwood Avenue, and Fortune Drive. Therefore, each of the buildings in the project, that have street frontage, create a continuous streetwall that exceeds the 75 percent requirement for ground floor building placement along both primary streets (Trade Zone Boulevard and Ringwood Avenue) and secondary streets (Fortune Drive).

- Section 3.1.2 – Form, Proportion, and Scale
  - Standard 1 - Buildings at street intersections with traffic signals, terminus points, and open spaces must include at least two of the following architectural features for a minimum of 20 percent of each building frontage along the street:
    - Corner plaza.
    - Articulated corner with vertical or horizontal projections.
    - Taller massing or exaggerated roof elements.
    - Building entrances with a minimum recess of three feet.
    - Different façade treatments such as variations in materials and color.
  - Standard 3 - For streetwalls more than 200 feet in length, provide at least one recess or projection in the façade that is at least 10 feet wide and 5 feet deep for industrial developments.

Analysis: The manufacturing building is located at the intersection of Trade Zone Boulevard and Ringwood Avenue, which is a signalized intersection. The project includes an approximately 30-foot-wide and an approximately 10-foot-deep recessed entrance along the Ringwood side of the building corner. The project also includes an approximately 18-foot-wide by 6-foot-deep recessed entrance along the Trade Zone Boulevard side of the building. The recess continues from the ground floor to the fourth floor. An articulated corner is provided on the building, which includes a five-foot-wide horizontal metal panel element that protrudes from the upper level of the building and frames the corner on both sides of the street facing portion of the building.

- Section 3.2.2 Services and Utilities Entrances and Design
  - Standard 1 - Screen solid waste, utilities, and service areas from residential and commercial uses, and on-site and off-site views to limit visual impact on the public realm using fences, walls, or landscaping that:
    - Use durable and weather-resistant materials.
    - Are four to five feet tall.
    - Do not interrupt the line-of-sight of drivers entering or exiting the site.

      Analysis: All solid waste and utilities are interior to the manufacturing and data center buildings. The electrical substation at the eastern end of the site is full screened with a 13-foot-high concrete wall, which is landscaped with climbing vines.

- <u>Section 3.3.1 – Façade Design and Articulation</u>
  - Standard 1 - Articulate all building façades facing a street or public open space for at least 80 percent of each façade length. Articulate all other building façades for at least 60 percent of each façade length. Façade articulation can be achieved by providing material and plane changes or by providing a rhythmic pattern of bays, columns, balconies, and other architectural elements to break up the building mass.

    Analysis: The manufacturing building and southernmost data center are the only two buildings with frontage on a public street. Both buildings are articulated for the entirety of the street facing façade with changes in material and plane change. All buildings include a mix of materials including dark, medium, and light gray metal paneling, brown wood look metal panel, spandrel glass, vision glass, and precast concrete. The non-street facing façades include building articulation to break up the massing and reduce blank walls for at least 60% of the non-street facing facades. Non-street facing façade features include a mix of dark and light gray approximately 14-foot-wide metal panels and Exterior Insulation Finishing Systems (EIFS) to break up the long uninterrupted walls at the upper levels of the building. The lower levels of the non-street facing facades are broken up with the generator enclosures and platforms of varying widths as well as secondary pedestrian entrances and loading docks.

- <u>Section 3.3.2 – Roofs and Parapets</u>
  - Standard 4 - Parapets and other screening elements at the roof level must screen rooftop equipment from public view.

    Analysis: The project includes a 16-foot-high parapet wall at both data center buildings to screen *mechanical equipment from street view and to serve as a noise attenuation feature.*

Permit Findings

In order for this application to be approved, the City Council must be able to make all required findings for a Vesting Tentative Map, Planned Development Permit, Parking Reduction, Commercial Common Interest Development, Demolition Permit, and Tree Removal Permit.

Vesting Tentative Map Findings

In accordance with Section 66474 of the Government Code of the State of California, the City Council of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if it makes any of the following findings.

1. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
2. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

   Analysis: To facilitate the potential future financing and sale of portions of the subject property, the Vesting Tentative Subdivision Map is the preliminary step of conditional approval to merge two parcels into one parcel and subdivide the parcel into no more than 15 commercial condominium units and common area. As discussed in the General Plan Conformance section above above, the project is consistent with the applicable General Plan goals, policies, and land use designation. The project site is physically suitable for the proposed buildings and the proposed FAR of the TEC land use designation. The manufacturing, data center, and substation uses proposed are all permitted uses of the proposed TEC(PD) Planned Development Zoning District (File No. PDC22-001). The proposed lot size exceeds the minimum required lot size of 6,000 square feet. The minimum commercial condominium size is not less than 750 square feet. The subject site is located within Berryessa International Business Park in an already developed area. Therefore, the project and associated improvements would not cause environmental damage or substantially injure fish or wildlife or their habitat. Please see the discussion on the California Environmental Quality Act below for additional information.

   A declaration of Covenants, Conditions, and Restrictions (CC&Rs) is required to be reviewed and approved by the City, and recorded, prior to final map approval. The CC&Rs would include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common *interest development. Additionally, the applicant, at its sole cost, shall prepare grant deeds for all mutual or reciprocal easement right, which shall be reviewed by the City for compliance with the terms of Chapter 20.175 of the Zoning Code and Chapter 19 of Subdivision Code. Additionally, the project is required to record a covenant of easement in favor of the City for private ingress and egress, emergency vehicle access, landscape maintenance, public utilities, and water lines purposes in accordance with Chapter 20.110 of the Zoning Code. Therefore, based on the review of the Vesting Tentative Map, the Director of Planning, Building and Code Enforcement of the City of San José (Director) is recommending approval of the Vesting Tentative Subdivision Map, because none of the above findings can be made for the denial of the proposed subdivision.*

Subdivision Ordinance Findings

In accordance with San José Municipal Code Section 19.12.130, the Director may approve the Tentative Map if the City Council cannot make any of the findings for denial in Government Code section 66474 and the City Council has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the project if the City Council does not make any of the findings for denial in San José Municipal Code Section 19.12.220. Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein and also add the additional requirement that the project obtain CEQA clearance.

Analysis: Based on review of the proposed subdivision, the Director of Planning, Building and Code Enforcement is recommending approval of the Vesting Tentative Map. The map and the development's design are consistent with the San José Envision 2040 General Plan designation of Transit Employment Center and the TEC(PD) Planned Development Zoning District (PDC22-001), as discussed above. The site is physically suitable for the proposed development in that the proposed density and FAR and lot sizes are in conformance with the Transit Employment Center land use designation.

In accordance with the California Environmental Quality Act (CEQA), the California Energy Commission (CEC) is the lead agency for the Project and Certified the Final Environmental Impact Report ("FEIR") on April 12th, 2023. The FEIR identified potential environmental impacts to air quality, biological resources, cultural and tribal resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, noise, and transportation. These impacts would be reduced to less than significant levels with the implementation of identified mitigation measures. The FEIR determined there would be no significant and unavoidable impacts due to the implementation of the project. The City of San José shall adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures identified in the FEIR. The project site, as well as the surrounding area, are currently developed with structures and do not provide a natural habitat for either fish or wildlife. The subdivision and subsequent improvements are not likely to cause serious public health problems.

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: The project is consistent with the General Plan Land Use Designation of Transit Employment Center. The Transit Employment Center designation allows for a maximum FAR of 12.0. The project FAR is approximately 1.5, below the maximum allowed FAR. The project is consistent with General Plan policies regarding land use and employment, business growth and retention, broad economic prosperity, and land use. The project encourages the development of manufacturing and data center uses that will generate jobs and revenue for the City. The project would replace two existing aging vacant industrial buildings with a modern advanced manufacturing building as well as two data centers that will support the infrastructure needs of the surrounding area.

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

   Analysis: The project conforms with the Development Standards of the General Development Plan for the Planned Development Zoning District (File No. PDC22-001). The newly created TEC(PD) Zoning District would allow for the data center uses as well as uses that conform with the TEC Transit Employment Center Zoning District, as amended. Special and Conditional Uses would be subject to the approval of a Planned Development Permit. As discussed in the Municipal Code Conformance section above, the project conforms with all required lot sizes, setbacks, heights, and parking requirements of the Planned Development Zoning District. Additionally, as discussed above, the project is consistent with all applicable noise requirements and tree removal replacement requirements.

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. An on-site sign has been posted on the project frontage since March 5, 2021. A formally noticed Community Meeting was held on February 23, 2023 to introduce the project to the community 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. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on March 30, 2023. 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 project consists of the merger of two parcels into one parcel and the subdivision of one parcel into no more than 15 commercial condominiums, the demolition of two existing vacant industrial buildings for the construction of a manufacturing building, two data center buildings, a parking structure, and an associated electric substation. The manufacturing building and two data center buildings are similar to each other in size, scale, height, color, materials, and articulation. The three street facing buildings are oriented towards the street, with entrances accessible from Fortune Drive, Ringwood Avenue, and Trade Zone Boulevard, in conformance with the design requirements of the Citywide Design Standards and Guidelines. The parking garage is located interior to the site and screened from view of the street by the manufacturing building. The substation is also screened from view with a painted concrete wall and decorative metal gate. The site is landscaped along the street frontages to further screen utilities and infrastructure from the public view. Therefore, the *interrelationship of the proposed buildings on-site is appropriate, compatible, and aesthetically harmonious.*

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: Environmental impacts related to noise, vibration, dust, drainage, erosion, storm water runoff, and odor would be temporary and may only occur during construction. The project would conform with all applicable noise requirements of the TEC Transit Employment Center Zoning District. The project is required to conform with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharge. The project also includes standard environmental permit conditions to reduce and mitigate impacts regarding air quality, dust and emissions control, water quality, and noise. Additionally, the project is required to adhere to the Mitigation Monitoring and Reporting Program (MMRP) prepared for the project in association with the STACK Trade Zone Park Environmental Impact Report. Additional information on the Environmental Impact Report is provided below. The project is located within 500 feet of residences across Trade Zone Boulevard to the north. Therefore, construction hours are limited to between the hours of 7:00 am to 7:00 pm Monday through Friday. The Planned Development Permit Resolution includes a condition of approval for the appointment of a Construction Disturbance Coordinator to address any constructed related complaints or concerns. Therefore, the project would not have an unacceptable impact on adjacent properties.

<u>Parking Reduction Findings</u>

To make the findings for a Reduction in the Required Off-Street Parking Spaces pursuant to San José Municipal Code Section 20.90.220, and recommend approval to the City Council, the Planning Commission must determine that:

1. The structure or use is located within two thousand (2,000) feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a Neighborhood Business District, or as an Urban Village, or as an area subject to an area development policy in the City's General Plan or the use is listed in Section 20.90.220G; and

2. The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

3. For any reduction in the required off-street parking spaces that is more than twenty percent, the project shall be required to implement a Transportation Demand Management (TDM) program that contains but is not limited to one of the following measures:

   a. Implement a carpool/vanpool or car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or car-share vehicles, etc., and assign carpool, vanpool and car-share parking at the most desirable on-site locations at the ratio set forth in the development permit or development exception considering type of use; or

   b. Develop a transit use incentive program for employees, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA SmartPass system will satisfy this requirement).

4. In addition to the requirements of Section 20.90.220, for any reduction in the required off-street parking spaces that is more than twenty percent, the project shall be required to implement a TDM program that contains but is not limited to at least two of the following measures in Section 20.90.200 A.1.d.

   Analysis: Pursuant to Section 20.90.060 of the Zoning Code, the project is required to provide 497 vehicle parking spaces. A total of 339 vehicle parking spaces are provided, resulting in a parking reduction of approximately 32%. Pursuant to Section 20.90.220 of the Zoning Code, up to 20% of the parking reduction would be allowed as the project is located within the Berryessa International Business Park, a growth area. The project is required to provide 38 bicycle parking spaces and 38 are provided. The additional 12% parking reduction would be allowed with the implementation of a TDM plan. A TDM plan, dated October 20, 2022, was prepared by Hexagon Transportation Consultants, Inc, which achieves an additional 12% parking reduction. In addition to providing the required bicycle parking spaces, showers, and lockers, the project would also implement additional TDM measures in accordance with Section 20.90.220 of the Municipal Zoning Code. The project would be required to implement a Transit Use Incentive Program and a Telecommuting and Flexible Work Schedule. The implementation of the TDM Plan is included as a condition of approval in the Planned Development Permit Resolution (Exhibit C).

<u>Commercial Common Interest Development Findings.</u>

Section 20.175.050 of the San Jose Municipal Code specifies the required findings for Commercial Common Interest Development.

1. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole;

   Analysis: The project's common interest development would not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity in that the size of the commercial units adequately accommodates a variety of potential uses, and the anticipated uses, including a data center and manufacturing building, and would add to the economic viability of the area by creating jobs and increasing tax revenue for the City.

2. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to insure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

   Analysis: A Declaration of Covenants, Conditions, and Restrictions (CC&Rs) is required, and when approved by the City in accordance with the Zoning Ordinance prior to final map approval, would include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development.

3. The proposed common interest development includes sufficient provisions for the retention of such common areas for the use of all owners of separate interests therein.

Analysis: The CC&Rs, required when the Final Map is approved by the City in accordance with the Zoning Ordinance, would state that each commercial owner shall have, as appurtenant to their unit, and undivided interest in the common areas. This would ensure that each common interest development has sufficient retention of common areas for use by all owners as noted in the conditions of approval. The CC&Rs would also include provisions for ingress, egress, parking, emergency access, utilities, landscaping, and the like.

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 two vacant industrial buildings totaling approximately 135,000 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 redevelopment of the site with new industrial uses that are consistent with the allowable uses and development standards of the TEC General Plan land use designation and Planned Development Zoning District. The demolition permit would facilitate a redevelopment project that is compatible with the surrounding neighborhood, which consists of primarily industrial uses. As previously discussed, the project is consistent with all applicable General Plan goals and policies, Planned Development Zoning requirements, applicable city council policies, and Citywide Design Standards and Guidelines. The project would not demolish any existing housing.

Given the scope of the project, the rehabilitation or reuse of any of the existing buildings on-site would not be feasible as the proposed project requires the complete redevelopment of the site to support the data center, manufacturing building, and associated substation and parking garage.

As discussed in the Final Environmental Impact Report, the oldest permanent structures on-site were constructed in 1997 (2400 Ringwood Drive) and 1982 (1849 Fortune Drive) and are less than 45 years old. No buildings or structures on-site are listed on the City's Historic Resources Inventory, nor is the site located within a historic or landmark district. The buildings to be demolished are not eligible for the

California Register of Historic Places or National Register of Historic Places, and are also not eligible as a San José Historic Landmark, based on their age or architectural style. The demolition of any existing buildings on-site would not be approved until the issuance of a grading permit or building permit, whichever comes first.

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: The project includes the removal of 156 trees. Of the trees to be removed, 101 are ordinance-size and 56 are non-ordinance-size. Based on the arborist report prepared by Anderson Tree Care Specialists, Inc., on behalf of HMH Engineers, dated November 19, 2021, the trees to be removed are located within the project buildings or equipment/infrastructure footprint. 13 of the trees are native species. 26 off-site trees would be preserved. 10 trees require replacement at a 5:1 ratio, 91 trees require replacement at 4:1 ratio, 3 trees require replacement at a 3:1 ratio, 40 trees require replacement at 2:1 ratio, and 12 trees require replacement at a 1:1 ratio. Therefore, the removal of the 156 trees on-site requires the replacement of either 515 15-gallon trees or 258 24-inch box trees on site. The total number of replacement trees to be planted on site is 47 24-inch box trees (equal to 94 15-gallon trees), a deficit of 421 replacement trees. Therefore, the applicant is required to pay in in-lieu fee ($775 per tree) for the replacement trees. Based on the current Planning Fee Schedule, the estimated cost for the in-lieu fee for the remaining replacement trees is $326,275. The applicant is required to pay the applicable fees prior to issuance of Grading or Building Permits, whichever comes first.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

In accordance with the California Environmental Quality Act (CEQA), the California Energy Commission (CEC) is the lead agency for the Project and Certified the Final Environmental Impact Report ("FEIR") on April 12th, 2023. The FEIR identified potential environmental impacts to air quality, biological resources, cultural and tribal resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, noise, and transportation. These impacts would be reduced to less than significant levels with the implementation of identified mitigation measures. The FEIR determined there would be no significant and unavoidable impacts due to the implementation of the project.

The City of San José is the Responsible Agency for the Project pursuant to CEQA. Whenever a Responsible Agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a Responsible Agency to make its own findings pursuant to Section 15091. When making the findings, a Responsible Agency should adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during Project implementation. The City of San José reviewed the Draft EIR prior to its certification by the CEC and concluded that all impacts were adequately addressed, impacts were reduced to a less than significant level, and that a mitigation monitoring and reporting program (Exhibit N) has been prepared for the Project for consideration by the decision-maker of the City of San José as the Responsible Agency for the Project (the "Mitigation Monitoring and Reporting Program"). The FEIR is available at https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/stack-trade-zone-park-project.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. An on-site sign has been posted on the project frontage since March 5, 2021. A formally noticed Community Meeting was held on Thursday, February 23, 2023 to introduce the proposed project to the community. 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. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on March 30, 2023. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

Project Manager: Alec Atienza

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

ATTACHMENTS:	
Exhibit A:	Draft CEQA Resolution
Exhibit B:	Draft Planned Development Zoning Ordinance
Exhibit C:	Draft Vesting Tentative Map Resolution
Exhibit D:	Draft Planned Development Permit Resolution
Exhibit E:	Planned Development Zoning Plan Set
Exhibit F:	Vesting Tentative Map Plan Set
Exhibit G:	Planned Development Permit Plan Set
Exhibit H:	Advanced Manufacturing Building Market Analysis Report
Exhibit I:	Draft Development Standards
Exhibit J:	Legal Description and Plat Map
Exhibit K:	Arborist Report
Exhibit L:	Noise Assessment
Exhibit M	TDM Plan
Exhibit N:	Draft MMRP

Applicant:	**Owner**
Miles Kersten Director, Development On behalf of Stack Infrastructure 1700 Broadway, Suite 1750	Stack Infrastructure 1700 Broadway, Suite 1750 Denver CO, 80290

PDC22-001, PD22-001, PT22-002 & ER22-002

Links to Attachment A - N

Click on the title to view document

Exhibit A: Draft CEQA Resolution
Exhibit B: Draft Planned Development Zoning Ordinance
Exhibit C: Draft Vesting Tentative Map Resolution
Exhibit D: Draft Planned Development Permit Resolution
Exhibit E: Planned Development Zoning Plan Set
Exhibit F: Vesting Tentative Map Plan Set
Exhibit G: Planned Development Permit Plan Set
Exhibit H: Advanced Manufacturing Building Market Analysis Report
Exhibit I: Draft Development Standards
Exhibit J: Legal Description and Plat Map
Exhibit K: Arborist Report
Exhibit L: Noise Assessment
Exhibit M: TDM Plan
Exhibit N: Draft MMRP